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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
Post Conviction Relief

Honorable D. Craig Brown, Circuit Court Judge
Honorable G. Thomas Cooper, Jr., Circuit Court Judge

Appellate Case No.: 2023-000885

Johnnie Walker Gaskins,

Petitioner,

vs.

State of South Carolina,

Respondent.

APPENDIX
VOLUME I of IV

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF RICHLAND) 2008-GS-40-1626, 1627, 1629,
1631, 1632, 3948

The State of South Carolina)
vs.)
Johnnie Gaskins) TRANSCRIPT OF RECORD

October 19, 20, 21, 23, 26
and 27, 2009
Columbia, South Carolina

B E F O R E:

HONORABLE L. CASEY MANNING, JUDGE AND JURY.

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

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Crystal Holmes
Official Court Reporter

E X H I B I T S

	<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
1				
2				
3	S-1	Search Warrant	61	
4	S-2	Vehicle Search Warrant	70	
5	S-3	Tow Report	71	753
6	S-4	Photo Lineup Presented to Tamera Barnett	81	
7	S-5	Photo Lineup Presented to Lindburgh		
8		Porterfield	81	
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10	S-7	Photo Lineup Presented to Erin Hellman	81	
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12		Jeter	81	
13	S-9	Photo Lineup Presented to Epsil Palmer	81	563
14	S-9A	Original Photo Lineup Presented to		
15		Epsil Palmer	592	
16	S-10	Photo Lineup Presented to Lamont Davis	81	364
17	S-11	Photograph of Bar	233	
18	S-12	Photograph of Bar at Club 360	233	257
19	S-13	Photograph of Front of Club 360		432
20	S-14	Poster-Diagram of 360 Sports Bar		351
21	S-15	Outline of Location	234	253
22	S-16	Aerial Photograph of Club 360		400
23	S-17	Photo Lineup Presented to Erin Hellman	234	264
24	S-18	Fur Hooded Jacket	258	386
25	S-19	Photo Lineup Presented to Tamera Barnett	234	386

E X H I B I T S

	<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
1				
2				
3	S-20	Photo Lineup Presented to Lindburgh		
4		Porterfield	234	484
5	S-21	Photo Lineup Presented to Roger Glover	234	
6	S-22	Photograph of Doorway		662
7	S-23	Photograph of Item I		662
8	S-24	Photograph of Item J and Blood		662
9	S-25	Photograph of Pool Table		588
10	S-26	Photograph of Items J-K		663
11	S-27	Photograph of Item K		663
12	S-28	Photograph of Items K-L-M		588
13	S-29	Photograph of Item L and Blood		663
14	S-30	Photograph of Item M and Blood		663
15	S-31	Photograph of Item N and Blood on Floor		663
16	S-32	Photograph of Pool Tables and Blood		589
17	S-33	Photograph		663
18	S-34	Photograph of Items N-P-O		663
19	S-35	Photograph of Item O		663
20	S-36	Photograph of Item P		664
21	S-37	Photograph		664
22	S-38	Photograph		589
23	S-39	Photograph		589
24	S-40	Photograph		589
25	S-41	Photograph		664

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
1			
2			
3	S-42		664
4	S-43		589
5	S-44		664
6	S-45		664
7	S-46		664
8	S-47		360
9	S-48	394	615
10	S-49		459
11	S-50		496
12	S-51		752
13	S-52		599
14	S-53		626
15	S-54		627
16	S-55		627
17	S-56		627
18	S-57		627
19	S-58		627
20	S-59		627
21	S-60		627
22	S-61		627
23	S-62		628
24	S-63		640
25	S-64		640

E X H I B I T S

	<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
1				
2				
3	S-65	Photograph of Close-up of Door		640
4	S-66	Photograph		640
5	S-67	Photograph of Hole in Glass		640
6	S-68	Photograph of Hole in Side Wall		640
7	S-69	Photograph		640
8	S-70	Photograph		641
9	S-71	Photograph		641
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15	S-77	Photograph of Item 8		641
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19	S-81	Photograph of Ceiling		642
20	S-82	Photograph of Items 10 and 11		642
21	S-83	Photograph		642
22	S-84	Photograph of Hole in Glass		642
23	S-85	Photograph		642
24	S-86	Photograph		642
25	S-87	Photograph of Hole in Sign		642

E X H I B I T S

1	<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
2	S-88	Photograph of Game Area		642
3	S-89	Photograph of Item 14		642
4	S-90	Photograph of Game and Pool Area		643
5	S-91	Photograph		643
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13	S-99	Item F-45 Caliber Live Round		639
14	S-100	Partial Projectile		636
15	S-101	Cartridges		635
16	S-102	Projectile		677
17	S-103	Gunshot Residue Kit from 2005 Blue		
18		Chevy Impala		681
19	S-104	Flattened Projectile from Knit Cap		723
20	S-105	Cooper Jacket Fragment		725
21	S-106	Photograph of Interior of Club 360 and		
22		Items Collected		722
23	S-107	Photograph of Black Knit Cap and		
24		Items Collected		722

E X H I B I T S

	<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
1				
2				
3	S-108	Photograph-Processing Blue Chevy Impala		678
4	S-109	Photograph-Processing Blue Chevy Impala		678
5	S-110	Photograph-Processing Blue Chevy Impala		678
6	S-111	Photograph-Processing Blue Chevy Impala		678
7	S-112	Photograph-Processing Blue Chevy Impala		678
8	S-113	Photograph-Processing Blue Chevy Impala		678
9	S-114	Photograph-Processing Blue Chevy Impala		678
10	S-115	Photograph-Processing Blue Chevy Impala		678
11	S-116	Photograph-Processing Blue Chevy Impala		678
12	S-117	Photograph-Processing Blue Chevy Impala		678
13	S-118	Photograph-Processing Blue Chevy Impala		678
14	S-119	Photograph-Processing Blue Chevy Impala		678
15	S-120	Photograph-Processing Blue Chevy Impala		678
16	S-121	Photograph-Processing Blue Chevy Impala		678
17	S-122	Photograph-Processing Blue Chevy Impala		678
18	S-123	Photograph-Processing Blue Chevy Impala		678
19	S-124	Photograph-Processing Blue Chevy Impala		678
20	S-125	Photograph-Processing Blue Chevy Impala		678
21	S-126	Photograph-Processing Blue Chevy Impala		678
22	S-127	Photograph-Processing Blue Chevy Impala		678
23	S-128	Photograph-Processing Blue Chevy Impala		678
24	S-129	Photograph-Processing Blue Chevy Impala		678
25	S-130	Photograph-Processing Blue Chevy Impala		678

E X H I B I T S

	<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
1				
2				
3	S-131	Photograph-Processing Blue Chevy Impala		678
4	S-132	Photograph-Processing Blue Chevy Impala		678
5	S-133	Swab From Cell Phone		770
6	S-134	Blood Stained White Piece of Tissue		766
7	S-135	G S R Kit from John Adams		759
8	S-136	Spint Winchester		765
9	S-137	Two Buccal Swabs from the Defendant		936
10	S-138	Swab from Car		765
11	S-139	Victim's Wallet		913
12	S-140	Photograph of Blood on Gearshift	1084	
13	S-141	Head Form		795
14	S-142	Photograph of Jacket Vehicle	1084	
15	S-143	Shannavia Williams' Autopsy Photograph		
16		of Recovered Bullet		793
17	S-144	Shannavia Williams' Autopsy Photograph		
18		of Entrance Wound		793
19	S-145	John Adams' Autopsy Photograph of		
20		Entrance Wound		787
21	S-146	John Adams' Autopsy Photograph of		
22		Exit Wound		787
23	S-147	Poster of Human Body		789
24	S-148	G S R Kit for Jacket		819
25				

E X H I B I T S

	<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
3	S-149	South Carolian Department of Motor		
4		Vehicles Report		928.
5	S-150	Photograph of Documentation in		
6		Blue Chevy Impala		927
7	S-151	Booking Photograph of the Defendant		955
8	S-152	Driving Record of the Defendant.		955
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10	D-2	Poster	688	
11	C-1	Defendant's Motion in Limine	37	
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13	C-3	Juror Note	206	
14	C-4	Juror Note	206	
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17	C-7	Defendant's Request for Instruction	480	
18	C-8	Statement of Sydney P. Williams	524	
19	C-9	Juror Note	924	
20	C-10	Juror Note	1060	
21	C-11	Juror Note	1084	

22
23
24
25

	<u>I N D E X</u>				
	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
1					
2					
3	<u>OCTOBER 20, 2009</u>				
4	Kevin Isenhoward (In Camera)				
5	By Ms. McDuffie	38			
6	By Mr. McCulloch		49		
7	Matthew Ellis (In Camera)				
8	By Ms. McDuffie	69			
9	By Mr. McCulloch		75		
10	Travis Holdorf (In Camera)				
11	By Ms. McDuffie	82			
12	By Mr. McCulloch		89		
13	Christopher Lindler (In Camera)				
14	By Ms. McDuffie	97		107	
15	By Mr. McCulloch		103		
16	Kevin Isenhoward (In Camera)				
17	By Ms. McDuffie	109		120	
18	By Mr. McCulloch		113		
19	Jury Selection	124			
20	OPENING STATEMENTS				
21	By Mr. Meadors	211			
22	By Ms. Schillaci	226			
23	Erin Hellman				
24	By Mr. Meadors	231/250		275	
25	By Mr. McCulloch		242/266		

I N D E X

	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
1					
2					
3	Tamera Barnett (In Camera)				
4	By Mr. Meadors	279		294	
5	By Ms. Schillaci		286		
6	Roger Glover (In Camera)				
7	By Mr. Meadors	294		314	
8	By Mr. McCulloch		304		
9	<u>OCTOBER 21, 2009</u>				
10	Lamont Davis (In Camera)				
11	By Ms. McDuffie	333			
12	By Mr. McCulloch		339		
13	Lamont Davis				
14	By Ms. McDuffie	350			
15	By Mr. McCulloch		366		
16	Tamera Barnett				
17	By Mr. Meadors	375			
18	By Ms. Schillaci		387		
19	Quinten Harris				
20	By Mr. Meadors	396/425		447	
21	By Mr. McCulloch		416/440		448
22	Lindburgh Porterfield				
23	By Mr. Meadors	451			
24	By Mr. McCulloch		486		
25					

I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RE CROSS
1 Christopher Lyles				
2 By Mr. Meadors	490			
3 By Mr. McCulloch		497		
4 Sydney Williams				
5 By Mr. Meadors	498		522	
6 By Mr. McCulloch		517		531
7 Epsil Palmer (In Camera)				
8 By Ms. McDuffie	534			
9 By Ms. Schillaci		539		
10 Epsil Palmer				
11 By Ms. McDuffie	550		570	
12 By Ms. Schillaci		568		
13 Rosalyn Bradley				
14 By Ms. McDuffie	573			
15 By Mr. McCulloch		575		
16 Deirdre Houston				
17 By Mr. Meadors	576			
18 <u>OCTOBER 23, 2009</u>				
19 Norman Fisher, Jr.				
20 By Ms. McDuffie	603			
21 By Mr. McCulloch		611		
22				
23				
24				
25				

I N D E X

	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
1					
2					
3	Stanley Richards				
4	By Ms. McDuffie	615/622			
5	By Ms. Schillaci		618/686		
6	Travis Holdorf				
7	By Mr. Meadors	712			
8	By Ms. Schillaci		716		
9	Harold Bouknight				
10	By Ms. McDuffie	719		742	
11	By Mr. McCulloch		727		743
12	Tom Amaro				
13	By Mr. Meadors	745			
14	By Mr. McCulloch		754		
15	Robert Oates				
16	By Ms. McDuffie	756		779	
17	By Mr. McCulloch		770		
18	Dr. Clay Nichols				
19	By Mr. Meadors	781			
20	By Mr. McCulloch		796		
21	<u>OCTOBER 26, 2009</u>				
22	Michael Moskal	802		838	
23	By Ms. McDuffie		822		840
24	By Ms. Schillaci				
25					

I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
David Collins				
By Ms. McDuffie	841		878	
By Mr. McCulloch		857		
Christopher Lindler				
By Mr. Meadors	881			
By Ms. Schillaci		885		
John Barron				
By Ms. McDuffie	886			
By Ms. Schillaci		895		
Kevin Isenhoward				
By Mr. Meadors	900		951	
By Mr. McCulloch		937		955
CLOSING ARGUMENTS				
By Ms. McDuffie	976			
By Mr. Meadors	986			
By Mr. McCulloch	1009			
CHARGE BY THE COURT	1031			
VERDICT OF THE JURY	1062			
SENTENCE OF THE COURT	1083			
CERTIFICATE OF REPORTER	1085			

23
24
25

1 MONDAY, OCTOBER 19, 2009:

2 THE COURT: Y'all got your voir dire and
3 everything, Solicitor? Where's Joe McCulloch?

4 (Pause.)

5 THE COURT: You have your witness list?

6 MS. MCDUFFIE: We have, Your Honor. Everyone
7 with the exception of Investigator Williams on the
8 Defendant's list is on the State's list.

9 THE COURT: Have you double checked that, Mr.
10 McCulloch? Have you double checked that, everybody on
11 the State witness list is on your list except for one
12 gentleman I think I was just told?

13 MS. MCDUFFIE: Investigator Williams, it
14 would be the last person on the Defendant's witness
15 list.

16 THE COURT: Crime scene investigator
17 Williams. That's on your list too, right? Isn't that
18 on your list?

19 MS. MCDUFFIE: It's not on ours, it's on
20 theirs.

21 THE COURT: All right, what's his first name?

22 MS. MCDUFFIE: I have no idea who that person
23 is.

24 THE COURT: Well, it would be a good idea if
25 we found out. It could be Bo Williams. It could be

1 John Williams. It could be Cecil Williams. I think
2 it's important to know his first name.

3 MR. MCCULLOCH: Your Honor, we don't get a
4 witness list from the State but we get our incident
5 reports which have lots of names and they don't have
6 first names.

7 THE COURT: Stop. Y'all look at each other's
8 witness list before we get started and let's narrow
9 this down before we get started. I'll give y'all a
10 chance to do that and once y'all have done that, let
11 me know, I'll come back.

12 But it's -- you've got 40, they've got 7,
13 okay. So we're going to get off on the right track.
14 Y'all stop and compare witness lists right now. When
15 y'all have done so, let me know and I'll come back.

16 (The Court was in recess.)

17 MR. MCCULLOCH: Your Honor, we're happy if
18 you will use their list.

19 THE COURT: That's fine. I just want to make
20 sure ---

21 MR. MCCULLOCH: The State's may be more all
22 inclusive.

23 THE COURT: Well, Crime scene investigator
24 Williams, that's all we know?

25 MR. MCCULLOCH: Your Honor, you don't need to

1 use that one. That one's uniquely on our list.

2 THE COURT: Okay.

3 MR. MCCULLOCH: Don't seem to know who that
4 is so I guess they won't be calling that surprise
5 witness. We're satisfied if the list you use is their
6 list.

7 THE COURT: All right. Well, if we run into
8 a problem we'll straighten it out later on.

9 So how many do you have on your list, Ms.
10 McDuffie, 80, I'm guessing?

11 MS. MCDUFFIE: Yes, sir.

12 THE COURT: Is it 80?

13 MS. MCDUFFIE: Around there, Your Honor. I
14 haven't counted them.

15 THE COURT: Yes, sir, Mr. Meadors.

16 MR. MEADORS: Again, I know we talked about
17 changes. But once we meet, some of these will be
18 culled down dramatically ---

19 THE COURT: I understand but out of an
20 abundance of caution I've got to probably read out all
21 those names for the purposes of the panel.

22 Anybody object to any of proposed voir dire
23 from the Defendant?

24 MS. MCDUFFIE: Your Honor, we would just ask
25 on question number 13 on the Defendant's proposed voir

1 dire, if you just do the reciprocal, any bias towards
2 the Defendant or the State.

3 THE COURT: Number 13. Well, I'll cover both
4 sides, I think. If I don't, let me know, I'll be
5 happy to repeat it.

6 MR. MEADORS: And I think ours are just the
7 reciprocal of some of theirs.

8 (Pause.)

9 THE COURT: A total of six indictments, six
10 different charges, is that correct?

11 MR. MEADORS: Two murders, three A B I K'S
12 and one possession of a -- use of a firearm during
13 commission of a violent crime, yes, sir.

14 THE COURT: Six?

15 MR. MEADORS: Yes, sir.

16 (Pause.)

17 THE COURT: Call them to come up.

18 (Pause.)

19 THE BAILIFF: The jury panel's all present,
20 Your Honor.

21 THE COURT: Thank you, Mr. Bowen (phonetic).
22 Good afternoon, ladies and gentlemen, welcome. Y'all
23 don't look to happy to be here. You're not happy to
24 be here? You are happy to be here? We got everybody?

25 Good afternoon, I'm Judge Casey Manning and

1 we have trial scheduled, we're going to select
2 probably 14 of y'all to serve as jurors in this case,
3 I think it's going to be a long trial. I'll tell you
4 that at the outset of the case.

5 Are all of y'all with me so far?

6 PROSPECTIVE JURORS: (Affirmative response.)

7 THE COURT: Now, this is the case the State
8 charges one Johnnie Gaskins with two counts of murder,
9 three counts of assault and battery with intent to
10 kill and one count of possession of a firearm during
11 the commission of a violent crime. So there's six
12 total charges. I'll take my time and read each and
13 every one of them. So I ask that you listen
14 carefully.

15 The first indictment I hold is number 2008-
16 3948, The State versus Johnnie Gaskins. It alleges
17 that Johnnie Gaskins did in Richland County on or
18 about February the 5th, 2007, feloniously, willfully
19 and with malice aforethought kill one John Adams by
20 means of a firearm and said victim died as the
21 proximate result thereof. That's one charge of murder
22 against Mr. Gaskins.

23 Now I hold in my hands indictment 2008-1626,
24 once again The State versus Johnnie Gaskins, once
25 again this is an indictment for murder. It alleges

1 that Johnnie Gaskins did in Richland County on or
2 about February the 5th of 2007, feloniously, willfully
3 and with malice aforethought kill one Shanna --
4 Shannavia ---

5 MR. MEADORS: Shannavia.

6 THE COURT: Shannavia Williams by means of a
7 firearm and that said victim died as a proximate
8 result thereof.

9 Next I hold indictment number 2008-1632, The
10 State versus Johnnie Gaskins. This is an indictment
11 for assault and battery with intent to kill. The
12 allegations are that Johnnie Gaskins did in Richland
13 County on or about February the 5th of 2007, with
14 malice aforethought, commit an assault and battery
15 upon one Deirdre Houston with the intent to kill the
16 said victim.

17 Now the next indictment I hold is indictment
18 number 2008-1629, The State versus Johnnie Gaskins.
19 This once again is an indictment for assault and
20 battery with intent to kill and it reads, or the
21 allegations are, that Johnnie Gaskins did here in
22 Richland County on or about February the 5th, 2007,
23 with malice aforethought, commit an assault and
24 battery upon one Quinten Harris with the intent to
25 kill the victim.

1 And the next indictment I hold, once again,
2 is one for assault and battery with intent to kill and
3 The State versus Johnnie Gaskins and the allegations
4 are that Johnnie Gaskins did in Richland County on or
5 about February the 5th, 2007, with malice
6 aforethought, commit an assault and battery upon one
7 Lamont Davis with the intent to kill the said victim.

8 And the final and sixth indictment I hold is
9 indictment number 2008-1627. It's an indictment for
10 the use of a firearm during the commission of a
11 violent crime and it alleges that Johnnie Gaskins did
12 here in Richland County on or about February the 5th,
13 2007 possess or visibly display a firearm during the
14 commission or attempted commission of a violent crime,
15 including murder, assault and battery with intent to
16 kill.

17 So these six different charges, members of
18 the jury panel, arise out of one incident obviously
19 back on February the 5th of 2007.

20 Now to these six indictments, Mr. Gaskins has
21 pled not guilty. That means the burden of proving his
22 guilt on all these six indictments rests upon the
23 State of South Carolina.

24 And now that tells you a little bit about
25 what the case is about. And at this time I need to

1 ask Mr. Gaskins to stand up and face the jury panel.
2 Please, sir, stand up and turn around so the jury can
3 take a look at you.

4 (The Defendant stands.)

5 THE COURT: This is the Defendant, Mr.
6 Johnnie Gaskins. Thank you, sir.

7 (The Defendant is seated.)

8 THE COURT: Now, members of the jury, the
9 question I need to ask you about Mr. Gaskins now is
10 this, is any member of this jury panel related by
11 blood or connected by marriage or employment or are
12 you a close personal acquaintance of Johnny Gaskins?

13 If so, please stand. Any of y'all know Mr.
14 Gaskins, ever seen Mr. Gaskins, ever worked with Mr.
15 Gaskins, know anything about him? If so, please
16 stand.

17 (There was no response.)

18 THE COURT: All right, now, Mr. Gaskins is
19 being represented in this case by Mr. Joe McCulloch
20 and Ms. Kathy Schillaci. That's Mr. McCulloch on your
21 left, my right, and Ms. Schillaci on your right and my
22 left. They represent Mr. Gaskins. And Ms. Schillaci,
23 I think it's fair enough to say, is an associate of
24 Mr. McCulloch at his law office.

25 So the question I need to ask each and every

1 one of you now is this, have you or any members of
2 your immediate family ever been represented by Mr. Joe
3 McCulloch or Ms. Kathy Schillaci?

4 If so, please stand. You or any members of
5 your family been represented by Mr. McCulloch or Ms.
6 Schillaci? If so, please stand.

7 (There was no response.)

8 THE COURT: Or have you or any members of
9 your immediate family ever been on the other side of a
10 case involving attorney Joe McCulloch or Kathy
11 Schillaci?

12 If so, please stand.

13 (There was no response.)

14 THE COURT: All right. Now the State in this
15 case is being represented by -- it's the prosecution,
16 the Fifth Circuit Solicitor's Office, by Mr. John P.
17 Meadors.

18 (Mr. Meadors and Ms. McDuffie stand.)

19 THE COURT: This is Mr. Meadors. And he is
20 being assisted by Assistant Solicitor McDuffie, Joanna
21 McDuffie. Now, Ms. McDuffie is to your right, Mr.
22 Meadors is to your left.

23 So I ask you this, members of the jury panel,
24 have you or any members of your immediate family ever
25 been a victim of a crime wherein the case was

1 prosecuted by the Fifth Circuit Solicitor's Office?

2 If so, please stand.

3 (There was no response.)

4 THE COURT: Or have you and members of your
5 family ever been represented by Mr. John Meadors or
6 Ms. Joanna McDuffie?

7 If so, please stand.

8 (There was no response.)

9 THE COURT: Now, members of the jury, I am
10 going to have to read you a long list of witnesses,
11 okay. I will ask that you listen carefully. There's
12 probably about 80 of them. These are potential
13 witnesses. It doesn't mean necessarily that all 80
14 will testify in this case but I need to know whether
15 or not you know anything about any potential witness
16 in this case, you know them, you work with them,
17 you're related to them, that sort of thing, okay.

18 And the same question I just asked you about
19 Mr. Gaskins, I've got to ask you about each and every
20 one of these witnesses. Now it's difficult because
21 it's a long list. I'm going to ask that you listen
22 carefully. The question you need to keep in your mind
23 about each name I read out is this. Are you related
24 by blood or connected by marriage or are you -- or
25 employment, are you a close personal acquaintance of

1 any of these names you might hear. And if you think
2 -- if you're not sure, stand up anyway and let me
3 know. We'll sort it out, okay.

4 Now, here are some of the potential witnesses
5 in the case. It doesn't mean we're going to hear from
6 all of them but these are potential witnesses and I
7 indicate you it's a long list.

8 First we have Sydney Patrell Williams. Is he
9 present in the courtroom?

10 MR. MEADORS: No, sir.

11 THE COURT: Where does he live? I mean, is
12 he a fact witness or what?

13 MR. MEADORS: Yes, sir, he is a fact witness.

14 THE COURT: A fact witness which means he
15 could have been on the scene and relating what he saw.

16 Lamont Davis, is Mr. Davis here? Again,
17 another fact witness, is that correct?

18 MR. MEADORS: He's one of the victims, A B I
19 K.

20 THE COURT: All right, victim A B I K.

21 Deirdre S. Houston, is she here?

22 MR. MEADORS: She is not. Another victim of
23 the A B I K.

24 THE COURT: Can I see y'all for just a
25 moment, please?

1 (Whereupon, a bench conference was held off
2 the record, in the presence of the jury panel,
3 but out of the hearing of the jury panel.)

4 THE COURT: Members of the jury panel, I've
5 got good news and bad news. Which would you like to
6 hear first?

7 PROSPECTIVE JURORS: Bad news.

8 THE COURT: There's no bad news. But quite
9 honestly, out of an abundance of caution, since I
10 think two or three of the victims aren't here and I
11 wanted ya'll to be able to eyeball them to make sure
12 that you do know them or don't know them or if you
13 work in the same place or go to church with or
14 something like that. And it's not actually necessary
15 that they be here but I know this is going to be a
16 long trial and I don't want somebody -- I don't want
17 to pick a jury tomorrow and say, oh, I know them, they
18 used to work for my cousin or something like.

19 So out of an abundance of caution, I've
20 concluded to wait until tomorrow morning to bring you
21 back, the same panel. What time, 9:30 or 10, what's
22 good for you?

23 MR. MEADORS: 10 might be better.

24 THE COURT: What now?

25 MR. MEADORS. I'm sorry.

1 (Pause.)

2 THE COURT: All right 9:30 or 10, which is
3 better?

4 MR. MEADORS: Whatever you prefer.

5 MR. MCCULLOCH: It doesn't matter to us,
6 Judge.

7 THE COURT: Y'all want to come back at 9:30
8 or 10, ladies and gentlemen?

9 PROSPECTIVE JURORS: 10.

10 (Laughter.)

11 THE COURT: All right, 10 it is. And they
12 could sort of go through with it but y'all can see my
13 concerns. And I'd rather do it this way not having
14 concerns later on than do it the other way and maybe
15 have some later on.

16 So if you're inconvenienced, hold it against
17 me, please, I don't mind. Don't hold it against
18 somebody else in this trial. This is my decision and
19 my decision alone. But I want each and every one of
20 you who are here today to be back -- you've got to go
21 downstairs right, Pat?

22 THE CLERK: Yes, sir.

23 THE COURT: And this is our panel tomorrow
24 afternoon (sic). And the reason for that, the lawyers
25 have your names, they've looked and we're trying to

1 select a fair jury. So I'll keep y'all together as a
2 group. Y'all don't mind that, do you? I see y'all
3 have bonded well already today.

4 So listen, it's a patriotic undertaking for
5 y'all to appear as jurors here in Richland County and
6 a government of the people, by the people and for the
7 people cannot exist without the people. That means
8 the participation of each and every one of you all.
9 And I hope that you take it with a patriotic spirit.

10 And please don't try to find out anything
11 about this case. Don't listen to any news reports,
12 something just happened to pop up. And y'all be back
13 tomorrow morning. We'll get you up here at 10:00 and
14 we'll select a jury in this case, okay.

15 Thank you all so very much. You're free to
16 go back downstairs to the jury assembly room.

17 (The jury panel retires from the courtroom at
18 approximately 3:13 p.m.)

19 THE COURT: I am sure the different
20 interested parties and families out there, y'all heard
21 what I said. I'm just doing this out of an abundance
22 of caution. Don't hold it against the Solicitor or
23 Mr. McCulloch or anybody else. But y'all can
24 understand, do you not? Very well.

25 I guess we can proceed with any other

1 business y'all would like to take up now, Mr. Meadors,
2 Mr. McCulloch?

3 MR. MEADORS: Just a minute or two, Your
4 Honor.

5 THE COURT: All right. I'm at your disposal.
6 Just let me know.

7 MR. MCCULLOCH: Judge, this is that
8 additional voir dire question just relative to the
9 location of the incident.

10 THE COURT: Has any member of the jury panel
11 every been -- who wrote this?

12 MR. MCCULLOCH: Me.

13 THE COURT: Okay. Just take your time. I'll
14 be downstairs. Let me know when you're ready.

15 (The Court was in recess.)

16 THE COURT: Are y'all ready?

17 MR. MCCULLOCH: Your Honor, we -- after the
18 in camera meeting with you, went over several motions
19 that we had pre-filed, and I wanted to go over those
20 very quickly just for the record.

21 THE COURT: All right, sir.

22 MR. MCCULLOCH: First motion, Your Honor,
23 regards a woman named Rosalyn Renee Sykes who,
24 according to the evidence, will be a former girlfriend
25 of Mr. Gaskins. She gave a statement on the -- talked

1 to the police on February the 5th, the night or the
2 day following the incident, in which -- and that
3 statement is memorialized in a written document
4 provided to us a couple of years ago. She was re-
5 interviewed by the Solicitor's office on Thursday of
6 last week and we were provided at noon on Friday with
7 some new information that she now is prepared to
8 testify that Mr. Gaskins had telephoned her following
9 the incident, the night of the incident and indicated
10 that he had been involved in shooting up the bar. That
11 statement was brand new and was in contrast to her
12 written statement in which she said she hadn't -- did
13 not speak with him other than earlier in the evening.
14 At that point he said he was at the club and she
15 didn't speak again to him until he was under arrest
16 and in the Alvin Glenn Detention Center.

17 So, Your Honor, we filed a motion to continue
18 the case and allow us to obtain phone records to --
19 for whatever. But the Solicitor's office has now
20 indicated to us that they will not seek to introduce
21 the -- I'll call it confession, through that witness
22 or ---

23 THE COURT: A subsequent conversation after
24 the incident wherein she recently told the Solicitor's
25 office that your client, Mr. Gaskins, said, I shot

1 somebody, or something like that?

2 MR. MCCULLOCH: Shout up the club is what I
3 think he's credited with saying. So that would -- by
4 agreement, that would not be referenced.

5 MR. MEADORS: Your Honor, we can certainly
6 agree that we will not bring that out in direct and
7 will instruct her not to say that. If for some reason
8 during Mr. McCulloch's cross that that answer would be
9 appropriate, if he opens the door, I can't control Ms.
10 Sykes at that point but ---

11 THE COURT: I understand.

12 MR. MCCULLOCH: I might ask the Court to
13 instruct her on that. I will not ask her questions
14 that would reasonably open the door. I'm concerned
15 about ---

16 THE COURT: Well, then let's make sure the
17 door is locked, if we can. We'll have to take that up
18 when we get to it anyway. And if we do, I'll send
19 everybody out and we'll make a good record in camera,
20 whatever happens, and for everybody's benefit.

21 MR. MCCULLOCH: Your Honor, we filed another
22 motion regarding -- requesting the prosecution provide
23 us with promises, deals of immunity or other rewards
24 and to tell us there are none for any -- no
25 relationships or promises with any witnesses who will

1 testify.

2 MS. MCDUFFIE: That is correct.

3 THE COURT: When I was a young lawyer we used
4 to call that motion the reveal the deal. Do they
5 still call it that?

6 MR. MCCULLOCH: We do.

7 THE COURT: All right. That was a long time
8 ago. So no deals?

9 MR. MEADORS: We have no one to deal with
10 unfortunately.

11 THE COURT: They used to make changes as we
12 go along, okay.

13 MR. MCCULLOCH: Well, now, Kevin may get a
14 little something extra in his paycheck at the end of
15 the month but, you know, we can't do anything about
16 that.

17 THE COURT: Why are you picking on
18 Isenhoward? Leave him alone. Go ahead.

19 MR. MCCULLOCH: Your Honor, we filed a motion
20 to suppress evidence obtained during a search warrant
21 execution at 53 (sic) River (sic) Court and the
22 subsequent search of an automobile pursuant to a
23 search warrant. We're going to challenge -- we are
24 challenging those two search warrants and quasi-
25 consent search if we can do that in just a moment.

1 There was also a search of a [REDACTED]
2 [REDACTED] [REDACTED] address at which Mr. Gaskins lived
3 from time to time with his parents. There was a
4 search warrant for that address. We have -- because
5 of another agreement we reached, we will not challenge
6 the search warrant because the evidence obtained at
7 that search is not of much value and we agreed that
8 things that were ambiguous in terms of what they may
9 mean will not be introduced and will not be spoken of
10 in this trial here.

11 THE COURT: What does that mean, Ms.
12 McDuffie?

13 MS. MCDUFFIE: Your Honor, there were various
14 items that were seized and the State does not seek to
15 ---

16 THE COURT: From his parents' house?

17 MS. MCDUFFIE: From his parents' house and
18 the State will not introduce any of those. However,
19 there were some court documents with his name on it.
20 We'll just refer to it as paperwork with his name on
21 it, not court documents.

22 MR. MCCULLOCH: That's fine.

23 THE COURT: Okay, you got that?

24 MR. MCCULLOCH: Your Honor, we talked briefly
25 about the impeachment evidence under 609 and 404(b).

1 We'll revisit that again in the State's case.

2 Obviously, none of that would come in unless and until
3 we open the door or my client takes the stand and
4 we'll get to that at the proper time.

5 THE COURT: All right.

6 MR. MCCULLOCH: Lastly, Your Honor, we filed
7 a motion in limine and over the lunch hour we went
8 over the six points raised in that and just for
9 efficiency sake, I will be happy to make it part of
10 the record

11 THE COURT: All right.

12 MR. MCCULLOCH: This document which really
13 just simply says, with regard to references to gangs,
14 there will not be any reference. With regard to the
15 discovery of a small quantity of marijuana and a
16 holster at 52 River (sic) Court which is the subject
17 of one of the search warrants, they agree that they
18 would not seek to introduce the marijuana or the
19 holster ---

20 THE COURT: All right.

21 MR. MCCULLOCH: --- even if the search
22 warrant is valid.

23 Number three, weight scales and a 30/30
24 unfired cartridge discovered at [REDACTED], those
25 are the very items we just mentioned that will not be

1 offered by the State.

2 THE COURT: The prejudice outweighs the
3 probative value, I gather.

4 MR. MCCULLOCH: The fourth item, Your Honor,
5 is testimony by Erin Hellman, a State's witness, who
6 gave -- who stated in her written statement that the
7 Defendant, Mr. Gaskins, appeared to be on something.
8 We have a concern about probative value versus
9 prejudicial value with that statement.

10 THE COURT: Well, he could be on his feet, on
11 his horse, what does that mean?

12 MS. MCDUFFIE: Your Honor, she was the
13 bartender at the Club 360 that evening and served the
14 Defendant numerous drinks. She states that he was
15 drunk and then also she believes he was on something.
16 We would not agree to exclude the part that he was
17 drunk and we would leave the on something part up to
18 Your Honor.

19 THE COURT: Well, being drunk is a conclusion
20 that he was drinking. I don't know about ---

21 MR. MCCULLOCH: Well, he's in a bar, Your
22 Honor. I don't think that it's likely to win that.
23 But I do have an uninitiated person contending that he
24 is on something other than alcohol.

25 THE COURT: Well, that's one reason why we

1 have the right to cross-examination in this great
2 country of ours.

3 MR. MCCULLOCH: I'll preserve the motion,
4 Your Honor.

5 THE COURT: All right.

6 MR. MCCULLOCH: The fifth item is just a
7 reference to Crime Stopper tips, I think they will
8 handle it as they traditionally handle it, pursuant to
9 our investigation we...

10 MS. MCDUFFIE: Our investigators will not
11 reference they got a Crime Stoppers tip or a tip. They
12 will just say pursuant to investigation we ---

13 THE COURT: All right.

14 MR. MCCULLOCH: And lastly, Your Honor, on
15 the -- on the forms which contain the six photographs
16 for the purpose of photograph lineups, each of those
17 sheets contain some language: On this date the
18 investigator showed me, you know, six pictures. I
19 picked out picture blank which is the person who
20 committed the crime of murder at -- and several of
21 these witnesses -- a couple of these witnesses
22 actually saw the shooter and will presumably identify
23 Mr. Gaskins as the shooter. The rest of them were
24 simply signing a boilerplate statement but giving
25 information that they saw Mr. ---

1 THE COURT: Are these witnesses going to
2 testify?

3 MS. MCDUFFIE: They are, Your Honor. We have
4 agreed to redact the statement -- the crime -- you
5 know, that one statement in those photo lineups.

6 MR. MCCULLOCH: So we're going to redact the
7 sentence that says: I identify this person as the
8 person who committed the murder ---

9 THE COURT: Identify the person as the person
10 I saw that night.

11 MR. MCCULLOCH: Right, would be in essence
12 what they will testify to.

13 THE COURT: All right. You want me to mark
14 this?

15 MR. MCCULLOCH: Yes. Yes, yes, sir. It's
16 really a Court's exhibit.

17 THE COURT: Court's exhibit, I got it.

18 (Whereupon, Court's Exhibit Number 1,
19 Defendant's Motion in Limine, was marked for
20 identification.)

21 THE COURT: Yes, sir, what else is left?

22 MR. MCCULLOCH: On to the search warrants,
23 Your Honor.

24 MS. MCDUFFIE: The State calls Investigator
25 Kevin Isenhoward.

1 THE COURT: Do you have a copy of the search
2 warrant?

3 (KEVIN ISENHOWARD, having first been duly
4 sworn, testified as follows:)

5 THE CLERK: Please have a seat in the witness
6 stand and state your full name for the record.

7 THE WITNESS: Kevin Isenhoward.

8 DIRECT EXAMINATION

9 BY MS. MCDUFFIE:

10 Q Investigator Isenhoward, where are you currently
11 employed?

12 A At the time Richland County Sheriff's Department.

13 Q And what are your duties with the Sheriff's
14 Department?

15 A I'm currently assigned to the Major Crimes Unit.
16 I'm a sergeant there primarily investigating
17 robberies and homicides.

18 Q And what were your duties in February of 2007?

19 A I was an investigator at that time in the Major
20 Crimes Unit, robberies and homicides.

21 Q And Investigator Isenhoward, were you assigned to
22 investigate the incident that occurred on February
23 the 5th of 2007 at Club 360, 826 Broad River Road?

24 A Yes, I was.

25 Q And what were your duties in terms of that

1. investigation?

2. A I was the, as we term it, the on-call investigator
3. and I was responsible for any major crimes that
4. happened that evening, in particular any homicides.
5. So I did respond to the location and immediately
6. began the investigation.

7. Q And during your investigation did you develop a
8. suspect?

9. A I did.

10. Q And who was that?

11. A Mr. Johnnie Walker Gaskins.

12. Q And how did you develop Mr. Gaskins as a suspect in
13. these murders and A B I K's?

14. A Based upon information we received from
15. eyewitnesses at the scene as well as information
16. received through the Sheriff's Department itself,
17. called in to the Sheriff's office.

18. Q And did you proceed to look for Mr. Gaskins?

19. A I did.

20. Q And did you also receive information about the
21. vehicle Mr. Gaskins was driving at the time of the
22. incident?

23. A Yes, we did.

24. Q And who did you receive that information from?

25. A We received I believe a call, an anonymous call

1 into the Sheriff's Department advising us that the
2 vehicle was -- was at [REDACTED] I believe
3 ---

4 Q Let me back you up a second. Before that, did you
5 receive information on the kind of vehicle that was
6 involved in the incident?

7 A Yes, ma'am. When we were investigating at the
8 scene, we obtained some video and some witness'
9 information that basically gave us a description of
10 the vehicle.

11 THE COURT: Sergeant, let me ask you to speak
12 up just a little bit, please, sir.

13 THE WITNESS: Yes, sir.

14 Q So you had video and also eyewitness testimony --
15 or eyewitness information about the type of
16 vehicle?

17 A Yes.

18 Q And what type of vehicle was that?

19 A It was a blue Chevrolet Impala.

20 Q And you had also developed the Defendant as a
21 suspect?

22 A Yes.

23 Q And then what happened after that?

24 A Initially we -- we did identify Mr. Gaskins as the
25 suspect. We learned of his address and we obtained

1 search warrants for his -- first of all his address
2 on [REDACTED].

3 Q And did that search warrant produce anything of
4 evidentiary value?

5 A We did collect some items, general information,
6 some paperwork identifying as a residence there and
7 some -- I believe some ammunition.

8 Q And you stated earlier you then later then got a
9 tip that the vehicle was at [REDACTED]?

10 A Yes.

11 Q And is that located within Richland County?

12 A Yes, it is.

13 Q Did you then proceed to that address?

14 A Yes, we did.

15 Q And what did you do when you got to that address?

16 A When we go to the address, we spoke with some of
17 the occupants of the home and she provided us with
18 consent to search the house at that time.

19 Q And who exactly did you speak with?

20 A One moment.

21 (Pause.)

22 A Ms. Andreana Peak, I believe.

23 Q And was she a resident of that home?

24 A Yes.

25 Q And who was the homeowner or the person who was --

- 1 the residence was being rented to?
- 2 A Rosalyn Bradley Sykes.
- 3 Q And was she notified?
- 4 A She was by telephone. She was out of town.
- 5 Q And did she subsequently give consent to search the
- 6 apartment?
- 7 A She did. She did.
- 8 Q And did you begin to search pursuant to the consent
- 9 to search from Ms. Sykes?
- 10 A Yes.
- 11 Q And what if anything did you observe after
- 12 receiving consent to search?
- 13 A We began to search the home and we located a jacket
- 14 similar to one described by witnesses at the ---
- 15 Q And please identify that for the Court?
- 16 A It was a -- I believe a dark colored black jacket
- 17 with fur around the hood.
- 18 Q And where did you observe that item?
- 19 A It was lying in the living room on a coach.
- 20 Q And did you also observe a vehicle at that
- 21 residence?
- 22 A Yes, we did.
- 23 Q What vehicle was that?
- 24 A It was a blue Chevrolet Impala.
- 25 Q And who was that vehicle registered to?

1 A I believe it was registered to a Ms. Sykes as well,
2 a relative of Ms. Rosalyn Sykes.

3 Q And at some point in time did Ms. Rosalyn Sykes
4 convey to you that she no longer was going to give
5 you consent to search the home?

6 A I believe some of the people who were at the house
7 objected to our search.

8 Q And what did you do at that point?

9 A We immediately explained that we would -- we would
10 oblige them. We halted the search at that point,
11 removed ourselves from the home and also requested
12 any occupants leave the home.

13 Q And what else if anything did you observe before
14 they told you you could no longer search the home?

15 A We were -- when we were searching the house, we
16 noticed that the -- that the house was equipped
17 with video surveillance. There were monitors
18 inside -- inside the home. We made a remark about
19 that. And then we noticed that the attic, the -- I
20 guess the ladder to the attic was down indicating
21 that possibly there was someone in the attic. So
22 when we asked if there was anyone in there, they
23 began to object to searching.

24 Q And so you then removed yourselves from the home?

25 A Yes.

1 Q Did you also have them step outside of the home?

2 A Yes.

3 Q And what did you do at that time?

4 A We contacted a Magistrate and obtained a search
5 warrant.

6 Q Which Magistrate did you contact?

7 A Magistrate Womble.

8 Q And do your notes reflect or do you remember
9 approximately what time this was?

10 A I don't recall specifically what time it was. It
11 was -- I don't -- I don't have that.

12 Q And what day was this?

13 A It was on the -- February the 5th, 2007.

14 Q And at the time consent was revoked, had the
15 vehicle been entered or been searched by you in any

16 ---

17 A No.

18 Q --- way?

19 A No.

20 Q You then obtained a warrant?

21 A Yes.

22 Q From whom?

23 A From Magistrate Womble.

24 Q And is the probable cause for that warrant outlined
25 in the affidavit?

1 A Yes, it is.

2 MS. MCDUFFIE: Your Honor, would you like him
3 to read it or -- this is a copy of it?

4 THE COURT: I've already read it but you can
5 read it into the record if would you like, that's fine.

6 Q Investigator Isenhoward, please state the probable
7 cause for the issuance of the search warrant on
8 February the 5th, 2007.

9 A (Reading) On February the 5th, of 2007, the
10 security at 826 Bush River Road, Club 360, escorted
11 an intoxicated patron later identified as Johnnie
12 Gaskins out of the club for being disorderly. As
13 security was escorting Gaskins out of the club,
14 Sydney Williams approached them and asked them if
15 he could take Gaskins home because he knew him.

16 Security agreed to let Gaskins go on the basis
17 that Williams would take him to his car and make
18 sure that he left the property. Lamont Davis, head
19 of security, watched as Gaskins got into a late
20 model blue Chevy Impala. Davis walked back into
21 the entrance of the club and saw Williams walking
22 back toward the door of the club.

23 A short time later, Davis saw the Impala drive
24 toward the entrance to the club and the suspect
25 identified as Gaskins began shooting at them. A

1 total of five people were struck with bullets,
2 three were critically injured. One man died from
3 his wounds. Security returned fire at the vehicle.
4 Sydney Williams was detained at the scene and
5 identified the shooter as Gaskins. Davis also
6 picked Gaskins from a lineup.

7 Richland County 911 received a tip stating
8 that Gaskins and the vehicle were seen at ■
9 ■■■■■ ■■■■■ Officers went to ■■■■■ -- ■
10 ■■■■■ ■■■■■ and observed a late model Chevy
11 Impala, blue in color, parked in the driveway.

12 Initially, occupants of the home gave officers
13 verbal consent to search the home for Gaskins
14 denying that they knew him. Officers went to the
15 rear of the residence and observed the attic
16 staircase to be lowered. Also observed lying on
17 the couch nearby was a black hooded jacket with a
18 fur trim hood, similar to what was described by
19 witnesses as being worn by Gaskins at the time of
20 the incident.

21 Based on the totality of the circumstances, it
22 is believed that a search of the residence is
23 required to verify the validity of the tip. The
24 observations of the officers already corroborate
25 the information given by the caller.

1 Q And what is the specific property you were
2 searching for with the search warrant?

3 A We were searching for any firearms, ammunition,
4 parts of firearms, any items associated with the
5 sale, purchase and/or possession of firearms, black
6 hooded jacket with fur trim around the hood, black
7 jeans, a red and white button up shirt and a blue
8 Chevy Impala, late model.

9 Q Were any items removed from the home prior to the
10 issuance of the search warrant?

11 A Prior?

12 Q (Affirmative response.)

13 A No.

14 Q And prior to the search warrant being obtained, you
15 were outside of the residence?

16 A After the initial search, yes. We left and we
17 remained outside the residence.

18 Q So after consent was revoked, you went outside?

19 A Yes.

20 Q You then obtained a search warrant?

21 A Yes.

22 Q And did you personally go see Judge Womble or how
23 did that happen?

24 A Judge Womble, we called him on the phone. He was
25 nearby. He met us basically down the street from

1 the home.

2 Q And who prepared the affidavit for the search
3 warrant?

4 A I did.

5 Q And did you swear or affirm this before Judge
6 Womble?

7 A Yes.

8 Q And did Judge Womble issue the search warrant?

9 A Yes.

10 Q And after the issuance of the search warrant by
11 Judge Womble, what if anything then happened?

12 A We executed the search warrant at the residence.
13 During the search, we located again the black
14 jacket with fur trim, a clear plastic baggie
15 containing marijuana, a brown holster -- a firearms
16 holster, a Verizon Wireless receipt -- appears to
17 be two Verizon Wireless receipts. And we seized
18 the 2005 blue Chevy Impala four door. The South
19 Carolina tag displayed was [REDACTED].

20 Q And was that vehicle searched at that time?

21 A No, it was simply towed to a forensic building for
22 a more detailed search.

23 Q And did Investigator Ellis obtain a search warrant
24 for the vehicle?

25 A Yes.

1 MS. MCDUFFIE: Beg the Court's indulgence.

2 THE COURT: All right, yes, ma'am.

3 (Pause.)

4 Q Was a search warrant return also done in this case?

5 A Yes.

6 Q And was it signed by a Magistrate?

7 A Yes.

8 Q And which Magistrate and what day was that?

9 A It was February the 16th and it was -- Magistrate
10 it was returned to was Womble.

11 MS. MCDUFFIE: Nothing further, Your Honor.

12 THE COURT: All right, Mr. McCulloch.

13 CROSS-EXAMINATION

14 BY MR. MCCULLOCH:

15 Q Investigator Isenhoward, just so that I can get
16 the time sequencing down, this incident occurred
17 at about 1 a.m., is that correct, on the 5th of
18 February?

19 A That's right.

20 Q And you actually went to the incident scene?

21 A Yes.

22 Q Do you know what time approximately you got
23 there?

24 A I was about the fourth car on scene. I happened
25 to be investigating another crime right down the

1 street so I was there very quickly.

2 Q So that would have been about ---

3 A Shortly after 1, I would say.

4 Q And you are the affiant on the search warrant?

5 A Yes.

6 Q Now, you testified that at some point you
7 established the identity of the suspect --
8 suspected -- the suspect's identity. And you
9 learned that information from -- or how did you
10 come in to that?

11 A There was several people at the club itself who
12 identified him, either through knowing him by his
13 first name, going to high school with him. And
14 then of course Sydney Williams who had basically
15 helped him out to his car just prior to the
16 shooting identified him.

17 Q All right. Well Mr. Williams identified Mr.
18 Gaskins specifically by name, correct?

19 A Yes.

20 Q None of the other witnesses were able to do that
21 other than one, I think, identified him as John?

22 A Well, they identified him by his first name and
23 said they went to -- I forget specifically which
24 witness but one went to high school with him.
25 And then of course we followed that up by photo

1 ID.

2 Q All right but not before the search warrants were
3 executed?

4 A I don't believe so.

5 Q You certainly would not have participated in any
6 -- I guess my question is, Mr. Williams
7 identified Mr. Gaskins by name, correct?

8 A And a ---

9 Q And ---

10 A And a photo.

11 Q And the automobile, the type of automobile that
12 Mr. Gaskins was allegedly driving, how did that
13 information come to you?

14 A Well, we received it from again -- I believe Mr.
15 Williams provided some of it. Some of the other
16 witnesses that was at the scene, as well as the
17 video camera system that was near -- that was
18 next door, at a club next door, we made a
19 determination of the model from that.

20 Q Okay. And did you -- do you know when you
21 obtained that video? Was it that night that you
22 viewed it?

23 A Yes, I believe so.

24 Q And you were able to determine the model of the
25 vehicle from that video?

1 A Yes. Well, you know, a like vehicle similar to
2 what's being described to us.

3 Q All right. Were you present for the search of
4 the Lyndhurst too -- the Lyndhurst search?

5 A Yes.

6 Q And from there -- do you know what time the --
7 you mentioned a 911 or a call or a tip or a call
8 to the Sheriff's Department.

9 A Yes.

10 Q Anonymous. I've got a report, a follow-up,
11 investigative follow-up report but it doesn't
12 tell me what time that tip would have been
13 received? Do you ---

14 A I don't know that I could tell you the specific
15 time. I know that we worked throughout the
16 night. We executed the search warrant on
17 Lyndhurst, completed that search warrant. While
18 we were actually driving or leaving the house, we
19 received the information of the phoned in tip.

20 Q The execution -- the documents provided to us
21 earlier by the Solicitor's office seemed to
22 indicate, since there is a time reference of
23 10:10 by the Judge's signature, that that's when
24 the Lyndhurst search warrant was issued, correct?

25 A Issued, yes.

1 Q So it would have been after that time that...

2 A Yes, sir.

3 Q That it would have been executed. So when you
4 completed that [REDACTED] [REDACTED] search, you then
5 were in the vehicle, your own vehicle, when this
6 additional information came?

7 A Yes.

8 Q Now, that information received by the Sheriff's
9 Department was not that the vehicle of Mr.
10 Gaskins were at [REDACTED] [REDACTED] [REDACTED] was it?

11 A Yes, it was.

12 Q Well, according to this report someone stated the
13 blue Impala of the subject that did the shooting
14 was located at the end of Darlington Street. I'm
15 just going by that as a reference.

16 A Okay. I know they dispatched some units to the
17 scene and ---

18 Q But ---

19 A I don't recall specifically. They obviously are
20 nearby, the two street.

21 Q Well let me ask you the question again. Based on
22 this investigation report from your department,
23 the anonymous caller said the -- the suspect and
24 this automobile, the blue Impala, was located at
25 the end of Darlington Street. There's no

1 reference to a specific address, is there?

2 A In my -- I can recite from my notes.

3 Q Okay.

4 A That says, the tipster stated the vehicle and
5 person involved in the shooting was at ■

6 ■ ■ ■ ■

7 Q I mean, these are your notes. Do you recall
8 where you got that information?

9 A From -- I actually spoke with the desk sergeant
10 who received the ---

11 Q Okay. So I take it that this report I just
12 handed up to you is in error?

13 A You'd have to speak with the officer who wrote
14 it.

15 Q Okay.

16 MR. MCCULLOCH: Your Honor, for the purpose
17 of the hearing, I guess I need to introduce this.

18 THE COURT: Sure, go ahead.

19 (Whereupon, Defendant's Exhibit Number 1,
20 ACISS Investigative Follow-up Report, was
21 admitted into evidence.)

22 Q But your information is then, or your
23 recollection is today, that based on your notes
24 the anonymous tipper calls with a specific
25 address?

1 A Yes.

2 Q When -- were you present -- were you the first
3 vehicle at this [REDACTED] address?

4 A No. Uniformed officers had been dispatched
5 there. They were the first officers on the scene.
6 We met them there.

7 Q Do you know whether there were other blue
8 vehicles or other blue Impalas in the
9 neighborhood?

10 A I know that the deputies -- well, we spoke with
11 the officers who were first on the scene and they
12 indicated to us that they had seen that vehicle
13 at [REDACTED] which matched the
14 description. I couldn't speculate about the rest
15 of the neighborhood.

16 Q And upon your arrival, did you see such an
17 automobile?

18 A Yes, I did.

19 Q And at the point did anyone make contact with the
20 occupants of [REDACTED]?

21 A No, I believe we were -- we made contact with
22 them.

23 Q All right. When you say we, you're talking about
24 yourself and others?

25 A Right.

1 Q You were able to participate?

2 A Investigators did.

3 Q And you identified or had the person that you
4 referred to as Ms. Peak identify herself?

5 A Yes, I spoke with her.

6 Q All right. And I mentioned the sequence here and
7 you couldn't recall what time this was happening.
8 But how did you gain access, entry into the
9 premises, by Ms. Peak or did you -- did you --
10 did Ms. Peak give you permission to initially go
11 in the premise?

12 A Yes.

13 Q And how many police officers were in there?

14 A Roughly five or six.

15 Q And they're armed?

16 A Yes.

17 Q Guns drawn?

18 A Not when we spoke with her, no.

19 Q Anybody enter the premises before gaining her
20 permission?

21 A No.

22 Q Did you use any process to determine if she had
23 authority to grant you permission to enter?

24 A She said she resided there, she was there. There
25 was a male subject there with her who I believe

1 was a guest. She spoke with -- we asked her who
2 was in control of the property. She said, Ms.
3 Bradley Sykes. I asked her to get her on the
4 phone, she did. We did what we could to speak
5 with the persons in control of the property.

6 Q Okay, therein lies my question. So you did not
7 enter just simply based upon Ms. Peak's
8 permission? You got the owner on the phone
9 before any officers entered the place?

10 A Yes.

11 Q All right. And you spoke to someone who
12 identified themselves as Ms. Sykes?

13 A Yes.

14 Q Had you otherwise determined that she had some
15 ownership or, you know, dominion over the
16 address? Or how did you know to talk to her?

17 A Well, we were speaking with occupants in the
18 home. We were relying on what they were saying?

19 Q All right. And you don't know what time you
20 talked with her -- the conversation with her was
21 what?

22 A The conversation with Ms. Peak?

23 Q Yeah.

24 A Basically, we told her why we were there, what we
25 were investigating. We specifically asked her if

1 she knew the Defendant which they denied. We
2 explained why we wanted to search the home and
3 then obtained -- again, she called Ms. Sykes. We
4 obtained permission to search, we began the
5 search ---

6 Q Let me stop you there. Did you talk -- did you
7 talk with Ms. Sykes?

8 A Yes.

9 Q Tell us about that conversation?

10 A We explained to her why we were at the -- at the
11 house, what we wanted to do, that we would like
12 to search it. And permission was given over the
13 phone and then I believe we handed the phone back
14 to Ms. Peak and then the two had a conversation
15 and she also agreed to allow us to search.

16 Q Did you ask her if she knew Mr. Gaskins ---

17 A Yes.

18 Q --- at the point in time? What did she tell you?

19 A No.

20 Q So she indicated -- the owner of the premises
21 indicated she did not know Mr. Gaskins?

22 A At the time, yes.

23 Q Did you ask her questions about what owned the
24 Impala vehicle?

25 A She said that was her vehicle.

1 Q Any question about whether she had loaned it to
2 anyone at that point?

3 A I don't recall specifically at the point if we
4 got into that much detail. I did speak to her,
5 you know, around about that time -- when I say
6 her, Ms. Sykes, regarding the vehicle. But
7 initially we were there, we obtained consent to
8 search the home and then we were doing that.

9 Q All right. Was there any further conversation
10 with Ms. Sykes that we need to know about at this
11 point of the process?

12 A I don't believe so.

13 Q All right. So based upon her permission, you and
14 another officers searched the premises for what
15 period of time?

16 A How long were we searching?

17 Q Yeah.

18 A Probably five minutes or so. We were working our
19 way through the house and again, like I testified
20 to before, we noticed that there was video
21 surveillance. We asked Ms. Peak if there was
22 anyone in the home hiding anywhere.

23 Q When you say video surveillance, you mean video
24 cameras in the home?

25 A There were cameras installed outside the home

1 hidden that were -- and a display inside the home
2 where you could see what was going on. In other
3 words, when we were inside we could see officers
4 outside which concerns law enforcement to a
5 certain extent.

6 Then we noticed that the staircase to the
7 attic was open. The potential was that the
8 Defendant was inside hiding in the attic. We
9 asked them if anybody was in the attic and then
10 they became defensive. They didn't want us to
11 search the attic and that's when we decided to
12 stop and remove ourselves.

13 Q And so was there a point when Ms. Sykes told you
14 to terminate the search?

15 A No. We -- at that point we're speaking with Ms.
16 Peak.

17 Q All right. So there's no further telephone
18 communication with Ms. Sykes that evening?

19 A That morning.

20 Q No, just during the period of the search?

21 A No, not about that search, no.

22 Q Okay. So was -- there wasn't a point where you
23 got back on the phone with her?

24 A No.

25 Q And you say you withdrew from the premises and

1 had the occupants vacate it? Essentially you ---

2 A Yes.

3 Q --- sealed the structure until you could get ---

4 A Right, correct.

5 Q You said Judge Womble came to within several
6 blocks to execute the search warrant?

7 A Yes, sir.

8 Q The search warrant you have ---

9 MR. MCCULLOCH: Has that been introduced,
10 Your Honor, I'm sorry? I know that a copy was passed
11 out.

12 THE COURT: No, it's not been introduced.

13 MR. MCCULLOCH: I guess for the purpose of
14 the hearing we need to make that part of the
15 record?

16 THE COURT: I'm not going to tell you what to
17 do, Mr. McCulloch. Go ahead, do what you want to do.

18 MR. MCCULLOCH: May I use your copy?

19 THE COURT: I'll give him this copy, Ms.
20 McDuffie.

21 MS. MCDUFFIE: Your Honor, we could enter the
22 original that the officer has.

23 MR. MCCULLOCH: If you'll hand that over to
24 that young lady right there.

25 (Whereupon, State's Exhibit Number 1, Search

1 Warrant, was marked for identification.)

2 Q All right. And so the typed search warrant we
3 have there was prepared by you in the field?

4 A Yes, a laptop computer and a printer.

5 Q In the car?

6 A Yes.

7 Q And this is what's been introduced now for the
8 purposes of this hearing as Exhibit 2 (sic), was
9 then prepared on the scene, signed by the Judge
10 on the scene and you were not able -- there's no
11 indication on the document what time it was
12 executed, there's only the return which indicates
13 13:15 is the time, I guess, that the return was
14 -- and when I say return I'm not necessarily
15 talking about filing the document but only the
16 listing of things seized and taken?

17 A 13:15 would be the time we executed this search
18 with the warrant.

19 Q All right. When you secured the signed search
20 warrant, you then conducted the search again?

21 A Yes, sir.

22 Q And this time what did you find?

23 A We -- well, we had already observed the black
24 jacket there, but we collected the jacket. And
25 then the baggie of marijuana was, I believe,

1 inside the pocket of the jacket. We continued to
2 search in the bedroom. We found a brown holster
3 for a firearm. Two Verizon Wireless receipts in
4 a bedroom and we actually seized and took control
5 -- in other words, we towed the Chevy Impala from
6 the home.

7 Q All right. Did officers at the scene -- while it
8 was stationary, did you look in the car?

9 A We -- I believe we looked through the glass but I
10 don't -- I don't recall any kind of real
11 determination of anything inside at that point.

12 Q Well, you'd have difficult time because the
13 windows were tinted ---

14 A Uh-huh. But I didn't see anything ---

15 Q --- are tinted?

16 A Yes, I believe so.

17 Q All right. Would that obscure your ability to
18 ---

19 A Possibly.

20 Q --- of seeing into the ---

21 A Possibly.

22 Q But nobody went in the car?

23 A No, not that I recall.

24 Q You do recall the windows were tinted?

25 A Not off the top of my head. I'll take your word

1 for it.

2 Q All right. And then at some time subsequent to
3 the seizure, this vehicle was taken to the
4 impound lot?

5 A Yes.

6 Q The Sheriff's Department impound lot. And the
7 search warrant, a search warrant was then
8 obtained before the car was actually entered?

9 A Yes.

10 Q And that search warrant was obtained from Judge
11 Surels, another Richland County Magistrate?

12 A Yes.

13 Q Now, the probable cause for that search, do you
14 have a copy of that?

15 A No.

16 MS. MCDUFFIE: Your Honor, if I may, I
17 believe Investigator Ellis is the one that obtained
18 that search warrant.

19 MR. MCCULLOCH: Oh, sorry.

20 Q Do you know the reason for getting a search
21 warrant since the automobile was an item to be
22 found pursuant to the first search warrant?

23 A We felt that because we were taking control of
24 the vehicle, in other words collecting the
25 vehicle, we had that vehicle, that we had

1 completed that search warrant. And out of an
2 abundance of caution, we obtained the second
3 search warrant to search the vehicle specifically
4 in more detail.

5 Q All right. And you are not -- who took
6 the vehicle to the impound lot? How did that --
7 was it towed ---

8 A It was towed. I don't recall which tow company
9 off the top of my head but it was towed.

10 Q Did you have keys to it at that point?

11 A I'm not sure. The tow receipt, I don't have it
12 with me up here, would indicate that. But it was
13 towed on a flatbed.

14 MR. MCCULLOCH: All right. That's all the
15 questions I have.

16 THE COURT: Anything on redirect?

17 MS. MCDUFFIE: No, Your Honor.

18 THE COURT: Arguments?

19 MR. MCCULLOCH: Well, Your Honor, what we've
20 gleaned is that there was a shooting and apparently a
21 blue Impala was involved and Mr. Gaskins' name was
22 certainly associated with the shooting.

23 THE COURT: I think the -- what I read said
24 that it was him and he was in the car, he shot and he
25 left. I think his name wasn't just casually

1 mentioned. They put him in the car, they put the gun
2 in his hand, the bullets came out of the gun that was
3 in his hand.

4 MR. MCCULLOCH: That's correct, Your Honor.

5 THE COURT: And he left.

6 MR. MCCULLOCH: I understand.

7 THE COURT: All right.

8 MR. MCCULLOCH: Your Honor, the only
9 information we had been provided from the Sheriff's
10 Department's records were that this anonymous tip said
11 that the vehicle and Mr. Gaskins could be located at
12 the end of Darlington Street as the first document to
13 be introduced would indicate, which is a fairly non-
14 specific representation of an area of the City of
15 Columbia where there may be lots of blue automobiles.

16 But in any event, police officers arrive over
17 and they saw a blue Impala, which there must be many
18 of in this town, and both the present occupants and
19 the owner indicated they did not know John Gaskins.

20 And so I would suggest to the Court and would
21 argue that the search warrant was improperly issued by
22 a Magistrate without sufficient probable cause.

23 THE COURT: All right. Thank you, sir.

24 MR. MCCULLOCH: Yes, sir.

25 THE COURT: Yes, Ms. McDuffie.

1 MS. MCDUFFIE: Your Honor, we believe that
2 the officer has stated sufficient probable cause to
3 uphold the search warrant. The Magistrate did find
4 that there was probable cause.

5 This witness has testified that the probable
6 cause was that the Defendant was seen shooting from
7 this vehicle at the nightclub. He was positively
8 identified by multiple witnesses who also provided a
9 description of this vehicle. This vehicle was later
10 seen at [REDACTED] which the officer testified
11 the information he received was. They went to [REDACTED]
12 [REDACTED] which the automobile was there, which
13 would further corroborate the tipster.

14 Once inside the residence, they did receive
15 consent to look in the residence. They also saw a
16 jacket with what the Defendant was described as
17 wearing the previous night.

18 Based on everything ---

19 THE COURT: With the fur collar?

20 MS. MCDUFFIE: With the fur collar, yes, sir,
21 Your Honor. It was a distinctive look. They then
22 went to a Magistrate after consent was revoked and
23 obtained a search for this residence.

24 Your Honor, we believe that there was
25 probable cause and, Your Honor, that the search

1 warrant should be upheld. And if Your Honor does not
2 uphold it I would have further argument.

3 THE COURT: Beg your pardon?

4 MS. MCDUFFIE: If you decide for some reason
5 there wasn't probable cause, I would have further
6 argument.

7 THE COURT: It appears to be probable cause
8 to me. I think the search was valid, the warrant was
9 valid. The information was sound. It was verified
10 and corroborated. In fact, somebody suggested --
11 there might be a thousand blue Impalas in the City of
12 Columbia but only one was found on that street in that
13 location. That was identified by information that the
14 officer received. So I think the search was valid.

15 Thank you.

16 MR. MCCULLOCH: Thank you, Your Honor.

17 THE COURT: Now there was some redacting to
18 be considered about the marijuana?

19 MR. MCCULLOCH: Your Honor, we've got one ---

20 MS. MCDUFFIE: I believe he was also
21 challenging the search of the vehicle itself, Your
22 Honor.

23 MR. MCCULLOCH: I just need to hear from the
24 officer and ---

25 THE COURT: Okay.

1 MR. MCCULLOCH: --- I know that a search warrant
2 was issued by Judge Surels. The timing of it is what I'm
3 interested in.

4 THE COURT: All right. Well, he needs to ask
5 another officer, Isenhoward, I do believe.

6 THE WITNESS: Yes, sir.

7 (The witness leaves the witness stand.)

8 MS. MCDUFFIE: The State would call
9 Investigator Matt Ellis -- I'm sorry, Sergeant Matt Ellis.

10 (MATT ELLIS, having first been duly sworn,
11 testified as follows:)

12 THE CLERK: Please have a seat in the witness
13 stand and state your full name for the record.

14 THE WITNESS: Matthew Ellis.

15 THE COURT: What?

16 THE WITNESS: Matthew Ellis.

17 THE COURT: Ellis?

18 THE WITNESS: Ellis.

19 THE COURT: All right.

20 DIRECT EXAMINATION

21 BY MS. MCDUFFIE:

22 Q Investigator, do you have the original search warrant
23 that was obtained for a blue Chevy Impala?

24 A I believe I have a copy of it.

25 Q May I see that?

1 MS. MCDUFFIE: Mark as the State's 2 for ID.

2 THE COURT: This was the warrant that was
3 obtained after the blue Impala was found, after it was
4 impounded, specifically to search inside of the vehicle?

5 MS. MCDUFFIE: Correct, Your Honor.

6 (Whereupon, State's Exhibit Number 2, Vehicle
7 Search Warrant, for identification.)

8 Q Investigator Ellis, were you present at the execution
9 of the search warrant at [REDACTED] [REDACTED] [REDACTED]

10 A I was.

11 Q And after that search warrant was executed, what did
12 you do?

13 A The first search warrant that was issued was for the
14 blue Impala that's been discussed to be taken from the
15 location along with the search of that residence. I
16 was instructed that we would need to get a search
17 warrant for the car, specifically to conduct a search
18 of the inside of the vehicle based upon the facts that
19 I had been given during a briefing prior to us going
20 out with this warrant earlier in the morning. I
21 completed or prepared a search warrant for that
22 vehicle and took it to Judge Surels at the Pontiac
23 Magistrate which he reviewed and signed.

24 It appears I was at his office, it was time
25 stamped at 4:20 in the afternoon on February the 5th,

1 2007.

2 Q And I'm going to show you -- was the vehicle towed
3 prior to obtaining the search warrant, pursuant to the
4 previous search warrant?

5 Q I'm going to show you what we'll mark as State's
6 Exhibit 3 for ID.

7 (Whereupon, State's Exhibit Number 3,
8 Tow Report, was marked for identification.)

9 Q Do you recognize that document?

10 A Yes, it's a Richland County vehicle tow slip for a
11 Chevy Impala, blue in color.

12 Q And what is the time on that document?

13 A It appears it was 1400 hours, 2 p.m. on February the
14 5th, 2007.

15 Q And what time did you go to see Judge Surels to obtain
16 the search warrant for this vehicle?

17 A 4:20 p.m., same date.

18 Q And please state the probable cause for the warrant,
19 State's Exhibit 2.

20 A Probable cause states that: (Reading) On February the
21 5th, 2007, the security, 826 Bush River Road, Club
22 360, escorted an intoxicated patron later identified
23 as Johnnie Gaskins out of the club for being
24 disorderly. As security was escorting Gaskins out of
25 the club, Sydney Williams approached them and asked if

1 he could take Gaskins home because he knew him.
2 Security agreed to let Gaskins go on the basis that
3 Sydney Williams was going to take Gaskins home and
4 remove him from the club property.

5 Lamont Davis, head of security at the club,
6 watched as Gaskins walked towards and got into a dark
7 colored sedan, possibly a blue Impala. Davis walked
8 back into the entranceway of the club and saw Sydney
9 Williams coming back into the club. A short time
10 later, Davis saw the dark colored car coming towards
11 the front of the club and suddenly come to a stop.
12 When the car -- or, excuse me, when the car stopped,
13 Davis heard a gunshot and felt a burning sensation in
14 his back. Several more shots followed and Davis
15 pulled his 38 caliber handgun and shot back at the car
16 as he was fleeing the scene. Excuse me -- as it was
17 fleeing the scene.

18 After the shooting stopped, the security detained
19 Sydney Williams until Richland County Sheriff's
20 Department deputies arrived. Investigator Isenhoward
21 arrived on the scene and spoke with Sydney Williams
22 who made the statement that he knows Gaskins by name
23 and sight and saw Gaskins shooting from the car.

24 During the investigation it was found that
25 Gaskins had shot five people, one of which had since

1 died.

2 The Columbia-Richland dispatch received a tip
3 from a caller who stated that a blue Impala and the
4 subject who did the shooting last night was parked at
5 the dead-end of Darlington. This information had not
6 yet been released to the media so investigators
7 believed the tip to be very reliable.

8 Several Richland County patrol units arrived in
9 the area and located the blue Chevy Impala at ■
10 ■ which is almost at the corner of
11 Riverview Court and Darlington. Marked units and
12 investigators approached the house and made contact
13 with a female named Andreana Lacey (phonetic) Peak who
14 stated that she was house sitting for her aunt. She
15 called her aunt and Sergeant Ewing talked to her aunt,
16 Renee (sic) Bradley who at first gave him permission
17 to search the house, ■ ■ ■ and then
18 later changed her mind and asked him to obtain a
19 warrant. A warrant was obtained and executed.

20 The blue Chevrolet Impala, South Carolina tag
21 ■ was towed to Richland County Sheriff's
22 Department to be processed. While officers were
23 searching ■ ■ ■ Andreana Lacey Peak told
24 Sergeant Ewing that she knew her aunt's boyfriend by
25 the name of Black. This is an a/k/a for Johnnie

1 Gaskins who is wanted for murder.

2 The affiant deems it necessary to conduct a
3 thorough search of the vehicle. The targeted items
4 for the search would include any firearms, firearm
5 paraphernalia, any paperwork associated with the
6 acquisition and/or possession of firearms, shell
7 casings and etcetera.

8 The affiant also deems it necessary to conduct a
9 complete and thorough evidentiary and forensic search
10 of the vehicle. This search will be for such items as
11 blood, hair, fibers, fingerprints, D N A, photographs,
12 cell phones, paperwork, gunshot powder residue,
13 etcetera. However, the search would not be limited to
14 those specific forensic items. The forensic and
15 evidentiary search is also deemed necessary to collect
16 any potential evidence which may be present and which
17 may assist in the investigation of this apparent
18 homicide.

19 The affiant submits that this search is
20 absolutely necessary and warranted by the facts as
21 they are known at the time of the preparation of this
22 affidavit.

23 The affiant further submits that the search is
24 needed to further the investigation of this apparent
25 homicide. This case is documented in the Richland

1 County Sheriff's Department Case Number 07020331-05.

2 Q And reads the affiant swore this affidavit out on
3 February the 5th of 2007?

4 A Correct.

5 Q And when was the search warrant returned? Was there a
6 return completed after the search of the vehicle?

7 A There was.

8 Q And wasn't that also signed by a Magistrate?

9 A It was taken back to Judges Surels on the 7th.

10 Q And he signed that document?

11 A Correct.

12 MS. MCDUFFIE: Nothing further at this time.

13 CROSS-EXAMINATION

14 BY MR. MCCULLOCH:

15 Q You are the affiant on this search warrant?

16 A Yes, sir.

17 Q Did you actually go to the scene of the shooting?

18 A To the scene of the shooting?

19 Q Right.

20 A No, sir.

21 Q All right. The affidavit that you swore to
22 indicates that Lamont Davis saw Gaskins walk
23 towards and get into a dark colored sedan,
24 possibly a blue Impala. Where did that
25 information come from?

1 A This was information that I would have obtained
2 from a briefing that we had prior to going out.
3 I was part of the group of individuals that was
4 assisting Investigator Isenhoward that morning.

5 Q All right. So it, at least in your briefing, was
6 characterized as a dark colored sedan, possibly a
7 blue Impala?

8 A I believe that that's the way I typed it.

9 Q All right. That Mr. Davis then was described in
10 the affidavit as saying he saw a dark colored car
11 coming towards the front of the club and suddenly
12 come to stop and shots fired, is what you read
13 just a moment ago. And then the next page of
14 your affidavit indicates that, a tip was received
15 from a caller who stated the blue Impala and the
16 subject who did the shooting were parked at the
17 end of Darlington, correct?

18 A Correct.

19 Q So the tip from the caller, as far as you were
20 concerned in your sworn affidavit, was non-
21 specific as to the address, only the end of
22 Darlington, correct?

23 A It was parked at -- in the information that I
24 remember was that the vehicle was parked at the
25 dead-end of Darlington.

1 Q All right.

2 ■ ■ The dead-end of Darlington is right at ■

3 ■■■■■ ■■■■■ ---

4 Q When you read your affidavit which you prepared
5 based on information you received a briefing, the
6 tip did not give a specific address, it said at
7 the end of Darlington is the way you phrase it in
8 the affidavit?

9 A Correct.

10 Q And you go on to say that marked units of your
11 department had arrived in the area and located a
12 blue Impala at ■■■■■?

13 A Correct.

14 Q All right.

15 A Which is almost at the corner of Riverview and
16 Darlington.

17 Q And to your knowledge -- were you even at the
18 scene of -- of Riverview?

19 A Yes, sir.

20 Q All right.

21 A I was outside the whole time.

22 Q Okay. And did anyone in the department go in the
23 car or look in the car while it was there at that
24 address?

25 A No, sir. I was -- and the driveway was on the

1 right-hand side and that's kind of the area I was
2 when the search was going to take place until we
3 were held out. And, no, I was in the area of
4 that vehicle the whole time.

5 Q Did you ever go in the car?

6 A I never saw anybody go into it, no, sir.

7 Q Did you ever -- did you participate in the search
8 of the vehicle in the impound lot?

9 A No, sir. It was towed to our forensics building
10 at our office at headquarters and the search
11 warrant, after I obtained it, was turned over to
12 our forensic unit to conduct their search.

13 MR. MCCULLOCH: All right, thank you. That's
14 all I have.

15 THE COURT: All right, anything further?

16 MS. MCDUFFIE: No, sir, Your Honor.

17 THE COURT: All right. Arguments?

18 MR. MCCULLOCH: Well, Your Honor, I would
19 make the same argument ---

20 THE COURT: Okay.

21 MR. MCCULLOCH: --- specific information but
22 I don't have any additional ---

23 THE COURT: Let's see, car found, supposed to
24 be on Darlington Street, blue Impala, no specific
25 address, that's your point?

1 MR. MCCULLOCH: Your Honor, that -- that is
2 the point that we tried to make in the first search
3 warrant ---

4 THE COURT: They got down the street, they're
5 looking for a blue Impala and they see a blue Impala.
6 Am I right so far?

7 MR. MCCULLOCH: Yes, sir.

8 THE COURT: Ms. McDuffie, you want to add
9 anything to that?

10 MS. MCDUFFIE: Your Honor, we would just
11 submit that the end of Darlington ---

12 THE COURT: I guess the answer is no?

13 MS. MCDUFFIE: No, sir.

14 THE COURT: All right, thank you. I find the
15 search is valid. Thank you, sir.

16 (The witness leaves the witness stand.)

17 THE COURT: What else do we have? Do we have
18 a Biggers? You got the officers here?

19 MS. MCDUFFIE: We do have the officers here,
20 Your Honor.

21 THE COURT: Who else do we need?

22 MS. MCDUFFIE: Do three officers and then --
23 Your Honor, then the law witness just before they
24 testify.

25 THE COURT: It's up to Mr. McCulloch. That's

1 fine?

2 MR. MCCULLOCH: Yes, sir.

3 THE COURT: All right. Let's take a little
4 short break then we'll do -- who are the other three
5 officers, Isenhoward ---

6 MS. MCDUFFIE: Isenhoward, Lindler and
7 Holdorf.

8 THE COURT: All right. Just in anticipation,
9 I think I would like to have like John Adams, one of
10 the murder victims, where did he live? I need, you
11 know, some reference points for the jury. And Ms.
12 Williams as well as Houston, Harris and Davis, I think
13 that would be helpful. That's the reason why I put it
14 off today. As it looks, we'd still be picking this
15 jury anyway. We wouldn't have got to these arguments.

16 My guess it's going to take us about two
17 hours to pick this jury.

18 MR. MCCULLOCH: Well, it will take an hour to
19 read the list.

20 THE COURT: Well, that's what I am saying.
21 So, I mean, you know, I think we're about where we
22 would be anyway.

23 MR. MEADORS: Yes, sir. I agree, thank you.

24 THE COURT: Let's take a little short break
25 and we'll come back and do the Biggers' officers.

1 (The Court was in recess.)

2 (Whereupon, State's Exhibit Number 4, Photo
3 Lineup Presented to Tamera Barnett, was
4 marked for identification.)

5 (Whereupon, State's Exhibit Number 5, Photo
6 Lineup Presented to Lindburgh Porterfield,
7 was marked for identification.)

8 (Whereupon, State's Exhibit Number 6, Photo
9 Lineup Presented to Roger Glover, was marked
10 for identification.)

11 (Whereupon, State's Exhibit Number 7, Photo
12 Lineup Presented to Erin Hellman, was marked
13 for identification.)

14 (Whereupon, State's Exhibit Number 8, Photo
15 Lineup Presented to Kimberly Jeter, was
16 marked for identification.)

17 (Whereupon, State's Exhibit Number 9, Photo
18 Lineup Presented to Epsil Palmer, was marked
19 for identification.)

20 (Whereupon, State's Exhibit Number 10, Photo
21 Lineup Presented to Lamont Davis, was marked
22 for identification.)

23 MS. MCDUFFIE: The State would call
24 Investigator Holdorf.

25 (TRAVIS HOLDORF, having first been duly

1 sworn, testified as follows:)

2 THE COURT: Take a seat. Tell us your full
3 name and spell your last name for the record.

4 THE WITNESS: Travis Holdorf, H-o-l---

5 THE COURT: Plavis (phonetic)?

6 THE WITNESS: Travis.

7 THE COURT: Oh, Travis.

8 THE WITNESS: Holdorf, H-o-l-d-o-r-f.

9 DIRECT EXAMINATION

10 BY MS. MCDUFFIE:

11 Q Investigator Holdorf, where are you currently
12 employed?

13 A The Richland County Sheriff's Department,
14 Investigations.

15 Q And were you employed there in February of 2007?

16 A Yes, ma'am.

17 Q And did you have a chance to come in contact with
18 a Ms. Tamera Barnett or Barrett (sic)?

19 A Yes, ma'am.

20 Q And what was that in reference to?

21 A It was to show here a photo lineup.

22 Q And in reference to what case?

23 A In reference to the homicide at Club 360.

24 Q And where did you encounter Ms. Barrett (sic)?

25 A I met her at the club.

1 Q And on what day and do you know what time you met
2 with her?

3 A It was February the 5th, 2007. I want to say it
4 was mid-morning.

5 Q And when you met with her -- or describe for the
6 Judge the atmosphere when you met with her.

7 A We got there. The news media was outside
8 shooting. They had some people sweeping up glass
9 trying to put the club back together.

10 Q Did you meet with her with other people present
11 or were you two isolated in some way?

12 A We went to a spot that was separated from
13 everyone else.

14 Q To you knowledge, was there anyone who could see
15 or hear -- or could hear you?

16 A Hear us, no, ma'am. See us, I mean, it's an open
17 club.

18 Q But you were out of earshot of other people who
19 were present that time?

20 A Yes, ma'am.

21 Q And did you show Ms. Barrett (sic) a lineup?

22 A Yes, ma'am, I did.

23 Q I show you what's marked as State's Exhibit 4 for
24 ID. Do you recognize that?

25 A Yes, ma'am. It's the photo lineup I showed her.

1 Q And that was on February the 5th of 2007?

2 A Yes, ma'am.

3 Q And please tell the Court which picture she
4 identified from that lineup?

5 A She identified number five.

6 Q And number five was the person who she recognized
7 from where or from what?

8 A That's the person she saw being escorted out of
9 the club by security.

10 Q And did you -- when you showed her this lineup,
11 did you suggest to her in any way who to pick?

12 A No, ma'am.

13 Q What did you ask her to do when you showed her
14 the lineup?

15 A It's the same wording I use for every time I show
16 a photo lineup. I'm going to show you a photo
17 lineup of six people. If there's anyone in this
18 photo lineup you recognize, just let me know and
19 let me know where you recognize them from.

20 Q And when you showed her the photo lineup, how
21 long did it take her to pick the person -- or to
22 pick picture number five?

23 A Pretty instantaneous. It was -- it was, right
24 there.

25 Q Did she say that she was unsure in any way or did

1 she go back and forth between two pictures?

2 A No, ma'am. She was able to give a description of
3 what he was wearing to include his pants, his
4 jacket, black jacket with fur around the cap --
5 or the hood. She gave quite a bit of
6 information. I wrote those on the back of the
7 photo lineup of what she saying.

8 Q And that's State's Exhibit 4 for ID?

9 A That is correct.

10 Q And on February 5th of 2007, did you also come in
11 contact with Lindburgh Porterfield?

12 A Yes, ma'am, I did.

13 Q And where was that?

14 A It was also Club 360.

15 Q And did you also take him aside from the other
16 people at the bar at that time?

17 A Yes, ma'am.

18 Q And was anyone else in earshot?

19 A No, ma'am.

20 Q And did you show him what's marked for ID as
21 State's Exhibit 5?

22 A Yes, ma'am.

23 Q And did he pick any pictures from the lineup?

24 A He identified photo number 6 which is the same
25 photo as the previous one, it's just that the

1 photo has been moved.

2 Q And so the line up ---

3 A The same person.

4 Q The lineups did not have the Defendant in the
5 same spot?

6 A No, ma'am, they did not.

7 Q So the one shown to Ms. Barrett (sic) had the
8 Defendant in position five and then this one the
9 Defendant's in position six?

10 A Correct.

11 Q And is that his signature and your signature
12 acknowledging who he picked?

13 A Yes, ma'am, it is.

14 Q And when you showed him this lineup, did you
15 suggest to him who to pick in any way?

16 A No, ma'am.

17 Q And please again describe for the Court the
18 procedure you went through when you showed Mr.
19 Porterfield this lineup.

20 A I explained to him I was going to show him a
21 photo lineup of six photos. If there was anyone
22 that he recognized to let me know. And if so,
23 where he recognized them from.

24 Q And when you showed him the lineup, tell the
25 Court again who he picked.

- 1 A He picked out number six.
- 2 Q And did he hesitate or was he unsure in any way?
- 3 A No, ma'am.
- 4 Q And what do you base that on?
- 5 A I asked him if he was sure.
- 6 Q Did he take a long time to pick the photo ---
- 7 A No, ma'am.
- 8 Q Did he go straight to it?
- 9 A Straight to it.
- 10 Q And again, that was photo number?
- 11 A Six.
- 12 Q Did you also have a chance on February 5th of
- 13 2007 to come into contact with Roger Glover?
- 14 A Yes, ma'am, I did.
- 15 Q And where was that?
- 16 A Also Club 360.
- 17 Q And did you show him a photo lineup?
- 18 A Yes, ma'am, I did.
- 19 Q And did you also take him away from the other
- 20 individuals in the bar?
- 21 A Yes, ma'am
- 22 Q Were y'all out of earshot?
- 23 A Yes, ma'am.
- 24 Q Did you allow Mr. Porterfield or Mr. Glover or
- 25 Ms. Barnett to confer between ---

1 A No, ma'am.

2 Q --- your sessions with each of them?

3 A No, ma'am. It was one right after the other.

4 Q And did you show Mr. Glover a lineup that's been
5 marked as State's Exhibit 6 for ID?

6 A Yes, ma'am.

7 Q And please tell the Court which if any picture he
8 picked?

9 A He identified number five.

10 Q And who is five a picture of?

11 A The Defendant.

12 Q And did he hesitate in any way when you showed
13 him this photo array?

14 A No, ma'am. He also mentioned that he knew him as
15 Black, he knew his nickname.

16 Q He mentioned that he knew the Defendant before?

17 A Knew of him, knew his nickname.

18 Q And did he hesitate in any way?

19 A No, ma'am.

20 Q Did you suggest to him in any way which photo to
21 pick?

22 A No, ma'am, I did not.

23 MS. MCDUFFIE: Beg the Court's indulgence.

24 MS. MCDUFFIE: Nothing further, Your Honor.

25 THE COURT: Mr. McCulloch.

1 CROSS-EXAMINATION

2 BY MR. MCCULLOCH:

3 Q Investigator Holdorf, we have some notes here
4 from you obviously that indicate you were asked
5 by Sergeant McDonald on the 5th, sometime after
6 the incident obviously, to contact these several
7 people, including Lindburgh Porterfield, Melinda
8 Glover, Roger Glover and apparently Tamera
9 Barnett for the purpose of showing these photo
10 arrays, is that correct?

11 A Yes, sir.

12 Q And part of the urgency was that the news was
13 going to begin to show pictures of these
14 subjects?

15 A Yes, sir.

16 Q Now, at the time -- how long after the
17 1:00 shooting, approximately 1:00 on the 5th when
18 this incident occurred, how long after that did
19 you conduct these photo arrays?

20 A As soon as I came in that morning about 8:30.

21 Q Okay.

22 A I was given the photos and started trying to make
23 contact and was out there by I'd say 10, 10:30 at
24 the latest.

25 Q And these people, had they been there all night

1 or were they asked to come back to meet you, or
2 do you know?

3 A They were meeting me there. I know when I talked
4 to Ms. Glover, she was not there at the time.
5 She said she was coming back to the club. And so
6 I met her there.

7 Q And so you arranged with all these people to come
8 to the -- back to the scene?

9 A I believe Mr. Glover was already there. And I'm
10 not sure on Ms. Barnett.

11 Q Now, do you know what time your department began
12 to issue photos and BOLOs on Mr. Gaskins?

13 A No, sir.

14 Q Do you know whether or not that had occurred
15 prior to your conducting these photo arrays?

16 A It would not -- none of the witnesses indicated
17 they had seen any of the news with photos of them
18 on the news.

19 Q I mean, do you know whether the news already had
20 a photo of Mr. Gaskins at that point ---

21 A No, sir, I do not know that?

22 Q Do you know if the morning newspaper had photos
23 of Mr. Gaskins?

24 A I do not know that.

25 Q Did you ask these -- any of these people if they

1 had seen any news reports or knew of any suspects
2 in this shooting based on news?

3 A In showing the photo lineup, that was part of the
4 questioning, have you seen any of these photos
5 before, if so, where from? And none of them said
6 that they had seen this person on the news. I
7 had shown the photo lineup to several other
8 people who were not as positive as these three
9 were.

10 Q But you did ask that question?

11 A Maybe not in exactly -- did you see them on the
12 news? But is there -- have you seen this person
13 before and if so, where from? And none of them
14 indicated that they had seen him on the news.

15 Q All right. So you didn't ask them the specific
16 question if they had seen the news or seen
17 anything on it?

18 A Correct.

19 Q Now, the photo arrays, were they created for you
20 or do you do that yourself?

21 A Lieutenant McDonald made that.

22 Q Okay. So he affixes the photos on a single page
23 and picks the order and provides them to you?

24 A Correct.

25 Q Now, when you receive these, are you told by him

1 who the suspect is, who the primary suspect is?

2 A I knew at the time who the suspect was, yes, sir.

3 Q All right. So in each of these photo arrays,
4 each of these identification processes, you knew
5 exactly who your primary suspect was

6 A Yes, sir.

7 Q You knew what number he was?

8 A Yes, sir.

9 Q I assume you didn't point out Mr. Gaskins'
10 photograph to any of these people as they were
11 reviewing the photos?

12 A No, sir, I did not.

13 Q All right. Did you video or audiotape these
14 processes?

15 A No, sir.

16 Q What would you do while they were reviewing the
17 photo arrays? What was the circumstance? Were
18 you sitting at a table, standing up?

19 A Sitting at a table.

20 Q And were you sitting next to them, behind them,
21 across from them?

22 A Across.

23 Q Across from them?

24 A Across from them.

25 Q So you would put the array down, turn it around,

1 slide it over to them and say, please review
2 this?

3 A Put it on the table where it was facing both of
4 us.

5 Q Where would your hands be while they were
6 reviewing the photographs?

7 A On the top of the page and then put it down.

8 Q And no indications, not even unconscious
9 indications suggested by you of which photograph
10 was of greatest interest to your department?

11 A No, sir. That's something that you want to be
12 very careful of when you do show a photo lineup.

13 Q Are you aware of a body of research and opinion
14 these days in law enforcement that perhaps
15 there's a better lineup process than this six
16 photos on a page called the sequential lineup
17 process?

18 A I have heard of that and read of that, yes, sir.

19 Q All right. Any reason why your department
20 doesn't utilize that?

21 A I do not make the policies for our department.
22 That's -- what we have is on a standard form.

23 Q Nothing prevents movement in the new direction,
24 does it?

25 MS. MCDUFFIE: Objection, Your Honor.

1 THE COURT: Beg your pardon?

2 MS. MCDUFFIE: Objection to his question.

3 THE COURT: Basis of your objection.

4 MS. MCDUFFIE: Relevance.

5 THE COURT: All right.

6 MR. MCCULLOCH: Your Honor, the whole point
7 is the quality of the identification and there is ---

8 THE COURT: The question is whether or not it
9 was a fair process. It's not whether it's the best or
10 on the cutting edge or -- the only thing if they used
11 a Ouija board or something like that.

12 THE WITNESS: No Ouija board, no, sir.

13 MR. MCCULLOCH: I will move on.

14 THE COURT: All right, sir.

15 Q Now, Mr. Porterfield, in your view made a
16 positive identification, is that correct?

17 A Yes, sir.

18 Q Now, did Mr. Porterfield indicate to you that he
19 knew Mr. Gaskins?

20 A No, sir.

21 Q That he knew who he was or that he had seen him
22 -- I think you mentioned you asked them if they
23 had ever seen this person before?

24 A That is correct.

25 Q And Mr. Porterfield was -- of the three he also

1 indicated that he had never seen -- that the only
2 time he knew Mr. Gaskins or knew this person on
3 the photo array that he chose was as being in the
4 club that night?

5 A Saw him jerk away from security and saw the
6 subject being escorted out of the club.

7 Q So there's no indication whatsoever from Mr.
8 Porterfield that he had any prior relationship or
9 even knew Mr. Gaskins?

10 A If there was it would have been documented on the
11 back of the follow-up -- or the photo lineup.

12 Q All right. Well, I don't have the backs of the
13 photo lineups but ---

14 MS. MCDUFFIE: The originals are in evidence.

15 MR. MCCULLOCH: Well, maybe I need to take a
16 look at that. Maybe we got it and just -- it just
17 wasn't identified with it.

18 Q Well, let's see. This is Mr. Porterfield. All
19 right, those are -- that's the entirety of what
20 Mr. Porterfield told you, the backside of ---

21 A Yes, sir.

22 Q --- State's ID 5?

23 A Yes, sir.

24 Q And on Exhibit 6, the backside indicates, wearing
25 a black jacket with a furry hood. Subject kept

1 putting hood on. A lot of people were
2 complaining about him -- all right. I think this
3 was transposed onto another document. Let me
4 just make sure.

5 (Pause.)

6 Q All right. In terms of each of these witnesses,
7 did you make any effort to determine the
8 opportunity to see the person so that you had
9 some information about the validity of their
10 identification, where they were, what the
11 circumstances were?

12 A Ms. Glover was in and out of the area. Mr.
13 Glover stated that at the time he was in the
14 kitchen when he heard the shooting. And Tamera
15 Barnett was, again, in and out and round the
16 club.

17 Q But I mean in terms of what their opportunities
18 to actually see the person that you're asking
19 them to positively identify? Did you determine
20 how far they were from the person? That would be
21 a factor of importance, wouldn't it?

22 A No, sir, I don't have notes or records of that?

23 Q All right. Do you have any recollection of
24 asking those kinds of questions?

25 A I'm sure I would have. I don't recall exactly

1 what they would have said to that response.

2 Q All right. Well there are not any notes about
3 that?

4 A No, sir.

5 Q Did you give any of -- each of the people or any
6 of these people any instructions about whether
7 they should avoid publicity as they might be
8 asked in the future to make an identification?

9 A No, sir.

10 MR. MCCULLOCH: That's all I have.

11 THE COURT: All right. Anything further?

12 MS. MCDUFFIE: No, sir, Your Honor.

13 THE COURT: You my step down, sir.

14 THE WITNESS: Thank you, Your Honor

15 MS. MCDUFFIE: The State calls Investigator
16 Lindler.

17 (CHRISTOPHER LINDLER, having first been duly
18 sworn, testified as follows:)

19 THE COURT: Please take a seat. Tell us your
20 full name and spell your last name for the record.

21 THE WITNESS: Chris Lindler, L-i-n-d-l-e-r.

22 DIRECT EXAMINATION

23 BY MS. MCDUFFIE:

24 Q Investigator Lindler, where are you currently
25 employed?

1 A At the Richland County Sheriff's Department.

2 Q And please tell the Court your involvement with
3 the homicide that occurred at Club 360 on
4 February the 5th of 2007.

5 A I was asked that morning, upon coming into work,
6 by Lieutenant McDonald to go out and show a
7 couple of lineups to two females that were at the
8 club that night. One was -- I believe was a
9 bartender.

10 Q Would one be Erin Hellman or Hallman (sic)?

11 A Yes.

12 Q And the other one being Kimberly Jeter?

13 A Yes.

14 Q I'll show you State's Exhibit 7. Do you
15 recognize -- for ID. Do you recognize this?

16 A Yes, I do. That would be the lineup I showed Ms.
17 Erin Hellman.

18 Q And where did you show Ms. Hellman this lineup?

19 A It would have been at her residence, I believe,
20 at 18 Berryhill.

21 Q And do you recall when you showed her this
22 lineup?

23 A It was sometime that morning.

24 Q On February the 5th of 2007?

25 A On February the 5th, 2007.

1 Q Was anybody else present when you showed her this
2 lineup?

3 A No, ma'am.

4 Q You two were alone?

5 A Right.

6 Q What if anything did you say to her before
7 showing her this lineup?

8 A Just told her we had a photo lineup we needed to
9 show her. I wanted her to look at each picture
10 carefully and turn the lineup over. As I usually
11 do, I keep it turned over until we get ready to
12 show it. Turn it over to her and let her look at
13 the -- let her hold the lineup and look at all
14 six pictures.

15 Q And Ms. Hellman -- Hallman (sic) also gave a
16 written statement to you prior to this lineup?

17 A It was the day after she was shown the photo
18 lineup, on February the 6th of 2007.

19 Q So you went back and got a written statement from
20 her at that time?

21 A I did.

22 Q Any reason why you did not take one on the 5th
23 from her?

24 A It was -- it was a chaotic morning that morning
25 with everything that had gone on at the scene as

1 far as with the shooting at the club and we were
2 trying to get everybody identified.

3 Q And so you had the lineup face down?

4 A Yes, ma'am.

5 Q And what did you ask her to do?

6 A I asked her to look at all six pictures in that
7 lineup very carefully and pick out the man that
8 she recognized from the club that had been
9 escorted out.

10 Q And did she ever tell you that she witnessed the
11 shooting?

12 A No, she did not.

13 Q And so she witnessed what led up to it?

14 A Yes, ma'am.

15 Q So you asked her to identify the individual that
16 was involved in a prior incident inside the club?

17 A Yes, ma'am.

18 Q And you showed her this lineup and who did she
19 identify in State's Exhibit 7?

20 A She identified picture number two.

21 Q And did she also write a narrative on the bottom
22 of the form?

23 A She did.

24 Q And what does that say, for the Court?

25 A She says, the man in the photo -- the man in

1 photo number two is the man that I cut off from
2 having alcohol at Club 360 ---

3 Q And ---

4 A -- and was carried out in handcuffs.

5 Q I'm sorry. And is the photograph circled?

6 A Yes, it is.

7 Q And who's initials are that by the photograph?

8 A Those are her initials and the date that she
9 initialed it.

10 Q And did you sign as being a witness to this?

11 A I did.

12 Q And did you suggest who -- whom to pick in any
13 way?

14 A I did not.

15 Q Did she hesitate at all when looking at his
16 lineup?

17 A No, she did not. She went straight to picture
18 number two.

19 Q Did she say she wasn't sure or?

20 A Never said she was unsure and went straight to
21 picture two.

22 Q And did you also have the chance to encounter
23 Kimberly Jeter?

24 A I did.

25 Q And where was that?

1 A It was at her residence.

2 Q And I'm going to show you State's Exhibit 8 for
3 ID. Can you please tell the Court where that
4 was?

5 A [REDACTED].

6 Q And were you alone with her when you showed her
7 that lineup?

8 A It was just she and I.

9 Q And please describe the procedure by which you
10 showed her the lineup.

11 A Again, I showed her the lineup the same way. I
12 kept the lineup turned over where she couldn't
13 see any of the pictures. Asked her to look --
14 told her I was going to show her a photo lineup.
15 Asked her to look at each of the six pictures
16 very carefully and pick out the one that best ---

17 Q And which picture did she pick?

18 A Picture number three.

19 Q And did she circle that and initial it?

20 A She did.

21 Q And did she also write something at the bottom of
22 that form?

23 A She did.

24 Q And please tell the Court what it was?

25 A She wrote that she knew him by name and sight for

1 about the two years.

2 Q And was the -- was that the extent of the lineups
3 you showed pertaining to this case?

4 A Yes, it was.

5 Q And did you suggest to Ms. Jeter who to pick in
6 any way?

7 A No, ma'am, I did not.

8 MS. MCDUFFIE: Nothing further.

9 THE COURT: Your turn, Mr. McCulloch.

10 CROSS-EXAMINATION

11 BY MR. MCCULLOCH:

12 A Investigator Lindler, is Erin Hellman -- were
13 these the only two people that you were asked to
14 show photo arrays to?

15 A Yes, sir.

16 Q Were you involved in the investigation otherwise?

17 A No, sir.

18 Q Were these assigned to you and the photo lineups
19 provided to you by somebody else with the
20 department or did you make these yourself?

21 A Lieutenant McDonald provided these lineups.

22 Q Did he indicate to you which -- who the principal
23 suspect was?

24 A Lieutenant McDonald did, yes, sir.

25 Q Erin Hellman, is she an African-American?

1 A Yes, sir.

2 Q Kim Jeter?

3 A Yes, sir.

4 Q And the physical situation of the photo arrays,
5 can you describe that, please?

6 A As far as?

7 Q Where were you, sitting down, standing up?

8 A We were -- we were sitting down and I had the -- I
9 carry a black portfolio cover and the photo lineup
10 was located in there, of course turned upside down
11 where she couldn't see it until the time it was --
12 they were ready to look at it. And we were
13 sitting down in both their living rooms.

14 Q In what?

15 A Both of their living rooms, I believe, as well as
16 I can remember.

17 Q Were there other people present?

18 A No, sir.

19 Q And Ms. Hellman said she saw only, as the
20 bartender, that encounter with the person she
21 identified in the bar. She did not see the
22 shooting, I think ---

23 A Correct.

24 Q How about Ms. Jeter?

25 A She did not see the shooting.

1 Q Did she indicate to you where she was at the time
2 of the shooting?

3 A I believe she was inside the bar.

4 Q And did she describe to you an interaction with
5 and her viewing of the suspect, when she was
6 identifying Mr. Gaskins, inside the bar?

7 A No, sir.

8 Q That night?

9 A No, sir.

10 Q Okay. So, I mean, was the photo array, when
11 presented to Ms. Jeter, who ultimately told you
12 she knew Mr. Gaskins, I think she indicates on the
13 form that she knew by name and sight for about two
14 years?

15 A Yes.

16 Q Was she identifying the person known to her as Mr.
17 Gaskins or what were your instructions?

18 A She was to identify the person known to her as Mr.
19 Gaskins.

20 Q All right. So she was not there for identifying
21 whether or not a person at the bar known as John -
22 - she wasn't -- was she saying that John Gaskins
23 was there that night?

24 A I don't recollect.

25 Q All right. So all you can say is that when she

1 was shown this, she was identifying -- asked to
2 say, do see John Gaskins?

3 A Yes, sir.

4 Q Did you name him?

5 A No, sir.

6 Q So what were you asking her, do you know anybody
7 in this photo ---

8 A I believe she was a girlfriend of one of the
9 individuals.

10 Q All right.

11 A That was with Mr. Gaskins that night.

12 Q All right. Well, that's what I'm asking you.
13 What -- what were you told to ask and what did you
14 ask her? What was the purpose of this
15 identification?

16 A To identify Mr. Gaskins. I believe she had told
17 the investigators on scene that night that she had
18 known him by name and sight. And we were told to
19 go back out and talk to her.

20 Q All right. So ---

21 A And show her a photo lineup.

22 Q So when you put the photo lineup down on the
23 table, what did you ask her to do?

24 A I asked her to look at all the pictures in the
25 photo lineup and identify who she knew by name and

1 sight as Johnnie Gaskins.

2 Q All right. So there was never any effort to
3 identify -- she wasn't asked to identify the
4 person you saw at the club last night?

5 A No, sir.

6 Q Okay. Did either of these two give you a physical
7 description of Mr. Gaskins?

8 A No, sir, they did not.

9 Q When -- as they reviewed these photo arrays and
10 picked your subject out, did they -- did they
11 comment on any differences between the photo array
12 and Mr. Gaskins that they knew?

13 A No, sir.

14 Q Or the person they had seen?

15 A No, sir.

16 MR. MCCULLOCH: All right, thank you.

17 REDIRECT EXAMINATION

18 BY MS. MCDUFFIE:

19 Q Erin Hellman, when Mr. McCulloch asked you about
20 her race, are you sure what race she was?

21 A I'm not completely sure what race she was. It's
22 been -- it's been a while since I talked to her.

23 MS. MCDUFFIE: Nothing further.

24 THE COURT: You may step down, Sir.

25 (The witness leaves the witness stand.)

1 THE COURT: Yes, Mr. McCulloch.

2 MR. MCCULLOCH: Well, Your Honor, that -- I
3 guess we probably need, for the symmetry ---

4 THE COURT: That's half of it. We've got to
5 get the -- with the lay witnesses ---

6 MR. MCCULLOCH: It would be helpful to know
7 the race of Ms. Hellman. There is a body of case law -
8 --

9 THE COURT: Cross-racial identification ---

10 MR. MCCULLOCH: That's correct, Your Honor.

11 THE COURT: I don't know, you're not asking
12 me ---

13 MR. MCCULLOCH: No, I don't know either.

14 MR. MEADORS: Ms. Hellman is white. I talked
15 to her and she's not on trial so. So, I don't know
16 what the issue is ---

17 MR. MCCULLOCH: Well, the issue is cross-
18 racial identification and ---

19 MR. MEADORS: --- if he was asked that, Your
20 Honor. She's not on trial.

21 MR. MCCULLOCH: I know. I'm only asking,
22 Your Honor. We'll figure that one out tomorrow.

23 THE COURT: It's Greek to me. Anything
24 further?

25 MR. MCCULLOCH: Not today, Your Honor.

1 MS. MCDUFFIE: There are also two lineups
2 shown by Investigator Isenhoward.

3 MR. MCCULLOCH: Oh, I'm sorry.

4 THE COURT: What now?

5 MS. MCDUFFIE: There were two more lines up
6 with Investigator Isenhoward.

7 MR. MCCULLOCH: Sorry about that.

8 THE COURT: You're still under oath, sir.

9 DIRECT EXAMINATION

10 BY MS. MCDUFFIE:

11 Q Investigator Isenhoward, did you show some photo
12 lineups in this case?

13 A I did.

14 Q And did you show one to a Mr. Epsil Palmer?

15 A I did.

16 Q And I'm going to show you what's been marked as
17 State's Exhibit 9 for ID. Is that the lineup you
18 showed Mr. Palmer?

19 A Yes, it is.

20 Q And when did you show that to him?

21 A February the 13th of 2007.

22 Q And where did you show that to him?

23 A I believe at the Richland County Sheriff's
24 Department.

25 Q And did he also give a statement in this case?

1 A He did.

2 Q Was that lineup done at or around the time the
3 statement was given?

4 A It was done about the same time, yes.

5 Q And please describe to the Court the procedure in
6 which you showed Mr. Palmer this lineup.

7 A Basically I have a six pack photo array of
8 pictures, one picture in this case is a
9 photograph of Mr. Gaskins I showed him. Of course
10 we'd been talking about the incident and what
11 happened. I showed him the pictures and asked
12 and him if he recognized anyone. I don't say
13 anything else.

14 Q And what did he indicate?

15 A He indicated that he does. He identified the
16 picture of Mr. Gaskins. I numbered the pictures
17 and he said that it was -- he confirmed that it
18 was picture -- I numbered, it was number four.
19 That was the person he saw at the club that
20 night.

21 Q And did he circle and initial that?

22 A He did.

23 Q And did you suggest to him in any way who to pick
24 from that lineup?

25 A I didn't say anything to him.

1 Q And did you prepare this lineup or was it
2 prepared by someone else?

3 A I believe I prepared this lineup.

4 Q And please describe for the Court the measures
5 and procedures you use in preparing a photo
6 lineup.

7 A You select obviously a -- you have a target
8 photo. Then you have five additional photos
9 you're going to use in the photo array. Those
10 other photos, the filler photos, should be
11 consistent as far as race, you know, approximate
12 size, weight, hair length. And also you don't
13 want any outrageous clothing or anything to, I
14 guess, single out the suspect. You want the
15 lineup to be fair. And that's it.

16 Q And were you able to find five similar pictures
17 to Mr. Gaskins' picture?

18 A Yes.

19 Q And, again, which picture did Mr. Palmer
20 identify?

21 A The photo of Mr. Gaskins, number four.

22 Q And did he hesitate in any way when identifying
23 Mr. Gaskins?

24 A No.

25 Q And was anyone else present when this photo

1 lineup was shown?

2 A No.

3 Q And did you also have a chance to show a photo
4 lineup to Lamont Davis?

5 A I did.

6 Q And I'm going to show you State's 10 for ID.
7 When was that lineup shown to Mr. Davis?

8 A That was shown the day of the incident or
9 February the 5th, excuse me.

10 Q And where did you show Mr. Davis that lineup?

11 A Let me refer to my notes just to confirm. I
12 picked him up from the hospital and took him to
13 the Sheriff's office. I showed him the lineup at
14 the Sheriff's office.

15 Q And was anyone else present when that lineup was
16 shown?

17 A Just the two of us, yeah.

18 Q And again, describe to the Court the procedures
19 you used in showing Mr. Davis that lineup,
20 State's 10.

21 A Again, this is a different arrangement of photos.
22 This photo -- this lineup is in black and white
23 so in a slightly different form but it is one we
24 use at the Sheriff's office. We use a computer
25 system to determine similar photos. I examine

1 them myself, determine that they have like
2 characteristics, include the photo of the
3 suspect. It's a six pack array and it's shown to
4 the witness.

5 Again, we have been talking about the
6 incident so its context. I show him the group of
7 photos and asked him if he recognizes anyone. I
8 don't say anything more than that.

9 Q And did he indicate to you that he recognized
10 someone?

11 A He did. He picked the photograph of Mr. Gaskins.
12 It's photo one in this particular array of
13 photos. And he said that that was the man at the
14 club that night.

15 Q Involved in the shooting?

16 A Yes.

17 Q And did he hesitate in any way?

18 A No.

19 Q And did you suggest to him who to pick in any
20 way?

21 A No.

22 MS. MCDUFFIE: That's all from this witness,
23 Your Honor.

24 THE COURT: All right, Mr. McCulloch.

25 CROSS-EXAMINATION

1 BY MR. MCCULLOCH:

2 Q Investigator Isenhoward, the process -- these
3 photo array processes ---

4 THE COURT: Does your back hurt, Mr.
5 McCulloch?

6 MR. MCCULLOCH: Yes, sir.

7 THE COURT: I'll excuse you from standing up.
8 I know about your surgery. If it's bothering, sit
9 down.

10 MR. MCCULLOCH: I'll stretch it out.

11 THE COURT: Huh?

12 MR. MCCULLOCH: I'll stretch it out.

13 THE COURT: All right.

14 Q These two photo arrays were not recorded --
15 recorded by you?

16 A You mean audio/videotaped?

17 Q Right.

18 A No, they are not.

19 Q And these were conducted where?

20 A At the Sheriff's Department, Richland County
21 Sheriff's Department, the Criminal Investigative
22 Division.

23 Q And were these photos black and white. You said
24 ---

25 A One is black and white, the other is not, it's

1 color.

2 Q Can I see them real quick?

3 (Pause.)

4 Q State's Exhibit 9 is the Epsil Palmer photo
5 array. The in color is what you usually see and
6 the only person who is in camouflage here is the
7 suspect, is that correct, Mr. Gaskins?

8 A No, sir. Picture number five, the black male in
9 that photo is wearing a camouflage jacket as
10 well.

11 Q Well, it looks yellow in the front?

12 A That's -- I think you're talking about picture
13 number three. Number five it's a -- he's wearing
14 camouflage, a camouflage jacket.

15 Q Okay. During that photo process, I assume you
16 don't do anything to suggest anyone?

17 A No, sir.

18 Q But you do know who the suspect is?

19 A I do, yes.

20 Q The Epsil Palmer photo array was shown to Palmer
21 on the 7th, two days after the shooting?

22 A The photo array shown to Mr. Palmer was shown on
23 the 13th.

24 Q 13th, I'm sorry. About -- how about Mr. Davis?

25 A That was on the 5th.

1 Q So that was the morning after the shooting?

2 A Well, he was injured so he was at the hospital.

3 Q Right.

4 A I handled the scene and then when he was cleared
5 I picked him up and took him to the Sheriff's
6 office, it was later that morning.

7 Q Now, between the -- do you know how quickly the
8 Sheriff's Department issued press releases and
9 photographs of the suspect Mr. Gaskins?

10 A They -- there weren't any releases made until
11 that next day.

12 Q The 6th, the 5th?

13 A No, it would have been on the 5th but later on
14 the 5th. I couldn't tell you exactly what time,
15 you know, during the day that it was released,
16 but it would've -- wouldn't have been until then.

17 Q But your department circulated photographs of Mr.
18 Gaskins for all media, print and television, as
19 far as you know?

20 A Yes, sir, that's what prompted the call to the
21 Sheriff's office in reference to vehicles spoke
22 of earlier.

23 Q And it's pretty clear -- did you question Mr.
24 Palmer -- did you question Mr. Palmer who saw
25 this on the 13th, eight days after the incident,

1 whether or not he had seen any publicity?

2 A I asked him if he recognized any one. He
3 indicated that he did and he told me that it was
4 from the incident that night. He didn't
5 reference any television or anything like that.

6 Q Would it be important to you if his
7 identification was tainted at all by something
8 he'd seen in the media?

9 A Well, that's why I asked him the question.

10 Q All right. But you're asking -- you didn't ask
11 him if he has seen it on the news, did you?

12 A I asked him if he had recognized the picture and
13 when he pointed out, I asked him, where did he
14 recognize the photo from? He indicated that this
15 was the man that was shooting at the club.

16 Q All right. Again, did you ask him if he'd seen
17 it in the TV, on the TV?

18 A No, I didn't ask him that specifically.

19 Q Okay. Any reason?

20 A I felt, in my opinion, I covered it with the
21 question I did ask him.

22 Q Okay. Do either of these two individuals
23 indicate to you or did you question them on
24 whether they knew Mr. Gaskins prior to the 5th of
25 January?

1 A Huh?

2 Q These two?

3 A Yes. Mr. Palmer, I don't -- he describes the
4 altercation that night. He doesn't say anything
5 about the -- knowing him from, you know,
6 previously, that I recall. And the second
7 person, Mr. Davis, I believe -- I believe he may
8 have known him from the club or seen him around.
9 I don't recall specifically what he said at this
10 point.

11 Q All right. Mr. Davis -- I mean, you were the
12 principal investigator on the incident, is that
13 correct?

14 A That's correct.

15 Q So you were familiar with what opportunity these
16 prospective two witnesses would've had to see the
17 -- see Mr. Gaskins or to see a suspect?

18 A Yes.

19 Q Mr. Davis is outside when the shooting occurred
20 and provides -- earlier provided a statement that
21 he saw the shooting?

22 A Yes.

23 Q Mr. Palmer, did he see the shooting as well?

24 A He saw -- the incident took place prior to the
25 shooting, I believe, and he was actually

1 attempting to arrest another person when the
2 actual firing of the pistol took place. He
3 reported that his back was turned and he was
4 attempting to effect an arrest, I think, when the
5 shooting -- actual shooting happened.

6 Q So in his instance, the person was identified as
7 the person he saw in the club being escorted out
8 of the club, not the person doing the shooting?

9 A And going to the blue Impala, I believe. I
10 believe that's correct.

11 Q Okay. But not doing the shooting?

12 A Well, I mean, from what I gathered ---

13 THE COURT: The Affidavit said he shot at me.
14 I felt a burning sensation. I turned and fired back
15 at him. I'm not testifying for him but that's in the
16 record, I thought.

17 MR. MCCULLOCH: Well, that's part of the
18 problem is the language that's being redacted ---

19 THE COURT: Okay. Go ahead.

20 MR. MCCULLOCH: --- so.

21 Q Mr. Palmer said he saw the person that he was
22 identifying shooting at them or firing a pistol?

23 A Give me one second.

24 (Pause.)

25 A He says that he was shooting at us. Our backs

1 were turned.

2 Q All right. Backs turned, when he looked up the
3 car was driving away, shots fired, that's what he
4 said?

5 A Right.

6 Q So his identification again was of a person he
7 saw in the club being taken out?

8 A Going to the car and then, I believe -- the
9 person going to the car and then, of course he's
10 effecting the arrest or is attempting to and he
11 sees -- he knows the shooting took place. He
12 sees the car driving away. He's identifying the
13 man who went to the car.

14 MR. MCCULLOCH: All right. Thanks.

15 REDIRECT EXAMINATION

16 BY MS. MCDUFFIE:

17 Q Do you have a copy of Mr. Palmer's written
18 statement in front of you ---

19 A I do.

20 Q As you had said before, he describes seeing a
21 person who he identified going to the Chevy
22 Impala?

23 A Yes.

24 Q Trying to get in and struggling with the keys?

25 A Yes.

1 Q And then he says that they -- he was dealing with
2 another patron?

3 A Yes.

4 Q And you asked him the question, did you see the
5 man as he was shooting from the car? Please tell
6 the Court Mr. Palmer's response.

7 A No, I knew who it was, but I had to get behind
8 covers so I did not actually see him as he was
9 shooting. Like I said, we were all either on the
10 ground or had our backs to him. His friend --
11 his friend saw him though.

12 Q But he does indicate he knew who was doing the
13 shooting?

14 A Yes.

15 Q And the second line -- I'm sorry, the third line
16 from the bottom of the first page of the
17 statement, please start with, by the time I
18 looked up the suspect had pulled off.

19 A Let me find it. What number? Okay.
20 (Pause.)

21 Q By the time I looked up ---

22 MR. MCCULLOCH: Can I help? It is late in
23 the day, Your Honor. I beg your pardon. I guess I
24 object to the Solicitor giving quite that much
25 assistance.

1 Q Did the -- did Mr. Palmer indicate that the
2 shooting was coming from the same Impala ---

3 A Yes.

4 Q --- that he saw the ---

5 A Yes.

6 Q --- Defendant getting into?

7 MS. MCDUFFIE: No further questions, Your
8 Honor.

9 THE COURT: Anything further, Mr. McCulloch?

10 MR. MCCULLOCH: Not from this witness.

11 THE COURT: All right. You my step down,
12 sir.

13 THE WITNESS: Thank you.

14 (The witness leaves the witness stand.)

15 MS. MCDUFFIE: That's it.

16 THE COURT: Sergeant was it?

17 THE WITNESS: Yes, sir, it is.

18 THE COURT: Is it sergeant or lieutenant?

19 THE WITNESS: Sergeant.

20 THE COURT: All right. Anything further this
21 afternoon?

22 MR. MCCULLOCH: No, sir.

23 MR. MEADORS: See you in the morning at 10.

24 Thank you, Judge.

25 THE COURT: Once again, I think it would be

1 helpful. I don't know anything about John Adams, one
2 of the deceased, but at least where he lived, his
3 address, something like. Did he work somewhere, for
4 example? Also, Ms. Williams, and some brief
5 description of the others. I mean, where they lived
6 or something like that. If we're going to be here
7 seven or eight days with some jurors, let's make sure
8 we start off right.

9 MR. MEADORS: We've got down where she was
10 working ---

11 THE COURT: Okay.

12 MR. MEADORS: --- and all of that.

13 THE COURT: I will get it from you in the
14 morning. Y'all get a good night's sleep. See ya'll
15 tomorrow. I'll be here about 9 or 9:30. I told the
16 jury to come back at 10. I would suggest y'all be
17 here at 9:30.

18 MR. MEADORS: Yes, sir. Thank you, Judge.

19 MR. MCCULLOCH: Your Honor.

20 THE COURT: Yes, sir.

21 MR. MCCULLOCH: May Mr. Meadors and I
22 approach for a second?

23 THE COURT: Sure.

24 (WHEREUPON, a bench conference was held
25 off the record.)

1 (The Court was in recess.)

2 TUESDAY, OCTOBER 20, 2009:

3 THE BAILIFF: The jury panel is all present,
4 Your Honor.

5 THE COURT: Thank you, sir. Good morning and
6 welcome back, members of the jury panel.

7 PROSPECTIVE JUROR: Good morning.

8 THE COURT: I hope y'all had a pleasant and
9 restful. Or restful if not pleasant. Has it been
10 cold at your house too? I've been freezing for the
11 last couple of days. I thought maybe it was just me.

12 I told you a little bit about the case
13 yesterday. I'm going to sort of refresh your memory
14 as to what happened. It think you will recall that
15 Mr. Gaskins, whom you met, is charged with two counts
16 of murder, three counts of assault and battery with
17 intent to kill and possession of a gun during the
18 commission of a violent crime.

19 Now, I would like to back up a little bit and
20 tell you who the victims are in this case. And that's
21 why I was concerned yesterday, why I didn't try to
22 pick the jury. I want to make sure that all the
23 questions that I'm going to ask you, and it's going to
24 be a lot of them -- and I'll warn you, it's going to
25 be slow and sort of tedious. But I don't know any

1 other way to do it because it's too important to Mr.
2 Gaskins for me not to do it that way. And it's too
3 important to the victims for me not to do it that way.
4 So, I'll ask for your patience at the outset.

5 But one of the deceased victims was a
6 gentleman by the name of John Adams. And he lived at
7 [REDACTED] and he worked at Club 360.
8 That's where the incident -- location. That's where
9 the shooting took place.

10 Victim number two, I read from the indictment
11 yesterday, Shannavia Williams. I don't know if I'm
12 saying that correctly. Is that right?

13 MR. MEADORS: Yes, sir.

14 THE COURT: Ms. Williams lived at [REDACTED]
15 [REDACTED], and she worked at the
16 Pizza Hut on Broad River Road.

17 The third victim, Deirdre Houston, she was --
18 that's one count of assault and battery with intent to
19 kill. And I'm assuming she was shot, is that correct?

20 MR. MEADORS: Yes.

21 THE COURT: All right. Deirdre Houston, she
22 lives at [REDACTED] -- [REDACTED], [REDACTED]
23 and she also worked at the Pizza Hut on Bush River
24 Road.

25 MR. MEADORS: Your Honor, she is present in

1 the Courtroom.

2 THE COURT: Oh, I'm sorry. All right. Okay,
3 I'm going to ask you to stand up momentarily.

4 (Ms. Houston stands.)

5 THE COURT: You can sit down for right now.
6 Thank you, ma'am.

7 The fourth victim was Lamont Davis -- is
8 Lamont Davis and he resides a [REDACTED] [REDACTED] [REDACTED],
9 [REDACTED] [REDACTED] and he worked at the Club 360.

10 And the fifth, Quinten Harris lives at [REDACTED]-
11 [REDACTED], [REDACTED] [REDACTED] [REDACTED] [REDACTED] and he also worked at
12 Club 360.

13 Now, that sort of gives you an idea who are
14 the victims in this case. I thought that -- the
15 information was important enough for you to know at
16 the outset.

17 Now, I think I introduced Mr. Gaskins to you
18 and the lawyers involved. And now I have a series of
19 questions to ask you, some general preliminary
20 questions and some more detailed questions later on.

21 And I will tell you at the outset, at some
22 point in time there's going to be a question or two
23 that I'll get to that if you feel uncomfortable
24 answering from back there, I will invite you to come
25 down and speak with me privately, up here with the

1 court reporter. And lawyers will have to be involved.
2 But, you know, that's the way we do things here. So I
3 hope y'all understand that.

4 Now, I am going the read the list of
5 potential witnesses, members of the jury panel.
6 There's probably about 70 or 80 of them, okay. I'm
7 going to read the list and then read it again. I ask
8 that you listen carefully. If you're not sure about a
9 name, if it sounds like somebody you know, it doesn't
10 matter, there's no right or wrong answers.. We would
11 hope it's an honest answer of course.

12 So the question I am going to ask you about
13 these names, I'll read out, is the same I asked about
14 Mr. Gaskins yesterday. Are you related by blood or
15 connected by marriage or employment, are you a close
16 personal acquaintance of any of these names? So, I'll
17 ask you to pay attention and bear with me.

18 The first is Sydney Patrell Williams.

19 Is she (sic) here or present?

20 MS. MCDUFFIE: He is here -- he is not here,
21 Your Honor.

22 THE COURT: All right. He is a fact witness,
23 is that correct?

24 MS. MCDUFFIE: That's correct.

25 THE COURT: Lamont Davis, he's one of the

1 victims. He's not present, is he?

2 MR. MEADORS: No, sir.

3 THE COURT: And he worked at the Club 360.
4 Deirdre Houston who stood up a while ago. Ms. Houston
5 would you stand up?

6 (Ms. Houston stands.)

7 THE COURT: This is Ms. Houston. Thank you,
8 Ms. Houston.

9 Quinten Harris. Is Mr. Harris present?

10 (Ms. Harris stands.)

11 THE COURT: This is Quinten Harris. Thank
12 you, Mr. Harris.

13 Rosalyn Bradley Sykes, who's not present.
14 Christopher Lyles, Lindburgh Porterfield, Brandon
15 Moore, Kenneth Smalls, Erin Hellman ---

16 (Ms. Hellman stands.)

17 THE COURT: --- Kim Jeter. Oh, I'm sorry, are
18 you Ms. Hellman?

19 MS. HELLMAN: Yes, sir.

20 THE COURT: All right. Erin Hellman, thank
21 you, ma'am. Kim Jeter, Andreana Peak. Is that Ishaq?

22 MS. MCDUFFIE: Ishaq.

23 THE COURT: Ishaq. Did I say it right, Ishaq
24 Bolton? Ausha Allen, Epsil Palmer. It's almost, I
25 feel like, in the Old Testament.

1 (Laughter.)

2 THE COURT: Epsil Palmer, Ryan Dixon, Vancito
3 Watkins, Michael Pickney, Melinda Glover, Roger
4 Glover, Merritt Flood, Nicole Elder, Ava Young, Tamera
5 Barrett (sic), Steve Sims, Amanda Thompson, D.J.
6 Gitlow, Travers Anderson, Tashauna Cleveland,
7 Courtner Huyett, Angela Fowler, Jessica Downs, Susan
8 Fowler, Fernando Johnson, Kimberely Lackland, Tony
9 Wells, Allan Dreher, Valencio Goodwin, Clarence
10 Burden, Marcus Johnson, Mitchell Belton, Wallace
11 Patty, Delvin Walker, Courtney Johnson.

12 Is that Tonxi?

13 MS. GILLARD: Tonxi.

14 THE COURT: Tonxi?

15 MS. GILLARD: Tonxi.

16 THE COURT: Tonxi, all right. Tonxi Gilyard
17 (sic) -- Gillard, G-i-l-l-a-r-d. Fredrick Cartrell --
18 is that -- that's Gartrell, G-A-T-R-E-L (sic), is that
19 correct? All right, Fredrick Gartrell, Shawna
20 Williams ---

21 (Ms. Williams stands.)

22 THE COURT: --- Shanelle Whack. You're Ms.
23 Whack?

24 MS. WILLIAMS: Williams.

25 THE COURT: Ms. Williams, okay. That is --

1 you're Shawna Williams, is that correct?

2 MS. WILLIAMS: Yes.

3 THE COURT: All right, thank you. Shanelle
4 Whack, Robert Jones. Chief John Ewing of the
5 Bishopville Police Department. Trooper John Lamb of
6 the Fairfield County Sheriff's Department. That'd be
7 deputy?

8 MS. MCDUFFIE: He was a Highway Patrolman,
9 Your Honor.

10 THE COURT: All right. And he is with the
11 Fairfield -- he's not with Fairfield County?

12 MS. MCDUFFIE: He's with the Highway
13 Department assigned to Fairfield County.

14 THE COURT: Okay. All right, Trooper John
15 Lamb with the South Carolina Highway Patrol. Dr. Clay
16 Nichols from Palmetto Richland Memorial Hospital.

17 Chief Scott Ward, the Perry Police
18 Department? Where's Perry?

19 MS. MCDUFFIE: It's in Aiken County, Your
20 Honor.

21 THE COURT: It's in Aiken County?

22 MS. MCDUFFIE: Yes sir, Your Honor.

23 THE COURT: All right. Sergeant Kevin
24 Isenhoward with the Richland County Sheriff's
25 Department. S. Mims, is that a man or a woman?

1 MS. MCDUFFIE: It's a man, Your Honor.

2 THE COURT: Huh?

3 MS. MCDUFFIE: It's a man.

4 THE COURT: Well what's his first name, do
5 you know?

6 MS. MCDUFFIE: Stephen (phonetic).

7 THE COURT: Stephen, Stephen Mims with the
8 South Carolina -- from the Richland County Sheriff's
9 Department. All right, Deputy Snuffer?

10 MS. MCDUFFIE: It's Robert.

11 THE COURT: Robert Snuffer from the Richland
12 County Sheriff's Department. Stan Richards from the
13 Richland County Sheriff's Department. Henry Owens
14 from the Richland County Sheriff's Department.
15 Lieutenant Tom Amara?

16 MR. MEADORS: Amara.

17 THE COURT: Amara from the Richland County
18 Sheriff's Department. Investigator Brian Gwyn with
19 the Richland County Sheriff's Department. Sergeant Ed
20 Conners with the Richland County Sheriff's Department.
21 Deputy Norman Fisher from the Richland County
22 Sheriff's Department. Deputy Austin Harvel or Harvel,
23 H-a-r-v-e-l, from the Richland County Sheriff's
24 Department. Deputy William Sullivan from the Richland
25 County Sheriff's Department. Deputy Surgram

1 (phonetic) or Surman (phonetic).

2 MS. MCDUFFIE: Leah Sugarman.

3 THE COURT: Sugarman?

4 MS. MCDUFFIE: That's correct.

5 THE COURT: L-e-a-h?

6 MS. MCDUFFIE: Correct.

7 THE COURT: Leah Sugarman from the Richland
8 County Sheriff's Department. Deputy Means, is he a
9 man or a woman?

10 MS. MCDUFFIE: Joe Means.

11 THE COURT: Deputy Joe Means of the Richland
12 County Sheriff's Department. Investigator Travis
13 Holdorf from the Richland County Sheriff's Department.
14 Investigator Robert Oates from the Richland County
15 Sheriff's Department. Zane Padgett from the Richland
16 County Sheriff's Department. Investigator Harold
17 Bouknight or Bouknight from the Richland County
18 Sheriff's Department.

19 Lieutenant Anna Elsey -- Elsey?

20 MR. MEADORS: Elsey.

21 THE COURT: Elsey from the Richland County
22 Sheriff's Department. Investigator Trisha Odom of the
23 Richland County Sheriff's Department. John Barron of
24 the Richland County Sheriff's Department. David
25 Collins from the Richland County Sheriff's Department.

1 Tena Goff of the Richland County Sheriff's Department.
2 Curtis Burnett of the Richland County Sheriff's
3 Department. William Cedarstaff of the Richland County
4 Sheriff's Department. Brian Metz of the Richland
5 County Sheriff's Department. Joy Delatorre of the
6 Richland County Sheriff's Department. Investigator
7 Christopher Lindler of the Richland County Sheriff's
8 Department.

9 Michael Moskal?

10 MS. MCDUFFIE: Moskal.

11 THE COURT: Moskal of the State Law
12 Enforcement Division, SLED. Dustin Smith from the
13 State Law Enforcement Division. Nikki Perry from the
14 State Law Enforcement Division. Christine Benson from
15 the Richland County Coroner's Office. Amy Stephens
16 from the State Law Enforcement Division. Brandon
17 Williams of the State Law Enforcement Division.
18 Marilyn Fitzpatrick of SLED. Lisa McReynolds from
19 SLED. Karonda Williams from SLED. Patricia Crooks
20 from SLED. Rose Wessinger from SLED.

21 Dr. Terry Moslander -- Moslander?

22 MS. MCDUFFIE: That's correct.

23 THE COURT: From Palmetto Richland Memorial
24 Hospital. Dr. Brent Mefford from Palmetto Richland
25 Memorial Hospital. Dr. Stephen A. Fann, F-a-n-n, from

1 the Palmetto Richland Memorial Hosptial.

2 And Investigator Bill Tabor (phonetic) -- is
3 that -- is he from the Sheriff's Department also?

4 MS. MCDUFFIE: From the Solicitor's Office,
5 Your Honor.

6 THE COURT: Solicitor's office, that's right,
7 Bill Tabor from the Solicitor's Office.

8 A lot of names. Now, once again the question
9 is, related by blood or connected by marriage or
10 employment or a close personal acquaintance of any of
11 these people I called out, okay?

12 Now, I hate to do this but I think I need to
13 go back through it again. Y'all understand, don't
14 you? Y'all going to bear with me?

15 PROSPECTIVE JURORS: (Affirmative response.)

16 THE COURT: I appreciate it. I'll try to be
17 a little bit quicker.

18 All right. Sydney Patrell Williams, Lamont
19 Davis, Deirdre Houston, Quinten Harris, Rosalyn Sykes,
20 Christopher Lyles, Lindburgh Porterfield, Brandon
21 Moore, Kenneth Smalls, Erin Hellman, Kim Jeter,
22 Andreana Peak, Ishaq Bolton, Ausha Allen, Epsil
23 Palmer, Ryan Dixon, Vancito Watkins, Michael Pickney,
24 Melinda Glover, Roger Glover, Merritt Flood, Nicole
25 Elder, Ava Young, Tamera Barrett (sic), Steve Sims,

1 Amanda Thompson, D. J. Gitlow, Travers -- Travers
2 Anderson, Tashauna Cleveland, Courtney Huiett, Angela
3 Fowler, Jessica Downs, Susan Fowler, Fernando Johnson,
4 Kimberely Michelle Lackland, Tony Wells, Allan Dreher,
5 Valencio Goodwin, Clarence Burden, Marcus Johnson,
6 Mitchell Belton, Wallace Patty, Delvin Walker,
7 Courtney Johnson, Tonxi Gillyard (sic) -- Gillard, G-
8 i-l-l-a-r-d. Fredrick Gartrell -- Gartrell, Shawna
9 Williams, Shanelle Whack, Robert Jones.

10 Chief John Ewing of the Bishopville Police
11 Department. Trooper John Lamb from the Highway
12 Patrol. Dr. Clay Nichols from Palmetto Richland
13 Memorial Hospital. Chief Scott Ward from the Perry
14 Police Department. Kevin Isenhoward from the Richland
15 County Sheriff's Department. Stephens -- Stephen Mims
16 from the Richland County Sheriff's Department. Robert
17 Snuffer from the Richland County Sheriff's Department.
18 Stan Richards from the Richland County Sheriff's
19 Department. Henry Owens from the Richland County
20 Sheriff's Department. Lieutenant Tom Amara from the
21 Richland County Sheriff's Department. Investigator
22 Brian Gwyn from the Richland County Sheriff's
23 Department. Sergeant Ed Connors with Richland County.
24 Sergeant Matt Ellis with Richland County. Deputy
25 Norman Fisher Richland County. Deputy Austin Richland

1 County. Deputy William Sullivan Richland County.
2 Deputy Leah Sugarman from Richland County. Deputy Joe
3 Means from Richland County. Investigator Travis
4 Holdorf from Richland County. Investigator Robert
5 Oates from Richland County. Zane Padgett from
6 Richland County. Investigator Harold Bouknight from
7 Richland County. Lieutenant Anna Elsey from Richland
8 County. Investigator Trisha Odom from Richland
9 County. John Barron from Richland County. David
10 Collins from Richland County. Tena Goff from Richland
11 County. Curtis Burnett from Richland County. William
12 Cedarstaff from Richland County. Brian Metz from
13 Richland County. Joy Delatorre from Richland County.
14 Investigator Christopher Lindler from Richland County.
15 Michael Moskal from SLED. Dustin Smith from
16 SLED. Nikki Perry from SLED. Christine Benson from
17 the Coroner's Office. Amy Stephens from SLED.
18 Brandon Williams from SLED. Marilyn Fitzpatrick from
19 SLED. Lisa McReynolds from SLED. Karonda Williams
20 from SLED. Patricia Crooks from SLED. Rose Wessinger
21 from SLED.
22 Dr. Terry Moslander from Palmetto Richland
23 Memorial. Dr. Brent Mefford from Palmetto Richland
24 Memorial. Dr. Stephen A. Fann from the Palmetto
25 Richland Memorial.

1 And Investigator Bill Tabor from the Richland
2 County Solicitor's Office.

3 Now, if you think, any of those names I've
4 called out, you know or have any reason to believe
5 you've worked with or your children or a member of the
6 same cub scout group of something like that, please
7 stand. Anybody recognize any of those names I need to
8 ask you stand up, all right.

9 (Jury panel members stand.)

10 All right, your juror number, please, sir.

11 PROSPECTIVE JUROR: 1-9-2.

12 THE COURT: 1-9-2.

13 PROSPECTIVE JUROR: Uh-huh.

14 THE COURT: And who on that list do you think
15 you recognize?

16 PROSPECTIVE JUROR: Bill Tabor.

17 THE COURT: Bill Tabor. And how do you know
18 Mr. Tabor?

19 PROSPECTIVE JUROR: He's my neighbor.

20 THE COURT: Okay. And how long has he been
21 your neighbor?

22 PROSPECTIVE JUROR: Well, I've known him for
23 about 40 years.

24 THE COURT: 40 years, okay. The fact that
25 you've known Bill Tabor, he's your neighbor, you've

1 known him for 40 years, would that or could that
2 affect your ability to be a fair and impartial juror
3 in the trial of this case?

4 PROSPECTIVE JUROR: No, sir.

5 THE COURT: You're sure about that?

6 PROSPECTIVE JUROR: Yeah.

7 THE COURT: All right. Thank you, sir.

8 Your number, please, ma'am.

9 PROSPECTIVE JUROR: 256.

10 THE COURT: 256. And who do you know off the
11 list?

12 PROSPECTIVE JUROR: I believe you said a
13 Robert Jones?

14 THE COURT: Ma'am?

15 PROSPECTIVE JUROR: Robert Jones.

16 THE COURT: Robert Jones. Did I call a
17 Robert Jones? Is there a Robert Jones on the list, I
18 don't know? Robert Jones, Mr. Jones is a fact witness?

19 MS. MCDUFFIE: That's correct, Your Honor.

20 THE COURT: And where does he live, any idea?

21 MS. MCDUFFIE: He lived -- at the time he was
22 off the Broad River Road area.

23 THE COURT: He was off ---

24 PROSPECTIVE JUROR: Oh, no, it was somebody
25 else ---

1 THE COURT: All right, somebody else. All
2 right, thank you.

3 Yes, ma'am, your number, please.

4 PROSPECTIVE JUROR: 177.

5 THE COURT: Yes, ma'am. Now who from that
6 list do you think you know?

7 PROSPECTIVE JUROR: Dr. Clay Nichols.

8 THE COURT: Doctor who?

9 PROSPECTIVE JUROR: Clay Nichols.

10 THE COURT: Okay, Clay Nichols. Are you his
11 patient or you work with him or what?

12 PROSPECTIVE JUROR: We work together.

13 THE COURT: You work together at Palmetto
14 Richland Memorial?

15 PROSPECTIVE JUROR: I don't really know him
16 or have any direct contact with him but he works in my
17 department.

18 THE COURT: You work there too?

19 PROSPECTIVE JUROR: Yeah.

20 THE COURT: The fact that you work in the
21 capacity you described with Dr. Nichols, would that or
22 could that affect your ability to be a fair and
23 impartial juror in the trial of this case?

24 PROSPECTIVE JUROR: No, sir.

25 THE COURT: Are you sure about that?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: All right. Thank you, ma'am.

3 Now, was any member of this jury panel a
4 member of the grand jury here in Richland County, the
5 grand jury, in the last three years?

6 (There was no response.)

7 THE COURT: Now, has any member jury panel
8 formed or expressed any opinion about this case or as
9 to the guilt or innocence of Johnnie Gaskins?

10 If so, please stand.

11 (There was no response.)

12 THE COURT: Is any member of the jury panel
13 aware of any bias or prejudice in connection with this
14 case or the -- or any of the parties thereto? I'll
15 repeat that. Any member of this jury panel aware of
16 any bias or prejudice in connection with this case or
17 any of the parties hereto? The parties would be Mr.
18 Gaskins as well as the victims.

19 If so, please stand.

20 (There was no response.)

21 THE COURT: Does any member of this jury
22 panel know of any reason why they could not give both
23 the State and the Defendant a fair and impair trial in
24 this case?

25 If so, please stand.

1 (There was no response.)

2 THE COURT: Any reason you feel you could not
3 be a fair juror in this case? And I told you enough
4 about it to give you an idea. But any reason you
5 could not be a fair juror in this case, please stand.

6 (There was no response.)

7 THE COURT: Now, I have another list of
8 questions to ask you and will ask you to continue to
9 be patient.

10 Now, this is one of these questions I
11 mentioned to you earlier. They're sort of sensitive.
12 And I will invite you to come down and speak to me
13 privately if you fall in this category.

14 Has any member of the jury panel or any
15 member of their family ever been a victim of a crime
16 of violence?

17 If so, please stand.

18 (There was no response.)

19 THE COURT: I'm sure some of you -- some of
20 you would have had to. So I'll ask the question
21 again. Has any member of the jury panel or a member
22 of your family ever been the victim of a crime of
23 violence?

24 If so, I want to ask you to form a line to
25 your left, my right and I'll invite you to come down

1 and talk to me privately.

2 (Jury panel members stand.)

3 THE COURT: Any member of the panel or member
4 of your family has been the victim of a crime of
5 violence? That would be like a burglary or an assault
6 or robbery or something like that, okay.

7 THE CLERK: Number 177.

8 THE COURT: All right. Are you nervous or
9 something?

10 PROSPECTIVE JUROR: A little.

11 THE COURT: A little nervous. Yes, ma'am,
12 was it you or a family member?

13 PROSPECTIVE JUROR: No, my dad.

14 THE COURT: Your dad. How long ago was it?

15 PROSPECTIVE JUROR: Let me think, 80's?

16 THE COURT: What happened?

17 PROSPECTIVE JUROR: He was assaulted in New
18 York.

19 THE COURT: He was assaulted in New York,
20 Brooklyn?

21 THE DEFENDANT: No, in Manhattan.

22 THE COURT: In Manhattan?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Was he in the hospital, was he --
25 he was okay?

1 PROSPECTIVE JUROR: Well, he's gone now but
2 back then he survived.

3 THE COURT: Okay, he survived. So the fact
4 that your father was assaulted in Brooklyn (sic) ---

5 PROSPECTIVE JUROR: No, Manhattan.

6 THE COURT: --- in the 80's, would that or
7 could that affect your ability to be a fair juror in
8 this case?

9 PROSPECTIVE JUROR: I don't think so.

10 THE COURT: All right, I don't think so
11 either. Thank you, ma'am.

12 THE CLERK: Number 85,

13 THE COURT: Yes, sir, come on up.

14 (Complied.)

15 THE COURT: I've seen you somewhere before,
16 what's your name?

17 PROSPECTIVE JUROR: Ronnie Frazier.

18 THE COURT: All right. And you number, Mr.
19 Frazier?

20 PROSPECTIVE JUROR: 85.

21 THE COURT: 85. Was it you or a family
22 member?

23 PROSPECTIVE JUROR: It was me.

24 THE COURT: How long was it?

25 PROSPECTIVE JUROR: About four years ago.

1 THE COURT: And what happened.

2 PROSPECTIVE JUROR: I picked up two
3 passengers ---

4 THE COURT: You a cabby or something?

5 PROSPECTIVE JUROR: Yeah.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR: One pistol whipped me and
8 the other strong armed me.

9 THE COURT: Okay. And that was four years
10 ago you said?

11 PROSPECTIVE JUROR: (Affirmative response.)

12 THE COURT: Okay. And would that experience
13 affect your ability to be a fair juror in this case?

14 PROSPECTIVE JUROR: I just know what pain I
15 was in.

16 THE COURT: What now?

17 PROSPECTIVE JUROR: I don't see where it
18 could but then again, after experiencing it so ---

19 THE COURT: I know but could you lay that
20 aside and be a fair juror and judge this man fairly,
21 the witnesses and all that, with an open mind? Do you
22 think it would affect your ability to be a fair ---

23 PROSPECTIVE JUROR: It might.

24 THE COURT: Okay. That's fine. That's all I
25 need to know. What's your number again?

1 PROSPECTIVE JUROR: 85.

2 THE COURT: Okay. Go have a seat in the back
3 of the courtroom.

4 PROSPECTIVE JUROR: Thank you.

5 THE COURT: Thank you, sir.

6 THE CLERK: Number 294.

7 THE COURT: Come on. Come on up a little
8 bit.

9 (Complied.)

10 THE COURT: Yes, sir, 294. Was it you or a
11 family member?

12 PROSPECTIVE JUROR: A family member.

13 THE COURT: Who was the family member?

14 PROSPECTIVE JUROR: My brother.

15 THE COURT: How long ago was it?

16 PROSPECTIVE JUROR: It was about seven years
17 ago.

18 THE COURT: And what exactly happened?

19 PROSPECTIVE JUROR: He was ---

20 THE COURT: Uh-huh.

21 PROSPECTIVE JUROR: --- different drugs and a
22 guy tried to rob him.

23 THE COURT: All right. Did he survive?

24 PROSPECTIVE JUROR: Yeah, he survived.

25 THE COURT: And he's okay now?

1 PROSPECTIVE JUROR: Right.

2 THE COURT: The fact that that happened to
3 your brother seven years ago, would that or could that
4 affect your ability to be a fair juror in this case?

5 PROSPECTIVE JUROR: Sort of because I kind of
6 like, you know, dealt with that and I was kind of
7 angry about that.

8 THE COURT: I understand.

9 PROSPECTIVE JUROR: He got shot.

10 THE COURT: That's why I brought you up here.

11 PROSPECTIVE JUROR: And I was mad about the
12 guy who did it.

13 THE COURT: I'll tell you what, I'll take you
14 off this jury.

15 PROSPECTIVE JUROR: Okay.

16 THE COURT: Go sit in the back of the
17 courtroom. His number again?

18 MR. MCCULLOCH: 294.

19 THE COURT: All right.

20 THE CLERK: Number 74.

21 PROSPECTIVE JUROR: 74.

22 THE COURT: You look nervous, come on.

23 PROSPECTIVE JUROR: I am.

24 THE COURT: So am I, so we're even. Was it
25 you or family member?

1 PROSPECTIVE JUROR: It was me.

2 THE COURT: How long ago was it?

3 PROSPECTIVE JUROR: Actually it's been about
4 20 years ago.

5 THE COURT: 20 years ago, and what happened
6 exactly?

7 PROSPECTIVE JUROR: I was hassled.

8 THE COURT: You were hassled?

9 PROSPECTIVE JUROR: I was walking, it was
10 early in the morning and he followed me ---

11 THE COURT: Okay.

12 PROSPECTIVE JUROR: --- two or three blocks
13 and was trying to grab me ---

14 THE COURT: An attempted kidnapping or
15 something?

16 PROSPECTIVE JUROR: Yeah. He looks exactly
17 like the guy.

18 THE COURT: Oh, he looks exactly like the
19 Defendant?

20 PROSPECTIVE JUROR: Yeah, when he stood up I
21 went (indicating).

22 THE COURT: I think I will take you off this
23 case, okay.

24 MR. MCCULLOCH: That will be good.

25 THE COURT: Go have a seat in the back of the

1 courtroom.

2 PROSPECTIVE JUROR: Thank you.

3 MR. MCCULLOCH: Thank you, Your Honor.

4 THE CLERK: Number 265.

5 THE COURT: 265. Come on up here, sir.

6 (Complied.)

7 THE COURT: Was it ---

8 PROSPECTIVE JUROR: It is ---

9 THE COURT: Let me ask the question?

10 PROSPECTIVE JUROR: Sure.

11 THE COURT: Was it you or a family member?

12 PROSPECTIVE JUROR: Family member.

13 THE COURT: Who was the family member?

14 PROSPECTIVE JUROR: My son.

15 THE COURT: How long ago was it?

16 PROSPECTIVE JUROR: It was in the spring --
17 winter of 2008.

18 THE COURT: Okay. Was he a student or
19 something?

20 PROSPECTIVE JUROR: He was home from school
21 working. He was accosted. He was walking with some
22 co-workers back to their apartment after work. It was
23 late at ---

24 THE COURT: Was that here in Columbia?

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR: It was late at night and
3 he was -- they were ---

4 THE COURT: A robbery?

5 PROSPECTIVE JUROR: Right. They were accosted
6 and they were held at gunpoint. Nobody got hurt but.

7 THE COURT: Okay. How long ago was this
8 again?

9 PROSPECTIVE JUROR: Spring of 2008.

10 THE COURT: Okay. Would that or could that
11 experience with your son affect your ability to be a
12 fair juror in this case?

13 PROSPECTIVE JUROR: I don't think so.

14 THE COURT: You're sure about that?

15 PROSPECTIVE JUROR: Yeah.

16 THE COURT: Okay, just need to ask you. Thank
17 you, sir. You can have a seat.

18 THE CLERK: Number 189.

19 THE COURT: Good morning.

20 PROSPECTIVE JUROR: Morning.

21 THE COURT: Come on up a little.

22 PROSPECTIVE JUROR: Okay.

23 (Complied.)

24 THE COURT: 189. Was it you or a family
25 member?

1 PROSPECTIVE JUROR: Both.

2 THE COURT: Okay. You -- who was the family
3 member?

4 PROSPECTIVE JUROR: My brother. My brother
5 was killed in a hit and run car accident.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR: In 2001.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR: That's the family member.
10 Me, I was arrested and held in custody for assault in
11 '99.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR: Just for a few hours and
14 the charges were dropped.

15 THE COURT: Okay. Would those two
16 experiences, your arrest, first of all that was
17 dropped, and your brother's unfortunate accident,
18 would those or could those affect your ability to be a
19 fair juror in this case?

20 PROSPECTIVE JUROR: If one of the victims was
21 a hit and run, yes.

22 THE COURT: No, no, it's not that ---

23 PROSPECTIVE JUROR: Then, no.

24 THE COURT: So you could be a fair juror?

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: Okay. Thank you, ma'am.

2 PROSPECTIVE JUROR: Thank you.

3 THE CLERK: Number 169.

4 THE COURT: Good morning. Come on up a
5 little bit. I'm not going to hurt you.

6 (Complied.)

7 THE COURT: It's all right. Was it you or a
8 family member?

9 PROSPECTIVE JUROR: Me.

10 THE COURT: How long ago was it?

11 PROSPECTIVE JUROR: 10 years.

12 THE COURT: What happened?

13 PROSPECTIVE JUROR: I was robbed coming from
14 work by two gentlemen.

15 THE COURT: Okay. You use that term loosely,
16 gentlemen, don't you?

17 PROSPECTIVE JUROR: Yes, sir.

18 THE COURT: Were you hurt at all?

19 PROSPECTIVE JUROR: No, sir, not physically.

20 THE COURT: How long was it?

21 PROSPECTIVE JUROR: 10 years.

22 THE COURT: About 10 years?

23 PROSPECTIVE JUROR: Yes, sir.

24 THE COURT: Would that experience or could
25 that affect your ability to be a fair juror in this

1 case?

2 PROSPECTIVE JUROR: It could.

3 THE COURT: It could?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Okay. Thank you, ma'am. Go have
6 to seat in the back of the courtroom. What number was
7 she again?

8 MR. MEADORS: 169.

9 THE COURT: Yes, ma'am.

10 THE CLERK: Number 248.

11 THE COURT: Yes, come on up 248.

12 (Complied.)

13 THE COURT: Are you nervous?

14 PROSPECTIVE JUROR: A little bit.

15 THE COURT: Come on up a little bit more.

16 I'm not going to hurt you.

17 (Complied.)

18 THE COURT: That's better. And was it you or
19 a family member?

20 PROSPECTIVE JUROR: Myself.

21 THE COURT: Yourself. How long ago was it?

22 PROSPECTIVE JUROR: In '02.

23 THE COURT: In '02, what exactly happened?

24 PROSPECTIVE JUROR: A man tried to strangle

25 me.

1 THE COURT: Oh, I'm sorry to hear that. Was
2 he arrested or anything like that?

3 PROSPECTIVE JUROR: No. The restaurant owner
4 stopped him and then I put restraining order ---

5 THE COURT: Okay. How long ago was it?

6 PROSPECTIVE JUROR: '02.

7 THE COURT: Okay. Would that experience or
8 could that affect your ability to be a fair juror in
9 this case?

10 PROSPECTIVE JUROR: I don't think so.

11 THE COURT: Okay. Thank you, ma'am.

12 (WHEREUPON, a bench conference was held
13 off the record, in the presence of the jury
14 panel, but out of the hearing of the jury
15 panel.)

16 THE COURT: Yes, ma'am.

17 (Pause.)

18 THE COURT: All right, give me your juror
19 number again.

20 PROSPECTIVE JUROR: 74.

21 THE COURT: Out of an abundance of caution, I
22 need to ask you a question. What you told me a minute
23 ago, you haven't mentioned to anybody else on the
24 panel?

25 PROSPECTIVE JUROR: No.

1 THE COURT: Okay, that's fine, thank you.
2 That's fine, thank you, ma'am.

3 PROSPECTIVE JUROR: Sure.

4 THE COURT: All right. And this is another
5 question, the first two out of the box. Has any
6 member of this jury panel or a member of their family
7 very been charged with or convicted of a crime of
8 violence. That's even more sensitive than the first
9 but I've got to ask it.

10 So, has any member of the jury panel or a
11 member of their family ever been charged or convicted
12 of a crime of violence?

13 If so, please stand. Now since the general
14 question Monday is like if you've had a conviction
15 over a year, that should take care of that. If you
16 stood up, come around and you can talk to me
17 privately.

18 Anybody else fall in that category, I've got
19 to ask you to stand up. You may not like it but
20 you've got to chitchat with me little bit.

21 All right, come on, gentlemen -- ladies.

22 You don't need to come back up because we
23 covered yours. You just have a seat.

24 Yes, ma'am.

25 THE CLERK: Number 45.

1 THE COURT: Good morning. Come on up, number
2 45.

3 (Complied.)

4 PROSPECTIVE JUROR: It was my son.

5 THE COURT: Your son?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: How long ago was it?

8 PROSPECTIVE JUROR: A year and a half ago.

9 THE COURT: A year and a half ago?

10 PROSPECTIVE JUROR: Uh-huh.

11 THE COURT: How old is your son?

12 PROSPECTIVE JUROR: 17.

13 THE COURT: 17, and what were the charges?

14 PROSPECTIVE JUROR: Burglary.

15 THE COURT: Burglary.

16 PROSPECTIVE JUROR: Second degree.

17 THE COURT: Okay. Burglary, second degree,
18 okay. Now, would that or could that affect your
19 ability to be a fair juror in this case?

20 PROSPECTIVE JUROR: No.

21 THE COURT: Okay, thank you.

22 PROSPECTIVE JUROR: Thank you.

23 THE COURT: I half-way covered this but I'll
24 read it again. Is any member of the jury panel or
25 member of their immediate family related by blood or

1 marriage or a close personal friend or acquaintance of
2 Joe McCulloch, Kathy Schillaci -- Schillaci?

3 MS. SCHILLACI: Schillaci.

4 THE COURT: Schillaci, yeah, Schillaci or any
5 employee of the law office of Joseph M. McCulloch?

6 If so, please stand.

7 (There was no response.)

8 THE COURT: All right. Now the other side of
9 that question, is any member of the jury panel or a
10 member of their immediate family, related by blood or
11 marriage or a close personal friend or acquaintance of
12 Warren B. Giese, Barney Giese, our Solicitor, John P.
13 Meadors, Joanna McDuffie or any employee of the Fifth
14 Circuit Solicitor's Office?

15 If so, please stand. Any of y'all married
16 somebody in the Solicitor's Office, y'all live near
17 them or neighbors or anything like that.

18 (Jury panel member stands.)

19 THE COURT: You feel comfortable talking from
20 there?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: All right, what's your number?

23 PROSPECTIVE JUROR: 193, Judge.

24 THE COURT: 193 and who -- you married
25 somebody in the Solicitor's Office?

1 PROSPECTIVE JUROR: No, sir. Mr. Meadors and
2 I, our sons played on a soccer team together a few
3 years ago.

4 THE COURT: Did y'all win?

5 PROSPECTIVE JUROR: Some. Ones we didn't
6 win, Judge, we came in second.

7 THE COURT: Okay, that's good. And so you've
8 known Mr. Meadors from that -- for that reason for
9 about 10 years or something like that maybe?

10 PROSPECTIVE JUROR: Probably a little less
11 that than but just from around, yes, sir.

12 THE COURT: Okay. The fact that your sons
13 played on the same soccer team and you won some and
14 you lost some, would that or could that affect your
15 ability to be a fair juror in the trial of this case?

16 PROSPECTIVE JUROR: No, sir.

17 THE COURT: All right. Thank you, sir.

18 PROSPECTIVE JUROR: Let me also state that I
19 also know Mr. McCulloch just from around practicing
20 law ---

21 THE COURT: All right, okay.

22 MR. MCCULLOCH: Not bars just ---

23 (Laughter.)

24 PROSPECTIVE JUROR: Practicing law.

25 THE COURT: Beg your pardon?

1 PROSPECTIVE JUROR: Just from around
2 practicing law.

3 THE COURT: Okay, just from practicing law.
4 He's a member of the Bar is what he was trying to say?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Would that or could that affect
7 your ability to be a fair juror?

8 PROSPECTIVE JUROR: No, sir.

9 THE COURT: All right. Now, are you or any
10 member of your family employed by any law enforcement
11 agency? You or any member of your family employed by
12 any law enforcement agency? That would be the State
13 Police, the Sheriff's Department, SLED, FBI, INTERPOL
14 and all that other stuff.

15 If so, please stand. You or a member of your
16 family employed by any law enforcement agency? If so,
17 please stand.

18 (Jury panel members stand.)

19 THE COURT: Yes, ma'am, on the second row.
20 Your number, please.

21 PROSPECTIVE JUROR: 129.

22 THE COURT: 129. Is it you or a family
23 member?

24 PROSPECTIVE JUROR: Family member.

25 THE COURT: Who is the family member?

1 PROSPECTIVE JUROR: My brother-in-law.

2 THE COURT: Your brother-in-law and where is
3 he employed?

4 PROSPECTIVE JUROR: D O T.

5 THE COURT: City where?

6 PROSPECTIVE JUROR: Department of
7 Transportation.

8 THE COURT: Oh, Department of Transportation.
9 How long has he been so employed?

10 PROSPECTIVE JUROR: I would say round 30
11 years.

12 THE COURT: All right. The fact that your
13 brother-in-law works for the Department of Public
14 Safety (sic), would that or could that affect your
15 ability to be a fair juror in the trial of this case?

16 PROSPECTIVE JUROR: No.

17 THE COURT: Thank you, ma'am.
18 Yes, sir, your number, please.

19 PROSPECTIVE JUROR: 5.

20 THE COURT: Number 5?

21 PROSPECTIVE JUROR: Number 5.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR: I'm employed by the
24 Executive Office for the United States Attorneys,
25 U. S. Department of Justice.

1 THE COURT: Well, you know the people of this
2 state never thought very much of the federal
3 government, so we'll give you a pass on that.

4 PROSPECTIVE JUROR: That's okay, thank you.
5 (Laughter.)

6 THE COURT: That's all right. Would your
7 employment or could your employment affect your
8 ability to be a fair juror in the trial of this case?

9 PROSPECTIVE JUROR: No, sir.

10 THE COURT: All right. Thank you, sir.
11 All right, your number, please.

12 PROSPECTIVE JUROR: 189.

13 THE COURT: Yes. Is it you or a family
14 member?

15 PROSPECTIVE JUROR: It is me.

16 THE COURT: Ma'am?

17 PROSPECTIVE JUROR: Me.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR: I'm employed by the U. S.
20 Department of Justice, Federal Bureau of Prisons.

21 THE COURT: Well, I ain't going to say
22 anything else bad the federal government.

23 (Laughter.)

24 THE COURT: Would your employment affect your
25 ability to be a fair juror?

1 PROSPECTIVE JUROR: No, sir.

2 THE COURT: Thank you, ma'am.

3 Now, are you or is anyone in your family
4 personally acquainted with anyone employed by a law
5 enforcement agency? Like you're their neighbors or
6 you go to church with them, close friends things like
7 that.

8 If so, please stand. And for y'all three
9 that just stood, you don't need to stand up again.
10 Anybody else? Are you or is anyone in your family
11 personally acquainted with anyone employed by any law
12 enforcement agency? I guess you all could be.

13 If so, please stand.

14 (Jury panel members stand.)

15 PROSPECTIVE JUROR: Again, Mr. Tabor.

16 THE COURT: That's all right. Wait, I've got
17 to back up and get your number again.

18 PROSPECTIVE JUROR: 192.

19 THE COURT: And who are you...

20 PROSPECTIVE JUROR: Mr. Tabor.

21 THE COURT: What?

22 PROSPECTIVE JUROR: Mr. Tabor.

23 THE COURT: Oh, Mr. Tabor. All right. Would
24 that affect your ability to be a fair juror?

25 PROSPECTIVE JUROR: No.

1 THE COURT: All right. Thank you, sir.

2 And your number again?

3 PROSPECTIVE JUROR: 256.

4 THE COURT: And who are you acquainted with?

5 PROSPECTIVE JUROR: Alonzo Adams (phonetic).

6 THE COURT: Who is he?

7 PROSPECTIVE JUROR: The law enforcement or
8 just the ---

9 THE COURT: In law enforcement, who does he
10 work for?

11 PROSPECTIVE JUROR: Okay, I'm sorry, D J J.

12 THE COURT: Oh, D J J, the Department of
13 Juvenile Justice. Would that or could that affect
14 your ability to be a fair juror in this case?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Thank you, ma'am.

17 Yes, sir, your number again.

18 PROSPECTIVE JUROR: 265.

19 THE COURT: 265, who?

20 PROSPECTIVE JUROR: I work for the Budget and
21 Control Board so I am acquainted with many law
22 enforcement people in my job.

23 THE COURT: Can y'all get us some more money
24 maybe.

25 (Laughter.)

1 THE COURT: Budget and Control Board, you
2 deal with different state agencies. Would that or
3 could that affect your ability to be a fair juror in
4 this case?

5 PROSPECTIVE JUROR: No, sir.

6 THE COURT: All right. Thank you, sir.
7 Yes, ma'am, your number, please.

8 PROSPECTIVE JUROR: 258.

9 THE COURT: And?

10 PROSPECTIVE JUROR: I teach school and we
11 have resource officers.

12 THE COURT: Go ahead, resource officers.

13 PROSPECTIVE JUROR: We have resource officers
14 on our campus and so, I mean, I work with them but.

15 THE COURT: All right. Elementary school,
16 middle school, high school?

17 PROSPECTIVE JUROR: Middle school.

18 THE COURT: All right. Would that or could
19 that, resource officers or maybe some of the kids'
20 parents are policeman, would that or could that affect
21 your ability to be a fair juror in this case?

22 PROSPECTIVE JUROR: I don't think so.

23 THE COURT: All right. Thank you, ma'am.
24 Yes, ma'am, your number, please.

25 PROSPECTIVE JUROR: 248.

1 THE COURT: And who do you know?

2 PROSPECTIVE JUROR: I have a cousin that's
3 Lexington County, he's retired.

4 THE COURT: Sheriff's Department?

5 PROSPECTIVE JUROR: Sheriff's Department.

6 THE COURT: He used to work for Jimmy Meetze.

7 PROSPECTIVE JUROR: I don't know.

8 THE COURT: That's all right. Cousin's
9 retired from Lexington County, would that or could
10 that affect your ability to be a fair juror in this
11 case?

12 PROSPECTIVE JUROR: No.

13 THE COURT: All right. Thank you, ma'am.
14 Your number, please, ma'am.

15 PROSPECTIVE JUROR: 12.

16 THE COURT: 12, who?

17 PROSPECTIVE JUROR: I am a teacher as well
18 and she raised the same point.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR: Elementary.

21 THE COURT: And so you see the resource
22 officer at school and all that.

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Would that or could that affect
25 your ability to be a fair juror?

1 PROSPECTIVE JUROR: No, sir.

2 THE COURT: All right. Thank you, ma'am.
3 Yes, sir, your number.

4 PROSPECTIVE JUROR: 159, sir.

5 THE COURT: And what acquaintance do you
6 have?

7 PROSPECTIVE JUROR: I don't have any
8 acquaintance. I used to be a Peace Officer for the
9 State of New York before I retired and came to South
10 Carolina, sir.

11 THE COURT: I missed that. You used to do
12 what?

13 PROSPECTIVE JUROR: Pease Officer.

14 THE COURT: Peace Officer?

15 PROSPECTIVE JUROR: Yes, used to work with
16 security ---

17 THE COURT: All right. Would that experience
18 or could that affect your ability to be a fair juror
19 in this case?

20 THE COURT: No, sir.

21 THE COURT: All right, thank you, sir.
22 Did I ask number three, Mr. McCulloch?

23 MR. MCCULLOCH: I'm sorry, Your Honor?

24 THE COURT: Did I ask number three?

25 MR. MCCULLOCH: Theirs or ours?

1 THE COURT: Yours, yours.

2 MR. MCCULLOCH: I ---

3 THE COURT: I might not have technically. I
4 think I covered it but. All right, are you or any
5 member of your family related to anyone employed by
6 law enforcement? Did I ask that?

7 MR. MCCULLOCH: I think you asked that.

8 THE COURT: Okay, all right.

9 All right. Members of the panel, are you or
10 is a member of your family related to any member of
11 the Solicitor's Office of the Fifth Judicial Circuit
12 or the South Carolina Attorney General's Office or the
13 City Prosecutor's Office, the City of Columbia, or the
14 County Attorney?

15 If so, please stand.

16 (There was no response.)

17 THE COURT: All right. This is about
18 prosecuting agencies, the Solicitor's Office, the
19 Attorney General's Office, the City Prosecutor's
20 Office or the County Attorney's Office. Are you or a
21 family member related to any members of those
22 organizations?

23 If so, please stand.

24 (There was no response.)

25 THE COURT: Are you personally acquainted,

1 members of the panel, with any of the members of the
2 Solicitor's Office of the Fifth Judicial Circuit or
3 the South Carolina Attorney General's Office?

4 If so, please stand. All these questions
5 sort of run together. Are you personally acquainted
6 with anybody in the Solicitor's Office or the South
7 Carolina Attorney General's Office?

8 If so, please stand.

9 (Jury panel members stand.)

10 THE COURT: And I think we covered you.
11 There was somebody else, who else was it?

12 (Pause.)

13 MR. MEADORS: Mr. Tabor, knows Mr. Tabor,
14 Your Honor.

15 THE COURT: Well, he knew you and Mr.
16 McCulloch, the last gentleman.

17 MR. MEADORS: Yes, sir.

18 THE COURT: All right. But I think y'all --
19 yes, ma'am, your number again?

20 PROSPECTIVE JUROR: 129, I know Henry
21 McMaster with having worked with a law firm
22 previously.

23 THE COURT: You worked with John Henry
24 McMaster?

25 PROSPECTIVE JUROR: No, I was familiar with

1 ---

2 THE COURT: Oh, just familiar?

3 PROSPECTIVE JUROR: Yes, I know Henry
4 McMaster and had conversations with him through the
5 law firm.

6 THE COURT: Okay. All right. Don't sit
7 down yet. Would that or could that affect your
8 ability to be a fair juror in this case?

9 PROSPECTIVE JUROR: No.

10 THE COURT: All right. Thank you, ma'am.
11 Now, members of the panel, have you seen,
12 heard or read anything in the news accounts of this
13 case?

14 If so, please stand
15 (There was no response.)

16 THE COURT: I'll ask this again. I've
17 already covered it. Now, members of the panel, have
18 you formed any opinion about the guilt of innocence of
19 Johnnie Gaskins?

20 If so, please stand.
21 (There was no response.)

22 THE COURT: And I think number eight has
23 probably been indirectly covered, would that be fair,
24 Mr. McCulloch?

25 MR. MCCULLOCH: Yes.

1 THE COURT: All right. And I'll ask this
2 anyway. Now, members of the panel, have you expressed
3 an opinion about the guilt or innocence of this
4 Defendant to any other individual, from what happened
5 yesterday to what happened this morning?

6 If so, please stand.

7 (Jury panel member stands.)

8 THE COURT: Did I excuse you?

9 PROSPECTIVE JUROR: I don't know. They just
10 told me to sit in the back.

11 THE COURT: Okay. You're good. Just go have
12 a seat in the back.

13 PROSPECTIVE JUROR: Okay.

14 THE COURT: Thank you. That's right, because
15 of what -- we're good.

16 Now, members of the jury panel, have you
17 participated in any discussions with any other
18 individuals concerning the facts of this case? The
19 only time you could have done so is between yesterday
20 afternoon and this morning.

21 If so, please stand. You talked to anybody
22 about anything about this case? If so, please stand.

23 (There was no response.)

24 THE COURT: So, I guess number 12 would be
25 unnecessary, would that be fair? Is that right?

1 MS. SCHILLACI: That would be correct, Your
2 Honor.

3 THE COURT: All right. Now, members of the
4 jury panel, are you aware of any conscious -- are you
5 aware or conscious of any bias or prejudice either for
6 or against the Defendant in this case?

7 If so, please stand.

8 (There was no response.)

9 THE COURT: Now, members of the panel, are
10 you aware of any evidence in this case as a result of
11 any conversations or through the news media?

12 If so, please stand. Have you heard anything
13 about this case, once again?

14 (There was no response.)

15 THE COURT: I think number 15 has probably
16 been covered. Out of an abundance of caution, I'll be
17 happy to ask it again.

18 MS. SCHILLACI: Would you just mind asking it
19 again, Your Honor?

20 THE COURT: I don't mind.

21 Members of the jury panel, the victims are
22 John Adams, Lamont Davis, Quinten Harris, Deirdre
23 Houston and Shannavia Williams all of Columbia, South
24 Carolina. Are you related by blood or marriage to any
25 of these people or any members of their family?

1 If so, please stand.

2 (There was no response.)

3 THE COURT: That's why in the beginning I
4 went through what were the addresses, where they
5 lived, where they worked, everything else. All right.

6 I think I've asked number 16 for the -- is
7 that ---

8 MS. SCHILLAC: You have, Your Honor.

9 THE COURT: Okay. And 17?

10 MS. SCHILLAC: You have, Your Honor.

11 THE COURT: All right. I'll ask it once
12 again. I've already asked this question. Finally, do
13 you know of any reason, members of the jury panel, why
14 you cannot be both fair to the State of South Carolina
15 as well as to Mr. Quinten (sic) -- I mean, Mr. Johnnie
16 Gaskins? Be fair to both sides? Any reason you
17 couldn't be a fair juror in this case?

18 Any reason at all, please stand.

19 (There was no response.)

20 THE COURT: All right. Now, let me take a
21 little brief -- all right. Anybody needs to go
22 refresh themselves for about five minutes? Y'all
23 okay? Anybody needs to go refresh themselves? Okay.

24 (Affirmative response.)

25 THE COURT: I'm going to give y'all about --

1 let's see, 10 minutes, 15 minutes, to go to the
2 restroom. Don't talk to anybody about anything and
3 come right back, okay, as soon as you can.

4 We'll be at ease for a few minutes.

5 (The jury panel retires from the courtroom at
6 approximately 11:14 a.m.)

7 THE COURT: No, no, no, that's all right.

8 His concern was whether or not Mr. Gaskins was related
9 to Pee Wee Gaskins and the answer is, no.

10 All right, you're good.

11 MR. MCCULLOCH: Joe McCulloch, for the
12 purpose of the record, at sidebar we dealt with juror
13 number 77 who indicated she had been a crime victim
14 and that she had -- that the Defendant resembled her
15 assailant which she appeared visibly agitated. The
16 Judge questioned her further. He excused her and then
17 questioned her on whether or not she had shared that
18 -- her identification or resemblance to any other
19 juror and he resolved that she had not.

20 MS. MCDUFFIE: For the sake of record and Mr.
21 McCulloch and the Court, it was 74 and not 77.

22 MR. MCCULLOCH: Oh, was it 74. Well, I wrote
23 down 77.

24 MR. MEADORS: She did indicate she had not
25 discussed it with any other jurors.

1 MR. MCCULLOCH: Maybe it was 77 (sic)?

2 (The Court was in recess.)

3 (The jury panel returns to the courtroom at
4 approximately 11:18 a.m.)

5 THE BAILIFF: Court come to order. All rise,
6 please.

7 THE COURT: All right. Thank you, ladies and
8 gentlemen. Are we all ready?

9 MR. MEADORS: State's ready.

10 MR. MCCULLOCH: Yes, sir.

11 THE COURT: All right. All right, Ms.
12 Falcone.

13 THE CLERK: Yes, sir. Ladies and gentlemen
14 of the jury panel, as I call your number, if you will
15 please come to the microphone in the center of the
16 courtroom bringing any personal belongings with you.
17 Please state your number only and your occupation,
18 please.

19 Number 212.

20 (John P. Poore, a white male, now comes
21 forward.).

22 CLERK: Your number and your occupation.

23 PROSPECTIVE JUROR: I am number 212. And I'm
24 the Director of Communications at the Department of
25 Transportation.

1 THE CLERK: What says the State?

2 MR. MEADORS: Please present juror 212.

3 THE CLERK: What says the Defense?

4 MR. MCCULLOCH: Excuse the juror.

5 THE CLERK: Please have a seat in the back of
6 the courtroom.

7 Number 140.

8 (Raoul M. Jenkins, a black male, now comes
9 forward.)

10 PROSPECTIVE JUROR: Number 140, retired.

11 THE CLERK: Retired from?

12 PROSPECTIVE JUROR: U. S. Army.

13 THE CLERK: What says the State?

14 MR. MEADORS: Please present juror 140.

15 THE CLERK: What says the Defense?

16 MR. MCCULLOCH: Excuse this juror.

17 THE CLERK: Please have seat in the back of
18 the courtroom.

19 THE COURT: All right, hold on a minute, Pat.

20 No, no, you can go have a seat. There's one
21 question -- I got it. There's one question I forgot
22 to have ask, gentlemen. I will ask it now.

23 Members of the panel, this is one question I
24 had up here I forgot to ask you all. I need to ask
25 you. Has any member of the jury panel ever been a

1 patron or been to Club 360 located at 826 Bush River
2 Road?

3 If so, please stand.

4 (Jury panel members stand.)

5 THE COURT: All right. All right, that's
6 fine. And that was the question, Mr. McCulloch, you
7 wanted me to ask. You wrote it yesterday.

8 MR. MCCULLOCH: That's right.

9 THE COURT: This was the extra one.

10 MR. MCCULLOCH: You mentioned the club in
11 your opening remarks this morning.

12 THE COURT: I understand but I didn't ask
13 this question.

14 MR. MCCULLOCH: I appreciate ---

15 THE COURT: I want to make sure that you're
16 covered.

17 MR. MCCULLOCH: I appreciate that.

18 THE COURT: Has any member of this jury panel
19 ever been a patron or been to Club 360 located 826
20 Bush River Road?

21 And your number, please.

22 PROSPECTIVE JUROR: 256.

23 THE COURT: Now, are you a frequent guest?

24 PROSPECTIVE JUROR: I only went there only
25 like three times.

1 THE COURT: Three times?

2 PROSPECTIVE JUROR: Or four times.

3 THE COURT: All right. The fact that you
4 went there three times, would that or could that
5 affect your ability to be a fair juror in this case,
6 that you've been there?

7 PROSPECTIVE JUROR: No.

8 THE COURT: You're sure about that?

9 PROSPECTIVE JUROR: (Affirmative response.)

10 THE COURT: Okay, you aren't sure?

11 PROSPECTIVE JUROR: No, I'm sure, I think so.

12 THE COURT: Ma'am?

13 PROSPECTIVE JUROR: No, no.

14 THE COURT: You could be a fair juror?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Okay. Thank you, ma'am.

17 Yes, sir, your number please.

18 PROSPECTIVE JUROR: 299.

19 THE COURT: 299.

20 PROSPECTIVE JUROR: Uh-huh.

21 THE COURT: A frequent visitor or once or
22 twice?

23 PROSPECTIVE JUROR: Just once.

24 THE COURT: Once, how long ago?

25 PROSPECTIVE JUROR: Maybe awhile back when it

1 first opened.

2 THE COURT: All right. How long ago was that?

3 PROSPECTIVE JUROR: Like a year and a half
4 ago maybe.

5 THE COURT: Okay. The fact that you were
6 there, once went it first opened, would that or could
7 that affect your ability to be a fair juror in this
8 case?

9 PROSPECTIVE JUROR: No, sir.

10 THE COURT: You're sure about that?

11 PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: Thank you. I think I've now
13 asked all the questions. That does cover everything,
14 Mr. McCulloch?

15 MR. MCCULLOCH: Yes, sir.

16 THE COURT: I'm sorry. Ms. Falcone, you may
17 continue.

18 THE CLERK: Thank you, Your Honor.
19 Number 265.

20 (Jose L. Suarez, a white male, now comes
21 forward.)

22 PROSPECTIVE JUROR: Juror 265. I work at the
23 Budget and Control Board as an Architect (phonetic)
24 Project Manager

25 THE CLERK: What says the State?

1 MR. MEADORS: Please present juror 265.

2 THE CLERK: What says the Defense?

3 MR. MCCULLOCH: Excuse the juror.

4 THE COURT: Please have a seat back in the
5 back of the courtroom.

6 Number 129.

7 (Mary T. Horton, a white female, now comes
8 forward.)

9 THE COURT: What was it again, Pat?

10 THE CLERK: Number 129.

11 PROSPECTIVE JUROR: I'm number 129. I'm
12 retired from the O'Connell Law Firm.

13 THE CLERK: What says the State?

14 MR. MEADORS: Please present juror 129.

15 THE CLERK: What says the Defense?

16 MR. MCCULLOCH: Swear the juror.

17 THE CLERK: Please have a seat in the jury
18 box.

19 Number 192.

20 (Charles M. Moody, Jr., a white male, now
21 comes forward.)

22 PROSPECTIVE JUROR: Juror 192, truck driver.

23 THE CLERK: What says the State?

24 MR. MEADORS: Please present juror 192.

25 THE CLERK: What says the Defense?

1 MR. MCCULLOCH: Excuse the juror.

2 THE CLERK: Please have a seat in the back of
3 the courtroom.

4 Number 258.

5 THE COURT: 2-5-8?

6 THE CLERK: Yes, sir.

7 (Lisa M. Smathers, a white female, now comes
8 forward.)

9 PROSPECTIVE JUROR: I'm number 2-5-8 and I
10 teach school.

11 THE CLERK: What says the State?

12 MR. MEADORS: Please present juror 258.

13 THE CLERK: What says the Defense?

14 MR. MCCULLOCH: Swear the juror.

15 THE CLERK: Please have a seat in the jury
16 box.

17 Number 40, 40, 4-0.

18 THE COURT: 4-0.

19 (There was no response.)

20 THE COURT: All right. We'll check on it.

21 THE CLERK: Okay. Number 148.

22 (Philip H. Joseph, a white male, now comes
23 forward.)

24 PROSPECTIVE JUROR: Number 148. I'm an
25 orthodontist.

1 THE CLERK: What says the State?

2 MR. MEADORS: Please present jury 148.

3 THE CLERK: What says the Defense?

4 MR. MCCULLOCH: Excuse the juror.

5 THE CLERK: Please have seat in the back of
6 the courtroom.

7 Number 162.

8 (Joe N. Leggette, a black male, now comes
9 forward.)

10 PROSPECTIVE JUROR: 162, warehouse security.

11 THE CLERK: What says the State?

12 MR. MEADORS: Please present juror 162.

13 THE CLERK: What says the Defense?

14 MR. MCCULLOCH: Excuse the juror.

15 THE CLERK: Please have a seat in the back of
16 the courtroom.

17 Number 5.

18 (Michael W. Bailie, a white male, now comes
19 forward.)

20 PROSPECTIVE JUROR: Number 5. I'm an
21 attorney.

22 THE CLERK: What says the State?

23 MR. MEADORS: Please present juror number 5.

24 THE CLERK: What says the Defense?

25 MR. MCCULLOCH: Excuse this juror.

1 THE CLERK: Please have a seat in the back of
2 the courtroom.

3 Number 177.

4 (Carmen J. Maysonet, an Hispanic female, now
5 comes forward.)

6 MR. MCCULLOCH: Your Honor, can Mr. Meadors

7 ---

8 THE COURT: Yeah, y'all approach.

9 Come on up, ma'am.

10 PROSPECTIVE JUROR: 177. I'm a ---

11 THE CLERK: Wait for a second.

12 (WHEREUPON, a bench conference was held
13 off the record, in the presence of the jury
14 panel, but out of the hearing of the jury
15 panel.)

16 THE CLERK: What says the State?

17 MR. MEADORS: Please present jury number 177.

18 THE CLERK: What says the Defense?

19 MR. MCCULLOCH: Excuse her.

20 THE CLERK: Please have a seat in the back of
21 the courtroom.

22 Number 208.

23 (Jamaal W. Perry, a black male, now comes
24 forward.)

25 THE COURT: What was the number, Pat, I'm

1 sorry?

2 THE CLERK: 208.

3 THE COURT: 208.

4 PROSPECTIVE JUROR: 208, case manager at the
5 Employment Security Commission.

6 THE CLERK: What says the State?

7 MR. MEADORS: Please present juror 208.

8 THE CLERK: What says the Defense?

9 MR. MCCULLOCH: Swear the juror.

10 THE CLERK: Please have a seat in the jury
11 box.

12 Number 21.

13 (Robert A. Booker, a black male, now comes
14 forward.)

15 PROSPECTIVE JUROR: Number 21, truck driver.

16 THE CLERK: What says the State?

17 MR. MEADORS: Please present juror 21.

18 THE CLERK: What says the Defense?

19 MR. MCCULLOCH: Swear the juror.

20 THE CLERK: Please have a seat in the jury
21 box.

22 Number 2-2-3, 223.

23 (Juliet D. Roberts, a white female, now comes
24 forward.)

25 PROSPECTIVE JUROR: Number 223. I'm a

1 pediatric occupational therapist.

2 THE CLERK: What says the State?

3 MR. MEADORS: Please present juror 2-2-3.

4 THE CLERK: What says the Defense?

5 MR. MCCULLOCH: Swear her.

6 THE CLERK: Please have a seat in the jury
7 box.

8 Number 275.

9 (There was no response.)

10 THE COURT: 275, 2-7-5.

11 (There was no response.)

12 THE COURT: Don't know.

13 THE CLERK: Number 159.

14 (John C. Lankenau, a white male, now comes
15 forward.)

16 PROSPECTIVE JUROR: Jury 159, retired U. S.
17 retired U. S. Military. Currently working at the Dorn
18 V.A. Medical Center, Human Resources.

19 THE CLERK: What says the State?

20 MR. MEADORS: Please excuse juror 159.

21 THE CLERK: Please have a seat in the back of
22 the courtroom.

23 THE COURT: Gentlemen and ladies, 275 is
24 present -- you may have a seat, sir, go to the back of
25 the room. Come on up, 275.

1 (Carlos L. Velez, a Hispanic male, now comes
2 forward.)

3 PROSPECTIVE JUROR: Sorry about that, Your
4 Honor. I thought I was 245.

5 THE COURT: That's all right, sir.

6 PROSPECTIVE JUROR: 275. I work for Walmart
7 Pharmacies.

8 THE CLERK: What says the State?

9 MR. MEADORS: Please present juror 275.

10 THE CLERK: What says the Defense?

11 MR. MCCULLOCH: Swear the juror.

12 THE CLERK: Please have a seat in the jury
13 box.

14 Number 55.

15 (Jeffery C. Corsi, a white male, now comes
16 forward.)

17 PROSPECTIVE JUROR: Juror 55, attorney.

18 THE CLERK: What says the State?

19 MR. MEADORS: Please excuse juror 55.

20 THE CLERK: Please have seat in the back of
21 the courtroom.

22 THE BAILIFF: Sir, go back that way.

23 THE CLERK: Number 256.

24 (Adrienne Sills, a black female, now comes
25 forward.)

1 PROSPECTIVE JUROR: 256, sales associate for
2 Books A Million.

3 THE CLERK: What says the State?

4 MR. MEADORS: Please present juror 256.

5 THE CLERK: What says the Defense?

6 MR. MCCULLOCH: Swear the juror.

7 THE CLERK: Please have a seat in the jury
8 box.

9 Number 209.

10 (Dan E. Phelps, Jr., a white male, now comes
11 forward.)

12 PROSPECTIVE JUROR: Juror 209, maintenance
13 planner, International Paper.

14 THE CLERK: What says the State?

15 MR. MEADORS: Please present juror 209.

16 THE CLERK: What says the Defense?

17 MR. MCCULLOCH: Swear the juror.

18 THE CLERK: Please have a seat in the jury
19 box.

20 Number 1-8-9.

21 (Nanada N. Middleton, a black female, now
22 comes forward.)

23 PROSPECTIVE JUROR: 189, prison chaplain.

24 THE CLERK: What says the State?

25 MR. MEADORS: Please excuse juror 189.

1 THE CLERK: Please have seat in the back of
2 the courtroom.

3 Number 248.

4 (Rebecca L. Shaw, a white female, now comes
5 forward.)

6 PROSPECTIVE JUROR: 248 -- I'm a business
7 analyst in I T.

8 THE CLERK: What says the State?

9 MR. MEADORS: Please present juror 248.

10 THE CLERK: What says the Defense?

11 MR. MCCULLOCH: Swear her.

12 THE CLERK: Please have a seat in the jury
13 box.

14 Number 49.

15 (Gloria A. Coleman, a black female, now comes
16 forward.)

17 PROSPECTIVE JUROR: Number 49, recreational
18 therapist.

19 THE CLERK: What says the State?

20 MR. MEADORS: Please present juror 49.

21 THE CLERK: What says the Defense?

22 MR. MCCULLOCH: Swear the juror.

23 THE CLERK: Please have a seat in the jury
24 box.

25 Number 283.

1 (Teresa D. Wilkinson, a white female, now
2 comes forward.)

3 PROSPECTIVE JUROR: I'm number 283 and I work
4 as an executive assistant at the McNair Law Firm.

5 THE CLERK: What says the state?

6 MR. MEADORS: Please present juror 283.

7 THE CLERK: What says the Defense?

8 MR. MCCULLOCH: Excuse her.

9 THE CLERK: Please have seat in the back of
10 the courtroom.

11 Strike count is three for the State and nine
12 for the Defense.

13 Number 23.

14 (H. M. Boozer, a white female, now comes
15 forward.)

16 PROSPECTIVE JUROR: Number 23, preschool
17 teacher.

18 THE CLERK: What says the State?

19 MR. MEADORS: Please present juror 23.

20 THE CLERK: What says the Defense?

21 MR. MCCULLOCH: Present -- swear the juror.

22 THE CLERK: Please have a seat in the jury
23 box.

24 Number 182.

25 (Tyrone C. McClellan, a black male, now comes

1 forward.)

2 PROSPECTIVE JUROR: Juror 182. I am the
3 current owner of a mechanic business.

4 THE CLERK: What says the State?

5 MR. MEADORS: Please present juror 182.

6 THE CLERK: What says the Defense?

7 MR. MCCULLOCH: Swear the juror.

8 THE CLERK: Please have a seat in the jury
9 box.

10 THE COURT: All right, select two alternates.

11 MR. MEADORS: Yes, please ---

12 THE COURT: That's four and two it would it
13 be.

14 MR. MEADORS: Yes, sir.

15 THE CLERK: Number 79.

16 (Thomas C. Fillinger, a white male, now comes
17 forward.)

18 PROSPECTIVE JUROR: Jury number 79. I am CEO
19 of The Leadership Development Corporation.

20 THE CLERK: What says the State?

21 MR. MEADORS: Please present juror 79.

22 THE CLERK: What says the Defense?

23 MR. MCCULLOCH: Excuse this juror.

24 THE CLERK: Please have a seat in the back of
25 the courtroom.

1 Number 9.

2 (Carol E. Barnett, a white female, now comes
3 forward.)

4 PROSPECTIVE JUROR: Number 9. I'm a
5 homemaker, formerly a business administrator for a
6 church.

7 THE CLERK: What says the State?

8 MR. MEADORS: Please present juror number 9.

9 THE CLERK: What says the Defense?

10 MR. MCCULLOCH: Swear the juror.

11 THE CLERK: Have a seat in the jury box.
12 Number 166.

13 (Allen G. Listrom, a white male, now comes
14 forward.)

15 PROSPECTIVE JUROR: I am number 166. I'm in
16 sales marketing.

17 THE CLERK: What says the State?

18 MR. MEADORS: Please present juror 166.

19 THE CLERK: What says the Defense?

20 MR. MCCULLOCH: Excuse the juror.

21 THE CLERK: Please have a seat in the back of
22 the courtroom.

23 Number 63.

24 (James G. Davis, a white male, now comes
25 forward.)

1 PROSPECTIVE JUROR: Number 63. I'm a real
2 estate agent.

3 THE CLERK: What says the State?

4 MR. MEADORS: Please present juror 63.

5 THE CLERK: What says the Defense?

6 MR. MCCULLOCH: Swear the juror.

7 THE CLERK: Please have a seat in the jury
8 box.

9 THE COURT: All right. Are there any matters
10 that need to be taken up at this time in connection
11 with the selection of this jury?

12 Anything from the State?

13 MR. MEADORS: No, sir.

14 THE COURT: From the Defense?

15 MR. MCCULLOCH: No, Your Honor.

16 THE COURT: All right. To the remaining
17 members of the panel, I want to thank you on behalf of
18 everybody involved in this case, Mr. McCulloch, Ms.
19 Schillaci and Mr. Meadors and Ms. McDuffie for
20 participating in this process up to this point. The
21 good news is you didn't get selected on this jury, the
22 bad news is you've got to go back downstairs and maybe
23 you'll get selected on another one.

24 But in any event, I appreciate your patriotic
25 service and wish you all the very best and have a good

1 week.

2 Thank you all so very much.

3 (The remaining members of the jury panel
4 retire from the courtroom at approximately
5 12:01 p.m.)

6 THE COURT: Now, members of this particular
7 jury, you know sometimes in this world we might --
8 since we're all chained like you might have to pull,
9 this is your turn to pull. I will tell you that -- I
10 don't know, this case may take four or five or six
11 days, okay. That means we're probably going into next
12 week sometime. Thursday I have a mandatory continuous
13 legal education conference that I must attend, I can't
14 get out of it. Even if I wanted to -- I want to get
15 out of it but I can't. So we won't have Court on
16 Thursday.

17 The probability is this case will go into
18 next Monday, maybe Tuesday. I will do everything I
19 can to accommodate any particular concerns that any of
20 you may have in terms of starting early and going
21 late. And anything I can do to make it more pleasant
22 for you serving on this particular jury, I will try to
23 do so. But that's sort of where we are.

24 And it may not last that long but my guess is
25 it's probably going to be about five or six days. Is

1 that fair enough so far, both sides? Maybe a little
2 longer, I don't know.

3 MR. MEADORS: I think we'll get finished
4 Monday, yes, Your Honor.

5 THE COURT: You think we'll be finished
6 Monday. So Thursday, we will not do anything because
7 I can't get out of what I've been planning. I can get
8 out of it but the Supreme Court wouldn't like it if I
9 did, okay.

10 But we'll get started this afternoon and
11 we'll get a lot of it out of the way. It won't be
12 that bad. And I will do everything I can possibly to
13 make it more pleasant for you.

14 In the meantime, I'm going to ask -- let me
15 remind you -- I will tell you this over and over and
16 over again. Please don't talk about this case in any
17 way, shape or form. The time to do so will be at the
18 very end once you've heard all the evidence and once
19 you've heard the arguments of the lawyers involved and
20 once I tell you what the law is that applies to this
21 particular case. Until then, it would be unfair to
22 the State and unfair to the Defendant, Mr. Gaskins,
23 for you to talk about it in any way, shape or form.

24 I will tell you a little bit more about that.
25 In the meantime, I will ask you to go to the jury

1 room, refresh yourselves for a minute. I've got to
2 talk to the lawyers involved and see where we are
3 logistically. And there's a chance I might send you
4 to lunch now and we'll come back and get started after
5 lunch. I know we have some preliminary matters to
6 take up and the only way I can do that is in your
7 absence anyway.

8 So, I'll talk to the lawyers and we'll figure
9 out the best thing to do and I will consult with you
10 all too because y'all are full participants in this
11 process.

12 So remember the most important thing, don't
13 talk about the case. Go the jury room and while
14 you're back there, I want you to look among yourselves
15 and see if you can elect a foreperson. A foreperson
16 is the spokesman for the jury. It ain't very heavy
17 lifting -- it ain't going to be that difficult. But
18 if you can't elect one, I will be happy to appoint
19 somebody. But look among yourselves and try to decide
20 who you want to be your spokesman.

21 So, go to the jury room. Don't talk about
22 this case. Look around and see who you want to be
23 your representative and we'll bring you back out and
24 let you know what we're going to do and how we're
25 going to proceed.

1 Thank you all so very much.

2 (The jury retires from the courtroom at
3 approximately 12:05 p.m.)

4 THE COURT: Now, of course, ladies and
5 gentlemen, if I fail to say any exceptions or
6 additions to anything I say at any point and time
7 during this trial, I'm sure Mr. McCulloch won't let me
8 forget nor will Mr. Meadors. So, I mean, that's a
9 given. If I don't say that every time I ---

10 MR. MEADORS: I have not observed any
11 mistakes so far.

12 THE COURT: Beg your pardon?

13 MR. MEADORS: I have not observed any so far.

14 THE COURT: Yeah. So how y'all want to do
15 this? I mean, we've got this chain of custody
16 situation that needs to be worked out, we've got to
17 hear. It's already 12:15. Do you want to send them
18 on to lunch now and bring them back at 2 or 2:30? I
19 don't know.

20 I'll tell you what, why don't we come back
21 and chitchat a little bit in chambers and we'll see
22 where we are.

23 We'll be at ease.

24 (The Court was in recess.)

25 THE COURT: Mr. Crumpton, bring the jury back

1 in and I'll chitchat with them before I send them to
2 lunch.

3 THE BAILIFF: All right, sir.

4 (The jury returns to the courtroom at
5 approximately 12:15 p.m.)

6 THE BAILIFF: The jury's present, Your Honor.

7 THE COURT: All right. Thank you, sir.

8 All right, members of the jury, I concluded
9 I'm going to send y'all to lunch now, okay. And I've
10 got to remind you, please don't talk to anybody about
11 this case. Keep your buttons on -- they're not
12 buttons anymore, tags I guess, over lunch so no one
13 will advertently come up and say something to you.
14 And if they do, say, I'm on the jury, get away from
15 me, that sort of thing, all right.

16 And as to the jury member who has to pick up
17 your daughter, who is it?

18 JUROR: It was me.

19 THE COURT: We'll help you out, we'll help
20 you out, okay.

21 JUROR: Thank you.

22 THE COURT: If I can accommodate you, I will.
23 The first day on a jury is always kind of difficult
24 and you don't know what to expect will happen. So
25 we'll make sure -- I'll talk to you a little bit when

1 we get back and we'll make sure that you get your
2 daughter. We'll make arrangements to get her, okay.
3 I don't want you to worry about that.

4 I will ask that you be back at 2:30. There's
5 some work we need to do in your absence. There's a
6 lot of places to wine and dine, sit or sup near the
7 Courthouse. Hope you find a pleasant one and be back
8 in the jury room at 2:30, ladies and gentlemen.

9 Thank you all so very much. And it's Mr.
10 Foreman? Oh, Madam Forelady, okay. See you all back
11 at 2:30. Thank you all so very much.

12 (The jury retires from the courtroom at
13 approximately 12:17 p.m.)

14 THE COURT: I was going to make voir dire and
15 all that a part of the record. Have y'all already
16 filed it in any way?

17 MR. MCCULLOCH: We did not file ours, Your
18 Honor. Defense did not file.

19 THE COURT: Do you want it filed?

20 MR. MCCULLOCH: We'd like it part of the
21 record.

22 THE COURT: All right. Well, we can look
23 back through it. I think I might have jumbled up some
24 of the papers but everything we have here, everything
25 I discussed or talked about, I'll make sure it becomes

1 a Court exhibit.

2 MR. MCCULLOCH: We have no objection to your
3 charge. It's consistent with our request and
4 duplicated to some extent.

5 THE COURT: All right, okay. Well, y'all do
6 what y'all need to do and we'll be back about 2.
7 We'll talk and see where we are. I wish both of you
8 the best of luck in your efforts. And see you after
9 lunch.

10 MR. MCCULLOCH: Thank you.

11 MR. MEADORS: Thank you, Your Honor.

12 (The Court was in recess.)

13 THE COURT: While y'all are thinking, I told
14 the jurors that we'd stop today, because the young
15 lady hadn't made preparations to pick up her kid,
16 around 5. Tomorrow we'll try to go late. I've
17 already given the heads-up on that. Late means maybe
18 7, depends on how we feel, but certainly not beyond
19 dark. Thursday is out for the reasons I've already
20 discussed. I told them we'd go no later than 4:00 on
21 Friday because of the weekend, everybody has things to
22 do. And then we'll see where we are then and come
23 back Monday and go as hard as we can on Monday. And
24 Monday is the day that if we have to stay here until
25 10:00 at night, that's something to consider, so.

1 So I've given everybody sort of a heads-up.
2 I'm hoping that it's going to be -- my guess, it's
3 going to be Tuesday.

4 MR. MEADORS: I think we really can -- Monday
5 ---

6 THE COURT: Well, that means Tuesday.

7 MR. MCCULLOCH: 50 bucks, 50 bucks.

8 MR. MEADORS: I'm against gambling but I'll
9 take that.

10 THE COURT: Let's see -- never mind.

11 All right, anything we need to take up before
12 the jury comes in?

13 MR. MCCULLOCH: A couple things.

14 THE COURT: Yes, sir.

15 MR. MCCULLOCH: Housekeeping stuff, Your
16 Honor.

17 First, for the purpose of the record, I move
18 to strike for cause number 177. I think I'm correct
19 on my juror list ---

20 THE COURT: She was -- she worked at
21 Palmetto Richland Memorial.

22 MR. MCCULLOCH: Nichols who is ---

23 THE COURT: Dr. Nichols and she said she sort
24 of knew him from -- not personally but from just
25 working. And her answer to the question was, could

1 you be a fair and impartial juror under those
2 circumstances was yes.

3 MR. MCCULLOCH: Okay, I agree.

4 THE COURT: Okay.

5 MR. MCCULLOCH: For the record. She did
6 indicate she worked in his department which was a
7 great concern.

8 THE COURT: Yeah.

9 MR. MCCULLOCH: But, Your Honor, also we're
10 going to move to sequester, I guess even from -- for
11 the point -- at the point that we get to opening
12 arguments. So I don't know what the Solicitor's
13 office would say in opening so we're going to move to
14 sequester all witnesses at that point.

15 THE COURT: Before the opening statements, is
16 that correct?

17 MR. MCCULLOCH: Yes. We -- there are a
18 couple of issues of ---

19 THE COURT: Well, let's hear from Ms.
20 McDuffie about this.

21 MS. MCDUFFIE: Your Honor, we would just ask
22 that the victims be allowed to stay in the courtroom
23 as they are by law.

24 THE COURT: Well, yeah, they -- that's always
25 an exception, the victims and ---

1 MS. MCDUFFIE: Our lead investigator and our
2 investigator ---

3 THE COURT: All right. The victims,
4 Isenhoward ---

5 MS. MCDUFFIE: And Tabor.

6 THE COURT: Tabor and any of the family
7 members that aren't going to testify.

8 MR. MCCULLOCH: And, Your Honor, I don't have
9 any difficulty with that if you can just instruct the
10 victims who actually are entitled to be present that
11 they should not discuss their testimony with each
12 other.

13 THE COURT: Well, I think that really falls
14 upon the job of the prosecution but for the benefit of
15 everybody here, once a witness testifies, they can't
16 talk to somebody else about their testimony, what they
17 may say, to alert other people to what they've already
18 said, since I'm going to grant your motion for
19 sequestration.

20 MR. MCCULLOCH: Thank you, Your Honor. We
21 have two issues that we will try to work out before
22 those witnesses testify that are in limine issues.
23 The sweating, on something information ---

24 THE COURT: Sweating, on something?

25 MR. MCCULLOCH: On -- and on -- appeared to

1 be on something relative to Ms. Hellman's testimony
2 who may testify today. We need to work that out.

3 THE COURT: I think she simply said he was
4 drunk and appeared to be on something.

5 MS. MCDUFFIE: That's correct.

6 MR. MCCULLOCH: Sweating while he was on
7 something is the phrase that we think is prejudicial
8 as it suggests that she has the ability to determine
9 whether somebody's taking drugs which it does have a
10 prejudicial impact.

11 THE COURT: Maybe or maybe not. I mean,
12 she's really testifying to what she saw, what her own
13 eyes observed. We'll take that up when we get there.

14 MR. MEADORS: Judge, she will be the first
15 witness. I've already instructed her not to say the
16 word, on something. She's going to say he's sweating,
17 appeared to be ---

18 THE COURT: Sweating ---

19 MR. MEADORS: Appeared to be ---

20 MR. MCCULLOCH: Then we've agreed ---

21 MR. MEADORS: She's a pretty smart lady. I
22 think she understands.

23 THE COURT: Okay.

24 MR. MCCULLOCH: Your Honor, then Mr. Williams
25 who may testify today ---

1 THE COURT: My guess is by the time y'all
2 finish closing -- I mean, opening statements, we might
3 get in two witnesses, I guess?

4 MR. MCCULLOCH: We'll work that out.

5 THE COURT: Okay.

6 MR. MCCULLOCH: Your Honor, the only other
7 thing is the chain of custody information. We do
8 expect the Solicitor's office to introduce two
9 particular pieces of evidence. First, shell casings
10 found in the parking lot and -- which were
11 subsequently compared to a shell casing found in an
12 automobile connected to my client.

13 In talking with the Solicitor's office, it
14 was my goal -- and I explained this to Mr. Gaskins, it
15 is not our goal to protract this trial and therefore
16 if we can agree on a chain of custody, witnesses,
17 based on the fact of their availability and recovery,
18 that we intend to do that.

19 But the -- in terms of chain of custody, as
20 this Court knows, it must be proven that -- what each
21 link of the chain is, who that person is must be
22 identified. I am told by the Solicitor's office that
23 there are least one missing link in terms of a witness
24 being available in the -- with regard to the shells --
25 the shell casing issue and ---

1 THE COURT: I thought there were two. One
2 lady's in Colorado and some gentleman was in Iraq.

3 MS. MCDUFFIE: Your Honor, the person who
4 actually collected the shells which was supervised by
5 Stan Richards who is going to testify. The person who
6 actually collected them is Billy Allen (phonetic), he
7 is in Iraq.

8 THE COURT: Okay.

9 MS. MCDUFFIE: But the shells were taken from
10 his locker by Zane Padgett who's also here and is able
11 to testify ---

12 THE COURT: Okay.

13 MS. MCDUFFIE: --- and then put into evidence
14 and David Collins got the forensics. And then the
15 other potential changes would be on the G S R kit on
16 the Defendant's vehicle. The G S R kit was collected
17 by Stan Richards and turned in and Stan Richards is
18 here available to testify. It was taken out to SLED
19 by evidence custodian Joy Delatorre. She is in
20 Colorado and we can fly her in and have her testify if
21 Your Honor so desires.

22 MR. MCCULLOCH: So, Your Honor, given the
23 seriousness of the charges, I'm required, I think, in
24 my client's interest to object to the ---

25 THE COURT: I understand.

1 MR. MCCULLOCH: To the inability of the
2 Solicitor's office. But I've provided the Court with
3 cases that I think are pertinent and they are
4 painfully aware of State versus Hatcher.

5 But I would object to the chain of custody
6 without the testimony of the two witnesses because I
7 must.

8 THE COURT: I understand. I understand.
9 We've all got jobs to do and I'm going to make it as
10 convenient as I possibly can for everybody to do the
11 best they can.

12 MS. MCDUFFIE: Your Honor, we would rely on
13 Hatcher and State -- we have produced a typed
14 certified chain of custody from the Sheriff's
15 Department and from SLED. We would stand by that.
16 And if Your Honor does require us to provide Ms.
17 Delatorre, we can make those arrangements but Mr.
18 Allen, we cannot produce at this time.

19 THE COURT: I actually thought about
20 something in between like the right to confront
21 wouldn't necessarily mean a face to face
22 confrontation. If we have to hook her up by phone
23 from Colorado, we can do so. We can do so in open
24 court, on the record, with an opportunity for Mr.
25 McCulloch to cross-examine her over the phone. That

1 would ameliorate some the problems with the -- her not
2 actually being present although it should be
3 demonstrated into the chain, it's been mentioned here
4 in open court, and that's just something to think
5 about. When we get her on the phone, we'll hook her up
6 in the courtroom, swear her and let her say, I took
7 this from here to there, it won't take five minutes.

8 All right, anything further?

9 MR. MEADORS: Your Honor, just a second to
10 make sure I can comply with the order to sequester.

11 THE COURT: All right, take your time.

12 MR. MEADORS: It goes both ways I presume?

13 MR. MCCULLOCH: Yes.

14 .(Pause.)

15 MR. MCCULLOCH: Your Honor, it goes without
16 saying, I suppose, that in my discussions through the
17 process of discovery, the Solicitor's office is not
18 aware of any missing link in the chain and is not
19 aware of any tampering. We've certainly not been
20 advised of that. I'm sure we would have been. I just
21 want to ---

22 THE COURT: Ms. McDuffie?

23 MS. MCDUFFIE: No, sir, Your Honor, to my
24 knowledge there is no missing link in the chain. The
25 complete chain has been provided to the Defense and

1 all witnesses, with the exception of those two, are
2 available and are going to testify. And no evidence,
3 to my knowledge, has been tampered with in any way.

4 THE COURT: All right. Can I see y'all for a
5 second? I need to share this note. It's from one of
6 the jurors.

7 (WHEREUPON, a bench conference was held
8 off the record.)

9 THE COURT: All right. So are y'all ready?
10 (There was no response.)

11 THE COURT: All right, Mr. Crumpton, invite
12 the jury to come in, please, sir.

13 (Whereupon, Court's Exhibit Numbers 2, 3 and
14 4, Juror Notes, were marked for
15 identification.)

16 (The jury returned to the courtroom at
17 approximately 2:35 p.m.)

18 THE BAILIFF: The jury's all present, Your
19 Honor.

20 THE COURT: All right. Thank you, Mr.
21 Crumpton. Welcome back, Madam Forelady, members of
22 the jury.

23 Ms. Falcone, you may swear the jury.

24 THE CLERK: Yes, sir.

25 (The jury was duly sworn.)

1 THE COURT: Now, Madam Forelady and members
2 of the jury, what I will now say is intended to serve
3 as an introduction in the trial of this case. It is
4 not a substitute for the detailed instructions on the
5 law which I will give you at the close of this case
6 and before you retire to consider your verdict.

7 Now this is a criminal case commenced by the
8 State, which I will sometime refer to and you will
9 hear referred to as the prosecution, against Johnnie
10 Gaskins. This case is based on six indictments. I've
11 read those indictments to you. There's two counts of
12 murder, three counts of assault and battery with
13 intent to kill and one count of possession of a
14 firearm during the commission of a violent crime --
15 the use of a firearm during the commission of a
16 violent crime.

17 Now to these six indictments the Defendant
18 has pled not guilty. Now you should understand that
19 the -- these indictments are simply charges and that
20 they are not in any way evidence of the allegations
21 contained within them.

22 The Defendant has pled not guilty to these
23 indictments. The State therefore has the burden of
24 proving each of the essential elements of these
25 indictments beyond a reasonable doubt. The purpose of

1 the trial is to determine whether the State has met
2 this burden.

3 Your purpose as jurors is to find and
4 determine the facts. Under our system of criminal
5 procedure, you are the sole judges of the facts. If
6 at any time I should make any comments regarding the
7 facts, you are at liberty to disregard my comments.
8 It is especially important that you perform your duty
9 of determining the facts diligently and
10 conscientiously. Ordinarily there is not means of
11 correcting an erroneous determination of the facts by
12 a jury.

13 Now, on the other hand and with equal
14 emphasis, I instruct you that the law as given by the
15 Court constitutes the only law for your guidance and
16 it is your duty to accept and follow it. It is your
17 duty to follow the law as I give it to you even though
18 you may disagree with the law, and I may disagree with
19 the law, members of the jury, parenthetically.

20 You are to determine the facts from the
21 testimony you hear and the other evidence introduced
22 in Court. It is up to you to determine the inferences
23 which you feel may properly be drawn from the
24 evidence. You must not consider anything you may have
25 read or heard about the case outside this courtroom,

1 whether before or during the trial.

2 Until this case is submitted to you, you must
3 not discuss it with anyone, even with your fellow
4 jurors. After it is submitted to you, you must
5 discuss it only in the jury room with your fellow
6 jurors.

7 It's important that you keep an open mind and
8 not decide any issue in the case until the entire case
9 has been submitted to you under the instructions of
10 the Court. It is your added duty, Madam Forelady, to
11 preside in the jury room and be the jury spokesperson
12 here in Court.

13 Now, we'll hear in a moment the opening
14 statements. We'll first hear from Mr. Meadors, I would
15 assume, followed by Mr. McCulloch.

16 Now, there are certain rules that the
17 prosecution as well as the defense must obey in the
18 presentation of evidence. These rules have a definite
19 purpose. They ensure that the information you receive
20 is what you should receive under the rules.

21 Now, an objection is a procedure we use for
22 either Mr. Meadors or Ms. McDuffie or Mr. McCulloch or
23 Mr. Schillaci to bring a possible violation of the
24 rules of presenting evidence to my attention. And for
25 that reason you should not hold an objection against

1 the State or against the Defendant or against the
2 lawyers involved. They're just doing their job. Nor
3 should you conclude how I rule on the objection that I
4 favor one side or the other. My interest in this
5 case, members of the jury, is that I have no interest
6 except to try to ensure that everybody receives a fair
7 trial, both Mr. Gaskins as well as the victims, the
8 prosecution, the State, as well as the Defense.

9 From time to time it might be necessary for
10 me to invite the lawyers up here. We may engage in
11 some discussions. We will be talking about points of
12 law. Now, the only way I can hear arguments on the
13 law is either to bring the lawyers up here and whisper
14 so you can't hear what we're saying or I can send you
15 out of the room because the only way I can hear
16 arguments on the law is in your absence. So sometimes
17 I might be able to say at times, y'all please
18 approach, we'll talk about something and try to cover
19 it up here. Otherwise, I'd have to send you out.

20 But if I have to send you out for any reason
21 because of the State's objection or because of Mr.
22 McCulloch's objection, a Defense objection, don't hold
23 that against anybody. They're just doing their job.
24 And when you don't hear something, you can't consider
25 it because we're just doing our jobs. The main thing

1 is to ensure that the information you hear in this
2 case is what you should hear under the rules.

3 And with that in mind, I'm going to invite
4 your keen attention to the opening statements and then
5 we'll get this case underway.

6 Mr. Meadors, you may proceed, sir.

7 MR. MEADORS: If it please Your Honor.

8 THE COURT: Yes, sir.

9 OPENING STATEMENT ON BEHALF OF THE STATE

10 BY MR. MEADORS:

11 Give me a fucking Hennessy. Give me a fucking
12 Hennessy, bitch. The words the Defendant Johnnie
13 Gaskins screamed at the waitress Erin Hellman at the
14 360 Bar on February 5th, 2007, right before he was
15 taken out of the club by employees there, let go, got
16 into a Chevrolet Impala. And when those same
17 employees walked back to the front of 360, he got in
18 his car, drove toward the door and opened fire into
19 the 360 front door, resulting in the murder of John
20 Adams, the murder of Shannavia Williams, the injuries
21 to Lamont -- the injuries to Deirdre Houston, Lamont
22 Adams (sic) and Quinten Harris.

23 That's what this case is about, ladies and
24 gentlemen, getting angry, kicked out of a bar and
25 coming back and open fire, the deaths and the injuries

1 of these five people.

2 Madam Forelady, ladies and gentlemen of the
3 jury, my name is John Meadors. I'm the Deputy
4 Solicitor for the Fifth Judicial Circuit. With me at
5 counsel table is Joanna McDuffie, an Assistant
6 Solicitor, Kevin Isenhoward, a sergeant with the
7 Richland County Sheriff's Department (indicating).
8 Mr. Billy Tabor and Ms. Outen (phonetic), also with
9 our office. We work for Solicitor Barney Giese, the
10 elected official of the Fifth Judicial Circuit.

11 We are here today representing the people of
12 the State of South Carolina, the people of Richland
13 County, against the Defendant, Mr. Johnnie Gaskins who
14 is represented by Mr. Joseph McCulloch, a member of
15 the Richland County Bar and Ms. Kathy Schillaci, also
16 a member of the Richland County Bar.

17 As somebody told you yesterday, and I think
18 it was Judge Barber yesterday morning, we'd all say
19 thank you. So I want to say thank you initially for
20 being here. Being a juror is not easy but thank you
21 for your attention that I know you will give everybody
22 in this case.

23 Very briefly, as Your Honor said, we're all
24 limited by rules. Opening statements are a chance for
25 us to tell you what we think the evidence will show.

1 And that's what I'm going to attempt to do very
2 briefly and very briefly explain to you what the law
3 is.

4 The Defendant, Johnnie Gaskins, is charged,
5 as Your Honor has told you, with three counts of
6 murder -- two counts of murder, three counts of
7 assault and battery with intent to kill and one
8 possession of a firearm in the commission of a violent
9 offense.

10 I think y'all probably know what murder is
11 but it's the intentional unlawful killing of another
12 human being with malice aforethought. And that the
13 victim did die as a result of that.

14 What's malice? Malice is an evilness, a
15 wickedness, a meanness, a spitefulness that one person
16 shows to another. The word kind of -- you know, is
17 kind of self-explanatory. There are numerous ways you
18 can show malice. You can expressly say it, I'm gonna
19 kill you. I think at the close of this case I may
20 have some expressed malice for you. Something I can
21 argue is expressed malice. I'll show you what a
22 gangsta is. You'll hear he says that right before he
23 opens fire. Expressed malice.

24 But also at times when you may -- it's up to
25 you totally, you may be able to infer malice depending

1 upon the circumstances and facts that come out, from
2 the types of weapons used.

3 But those are two examples of malice. Malice
4 aforethought, don't get caught up in that. I'm not
5 saying I understand everything but that's kind of a
6 term of art. You don't have to have premeditation in
7 this state. You don't have to plan something out.
8 Malice aforethought just meant at the time that the
9 instrumentality is put into operation, that's it. It
10 doesn't have to exist but for an instant, like pulling
11 the trigger. Killing of another person with malice
12 aforethought and this person died as the proximate
13 result thereof.

14 The other charge you're going to hear is
15 about assault and battery with intent to kill and
16 that's from those other three victims. And Defense
17 counsel has seen these. I'll just very briefly go
18 over this with you.

19 Assault and battery with intent to kill is an
20 unlawful act of violent injury to the person of
21 another and that's that old malice aforethought again.

22 Now intent, ladies and gentlemen, assault and
23 battery with intent to kill, you don't have to have
24 specific intent. Well, I'm going to kill old Deirdre
25 Houston that's back behind that wall who I don't even

1 know.

2 Well, no, the law doesn't require that. It
3 just requires a general intent. A specific intent to
4 kill is not an element of assault and battery with
5 intent to kill. Only a general intent to kill is
6 necessary to support a charge of assault and battery
7 with intent to kill.

8 That can be demonstrated by acts and conduct
9 of the accused and other circumstances from which you
10 may naturally and reasonably infer intent. You shoot
11 a gun into a crowded bar and somebody might get
12 killed. Is that reasonable inference for intent?

13 Malice can be showed in a bunch of ways.
14 Assault and battery with intent to kill, that's that
15 malice aforethought, that meanness, that evilness,
16 that wickedness.

17 Another way, implied or inferred malice is
18 when circumstances demonstrate a wanton or reckless
19 disregard of human life. You don't care. You just
20 fire into a crowded bar. That's mean. That's malice.
21 Another example of what malice is.

22 The last indictment, is kind of self-
23 explanatory. I don't believe I need to go over that.

24 Folks, what's the burden on the State in this
25 case? Y'all all know that too, it's the same burden.

1 It's on every prosecution office, government office in
2 the country today. I almost wish I could say, let's
3 say it together but I can't do that.

4 We have to prove the Defendant's guilt beyond
5 a reasonable doubt. That's it. Not beyond all doubt.
6 Beyond a doubt to cause reasonable folks to hesitate
7 to act.

8 What -- what happened here? Well, I'm just
9 an instrument in this case. We are going to take you
10 to 360. We're going to take you there, 126 and Bush
11 River Road intersection. We're going to all go back
12 to February 5th of 2007. The Super Bowl when the
13 Indianapolis Colts were playing the Chicago Bears.
14 And we're going to take you to Club 360 through
15 pictures, through eyewitness testimony, what they saw,
16 what they heard. What they saw and what they heard
17 through pictures and testimony.

18 Lindburgh Porterfield, y'all will meet today
19 or tomorrow, is a fellow who owns 360 Sports Club.
20 You'll meet him. You'll hear him. You'll evaluate
21 him. He's going to tell you that they decided to have
22 a Super Bowl party that day. That's what sports clubs
23 do. Opened it up to the public. May have opened it
24 up a little earlier that day. Some of the help
25 probably came in 12, around there. A guy named Roger

1 Glover is cooking the wings.

2 The public probably starts coming in 2 or
3 3:00 he'll testify. It got pretty crowded in the bar.
4 A young lady named Erin Hellman who is one of the
5 first witnesses you're going to hear from. She's kind
6 of the bar manager. And we've got a diagram of the
7 inside that we're going to show you. She was working
8 there. Other employees were working there.

9 Shannavia Williams, one of the victims in
10 this case of the murder, was working at the Pizza Hut.
11 And three of her friends, Deirdre Houston, one of the
12 A B I K victims, Shanelle Whack, had already been to
13 the Pizza Hut earlier and came to 360. Shanelle (sic)
14 Williams -- Shannavia was working, Deirdre Houston and
15 Shawna Williams. And I'll get all these names
16 straight for you. But Shawna Williams, Shanelle
17 Whack, Shannavia Williams and Deirdre Houston, that's
18 the four ladies.

19 Now, Shannavia, the murder victim, she wasn't
20 there at first. The other three ladies went by
21 themselves. Getting there around 12:00, they decided
22 they're going to go get Shannavia Williams from the
23 Pizza Hut. She had gotten off of work then. The
24 testimony will show wasn't sure, wasn't sure if she
25 wanted to come or not. But they said, come on, go

1 with us.

2 Well, she gets to 360 about 12:00, Shannavia
3 Williams does. They all go on the dance floor and they
4 decide somewhere around 1:00 they're ready to leave to
5 go somewhere else, some club I think on Two Notch.
6 They'll tell you what it was. I think it was
7 Rockaways. There's one on Rosewood and one on Two
8 Notch. They decided they're going to go there. Ms.
9 Deirdre Houston, who's in the courtroom back here
10 (indicating), she comes up to a bar -- leaving, going
11 outside and she says Ms. Shannavia Williams sits her
12 drink there and she spills it. It was just an
13 accident.

14 She decides that she's going to go and get
15 something to clean it up. Ms. Houston stays here
16 (indicating), Ms. Shannavia Williams goes to do that.
17 The other two ladies, Ms. Shawna Williams and Shanelle
18 Whack, they were somewhere else back in the bar and
19 we'll explain that to you later.

20 Freeze that in your mind right there.

21 Also going on at this time, Erin Hellman,
22 y'all remember her? She's the lady working behind the
23 bar. Mr. Johnnie Gaskins had come up to her and said
24 those -- and I'll try not to say that word much
25 anymore. But come up and said give me a f-ing

1 Hennesy, give me a f-ing Hennesy, bitch.

2 Freeze the other thought that the ladies are
3 fixing to leave. They're at the bar. The bouncers,
4 the security, then come to take Mr. Gaskins outside.
5 He had gone back behind the bar after he had asked for
6 a drink. She wouldn't give it to him, threw his money
7 at her. They went and got him. A guy named Lamont
8 Davis, Mr. Quentin Harris who's sitting up here in the
9 courtroom, working security, also one of the A B I K
10 victims, they took Mr. Gaskins out the front door of
11 360.

12 You're going to see pictures of this. You're
13 going to see pictures of it. I've got something else
14 you're going to see. I'll tell you a little bit.
15 They took him out the front of the door. At that
16 point a decision was made by Mr. Davis or somebody,
17 they were going to let him go because a friend of his
18 was there named Sydney Williams. I know I'm throwing
19 a lot at you but I've got no way to tell you but this
20 way. This is what the evidence will show we believe.

21 A friend of his named Sydney Williams, a
22 friend of Mr. Gaskins, says, let me take him, because
23 they had him handcuffed, they were going to call the
24 police. Wish they had. Wish they had. But the
25 evidence will show Mr. Sydney Williams talked them out

1 of it. Look at him, he's intoxicated. Let me make
2 sure he gets home.

3 Evidence will show he's angry. They agree to
4 let him go back to his car. Mr. Williams will come in
5 here and tell you. That's his friend but he's going
6 to come in here and tell, walked him back to his car.
7 And that's when he said, they think they're gangsta,
8 I'll show them gangsta. Mr. Williams said, no. He
9 said, fuck you. I'll show them gangsta.

10 And at that point, the ladies back in your
11 mind are at the front. The bouncers, Mr. Quinten
12 Harris and Mr. Lamont Davis, went back inside to get
13 somebody else out, the fellow named Christopher Lyles.
14 I hope y'all follow me, get Christopher Lyles.

15 As they're doing that, Gaskins is now at his
16 car. A security guy named Epsil Freeman (sic), I
17 think his name is, he'll be here tomorrow. He got
18 concerned about him. He actually went out there and
19 talked to the Defendant, told him it was time to go.
20 He was worried about it. He's going to testify to
21 what he saw.

22 When Quinten Harris and Lamont Davis, the
23 same folks that took Gaskins out to the front come
24 back with this Christopher Lyles -- I'm bringing
25 Christopher Lyles here to talk to y'all too, y'all.

1 When they get back out front, that is when the
2 Defendant gets in his -- he's sitting in his Impala.
3 When he sees them back out front, he drives to the
4 front of 360 and opened fire with his 40 caliber.

5 That's where John Adams was hit. That's
6 where Deirdre Houston was hit that was inside the bar.
7 She was just sitting there waiting for Shannavia to
8 come back to clean up that spill. She gets hit in the
9 ear. She says that's the last thing she remembers.

10 When Shannavia Williams is coming back to
11 clean it up, she's hit the head and she's dead.
12 Quinten gets hit and Lamont Davis also gets hit twice
13 in the back.

14 The Defendant speeds off we believe the
15 evidence will show. It's kind of chaotic down at the
16 scene. Erin's calling 911, other folks calling 911.
17 Sydney -- Sydney Williams, the friend of the Defendant
18 -- I believe it was actually Palmer, mispronounced his
19 name, sees, knows he's gone out with the Defendant in
20 handcuffs. He said, wait a minute, you know something
21 about this. A friend tells him it was Johnnie
22 Gaskins, that's who came by, that's who fired in
23 there. He's going to come in here and tell y'all
24 that. That's who it was.

25 They keep him there. They get a statement.

1 Quinten Harris is going to come in here and tell you

2 ---

3 MR. MCCULLOCH: Your Honor, at this point
4 I've got to object. While I recognize it's opening,
5 the danger of the Solicitor accounting in quotation
6 marks things that people are going to say is that they
7 may not show up.

8 THE COURT: They may not either, they may not
9 but ---

10 MR. MCCULLOCH: I can't erase that.

11 THE COURT: Just relax a little bit. He has
12 an opportunity to tell the jury what he thinks the
13 evidence is going to present. He hasn't exceeded that
14 boundary yet. Your objection is overruled.

15 MR. MCCULLOCH: Thank you.

16 THE COURT: You may continue, sir.

17 MR. MEADORS: I believe the evidence will
18 show through the testimony of Quinten Harris, sitting
19 right up there (indicating), after he took this man
20 outside, he went in back to get Chris Lyles. He comes
21 back out. He's tussling with Chris Lyles. He looks
22 up and sees Johnnie Gaskins, the same guy he just took
23 out, firing the gun at the doorway. He'll be there
24 testifying today or tomorrow.

25 Mr. Gaskins leaves. Law enforcement finally

1 come. You will hear described through Isenhoward and
2 other investigators at the scene. They take
3 statements, develop Mr. Gaskins as a suspect.

4 I believe the evidence will show sometime
5 after that -- remember the fellow named Porterfield,
6 Mr. Lindburgh Porterfield that owned the club? He
7 found a phone out in the drive -- out in the parking
8 lot. That phone starts ringing later, folks asking
9 for Black, the evidence will show a nickname for the
10 Defendant. And a man calls, Mr. Porterfield will say,
11 and say, hey, have you got my phone? He says, yeah,
12 come by and get it. The evidence will show he
13 doesn't.

14 Through investigation, after that, we believe
15 the evidence will show a Chevrolet Impala is found by
16 law enforcement along with a place where the Defendant
17 was known to be. The Impala was taken by law
18 enforcement, a search warrant executed. Inside that
19 Chevrolet Impala were documents with the Defendant's
20 name on them, gunshot residue inside, we believe the
21 evidence will show. D N A from the Defendant on the
22 gear box, the steering wheel, maybe outside the car,
23 linking him to that car.

24 And we believe the evidence will show the
25 back right side of the passenger -- back right side

1 front seat back pocket a 40 caliber shell casing. And
2 we believe the evidence will also show that as law
3 enforcement were collecting evidence -- right here
4 (indicating) and we're going to show you pictures and
5 those little placards in doing it. They found also
6 three 40 caliber shell casings. And we believe that
7 the -- David Collins will come in and say the shell
8 casing in the Chevrolet Impala that had his D N A on
9 it is the same -- fired by the same firearm as the 40
10 caliber shell casings that were in that driveway, in
11 that parking lot.

12 That's what this case is about, ladies and
13 gentlemen.

14 Ladies and gentlemen, we've all got roles in
15 this case. His Honor is the judge of the law. Mr.
16 McCulloch and Kathy have their roles. We have our
17 roles. But your role, in all due respect to His Honor
18 and these fine counsel here, is as important if not
19 more important than all our roles. And I'm not just
20 saying that, it's true.

21 This is -- this is -- this is an important --
22 this is as important a case that's going to be tried
23 in this country this week. It's important to the
24 Defendant. It's important to the victims and their
25 families. And Ms. McBride didn't have a school

1 yesterday when y'all came in to put you through to how
2 to be a juror. You had wonderful instructions from
3 Judge Barber.

4 But you didn't have a school to go through
5 and say, what's this to be a juror, how do I be a
6 juror? But you've been going to school your whole
7 life, the school of commonsense. Watching people,
8 evaluating people, what's going on here, what's going
9 on there. You bring all that in with you. You bring
10 it in with you.

11 And that's all I ask you as you listen to
12 these witnesses that take the stand, use your
13 commonsense. You decide what's believable, what's
14 credible. And that's why the system is so pure and
15 believable. And that's why it's the best system we
16 have in this country and this world. And that's all
17 we can ask you to do.

18 Verdict means to speak the truth. We
19 respectfully, respectfully submit that after you've
20 heard the testimony and the evidence in this case, you
21 will return a verdict that says Johnnie Gaskins was
22 mad, wanted something to drink, he wouldn't get it.
23 Got kicked out, mad, and he came back to get the
24 people that had kicked him out.

25 And unfortunately and tragically two were

1 dead and three were injured and we're going to find
2 him guilty.

3 Thank you.

4 THE COURT: Mr. McCulloch.

5 MR. MCCULLOCH: Your Honor, at this point I'm
6 going to defer to my co-counsel. The jury will get to
7 hear from me soon enough.

8 THE COURT: Very well, you may proceed.

9 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

10 BY MS. SCHILLACI:

11 Good afternoon. We'll see how heavy this is.

12 My name is Kathy Schillaci and I am here on
13 behalf of Johnnie Gaskins. Johnnie Gaskins is sitting
14 there next to Joe McCulloch. Mr. and Mrs. Gaskins,
15 his parents, are in the courtroom along with his
16 family.

17 And the first thing we want to do is thank
18 you for being here. I know it's not a high paying job
19 but it is very important.

20 Now I said that we're here today on behalf
21 Johnnie Gaskins and that's because he's been accused
22 by the prosecution. And you just heard the
23 prosecution up here doing some major accusing. But if
24 you can draw on your experience, commonsense, things
25 you've seen on TV, we know that an accusation does not

1 mean that someone's guilty. People are accused every
2 day in this country and we know that many times
3 they're found to be innocent. But unfortunately that
4 stigma can attach the moment that the finger is
5 pointed.

6 Now without question, this was a tragic event
7 that occurred. And we believe the evidence is going
8 to show that it was a chaotic night, it was one of the
9 busiest nights for a club. So we'd ask you to keep
10 that in consideration as you listen to the witnesses.
11 With that kind of atmosphere, what did they really
12 see?

13 Now, the prosecution had a very dramatic
14 opening, one that may have been meant to stir your
15 passion. But your duty is to be a calm objective
16 observer during this case. And we ask that you set
17 aside any preconceptions, any thoughts that you might
18 have about Johnnie Gaskins and listen to the evidence,
19 listen to the case.

20 Now, Judge Manning is the one that instructs
21 you on the law in the courtroom. But I do want to
22 mention some concepts that are at the very foundation
23 of the United States criminal justice system and at
24 the foundation of your patriotic duty. Those concepts
25 are presumption of innocence, burden of proof and

1 beyond a reasonable doubt.

2 Now, when we say presumption of innocence, an
3 accused sitting in this courtroom is not presumed to
4 be innocent. Now, what do we mean by that, presumed
5 to be innocent. Well, imagine that you've got to go
6 back into the jury room and you see a chalkboard.
7 Written on that chalkboard are the words, not guilty.
8 And unless the prosecution can come in and erase all
9 of that through the witnesses, through the officers
10 that testify, then an accused you have to find is not
11 guilty.

12 Now, also when we talk about presumption of
13 innocence, what does that really mean? And being
14 presumed innocent, why does that State have the burden
15 of proof and why is someone presumed to be innocent?
16 Well, that's because the State, they have the tools.
17 I don't know if any of you guys watch C S I but they
18 have the science, D N A, fiber analysis,
19 fingerprinting. They have all of that. They have
20 officers that can knock on the door, that can get
21 statements from witnesses, get evidence. And, in
22 fact, if you remember back to the list of witnesses, I
23 think there was something like 95 in this case. 40 of
24 them were C S I, C S I and police officers. 40 and
25 that's just for this case. Presumption of innocence.

1 Now the other thing I want to talk about is
2 the burden of proof in this case. The accused does
3 not have to offer a single piece of evidence. And let
4 me repeat that. The accused does not have to offer a
5 single piece of evidence. An accused does not have to
6 prove anything. The burden of proof is fully on the
7 prosecution in this case. And when the prosecution
8 gets up, I want you to imagine written on their
9 sleeve, burden of proof. Because it's their
10 responsibility to prove their accusations beyond a
11 reasonable doubt. Beyond a doubt that would cause a
12 reasonable person to hesitate.

13 Now, we think, ladies and gentlemen, that as
14 you listen to the evidence, you're going to be using
15 your commonsense. You're going to be using your
16 experience, your daily experiences, things that you've
17 been through. And we believe that as you listen to
18 the evidence, questions are going to arise and perhaps
19 even skepticism.

20 When you hear witnesses talk repeatedly
21 about, most consistent with. What does that mean?
22 And more importantly, what doesn't it mean. When you
23 hear witnesses talk about what they've seen, you as
24 the jury are the ones who are going to judge the
25 credibility of witnesses. And as you listen to them,

1 listen to what they were able to see but more
2 importantly, again, what weren't they able to see.

3 Now, I'm going to step down pretty soon and
4 you're going to start hearing from -- hopefully today,
5 different witnesses. And then at the end of all the
6 testimony, the lawyers are going to come back and
7 we're going to give what's called closing arguments,
8 closing statements and then you're going to be sent
9 back to deliberate, after the Judge instructs you.

10 And I ask that you keep in mind again those
11 principles of presumption of innocence, beyond a
12 reasonable doubt and burden of proof. And we think,
13 ladies and gentlemen, that after you've listened to
14 all the evidence, after you've deliberated, thought
15 about it, we believe that your determination will be
16 one of not guilty.

17 And again, on behalf of the accused, Mr.
18 Gaskins (indicating), on behalf of his family, we
19 thank you for being here and most importantly we thank
20 you for your fairness and I appreciate it.

21 THE COURT: Mr. Meadors.

22 MR. MEADORS: Please Your Honor. Erin
23 Hellman, please. The State calls Erin Hellman.

24 THE COURT: And members of the jury, all the
25 witnesses are outside and they'll bring them in one at

1 a time. That's the reason for that. And while
2 they're getting Ms. Hellman, Mr. Crumpton, will you
3 step aside just moment.

4 (Complied.)

5 THE COURT: That's good.

6 What I didn't tell you a moment ago I will
7 add. When an objection is made and I say sustained,
8 okay, that means I agree with that objection. If
9 somebody says objection, I say overruled. That means
10 it's okay for the witness to answer that question.

11 Are we on the same page? Now, we're all on
12 the same page. I just wanted to add that. Thank you.

13 Sorry, Mr. Crumpton.

14 (ERIN HELLMAN, having first been duly sworn,
15 testified as follows:)

16 THE CLERK: Please have a seat in the witness
17 stand and state your full name for the record.

18 THE WITNESS: My name the Erin Hellman.

19 DIRECT EXAMINATION

20 BY MR. MEADORS:

21 Q Afternoon, Ms. Hellman?

22 A Good afternoon.

23 THE COURT: I'm sorry, you've got to speak
24 louder than that. Come closer to the microphone. We
25 all need to hear you all over the courtroom.

1 THE WITNESS: Okay. My name is Erin Hellman.

2 THE COURT: That's better.

3 THE WITNESS: okay.

4 Q Ms. Hellman, please tell the ladies and gentlemen
5 of this jury a little bit about Erin Hellman,
6 specifically where are you from?

7 A I'm from Lansing, Michigan. I've lived in
8 Columbia, South Carolina for about 10 years. I
9 did attend U S C and Midland's Tech. I currently
10 work at Stoneycreek Apartments as the property
11 manager.

12 Q So you came here in '97 or so to South Carolina?

13 A Yes, sir.

14 Q About you went to tech first or U S C first?

15 A Midland's Tech first.

16 Q Did you get a degree there?

17 A I did. I have two associates in business.

18 Q All right. Then you went to the University of
19 South Carolina?

20 A Yes, sir.

21 Q And did you get a degree from there?

22 A I did. I have B A in political science.

23 Q And you're currently a property manager?

24 A Yes, sir.

25 Q Just very briefly, did you at a time work at Club

1 360?

2 A Yes.

3 Q And what was your job there?

4 A I started as a bartender. I was promoted to bar
5 manager and then general manager.

6 Q Just one more question for right now, on
7 February 5th of 2007, what was your job there?

8 A I was the bar manager.

9 Q The bar manager, okay.

10 A Okay.

11 THE COURT: Members of the jury, it's one of
12 those times where there's a matter of law I need to
13 take up and the only way I can do that is in your
14 absence. So don't think anything's wrong with the
15 case. Just go to the jury room and just don't talk
16 about it.

17 Thank you very much.

18 (The jury retires from the courtroom at
19 approximately 3:13 p.m.)

20 (Whereupon, State's Exhibit Number 11,
21 Photograph of Bar, was marked for
22 identification.)

23 (Whereupon, State's Exhibit Number 12,
24 Photograph of Bar at Club 360, was marked for
25 identification.)

1 (Whereupon, State's Exhibit Number 15, Outline
2 of Location, was marked for identification.)

3 (Whereupon, State's Exhibit Number 17, Photo
4 Lineup Presented to Erin Hellman, was marked
5 for identification.)

6 (Whereupon, State's Exhibit Number 19, Photo
7 Lineup Presented to Tamera Barnett, was marked
8 for identification.)

9 (Whereupon, State's Exhibit Number 20, Lineup
10 Presented to Lindburgh Porterfield, was marked
11 for identification.)

12 (Whereupon, State's Exhibit Number 21, Photo
13 Lineup Presented to Roger Glover, was marked
14 for identification.)

15 THE COURT: This is the issue raised by the
16 Jackson versus Denno?

17 MR. MCCULLOCH: Well, it's actually Neal
18 versus Biggers.

19 THE COURT: Okay, Biggers, okay. It's one of
20 the lay witnesses. We did the police officers
21 yesterday. Okay, all right.

22 MR. MEADORS: Thank you, Your Honor.

23 THE COURT: You may proceed.

24 DIRECT EXAMINATION (In Camera)

25 BY MR. MEADORS:

1 Q You were working at 360 on February 5th, 2007?

2 A Yes.

3 Q You just testified, as the bar what?

4 A Manager.

5 Q Bar manager, all right. And did that mean you
6 pretty much stayed at the bar this whole night?

7 A Yes.

8 Q Did there come a point in time in the evening when
9 somebody came cussing to you -- cussing at you?

10 A Yes.

11 Q All right. And describe the bar then,
12 specifically the lighting, what it was like then.

13 A It was fairly well lit. There is a neon bar that
14 goes above the actual bar area and there were
15 lights on.

16 Q And let me just show you this right here, what's
17 marked State's 11 for ID at this point. Do you
18 recognize that?

19 A Yes.

20 Q Okay. And is this a part of the bar that you were
21 working behind (indicating)?

22 A Yes.

23 Q And also -- and for the sake of these purposes I
24 want to show State's 15. Do you recognize this
25 drawing?

1 A Yes.

2 Q Does that appear to you reasonably to reflect the
3 Club 360?

4 A Yes.

5 Q All right. Show the Judge what part of the bar
6 -- where the bar is, number one, and then where
7 you were working.

8 MR. MCCULLOCH: I can't see that far, Your
9 Honor.

10 THE COURT: Well, neither can I. You can get
11 closer, Mr. McCulloch. Go on up there.

12 A This is the bar (indicating), this is the front
13 part of the bar, this is the back. This is the
14 area that I was working at that time.

15 Q All right. And what we just introduced -- or
16 offered as State's 11 just for ID only, would
17 represent the first side of the bar?

18 A Yes, sir.

19 Q Okay. Now, can you tell and show the Judge what
20 happened sometime around midnight or later that
21 night involving an individual trying to get some
22 drinks from you and become unruly?

23 A Yes. I was standing in this area (indicating) and
24 a gentleman came up right between probably these
25 two bar stools (indicating) and asked for a

1 Hennesy.

2 Q Did he use another word in front of that.

3 A He did.

4 Q Okay. You don't have to say that now but go
5 ahead.

6 THE COURT: You're not prohibited from saying
7 it, it is what it is.

8 Q Okay. Go ahead and say what he said.

9 A Okay. He told me to give him a fucking Hennesy.
10 And I leaned -- I went over to him and I asked him
11 -- I thought maybe I had forgotten him so I said,
12 excuse me, did I forget about you baby? And he
13 said, I said, give me a fucking Hennesy, bitch.
14 And I backed up and said, perhaps you've had too
15 much, and offered him a food menu.

16 Q And tell the Judge and show him like if I am this
17 person, how close were you to him? You said, did
18 I forget you babe, or something like that?

19 A He would have been standing on this side
20 (indicating) and I kind of leaned to him.

21 Q Okay.

22 A Approximately this close (indicating).

23 Q And I mean this very -- I'm not meaning this bad
24 at all but you're a pretty good bartender, right?

25 A I think so.

1 Q And you tried to get to ---

2 THE COURT: Can I sit down now?

3 MR. MEADORS: Yes, sir.

4 THE COURT: Thank you.

5 Q You try to get to know your customers and look at
6 them.

7 A I do.

8 Q I mean, just to personalize yourself with them?

9 A Yes.

10 Q So was there anything obstructing you between this
11 individual?

12 A No.

13 Q Did you have any -- did you have -- could you see
14 him?

15 A Yes.

16 Q All right. After he said these two expletives,
17 did -- what happened next?

18 A Well, he said that and then he threw money on the
19 bar kind of towards me and walked behind the door
20 through this entrance right here (indicating).

21 Q So he actually came behind the bar?

22 A He did.

23 Q And --- and -- and what happened after that?

24 A Security escorted him out.

25 Q And -- and describe him to the Judge, this person.

1 A He was wearing a hooded jacket. He was very
2 sweaty. His eyes looked very dark. And as he
3 leaned on the bar, he was very unsteady almost as
4 if he couldn't hold his head up.

5 Q Okay. Did you see where this person went, if
6 anywhere, with security?

7 A Out the front door.

8 Q How long after that -- did you hear shots after
9 that?

10 A Yes.

11 Q For these purposes, okay. And were you shown a
12 lineup later on or -- would this have been the
13 early morning hours of February 5th?

14 A Yes.

15 Q Super Bowl was the 4th, goes into the 5th?

16 A Yes, sir.

17 Q Later on that morning or that day, were you shown
18 a lineup?

19 A Yes, sir.

20 Q And where were you shown it?

21 A In my apartment.

22 Q And did an investigator with the Sheriff's
23 Department show it to you?

24 A Yes.

25 Q Show the Judge -- I'm going to put this down like

1 that. Tell the Judge how all that happened? What
2 -- how did he present the lineup to you, what did
3 he say to you if anything and what did you do?

4 A He called me on the telephone and verified that I
5 was in my apartment and I was. He came to my door
6 and had a folder in his hand with a blank piece of
7 paper like this (indicating). And he asked me if I
8 would be able to identify the individual that was
9 escorted out the bar that night. And I told him I
10 would. And he turned the paper over and asked me
11 if I saw the individual on this paper.

12 Q And were you -- and did you indicate to him that
13 you saw somebody?

14 A Yes.

15 Q And which individual did you pick out?

16 A The top middle.

17 Q And did you -- was that circled and your initials
18 are on there? Looks like E ---

19 A I circled it and my initials E.H., yes, sir.

20 Q E.H., all right. And this was done on February
21 5th?

22 A Yes.

23 Q And it's got your residence where it was shown to
24 you, correct?

25 A Yes, sir.

1 Q And at bottom, this is the man that I cut off from
2 buying alcohol at 360?

3 A Yes.

4 Q Is that what it says?

5 A Yes and was carried out in handcuffs. Yes, sir.

6 Q And how -- you got this close to him (indicating)?

7 A Yes.

8 MR. MEADORS: Your Honor, this is State's 17
9 for ID at this point.

10 Q Is that individual that said those things to you
11 and threw the money at you and came back toward
12 the bar and was then escorted out, is that person
13 in the courtroom?

14 A Yes.

15 Q And would you point him out for His Honor?

16 A He's right there (indicating).

17 Q And you're pointing to Mr. Johnnie Gaskins by Mr.
18 McCulloch?

19 A Yes, sir.

20 MR. MEADORS: All right. We'd ask the record
21 to so reflect. Beg the Court's indulgence.

22 THE COURT: Yes, sir.

23 (Pause.)

24 MR. MEADORS: Did -- well, never mind.

25 That's all, thank you.

ERIN HELLMAN -- CROSS BY MR. MCCULLOCH (In Camera): 242

1 THE COURT: Mr. McCulloch.

2 MR. MCCULLOCH: Thank you, Your Honor.

3 CROSS-EXAMINATION (In Camera)

4 BY MR. MCCULLOCH:

5 Q Ms. Hellman, it was pretty chaotic that night at
6 the bar? I get a sense, this was Super Bowl
7 Sunday, I understand?

8 A Yes.

9 Q And the club holds how many people?

10 A I'm not exactly sure.

11 Q How many people were there that night, several
12 hundred?

13 A Maybe a hundred.

14 Q Just a hundred. They -- did you -- had you seen
15 Mr. Gaskins in the bar on any night prior to this?

16 A No.

17 Q And the first contact you had with the person you
18 now identify as Mr. Gaskins would have been what
19 point in the evening, about what time?

20 A Just after midnight.

21 Q Sorry?

22 A Just after midnight I would think.

23 Q And your encounter with this person lasted how
24 long?

25 A Approximately five minutes.

1 Q So it took five minutes for him to use offensive
2 language and -- or use offensive language and then
3 it took five minutes to get security to act?

4 A No. Just our conversation back and forth. It may
5 not have been five minutes exactly.

6 Q In all likelihood it would have been much shorter
7 than that?

8 A I don't really recall how long it was.

9 Q So you don't know how long it might have been?

10 A That I was speaking to him? No, sir.

11 Q The entire encounter?

12 A No, sir.

13 Q The night of this incident, did you give the
14 police a description of the person that you saw in
15 the bar that night escorted out?

16 A Yes.

17 Q How did you describe him physically?

18 A Wearing the hooded jacket with the fur. Tall,
19 slender, black male, dark eyes and sweaty.

20 Q Was the hood on the jacket up over his head when
21 you encountered him?

22 A Yes.

23 Q Yes?

24 A Yes.

25 Q So you were not able to see his -- were you able

1 to see his features?

2 A Yes.

3 Q Even with a hood. Is there -- the lighting in
4 this place is from the ceiling, isn't it?

5 A The hood stopped here (indicating) and I was very
6 very close to him. As I leaned over the bar I was
7 only inches from his face.

8 Q And so you could see his features?

9 A Yes.

10 Q See his hair?

11 A No, no.

12 Q Did you see other people thrown out that night?

13 A Not particularly. I knew that someone had been but
14 because I stay at the bar I didn't actually see
15 it.

16 Q Okay. So you did not see anyone else thrown out
17 of the bar that day?

18 A I saw the group of people being taken to the door
19 but I didn't see who it was. As you look up you
20 just see a group of people going toward the door.

21 Q And there was no one -- no one identified him in
22 your presence by name or?

23 A No.

24 Q Now, when you were shown this identification, this
25 document that's been introduced by the State and I

ERIN HELLMAN -- CROSS BY MR. MCCULLOCH (In Camera): 245

1 apologize, I don't know that number ---

2 MR. MEADORS: I think ---

3 MR. MCCULLOCH: 12, I think. Let's just make
4 sure.

5 (Pause.)

6 MR. MCCULLOCH: Well, that could be 12. It
7 looks like 17. All right, 17.

8 MR. MEADORS: 17? Yeah, I read it wrong.

9 MR. MCCULLOCH: You were close. We're not
10 good with numbers.

11 Q The identification process took place at your home
12 and who was present, you and the officer?

13 A Yes.

14 Q And no one else?

15 A My mother was there.

16 Q All right.

17 A And it was two officers.

18 Q So a total of three or ---

19 A Yes.

20 Q --- two and ---

21 A Two officers -- no, a total of two.

22 Q A total of two. The lineup was presented to you
23 and was anything done by the officers to suggest a
24 photograph?

25 A No.

1 Q Did they tell you that the suspect was among these
2 photographs?

3 A No, they asked me if he was.

4 Q Okay. Did they tell you the name of the suspect
5 at that point?

6 A No.

7 Q Now, this was -- the lineup indicates this was
8 done on the 5th of February. So the incident
9 occurred the night before, right?

10 A Yes.

11 Q And this was in the early morning hours?

12 A The incident actually occurred after midnight. So
13 it was still the same ---

14 Q So what time is this ---

15 A --- but, yes.

16 Q --- the next morning ---

17 A Approximately 7.

18 Q A.M.?

19 A Yes, sir.

20 Q Had you been to sleep?

21 A No.

22 Q So you had been up all night?

23 A Yes.

24 Q Now, prior to encountering the person you've
25 identified as Mr. Gaskins, did you have anything

1 to drink?

2 A No.

3 Q This particular -- this night, nothing to drink
4 with alcohol is what I'm talking about?

5 A Right, no, sir. No, sir.

6 Q And I don't know how to ask you this delicately
7 but is it as easy for you to -- do you have
8 trouble with faces?

9 A No, not usually.

10 Q So you remember faces?

11 A Most of the time.

12 Q Does it make a difference whether they are
13 Caucasians or African Americans?

14 A No.

15 Q So you think your ability to identify a person of
16 either race is equally good?

17 A Yes.

18 MR. MCCULLOCH: This is -- I'm just about
19 finished, Your Honor.

20 Q The identification occurred you say about 7 a.m.
21 Had you had occasion -- is that correct, that's
22 what you just ---

23 A Approximately.

24 Q Well, had you watched the news ---

25 A No.

1 Q --- that morning or seen the newspaper?

2 A No.

3 MR. MCCULLOCH: That's all I have.

4 THE COURT: All right.

5 MR. MCCULLOCH: Well, Your Honor, I would --
6 I would move for -- on the basis of case law that talks
7 in terms of the opportunity to see, the distractions,
8 there's no testimony about, were you certain in here. I
9 would argue that there is no -- not a sufficient basis
10 for her to be allowed to identify Mr. Gaskins in the
11 courtroom.

12 THE COURT: All right. Well, considering the
13 biggest factor is the witness's opportunity to view the
14 criminal at the time of the crime, the witness's degree
15 of attention, the accuracy of the witness's prior
16 description of the criminal, the witness's level of
17 certainty at the confrontation and the time between the
18 crime and the confrontation.

19 At a bar, at night, curses her out, give me
20 the drink, so and so. She says she was then 18 inches
21 at least up in the Defendant's face. He came around
22 the bar. He cursed at her as he left. There's nothing
23 unduly suggestive about the procedure the police used
24 in the lineup.

25 Your request and motion are respectfully

1 denied, sir. Considering all the factors, I don't
2 think there was anything unduly suggestive about her
3 identification of Mr. Gaskins.

4 Anything further?

5 MR. MEADORS: No, sir.

6 THE COURT: All right. I'll give you five
7 minutes and then we'll bring the jury in, if anybody
8 needs to go take a little rest. I'll be right back.

9 You step down. You just can't talk to
10 anybody.

11 THE WITNESS: Okay.

12 THE COURT: I mean, you can say hello.

13 (The witness leaves the witness stand.)

14 (The Court was in recess.)

15 THE COURT: Mr. Meadors, Mr. McCulloch, the
16 names of the respective families is for me and security
17 only, not to be shared with anybody else.

18 MR. MEADORS: Thank you.

19 THE COURT: All right.

20 (Pause.)

21 (The witness returns to the witness stand.)

22 THE COURT: You're not from the U-P, are you?

23 THE WITNESS: No, from Lansing.

24 THE COURT: That's the equivalent of being
25 from Pickens County. Am I right, so far?

1 THE WITNESS: Yes.

2 THE COURT: Is everybody ready?

3 MR. MEADORS: State's ready.

4 MR. MCCULLOCH: Defense is ready.

5 THE COURT: Bring them back in, Mr. Crumpton.

6 (The jury returned to the courtroom at
7 approximately 3:37 p.m.)

8 THE BAILIFF: The jury's present, Your Honor.

9 THE COURT: Thank you, Mr. Crumpton.

10 Welcome back, Madam Forelady and members of the
11 jury. Like I was just telling you, there would come a
12 time in this trial when I would have to send you out. But
13 it was one of those times in the very beginning to get
14 used to it. It won't happen that much more throughout the
15 course of this trial, I do not believe.

16 But, Mr. Meadors, you may continue, sir.

17 MR. MEADORS: Thank you, sir. May it please the
18 Court.

19 DIRECT EXAMINATION

20 BY MR. MEADORS:

21 Q I think we were at the point where you started
22 working at Club 360 in roughly 2005?

23 A Yes.

24 Q And the different jobs you've held there are what?

25 A I started as a bartender. I was promoted to bar

- 1 manager and later to general manager.
- 2 Q Bartender, bar manager, general manager?
- 3 A Yes, sir.
- 4 Q And is Mr. Porterfield the owner of that club?
- 5 A Yes.
- 6 Q Lindburgh Porterfield?
- 7 A Yes.
- 8 Q Let's get right to it. On February 5th, 2007, then
9 your -- this may be where we ended before the break,
10 you were a bar manager?
- 11 A Yes, sir.
- 12 Q And what does that mean?
- 13 A I was in control of scheduling and hiring the
14 bartenders, to maintaining the liquor supply at the
15 bar, responsible for the nightly deposits, reporting
16 directly to Mr. Porterfield.
- 17 Q And, you've been to schooling and all. You like
18 bartending, don't you?
- 19 A Yes.
- 20 Q Do you like interacting with people?
- 21 A I do.
- 22 Q Talking to people?
- 23 A Yes.
- 24 Q Get better tips perhaps?
- 25 A Yes.

1 Q Now, do you remember this day as Super Bowl Sunday,
2 February 5th, 2007?

3 A Yes, sir.

4 Q And were you working that day?

5 A Yes, sir.

6 Q And as the bar manager, were you in charge of
7 stocking the bar and all that stuff, you deal with
8 that?

9 A Yes.

10 Q And do you remember what time you got there?

11 A Approximately 2:00 p.m.

12 Q And did the crowd start coming in and was it crowded
13 as the day wore on?

14 A It was, yes.

15 Q And were there other bartenders working with you?

16 A Yes, sir.

17 Q And specifically, now, I want to show you -- I've
18 shown you this previously but this is State's 15. Do
19 you recognize this ---

20 A Yes.

21 Q --- and does it relate to your testimony?

22 A Yes, sir.

23 MR. MCCULLOCH: We've seen it, Your Honor.

24 THE COURT: All right, without objection.

25 MR. MCCULLOCH: Your Honor, we will stipulate

1 it's a rough drawing of the premises not to scale.

2 THE COURT: If it were to scale, we couldn't fit
3 it in the courtroom.

4 MR. MCCULLOCH: Okay.

5 THE COURT: All right. It's a drawing of the
6 outline of the location.

7 (Whereupon, State's Exhibit Number 15 was moved
8 into evidence.)

9 Q This appear to you to look like the 360?

10 A Yes.

11 Q The inside of it?

12 A Yes, sir.

13 MR. MEADORS: For the record, State's 15.

14 Q And I'm just going to show you, I don't want you to
15 get down.

16 MR. MEADORS: Just one quick question right
17 now, Judge, and I'll come back.

18 Q Just show the -- show the jurors the bar area for
19 right now.

20 A This is the bar ---

21 THE COURT: She can step down if ---

22 MR. MEADORS: I may in a minute.

23 Q So this area right here (indicating)?

24 A Yes.

25 MR. MEADORS: Okay. Thank you.

- 1 Q And what part of the bar were you working in?
- 2 A I was on the backside facing the stage area.
- 3 Q And who was working the other side of the bar?
- 4 A It was two girls, Amanda and Nikki were on the front.
- 5 And originally it was Valencio and I on the back.
- 6 Q Now, later on in that evening, late in the evening
- 7 maybe early the next morning, did you encounter an
- 8 individual who said some ugly things to you?
- 9 A Yes.
- 10 Q All right. Tell the folks about that.
- 11 A I was working the back side of the bar by myself.
- 12 Valencio had left early. And an individual came up
- 13 to the back side of the bar and said, give me a
- 14 fucking Hennesy. So I went closer to him thinking
- 15 that ---
- 16 Q Did that call your attention, I mean, when he said
- 17 those words to you?
- 18 A Yes.
- 19 Q What did do you after that?
- 20 A I walked over to him and said, you know, excuse me
- 21 baby, did I forget about you or did you need
- 22 something. And he said, I said, give me a fucking
- 23 Hennesy, bitch. And I said, whoa, maybe you've had a
- 24 little bit too much to drink. Would you like some
- 25 food and offered him the food menu.

1 Q And Hennesy is a cognac?

2 A Yes.

3 Q And after you said, baby, did I forget you, and
4 offered him a little food, what -- what was his
5 reaction, what did he do next?

6 A He said, I said, give me the fucking Hennesy. He
7 threw the money at -- towards me at the bar and came
8 behind the bar.

9 MR. MEADORS: Now, at this point, Judge, with
10 your permission, I'd ask her to step down.

11 THE COURT: Yes, sir.

12 (The witness steps down from the witness stand.)

13 Q Ms. Hellman, if ---

14 THE COURT: What's the exhibit number?

15 MR. MEADORS: Your Honor, it's 15.

16 THE COURT: 15, thank you, sir.

17 Q If you would stand up here so the court reporter can
18 see you, please. I'm going to get this pointer so
19 the jurors and Mr. McCulloch can see.

20 All right, referring again to State's 15, show
21 the jury where -- you said you were working the back
22 area of the bar near the stage. Where is that?

23 A Right. So I would have been covering this whole area
24 back here (indicating) with the cash register on each
25 side.

- 1 Q All right. And the person that came up to you and
2 yelled these unheavenly things, the expletives, where
3 was he?
- 4 A He would have been standing right in between these
5 two bar stools (indicating).
- 6 Q Okay. When he yelled at you the first time, did you
7 come over to the bar?
- 8 A Yes. I was about here (indicating) and I walked over
9 to him right there (indicating).
- 10 Q And that's where you had the other conversation with
11 him?
- 12 A Right. I leaned over the bar to see -- I thought
13 perhaps he had placed an order with the other
14 bartender and she had left. So when he initially
15 cursed at me, I came closer to him to find out what
16 he needed. When I got closer to him is when he cursed
17 again.
- 18 Q All right. And, I mean, how close did you get to
19 him?
- 20 A I leaned over the bar so probably this close.
- 21 Q So you're looking at him that close?
- 22 A Yeah, I was leaning over the bar.
- 23 Q Anything between you and this person?
- 24 A No.
- 25 Q Can describe what the lighting was like to this jury?

1 Did you have any trouble seeing him, Erin?

2 A No, sir. There's that neon light that goes above the
3 bar (indicating), above this and there were also
4 several lights on in the restaurant.

5 Q I'm going to show what I see as marked as 12, State's
6 12. Is that what you're talking about?

7 A Yes, that's the neon lighting.

8 MR. MEADORS: Your Honor, I believe ---

9 A And those are also the lights ---

10 MR. MEADORS: --- without objection, Your Honor.

11 MR. MCCULLOCH: It's in evidence, I think.

12 MR. MEADORS: I had marked it for ID until this.

13 MR. MCCULLOCH: No objection.

14 (Whereupon, State's Exhibit Number 12 was moved
15 into evidence.)

16 Q So you're that close with him. You've had these two
17 conversations with him. What happens after that, if
18 anything?

19 A Yes.

20 Q What happens after that, if anything?

21 A He threw the money on the bar and then he entered
22 through right here (indicating) coming back behind
23 the bar. At that point security came and took him
24 out the front door.

25 Q And where are you still at this point?

1 A I am still right here (indicating). When he started
2 to come back behind the bar, I had to back up a
3 little bit. I was still in this area (indicating).

4 Q Describe him to the jury?

5 A He was a tall slender African American male. He was
6 very very sweaty, very unsteady on his feet. As he
7 leaned on the bar he was having a hard time keeping
8 his head up. His eyes were very very dark.

9 Q Do you remember what he was wearing, if anything?

10 A He was wearing a jacket with a hooded fur hood or
11 lining.

12 (Whereupon, State's Exhibit Number 18, Fur Hooded
13 Jacket, was marked for identification.)

14 MR. MEADORS: Your Honor, this is marked State's
15 -- I think State's 18.

16 Q Do you recognize this?

17 A Yes.

18 Q What is this?

19 A That is the jacket he was wearing.

20 Q The jacket who was wearing?

21 A The individual who yelled at me at the bar.

22 MR. MEADORS: Your Honor, we'd offer that as
23 State's 18.

24 MR. MCCULLOCH: Your Honor, I would object to her
25 testimony that that's the jacket. I don't know how she

1 could say that, Your Honor, maybe like the jacket.

2 THE COURT: I think it's been marked for ID at
3 this time. It looks like the jacket, that's what she
4 recalled so far, okay.

5 Q State's 18 for ID, does that appear to be jacket that
6 you saw that night?

7 A Yes.

8 Q Looks like the jacket?

9 A It does look like ---

10 Q You think it is the jacket?

11 A I think it's the jacket.

12 Q Now, show the jury -- and I've just got a couple
13 more, where did these -- you said they took him out
14 of the bar?

15 A Yes.

16 Q Show them again where it was, where they took him
17 exactly.

18 A He came behind the bar right here (indicating) and
19 they took him out the front door (indicating.)

20 Q And what did you do?

21 A I continued to serve people.

22 Q And -- and sometime after that, did something happen?

23 A Yes. About 20 minutes it felt like, we heard shots
24 fired and immediately grabbed the two bartenders that
25 were remaining with me and laid on the floor right

1 here (indicating) behind the cooler of the bar.

2 Q And who were those folks?

3 A Amanda Thompson and Nikki Elder.

4 Q You hear shots?

5 A Yes.

6 Q No doubt in your mind they were shots?

7 A No doubt in my mind, many shots.

8 Q And you do what? What do you do?

9 A I ran and grabbed the two girls and got to the floor.

10 Q What did you do next, if anything?

11 A I stayed down for a long time, it was a lot of shots
12 fired. And when it stopped I reached up and grabbed
13 my cell phone which was next to the cash register
14 right here (indicating) and then we heard more fires
15 so I got back down and called 911 from the floor
16 while we heard more shots being fired.

17 Q What did do you after that, if anything, and what did
18 you see?

19 A After that I stood up and when I stood up I saw a
20 woman laying right here (indicating) and I went over
21 to her ---

22 THE COURT: I'm sorry. Ms. Hellman, could you
23 speak up just a little bit.

24 THE WITNESS: I'm sorry.

25 THE COURT: All right.

1 A I saw a young lady laying right here and I went over
2 to her briefly and then I heard that someone was
3 injured outside. So I ran along the back side of the
4 bar by the V I P area and went out the side door and
5 that's where I found Mr. Adams on the front.

6 Q That's John Adams?

7 A Yes, sir.

8 Q Did you know this lady who was down here (indicating)?

9 A No.

10 Q And did you know John Adams?

11 A Yes.

12 Q Okay. What was his relationship to the club, John
13 Adams?

14 A He was security at the time.

15 Q And then did you go back into the club?

16 A Yes.

17 Q Okay. And did you talk to law enforcement after
18 that?

19 A Yes.

20 Q Did you talk to them that night?

21 A Yes.

22 Q Did you talk the next day?

23 A Yes.

24 MR. MEADORS: All right. You can have a seat
25 back there, please.

1 (The witness returns to the witness stand.)

2 Q Were there a lot of yelling going on after the shots?

3 A Yes.

4 Q And did you have an occasion -- did you give law
5 enforcement a description of the individual that was
6 cursing at you?

7 A Yes.

8 Q And did you have an occasion to look at the pictures
9 -- and I say the next day but this was actually on
10 February the 5th, we're now into the a.m. of February
11 5th, aren't we?

12 A Yes.

13 Q The Super Bowl was on the 4th?

14 A Yes.

15 Q This thing happens early morning hours of the 5th?

16 A Yes.

17 Q Later on that day of the 5th, did you have an
18 occasion to see an investigator with the Sheriff's
19 Department?

20 A Yes.

21 Q And did he show you a group of pictures?

22 A Yes.

23 Q Tell these folks where that was, where you were when
24 you came in contact with law enforcement later on
25 that morning?

1 A I was at my apartment. I had been there for maybe an
2 hour and they called to verify my residence and said
3 that they were sending an officer in route to do a
4 lineup. Within minutes an investigator was at my
5 door and he had a folder and a blank sheet of paper
6 on it like this (indicating). And he asked me to
7 look at this and to tell me if the individual who
8 yelled at me at the bar was in the picture.

9 Q You had already -- had you already given them a
10 statement earlier?

11 A Yes.

12 Q Okay. And how was that presented to you?

13 A They just turned it over and asked me if I saw the
14 individual that was escorted out of 360 after cursing
15 at me and coming behind the bar.

16 Q And were you able to pick that person out?

17 A Yes.

18 Q How long did it take you?

19 A Not even a second. As soon as he turned the paper
20 over.

21 Q He turned the paper over and you picked out number
22 one?

23 A The second one, number two.

24 Q And how did -- did you mark on there that -- so we
25 can now come show these ladies and gentlemen you did

1 that. Did you mark it?

2 A Yes.

3 Q How?

4 A They asked me to circle it, to initial and date it.

5 Q And that's your initials there?

6 A Yes.

7 Q The date of 2/5/07?

8 A Yes, sir.

9 Q And at the bottom is your signature on there?

10 A Yes, sir.

11 MR. MEADORS: Your Honor, we'd offer this as
12 State's 17.

13 THE COURT: Okay. This number is 17?

14 MR. MEADORS: This is 17, yes, sir.

15 (Whereupon, State's Exhibit Number 17 was moved
16 into evidence.)

17 Q A few other quick questions related to this. Did the
18 investigator try to tell you who to pick out?

19 A No.

20 Q And -- and when it was turned over, did you
21 immediately go to number two?

22 A Yes.

23 Q And is the person who cursed at you and you saw?

24 A Yes.

25 Q And this was later on that day on the 5th?

- 1 A Yes.
- 2 Q Do you still work at -- did you know this person
3 before that night?
- 4 A Which person, this person?
- 5 Q Number two?
- 6 A No, sir.
- 7 Q How long did you -- are you still working at 360?
- 8 A I occasionally will go back and do special events
9 with him, so, yes.
- 10 Q Now, based on the time you spent there that night
11 when this person was talking to you and had these
12 exchanges with you and you said you got close to him
13 and looked at him, you said he appeared to be wearing
14 a coat like that?
- 15 A Yes.
- 16 Q Based on that time you spent with him that night, is
17 that person that cussed at you and you saw getting
18 taken out of 360, is that individual in this
19 courtroom?
- 20 A Yes, sir.
- 21 Q And would you please point him out for the ladies and
22 gentlemen of the jury, if you can?
- 23 A He is sitting right there in the black suit.
- 24 Q And that's based on the time you spent with him that
25 night?

1 A Yes, sir.

2 MR. MEADORS: We'd like the record to reflect
3 she's picked out Mr. Johnnie Gaskins, Your Honor.

4 THE COURT: All right, sir.

5 MR. MEADORS: That's all we have, thank you.

6 THE COURT: All Right, cross-examine.

7 MR. MCCULLOCH: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. MCCULLOCH:

10 Q Ms. Hellman, this was February 5th of 2007, right?

11 A Yes.

12 Q And this was Super Bowl Sunday?

13 A Yes, sir.

14 Q And your club that evening was -- well this was a
15 bar, nightclub?

16 A A sports bar, uh-huh.

17 Q Did you have music that night?

18 A After ---

19 Q Live music I should say.

20 A No.

21 Q Did you have TV's on?

22 A Yes.

23 Q And the exhibit that the Solicitor asked you to
24 identify which was 12, that's the -- that's the
25 actual photograph of the interior of the club?

- 1 A Yes, sir.
- 2 Q And of the lighting?
- 3 A Yes.
- 4 Q And so there are ceiling lights and you said neon.
- 5 There are multicolored orange, green and yellow neon
- 6 lights?
- 7 A Yes, sir.
- 8 Q That doesn't really provide a whole lot of good
- 9 lighting, does it?
- 10 A It's adequate.
- 11 Q Adequate. And your position is today it's adequate
- 12 to make the identification?
- 13 A Yes.
- 14 Q Now, the person you saw there that you are persuaded
- 15 was Mr. Gaskins, they had this jacket that you
- 16 referred to, that would be Exhibit 18, right?
- 17 A Yes, sir.
- 18 Q And it had a hood on it?
- 19 A Yes.
- 20 Q And the person you had this brief encounter with,
- 21 was the hood up or down?
- 22 A It was up loosely.
- 23 Q So it was over their head?
- 24 A It was about here (indicating). I could see his
- 25 face.

1 Q To the point you couldn't see hair?

2 A Yes.

3 Q And could only see partial -- part of their or the
4 front of their face -- the face and not much else

5 ---

6 A I saw his whole face.

7 Q Okay.

8 A I was very close to him.

9 Q Now, you've worked at the club at this point in
10 February of 2007 for how long?

11 A Almost two years. I started in 2005.

12 Q You ever had a shooting in the parking lot at the
13 club?

14 A No.

15 Q Ever had trouble in the club?

16 A No.

17 Q Never had anybody thrown out of this club?

18 A Probably, yes.

19 Q Ever had anybody use profanity in the club?

20 A Yes.

21 Q Now, at this point in the evening, it was what time?

22 A A little bit after midnight.

23 Q All right. And this encounter, how long did it take
24 for this person to walk up, demand alcohol and for
25 you to have the interaction with him that you did?

- 1 A Just a couple of minutes.
- 2 Q All right. And at this point, how many people were
3 in this club? How many people first does the club
4 hold?
- 5 A I'm not even sure. I would say there was
6 approximately a hundred people.
- 7 Q All right. Would it surprise you if others
8 estimated several hundred or a couple of hundred
9 people?
- 10 A I think it's hard to really know unless you do a
11 head count because people are in and out. I think
12 at a certain time there may have been. Of course,
13 this was after the game so many people had left.
- 14 Q Was this at closing time?
- 15 A Yes.
- 16 Q What time does the club close?
- 17 A 1:00.
- 18 Q So this would have been the last call.
- 19 A Close to it, yes.
- 20 Q The -- did you have anything to drink that evening?
- 21 A No, sir.
- 22 Q And did you see anybody else this particular night
23 get thrown out?
- 24 A I did see somebody but I don't know who. I just saw
25 the group of people escorting out to the door.

1 Q And have the -- do you allow smoking in the bar?

2 A At that point, yes.

3 Q So in addition to the lighting as depicted in the
4 exhibit that was passed around, it was smoky?

5 A There's fans that suck the smoke up.

6 Q So it's not smoky?

7 A Not particularly. There's smoke in there.

8 Q Okay. And it's also crowded?

9 A Somewhat, yes.

10 Q There was no one else at the bar demanding a drink
11 right there before closing time?

12 A No, he had my full attention.

13 Q Now, the club that evening did not have a license to
14 sell alcohol, did it?

15 A Yes.

16 Q It did to your knowledge?

17 A It did to my knowledge.

18 Q Would it surprise you that others said it didn't?

19 A No, because that's what someone -- that's what I ---

20 MR. MEADORS: Objection.

21 THE COURT: Relevance, Mr. McCulloch? The
22 objection is the relevance.

23 MR. MCCULLOCH: Well, Your Honor, I'm testing
24 her knowledge and recollection of the club, what goes on
25 there ---

1 THE COURT: Well, how is that relevant to the
2 incidents that are alleged to have occurred?

3 MR. MCCULLOCH: Your Honor, I'll move on.

4 THE COURT: Fine, thank you, sir.

5 Q The -- did you ever tell police that you were
6 originally serving the person?

7 A No.

8 Q You sure?

9 A Yes, because I had not served him.

10 Q So your encounter with this person resulted in your
11 calling for a bouncer, is that correct?

12 A I actually didn't call for them. They saw him come
13 behind the bar.

14 Q Okay. And did you see them put handcuffs on him?

15 A Yes.

16 Q These are security guards or police officers?

17 A Yes, these are security guards, outside contracted
18 by 360.

19 Q Were the security guards armed?

20 A Yes.

21 Q Both of them?

22 A There was only one that came behind the bar.

23 Q So there was only one who came over and took him
24 into custody?

25 A Yes.

1 Q That person that came over, to your knowledge did
2 have a gun?

3 A Yes.

4 Q The other security guards, do you know how many
5 security guards there were?

6 A Maybe four

7 Q That night?

8 A I'm not exactly sure because I do stay behind the
9 bar and the contracted security guards stay on the
10 outside or towards the front door.

11 Q And are they all, to your knowledge, armed, have
12 firearms?

13 A Yes.

14 Q Now, you've testified that they handcuffed the
15 person, Mr. Gaskins, and was he gingerly or politely
16 or roughly escorted out?

17 A He was flailing around kind of so they -- he was
18 holding him and it appeared to be a struggle.

19 Q And they went straight, according to your testimony,
20 from the central bar to the front door is what
21 distance?

22 A Just several feet.

23 Q 10-foot?

24 A It's not real far. Maybe, I'm not a great estimator
25 at distance.

1 Q And they went straight out the front door?

2 A Yes, sir.

3 Q And now you were not able to see what then happened?

4 A No, sir.

5 Q And you're certain that 20 minutes later shots were
6 fired that you heard?

7 A I'm not certain it was 20 minutes. It felt about
8 like 20 minutes. Of course, I wasn't watching the
9 clock.

10 Q I understand but you testified ---

11 A Yes, approximately, uh-huh.

12 Q And the -- after Mr. Gaskins was escorted out, did
13 you see another person being escorted out?

14 A I -- that's when I saw the movement. I didn't
15 actually see somebody escorted out but I did see the
16 crowd of people moving towards the door

17 Q You -- after this incident you later saw Mr.
18 Gaskins' picture in the newspaper, is that correct?

19 A In the newspaper?

20 Q Yeah?

21 A No.

22 Q No. The -- after this point in time you -- that
23 night you talked to police officers?

24 A Yes.

25 Q You talked to other people in the bar, other

1 employees?

2 A They -- Richland County moved us all into the V I P
3 area, everyone who was in the building at that time.
4 And that's when they initially asked for a
5 description.

6 Q And so you then -- what time did you get home?

7 A Approximately 5:30 in the morning.

8 Q A.M.?

9 A 5:30 a.m., yes, sir.

10 Q No chance to sleep between the point in time of this
11 occurrence and when you got home?

12 A No, sir.

13 Q And when you got home, it was what 2 hours more
14 before the police arrived to have the photographic
15 lineup shone?

16 A Probably just over an hour. I had just gotten my
17 daughter up and ready for school.

18 Q And before this incident, you had never seen Mr.
19 Gaskins?

20 A No.

21 Q Is that correct?

22 A Yes, sir.

23 MR. MCCULLOCH: That's all. Thank you, Your
24 Honor.

25 THE COURT: Okay. Anything on redirect?

1 MR. MEADORS: Two very brief.

2 REDIRECT EXAMINATION

3 BY MR. MEADORS:

4 Q Mr. McCulloch asked you about security guards and
5 bouncers. Were there some regular employees that
6 were bouncers?

7 A Yes.

8 Q Then were there some folks that were brought in as
9 security that weren't regular folks?

10 A Yes, they were contracted.

11 Q He asked you about remembering this night and all.
12 I think the question was that had there ever been a
13 killing there before and your answer was ---

14 A No ---

15 MR. MCCULLOCH: That was not the question.

16 A --- it was a shooting.

17 MR. MCCULLOCH: The question was had there ever
18 been a shooting ---

19 MR. MEADORS: I thought you said a murder, the
20 first question.

21 Q Well, had there ever been a murder there before?

22 A No.

23 Q Ever been a shooting there before?

24 A No.

25 Q Ever been a double murder and three A B I K's?

1 A Absolutely not.

2 MR. MEADORS: Thank you.

3 THE COURT: Anything on recross, Mr. McCulloch?

4 MR. MCCULLOCH: No, sir.

5 THE COURT: All right. You may step down, Ms.
6 Hellman.

7 THE WITNESS: Thank you.

8 (The witness leaves the witness stand.)

9 THE COURT: Call your next witness.

10 MR. MEADORS: Your Honor, we'd have to do that
11 same ---

12 THE COURT: Well, let's do it first then. Y'all
13 approach.

14 (WHEREUPON, a bench conference was held off
15 the record, in the presence of the jury, but out
16 of the hearing of the jury.)

17 THE COURT: Members of the jury, you get to go
18 home a little bit early today to pick up your kids. Buy
19 them some ice cream. There's about three other little
20 matters that we have to take up. By the time we do them,
21 it will be about an hour maybe so I'm going to just send
22 you home right now. That will save y'all an hour
23 tomorrow waiting. So y'all can understand why I'm going
24 to do this. This is in conjunction with -- or in
25 agreement with Mr. Meadors and Mr. McCulloch. We'll

1 actually save time by sending y'all home.

2 Once again, I've got to remind you not to talk
3 about the case in any way, shape or form. I trust and
4 hope you have a pleasant restful evening and let's say be
5 back in the morning? Help me out.

6 MR. MEADORS: Whatever everybody says.

7 MR. MCCULLOCH: Time? 9:30.

8 THE COURT: Yeah, yeah. Are we going to have
9 anything to clear up in the morning?

10 MR. MEADORS: I think that can be done at lunch.

11 THE COURT: Okay.

12 MR. MEADORS: Yes, sir.

13 THE COURT: All right, 9:30, how is that?

14 JURORS: Good.

15 THE COURT: Hope you have a pleasant and restful
16 evening. Be back in the jury room tomorrow morning at
17 9:30, ladies and gentlemen.

18 (The jury retires from the courtroom at
19 approximately 4:09 p.m.)

20 MR. MEADORS: Judge, also one of the other
21 victims tomorrow, we have him on that slide, when we show
22 the pictures which I -- and we can look at those together
23 this afternoon and see if he's got an objection, so that
24 can run smooth tomorrow.

25 THE COURT: You mean the photo lineups on the

1 slide?

2 MR. MEADORS: Well, not slide, on the projector
3 there.

4 MS. MCDUFFIE: Your Honor, not the photo lineup,
5 the crime ---

6 MR. MEADORS: The crime scene photos.

7 THE COURT: Oh.

8 MR. MEADORS: And we can look at those this
9 afternoon and save time tomorrow too.

10 MR. MCCULLOCH: I can't wait.

11 THE COURT: It will give us something to look
12 forward to.

13 MR. MCCULLOCH: I love a movie.

14 THE COURT: All right, call your next witness.

15 (TAMERA BARNETT, having first been duly sworn,
16 testified as follows:)

17 THE CLERK: Please have a seat in the witness
18 stand and state your full name for the record.

19 THE COURT: Is it Barnett?

20 THE WITNESS: Tamera.

21 THE COURT: Tamera?

22 THE WITNESS: Yes.

23 THE COURT: Spell it.

24 THE WITNESS: T-a-m-e-r-a. Tamera S. Barnett.

25 THE COURT: Spell your last name.

TAMERA BARNETT -- DIRECT BY MR. MEADORS (In Camera): 279

1 THE WITNESS: B-a-r-n-e-t-t.

2 THE COURT: All right.

3 DIRECT EXAMINATION (In Camera)

4 BY MR. MEADORS:

5 Q Where are you from?

6 A I'm originally from Pittsburg.

7 Q How long have you been here?

8 A I've been here since 2001.

9 Q And at some point did you start working at the 360?

10 A In 2005.

11 Q And what were your duties there?

12 A Bartender.

13 Q And on the night -- the day of 2004 (sic), perhaps
14 in the early morning hours of February 5th, 2007,
15 were you at the Club 360?

16 A Yes, I was.

17 Q What were you doing there then that day and that
18 night?

19 A Bartending a V I P party

20 Q Okay. And where was the V I P -- if I could show
21 you State's -- V I P stands for Very Important
22 Person?

23 A Yes.

24 Q And looking at State's 15, where was the V I P area
25 of 360 at that time?

1 A V I P is in this area (indicating).

2 Q Okay. Now, if you ---

3 A It's actually -- the V I P area is actually right
4 over here.

5 Q Okay.

6 A It's inside the building, it's not outside.

7 Q And back in 2007, this actually was not enclosed,
8 was it?

9 A No.

10 Q All right.

11 Q It did not have ---

12 A If the Judge were to go there today or something,
13 this would be enclosed, correct?

14 A Yes.

15 Q All right. So that is now V I P area?

16 A Yes.

17 Q But the V I P area was back in here (indicating)?

18 A Right.

19 Q And it was a closed off room?

20 A Yes.

21 Q Okay. And you were working the V I P room?

22 A Yes.

23 Q All right. At what point did you get through working
24 the V I P room?

25 A I closed the V I P party down about 11:30.

1 Q What did you do then?

2 A Went to the main bar and was sitting there talking
3 with the bartenders there.

4 Q Okay. And ---

5 A But sitting outside, I wasn't behind the bar. I was
6 sitting just on a stool at the bar.

7 Q Sometime after that do you remember an encounter
8 that Ms. Hellman may have had with a customer?

9 A Yes.

10 Q Can you tell us about that?

11 A There was a gentlemen that stood next to me on my
12 left and was hollering out to the bartender,
13 cursing. I guess he was asking for a drink. She
14 finally came, you know, approached him. She walked
15 up to both of us and she -- she asked him, did I
16 miss -- you know, did I forget to get you a drink?
17 And he once again said, you know, cursed at her and
18 he said, I want a f -- Hennessy.

19 THE COURT: You can say it.

20 A I want a fucking Hennessy. And I remember her saying
21 something about, well, maybe you had too much. She
22 grabbed a menu and she went to give it to him and
23 that's when he threw his money at her. And he went
24 to walk behind the bar because there was like an
25 opening right there where he was standing. He went

1 to walk behind the bar and I kind of grabbed a hold
2 of his jacket, his sleeve, and I said, you can't go
3 behind the bar but he continued to go on, you know,
4 behind the bar.

5 Q What happened after that?

6 A Security was right there on it and they stepped in
7 between Erin and the guy and they kind of just
8 walked him, you know, from out behind the bar and
9 took him outside.

10 Q Tell Judge Manning how close you got to him?

11 A It was right here (indicating), sitting right next
12 to me. I grabbed him, you know, sleeve ---

13 THE COURT: How many inches, for the record?

14 Generally how many feet or inches?

15 A Not even a foot from me. I was able to grab his
16 jacket.

17 Q 12 inches or less. And could you see his face?

18 A Yes.

19 Q And nothing obstructing you and him?

20 A No.

21 Q Was the lighting of the type which allowed you to
22 see him?

23 A Oh, yes.

24 Q And -- and did you describe him later on to law
25 enforcement?

1 A Yes.

2 Q And what's your description of him? What was your
3 description?

4 A Well, I told him he was probably around the same
5 height as me, maybe a little bit taller, dark
6 skinned and -- but I described him as being very
7 sweaty than normal than anyone else that was in
8 there, he was very sweaty and very angry at that
9 time. I never saw him at any other time that night,
10 so.

11 Q Had you clocked out?

12 A Yes, I was clocked out.

13 Q Okay. Now, showing you what's State's 19, did you
14 have an occasion later on that day, and I mean like
15 later on on the 5th?

16 A Yes ---

17 Q To come in contact with law enforcement and view
18 what we refer to as a photo lineup?

19 A Yes.

20 Q And where did that take place.

21 A At 360.

22 Q Okay. And where at the 360 did it take place?

23 A In the -- in the dance floor area. They asked me to
24 go walk to a table by myself and he opened up a
25 folder and he asked me if I could pick -- it was one

1 of these tables on here (indicating). He asked me
2 to come over here and he opened up the folder, the
3 manila folder and ---

4 THE COURT: So he shows you a lineup at the bar?

5 THE WITNESS: Yes.

6 THE COURT: At the 360?

7 THE WITNESS: Right.

8 Q Before you had left that night, right? You're still
9 at 360 from after this thing happened?

10 A No, we left. We went to Erin's house.

11 Q Okay. And tell the Judge how this happened? What
12 if anything was said to you prior to looking at the
13 lineup? Let me ask you this, did the -- did the law
14 enforcement try to tell you who to pick out or ---

15 A No.

16 Q Okay.

17 A No.

18 Q What if anything -- did they try to suggest to you
19 who to pick out?

20 A No, no.

21 Q When you viewed this lineup, were you able to pick
22 out anybody?

23 A Yes.

24 Q Okay. And -- and why were you picking out that
25 person?

1 A He actually showed me two different pages.

2 Q Okay. And were you able to pick out somebody?

3 A Uh-huh.

4 Q And the person you picked out was person whom --
5 where had you seen that person?

6 A At the bar arguing with Erin.

7 Q And is that ---

8 A The person ---

9 Q The person you just testified about?

10 A Exactly.

11 Q All right. And after looking at the lineup, what
12 number did you pick out?

13 A Number five.

14 Q Did you indicate on here by signing your name that
15 you picked out number five?

16 A Yes.

17 Q All right. Any doubt in your mind that was the guy
18 you saw arguing with Erin?

19 A No doubt.

20 Q Okay. Had you ever seen him before?

21 A No.

22 Q Is that person in the courtroom here today that you
23 ---

24 A Yes, he is.

25 Q Look at me, please, do you recognize that person?

1 A Yes.

2 Q In the courtroom today that you saw that night?

3 A Yes.

4 Q Will you tell the Judge who it is?

5 A It's the gentleman right there (indicating).

6 Q Mr. Gaskins?

7 A Yes.

8 Q Beside Mr. McCulloch?

9 A Uh-huh, that's him.

10 MR. MEADORS: For the record, this is State's
11 19. Beg the Court's indulgence.

12 (Pause.)

13 MR. MEADORS: Thank you, Your Honor. That's
14 all.

15 THE COURT: All right, Mr. McCulloch?

16 MR. MCCULLOCH: Your Honor, I'm deferring again.

17 THE COURT: Beg your pardon?

18 MR. MCCULLOCH: I'm deferring again.

19 THE COURT: Ms. Schillaci.

20 CROSS-EXAMINATION

21 BY MS. SCHILLACI:

22 Q Ms. Barnett, when did you testify that you arrived
23 at the club that evening, was it around 4:30?

24 A Did I arrive to the club for ---

25 Q For work?

1 A For work, I arrived it was probably around 2:30,
2 3:00.

3 Q And what was the atmosphere like that day?
4 Certainly it was Super Bowl Sunday, was it chaotic?

5 A No, no. It was -- it was crowded.

6 Q And how many people would you say were there?

7 A I don't know, I'd say a hundred, maybe a little over
8 a hundred.

9 Q And would it be reasonable to say that there were
10 more people as the night progressed?

11 A Oh, yes.

12 Q Okay. And was there music going on, TV's?

13 A Well, TV's because it was the Super Bowl game. The
14 game was over -- they did have some music on later
15 on in the evening probably around, I think, 10:00 or
16 so they started it, the music.

17 Q And when you were shown the diagram -- take a look
18 back at this.

19 A Uh-huh.

20 Q The V I P area is pretty far away from the central
21 bar, isn't it?

22 A Uh-huh, uh-huh.

23 Q Do you know about how many feet away that is?

24 A Let's see, when we walk out the door probably 20
25 feet?

1 Q And you indicated that when you clocked out you came
2 over to the bar, is that correct?

3 A Right.

4 Q Can you tell me which stool you were sitting on?

5 A The very -- this opening should be right about in
6 the middle because it's like in the middle, but I
7 was at the end bar where the opening is.

8 Q Okay. And who was sitting there with you?

9 A I was by myself. I mean, there was probably -- I'm
10 sure that there was other customers sitting at the
11 other stools but I wasn't -- I was talking with the
12 bartenders that was at the bar.

13 THE COURT: For the purpose of the record,
14 you're referring to exhibit number?

15 MS. SCHILLACI: Yes, Your Honor..

16 THE COURT: That's all right.

17 MS. SCHILLACI: This is Exhibit 15.

18 THE COURT: All right, thank you.

19 MS. SCHILLACI: Which is for identification
20 (sic).

21 Q And did you have anything to drink that evening?

22 A No.

23 Q You did not?

24 A No, I was working.

25 Q Okay. But how about after you clocked out?

- 1 A No.
- 2 Q You said you clocked out around 11:30, no?
- 3 A No.
- 4 Q And how about when you went home with the other
5 employees after the shooting, did you have anything
6 to drink there?
- 7 A I think we might have had a beer.
- 8 Q Now, when you said that you observed Mr. Gaskins,
9 did you get the chance to -- what did you see? Did
10 you see his face?
- 11 A Yes.
- 12 Q And what was he wearing?
- 13 A His black jacket, had fur on it.
- 14 Q Okay. And was the hood up or down?
- 15 A At that time, it was down.
- 16 Q Okay. So you were able to see his hair?
- 17 A Yeah.
- 18 Q You were or you weren't? Were you able ---
- 19 A I can't recall. I'm not going to ---
- 20 Q You can't recall ---
- 21 A Yeah, it's been so long ago.
- 22 Q Okay. And how many security guards -- you said at
23 some point security ---
- 24 A I saw two.
- 25 Q --- came and got him?

1 A One got in between Erin and Johnnie. He stood
2 automatically in between them. And then there was
3 another one behind him. And they kind of -- they
4 didn't even really grab him at that time. I didn't
5 see them grab him. They kind of just walked to
6 where he, you know, told him, let's walk out this
7 way.

8 I heard after that is when, you know, he got a
9 little irate.

10 Q Okay. And that evening was the first time you had
11 ever seen Mr. Gaskins?

12 A Yes.

13 Q And how long would you estimate that encounter was,
14 a couple of minutes?

15 A Yeah, it was less than five minutes.

16 Q Less than five minutes. And when security walked
17 him out, was he handcuffed at that point?

18 A No.

19 Q He was not handcuffed?

20 A I didn't see them handcuff him.

21 Q Okay. You said there was two security guards that
22 walked him out?

23 A Uh-huh.

24 Q Who were those security guards, if you know?

25 A I couldn't recall who it was. I know some fairly

1 large, one of them, so I wasn't sure if it was John
2 -- Wolf (phonetic) or Quinten.

3 Q Okay. And when the lineup occurred with the
4 officers, you sat down with them ---

5 A Uh-huh.

6 Q And looked at the photos, when exactly did that
7 occur that evening?

8 A That happened the next day around, I want to say --
9 it was in the afternoon, early afternoon, I don't
10 know, around 2 or 3:00.

11 Q Okay, so February 5th, around ---

12 A Right.

13 Q --- around 2:00.

14 A Uh-huh.

15 Q And how did that occur? Did they call you up?

16 A No. I date the owner, Lindburgh, and we went back
17 up to the bar just to see, you know -- you know, how
18 bad, you know, everything looked or -- we were just
19 kind of standing around and the investigator showed
20 up there.

21 Q And did you and Lindburgh talk about what had
22 happened that evening?

23 A No because Lindburgh went -- was at the hospital
24 that -- all that morning.

25 Q Okay.

1 A So we didn't get a chance to talk.

2 Q And ---

3 A Until he came and picked me up from Erin's house
4 after he left the hospital and everything and then
5 we went back to 360.

6 Q Okay. And when you say Erin, you do mean Erin
7 Hellman?

8 A Hellman.

9 Q The bartender?

10 A Uh-huh.

11 Q And you went to Erin's house before this line up,
12 correct, before you looked at the photographs?

13 A Yes.

14 Q And did you and Erin discuss what Mr. Gaskins looked
15 like?

16 A No. We discussed remorse. We weren't really even
17 talking about what he looked like. We were talking
18 about how -- what, you know -- what -- how crazy,
19 you know, this went down. We were all very -- we
20 were crying a lot and hugging each other. We were
21 just -- all of us was just there just couldn't
22 believe what just happened and we were talking about
23 John and couldn't believe we lost him and Shannavia,
24 so.

25 Q Okay, so no discussion about what Mr. Gaskins looked

1 like?

2 A No, just that we hoped that he would turn himself in
3 or they could find him, that was all.

4 Q Okay. And what was Mr. Gaskins wearing besides the
5 jacket?

6 A All I recall -- remember seeing is I think he had
7 some jeans on and he had the black jacket on I -- I
8 remember seeing orange inside of it with the fur on
9 it.

10 Q Okay. And how tall are you?

11 A I'm about 5-9.

12 Q And you estimated that he was about the same ---

13 A Height.

14 Q --- height?

15 A Or maybe a little taller.

16 Q Okay. And when you met with the police and you were
17 shown the lineup, you were merely pointing out the
18 individual that you had seen in the club that
19 evening, you were not pointing out the shooter ---

20 A Yes.

21 Q -- right?

22 A I was just showing -- he wanted to know who -- the
23 altercation -- who got kicked out of the bar that
24 night.

25 MS. SCHILLACI: Beg the Court's indulgence.

1 THE COURT: Yes, ma'am.

2 MS. SCHILLACI: That's all we have, Your Honor.

3 THE COURT: Redirect?

4 REDIRECT EXAMINATION

5 BY MR. MEADORS:

6 Q This is State's 18. Does this look like the jacket
7 you saw the fellow you identified, Mr. Gaskins ---

8 A Orange, yeah, it did have that (indicating), yeah.

9 MR. MEADORS: That's all. Thank you, you may
10 step down.

11 THE COURT: Anything on recross?

12 MS. SCHILLACI: No, Your Honor.

13 THE COURT: All right.

14 MR. MCCULLOCH: Your Honor, if we could, just
15 ask you to give this witness an instruction now that
16 she's taken the stand, in view of the sequestration, not
17 to have any conversation with other witnesses.

18 THE COURT: All right, I will be happy to.

19 Don't discuss your testimony with any other
20 witness, not with Ms. Hellman or anybody else, anybody,
21 period.

22 THE WITNESS: Yes, sir.

23 THE COURT: Is that Alleghany County?

24 THE WITNESS: Yes.

25 THE COURT: All right.

1 THE COURT: I'm just asking. You may step down.

2 (The witness leaves the witness stand.)

3 THE COURT: Are you a singer? Do you sing?

4 THE WITNESS: Do I sing?

5 THE COURT: Yes.

6 THE WITNESS: No.

7 THE COURT: All right. Your voice is so strong
8 and confident, I just guessed you were a singer. I'm
9 wrong some time. But Alleghany County, right.

10 THE WITNESS: Yes.

11 THE COURT: All right. Call your next witness.

12 MR. MEADORS: Roger Glover.

13 (ROGER GLOVER, having first been duly sworn,
14 testified as follows:)

15 THE CLERK: Thank you. Please have seat in the
16 witness stand and state your full name for the record.

17 THE WITNESS: Roger Glover.

18 DIRECT EXAMINATION

19 BY MR. MEADORS:

20 Q Hey, Roger, how are you doing?

21 A All right.

22 Q I'm going to question you now primarily about the
23 opportunity you had to see somebody in the club that
24 night, okay?

25 A Okay.

- 1 Q Can you tell the Judge -- just very briefly, where
2 are you from, Roger, Mr. Glover?
3 A Swansea, South Carolina.
4 Q Swansea?
5 A Yes.
6 Q Born and raised there?
7 A Born and raised.
8 Q Went to Swansea High?
9 A Yes.
10 Q And did there come a time you started working at
11 Club 360?
12 A Yeah.
13 Q And are you related to the owner?
14 A Yes.
15 Q And that's Limbaugh (sic)?
16 A Lindburgh.
17 Q Lindburgh Porterfield?
18 A Yes.
19 Q All right, Mr. Porterfield. And when did you start
20 working there, Mr. Glover?
21 A On and off.
22 Q Okay.
23 A For a couple of years.
24 Q All right. And what's your job there?
25 A I was the cook.

1 Q Cook. And on February 5th, 2007, were you the cook?

2 A Yes, sir.

3 Q And for Super Bowl Sunday, what were y'all serving?

4 A Wings.

5 Q Okay.

6 A Cheeseburgers.

7 Q All right. Were you pretty much back in the kitchen
8 most of the day?

9 A Most of the day.

10 Q Did there come a point somewhere in the evening you
11 came out in what I'll call the main area where the
12 pool tables are?

13 A Yes, sir.

14 Q And did something unusual happen then?

15 A Yes.

16 Q Tell the Judge about that?

17 A I heard a disturbance in the kitchen. I told the
18 other cook I was going out to see what was going on.

19 Q Okay.

20 A And when I did, they were putting a few guys out and
21 as I was walking past the pool table, I don't know
22 the young lady's name, I looked back out through the
23 two tinted windows, saw a car pulling around.

24 Didn't pay it any attention, I just kept walking
25 toward my sister. And ---

1 Q Your sister's who?

2 A Melinda Glover.

3 Q She was there that night. Was she working ---

4 A She was working that night.

5 Q Go ahead.

6 A And when I spoke to the young lady I just passed,
7 she -- I just heard shots.

8 Q So you came out of the kitchen?

9 A Yes.

10 Q And seen them taking somebody outside?

11 A Right.

12 Q And then after that, you were talking to this
13 person?

14 A No, I just spoke to them ---

15 MR. MCCULLOCH: Object to leading the witness.

16 THE COURT: To leading, sustained.

17 Q It's real emotional for you to talk about this,
18 isn't it?

19 A Yes.

20 Q You saw the person?

21 A (There was no response.)

22 Q I know you're getting emotional. You did when I
23 talked to you. Just tell the Judge what -- what ---

24 MR. MEADORS: Judge, that's why I was trying to
25 lead a little bit. I apologize.

1 THE COURT: I understand but it's a valid
2 objection. Go ahead, sir, just take your time.

3 A I heard gunshots, glass breaking. I fell to the
4 floor. I looked up, I told my sister to get down.
5 She couldn't. She was froze. She couldn't move.
6 So when I looked back -- when I rolled over and
7 looked back -- (pause) -- I saw the young lady I
8 just spoke to, I wasn't even five feet from her, a
9 bullet hit her in the head.

10 THE COURT: A bullet struck her in the head?

11 THE WITNESS: Yes.

12 THE COURT: All right, sir.

13 A And during that time, I picked that -- the shots
14 stopped and I called 911. The operator asked me
15 where was I calling from, what was my emergency?
16 And I told her. She asked me how many people were
17 hit. I told her I only seen one. But as I got up,
18 I walked through the bar and I told her it was two
19 because I saw blood. I walked around the restroom,
20 that's when I spot another young lady laying on the
21 floor. Some more girls took her to the ladies'
22 restroom.

23 She asked me what race they were. I told them
24 and I walked on through. She said how many other
25 people were hit? I walked to the front door and

1 that's when I was one of our other bouncers was
2 laying down. He was hit. And one of the other
3 armed security guards was shot and she told me to
4 stay on the line until police or the ambulance got
5 there.

6 Q Mr. Glover, let he ask you and I know this has been
7 traumatic on you. Did you see Johnnie Gaskins in
8 the bar that night?

9 A Yes.

10 Q All right. Had you known him before?

11 A I seen him before, I don't know him.

12 Q Okay. But you recognized his face?

13 A Yes.

14 Q All right. Where did you see him in there that
15 night?

16 A He was around the bar area.

17 Q Okay.

18 A The main bar.

19 Q You seen him earlier that night?

20 MR. MCCULLOCH: Your Honor, I'm going to
21 continue to object to leading. You seen him earlier that
22 night ---

23 THE COURT: Well, first of all, this is in
24 camera.

25 MR. MCCULLOCH: I understand.

1 THE COURT: It's not going to affect the jury,
2 it's me.

3 MR. MCCULLOCH: But it is a witness ---

4 THE COURT: I know, let me help you out, Mr.
5 McCulloch. This is a valid objection. Try not to lead.

6 Q When did you see him?

7 A Just earlier during -- like during the game.

8 Q Okay. And when's the last time you saw him, if
9 ever?

10 A He was there almost -- he was there mostly every
11 weekend when I worked.

12 Q And that night in question, when was the last time
13 you saw him, of the stuff you're talking about, man,
14 what's the last time you saw him that night?

15 A When he was riding by.

16 Q When riding by?

17 A Yes.

18 Q In what?

19 A I don't know what kind of car it was.

20 Q So you -- where did you see him in the car?

21 A (There was no response.)

22 Q Where were you when you saw him?

23 A I came out through the front door.

24 MR. MCCULLOCH: I'm sorry, Your Honor, the
25 witness is going to have to speak up. I can't understand

1 ----

2 MR. MEADORS: He said looking out the front
3 door, he was looking out the front door.

4 Q And where did you see Mr. -- you said you saw Mr.
5 Gaskins then?

6 A Yes.

7 Q Where did you see him?

8 A He was in the car riding past the front door.

9 Q Okay. And how -- how many times had you seen him
10 prior to that?

11 A I haven't seen him since.

12 Q And I'm sorry. That's my fault. Prior to that
13 night, how many times had you seen him?

14 A (There was no response.)

15 Q I know you haven't seen him since then. But before
16 that night, how many times had you seen him?

17 A At least three.

18 Q Okay. Where had you seen him prior to that?

19 A Just there.

20 Q Okay. And that night -- the Super Bowl Sunday into
21 the next morning, how many times did you see him?

22 A Not since then.

23 Q Did you have any trouble seeing him on Super Bowl
24 Sunday? Visually, could you -- was anything
25 blocking your view?

1 A No.

2 Q All right. Are you sure it was Johnnie Gaskins you
3 saw on February 5th at 360?

4 A Yes.

5 Q Who was it you saw, if anybody, when you looked out
6 of the front of 360, you saw somebody in a car, who
7 was that?

8 A Mr. Gaskins.

9 Q All right. When were the shots fired?

10 A When I looked out the window and saw him.

11 Q And did the police show you a lineup sometime that
12 day on February 5th, right?

13 A Yes, they have did.

14 Q And prior to showing that lineup, did they try to
15 suggest who -- who for you -- who to pick out or,
16 Mr. Glover, you should pick this out, Mr. Glover,
17 you should pick that out?

18 A No.

19 Q And did you look at the lineout (sic)?

20 A Yes.

21 Q And were able the pick out somebody?

22 A Yes.

23 Q And who did you pick out?

24 A Mr. Gaskins.

25 Q Number five?

1 A Number five.

2 Q You signed that?

3 A Yes.

4 Q Tell the Judge why you picked him out?

5 A Because that's who I saw.

6 Q That's who you saw where, Roger?

7 A In the car when the shooting was going on, that's
8 who I saw.

9 Q Based on that night and the -- and your knowledge
10 and of Mr. Gaskins or your -- based on that night,
11 the person you saw at 360 and the person you say you
12 saw in the car where the shots were fired, is he in
13 this courtroom?

14 A Yes.

15 Q Point him out for the Judge, if you can.

16 A Sitting right there (indicating).

17 MR. MEADORS: Let the record reflect that he's
18 pointed to Johnnie Gaskins next to Mr. Joseph McCulloch.

19 MR. MEADORS: This was State's 21.

20 CROSS-EXAMINATION

21 BY MR. MCCULLOCH:

22 Q Mr. Glover, you were working at the club that night?

23 A Yes.

24 Q Had you had anything to drink that night?

25 A No, sir.

1 Q No alcohol?

2 A No alcohol.

3 Q Now, the ---

4 THE COURT: Beg your pardon?

5 Q Do you recall giving a statement to the police on
6 February 5th, sometime after this incident, the
7 shooting?

8 A Yes.

9 Q Do you remember what time of day that was, how long
10 after the shooting incident it occurred, your giving
11 a statement I mean?

12 A I don't remember a time.

13 Q All right. Do you recall telling the police at the
14 time that you saw the shooter?

15 A Yes.

16 Q All right. Well, let me ask you to look at this
17 statement. I think you may need glasses, if you're
18 like me. I'll lend you mine. There's no statement
19 in there, is there, that you saw the shooter?

20 A No.

21 Q All right. So you did not tell the police when they
22 took the statement that you saw who shot the shots
23 at the club?

24 A They didn't ask me that. They asked me to write a
25 statement because I was a witness.

1 Q Is this is your hand writing or theirs?

2 A That was my handwriting.

3 Q So you held back the information that you actually
4 saw who was shooting?

5 A I picked him out the lineup.

6 Q All right. But my question to you is, you didn't
7 mention to the police after the shooting when they
8 interviewed you about what you knew and what you
9 saw, you did not tell them you were able to see and
10 identify the shooter, did you?

11 A Yes, I did but I just didn't put it in my statement.

12 Q All right. So you told them that and they just
13 didn't write it down?

14 A I didn't write it down.

15 Q All right. Did you tell the officer verbally?

16 A Yes.

17 Q You told the officer -- do you remember the
18 officer's name?

19 A No.

20 Q So you sat down with an investigator. Where did
21 this interview occur?

22 A At 360.

23 Q And you told the officer who -- or you wrote down
24 that you were coming out the kitchen ---

25 MR. MCCULLOCH: Where's that pointer, John?

1 MR. MEADORS: Over there by the white board.

2 Q Let me hand you this and ask you to point where the
3 kitchen is.

4 A The kitchen is right here (indicating).

5 Q All right. Now, your statement you say, I was
6 coming out of the kitchen when I saw three security
7 guards taking out a patron from inside the club's
8 front double doors. And they are where?

9 A The front doors are right here (indicating).

10 Q All right. So you were standing over here
11 (indicating) when you saw the person being led out?

12 A Yes.

13 Q All right. And the person that you saw being led
14 out, were you able to see that person, who it was?

15 A I saw what they had on, I didn't see that person.

16 Q And you couldn't see the person?

17 A I couldn't see their face but I saw what they had
18 on.

19 Q All right. And what did that person have on?

20 A I remember him having on a red Budweiser jacket.

21 Q All right. And in your statement you said that that
22 person was wearing a red and black Budweiser racing
23 jacket with patches on and it was fur lined?

24 A Yes.

25 Q Want to see your statement?

1 A That's what I said.

2 Q So the Budweiser jacket was fur lined. As they were
3 tossing him out, that's when the shots started to
4 ring out and glass was shattering on me. That's
5 what you told the officer?

6 A Yes.

7 Q Then you said, I looked outside -- and tell me --
8 show where you were at this point when the shots
9 rang out?

10 A I was coming by the pool table (indicating).

11 Q Yeah.

12 A I was right on -- this wall is not quite that long
13 (indicating). Right here toward the front door
14 (indicating).

15 Q Okay. And you say today that you saw the car
16 outside?

17 A I saw the car coming around this here way
18 (indicating) by the double glass window.

19 Q Okay. And those windows are tinted, aren't they?

20 A Slightly, yes.

21 Q Well, it's night and they're tinted?

22 A Yes.

23 Q And in your statement you said, I looked outside and
24 I saw brake lights coming on and the car was going
25 by left to right and out of the parking lot?

1 A That was up here (indicating). When I saw the car
2 again, it was going around.

3 Q All right. So your description from inside the club
4 from left to right, if you're inside the club,
5 where's your left (indicating)?

6 A I might have got confused?

7 Q Isn't it over here?

8 A Yes. But I might have got confused from what I was
9 saying.

10 Q But what your statement says is that the car went
11 from left to right?

12 A My mistake (indicating).

13 Q All right. You're not testifying today you saw what
14 kind of car it was, are you?

15 A No, I did not.

16 Q All right. And what would -- the car didn't run
17 through the front of this area?

18 A No.

19 Q So it was out in the parking lot?

20 A Out in the parking lot.

21 Q And what distance do you think it was from where you
22 were on the floor to the outside area where this
23 automobile was?

24 A Probably 10, 15 feet.

25 Q Feet or yards?

1 A Not going in yards. It was probably -- from right
2 here to where I was here (indicating), probably
3 about 15 -- probably about 10, 15 feet, about
4 15 feet.

5 Q How many people were standing between you, your
6 place on the floor, and this automobile? How many
7 people were between you and the vehicle?

8 A None.

9 Q There was nobody in there?

10 A I didn't see anybody.

11 Q All right. So there weren't a bunch of people
12 standing out front?

13 A People -- there was a guy sitting right here
14 (indicating) who was the ID checker. And security
15 guards was on each side. And everybody was mostly
16 over to the side (indicating).

17 Q Well, where was that fellow that was being thrown
18 out by the security?

19 A He was over on this side (indicating).

20 Q Uh-huh. And you were able at the distance, in the
21 nighttime, able to see Mr. Gaskins?

22 A Yes, it's a litted (phonetic) area right here.

23 Q All right.

24 A The front door.

25 Q Yeah.

1 A Plus it's litted on the inside and the parking lot's
2 well litted right there (indicating).

3 Q Really.

4 A Yes.

5 Q But you didn't -- you did tell the police that night
6 that you saw the shooter and could identify him?

7 A Yes, I did.

8 Q You just didn't write that down?

9 A No, I didn't write that down.

10 Q They didn't either?

11 A Evidently.

12 Q And so when you met with the police officer the next
13 day or later that day and made your identification
14 which is State's Exhibit 21, you were identifying
15 the shooter, is that your testimony today?

16 A Yes.

17 Q You were not identifying the person you saw being
18 led out of the bar in the Budweiser ---

19 A No.

20 MR. MCCULLOCH: Just a second, Your Honor.

21 (Pause.)

22 Q Mr. Glover, when you first talked to the police
23 officers who came to the scene to look into this, do
24 you recall telling them that at the time of the
25 shooting you were working in the kitchen?

- 1 A Yes, that's what I told them.
- 2 Q And by that you meant not at the instance of the
3 shootings you were working in the kitchen?
- 4 A Prior to.
- 5 Q Prior to. But you did not tell the police that you
6 saw the shooter, did you?
- 7 A I said I told them, he didn't write it down and I
8 didn't write it down.
- 9 Q After the shooting, how long before the police
10 arrived?
- 11 A Couple minutes.
- 12 Q Your sister was there?
- 13 A Yes.
- 14 Q Not injured?
- 15 A Not injured.
- 16 Q Did you talk with her about the incident?
- 17 A Yes.
- 18 Q And did she see the shooter as well?
- 19 A I don't know.
- 20 Q You talked to her?
- 21 A Yes, yes, she ---
- 22 Q Yes, you talked to her?
- 23 A Yes.
- 24 Q But you don't know what you talked about?
- 25 A I know what I talked about.

1 Q Did she tell you that she could identify the shooter
2 as well?

3 MR. MEADORS: Judge, I would object. I don't
4 think that was the -- I don't recall ---

5 THE COURT: Well the question was did -- what
6 was the question again?

7 MR. MCCULLOCH: Your Honor, I'm trying to
8 determine ---

9 THE COURT: What was the question first?

10 MR. MCCULLOCH: The question was did he talk
11 with his sister and did she tell him she had seen and
12 could identify the shooter. And my next question will be
13 did she tell you anything about the shooter.

14 THE COURT: All right. The objection,
15 Mr. Meadors.

16 MR. MEADORS: I didn't hear all that.

17 THE COURT: Okay. Is there any objection?

18 MR. MEADORS: No.

19 THE COURT: All right, go ahead.

20 Q Did you talk to your sister?

21 A Yes.

22 Q Did you -- did she tell you that she saw the
23 shooter, the person who fired the shots as well?

24 A She never told me, no.

25 Q Where was she when the fires -- did she see

1 Mr. Gaskins? Did she know Mr. Gaskins?

2 A Those are questions you would have to ask her, I
3 could not answer that.

4 Q All right. But is any of the information that
5 you're now talking about information you got from
6 your sister, that's really what ---

7 A No.

8 Q No?

9 MR. MCCULLOCH: That's all of this witness, Your
10 Honor.

11 THE COURT: All right, yes, sir.

12 MR. MEADORS: One.

13 REDIRECT EXAMINATION

14 BY MR. MEADORS:

15 Q I couldn't see what you were pointing to, the whole
16 left to right business.

17 A Yes.

18 Q If you're looking at 360, can you show me which way
19 you saw the car leave when you looked out?

20 A Over here (indicating) in the dumpster area.

21 Q Right.

22 A And over here (indicating) is the patio, it was
23 coming this way.

24 Q Okay. So if you're looking at the club, the club
25 would be to the left and ---

1 A Right.

2 Q Go from the left to the right.

3 MR. MEADORS: Thank you, that's all.

4 THE COURT: Anything further?

5 MR. MCCULLOCH: Not of this witness.

6 THE COURT: Any other witnesses this afternoon?

7 MR. MEADORS: Just Lindburgh Porterfield. I
8 don't know if you wanted to have that, Mr. Porterfield
9 does know Mr. Gaskins.

10 THE COURT: I don't know. Well, let's -- you
11 may step down, sir.

12 (The witness leaves the witness stand.)

13 THE COURT: Let's take care of Ms. Barrett (sic)
14 and Mr. Glover right now before we move on. Do you have
15 any motions in regard to Ms. Barrett (sic)? We failed to
16 do so at the end of her testimony.

17 MR. MCCULLOCH: I figured we would do it
18 cumulatively.

19 THE COURT: Okay, that's fine.

20 MR. MCCULLOCH: Your Honor, the very same -- if
21 I may.

22 THE COURT: Yeah.

23 MR. MCCULLOCH: The very same arguments and
24 positions I made earlier with regard to ---

25 THE COURT: Ms. Hellman?

1 MR. MCCULLOCH: Hellman.

2 THE COURT: Would apply to Ms. Barrett (sic) as
3 well as Mr. Glover?

4 MR. MCCULLOCH: To Ms. Barrett (sic), not to Mr.
5 Glover. He's ---

6 THE COURT: Okay. Let me -- let me help you
7 out. As to Ms. Barrett (sic), the same ruling applies
8 and the same factors mentioned.

9 MR. MCCULLOCH: Very well.

10 THE COURT: Now, we'll go to Mr. Glover.

11 MR. MCCULLOCH: Now, as to Mr. Glover, Your
12 Honor, the State has, in the information that we've been
13 provided, nowhere mentioned the fact that this witness
14 told police or that he ever had the ability to identify
15 Mr. Gaskins as the person who fired the shot.

16 THE COURT: All right.

17 MR. MCCULLOCH: In fact, his statement, which I
18 think is a part of the record, indicates, though somewhat
19 ambiguous, it indicates nowhere in it that he saw Mr.
20 Gaskins in the club nor identified Mr. Gaskins as the
21 shooter. I say -- it says that there was a black male,
22 gives a height and weight description, wearing a red and
23 black Budweiser jacket with patches on it and it was
24 furred lined.

25 Now, it also more importantly, Your Honor,

1 indicates that he was coming out of the kitchen when
2 shots rang out, glass was shattering on him. I looked
3 outside -- he now testifies he was on the floor looking
4 outside at an automobile, as the evidence will later
5 show, was out in the parking lot some distance, because
6 we don't have the diagram of the distance. I would
7 suggest to you it is a bit more than what he has
8 testified to but that's the only evidence before you.
9 The evidence later in this trial will show the vehicle
10 from which the shots were fired was -- had tinted windows
11 and that the shooter evidently was in a reclined driver's
12 seat meaning sitting way back rendering the driver very
13 low.

14 And Mr. Glover's statement says, I looked
15 outside and saw brake lights coming on and the other car
16 was going by left to right and out the parking lot. Left
17 to right, Your Honor, being described from the position
18 of the perspective of the witness is exactly the opposite
19 of what all of the other witnesses' testimony about the
20 vehicle will indicate.

21 I would submit to the Court this gentleman is
22 not reliable and had given a statement that is at odds
23 with his testimony today rendering him unreliable as a
24 witness and certainly rendering his testimony
25 insufficiently reliable to allow ---

1 THE COURT: All right.

2 MR. MCCULLOCH: --- an in court identification.

3 THE COURT: Mr. McCulloch, I disagree. Your
4 arguments goes to weight and not the admissibility of the
5 witness's testimony. That's like saying if you told
6 somebody something two years ago you can never change
7 your mind and they have to take it away from you. That's
8 where we have the ancient right of confrontation and
9 cross-examination.

10 And so if the argument goes to the weight and
11 not the admissibility, I respectfully disagree with it.
12 I'm going to allow this witness's testimony into
13 evidence.

14 MR. MCCULLOCH: All right. Your Honor, then the
15 second decision would be that the State should have
16 disclosed under Rule 5, unless they are as surprised as I
17 am today ---

18 THE COURT: I don't know whether they are not
19 but I mean ---

20 MR. MEADORS: Judge ---

21 THE COURT: Yes, sir, go ahead, Mr. Meadors.

22 MR. MEADORS: I've interrupted you before and
23 made a mistake so I ---

24 THE COURT: Well, no, you go ahead. I was once
25 married for a long time. Go ahead.

1 MR. MEADORS: Thank you. Judge, I have met with
2 Mr. Glover before. He is a very emotional man and I like
3 him, he's a nice guy. We talked. This was a first time
4 I had heard this today also.

5 THE COURT: Uh-huh.

6 MR. MEADORS: I think he's telling -- you know,
7 in my opinion, telling the truth.

8 THE COURT: So in other words, you're just as
9 surprised as Mr. McCulloch based on his statements that
10 you previously read. The witness's testimony today was,
11 I told the police, they didn't write it down. That's for
12 the jury to weigh, judge and decide his credibility or
13 believability.

14 MR. MEADORS: For the record ---

15 THE COURT: They may believe all of it or -- I
16 don't know.

17 MR. MEADORS: For the record, I didn't go into
18 -- didn't ask him that the week before last so I don't
19 ---

20 THE COURT: Just ---

21 MR. MEADORS: --- what I'm saying right now to
22 be used on cross. I know he wouldn't do that but ---

23 MR. MCCULLOCH: Never.

24 THE COURT: Well, I'll tell you what. For right
25 now, that's my decision, revisit it in the morning if

1 anything additional ---

2 MR. MCCULLOCH: And I would only say, Your
3 Honor, that my motion is that we, two years into this
4 matter, over two years ago, this is information that
5 should have been discovered by the State and it's of a
6 surprise to us. They had a number of witnesses to
7 identify Mr. Gaskins, other witnesses to identify
8 shooter. This gentleman's testimony is not only
9 emotional, it is not competent ---

10 THE COURT: Well, I ---

11 MR. MCCULLOCH: --- and therefore not be
12 permitted.

13 THE COURT: I don't think it's improper. I
14 disagree with that. I mean, I'm not going to begin to
15 tell the Solicitor how to try his case. If he does
16 something that crosses the line, then I will be happy to
17 consider a motion, a motion from you if it crosses the
18 line.

19 But for right now, you know, having been around
20 as long as I have, not that I've been around much longer
21 than you have, Mr. McCulloch or Mr. Meadors, but it's not
22 unusual for a witness to recall something at the last
23 minute or change his story. I don't -- it's not my job
24 to judge the believability or the credibility. I'm just
25 saying that it goes to the weight and not the

1 admissibility. Of course, I'm not trying to argue for
2 you, Mr. Meadors.

3 MR. MEADORS: No, sir. With all due respect, I
4 take a little offense that something should have been
5 turned over earlier.

6 THE COURT: You can't turn over what you don't
7 know.

8 MR. MEADORS: No, sir. And again the window was
9 tinted -- the window was down because the gunshots were
10 being fired out of it. And he saw the person there. I
11 didn't tell him to say that. You watched him and I think
12 his credibility's got to be -- I can't know everything,
13 Judge.

14 THE COURT: I understand. That's why ---

15 MR. MEADORS: I know.

16 THE COURT: --- as honestly as I can. And if
17 there's some specific case on point from our Court of
18 Appeals or the Supreme Court or some Fourth Circuit
19 decision, I will be happy to revisit this matter in the
20 morning.

21 In the meantime, anything further this
22 afternoon?

23 MR. MEADORS: Mr. Porterfield, but if y'all ---

24 THE COURT: Well, let's take a little short
25 break before we get him. Let's take a short break.

1 MR. MEADORS: Thank you.

2 THE COURT: We'll come back in about five
3 minutes.

4 (Whereupon, Court's Exhibit Numbers 6, Statement
5 of Roger Glover, was marked for identification.)
6 (The Court was in recess.)

7 MR. MCCULLOCH: So, Your Honor, the good news
8 is, with regard to Mr. Porterfield, who was here, I
9 conferred with my client and they actually know each
10 other -- previously.

11 THE COURT: Okay.

12 MR. MCCULLOCH: So there is no ---

13 THE COURT: No need for a Biggers?

14 MR. MCCULLOCH: -- obvious needs for the
15 Biggers. So I think we can excuse him.

16 The next thing we turn to is the review of the
17 photographs that they would introduce tomorrow.

18 THE COURT: All right, take your time.

19 MR. MCCULLOCH: And well, Your Honor, I've
20 looked at them and of course I recognize the liberal rule
21 of the introduction of photographs.

22 THE COURT: As within the -- the Judge's
23 discretion or what were you going to say?

24 MR. MCCULLOCH: Pretty much the broad discretion
25 of ---

1 THE COURT: Okay.

2 MR. MCCULLOCH: --- of the discriminating Judge.
3 I'll hand them up to, your honor.

4 THE COURT: All right.

5 MR. MCCULLOCH: My objection is -- is first,
6 they really are duplications. I don't object to them on
7 the grounds that they show blood because this is
8 obviously a case that involves blood. Hopefully that it
9 won't get any on anybody. But the fact is that these
10 photographs duplicate each other and there's no point in
11 that.

12 Secondly, they -- they contain, as you can see,
13 markers -- numbers and alphabetical markers that -- and I
14 haven't had time to check the only diagram that we had.
15 But if the position of the State is that they intend
16 somehow to find some materiality and relevance in close-
17 ups of blood patches, I don't follow that. We've not
18 been provided any diagrams of the location of the bodies
19 within the interior.

20 And so we have the diagram of some evidence but
21 I don't know that we have a diagram that shows body
22 placements and so forth. And certainly they can do that
23 with the delightful floor plan done by Mr. Tabor. And
24 those photographs don't illustrate anything other than
25 where blood was. And they do it in multiple and gruesome

1 fashion.

2 But they're excessive and that's my motion.

3 THE COURT: All right. Okay, Mr. Meadors -- or
4 Ms. McDuffie.

5 MS. MCDUFFIE: Your Honor, the markers in the
6 pictures were placed there by crime scene investigator
7 Stan Richards who also provided a report detailing what
8 each one of those markers represents in terms of blood
9 pattern analysis. For example, whether it's transfer,
10 whether it's pooled, drops, smears, and things of that
11 nature, Your Honor. And he does outline that in a report
12 that has been provided to the Defense.

13 Further, Your Honor, the pictures are not
14 duplicative. We have tried to narrow them down. There
15 is a -- of each marker a shot to orient the jury as to
16 where in the club it is and then a close-up of the
17 individual piece of evidence. We have tried very hard
18 not to make them duplicative. There were tons of photos
19 in this case, Your Honor. And those are the only ones we
20 intend to show of the blood in the interior of the club.

21 It goes through Investigator Richards and
22 through, as Mr. Meadors has stated, one of the victims in
23 the case who can orient herself in the club and her --
24 the path she followed after being shot.

25 THE COURT: Yes, sir.

1 MR. MEADORS: Thank you, Judge. May it please
2 the Court. Deirdre Houston who has already gone, one of
3 the victims who was shot in the ear -- what we thought
4 about first was just showing the pictures without the
5 cards in there. Because she can say, this is where I
6 went, this is my blood as I went through. And I think
7 that's important to show the jury. What Ms. McDuffie has
8 done is gone back and got -- so there won't be three sets
9 of them, has used the same pictures that now law
10 enforcement and Ms. Houston can show and we've cut it
11 down, we think, and respectfully ask you to consider as
12 much as we can to cover both of those in the same
13 pictures.

14 THE COURT: All right. Yes, sir.

15 MR. MCCULLOCH: Then I am to understand that
16 these are the only photographs the State will offer of
17 the interior?

18 THE COURT: I don't know.

19 MR. MCCULLOCH: The only bloody photographs of
20 the interior?

21 MS. MCDUFFIE: These are the only photos of the
22 blood in the interior. There are some of the bullet
23 holes of the interior of the club and you can kind see
24 the floor in the distance in some of them, Your Honor.
25 None of the other photographs we intend to introduce will

1 be -- the blood will be the focus of those photographs.

2 MR. MCCULLOCH: Well, Your Honor, I would say, I
3 just did locate Mr. Richards' report. We've got about 5
4 or 600 pages of stuff.

5 THE COURT: I understand.

6 MR. MCCULLOCH: If the Court would just simply
7 take this under advisement overnight, I'll either
8 withdraw it or make more specific ---

9 THE COURT: This ---

10 MR. MCCULLOCH: --- with individual photos.

11 THE COURT: This is not unusual. It's no big
12 deal. I mean, this happens -- these things happen all
13 the time. I haven't made a decision yet. I'll make it
14 in the morning. I'll think about it. Y'all think about
15 it. Sometimes if you sleep on it, it's not as bad as you
16 think it is.

17 But it's kind of hard to keep blood out a
18 situation like this where two people were killed and
19 three are shot. I mean, there will be blood.

20 MR. MCCULLOCH: They ought to make a movie out
21 of that.

22 THE COURT: I think they did.

23 THE MEADORS: There are no body pictures at all,
24 Your Honor.

25 THE COURT: Yeah, I understand. There's no

1 bodies. So, I mean, it's a close call. I mean, I think
2 there's not anything particularly surprising or
3 unexpected. I'll think about it, sleep on it.

4 MR. MEADORS: And, Judge, we have several
5 witnesses ready to keep you busy tomorrow.

6 THE COURT: I appreciate that. I mean, you take
7 a closer look at it. And then if you've got two of the
8 same of the same locations, you can take one or two of
9 them out. It's kind of hard to sanitize the scene at the
10 360 that occurred back on what, February the 5th -- the
11 Super Bowl or whenever.

12 All right, anything further this afternoon?

13 MR. MEADORS: No, sir, thank you.

14 THE COURT: 9:30 in the morning. I'm sure y'all
15 will be here no later than 9, I'll try to do the same
16 thing if not earlier.

17 And if y'all think of anything overnight y'all
18 need to add something on the record with what we
19 discussed, I'll be happy to receive and consider
20 it.

21 In the meantime, get a good night's sleep and
22 see y'all at 9:30 in the morning.

23 MR. MEADORS: Thank you.

24 MR. MCCULLOCH: Thank you, Your Honor.

25 WEDNESDAY, OCTOBER 21, 2009:

1 THE COURT: Y'all ready?

2 MS. MCDUFFIE: Your Honor, we have one more in
3 camera -- a Neil v. Biggers hearing we need to take up
4 and that will be our first witness.

5 THE COURT: I thought y'all said yesterday
6 somebody knew somebody and y'all didn't need to do it.

7 MS. MCDUFFIE: This is a different one.

8 THE COURT: This is another one?

9 MR. MCCULLOCH: Different.

10 THE COURT: All right.

11 MR. MCCULLOCH: Your Honor, before we do that,
12 do you want to take up the issue of photographs we were
13 reviewing yesterday?

14 THE COURT: Oh, yeah.

15 MR. MCCULLOCH: It's a pretty quick matter. I
16 provided your clerk with my descriptive itemization of
17 these. And they're grouped, in most instances, with a
18 close-up shot of blood spatters, blood skids, whatever,
19 blood residue. And then I established a shot that is
20 farther back from the close-up showing where in the bar
21 that thing is.

22 I certainly recognize the case law gives you
23 full and complete discretion. My only objection is that
24 the photographs are duplicative and there's no real
25 evidentiary value to a close-up shot of blood. It will

1 be pretty apparent to the jury when they return to the
2 jury room that this is a heinous crime with lots of
3 injuries and deceased people.

4 So I just think there's no real purpose in
5 duplicating photographs with the close-ups ---

6 THE COURT: Do we need to have Mr. Gaskins?
7 Where is he?

8 MR. MCCULLOCH: Oh, we do need to do that.

9 THE COURT: We'll, well back up until he gets
10 here. And while we do that, let me tell the jury I
11 thought we were going to start at 9:30. That we have
12 some preliminary matters we need to take up.

13 (The Court was in recess.)

14 THE COURT: All right. Now Mr. Gaskins is now
15 present. You want to back up a little bit, Mr.
16 McCulloch?

17 MR. MCCULLOCH: Yes, Your Honor.

18 THE COURT: All right. Yes, sir.

19 MR. MCCULLOCH: I had provided -- this is
20 regarding the State's proffer of a series of photographs
21 which Ms. McDuffie has in her hand. She provided us an
22 opportunity to review them last night, Your Honor. And
23 what I have provided the Court and the Solicitor is my
24 rendition of those photographs.

25 You'll note that most of these photographs are

1 grouped in pairs. The photographs in pairs show a close-
2 up of a blood spatter or blood skid or just a close-up of
3 blood. The grouped photos attached to that shows an
4 establishing shot, what I'd call an establishing shot,
5 taken at a distance that shows where in the club that
6 bloodstain was.

7 Certainly, I think this Court has absolute
8 complete discretion to allow evidence in but it has to
9 have some relevance and pertinence and should not
10 normally be duplicative or cumulative.

11 Here I think, Your Honor -- and our objection is
12 simply that acknowledging the case law in this matter,
13 that there's no real purpose served by having close-ups
14 of blood.

15 THE COURT: All right.

16 MR. MCCULLOCH: There is, I think, the relevant,
17 the pertinent value of establishing shots to show there's
18 blood on the pool table but not a close-up, a tile, one
19 tile of blood on it other than to depict to the jury, to
20 inflame and to increase the sympathy level. And there
21 will be plenty of sympathy in this case.

22 THE COURT: All right. I think your position is
23 that the prejudice outweighs the probative value.

24 MR. MCCULLOCH: Yes, sir.

25 THE COURT: Yes, ma'am, Ms. McDuffie.

1 MS. MCDUFFIE: Your Honor, just for the record,
2 it's State's Exhibits 22 through 26 to which Mr.
3 McCulloch is referring.

4 THE COURT: I looked at them yesterday. I still
5 recall them.

6 This is my assessment. I don't know where the
7 particular individuals that were shot or wounded, where
8 it happened, how it happened, what location they were in.
9 I think at least when you look at the locations of pools
10 of blood, I would be like, for example, somebody was shot
11 against the wall you've got splattering and the bedroom
12 or something like that will show where the victim was
13 when they were wounded or shot.

14 I think it might be a close call but I do not
15 believe the prejudice outweighs the probative value.
16 Inasmuch as the jury already knows that two people were
17 killed, three were shot, and at least at this point in
18 time, I think I'll give the State an opportunity to
19 connect the locations where the victims were shot, who
20 was shot, where they were shot, that sort of thing.

21 And at this point in time, Mr. McCulloch, it may
22 be a close call but I think your objection is a little
23 bit premature. If later on something evolves that I
24 think prejudice does outweigh the probative value, I
25 don't make that assessment at this time, I'll revisit it.

1 But for right now, I think it does have more probative
2 value than prejudice to the Defendant at this point in
3 time.

4 Anything further?

5 MS. MCDUFFIE: No, sir.

6 MR. MCCULLOCH: Your Honor, I just ask that that
7 piece of paper we provided you ---

8 THE COURT: Have you seen a copy, Ms. ---

9 MS. MCDUFFIE: Yes, sir.

10 MR. MCCULLOCH: --- be made a part ---

11 THE COURT: I'll make it a Court exhibit.

12 MR. MCCULLOCH: For the purpose of ---

13 THE COURT: Yeah, for the purpose of this
14 motion.

15 (Whereupon, Court's Exhibit Numbers 5, State's
16 Photo Exhibit List, was marked for
17 identification.)

18 THE COURT: All right. Are we ready to proceed?

19 MS. MCDUFFIE: The State calls Lamont Davis.

20 THE COURT: All right.

21 (LAMONT DAVIS, having first been duly sworn,
22 testified as follows:)

23 THE CLERK: Thank you. Please have a seat in
24 the witness stand and state your full name for the
25 record.

1 THE COURT: Wait a minute before you start.

2 Ma'am, how can I help you? What do you want?

3 LADY: Good morning, Your Honor, how are you
4 this morning?

5 THE COURT: So far pretty good but what do you
6 want, ma'am?

7 LADY: To see Mr. Meadors.

8 THE COURT: Go ahead, I ain't going to stop you.

9 MR. MEADORS: Thank you, Your Honor.

10 THE COURT: Y'all couldn't do this in the office
11 maybe?

12 Ms. McDuffie, you may proceed.

13 MS. MCDUFFIE: Thank you, Your Honor.

14 THE BAILIFF: State your full name for the
15 record.

16 THE WITNESS: Lamont Davis.

17 DIRECT EXAMINATION (In Camera)

18 BY MS. MCDUFFIE:

19 Q Mr. Davis, can I get you to speak into the
20 microphone so that the Judge can hear you.

21 Mr. Davis, what's your date of birth?

22 A [REDACTED] 1973.

23 Q And where were you employed in February of 2007?

24 A February 2007 I was employed with the Elite Security
25 Protective Services.

1 Q And do you recall where you working on February the
2 5th -- February 4th and 5th of 2007?

3 A Yes, I do recall. I was working at -- with the
4 Elite Protective Services ---

5 Q And ---

6 A --- on February -- and I was working the 7th (sic)
7 of February at 360 Sports Bar and Grill which is the
8 assignment that they had me posted on for extra
9 hours.

10 Q So on February 4th and 5th of 2007, you were working
11 at Club 360?

12 A Yes, I was.

13 Q And do you recall a individual being removed from
14 the club?

15 A Yes, I do.

16 Q Please tell the Court about what you observed?

17 A On the night of February the 7th (sic), they were
18 having a Super Bowl gathering at 360 ---

19 THE COURT: The 5th or 7th?

20 THE WITNESS: The 5th.

21 MR. MCCULLOCH: The 5th.

22 THE WITNESS: Yes, the 5th or 7th -- the 5th of
23 February is when I got shot in the back, sir.

24 THE COURT: Okay.

25 A On the night of the 5th of February, we were at 360

1 Sports Bar and Grill. I was on assignment for a
2 post there just to make sure nothing happens and if
3 anybody gets out of hand then escort them off the
4 grounds.

5 That night while I was inside of 360 Sports Bar
6 and Grill, Quincy -- Quinten, another officer that
7 was there that night, was escorting this gentleman
8 right here (indicating), Mr. Johnnie Gaskins, from
9 behind the bar. And walked over to him, I said, why
10 is this guy being escorted from this area here? He
11 was like, he told me he -- he said something, I
12 couldn't hear him at first because the music right
13 there, the speaker. So I said, let's walk him over
14 to this table where I can hear you. He told me, he
15 was going behind the bar and he was being very
16 belligerent, disrespecting the bartender.

17 So I approached Mr. Gaskins myself. I said,
18 sir, is what he's saying is right? He turns around
19 and look at me and said, if you're going to throw me
20 out, throw me the F out.

21 Q And what was the lighting conditions like?

22 A It was -- it was -- yeah, you can see very well.

23 Q Did you have any trouble seeing the person who you
24 escorted out of the bar?

25 A No.

1 Q Any trouble seeing his face?

2 A No. I can tell you exactly what he had on that
3 night.

4 Q Please tell the Court what he had on.

5 A He had on a red and white shirt with a black jacket.
6 A black jacket like this one almost (indicating)
7 with a collar -- with a fur collar and a hoodie on
8 it.

9 Q And did you have any trouble seeing his face?

10 A No, didn't.

11 Q About how far were you from him?

12 A I was just the same I am with this lady to my left,
13 ma'am.

14 Q And then did you escort him out of the club?

15 A Yes, I did.

16 Q And did you also have a conversation with him
17 outside?

18 A Yes, I did.

19 Q And tell the Court what happened at that point?

20 A When I -- when I was escorting him out the club, I
21 had him in handcuffs, I said, because you're being
22 very -- you're acting like you're very intoxicated.
23 I have to have you to leave the grounds.

24 When I got him outside, I said, now, you must
25 leave the grounds and do not return tonight. I'm

1 going to let you go. As soon as I got him outside,
2 Mr. Gaskins acted like he was sobered up. He told
3 me, okay, I'm going to leave. He said, I'm going to
4 leave, I'm going to go home. And another gentleman
5 came and approached me and said, yeah, I'll take him
6 home.

7 Q And did you remove the handcuffs from him?

8 A Yes, I did. And I told -- and I told Mr. Gaskins, I
9 said, Mr. Gaskins, do not come back tonight or I
10 will have you arrested through the Richland's
11 Sheriff's Department.

12 Q Did you also check his ID at that time?

13 A Yes, I did.

14 Q And what was the purpose of that?

15 A The purpose of that is so that I remember who he was
16 when I escorted him off the grounds so he would not
17 return and try to sneak back on the grounds.

18 A And you were injured in this incident, were you not?

19 A Yes, I was, ma'am.

20 Q And when you went to the police station on February
21 the 5th of 2007, were you shown a photo lineup?

22 A Yes, I was.

23 Q And please ---

24 A When I -- when I got to the Richland County
25 Sheriff's Department, I asked for a cup of coffee

1 and when I went to get a cup of coffee, they didn't
2 never even show me the printout. The printout just
3 came out of the print machine. I pointed right to
4 him. I said, this is the gentleman right here,
5 photo one, that shot me.

6 Q So the printout -- the lineup didn't even come off
7 the printer?

8 A No.

9 Q It was still ---

10 A It was still sitting on the printer.

11 Q And when you walked by you ---

12 A Yes.

13 Q --- you recognized him?

14 A Yes.

15 Q And was there any markings or anything on ---

16 A No, it was nothing on that paper. It was -- it was
17 six photos, I believe, and he was the number one
18 photo on the top on the left hand side.

19 Q I'm going to show you ---

20 A There it is.

21 Q --- 10. And do you see him in the courtroom today?

22 A Yeah, sitting right there between the two
23 Defendant's lawyers.

24 MS. MCDUFFIE: Nothing further at this time.

25 THE COURT: Mr. McCulloch.

CROSS-EXAMINATION (In Camera)

BY MR. MCCULLOCH:

- 1
2
3 Q Mr. Davis, this was your -- was it your first night
4 working at the 360.
5 A No, it wasn't, sir.
6 Q All right. So you've worked there before?
7 A Yes, I have worked there before.
8 Q How many other times?
9 A I've worked there -- prior to that -- that Super
10 Bowl night, I worked there weeks before, sir.
11 Q All right.
12 A More than one time.
13 Q All right. Did you go there socially as well?
14 A No. I still to this day don't go there socially.
15 Q But never socially before this incident?
16 A Never, sir, I worked there.
17 Q Right.
18 A But I never went there socially, sitting down and
19 having any bar drinks. No, I never -- I don't do
20 that there, sir.
21 Q All right. And any time before this particular
22 night, did you -- had you ever seen or met Mr.
23 Gaskins?
24 A No, I never met this gentleman.
25 Q Okay.

1 A Never seen Mr. Gaskins in my life.

2 Q All right.

3 A Never had a run in with Mr. Gaskins. Never bypassed
4 on the road or anywhere.

5 Q You said that -- that Quinten Harris already had
6 taken Mr. Gaskins into custody when you ---

7 A No, he was not into custody. When you're taken into
8 custody, you're in handcuffs, sir. He was not in
9 handcuffs.

10 Q Well, describe the situation ---

11 A He was being escorted away ---

12 Q Excuse me.

13 THE COURT: Stop, stop, relax a little bit. I
14 know this is very emotionally. I want you to calm down
15 just a little bit. And let him ask the question, take
16 your time then answer it. Don't talk at the same time.

17 Go ahead, Mr. McCulloch.

18 Q If you would, would you take a moment to describe
19 what you walked up to?

20 A When I approached Quinten Harris, he was being
21 removed -- removing Mr. Gaskins from behind the bar.
22 I asked him what was the pur -- what was the problem
23 going on. He said he was removing him. That's all
24 I caught until I said, well, let's move away from
25 the speaker so I can hear you a little clearer. He

1 said he was removing Mr. Gaskins because Mr. Gaskins
2 was going behind the bar messing with patrons that
3 worked there, the bartenders.

4 Q All right. Now, at this time you said that this
5 person had a jacket on?

6 A That's -- yeah, he had a jacket on. He had on a
7 black jacket with a hood.

8 Q Okay. Was the hood up or down?

9 A The hood was back of his face.

10 Q It was off his face?

11 A Yes, it was off his head.

12 Q How did he -- can you describe him and additionally,
13 how did he appear to you? Describe his face and
14 hair.

15 A Mr. Gaskins' hair was a little shorter than what it
16 was -- what it is now. His hair was shorter.

17 Q All right. Did ---

18 A Mr. Gaskins had shorter hair at the time, sir.

19 Q Did he have dreadlocks?

20 A No, he didn't.

21 Q All right. The photograph in the photo lineup that
22 you looked at had all of the six individuals in
23 dreadlocks, correct?

24 A Uh-huh.

25 Q He did not appear that way that night?

1 A Huh-uh.

2 Q All right. You're going to have to say yes or no?

3 A No, he didn't.

4 Q She's got to take ---

5 A No, he didn't.

6 Q All right. And you described in your statement to
7 Investigator Isenhoward that he had a goatee?

8 A Uh-huh. Yes, he did.

9 Q All right. And the goatee is hair on the chin?

10 A That's right, sir.

11 Q Was this a lot of hair, a little hair?

12 A Lightly groomed, clean groomed

13 Q All right. Now, you then -- you and Quinten Harris
14 then took him into custody?

15 A Yes, sir.

16 Q All right. And by that you mean you put cuffs on
17 him?

18 A Uh-huh, to escort him off the grounds. I told him
19 why I was putting handcuffs on him. I said, I have
20 to put these on you because you -- right now you're
21 being very -- very -- you're not -- you're not -- he
22 didn't seem intoxicated. What he was being was like
23 very upset that he had to leave. And when I
24 escorted him outside, I stated, I said, now, sir,
25 I'm going to have to let you go and let you leave

1 the grounds, do not come back. Because a friend of
2 his came up to me and told me he will take him off
3 the grounds. That was my second reason of letting
4 him go.

5 Q Do you know who his friend was?

6 A I don't know the gentleman by name.

7 Q All right.

8 A Because I don't -- I don't associate with Mr.
9 Gaskins or anybody he associate -- or knows him.

10 Q But you didn't later learn the name of the person
11 ---

12 A No, I did not, sir.

13 Q So you and Mr. Gaskins walked from the area that you
14 were now standing, you went outside to the front of
15 the club, is that correct?

16 A That's right, sir.

17 Q And when the -- where were you and what -- so your
18 identification is based upon that exchange with Mr.
19 Gaskins in part at least?

20 A Uh-huh.

21 Q And where were you when the shooting occurred?

22 A At the front door going back inside of the bar.

23 Q All right. Just for my help, there's a pointer
24 right here. If you don't mind, I'll hand it to you.

25 A Oh, yeah.

1 Q There you go. If you could just indicate where on
2 this diagram ---

3 A Okay, this should be the entrance (indicating), the
4 main entrance.

5 Q Right.

6 A This should be the main entrance (indicating). I
7 was standing exactly right here (indicating). John
8 Adams was standing right here (indicating) because
9 me and Mr. Adams was just explaining about his
10 brother is supposed to be going to college or his
11 brother's a good football player. Me and him was
12 talking right here (indicating). As I was going
13 back in, I observed the car out the corner of my eye
14 just sped around because I was like, wow, who is
15 this person driving like this. It sped around. And
16 as he got right within this location (indicating), I
17 -- I heard -- the first shot came as soon as he got
18 right here (indicating).

19 Q Uh-huh.

20 A The first shot and then it just kept constantly
21 coming. Then the window broke -- as I fell through
22 window, I looked out the corner -- right out the
23 side of my eye looking right in the face of the gent
24 -- he had the back window down and he was leaning
25 back. It was like this (indicating), firing out the

1 front of the window.

2 Q All right. So the gun is aiming out the front
3 window?

4 A That's right.

5 Q The driver is reclining?

6 A That's right, sir.

7 Q How much of his face could you see?

8 A I see -- I seen his face completely and then right
9 after the shooting, as I got up and retaliated fire
10 back at him and he left the grounds, the gentleman
11 who told me he was taking him home was walking up
12 towards the front trying to hide behind a car.

13 Q All right.

14 A And I had the other officer that was there, I said,
15 hold that gentleman, he knows exactly who -- who was
16 shooting. And he said, yeah. He told me the name.
17 I said, what's the gentleman's -- I said, I can
18 remember Gaskins on the name but what's his first --
19 he said, his name is Johnnie Gaskins.

20 Q All right. You remember that today or you
21 remembered that ---

22 A I remembered that the same night.

23 Q Okay. Did you tell the police that?

24 A No, because the police -- after the officer spoke
25 with me he said, well, you look like you're very

1 stressed. I'll be back to speak to you some more.

2 Q Well, you were wounded at that point?

3 A Yeah, that's right. I was in the hospital wounded.

4 Q Now, from your position that you've indicated here
5 to the positioning of the automobile, what distance
6 was that?

7 A It can't be no more than from -- the parking lot is
8 very small, their parking lot. It has to be from
9 where I'm standing to exactly where that pull
10 (phonetic) is at.

11 Q The podium?

12 A Yes.

13 THE COURT: Approximately how many feet is that,
14 for the record? That would be 12, 15 feet?

15 THE WITNESS: Yes, yes.

16 THE COURT: Okay. And for the record, you're
17 testifying from and Mr. McCulloch's examining you from
18 Exhibit Number 15, I believe?

19 MR. MCCULLOCH: Yes, I'm sorry, Your Honor.

20 THE COURT: That's all right. Anything further?

21 Q The figure you saw in the automobile, his face was
22 obscured, it wasn't -- your ---

23 A I seen -- I seen -- I seen exactly from his nose
24 down to the top part -- from his forehead down to
25 the top part of his nose. That's what made me tell

1 the other officer to grab this gentleman because I
2 knew who exactly that was. I knew exactly who that
3 was. No one else was leaving out the parking lot.

4 But Quinten had another gentleman standing there
5 talking to him, walking to the side. And I said,
6 Quinten, what is this guy being removed for. And he
7 said, well, he was just in there arguing with his
8 girlfriend. He's -- he's -- and the guy was, I'm
9 going home too, man. And Quinten stood there and --
10 as Quinten stood there with the guy, that's when the
11 vehicle turned around.

12 Q And were you knocked down by Quinten or ---

13 A I was not knocked down by Quinten. After the glass
14 had shattered as I was trying to run for cover ---

15 Q Right.

16 A I fell through the glass.

17 Q Did you struggle with Quinten over this second
18 person that was being ---

19 A No, I did not struggle with Quinten over this second
20 person, sir.

21 Q And you just said that you saw from nose to head?

22 A That's right, sir.

23 Q That ---

24 A That's right, sir.

25 Q Tell me who -- was that the person in the car that

1 you saw from nose to head?

2 A That's right, sir. Stretch from his forehead down
3 to the top part of his lip, you can see it.

4 Q So you saw ---

5 A Yes, sir.

6 Q --- more or less half of the face?

7 A The same thing, sir. It's from the forehead to the
8 lip, I seen him, sir.

9 Q All right. And you weren't able to see his mouth or
10 ---

11 A From the forehead to the top lip, like I said the
12 first time. That's who I seen, sir.

13 Q And what was obscuring, the car, the window? What
14 prevented you from seeing ---

15 A He had the window halfway rolled down, from the back
16 window halfway rolled down, the front window was
17 wide open.

18 MR. MCCULLOCH: Okay. Thank you.

19 THE COURT: Anything further?

20 MS. MCDUFFIE: No, Your Honor.

21 THE COURT: Any arguments, Mr. McCulloch?

22 MR. MCCULLOCH: Well, Your Honor, I supposedly
23 would make the same -- take the same position we took
24 yesterday. It's obviously a very stressful incident.
25 The -- the extent of the face is such as to likely render

1 this unreliable but I will -- you know, if you would
2 incorporate my ---

3 THE COURT: I understand.

4 MR. MCCULLOCH: -- positions.

5 THE COURT: All right. I understand the factors
6 I have to consider under Biggers. There's no likelihood
7 of substantial misidentification. I think the witness
8 testified that the officers didn't even have to show him.
9 He knew him, he recognized him, someone told him who he
10 was. He looked at his driver's license ---

11 THE WITNESS: Sir ---

12 THE COURT: Relax, let me finish. I think he
13 saw his identification. And when he walks into the
14 police station, as it comes off the computer or whatever,
15 he recognized him.

16 That's good. You may step down, sir.

17 (The witness leaves the witness stand.)

18 THE COURT: Can I see y'all for a minute?

19 (WHEREUPON, a bench conference was held off
20 the record.)

21 THE COURT: Are we all ready?

22 MS. MCDUFFIE: The State's ready, Your Honor.

23 THE COURT: All right. Call your next -- well,
24 bring the jury in, I'm sorry.

25 (The jury returned to the courtroom at

1 approximately 10:02 a.m.)

2 THE BAILIFF: Jury's all present, Your Honor.

3 THE COURT: Welcome back once again, Madam
4 Forelady and members of the jury. And on behalf of
5 everybody involved in this case, I want to thank you for
6 your patience and understanding. Some of the things we
7 have to do in your absence.

8 So with that in mind, I'm going to invite the
9 State to call the next witness.

10 MS. MCDUFFIE: The State calls Lamont Davis.

11 (LAMONT DAVIS, having first been duly sworn,
12 testified as follows:)

13 THE CLERK: Thank you. Please have a seat in
14 the witness stand and state your name for the record.

15 MR. MCCULLOCH: Your Honor, so as not to
16 interrupt ---

17 THE COURT: Your objection is preserved for the
18 record.

19 THE WITNESS: Lamont Davis.

20 DIRECT EXAMINATION

21 BY MS. MCDUFFIE:

22 Q Mr. Davis, if I could get you to speak up so that
23 the jury and the Judge can hear you.

24 Please tell the jurors where you live.

25 A Where do I live? I live in Richland County.

1 Q And where are you employed right now?

2 A I'm employed with I S M G which is International
3 Security Management Group.

4 Q And where were you employed in February of 2007?

5 A Elite Protective Security Services.

6 Q And on February 4th and 5th, that Super Bowl Sunday,
7 where were you working?

8 A With Elite Protective Security Services at Bar 360
9 Sports Bar and Grill.

10 Q And is that located on Bush River Road?

11 A Yes, ma'am, right behind the Shell Gas Station.

12 Q I'll show you State's 14, do you recognize that?

13 A That's the top view of the 360 Sports Bar and Grill.
14 I believe that's back entrance and the front
15 entrance.

16 MS. MCDUFFIE: Your Honor, at this time we'd
17 offer State's 14.

18 THE COURT: All right.

19 MR. MCCULLOCH: No ---

20 THE COURT: Can you hear, members of the jury?

21 JURORS: (Affirmative response.)

22 THE COURT: Okay.

23 (Whereupon, State's Exhibit Number 14, Poster-
24 Diagram of 360 Sport Bar, was admitted into
25 evidence.)

1 Q Please tell the jury what you just pointed out.

2 A 360 Sport Bar and Grill. This is the top entrance
3 (indicating). This is the front entrance
4 (indicating) and that's the back area (indicating).

5 Q And parking lot (indicating)?

6 A Yes, ma'am.

7 Q And in February of 2007, how long had you worked for
8 Elite Security?

9 A I worked with Elite Security -- I had been working
10 with that company since November of 2006 -- yeah,
11 2006. I was working at the site of the bar that
12 night. I had been working with -- a couple of times
13 I worked there, three or four times I worked there.

14 Q That was not your first time there?

15 A No, that was not my first night working there.

16 Q And what were your duties that night at 360?

17 A To make sure that the customers was there not
18 getting out of hand, not bothering any patrons and
19 not getting in any fights or anything with other
20 customers.

21 Q And at some point in the night, was there a
22 disturbance inside the bar?

23 A Yes, there was, ma'am.

24 Q Please tell the jury what happened.

25 A Inside the Bar 360 -- I can't recall exactly the

1 time but I know that at the time we were there I saw
2 Quinten Harris escort Mr. Gaskins from behind the
3 bar area.

4 Q And tell the jury who is Quinten Harris.

5 A Quinten Harris is a co-worker of mine that was
6 working with me with Elite Protective Services.

7 Q And he was escorting Mr. Gaskins?

8 A Yes, ma'am. He was escorting Mr. Gaskins from the
9 back part of the bar, right there where the
10 bartenders stand at. So when I seen it, I walked
11 over to Quinten Harris and I said, what's going on
12 with this gentleman? And he -- he -- I heard him
13 said, I'm removing him, but I couldn't hear because
14 the speaker was there and it was playing loud music.
15 So I said, well, let's walk over here a little
16 further away where I can hear you clearly. And he
17 explained to me why he was removing him from the
18 back of the bar area. He told me that he was being
19 very rude to the bartender and he was going back
20 there messing with the bartender. Which customers
21 are not allowed to go back there in the bartender
22 area.

23 So as I was talking to Mr. Gaskins and informing
24 him, you know, you can't do that, he looks at me and
25 -- I don't know if I can curse or swear but ---

1 Q Go ahead and please tell the jury what he said?

2 A He looks at me and he said, just throw me the fuck
3 out then. What the fuck, you want me to leave? And
4 that's when I removed the drink from him. I said,
5 sir, I'm going to have to ask you to step outside.
6 I'm going to have to put you in handcuffs and escort
7 you from outside -- inside of the bar area.

8 I walked Mr. Gaskins outside. As soon as we get
9 -- I mean, as soon as he gets passed the door
10 outside, it's like he sobers up. He was like, okay,
11 I'm going to leave. I'll just leave, sir. I'll
12 just leave.

13 Q And did someone else approach ---

14 A Yes, it was a guy outside come up to me and said,
15 I'll take him home. I'll take him home. I said,
16 are you a friend? And he said, yeah, I know him
17 very much. I know him very -- I'm going to take him
18 home. I said, okay, now. And I warned Mr. Gaskins,
19 I said, the reason I'm letting you go is he's going
20 to take you home. If you come back here, I will
21 have Richland County Sheriff's Department arrest
22 you. And I asked him -- just before I escorted him,
23 I asked him for his ID so I can know his name so he
24 wouldn't be able to come back on the grounds.

25 Q Did he have his ID on him?

1 A Yes, he had his ID on him.

2 Q Where was it?

3 A It was in his back pocket and he showed me it.

4 Q And what is your policy when you handcuff someone
5 and you escort them out, what are you supposed to
6 do?

7 A Unhandcuff them. If they seem like they're not
8 highly intox -- like if they're not intoxicated to
9 where they can't stand up or stagger or cannot talk,
10 I cannot let them leave at that time.

11 Q And what would you have done?

12 A I would have called Richland County Sheriff's
13 Department to have him escorted off the grounds or I
14 would have made sure that he had a relative of
15 someone to get him out of that area, which I let him
16 go to the gentleman that said he knows him.

17 Q And what happened after that?

18 A I let Mr. Gaskins go. As I was turning back to go
19 in, Quinten was escorting another man. I asked
20 Quinten, I said, what did this gentleman do. He
21 said, oh, nothing, he was just arguing with a girl
22 and he said he's leaving. So he walked to the side
23 of the bar area ---

24 (Pause.)

25 Q Take your time.

1 A As I was talking to John Adams, who we call Wolf, me
2 and him was talking about his brother who played
3 football. He was like, yeah, my brother, he's real
4 good. He played for Greenwood football team, out in
5 Greenwood. He's a defensive end. I was like, oh,
6 yeah. He was like, yeah.

7 And so as I went -- I was like, well, I'm going
8 to go inside real quick. As I went to turn and go
9 inside, I heard the first shot. And as I looked --
10 because I heard the car screeching right before the
11 shot rang off.

12 After I heard the car screech, I heard the shot,
13 pow, the first shot. That's when -- that's when I
14 looked out the corner of my eye and then another
15 shot hits the window. The glass falls, I fall
16 through the glass and I just constantly hear shots
17 ringing out, pow, pow, pow. And I looked out the
18 corner of my eye and I see -- I see the vehicle. I
19 see the gentleman sitting right in the back with the
20 window down, looking out the back window, halfway
21 window partially down where I can see from his
22 forehead to the top -- right here to his lip, bottom
23 of his nose. And he's shooting out the front window
24 randomly.

25 As soon as the shots stop, the car spins off.

1 That's when I got up. I seen a young lady laying
2 there.

3 Q Tell the jury what you saw?

4 A I saw the young lady laying on the ground with a
5 hole bleeding from her head, bleeding from her head.
6 And I get up and I go over and I retaliate fire. As
7 I retaliate fire, I get weak. I get weak. Your
8 body finally is not the same. I got weak. I seen
9 -- my body now wasn't the same. I leaned against my
10 car, I seen, I see blood on the vehicle. I said to
11 myself, how is -- where am I bleeding from. I look
12 at my hand, I'm bleeding from my hand because I fell
13 as the glass was breaking. I fell through the
14 glass.

15 And I was walking back to see if anybody was,
16 you know -- besides the young lady that I seen, I
17 was like, is anything more that I can do. As I
18 walked back, I tell Quinten, I said, you know, I
19 feel like I'm burning in my back. It's just like a
20 burn, you know, from my sweat. And he looked and he
21 said, you've been shot, man. He said, you shot
22 three times. He said, I see three holes in your
23 back.

24 I said, right now, let's get these people --
25 let's get these people, they need to go. Let's get

1 these people, they need to go.

2 The Sheriff's Department got there. He was
3 talking and I said, I'm shot too. And he was like,
4 you know, you can't be shot and standing here
5 talking to me like this, man. I said, yeah, man,
6 I'm shot, let's get these people out of here. These
7 people -- tragedy that these people -- they're
8 getting out here, let's get them out of here now.

9 Q You let the ambulance take the other people?

10 A Yes, ma'am. Yes, ma'am, because they tried to get
11 me to lay down on my back on the floor and I said, I
12 can't lay down because when I laid down, I was
13 getting real light headed. I got -- I got up
14 immediately and I told them -- the EMS, I said,
15 ma'am, I can't lay down on my back. Just get these
16 people out of her. She said, no, sir, you need to
17 get out of here too if you're shot. I see it, you
18 need to go too. She said, because when you're hit
19 that can be vital areas. I said, no, ma'am, get
20 these -- get the lady out of here. Get her there.
21 Get her there. Just get them out of here.

22 That's it man. That's it man. That's it. When
23 I got the ambulance with John, he was holding my
24 hands telling me, I can't fill my legs. I told him,
25 you've got to be strong, you've got to be strong.

1 We almost there. And he talked to me.

2 The next thing I know, the investigator told me
3 my buddy is gone, my buddy gone. There's nothing I
4 can do. I said, nothing I can do. I gave -- I let
5 him go. I let him go. Go home, recuperate. You
6 know -- part of your game, you can come and relax.
7 Go home and recuperate. If I knew it was going to
8 be that -- go that distance, I wouldn't -- I
9 wouldn't -- he wouldn't -- no, I wouldn't, I
10 wouldn't.

11 Q Mr. Davis, the individual that you saw shooting at
12 the club, that shot you that night, shot John Adams,
13 shot Shannavia Williams, Deidra Houston and Quinten
14 Harris, do you see him in the courtroom today?

15 A Yes, ma'am. He's sitting right between the two
16 Defendant lawyers.

17 Q Please point him out for the jury.

18 A Right there with the black suit and the hair with
19 braids in it (indicating).

20 Q Do you recall what he was wearing that night?

21 A Yes, ma'am.

22 Q Please tell the jury?

23 A Red and white shirt with stripes around it. A black
24 jacket similar to like mine but smooth with a fur
25 collar hoodie.

1 Q I'm going to show you State's 18. Does this look
2 like the jacket that you saw Mr. Gaskins wearing
3 that ---

4 A It got an orange inside or a black inside?

5 Q (Indicates to the witness.)

6 A That's it.

7 Q And you said that after you had been struck, you
8 returned fire?

9 A Yes, ma'am. I fired -- I fired four shots from a
10 Rossi 38 that I had that night. It only carries
11 five shots.

12 MS. MCDUFFIE: Beg the Court's indulgence.

13 (Pause.)

14 Q I show you State's 47. Do you recognize this?

15 A Yeah, that's it.

16 Q Is this the gun you had that night?

17 A Yes, ma'am, that's it.

18 MS. MCDUFFIE: Your Honor, the State would offer
19 State's 47.

20 THE WITNESS: That's it. It only holds five
21 shots.

22 MR. MCCULLOCH: No objection.

23 THE COURT: All right. That's 47 you said?

24 MS. MCDUFFIE: That's correct, Your Honor.

25 (Whereupon, State's Exhibit Number 47, Gun, was

1 admitted into evidence.)

2 Q This is the gun you had that night?

3 A Yes, ma'am.

4 Q And you returned fire?

5 A Yes, ma'am.

6 Q Do you remember how many times you shot?

7 A Four times. It only holds five shots. I had one
8 live round still in the chamber and I told the
9 officer, I said, it's in my trunk because I'm going
10 to the hospital and I placed it where I know it
11 would be safe. It's in my trunk and you can go
12 remove it from my trunk. It has one live round
13 still in it.

14 Q And do you know whether or not you struck Mr.
15 Gaskins' vehicle that night?

16 A He asked me. I said, I don't know if I struck him
17 or not but I know he made a right when he exited out
18 of that parking lot headed towards I-26.

19 Q And which direction were you shooting in?

20 A I was aiming right. See this exhibit here?

21 Q State's 15?

22 A Yes, ma'am.

23 Q Hold on one second. Let me hand you the exhibit.

24 A This exhibit right here, the gas station was right
25 up in this area (indicating). Right here is Heart

1 Breakers on this -- in here (indicating). The exit
2 -- the entrance and the exit from 360 Sports Bar and
3 Grill is right here (indicating). I was
4 approximately right in this area here (indicating)
5 because my vehicle was parked in the second row of
6 the parking lot towards the end. I went around my
7 vehicle and I retaliated fire at Mr. Gaskins. He
8 sped away and went to the right. I can remember
9 like it happened yesterday. He sped away and went
10 to the right and headed toward I-26 where is the
11 Burlington Coat Factory and the Dutchess (sic)
12 Square Mall area.

13 Q And when he started shooting at the club and when
14 you saw him, please show the jury where you were.

15 A I was standing right here (indicating), exactly
16 right her.

17 Q And where was the vehicle?

18 A The vehicle was right here (indicating). Because
19 this is the drive -- the driveway area (indicating).
20 He was right here (indicating), exactly right here.
21 He was exactly right where the window that was shot
22 out -- the first window he shot out was right here
23 (indicating). Shannavia was sitting right here next
24 to a gumball machine (indicating). Shannavia was
25 sitting there because when I fell through the

1 window, the door window, Shannavia was laying on the
2 ground looking direct in my face. Me and Shannavia
3 was eye to eye.

4 Q Mr. Davis, about how far would you say you were from
5 Mr. Gaskins when you saw ---

6 A From here to that right there to that podium.

7 Q About 10, 12 feet?

8 A Yes, ma'am. I can take you to the parking lot, that
9 parking lot, from the door from where Mr. Gaskins
10 was was from right here to that podium.

11 Q Any question in your mind who you saw shooting that
12 night?

13 A There's no question in my mind because the gentleman
14 that told me -- that told me his name and I didn't
15 even have to ask the gentleman his name, told me he
16 was taking him home. I had him apprehended. I told
17 him to hold him. He left the gentleman there. I
18 said, hold him. He knows this gentleman.

19 Q And you have him detained ---

20 A Yes, ma'am. And he said, yes, I do know him. Yes,
21 I do know him. It was him. He told me before
22 Richland County got there to put out the warrant on
23 Mr. Gaskins that, yes, it was him.

24 Q And after you were released from the hospital for
25 your injuries, did you go down to the Richland

1 County Sheriff's Department?

2 A Yes, ma'am.

3 Q To give a statement?

4 A I went there immediately, as soon as I was released
5 that morning.

6 Q The officers picked you up from the hospital?

7 A Yes, ma'am. I went there. When I got there, I was
8 speaking to the officer. I said, can I have a cup
9 of coffee. I need something to drink. They said,
10 sure, go right over there. When I got there, there
11 was a printer there and it was six photos on a piece
12 of paper, man. Nobody asked me about this
13 gentleman. I showed him. I said, he had braids in
14 this picture but he didn't have no braids when he
15 shot me.

16 Q I'm going to show you State's Exhibit 10. Is this
17 the lineup you saw in the printer at the Sheriff's
18 Department?

19 A Yes, this is the same gentleman. He has braids now
20 but he didn't have braids that night.

21 MS. MCDUFFIE: Your Honor, we'd offer State's
22 10.

23 THE COURT: All right, subject to previous
24 objection.

25 (Whereupon, State's Exhibit Number 10 was moved

1 into evidence.)

2 Q Please tell the jury ---

3 THE COURT: What number is that, I'm sorry?

4 MS. MCDUFFIE: State's 10.

5 THE COURT: Okay.

6 Q Please tell the jury which photo you identified from
7 State's 10.

8 A The first one. No one even asked me who he was.
9 They didn't even -- no one -- no officer even asked
10 me. I showed him immediately and he said, well, how
11 do you know that, sir? I said, man, this is the
12 guy. He has braids in this picture but he didn't
13 have braids when he shot me. This is this guy. No
14 one had to ask me who was he. I -- I knew who he
15 was.

16 Q And you identified photo one?

17 A Yes. And then I -- I can recollect now, now that
18 we're getting into it, went back to 360, when they
19 took me back there, I saw the photo again and showed
20 the other investigator in there. I said, that's the
21 guy who shot me.

22 Q The person that you saw firing from the vehicle, the
23 person that shot you, can you please identify him
24 for the jury?

25 A Once again, this man sitting right between the two

1 Defendant lawyers.

2 MS. MCDUFFIE: Beg the Court's indulgence.

3 (Pause.)

4 MS. MCDUFFIE: Nothing further.

5 THE COURT: All right. Mr. McCulloch.

6 MR. MCCULLOCH: Thank you.

7 CROSS-EXAMINATION

8 BY MR. MCCULLOCH:

9 Q Mr. Davis, this was the Super Bowl night?

10 A Huh?

11 Q This was a Super Bowl night?

12 A Yes, sir. It was Super Bowl, the Chicago Bears
13 versus Indianapolis Colts, Peyton Manning won.

14 Q And you had worked at the 360 Club other evenings I
15 understand?

16 A Yes, sir.

17 Q Was this more crowded than usual?

18 A No, it wasn't over -- it was same amount of crowd,
19 basically the same amount of crowd that normally
20 comes in there and leaves with no problem.

21 Q A couple hundred people, how many?

22 A Offhand I would probably say about 105 people,
23 probably the most.

24 Q And how much security was working that night, how
25 many security ---

1 A We had John Adams who was an armed bouncer, Quinten
2 Harris and Palmer was also working with us who was
3 outside patrolling parking. That -- Palmer was the
4 officer that apprehended the gentleman that told me
5 that he was taking Mr. Gaskins home.

6 Q So it was from that fellow who Palmer apprehended,
7 that was the same person who came over to you?

8 A That's right, sir. And he -- and he also informed
9 me that he was taking Mr. Gaskins home. When I had
10 Palmer to apprehend him, he said, yeah, I know who
11 that is. He said, yeah, the same dude that you just
12 took out of the handcuffs.

13 Q That's the person who -- that's the person who you
14 got the name from ---

15 A That's right.

16 Q Johnnie Gaskins?

17 A That's right.

18 Q The -- you described your encounter with Mr. Gaskins
19 in the bar. Did you immediately arrest him and take
20 him out of the bar?

21 A I did not immediately arrest Mr. Gaskins. I had
22 spoken with Mr. Gaskins and was giving him a verbal
23 warning that if you -- sir, calm down. And that's
24 when he -- when I -- when I removed the drink, I
25 said, sir, calm down. That's when he smacked the

1 drink out of my hand, what you want, me to fucking
2 leave, I'll fucking leave. That's exactly was Mr.
3 Gaskins' words.

4 Q So you and Harris -- you and Mr. Harris, or just you
5 alone, took Mr. Gaskins out of the bar?

6 A I put Mr. Gaskins in handcuffs. Quinten Harris was
7 walking in front of Mr. Gaskins. I was right behind
8 him. And we led him outside the bar. When we got
9 outside, I said, now, since you've calmed down now
10 -- Mr. Gaskins looked right in my face -- he looked
11 right in my face and he told me, yes, sir, I'm
12 calmed down. I'm calm, I'm all right. I said, now,
13 I'm going to let you go. Before I let you go, I'm
14 -- I said, before I let you go, you will not come
15 back on these grounds tonight or I'll have Richland
16 County come and arrest you.

17 Q Now, you looked him in the face and you described in
18 the statement to the police as having a goatee?

19 A Yeah.

20 Q And you've already testified he did not have braids?

21 A He didn't have no braids. He didn't have no braids
22 in his hair at all because the officer, when I
23 showed the Sheriff -- when I showed the Deputy about
24 -- I showed him, he said, you sure this is the guy?
25 I said, yeah, this guy has no hair on his head right

1 now as we talk. His hair is low cut.

2 Q And so after you released him, you turned, as you've
3 testified, consistent with your statements to police
4 earlier, you turned away to talk to Harris?

5 A Well, I turned and I asked Quinten, I said, Quinten,
6 was this gentleman being escorted out of the
7 building. He said, well, he was arguing with his
8 girlfriend, he told me. And the gentleman said, and
9 I'm leaving, I'm going home, man. This is not even
10 called for.

11 Q So there's another person being thrown or being
12 escorted out the bar?

13 A When the shooting -- yes, there was. When the
14 shooting occurred the gentleman was standing on the
15 side as Quinten was coming towards the building
16 trying to get away from the first shots that was
17 fired over there.

18 Q Was there any struggling with that second
19 individual?

20 A No, there was no struggle. The man was walking side
21 to side with Quinten going to his vehicle.

22 Q And it was only after the shots began that you fell
23 through ---

24 A Yeah, yes, yes.

25 Q So from the time that you released Mr. Gaskins until

1 shots rang out, began to ring out, you did not watch
2 Mr. Gaskins, where he went or anything?

3 A When Mr. Gaskins walked off, we were not too far
4 from where he was parked at.

5 Q How do you know where he was parked?

6 A Because where Mr. Gaskins was parked was right here
7 (indicating), sir.

8 Q I ---

9 A Right here (indicating) is where I unhandcuffed Mr.
10 Gaskins. I was probably say from here to the -- the
11 entrance door from where the parking area was. The
12 gentleman who came up to me and said he was taking
13 Mr. Gaskins home, who was to get him off the
14 grounds, I saw them walk right to the vehicle.

15 Q All right. So you watched them walk?

16 A Yeah, walk right to the vehicle. And as they got to
17 the vehicle, I walked away and that's when I noticed
18 Quinten was escorting another gentleman out of the
19 building.

20 Q All right. So you then turned away and then you saw
21 an automobile -- would you point at the spot that
22 you were standing when the automobile ---

23 A When I turned away and I walked back to talk to
24 Quinten, Quinten was right here (indicating), him
25 and the gentleman walked to the side and they went

1 to the gentleman's vehicle. I was standing right
2 here (indicating) talking to John Adams -- me and
3 Mr. Adams was talking about his brother going to
4 college. He was trying -- he told me, I was trying
5 to get him to stay here and play for U S C, he said,
6 but he wants to go to Louisiana -- Louisiana.

7 So as I went to turn to go in, that's when I
8 heard the large screech -- the loud screech, erk
9 (phonetic). And that's when the -- as soon as the
10 screech like come to -- almost to a full halt,
11 that's when the firing just -- pow, pow, pow, pow,
12 pow, pow, pow, pow, pow. That's exactly how they
13 went off.

14 Q The vehicle was ---

15 A Right here in front, right here in the front of the
16 parking lot (indicating).

17 Q That's where the shooting ---

18 A Right here in the front of the door entrance
19 (indicating), that's where the shooting began.

20 Q And the distance you ---

21 A From here to that podium (indicating).

22 Q 12, 15 feet?

23 A Yes.

24 Q Now, where was the vehicle that Mr. Gaskins
25 approached, where was it parked?

1 A One again, the vehicle was parked right here
2 (indicating), sir.

3 Q That's a -- there were in this parking lot two rows
4 of cars?

5 A I parked -- he was actually parked exactly on the
6 fourth row. Right before you start going up the
7 hill, that's where his vehicle was parked at.

8 Q All right. So where -- where front is written on
9 State's Exhibit ---

10 A You see -- this is the entrance to 360 Bar.

11 Q This is State's Exhibit -- I don't have my glasses.
12 18 or 13, sorry about that.

13 A This is the front the 360 Sports Bar (indicating).

14 MR. MCCULLOCH: 15, sorry, Your Honor.

15 A There's a little drive through here, a little
16 driveway through here.

17 Q Right.

18 A Because right here you can't go anywhere because
19 they have like a patio there.

20 Q Yes, sir.

21 A It's a patio there. Right here (indicating) is a
22 drive through where you can go straight out from
23 right there. Then there's lanes where you come out
24 of your parking spot. This is the -- I mean, the
25 Shell Gas Station is right here (indicating). Mr.

1 Gaskins was parked right down that hill, right down
2 that hill (indicating).

3 Q The cars parked in the parking lot park in rows?

4 A That's right, that's right, yeah.

5 Q How many rows were there?

6 A All right. The first row was right here was the row
7 he came between and was shooting at.

8 Q Right.

9 A The second row, I was parked right here
10 (indicating).

11 Q Right.

12 A The third row is another entrance that was on the
13 side where they can exit out. He was parked right
14 there, man. Mr. Gaskins was parked there. It was,
15 I don't know, blue or black vehicle. But I -- from
16 the corner of my eye I believe it was a blue vehicle
17 because I was, you know -- you can't -- the only way
18 you can really know if you shot when you're down on
19 the ground looking back, that was it. That was him
20 because the dude -- the gentleman who I had
21 apprehended, he said, that's who did it.

22 Q And the window in this automobile that the shots
23 were ---

24 A Well, you can see him from -- you can see him from
25 here to here (indicating). You can see him. You can

- 1 see him. It was him.
- 2 Q So you could see this much ---
- 3 A That's right. That's right.
- 4 Q And you said that that was because -- you couldn't
- 5 see the lower part of his face because the window
- 6 was ---
- 7 A That's right.
- 8 Q Half up or half down?
- 9 A That's right, sir.
- 10 Q And the car on that diagram would have come from ---
- 11 A It came from this way (indicating). He pulled -- he
- 12 backed out, he came right around. Because he -- he
- 13 went past Palmer. Palmer hid behind a car because
- 14 Palmer didn't have a firearm to retaliate fire. He
- 15 went past Palmer, spun around and came out. As he
- 16 was coming down this right here (indicating), I was
- 17 coming around my vehicle. He got right here and
- 18 that's when I started firing at him.
- 19 Q And the person in the car was shooting, you said,
- 20 out of the front window of the driver's ---
- 21 A That's right, leaning to the back. Laying back like
- 22 this (indicating), shooting out the front.
- 23 Q And shooting randomly?
- 24 A Yeah, yeah.
- 25 MR. MCCULLOCH: All right. Thank you.

1 THE COURT: Anything on redirect?

2 MS. MCDUFFIE: No, sir, Your Honor.

3 THE COURT: All right. You may step down, sir.

4 (The witness leaves the witness stand.)

5 MS. MCDUFFIE: We ask that the witness be
6 excused.

7 THE COURT: Any objection?

8 MR. MCCULLOCH: No objection, Your Honor.

9 THE COURT: All right.

10 MR. MEADORS: He has illness in the family.

11 THE COURT: Beg your pardon?

12 MR. MEADORS: He has illness in the family out
13 of state.

14 MR. MCCULLOCH: We have no objection.

15 THE COURT: All right, no objection. Call your
16 next witness.

17 MR. MEADORS: Beg the Court's indulgence.

18 (Pause.)

19 MR. MEADORS: Tamera Barnett.

20 (TAMERA BARNETT, having first been duly sworn,
21 testified as follows:)

22 THE CLERK: Thank you. Please have seat in the
23 witness stand and state your full name for the record.

24 THE WITNESS: Tamera S. Barnett.

25 DIRECT EXAMINATION

1 BY MR. MEADORS:

2 Q Good morning, Ms. Barnett.

3 A Morning.

4 Q Would you please tell the ladies and gentlemen of
5 this jury a little bit about yourself. Just --
6 where were you born and raised?

7 A Pittsburg, Pennsylvania.

8 Q And did you go to school up there?

9 A I went to college for two years nursing but I ended
10 up joining the Navy and I spent five years in the
11 Navy.

12 Q And where did you go in the Navy?

13 A San Diego, California.

14 Q Were you on a submarine?

15 A Submarine tender, U.S.S. McKee (phonetic).

16 Q What does that mean, submarine tender?

17 A We were supply ships for the submarines.

18 Q And after you did your time in the service, what did
19 you do?

20 A Got married, moved to the south and once I -- things
21 didn't work out with my marriage, I moved here to
22 South Carolina -- got my divorce and I moved here in
23 2001.

24 Q And when you got here -- when you say here, you mean
25 here, here ---

- 1 A Here in Columbia.
- 2 Q Okay. What did you do when you got here, Ms.
- 3 Barnett?
- 4 A I first worked for N C R for a couple years and then
- 5 I went home to Pittsburg for a summer to take care
- 6 of my grandmother. And when I came back, I was
- 7 looking for a job and I started working at 360 in
- 8 2005, the end of 2005.
- 9 Q At the end of 2005, what was your job at 360?
- 10 A A bartender.
- 11 Q And how long did you work there?
- 12 A I worked there for about two and half years.
- 13 Q Okay.
- 14 A Close to three years.
- 15 Q And do you know one of the owners?
- 16 A Yes, I do.
- 17 Q Mr. Porterfield?
- 18 A Yes, I do.
- 19 Q And are y'all now friends?
- 20 A Yes.
- 21 Q Good friends?
- 22 A Good friends.
- 23 Q All right. Dating?
- 24 A Dating.
- 25 Q Is that fair to say?

1 A Yeah.

2 Q Let's get right to it. On February the 4th of 2007,
3 it was Super Bowl Sunday?

4 A Uh-huh.

5 Q Were you working that day?

6 A Yes; I was.

7 Q All right. Well, tell these folks what -- were you
8 bartending?

9 A I was bartending the V I P party in the back.

10 Q And we've got up here State's 15, I think?

11 A Uh-huh.

12 Q And to keep you from getting up, could you show the
13 jury where that -- where that would be?

14 A The V I P party is in a room next to this right here
15 (indicating). It's a small room and it has a
16 separate bar back there.

17 Q All right. What time was it over?

18 A I shut it down around 11:30.

19 Q Okay. Was there a pretty big crowd there that night
20 in the bar total, Ms. Barnett?

21 A There was a lot of people throughout the day. But
22 at that time there was probably maybe about a
23 hundred people when I closed it down.

24 Q You closed down the V I P room, what did you do?

25 A Right.

1 Q What do you do after ---

2 A Oh, I -- I walked to the main bar.

3 Q Okay.

4 A The central bar and I sat down at one of the end
5 stools.

6 Q Okay.

7 A Talking with the bartenders, right there
8 (indicating).

9 Q Okay. Now had you clocked -- you can keep that.

10 A Yeah.

11 Q Had you clocked out?

12 A Yes, I did.

13 Q What if anything happened after that? Do you
14 remember anything unusual or did something happen
15 after that?

16 A About 10 minutes after -- or so after sitting there
17 at the bar talking with the bartenders, there was a
18 gentleman that walked up along side of me on my
19 left-hand side and he started screaming to the
20 bartender, give me a -- my fucking Hennessy and she
21 said, excuse me ---

22 MS. SCHILLACI: Hearsay, Your Honor.

23 THE COURT: Beg your pardon?

24 MS. SCHILLACI: Object to hearsay, Your Honor,
25 to anything was said by ---

1 THE COURT: Excited utterance, overruled.

2 MR. MEADORS: The Defendant's -- go ahead, I'm
3 sorry.

4 THE COURT: From the Defendant too. Go ahead.

5 Q And he -- she said, excuse me, did I miss -- did I
6 forget to get you a drink. He said, no, just -- I
7 want my fucking Hennessy. And she said, I think you
8 had a little bit too much and she gave him a menu to
9 eat. She thought maybe he would need to eat.

10 And he then went to go walk behind the bar,
11 right through the little area right here
12 (indicating). The stool was actually closer to that
13 area because I'm like that close (indicating) to
14 him.

15 Q So the diagram's a little off?

16 A Yeah, the diagram is a little off. But these spaces
17 are in the middle of the bar, right there
18 (indicating), so. But he went to walk behind the
19 bar and I grabbed a hold of his sleeve on his jacket
20 and I said, you can't go behind the bar. And he
21 looked at me and gave me a mean look, you know, but
22 he went ahead and went behind the bar and threw his
23 money at her.

24 Q Now, when you're grabbing him, how close were you to
25 him?

1 MR. MEADORS: Can I approach? I'm sorry.

2 THE COURT: Yes, sir, go ahead.

3 Q I mean ---

4 A He was ---

5 Q If I was this person ---

6 A Yeah.

7 Q --- how close did he get to you?

8 A I got right here (indicating) and just grabbed a
9 hold of him, kind of -- tried to pull him back a
10 little bit and I said, you can't go behind the bar.

11 Q So you actually touched him?

12 A Yes, I touched him.

13 Q Got about this close to him?

14 A Yes.

15 Q Looking at his face?

16 A Yes.

17 Q Did you see his face?

18 A Yes.

19 Q Was there lighting in there?

20 A Yes.

21 Q Anything between you and his face?

22 A No.

23 Q All right. What happened after that?

24 A He continued to go behind the bar and he threw his
25 money at her. And then that's when I saw one of the

1 bigger security guards stepped in between the
2 bartender and -- and the guy. And he kind of was
3 pushing him out, you know, get out from behind the
4 bar. And there was another security behind him but
5 he didn't grab him either. They just kind of pushed
6 him out. And I saw them go around the corner and
7 that's the last that I saw.

8 Q Show the folks, the ladies and gentlemen, where you
9 saw him go?

10 A They came -- he pushed them. He was -- well, just
11 walking him out, you know, around there and then
12 they came around the corner here (indicating).

13 Q I mean, are patrons allowed to come back here
14 (indicating)?

15 A No, not ever.

16 Q What happened next? What do you remember after
17 that?

18 A Sat there, continued to talk to the bartenders,
19 watching the people. And about 20 minutes later,
20 started hearing -- I thought it was like
21 firecrackers at first. Then I -- there was a bunch
22 of guys that were walking around and they pushed us
23 all down to the ground. He said, they're shooting,
24 they're shooting, someone's shooting.

25 And so just -- they -- I was down on the ground

1 for a little while. And then once the shooting
2 stopped, everyone started kind of getting up.
3 People were screaming, going frantic. I walked
4 around the corner this -- in between this spot here
5 (indicating) because they put me down on the ground
6 here (indicating), right in this area. And once
7 everything kind of calmed down, I walked through
8 here and then that's where I saw the girl laying on
9 the ground by the pool table in this area
10 (indicating).

11 Q And did you know who she was?

12 A No, I did not know her. And then I walked outside
13 and that's where I saw Wolf on the ground and
14 Lindburgh, Mr. Porterfield, was trying to get him --
15 wanted to get him up and take him to the hospital.
16 He was talking. John Adams was talking. We thought
17 ---

18 Q Wolf is John Adams?

19 A Right, I'm sorry.

20 Q That's fine.

21 A And then by that time the police were there and they
22 asked all of us to go into the V I P.

23 Q And as you were doing that, did you have an
24 opportunity to be presented with a lineup showing
25 you a group of pictures?

1 A The following day.

2 Q Excuse me, that's right, the 5th. This actually is
3 in the 5th morning we're on ---

4 A Right.

5 Q --- isn't it?

6 A Uh-huh.

7 Q Okay. So later on that day did you look at a --
8 some kind of a group of pictures?

9 A Yes.

10 Q And where was that?

11 A At 360.

12 Q All right. I'm going to show you what's marked as
13 State's 19.

14 MR. MEADORS: And if I can approach again, Your
15 Honor.

16 THE COURT: Yes. Sir.

17 Q Ask you if you recognize that?

18 A Uh-huh.

19 Q And were you asked to look at that and see if you
20 recognized anybody that was in the bar that night?

21 A Yes, sir.

22 Q And were you able to do that?

23 A Yes, sir.

24 Q And did you pick out someone?

25 A Photo number five.

1 Q Okay. Did you have any trouble picking that out?

2 A No.

3 Q Had you seen that person earlier that day at the
4 bar?

5 A Uh-huh?

6 Q Did the officer who showed you that lineup suggest
7 in any way who to pick out?

8 A No.

9 Q Did he try to say, hey, pick out so and so?

10 A No.

11 Q Did he cheat?

12 A No.

13 Q Okay. Why did you pick out number five?

14 A That was him. That was his face, his eyes.

15 Q And that was the face and the eyes of what person,
16 just to ---

17 A Of the person that was arguing with the bartender.

18 Q Do you remember what he was wearing?

19 A He had, I want to say, like dark jeans and a black
20 jacket with fur on it.

21 Q I'm going to show you what's marked ---

22 MR. MEADORS: Your Honor, State's 19, we would
23 offer.

24 THE COURT: Yes, sir.

25 MS. SCHILLACI: No objection, Your Honor.

1 THE COURT: All right.

2 (Whereupon, State's Exhibit Number 19 was moved
3 into evidence.)

4 Q I'm going to show you -- you described a jacket with
5 fur on it marked as State's 19 (sic). Does this
6 appear to be the jacket?

7 A That's the jacket.

8 THE COURT: That's State's what?

9 MR. MEADORS: 18, Your Honor.

10 THE COURT: 18?

11 MR. MEADORS: Yes, sir, the last one was 19, the
12 lineup.

13 THE COURT: Is that for ID or has it been --
14 that's ID?

15 MR. MEADORS: Your Honor, it's been marked for
16 ID.

17 THE COURT: This is the jacket.

18 MR. MEADORS: We'd offer it.

19 THE COURT: All right.

20 MR. MCCULLOCH: Your Honor, we don't have an
21 objection to entering this jacket.

22 THE COURT: All right. 18 without objection.

23 (Whereupon, State's Exhibit Number 18 was moved
24 into evidence.)

25 MR. MEADORS: Thank you, sir.

1 MR. MCCULLOCH: Your Honor, it is subject to
2 earlier objections.

3 THE COURT: Oh yeah, of course, continuous. How
4 is that?

5 Q Based on the time that you spent in the bar with the
6 individual you described with the confrontation with
7 the other bartender, the opportunity you had to view
8 that person, is that person in this courtroom today,
9 please?

10 A Yes, he is.

11 Q And would you please point him out for the jury?

12 A That would be him (indicating).

13 Q And you pointed to Mr. Gaskins beside Mr. McCulloch?

14 A Yes, sir.

15 MR. MEADORS: I would ask that the record so
16 reflect she's pointed to the Defendant Johnnie Walker
17 Gaskins.

18 And that's all we have, thank you.

19 MR. MCCULLOCH: That's all you have?

20 THE COURT: Ms. Schillaci.

21 CROSS-EXAMINATION

22 BY MS. SCHILLACI:

23 Q Just a few questions, Ms. Barnett. You said
24 this was Super Bowl Sunday, there were about
25 a hundred people there, give or take?

- 1 A Yes.
- 2 Q And you had clocked out around 11:30 and went to the
3 bar?
- 4 A Yes.
- 5 Q That was correct? And can you tell me again where
6 you were sitting, looking at State's Exhibit Number
7 15? And I'll give you the pointer.
- 8 A Thank you.
- 9 Q There you go.
- 10 A This stool right here (indicating), it's the very
11 end stool where the opening is into the bar.
- 12 Q Okay. And were you speaking to Ms. Hellman?
- 13 A Yes, I was.
- 14 Q Okay. And how long had you been sitting there
15 before you first saw who you believed to be Mr.
16 Gaskins approach?
- 17 A Not very long. I might have been sitting there for
18 10 minutes or less.
- 19 Q Okay. And you indicated he was wearing a jacket
20 like the one that you just saw ---
- 21 A Yes.
- 22 Q --- which would be State's Exhibit Number 18?
- 23 A Yes.
- 24 Q And you said he was wearing black jeans?
- 25 A Dark jeans, I think. I'm not sure. I'm not really

- 1 -- it was so long ago.
- 2 Q And ---
- 3 A I want to say he had jeans on.
- 4 Q And the hood on the jacket, was it up or down?
- 5 A Down.
- 6 Q It was down?
- 7 A Yes.
- 8 Q And did you see what color shirt he was wearing?
- 9 A Huh-uh.
- 10 Q And did he have a drink in his hand at that time?
- 11 A I don't remember. I can't recall.
- 12 Q Do you recall whether or not ---
- 13 A I don't think he was if he was asking for a drink.
- 14 Q Okay. Now, did you see any guards escort Mr.
- 15 Gaskins out?
- 16 A After the fact?
- 17 Q That's correct.
- 18 A Yes.
- 19 Q And how many ---
- 20 A Not escort out but away from the bar.
- 21 Q Okay, away from the bar?
- 22 A Right.
- 23 Q And was he handcuffed at the time?
- 24 A No.
- 25 Q Do you know how many guards escorted him away from

1 the bar?

2 A There was about two.

3 Q About two?

4 A There was one -- I just remember one of the larger
5 security guards and there was a smaller guy that was
6 standing behind him.

7 Q And after Mr. Gaskins was escorted away from the
8 bar, you did not see him again that evening?

9 A No, I did not.

10 Q And you never saw him get into any kind of vehicle?

11 A No, I did not.

12 Q And you were not a witness to any kind of shooting?

13 A No.

14 Q Now, what did do after this -- this incident? Did
15 you leave, did you go somewhere?

16 A Well, they had us in the V I P probably until, I
17 think it was 5, 5:30 in the morning, almost 6:00 I
18 want to say. And they finally let us go. And there
19 was a bunch of us that worked there and we all left
20 together and went to Erin's house.

21 Q Erin Hellman, the bartender?

22 A Yes.

23 Q And at Ms. Hellman's house, was the name Johnnie
24 Gaskins floating around?

25 A No. We didn't know who he was.

1 Q Did you guys talk about his description, they guy in
2 the bar who you had seen?

3 A No. We -- we talked about we couldn't believe what
4 just went -- happened. We were crying a lot and
5 basically remorseing. We were talking about, you
6 know, Wolf, because we didn't know that he had
7 passed yet. We just knew that he was in the
8 hospital. And Lindburgh Porterfield, my boyfriend,
9 at that time was at the hospital and I was waiting
10 for him to come pick me up from Erin's house.

11 Q Okay. And let me ask you about State's Exhibit
12 Number 17 (sic) which is this identification?

13 A Uh-huh.

14 Q Did this occur before or after you went to Ms.
15 Hellman's house with some of the other employees?

16 A It happened a couple of hours after I left Erin's
17 house. After I left Erin's house, Lindburgh picked
18 me up. We went and got breakfast and then we went
19 back to 360.

20 Q Okay. So again, the identification occurred after
21 you ---

22 A Right.

23 Q --- left the club and you had been with your friends
24 and Ms. Hellman at her house?

25 A Yes.

1 Q Now. I'm not asking you what they said but at the
2 bar did you speak with any of the security guards
3 after the incident?

4 A No.

5 Q Did you speak -- do you know who Sydney Williams is?

6 A No.

7 Q Now, when you met with the police and you were shown
8 this lineup -- and again, I'm referring to State's
9 Exhibit Number 17 (sic), you were merely pointing
10 out the gentleman that you had seen in the club that
11 evening, correct?

12 A Yes, that argued.

13 Q And you certainly were not pointing out the one who
14 would be the shooter because you did not see the
15 shooter?

16 A No, I did not.

17 MS. SCHILLACI: Beg the Court's indulgence.

18 THE COURT: Yes, ma'am.

19 MS. SCHILLACI: That's all we have, Your Honor.

20 THE COURT: Anything on redirect?

21 MR. MEADORS: No, sir, thank you.

22 THE COURT: All right, you may step down, Mr.
23 Barnett.

24 (The witness leaves the witness stand.)

25 THE COURT: Call your next witness.

1 Y'all still okay? I'll give y'all a break after
2 the next witness. All right.

3 (WHEREUPON, a bench conference was held off
4 the record, in the presence of the jury, but out
5 of the hearing of the jury.)

6 THE COURT: The next evidence you shall receive
7 in this case will be a video. So I'm going to give you a
8 short break while they set it up. Just don't talk about
9 the case. Go the jury room, refresh yourselves. If you
10 need something that the Bailiffs can provide for you, ask
11 them.

12 Thank you.

13 (The jury retires from the courtroom at
14 approximately 10:47 a.m.)

15 (The Court was in recess.)

16 MR. MCCULLOCH: Your Honor, I believe the
17 foundation will knowingly be laid -- I guess in part will
18 be laid -- this person will authenticate what appears to
19 be -- they tell me they have a witness who will come in
20 and validate the acquisition of this thing ---

21 THE COURT: All right.

22 MR. MCCULLOCH: --- the night of or the morning
23 after ---

24 MS. MCDUFFIE: Your Honor, Corporal Norman
25 Fisher ---

1 MR. MCCULLOCH: --- as a foundation. So I'm
2 willing to not object at this point as long as they tie
3 it up.

4 THE COURT: All right.

5 MR. MCCULLOCH: Got all that?

6 COURT REPORTER: Yes, sir.

7 THE COURT: Yes, ma'am?

8 MS. MCDUFFIE: It's Corporal Norman Fisher that
9 ---

10 THE COURT: Norman Fisher, is that correct?
11 Okay. We'll just mark it for ID. If there's any
12 problems with it, I'll shut it down later on.

13 (Whereupon, State's Exhibit Number 48, Video,
14 was marked for identification.)

15 THE COURT: I mean, if there were, I could have
16 a hearing, the results would be the same.

17 MR. MCCULLOCH: I could make a motion but the
18 results would be the same.

19 THE COURT: I know. So are we all ready then?
20 (There was no response.)

21 THE COURT: We've got Mr. Gaskins here, okay.
22 Invite the jury to come in.

23 (The jury returned to the courtroom at
24 approximately 11:05 a.m.)

25 THE BAILIFF: The jury's all present, Your

1 Honor.

2 THE COURT: All right, thank you, sir. Welcome
3 back, Madam Forelady and members of the jury. There's
4 going to be a couple of logistical things. We may have
5 to bring you in and take you out, like I said earlier.
6 It has nothing to do with the rest of this case. I'm
7 sure y'all understand.

8 With that explanation, Mr. Meadors, you may call
9 your next witness.

10 MR. MEADORS: If it pleases, Your Honor, the
11 State will call Quinten Harris.

12 THE COURT: Quinten Harris.

13 MR. MCCULLOCH: Excuse me, may we approach
14 (WHEREUPON, a bench conference was held off
15 the record, in the presence of the jury, but out
16 of the hearing of the jury.)

17 (QUINTEN HARRIS, having first been duly sworn,
18 testified as follows:)

19 THE CLERK: Thank you. Please have seat in the
20 witness stand and state your full name for the record.

21 THE WITNESS: Quinten Harris.

22 THE COURT: Mr. Harris, I'm going to ask you to
23 speak up.

24 THE WITNESS: Quinten Harris.

25 THE COURT: Thank you, sir.

DIRECT EXAMINATION

BY MR. MEADORS:

- 1 Q Quinten Harris?
- 2 A Yes, sir.
- 3 Q Are you also known as Q?
- 4 A Yes, sir.
- 5 Q As Your Honor said, if you will just speak up in
- 6 there, Mr. Harris, so everybody can hear you. Tell
- 7 the ladies and gentlemen of this jury a little bit
- 8 about Quinten Harris. Where are you from?
- 9 A From Columbia, South Carolina.
- 10 Q You were born and raised here?
- 11 A Yes, sir.
- 12 Q Did you go to school here?
- 13 A Yes, sir.
- 14 Q Where did you go to school, Mr. Harris?
- 15 A Eau Claire High.
- 16 Q I'm sorry, say it again?
- 17 A Eau Claire.
- 18 Q Eau Claire?
- 19 A Yes, sir.
- 20 Q When did you get out of Eau Claire, Mr. Harris?
- 21 A 2003.
- 22 Q Did you play ball there?
- 23 A Yes, sir.
- 24
- 25

- 1 Q Football?
- 2 A Yes, sir.
- 3 Q What did you do after you graduated from Eau Claire?
- 4 A Well, I went to play semi-pro football in Columbia
5 and North Carolina.
- 6 Q Columbia in North Carolina?
- 7 A Columbia and North Carolina.
- 8 Q And how long did you do that?
- 9 A I still play.
- 10 Q Is there a semi-pro league in the state or in the
11 surrounding area?
- 12 A Yes, yes, sir.
- 13 Q You're still playing?
- 14 A In Lexington.
- 15 Q Sir?
- 16 A It's in Lexington.
- 17 Q Okay. And you're still playing now?
- 18 A Yes, sir.
- 19 Q What other -- what other jobs have you held?
- 20 A This is it, just security.
- 21 Q And did you work at McDonald's and Flying J earlier
22 ---
- 23 A Oh, yes, sir.
- 24 Q Okay. And you said security. How long have you
25 been in security?

1 A I used to -- started out bouncing at 17. Yeah, 17.

2 Q 17?

3 A 17.

4 Q Okay. And let's just get to it. On -- in February
5 of '07, specifically February the 4th?

6 A Yes, sir.

7 Q Do you remember that as being Super Bowl Sunday?

8 A Yes, sir.

9 Q All right. And were you working that day, were you
10 working for a security company?

11 A Yes, sir. I was -- I just had started -- like I
12 started the weekend before that.

13 Q And what was the security company you were working
14 for?

15 A Elite Security.

16 Q Elite?

17 A Yes, sir.

18 Q Had you ever worked 360 before?

19 A No, that was my first weekend there.

20 Q And tell the ladies and gentlemen of this jury, Mr.
21 Harris, on February 4th of 2007, what was your job
22 as security at 360? What were you supposed to do?

23 A I was supposed to secure the parking lot and I was
24 being trained. I was being trained, my first week
25 with the company, I was being trained. I was in

1 training being pat down and walking the parking lot.

2 Q Pat down and walking the parking lot?

3 A Yes, sir.

4 Q And who was training you?

5 A Lamont -- Lamont -- Mr. Lamont and Palmer.

6 Q Mr. Lamont?

7 A Yes.

8 Q Was that Lamont Davis?

9 A Yeah, Lamont Davis.

10 Q All right. And do you know Mr. Palmer's first name?

11 A No because it was like my first weekend being there.

12 That's all I know about him.

13 Q That's fine.

14 MR. MCCULLOCH: Your Honor, I apologize. Can
15 Mr. Meadors and I approach?

16 THE COURT: Sure.

17 (WHEREUPON, a bench conference was held off
18 the record, in the presence of the jury, but out
19 of the hearing of the jury.)

20 MR. MCCULLOCH: Thank you, Your Honor.

21 THE COURT: You're welcome.

22 MR. MCCULLOCH: Sorry, Mr. Meadors.

23 Q ID, walking the parking lot?

24 A Uh-huh.

25 Q And what time did you get there that day? Do you

1 remember?

2 A It was about 8:30.

3 Q I'm going to show you what's -- State's 14, do you
4 recognize this?

5 A Yes, sir.

6 Q And would this be 360, the parking lot?

7 A Yes, sir.

8 Q All right.

9 MR. MEADORS: Your Honor, this is State's 16. I
10 don't know if it's already in or not. If it isn't, we'd
11 offer it at this time.

12 MR. MCCULLOCH: No objection, Your Honor.

13 THE COURT: Is that the aerial photo?

14 MR. MEADORS: Aerial photo of 360 and the
15 parking lot, Judge.

16 (Whereupon, State's Exhibit Number 16, Aerial
17 Photograph of Club 360 and Parking Lot, were
18 admitted into evidence.)

19 Q So, can you tell us where -- just like when the day
20 started on the 4th and when you got there, where
21 first were you stationed? You can look at this
22 diagram right here if you want to.

23 A When I first got there ---

24 MR. MEADORS: State's 15, Your Honor, he's
25 pointing to.

1 THE COURT: Yes, sir.

2 A When I first got there, my station was the parking
3 lot.

4 Q Okay.

5 A I was here (indicating), walking around to make sure
6 people don't hang out in the parking lot drinking,
7 smoking, keep the parking lot clear so no trouble
8 going down.

9 Q Yes, sir?

10 A And this is where I was stationed, the front parking
11 lot.

12 Q Okay.

13 A Until about 11 and then 11, after the Super Bowl
14 ended ---

15 Q Yes, sir.

16 A --- I was stationed -- I was supposed to be
17 stationed here at the door.

18 Q At the front door?

19 A The front door.

20 Q Okay.

21 A To be trained on being pat down.

22 Q To be what?

23 A Trained.

24 Q On pat down?

25 A Searching -- looking at ID age and pat down.

1 Q So we're at 11:00 at this point. Where were the
2 other security officers? And who were they?

3 A Lamont Davis -- me and Lamont Davis here
4 (indicating) and then Mr. Palmer ---

5 Q All right.

6 MR. MCCULLOCH: Your Honor, can I get
7 Mr. Meadors to move.

8 MR. MEADORS: Sorry.

9 THE COURT: Just -- I think if you ask him, he
10 might do so.

11 MR. MEADORS: I will be happy to. I apologize.
12 I'm not doing it intentionally.

13 MR. MCCULLOCH: No, I know that. All you have
14 to do is move one foot towards the jury.

15 (Complied.)

16 MR. MCCULLOCH: Thank you.

17 MR. MEADORS: Thank you.

18 Q Mr. Palmer, you were saying ---

19 A And Mr. Palmer was in the parking lot is where he
20 was located. I don't know, he was just walking
21 around.

22 Q I see.

23 A And that's where ---

24 Q Was there a fellow named Mr. Adams working there?

25 A Mr. Adams, yeah. He's -- he's located -- he's

1 inside the club. He's the inside bouncer, club
2 staff.

3 Q And did you know him before this night?

4 A Actually, yes. I met him at the Dutch Square Mall
5 one day. He was -- he was at the Footlocker.

6 Q Okay.

7 A And I asked him did he -- have you ever played
8 football? And he was like, yeah. And he was like,
9 I seen you somewhere before.

10 Q Okay. So you'd known him before?

11 A Yeah, I'd known him.

12 Q Okay, that's fine. And roughly 11:00, you're now at
13 the door, pat down?

14 A Yes.

15 Q Later on in the evening, after 12:00, into February
16 the 5th, 2007.

17 A Uh-huh.

18 Q Did you ever go inside and have to deal with a
19 patron at the bar?

20 A Yes. Actually, I was going to -- I was going
21 towards the bathroom. I was in the bathroom and
22 then on my way out, here -- here was the bathroom
23 (indicating) -- I was coming out here (indicating)

24 ---

25 Q Q, at this point, let me ask you, don't say who it

1 was or anything, just explain what happened, okay?

2 A (Affirmative response.)

3 Q Thank you.

4 A I was coming out of the bathroom. And then I got
5 stopped by one of the bartenders. She said, come
6 here, come here, come here. So I came to her.

7 THE COURT: Stop. Could you speak up just a
8 little bit, please, sir?

9 A Oh, she said, come here, come here, come here. So I
10 came to her. I came to her, I was here (indicating).
11 And then by the time I looked -- when I looked at
12 her, she didn't have to say anything too much. I
13 seen what was going on. One of the bouncers, I
14 don't know his name, I never met him, like I never
15 really met him. And he was talking -- he was trying
16 to get the person to come out of the back. So he
17 had stepped in -- he had stepped in between the
18 bartender and the person. And he backed -- he was
19 backing him up.

20 So when I came up ---

21 Q Q, I know that's tough. Let me do this. Just -- I
22 tell you what, come on down here. Maybe that will
23 be easier. Just for this diagram only.

24 (The witness steps down from the witness stand.)

25 Q Mr. Harris, if you'll get over here so the court

1 reporter can see your mouth and just speak up, if
2 you will. And watch your step.

3 A As I was coming from the bathroom, I got stopped
4 here (indicating) by the bartender. She was like,
5 come here, come here, come here for a second, I need
6 you. By the time I got here to her (indicating), I
7 seen what was going on here (indicating). So I came
8 around and came around to see what was going on. I
9 saw one of the bouncer -- club staff was backing the
10 person up from behind the bar. Then that's when I
11 asked him to calm down and come with me. So by the
12 time I got him out and we came around this corner
13 (indicating) ---

14 Q And it's you and who?

15 A Me and don't know the bouncer.

16 Q Another bouncer, all right.

17 A It was another bouncer. We came here (indicating),
18 we walked around -- yeah, we walked around the
19 jukebox right here. And that's when me and Lamont
20 Davis met up. He asked what was going on. At the
21 time, the jukebox was going. So I was like, I'm
22 taking him, I was like, I'm removing him from the
23 club.

24 So Lamont said, I couldn't hear what you were
25 saying, come outside. So by the time we got outside

1 he had -- he had jerked away from me and then that's
2 when Lamont took -- he jerked away from his hand and
3 he slapped -- you know, he said -- he was jerking
4 his hand, he was like, you going to throw me the
5 fuck out, throw me the fuck out. I ain't got to go
6 through this shit today.

7 So that is when ---

8 Q Throw me the fuck out, throw me the fuck out, I
9 ain't got to go through this shit today?

10 A Yeah. So he -- we went to go grab him again and he
11 jerked again. That's when Lamont Davis put the
12 handcuffs on him and walked him out. I walked him
13 out here (indicating). I walked him out here
14 (indicating) and I was like, you know, I was like,
15 go ahead. And he was like, no, I need you. He was
16 like, come outside.

17 So I came outside and he asked me what was going
18 on. I was like, he was harassing the bartender. So
19 by the time I got here (indicating), I had to go
20 back inside.

21 Q So you informed them out there, them being Mr.
22 Davis, what had happened inside and why you were
23 bringing this patron out?

24 A Yeah, I was telling him what was going on. What
25 happened, the reason I removed him. And then I had

1 to turn around and go back inside. There was
2 another disturbance.

3 Q Okay. So you left this patron with -- where did you
4 leave him?

5 A I left him here, I left him here (indicating).

6 Q And what did you do after that?

7 A After I left him here?

8 Q Uh-huh.

9 A I had turned around and went back inside.

10 Q Let me just ask you this now. As you were -- when
11 did you first come in contact with this patron, this
12 person inside the bar?

13 A Here (indicating), behind the bar.

14 Q And as you described, you were going out here this
15 way (indicating).

16 A Uh-huh.

17 Q And were you in close proximity to that person all
18 the way out?

19 A Yes. Yes, I was.

20 Q How close were you? Come close to me as you were to
21 him.

22 A I was like right behind him the whole time.

23 Q Could you see his face?

24 A Yeah.

25 Q Could you -- did you look at his face?

1 A Yeah, I could smell his breath.

2 Q You could smell his breath?

3 A Yes.

4 Q Okay. Was there anything obstructing you looking at
5 him?

6 A No.

7 Q Could you see what he was wearing?

8 A Yes.

9 Q What was he wearing?

10 A He had on a -- he had on a black jacket with a fur
11 hood. And he had -- from the top -- where I seen
12 him from the top it was white.

13 Q And could you see all the way out -- you were with
14 him all the way out the door?

15 A All the way out the door.

16 Q Okay. Have a seat back, please.

17 (The witness returned to the witness stand.)

18 Q You went back, you said, to go inside because
19 another matter came up or something else happened?

20 A Yes, sir.

21 Q Tell the jury about that, what happened?

22 A Well, there was another -- there was another patron
23 who was being hostile. I believe he was jumping up
24 and down on the bar. So I went in. I went to go
25 get him. He gave me a fight. And me and him

1 struggling all the way out the door. Me and him
2 struggling all the way out the door. That is when
3 Mr. John Adams came in. He helped me out. We
4 grabbed him and we picked him up off his feet and he
5 was still fighting us. And we got to the glass door
6 with the glass walkway -- the glass walkway and then
7 ---

8 Q Let me refer you back. You were looking up here to
9 State's 15. Does that help you?

10 A Yeah. We was -- I had grabbed him -- I had grabbed
11 the other guy, the other patron from back here. He
12 was jumping up and down on the bar. So I told him
13 to get down. He didn't, he refused. So I kind of
14 like made him get down. And then me and him was
15 tussling all the way. Me and him -- I had grabbed
16 him and he was struggling to get away from me and we
17 walked -- I was walking him all the way out here
18 (indicating).

19 That's when I met John Adams here (indicating).
20 He was coming from -- he was coming from back here
21 (indicating). He went up, grabbed his legs. We
22 walked here, we walked here (indicating), and we got
23 to here. So I said, I got him, I got him now. So
24 Mr. Adams went back inside. But I didn't -- he
25 didn't go too far back inside.

1 So when I got the patron to the glass door,
2 that's when I believe Lamont or Palmer, I think it
3 was Palmer, he opened the glass door and he got one
4 more jerk so I took him down to the ground.

5 When I got him down to the ground, I had my knee
6 in his back. And he gave me handcuffs and said,
7 handcuff him. By the time I got the handcuffs on
8 him, the -- I guess the suspect, he had pulled up
9 and start opening fire.

10 Q And at that point, how far were you from that
11 suspect?

12 A He wasn't even not even -- I don't even think he was
13 not even six or seven feet away from us.

14 Q Anything obstructing your view of that person?

15 A No, sir. I looked directly at him.

16 Q And had you seen that person earlier that evening?

17 A Yes.

18 Q Where had you seen him earlier?

19 A Inside the club.

20 Q Was this other fellow you were taking out, he didn't
21 shoot a gun, did he?

22 A No.

23 Q This other fellow you took out?

24 A He couldn't move.

25 Q Was he pretty drunk?

1 A Yeah, he was ---

2 MR. MCCULLOCH: Object to the leading, Your
3 Honor.

4 MR. MEADORS: I'm sorry.

5 THE COURT: Sustained for leading.

6 MR. MEADORS: Judge, at this point I ---

7 THE COURT: All right, members of the jury,
8 there's a matter of law I need to take up. Once again,
9 the only way I can do that is in your absence.

10 So please go to the jury room. It won't take
11 long. Just don't talk about this case.

12 (The jury retires from the courtroom at
13 approximately 11:23 a.m.)

14 THE COURT: We need to do this Biggers. And
15 right after Biggers we're going to -- so, we can do the
16 Biggers then move Mr. Gaskins. Let's do Biggers then
17 we'll move Mr. Gaskins after we finish Biggers.

18 MR. MEADORS: Your Honor ---

19 MR. MCCULLOCH: I think we've already done the
20 Solicitor's part of the Biggers.

21 MR. MEADORS: I think I pretty much was trying
22 to do it without ---

23 THE COURT: Yeah.

24 MR. MEADORS: I thank the witness for not
25 mentioning it. But I guess I want the record to reflect

QUINTEN HARRIS -- DIRECT BY MR. MEADORS (In Camera): 412

1 his answers and if I could lead him, however you want me
2 to do it for these purposes but ---

3 MR. MCCULLOCH: I'd rather he didn't lead.

4 DIRECT EXAMINATION CONTINUES (In Camera)

5 BY MR. MEADORS:

6 Q You have testified -- you have testified previously
7 that you saw this person in the bar, correct? Going
8 back to the first person you took out?

9 A Uh-huh.

10 Q Okay. Where did you see that person?

11 A He was here (indicating).

12 Q Okay. And a minute ago I asked you how close you
13 got to him and I think your answer was you could
14 smell his what?

15 A I could smell his breath.

16 Q Okay. So you were that close to him, looking at him
17 (indicating). Was anything obstructing your view?

18 A No, it wasn't.

19 Q Did you look at his face?

20 A Yeah.

21 Q His eyes? Okay. And how far were you with him --
22 how long were you with him, excuse me, Mr. Harris,
23 from here to you went outside?

24 A It wasn't even three minutes before we had him out
25 the front.

- 1 Q But you were with him this whole time?
- 2 A I was with him the whole time.
- 3 Q In close proximity?
- 4 A A minute, minute and a half.
- 5 Q No, close -- you were close together?
- 6 A Oh, yeah.
- 7 Q All right. And describe again what he was wearing?
- 8 A He had the black jacket on with the fur around it.
- 9 Q And speak up again, Mr. Harris. I know you ---
- 10 A He had the black jacket on with the fur around it
- 11 and I think the shirt -- all I could see was the top
- 12 of the shirt because I was just looking down at him
- 13 and it was white ---
- 14 Q Okay.
- 15 A --- the part that I seen.
- 16 Q Sorry, didn't mean to interrupt you. And during
- 17 this time y'all had -- you said some words were ---
- 18 A Words were exchanged.
- 19 Q And when you're speaking those words, you're looking
- 20 at him?
- 21 A Yeah.
- 22 Q Was he looking at you when you were talking to him?
- 23 A Yeah.
- 24 Q Was there lighting in there? Did you have any
- 25 trouble seeing him?

1 A Yes. It's a big spot light as soon as you walk in
2 the door.

3 Q All right. You go outside, leave him with whoever?

4 A Uh-huh.

5 Q Come back inside you said, right?

6 A Uh-huh.

7 Q And brought this other patron out?

8 A Uh-huh.

9 Q When you got back outside, you said you looked and
10 you saw this vehicle?

11 A Uh-huh.

12 Q And how far was that vehicle?

13 A Right, like I said -- right there ---

14 Q From here to here?

15 A Yeah.

16 Q 10 feet or so?

17 A Not even -- not even 10 feet.

18 Q Okay. And was anything obstructing your view from
19 where you were -- where were you in the club?

20 A I was outside.

21 Q Anything obstructing your view from the vehicle.

22 A No, sir.

23 Q Were you able to see in the vehicle?

24 A No, not -- it was dark.

25 Q Could you see the person in the vehicle?

1 A Yes.

2 Q What did you see the person in the vehicle doing?

3 A I seen him -- it was real fast. When I seen him,
4 also, it was just his face.

5 Q Okay.

6 A His face and it was like the back window and you
7 could see him doing this number like this
8 (indicating). And as soon as I seen him, as soon as
9 I looked in his eyes he just started pointing and
10 pulling the trigger.

11 Q So you saw the face?

12 A Yeah.

13 Q And the hand with the trigger pulling?

14 A Yes.

15 Q Had you seen that face before?

16 A Yes.

17 Q Who was that?

18 A (There was no response.)

19 Q Where had you seen that face before?

20 A Oh, inside the club.

21 Q All right. Where inside the club?

22 A By the bar.

23 Q Was that the fellow you brought out?

24 A Yes.

25 Q And based on the time you spent with that fellow,

1 that patron from the bar to the outside ---

2 A Uh-huh.

3 Q --- the time you looked, you said, less than 10 feet

4 ---

5 A Uh-huh.

6 Q --- at a person shooting a gun, in his face, is that
7 person in this courtroom today?

8 A Yes, he is.

9 Q Based on when you saw him at the club on February
10 5th, 2007, your observations then, that person is in
11 this courtroom?

12 A Yes.

13 Q Would you point him out for Judge Manning?

14 A He's right there (indicating).

15 Q Defendant John Gaskins?

16 A Yes.

17 Q Any doubt in your mind?

18 A No, that's him.

19 MR. MEADORS: Beg the Court's indulgence.

20 THE COURT: Yes, sir.

21 (Pause.)

22 MR. MEADORS: That's all we have.

23 THE COURT: Mr. McCulloch.

24 MR. MCCULLOCH: Thank you, Your Honor.

25 CROSS-EXAMINATION (In Camera)

1 BY MR. MCCULLOCH:

2 Q Mr. Harris, you indicated the police -- do you
3 recall giving a statement to the police -- gosh,
4 let's see. Well, I can't tell who you gave it to
5 but a police officer took a statement from you, is
6 that correct, do you remember?

7 A Yes.

8 Q Is this in your handwriting or the officer's?

9 A It's the officer's handwriting.

10 Q Okay. And that statement -- as you testified today,
11 you testified that you were escorting a -- that you
12 escorted Mr. Gaskins out to the front glassed in
13 area.

14 A Uh-huh.

15 Q And essentially turned him over to -- Lamont Davis
16 came and joined you ---

17 A Yes.

18 Q --- that person? And you turned him over to Lamont
19 or someone outside? Is that correct?

20 A Yes.

21 Q And then you went back inside and got involved with
22 a second person?

23 A Yes.

24 Q Now, you said today you were not sure who helped you
25 with that second person?

1 A The second person?

2 Q Yeah.

3 A Yes.

4 Q You said in your statement to the police that, me
5 and Lamont went and got the other guy?

6 A No.

7 Q Do you remember that?

8 A No, Lamont was still outside.

9 Q All right. But do you remember telling the police
10 officer on this date that ---

11 MR. MEADORS: Your Honor, I don't know if this
12 goes to the Neil and Biggers ID.

13 MR. MCCULLOCH: Well, Your Honor, I think it
14 goes to ---

15 THE COURT: Give him copy of the statement so he
16 can follow along.

17 MR. MCCULLOCH: I've got it here. I've got it
18 here, Your Honor.

19 THE COURT: All right.

20 Q The part I'm talking about is specifically here: I
21 started to go back in the club because there was
22 some other guy or another guy ---

23 THE COURT: What page are we reading from, Mr.
24 McCulloch?

25 MR. MCCULLOCH: Your Honor, we are reading --

1 the pages are not numbered. I think that would be page
2 two.

3 THE COURT: All right.

4 Q Page one is there. And I'll be happy for you to
5 read the whole thing. It's just hard to read
6 because it's in handwriting. What's your
7 preference?

8 A Oh.

9 Q No, you've got to speak up so everybody can hear
10 you.

11 A Oh, no.

12 Q You want to read the whole thing or ---

13 A No.

14 Q All right. Well, on this page which would in all
15 probability be page two, it says: Me and -- is that
16 not Lamont -- went and got the other guy?

17 A I don't know whose name is that?

18 Q Huh?

19 A That is Lamont.

20 Q All right. That is Lamont. So that is what you
21 said then, February the 7th ---

22 MS. MCDUFFIE: Your Honor, Investigator
23 Isenhoward indicated that says Lamar (phonetic) ---

24 THE COURT: I can't hear you.

25 MS. MCDUFFIE: It says Lamar. This is his

1 handwriting that Mr. McCulloch can't read.

2 MR. MCCULLOCH: Well, gosh, I would be happy for
3 Mr. Isenhoward to testify to that.

4 Q Whatever it says, it doesn't say Adams, does it?

5 A No.

6 Q All right. Now, can you read the next sentence?

7 A We got him to -- I can't even read that.

8 THE COURT: Please speak up, sir.

9 THE WITNESS: I said I can't read it.

10 THE COURT: That's fine.

11 A We got him to the door and -- I don't know what it
12 says.

13 Q We got him to door and the guy struggled?

14 A Yes.

15 Q So we fell to the ground. Does that refresh -- I
16 looked up and saw John and a blue car with the gun.
17 I pushed Lamar and that's when he started shooting.

18 A Right.

19 Q So, essentially on February the 7th, two days after
20 this incident, you were telling a police officer,
21 apparently Mr. Isenhoward, that -- that Lamar or
22 Lamont is who helped you subdue the second person,
23 is that correct?

24 A Yeah. He gave me -- he gave me the handcuffs to
25 handcuff him.

1 Q But in your statement then you said that -- that we
2 fell to the ground. We got him to the door,
3 referring to you and Lamont and ---

4 A Like I said, Lamont met me -- Lamont met me at the
5 glass door. Me and Lamont -- he met me at the glass
6 door.

7 Q Right.

8 A That's when he gave us -- that's who opened the
9 door.

10 Q Okay. But that ---

11 MR. MEADORS: Your Honor, objection now this is
12 ---

13 THE COURT: It's beyond the scope of Biggers.
14 Let's get the Biggers ---

15 MR. MCCULLOCH: Well, Your Honor, his
16 recollections of the event then and his testimony which
17 differs from it now all go to reliability.

18 THE COURT: It goes to the admissibility. The
19 weight, not the admissibility. So, I mean, let's get the
20 Biggers factored out of the way here. That's why we sent
21 the jury out. I mean, we've got cross-examination. You
22 can slice him up, dice him up, whatever but let's get the
23 Biggers evidentiary problem out of the way.

24 Q All right. Do you remember being asked the
25 question, did you see a picture of the man we are

1 looking for on the news?

2 A Oh, no.

3 Q Sorry?

4 A Oh, no.

5 Q Do you remember that question being asked of you on
6 February the 7th?

7 A On the 7th?

8 THE COURT: Show him the statement so he can
9 look at it, please.

10 A Oh, no, yeah, he came on the 7th.

11 Q Yeah.

12 A And had I seen a picture of him on the news.

13 Q And you said?

14 A Yes, I seen a picture of him on the news.

15 Q And you saw that in the paper or on television?

16 A It was on the news.

17 Q All right.

18 A It was like that -- that evening, that night. Right
19 before the investigator came to my house and asked
20 me for the photo.

21 Q And that was a photograph of Mr. Gaskins being
22 featured as the suspect?

23 A Uh-huh.

24 Q All right.

25 MR. MCCULLOCH: So, Your Honor, I would argue

1 that this ---

2 MR. MEADORS: Can I have one final ---

3 MR. MCCULLOCH: Sure you can.

4 MR. MEADORS: To follow the lineup on that on
5 page two, he said, yeah, that's John. That's the guy who
6 was shooting. Okay, that's all.

7 THE COURT: All right, Mr. McCulloch.

8 MR. MCCULLOCH: So, Your Honor, again the issue
9 is whether there is an improper suggestion and the
10 photograph appearing in the news, circulated by the
11 police department in an effort to announce who the
12 suspect is and to show that face all over the place. And
13 I would argue that is suggestive, improperly suggestive
14 process ---

15 THE COURT: The witness testified that he could
16 smell his breath. He was within 12 inches of his face.
17 He had ample opportunity to see who he was in the
18 circumstances then and there existing. His degree of
19 attention, he could smell his breath, the accuracy of the
20 description. There's a level of certainty in the
21 confrontation and the time between the crime and the
22 confrontation. Considering the totality of the
23 circumstances, the fact that he subsequently saw a
24 picture of the Defendant on the news after he had in very
25 descriptive detail identified Mr. Gaskins, makes this

1 identification valid and proper and I'm going to admit
2 it.

3 MR. MCCULLOCH: You Honor, I respectfully for
4 the purpose to have a record, I want to make a note that
5 the statement on February the 7th and the questions that
6 I was asking him about the struggle and the fact that he
7 said then that he and Lamont fell to the floor, and that
8 is the perspective as they were struggling with another
9 suspect, that's the place, the perspective that he had
10 and I would argue ---

11 THE COURT: Mr. McCulloch, that's your
12 impression, that's your argument, that's your position.
13 The facts will be left up to the jury to decide.

14 Anything further?

15 (There was no response.)

16 THE COURT: All right. Let's move Mr. Gaskins
17 over now before we bring the jury back in.

18 Does anybody need to take a little short break?
19 You're good?

20 MR. MEADORS: I can be back in 10 seconds.

21 THE COURT: That's real quick. I'll give y'all
22 about two minutes, just a few minutes. We'll be at ease.
23 And in the meantime -- oh yeah, you got Mr. Gaskins over
24 there.

25 (The Court was in recess.)

1 THE COURT: Mr. Bowen, bring them in.

2 (The jury returned to the courtroom at
3 approximately 11:40 a.m.)

4 THE BAILIFF: Jurors are present, Your Honor.

5 THE COURT: Welcome back, Madam Forelady and
6 members of the jury. And like I said, I told you the
7 other day, we'll probably go until about 1:00 before I
8 let you go. Y'all can survive another hour, can't
9 you?

10 JURORS: (Affirmative response.)

11 THE COURT: And maybe not steak and potatoes
12 from Ruth's Chris but I'll give y'all a surprise one day
13 next week, how's that?

14 With that in mind, I'm going to invite Mr.
15 Meadors to continue with his direct examination of Mr.
16 Harris.

17 MR. MEADORS: If it pleases Your Honor.

18 THE COURT: Yes, sir.

19 DIRECT EXAMINATION CONTINUES

20 BY MR. MEADORS:

21 Q Mr. Harris, let me briefly look back for a second.
22 The patron you -- the first patron that you said you
23 helped leave the bar, you saw that individual where?

24 A Here at the bar (indicating).

25 Q And you said you got so close to him you could what?

1 A Smell his breath.

2 Q And you stayed with that individual until how far?

3 A Till...

4 Q How far out the club?

5 A How far out the club?

6 Q Yeah.

7 A Right here (indicating).

8 Q Okay. And after that -- and during that time you
9 said you could see his face?

10 A Uh-huh.

11 Q Was anything obstructing ---

12 MR. MCCULLOCH: Your Honor, we'd object to the
13 leading.

14 MR. MEADORS: I was just trying to get us back
15 to where we were to acclimate. That's fine.

16 Q Could you see his face?

17 A Yes.

18 Q Okay. And was anything obstructing your view?

19 A No.

20 Q And I think you said -- or did you say what kind of
21 coat he was wearing?

22 A Yes.

23 Q Have I already shown that to you?

24 A No.

25 Q And you described it as what?

1 A Black with a fur -- it was black with fur trim.

2 Q And is that the jacket? Does it look like the
3 jacket?

4 A Yes.

5 Q When you got this person out of the club, what did
6 you do after that?

7 A I went back inside.

8 Q Okay. And when you came out, where did you come out
9 with this other person you brought out?

10 A I came out here (indicating).

11 Q Okay. Now, at this point, what happened? What if
12 anything did you observe?

13 A What happened when I came back out?

14 Q Yes, sir.

15 A When I came back out, he started -- shots was fired.

16 Q Okay. When you were out -- brought this other
17 patron outside, did you struggle with him, if any?

18 A Yes.

19 Q Okay. And what happened after that?

20 A After I got -- after -- when I was struggling with
21 him?

22 Q Yes, sir.

23 A Then I saw a car pull up. It wasn't even a complete
24 stop and just fires shot.

25 Q Okay. And maybe where we left off, how far were

1 from that car?

2 A Not even -- not even eight feet. It wasn't even
3 eight feet.

4 Q Eight feet, it wasn't even eight feet. You weren't
5 far?

6 A It wasn't far.

7 Q Where were you in relationship to the entrance of
8 the club?

9 A I was exactly in front of the door.

10 Q Point to State's 15, please, and show the jury where
11 you were, approximately?

12 A Right here (indicating).

13 Q Was there anything blocking your view of this
14 vehicle you said that just kind of stopped or just
15 didn't even really -- just kind of stopped, whatever
16 you said?

17 A No.

18 Q Could you see the car?

19 A Yes.

20 Q Could you see the person in the car?

21 A Yes.

22 Q Could you see the person's face in the car?

23 A Yes.

24 Q Was there anything in the person's hand?

25 A Yes.

1 Q What was it?

2 A It was a gun.

3 Q Did see the gun?

4 A Yeah.

5 Q With your own eyes?

6 A Yeah.

7 Q Any question it was gun?

8 A No.

9 Q And where were the shots coming from?

10 A Out of the car.

11 Q What did you do?

12 A Well, first I pushed -- well, first I threw my arm
13 out and pushed Lamont. And then I ---

14 Q Pushed Lamont?

15 A Yeah, Lamont Davis. I pushed Lamont Davis. He went
16 toward -- he went -- I don't recall which direction
17 he went ---

18 THE COURT: Sorry, I'm going to ask you to speak
19 through the microphone.

20 A I pushed Lamont Davis.

21 Q Yes, sir.

22 A I don't know which direction he went in. I pushed
23 him and I went to the -- I went to the right. The
24 guy I had -- the guy we was putting in custody, he
25 was still -- he was still there on the ground. We

1 went to the left, I looked back up. I came up, I
2 seen him leaving and Lamont was retrieving (sic)
3 fire.

4 Q When you say you see him leaving, who were you
5 talking about?

6 A Mr. Gaskins.

7 Q Okay. And what happened to that fellow you brought
8 out, the second fellow, if you know?

9 A He was still -- he was still on the ground trying to
10 get up.

11 Q Did he have a gun?

12 A No.

13 Q Did he shoot a gun?

14 A No.

15 Q Did you have a gun with you?

16 A No. I was unarmed. I was in the process -- I was
17 in the process of being trained. I was in the
18 process of my certification.

19 Q Based on the time that you spent at the bar area in
20 State's 15 and was described to this jury and the
21 time that you spent taking out this first patron ---

22 A Uh-huh.

23 Q --- and the opportunity you had to see that person
24 then ---

25 A Uh-huh.

1 Q --- and the opportunity you had to see the person
2 that you saw in the car with the gun.

3 A Uh-huh.

4 Q Is that person, based on what you saw in that 360
5 that night, in this courtroom?

6 A Yes.

7 Q Could you tell us who it is and point him out
8 us?

9 A Mr. Johnnie Gaskins.

10 Q Mr. Gaskins back here by Mr. McCulloch?

11 A Yes.

12 MR. MEADORS: We'd like the record to reflect he
13 has picked Johnnie Walker Gaskins, Your Honor.

14 THE COURT: All right, sir.

15 Q What did do you after that -- after shots were
16 fired?

17 A I got up. I ran inside, dialed 911. On my way on
18 the inside, I saw a young lady on the floor with a
19 gunshot wound to the head. Then I ran inside
20 screaming, call 911, call 911. Then on the way
21 going across the stage screaming, call 911.

22 Q Speak up a little bit, please.

23 A While I was screaming, dial 911, I saw another young
24 lady on my way to the bathroom to -- in the bathroom
25 stuck between the door. She was bleeding from the

P.D.

1 head too.

2 Q And Q, I'm going to show you State's 13. And just
3 let me know if you recognize this picture and does
4 it relate to your testimony right now?

5 A Yes.

6 Q All right. And what is that?

7 A That's the front door of 360 Sports Bar and Grill.

8 MR. MEADORS: Your Honor, State's 13 ---

9 MR. MCCULLOCH: No objection.

10 MR. MEADORS: --- without objection.

11 (Whereupon, State's Exhibit Number 13,
12 Photograph of Front of Club 360, was admitted
13 into evidence.)

14 Q That's the front of 360?

15 A Yes.

16 MR. MEADORS: Your Honor, at this time we would
17 offer State's 48 with the stipulation we said earlier
18 that the individual that collected from the establishment
19 will be here in the morning to complete the chain.

20 THE COURT: Is that your understanding, Mr.
21 McCulloch?

22 MR. MCCULLOCH: It is, Your Honor, subject to
23 that agreement.

24 THE COURT: All right, sir.

25 MR. MEADORS: State's 48.

1 BY MR. MEADORS:

2 Q Mr. Harris, I'm going to ask you to come down.

3 (The witness steps down from the witness stand.)

4 Q Mr. Harris, before playing this, have you had the
5 opportunity to review this video with either Ms.
6 McDuffie and Mr. Tabor and/or perhaps me?

7 A Yes.

8 Q Does it reflect what happened that night?

9 A No.

10 Q On the screen, does it show what happened, on the
11 screen, that night outside?

12 A Yes.

13 Q Okay. I believe you misunderstand my question. Is
14 that what -- that's the picture of the club that
15 night?

16 A Yes.

17 Q Okay. Get over here please, sir (indicating). And
18 again, you'll -- before you start, is -- what is
19 this building?

20 A That's the 360 Sports Bar and Grill.

21 Q What's this out front (indicating)?

22 A This is the parking lot (indicating).

23 (Whereupon, the video was played for the jury and
24 witness.)

25 Q Do you know who that is?

1 A Yes.

2 Q Who is that?

3 A That is Palmer.

4 Q Who?

5 A That's Officer Palmer

6 Q Officer Palmer.

7 A Yes.

8 THE COURT: I'm sorry, I think she's having
9 trouble seeing through you.

10 MR. MEADORS: I'll get over here too. I
11 apologize.

12 Q You said Officer Palmer?

13 A Yes.

14 Q Now I want you to tell us when if ever you see
15 yourself on here?

16 A There we are coming out the door.

17 Q Pause, please. You say, there we are coming out the
18 door.

19 A Yeah.

20 Q Who are you talking about?

21 A This me and the other -- this ---

22 Q Use this pointer, if you will.

23 A Right here (indicating) is the second guy that was
24 brought out the club, the struggle I was telling you
25 about. I was struggling coming out the door with

1 the other guy. This when Palmer opens the door and
2 let -- and Palmer comes to open the door -- Lamont
3 was standing in the inside.

4 We came out the door. I struggled with him. We
5 got -- I got him down to the ground and then this is
6 when Mr. -- Mr. Johnnie Gaskins comes around
7 (indicating) and start opening fire. You see, I
8 pushes Lamont this way (indicating) and I came
9 across to the right (indicating).

10 This is Lamont ---

11 Q Speak up, please.

12 A This is Lamont (indicating), right, this is Palmer
13 (indicating).

14 Q Officer Palmer?

15 A Yes, Officer Palmer. We're coming outside struggling
16 with him -- struggling with him in the inside
17 (indicating).

18 Q Back up just a little bit. I'm sorry.

19 MR. MCCULLOCH: That's better.

20 A You see me struggling -- you see Mr. Johnnie Gaskins
21 still in the car. This is him right here
22 (indicating) opening fire.

23 Q And what does it appear if anything that people are
24 doing after the car goes by?

25 A Everybody -- well, everybody's getting up.

1 Everybody's coming up from ducking. And you see Mr.
2 John Adams, he got hit. Lamont got hit. I got hit
3 and that's it ---

4 Q Is there -- could you play it over?

5 (Pause.)

6 Q And before this gets started, is this also the Club
7 360, just from the closer view?

8 A Yes, it is.

9 (Pause.)

10 Q Now you -- Oh, I'm sorry. You say stop when you see
11 you -- you.

12 (Tape continues to play.)

13 Q Stop right there, please. This is -- with you --
14 who is this fellow?

15 A That's Mr. Palmer.

16 Q Officer Palmer?

17 A Yes.

18 Q All right.

19 (Tape continues to play.)

20 Q Where are you, Q?

21 A I was there, right there, stop. We're right here
22 (indicating), struggling with the second guy.

23 Q And do you know -- if I asked this before, I
24 apologize to everybody. Do you know his name?

25 A No.

- 1 Q Did you see him after that?
- 2 A I didn't.
- 3 Q Do you know where he went?
- 4 A I really don't know.
- 5 (The tape continues to play.)
- 6 Q Stop. This is where I looked up and I seen Mr.
- 7 Gaskins. This is where I seen Mr. Gaskins lean
- 8 forward and present firearm and shot just that
- 9 quick.
- 10 Q And how far were you from the vehicle?
- 11 A I wasn't even -- right here to here (indicating).
- 12 It wasn't even ---
- 13 Q Is there any doubt in your mind who was in that
- 14 vehicle who fired the shots?
- 15 A I know exactly who it was.
- 16 Q Who was it?
- 17 A Mr. Gaskins.
- 18 Q After the shots were fired, can you see what if
- 19 anything the people were doing inside after the car
- 20 goes by?
- 21 A After the car goes by could I see what was going on
- 22 inside?
- 23 Q Yeah. These people right here, they were standing
- 24 up. Did they do something else?
- 25 A Oh, that -- that was all of us. That's all three --

1 all four, me, Mr. Palmer -- Officer Palmer, Mr. --
2 Lamont and John Adams. That's all of us right here
3 in this area. When the shots were fired -- when the
4 shots were fired, I pushed Lamont and I grabbed Mr.
5 Adams. The bullets was flying across -- over our
6 heads and between us. The one that -- one bullet
7 missed me and hit Mr. Adams in the lower abdomen.
8 Mr. Lamont took three -- I think two or three in the
9 back.

10 Q When the car goes out, do y'all stand up or are you
11 going down?

12 A I stood up and I went on the inside. That's when I
13 seen one of the young ladies on the inside right
14 here (indicating) with a gunshot to the head.

15 Q And do you know where the car goes after that?

16 A It was -- around, come to around -- not this parking
17 lot, not this section right here (indicating), but
18 the next section, it came out then over the top --
19 out the top. He went out the entrance.

20 Q Okay.

21 A Which direction he went, I don't know.

22 Q Can you back that up, please?

23 (Pause.)

24 MR. MEADORS: Beg the Court's indulgence.

25 THE COURT: Yes, sir.

1 (Pause.)

2 MR. MEADORS: I think that's all at this time.
3 You can take the -- I'm not through questioning him but
4 as far as this -- for right now, I've just got a few more
5 questions but that's it for ---

6 THE COURT: And of course, Mr. McCulloch may
7 want to go back through it with his cross.

8 (Pause.)

9 MR. MEADORS: Can I touch -- can I approach this
10 witness?

11 THE COURT: Yes, sir.

12 Q Now, can I touch you?

13 A Yes.

14 Q Okay. Show the jury -- did you get hit?

15 A Yes.

16 Q All right. And just stand up right here if you
17 would.

18 A Uh-huh.

19 (Complied.)

20 Q Please, show the jury where you got hit?

21 A I got hit in the knuckle.

22 Q Is the scar still there?

23 A Yeah, it's dark, a place there (indicating).

24 Q And was that from the bullet?

25 A Yes, from the bullet, yes.

1 Q And did you know where the bullet went after that?

2 A Where it went after that?

3 Q Yes.

4 A This one I don't know about. This one hits me in my
5 knuckle and my hand's kind of messed up. It hits me
6 in the knuckle and it stuck -- it went through the
7 window. It hit me in the knuckle and then went
8 through the window. That's the -- I believe that's
9 the one that shattered that window and hit the young
10 lady by the pool table.

11 Q You don't know that?

12 A No.

13 Q But you think that, okay. And now did you get hit
14 anywhere else?

15 A I later found out -- at 7:00 that night I later
16 found out I had one in my lower back.

17 Q Your lower back?

18 A Yeah.

19 MR. MEADORS: All right, you may have a seat.

20 (The witness returns to the witness stand.)

21 MR. MEADORS: Thank you for being here. That's
22 all I have.

23 THE COURT: Mr. McCulloch.

24 CROSS-EXAMINATION

25 BY MR. MCCULLOCH:

1 Q Mr. Harris, you said that you did not know -- had
2 you worked at the 360 Club before February the 5th?

3 A (Negative response.)

4 Q So you never -- I'm sorry, but you're going ---

5 A Oh, no, no.

6 THE COURT: Thank you, sir.

7 Q And you've testified you had never seen Mr. Gaskins
8 before this ---

9 A No, sir.

10 Q --- night? Your encounter with him was what, two
11 minutes?

12 A Yeah, it was real brief.

13 Q The -- in your description of what happens, you go
14 to that front glass area, glassed in area at the
15 front of the club. When you step beyond that
16 glassed in area, you're essentially in the parking
17 lot at that point?

18 A Yeah.

19 Q And that's where you turned Mr. Gaskins over to
20 someone else?

21 A (Affirmative response.)

22 Q And then you turned back to go get involved with
23 this second person?

24 A Yes, sir.

25 Q And that person was struggling, I think you said?

1 A Yes, sir.

2 Q And Mr. Davis -- Lamont Davis -- I think as you said
3 in your statement to the police that you and Lamont
4 Davis struggled with that second person and fell to
5 the ground. Is that while struggling with the
6 second suspect?

7 A Well, Lamont Davis was in the inside of the door
8 with him when I -- he and Palmer are the ones that
9 opened the doors.

10 Q All right.

11 A And you saw in the video, they opened the doors.

12 Q Sure and I'll be happy to hand you the statement so
13 that you can look at it, the statement you made to
14 the police. In that you said that you and Lamont
15 Davis were struggling with the second suspect and
16 fell to the floor?

17 A Yeah. On the way coming out -- on the way coming
18 out of the glass doors ---

19 Q Right.

20 A When they opened the doors, I was struggling with
21 him coming out. He grabbed the door, Lamont grabbed
22 his arm and then that's when I took him down to the
23 ground. That's why I said, we.

24 Q And so all three of you are on the floor now?

25 A Yes, me, Mr. Davis and ---

1 Q When -- when you -- when the car pulled around?

2 A Yes.

3 Q And so your opportunity to see this automobile which
4 you described then as a black or a blue car ---

5 A Uh-huh.

6 Q --- pulled up and from your vantage point on the
7 ground with Mr. Davis and this other suspect, you
8 had an opportunity to see who was shooting?

9 A Yes. When I was on the ground with the -- with the
10 first -- with the second guy, I had my knee in his
11 back. When the car -- when I heard the car speed
12 and it was a slight screech, I looked up. I looked
13 up and then that's when it started -- that's when
14 the gunfire -- the gun shoot -- fire started.

15 Q And the -- your -- your view of the person doing the
16 shooting from that vehicle which -- this car had two
17 windows?

18 A Uh-huh.

19 Q Separated by, you know, a post -- when I say a post
20 that -- it's that thing that supports the roof of
21 the vehicle.

22 A Uh-huh.

23 Q Was there a post on this automobile?

24 A You mean to separate the windows?

25 Q Yeah.

- 1 A Yes.
- 2 Q All right.
- 3 A Yes, it was.
- 4 Q And the gun was being fired out of which window?
- 5 A The driver's front window.
- 6 Q The front window.
- 7 A Uh-huh.
- 8 Q And the person's face ---
- 9 A Driver's side window.
- 10 Q --- to the extent you could see it?
- 11 A Yeah.
- 12 Q Now, you said that you had a full view of the face?
- 13 A Yeah.
- 14 Q How about the window being rolled up?
- 15 A The -- which, the window -- the front window?
- 16 Q No, the back window.
- 17 A Oh, I wasn't paying attention on the back window.
- 18 Q All right. Well, that's where the face was, wasn't
- 19 it?
- 20 A No, it was in the front driver's window.
- 21 Q So the face was in the front driver's window?
- 22 A Yeah.
- 23 Q And there was no obstruction whatsoever?
- 24 A None.
- 25 Q A few days -- within a day or two after the incident

1 at the 360 Club, you told the police you saw a news
2 article in which Mr. Gaskins was a suspect. His
3 photograph was in the paper?

4 A That wasn't on the paper, it was in the -- it was on
5 the news.

6 Q All right, on the news as a suspect. But it was Mr.
7 Gaskins' photograph?

8 A Yeah, when they was looking for him, yeah.

9 Q Okay. And in addition to the -- this, would you say
10 your opportunity to -- to get a look at this person
11 shooting was a second, three seconds?

12 A Yeah, it was real brief.

13 Q And at this point, were you shot in the finger or
14 the knuckles?

15 A Yeah, in the knuckles.

16 Q Back inside, you -- you said in your statement that
17 you grabbed Mr. Gaskins when he went behind the bar?

18 A Uh-huh.

19 Q And Mr. Gaskins told you that the lady had his
20 money?

21 A Well, I didn't know at that point what was going on.
22 I didn't know what happened between him and her.
23 All I know is when -- when I approached -- when I
24 came around to him, I grabbed him up under the waist
25 -- up under the arms and I kind of like guided him

1 back.

2 Q All right. But do you recall saying -- do you recall
3 if that person said to you, she's got my money?

4 A No, I don't remember that part.

5 Q All right.

6 (Pause.)

7 Q We may have difficulty reading this again but the
8 statement that was given to the police was about
9 February the 7th -- yeah, February the 7th, two days
10 after. Does that sound about right?

11 A Yes.

12 Q Let me direct you to this part of the statement, and
13 told. Can you read that?

14 A And told ---

15 Q You've got to speak up though.

16 A Oh, yeah, that's what he said.

17 Q Okay. So tell us, now that you're refreshed, you
18 told the police then that the person that you were
19 -- had grabbed told you that the girl had his money,
20 referring to the bartender?

21 A If it's in there, I said it.

22 Q Okay. And he was unhappy about that?

23 A I guess so. I would be too if somebody stole my
24 money.

25 Q And then you felt it necessary to handcuff and lead

1 him out?

2 A I didn't handcuff him. All I did was just guided
3 him towards the door and then that's when Lamont --
4 Mr. Lamont Davis handcuffed him.

5 MR. MCCULLOCH: All right. Thank you, sir.

6 THE COURT: Anything on redirect?

7 MR. MEADORS: Beg the Court's indulgence.

8 (Pause.)

9 MR. MEADORS: Just very briefly.

10 REDIRECT EXAMINATION

11 BY MR. MEADORS:

12 Q Mr. McCulloch was asking you about the statement.
13 When you gave that statement on February -- you got
14 a copy of it?

15 MR. MCCULLOCH: You can use this one.

16 MR. MEADORS: It doesn't matter.

17 Q You gave this statement on February 7th of 2007?

18 A Yes.

19 Q Two days after it happened?

20 A Yes.

21 Q Is that your signature?

22 A Yes.

23 Q And Mr. McCulloch asked you about whether or not the
24 -- you remembered the money. Do you remember that?
25 Just yes or no, that's all.

1 A No but if it was in there, I said it.

2 Q But I mean, you remember he asked you that, that's
3 all?

4 A Yeah.

5 Q All right. But that was in here, correct?

6 A Yes.

7 Q And did you put in your statement on February 7th,
8 2007, that John was the one you saw shooting. You
9 put that in there, didn't you?

10 A Yes.

11 MR. MEADORS: Thank you, that's all.

12 THE COURT: Anything on recross?

13 MR. MCCULLOCH: I don't think so.

14 RECCROSS-EXAMINATION

15 BY MR. MCCULLOCH:

16 Q Before this incident, you've already testified, that
17 you did not know Johnnie Gaskins?

18 A No, I don't know him.

19 MR. MCULLOCH: That's all.

20 THE COURT: All right. Anything further of the
21 witness?

22 MR. MEADORS: No, sir. Just we'll get this
23 stuff out of the way.

24 THE COURT: All right. Members of the jury, I
25 want to see y'all get up and down and get some exercise.

1 So I've got to send you back to the jury room just for a
2 second. I'll bring you back out shortly.

3 Please don't talk about the case. And then
4 we'll decide when we're going to go to lunch.

5 (The jury retires from the courtroom at
6 approximately 12:07 p.m.)

7 THE COURT: All right. Who we got next and how
8 long?

9 MR. MEADORS: Judge, I guess we could do
10 Mr. Porterfield, the owner of the club.

11 THE COURT: How long will that take?

12 MS. MCDUFFIE: Quinten, you can step down.

13 (The witness leaves the witness stand.)

14 MR. MEADORS: A reasonable time we could do
15 that. I think it will be relatively short, speaking for
16 myself. He knew him by name and sight, saw him in the
17 bar ---

18 THE COURT: Okay.

19 MR. MEADORS: --- hanging outside ---

20 THE COURT: Okay. Let's try to squeeze that in.
21 Let's go until 1:00 regardless of where we are, all
22 right.

23 You can probably do it in 40 minutes maybe?

24 MR. MEADORS: Yes, sir, I think so.

25 THE COURT: All right. All right. Because

1 other -- I've got to give them a chance to refresh
2 themselves. I can send them and bring them right back
3 out. You know, I've got to break that down.

4 (Pause.)

5 THE COURT: All right, bring them back in.
6 (The jury returned to the courtroom at
7 approximately 12:10 p.m.)

8 THE BAILIFF: The jury's all present, Your
9 Honor.

10 THE COURT: Thank you, Mr. Bowen. Y'all a
11 little chilly, some of you? You want me to try to get
12 the heat up a little bit? Some people say yes, some
13 people say no. We'll see how it goes after lunch.

14 But at any rate, welcome back. Mr. Meadors, you
15 may call your next witness, sir.

16 MR. MEADORS: If it pleases Your Honor. The
17 State will now call Lindburgh Porterfield the Third.

18 (LINDBURGH PORTERFIELD, III, having first been
19 duly sworn, testified as follows:)

20 THE CLERK: Thank you. Please have a seat in
21 the witness stand and state your full name for the
22 record. Please spell your first name.

23 THE WITNESS: Lindburgh Porterfield the Third.

24 THE CLERK: Spell your first name, please, sir.

25 THE WITNESS: L-i-n-d-b-u-r-g-h.

DIRECT EXAMINATION

2 BY MR. MEADORS:

3 Q Good afternoon, Mr. Porterfield.

4 A Yes, sir.

5 Q Tell these jurors a little -- just a little bit
6 about your background, sir. Where were you born and
7 raised?

8 A Swansea, South Carolina.

9 Q Swansea?

10 A Yes, sir.

11 Q And did you go to school there?

12 A Yeah, I went to Swansea High School.

13 Q When did you get out of Swansea High School?

14 A 1988, sir.

15 Q '88?

16 A Yes, sir.

17 Q And after that, Mr. Porterfield, what did you do?

18 A I went to college at Voorhees College in Denmark.

19 Q In Denmark?

20 A Yes, sir.

21 Q What did you do work-wise after that?

22 A Worked with telecommunications and I'm a wireless
23 engineer right now.

24 Q Wireless engineer?

25 A Yeah, network engineer.

1 Q Did you also at some point in your career, in your
2 life, get involved in restaurants or pubs?

3 A Yes, sir.

4 Q Okay. Tell the jury how that came about.

5 A That came about when I was in college. I did a lot
6 of parties for my fraternity.

7 Q Yes, sir.

8 A And when I got home people started asking why I
9 didn't do some parties at home, so I started doing
10 parties. And then elevated from there, I went to
11 open some clubs and then I started doing -- and did
12 some clubs and then I did a sports bar.

13 Q Okay. And so right now do you own 360?

14 A Yes, sir.

15 Q All right. And have you got another establishment?

16 A Yes, sir, I've got an oyster bar, BaWa Oyster
17 Company.

18 Q BaWa Oyster Company?

19 A Yes, sir.

20 Q Okay. And in addition to that, you're still doing
21 tech?

22 A Sir?

23 Q You're still doing your technologies or?

24 A Yes, sir, I still do contract work whenever needed.

25 I've been gone last year for about a year. | I work

- 1 for all the wireless carriers.
- 2 Q With the wireless carriers?
- 3 A Yes, sir.
- 4 Q Okay. Let's move right to, please, sir, to February
- 5 the 4th of 2007.
- 6 A Yes, sir.
- 7 Q And on that day do you own 360 or did you own 360?
- 8 A Yes, sir.
- 9 Q And tell these folks, these ladies and gentlemen of
- 10 this jury, what is 360?
- 11 A It's a sports bar, a place for fun and games. We
- 12 have karaoke and stuff like that.
- 13 Q Open to everybody?
- 14 A Yes, sir, it's open to the public
- 15 Q And it's in Richland County obviously?
- 16 A Yes, sir.
- 17 Q Do you remember Super Bowl Sunday, February 4th,
- 18 2007?
- 19 A Yes, sir.
- 20 Q The Jets were playing the Bears.
- 21 A Yes, sir. I think ---
- 22 Q The Colts were playing the Bears.
- 23 A The Colts won the game.
- 24 Q And did you plan or did you advertise a party that
- 25 day, a Super Bowl party?

- 1 A Yes, sir. We advertised on the radio, it was a --
2 just a Super Bowl party like everybody else does to
3 celebrate the game.
- 4 Q And what time would y'all have opened that day?
- 5 A We opened a little early because the game was an
6 early game. So I'm saying we started -- I'm saying
7 like 3:00 in the afternoon we started getting
8 people. I think it was a 7:00 game, I'm thinking.
- 9 Q And what type of crowd did you or did your club have
10 that night, Mr. Porterfield?
- 11 A Well, it was pretty crowded. I mean, we had good
12 numbers of people there that night.
- 13 Q Now I want to specifically ask you a couple of
14 questions about some of your employees. Do you
15 employ regular bouncers that are there pretty much
16 all the time?
- 17 A Yes, sir.
- 18 Q And is that the right term to use?
- 19 A Yeah, they contract, the bouncers.
- 20 Q Contract?
- 21 A Yeah, to come in, the bouncers.
- 22 Q Do you have some folks that work just for you or
23 360?
- 24 A Yes, sir.
- 25 Q If you had a party like this or you have a party

1 like this, do you bring in outside folks to help you
2 maintain order?

3 A Yes, sir. In the parking lot, usually, you know,
4 you get a lot of people that drive up, they don't
5 know where to park, they never been there before.
6 So we usually required some more security outside.
7 And I think that night I got an extra three or four
8 outside, I think.

9 Q And do you remember the security company you got
10 them from?

11 A I want to say Elite Security.

12 Q Elite Security?

13 A Yes, sir.

14 Q And do your employees that I have called bouncers
15 ---

16 A Yeah.

17 Q Your employees, did they have weapons?

18 A No, sir.

19 Q And some of the security officers that you hired,
20 they did have weapons, correct?

21 A Yeah, the security. That's why I hired out because
22 I couldn't.

23 Q And can you tell us just where would the -- the
24 security folks that were hired just for the
25 particular party in this case, the Super Bowl party

1 ---

2 A They usually ---

3 Q What was their job? Where were they supposed to
4 be?

5 A Outside until something -- if something happened
6 major, they would, you know, escort somebody. Once
7 they got to the door, they would handle, you know,
8 any legal -- because they had the right to put
9 handcuffs and stuff like that on the cust -- on a
10 customer if they gave any problems or something like
11 that.

12 Q Now, you know the Defendant Johnnie Gaskins, don't
13 you?

14 A Yeah, I know him -- that's his name. I mean, I
15 known him as Black.

16 Q As Black?

17 A I didn't know his real name. I just know it was
18 Black at the time.

19 Q Okay. But is it fair to say, you knew him and know
20 him by name and sight?

21 A Yeah, I know him by name.

22 Q By that name and sight?

23 A By Black, yes, sir.

24 Q And on February 4th of 2007, was he at your club?

25 A Yes, sir.

- 1 Q There's no doubt about that, is there?
- 2 A No, sir.
- 3 Q And did you see him throughout the day?
- 4 A Yeah, I seen him earlier. He came in a little
5 earlier than -- like -- like early with the other
6 customers.
- 7 Q At some point -- at some point, Mr. Porterfield, was
8 the Defendant Johnnie Gaskins taken out of your
9 club?
- 10 A Yeah, yes, sir.
- 11 Q And where were you when that happened?
- 12 A I was somewhere in the bar area. I remember
13 telling, I think Lamont, one of the guys that -- I
14 think Q had gone to the bar and I seen him having a
15 little thing with -- with Mr. -- with Black and I
16 told Lamont to go over there and help him because,
17 you know -- wanted to go -- wanted to talk to him
18 and I told -- I told Lamont to go talk to Black.
- 19 Q And was -- I think you referred to him as Black, Mr.
20 Gaskins, was he taken out of the club?
- 21 A Yes, sir.
- 22 Q Did you go out of the club then?
- 23 A No, I didn't go out at that time.
- 24 Q You stayed inside?
- 25 A Yes, sir.

1 Q What was the next thing you remember?

2 A I remember -- I remember -- I remember picking up a
3 phone earlier that night?

4 Q Okay. And I forgot about that, thank you. But
5 where did you pick up this phone?

6 A It was on the floor ---

7 MR. MEADORS: Judge, if I can approach?

8 Q This is State's 15. Would this help you in your
9 testimony?

10 A Yeah.

11 Q And this is a diagram by Mr. Billy Tabor, correct?

12 A It was on the floor in this side (indicating). I
13 found the phone like earlier in the night and I took
14 it to the DJ and tell him to announce that somebody
15 had lost their phone in there.

16 Q And is that what you do as the owner? If you see
17 something lost you ---

18 A Yeah, just take it to -- I want to get it to the
19 right owner so that's what I do.

20 Q And that happened sometime earlier in the day?

21 A Yes, sir.

22 Q Or evening or whatever.

23 MR. MEADORS: Beg the Court's indulgence.

24 (Pause.)

25 Q I'm going to show you what's marked State's 49, Mr.

1 Porterfield, and ask you if you recognize that and
2 does that relate to what you were just talking
3 about?

4 A Yes, sir. Yes, sir.

5 Q Okay.

6 A That's the cell phone.

7 Q Is that the phone?

8 A Yes, sir.

9 Q Okay.

10 A I remember it having it, the clip on it and
11 everything.

12 Q You remember it having a clip on it?

13 A Yes, sir.

14 Q And is this the phone you got, collected from your
15 bar ---

16 A Yes, sir.

17 Q --- February 4th?

18 A Yes, sir.

19 MR. MEADORS: Your Honor, State's 49.

20 MR. MCCULLOCH: No objection.

21 THE COURT: Without objection.

22 (Whereupon, State's Exhibit Number 49, Cell
23 Phone, was admitted into evidence.)

24 Q Defendant Johnnie Gaskins is now out of your bar,
25 you testified?

1 A Yes, sir.

2 Q What do you remember happening after that?

3 A Later, about maybe 15 or 20 minutes after him going
4 out, I just heard a lot of shot fired -- a lot of
5 shot fired.

6 Q Where were you, Mr. Porterfield?

7 A I was actually coming back from the bar -- I mean,
8 not from the bar, from the ---

9 Q Use that if you...

10 A I was actually coming back from -- the DJ was up
11 here (indicating). I was actually coming back
12 around here again, back on this area (indicating),
13 about right in here.

14 Q Shots fired?

15 A Yes, sir.

16 Q What does Lindburgh Porterfield do when you hear the
17 shots?

18 A I goes immediately to the front, to the front of the
19 -- walk up to the front here (indicating), trying to
20 get out and see what -- because all this was shot
21 out, all this area here (indicating).

22 Q Your club was shot up?

23 A Yes, sir. All this glass, I mean, I just -- just a
24 lot of the glass was out of the front of the
25 building. And I just see bodies, people on the

1 floor and stuff and I just remember walking over
2 people trying to get to the front.

3 Q And what did you do when you got to the front,
4 Lindburgh?

5 (Pause.)

6 A I was talking -- talking to Wolf. He was ---
7 (Crying.)

8 A One of my bouncers, Wolf, on the ground shot.

9 Q You started talking to Wolf?

10 A Yeah. I thought he was going to be all right
11 because he was talking to me the whole time.

12 Q And had Wolf -- that's Mr. Adams?

13 A Yeah.

14 Q Had he been shot?

15 A Yes, he'd been shot. Was the first person I seen
16 -- I did see a lot of other people running too but
17 that was the first person I noticed that I know.

18 Q But you were able to communicate with him ---

19 A Yeah, I talked to him the whole time.

20 Q What did he say?

21 A He was like, the guy that we put out, shot me, was
22 shooting.

23 MR. MCCULLOCH: Your Honor, I ---

24 THE COURT: It's an exception to the hearsay --
25 go ahead.

1 MR. MCCULLOCH: May we approach?

2 THE COURT: Yes, sure.

3 (WHEREUPON, a bench conference was held off
4 the record, in the presence of the jury, but out
5 of the hearing of the jury.)

6 Q What did you do after you talked to Mr. Wolf -- Mr.
7 Adams?

8 A Just -- I just tried to stay there with him to the
9 paramedics got there. I mostly just -- I wanted to
10 put him in my car but everybody said not to put him
11 in the car.

12 Q Slow down, Mr. Porterfield. You said you wanted to
13 what?

14 A I wanted to drive him to the hospital but they said
15 not to, not to touch him, not to move him.

16 Q What did you do after that?

17 A I just stayed and tried to, you know, calm a lot of
18 people down. Everybody was just running and, you
19 know, moving around a whole lot.

20 Q There was an individual there, a lady named
21 Shannavia -- Shannavia Williams who was shot. Did
22 you know her?

23 A No, sir.

24 Q Do you know whether or not she had ever been to your
25 bar before?

- 1 A I'm thinking I heard that she's been there. I think
2 I've seen her there before with some of her
3 girlfriends.
- 4 Q You didn't know her by name and sight or?
- 5 A No, sir.
- 6 Q And a Ms. Deirdre Houston?
- 7 A I've seen her there too but I didn't really know
8 her.
- 9 Q You didn't know her like...
- 10 A No, sir.
- 11 Q And Mr. Lamont Adams (sic) was one of the security
12 you hired for that day?
- 13 A Yes, sir.
- 14 Q And Mr. Quinten Harris known as Q. Did you know
15 them before that day?
- 16 A I've seen Q out a few times but I know Lamont
17 because he had been working there for a few -- a few
18 weeks.
- 19 Q How long had John Adams been working for you?
- 20 A He's been there, I want to say three -- maybe three
21 or four months. But they always came, him and Tanya
22 (phonetic), they were always coming for the karaoke
23 on Thursday and singing and what not.
- 24 Q He and who?
- 25 A His girlfriend, his ---

1 Q Okay, I'm sorry. I just couldn't hear you. Did
2 there a come a point when the police got there?

3 A Sir?

4 Q The police arrived ---

5 A Yes, yes, sir.

6 Q And did you talk to either Isenhoward or some other
7 investigator?

8 A Yes, sir.

9 Q You testified earlier you found this phone?

10 A Yes, sir. That's when that -- about the time when
11 they got there, that phone started ringing.

12 Q All right. The phone started ringing and did you
13 answer it?

14 A Yes, sir.

15 Q All right.

16 MR. MCCULLOCH: And, Your Honor, of course we're
17 going to object to anything that would not be proper ---

18 THE COURT: What's your objection right now?

19 MR. MCCULLOCH: My objection is to hearsay.

20 THE COURT: It's anticipatory, is that correct?

21 MR. MCCULLOCH: It is anticipatory, Your Honor.

22 THE COURT: All right. Let's cross that river
23 when we get to it. Right now, I'll note it but nothing
24 has happened yet.

25 MR. MEADORS: We're not offering this for the

1 truth of the matter asserted ---

2 THE COURT: All right.

3 MR. MEADORS: Oh.

4 Q When you get a phone call, you answer it?

5 A Yeah, I got two phone -- two phone calls from two
6 ladies.

7 Q All right. What -- who if anyone -- what did the
8 phone call say?

9 A Well, as soon as I answered the phone, I was trying
10 to disguise my voice because it wasn't my phone. I
11 didn't know who it was. I was like, hello. And
12 they was like, Blackie (phonetic), was that you out
13 there shooting? I then, I was like, what, you know.

14 Q Did someone say the name Black?

15 A Yeah.

16 Q Was it male or female?

17 MR. MCCULLOCH: Your Honor, may we approach?

18 A Female.

19 THE COURT: Sure. Stop, wait a minute, hold
20 on.

21 (WHEREUPON, a bench conference was held off
22 the record, in the presence of the jury, but out
23 of the hearing of the jury.)

24 THE COURT: Go to the jury room. Please don't
25 talk about this case.

(The jury retires from the courtroom at approximately 12:24 p.m.)

THE COURT: Now, y'all take a minute. Look and see whether it's in the statement or not in the statement, whether you've been provided with it. I'll be right back. Just relax.

(The Court was in recess.)

THE COURT: Were y'all able to sort it out or?

MR. MEADORS: Judge, can I mark this for you so you can just -- might help right now.

THE COURT: Yeah, yeah. Well, we'll mark it as a Court exhibit, ID or something. Yeah, these things happen, gentlemen. Y'all know that. What have we got?

MR. MCCULLOCH: Well, they keep happening.

MR. MEADORS: Judge ---

MR. MCCULLOCH: Well, if I can make my motion, Your Honor.

THE COURT: Go ahead.

MR. MCCULLOCH: Your Honor, one is we're going to move for a mistrial because what we have is cumulative surprises. We first were surprised when Mr. Glover testified, out of the presence of the jury, to an identification that was never provided. We were led to believe by the information provided that his identification was only of a person in the bar and not of

1 Q (sic).

2 Secondly, we were surprised when Mr. Lindburgh
3 (sic) testified to what the Court referred to as perhaps
4 a dying declaration which has never been provided to us
5 before.

6 And thirdly, we are now surprised by his
7 statement, which I think the reporter needs to play it
8 back, Mr. Porterfield's testimony just a moment ago was
9 essentially, Black was shooting up the place, which is
10 really an affirmative statement of a witness apparently,
11 or perhaps speculation by some unknown person. But
12 clearly it is -- you know, to say that that's offered not
13 for the truth of the matter asserted in a trial like this
14 is -- I think the Court finds that it has an evidentiary
15 value for the truth of the matter asserted because it is
16 a affirmative statement of this Defendant doing exactly
17 what he's accused of doing which makes it way out -- I
18 mean, it is hearsay and it is affirmatively about the
19 point of this trial.

20 Now, that is just a motion against the
21 highlighted part of Mr. Porterfield's statement which is
22 -- was provided to us, which doesn't say that at all. In
23 fact, it questions -- I mean, there are a number of ways
24 you can read it. But the fairest reading is at least
25 that it questions whether he's there and does not accuse

1 him of doing the shooting.

2 So, Your Honor, my motion for mistrial is
3 because these are violations under Brady and in violation
4 of Rule 5. We are entitled to be provided with
5 information. The things keep continue to accumulate and
6 while these things do happen, the problem is that there
7 is a duty and diligence under Rule 5 that is imposed upon
8 the prosecution to know these things, to provide these
9 things and not to surprise at trial.

10 THE COURT: All right. Thank you, sir.

11 MR. MEADORS: If it pleases Your Honor. Taking
12 these in the order he brought them up.

13 MR. MCCULLOCH: And, Your Honor, I would only
14 note we obviously -- we think there is obvious prejudice,
15 that's another ---

16 THE COURT: All right. Thank you, sir.

17 MR. MEADORS: Respectfully, may it please the
18 Court. In the order he brought those up, Mr. Glover --
19 and I told him and I know Mr. McCulloch believes me,
20 that's not for the Court, but I'm sure he does, let the
21 record reflect that. I did not know that testimony until
22 he did it and we both talked about it. There's no
23 prejudice to anybody on that because he hasn't testified
24 in front of the jury. And I'm not sure if I'm going to
25 call him so that's really a moot issue.

1 THE COURT: So two of the three things Mr.
2 McCulloch mentioned the jury has not heard is what you're
3 saying?

4 MR. MEADORS: Well, getting to the next one,
5 Your Honor, just taking them in order, the dying -- that
6 declaration that Mr. Porterfield just said, I've never
7 heard that before. I anticipated his testimony's going
8 to be, I'm dying, Dog (phonetic). I'm dying, Dog,
9 something like that, is what I thought. So for the
10 record again, I didn't know that. We weren't told and
11 there's nothing you can know everything somebody's going
12 to say all the time. We weren't planning on that coming
13 out. I'm not that conniving or smart. I couldn't do
14 that. I hope that's off the record.

15 But anyway, so that -- it surprised all of us,
16 Judge, on that. It may have happened. That's the first
17 time I've heard it.

18 As far as this last thing, Judge, I'd like you
19 to look. I think it says exactly -- I don't know ---
20 (Pause.)

21 MR. MEADORS: Mr. McCulloch and I listened to
22 it. Basically, Black, was that you out there shooting?
23 If you look at the statement, page 3 of the Court -- of
24 the record I gave Your Honor which has been in discovery
25 for years. I kept receiving phone calls on the Verizon

1 cell phone from women asking for Black, and he was at the
2 place where you shooting at, 360. I think that's close
3 to what he said. And I -- and that's just the way he
4 talks. I don't mean that bad but I think he's expressing
5 what he expressed in the statement.

6 And, Judge, there is a case right on point.
7 I've actually got a little law, Rhodes v. State, 561
8 S.E.2d 606, repeatedly made clear that the information
9 this friend was heard -- was from the street or rumor.
10 It was not offered for its truth but to explain one
11 victim's identification, and so forth and so on. I think
12 it's rather important, Judge.

13 And I think he said what was in the statement.
14 I mean, I think that's essentially what he says so it's
15 not in violation of discovery, not something he hadn't
16 had. He's had it for years.

17 THE COURT: Yes, sir.

18 MR. MCCULLOCH: If the court reporter -- I would
19 ask the reporter to play exactly what ---

20 THE COURT: Well, I don't need it. This is for
21 me. I don't need to hear this again. Just make your
22 motion, sir.

23 MR. MCCULLOCH: Your Honor, my motion is for a
24 mistrial or for an instruction and a redaction from the
25 jury's memory that -- and that Mr. Porterfield not be

1 allowed to testify what people say on the phone, at least
2 in this instance. I don't know what else is coming out.
3 But I will make the point, Your Honor, Mr. -- Mr. Meadors
4 says he didn't know this stuff. I agree. I believe
5 that.

6 THE COURT: I understand.

7 MR. MCCULLOCH: But the problem is that Rule
8 5 imposes a diligent -- duty of diligence to learn about
9 your case and make that information available to the
10 Defense. They've had two years to learn this. I have no
11 idea what the police officers involved in this case knew
12 it, failed to tell the -- you know, in fact, the first --
13 Mr. Glover said he told the police that he could identify
14 the shooter.

15 THE COURT: Now, that's the part that the jury
16 never heard, Mr. Glover, and may not hear it so.

17 MR. MCCULLOCH: I offer that only for the purpose
18 of showing a problematic pattern ---

19 THE COURT: Well, at best it's maybe -- at best
20 it maybe three instances that I can recall -- maybe at
21 best, okay. So only two -- go ahead.

22 MR. MCCULLOCH: Mr. Meadors says that, you know,
23 what's in the statement and has been provided to us two
24 years ago was close enough. But I think if you'll listen
25 to what she has on -- on the tape, essentially what ---

1 THE COURT: Well -- stop. I was here like
2 everybody else. I heard it. I don't need to go back and
3 hear it for purposes of this motion.

4 MR. MCCULLOCH: I would submit that it doesn't
5 fall under the realm of admissible hearsay. It is
6 inadmissible hearsay. I would ask first for a mistrial.
7 If that is not granted, I would ask for an instruction to
8 the jury ---

9 THE COURT: All right. Your motion for a
10 mistrial is respectfully denied. I will be happy to tell
11 the jury they need to disregard the remark where the
12 witness, Mr. Porterfield, said that Mr. Adams said, it
13 was the Defendant that shot ---

14 MR. MEADORS: The guy I threw out of the bar, I
15 think is what he said.

16 THE COURT: All right. If that's what you want,
17 I will be happy to give it to you.

18 MR. MCCULLOCH: Your Honor, I would prefer it if
19 you would instruct the jury to disregard the statement
20 contributed to Mr. Adams, the victim, Mr. Adams,
21 testified to by Mr. Porterfield.

22 THE COURT: All right.

23 MR. MCCULLOCH: Rather than reiterate it. And I
24 would also ask for Mr. Porterfield not be allowed to
25 testify about the conversation that he now has already

1 testified about because I don't think it's within the
2 realm of ---

3 THE COURT: All right, stop. Let me take it one
4 at a time.

5 As a curative instruction, you asked me to
6 inform the jury that they should disregard the remark
7 from Mr. Porterfield -- the remark made by Mr. Adams to
8 Mr. Porterfield about who shot him.

9 MR. MCCULLOCH: At least the remark testified to
10 earlier by Mr. Porterfield that he attributed to Mr.
11 Adams.

12 THE COURT: All right, relax. I'm going to help
13 you out. But I want to get it straight. But I'm not
14 going to give you a mistrial. I don't think anything has
15 risen to the level of some sort of egregious
16 constitutional deprivation against Mr. Gaskins.

17 Yes, sir.

18 MR. MEADORS: Just for the record, also in
19 Investigator Amaro's follow-up report, he's the one that
20 talked to Mr. Porterfield. He puts in his notes, the
21 phone began to ring and they asked for a Black and also
22 talked about a shooting. It's just another -- this was
23 -- it was in the discovery. That's all.

24 Judge, the final -- just so we won't have to go
25 back here again, I wished we'd broken for lunch, my

1 fault. But Gaskins calls after this and identifies
2 himself as Black and says, have you got my phone ---

3 THE COURT: All right. Let me make it easier
4 for everybody. Bring the jury back out.

5 MR. MEADORS: And that's it.

6 THE COURT: Just -- no, just bring the jury back
7 out. I'm going to send them to lunch and we can -- we
8 can -- bring the jury back out, Mr. Bowen. I'm going to
9 send them to lunch and tell them -- just relax and then
10 we'll have plenty of time to sort this out.

11 And, Mr. McCulloch, you're just doing your job.
12 I know that. Mr. Meadors also knows that. Trials are to
13 be fair not necessarily perfect. We all do the best we
14 can. We struggle and we'll do the best we can here and
15 now.

16 (The jury returned to the courtroom at
17 approximately 12:40 p.m.)

18 THE BAILIFF: The jury's all present, Your
19 Honor.

20 THE COURT: Welcome back, Madam Forelady and
21 members of the jury. What's today, Wednesday? Okay,
22 thank you. Actually it was on yesterday, Tuesday, when I
23 gave you my preliminary instructions. I told you there
24 would be times during the course of this trial where
25 sometimes we can resolve matters up here and sometimes I

1 will have to send you back to your jury room because
2 there are certain arguments on the law, the only way I
3 can hear them is in your absence. And we've run into a
4 couple of those.

5 Now I remind you that it has nothing to do with
6 the merits of this case. The purpose of this trial is to
7 see whether or not the State can prove Mr. Gaskins guilty
8 beyond a reasonable doubt. But on the way you'll wonder,
9 in the end you'll know.

10 So once again, I've got to ask for your patience
11 and understanding. Don't hold an objection against
12 anybody involved. Don't hold it against the State, don't
13 hold it against Mr. McCulloch or anybody else. This is
14 just a process that we use to try to ensure that both
15 sides receive a fair trial. And that's what this up and
16 down and in and out has been all about, to ensure that
17 the information you receive is what you receive under the
18 rules.

19 Well, with that in mind, we're so close to 1:00
20 that I'm going to give you a few extra minutes. Now,
21 y'all still want 90 minutes or you want an hour? How do
22 you feel? Do you want me to give you an hour and a half
23 still? An hour is good enough? Okay.

24 So I'll give you an hour and 12 minutes or 10
25 minutes. I think that clock is a little bit off. But

1 let's say be back in the jury room at 2:00, okay. And
2 once again, I know some of y'all have been to some fine
3 places to dine nearby. I hope you find one and hope you
4 have a pleasant lunch and we'll see you back in the jury
5 room at 2:00.

6 Thank you all so very much. Just remember, don't
7 talk about the case. Keep you badges on during the lunch
8 hour.

9 (The jury retires from the courtroom at
10 approximately 12:44 p.m.).

11 THE COURT: This morning's been a little bit
12 frayed for everybody. Let's go to lunch right now.
13 We'll come back a little bit early and revisit all this,
14 put it on the record. Make sure you're covered, Mr.
15 McCulloch, on behalf of Mr. Gaskins and give you an
16 opportunity. We'll just sum it all up real quickly.
17 We'll revisit what we just did.

18 Thank you all so very much.

19 Mr. Porterfield, I've got to remind you, as Mr.
20 Meadors will tell you, you can't talk to anybody about
21 your testimony at this point. You can talk about the
22 weather or the Yankees last night but not about your
23 testimony, sir.

24 (The witness leaves the witness stand.)

25 We'll see y'all back at 2:00.

1 (The Court was in recess.)

2 (The witness returns to the witness stand.)

3 THE COURT: Sit down, Mr. McCulloch. Thank you.

4 There were some objections to, quote, a dying
5 declaration by Mr. Adams that Mr. McCulloch said he had
6 not been provided with, and of course the Solicitor said
7 they were unaware of. And things like this happen. That
8 was the basis of his motion for a mistrial.

9 And additionally, there was some reference by
10 Mr. Porterfield about somebody called and said it was
11 Black or something like that that -- am I right so far?

12 MR. MEADORS: Well, the first thing I think, we
13 never quite got to that, there was somebody called and
14 said -- it was a female asking for Black and something
15 about a shooting. Which he put in his statement and he
16 may have changed a word or two on the stand ---

17 THE COURT: That's the one -- all right, that's
18 the one that was so close that I thought was innocuous
19 but I told Mr. McCulloch I would give this instruction
20 anyway, even if it's over your objection.

21 MR. MEADORS: I understand.

22 THE COURT: Okay, out of an abundance of
23 caution. So let me ready it so Matthew McCulloch will be
24 -- and you're doing your job. I'm just kidding you a
25 little bit.

1 Request for instruction 1: Members of the jury,
2 I instruct you to disregard that portion of Mr.
3 Porterfield's testimony that was made -- that made
4 reference to anything attributed to Mr. Adams, any
5 statements I probably should add.

6 And second request: I instruct you further to
7 disregard the testimony of Mr. Porterfield that was made
8 -- that made reference to a statement made by an unknown
9 person in a telephone call received on the phone in
10 evidence.

11 MR. MEADORS: And for the record, while we're
12 here, the only other thing that I think Mr. -- that's
13 also included in the statement that Mr. Porterfield did,
14 I was going to ask him, in relation to that phone, did
15 you receive another phone call? And his testimony would
16 be ---

17 THE COURT: I did receive another phone call,
18 that's it.

19 MR. MEADORS: There was a person asking, is this
20 my phone, whatever is exactly in the statement. Let me
21 get it and see.

22 THE COURT: All right, that's fine.

23 MR. MEADORS: And not say who it was.

24 MR. MCCULLOCH: Your Honor, the statement says
25 that somebody called asking for their phone essentially.

1 And, you know, I think that is not -- you know, I guess
2 you could argue that's admissible hearsay but it's not --
3 I'm agreeable if they stick to something like that.

THE COURT: All right. Just stick to the statement that you were aware of since you received your discovery. That was the sticking point.

This is what's happened. The evidentiary objection was based on Brady and Rule 5 more so than ---

MR. MCCULLOCH: Well, Your Honor, the objection
10 was based upon the cumulative ---

11 THE COURT: Okay.

12 MR. MCCULLOCH: -- failures of diligence under
13 Rule 5 and I didn't think it was simply admissible
14 hearsay. I think it goes beyond -- I think it's
15 incriminating hearsay. But I respect your ruling as to a
16 mistrial ---

17 THE COURT: Well, I appreciate that.

18 MR. MCCULLOCH: I waive that objection and I
19 appreciate the instructions which I prepared and you ---

20 THE COURT: All right, let's sit down. That's
21 enough.

22 MR. MEADORS: And we worked through ---

23 THE COURT: Okay.

24 MR. MEADORS: --- but anyway, for the record, I
25 got a call from a guy who asked could he come and get the

Mistrial
Waived??

1 phone. That is what he put in his statement two and a
2 half years ago.

3 THE COURT: All Right.

4 MR. MEADORS: He's telling me now that he said
5 his name, Black. I understand ---

6 THE COURT: Don't say that, just say, he got a
7 call, somebody wanted their phone. And circumstantially,
8 I mean, they'll be able to put that -- do you have them?

9 THE CLERK: We have them, yes, sir.

10 THE COURT: All right. Is everybody ready?

11 MR. MEADORS: Yes, sir.

12 THE COURT: All right. You may invite them in,
13 Mr. Bowen.

14 (Whereupon, Court's Exhibit Number 7,
15 Defendant's Request for Instruction, was marked
16 for identification.)

17 (The jury returned to the courtroom at
18 approximately 2:10 p.m.)

19 THE BAILIFF: Jury's all present, Your Honor.

20 THE COURT: All right. Thank you, Mr. Bowen.

21 Welcome back, Madam Forelady, members of the
22 jury. Now, you recall just before you went to lunch, I
23 sent you back to your jury room a couple of times. And
24 the reason for that, I said in the beginning, there are
25 certain legal issues that have to be worked out sometimes

1 and the only way we can do that is in your presence
2 (sic). I've said that about four or five times already.

3 But as a result of some of that legal resolution
4 of these issues that cropped up, I need to instruct you
5 as follows.

6 Madam Forelady and members of the jury, I
7 instruct you to disregard that portion of Mr.
8 Porterfield's testimony that made reference to any
9 statements that were attributable to Mr. Adams. Mr.
10 Adams was the gentleman that was a victim and is now
11 deceased.

12 I further instruct you to further disregard the
13 testimony of Mr. Porterfield that was made that made
14 reference to statements made by an unknown person and a
15 telephone call received on the phone that's been admitted
16 into evidence.

17 Y'all understand what I just said?

18 JURORS: (Affirmative response.)

19 THE COURT: And when I tell you to disregard it,
20 what you must do is erase it from your mind and when you
21 go back to the jury room finally at the end of this trial
22 to deliberate, you cannot let these two things I told you
23 to disregard enter your discussions at all. It would be
24 unfair for you to do so.

25 With that in mind, I'll ask whether or not there

1 are any exceptions or additions to those ---

2 MR. MEADORS: Other than previously stated, no,
3 sir.

4 THE COURT: All right.

5 MR. MCCULLOCH: Thank you, Your Honor.

6 THE COURT: All right. You may continue with
7 your direct examination of Mr. Lindburgh Porterfield.

8 MR. MEADORS: If it pleases Your Honor.

9 THE COURT: Yes, sir.

10 DIRECT EXAMINATION CONTINUES

11 BY MR. MEADORS:

12 Q Mr. Porterfield, if you'll listen to my question
13 very carefully, please.

14 A Yes, sir.

15 Q Still relating to this phone, State's 49. Did you
16 get a call from a guy who asked to come -- who asked
17 if he could come and get the phone?

18 A Yes, sir, I did.

19 Q Now, I believe you testified this beforehand but you
20 said you know the Defendant Johnnie Gaskins by name
21 and sight (indicating)?

22 A Yes, sir.

23 (Pause.)

24 Q Sorry about that. Let me show you what's marked
25 State's 20. You testified you knew him by name and

1 sight but did you also -- did the police officer
2 show you a lineup?

3 Q Yes, sir?

4 A And further ask you, can you recognize the person
5 you saw in your establishment that night?

6 A Yes, sir.

7 Q And were you able to pick out a person?

8 A Yes, sir.

9 Q And who did you pick out?

10 A Photo number six right there.

11 Q And is that a photo of Johnnie Gaskins?

12 A Yes, sir.

13 Q And did you sign saying that?

14 A Yes, sir, I did.

15 Q Is Mr. Gaskins the person sitting right here by Mr.
16 McCulloch (indicating)?

17 A Yes, sir.

18 Q Just a few other questions. Are ---

19 THE COURT: Have you moved to introduce that
20 yet?

21 MR. MEADORS: I thought -- if I didn't, I
22 apologize. I move to introduce it and I apologize.

23 THE COURT: Subject to your previous objection
24 on Biggers?

25 MR. MCCULLOCH: Yes, sir.

1 THE COURT: All right, very well. So admitted.

2 MR. MCCULLOCH: Well, Your Honor, actually he
3 did show him those ---

4 THE COURT: Okay, so there is no objection?

5 MR. MCCULLOCH: No objection.

6 THE COURT: Okay, I'm sorry. Number 20, without
7 objection.

8 (Whereupon, State's Exhibit Number 20, Lineup
9 Presented to Lindburgh Porterfield, was admitted
10 into evidence.)

11 Q Just a few more questions, Mr. Porterfield.

12 A Yes, sir.

13 Q Are there still bullet holes in your establishment?

14 A Yes, sir.

15 Q From this night? And let me ask you about --
16 there's some video the jury has seen.

17 A Yes, sir.

18 Q Was that video coming from -- I mean, were those
19 your cameras?

20 A No, sir.

21 Q Okay. And those cameras were where?

22 A My neighbor in business next door, Heart Breakers, I
23 think.

24 Q They just happened to shine on your business and
25 your parking lot?

1 A Yes, sir.

2 Q Okay. And do you have any cameras -- or the
3 question, on February the 4th, 2007, that night and
4 the morning hours of February 5th, 2007 -- February
5 5th, 2007.

6 A Yes, sir.

7 Q Were there any cameras in your establishment?

8 A Yes, sir. We do have cameras but they didn't catch
9 any video of it.

10 Q So you had no video that night ---

11 A Yes, sir.

12 Q --- in your establishment?

13 A No.

14 Q So the only video we had was from the place next
15 door?

16 A Yes, sir.

17 Q And your video -- there's a something in the --
18 where you walk in that looks like a little video
19 camera. That was not working that night, is that
20 correct?

21 A It -- no, sir, it wasn't.

22 Q It just wasn't working?

23 A It wasn't working.

24 MR. MEADORS: That's all.

25 THE COURT: All right. Mr. McCulloch.

1 MR. MCCULLOCH: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. MCCULLOCH:

4 Q Mr. Porterfield, you saw Mr. Gaskins earlier that
5 evening?

6 A Yes, sir, I did.

7 Q Did you speak to him, did he see you?

8 A I think it was just like ---

9 Q Nodded at each other?

10 A Nodded, yeah.

11 Q And do you know what time that was, do you know?

12 A I think it was earlier in the night, I want to say
13 about the time we opened up. I want to say 3 or 4,
14 early, it was real early.

15 Q Now, how long have you been associated with this
16 club?

17 A The bar? Since it opened. It's been five years --
18 four years.

19 Q Are you an owner or manager?

20 A I'm one of the owners.

21 Q A part owner?

22 a Yeah, part owner, yeah.

23 Q Okay. You all had -- ever had to call the police to
24 come there before?

25 A Not major, no.

- 1 Q Sorry?
- 2 A No, not major.
- 3 Q Well, what is not major mean? Not a shooting?
- 4 A No shooting.
- 5 Q Okay.
- 6 A I mean, we ---
- 7 Q You called the police before?
- 8 A Yeah, of course, it's a bar. Yeah, we have.
- 9 Q Had to throw people out of the bar before?
- 10 A We put them out and if they don't want to leave on
11 their own, then we call -- most of the time by the
12 time the cops get there, they're gone. Because if
13 we threaten that we're going to call the cops, they
14 leave.
- 15 Q Ever found people with guns on the premises before?
- 16 A Not that I know of, no, sir.
- 17 Q On this particular night, I think you mentioned that
18 -- you employed bouncers regularly, every night you
19 had bouncers of your own, is that right?
- 20 A Not every night. That's only when we have a big
21 event sometimes we have them. And then like we had
22 one or two of them.
- 23 Q If I understood your testimony, bouncers that worked
24 for you as employees are not armed?
- 25 A No, they're not.

- 1 Q And the contract bouncers?
- 2 A They're armed.
- 3 Q Some folks that are permitted to be armed?
- 4 A Yes, sir, from my understanding.
- 5 Q You know they're armed?
- 6 A Yeah, I know the ones that I contract, they're
7 armed.
- 8 Q On this night, the -- you were inside at the time of
9 the shooting?
- 10 A Yes, sir.
- 11 Q Do you know how many shots you heard?
- 12 A I'm -- I can't recollect how many but it was more
13 than -- maybe more than five or six.
- 14 Q Different sounds of the shots, some shots one way,
15 some shots another way?
- 16 A No, I just heard just one shot, a gunshot, that's
17 all. A whole number of gunshots.
- 18 Q But I mean, did they have a different tint or a
19 different sound?
- 20 A No, sir, not that I can remember.
- 21 Q Where did they sound like they were coming from?
- 22 A Apparently outside.
- 23 Q Outside to the front?
- 24 A Outside to the front of the building, yes, sir.
- 25 Q You mentioned there were bullet holes in your

1 premises. Has your business ever been shot at
2 before this particular evening?

3 A No, sir.

4 Q Do you know how many people got thrown out that
5 night?

6 A I -- from my understanding, it was only two.

7 Q The cell phone you found, you found at around
8 midnight or earlier in the evening?

9 A I can't remember when I found it. I know I found it
10 earlier in the night, early like -- earlier in the
11 day. I'm saying like before -- during the game time
12 because I had the DJ to announce ---

13 Q So you -- excuse me, I don't want to interrupt you.
14 You found it well before the incident ---

15 A Yeah. Yeah, I found it way before the incident
16 happened.

17 MR. MCCULLOCH: Okay. That's all I have, thank
18 you.

19 THE COURT: All right. Anything on redirect?

20 MR. MEADORS: No, sir. Thank you.

21 THE COURT: You my step down, Mr. Porterfield.

22 (The witness leaves the witness stand.)

23 MR. MEADORS: Christopher Lyles.

24 (CHRISTOPHER LYLES, having first been duly
25 sworn, testified as follows:)

1 THE CLERK: Thank you. Please have a seat in
2 the witness stand and state your full name for the
3 record.

4 THE WITNESS: Christopher Lyles.

5 DIRECT EXAMINATION

6 BY MR. MEADORS:

7 Q Good afternoon, Mr. Lyles?

8 A Good afternoon.

9 Q All I ask of you, please, sir, if you'll just speak
10 loud enough for these ladies and gentlemen can hear
11 you and His Honor and the court reporter. Speak in
12 that mike if you need to, sir.

13 Mr. Lyles, as I do with every one of my
14 witnesses, will you please tell them where you're
15 from?

16 A Blair, South Carolina.

17 Q Blair?

18 A (Affirmative response.)

19 Q You were born and raised there?

20 A Yes, sir.

21 Q Where did you go to high school?

22 A Fairfield Central.

23 Q When did you get out of Fairfield Central?

24 A 1995.

25 Q What did you do after that, Mr. Lyles?

- 1 A Started working as a mechanic.
- 2 Q And is that still what you're doing today?
- 3 A Yes.
- 4 Q And then you've got a shop or work in a shop up off
5 -- between Winnsboro and Highway 213?
- 6 A Yes, on Reservoir (phonetic) Road, yes.
- 7 Q New Reservoir Road or Reservoir?
- 8 A Reservoir Road.
- 9 Q All right. And the name of that company is -- or
10 business is what?
- 11 A Southside.
- 12 Q Southside?
- 13 A Yes.
- 14 Q Please, sir. I want to take you back to the Super
15 Bowl on February 4th of 2007.
- 16 A (Affirmative response.)
- 17 Q Did you have an occasion to go to Club 360 on Bush
18 River Road over here in Columbia?
- 19 A Yes.
- 20 Q And who did you go with?
- 21 A My girlfriend.
- 22 Q And please don't take this the wrong way because I'm
23 no angel, but did you start drinking?
- 24 A Yes.
- 25 Q All right. And was it fair to say you had a lot to

- 1 drink?
- 2 A Yes.
- 3 Q Had a lot to drink?
- 4 A Yes.
- 5 Q All right.
- 6 A I was intoxicated.
- 7 Q Sir?
- 8 A I was intoxicated.
- 9 Q Well, I didn't want to lead you there to it but you
10 were intoxicated?
- 11 A Yes.
- 12 Q And did you and your girlfriend -- again I'm not
13 casting stones, but did y'all get in a little
14 argument?
- 15 A Yes.
- 16 Q All right. And as result of that, did they take you
17 out of the bar?
- 18 A Yes.
- 19 Q All right. And when you came out of the bar, did
20 they put anything on your hands or arms?
- 21 A Yes, they put handcuffs on me.
- 22 Q And when you got out of the bar or taken out of the
23 bar, what if anything do you remember happening
24 after that?
- 25 A I was intoxicated. I can't really remember what

- 1 happened. I don't even remember them taking me out
2 the bar.
- 3 Q All right.
- 4 A Actually.
- 5 Q Did you end up leaving?
- 6 A Yes.
- 7 Q The 360?
- 8 A Yes.
- 9 Q Did you have a gun with you when you were in 360?
- 10 A No.
- 11 Q Did you -- well if you didn't have a gun, you
12 couldn't have shot a gun, correct?
- 13 A No.
- 14 Q And how did you get from 360 to wherever you went?
- 15 A My girlfriend.
- 16 Q And what's her name?
- 17 A Takesha Ford (phonetic).
- 18 Q And whose car were you in?
- 19 A Her car.
- 20 Q Okay. And where did you go -- y'all go?
- 21 A To my mother's house in Blair.
- 22 Q And that's where?
- 23 A Blair, South Carolina.
- 24 Q Blair, South Carolina. And ---
- 25 THE COURT: You said Blair?.

1 MR. MEADORS: Blair, I'm sorry.

2 THE COURT: That's all right.

3 Q Did she drop you off there?

4 A Yes.

5 Q All right. Did you try to get her to stop and get
6 you something to drink on the way home?

7 A Yes.

8 Q Did she?

9 A Yes -- no. No, she didn't.

10 Q All right. Did -- you wanted something to drink?

11 A Yes.

12 Q All right. She dropped you at your house?

13 A Yes.

14 Q What did you do after that?

15 A I got in another vehicle.

16 Q Why?

17 A Came back to go get another drink.

18 Q All right.

19 A Got stopped by the police and got a DUI.

20 Q She dropped you off in Blair and you left to go get
21 another drink?

22 A Yeah.

23 Q And you got stopped and pulled for DUI?

24 A Yes.

25 Q All right. And whose car were you in?

1 A My mother's car.

2 Q And in that car, did you have a gun?

3 A Yes.

4 Q All right. That wasn't your mamma's gun?

5 A No.

6 Q Was that your gun?

7 A Yes.

8 Q Was that gun at anywhere near 360?

9 A No.

10 Q So when you came back to your house in Blair, you
11 got in the car and then you went ---

12 MR. MCCULLOCH: Object to leading, Your Honor.

13 MR. MEADORS: I was just trying ---

14 MR. MCCULLOCH: I understand.

15 Q But you got pulled for DUI?

16 A Yes.

17 Q Arrested for DUI?

18 A Yes.

19 THE COURT: Sustained.

20 Q Did they take the gun?

21 A Yes.

22 Q I'm showing you what's marked and I believe we've
23 shown this to Mr. McCulloch.

24 MR. MCCULLOCH: I've seen it.

25 Q State's 50, do you recognize that?

1 A Yes.

2 Q Is that your gun?

3 A Yes.

4 Q Was it or was it not taken off you when you got
5 arrested for DUI?

6 A Yes.

7 MR. MEADORS: State's 50, I believe without
8 objection.

9 (Whereupon, State's Exhibit Number 50, Gun of
10 Christopher Lyles, was admitted into evidence.)

11 Q Do you know what caliber this is?

12 A 38.

13 Q Do you know Johnnie Gaskins?

14 A No.

15 Q Do know Lamont Davis?

16 A No.

17 Q Do you know Deirdre Houston?

18 A No.

19 Q Q, do you know a fellow named Q?

20 A No.

21 Q You'd just had too much to drink that night, didn't
22 you?

23 A Yes.

24 Q You and your girlfriend still together?

25 A Yes.