

VOLUME II OF II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM LANCASTER COUNTY

J. Ernest Kinard, Jr., Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

ANTHONY RODRICKUS CARTER,

APPELLANT

APPELLATE CASE NO. 2011-203566

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INDEX

INDEX.....i

TRIAL TRANSCRIPT DATED  
November 7-10 2011.....1

PRE-TRIAL MOTIONS .....8

OPENING STATEMENTS BY MR. BARFIELD .....82

OPENING STATEMENTS BY MR. LIFSEY .....87

TESTIMONY

CRAIG GREENLEE

    Direct Examination by Mr. Barfield .....93

    Cross Examination by Mr. Lifsey .....105

JOSEPH CATALANO

    Direct Examination by Mr. Barfield .....106

    Cross Examination by Mr. Lifsey .....113

MIKE ADAMS

    Direct Examination by Mr. Barfield .....113

    Cross Examination by Mr. Lifsey .....123

RODRIANA CUNNINGHAM

    Direct Examination by Mr. Barfield .....125

    Cross Examination by Mr. Lifsey .....133

    Redirect Examination by Mr. Barfield.....134

CHRIS BENSON

    Direct Examination by Mr. Barfield .....137

    Cross Examination by Mr. Lifsey .....146

MIKE MILLER

    Direct Examination by Mr. Barfield .....147

    Cross Examination by Mr. Lifsey .....159

    Redirect Examination by Mr. Barfield.....161

    Recross Examination by Mr. Lifsey.....162

CALEB GRAFFAM	
Direct Examination by Mr. Barfield .....	163
DOUGLAS DEESE	
Direct Examination by Mr. Barfield .....	165
Cross Examination by Mr. Lifsey .....	173
EMMIE AMANDA COATS	
Direct Examination by Mr. Barfield .....	176
Cross Examination by Mr. Lifsey .....	219
Redirect Examination by Mr. Barfield.....	231
CHARLES KIRLEY	
Direct Examination by Mr. Barfield .....	234
Cross Examination by Mr. Lifsey .....	236
DANNY BENNETT	
Direct Examination by Mr. Barfield .....	236
Cross Examination by Mr. Lifsey .....	239
JOHN JARROD HILL	
Direct Examination by Mr. Barfield .....	241
Cross Examination by Mr. Lifsey .....	257
Redirect Examination by Mr. Barfield.....	262
JENNIFER MORRIS	
Direct Examination by Mr. Barfield .....	263
Cross Examination by Mr. Lifsey .....	271
Redirect Examination by Mr. Barfield.....	273
Recross Examination by Mr. Lifsey.....	273
BENECO GANSON	
Direct Examination by Mr. Barfield .....	274
Cross Examination by Mr. Lifsey .....	304
KAYLA ESTES	
Direct Examination by Mr. Barfield .....	315
Cross Examination by Mr. Lifsey .....	320
LAWRENCE ALEXANDER	
Direct Examination by Mr. Barfield .....	321
Cross Examination by Mr. Lifsey .....	337
JANICE EDWARDS ROSS, M.D	
Direct Examination by Mr. Barfield .....	341
ERIC SANDERS	
Direct Examination by Mr. Barfield .....	346

Cross Examination by Mr. Lifsey .....	353
JACKIE SANDERS	
Direct Examination by Mr. Barfield .....	355
Cross Examination by Mr. Lifsey .....	365
MIKE HOWELL	
Direct Examination by Mr. Barfield .....	369
Cross Examination by Mr. Lifsey .....	377
BRANDON ROLLINS	
Direct Examination by Mr. Barfield .....	383
JEFF STEELE	
Direct Examination by Mr. Barfield .....	385
Cross Examination by Mr. Lifsey .....	407
Redirect Examination by Mr. Barfield.....	412
Recross Examination by Mr. Lifsey.....	414
KEN TAYLOR	
Direct Examination by Mr. Barfield .....	415
Cross Examination by Mr. Lifsey .....	463
Redirect Examination by Mr. Barfield.....	467
Recross Examination by Mr. Lifsey.....	470
ANN HORTON	
Direct Examination by Mr. Barfield .....	470
JEFF STEELE	
Direct Examination by Mr. Barfield .....	474
CARL KENLEY	
Direct Examination by Mr. Barfield .....	475
Cross Examination by Mr. Lifsey .....	483
ILA SIMMONS	
Direct Examination by Mr. Barfield .....	484
Cross Examination by Mr. Lifsey .....	496
CATHERINE LEISY	
Direct Examination by Mr. Barfield .....	498
Cross Examination by Mr. Lifsey .....	515
MICHELLE EICHENMILLER	
Direct Examination by Mr. Barfield .....	517
Cross Examination by Mr. Lifsey .....	530

STEVEN MARSHALL	
Direct Examination by Mr. Lifsey.....	531
Cross Examination by Mr. Barfield .....	553
FREDERICK THOMPSON	
Direct Examination by Mr. Barfield .....	554
RYAN MCLEMORE	
Direct Examination by Mr. Barfield .....	562
CLARK CRUMP	
Direct Examination by Mr. Barfield .....	566
POST-TRIAL MOTIONS.....	574
CLOSING ARGUMENTS BY MR. BARFIELD.....	590
CLOSING ARGUMENTS BY MR. LIFSEY .....	621
CHARGE ON THE LAW.....	634
VERDICT .....	659
SENTENCING .....	662
INDICTMENTS AND SENTENCING SHEETS.....	669
CERTIFICATE OF COUNSEL.....	675

## TESTIMONY OF CATHERINE LEISY

1 or peaks in it, each one signifying a different DNA type  
2 at a location. We then convert the raw data into a table  
3 that includes the items that we've tested, the STR  
4 locations that we've tested as well as the DNA types found  
5 at each of these locations so that we can compare the  
6 evidence profile to a standard.

7 Q What is touch DNA?

8 A When we refer to touch DNA we just mean skin cells  
9 that have been transferred to an object that has been held  
10 or touched and it could just be as simple as touching an  
11 item with your fingers, it can also be transferred by  
12 sweat if an object is held for a long time, it's also  
13 affected by how tightly you hold an object and the other  
14 people have held the objects. There are quite a few  
15 factors that go into whether or not we can develop  
16 profiles from touch DNA.

17 Q Did you do some work in this case identified as SLED  
18 lab number 10-04902 from Lancaster County?

19 A Yes, I did.

20 Q Did you have some submissions presented to you to see  
21 if you could develop DNA profiles from?

22 A I did.

23 Q And again, I'll ask you the same question I asked  
24 Ms. Simmons a minute ago, do you go out in the field and  
25 work crime scenes and collect evidence yourself?

## TESTIMONY OF CATHERINE LEISY

1 A No, I do not.

2 Q I'm going to hand you some stuff. Well, before I do  
3 that, what is the most common way for you to -- what is  
4 the most common sample you would receive to work with to  
5 try to develop a DNA profile from a deceased person?

6 A Typically from a deceased individual we receive a  
7 blood standard, it can either be a tube of liquid blood  
8 collected at autopsy, sometimes it is dried for us on  
9 filter paper and labeled with that individual's name.

10 Q Is there a way for law enforcement to collect  
11 material that from which you could develop a DNA profile  
12 from a living person?

13 A From living individuals, again, we can receive a  
14 blood standard that has been drawn from that living  
15 individual. It is more common for us to receive what we  
16 call buccal swabs which are just oral swabs that are  
17 collected from an individual's cheek that contain enough  
18 cells for us to develop a DNA profile.

19 Q And is there a standard package for collection of  
20 buccal swabs, something that sort of comes prepackaged and  
21 a way to do it and preserve it?

22 A There are certain kits that are used for buccal  
23 swabs, sometimes we receive kits, sometime we receive  
24 Q-tips in an envelope, it just depends on the agency.

25 Q Are there methods for local law enforcement to

## TESTIMONY OF CATHERINE LEISY

1 collect the evidence which could potentially lead to the  
2 development of a DNA profile from an inanimate object?

3 A Yes, sir.

4 Q And how would that perhaps commonly occur?

5 A Depending on the type of sample being taken, if there  
6 is liquid blood present they would just need to use a  
7 sterile cotton swab, again very similar to the Q-tip, they  
8 can then just swab any liquid to be present that they  
9 believe would be bodily fluid. If they were trying to  
10 touch for DNA I believe they will wet the swab with a  
11 sterile water to collect more with the cells when the  
12 items are swabbed.

13 Q I'm going to show you some stuff. Did you receive  
14 some samples on this case to see if you could develop  
15 profiles from?

16 A Yes, I did.

17 Q All right. I'm just going to start handing you some  
18 envelopes one at a time. Can you -- are you familiar with  
19 the contents of that envelope?

20 A Yes, I am.

21 Q And what's in that envelope?

22 A This envelope contains a blood sample that is  
23 identified as belonging to [REDACTED]

24 Q All right. And I think I'm going to refer to it, I  
25 think it has got an evidence sticker on it, State's Number

## TESTIMONY OF CATHERINE LEISY

1 81 for identification. Now, what is the actual sample for  
2 [redacted] numbered by SLED item number?

3 A When the original sample was logged in it came in as  
4 SLED item number one, it was a tube of blood and it was  
5 identified for toxicology testing.

6 Q Do you break it down -- take part of it and give that  
7 part the subject item number?

8 A It was requested that an analyst in toxicology  
9 basically take a small portion of a sample submitted that  
10 was then sub-itemized as SLED item 1.1 for me to be able  
11 to use a profile for Ms. Jackson.

12 Q And is State's Exhibit 81 for identification that  
13 item 1.1 that you worked with?

14 A Yes, sir, it is.

15 Q Tell me what is in that envelope. And if it's got  
16 a -- I should have done this too -- State's Exhibit Number  
17 82 for identification, can you tell me what is in that?

18 A This pouch contains buccal swabs to be used for a  
19 standard for Anthony Carter.

20 Q Is this what you worked from?

21 A Yes, it is.

22 Q I show you State's Exhibit Number 78 for  
23 identification. Can you tell me what that is?

24 A This pouch contains the buccal swabs from Marico  
25 Stevens to be used to develop standards.

## TESTIMONY OF CATHERINE LEISY

1 Q Did you work with that item?

2 A Yes, I did.

3 Q I show you State's Exhibit Number 84 for  
4 identification. Can you tell me what is contained in  
5 that?

6 A This pouch contains the buccal swabs from Emmy Coats  
7 to be used for developing standard purposes.

8 Q Did you analyze that item?

9 A Yes, I did.

10 Q I'll show you State's Exhibit Number 83 for  
11 identification. Can you tell me what that is?

12 A This pouch contains two sets of evidence swabs, one  
13 set was labeled as swabs that came from the vehicle, the  
14 other was a set of swabs from a Hi-point weapon.

15 Q Did you work with all of the numbered items in that  
16 envelope?

17 A Yes, I did.

18 Q And I'm going to hand you finally -- and that was  
19 State's Exhibit Number 83 for identification. I'm going  
20 to hand you one that doesn't have a sticker on it yet.  
21 Can you tell me what's in there?

22 A This pouch contains the buccal swab from Jacqueline  
23 Sanders to be used to develop a standard on.

24 Q Did you work with that?

25 A Yes, sir.

## TESTIMONY OF CATHERINE LEISY

1 MR. BARFIELD: Your Honor, at this time I would offer  
2 all of these items as exhibits, and one of them doesn't yet  
3 have a number on it so I need to get a sticker.

4 (The items were received as State's 78 and 81-84.)

5 Q Ms. Leisy, let me first ask you about SLED item  
6 numbers 13, 14 and 15 which are contained within State's  
7 Exhibit Number 83, 13, 14 and 15. What were 13, 14 and  
8 15?

9 A They were identified as swabs from a vehicle, they  
10 broke down -- SLED item 13 was a swab from the driver's  
11 side quarter panel, SLED item 14 will be swabs from the  
12 inside of the passenger door, and SLED item 15 is swabs  
13 from the left side of the back seat.

14 Q Did you develop a DNA profile from one or more of  
15 those swabs?

16 A I developed the same DNA profile from all three  
17 swabs.

18 Q Did you develop a DNA profile from item 1.1 which is  
19 State's Exhibit Number 81 which you previously said was a  
20 blood standard from **Jaylen J. [REDACTED]**

21 A Yes, I did.

22 Q Did you compare the profiles of the blood standard  
23 from **Jaylen J. [REDACTED]** and the swabs from the interior -- or  
24 from the car which you developed profiles from?

25 A I did.

## TESTIMONY OF CATHERINE LEISY

1 Q Did you reach any conclusions about -- in your  
2 comparison of those four items?

3 A I did. The DNA profile developed from the three sets  
4 of swabs taken from the vehicle matches the DNA profile of  
5 **Jaylen J. [REDACTED]**

6 Q What are specifically 18, 19 and 20, SLED numbers 18,  
7 19 and 20 which are also contained within State's Exhibit  
8 Number 83? What are 18, 19 and 20?

9 A Eighteen, 19 and 20 were the three swabs collected  
10 from the Hi-point weapon. SLED 18 was the swab taken from  
11 the trigger point of the Hi-point, swab 19 and SLED 20 was  
12 taken from the back slide of the Hi-point.

13 Q Did you work on those swabs to determine if you could  
14 develop a DNA profile from either one of those three swabs  
15 off the Hi-point pistol?

16 A Yes. I was able to develop a profile from all three  
17 swabs.

18 Q Did you develop DNA profiles from items -- let me  
19 give you the numbers -- State's Exhibit 82 which I think  
20 is SLED item 26, the buccal swabs from Anthony Carter, did  
21 you develop a DNA profile from them?

22 A Yes, I did.

23 Q Did you develop a DNA profile from State's Exhibit  
24 Number 78 which is SLED item number 27 which I think you  
25 said was the buccal swabs from Marico Stevens?

## TESTIMONY OF CATHERINE LEISY

1 A Yes, I did develop a profile from that item.

2 Q Did you develop a profile from State's Exhibit Number  
3 84 which I think you've testified was SLED item 28, buccal  
4 swabs from Emmie Amanda Coats?

5 A Yes, I did.

6 Q And did you develop a profile from State's Exhibit  
7 Number 83 which is SLED item number -- well, actually we  
8 talked about the profile. These are the swabs from the  
9 car and from the gun, you've already testified about that.  
10 Did you do comparison -- did you develop a profile from  
11 State's Exhibit Number 93 which you said was SLED item  
12 Number 29, buccal swabs from Jacqueline Sanders?

13 A Yes, I did.

14 Q Let me ask you this first, at some point during your  
15 work on this case, did you get an initial submission of  
16 items to work on?

17 A Yes, I did.

18 Q At a subsequent point did you get some additional  
19 items to work on?

20 A I did.

21 Q After you got the first items did you reach  
22 conclusions and prepare a report?

23 A Yes, I did.

24 Q What were the additional items that came to you to  
25 work on in the DNA lab?

## TESTIMONY OF CATHERINE LEISY

1 A The additional items received were the buccal swabs  
2 from Emmie Coats and Jacqueline Sanders.

3 Q Did you go through it all again, test it again  
4 including testing the new items?

5 A Correct. I compared the profiles developed from  
6 these new items to all of the items that I had previously  
7 tested and reported.

8 Q And after the submission of the new items and your  
9 work with the new items and the comparisons again, did you  
10 prepare a subsequent report?

11 A I did.

12 Q Does the subsequent report contain new stuff but all  
13 of the findings that you made in the first report?

14 A Yes. The second report includes all of the tests and  
15 findings.

16 Q Was there -- other than the addition of information  
17 in the second report, was there any change in the findings  
18 as to the items that you actually tested when you did the  
19 first report?

20 A No, there was not.

21 Q Concerning the swabs taken from the Hi-point pistol,  
22 you said a minute ago you developed DNA profiles from  
23 those swabs. What kind of profile -- not whose but what  
24 kind of profile did you develop from any or all of those  
25 swabs?

## TESTIMONY OF CATHERINE LEISY

1 A From each set of swabs I developed a mixture, just  
2 meaning that there was DNA from more than one individual  
3 on each swab.

4 Q All right. Did you determine -- let me just ask you  
5 this kind of point blank, did you determine whether there  
6 was any DNA from Jaylen J. [REDACTED] on that pistol?

7 A No. Jaylen J. [REDACTED] was excluded as a possible  
8 contributor to all of the DNA obtained from the pistol.

9 Q Were you able to reach any conclusion about whether  
10 there was any DNA from Ms. Coats from the swabs on the  
11 pistol?

12 A Ms. Coats was also excluded as a possible contributor  
13 to those items.

14 Q How about Ms. Sanders, same question?

15 A Ms. Sanders was also excluded as a possible  
16 contributor.

17 Q How about Anthony Carter?

18 A Mr. Carter was excluded as a possible contributor.

19 Q How about Marico Stevens?

20 A Marico Stevens could not be excluded as a possible  
21 minor contributor to the mixture that I developed from the  
22 swab from the under-guard of the Hi-point.

23 Q Now, typically if you -- I don't know if it's  
24 accurate to say you get a match, I don't know if y'all use  
25 that terminology, but if you get results hypothetically in

## TESTIMONY OF CATHERINE LEISY

1 a circumstance where you compare two DNA profiles and you  
2 say they're a match, do you normally express that in some  
3 terms or probability? And if you do I want you to explain  
4 that to the jury.

5 A We do. When we use the term match it means a  
6 situation where there is a single source profile developed  
7 from an item meaning there's only an indication from one  
8 contributor. In a case where we have a mixture and  
9 there's more than one person present, if we have what we  
10 call a major contributor, meaning one individual left more  
11 DNA than the others, then we can use essentially using the  
12 intensity of a signal to pull out their profile. If I  
13 have a profile from a major contributor I can treat that  
14 like a single source and compare it to an individual. If  
15 we can match to a single source profile or a major  
16 contributor, we then can do what we call a match statistic  
17 giving a probabilities that that randomly selected person  
18 would have that DNA profile.

19 Q Again, hypothetically if you're in here on some other  
20 case, some other place and it's what you could consider a  
21 match, what kind of number are you talking about on the  
22 probability?

23 A It depends on the profile. Typically on a single  
24 source profile on a match statement we would have  
25 statistics in one in several trillion, one in several

## TESTIMONY OF CATHERINE LEISY

1 quintillion.

2 Q How many people live on the earth?

3 A Our current population is approximately seven  
4 billion.

5 Q Now, tell us what your conclusion was concerning  
6 Marico Stevens when you compared the DNA profile developed  
7 from his buccal swabs to the DNA profiles you developed  
8 from the swabs off the pistol, tell the jury what you  
9 concluded about that.

10 A In regards to the DNA profile developed from the swab  
11 from the trigger guard there were at least three  
12 individuals contributing to that item. The major  
13 contributor to that item was an unidentified female  
14 individual, Marico Stevens cannot be excluded as a  
15 possible minor contributor to that mixture. The DNA  
16 probability -- or excuse me, the probability of randomly  
17 selecting an unrelated individual who could have  
18 contributed to this mixture is approximately one in 65.

19 Q Sixty-five with no zeros.

20 A Correct, just 65.

21 Q If there were 65 people in this room right now, that  
22 statistic means what in relation to those 65 people in  
23 this room hypothetically?

24 A Typically it basically means that out of  
25 approximately 65 people you would expect one person to be

## TESTIMONY OF CATHERINE LEISY

1 a potential contributor to this mixture.

2 Q In your opinion as an expert in forensic DNA  
3 analysis, is that statistic, one in 65 in this case  
4 significant?

5 A We generate statistics like this just to give a  
6 weight to the statement, so to say that someone cannot be  
7 excluded would be something different with a stat of one  
8 to 65 versus a stat of 65 million or billion. It just  
9 means if you randomly selected a person and developed  
10 their profile and compared it to the evidence the  
11 probability that they would be included is approximately  
12 one in 65, it just gives weight to that inclusion  
13 statement.

14 Q Do you also find -- assuming that you know  
15 somebody -- hypothetically again assuming that you know  
16 somebody has handled the gun and assuming that you get  
17 buccal swabs from that person and develop a DNA profile  
18 from that person and you take swabs from the gun, are you  
19 always going to find that person's DNA on the gun?

20 A You won't necessarily always develop that  
21 individual's profile. Again, it would depend on how many  
22 times they handled the weapon, exactly how they handled it  
23 in relation to where it was swabbed and the other people  
24 that handled it, had it been wiped down between when they  
25 handled it and when it was tested. There are quite a few

## TESTIMONY OF CATHERINE LEISY

1 things that go into it.

2 Q Is there any significance to the time the weapon was  
3 fired in relation to the time the weapon was recovered?

4 A As far as developing DNA profiles it would depend  
5 more on again how many people had handled it during that  
6 time, had it been wiped down, washed clean, things like  
7 that. A six day difference, that time frame wouldn't  
8 necessarily have a big impact, it would be more on how the  
9 gun was handled and how it was treated in that time.

10 Q You told us a minute ago about SLED item number 18  
11 which was a swab from I think inside the trigger guard, is  
12 that where that one was?

13 A Yes, sir.

14 Q Tell me about what you found on the other two swabs  
15 on that gun.

16 A The DNA profiles that were developed from the swab  
17 from the handgrips and the swab from the backside of the  
18 Hi-point are mixtures of at least two individuals, and  
19 Marico Stevens is excluded as a possible contributor to  
20 those two sets of mixtures.

21 Q Well, were all of the other people that you had  
22 profiles for also excluded?

23 A Yes, they were.

24 Q Tell me about the final swab, SLED item 20. Did you  
25 refer to them together?

## TESTIMONY OF CATHERINE LEISY

1 A I did. It's basically the same conclusion for the  
2 two.

3 Q Did you generate a report? Again, we talked about  
4 this a minute ago, did you generate a final report which  
5 included all of the items that you worked with?

6 A Yes, sir, I did.

7 Q Was it the one dated August 24th of 2010?

8 A That's correct.

9 Q Is that a copy of your report?

10 A Yes, it is.

11 MR. BARFIELD: Your Honor, at this time I would offer  
12 a copy of this report as the next Exhibit.

13 MR. LIFSEY: No objection.

14 THE COURT: Okay.

15 (The report was offered as State's 94.)

16 MR. BARFIELD: Thank you, ma'am. Answer anything  
17 Mr. Lifsey has.

18 CROSS EXAMINATION

19 BY MR. LIFSEY:

20 Q So I guess the bottom line to all of this is you  
21 examined two items significant to evidence, is that  
22 correct, the blood and the gun?

23 A Correct, swabs collected from the car and collected  
24 from the gun.

25 Q And of course as to the blood, the blood is from the

## TESTIMONY OF CATHERINE LEISY

1 victim which certainly wouldn't be surprising at all if  
2 somebody is hurt and shot that they would bleed and that  
3 would be their blood, right?

4 A Based on the incident report it wasn't an unexpected  
5 result, no, sir.

6 Q And as to the gun what we know definitively I guess  
7 is that you raised and got enough material to develop a  
8 DNA profile, correct?

9 A Correct.

10 Q And we know without any doubt that that DNA profile  
11 could not have come from Anthony Carter.

12 A Correct. Mr. Carter is excluded as a possible  
13 contributor to the swabs from the gun.

14 Q And we do not know that Mr. Stevens cannot be -- we  
15 do not know that Mr. Stevens did not contribute to the  
16 sample taken from the trigger guard, right?

17 A Correct. I did not exclude Mr. Stevens.

18 MR. LIFSEY: Thank you. I don't have any other  
19 questions.

20 MR. BARFIELD: Nothing else from Ms. Leisy. I would  
21 ask that she be excused.

22 THE COURT: You may be dismissed. Solicitor, it has  
23 only been an hour but four witnesses is about all the  
24 jurors can handle. Don't talk about the case, jurors.

25 (The jury left the courtroom and a recess was taken.)

## TESTIMONY OF MICHELLE EICHENMILLER

1 THE COURT: Okay. Are we ready?

2 MR. BARFIELD: State is ready.

3 MR. LIFSEY: Yes, sir.

4 (The jury returned to the courtroom.)

5 MR. BARFIELD: State calls Michelle Eichenmiller.

6 The witness, MICHELLE EICHENMILLER, was first duly  
7 sworn and testified as follows, on:

8 DIRECT EXAMINATION

9 BY MR. BARFIELD:

10 Q State your name, please ma'am.

11 A My name is Michelle Eichenmiller.

12 Q And Ms. Eichenmiller, by whom are you employed?

13 A The South Carolina Law Enforcement Division commonly  
14 known as SLED in the forensic lab.

15 Q What department within the forensic lab are you  
16 assigned to?

17 A I work in the firearms department.

18 Q How long have you been employed by SLED?

19 A It has been five and a half years.

20 Q What do you do in the firearms department for SLED?

21 A My primary duties are to evaluate fired evidence or  
22 fired ammunition components and the firearms that could  
23 have fired them, there is also other duties related to  
24 that such as serial number restoration or weapons  
25 destruction.

## TESTIMONY OF MICHELLE EICHENMILLER

1 Q Have you been called upon to testify in the courts of  
2 the State of South Carolina previously as an expert  
3 witness and qualified as such in firearms examination and  
4 identification?

5 A Yes, I have.

6 MR. BARFIELD: Your Honor, at this time I would offer  
7 Ms. Eichenmiller as an expert in firearms identification  
8 and -- examination and identification.

9 MR. LIFSEY: Without objection.

10 THE COURT: Okay.

11 Q I'm going to show you some stuff in just a little  
12 bit, but tell the jury what a semiautomatic pistol is.

13 A A semiautomatic pistol is a pistol that requires a  
14 pull of the trigger for each bullet to be fired, it will  
15 keep firing until there's nothing left in the magazine.  
16 It has a magazine that you load with cartridges, put it  
17 into the magazine rack and it will load the first round  
18 into the chamber, at this point it's ready to fire. As  
19 soon as you pull the trigger the bullet will exit the  
20 barrel, the slide will slide back, the cartridge case gets  
21 kicked out to the side and then the next cartridge in the  
22 magazine will load. It uses the energy of recoil to do  
23 all of that motion.

24 Q What is a cartridge, a complete cartridge? What's a  
25 cartridge?

## TESTIMONY OF MICHELLE EICHENMILLER

1 A A cartridge is a complete package of ammunition. It  
2 has the case which holds the gunpowder and it has a primer  
3 in it, then it has the bullet which is the part that comes  
4 out it to go down the barrel.

5 Q What is the cartridge case?

6 A The case is basically the container that holds  
7 everything together.

8 Q Is there something that is in some bullets, I guess,  
9 in some cartridges, is there something called a jacket?

10 A Yes. Some bullets are jacketed, that means they have  
11 a covering over their core which is more likely lead.  
12 Lead is pretty soft, so they need something to hold the  
13 lead in and to stay together better.

14 Q What is a common material that a jacket is  
15 manufactured from?

16 A The most common is copper, some of brass, you could  
17 also have steel jacketed bullets.

18 Q If you have a jacketed bullet, describe the  
19 potentialities when that bullet is fired. What happens to  
20 the stuff?

21 A Okay. When a bullet is fired if it contacts  
22 something hard it is entirely possible that the bullet  
23 could break apart, you could end up with two or more  
24 pieces such as the core and the jacket. The jacket will  
25 come off when it hits something hard, the core will keep

## TESTIMONY OF MICHELLE EICHENMILLER

1 going because it still has momentum.

2 Q Okay. Typically describe the manufacture and  
3 characteristics of a barrel of a semiautomatic pistol.

4 A Okay. A semiautomatic pistol is manufactured with  
5 rifling, that rifling is just determined by the  
6 manufacturer, it depends on how many, which is the number  
7 of lands and grooves they would like to put in it and the  
8 width of those lands and grooves and the direction of  
9 twist. This helps the bullet, it gives it stability and  
10 accuracy as it travels down the barrel and out the bore so  
11 it will contact it's target.

12 Q And what are lands and grooves?

13 A The lands and grooves are cut in the barrel. It's  
14 like a quarterback when he throws the football, you want  
15 it to be a tight spiral so this rifling gives a tight  
16 spiral.

17 Q Are there unique characteristics typically of the  
18 interior of barrels of semiautomatic pistols other than  
19 the lands and grooves that are intentionally manufactured  
20 into them?

21 A No. Lands and grooves are basically the class  
22 characteristics that could be particular to a large number  
23 of items. The unique individual characteristics are put  
24 there not intentionally but when the barrel is  
25 manufactured, depends on the machining that's done, it

## TESTIMONY OF MICHELLE EICHENMILLER

1 could be that the metal wasn't as hard in certain areas so  
2 little pieces were torn out. These little imperfections  
3 in the barrel is what makes my job possible. I evaluate  
4 these imperfections to show up on the bullet as scratches  
5 and I see if they look the same as test specimens that I  
6 fired out of the same firearm.

7 Q Bullet, again the piece that comes out, the ultimate  
8 projectile, is it possible for the barrel to leave  
9 markings on the bullet?

10 A Yes.

11 Q Is it possible for the barrel to leave markings on  
12 the jacket?

13 A Yes.

14 Q Does the barrel leave -- does the barrel leave any  
15 markings on the cartridge case?

16 A The barrel doesn't leave marks on the cartridge case,  
17 that would be the rest of the firearm.

18 Q All right. Does the rest of the firearm leave marks  
19 on a cartridge case?

20 A Yes. The slide and the breach space will actually  
21 leave marks on the cartridge space as well.

22 Q When you have ballistics evidence -- assume you have  
23 a firearm, assume you have bullets, assume you have  
24 jackets or jacket fragments and assume you have cartridge  
25 cases, are you able to examine those and perhaps reach

## TESTIMONY OF MICHELLE EICHENMILLER

1 some conclusion?

2 A Yes, we are in most cases.

3 Q I'm going to show you some stuff. State's Exhibit  
4 Number 2 for identification at this point, it's in a box,  
5 it has got some other packaging around it, it has been  
6 cleared, you do whatever examination you need to do of the  
7 item or the packaging and I will ask if you know what it  
8 is. Before you do that let me ask you this: Did you get  
9 called upon to make some examination of some evidence  
10 submitted to the SLED lab from the Lancaster County  
11 Sheriff's Office which SLED assigned lab number L-04902?

12 A Yes, 0104902.

13 Q L104902. Can you tell me what all of that stuff is?

14 A Normally when I get evidence I will take pictures of  
15 it and I mark it with my item number, my initial and lab  
16 number, so I'm making sure that that is what is in here  
17 still. It is still in my heat-sealed bag so I know this  
18 is the evidence that I looked at.

19 Q Is that evidence that you looked at in connection  
20 with this case?

21 A Yes.

22 Q And generally how is that piece of evidence  
23 described, what is it?

24 A It's a semiautomatic pistol, it's a Hi-point  
25 manufacturer.

## TESTIMONY OF MICHELLE EICHENMILLER

1 Q And the caliber?

2 A .40 caliber.

3 Q All right. Put it back in the box and we will talk  
4 more about that in a minute. I'm going to sequentially  
5 hand you some other things and ask you the same question.  
6 I'll hand you State's Exhibit 75 for identification. Can  
7 you look at that and tell me if you know what it is?

8 A Yes. This was my item four, it's a fired --

9 Q How is that item four described?

10 A It's a fired bullet jacket fragment.

11 Q And is it any further described about recovery  
12 location in any of the paperwork that you have with the  
13 item or in your notes?

14 A I believe on the intake document it describes where  
15 it was collected from.

16 Q And do you have that available to you or --

17 A I do. This is from the passenger's side floorboard.

18 Q All right. I'm handing you State's Exhibit Number 80  
19 for identification purposes. Are you familiar with that?

20 A This is my SLED item number five which is listed on  
21 the intake document as a copper fragment from the seat  
22 cushion of headrest on the back of the seat.

23 Q And can you tell, is that item number actually two  
24 different pieces?

25 A It is.

## TESTIMONY OF MICHELLE EICHENMILLER

1 Q I'm handing you State's Exhibit Number 74 for  
2 identification. Can you tell us what that is?

3 A This was SLED item number seven which is also a fired  
4 bullet jacket fragment describe on the intake document as  
5 a bullet fragment from the driveway at [REDACTED] [REDACTED]

6 Q I'm showing you State's Exhibit Number 77 for  
7 identification. Can you tell me if you know what that is?

8 A This is my item eight, which is a lead core fragment  
9 described in our evidence intake document as a lead from  
10 under the spare tire in the trunk.

11 Q And finally I'm showing you State's Exhibit Number 11  
12 for identification purposes which has several things in  
13 it. Can you tell me what that stuff is?

14 A This is actually my items number 22 through 24, it's  
15 three fired .40 caliber cartridge cases. They were just  
16 described as number one found at [REDACTED] [REDACTED] again number  
17 one found at [REDACTED] [REDACTED] and number three found at  
18 [REDACTED] [REDACTED]

19 Q Did you do work in the SLED lab concerning all of  
20 these items?

21 A I did.

22 MR. BARFIELD: Your Honor, at this time I would offer  
23 these numbered items for identification as State's  
24 Exhibits.

25 (The items were received as State's 74, 75, 77, 80.)

## TESTIMONY OF MICHELLE EICHENMILLER

1 THE COURT: Okay. Except for one which we marked as a  
2 Court's Exhibit because it's not going back.

3 MR. BARFIELD: Yes, sir. We have some pictures,  
4 though, that's fine.

5 Q Ms. Eichenmiller, when you get a firearm -- we'll  
6 just talk about this case -- when you got this pistol,  
7 SLED item number 21 I believe it is, State's -- Court's  
8 Exhibit Number 4, do you -- and you had stuff to work with  
9 it against, do you immediately just start checking the  
10 stuff against the pistol or do you do something with the  
11 pistol?

12 A We do a lot of forensic documentation. I normally  
13 take pictures of the outside container and the inside of  
14 the container, what the gun looked like when I got it in  
15 case I need to know that for later. I document on forms,  
16 I take a lot of notes about it, I check it for safety then  
17 I will go in and test fire it in our bullet recovery tank,  
18 that way I know that the items that come out of it, the  
19 ammunition components are actually of it and I will  
20 evaluate those against any evidence that we received.

21 Q Are you concerned about whether the pistol works  
22 safely, number one, and operates properly, number two,  
23 before you start working with it?

24 A Absolutely. For my own safety and my coworkers' we  
25 check it and make sure it works properly, if it doesn't

## TESTIMONY OF MICHELLE EICHENMILLER

1 work properly we are capable of repairing it if necessary,  
2 and then also for safety to see if the safeties worked at  
3 the time when I got it.

4 Q When you got this pistol, Court's Exhibit Number 4,  
5 did you check it out to make sure it was working safely  
6 and operating properly?

7 A Yes, I did.

8 Q And was it?

9 A It was.

10 Q Did y'all have to do any repairs, make any -- did you  
11 have to do any repairs, do any manipulations to get it to  
12 be usable for you in testing?

13 A May I check my notes? I don't think so. Everything  
14 functioned properly.

15 Q You test fire it. When you do comparisons, are you  
16 doing comparisons -- what are you comparing to what when  
17 you do comparisons?

18 A When I do comparisons I will take the fired cartridge  
19 cases that I recovered, the test specimens and I will  
20 compare them to any evidence that's submitted. My primary  
21 instrument is a comparison microscope, it's basically two  
22 microscopes with a binocular eye piece that I can see both  
23 items that are on each stage at one time. I can  
24 manipulate them separately, turn them, twist them, change  
25 the lighting so I can see all of the marks and then I

## TESTIMONY OF MICHELLE EICHENMILLER

1 determine if the marks are consistent to both the test and  
2 the evidence.

3 Q So are you comparing the submitted evidence, for  
4 example the jacket fragment to a bullet that you actually  
5 yourself fired through the gun to see if they have the  
6 same markings?

7 A Yes.

8 Q Did you do that with the item submitted to you and  
9 this firearm in this case?

10 A Yes, I did.

11 Q I'm going to ask you item by item about some things.  
12 First of all, did you compare -- well, you said you test  
13 fire a bullet into a water tank.

14 A Yes.

15 Q When you do that do you generate a fired cartridge  
16 case?

17 A Yes.

18 Q Do you use the fired bullet that went into the water  
19 tank for comparison?

20 A Yes.

21 Q Do you use the fired cartridge case that was left in  
22 the gun when the bullet got fired into the water tank for  
23 comparison?

24 A Yes, I did.

25 Q Did you examine State's Exhibit 11, which you

## TESTIMONY OF MICHELLE EICHENMILLER

1 identified as the three .40 caliber fired cartridge cases,  
2 did you examine them and compare them to fired test  
3 specimen fired cartridge cases for State's Exhibit  
4 Number -- Court's Exhibit Number 4, the .40 caliber  
5 pistol?

6 A I did.

7 Q Did you reach any conclusion about whether those  
8 cartridge cases were fired by that gun?

9 A Yes. All three of those cartridge casings were fired  
10 by that pistol.

11 Q Any question about that at all?

12 A No.

13 Q Did you examine State's Exhibit 75 which you  
14 identified as SLED item number four, jacket fragment from  
15 the passenger floor, did you compare that item to test  
16 specimen fired bullets that you generated out of shooting  
17 this pistol?

18 A I did.

19 Q Did you reach any conclusions?

20 A I did. SLED item four, the fired bullet jacket  
21 fragment, was fired by item 21 pistol.

22 Q Same question concerning item -- State's Exhibit 80,  
23 which you I think testified was SLED item number five  
24 which is actually two lead fragments, or two pieces of  
25 fragment, did you compare those two items individually to

## TESTIMONY OF MICHELLE EICHENMILLER

1 your test fired specimens in this case?

2 A I did. SLED item five was actually two fired bullet  
3 jacket fragments, one had no marks of value so we couldn't  
4 determine anything about that one, but the other was fired  
5 by that pistol.

6 Q No question about it?

7 A No question.

8 Q State's Exhibit Number 74, which I think you  
9 identified as SLED item number seven, the jacket fragment  
10 from [REDACTED] [REDACTED] did you compare that to your test  
11 fired specimens from the Court's Exhibit 4 pistol?

12 A Yes, I did.

13 Q Did you reach any conclusion about that?

14 A Yes, I did. That fired bullet jacket fragment was  
15 also fired by the item 21 pistol.

16 Q Any question about that?

17 A No.

18 Q State's Exhibit 77 I think you identified as SLED  
19 item number eight, a lead fragment from the trunk, were  
20 you able to do anything about that piece of metal?

21 A No, I wasn't. There weren't any marks of value so it  
22 was unsuitable for identification.

23 Q Did you generate a report as a result of your  
24 comparisons of these items?

25 A I did.

## TESTIMONY OF MICHELLE EICHENMILLER

1 Q Is it dated July 8th of 2010?

2 A Yes.

3 Q Is that a copy of your report?

4 A It appears it's a copy of my report.

5 MR. BARFIELD: At this time I offer the report as a  
6 State's Exhibit.

7 MR. LIFSEY: No objection.

8 THE COURT: Okay.

9 (The report was received as State's 95.)

10 MR. BARFIELD: Thank you, ma'am, answer anything  
11 Mr. Lifsey has.

12 CROSS EXAMINATION

13 BY MR. LIFSEY:

14 Q Just briefly. Just so I've got it straight, are  
15 these the shell casings that you matched to the gun?

16 A Yes.

17 Q This is State's 11 which, of course, you haven't been  
18 here but we've been talking about it a lot in this trial  
19 is that item, and basically then all you're able to say is  
20 that the shell casings from this came from this gun, were  
21 fired from this gun; is that correct?

22 A That's correct.

23 Q And obviously this may sound crazy but you don't know  
24 anything about where these were recovered particularly, do  
25 you?

## TESTIMONY OF MICHELLE EICHENMILLER

1 A No, I don't.

2 Q And you don't know what conditions or anything they  
3 were kept in prior to you getting them.

4 A Correct.

5 Q And you don't know the circumstances of the use of  
6 this gun because you're not an investigator and you don't  
7 go out there, right?

8 A Correct.

9 Q You haven't interviewed witnesses and talked to them  
10 about whether the shooting was justified or not, do you?

11 A No, I haven't. We just receive the evidence.

12 Q You just make the decision based on your analysis  
13 these were fired from this.

14 A Yes.

15 MR. LIFSEY: I don't have any further questions.

16 MR. BARFIELD: That's all for Ms. Eichenmiller.

17 THE COURT: You are free to go.

18 MR. BARFIELD: State calls Steven Marshal.

19 The witness, STEVEN MARSHALL, was first duly sworn and  
20 testified as follows, on:

21 DIRECT EXAMINATION

22 BY MR. BARFIELD:

23 Q State your name, please, sir.

24 A Steven Marshall.

25 Q Mr. Marshall, were you back in May of 2010 an

## TESTIMONY OF STEVEN MARSHALL

1 investigation with the Lancaster County Sheriff's Office?

2 A Yes, I was.

3 Q Are you working elsewhere now?

4 A Yes, I am.

5 Q Did you get involved on May 3rd of 2010 with the

6 investigation of the shooting death of [redacted]

7 A Yes, I did.

8 Q Did you go out that night?

9 A I can't recall if I went out that night.

10 Q That's fine. Now, were you working on May 4th,

11 daytime May 4th of 2010?

12 A Yes.

13 Q Did you meet a young man by the name of Anthony

14 Rodriekus Carter on that date?

15 A Yes, I did.

16 Q Where did you and Mr. Carter meet?

17 A The drug task force on Highway 9 in Lancaster County.

18 Q Is that an office or sort of a satellite office of

19 the Lancaster County Sheriff's Office?

20 A Yes, it is.

21 Q Was Mr. Carter -- about what time of day or night was

22 it that you first met Anthony Carter?

23 A Ten or 10:30 --

24 Q That's fine.

25 A -- a.m.

## TESTIMONY OF STEVEN MARSHALL

1 Q Well, let me just hand you a couple of things. I'm  
2 going to hand you two pieces of paper, just look at them  
3 for a minute, don't tell me anything about them. But do  
4 you know what they are?

5 A Yes.

6 Q Do you see anything -- everything you need to see off  
7 the first one first of all, dates and times and all that  
8 kind of stuff? And then look at the second one, dates and  
9 times.

10 A Okay.

11 Q All right. Do you know -- when you saw Mr. Carter  
12 was he under arrest?

13 A No.

14 Q When you saw Mr. Carter was he in custody?

15 A No.

16 Q When you saw Mr. Carter was he being detained?

17 A No.

18 Q Do you know how Mr. Carter got to the drug task force  
19 office?

20 A I think Officer Fred Thompson had picked Mr. Carter  
21 up at his residence or just picked him up somewhere, but  
22 he came voluntarily.

23 Q What was your purpose in being in Mr. Carter's  
24 presence that morning? First of all, do you know about  
25 what time it was on May 4th?

## TESTIMONY OF STEVEN MARSHALL

1 A It was about 10:00 a.m.

2 Q What was your purpose in being in his presence?

3 A To conduct an interview as to what had happened on  
4 [REDACTED] the night before.

5 Q At that time when this all started, was Mr. Carter  
6 suspected of having done anything illegal in connection  
7 with the death of Jaylen Elaine Jackson?

8 A No.

9 Q Did anybody participate with you in the interview  
10 with Mr. Carter on May 4th of 2010?

11 A Yes. Officer Thompson and Officer McLemore, and I  
12 had known Officer Crump was involved, I'm not sure if it  
13 was the 4th or the next interview on the 6th.

14 Q Whether you say Thompson, you're talking about Fred  
15 Thompson?

16 A Fred Thompson.

17 Q And McLemore was Ryan McLemore?

18 A Ryan McLemore.

19 Q Was there an interview that occurred for some period  
20 of time before Miranda warnings?

21 A Yes.

22 Q During that period of time again was Carter under  
23 arrest?

24 A No.

25 Q Was he being detained?

## TESTIMONY OF STEVEN MARSHALL

- 1 A No.
- 2 Q Was he a suspect up until at some point later on?
- 3 A No. He was not a suspect at that time.
- 4 Q All right. Did y'all talk?
- 5 A Yes.
- 6 Q Before I forget this, what we're describing -- what  
7 you're describing right now, was it audio and video  
8 recorded?
- 9 A Yes, it was.
- 10 Q And did y'all preserve the audio and video recording  
11 of the interview?
- 12 A Yes, we did.
- 13 Q I'm going to hand you something and ask you if you  
14 can identify what that is?
- 15 A It looks like a copy of the interview from 5/4 of  
16 2010.
- 17 Q For Anthony Carter?
- 18 A Anthony Carter, yes.
- 19 Q Have you had occasion or opportunity to look at this,  
20 all of it, part of it, subsequent to it being made?
- 21 A Yes.
- 22 Q Does the audio/video essentially speak for itself?
- 23 A Yes.
- 24 Q Is there any cutoff of the tape where stuff was  
25 happening and the tape wasn't running as far as you know?

## TESTIMONY OF STEVEN MARSHALL

- 1 A No.
- 2 Q Is it a continuous tape from May 4th?
- 3 A Yes.
- 4 Q And do you recall from the review of this thing how  
5 long the May 4th tape is?
- 6 A Two and a half to three hours maybe.
- 7 Q At some point during your interview with Mr. Carter  
8 did you read him his Miranda warnings?
- 9 A Yes.
- 10 Q I'm going to show you a piece of paper and ask you if  
11 you can identify it. Do you know what that is?
- 12 A Yes. This is a copy of the Miranda warnings.
- 13 Q For what subject, for who?
- 14 A Anthony Carter.
- 15 Q From what date?
- 16 A 5/4 of 2010.
- 17 Q Is there writing on the form?
- 18 A Yes.
- 19 Q Whose hand is on the form, who has written on that  
20 form?
- 21 A Anthony Carter, myself and I believe that's Fred  
22 Thompson's signature.
- 23 Q Is that form dated?
- 24 A Yes.
- 25 Q Does it have a time -- what's the date?

## TESTIMONY OF STEVEN MARSHALL

- 1 A 5/4/2010.
- 2 Q Does it have a time on it?
- 3 A Yes, it does.
- 4 Q What is the time?
- 5 A 10:30 a.m.
- 6 Q Was that some time after the interview had been going  
7 on for a little while?
- 8 A Yes.
- 9 Q Did you read Mr. Carter the rights that are listed on  
10 that form?
- 11 A Yes, I did.
- 12 Q And generally speaking what were you telling him? I  
13 don't want you to read the whole form -- well, let me ask  
14 you --
- 15 MR. BARFIELD: Your Honor, at this time I would offer  
16 the Miranda warnings as a State's exhibit in lieu of being  
17 a Court's exhibit.
- 18 MR. LIFSEY: No objection.
- 19 THE COURT: All right, sir.
- 20 (The Miranda form was received as State's 96.)
- 21 Q All right. Mr. Marshall, without reading the whole  
22 thing, generally speaking what did this form tell  
23 Mr. Carter his rights were generally speaking without  
24 verbatim?
- 25 A Basically he had the right to remain silent, if he

## TESTIMONY OF STEVEN MARSHALL

1 did not wish to talk to us he didn't have to.

2 Q Did it talk to a right to have a lawyer?

3 A Yes, sir.

4 Q What does the form say?

5 A You have the right to have a lawyer and have him  
6 present with him before being questioned. "If you cannot  
7 afford to hire a lawyer one will be appointed for you  
8 before questioning if you wish."

9 Q Did you read that form, all of that, to Mr. Carter on  
10 the video during the interview?

11 A Yes, sir, I did.

12 Q Did you ask him when you read those rights whether he  
13 understood those things?

14 A Yes, I did.

15 Q Did you do that right by right, check off by check  
16 off?

17 A I don't recall -- if it wasn't right by right it was  
18 at the end I asked him if he understood his rights.

19 Q Did he indicate to you that he understood what the  
20 rights were that you read?

21 A Yes, he did.

22 Q Did he do something on the form to indicate that he  
23 knew what the rights were that had been read to him?

24 A He initialed by each right and signed at the bottom.

25 Q Did you determine how old Mr. Carter was? I'm not

## TESTIMONY OF STEVEN MARSHALL

- 1 asking you how old he was but did you get some sense about  
2 how old he was?
- 3 A We determined he was an adult, yes.
- 4 Q Did you determine what his educational background  
5 was?
- 6 A Yes, I did.
- 7 Q What was it?
- 8 A I think he said he finished the 10th grade and had a  
9 GED.
- 10 Q Did you ask Mr. Carter if he understood all of those  
11 rights that you read him?
- 12 A Yes, I did.
- 13 Q Did he tell you that he did or did not?
- 14 A He told me that he did.
- 15 Q Did you have any difficulty communicating with  
16 Mr. Carter? Did the two of y'all have any difficulty  
17 communicating with each other, meaning did he appear to  
18 have any problems with the words or phrases and the  
19 thoughts you were conveying?
- 20 A No.
- 21 Q Did you have any difficulty understanding the words  
22 or thoughts that he appeared to be conveying?
- 23 A No.
- 24 Q Did he ask you any questions about his rights?
- 25 A No.

## TESTIMONY OF STEVEN MARSHALL

1 Q Did he say or do anything to indicate to you that he  
2 did not understand what his rights were?

3 A No.

4 Q Did he after you read him those rights give up those  
5 rights or waive those rights and continue to answer  
6 questions and talk to y'all about this matter?

7 A Yes, he did.

8 Q Were any of the three of you officers wearing  
9 uniforms or were y'all in plain clothes?

10 A We were in plain clothes.

11 Q Did y'all have badges or identification and firearms  
12 on you?

13 A Yes, we did.

14 Q During all of the events of May 4th in this video  
15 recorded interview, was Mr. Carter at any time restrained  
16 in any manner?

17 A No, he wasn't.

18 Q Did Mr. Carter at any time during the May 4th  
19 interview ask for anything, examples: Make a phone  
20 call -- first of all, do you know if he had a phone with  
21 him?

22 A He had a cellphone with him.

23 Q From watching the video and your memory, I guess,  
24 were there any times when Mr. Carter was in that room on  
25 May 4th when the tape was still running and no police

## TESTIMONY OF STEVEN MARSHALL

1 officer was in there with him?

2 A Yes, I believe so.

3 Q Do you recall whether he used his telephone or  
4 manipulated his phone at all during any of that process?

5 A He did use his phone, I don't remember if it was text  
6 messaging or actual call but he did use his phone.

7 Q Again, did he ask for anything like -- do you  
8 remember if he had anything to eat or drink with him on  
9 May 4th?

10 A He did have a bottle of water which we provided for  
11 him.

12 Q Did he ask for anything else to eat or drink?

13 A No.

14 Q Did he ask to go to the bathroom?

15 A No.

16 Q Did he ask to go smoke a cigarette or anything?

17 A No.

18 Q Did he ask for anything?

19 A No.

20 Q Did he at any time -- did anybody promise him  
21 anything, anybody that participated in the May 4th  
22 interview promise him anything to get him to talk to  
23 y'all?

24 A No.

25 Q Did anybody threaten him or do anything that you take

## TESTIMONY OF STEVEN MARSHALL

1 as coercion to get him to talk to y'all on the May 4th  
2 interview?

3 A No.

4 Q At any time during the May 4th interview did he say  
5 that he did not want to talk anymore?

6 A No.

7 Q Did he say that he wanted to have a lawyer present?

8 A No.

9 Q Did he say that he wanted to talk to a lawyer before  
10 he talked to you anymore?

11 A No.

12 Q Did he ever on that day say -- get up and attempt to  
13 leave?

14 A No.

15 Q Was he ever that day during this interview in  
16 custody?

17 A No.

18 Q In your mind at any time that day was he not free to  
19 leave during this interview process?

20 A No.

21 Q Go ahead and ask you this, what was Mr. Carter's  
22 status with you when he walked in there and when y'all  
23 first met on May 4th, what was his status with you?

24 A A witness, or possible witness.

25 Q At some point you read him his Miranda warnings.

## TESTIMONY OF STEVEN MARSHALL

1 A Yes.

2 Q Why?

3 A I was called out to speak --

4 Q Don't tell me what anybody else said, but generally  
5 speaking, don't quote anybody. And I'll stop you if I  
6 need to.

7 A I was advised that Mr. Carter had a weapon during the  
8 time of this incident on [REDACTED]

9 Q Is that the point at which you read him his Miranda  
10 warnings?

11 A Yes.

12 Q Did y'all make that clear to him at some point after  
13 the Miranda warnings that you thought he'd had a weapon?

14 A Yes.

15 Q All right. Let's skip over to another day, another  
16 time. I'm going to hand you another piece of paper marked  
17 Court's Exhibit Number 2 right now. Tell me if you know  
18 what that is.

19 A Yes, sir, it's a Miranda warnings rights.

20 Q Is it the same form?

21 A Yes.

22 Q I mean a different -- used again but is it the same  
23 form that you would print off your computer at the  
24 sheriff's office?

25 A Yes.

## TESTIMONY OF STEVEN MARSHALL

- 1 Q No difference in the print wording on the form?
- 2 A No difference.
- 3 Q And for whom does that form -- to whom does that form
- 4 apply?
- 5 A Anthony Carter.
- 6 Q And what is the date on that form?
- 7 A 5/6 of 2010.
- 8 Q What is the time on that form?
- 9 A 3:48 p.m.
- 10 Q Is there handwriting on that form?
- 11 A Yes.
- 12 Q Whose name is on that form?
- 13 A My signature, Anthony Carter's signature and also
- 14 Carl Crump's signature.
- 15 Q And Carl Crump is also with the sheriff's office?
- 16 A Yes.
- 17 MR. BARFIELD: Your Honor, at this time I would offer
- 18 Court's Exhibit Number 2 as a State's Exhibit.
- 19 MR. LIFSEY: Subject to the motions in limine, Judge.
- 20 THE COURT: All right.
- 21 (The Miranda form was received as State's 97.)
- 22 Q Mr. Marshall, same sort of series of questions about
- 23 this. Did you interview Anthony Carter again on May 6th
- 24 of 2010?
- 25 A Yes, I did.

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## TESTIMONY OF STEVEN MARSHALL

1 Q Did others participate in that interview with you?

2 A Officer Clark Crump.

3 Q And was Fred Thompson in and out or there part of the  
4 time perhaps?

5 A Doug, I don't recall.

6 Q That's fine. Again, tell me what time that Miranda  
7 warning was done on that?

8 A 3:48 p.m.

9 Q Was Mr. Carter's status different at 3:48 p.m. on  
10 May 6th than it had been on May 4th?

11 A Yes, he was in custody at that time.

12 Q All right. We don't need to worry about what, but  
13 had he been arrested.

14 A Yes.

15 Q Was there an audio/video recording made of the  
16 interview on May 6th?

17 A Yes.

18 Q Have you had a chance to look at some or all of it  
19 subject to its creation?

20 A Yes.

21 Q Is this disc it?

22 A Yes, it is.

23 Q When you met with Mr. Carter on May 6th did you read  
24 him his Miranda warnings?

25 A Yes, I did.

## TESTIMONY OF STEVEN MARSHALL

- 1 Q Is it that last exhibit I handed you, I don't  
2 remember its number, 97 maybe?
- 3 A Ninety-seven.
- 4 Q Is that the Miranda warning form that you went over  
5 with Mr. Carter that day?
- 6 A Yes, it is.
- 7 Q Again, did you read that verbatim to him?
- 8 A Yes, I did.
- 9 Q And did you ask him if he understood each of those  
10 rights?
- 11 A Yes, I did.
- 12 Q Were they the same rights that you had read him two  
13 days earlier?
- 14 A Yes.
- 15 Q Did he indicate that he did understand each of those  
16 rights?
- 17 A Yes.
- 18 Q Had you again determined how old he was roughly?
- 19 A Yes.
- 20 Q Did you reaffirm what his educational background was?
- 21 A Yes, I did.
- 22 Q Did he tell that you he understood each of those  
23 rights?
- 24 A Yes.
- 25 Q Did you and he have any difficulty communicating on

## TESTIMONY OF STEVEN MARSHALL

- 1 May 6th of 2010?
- 2 A No.
- 3 Q Did he ask you any questions about his rights?
- 4 A No.
- 5 Q Did he say or do anything to make you believe he did  
6 not understand his rights?
- 7 A No.
- 8 Q Did he waive his rights both to remain silent and to  
9 have a lawyer and agree to be interviewed and answer  
10 questions?
- 11 A Yes, he did.
- 12 Q I might have asked you this a minute ago, was he  
13 actually in the same room on May 6th that the video shows  
14 him being in on May 4th?
- 15 A Yes, he was.
- 16 Q Probably sitting in the same chair?
- 17 A Probably.
- 18 Q About how long did that interview last?
- 19 A Approximately two hours.
- 20 Q Were there periods -- do you recall whether there  
21 were any periods of time in that interview where officers  
22 were out of the room and he was in the room by himself?
- 23 A I don't recall, I believe maybe on occasions  
24 possibly.
- 25 Q Was he wearing his clothes or Lancaster County

## TESTIMONY OF STEVEN MARSHALL

1 clothes?

2 A Lancaster County clothes.

3 Q And describe his clothing.

4 A Orange jump suit.

5 Q Was he restrained in some fashion?

6 A Yes, he was.

7 Q How was he restrained?

8 A Leg shackles and a belly chain.

9 Q Leg shackles meaning what, could he walk?

10 A Yes, he could walk but not very long strides.

11 Q And belly chain meaning what?

12 A Basically it's a belt around the waist that had  
13 handcuffs on each side so his hands were kind of down to  
14 his side.

15 Q Did he have the ability to move his hands some?

16 A Some, yes.

17 Q Enough to write his name and sign things?

18 A Yes.

19 Q And while I'm asking you about that, did he sign the  
20 Miranda form from May 6th, State's Exhibit 97?

21 A Yes, he did.

22 Q Did you and I think Fred Thompson and again Clark  
23 Crump sign that?

24 A Clark Crump signed it.

25 Q At any point during the interview on May 6th, was he

## TESTIMONY OF STEVEN MARSHALL

- 1 partially unrestrained?
- 2 A Yes.
- 3 Q And what part of him was unrestrained?
- 4 A One of his hands was unrestrained.
- 5 Q Was that because y'all wanted to do that?
- 6 A Yes.
- 7 Q Did he at any time during that interview on May 6th
- 8 asked to be unrestrained?
- 9 A No.
- 10 Q Did he ever say, "This is too tight on my wrist,
- 11 loosen it up," for example?
- 12 A No.
- 13 Q Did he ever ask you to take any of the restraints
- 14 off?
- 15 A No.
- 16 Q Was the clothing worn by the officers on the May 6th
- 17 interview similar to the clothing worn with y'all -- the
- 18 officers on May 4th?
- 19 A Yes.
- 20 Q Everybody had guns and badges?
- 21 A Yes.
- 22 Q Did Mr. Carter on May 6th ask for anything; something
- 23 to drink, something to eat, bathroom break, a nap, a B.C.
- 24 Powder for a headache, use the telephone? Did he make any
- 25 requests of y'all during the interview on May 6th that you

## TESTIMONY OF STEVEN MARSHALL

1 recall?

2 A No.

3 Q Now, the tapes will speak for themselves obviously in  
4 a little bit, but other than the conversation that is on  
5 the tapes, were there any promises made to Carter to get  
6 him to tell y'all stuff about the matter that we're all  
7 here for this week?

8 A No.

9 Q Did anybody make any threats to Carter other than  
10 whatever is on the tape that speaks for itself, but was  
11 there any overt threat made to Carter to get him to talk  
12 to y'all?

13 A No.

14 Q Coercion other than whatever the tape shows that  
15 speaks for itself to get Carter to talk to y'all?

16 A No.

17 Q Was there ever -- in either interview was there ever  
18 any violence during either of those interviews?

19 A No.

20 Q Was there any slamming of doors or tossing of chairs  
21 or banging on tables or anything?

22 A No.

23 Q Do you recall whether voices got raised at some point  
24 during one or both of these interviews?

25 A At some point I believe maybe voices got raised but

## TESTIMONY OF STEVEN MARSHALL

1 nothing yelling or anything, but maybe a little loud.

2 Q Did Mr. Carter talk to you for the duration of the  
3 interview on May 6th or did he comply with your request to  
4 interview him on May 6th?

5 A Yes.

6 Q Did he at any time during that interview say -- other  
7 than whatever the tape shows did he say, "I don't want to  
8 talk anymore?"

9 A No.

10 Q Did he ever say, "I want to call a lawyer?"

11 A No.

12 Q Did he ever say, "Get me up out of here and take me  
13 back to the detention center?"

14 A No.

15 Q Well, let me do this, have you still got the other  
16 copies?

17 A Yes.

18 Q With you or somewhere else?

19 A No, they're at my house.

20 Q That's fine.

21 MR. BARFIELD: Your Honor, at this time I would ask to  
22 mark the two discs as State's exhibits for identification.  
23 Well, I will go ahead and move them in, I guess.

24 MR. LIFSEY: Subject to my prior motion in limine,  
25 Judge.

## TESTIMONY OF STEVEN MARSHALL

1 THE COURT: All right.

2 (The two DVD's were received as State's 98 and 99.)

3 MR. BARFIELD: That's all, Mr. Marshall, please answer  
4 anything Mr. Lifsey has..

5 CROSS EXAMINATION

6 BY MR. BARFIELD:

7 Q Mr. Marshall, you were a police officer a long time,  
8 correct?

9 A Yes.

10 Q And interviewed a lot of people suspected of crimes  
11 during that time; is that right?

12 A Yes.

13 Q It's not unusual for you to interview people and have  
14 people be a little nervous to talk to you, not unusual at  
15 all.

16 A I agree.

17 Q And not unusual that when you talk to people  
18 sometimes you have to talk to them awhile; isn't that  
19 right?

20 A It's not unusual.

21 Q It's not unusual that sometimes it takes awhile to  
22 get out -- to get to the truth of what happened, that's  
23 not unusual, is it?

24 A That's not unusual.

25 Q And sometimes it takes multiple interviews to get to

## TESTIMONY OF FREDERICK THOMPSON

1 the truth of what happened, that's not unusual at all.

2 A That's not unusual.

3 MR. LIFSEY: I don't have any further questions.

4 MR. BARFIELD: Nothing else from this witness, I don't  
5 want to excuse him just yet.

6 The witness, FREDERICK THOMPSON, was first duly sworn  
7 and testified as follows, on:

8 DIRECT EXAMINATION

9 BY MR. BARFIELD:

10 Q State your name, please.

11 A My name is Frederick Thompson.

12 Q Mr. Thompson, by whom are you employed?

13 A The Lancaster County Sheriff's Office.

14 Q And what do you do for the sheriff's office?

15 A I'm an investigator.

16 Q How long have you been an investigator with the  
17 sheriff's office?

18 A For ten years.

19 Q How long have you been employed by the sheriff's  
20 office?

21 A Since December of 1999.

22 Q Did you get involved in the investigation of the  
23 shooting death of **Jaylen J. [REDACTED]** which occurred on May 3rd  
24 of 2010?

25 A Yes, sir, I did.

## TESTIMONY OF FREDERICK THOMPSON

1 Q Did you start work on the case that night or the next  
2 day?

3 A The next day.

4 Q Did you on May 4th of 2010 participate in an  
5 interview of Anthony Rodriekus Carter?

6 A Yes, sir, I did.

7 Q Do you -- did you have any background -- had you been  
8 briefed sort of on the case before you started working  
9 directly on the investigation that morning?

10 A Yes, sir, we did.

11 Q And did you know that Anthony Carter was somebody who  
12 had been around -- been involved in some way?

13 A Yes, sir.

14 Q Did you see Anthony Carter the night of May 3rd at  
15 all?

16 A No, sir, I did not.

17 Q Did you see him on the morning of May 4th?

18 A Yes, sir, I did.

19 Q What was Anthony Carter's status with you as an  
20 investigator when you first had contact with him on the  
21 morning of May 4th? What was he to the sheriff's office  
22 concerning this case?

23 A He was a witness.

24 Q Did you -- where did you first see Anthony Carter?

25 A I went to his residence on Lynwood Drive.

## TESTIMONY OF FREDERICK THOMPSON

- 1 Q Did you talk to him there?
- 2 A Briefly.
- 3 Q Did you tell him why you were there?
- 4 A Yes, sir.
- 5 Q And what did you tell him?
- 6 A I asked him if he would come to the sheriff's office  
7 and speak with us about his knowledge of the case.
- 8 Q Did he agree to?
- 9 A Yes, sir, he did.
- 10 Q Did you do anything, threaten him or coerce him in  
11 any way to get him to come to the sheriff's office?
- 12 A No, sir.
- 13 Q Was there any reluctance on his part to come to the  
14 sheriff's office?
- 15 A No, sir. I think he indicated that he knew we were  
16 going to come out and speak with him.
- 17 Q Did you drive him to the sheriff's office in your  
18 police car?
- 19 A Yes, sir.
- 20 Q Was it an unmarked car?
- 21 A Yes, sir.
- 22 Q I think you drive an Explorer.
- 23 A Yes, sir.
- 24 Q Where did you go -- specifically where did you go?
- 25 A I brought him back to our drug task force address,

## TESTIMONY OF FREDERICK THOMPSON

- 1 the address is [REDACTED].
- 2 Q And did you know that he was going to be interviewed?
- 3 A Yes, sir.
- 4 Q Did you know it was going to be audio/video recorded?
- 5 A Yes, sir.
- 6 Q Did y'all make an audio or video recording?
- 7 A Yes, sir, I did.
- 8 Q Have you watched some or all of that tape?
- 9 A Yes, sir, I have.
- 10 Q At any time during the proceedings of the making and  
11 recording of the statement on May 4th, was Anthony Carter  
12 under arrest?
- 13 A No, sir, he was not.
- 14 Q Was he detained?
- 15 A No, sir.
- 16 Q Was he ever during the interview not free to leave?
- 17 A No, sir.
- 18 Q Did you have any difficulty understanding  
19 Mr. Carter's -- did you have any trouble communicating  
20 with Mr. Carter?
- 21 A No, sir, I don't think so. Sometimes he would speak  
22 low but we were all in the same room, we could still kind  
23 of hear him.
- 24 Q Did he appear to have any trouble understanding your  
25 words and phrases and thoughts?

## TESTIMONY OF FREDERICK THOMPSON

1 A No, sir.

2 Q Did he ever ask you any questions about his Miranda  
3 warnings?

4 A Right after he was read his Miranda warning he  
5 immediately asked if he was under arrest.

6 Q And what did you tell him?

7 A We told him he was not.

8 Q Was that true?

9 A That was correct.

10 Q Did that remain true throughout that interview?

11 A Yes.

12 Q Any other questions he asked about his Miranda  
13 warnings?

14 A None that I can remember.

15 Q Did he ever say or do anything that made you think he  
16 did not understand what his Miranda warnings were?

17 A No, sir.

18 Q Did he appear to be during the May 4th interview in  
19 any state of discomfort?

20 A No, sir.

21 Q Did he have any scars, marks, visible injuries or  
22 appear to have any pain or discomfort?

23 A No, sir.

24 Q Did he ever -- do you recall whether he had his  
25 telephone during this interview?

## TESTIMONY OF FREDERICK THOMPSON

- 1 A He did, it was in his left pocket.
- 2 Q Do you recall from watching the tape whether he ever  
3 used the telephone during the interview?
- 4 A He did, sent a few text messages and even spoke to  
5 someone by phone.
- 6 Q Were there times when he was in the interview room  
7 and y'all weren't in there?
- 8 A That is correct.
- 9 Q Did he ever ask for anything like -- well, do you  
10 recall him having anything to eat or drink during the  
11 interview?
- 12 A He was given a bottle of water.
- 13 Q Did he ever ask for anything else to drink or  
14 anything to eat?
- 15 A Did not.
- 16 Q Cigarette?
- 17 A Did not.
- 18 Q Bathroom break?
- 19 A No, sir.
- 20 Q Smoke break or headache powder or anything?
- 21 A No, sir, he didn't ask for anything else.
- 22 Q Anybody promise him anything on May 4th to get him to  
23 talk?
- 24 A No, sir.
- 25 Q Anybody threaten him or coerce him on May 4th to get

## TESTIMONY OF FREDERICK THOMPSON

1 him to talk?

2 A No, sir.

3 Q I think it's May 4th, I'm going to go ahead and ask  
4 you this: Are you aware on May 4th at some point he said,  
5 "I've answered your questions, I'm ready to go," or  
6 something like that?

7 A Yes, sir.

8 Q Have you seen that?

9 A Yes, sir, I did.

10 Q Was that when you were talking to him?

11 A Yes, sir.

12 Q Of course, you've seen the tape now, did you remember  
13 that happening.

14 A Not at the time. After watching the video I do now  
15 realize that he did say that.

16 Q Did he -- did y'all continue to talk after he said  
17 that?

18 A Yes, sir.

19 Q Did he ever protest continuing to talk to you after  
20 y'all said that?

21 A No, sir. I think right after he said that he  
22 continued to talk.

23 Q And again when he said that was he under arrest?

24 A No, sir, he was not.

25 Q Was he in custody?

## TESTIMONY OF FREDERICK THOMPSON

- 1 A No, sir.
- 2 Q Was he being detained?
- 3 A No, sir.
- 4 Q If he would have gotten up and said, "I'm breaking  
5 camp, take me home," could he have left?
- 6 A Yes, sir, he could have.
- 7 Q Thank you. Well, let me backup. Were you present at  
8 least during -- are you aware there was an interview with  
9 Mr. Carter on May 6th, two days later?
- 10 A Yes, sir.
- 11 Q Were you present and did you participate in some  
12 fashion in that interview?
- 13 A I didn't participate in that interview. I was there  
14 at the office kind of in and out because they were working  
15 on some other things, I was aware that he was there and  
16 interviewed but I didn't initially interview him at that  
17 time.
- 18 Q Do you recall whether you actually were in the room  
19 during any of that?
- 20 A I walked by the room.
- 21 Q And I can't remember from watching the tapes, but did  
22 you ever interact with Mr. Carter for the May 6th  
23 interview?
- 24 A Maybe spoke to him in passing but we didn't hold a  
25 conversation.

## TESTIMONY OF FREDERICK THOMPSON

1 Q The same series of questions that I asked you about  
2 May 4th apply to May 6th, but did he at any time reach out  
3 to you and say, "I need something, I want something, I  
4 want a lawyer," or anything like that?

5 A No, sir, not to me.

6 Q Was it your understanding on May 6th that he was in  
7 jail arrested in custody?

8 A Yes, sir.

9 MR. BARFIELD: Thank you. Answer anything Mr. Lifsey  
10 has.

11 MR. LIFSEY: I don't think I have anything for  
12 Mr. Thompson.

13 THE COURT: You can step down.

14 The witness, RYAN MCLEMORE, was first duly sworn and  
15 testified as follows, on:

16 DIRECT EXAMINATION

17 BY MR. BARFIELD:

18 Q State your name, please.

19 A Ryan McLemore.

20 Q Agent McLemore, by whom are you employed?

21 A Lancaster County Sheriff's Office.

22 Q What do you do for the sheriff's office?

23 A I'm a lieutenant, I supervise the narcotics division  
24 at the sheriff's office.

25 Q How long have you been with the sheriff's office?

## TESTIMONY OF RYAN MCLEMORE

1 A I have been with the sheriff's office fifteen years.

2 Q How long have you been supervisor for narcotics?

3 A Three years.

4 Q Did you participate, assist in the investigation of  
5 the shooting death of [redacted] which occurred on  
6 May 3rd of 2010?

7 A Yes, I did.

8 Q Did you go out that night or did you start up the  
9 next morning?

10 A I started up the next morning, I didn't go out there  
11 that night.

12 Q Did you meet a fellow named Anthony Rodriekus Carter  
13 the next morning?

14 A Yes, I did.

15 Q Were you present and did you participate in his  
16 interview at the drug task force office on May 4th  
17 starting some time I think maybe 9:30 or so in the  
18 morning?

19 A Yes, sir, I did.

20 Q Did you directly engage in questions and answers with  
21 Mr. Carter from time to time?

22 A I did.

23 Q Was Steven Marshall and Fred Thompson also  
24 participating in the interview?

25 A Yes, they were.

## TESTIMONY OF RYAN MCLEMORE

- 1 Q Let me ask you just some general questions. Was  
2 Carter in custody?
- 3 A No, sir, he was not.
- 4 Q Was he under arrest?
- 5 A No, sir, he was not.
- 6 Q Was he detained?
- 7 A No, sir.
- 8 Q Was he restrained?
- 9 A No, sir.
- 10 Q At any time during the interview process was he free  
11 to leave?
- 12 A Yes, he was.
- 13 Q Did you become aware that he got his Miranda warnings  
14 some time during that interview?
- 15 A I did.
- 16 Q Did his status in your mind change just because he  
17 got Miranda warnings? Was he free, under arrest or  
18 anything after that, do you know?
- 19 A I wasn't present at the time.
- 20 Q That's fine.
- 21 A I had left the interview by that time.
- 22 Q At any time when you were participating in the  
23 interview, did Carter appear to be in any discomfort?
- 24 A No, sir.
- 25 Q Did he ever ask for anything?

## TESTIMONY OF RYAN MCLEMORE

1 A No, sir.

2 Q Creature comforts?

3 A Right.

4 Q Didn't ask for anything?

5 A No, sir.

6 Q Did he ever in your presence say, "I don't want to  
7 talk anymore?"

8 A No, sir.

9 Q Did he ever in your presence say, "I want a lawyer?"

10 A No, sir.

11 Q Did he ever invoke his Miranda -- his Miranda and  
12 constitutional rights during your presence with him?

13 A No, sir, he didn't.

14 Q Anybody promise him anything to get him to talk on  
15 May 4th?

16 A No, sir.

17 Q Anybody coerce him or threaten him to get him to talk  
18 on May 4th?

19 A No, sir.

20 MR. BARFIELD: Thank you. Answer anything Mr. Lifsey  
21 has.

22 MR. LIFSEY: I don't have anything for this witness.

23 THE COURT: Free to step down.

24 The witness, CLARK CRUMP, was first duly sworn and  
25 testified as follows, on:

## TESTIMONY OF CLARK CRUMP

1 DIRECT EXAMINATION

2 BY MR. BARFIELD:

3 Q State your name.

4 A Clark Crump.

5 Q Mr. Crump, by whom are you employed?

6 A Lancaster County Sheriff's Office.

7 Q How long have you been with the sheriff's office?

8 A Fourteen years.

9 Q What do you do with the sheriff's office?

10 A I'm a criminal investigator.

11 Q Is that what you were with the sheriff's office in  
12 May of 2010?

13 A That's correct.

14 Q Did you participate in the investigation in the  
15 shooting death of **Jaylen J. [REDACTED]** which occurred on May 3rd  
16 of 2010?

17 A Yes, sir.

18 Q Did you start your investigation on the night of  
19 May 3rd or morning of May 4th or some time later?

20 A Sometime later.

21 Q Did you have anything to do with Anthony Rodriekus  
22 Carter concerning this case prior to May 6th of 2010?

23 A No, sir.

24 Q Did you have any contact with him prior to May 6th?

25 A No, sir.

## TESTIMONY OF CLARK CRUMP

- 1 Q Did you have any contact with Anthony Rodriekus  
2 Carter on May 6th of 2010?
- 3 A Yes, I did.
- 4 Q Where did that contact occur?
- 5 A At our Lancaster County Drug Task Force on Number 9.
- 6 Q Was the purpose of that contact to conduct an  
7 interview?
- 8 A Yes, sir.
- 9 Q Were you there?
- 10 A Yes, sir.
- 11 Q Was Steven Marshall there?
- 12 A Yes, sir.
- 13 Q Was Fred Thompson around or maybe in and out?
- 14 A I don't recall him being in the building.
- 15 Q That's fine. Was Carter under arrest?
- 16 A Yes.
- 17 Q Was he dressed out in detention center clothing?
- 18 A Yes, sir.
- 19 Q Was he restrained?
- 20 A Yes, sir.
- 21 Q At some point during the interview was there any  
22 change in his restraint?
- 23 A I believe his right hand was taken lose from the  
24 chair.
- 25 Q Did he ever ask -- was that because y'all initiated

## TESTIMONY OF CLARK CRUMP

1 that or he asked for it?

2 A We initiated it and allowed him to do it to  
3 demonstrate something.

4 Q Did he at any other time -- how long was that  
5 interview, May 6th, about how long, do you know?

6 A Approximately an hour and a half.

7 Q Is there dead air time when there isn't any  
8 interviewing going on but the tape is still running?

9 A Yes.

10 Q So the interview is longer than an hour?

11 A Probably.

12 Q Is there any time during that interview that Carter  
13 said, "Unchain me, free me, let my hands loose, unhook my  
14 legs," or anything like that?

15 A No, sir.

16 Q Did he appear to be in any physical discomfort? Did  
17 he have any injuries?

18 A No, sir.

19 Q Did he complain of any pain?

20 A No, sir.

21 Q Did he ever ask during that interview for any  
22 creature comforts like a drink of water, something to eat,  
23 bathroom break, something for a headache, anything?

24 A No, sir.

25 Q Did he at any time during that interview invoke his

## TESTIMONY OF CLARK CRUMP

1 constitutional and Miranda rights; number one, did he ever  
2 say, "I don't want to talk anymore?"

3 A No, sir.

4 Q Did he ever say, "I want a lawyer before I decide to  
5 continue talking?"

6 A No, sir.

7 Q Did he say, "I want a lawyer for any purpose?"

8 A No, sir.

9 Q Did he ever just flat out say, "I'm done, I'm not  
10 going to talk anymore?"

11 A No, sir.

12 Q Did he talk?

13 A Yes, sir.

14 Q Did he carry on a conversation for several hours?

15 A Yes, sir.

16 Q Anybody promise him anything -- well, the tape is  
17 going to speak for itself. Did you interview him, are you  
18 doing a good bit of the interviewing yourself?

19 A Yes, sir.

20 Q Did you use techniques that you have been trained to  
21 use while you are interviewing somebody?

22 A Yes, sir.

23 Q And we might at some point get into the difference  
24 between an interview and interrogation.

25 A Yes, sir.

## TESTIMONY OF CLARK CRUMP

1 Q Were you trying to get him to give you information?

2 A Yes, sir.

3 Q Is it clear on the tape?

4 A Yes, sir.

5 Q Did you promise him anything to get him to give you  
6 information?

7 A No, sir.

8 Q Did you threaten him in any way to get him to give  
9 you information?

10 A No, sir.

11 Q Did you do anything to coerce him in any way other  
12 than your interview techniques to get him to give you  
13 information?

14 A No, sir.

15 Q And I don't want you to say what he said, but did you  
16 get information?

17 A Yes, sir.

18 MR. BARFIELD: Thank you. Answer anything Mr. Lifsey  
19 has.

20 MR. LIFSEY: I don't have any questions for Officer  
21 Crump.

22 THE COURT: You may step down. The next thing I  
23 understand it is the tape which is three or four hours, I  
24 don't know. But anyway, it is what it is it. So y'all be  
25 back at 1:00 and we will start then.

1 (The jury left the courtroom and a lunch break was  
2 Taken.)

3 THE COURT: Do you think you have got it under  
4 control, Solicitor?

5 MR. BARFIELD: I hope so, Your Honor.

6 THE COURT: Are you ready to roll?

7 MR. BARFIELD: Yes, sir, just one second.

8 (The jury returned to the courtroom.)

9 THE COURT: Okay.

10 MR. BARFIELD: Your Honor, at this time the State is  
11 prepared to publish portions of the videotape interviews  
12 that I introduced into evidence as two State's exhibits, I  
13 don't recall the numbers, they're segments and I'm going to  
14 be stopping and starting. And I think the clerk is going  
15 to tell the jurors something about the ear pieces.

16 (Break in proceedings.)

17 (At the time the DVD was played.)

18 THE COURT: Okay. Jurors, we're going to take a  
19 little break.

20 (A recess was taken and the jury returned to the  
21 Courtroom.)

22 THE COURT: Okay. Jurors, they have eight minutes  
23 left on the first tape, about an hour and 20 minutes on the  
24 second tape. I told them y'all are good for that much time  
25 and we will finish for the day, but if somebody needs a

1 break raise your hand and we're talking an hour and 35  
2 minutes max. Okay.

3 (The DVD resumed playing.)

4 MR. BARFIELD: We are done.

5 THE COURT: Y'all step up one second.

6 (A bench conference was held.)

7 THE COURT: All right. Jurors, that's it. As I  
8 promised you today we will get it to you tomorrow, won't be  
9 late, don't know whether it will -- probably be before  
10 lunch though probably, so don't talk about the case. We're  
11 going to start back at 9:30. We've got to go over a bunch  
12 of things with the attorneys at 9:00 so we'll still finish  
13 it tomorrow. Have a good night. 9:30.

14 (The jury left the courtroom.)

15 MR. BARFIELD: I'm informed by Mr. Lifsey as to  
16 indictment number 2009-GS-29-1167 which is a direct  
17 indictment true billed charging Anthony Rodriekus Carter  
18 with possession of a pistol by a person convicted of a  
19 crime of violence, that Mr. Carter desires to plead guilty  
20 to that charge and --

21 THE COURT: No, that's not the one -- oh, okay,  
22 previously convicted.

23 MR. BARFIELD: Yes, sir.

24 THE COURT: Okay. Mr. Carter, you doing all right?

25 THE DEFENDANT: Yes, sir.

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1 THE COURT: I'll defer sentencing until the trial is  
2 over on that charge. But I will tell them that he pled to  
3 that without telling them how much time it carries or  
4 anything like that.

5 MR. LIFSEY: Yes, sir.

6 THE COURT: Now, what forms of verdict do y'all  
7 anticipate submitting?

8 MR. LIFSEY: Well, obviously he is indicted for  
9 murder, I would ask the Court to submit voluntary  
10 manslaughter, I would ask the Court to consider involuntary  
11 manslaughter in addition to that, and I would like you to  
12 charge self-defense and --

13 THE COURT: Well, I have been reading, it looks like  
14 under his testimony he is entitled to an involuntary, that  
15 the shots weren't trying to hit anybody which that's the  
16 way it looks if he actually shot standing by the car, but  
17 that's charging the elements of that.

18 MR. BARFIELD: Can I respond to that?

19 THE COURT: I will listen to you on that.

20 MR. BARFIELD: I think I understand you saying that he  
21 tried to shoot -- that he shot into the ground and didn't  
22 mean to shoot at anybody?

23 THE COURT: I'm saying in the light most favorable to  
24 him it's not an accident, though, he's reckless to  
25 disregard shooting is involuntary.

1 his own testimony was the safety was on, that's what he  
2 said one time. Another time he said they weren't trying to  
3 hit anybody.

4 MR. BARFIELD: Are you charging voluntary  
5 manslaughter?

6 THE COURT: I have to charge voluntary, returning  
7 fire. Murder, voluntary, involuntary, self-defense,  
8 transferred intent on both of them, transferred intent on  
9 self-defense, transferred intent on murder and  
10 manslaughter, involuntary.

11 MR. BARFIELD: And accomplice liability, hand of one  
12 is the hand of all?

13 THE COURT: I'm going to listen to you tell me about  
14 that, you know, tell me your theory on that.

15 MR. BARFIELD: Well, I don't want to do my closing  
16 argument.

17 THE COURT: I know. But you don't want me  
18 interrupting you when you argue.

19 MR. BARFIELD: No. Certainly there's testimony from  
20 today that he provided the -- assuming the other guy shot  
21 the gun, he provided the gun that the other guy shot and  
22 killed the baby and that to me is as close and as clear as  
23 you can get accomplice liability.

24 THE COURT: I'm not going to talk on the facts, I'm  
25 going to charge hand of one, hand of all and that type

1 MR. BARFIELD: I'm going to argue with you just a  
2 minute. As I recall the tape he wasn't successful in  
3 firing the gun when he had it pointed at the ground, he  
4 doesn't ever admit to firing the gun so I don't see how  
5 there's accidental discharge of the gun because he doesn't  
6 ever admit firing the gun.

7 THE COURT: Hold it. Unfortunately he can make  
8 inconsistent statements and the jury can believe what they  
9 want. At one point he said nobody intended to shoot  
10 anybody, later he did tie him down. If that's said and you  
11 can certainly argue that, that it couldn't possibly be  
12 involuntary because he tried to shoot, that's what he said  
13 at one point, at another time he said they were not trying  
14 to shoot anybody. I mean, I heard that, I don't know that  
15 he said that from somebody so that's the only reason I'm  
16 charging that. But you are right, you can certainly argue  
17 it can't possibly be involuntary because the only reason he  
18 didn't shoot under his own testimony he did that. But  
19 again, I have to charge him on inconsistent statements and  
20 they can believe any portion of his testimony.

21 MR. BARFIELD: Are you saying you're going to charge  
22 involuntary manslaughter?

23 THE COURT: Right. And I'm saying you can argue it  
24 can't possibly be involuntary because he tried to -- he  
25 intended to shoot and the only reason he didn't shoot under

1 stuff, I'm not saying what you're saying.

2 MR. LIFSEY: I understand. I can't argue with your  
3 reasoning on that.

4 THE COURT: That's right. Now, there is one thing  
5 that's going to come up on self-defense maybe, I just need  
6 to horse collar. That first thing about without fault on  
7 bringing on the controversy, you're talking about that day.  
8 The fact that he owed them money does not negate that, that  
9 doesn't make it --

10 MR. LIFSEY: I certainly intend to argue without fault  
11 difficulty applies with what is going on that night.

12 THE COURT: What was going on that day. I'm going to  
13 tell the jury that he owed them money doesn't enter into  
14 that equation.

15 MR. LIFSEY: And I think whether or not whatever  
16 happened in the street is a fact question for the jury to  
17 decide, whether that amounts to --

18 THE COURT: Well, it had to be -- who is the  
19 aggressor, who started it and so forth. And I don't get  
20 into this but you can argue that it -- which is what he  
21 suggested in opening, it does not matter who fired the  
22 first shot if he is walking there with a gun and they see  
23 it they're entitled to -- because I am going to charge them  
24 you don't have to wait until somebody gets the drop on you,  
25 they don't have to wait either if they see a gun and

1 think -- so that's -- it goes both ways. But I'm not going  
2 to tell the jury that, that's jury argument. All I'm going  
3 to tell them if you have the right to shoot you don't have  
4 to wait, you can shoot first in a self-defense scenario.

5 MR. BARFIELD: Yes, sir.

6 THE COURT: Other than that I don't know anything.  
7 And, of course, I'm going to tell them on your accomplice  
8 deal, I'm not going to talk about accomplice, I will say  
9 hand of one, hand of all, that's just standard stuff that  
10 I'm going to tell them on that, nothing out of the ordinary.  
11 And, of course, on self-defense I will tell them about  
12 prior difficulties which is from his view point but not  
13 fact specific, just run over that, that is basically it.  
14 Of course if y'all want any specific charges you can hand  
15 them up but the general charge probably will cover  
16 everything.

17 MR. BARFIELD: If either one of us finds anything else  
18 to briefly argue with you about in the morning concerning  
19 what we have covered so far this afternoon --

20 MR. LIFSEY: And I assume -- you said this in your  
21 opening, you're giving the current self-defense and they  
22 have to disprove it beyond a reasonable doubt.

23 THE COURT: Yeah, reasonable doubt. I'm only going to  
24 say hesitate to act and firmly convinced on reasonable  
25 doubt, I'm not going into all of that stuff about you can

1 doubt the sun rising and all of that, I'm not going to get  
2 into all of that.

3 MR. LIFSEY: I was just asking the current state. You  
4 don't charge the old self-defense is an affirmative  
5 defense.

6 THE COURT: No. I will say -- I'm only going to  
7 tell -- I don't change what we used to say that the  
8 defendant must show and I will say that the evidence must  
9 demonstrate.

10 MR. BARFIELD: Beyond a reasonable doubt.

11 THE COURT: The State has to prove beyond a reasonable  
12 doubt he did not act in self-defense. If evidence of  
13 self-defense was present and here is what evidence must  
14 convince you of before self-defense is applicable.

15 MR. LIFSEY: I think that's the law, I just wanted to  
16 clarify that.

17 THE COURT: I think that's basically it. If y'all  
18 ~~come up with anything I will be happy to charge it, the~~  
19 charge is long enough and the facts are convoluted enough.  
20 Anything else?

21 MR. BARFIELD: No, sir.

22 (Court adjourned for the evening and resumed on  
23 Thursday, November 10, 2011.)

24 THE COURT: Okay. I take it the State has to rest in  
25 front of the jury, you don't have anything else to do.

1 MR. BARFIELD: I want to, if you will allow me to,  
2 argue against your charging involuntary manslaughter.

3 THE COURT: You can do that all you want to.

4 MR. BARFIELD: I handed Mr. Davis a series of cases  
5 which deal with involuntary manslaughter. The evidence in  
6 the case -- I'm not absolutely certain of what the facts  
7 are that the Court determines warrant the involuntary  
8 manslaughter charge and I don't know if you want me to ask  
9 you that.

10 THE COURT: Basically there is testimony that any  
11 shooting from that side was aimed at anybody, that's all.

12 MR. BARFIELD: Can I argue that shots in the air, can  
13 I argue --

14 THE COURT: You can. But let me explain. It's a  
15 weakened involuntary obviously, I have tried so many of  
16 these things. I tried one where a guy followed his wife  
17 all of the way from a convenience store to a trailer and  
18 3:00 in the morning he sneaks through the woods with a  
19 loaded .45, a guy steps out, he shoots the potential lover  
20 right between the eyes and he says I was just shooting to  
21 frighten him, I didn't mean to hit him and they said I  
22 should have charged involuntary. If you can overcome that,  
23 fine, but that's what I'm looking at. If there is any  
24 evidence that it was unintentional I'm supposed to charge  
25 that. And the cases you've handed up they charged it --

1 they reversed for not charging involuntary. I know you  
2 take language from that case and want to argue it but the  
3 fact is they got reversed for not charging involuntary.

4 MR. BARFIELD: The ones I handed you the Court ruled  
5 that involuntary should not have been charged. And the  
6 Reece case -- one of the cases that I'm looking at but --  
7 let me make two statements to you. One is it is my  
8 recollection, Mr. Lifsey might disagree, but I listened to  
9 the tapes again last night, it is my recollection -- it is  
10 my interpretation from the clear language of Carter on the  
11 tapes that when he says shots in the air he's talking about  
12 the shots coming toward him, I think that's clear. I don't  
13 think there's any evidence that the shots fired from the  
14 Malibu where the child was killed were into the air. And I  
15 can quote you -- I made a -- sort of did my own little  
16 transcript. In the first interview he said he heard  
17 about -- and this is pretty much --

---

18 THE COURT: All right. Well, just -- even assuming  
19 that is true he still gets involuntary because he's  
20 shooting into the car. If they shot they shot into the  
21 car, not towards people over there. They're not shooting  
22 at somebody, they're messing around pulling the trigger.  
23 I'm not even considering charging accident but, of course,  
24 that would be out there too, he just didn't request that  
25 so --

1 MR. BARFIELD: Can I ask you about the Reece case?

2 I'm sure that you have looked at the Reece case?

3 THE COURT: You just handed it to me and I haven't  
4 studied it, you know.

5 MR. BARFIELD: The Reece case basically says if you  
6 are committing a crime which is not a felony you are  
7 perhaps entitled to an involuntary charge, if you are  
8 committing a crime which is a felony you're not. I believe  
9 there is evidence in this case that Carter was committing  
10 two felonies when this incident happened. One was he was  
11 pointing and presenting a firearm which is pretty much on  
12 point with the Reece case and that is a felony, he was also  
13 in possession of a pistol by a person convicted of a crime  
14 of violence. I think if you're going to charge involuntary  
15 manslaughter I should be allowed to argue to the jury that  
16 it is not because he was committing those two felonies. To  
17 do that I've got to present evidence, number one, that he  
18 has the prior conviction for the crime of violence which  
19 would make him -- his admission on the tape would make him  
20 guilty of possession of a pistol by a person convicted of a  
21 crime of violence, and then I would need to establish also  
22 that he's pled guilty to that charge and I would like to be  
23 able to do that so that I could argue those facts to the  
24 jury.

25 THE COURT: Right. And you could easily have done

1 that and been there had he not already pled guilty but now  
2 you can't do that.

3 MR. BARFIELD: But he was committing those crimes when  
4 this incident occurred, it's a fact in the case.

5 THE COURT: I'm not charging that. You can argue that  
6 he was pointing and presenting, I'll say that pointing and  
7 presenting is a crime, I'll read the statute to them.

8 MR. BARFIELD: Is there some way much like you are  
9 going to deal with the absence of the pistol charge, is  
10 there some way that I can use that also without referring  
11 to it as a record of a crime of violence? I think that --

12 THE COURT: He's not convicted of that, but --

13 MR. BARFIELD: Well, he pled to it yesterday.

14 THE COURT: Wait a minute, pointing and presenting he  
15 did not.

16 MR. BARFIELD: Yes, sir, I understand that.

17 THE COURT: You cannot get into that unless he  
18 testifies. If he testifies, of course, you can get into  
19 that.

20 MR. BARFIELD: But there's evidence in the case,  
21 though, that he presented a firearm to J. D. Hemphill, he  
22 said he showed it to him when he got out there in the  
23 street with him.

24 THE COURT: I said I would read that statute to him.

25 MR. BARFIELD: I'm sorry, okay.

1 THE COURT: What else do you want me to say?

2 MR. BARFIELD: I misunderstood you, I thought you were  
3 retracting that.

4 THE COURT: I said he's not convicted of that and he  
5 has not been charged with that but there is a statute that  
6 says pointing and presenting is a felony and I'll read them  
7 the elements also.

8 MR. BARFIELD: The other thing that I was talking  
9 about was the charge that he pled to yesterday.

10 THE COURT: I know, and that can't come in now unless  
11 he testifies. It could have if we would have read it off  
12 to start with but we didn't do that, we just said  
13 possession of a pistol.

14 MR. BARFIELD: Yes, sir.

15 THE COURT: Anything else?

16 MR. BARFIELD: That's all.

17 MR. LIFSEY: I don't have anything, Judge. I will  
18 tell you that my client tells me he has made a decision not  
19 to testify if you want to do that now so we don't have to  
20 send them back out.

21 THE COURT: Sure. Mr. Carter, you have had all night  
22 and had all week to think about it, you understand again  
23 there are good reasons for testifying and good reasons for  
24 not. Now, you do understand that if you testify they will  
25 bring out your prior record, of course, I would tell the

1 jury they couldn't consider that on the issue of guilt. It  
2 would be something in front of the jury about your  
3 character and so forth which they don't have at this point  
4 in front of them, do you understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: So with all of that knowledge and  
7 recognizing that if you don't testify your attorney gets to  
8 put up the argument, is it your intent to go forward with  
9 testimony or not to present any evidence?

10 THE DEFENDANT: Yes, sir, I understand.

11 MR. LIFSEY: He's asking you are we going to put up  
12 any evidence?

13 THE DEFENDANT: Oh, no, sir.

14 THE COURT: Okay. With that said were y'all prepared  
15 to proceed with jury argument after the State rests?

16 MR. LIFSEY: Yes, sir. I need to formerly -- can I  
17 make my motions?

18 THE COURT: That's why I said nothing is going to  
19 change, you can make your arguments now.

20 MR. LIFSEY: Solicitor, are you going to rest now?

21 MR. BARFIELD: I am.

22 MR. LIFSEY: All right. Judge, I would move for a  
23 directed verdict. I could cite State versus Dickey and I  
24 would leave that matter to your discretion which is the  
25 self-defense defense for the jury.

1 THE COURT: In the light most favorable to the State  
2 under the hand of one, hand of all situation he could be  
3 guilty of various crimes. All right.

4 MR. LIFSEY: Thank you.

5 THE COURT: One small thing, I didn't look it up but  
6 involuntary is not a crime of violence, is it?

7 MR. LIFSEY: No, sir.

8 THE COURT: So I have to tell them if they find him  
9 guilty of that they can't find him guilty of the --

10 MR. BARFIELD: That's correct. Involuntary  
11 manslaughter is not a violent crime.

12 THE COURT: Everybody about ready?

13 (The jury returned to the courtroom.)

14 THE COURT: Okay.

15 MR. BARFIELD: Your Honor, the State rests.

16 THE COURT: Defense?

17 MR. LIFSEY: The defense rests, Judge.

18 THE COURT: Okay. Jurors, here is what is going to  
19 happen, you heard the State say we rest that doesn't mean  
20 he's tired or anything, that just means he's not going to  
21 put anymore evidence in. Okay. At that point the defense  
22 is given an opportunity to present evidence, as you recall  
23 the defense does not have to prove anything and the fact  
24 that the defendant did not testify from the stand can't  
25 even be considered by you on the issue of whether he

## CLOSING ARGUMENTS

1 committed a crime or not. Now, here is what is going to  
2 happen, the State is going to make an argument -- if you  
3 don't put up any evidence -- if you put up any evidence the  
4 State gets to argue first and last so there is some  
5 technical reason for not putting up evidence. Also what  
6 you will consider now will be two indictments. At the  
7 start of the trial there was an indictment that charged  
8 Mr. Carter with possession of a weapon but at the  
9 conclusion of the trial yesterday after y'all left he just  
10 pled guilty to that charge, pled guilty to possessing. You  
11 don't have to possess a weapon for any length of time, you  
12 can just have it, you know, and he testified that he had it  
13 at some point so he just removed that from your  
14 consideration and pled guilty to that charge. The fact  
15 that he pled guilty to that charge creates no inference of  
16 guilt toward him on these other two charges as you just  
17 forget that charge was ever there. Now, this indictment  
18 charges him with possession -- he being Anthony Carter --  
19 of a firearm or a knife during the commission of a violent  
20 crime, that's an add-on charge for sentencing purposes if  
21 you find a person guilty of committing a violent crime.  
22 Okay. They'll instruct you in a little bit if you don't  
23 find him guilty of committing a violent crime you're not  
24 guilty of that and you wouldn't have to consider that. If  
25 an individual is engaged in the commission of a violent

## CLOSING ARGUMENTS

1 crime and has a weapon he is guilty, if it is not a violent  
2 crime, not guilty. Now, this indictment charges Mr. Carter  
3 with murder, on or around May 3rd of last year it alleges  
4 that with malice aforethought killed and murdered Jaylen  
5 Jackson by shooting her with a handgun and she died as a  
6 direct result of that shooting. After the attorneys sum up  
7 for you I'm going to instruct you on the law in some  
8 detail. Okay. But basically when this person is charged  
9 with murder there are other things that the jury can  
10 consider and I certainly am going to amplify the  
11 instructions to you at the end that murder is the unlawful  
12 killing of one human being by another human being with  
13 malice aforethought expressed or inferred. The larger  
14 crime includes all smaller crimes that the person -- of  
15 lesser included offenses that the person could have been  
16 charged with arising out of the same action, so included in  
17 the charge of murder will be the charge of voluntary  
18 manslaughter. Of course, you could find him guilty, but  
19 I'm not suggesting you do, of murder, you don't get to  
20 voluntary manslaughter and I will explain to you  
21 presumption of innocence and burden of proof and all of  
22 that, and at the end I told you at the start murder is  
23 killing somebody with malice aforethought, express or  
24 inferred. Voluntary manslaughter is one human being  
25 killing another human being without malice and in a sudden

## CLOSING ARGUMENTS

1 heat of passion upon sufficient legal provocation. Murder  
2 is killing a person with malice, express or inferred,  
3 manslaughter is killing somebody without malice. And  
4 intent to kill is present in both of those charges as a  
5 third charge, a lesser charge involuntary manslaughter.  
6 Involuntary manslaughter is where a defendant unlawfully  
7 and unintentionally killed a victim and at the time of the  
8 killing occurred the defendant's conduct was criminally  
9 negligent, obviously it has no intent to kill. Criminal  
10 negligence is basically engaging in reckless disregard of  
11 the safety of others. Beyond that at this point I'm not  
12 going to instruct you. Now, there are many factual  
13 scenarios that have been presented to you, there were no  
14 video cameras out there as you gathered, so the solicitor  
15 is going to state the State's position to you in summation  
16 in what we call closing argument, I just call it summation,  
17 you don't get to talk back so summation is not really  
18 argument. After the State does that, then the defense will  
19 be able to make closing summation to you also. If you can  
20 listen to both of them you will listen to both of them and  
21 then take a break, I'm just talking time wise, I'm not  
22 putting any restrictions on them. I don't think they're  
23 going to argue on and on but there are a lot of facts and  
24 various scenarios that we may need to address, there's  
25 actually more law than the average case which they'll

## CLOSING ARGUMENTS

1 probably address also. Okay. Solicitor?

2 MR. BARFIELD: If the Court please, Mr. Lifsey. I'm  
3 just going to talk to you for a little while. You came  
4 here Monday and you didn't know what to expect. You've  
5 been here now into your fourth day and you probably  
6 certainly didn't realize how difficult this is to be here  
7 and to be in the position and the role that you're in.  
8 Everybody involved in this case has a role and a  
9 responsibility and a part to play in it and the lawyers are  
10 fixin' to finish up our roles and in a little bit the Judge  
11 is going to finish up his role and then we're going to drop  
12 it on you. Nobody, nobody takes lightly the burden that  
13 will be on you when you go back there in the jury room  
14 later on and deliberate your verdict. Everybody  
15 appreciates your attention during this trial and everybody  
16 appreciates, although maybe not voluntarily, your being  
17 away from your homes and your families and your jobs and  
18 other things you would much rather be doing, but you're  
19 here and you're close to the end and some important stuff  
20 is coming up and I ask you just to stick with us until we  
21 get this thing through. I'm going to talk to you about a  
22 lot of things, and it's awful hard to stand up here and in  
23 just a few minutes put in a nutshell what y'all have been  
24 listening to for over three days now but that's what we are  
25 supposed to be doing. What we say, what the lawyers say is

## CLOSING ARGUMENTS

1 not evidence in the case and our role at this point is to  
2 just simply get up here and what we perceive the evidence  
3 to be and point out things to you that we submit to you are  
4 important, and certainly we try to convince you one way or  
5 the other about things in this case and that's what I'm  
6 going to do. The Judge has kind of as we've gone along  
7 through this thing told you sort of what your options are  
8 going to be and I want to talk about that for just a little  
9 bit. One thing that I ask you to remember -- I'm going to  
10 ask you to do a couple of things -- I'm going to ask you to  
11 do a lot of things -- but one thing to remember I submit is  
12 that the only conclusion you can reach at the end of this  
13 thing whatever your verdict is, the only conclusion you can  
14 reach is but for what Anthony Rodriekus Carter did on  
15 May 3rd of 2010 [Jaylen J. ██████████] would be alive. She is dead  
16 because of him. However you get there -- and there are  
17 choices -- however you get there the only conclusion you  
18 are going to be able to reach is that but for what he did  
19 [Jaylen J. ██████████] wouldn't have gotten shot and killed.  
20 You've heard a lot about [Jaylen J. ██████████] and she is the  
21 victim in this case, she's the victim of a murder charge.  
22 This might be hard for you to do but I'm going to ask you  
23 to do this for awhile, at the risk of being insensitive,  
24 put [Jaylen J. ██████████] out of your mind for part of this  
25 process. Nobody, I will tell you straight-up, I'm

## CLOSING ARGUMENTS

1 straight-up here, nobody involved in this case contends  
2 that anybody meant to shoot and kill [Jaylen J. ██████████] that's  
3 clear and I'm not going to argue otherwise. But somebody  
4 did intend to kill somebody else, the guys across the  
5 street. So don't get caught up from here on out in the  
6 fact that nobody meant to kill Jaylen, it doesn't matter  
7 that nobody meant to kill Jaylen. The question is did  
8 somebody mean to kill somebody and that is, in fact, true  
9 in this case I submit. So when I tell you to put Jaylen  
10 out of your mind that's the context I'm talking about. Let  
11 me go ahead and talk about the legal concept that I'm  
12 referring to and it's called transferred intent, and the  
13 Judge has already told you a little bit about this and it's  
14 real simple, if I intend to fire a gun at somebody and  
15 do -- and we'll talk about intent to kill somebody in a  
16 little bit -- but if I'm firing a gun at somebody and I'm a  
17 bad shot or somebody walks in front of the gun and somebody  
18 that was not who I was shooting at gets killed it doesn't  
19 matter as to the guilt or innocence. It doesn't matter  
20 that you shot and killed somebody you weren't shooting at.  
21 That's what I mean when I say put Jaylen aside for part of  
22 what your thinking is on this case. Transferred intent.  
23 The intent follows the bullet, think of it that way. If  
24 you fire that gun and that bullet comes out the muzzle of  
25 that gun and the intent follows that bullet wherever it

## CLOSING ARGUMENTS

1 strikes, and in this case that bullet struck Jaylen  
2 Jackson, it didn't get all of the way across the street to  
3 hit J. D. Hemphill or Beneco Ganson. It matters not that  
4 Jaylen [REDACTED] is the victim, it matters not that Jaylen  
5 Jackson was not the intended victim as to guilt or  
6 innocence on murder and other charges that you'll consider.  
7 I told you at the beginning -- I think I told you at the  
8 beginning of this case we're going to tell you everything  
9 we knew, the good, bad and ugly and you heard a lot of  
10 ugly. Everything I put up here came from people who knew  
11 something about it, law enforcement and civilian witnesses  
12 and there ain't no doubt that I put up a parade of rogues,  
13 and certainly the Judge is going to talk to you about  
14 credibility and you can consider peoples' criminal records  
15 when you decide whether you believe them and that's why I  
16 asked them about their criminal records. You can consider  
17 relationships between people when you decide whether you're  
18 going to believe it. You can consider why or whether one  
19 witness would have some reason to shade it or not tell it  
20 all or to point the finger at somebody else and tell the  
21 truth, you can consider all of that, we gave it to you like  
22 we got it. What did we give you? We gave you this  
23 documentary of a story, a true story that occurred on  
24 [REDACTED] on May 3rd of 2010, and you heard from  
25 witnesses what happened and you heard from witness'

## CLOSING ARGUMENTS

1 background about the area. You heard basically a culture  
2 of drinking and drugs and partying and guns and fighting,  
3 that's what you heard because that's the culture that this  
4 case arose out of, and I'm not trying to sugar coat that,  
5 we've got what we've got. But think hard about all of that  
6 when you're deliberating your verdict back there. Another  
7 thing I ask you to do -- there is a lot of law in this  
8 case, you've got a lot of choices, there are a lot of  
9 charges to consider and some defenses to consider, and do  
10 that, the Judge is going to tell you all about that. But  
11 one thing the -- probably the biggest thing that the State  
12 asks you to do as you sit here this morning and get ready  
13 to go back there and decide this case is use your common  
14 sense. Technicalities, legal terms, that's all to be  
15 considered but use your common sense. What makes sense to  
16 me about this case, that's what you ask yourself when  
17 you're back there deciding what to do with it. Of course,  
18 you always have the option -- one of your options is not  
19 guilty of anything, clearly not guilty of anything is one  
20 of your options. There's a firearms charge in this case  
21 which is possession of a pistol during the commission of a  
22 violent crime. If you find Carter guilty of something that  
23 the Judge tells you is a violent crime then I submit to you  
24 that he's guilty of possession of that pistol, and I need  
25 not say anything really further about that. You heard

## CLOSING ARGUMENTS

1 yesterday Mr. Carter tell you he had a pistol, that's all I  
2 need to say about that. But the primary charges in the  
3 case, the indicted charge is murder. The Judge has told  
4 you, "I'm going to let you consider voluntary  
5 manslaughter," he's told you, "I'm going to let you  
6 consider involuntary manslaughter," and he is going to  
7 charge you on self-defense, so I want to talk about those a  
8 little bit and plug some facts into them probably as I go.  
9 What's murder? Murder is the unlawful killing of another  
10 person with malice aforethought either expressed or  
11 inferred, he will define those terms to you later, I'll  
12 tell you a little bit about what is malice. It's hatred,  
13 wickedness, ill will toward another person, intent to do  
14 bodily harm toward another person. You can express it by  
15 saying, "I'm going to shoot you," or you can express it by  
16 saying I would submit as Anthony Carter did when he gets  
17 out with that gun and walks across the street, "What you  
18 gonna do now?" You can also infer it by using a weapon, a  
19 pistol, a Hi-point .40 caliber semiautomatic pistol. You  
20 can find malice in Carter's use of that pistol when he  
21 hopped out of that car and walked across the street.  
22 Malice aforethought. What does aforethought mean? That  
23 means before. That malice, that wickedness, that intent to  
24 do what is fixin' to happen has to come about some time  
25 before it happens, but it doesn't have to be three weeks

## CLOSING ARGUMENTS

1 before it happens, it doesn't have to be three days before  
2 it happens, it can be immediately before it happens. It  
3 can be when he is half way across the street, it can be  
4 when he is opening the door to get out of the car. It can  
5 be when he is halfway between his house and Emmie Coats'  
6 house on the way to take her home, or it could have been  
7 last week or the week that he got chased out of [REDACTED]  
8 Countryside Mobile Homes or the day his brother got his  
9 butt whipped if all of that happened. That's what  
10 aforethought means. We have malice, clearly we have  
11 malice. I would submit to you we have malice from arming  
12 himself with that gun, we have malice from getting out of  
13 the car and approaching his antagonists if you believe  
14 that's what that's all about. Before even seeing if J. D.  
15 Hemphill had a gun, all of this stuff, nobody knows, we  
16 weren't there. Y'all decide, maybe it matters, maybe it  
17 doesn't. But assume, give him the benefit of that, assume  
18 that J. D. Hemphill had a gun, he didn't know that when he  
19 pulled up in that yard, he didn't know that when he took  
20 that gun from Marico Stevens, he didn't know that when he  
21 got out of the car with that gun or walked across the  
22 street by J. D. Hemphill, he initiated all of that by  
23 arming himself. That's malice. He got out and he pointed  
24 that gun, if you believe Beneco Ganson he pointed that gun  
25 at J. D. Hemphill and he said, "What you gonna do now?"

## CLOSING ARGUMENTS

1 This is what Ganson said. Pointing a gun at Hemphill,  
2 "What you gonna to do now? I ought to shoot you." That's  
3 malice, ladies and gentlemen, he started it. Again,  
4 remember throughout he started it. What's voluntary  
5 manslaughter? The unlawful killing of another person  
6 without malice in a sudden heat of passion upon sufficient  
7 legal provocation. That's a mouthful. The Judge is going  
8 to break all of that down for you in a little bit and tell  
9 you about it. I submit to you this is not manslaughter,  
10 not voluntary manslaughter, it is murder, not voluntary  
11 manslaughter. Why? Provocation. What is provocation?  
12 Provocation is if I'm provoked then somebody does something  
13 to me to get me stirred up and in the context of  
14 involuntary manslaughter it has got to be something big  
15 enough and bad enough to get me so stirred up that I lose  
16 my ability to stay calm and stay cool and keep my wits  
17 about me and not do something stupid. Provocation. He --  
18 based on the charge the options you're going to have Carter  
19 is going to want you to say perhaps it wasn't murder, it  
20 was voluntary manslaughter because I was provoked, little  
21 old me got provoked. Who is the provocator in this case?  
22 The fellow over there in the white shirt. He started it,  
23 he provoked the guys across the street. If you believe all  
24 of that happened and something happened, we know something  
25 happened, he provoked it. He didn't get provoked. He

## CLOSING ARGUMENTS

1 hopped out of a car with a .40 caliber pistol and went to  
2 the guys that he had this peeing contest with over \$450 and  
3 he started it, he provoked it, it's not voluntary  
4 manslaughter. What other options are you going to have?  
5 The Judge is going to charge you that involuntary  
6 manslaughter is a lesser included offense of murder, and if  
7 you find him not guilty of murder, if you find him not  
8 guilty of voluntary manslaughter then the Judge says you're  
9 going to be able to consider involuntary manslaughter. Let  
10 me talk to you about intent for just a minute before I get  
11 into the involuntary manslaughter stuff. I submit to you  
12 that if you fire a gun at somebody whether you actually  
13 intend that person to fall dead on the ground is not the  
14 kind of intent that we're talking about, the intent is an  
15 intentional firing of a gun at somebody which is likely to  
16 produce that person's death or great bodily injury, that's  
17 what we're talking about. You don't have a to get out of  
18 the car -- Anthony Carter didn't have to get out of the car  
19 with the gun and in his mind say, "I'm going to walk across  
20 the street and I'm going to put a bullet in J. D. Hemphill  
21 and my intention is that when I do that he fall dead on the  
22 ground," that's not the kind of intent we're talking about.  
23 The kind of intent we're talking about is intentionally  
24 arming yourself and firing the gun at somebody and causing  
25 whatever result you caused, the chips will fall where they

## CLOSING ARGUMENTS

619

1 do, that's the intent we're talking about. Involuntary  
2 manslaughter is unintentional, meaning the initial act of  
3 firing a gun is unintentional. The most common example I  
4 guess of involuntary manslaughter would be -- and there are  
5 all kinds of scenarios -- but if I'm in some sort of a  
6 confrontation with another person -- and again this is not  
7 to do with this case, just by way of an example -- if I'm  
8 in some confrontation with another person and a firearm is  
9 involved and we struggle over the firearm and during that  
10 struggle the firearm goes off with nobody meaning to  
11 squeeze the trigger, it just happens during a struggle and  
12 somebody dies then that might be involuntary manslaughter,  
13 that's the classic example of involuntary manslaughter in a  
14 shooting death. The whole idea is that there was no  
15 intention to fire the gun, it was almost like it was  
16 accidental, it was criminal negligence, something that  
17 wasn't supposed to happen at all. And I tell you, ladies  
18 and gentlemen, this is not involuntary manslaughter, this  
19 is not Anthony Carter fooling around with a gun and it  
20 accidentally discharging and going through the top of that  
21 car killing **Jaylen** The gun was being fired toward  
22 the top of the car toward the rear at an angle in the  
23 direction where the antagonists were. What does that mean?  
24 He was shooting at them across the street. He didn't just  
25 pop that gun up on the top of the car and it accidentally

## CLOSING ARGUMENTS

1 went off; he squeezed the trigger, went into the roof and  
2 it killed [redacted] it's not involuntary  
3 manslaughter. And I tell you this, too, for it to be  
4 involuntary manslaughter Carter could not have been out  
5 there committing a felony, and I tell you that Carter was  
6 out there committing a felony when all of this started and  
7 when it happened. What was the felony? And the Judge will  
8 tell you about this when he instructs you on the law, he  
9 was committing the felony of pointing and presenting a  
10 firearm. There's evidence, he admitted that he had a  
11 firearm. He admitted that he showed that it was visible --  
12 I'll talk more about that later -- he admitted it was  
13 visible to people out there. He admitted that he showed J.  
14 D. Hemphill that he had a gun, he told you that on the  
15 tape, somebody that he had a dispute with he presents,  
16 shows a firearm to. Like, "Look at me," he points it at  
17 him and he presents it to him and he threatens him, and you  
18 can't say it's involuntary -- he can't say it's involuntary  
19 manslaughter under those circumstances when he is out there  
20 committing that felony with that firearm so it is not  
21 involuntary manslaughter. The Judge is going to talk to  
22 you about self-defense. Let me back up. I'm going to go  
23 back to involuntary manslaughter just a minute -- to  
24 voluntary manslaughter. I'm going to tell you right now  
25 that when you're thinking about voluntary manslaughter,

## CLOSING ARGUMENTS

1 sudden heat of passion on sufficient legal provocation,  
2 when you're thinking about that and when you're thinking  
3 about self-defense, which I'm fixin' to talk about in a  
4 minute, you can flip it and I'm going to ask you to flip it  
5 both ways. Voluntary manslaughter, again, don't mean to  
6 beat a dead horse, but voluntary manslaughter you act on  
7 sufficient -- in a sudden heat of passion on sufficient  
8 legal provocation. What if J. D. Hemphill had shot Anthony  
9 Carter, had hit him and killed him? J. D. Hemphill is the  
10 person who would be able to claim voluntary manslaughter  
11 because he was the one that was provoked. Let's talk about  
12 self-defense. The Judge is going to tell you about four  
13 elements of self-defense. One of them quite obviously I'm  
14 going to argue to you and you'll catch it in a minute is  
15 the big one, the big one in this case, I'm going to talk  
16 about the other ones first, hit on them briefly. You've  
17 got to be -- you've got to be in danger of death or serious  
18 bodily harm or you've got to reasonably believe you are in  
19 danger of death or serious bodily harm. For Anthony  
20 Carter -- for me not to have proved that this was not  
21 self-defense -- I've got to prove he committed murder, I've  
22 got to prove he didn't commit -- that he did not act in  
23 self-defense, we accept that burden. I've got to prove  
24 what it was and what it wasn't. Okay. One of the elements  
25 of self-defense is that he has either got to be in actual

## CLOSING ARGUMENTS

1 danger of death or serious bodily harm or have reason to  
2 believe he was in danger of death or serious bodily harm.  
3 Now, let's look at that for a minute. Before I get into  
4 that, self-defense is not as simple as -- self-defense is  
5 not as simple as if somebody shoots a slug at me I can  
6 shoot back, it ain't that simple. Don't go back there and  
7 say whoever shot first is wrong because it's not that  
8 simple. But was Anthony Carter in fear of anybody on  
9 May 3rd of 2010? No. He told you on the tape that Beneco  
10 Ganson said, "Next time I see you you better have a gun."  
11 Did that make him fearful -- did that make him fearful  
12 enough that he wasn't going to go back into Countryside  
13 Mobile Home Park, the place that testimony has shown us all  
14 these people hung out in and do whatever they do out there?  
15 He had no fear of these guys. He kept hanging out in the  
16 trailer park despite all of these other difficulties that  
17 you heard testimony about. What did he tell you on the  
18 tape? He got out of the car when he saw them guys that he  
19 had a beef with. If you drive up into a yard and you see  
20 somebody that you think wants to whip your butt, if you  
21 don't want to get your butt whipped what do you do? You  
22 stay in the car. What did he do? He got out of the car  
23 with a gun. He's not afraid of anybody or anything out  
24 there. He told you again on the tape J. D. Hemphill never  
25 pointed a gun at him when they were out there in the

## CLOSING ARGUMENTS

1 street. He didn't report this incident or any of the prior  
2 problems that he had had with these guys to law  
3 enforcement, and in fact, told Kayla Estes, "I'm going to  
4 handle this myself, I'm going to take care of it myself."  
5 He's not fearful of these guys. He told you on the tape,  
6 "When I saw them I always said the same things to them.  
7 When I see them -- I always talked to them when I see  
8 them." When he is at his house with Emmie Coats or Emmie  
9 Amanda Coats, whichever name you want to call her by, and  
10 Marico Stevens comes over there, he knows these guys hang  
11 out over there. What does he do? He tells Stevens, "Take  
12 us back. Take us over there. Drive us into this hornets  
13 nest." There's no hornets nest, he's not afraid of  
14 anybody. He initiated the drive into Countryside Mobile  
15 Home Park, asked Stevens to take them. He said this on the  
16 tape, he wasn't going to let nobody stop him from going,  
17 meaning to the trailer park, he wasn't going to let nobody  
18 stop him from going. On the way over there there's  
19 testimony that he and Marico Stevens in Amanda Coats'  
20 presence talked about the problems that he had with the  
21 guys in the trailer park and talked about the fact that  
22 they would be down there. I think his quote on the tape  
23 was the guys down there where we're fixin' to drop Coats  
24 off, "They're beefing with me," and he knew ahead of time  
25 they would be there. He's not afraid of them. He took

## CLOSING ARGUMENTS

1 that pistol from Stevens from under the seat of Stevens'  
2 car and he took it in the car on the way over there. He's  
3 not afraid. If he's afraid he's not going over there. He  
4 armed himself before he knew anybody over there had a gun.  
5 He got out of the car with a gun and later saw Hemphill  
6 with a gun, if Hemphill actually had a gun. He got out of  
7 the car with the pistol where people could see it. He got  
8 asked this question, on the second interview I think it was  
9 let me just quote you what he said about the gun from the  
10 second interview, my recollection, if you recall  
11 differently that's for you. He eventually way into the  
12 second interview says, "I had one," meaning a gun, he  
13 eventually admitted that he had a gun. He said, "He put  
14 the gun in my lap," meaning Stevens. He said, "I had put  
15 it up," when he walked across the road. Up means what? I  
16 don't know, maybe in his waistband but that's what he said.  
17 He said he had it tucked. And I think it was Clark Crump  
18 asked him, "Could people see it?" And if you recall his  
19 answer, "Yeah." "Could people see it? Yeah." He's not  
20 hiding that gun, he wants them to see the gun. He's a big  
21 man, "What you gonna do now?" He's talking about J. D.  
22 Hemphill, "When I seen his gun I showed him that I had one  
23 too." That gun is out there the whole time. That's what  
24 he told you about the gun. Was it like this or -- was it  
25 like A or was it like B? A is Stevens and Carter are going

## CLOSING ARGUMENTS

1 to drop Emmie Coats back off and have no anticipation of  
2 anything at all going to happen in Countryside. Or was it  
3 like B, "They're over there, I've got a problem with them,  
4 you've got a gun, let's go take care of it?" What did  
5 Emmie Coats tell you? There's talk on the way over there  
6 about the problem and the guys being there. What did Emmie  
7 Coats tell you? She I think used the phrase on cross  
8 examination -- let me find it -- a hyped situation, a hyped  
9 situation. Hyped could mean excited I'm fixin' to get in a  
10 rumble, or hyped could mean I'm scared something bad might  
11 happen. If it was the ladder, I'm hyped because I'm scared  
12 and something bad might happen then what do you do? You  
13 don't go in there. This was hype like, "Let's go in there  
14 and take care of this," and it concerned her enough that  
15 she testified I believe on cross examination that when  
16 Carter jumped out of the car and her knowing he had that  
17 gun she hopped out of the back seat on the opposite side  
18 and went around to the passenger's side front door that he  
19 got out of to try to intervene, she told you that. This  
20 was not some innocent encounter, she knew something was  
21 going to happen and she tried to stop it but it wasn't to  
22 be stopped. He had no fear of these guys. Another -- the  
23 biggy on self-defense is this, and this is the biggy, for  
24 me to -- and it's kind of backward logic, but again I've  
25 got to prove it's not self-defense, and one of the ways

## CLOSING ARGUMENTS

1 it's not self-defense is if you are at fault in bringing on  
2 the difficulty. That's why I say it's not as simple as if  
3 somebody shoots at me I'm entitled to shoot back, that's  
4 not the law. You've got to look at how it started, and if  
5 I'm the defendant and I'm claiming self-defense or trying  
6 to make the State prove it wasn't self-defense then I've  
7 got to be able to -- then it has got to be shown that I  
8 didn't start it, you've got to be without fault in bringing  
9 on the difficulty which leads to the shooting death. There  
10 is no way in the world the facts of this case show anything  
11 but Anthony Carter was in fact at fault in bringing on the  
12 difficulty. Again, remember what I said just a few minutes  
13 ago, but for what that man over there did the shooting  
14 death of **Jaylen J. [REDACTED]** would never have happened. And I'm  
15 not going to go repeat all of the steps from riding over  
16 there to getting out of the car with the gun and what  
17 happened on the street, but clearly he started it. He was  
18 at fault in bringing on the difficulty which led to gunfire  
19 in Countryside Mobile Home Park. That's why I tell you,  
20 ladies and gentlemen, I said this in my opening statement,  
21 I said you might not conclude -- when you go home today and  
22 this is all over for y'all you might not know in your mind  
23 individually or collectively whether shots got fired from  
24 across the street first or whether Anthony Carter fired  
25 first, you might not know. And I told you -- and I don't

## CLOSING ARGUMENTS

1 mean this -- when I said it doesn't matter, but legally it  
2 doesn't matter, because if shots did get fired across the  
3 street first toward Carter he provoked it, he started it,  
4 he brought on the difficulty which led to those shots.  
5 Again, let's flip it. Assume that J. D. Hemphill had a  
6 gun, shot a gun, or Beneco Ganson either one, and shot and  
7 killed Anthony Carter, they have self-defense because he  
8 came out there with the gun and pointed it at Hemphill and  
9 threatened Hemphill, that's where the self-defense would  
10 be, not with him as the aggressor initiating the contact  
11 while armed with a .40 caliber pistol. All right. I told  
12 you this too -- and again, I don't mean it gelidly, I don't  
13 mean it's not important -- when I say it doesn't matter, I  
14 don't mean it's not important for you to disregard it, but  
15 legally I submit to you it doesn't matter whether you  
16 conclude he shot [redacted] or Marico Stevens shot  
17 [redacted]. And again, when you're home tonight you  
18 may not know, you might not decide again collectively or  
19 individually which one of them fellows shot [redacted].  
20 It's important but legally I tell you it does not matter.  
21 Why not? The Judge is going to charge you on something  
22 that legally we call accomplice liability, the hand of one  
23 is the hand of all, you've heard it. I don't know how long  
24 that legal principle existed but longer than any of us have  
25 been here, the hand of one is the hand of all. What does

## CLOSING ARGUMENTS

1 that mean? In lots of cases, murder cases, homicide cases,  
2 death cases, murder cases one gun, one shot, one victim,  
3 two or three people participating in the crime. And again,  
4 not related to this case, got nothing to do with this case,  
5 but an example would be two guys go into a convenient store  
6 to rob it and they're both there to rob the convenience  
7 store and one of them is carrying, strapped as some people  
8 would say, got a gun, the other guy has got to -- and he is  
9 going to hold the clerk at gunpoint and the other guy is  
10 going to go around the counter, open the register and get  
11 the money. One gun, they're both present and participating  
12 and something goes haywire and the guy with the gun shoots  
13 and the clerk gets shot and killed, the guy that is going  
14 to take the money out of the register hadn't shot anybody  
15 but he is just as guilty of that murder as the guy who  
16 fired the gun. Why? Because they're both acting in  
17 concert, both present, both participating acting together  
18 in the furtherance of the crime. So I tell you whether he  
19 shot or whether Marico Stevens shot legally doesn't matter.  
20 Why? Some of the same stuff we've talked about, I've  
21 talked about, he starts it, Anthony Carter started the  
22 whole mess. The beef was between Anthony Carter and the  
23 guys across the street over a \$450 fence jumping, over some  
24 dope, Marico Stevens didn't have anything to do with that.  
25 There's no evidence in this case to suggest to you that

## CLOSING ARGUMENTS

1 Marico Stevens was in the middle of that. Of course,  
2 Marico is there and this gun changed hands and he produced  
3 the gun first but he had the gun, Anthony Carter had the  
4 gun in the car before he got out. I submit to you that  
5 there is evidence that Anthony Carter fired the shots from  
6 that .40 caliber gun and we're gonna talk about the  
7 forensics in a minute, but even if you conclude he  
8 didn't -- I'm going to try to convince you he did in a  
9 minute -- but even if you conclude that he didn't and  
10 Marico Stevens did, how did that happen? It happened after  
11 Anthony Carter produces the gun in an armed confrontation  
12 in the street and does something maybe to provoke gunfire  
13 and comes back around the car. Well, if Carter didn't  
14 shoot the gun then how did Stevens get the gun? From  
15 Carter. One way or the other Stevens -- if you believe  
16 Stevens shot, Stevens ended up with the gun from Carter  
17 during something that Carter started. They're both guilty  
18 of it, we're only trying Carter today but they're both  
19 guilty of the murder of Jaylen [REDACTED] based on all of the  
20 facts and circumstances of what happened. What do we know  
21 about forensics in this case? Of course I go first and  
22 Mr. Lifsey goes last and I have to anticipate things he's  
23 going to say and you can anticipate things he's going to  
24 say from the progress of the trial. Gunshot residue.  
25 We've got no gunshot residue that shows us that anybody had

## CLOSING ARGUMENTS

1 gunpowder or gunshot residue on him or her. It would be  
2 nice if I had somebody's hands that I could say shot a gun  
3 but I don't. Is that unusual? You heard from I believe it  
4 was Ms. Simmons, Ila Simmons with SLED, that no, all kinds  
5 of things can cause gunshot residue if there to get gone.  
6 She also told you this: If the local law enforcement  
7 agency collects swabs from somebody's hands for a gunshot  
8 residue kit and that collected evidence was taken more than  
9 six hours after the person perhaps possessed it or fired a  
10 pistol we ain't going to do anything with it because it's  
11 not reliable, it's not reliable evidence, it's not reliable  
12 science to analyze it. So we talked to who we -- we get it  
13 from who we can get it from, the sheriff's office did that  
14 night, and the only person that they could get it from from  
15 hands was John John Hill, and Mr. Hill said they only take  
16 it from one hand. Maybe he just doesn't remember that  
17 right, the evidence clearly shows from Simmons we had swabs  
18 from both hands. And, of course, John John Hill says they  
19 didn't pat him down for weapon, Mike Miller said, "Yeah, we  
20 did." John John Hill was out there -- nobody says John  
21 John Hill was there when the shooting occurred, there's no  
22 reason to suspect John John Hill had a pistol or would have  
23 gunshot residue on his hands because nobody said he was out  
24 there when the shooting occurred, but we got it from Hill,  
25 that's the only person we get it from. And we didn't get

## CLOSING ARGUMENTS

1 it from Carter and Stevens, and this is one of those things  
2 Mr. Lifsey is going to scream about, I'm sure. We were all  
3 over Carter and Stevens at the hospital on May 3rd when  
4 they showed up with [redacted] took their shirts,  
5 nobody swabbed their hands. Well, why? Because of the  
6 information that was provided to law enforcement  
7 specifically by Carter. Carter and Stevens were witnesses,  
8 maybe victims when this thing broke open. There was never  
9 initially that night any knowledge or suggestion that they  
10 had shot at anybody so nobody took GSR kits from them.  
11 Took their shirts, no GSR on the shirts. Well, you know,  
12 how do you explain that? Well, Ms. Simmons said it's not  
13 always going to be there. We still know both of them  
14 possessed that .40 caliber pistol though because Carter  
15 told you they did. So I submit again it's important but it  
16 doesn't matter. DNA. Science has come a long way. I hate  
17 CSI because it creates this expectation that we're going to  
18 have a video picture of what happened out there and it just  
19 doesn't work that way in real life. But we've got science  
20 and we've got a good crime unit with the sheriff's office  
21 and they know what to do and they take that .40 caliber  
22 pistol and they do swabs inside the trigger guard and on  
23 the back slide and on the handles which are the most likely  
24 places that somebody is going to leave touch DNA. They  
25 swabbed it in there, they swabbed it up there which is

## CLOSING ARGUMENTS

1 where you rack it back and they swabbed the handles. And  
2 they took samples, buccal swabs from everybody that they  
3 could establish potentially had possessed that pistol or  
4 touched it. Emmie Coats, Jackie Sanders, gosh I can't  
5 remember, of course, Carter and Stevens, I can't remember  
6 who else. But the best that could be done by Ms. Leisy on  
7 DNA is you've got a partial DNA profile, a mixture of three  
8 people inside the trigger guard and everybody is excluded  
9 except for Stevens, and the probability of randomly  
10 selecting somebody who could have not been excluded was one  
11 in 65. She told you that the normal statistic is one in  
12 quadrillions or trillions and there aren't but -- I don't  
13 know how many billion people she said were on the earth --  
14 but one in 65 I submit is not statistically significant,  
15 that there might be 65 people in this courtroom today. And  
16 what she's basically saying is that somebody in this  
17 courtroom is going to be in the same boat that Marico  
18 Stevens was in on the DNA statistically speaking. It could  
19 be me, it could be anybody, that is not statistically  
20 significant. And again, does it matter? We know that both  
21 of them possessed that gun. Anthony Carter told you  
22 yesterday on the tape, "I had the gun." We don't need DNA  
23 from Ms. Leisy to tell you he had the gun, we know he had  
24 the gun. Firearms reconstruction, gunshot reconstruction,  
25 the car. What do we know about the car? We know where the

## CLOSING ARGUMENTS

1 car was from Ms. Coats. It would have been awfully nice  
2 for the car to have been sitting there in the driveway  
3 where it happened when the sheriff's office rolled up. It  
4 would have been awfully nice for Emmie Coats to have been  
5 truthful and not gone out there the next morning and  
6 started kicking stuff around to try to cover up the lies  
7 she told before, but it didn't happen that way. So what  
8 we've got is where the car was based on what Ms. Coats is  
9 telling us and we've got the cartridge cases on the ground  
10 from where Ms. Coats told us they were. And I submit that  
11 maybe you've got problems believing her, maybe you don't.  
12 She's telling you what she told, and I submit this is the  
13 thing to think about with Emmie Coats; it's like a soap  
14 opera: You talk about Beneco Ganson and Anthony Carter and  
15 Emmie Coats and Jennifer Morris and Kayla Estes and -- my  
16 God, so much mixing up and intimacy among those people, but  
17 think about Emmie Coats. Emmie Coats is somebody who at  
18 the time this happened, at the time this happened was  
19 involved one way or another with Anthony Carter. Now, why  
20 in the world would she rat him out so to speak if it's not  
21 true? What happened between the time Anthony Carter got  
22 out of that car with the gun and the next day when she told  
23 the sheriff's office that he got out of that car with that  
24 gun to make her turn against him? Nothing. She told the  
25 truth about that. She didn't tell the truth at first, she

1 didn't want -- a baby had been shot in her driveway. I  
2 wish she had told the truth that night but she didn't. But  
3 why would she have made up Anthony Carter being the guy  
4 that got out of the car with the gun? What else do we know  
5 about the car? We know that the car was pulled into the  
6 trailer. The car is not shown on the sketch, nobody drew  
7 it in but people have testified about where it was, the car  
8 is in there somewhere. Face of the car away from the road,  
9 the front of the car is more that way, back of the car is  
10 toward the middle. The car stopped. This car if you  
11 believe Carter ends up becoming the cover from the fire  
12 coming across the road. Carter and Stevens are over here  
13 on the passenger side of the car. We've got cartridge  
14 cases -- I said car, that's the trailer, on the passenger  
15 side of the car. We've got cartridge cases according to  
16 Ms. Coats, believe her or don't, but according to her  
17 that's the best we've got -- right there .40 caliber  
18 cartridge cases, one of them is out there more toward the  
19 road, out here, the others are along the passenger side of  
20 the car closer to where people were probably. What does  
21 that tell us? What did Emmie Coats say? Emmie Coats is  
22 the only person that affirmatively said there was any --  
23 other than Carter -- that affirmatively said there was  
24 anything -- any fire or anything coming from across the  
25 street and she said, "I saw the one flash from across the

## CLOSING ARGUMENTS

1 street," presumably a muzzle flash. But she said when  
2 that's going on that Carter is coming back toward the back  
3 of the car and gets near the back of the car and she sees  
4 him -- let me see what she says -- I think she said stop  
5 and draw, I think that's what she said, where does he do  
6 that? At the back of the car. And what ends up at the  
7 back of the car is that .40 caliber cartridge case. He  
8 moved from there along the passenger side of the car toward  
9 the front, that makes sense. If somebody over here is  
10 shooting at you and you're taking cover, you're going to  
11 take cover at the best place you can away from where the  
12 antagonists are, if that's what they are, which is as far  
13 toward the front and is on that side of the car. What do  
14 we know about the car? The gunshot reconstruction. Two  
15 shots into the roof of the car from the front diagonally  
16 across the car, two shots into the roof, one more toward  
17 the front, one toward the back, one toward the passenger  
18 side, one toward the middle, those penetrated the roof of  
19 the car. No doubt from Lancaster County crime scene guys  
20 and SLED crime scene guys, those shots got fired from the  
21 front of the car which is the most consistent place for  
22 Carter and Stevens to be hiding from whatever they are  
23 hiding from. Other shot concluded through the front --  
24 open front passenger side window into the car, another one  
25 into the car. The shooting happens on this side and toward

## CLOSING ARGUMENTS

1 the front of the car, I submit that's conclusive. What  
2 else do we know? I asked them all this. Any bullet hole  
3 defects as they call them on the rear of the car? None.  
4 People initially maybe would see that hole in the back  
5 glass and say, "Well, somebody shot that car from the back  
6 and that's what killed that baby," that's not what  
7 happened. That shot came through the car out the window  
8 from inside to out. No bullet holes, no defects in the  
9 back of the car. Any defects, bullet holes on the  
10 passenger side of the car in the direction of this alleged  
11 fire from over here? None. None. I submit it's  
12 conclusive that shots from here killed **Jaylen**  
13 Mr. Lifsey is going to tell you all about these fired  
14 cartridge cases. They picked them up, they're out there.  
15 We've got three .40 caliber cartridge cases near the car,  
16 we've got some 7.65-millimeter cartridge cases, fired  
17 bullets, on the ground out across. We've got one  
18 7.65-millimeter bullet unfired on the ground out there  
19 somewhere, we've got a .380 and I think we've got a couple  
20 of .22's. How many guns is that? That's four guns. Have  
21 you heard anything in this trial that convinces you that  
22 four guns were being shot out there that night? No. Why  
23 do I tell you that? People testified people shoot out  
24 there all of the time, there's cartridge cases probably  
25 lying out there all of the time. There's nothing that says

## CLOSING ARGUMENTS

1 these cartridge cases came from the fire that was initiated  
2 from the guys across the street and certainly not from four  
3 guns. We know from Ms. Eichenmiller -- you ain't going to  
4 have this in the back and I'm not going to hand it to you  
5 but I'm going to pick it up -- we've got stuff. We've got  
6 cartridge cases that Emmy Coats turned over, we have got  
7 bullet jacket fragments from fired bullets, copper that  
8 breaks off of the bullet when it gets fired found in the  
9 car. We've got one found behind the car, back here behind  
10 the car which again is consistent with it being fired  
11 through the car, not something that came from shots from  
12 across the street. And we've got this, that's what killed  
13 that baby, and Ms. Eichenmiller tells you "I tested the gun  
14 it was working fine," meaning it's ready to go. "I tested  
15 the cartridge cases that Emmie Coats picked up and this gun  
16 shot. I tested these pieces of bullet jacket that were  
17 recovered from the back headrest on the driver's side  
18 inside that car and that gun fired it, and I tested that  
19 piece of jacket fragment found in the street back there  
20 behind the car in the direction that Carter was shooting  
21 and this gun fired it." We've got the gun, and it is the  
22 gun that Carter had that he told you he had. How do we  
23 know that? Where did we get the gun? We got it from  
24 Stevens' people, some mysterious way this gun turns up from  
25 Stevens' people, Carter's running buddy, we've got it

## CLOSING ARGUMENTS

1 though. Why is Carter the shooter? He's the one again  
2 that had the trouble with the guys across the street  
3 because he ripped them off for 450 bucks. It wasn't  
4 Stevens' fight, it was his fight, he had the problem. He  
5 is getting questioned May 4th and May 6th, very evasive.  
6 What did he tell them by Emmie Coats? "Skinny white girl,  
7 I don't know her, Stevens must know her." Gosh. How  
8 helpful was that? Of course, he doesn't know that they  
9 know and that she's probably sitting in another office over  
10 there spilling her beans right then. Every little bit of  
11 information that came in started pinning Anthony Carter  
12 down and they caught him in untruth after untruth and they  
13 leaned on him, they leaned on him for hours, they leaned on  
14 him and he told some things. He never went that final  
15 three yards to the goal line and admitted shooting that  
16 gun. But he's in a box because they know, they know more  
17 than he thinks they know and they keep pushing and he keeps  
18 giving little bits of information. This is his statement,  
19 just some of it. Quoting again, your memory not mine, the  
20 May 4th statement, wouldn't admit knowing Coats, said she  
21 was a skinny white female, admitted he had the beef with  
22 Hemphill and Ganson over drugs. Got out of the car because  
23 he saw them. Didn't have a gun, didn't have a gun, didn't  
24 have a gun, how many times did you hear that? It's not  
25 true, we know he had a gun, after hours he told us he had a

## CLOSING ARGUMENTS

1 gun. He told you also in relation to the shooting we know  
2 that he shot and the shots came from that car because he  
3 told you Ganson and Hemphill never came across the street  
4 into that yard where that car was. He finally after awhile  
5 then -- I got "then" highlighted -- then Carter admits  
6 knowing Coats and that she had been at his house and this  
7 girl that he didn't know he was so close to when she hops  
8 out of the car he says, "We hugged each other." How  
9 helpful was that to deny that early on? Didn't see no gun,  
10 no gun was in the car, ain't seen no gun. "Was there any  
11 return fire from y'all's side of the street? Not that I  
12 know of." Didn't shoot nothing, didn't see Stevens shoot,  
13 no shots from the front side of the car that I know of,  
14 that car, that front. That's all May 4th. May 6th, two  
15 days later, "I know for sure I didn't have a gun. I didn't  
16 have a gun. Hell no I didn't have a gun, didn't shoot no  
17 gun, man." And another "then" that I have highlighted,  
18 "then," finally he's in a box. They keep pushing him. "We  
19 know, Bo, we know, we've talked to people." They probably  
20 stretched it a little bit, but they said they probably had  
21 people lined up out there to tell them about this case.  
22 He's in a box. What's he going to do? "Well, you know,  
23 either I'm going to say I shot the gun that killed Jaylen  
24 Jackson or I'm going to say Marico Stevens is the most  
25 likely person that did it." So what does he do finally?

## CLOSING ARGUMENTS

1 He passed it off to old Marico, said Stevens was shooting.  
2 Still said, "Didn't have no gun, didn't have no gun." Even  
3 when he's telling them Stevens is shooting he says, "I  
4 didn't have no gun, didn't shoot the gun period, that's a  
5 fact." And finally, again, another "then" that I  
6 highlighted one, he finally tells them, "Yeah, I handled  
7 that gun, I had that gun." Never admitted shooting it but  
8 says, "I had it." I tell you again, ladies and gentlemen  
9 it doesn't matter whether he shot it or whether Stevens  
10 shot it, one of the two shot that gun and bullets from that  
11 gun penetrated the top of that car and it killed Jaylen  
12 Jackson. You're going to have these pictures back there  
13 with you but I want to let you look at a couple of them.  
14 State's Exhibit Number 48. Do you see the car seat? Do  
15 you see the back seat and you see the front seats and you  
16 see rods through the roof of that car and one through the  
17 open window over there? It shows you where those bullets  
18 went into that car. And we know that child was in the back  
19 seat and we know that child at some point might have been  
20 in the car seat but was never buckled in the car seat and I  
21 submit to you was just crawling around in the back of that  
22 car. State's Exhibit Number 49, it shows a rod going into  
23 a bullet hole on the back headrest in that car seat in the  
24 seat of that car through the roof. State's Exhibit Number  
25 50, it shows a rod going through the hole at the base of

## CLOSING ARGUMENTS

1 the windshield, there was a shot fired through that car.  
2 State's Number 53, it shows all three of them. The child  
3 didn't have a chance, didn't have a chance. It's not easy  
4 but it's getting close for you. I'm going to sit down,  
5 Mr. Lifsey is going to get up and the Judge is going to  
6 talk and then it is going to be y'all. Doesn't matter that  
7 it was Jaylen instead of who Carter intended to kill, she  
8 got shot and killed because of what he did, because of what  
9 he started and I submit to you what he finished. He didn't  
10 mean to kill her but he meant to kill somebody when he  
11 fired a .40 caliber pistol across that car towards these  
12 other guys. There should only be one verdict and I submit  
13 to you ladies and gentlemen you know beyond a reasonable  
14 doubt based on everything that you've heard that that  
15 verdict should be guilty of murder; not voluntary  
16 manslaughter, not involuntary manslaughter and it is  
17 certainly not self-defense, I ask you to convict him of  
18 murder. And when you find him guilty of murder I ask you  
19 to find him guilty of the firearms charge which goes along  
20 with it. Thank you.

21 THE COURT: Okay jurors, take a break. Don't talk  
22 about the case.

23 (The jury left the courtroom and a recess was taken.)

24 THE COURT: You may proceed.

25 MR. LIFSEY: Please the Court, Your Honor? Ladies and

## JURY CHARGE

1 gentlemen. Ladies and gentlemen, I told you at the  
2 beginning of this case this would be just a tragic, awful  
3 series of events and it has been, but I also told you at  
4 the beginning of the case that it's not murder and it's  
5 not. How do we know it's not murder? Well, the Judge is  
6 going to tell you in a minute that self-defense is a  
7 complete defense to both as to murder and as to voluntary  
8 manslaughter. Now, we've got four possible verdicts in  
9 this case; guilty of murder, guilty of voluntary  
10 manslaughter, guilty of involuntary manslaughter and not  
11 guilty. I want to talk for a little bit about the first  
12 two, guilty of voluntary and -- excuse me, murder and  
13 voluntary. The involuntary case -- the involuntary verdict  
14 is an interesting question and that's a closer call and I'm  
15 going to argue to you they haven't proven that to you  
16 either and I'll talk to you about that in a minute. I want  
17 to talk to you about murder and voluntary. Why do we know  
18 it's not murder and voluntary? We know it's not murder and  
19 voluntary because self-defense is an absolute and complete  
20 bar to that. Now, I argue to you it's clear it's  
21 self-defense in this case, but I want to tell you the  
22 intellectual position you have to take, visa vie, that  
23 issue, and the Judge is going to tell you this: The State  
24 has to prove beyond a reasonable doubt that it is not  
25 self-defense, that's important as I said and I'll argue to

## JURY CHARGE

1 you in a minute it's clear it's self-defense. But if there  
2 is any reasonable doubt in your mind that he has proven it  
3 is not self-defense you have to find him not guilty as to  
4 murder and to voluntary, you are required to, that is the  
5 law. So let's talk about why we know it is self-defense  
6 and I'm going to kind of go through the facts of the case  
7 as you heard it come out on the stand and as I remember it.  
8 We know it's self-defense because let's talk about the  
9 motivation of why this happened. The State's theory, and I  
10 don't think it's contested at all and I've tried -- and let  
11 me say this, I have not asked a million questions because I  
12 don't ask questions that aren't important, so I am not  
13 arguing with them that this is a debt. Let's think about  
14 that a minute. Their theory is that my client stole \$450  
15 from them, and by them I'm referring to the J. D. Hemphill,  
16 Beneco Ganson, John John Hill gang, I'm referring to that  
17 crowd. Okay. So their theory is that my client stole  
18 money from them. Well, think about this a minute, if  
19 somebody steals money from you it makes you angry. Okay.  
20 It doesn't -- the person who steals from you doesn't get  
21 angry at you, I mean -- I don't want to be flippant about  
22 it but I've got a little brother and when we were kids he  
23 couldn't keep up with money worth a darn, he went through  
24 it like this. And I was tight -- I'm still tight -- I was  
25 tight. He would come into my room and he would take money

## JURY CHARGE

1 that I had, my allowance money and he would say he was  
2 borrowing it and he wouldn't pay me back and it made me mad  
3 but he never got mad at me because he took my money. Think  
4 about the history of confrontations the solicitor has told  
5 you about. The Hemphill-Ganson-Hill gang is the one who is  
6 always the aggressor. They beat up his little brother,  
7 they ran him out of the trailer park, they told him he  
8 better have a gun the next time they seen him. Now, ask  
9 yourself this, have you heard -- up until the incident on  
10 May 3rd, have you heard any testimony of anything my client  
11 did aggressive toward them at all? And the answer is no,  
12 you haven't. And it's not surprising because it is logical  
13 that if someone steals money from you you are mad, and  
14 these people with their criminal records including gun  
15 convictions are the kind of people who take getting mad  
16 seriously, so we know it's self-defense because of  
17 motivation for what happened. May 3rd. We know it is  
18 self-defense because of where the initial contact occurred.  
19 I'm going to bring this over here a minute and let you look  
20 at it. It's undisputed at least as best I can tell -- now,  
21 let me say something, I want to say a word and I'll get  
22 back to what I'm talking about. When I say undisputed,  
23 there's a lot undisputed in this case but I find it  
24 interesting that the solicitor -- there's basically three  
25 or four people who testified about what happened out there

## JURY CHARGE

1 that day that really know what happened; my client, Emmie  
2 Coats and Beneco Ganson, they're really the only ones out  
3 there that know what happened and they've all told little  
4 different versions. And, of course, the solicitor has  
5 picked the parts of each of their versions that most  
6 support his theory even if they conflict with each other  
7 which is fine, that's argument, that is fine, but it's not  
8 proof beyond a reasonable doubt. But now, where did the  
9 confrontation occur? The testimony is that my client gets  
10 out of the car and walks to the middle of the street where  
11 he has a confrontation with John Hemphill. Now, listen, if  
12 he came there to kill him, why doesn't he kill him there?  
13 If you come there with malice -- and the solicitor defined  
14 malice for you; evilness, wickedness in your heart -- if  
15 you come there with malice and you get out with your gun  
16 not to protect yourself because you're scared of these  
17 people who have beaten you up and done these bad things to  
18 you but because you are evil and you have got malice in  
19 your heart, why don't you shoot him dead right there in the  
20 middle of the street when he is right up at them? We know  
21 it's self-defense because if it wasn't he would have shot  
22 him right there. Why else do we know it's self-defense?  
23 We know it's self-defense because whatever happened in the  
24 middle of the street was over. Everybody, my client, Emmie  
25 Coats, lying Beneco Ganson, all say that my client turned

## JURY CHARGE

1 and walked away, he walked away, the confrontation was  
2 over. Whatever happens after that is on J. D. and Beneco,  
3 whichever one of the two of them fired the gun. Why else  
4 do we know it was self-defense? We know it was  
5 self-defense because we know they were returning fire. The  
6 solicitor wants to get up here and say, "Well, we don't  
7 really know if they were --" of course we know they were  
8 returning fire. Why do we know they're returning fire? To  
9 begin with there were shell casings everywhere. In  
10 addition to these whether or not you want to believe Emmie  
11 Coats about where she found them, regardless of what the  
12 .380 casings, the .40 caliber casings, regardless of those  
13 we have one -- items one, two and three are two  
14 7.65-millimeter casings and one 7.65 cartridge right here.  
15 Why haven't we done any testing on those? We call up  
16 witness after witness to describe and explain why we have  
17 no evidence and we didn't hear a single person say we've  
18 made any effort to test those. Where is that in all of  
19 this? How about the shell casings -- the .22 caliber  
20 casings back here? And I don't know if you picked this up  
21 but let me emphasize, six and seven are .22 caliber  
22 casings, eight is a Samsung cellphone. I don't know if you  
23 noticed it but the crime scene officer said that's Beneco  
24 Ganson's cellphone. Wouldn't it have been nice -- and they  
25 get these the night it happens? Why didn't they run and do

## JURY CHARGE

1 their fancy touch DNA testing on that? Wouldn't you have  
2 liked to have known if Beneco Ganson handled those shell  
3 casings? Wouldn't you have liked -- that that coincidentally  
4 just happened to be found right with his cellphone? There  
5 are bullet holes in Emmie Coats's trailer, where are the  
6 pictures of those? We can introduce picture after picture  
7 after picture but we can't take a picture of Emmie Coats'  
8 trailer? There's a pattern of only showing you evidence  
9 that helps them and not showing you any evidence that tends  
10 to negate their theory. Look at all -- I mean, you know,  
11 let's accept for a minute -- and I know the solicitor says  
12 she didn't report it until later, but I argued a little bit  
13 during the trial that they should have searched this whole  
14 area from the beginning and I still argue that. But let's  
15 assume for a minute that somehow they were justified in  
16 only searching this side of the road the night it happened.  
17 By the next day when they get the report of Emmie Coats  
18 picking up shell cartridge cases they are at her house,  
19 somewhere in this stack of pictures is a picture of Danny  
20 Bennett and Emmie Coats standing right there. Why didn't  
21 they look around her trailer then? Why didn't they take  
22 pictures of bullet holes then? We know it was  
23 self-defense. Look at the damages to the car. Okay.  
24 Listen, these shots came from the back, they came at  
25 angles. I asked officer -- let me make sure I got it

## JURY CHARGE

1 right -- Jeff Steele on the stand aren't these injuries to  
2 the car more consistent with defensive shots than they are  
3 aggressive shots and he said yes. Okay. That's their own  
4 witness admitting they were firing in defense based on the  
5 physical science. I didn't argue with him and challenge  
6 him on the way the rods were or anything because it doesn't  
7 matter because I agree with that, but I did ask him is it  
8 consistent with defense and it was. We know it was  
9 self-defense. Why else do we know it was self-defense?  
10 Well, of course, we know it was self-defense because  
11 Marshall and Crump said it was. Listen, let me talk to you  
12 about the interview. I understand that my client didn't  
13 tell the truth initially. Okay. I argue to you he  
14 basically told the same general story that is supported by  
15 both Emmie and lying Beneco Ganson, that he gets out of the  
16 car, he approaches, he has some sort of discussion,  
17 confrontation, whatever you would call it, and he turns and  
18 walks away and that's when he hears shots fired, that has  
19 been consistent. Listen, I'll admit to you that he  
20 didn't -- I can't deny he didn't tell the full story from  
21 the beginning, I wish he had. But it's interesting in that  
22 lengthy interview the police tell some of their side of the  
23 story and I wrote it down because I thought it was  
24 important and I'm glad you heard it. Marshal: "We  
25 absolutely know there was more than one gun." Marshal:

## JURY CHARGE

1 "We are 100 percent positive there was more than one gun."  
2 Crump: "We can tell where shots came from, we can tell  
3 shots came from both sides." Crump again: "We're certain  
4 fire was returned." Crump again: "We've established in  
5 all likelihood the other side fired first," that's the  
6 police officers telling them. They know, they know they  
7 were returning fire, they know they were returning fire.  
8 And then to get up on the stand and then get up and argue  
9 to you that it doesn't matter? Listen, I have been trying  
10 murder cases a long time, the idea that the State can stand  
11 in front of you and say we don't know who shot and we don't  
12 know who shot first but therefore you still need to convict  
13 him of murder and somehow that doesn't matter is crazy.  
14 Listen, the only way you can convict him of voluntary or  
15 murder, okay, is if you believe beyond any reasonable doubt  
16 it is not self-defense, and to do that -- and like I say,  
17 my argument is clear it's self-defense but you don't have  
18 to accept my argument. If there is even a reasonable doubt  
19 at all that it is self-defense you cannot consider those  
20 two offenses and to get there you've got to ignore the  
21 police officers' own words, all of the forensic evidence  
22 and all of the testimony as best we can as to what happened  
23 out there. Now, involuntary. Involuntary is a closer  
24 call, okay, I'm not going to sugar coat it to you, it's a  
25 closer call. Involuntary is the operating of a gun or

## JURY CHARGE

1 firearm in a negligent or unsafe manner. There is  
2 certainly an argument from the State that the shots entered  
3 this vehicle in an unsafe manner, but whose fault is that?  
4 I don't know who shot the gun. I don't know if it was  
5 Stevens or I don't know if it was Carter, my client argues  
6 it was Stevens. But here is the thing, whoever shot it  
7 shot it in response to what the Hemphill-Ganson-Hill gang  
8 did. And the question is are you going to as a jury say  
9 beyond a reasonable doubt that the negligence and the use  
10 of that firearm is my client's fault? How can you say that  
11 when you don't know who shot them, and when as best as you  
12 can determine it the whole thing started because of them  
13 and shots were fired first because of them? How can you do  
14 that? There's just too many questions in this case. Now  
15 listen, the Judge said -- I think it was the Judge, it may  
16 have been the solicitor -- somebody said we don't have a  
17 video camera out there, okay, and I know we don't and most  
18 crimes -- once in a while you do, most crimes you don't  
19 have video. But murder, voluntary manslaughter,  
20 involuntary manslaughter, any case that involves a homicide  
21 is serious business, and the Judge is going to tell you and  
22 I told you at the beginning, my client is presumed  
23 innocent, you have to view him as an innocent man, that the  
24 State has the burden of proof, and that when you judge that  
25 burden you can judge it both by the evidence they've called

## JURY CHARGE

1 or the evidence they've chosen not to call, and that most  
2 importantly they've got to prove their case beyond a  
3 reasonable doubt to the end of this case. If there's any  
4 reasonable doubt you've got to return a verdict of not  
5 guilty, that's the law and it's not easy, and I'll talk to  
6 you about that in a minute, I know it but you've got to do  
7 it. There's too many questions in this case. They don't  
8 even know who shot the gun. They call witness after  
9 witness to say they've got no gunshot residue and they've  
10 got no DNA, and of course they say that we didn't know to  
11 take it from Carter. Bologna. They had Mr. Carter and  
12 Mr. Stevens at the emergency room, they knew there was  
13 evidence there to collect because they took their shirts  
14 but they didn't bother to take the 90 seconds it might take  
15 to take a Q-tip out and swab their hands. Now listen, I  
16 don't know what would have been on it but the point is it's  
17 not my job to prove anything, it's their job, they've got  
18 the burden of proof. The solicitor said use your common  
19 sense. I want you to use your common sense, but you have  
20 to use your common sense in relation to the law the Judge  
21 gives you and the law says that they've got the burden of  
22 proof, not the defendant. Where is J. D. Hemphill? Think  
23 about this a minute, one thing I agree with the solicitor  
24 said is this case -- listen, it's awful. Okay. And I hate  
25 to even -- I've tried not to mention the poor child that

## JURY CHARGE

1 got killed in this case, but when the State proceeds on a  
2 theory of transferred intent the case is between my client  
3 and you've got to imagine as if J. D. or Beneco gets shot,  
4 that's who the dispute is from. Okay. And, in fact, Mike  
5 Adams testified on the stand that he went in front of a  
6 magistrate and signed a warrant and swore that their theory  
7 is that my client was trying to kill J. D. Hemphill. Where  
8 is J. D. Hemphill? Oh, he's in Atlanta. What? Why  
9 haven't we looked for J. D. Hemphill? Where is their -- I  
10 asked the officer and he said, "I don't know, that's not my  
11 department." Well, you know, that wasn't the last witness  
12 they put up. They had witness after witness to call up  
13 there to say, "Okay, here is what we've done to look for  
14 Hemphill, we have called this" -- they haven't done any of  
15 that. They drag people out here all the time. They drag a  
16 man from Oklahoma on a murder charge four or five months  
17 back but they're saying they can't find J. D. Hemphill in  
18 Atlanta? Have they picked up a bit of evidence but yet  
19 they want you to convict my client of murdering him in  
20 essence because he's the transferred intent? You know, I'm  
21 going to sit down in a minute because I know you get tired  
22 of hearing me talk, but let me leave you with this: In a  
23 lot of ways your job is both the easiest job in the system  
24 and the hardest. Here is the easy part, the easy part is  
25 you listen to what the Judge says about the law and you

## JURY CHARGE

1 listen to what the Judge says about presumption of  
2 innocence and you listen to what the Judge says about  
3 burden of proof and you listen to what the Judge says about  
4 proof beyond a reasonable doubt including the fact that  
5 they've got to prove the absence of self-defense beyond any  
6 reasonable doubt and that's the easy part clearly. Here is  
7 the hard part. The hard part is you've got to write it  
8 down and you've got to sign it and you've got to come back  
9 out here. And listen, I understand I've tried not to talk  
10 about the child in this case, but listen, it is awful.  
11 Okay. And I know the family is out there, I know they're  
12 upset, I heard them crying during the case and it is awful  
13 and I -- my children aren't that young anymore but I can't  
14 imagine what they're going through. But here is the deal,  
15 it's not your job to right that wrong, it's not your job to  
16 say whether or not somebody has to pay for this, it's your  
17 job to say whether the State has met their burden of proof  
18 beyond a reasonable doubt and they haven't, and you took an  
19 oath to do it. Okay. I know you didn't ask for this job,  
20 but when you came in here, I don't know if you remember,  
21 the clerk stood you up and made you raise your hand and  
22 agree to follow the law, the law that that man is going to  
23 give you. And when you do that I don't expect you to enjoy  
24 it, I don't expect you to like it, but I expect you to  
25 follow it because you promised and do it and find him not

## JURY CHARGE

1 guilty. Thank you.

2 THE COURT: Okay. Jurors, we're going into the final  
3 phase of the trial. Can y'all hear? I can't tell whether  
4 the microphone projects or not, normally I don't have any  
5 problem with people hearing but if you can't hear hold your  
6 hand and I'll get down like this. We're into the final  
7 phase of the trial, jurors. I'm going to instruct you on  
8 the law, you'll go back, weigh all of the facts and return  
9 verdicts on these two indictments. The indictments are not  
10 evidence. The fact that the indictments have been issued  
11 and that Anthony Rodriekus Carter has been charged with the  
12 commission of crimes create no inference of guilt against  
13 him at all. As I explained to you at the start he entered  
14 the trial presumed innocent, a presumption of innocence is  
15 a real substantial right that every defendant has  
16 irrespective of the charge against the defendant. There is  
17 absolutely no burden on a defendant to prove that he is not  
18 guilty. In order to obtain a conviction of some charge  
19 contained within these indictments it is incumbent on the  
20 State to convince 12 jurors -- the original 12 --  
21 unanimously beyond a reasonable doubt that he committed a  
22 crime embraced within these indictments, or crimes embraced  
23 within these indictments. Now, we've got two alternate  
24 jurors, y'all pay attention. When I conclude these  
25 instructions I'm going to ask the jury to step out assuming

## JURY CHARGE

1 the original 12 are still with us if you would stay in the  
2 courtroom at that point. Mr. Foreman, it takes a unanimous  
3 verdict, your vote counts no more than any other juror but  
4 somebody has to preside over the deliberations. If  
5 questions occur during deliberations if you would write  
6 them down with some specificity I will confer with the  
7 attorneys and see if I can answer the questions. I'm going  
8 to go over evidence in just a little bit but just to  
9 forestall some questions. As I have briefly alluded to at  
10 the start I'm giving you the law in the abstract. I'm  
11 actually prevented from commenting on the facts other than  
12 to tell you who the parties are and who the victim is and  
13 things like that, so don't send back a question should we  
14 believe so and so, that's going to be your function. While  
15 you deliberate you will have with you everything that has  
16 been formerly introduced into evidence as an exhibit. Now,  
17 a few things were marked as Court's exhibits, one of those  
18 I just marked the gun as a Court's exhibit, I think y'all  
19 don't really need the gun back there but if y'all want to  
20 see the gun you send me a note and I'll bring you back out  
21 and we will check and make sure it's not loaded and we can  
22 pass it around. I don't know what good that will do. It  
23 has been introduced into evidence, I just blocked it from  
24 going back to you. Y'all gathered that the things aren't  
25 always initially introduced into evidence like photographs

## JURY CHARGE

1 and reports, first they were marked for identification  
2 because it has got to be connected that it came from point  
3 A to point B to point C and then finally it was moved into  
4 evidence. Couple of things were just left as Court's  
5 exhibits, those won't go back but you can consider them if  
6 you saw something during the trial. Couple of things that  
7 you saw were not introduced into evidence, for instance  
8 basically all of the officers pull out some notes they made  
9 and look at them just to review time, date, something like  
10 that. You can consider what they testified to from any of  
11 those notes but the notes were not introduced into evidence  
12 and we can't send them back. In addition, we can't add any  
13 witnesses to the case, we can't ask anymore questions. It  
14 may be that you really wanted to ask a particular witness  
15 one additional question, sorry, can't ask any additional  
16 questions. You have to decide the case based upon the  
17 admitted evidence. Now, as I explained to you a couple of  
18 times and I'm going to go over it, but remember I'm going  
19 to try to keep it as brief as I can but we're talking  
20 serious charges so I can't keep it really short. Y'all are  
21 going to get instructed on more law than most people do and  
22 I can't really tell you how you should apply it to the  
23 facts other than to give you the law and tell you you have  
24 to find the facts and apply them to the law, but I get it  
25 now. I'm not going to send the indictment back, again it's

## JURY CHARGE

1 not evidence. This indictment alleges that Anthony  
2 Rodriekus Carter around May 3, 2010 feloniously, willfully  
3 and of his malice aforethought killed and murdered Jaylen  
4 Jackson by shooting her with a handgun and she did die as a  
5 direct result thereof. In order to obtain a conviction  
6 under this indictment it's incumbent on the State to prove  
7 beyond a reasonable doubt that it occurred in Lancaster  
8 County among other things, the shooting, not necessarily  
9 the death, but that she was shot. I explained to you  
10 murder includes charges -- or lesser-included charges of  
11 voluntary manslaughter, involuntary manslaughter. On this  
12 particular indictment four forms of potential verdicts  
13 would be submitted to you, the order in which they're  
14 submitted has no bearing, you've got to do it one way or  
15 another, generally it depends on who prepares it. If the  
16 State prepared it, they put guilty first, if the defense  
17 prepared it they would put not guilty first. But the  
18 bottom line you would pass on that indictment that I just  
19 went over with you, weigh all of facts in the case and  
20 decide whether the State has met its burden of proof on the  
21 issue of first murder, either guilty or not guilty in your  
22 mind. If you find him guilty you would stop there, if you find  
23 him not guilty you would stop there. If you found -- I'll  
24 instruct you on voluntary manslaughter -- you pass and  
25 discuss those elements. If you find him guilty you stop

## JURY CHARGE

1 there, if you find him not guilty you stop there. If you  
2 found him not guilty -- and I'm not saying you should find  
3 him guilty of anything, I think you understand that -- if  
4 you find him not guilty of murder, not guilty of  
5 manslaughter you may consider involuntary manslaughter, and  
6 I'll instruct you that in just a little bit. If you find  
7 he's not guilty of that he's not guilty of anything and  
8 your verdict would be just not guilty. But again, I'm not  
9 suggesting that you find him guilty but you can find him  
10 not guilty of murder, that does not mean he's not guilty of  
11 one of the other charges, you would have to decide straight  
12 on down as I explained them to you. You could find him not  
13 guilty of any of these three charges; murder, voluntary  
14 manslaughter, involuntary manslaughter before you could  
15 decide not guilty. You don't have a form not guilty by  
16 murder, not guilty by manslaughter and so forth, just one  
17 not guilty form, and if you find him not guilty you have to  
18 find him not guilty of the three charges embraced within  
19 the murder indictment. The second indictment is for  
20 possession of a weapon of a handgun while committing a  
21 violent crime. In order to return a verdict of guilty on  
22 that charge you would have to find that he was guilty of  
23 committing a violent crime, and I instruct you that murder  
24 and manslaughter are crimes of violence, or violent crimes,  
25 involuntary manslaughter is not. So in order to find him

## JURY CHARGE

1 guilty of possession of a weapon while committing a violent  
2 crime you must first find him guilty of either murder or  
3 voluntary manslaughter. If you find him not guilty or  
4 guilty of involuntary manslaughter, you can't find him  
5 guilty of possessing a weapon while committing a violent  
6 crime. Of course, the State has to prove he possessed the  
7 weapon, you know, the crime of violence was committed  
8 beyond a reasonable doubt along with that. Now, how do you  
9 reach your verdict? You weigh all of the evidence in the  
10 case; that includes testimony, that includes photographs,  
11 that includes reports put in, everything that has been  
12 admitted. The attorneys worked pretty hard. We could have  
13 been here two weeks admitting all of those documents and  
14 pictures that came in if we hadn't done that outside of  
15 your presence and got everything marked so it came in  
16 pretty smooth. There was just a couple of objections  
17 during the trial. To the extent that I sustained the  
18 objection you don't speculate as to what the answer would  
19 have been to a question denied, but anything that came in;  
20 testimony, exhibits, photographs, you can consider and give  
21 it such weight as you feel it's entitled to because you  
22 jurors are the fact finders. All I do is preside over the  
23 trial, make evidentiary rulings and then instruct you on  
24 the law again, in the abstract, not fact specific which  
25 makes it harder for you. If I could I could tell you if

## JURY CHARGE

1 you find A and B then you could find C but I can't do any  
2 of that, so something that is not evidence that you could  
3 consider obviously would be summations and opening  
4 statements by the State and the defense. They are entitled  
5 for you to consider that position, the fact that either of  
6 them suggests something to you does not bind you to draw  
7 that same conclusion, but that is up to you. Evidence  
8 generally speaking is of two types, direct evidence and  
9 circumstantial evidence. Circumstantial evidence, it sits  
10 on the same footing as direct evidence as far as you're  
11 concerned, one is not preferred over the other. Direct  
12 evidence is where somebody testifies to something he or she  
13 has observed through the senses, as I explained it to start  
14 with it might not be true but that's testimony on that  
15 issue. Circumstantial evidence is where you take a fact or  
16 proven fact and from that you infer the existence of  
17 another fact. Of course, your inferences have to be  
18 reasonable based upon all of the surrounding circumstances.  
19 Now, you jurors are going to pass on the credibility of all  
20 of the witnesses that testified. I'm going to give you a  
21 few rules, I'm not directing it to a particular witness,  
22 they apply to all of the witnesses. Among the things that  
23 you would consider certainly would be the appearance or the  
24 demeanor of a witness. Obviously you would consider  
25 whether a witness was hesitant or forthright in answering

## JURY CHARGE

1 questions. You would consider any interest or bias that a  
2 witness had in the outcome of the proceedings, the  
3 opportunity that the witness has to see, hear or observe  
4 what the witness testified to, that's certainly a factor  
5 you could take into account, whether testimony from a  
6 particular witness in your mind becomes stronger or is made  
7 weaker by testimony or other evidence in the case is  
8 entirely up to you. We don't count witnesses, jurors, in  
9 court proceedings. In other words the side with the most  
10 witnesses doesn't mean anything because you jurors are  
11 entitled to pick and choose portions of testimony that you  
12 believe believable. In other words, you can believe one  
13 witness versus many or the other way around and you are not  
14 bound to accept in its entirety the testimony of any  
15 particular witness as I just illuded to. You can believe  
16 any portion of the witness' testimony but then you could  
17 give that believable testimony such weight as you feel it's  
18 entitled to. During the trial, jurors, several people  
19 testified who had previously had run-ins with the law.  
20 Generally speaking if a person has a criminal record there  
21 are exceptions that you are interested in, but if a person  
22 generally has a criminal record it can be brought out when  
23 they testify if they have a criminal record. The fact that  
24 you have a criminal record certainly does not prevent  
25 anyone from testifying but it's for you jurors to decide to

## JURY CHARGE

1 give it such weight as the prior record of a person if you  
2 feel it would impact on that credibility, again that's up  
3 to. In addition, jurors, during the trial certain people  
4 were qualified as an expert. The fact that we qualified as  
5 an individual an as expert does not bind you to accept  
6 their testimony either, they are subject to the same  
7 credibility test as any other witness on demeanor,  
8 consistency, inconsistency, so forth. What they are  
9 allowed to do, though, once qualified as an expert is they  
10 have to establish that through education, training, work  
11 experience or a combination of those factors that they have  
12 required more knowledge in a particular field than you or I  
13 have then they can give opinions within that field of  
14 expertise. Before you can accept any opinion given by an  
15 expert the opinion has to be given to a reasonable degree  
16 of certainty within the field in which the expert was  
17 qualified. Now, the expert does not have to say that every  
18 time they say something, y'all understand, they don't have  
19 to say I was born in Bamberg, South Carolina to a  
20 reasonable degree of certainty, and then they say I have  
21 got this and I presented my opinions after that it is such  
22 and such, if it's not to a reasonable degree of certainty  
23 they can't be questioned about it further. But even though  
24 they testified as experts to things to a reasonable degree  
25 of certainty you are not bound to it, that is up to you.

## JURY CHARGE

1 You can consider underlying facts under which an expert  
2 bases his or her opinion. Now, the defendant in this case  
3 did not testify. He has absolutely no obligation on his  
4 part to testify. You did see a couple of hours of  
5 videotape, you can view that just like he was testifying in  
6 person, you saw it. So the fact that he actually did not  
7 take the stand creates no inference of guilt against him at  
8 all. You can consider what you saw from the video, and I  
9 have a video up here, a couple of times of just a little  
10 blur, we didn't prepare -- they had cut down a few  
11 things -- I know you don't think they sped it up, but they  
12 limited it a little bit and they just ran over some things,  
13 don't send back a question saying, "We want to see when it  
14 was run over." You can consider anything that you saw from  
15 the video and that you heard from the video, but to just --  
16 that's just like me sustaining an objection, although I  
17 didn't edit it, the attorneys got together and agreed on  
18 what they were going to present from the video of the  
19 defendant to you. Now, that's basically all of the  
20 preliminary things on how you reach your decisions. I've  
21 mentioned it one other time as you recall, one previous  
22 time, that the defendant was also charged with possession  
23 of a weapon, that's no longer in front of you. He pled  
24 guilty to that. I'm authorized to tell you that that was a  
25 separate charge other than possession while committing a

## JURY CHARGE

1 crime, that was just adding. He pled guilty to that,  
2 that's removed from your consideration, and the fact that  
3 he pled guilty to that charge creates no inference of guilt  
4 on these other charges which he's facing. Okay. You are  
5 not to discuss that, that is out of your way. Now, here  
6 comes the difficult part. I need you to listen carefully  
7 because understand, I have to instruct you on the law in  
8 the abstract. I don't think I'm going to even go over  
9 other than the State has got to convince you beyond a  
10 reasonable doubt on the weapons charge, the elements of  
11 that, you understand what a weapon is, it was either  
12 possessed during the commission of a violent crime or not.  
13 If you need more instruction on that you can send back a  
14 note and I can give it, I think y'all understand that. You  
15 have to decide the case, jurors, based upon the admitted  
16 evidence which you jurors are going to pass on. You're  
17 going to weigh all of the evidence in the case, obviously  
18 certain witnesses testified and made inconsistent  
19 statements. The fact that they made inconsistent  
20 statements does not mean you should object to everything  
21 that any particular witness says, it's just as I told you  
22 earlier you can pick and choose portions of the statements  
23 that you feel are believable. Inconsistent statements that  
24 a person makes certainly can be considered by you in  
25 evaluating the believability of the entire statement, but

## JURY CHARGE

1 again, that's up to you. The fact that they made  
2 inconsistent statements is just another factor that you can  
3 pass on on credibility. So you weigh all of the evidence  
4 in the case, direct evidence and circumstantial evidence;  
5 photographs, reports, believable testimony, then you decide  
6 whether the State has convinced you beyond a reasonable  
7 doubt that the defendant is guilty of murder, manslaughter  
8 or involuntary manslaughter. Now, jurors, I've been over  
9 it a couple of times with you about beyond a reasonable  
10 doubt. In the simplest definition, reasonable doubt is the  
11 kind of doubt that would cause an ordinary person to  
12 hesitate to act in conducting his or her daily things.  
13 Going just a little further, beyond a reasonable doubt  
14 means the evidence must be presented that leaves you firmly  
15 convinced of the guilt of the accused, if you're not firmly  
16 convinced of the guilt of the accused after weighing all of  
17 the evidence in the case you must find the defendant not  
18 guilty. Murder. Jurors, murder is the unlawful killing of  
19 one human being by another human being with malice  
20 aforethought expressed or inferred. Now, malice, jurors,  
21 denotes wickedness, evilness. Expressed malice is where a  
22 person indicates through verbal or overt action that he or  
23 she bears ill will toward another person; "I hate you," if  
24 somebody says that that indicates that they may have malice  
25 there. Malice is a term of legal art actually and it

## JURY CHARGE

1 denotes wickedness and excuses just cause, there is no just  
2 cause. So malice can be inferred, jurors, if it is proved  
3 beyond a reasonable doubt that there was a willful,  
4 deliberate and intentional doing of an unlawful act without  
5 just cause or excuse. When malice is not expressed, where  
6 it is inferred you take into account all of the surrounding  
7 circumstances that ended up in someone dying. You take  
8 everything that bears on that issue and, of course, then  
9 you're in the area of circumstantial evidence, and any  
10 circumstantial evidence is just evidence in the case and  
11 you give it such weight as you feel it is entitled to. The  
12 State has to convince you beyond a reasonable doubt that  
13 malice existed before you can find an individual guilty of  
14 murder even though you find that the defendant killed  
15 someone. Both murder and voluntary manslaughter, which I  
16 will come to in just a minute, involve criminal intent.  
17 Okay. If you don't intend to kill someone it can't be  
18 murder, it's got to be something else, of course, you have  
19 to understand. And voluntary manslaughter is the same  
20 situation, you have to have a fixed intent to kill someone.  
21 You recognize the action you take might result in the death  
22 of another before you could find a person guilty of murder  
23 or the second illustration of voluntary manslaughter. When  
24 I get to involuntary manslaughter it does not require any  
25 proof of criminal intent because that's not part of it,

## JURY CHARGE

1 it's the unintentional killing of another person.  
2 Manslaughter is the unlawful killing of one human being by  
3 another human without malice in the sudden heat of passion  
4 upon a sufficient legal provocation. The difference, of  
5 course, between murder and manslaughter is that malice  
6 exists in murder, malice does not exist in manslaughter. I  
7 can't really give you any further instruction on what  
8 constitutes malice other than I did, it's just legal  
9 terminology. I have to give it to you in the abstract. I  
10 can't go over any factors that might or might not bear on  
11 the presence of the absence of malice in this particular  
12 case so don't send back a question on that. And  
13 involuntary manslaughter is where a defendant did  
14 unlawfully unintentionally kill a victim, and that the  
15 defendant's conduct was criminally negligent which is  
16 defined in the section of the code of laws as reckless  
17 disregard of the safety of others. Of course, weapons is a  
18 dangerous instrumentality and if you don't use them  
19 properly bad results, of course, occur. Criminal  
20 negligence is more than just simple negligence, it's a  
21 conscious awareness that you knew or should have known that  
22 a bad result could result in the cause of the action that  
23 you took; firing in a house, firing in the woods. Now, I'm  
24 coming back to all of these in just a little bit. But in  
25 the involuntary manslaughter situation, which is the last

## JURY CHARGE

1 one, a party cannot avail himself or herself of involuntary  
2 manslaughter as a possible result if they're engaged in the  
3 commission of a felony at the time that somebody  
4 unintentionally gets killed, and while the defendant is not  
5 charged there's evidence in the case that he could have  
6 been guilty of a felony, not saying that he was but that is  
7 up to you, which is called presenting and pointing a  
8 firearm. It's just a simple statute that says it is  
9 against the law to present or point a firearm at another  
10 person whether the gun is loaded or unloaded. You can  
11 understand, if somebody points a gun at you you don't say,  
12 "Man, is that thing loaded?" That's just against the law.  
13 But if you have the right for instance in self-defense to  
14 defend yourself you are not guilty of pointing and  
15 presenting which brings us to self-defense down the whole  
16 gamut. Self-defense, jurors -- well, before I get to  
17 self-defense since I don't have things written down I try  
18 to do things in a logical manner. Obviously there's no  
19 evidence in the case -- I told you I couldn't talk to all  
20 of the facts but I will tell you that there was not any  
21 intent on anybody's part to kill the three year old child,  
22 I think you know that, what we're talking about is  
23 transferred intent. So if a person is trying to commit  
24 murder they would have been guilty of murder if they would  
25 have shot A and they shot B inadvertently, they're guilty

## JURY CHARGE

1 of murder if the other elements of murder were proved  
2 beyond a reasonable doubt. The same thing with the other  
3 charges. Okay. Transferred intent applies to the three  
4 charges; manslaughter, voluntary and involuntary and murder  
5 and also on the issue of self-defense if you're justified  
6 in the self-defense somebody else you're standing in the  
7 position of, other party and so forth. But the defendant,  
8 of course, does not have to prove he is not guilty of  
9 anything as I have explained to you. If there is evidence  
10 in the case that a person acted in self-defense it's  
11 incumbent on the State to prove beyond a reasonable doubt  
12 that the person did not act in self-defense. In this case  
13 the State relies in part on the theory of the hand of one  
14 is the hand of all, and that basically says if two or more  
15 people -- in the area called accomplice liability, two or  
16 more people are jointly committing an unlawful act if one  
17 is guilty of the unlawful act everyone participating on the  
18 unlawful act is guilty. You have to be aware that the unlawful  
19 act -- unlawful act is going on or you should have known an  
20 unlawful act would have dire consequences then if you're  
21 participating in it. The simplest example is if one person  
22 or two people rob a store, both people are guilty of armed  
23 robbery, not one guilty of armed robbery and one of strong  
24 armed robbery which is just not required of a weapon. If  
25 two people and only one has a gun are engaged in an act in

## JURY CHARGE

1 which somebody is killed, if they're both aiding and  
2 abetting each other, participating in the situation  
3 together, hand of one is the hand of all. If one is guilty  
4 of murder, both are guilty of murder, if one is guilty of  
5 manslaughter and so forth. The hand of one is the hand of  
6 all. But you have to find that the person who did not  
7 shoot, for instance was aiding and abetting the person who  
8 did shoot, so the hand of one is the hand of all. Now,  
9 self-defense. Four things have to be established by the  
10 evidence, and when I say that I mean convince you jurors.  
11 The first is that a person who acted in self-defense, shot  
12 in self-defense was not at fault in bringing about the  
13 immediate difficulties or the necessity of taking a human  
14 life. Now, immediate difficulties, we're talking about at  
15 the time of a confrontation, we're not talking about  
16 anything in this case that predates on the issue of at  
17 fault in bringing on the controversy. We're not talking  
18 about anything that predates the date that the shooting  
19 occurred, you can consider anything that happened before  
20 other issues but not on that particular issue. At the time  
21 that the fatal shot was fired the person making the fatal  
22 shot believed in good faith that he was in imminent danger  
23 of sustaining serious bodily injury or losing his life.  
24 And third, that if he felt that he was in imminent danger  
25 of sustaining a great bodily injury or losing his life that

## JURY CHARGE

1 an ordinary reasonable person faced with the same  
2 circumstances would have also entertained the same belief,  
3 in other words, you can't just say, "I believe he's going  
4 to shoot me, bang, he's dead." It has to be the same  
5 situation. If you put any reasonable person in a situation  
6 that the shooter -- that the evidence indicates might have  
7 acted in self-defense there has to be a reasonable  
8 assumption on the part of the person that did the shooting  
9 before self-defense applies. Now, self-defense, if  
10 established by the evidence, the defendant doesn't have to  
11 prove it, the State has to prove that the person didn't act  
12 in self-defense, is an absolute defense to any crime  
13 embraced within the particular indictment. If a  
14 defendant -- and we're talking transferred intent here,  
15 y'all understand that -- if the defendant is someone that  
16 he was shooting or attempting to shoot at was on common  
17 ground, the evidence must establish that the defendant had  
18 no ability to retreat, in other words, he had to act before  
19 he retreated, he had to fire before he retreated to not  
20 have -- or he might have lost his life if he hadn't taken  
21 evasive action at the time of the shooting back is a normal  
22 thing to do. Now, if a person is entitled to shoot they're  
23 entitled to keep shooting until the danger has passed.  
24 Again, I can't tell you about the facts specifically, but I  
25 can tell you that a person never has to wait until somebody

## JURY CHARGE

1 else has the drop on them to shoot. In other words, if  
2 you're coming down on me I don't have to wait until you  
3 pull the trigger and hope you miss and shoot back. So who  
4 shot first is an issue in the case but it is not  
5 dispositive of the case. You jurors on the issue of  
6 self-defense have to weigh all of availing circumstances.  
7 Now, when you're deciding whether the defendant acted  
8 reasonable you take into account any prior confrontations  
9 or prior difficulties between the parties, that can be  
10 considered by you. Any prior difficulties between parties  
11 can affect the person's belief to what kind of situation  
12 they're in so that's just another factor in the case. You  
13 weigh all of the factors in the case, weigh them, give them  
14 such weight as they're entitled to, you decide whether the  
15 State has met its burden of proof on any of the indictments  
16 and the charges embraced within the indictment. In order  
17 to obtain a verdict on anything the State has got to  
18 convince you that the defendant, Mr. Carter, is guilty  
19 beyond a reasonable doubt of that charge. The weapons  
20 charge is pretty self explanatory, you can't find him  
21 guilty of that unless you find him guilty of either murder  
22 or voluntary manslaughter. If you find him not guilty or  
23 guilty of involuntary manslaughter he's not guilty of  
24 possession of a weapon while engaged in a violent crime.  
25 On murder, in order to obtain a conviction you first

## JURY CHARGE

1 evaluate all of the evidence presented, you weigh it, you  
2 find that if the State has convinced you beyond a  
3 reasonable doubt murder was committed, after weighing the  
4 evidence presented on the issue of self-defense and the  
5 State's burden of proving the person didn't act in  
6 self-defense, if you reach a unanimous verdict of guilty  
7 you would stop at that point. In order to do that you  
8 would have to find that the State has convinced you beyond  
9 a reasonable doubt that the defendant committed murder  
10 either directly or through transferred intent, hand of one,  
11 hand of all. Now, if you decided that the defendant is not  
12 guilty of murder, you don't stop at that point, then you  
13 would consider voluntary manslaughter which is the next  
14 most serious charge embraced within the charge of murder.  
15 And on that charge you would consider whether the State has  
16 convinced you considering the evidence of self-defense that  
17 the State must again prove beyond a reasonable doubt that  
18 the defendant did not act in it, you would find whether if  
19 murder -- if a homicide did occur you would have to decide  
20 whether the defendant in the hand of one, hand of all acted  
21 under sudden heat and passion upon sufficient legal  
22 provocation. In order for the State to convince you beyond  
23 a reasonable doubt the defendant is guilty of voluntary  
24 manslaughter you take and weigh all of the evidence and  
25 apply it to the law that I have given you, and if you find

## JURY CHARGE

1 they have you would find him guilty of voluntary  
2 manslaughter, if not you would consider involuntary  
3 manslaughter. I think I've explained that to you that  
4 involuntary manslaughter is the unlawful killing of one  
5 human being by another unintentionally through criminal  
6 negligence while not engaged in the commission of a felony.  
7 You weigh self-defense on that charge also. If you find  
8 that the State has not found him -- proved to you beyond a  
9 reasonable doubt that he is guilty of any charge embraced  
10 within this indictment of murder you would just find him  
11 not guilty. And again, I don't know that I told you, the  
12 order in which things are typed has no bearing, you have to  
13 type them some way. You could have started out at the top,  
14 guilty of murder or guilty of involuntary, guilty of  
15 voluntary or so forth but that looked like a logical way to  
16 present it to you, it has no bearing at all on your  
17 decision, the order in which they're typed. I think you do  
18 understand that it takes a unanimous decision of 12 jurors  
19 to reach a verdict. I do not require 12 signatures,  
20 though, only the foreperson signs it. I do not need for  
21 you to sign except one time on the four charges; not  
22 guilty, guilty of murder; guilty of voluntary manslaughter,  
23 guilty of involuntary manslaughter, you check off which  
24 ones of the verdicts you form, you jurors agree. On the  
25 weapons charge he was found not guilty or guilty, you can

## JURY CHARGE

1 circle or you can check it does not matter, or you can  
2 underline as long as we know it, you don't check, circle or  
3 underline one so we will know the verdict you have reached.  
4 I told you earlier you could take notes, somebody is taking  
5 notes, you need to just leave them in the courtroom. You  
6 can take them back after the trial is over, again just  
7 don't take them back to the jury room. While you  
8 deliberate you will have with you all of the documents that  
9 have been introduced, it might take awhile to gather them  
10 up and bring them back. Jurors, it has been a long week,  
11 serious charges. You have to decide the case based on  
12 evidence presented you, don't decide it based on sympathy  
13 or anything like that, just evaluate the case and it's  
14 going to take you awhile to go over all of the testimony.  
15 Don't talk about it yet, I might have left something out or  
16 might have misspoke, it won't be the first time. But if  
17 y'all wood ease out.

18 (The jury left the courtroom.)

19 THE COURT: Historically I don't keep the alternate  
20 jurors around, if y'all want to keep them we --

21 MR. LIFSEY: I don't have a preference on that. I do  
22 have one issue regarding charge.

23 THE COURT: I'll cover that with you, I first want to  
24 cover this.

25 MR. BARFIELD: I don't have any particular need for

1 them to stay as long as -- you didn't ask but I assume all  
2 12 back are okay, nobody is feeling bad or anything?

3 THE COURT: They all looked pretty good. I have never  
4 had to use an alternate but -- we get reversed if you use  
5 alternates. Yes, sir?

6 MR. LIFSEY: My concern is, Judge, I didn't hear you  
7 advise them that if there's a reasonable doubt as to the  
8 greater offense versus a lesser offense they resolve it in  
9 my client's favor.

10 THE COURT: Yeah, I didn't tell them that. I will be  
11 happy to do that.

12 MR. LIFSEY: That's all I want.

13 THE COURT: Solicitor, you don't have anything?

14 MR. BARFIELD: No, sir.

15 (The jury returned to the courtroom.)

16 THE COURT: Okay. Jurors, after I've given  
17 instructions they're entitled to make objections and ask  
18 for other things, too, they only had one and they're  
19 correct on it, I didn't tell you something I should have  
20 told you about reasonable doubt. When we were talking  
21 about the murder charge if you -- going over all of the  
22 evidence and testimony and everything on the murder charge  
23 if you don't think he is not guilty but you don't know  
24 whether he's guilty of murder or manslaughter he gets the  
25 benefit of the doubt, you would have to find him guilty of

## JURY CHARGE

1 the lesser charge of voluntary manslaughter because the  
2 State hadn't convinced you beyond a reasonable doubt that  
3 he was guilty of murder. I'm not suggesting you find him  
4 guilty of anything. The second thing, if you find the  
5 State hadn't convinced you beyond a reasonable doubt that  
6 he was guilty of murder and they haven't really convinced  
7 you that he's guilty of voluntary manslaughter if you think  
8 he is guilty of involuntary manslaughter, voluntary or  
9 involuntary, he's entitled the benefit of the doubt and you  
10 would find him guilty of involuntary. I'm not suggesting  
11 you find him guilty of anything, it's just he gets the  
12 benefit of the doubt if you're not firmly convinced he is  
13 guilty of a higher offense, he gets the benefit of the  
14 lesser offense if you find the State has convinced you  
15 beyond a reasonable doubt that he's guilty of some charge  
16 in the indictment. Okay.

17 (The jury left the courtroom.)

18 THE COURT: State ready to receive the verdict?

19 MR. BARFIELD: State is ready.

20 THE COURT: Defense?

21 MR. LIFSEY: Yes, sir.

22 THE COURT: We've got victims and victim's family in  
23 the courtroom, they've shown great restraint so far, we  
24 don't know what the verdict is going to be so try to hold  
25 it down whatever it is when they come back with a verdict.

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## JURY VERDICT

1 You can bring them in.

2 (The jury returned to the courtroom.)

3 THE COURT: Mr. Foreman, has the jury reached verdicts  
4 and have you signed the verdict form on the matter  
5 submitted to you?

6 THE JUROR: Yes, sir, I have.

7 THE COURT: If you would, then, hand it to the bailiff  
8 and the clerk. I know you've been back there practicing  
9 like you see it on TV but that's not the way we do it.

10 THE CLERK: We, the jury, as to indictment number  
11 2010-GS-29-1000, murder, unanimously find the defendant,  
12 Anthony Rodriekus Carter, guilty of murder. We, the jury,  
13 as to indictment number 2010-GS-29-1001, possession of a  
14 firearm during the commission of a violent crime,  
15 unanimously find the defendant, Anthony Rodriekus Carter,  
16 guilty. Signed, Darrell Carnes, foreperson, dated  
17 November 10, 2011. Ladies and gentlemen of the jury, if  
18 this be your verdict so say you all by the raising of your  
19 right hands. Let the record reflect all jurors raised  
20 their right hands.

21 THE COURT: Anything else required of the jury from  
22 the State?

23 MR. BARFIELD: Nothing from the State.

24 THE COURT: Defense?

25 MR. LIFSEY: Requesting to poll the jury.

## JURY VERDICT

1 THE COURT: All right. Jurors, your clerk is going to  
2 ask you two questions, was that your verdict and is that  
3 your verdict, he's not talking about when you went back  
4 there to start deliberating, he's talking about after it  
5 was written. Okay.

6 THE CLERK: Thank you, Your Honor. Darrell Carnes,  
7 foreperson, is this your verdict and is this still your  
8 verdict?

9 THE JUROR: Yes.

10 THE CLERK: Pamela Massey, is this your verdict and is  
11 this still your verdict?

12 THE JUROR: Yes.

13 THE CLERK: Shelly Young, is this your verdict and is  
14 this still your verdict?

15 THE JUROR: Yes.

16 THE CLERK: Kelvin Deese, is this your verdict and is  
17 this still your verdict?

18 THE JUROR: Yes.

19 THE CLERK: Henry Beckham, is this your verdict and is  
20 this still your verdict?

21 THE JUROR: Yeah.

22 THE CLERK: Cheryl Long, is this your verdict and is  
23 this still your verdict?

24 THE JUROR: Yes.

25 THE CLERK: Tanya Eller, is this your verdict and is

## JURY VERDICT

1 this still your verdict?  
2 THE JUROR: Yes.  
3 THE CLERK: Jeff Hinson, is this your verdict and is  
4 this still your verdict?  
5 THE JUROR: Yes, sir.  
6 THE CLERK: Barbara Haire, is this your verdict and is  
7 this still your verdict?  
8 THE JUROR: Yes, sir.  
9 THE CLERK: Anthony Sane, is this your verdict and is  
10 this still your verdict?  
11 THE JUROR: Yes.  
12 THE CLERK: Victoria Langley, is this your verdict and  
13 is this still your verdict?  
14 THE JUROR: Yes.  
15 THE CLERK: Lana Cook, is this your verdict and is  
16 this still your verdict?  
17 THE JUROR: Yes, sir.  
18 THE CLERK: Thank you.  
19 THE COURT: Okay. Solicitor, I think we are will just  
20 defer sentencing --  
21 MR. BARFIELD: I was going to request that, yes, sir.  
22 THE COURT: -- since we have another case pending.  
23 MR. BARFIELD: Yes, sir, thank you.  
24 (The jury was dismissed.)  
25 MR. LIFSEY: Judge, I would make a motion for a new

## SENTENCING HEARING

1 trial based on the same motions and grounds that I stated  
2 for motions for a directed verdict.

3 THE COURT: Okay. And I will deny them today but I  
4 will give you a few more days to come up with some more if  
5 you can make them before the end of next week. We will  
6 crank it up again Monday.

7 (END OF TRIAL PROCEEDINGS.)

8 (SENTENCING HEARING ON NOVEMBER 17, 2011.)

9 MR. BARFIELD: Your Honor, we are obviously here on  
10 sentencing of Mr. Carter. He plead guilty to possession of  
11 a pistol by a person convicted of a crime of violence and  
12 the jury found him guilty of murder and possession of a  
13 firearm, probably don't need to tell you anything else  
14 about the facts of the case. I will tell you his record  
15 when we are ready and Rodriana Cunningham, the mother of  
16 the victim, is present and I am sure would like to speak  
17 when you are ready to hear from her.

18 THE COURT: Well, she can come up and speak and you  
19 can tell me the record.

20 MR. BARFIELD: All right. I will tell you the record  
21 first and then she will step up to the microphone when I  
22 finish that. '99 had a city level resisting arrest,  
23 possession alcohol by a minor and a general sessions  
24 resisting arrest in '99. He also had a magistrate court  
25 level malicious injury to property and general sessions

## SENTENCING HEARING

1 disturbing schools. In 2000 he had either distribution or  
2 PWID crack cocaine, got six months on that in 2000. 2001  
3 had a shoplifting, two counts of shoplifting, another city  
4 level resisting arrest, giving false information and a  
5 third count of shoplifting. 2001 he had -- it looks like  
6 he got a 91 day sentence on that 2002 city or magistrate  
7 level resisting arrest and simple assault and battery, 2002  
8 possession of marijuana and third or subsequent property  
9 crime and attempted burglary second degree. It looks like  
10 he got attempted burglary second degree and a burglary  
11 third degree second offense, it looks like he got an active  
12 two year sentence on those. 2008 he had a possession of  
13 crack and possession of cocaine, got active time on them  
14 again. I believe that's it. Rodriana Lanisha Cunningham,  
15 the victim's mom, you heard from her twice last week and  
16 this week and she will step up to the microphone and  
17 address the Court.

18 THE WITNESS: Basically May 3rd they took my world  
19 away by what they did to my daughter. Jaylen was three  
20 years old, left defenseless in a car. My daughter was --  
21 got killed, was hit for a bullet that was meant for him and  
22 that was totally unfair. Jaylen had her whole life ahead  
23 of her, she could have been anything. She was going to be  
24 something. He wasn't doing anything with his life but  
25 she's not here no more because of what they did. My baby

1 had to die like that and that was so unfair and all I'm  
2 left with is memories and I can't hold her, I won't see her  
3 no more. My baby won't get no more birthdays. He should  
4 pay for what he did because what he did was ignorant, it  
5 was dumb and it could have been avoided. Like I say,  
6 Jaylen was a baby, she had no business where they had her  
7 and all I ask is that you don't be lenient. And he is not  
8 the victim, the only victim out there that night was Jaylen  
9 That's it.

10 MR. BARFIELD: Couple of real quick comments from me,  
11 Your Honor. And I don't need to yell and scream, you know  
12 all about the case, I'm sure you probably have a good idea  
13 what you're going to do, I would simply say that this young  
14 man has got a pretty significant record. It's not the  
15 worst kind of stuff necessarily but it's just a continuing  
16 repeated course of conduct, getting himself in trouble. He  
17 had a record that prohibited him from having a gun, whether  
18 it was his gun or not he gave a statement saying he  
19 possessed that gun, he gave a statement saying he was out  
20 there buying and selling dope from people. It's tragic.  
21 There is no way to fix it but it is what it is and I ask  
22 you to sentence him accordingly.

23 MR. LIFSEY: Please the Court? Judge, my client is 29  
24 years old. I will tell you to begin with his mother, aunt  
25 and uncle are not here at the moment but they were here all

## SENTENCING HEARING

1 last week, they sat out here, they were just unable in this  
2 sort of short notice to get up here so I would ask you to  
3 recognize he does have some family support. Your Honor, he  
4 has a GED, he has a child himself who is four years old  
5 that he pays child support for and all. Of course, he has  
6 been locked up for I guess going on 18 months or so now  
7 since this happened. His work history is such he worked  
8 mostly warehouse work, he has worked at Tyson up at Monroe,  
9 he has worked at the Grace Plant here in Lancaster. Your  
10 Honor, like the solicitor said, you heard the whole trial  
11 and I don't think I need to add much about the facts. It's  
12 obviously a terrible, terrible tragedy. I will tell you  
13 that as awful as it is what I do think is fairly undisputed  
14 is that nobody intentionally killed the child in this case.  
15 As you know any sentence -- you're bound by law to give him  
16 a certain sentence and any sentence you impose by law he  
17 will have to do every day for. I would ask the Court to  
18 consider a 30 year sentence in this, I think considering  
19 the facts that would put him in jail really until he is  
20 almost 60 years old. And I certainly -- there is no way to  
21 repay or no way to make up for the damage to the child but  
22 I do think that's a significant sentence and I would ask  
23 the Court to consider it in this matter.

24 THE COURT: Okay. Mr. Carter, you have the right to  
25 state whatever.

## SENTENCING HEARING

1 THE DEFENDANT: I would like to say once again that  
2 I'm sorry for what happened that night, but this whole two  
3 years I've been coming up here, I've been apologizing for  
4 mostly what happened. I ain't apologizing because I killed  
5 no one, I never had a chance to shoot a gun. It wasn't my  
6 fault that the gun got shot. I understand it was my beef  
7 that night but when I went down there nothing was  
8 intentionally planned when I went out there. I never  
9 pointed a gun at nobody and said I was going to do  
10 anything. I just tried to squash the beef and yet I walked  
11 away from it like I always did when we had confrontations.  
12 The whole 18 months I've been out there I've done  
13 everything in my power to prove my innocence, anything I  
14 could do I tried my best but I can't make nobody believe me  
15 but me and him. I told the truth and I would like to say  
16 I'm sorry to the family again but that's all I can say. I  
17 wish I could bring her back but I can't.

18 MR. LIFSEY: And I'll tell you what he just said,  
19 Judge -- and I will hush -- is consistent about with what  
20 he has always told me. I'll tell you he has been  
21 remorseful for the fact that the child lost her life from  
22 the very beginning in this case.

23 THE COURT: What have you told him I could sentence  
24 him to?

25 MR. LIFSEY: Up to life in prison, Judge, minimum 30

## SENTENCING HEARING

1 years, I believe that to be the statute, plus I guess the  
2 other charges sort of run in with them.

3 THE COURT: Okay. Mr. Carter, I've been a judge a  
4 long time so I sentenced -- I don't know how many I  
5 sentenced, 80 something homicides one year in Richland when  
6 I was chief administrative judge. They weren't all  
7 murders; felony DUI's, hunting accident, whatever, anyway.  
8 And I've seen one homicide after another, I recognize you  
9 didn't intend even if you shot, which is not for me to  
10 decide, you didn't intend to hit the child but nothing I  
11 can do brings back the child. When I started I would give  
12 people life and they would be out after 20 years, that was  
13 just how it was. Now on a murder charge they've changed it  
14 so that whatever sentence I impose on you you have to serve  
15 day for day. While you never really did any serious crimes  
16 in the past you've got a string of crimes, as I heard third  
17 and above shoplifting, so forth and so forth on and on,  
18 involvement in the drug trade. So on the murder charge I  
19 sentence you to 32 years, give you credit for the time you  
20 have been incarcerated. I sentence you to time served on  
21 the possession of a pistol by a person convicted of a  
22 crime, and five years concurrent on the possession of the  
23 weapon while committing a violent crime.

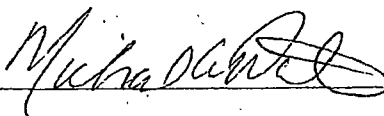
24 (End of trial proceedings.)

25

1 I, the undersigned, Michael C. Watkins, Official  
2 Court Reporter for the Sixth Judicial Circuit of the State  
3 of South Carolina, do hereby certify that the foregoing is  
4 a true, accurate and complete transcript of record of the  
5 proceedings had and evidence introduced in the trial of  
6 the captioned case, relative to appeal, in the Court of  
7 General Sessions for Lancaster County, South Carolina, on  
8 the 7th-10th days of November, 2011.

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

11  
12 April 13, 2012.

13  
14   
15  
16 Michael C. Watkins  
17 Court Reporter  
18  
19  
20  
21  
22  
23  
24  
25

699

WITNESSES

Adams -LCSO #12783

570

ARREST WARRANT NUMBER/DOA

M164308 (DOA-5-6-10)

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: AUG 19 2010

VERDICT

TRUE BILL

Foreperson of Petit Jury

Date:

Litsey

DOCKET NO. 2010-GS-29-1000

The State of South Carolina

County of Lancaster

COURT OF GENERAL SESSIONS

AUGUST TERM 2010

THE STATE

vs.

Anthony Rodriekus Carter 1001

Marico Stevens 1014

Indictment for

Murder

SC Code: §16-3-10

CDR Code: 0116

Class: Felony, EXM

FILED  
OFFICE OF CLERK  
OF COURT

2010 AUG 19 A 11:19

CLERK OF COURT  
LANCASTER, SC

STATE OF SOUTH CAROLINA )  
COUNTY OF LANCASTER )

INDICTMENT

At a Court of General Sessions, convened on August 19, 2010, the Grand Jurors of Lancaster County present upon their oath:

**MURDER**

That Anthony Rodriekus Carter did at 2040 Athena Road, in Lancaster County on or about May 3, 2010, feloniously, willfully, and of his malice aforethought kill and murder Jaylen Jackson by shooting her with a handgun and the victim did die as the proximate cause thereof at Carolinas Medical Center in Charlotte, North Carolina, on May 4, 2010, in violation of Section 16-3-10 of the *Code of Laws of South Carolina*.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



\_\_\_\_\_  
Douglas A. Barfield, Jr., SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF

LANCASTER

STATE

VS.

Anthony Rodriekus Carter

AKA:

Race:

Sex:

Age:

DOB:

SS#:

Address:

City, State, Zip:

DL#

SID#

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was TO: Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010-GS-29-1000

A/W#: M164308

Date of Offense: 5/3/10

S.C. Code §: 16-3-10

CDR Code #: 0116

SENTENCE SHEET

CONVICTED OF or  PLEADS

In violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS (CSC w/mhnr 1<sup>st</sup> or Lewd Act)  §17-25-45

The charge is:  As indicted,  Lesser Included Offense,

Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is:  Without Negotiations or Recommendation,

Negotiated Sentence,  Recommendation by the State.

ATTEST:

Solicitor

514

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Corrections  County Detention Center, for a determinate term of 32 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: WARRANT CHANGE

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered

PTUP

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

\_\_\_\_\_ days/hours Public Service Employment

Payment Terms: \_\_\_\_\_

Obtain GED

Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. \_\_\_\_\_

Recipient: \_\_\_\_\_

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ \_\_\_\_\_ Beginning

\$ \_\_\_\_\_ Paid to Public Defender Fund

Other: \_\_\_\_\_

Appointed PD or appointed other counsel, \$47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 2017-10

Sentence Date 11-17-11

*Fine:		\$
§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Braath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$
TOTAL		\$

Clerk of Court/Deputy Clerk

Court Reporter:

WITNESSES

Adams - LCSO #10-12783

*for*

ARREST WARRANT NUMBER/DOA

M164311 (DOA-5-5-10)

ACTION OF GRAND JURY

*Judith P. Marshall*  
Foreperson of Grand Jury

Date: **AUG 19 2010**

VERDICT

**TRUE BILL**

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-29-1001

The State of South Carolina

County of Lancaster

COURT OF GENERAL SESSIONS

AUGUST TERM 2010

THE STATE

vs.

Anthony Rodriekus Carter

*MARICO STEVENS 1014*

Indictment for

Possession or Display of Firearm or  
Knife During Commission of a Violent  
Crime

SC Code: § 16-23-490

CDR Code: 0549

Class: Felony, F

FILED  
OFFICE OF CLERK  
OF COURT

2010 AUG 19 A 11:19

CLERK OF COURT  
LANCASTER, SC

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LANCASTER )


INDICTMENT

At a Court of General Sessions, convened on August 19, 2010, the Grand Jurors of Lancaster County present upon their oath:

**POSSESSION OR DISPLAY OF FIREARM OR KNIFE DURING COMMISSION OF A VIOLENT CRIME**

That Anthony Rodriekus Carter did in Lancaster County on or about May 3, 2010, possess or visibly display a firearm or knife, to wit: a handgun during his/her commission of a violent crime, to wit: Murder of Jaylen Jackson, in violation of §16-23-490, Code of Laws of South Carolina, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
\_\_\_\_\_  
Douglas A. Barfield, Jr., SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

LANCASTER

STATE

INDICTMENT/CASE#: 2010GS-29-1001

VS.

Anthony Rodriekus Carter

AAW#: M164311

AKA:

Date of Offense: 5/3/10

Race:

Sex:

Age:

S.C. Code §: 16-23-490

DOB:

SS#:

CDR Code #: 0549

Address:

City, State, Zip:

SENTENCE SHEET

DL#

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: Possession of Firearm During Commission of Violent Crime

In violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0549

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS (CSC w/minor 1st or Lewd Act)  §17-25-45

The charge is:  As indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (def.'s Initials) The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:

Solicitor SC Bar # 514 Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Corrections  County Detention Center, for a determinate term of 5 days/months/years or  under the Youthful Offender Act not to exceed 5 years and/or to pay a fine of \$ 500; provided that upon the service of 5 days/months/years and or payment of \$ 500; plus costs and assessments as applicable\*; the balance is suspended with probation for 5 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on: MURDER CHARGE  
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135. Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_ days/hours Public Service Employment

Payment Terms: \_\_\_\_\_ Obtain GED

Set by SCDPPPS Attend Voc. Rehab. Or Job Corp. \_\_\_\_\_

Recipient: \_\_\_\_\_ May serve W/E beginning \_\_\_\_\_

\*Fine: \_\_\_\_\_ \$ \_\_\_\_\_ Random Drug/Alcohol Testing   
§14-1-206 (Assessments 107.5%) \$ \_\_\_\_\_ Fine may be pd. in equal consecutive weekly/monthly  
§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ \_\_\_\_\_ pmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_  
§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ \_\_\_\_\_ \$ \_\_\_\_\_ Paid to Public Defender Fund  
§56-5-2095 (DUI Assessment) \$12 \$ \_\_\_\_\_  
§56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_  
Proviso 47.9 (Public Def/Prob) \$500 \$ \_\_\_\_\_  
§14-1-212 (Law Enforce. Funding) \$25 \$ \_\_\_\_\_  
§14-1-213 (Drug Court Surcharge) \$150 \$ \_\_\_\_\_  
§50-21-114 (BUI Breath Test Fee) \$50 \$ \_\_\_\_\_  
§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_  
Proviso 90.5 (SCJA Surcharge) \$5 \$ \_\_\_\_\_  
3% to County (if paid in installments) \$ \_\_\_\_\_  
TOTAL \$ \_\_\_\_\_

Other: \_\_\_\_\_

Appointed PD or appointed other counsel, \$47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/Deputy Clerk \_\_\_\_\_  
Court Reporter: Mike Watkins

Presiding Judge \_\_\_\_\_  
Judge Code: \_\_\_\_\_  
Sentence Date: 11-17-11

## 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."

July 15th, 2013



Kathrine H. Hudgins  
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

ORIGINAL

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Lancaster County

J. Ernest Kinard, Jr., Circuit Court Judge

RECEIVED

JUL 15 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ANTHONY RODRICKUS CARTER,

APPELLANT

APPELLATE CASE NO. 2011-203566

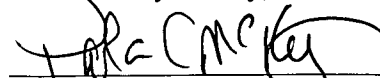
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon William Edgar Salter III, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 15th day of July, 2013.



Brandon Hall  
Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 15th day of July, 2013.



(L.S.)

Notary Public for South Carolina  
My Commission Expires: July 24, 2022.