

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Marlboro County

J. Michael Baxley, Circuit Court Judge

RECEIVED

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S.C. Supreme Court

BRANDON L. RAY,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-000588

A P P E N D I X

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

STATE OF SOUTH CAROLINA)
STATE,)
VS.) TRANSCRIPT OF RECORD
BRANDON LAQUAN RAY)
DEFENDANT)
_____)

07-GS-34-0657
07-GS-34-0658
September 10, 2007
Bennettsville, South Carolina

BEFORE:

THE HONORABLE HOWARD P. KING, JUDGE; AND JURY.

APPEARANCES:

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Attorney for the State

MICHAEL HOLT, ESQ.
Attorney for the Defendant

FRANCES BAKIS-RAY, RPR
Official Court Reporter

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1 THE COURT: Ladies and gentlemen of the jury panel,
2 if you would give me your attention I now need to ask you a
3 number of questions to determine your qualifications to serve
4 on the jury this week. Please give your attention to these
5 questions, and if any of them apply to you then respond
6 accordingly. Is there any member of the jury panel who is not
7 now a citizen or who is not a citizen of the United States of
8 America, if so, please stand.

9 (There was no response.)

10 THE COURT: Is there any member of the jury panel
11 who does not now reside in Marlboro County, if so, please
12 stand.

13 (There was no response.)

14 THE COURT: Is there any member of the jury panel
15 who does not possess a valid South Carolina driver's license
16 or an identification card issued by the South Carolina
17 Department of Public Transportation or a voter registration
18 certificate? It is not necessary that you possess all three
19 of these or two of these but only one of these three items.
20 If you do not possess at least one of these items please
21 stand.

22 (There was no response.)

23 THE COURT: Thank you. Is there any member of the
24 jury panel who has not reached his or her 18th birthday, if
25 so, please stand.

1 (There was no response.)

2 THE COURT: Is there any member of the jury panel
3 who wishes they had not reached his or her 18th birthday?

4 (There was no response.)

5 THE COURT: Is there any member of the jury panel
6 who is employed within the walls of this courthouse, if so,
7 please stand.

8 (There was no response.)

9 THE COURT: Is there any member of the jury panel
10 who is a county official such as a county auditor or a county
11 councilman or any type of county official, if so, please
12 stand.

13 (There was no response.)

14 THE COURT: Is there any member of the jury panel
15 who holds a law enforcement commission with or without pay;
16 that is, a commission issued by the State Law Enforcement
17 Division commonly referred to as SLED, that gives you the
18 power of arrest, if so, please stand.

19 All right, yes, sir, tell me your name please, sir.

20 THE POTENTIAL JUROR: Brian.

21 THE COURT: Do you recall your number?

22 THE POTENTIAL JUROR: Number 5.

23 THE COURT: Number 5.

24 THE DEPUTY CLERK OF COURT: Number 9, Your Honor.

25 THE COURT: Mr. Blue, you have a commission from

1 SLED for what.

2 THE POTENTIAL JUROR: I'm on auxilliary reserve.

3 THE COURT: Auxilliary reserve for what, for who?

4 THE POTENTIAL JUROR: McColl, South Carolina.

5 THE COURT: McColl, all right. And you have a
6 commission from SLED? That gives you power of arrest or you
7 just ride with them and then help out?

8 THE POTENTIAL JUROR: I ride with them, help out.

9 THE COURT: Okay, all right. Let me check on that.

10 Thank you, sir.

11 All right, ladies and gentlemen, the next three
12 questions are quite personal. You may not want to stand and
13 disclose this information openly in front of your fellow
14 jurors. I do not want to embarrass anyone but the law does
15 require that I obtain this information so I'm going to ask the
16 next three questions as a group, and after I've asked all
17 three questions I would request if any one of them applies to
18 you that you come forward and discuss it with me. First
19 question, is there any member of the jury panel who has been
20 convicted or who has pled guilty in a state or federal court
21 of a crime punishable by imprisonment for more than one year
22 and whose civil rights have not been restored by pardon or
23 amnesty? Now it's not necessary that you would have received
24 more than one year of imprisonment; but if you were convicted
25 or pled guilty to a crime for which you could have received

1 more than one year, I will need to know about that in just a
2 few minutes.

3 Second question, is there any member of the jury
4 panel who is unable to read, write, speak or understand the
5 English language. I always thought is was a strange question
6 that we're required to ask because if you're unable to
7 understand the English language I don't know how you would
8 understand what I'm asking you. But be that as it may, if
9 there's anyone who is unable to read, write, speak or
10 understand the English language I would need to know about
11 that in just a few minutes.

12 Third question, is there any member of the jury
13 panel who has less than a sixth grade education or its
14 equivalent. And I will tell you, that if you reached
15 adulthood, hold down a job, and support a family and shop in
16 the community you probably have the equivalent of more of a
17 sixth grade education. But if anyone has any questions about
18 it and wants to discuss it with me please come forward when I
19 ask you to do so.

20 So the three questions are, if anyone has been
21 convicted of a crime for which you could have received a
22 sentence of more than one year in jail, or if you're unable to
23 read, write, speak, or understand the English language, or if
24 you have less than a sixth grade education or its equivalent.
25 If any one of these three questions applies to you please

1 stand at this time, you come forward. Come to the, right to
2 the center here, and the bailiff will give me your name.

3 THE BAILIFF: Randall McNeil, number 89.

4 (Juror approached the Bench for an on-the-record
5 discussion.)

6 THE COURT: Randall McNeil. What's your situation?

7 THE POTENTIAL JUROR: Simple possession, simple
8 possession.

9 THE COURT: Okay. Is that here in South Carolina or
10 was that somewhere else in South Carolina? How long ago?

11 THE POTENTIAL JUROR: Back in '89.

12 THE COURT: Okay, you appeared in this courtroom?

13 THE DEFENDANT: Yes.

14 THE COURT: Okay. That would be a sentence
15 something you could get more than one year so you'll be
16 excused. Thank you.

17 THE BAILIFF: Elbert Milligan, 95.

18 (Juror approached the Bench for an on-the-record
19 discussion.)

20 THE COURT: What's your situation, Mr. Milligan?

21 THE FOREMAN: Well, I was out late one night,
22 got charged for felony larceny. I wasn't doing nothing but
23 actually I got charged in North Carolina, so I don't know. I
24 had to come tell you.

25 THE COURT: Did you -- what happened to the charge?

1 Did you appear in court?

2 THE POTENTIAL JUROR: They dropped it and gave me
3 probation.

4 THE COURT: You did? You came to court and pled
5 guilty and then got probation?

6 THE DEFENDANT: I guess I pled guilty. That's what
7 they give me, sir.

8 THE COURT: Was it up here?

9 THE POTENTIAL JUROR: Laurinburg.

10 THE COURT: Laurinburg, North Carolina.

11 THE POTENTIAL JUROR: They sent me over here. It
12 was grand larceny. I did probation then.

13 THE COURT: It wasn't grand larceny.

14 THE POTENTIAL JUROR: They called it misdemeanor
15 larceny.

16 THE COURT: Do you know what maximum you could have
17 gotten in North Carolina, what maximum?

18 THE POTENTIAL JUROR: They said a year.

19 THE COURT: A year, okay.

20 THE POTENTIAL JUROR: That's been 1980. I ain't
21 real good memory about that stuff.

22 THE COURT: Oh, I understand. You ---

23 THE POTENTIAL JUROR: My maximum punishment was a
24 year. I hope so. I didn't mean to be in it to start with.

25 THE COURT: I understand. We'll check on it. Thank

1 you very much.

2 All right, is there any member of the jury panel who
3 is not capable by reason of physical or mental infirmity of
4 rendering their jury service. Examples would be hearing,
5 seeing, heart trouble, anything of that nature. If so, please
6 stand.

7 All right, come forward please, ma'am.

8 THE BAILIFF: Annie Keys.

9 (Juror approached the Bench for an on-the-record
10 discussion.)

11 THE DEPUTY CLERK OF COURT: 66.

12 THE POTENTIAL JUROR: I was the last person. I
13 tried to call before today, I'm sorry, Your Honor.

14 THE COURT: What juror ---

15 THE POTENTIAL JUROR: And I'm not trying to get out
16 of it. I served every three years in New York and I served
17 once here. But my health, I'm a diabetic. I take 50 units in
18 the morning and 20 in the afternoon, plus I have high
19 cholesterol, high blood pressure, and arthritis.

20 THE COURT: All right, Ms. Keys.

21 THE POTENTIAL JUROR: And I would like to be
22 dismissed but some days I feel good and some days...

23 THE COURT: How old are you, Ms. Keys?

24 THE POTENTIAL JUROR: 65.

25 THE COURT: 64, okay.

1 THE POTENTIAL JUROR: I'll be 65 in March. But if I
2 have to come I'll come but I...

3 THE COURT: Let me see how many I've got. Let me
4 see what I can do. Thank you.

5 THE POTENTIAL JUROR: Okay, thank you, sir.

6 THE BAILIFF: Brandy Sweat, number 24.

7 (Juror approached the Bench for an off-the-record
8 discussion.)

9 THE COURT: Ms. Sweat now I believe, is it?

10 THE POTENTIAL JUROR: Yes, Brandy Sweat. I have
11 oral surgery in the morning.

12 THE COURT: That's a great reason to get out. You'd
13 rather be here I'm sure.

14 THE POTENTIAL JUROR: Yes, sir. Now they are going
15 see me in the morning. They think might have to reschedule
16 until Thursday; I'm not sure. I have to know when I'm getting
17 home.

18 THE COURT: I understand. Oral surgery. Well,
19 we'll make sure that you make your surgery tomorrow. What do
20 they tell you about how long you'll be laid up?

21 THE POTENTIAL JUROR: Is it Tuesday or Thursday ---

22 THE COURT: Tuesday or Thursday that ---

23 THE POTENTIAL JUROR: ---of this week.

24 THE COURT: What about it? I mean...

25 THE POTENTIAL JUROR: I'm having all my teeth cut

1 out. I'm being put to sleep.

2 THE COURT: Fortunately how long do they figure?

3 THE POTENTIAL JUROR: Five days.

4 THE COURT: I think we better transfer her to
5 another term. We'll transfer you to another term. You'll get
6 another notice from Mr. Funderburk.

7 THE POTENTIAL JUROR: In the mail or today?

8 THE COURT: Just like you got notice on this one you
9 got in the mail.

10 THE POTENTIAL JUROR: Yes, sir.

11 THE COURT: You'll get another one, another term of
12 court. You're free to go and you'll get another notice. This
13 was juror number 24. Has been transferred to another term of
14 court.

15 All right. Thank you, ladies and gentlemen. Now in
16 addition to those questions which all deal with your
17 qualifications there are a number of jurors who are exempt, or
18 certain people who are exempt from jury service. However, it
19 is up to the juror as to whether they wish to exercise that
20 exemption. So in that connection I'll ask you the following
21 questions and if any of you think that you have an exemption
22 based upon one of these reasons and wish to talk to me about
23 it, I'll have you come forward and we will discuss it. Has
24 any member of the jury panel served in the circuit court, that
25 is, the Court of Common Pleas or the Court of General Sessions

1 up here in this courthouse within the last three years, if so,
2 please stand.

3 (There was no response.)

4 THE COURT: Thank you. Is there any member of the
5 jury panel who is over the age of 65 years and wishes to be
6 excused? It has been my experience that our citizens over the
7 age of 65 make excellent jurors, but the law does provide that
8 if you're over the age of 65 that you wish to be excused then
9 I can excuse you or you can serve if you would like to, but it
10 is up to the juror to make that call. But is there any member
11 of the jury panel who is over the age of 65 years and wishes
12 to be excused, if so, please stand.

13 (There was no response.)

14 THE COURT: Thank you. Is there any member of the
15 jury panel who has legal custody and the duty of care for a
16 child less than seven years of age and wishes to be excused?
17 Now this does not mean if you have legal custody of a child
18 under the age of seven and you work and the child stays in day
19 care or with a family member. That would not be a legitimate
20 excuse. But if you have legal custody and duty of care of a
21 child less than seven years of age, no one to care for that
22 child, and you wish to discuss with me the possibility of
23 being excused please stand.

24 (There was no response.)

25 THE COURT: Is there any member of the jury panel

1 who is the primary caretaker of a person age 65 or older and
2 wishes to be excused, if so, please stand.

3 (There was no response.)

4 THE COURT: Is there any member of the jury panel
5 who is the primary care taker of a severely disabled person
6 who is unable to care for himself or herself and cannot be
7 left unattended and wishes to be excused, if so, please stand.

8 (There was no response.)

9 THE COURT: Thank you. Now with regard to this next
10 question I cannot excuse you for this reason but I can
11 transfer you to another term of court. If there's any member
12 of the jury panel who is a student, a teacher, or a key
13 employee of the school system and wishes to be transferred to
14 a term of court that would not interfere with those duties,
15 which of course normally would mean during the summer months.
16 But is there a member of the jury panel who is a student, a
17 teacher, or a key employee of the school system and wishes to
18 be transferred to a term of court that would not interfere
19 with those duties, if so, please stand.

20 (There was no response.)

21 THE COURT: Thank you. Now ladies and gentlemen --
22 well, one other question. Is there any member of the jury
23 panel who is a guard or keeper, an employee, or other official
24 employed at a penitentiary or detention facility and wishes to
25 be excused, if so, please stand.

1 (There was no response.)

2 THE COURT: All right. Now ladies and gentlemen,
3 the Court understands that there's sometimes very serious
4 reasons why a person feels they cannot serve for this
5 particular term of court. It is normally my policy to
6 transfer that juror to another term of court if I feel that
7 the reasons are valid. Ordinarily business reasons are not a
8 sufficient reason to be transferred or excused because if that
9 were the case most everyone would want to be excused or
10 transferred. But if there are members of the jury panel who
11 feel that they cannot serve this week for a good and valid
12 reason and wish to discuss it with me, please stand at this
13 time.

14 (There was no response.)

15 THE COURT: Thank you. If any juror has any other
16 reason other than the ones that have been presented to me and
17 think they cannot or should not serve this week or has any
18 other excuse that they would like to present to me, please
19 stand at this time.

20 All right, come forward please, sir. Let the record
21 reflect that one individual has stood.

22 THE POTENTIAL JUROR: 34.

23 THE BAILIFF: Steve Covington, 34.

24 (Juror approached the Bench for an on-the-record
25 discussion.)

1 THE COURT: All right, come up, Mr. Covington.

2 THE POTENTIAL JUROR: I had down on the
3 questionnaire about being on grand jury for four years and I
4 was on grand jury four years. You only asked four years.

5 THE COURT: You were on grand jury room within the
6 last five years?

7 POTENTIAL JUROR: Yes.

8 THE COURT: That's legitimate because grand jury
9 service is five year excuse so you're entitled to be excused.

10 THE POTENTIAL JUROR: Okay.

11 THE BAILIFF: Samuel Robinson, 151.

12 (Juror approached the Bench for an on-the-record
13 discussion.)

14 THE COURT: Come up, sir. Yes, sir.

15 THE POTENTIAL JUROR: I'm in poultry and it's my own
16 business I have no one working for me. I have no one to
17 attend, watch my houses.

18 THE COURT: Let me ask you, somewhere y'all's cut
19 off on transfers, do you have transfers carryover? Do you
20 have any transfers that carryover?

21 THE CLERK OF COURT: Yeah, he's only one.

22 THE COURT: That's -- I was thinking you had been
23 transferred before and I can't do it again, I'm sorry. We --
24 you're just going to have to make some arrangements for
25 scheduling of transfer one time though you had already been

1 transferred once but you can't do it again. I'm sorry, sir.

2 THE POTENTIAL JUROR: All right, thank you.

3 THE BAILIFF: Tommy Cousin, number 32.

4 (Juror approached the Bench for an on-the-record
5 discussion.)

6 THE COURT: Yes, sir, Mr. Cousin.

7 THE POTENTIAL JUROR: I got a question. I was --
8 had DUI conviction in '74, '73, '74.

9 THE COURT: First?

10 THE POTENTIAL JUROR: Yes, sir.

11 THE COURT: That's less than a year so that's not
12 something that disqualifies you.

13 THE POTENTIAL JUROR: All right. I just wanted
14 to...

15 THE COURT: Thank you, sir. Counsel, come around.
16 One more thing let me ask you.

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

19 THE COURT: All right, juror number 95,
20 Mr. Milligan, for the reasons given to me at the Bench you
21 will be excused. Mr. Milligan, you're excused.

22 Ms. Keys, I'm also going to excuse you for medical
23 reasons that you gave me.

24 POTENTIAL JUROR: Thank you, sir.

25 THE COURT: Yes, ma'am.

1 All right, to the information for the bar then,
2 jurors number 89 has been excused, juror 95 has been excused,
3 juror number 66 has been excused, juror number 24 has been
4 transferred, juror number 34 has been excused. He served on
5 grand jury within five years and that is a legitimate excuse
6 to be excused. I find that all the rest of you have not been
7 excused or transferred are qualified to serve this week.
8 Thank you, ladies and gentlemen. I find all of you that have
9 not been excused are qualified to serve as jurors this week.

10 (WHEREUPON, State Exhibits Nos. 1
11 through 19 were marked for identification only, and the
12 proceedings were concluded to be resumed on September 11,
13 2007.)

14 (WHEREUPON, State Exhibits Nos. 20, 21, 22 were
15 marked for identification only.)

16 THE COURT: Back on the record with regard to the
17 matter of State versus Brandon Laquan Ray. Let the record
18 reflect that the State is present and represented by
19 Ms. Munnerlyn. The defendant is present with his counsel, Mr.
20 Holt. We are ready to go forward. Counsel, it has been
21 brought to my attention that there was an article in the
22 newspaper, Marlboro Herald Advocate. That came out yesterday
23 afternoon. I discussed this matter with counsel in chambers.
24 My understanding is the way that the newspaper is distributed
25 is that it comes out on Monday afternoon. It sold many racks

1 and may be on the street on Monday and then mailed to
2 subscribers who will get it today. Based upon that
3 information I think that it is appropriate that I inquire of
4 the jury as to whether anybody has read any articles or seen
5 any news reports regarding this case as yesterday. I of
6 course admonished them not to do so, but I think I need to ask
7 them that question and will ask them that. First of all, if
8 any of them indicate that they have, it would be my intention
9 to have all the jurors go back to the jury room and bring out
10 those individuals one by one and individually ask them about
11 it. Any objection to that procedure on behalf of the State,
12 Ms. Munnerlyn?

13 MS. MUNNERLYN: No, Your Honor.

14 THE COURT: On behalf of defendant Mr. Holt?

15 MR. HOLT: No, Your Honor.

16 THE COURT: All right. Bring the jury in please.

17 (WHEREUPON, the jury was returned to the
18 courtroom at approximately 9:42 a.m., and
19 the following proceedings commenced in
20 open court.)

21 THE COURT: Good morning, ladies and gentlemen, and
22 thank you for your promptness in being back here and we are
23 now ready to go forward. You will recall that yesterday
24 afternoon before we adjourned I admonished you and cautioned
25 you about reading any news stories or listening to any

1 broadcasts, media stories about this case over the evening
2 recess. And I need to inquire now of you whether anybody on
3 the jury has read anything about this case over the evening
4 recess or has seen any newspaper articles or heard any
5 broadcast media, regarding this case in any manner whatsoever
6 over the evening recess? If anyone has seen any stories or
7 heard anything on the newspaper, on the radio or television
8 over the evening recess, if you would signify by raising your
9 right hand.

10 (There was no response.)

11 THE COURT: All right. It appears to be that no one
12 has read anything and that we can go forward with this matter.
13 Again, ladies and gentlemen, from time to time during the day
14 of course we will take breaks. I'm not sure how long that
15 case will take, but we will break for lunch. It may be
16 tomorrow before we -- while we're still on this case. And
17 again, you may be excused for the evening and again, I would
18 caution you that you have got to decide this case based upon
19 what you hear in this courtroom and not on the basis of what
20 anyone else may say, including anything that may be in the
21 news media either in the print media or broadcast media and
22 that is the reason you are asked not to read anything or
23 listen to anything that concerns the case. With due respect
24 to all of my friends in the news business and in the media, t
25 their reports of what actually happens in court is not always

1 the most accurate. And it's always accurate to exactly what
2 happens in court. And you've got to decide the case based on
3 the testimony you hear from this witness stand and from any
4 exhibits that are introduced into evidence and not on the
5 basis of anything else that you might hear or see. So with
6 that, I will again admonish you not to pay any attention to
7 anything that is in the news media in any manner whatsoever.

8 All right, now ladies and gentlemen, we are ready to
9 go forward with this matter and I am going to ask the clerk if
10 he would swear the jury panel for me please.

11 THE CLERK OF COURT: If you'd stand and raise your
12 right hand please.

13 (WHEREUPON, the jury was sworn at 9:43
14 a.m.)

15 THE CLERK OF COURT: Be seated please.

16 THE COURT: Thank you. And again, I thank you for
17 your promptness in being back here. Mr. Cousins, I'm going to
18 ask if you'll come down and take the foreman's seat for me
19 please. If you two gentlemen will exchange places. All
20 right, before we begin the actual trial of this case I thought
21 it might be helpful if I can explain to you basically how the
22 trial proceeds. I know all of you have seen trials on
23 television, but I think that you will find that it is a great
24 deal different in real life. First of all, the State will
25 make an opening statement. An opening statement is not

1 evidence. It is simply an outline to help you understand why
2 the State expects or what the State expects the evidence will
3 show. The defendant may, if he wishes to, present an opening
4 statement but he doesn't have to for reasons that I will
5 explain later. Following the opening statements you will hear
6 the testimony and evidence in this case. This will consist of
7 testimony from the State's witnesses as well as any physical
8 exhibits that may be introduced into evidence. And I will
9 also tell you that if there are physical exhibits introduced
10 into evidence you may hear the attorneys ask for permission to
11 publish those exhibits to the jury. That is simply a
12 legalistic term meaning show those exhibits to the jury, and I
13 will grant the attorneys that right to publish the exhibits
14 and that means that they can pass them around to you while you
15 are seated in the jury box. Do not be concerned if you do not
16 have as long to look at the exhibits as you would like to
17 while you're sitting there in the jury box. Anything that is
18 introduced into evidence will go with you when you retire to
19 reach a verdict in this case, and it will go back to the jury
20 room with you.

21 Following the completion of the testimony the
22 attorneys will again have the opportunity to make what is
23 called a closing statement or summation to you. This is an
24 opportunity for the attorneys to summarize the case from their
25 prospective points of view. Again, these arguments are not

1 evidence. Following the closing statements by the attorneys I
2 will instruct you on the law of South Carolina as it pertains
3 to the issues that have arisen in this case. And when I have
4 completed my instructions to you you will be permitted to
5 begin your deliberations in order to reach a verdict. Now
6 ladies and gentlemen, you are now the jury in this case and I
7 want to take a few minutes to tell you something about your
8 duty as jurors and to give you some basic instructions. At
9 the end of this trial I'll give you more detail instructions
10 and those instructions will control your deliberations.

11 It will be your duty to decide from the evidence
12 what the facts are. You and you alone are the judges of the
13 facts. You will hear the evidence, decide what the facts are,
14 and apply those facts which the law can -- which according to
15 the law, which the Court will give to you. That is how you
16 reach a verdict. In doing so you must follow the law whether
17 you agree with it or not. The evidence will consist of the
18 testimony of witnesses, documents, and other things received
19 into evidence as exhibits and any facts on which the lawyers
20 agree or of which I may instruct you to accept.

21 Now you should not take anything that I may say or
22 do during this trial as indicating what I think of the
23 evidence or what your verdict should be. That is a matter
24 that is entirely up to you. The same law that makes you the
25 judge of the facts makes me the judge of the law. You must

1 take the law as I give it to you regardless of what you think
2 the law is or what the law ought to be. If I'm wrong on the
3 law there's another time and place for that error to be
4 corrected, but for this case you must accept the law as I
5 charge it to you.

6 Now this is a criminal case brought by the State of
7 South Carolina. The State charges the defendant with two
8 crimes, the crime of murder and the crime of possession of a
9 weapon during the commission of a violent crime. The charges
10 against the defendant are contained in the indictments. The
11 indictments are not evidence of anything. They are simply the
12 description of the charges made by the State against the
13 defendant. The defendant has pled not guilty to these charges
14 and is presumed innocent unless and until proven guilty beyond
15 a reasonable doubt. A reasonable doubt is a kind of doubt
16 that would cause a reasonable person to hesitate to act. A
17 defendant has the right not to testify and never has to prove
18 innocence or present any evidence. The burden of proof is
19 always on the State of South Carolina.

20 Now there are certain things that are not evidence
21 and you must not consider them as evidence in deciding the
22 facts in this case. Statements and arguments of the attorneys
23 are not evidence. Questions and objections of the attorneys
24 are not evidence, and testimony that I instruct you to
25 disregard is not evidence. Evidence may be direct or

1 circumstantial. Direct evidence is testimony by a witness
2 about what that witness personally saw or heard or did.
3 Circumstantial evidence is indirect evidence. The law permits
4 you to give equal weight to both, but it is for you to decide
5 how much weight to give to any of the evidence. There are
6 rules of evidence which control what can be received into
7 court. When a lawyer asks a question or offers an exhibit
8 into evidence and the lawyer on the other side thinks that it
9 is not permitted by the rules that lawyer may object. If I
10 overrule the objection the question may be answered or the
11 exhibit may be received. If I sustain the objection the
12 question cannot be answered and the exhibit cannot be
13 received. Whenever I sustain an objection to a question or
14 deny a motion to admit an exhibit into evidence you must
15 ignore the question or the existence of the exhibit, and you
16 must not guess what the answer would have been or what the
17 exhibit would have shown.

18 Sometimes it may be necessary for me to request that
19 you leave the courtroom while I discuss with the attorneys
20 legal questions that come up during the trial. If this occurs
21 you should not speculate about our discussions or the reason
22 that you were asked to leave the room. This is simply a
23 procedure that the law requires when certain legal issues
24 arise. There also may be occasions when I ask the attorneys
25 to approach the Bench so that I can discuss a legal issue with

1 them in private. I will do this as often as possible so that
2 you will not be required to leave the room more than is
3 absolutely necessary. Again, if I ask the attorneys to step
4 up to the Bench or if I ask you to leave the room please don't
5 think that anybody is trying to hide anything from you to or
6 keep any evidence from you. This is simply a procedure used
7 by all lawyers and by all courts to determine and decide legal
8 questions.

9 Now in deciding the facts of this case you may have
10 to decide which witnesses to believe and which witnesses not
11 to believe. This is called credibility. You may believe
12 everything a witness says or only part of it or none of it.
13 In deciding what to believe you may consider a number of
14 factors including the witness's ability to know or hear or see
15 the things that witness testified to, the quality of the
16 witness's memory, the witness's manner or demeanor while
17 testifying, whether the witness has an interest in the outcome
18 of the case, or any motive, bias, or prejudice, whether the
19 witness was contradicted by anything the witness said or wrote
20 before the trial or by any other evidence. And how reasonable
21 was the witness's testimony when considered in light of other
22 evidence which you do believe.

23 Now just a few words to you about your conduct as
24 jurors. Some of these things I've already told you but they
25 are important enough they bear repeating. Do not talk to each

1 other about this case until the end of the case when you go to
2 your jury room to decide on your verdict. Do not talk with
3 anyone else about this case until the trial is ended and you
4 have reached a verdict and you have been discharged as jurors.
5 This means do not discuss the case with members of your family
6 or friends or with anyone else. You may tell them that you
7 are serving as a juror, but don't tell them anything about the
8 case until you have been discharged by me. And again, that is
9 pretty obvious because you've got to decide this case based
10 upon what you hear in this courtroom and not on the basis of
11 what anyone else might say. Do not let anyone talk to you
12 about the case. If anyone should try to talk to you, get
13 their name or their description and report it to me
14 immediately. And again, as I said, do not read any news
15 stories or articles or listen to any radio or television
16 reports about this case. You are not to consider in evidence
17 anything you may see or hear when court is not in session. Do
18 not do any research such as consulting dictionaries or other
19 reference materials or the internet and do not make any
20 investigation about the case on your own. If you need to
21 communicate with me simply have your foreman give me a signed
22 note, and I will try to address your problem and resolve it.
23 And finally and probably most important, do not make up your
24 mind about what your verdict should be until you have heard
25 all of the testimony and evidence in this case and the

1 instructions on the law by the Court. You will be instructed
2 when to begin your deliberations by either me or the bailiff.

3 Are there any objections to my opening remarks on
4 behalf of the State?

5 MS. MUNNERLYN: No, Your Honor.

6 THE COURT: On behalf of defendant, Mr. Holt?

7 MR. HOLT: No, Your Honor.

8 THE COURT: All right. Ladies and gentlemen, the
9 first thing that we do in connection with any trial is the
10 opening statement and for that purpose I will recognize the
11 solicitor, Ms. Munnerlyn.

12 MS. MUNNERLYN: Thank you, Your Honor, may it please
13 the Court.

14 THE COURT: Yes, ma'am.

15 MS. MUNNERLYN: Mr. Holt, ladies and gentlemen of
16 the jury, good morning. As I have already introduced myself I
17 am Elizabeth Munnerlyn and I am in this case today the
18 assistant solicitor who is basically the prosecuting attorney
19 and I represent the State, Marlboro County, and the citizens
20 of this area in prosecuting this matter. And more
21 specifically, today I represent the family of Maurice McRae
22 who is not here to speak for himself any longer. And you have
23 heard yesterday during the drawing of the jury and this
24 morning from the judge that the charges are murder and
25 possession of a weapon during the commission of a violent

1 crime. And the judge will go into more specifically what the
2 law is and what the elements of those two crimes are. But it
3 is, of course, the State's responsibility; it is our
4 responsibility to prove to you beyond a reasonable doubt that
5 the defendant Brandon Ray is guilty of both of these two
6 crimes. And I'm going to tell you upfront that I don't think
7 there's any question Brandon Ray shot Maurice McRae. Even the
8 defendant does not deny that. The question today and
9 throughout this trial will be did he act in self-defense.
10 That's going to be his claim. In order, however, to be
11 successful and to establish a claim of self-defense there are
12 actually four elements, and I don't believe once you've heard
13 the evidence that he to be successful in establishing that
14 self-defense claim.

15 But let me just tell you what occurred back on
16 October the 14th of 2006. The victim of course was Maurice
17 McRae and he was at that time seeing a girl by the name of
18 Shayna Whaley. And she's going to become an important person
19 because it is the State's contention that she is the reason
20 for this particular event. Shayna Whaley was of course seeing
21 Maurice McRae. They were staying together off and on during
22 this particular time. She had also been the girlfriend of
23 Brandon Ray, sometime off and on with him for some period of
24 time ending a few months prior to this particular incident.
25 And you will also hear that Brandon Ray and Maurice McRae knew

1 each other, and they have a history of disputes between them.
2 They had problems in school. There will even be some evidence
3 that will come out that they had a disagreement, a problem
4 about a month prior to this, at a football game. So we know
5 that they weren't friends, didn't get along, and now they had
6 a girl they were disputing over.

7 And on this particular day, October the 14th of last
8 year, Brandon Ray in the middle of the afternoon, a little
9 after 1, 1:30, Brandon Ray asked his cousin Rondell Knight to
10 bring him to the Apartments where Shayna Whaley lived.
11 That's of course in McColl. If any of you are familiar with
12 McColl you know the Apartments are there. I think they
13 are actually in the town limits now but under just on the
14 outskirts of McColl. She was living there. Maurice McRae was
15 there as well. She was not there this particular day when he
16 came. And you will hear from the witnesses. There are a
17 number of people who were in the parking lot when these two
18 arrived, Rondell Knight and the defendant Brandon Ray. They
19 approached, and immediately when they pull up in the parking
20 lot these other witnesses approached the car. And the
21 defendant asked not for Shayna but he asked, where's Maurice,
22 look for Maurice. Nobody -- there had been no discussion
23 about that, but the first thing he asked is where's Maurice.
24 Maurice and Shayna were staying actually in there.
25 And this is just for demonstrative purpose; we'll be using

1 this particular drawing. She is -- there are a number of
2 buildings in Apartments, and they were living in
3 buildings that come up here in front of Maurice
4 is over here. They proceed to get out and approach Maurice
5 who is standing with another gentleman and have a conversation
6 with him. As soon as they approach, Maurice immediately
7 begins fussing at Rondell for bringing Brandon there because
8 he knows they don't get along. And so there is a disagreement
9 and Maurice goes up to the apartment and says he's got
10 something up there. No question, he goes up to the apartment.
11 He comes back out. They go back to their car, back out, and
12 wait. They don't go ahead and leave; they wait till Maurice
13 comes back out. He comes back out, is coming back over in
14 front of where they backed out, and it becomes important
15 what's said. Maurice McRae is walking back across and he
16 says, I got to holler at you. Brandon Ray, the defendant,
17 then says, I got you now, and shoots him one time in the
18 chest. Maurice claims, you got me, you got me, and he falls.
19 At that point they go tearing out of the parking lot and
20 they're gone. They don't stop. They don't go to law
21 enforcement and say, oh, I was afraid, I was acting in
22 self-defense or anything of that nature. They leave. And the
23 defendant is not seen again for more than a month when he is
24 apprehended in High Point, North Carolina. He doesn't stay
25 around here; he leaves. And you're going to hear from a

1 number of witnesses who say that there was -- there was no
2 threatening confrontation at that particular juncture when the
3 gunshot was fired. That statement was made and a fire rang
4 out. There was nothing in Maurice's hand. There were no
5 statements -- no other statements made by him, and there was
6 never anything found on him thereafter. And I think once you
7 hear from all the witnesses, the several people who were
8 standing in the parking lot, the gentleman who was standing
9 over at when they had the initial conversation
10 that you will be able to determine that the defendant Brandon
11 Ray is guilty of both murder and possession of a weapon during
12 the commission of a violent crime. Thank you.

13 THE COURT: Mr. Holt, does defendant care to make an
14 opening statement?

15 MR. HOLT: Yes, Your Honor.

16 THE COURT: You may.

17 MR. HOLT: May it please the Court.

18 THE COURT: Yes, sir.

19 MR. HOLT: Good morning, my name is Michael Holt.
20 Briefly I introduced myself to you yesterday afternoon. I did
21 tell you I'm a lawyer. I work by myself and it's a pleasure
22 just to come up here and try a case before you. I enjoy
23 coming to Malboro County. I have the privilege of
24 representing my friend Brandon Ray. Brandon is a young man, a
25 man that many of us will probably know. He's 20 years old;

1 he's still a kid. He's trying to put a face on today for you
2 so that you'll think he's a man. He's a kid in a lot of ways
3 in that he giggles, he's kind of goofy, he's shy, he's very
4 scared. He's also very nervous. Brandon is born and raised
5 in Marlboro County. I think he's lived in most of the areas
6 of the county at various junctures in his life. I want you to
7 know Brandon because it's important that you see him in a
8 different light than what you're going to be represented to in
9 the State's case. I have a great deal of respect for
10 Ms. Munnerlyn and her professionalism. I respect the job
11 they're trying to do. You can believe with a great deal of
12 passion and conviction to what you're doing and in the story
13 they're going to try to present to you you can believe that
14 and yet still be wrong. I think they have it wrong. There is
15 no question in my mind that this is a case of self-defense.
16 The Court is going to instruct you on what constitutes
17 self-defense. I can tell you, Ms. Munnerlyn can tell you,
18 what the judge tells you is what self-defense consists of.
19 And I think as you listen to this case, you listen to the
20 various witnesses, especially if you're my witness, I think
21 that you're going to find that the issues in this case meet,
22 that the facts meet the issue of defense of self-defense.

23 This is a complicated case. You're going to hear
24 from various law enforcement officers, none of which were
25 there. You're then going to hear from a slew of witnesses,

1 some of who were there, some of who say they were there.
2 They're going to characterize my client in a light that's not
3 very attractive; and I think that's going to be unfair,
4 unwarranted. I think once you get to know Brandon Ray you'll
5 find him to be a scared young man, a man who is nervous. And
6 I hope that the nervousness that you might see him today is
7 not -- you don't take that for anything else other than just
8 being nervous.

9 There is a victim in this case and it's a tragic
10 case and we're all very sorry for that, but in some ways
11 Brandon is a victim too. And I want you to continue to look
12 at him, look in his eyes as you hear this case, and I think
13 once it's concluded you'll find that it was a case of
14 self-defense. Oftentimes in a case I will try to tell little
15 stories to frame the case so that when you're -- as you're
16 going through this process you might remember that story but
17 the story similar to one Ms. Munnerlyn told you, but there is
18 two young men that go to an apartment to see a young lady,
19 another man not expected to be there confront him. He's
20 standing with another individual man standing in front of the
21 apartment. We'll call him Mr. X. As the young men approach
22 the apartment he insults them, he uses vulgar language, and
23 then he threatens them. And he says he's going to go into the
24 apartment and he says he's either going to get a gun or he
25 says that he is going to -- he's going to go get something for

1 him. The threat's been made; he's instructed him to leave.
2 The two young men then back away and walk back to their car,
3 get in the car, and are trying to leave. Mr. X coming out of
4 the apartment said he was going to go into -- approaches the
5 car, not in a friendly manner as the State may want you to
6 think. He comes; he's intimidating. He's scared. He's
7 already made the threats. Two young men who were in the car
8 were trying to leave, and that's when the fatal shot is fired
9 after Mr. X is in the process of pulling the gun out. That's
10 what the State's not going to tell you. That's what I think
11 you're going to hear today. And when you hear these facts,
12 that story I think is going to come out. I appreciate your
13 time today. I promise we'll go very quick. My client is not
14 able to speak to you; he speaks to you through me. And he has
15 asked me to thank you for being here. This is a very
16 important day. He's been incarcerated now at the detention
17 center for almost a year. He has been incarcerated so it is
18 very important for you to be here and listen to this case.
19 Thank you for your time.

20 THE COURT: All right, Ms. Munnerlyn, you may call
21 your first witness.

22 MS. MUNNERLYN: Tommy Langley.

23 WHEREUPON,

24 TOMMY LANGLEY,
25 having been duly sworn by the Deputy Clerk of Court,

1 testified as follows:

2 THE DEPUTY CLERK OF COURT: Be seated and state your
3 full name.

4 DIRECT EXAMINATION

5 BY MS. MUNNERLYN:

6 Q State your full name for the record.

7 A Tommy Langley.

8 Q Where are you employed?

9 A McColl Police Department.

10 Q In what capacity?

11 A Chief of police.

12 Q Okay. And how long have you been employed in that
13 capacity?

14 A About nine years now, ma'am.

15 Q Okay. And so you were working as chief of McColl
16 Police Department back in October of last year?

17 A Yes, ma'am.

18 Q Okay. And back on October the 14th of last year
19 were you working?

20 A No, ma'am. Actually I was off that particular day,
21 but I went by the police station and I was talking to a couple
22 of officers that was working and that's when the call come in
23 as far as the shooting at the apartments so I actually went
24 and answered the call with them.

25 Q Okay, all right. So do you remember about what time

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1 the call came in?

2 A Yes, ma'am. The call came in at approximately --
3 the call came in at 1:48 is actually when the call was
4 dispatched out to the officers.

5 Q Okay. And this was for a shooting, is that what you
6 indicated?

7 A It was called out as far as a shooting, shooting at
8 Apartments in front of Apartment is the way
9 it was dispatched out, yes, ma'am.

10 Q All right. And where are the Apartments
11 located?

12 A Actually, as you're going down Main Street just as
13 you're getting right at the end of the city limits you be on
14 what they call Road and cross over the tracks, and
15 it's the apartments there on the left which is actually
16 indexed into the city.

17 Q Okay. They are actually within the city limits?

18 A Yes, ma'am.

19 Q Okay. And there are a number of buildings there at
20 the apartment complex?

21 A Yes, ma'am. I think it goes from up to, if I'm
22 not mistaken like or , up to , yes, ma'am.

23 Q Okay, all right. And you said although you were not
24 working you did respond to along with the other officers to
25 this particular call?

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1 A Yes, ma'am. The officer that was working was
2 actually by himself so when we got the call, which is kind of
3 unusual that time of day, so actually I went with him on the
4 call, yes, ma'am.

5 Q And this was shortly after lunch time?

6 A Yes, ma'am.

7 Q Okay, all right. And when you arrived there how
8 long would it take you to get out there?

9 A Basically you can go anywhere in McColl within a
10 mile of any district within no time. Actually we arrived
11 there actually at 1:51 so that it's showing when he signed
12 1023 at the apartments. The call come out at 1:48.

13 Q So it took about three minutes from the time the
14 call came out until y'all physically arrived there?

15 A Yes, ma'am.

16 Q Okay. And when you arrived tell us what you found.

17 A When I arrived on the scene I noticed a gentleman at
18 the time, didn't know who he was at the time, but I noticed
19 the victim Mr. McRae. He was lying in front of
20 right there in the parking lot in front of . He was just
21 lying there in the parking lot. There was four or five other
22 gentlemen laying -- standing around him at the time. And then
23 when we pulled up and walked out to the victim to try speak to
24 Mr. McRae, but at that time he was actually just gasping for
25 air, wasn't able to get anything out of him at the time. And

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1 he actually was laying approximately right up in this here
2 right in this parking lot here.

3 Q Let me ask you, first of all, this diagram right
4 here, is that an accurate depiction of the layout of the
5 building there at Apartments?

6 A Yes, ma'am. Pretty accurate as far as all the
7 buildings and the parking lot kind of runs here. You can come
8 in parking in the apartments this way or out this way. Front
9 entrance here, entrance here. This is what they call
10 , exit the parking drive, and Road is in here.
11 We would actually come in here and turn into the parking lot
12 here to get here. That's the way we came in. We came in on
13 , turn here, come through here. The officers right
14 up in here. We turned to the right here and of course we
15 parked right up in here. Like I say, there was a crowd
16 standing right over here where the victim was at the time.

17 Q Okay, all right. And you said his body was lying
18 about where you were just pointing?

19 A Yes, ma'am. I'd say about right up in here is about
20 where he was laying. He was right up -- there was a sidewalk
21 right up in here, just right there in the parking lot just
22 before you get to the sidewalk. He's laying in the parking
23 lot.

24 Q Okay. That is parking spaces there or the roadway?

25 A Parking spaces.

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1 Q Okay, all right. So his body was actually in the
2 parking spaces themselves?

3 A Yes, ma'am. When we arrived he was there in the
4 parking space.

5 Q Okay. Were there any vehicles parked there?

6 A There were a old mustang that's been parked there
7 for several months. I don't think -- I think it was miss --
8 had a couple of flat tires; it'd been there for a long time.
9 It was parked right here in the first parking lot, the first
10 parking space, I'm sorry.

11 Q Okay, all right. And you said there were a number
12 of people standing around?

13 A Yes, ma'am.

14 Q Okay. And how -- was the -- did the ambulance
15 arrive with you or shortly thereafter, or when did they
16 arrive?

17 A No, ma'am, it was a little while later when the
18 ambulance arrived. As a matter of fact, when we got on scene
19 and seen the nature we had dispatched -- or I had dispatched
20 back into dispatch and asked them to 1033 which means to try
21 to get there as quick as possible, you know, it's real
22 serious, it's real serious at that time. And they actually
23 came up it was shortly after.

24 Q Okay, all right. Did you talk to any of the
25 witnesses there?

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1 A Yes, ma'am. One of the witnesses was his brother.
2 I remember his brother. I think his name was Charles McRae.
3 He was there. And I think there was a Hailey. Like I said,
4 there was four, five there at the scene. Some of them was
5 family members so basically they stayed there until the
6 ambulance got there. And once the ambulance got there and
7 loaded him up the other officer that was with me, Officer
8 Willis, he left to go to the ER to check on the status of the
9 victim. At that time I tried to get as many witnesses as I
10 could at the time to follow me up to the police station to try
11 to get some more information from that time.

12 Q Okay. At that particular time did you have any
13 identifications of any suspects at this particular shooting?

14 A At that time based on investigations from some of
15 the witnesses out there we were give -- we were stated that
16 two suspects' names and a description of a vehicle that was
17 supposed to have been involved. And the description was give
18 to us as '98 gray Dodge Stratus. And also suspects' names was
19 Rondell Knight and a Brandon Ray. So at that time we called
20 dispatch and had central to dispatch out to local authorities
21 and deputies and the city of Bennettsville, you know, be on
22 lookout for that vehicle that was supposedly involved at that
23 time.

24 Q Okay, all right. Was there any evidence collected
25 by you or anyone on your behalf there at the scene?

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1 A No, ma'am. Actually on the scene, like I say,
2 normally in a shooting situation like that there are -- excuse
3 me, they are evidence. But like I say, Mr. McRae, was lying
4 here, just lying here. Really wasn't no blood stains. It was
5 a, I mean, what I observed he like had a gunshot wound to the
6 right side of his chest, just one little bullet hole. This is
7 the only thing I seen, wasn't a whole lot of blood. I could
8 see him like gasping for air or whatever. Like I said, it was
9 a few minutes later the ambulance came out; they picked him
10 up. No blood stains there. No suspects' vehicles around so
11 there really wasn't a whole lot there. There wasn't any, you
12 know, bullet casings or anything like that so really wasn't
13 nothing there. The only thing we did do was take a few
14 pictures kind of outlining the apartment complex itself, just
15 kind of get the area from there.

16 Q Okay, all right. Did you ever locate any sort of
17 weapon in or around that particular area?

18 A No, ma'am.

19 Q Okay. Now where did you proceed from once the
20 ambulance took the victim's body from the scene? Do you know
21 where his -- or where he was taken?

22 A Yes, ma'am. He was taken to Scotland County, North
23 Carolina, Laurinburg, North Carolina, Scotland Memorial
24 Hospital. And the officer was with me. He left to go that
25 way and there was a reserve officer also that come on the

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1 scene that day, and we basically had him to stay there at the
2 crime scene or down in that general area until I went up to
3 the police station to try to talk to some of the subjects to
4 try to gain more information from this.

5 Q So you proceeded there back from the police station?

6 A Yes, ma'am, along with some of the witnesses trying
7 to get some more information.

8 Q And you took some statements there at the police
9 station?

10 A Actually, I started taking the statements and I had
11 individuals there. As a matter of fact I think there was four
12 of them there at the time. As a matter of fact, I can give
13 you the names if you need them, but I was getting started on
14 the statements. And a few minutes after while the subjects
15 was writing, the witness that was writing the statements,
16 gentleman came in -- I can't remember his name -- and he
17 stated to Charles McRae, which is Maurice's brother, he stated
18 to him that his brother had just died. At that time all the
19 witnesses got up and left, and I hadn't seen them since then.

20 Q Okay.

21 A So I never actually got finished getting statements
22 from them.

23 Q So whatever you got up until that point is all that
24 you got?

25 A Yes, ma'am.

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1 Q And were you able to confirm thereafter that the
2 victim Maurice McRae did die?

3 A Yes, ma'am. Actually, I received a call from Doctor
4 French, or actually dispatch called me and had me to call
5 Scotland Memorial Hospital to speak with a Doctor French from
6 Scotland Memorial. He stated to me that Mr. McRae, the
7 victim, was pronounced dead at 2:57 p.m. resulting from a
8 gunshot wound to the chest.

9 Q Okay. So that was a little more than an hour from
10 which the initial call came?

11 A Yes, ma'am.

12 Q All right. Were you then advised as to whether or
13 not there would be an autopsy performed?

14 A Yes, ma'am. I was advised that Doctor French --
15 there would be an autopsy performed, yes, ma'am.

16 Q And did someone from your department go to that
17 particular autopsy?

18 A Yes, ma'am. Officer at that time, Heath Williams,
19 he had actually went to the autopsy. As a matter of fact, I
20 think a hearse carried his body from there. I'm not sure if
21 it was to due he would have to rely on that one. Actually,
22 the autopsy, he followed the hearse's body from there to where
23 he was doing the autopsy and went through chain of custody.

24 Q Okay, all right. And as the chief do your duties
25 include maintaining and securing evidence?

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1 A Yes, ma'am.

2 Q Okay. And after that autopsy did you receive any
3 evidence from Officer Heath Williams?

4 A Yes, ma'am. If I'm not mistaken, the very next
5 morning, early that morning Officer Williams had left to go to
6 the autopsy and watched the autopsy. And when it was through
7 any evidence was given from the examiner to Officer Heath. He
8 brought it back to me. I secured it in the evidence room at
9 that time.

10 Q Okay. I'm going to show you what's been marked as
11 State's Exhibit 1 and State's -- and the box marked as State's
12 Exhibit 3. Do you recognize those items?

13 A Yes, ma'am.

14 Q Okay. And from where do you recognize those items?

15 A These items here was actually the ones that Officer
16 Williams had brought back from the autopsy, and of course, we
17 put it in evidence. And I'd have to look at my sheet exactly
18 from that point on later on where Officer Williams actually
19 took this evidence to the State Law Enforcement Division,
20 SLED, to have it analyzed from that point. But I have to look
21 at my report exactly when he took it from that point.

22 Q Okay. I'm going to show you State's Exhibit 6. You
23 recognize what that particular document is?

24 A Yes, ma'am. It's basically just giving a -- from
25 the examiner, from the chief examiner, they're from what he

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1 done at the autopsy, basically the evidence. This is mostly
2 clothing, things of that nature, from the victim that was
3 pertaining to the basically the evidence that was sent back
4 from the autopsy.

5 Q That is the disposition sheet listing the items that
6 Officer Williams received from the doctor?

7 A Received from the examiner, yes, ma'am.

8 Q And then State's Exhibit 7, do you recognize what
9 those documents are?

10 A Yes, ma'am. This is actually a sheet -- actually,
11 we fill out these green sheets when we submit it to SLED. And
12 actually it was filled out and basically what they were
13 sending to SLED, and Officer Williams is actually the one
14 doing delivery. And actually, that was on October 23rd is
15 actually when the Officer Williams carried it to SLED and
16 showed SLED received it at 1:09 -- I'm sorry, 9:57 p.m. that
17 morning is when Officer Williams took it to SLED for scan.

18 Q So from the 15th October, the day after the murder
19 ---

20 A Yes, ma'am.

21 Q ---when the autopsy was done?

22 A Yes, ma'am.

23 Q Until October 23rd where were these when he took
24 them to SLED? Where were these items?

25 A They was in the evidence room which is I'm the only

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1 one that actually has a key to the evidence room.

2 Q Okay. And they were secure?

3 A Yes, ma'am.

4 Q Okay. And did anyone tamper with them or have
5 anything to do with any of these items during that time
6 period?

7 A No, ma'am.

8 Q Okay, all right. I'm going to ask you if you would
9 on these, if you can identify what's in these photographs
10 which have been marked as State's Exhibits 11 through 19. Do
11 you recognize those photos?

12 A This one, as far as this one right here, just
13 pictures like a parking lot.

14 Q Before you tell me what's in them tell me just do
15 you recognize those photos?

16 A Yes, ma'am.

17 Q And where and what, in general terms, what is shown
18 in those photos?

19 A Basically in general terms basically just giving an
20 outline of the apartment complex and the parking lot and
21 Building and Building , kind of giving a little idea about
22 where you are at.

23 Q And do they accurately reflect the layout as it was
24 back on October the 14th of 2006?

25 A Yes, ma'am. The only thing there was basically this

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1 time there's actually vehicles parking. In other words, at
2 that time there wasn't any vehicles. Besides the layout
3 itself it's the same, yes, ma'am.

4 Q Okay, all right.

5 MS. MUNNERLYN: Your Honor, then I would move
6 admission of these particular photos which I think were
7 State's Exhibits 14 through 19.

8 THE COURT: You're not offering 11 and 12 at this
9 time?

10 MS. MUNNERLYN: I'm sorry, yes, I'm offering all of
11 them.

12 THE COURT: 11 through 19?

13 MS. MUNNERLYN: That's right, 11 through 19.

14 THE COURT: Any objection, Mr. Holt?

15 MR. HOLT: No, Your Honor.

16 THE COURT: All right. Admitted into evidence
17 without objection. Are they already marked and have an ID
18 number?

19 THE COURT REPORTER: Yes, sir.

20 (WHEREUPON, State Exhibits Nos. 11 through
21 19 were admitted into evidence.)

22 BY MS. MUNNERLYN:

23 Q Okay. If you can, go through those individually and
24 describe what is shown in those, and if you would refer to the
25 number on the back as you're describing it.

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1 A Okay. Exhibit 13 is actually showing a picture
2 basically of the parking lot as you come in the first entrance
3 which basically means by turning off here this basically
4 showing the parking lot right here, the , showing in
5 front of it. It's basically what this first exhibit showing
6 the parking lot right there adjacent there in front of that
7 building.

8 Q Okay.

9 A Exhibit 12 is basically just a picture of the
10 outline of the buildings, outlines the building right in front
11 of Building , . This is actually, this picture here, be .
12 This would be the building which is a hall way where there's
13 actually another road you can come in off of this one also.
14 That's what the picture of 12 is.

15 Q Okay. Now before you go on to the next one, these
16 buildings as you're looking at them, are they actually --
17 there's letters actually on the buildings?

18 A Yes, ma'am, that's correct.

19 Q Where are the letters located?

20 A Okay. If you come in the right parking lot here, if
21 you got here, right here, there's like two apartments
22 downstairs, two apartments downstairs on this side, two
23 upstairs, two upstairs on this side. And there's a breezeway
24 in the middle of one of these apartments. Right in front of
25 that building right here there's a big letter which in one of

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1 these pictures you can see where the letters is. It have like
2 in front of this one just like would have
3 breezeway right up in here. It would be and
4 breezeway apartments basically all of them outlined the same
5 way. Some of them got two bedroom, three bedrooms. That's
6 the only difference.

7 Q And you say it's a breezeway so it's completely open
8 from one side of the building to the other side?

9 A Yes, ma'am, just like there's a breezeway
10 here. Actually go here and walk up the steps and go to the
11 upstairs apartment. You got apartment here, here, here, here,
12 and upstairs the same way. You go up the stairway you can
13 walk through the breezeway, walk out the other side, or come
14 right through here through the parking lot.

15 Q All right. Go ahead with the photos then.

16 A Exhibit 11 shows a picture of Apartment , which is
17 this apartment right here, and it actually gives you a clear,
18 clear picture of the letter front where it shows Apartment .
19 That will be in the part of the entrance right facing the
20 parking lot at the backside of . That's why nothing there,
21 just grass there. That's in the parking lot where there's a
22 parking lot in the front side. That's what this picture is
23 showing, the front of the parking lot.

24 Q Okay.

25 A Exhibit 14 is basically giving a picture. If I were

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1 standing in front of that standing here taking the
2 picture, it's just giving kind of a vague picture of the
3 parking lot there in front of which this is just a blank
4 wall right here. This is a front entrance of . This is the
5 front entrance of . This is the back entrance of . Going
6 out these apartments right here is just a wall itself of ,
7 and it is a parking lot here and also there's a parking lot
8 here and a parking lot here. Exhibit 15 is basically just
9 giving the same thing showing this parking lot here, back side
10 of the wall here and it's showing kind of entrance to
11 here showing that's kind of what you can view from here.
12 Exhibit 17 is actually like if I was standing in front of
13 kind of right up in here taking a picture of the parking lot
14 kind of giving me a view of the area right up in here.

15 Q Okay.

16 A View 18 is actually showing myself and Officer Smith
17 of the McColl Police Department. We was kind of trying to --
18 I was kind of showing where I was -- where the victim was
19 lying right up in here and me standing in that spot. And
20 Officer Williams based on investigation, of course we didn't
21 see any vehicles at the time back where the vehicle was
22 supposed to have been at, at the time of the shooting is where
23 he's supposed to be standing. And that's Exhibit 18. Exhibit
24 19, okay, this is actually giving a view from -- from this
25 building here going back that way kind of showing you this

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1 broad area right in here and the front side of C is what this
2 one is showing.

3 Q Okay.

4 A Exhibit 16 is myself standing in front or right
5 here, this wall on C, standing in this parking space
6 approximately right up in here standing here. And it's way
7 based, just took a picture based on investigation. Supposedly
8 this is where the suspect's car was actually parked to start
9 with and just showing kind of the area. Like I said, it
10 wasn't no vehicles there when we got there just based on the
11 investigation.

12 Q Okay, all right. If you'd just have a seat back in
13 the chair. Let me ask you about one other exhibit. State's
14 Exhibit 2, do you recognize what that is in that exhibit?

15 A Actually, this one here is the one from gun residue,
16 is actually evidence that were done on gun residue. Actually,
17 if I'm not mistaken, investigator Jeffrey Locklair from
18 Marlboro County Sheriff's Department, at one time he was up
19 there speaking with Mr. Knight -- I'm sorry, Rondell Knight,
20 which is one of the suspects. And I think he had took a kit
21 from, a gunshot residue kit, from Mr. Knight and Mr. Locklair
22 gave it to me as far as evidence and of course I placed it in
23 evidence. And at the same time Officer Williams along with
24 this other evidence carried it to SLED to have it analyzed.

25 Q And it is shown on those same exhibits as evidence

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1 disposition sheet ---

2 A Yes, ma'am.

3 Q ---which is State's Exhibit 7 as one ---

4 A Which we sent the clothing along with this at one
5 time up to SLED to have it analyzed.

6 Q Okay. And of course while it was in your care was
7 it tampered in any way, or tampered in any way, shape, or
8 form?

9 A No, ma'am. The only reason why these evidences are
10 open, just recently brought them back up myself, you and the
11 officers, you wanted to make sure what was in the envelope we
12 had. That's the only time they had actually -- seal been
13 broken.

14 Q Okay. So until then the seals were all broken, I
15 mean, were all still in place?

16 A Yes, ma'am.

17 Q And in particular, this box, which is State's
18 Exhibit 3, when was that box opened?

19 A This morning just a while ago when we was going to
20 try to see what was in it as far as marking exhibits.

21 Q Okay, and other than that has there been any
22 tampering with any of this evidence?

23 A No, ma'am.

24 Q Okay. Now you were not actually involved in the
25 questioning and taking the statement of Rondell Knight, were

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1 you?

2 A No, ma'am. What had happened, right after we
3 received information reference to the victim being pronounced
4 dead, being the investigation including into the suspects one
5 of them, both of them living in the Bennettsville area which
6 is outside my jurisdiction, at that time I called Sheriff
7 Knight and asked for assistance as far as from his
8 investigator assisting us in our investigation. Sheriff
9 Knight at that time had called Investigator Locklair, English,
10 and some of his investigators to assist and that's kind of
11 what led us to that part of it.

12 Q Is this something that you frequently do in an
13 investigation of this nature, you ask for assistance from
14 other agencies?

15 A Yes, ma'am.

16 Q Okay.

17 A Because like I say, we was looking for the suspect
18 and all it's really outside of jurisdiction is we really
19 needed their help on that part.

20 Q Okay, all right. And now Brandon Ray, did you --
21 was he located that particular day?

22 A No, ma'am. Actually we had had information that
23 based on investigation on Mr. Knight that he had dropped them
24 off at his residence at in Bennettsville,
25 and Sheriff Knight had one of his officers to go by and check

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1 the residence, didn't locate anyone. Later on that day we
2 went up there along with myself, Sheriff Knight, and some of
3 his investigators and tried again, and they at that point they
4 had done a search warrant to search the residence. County
5 actually obtained a search warrant to search the residence.

6 Q But he was located at that time?

7 A No, ma'am, he still wasn't located.

8 Q Do you know when he was finally located and
9 arrested?

10 A Yes, ma'am. We had entered in the NCIC as wanted
11 and actually Stewart Cunningham with the United States
12 Marshal's Service, he had actually assisted in this
13 investigation in as far as trying to get me help as far as
14 trying to locate Mr. Ray. We had tried. We had had several
15 information, several places that he supposed to be at; we
16 tracked several of them. Actually, he was located in High
17 Point, North Carolina. I'll tell you in just a second. On
18 November 21st, 2006 U.S. Marshals, they apprehended him in
19 High Point, North Carolina. I received a call from Officer
20 Cecil from the High Point Police Department in reference to
21 his arrest where he was arrested on fugitive warrants there at
22 High Point.

23 Q So that was more than a month after the actual
24 incident?

25 A Yes, ma'am.

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1 Q Okay. And he was subsequent to that brought back
2 here to South Carolina?

3 A Eventually he had signed a waiver to come back to
4 South Carolina, and I have copies of the waiver when he signed
5 the waiver. He had signed a waiver to come back, and myself
6 and Officer Willis went to High Point, North Carolina, and
7 picked him up on December 1st, 2006 last year.

8 Q Okay.

9 A And brought him back to Marlboro County Detention
10 Center.

11 Q Okay.

12 MS. MUNNERLYN: Your Honor, I think we can -- if the
13 defendant will stipulate to the admission of State's Exhibit 5
14 which I'm now going to question Officer Langley about.

15 THE COURT: All right. It's been marked as State's
16 Number 5.

17 MS. MUNNERLYN: Yes, sir.

18 THE COURT: Any objection, Mr. Holt?

19 MR. HOLT: No, Your Honor. If I can just clarify as
20 a convenience to, I think, a SLED officer to keep him from
21 having to come I'm willing to waive that and allow Chief
22 Langley to.

23 THE COURT: So you're waiving any objections from
24 the standpoint of authenticity and hearsay?

25 MR. HOLT: We waive it.

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1 THE COURT: All right, admitted into evidence then
2 as States' Number 5 without objection.

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

4 BY MS. MUNNERLYN:

5 Q I'm going to show you then what's now in evidence as
6 State's Exhibit 5 and see if you recognize that particular
7 SLED report.

8 A Yes, ma'am, I recognize it.

9 Q Okay. And did you receive that report after
10 submission of the evidence to the firearms department that
11 Heath Williams received from the autopsy?

12 A Yes, ma'am.

13 Q Okay. And what particular piece of evidence does
14 that particular report is it regarding? Which piece of
15 evidence which is submitted is it regarding?

16 A It's in reference to the bullets that was located.

17 Q The bullet that was removed from the victim's body?

18 A Yes, ma'am.

19 Q Okay, all right. And in fact, that report indicates
20 that it was a 32-caliber Smith and Wesson bullet; is that
21 correct?

22 A That's correct, ma'am.

23 Q Okay, all right. And at this time did you speak to
24 Brandon Ray any further about this particular investigation?
25 Did you?

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1 A No, ma'am. Actually when myself and Officer Willis
2 went to High Point to apprehend him he got in the vehicle. I
3 read him his rights. He basically said he wanted an attorney
4 he said at that point. We never spoke anymore about it from
5 there all the way home.

6 Q All right.

7 MS. MUNNERLYN: I don't have any further questions
8 of this witness, Your Honor.

9 If you would answer any questions that Mr. Holt has
10 for you.

11 THE COURT: Cross-examination, Mr. Holt.

12 **CROSS-EXAMINATION**

13 **BY MR. HOLT:**

14 Q Chief, your testimony revealed that you were not
15 there when the shooting occurred, correct?

16 A That's correct, sir.

17 Q And you only responded as a result of a call?

18 A That's correct, sir.

19 Q And none of your officers or any other law
20 enforcement officer was present when the shooting occurred,
21 correct?

22 A That's correct, sir.

23 Q When you arrived your testimony revealed that there
24 were four to five individuals standing over Maurice McRae,
25 correct?

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1 A His brother and a couple of more. There's about
2 four to five, yes, sir, male subjects standing around.

3 Q Have you been able to identify the brother?

4 A Yes, sir.

5 Q Okay. His name is Charles McRae?

6 A Yes, sir.

7 Q Who were the other gentlemen?

8 A I -- when I started taking his statement from -- I
9 can look back on the file and probably give you a little
10 better names, but besides that, I can't really tell you names
11 right off the top of my head. When they came up later, I got
12 them to come up and give statements and then left again. They
13 started the statement. But I have their name on this; but as
14 far as me actually knowing them, I don't know them know them.

15 Q And you're not able to tell us their names today?

16 A I can look in my file and give you the name, yes,
17 sir.

18 Q Did they give statements at a later juncture or
19 later point to any other investigator?

20 A No, sir.

21 Q Okay. When you arrived you said you were there
22 within minutes of the actual -- that call that was made?

23 A Yes, sir.

24 Q But we don't know how much time past between the
25 actual shooting and that call being made, do we?

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1 A Actually, the witness from the actually
2 the one that called the call in.

3 Q And who was that?

4 A Ms. Davis, Vula Davis. She's actually the one who
5 called it in.

6 Q Was she one of the ones standing over the body?

7 A No, sir, she was at her apartment. She had actually
8 heard the commotion outside, overheard the gunshot. She
9 actually called the call in, and that's when we got the call
10 at 1:48 and then it's showing our dispatch time is at 1:48.
11 We got the call time, dispatch to us, and we arrived say
12 within three minutes.

13 Q So Vula Davis hears the shot, makes the call, y'all
14 respond. You get there and you find several young men, is
15 that it? Were there any women?

16 A No, sir. There was like four guys, four young men
17 standing there around right there in the general area just
18 standing over Mr. McRae.

19 Q Okay. Were they all black, were they all white,
20 were they two black, two white, do you remember?

21 A Only ones I remember is black guys. I don't
22 remember any white guys standing over there.

23 Q And you indicated earlier you said family -- Charles
24 McRae is his brother. Did you recognize or did you or any of
25 them identified as family members of the decedent?

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1 A When I -- when we first pulled up and Mr. McRae is
2 there I went over to him trying to check the status of him and
3 asking him any questions, and Mr. McRae spoke up, said I
4 was -- spoke up, said he was his brother. That's the one
5 reason why I knew he was the brother. And the other gentleman
6 was just standing around. We kind of asked him to back up.
7 And his brother just of stood there and the ambulance and got
8 there. At that time we kind of moved the other gentlemen
9 back.

10 Q Did you know Charles McRae?

11 A No, sir, I didn't know him.

12 Q Had never met him before?

13 A No, sir.

14 Q And Apartments in city limits?

15 A Yes, sir.

16 Q Okay. Your department routine patrol is out there,
17 responds to calls, that kind of thing?

18 A Yes, sir.

19 Q Okay. Are you aware of anybody -- do they have a
20 ban and bar policy out there?

21 A They have a ban and bar issue, yes, sir.

22 Q Does that apartment complex communicate with your
23 department and say, you know, hey, these people are on our ban
24 and bar list, want you to help us to enforce this? In other
25 words, do you have a list of those people banned and barred

SW - T. LANGLEY - CROSS

1 out there?

2 A Yes, sir.

3 Q Okay. You know if Charles McRae is one of those
4 people?

5 A I don't know of it, Your Honor, no, sir.

6 Q You don't know, or he is not?

7 A I don't know. I mean, it's been a while since we
8 got a ban and bar list from them.

9 Q When you arrived did you ask if anyone had actually
10 touched the decedent?

11 A When I arrived did I ask did anyone touch?

12 Q Yes, sir.

13 A Actually, when I pulled up Mr. McRae, Charles, he
14 actually had the victim kind of snug to him holding on to him
15 some at that time.

16 Q Okay. So he was -- he was comforting his brother?

17 A Right, yes, sir.

18 Q And had he taken anything from his brother's
19 possession?

20 A Not that I'm aware of, sir.

21 Q Okay. Did you ask him if anybody removed anything
22 from the victim?

23 A No, sir.

24 Q All right. Following the incident and I guess part
25 of your investigation, did y'all go to the decedent's

SW - T. LANGLEY - CROSS

1 apartment, I think it was Apartment -- or I
2 apologize.

3 A No, sir.

4 Q Okay. Do we know which apartment would have been
5 used by the decedent?

6 A I think it's Ms. Whaley's apartment supposedly where
7 he was staying sometime off and on.

8 Q Okay.

9 A But she wasn't at home at the time the incident
10 occurred.

11 Q Okay. So if any of his possessions were in the
12 apartment we don't know what they were?

13 A I don't know that either.

14 Q You indicated that there was one shot?

15 A Yes, sir.

16 Q Okay. And you're confident that one shot was fired
17 based upon your investigation, talking with witnesses, and
18 viewing the body, one shot was fired?

19 A From me basically when I pulled up on scene I only
20 seen one bullet hole as far as the chest area. That there may
21 be some more come up from exam, without researching the
22 records but I don't know of anything but one shot.

23 Q Okay. So as far as today's concerned one shot was
24 fired as opposed to 5 or 10 or 15?

25 A From based on witnesses and our investigation

SW - T. LANGLEY - REDIRECT

1 there's only one shot.

2 Q Okay. And you've investigated other shooting
3 incidences?

4 A Yes, sir.

5 Q And is it typical when you have a fatality like
6 this where it'd be just one shot, or is it typically multiple
7 shots?

8 A They kind of vary.

9 Q There's no pattern?

10 A No, sir.

11 Q Okay. No further questions.

12 THE COURT: Redirect, Ms. Munnerlyn.

13 MS. MUNNERLYN: Yes, Your Honor.

14 **REDIRECT EXAMINATION**

15 **BY MS. MUNNERLYN:**

16 Q Mr. Holt asked you about that ban and bar list ---

17 A Yes, ma'am.

18 Q --- for the Apartments. Were you familiar
19 with anybody who was on that list who did claim to be a
20 witness in some way, shape, or form to this particular event
21 surrounding this incident?

22 A The only person I'm aware of as far as the witnesses
23 that I know of on the ban bar is Rodriguez Light. The only
24 reason why I know it is we charged him several occasions for
25 trespassing because he's constantly going back and forth. On

SW - V. DAVIS - DIRECT

1 the -- as far as this Mr. McRae or any of the other gentlemen,
2 I don't know of any these gentlemen. I recently, my first
3 time ever meeting Charles McRae or any, a lot of these other
4 gentlemen as far as meeting them, I didn't know of any of
5 them. Only one out of the witnesses you're talking about I
6 really know is Mr. White.

7 Q Okay. I don't have any further questions.

8 THE COURT: Recross.

9 MR. HOLT: Nothing, Your Honor.

10 THE COURT: All right. Thank you, Chief, you may
11 step down.

12 MS. MUNNERLYN: Vula Davis.

13 THE COURT: Come around, Ms. Davis.

14 THE CLERK OF COURT: Come right in here, put your
15 left hand on the Bible.

16 WHEREUPON,

17 VULA TYLANE (ph) DAVIS,

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

20 THE CLERK OF COURT: Step on around here and state
21 your full name please, ma'am.

22 THE WITNESS: My name is Vula Tylane Davis.

23 DIRECT EXAMINATION

24 BY MS. MUNNERLYN:

25 Q And Ms. Davis, where do you live?

SW - V. DAVIS - DIRECT

1 A In , McColl, South
2 Carolina.
3 Q How long have you lived there?
4 A Six years.
5 Q Six years, okay. And who lives there with you?
6 A My five children.
7 Q Okay. And so if you've lived there six years you're
8 somewhat familiar with the occupants of Apartments?
9 A Yes, ma'am.
10 Q Okay. And if looking at this particular drawing
11 right here, now you said you're in Apartment ?
12 A Yes, ma'am. Yes, ma'am.
13 Q So that's Building
14 A Yes, ma'am.
15 Q All right. And is your apartment upstairs or
16 downstairs?
17 A Downstairs.
18 Q Downstairs?
19 A Yes, ma'am.
20 Q Okay. And does it face the parking lot or does it
21 face out toward the front, toward the road?
22 A To the parking lot.
23 Q Okay. If you could, if you could stand up and tell
24 us where exactly your apartment would be located in Building
25

SW - V. DAVIS - DIRECT

1 A Right downstairs.

2 Q Okay. But you said your apartment faces the parking
3 lot?

4 A Yes, ma'am.

5 Q Okay. So now how many windows do your apartment
6 have facing the parking lot?

7 A Three.

8 Q Three? Okay. And you can go ahead and sit down.

9 And were you home back on October the 14th of last year?

10 A Yes, ma'am.

11 Q Okay. And did you know Maurice McRae?

12 A Yes, ma'am, I did.

13 Q Okay. And did you have any reason to be looking out
14 your window on that particular afternoon?

15 A Actually I was fixing to leave out the door and I
16 was just peeping out.

17 Q Peeping out. Okay, now what do you have on your
18 windows?

19 A A curtain and a blind.

20 Q Okay. And you said you were peeping out?

21 A The blind.

22 Q Out the blind?

23 A Yes, ma'am.

24 Q Okay. And when you were, why were you peeping out?

25 A Just looking out because I was fixing to leave.

SW - V. DAVIS - DIRECT

1 actually.

2 Q Okay. Just to see what was going on or?

3 A Just looking out.

4 Q What was out there?

5 A Ma'am?

6 Q To see who was out there or what was going on?

7 A I was just actually looking, yes. I don't know what
8 made me look out the window.

9 Q Okay.

10 A But I know we was fixing to go.

11 Q You were fixing to leave. Were your children there
12 with you?

13 A Yes, ma'am, they was.

14 Q And when you looked out the window tell me what, if
15 anything, you saw.

16 A Well, actually I was looking out the window. I seen
17 a Crown Victoria, four door Ford leaving out. So then I seen
18 Maurice walk down off the stoop. I seen the gold car back up
19 and pull to him, and the gold car said, I got you. And he
20 said, yeah man, you got me. And he shot him and drove off.

21 Q Okay. So you could actually hear people talking?

22 A Yes, ma'am.

23 Q Okay. About how far is your -- the windows, the
24 front part of your apartment?

25 A From the parking lot?

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1 Q Where you are from the parking lot? If you need to
2 use something in the courtroom to identify from you to.

3 A Well, this is my house. Okay, you walk down off the
4 cement, the sidewalk, and the parking lot right here.

5 Q Okay. Now how far were you from where he and this
6 vehicle were?

7 A Not even a foot, probably a half a foot, maybe a
8 foot.

9 Q You and your apartment?

10 A No, I don't know how.

11 Q Say for instance you're standing right there and
12 you're at your window.

13 A Okay.

14 Q Okay.

15 A And he was right there where the police at.

16 Q Right here?

17 A Yes, ma'am.

18 Q Sitting at the table like that right in that
19 distance?

20 A Which one?

21 Q Oh, I don't know, I'm asking you.

22 A How far I saw when he shot the guy?

23 Q Right.

24 A From right here to the officer right there.

25 Q Okay. Now who was that distance? Was it the car or

SW - V. DAVIS - DIRECT

- 1 Maurice?
- 2 A The car.
- 3 Q The car?
- 4 A Maurice was like where the little stand at.
- 5 Q This, the rail?
- 6 A Yes, ma'am.
- 7 Q Okay. Which is a few feet beyond that?
- 8 A Yes, ma'am.
- 9 Q Okay. Now when you saw the car could you tell who
- 10 was in the car?
- 11 A It was two people.
- 12 Q Two people. Could you ---
- 13 A I don't know them, no, ma'am. I never seen them.
- 14 Q Could you tell whether they were male or female?
- 15 A They was males because they jumped in real quick.
- 16 Q They jumped in real quick?
- 17 A The car.
- 18 Q Oh, they jumped in the car real quick?
- 19 A And backed up real quick and that's when the gun
- 20 shot.
- 21 Q And then so where was the car when the gun shot?
- 22 A Was fired right beside Maurice.
- 23 Q Okay. Where was it in the parking lot?
- 24 A The car was right here. When he backed out he came
- 25 that way, pulled up, Maurice was right here.

SW - V. DAVIS - DIRECT

1 Q Okay, all right. So they had already backed out of
2 the parking lot?

3 A Yes, ma'am. They was like leaving out following the
4 Crown Victoria.

5 Q Were they -- was the car moving?

6 A He stopped. He backed up and stopped right in front
7 of Maurice.

8 Q Okay. And he stopped right there?

9 A Yes, ma'am.

10 Q And then there were words spoken?

11 A Yes, ma'am.

12 Q What did he say?

13 A Ma'am?

14 Q And were these words coming from Maurice or somebody
15 else?

16 A From the guy in the car in the passenger side.

17 Q Okay. The guy in the passenger side?

18 A Yes, ma'am.

19 Q Okay. But do you know who that was?

20 A No, ma'am.

21 Q Okay. All you know is whoever the guy -- now was
22 the guy black or white?

23 A Black.

24 Q Okay. And was the driver black or white?

25 A Black.

SW - V. DAVIS - DIRECT

1 Q Okay. So it was two black males in the car in the
2 passenger seat?

3 A Yes.

4 Q And he says what again?

5 A Maurice walked down off the stoop. The car drove
6 up. He said, I got you.

7 Q Who said I got you?

8 A The guy on the passenger side.

9 Q The guy on the passenger side of the car?

10 A Said, I got you.

11 Q Okay. Now he -- is he in or out of the car at this
12 point?

13 A He inside the car.

14 Q Okay.

15 A He never got out the car.

16 Q Is the door open or closed?

17 A No, ma'am, it was closed. As I was telling you they
18 was leaving back out.

19 Q Right.

20 A Maurice came on the stoop.

21 Q Okay.

22 A Then Maurice came down off the stoop. That's when
23 he said, I got you, and shot.

24 Q Okay. Now did you see the gun when it fired?

25 A No, ma'am, I couldn't see from my window.

SW - V. DAVIS - DIRECT

1 Q Okay.

2 A I couldn't see the gun.

3 Q Okay. So the way you described it then the car is
4 between you and Maurice?

5 A Right.

6 Q Okay, all right, okay. And after he says, I got you
7 now, or I got you I think is what you said.

8 A Yes, ma'am.

9 Q Then the gun was fired.

10 A Yes, ma'am.

11 Q And how many shots?

12 A One.

13 Q One, all right. And how -- and you said Maurice was
14 a few feet further from the car away from you?

15 A Right.

16 Q On the other side ---

17 A Because I was trying to dial 9-1-1 and trying to see
18 about, was going back to the window because I wouldn't never
19 go out the house. I was trying to dial 9-1-1 so to try to get
20 him some help. That's why I was dialing 9-1-1 to try to get
21 him some help.

22 Q After the shooting you mean?

23 A Yes, ma'am.

24 Q Okay. And so after, after the shot was fired then
25 what happened then?

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1 A He drove off; Maurice fell to the ground.

2 Q So the car drove off and Maurice fell?

3 A Yes, ma'am.

4 Q Where exactly did Maurice fall?

5 A In the middle of the parking lot in the lane right

6 here.

7 Q In the parking space?

8 A Right, where you drive the car in.

9 Q And where you drive up a car?

10 A Yes, ma'am.

11 Q Okay. And he fell there?

12 A Yes, ma'am.

13 Q Did you -- did he get back up?

14 A No, ma'am, I did not see him get back up maybe

15 because I was running trying to dial 9-1-1, try to talk to

16 them because I was so shocked that I saw this this time in the

17 afternoon. And I got a lot of children and I didn't want

18 nobody to see nothing like that.

19 Q Okay. And did you see anybody else around when this

20 was happening?

21 A No, I did not.

22 Q Okay.

23 A Because it stunned me; I was out of it.

24 Q It stunned you?

25 A Yes, ma'am.

SW - V. DAVIS - DIRECT

1 Q Okay. After he fell did you see anybody come up
2 then?

3 A Yes, his brother.

4 Q His brother, okay. And did his brother stay there
5 with him?

6 A Yes, ma'am, at all times.

7 Q Okay. And he never left?

8 A Ma'am?

9 Q He never left until the ambulance came?

10 A He never.

11 Q He never left his body?

12 A No, ma'am.

13 Q Okay. Did you go out?

14 A Yes, I did.

15 Q When did you go out?

16 A About five minutes, after I was trying to calm
17 myself down and talk to 9-1-1, I couldn't, you know, talk to
18 them because I was scared, panicked, and everything. And I
19 went out and that's when I was trying to talk to the officers
20 about the situation.

21 Q So when you went out the officers were already
22 there?

23 A Yes, ma'am.

24 Q Okay. Now what -- when you called 9-1-1, what ---

25 A I said, oh Lord, I just seen this man been shot,

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1 hurry up, send an ambulance, he's going to die, please hurry
2 up.

3 Q Okay. And you knew ---

4 A Then I was trying to tell them where I stay. I
5 couldn't half get it out. I was scared.

6 Q Okay. And at that point you still didn't know who
7 was in the car, right?

8 A No, ma'am.

9 Q Did you tell him who had been shot?

10 A Yes, ma'am, this guy named Maurice, he live in Clio.
11 I was trying to tell them everything but I was just shocked.

12 Q Okay.

13 A That I would see anything like that in my
14 neighborhood.

15 Q Okay. Well, let me ask you about Maurice. When you
16 were looking out and he -- you said he stepped down off the
17 stoop?

18 A The sidewalk, I'm sorry. Well, the sidewalk.

19 Q Okay, like the curb?

20 A You know how the sidewalk go straight?

21 Q Yeah.

22 A That's a sidewalk.

23 Q Okay. It's -- where -- where is the sidewalk that
24 you're talking about?

25 A Right here on top of the little piece. It's a

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1 sidewalk.

2 Q Got you.

3 A Where you walk in the parking lot.

4 Q Oaky. So it's right immediately in front of the
5 parking spaces?

6 A Right. Right beside in front of Building.

7 Q Okay, all right. Now this is the end of , right?

8 A Right.

9 Q So are there any windows at the end of ?

10 A No, ma'am.

11 Q But this is the front of your building?

12 A Right.

13 Q So your window is facing out toward the parking lot?

14 A Right.

15 Q Okay, all right. You can have a seat again. So he

16 -- there is -- the sidewalk is a little higher than the

17 parking spaces?

18 A Right.

19 Q There's is a curb there. So when you say step down
20 you're talking about that curb?

21 A No, he walked up the cement, the sidewalk.

22 Q He just stepped off the sidewalk on to the parking

23 ---

24 A Right.

25 Q ---space?

SW - V. DAVIS - DIRECT

1 A Right.

2 Q Okay. Do you know whether or not he said or did
3 anything at that point to people in the car?

4 A Actually I didn't come outside all day that day; I
5 don't know why. But my son was at Maurice girlfriend house
6 the night before; it was Friday 13th. And I had told him to
7 send him home because he liked to go over there and play with
8 the little boy because he just liked the little boy. And I
9 had went over there about 1, 1:00 that night, and I got my
10 little son and I went home because I be scared.

11 Q Okay.

12 A So...

13 Q Well, that day when you were looking out the window
14 before the shooting happened ---

15 A Right.

16 Q ---what did you see Maurice doing when he was
17 approaching the car?

18 A I haven't been outside all day.

19 Q I understand.

20 A That was my first time looking out the window
21 actually all day.

22 Q I understand.

23 A Just sitting in the house. I don't know what made
24 me do it.

25 Q Okay, all right. But when you were in the house and

SW - V. DAVIS - DIRECT

1 you were looking out the window, how did he -- as he was
2 approaching the car, was he doing anything?

3 A No, he was looked normal.

4 Q He just looked normal.

5 A He just looked and smiled like, you got me, like.

6 Q Okay. What was he doing with his hand?

7 A Nothing else. He was just like this, open.

8 Q Did he have ---

9 A No, he was open hand.

10 Q Did he have anything in his hand?

11 A No, ma'am, they was open.

12 Q Okay. They were open?

13 A Like this. Like when he said, I got you, like you
14 got me, man.

15 Q Okay, all right. But before he actually shot when
16 he said, I got you, when the passenger who shot the fire,
17 fired the shot, when he said I got you, what was Maurice doing
18 then?

19 A He was coming -- well, he had done got up. He ain't
20 did nothing. He had got off the sidewalk, was entering into
21 the parking lot in the parking space.

22 Q Uh-huh.

23 A He didn't have nothing; he wasn't doing nothing.

24 Q Okay.

25 A Now before then I don't know; that's what I saw.

SW - V. DAVIS - DIRECT

1 Q You just saw the point -- when you saw him was when
2 he was stepping off of the sidewalk?

3 A Yes, ma'am. He had nothing. He was open handed. I
4 seen his hand.

5 Q Okay.

6 A They was open.

7 Q Did you see anything on his person, on his body?

8 A No, ma'am, I did not. And when I went to the body
9 when they were laying out there in the road I didn't see
10 anything.

11 Q Okay. Do you know whether or not anybody took
12 anything off of Maurice's body?

13 A No, ma'am, 'cause I was, you know, back and forth.
14 All I see was his left shoe fell off and that was it.

15 Q His left shoe fell off?

16 A Yes, ma'am.

17 Q Where were ---

18 A When he hit the ground.

19 Q Okay. Is it the middle -- now this happened in the
20 early afternoon, right?

21 A Yes, ma'am, about 1:40. We were supposed to be at a
22 party by 2:00.

23 Q Okay. So that's -- you were getting ready to go to
24 the party?

25 A Yes, ma'am.

SW - V. DAVIS - DIRECT

1 Q Is it normally quiet out there?

2 A Yes, ma'am, but sometimes they can be wild and rough
3 but I never seen this, and I never seen nothing occurred on
4 out there in these six years that this was going down.

5 Q Okay. Now you said Maurice was -- that your son had
6 been over at Maurice's where Maurice's girlfriend house?

7 A Right. Right.

8 Q And where did she live?

9 A She lived in .

10 Q Okay. In Building ?

11 A Yes, ma'am.

12 Q Okay. And that ---

13 A And from where I live I can see all the buildings.

14 Q Okay. You can see , , , , and and ?

15 A Yes, ma'am.

16 Q Okay.

17 A The angle I turn in I can see the whole complex.

18 Q And how old is your son that was over there the
19 night before?

20 A He's 8.

21 Q Okay. And Maurice was there?

22 A I have no idea. I didn't go in the house that
23 night. I didn't go in the house because I ---

24 Q So you don't know whether or not he was there?

25 A No, ma'am, I don't.

SW - V. DAVIS - DIRECT

1 Q But what -- do you know what his girlfriend's name
2 is?

3 A All I know is Shayna. I don't know nothing else. I
4 don't try to make friends much. You speak and keep it real,
5 but I don't visit much because I have to tend to my children.

6 Q Okay.

7 MS. MUNNERLYN: Court's indulgence just one moment.

8 THE COURT: Yes, ma'am.

9 BY MS. MUNNERLYN:

10 Q Did you know Charles McRae?

11 A The father or the son?

12 Q I'm sorry, the son, who was Maurice's brother.

13 A Yes.

14 Q Okay. And did you see him back that afternoon after
15 this happened?

16 A No, because I didn't even go nowhere after that
17 because I was so paranoid I didn't even want to drive.

18 Q Okay. I mean, right out there where Maurice was.

19 A Oh, yes, ma'am. He was right there beside his side.

20 Q Okay. Do you know whether or not did Charles McRae
21 stay there or somewhere else? Do you know if he lived ---

22 A He don't live in the complex.

23 Q Okay.

24 A No, ma'am, he don't live there.

25 Q Okay. All right, I don't have any further

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1 questions. Thank you.

2 THE COURT: Cross-examination, Mr. Holt.

3 MR. HOLT: Please the Court, Your Honor.

4 CROSS - EXAMINATION

5 BY MR. HOLT:

6 Q Ms. Davis, how old are you?

7 A 29 years of age.

8 Q Okay. Sorry you had to witness this tragedy.

9 A I understand.

10 Q I just want to ask you a few questions and I'll let
11 you go. You indicated you had five children. Were they all
12 home at the time or was one of them sitting next door, or I
13 wasn't sure about that.

14 A They was all home at the time. We was fixing to
15 leave.

16 Q Okay, what are their ages?

17 A 10, 9, 8, 6, 3.

18 Q Okay. And you indicated you were fixing to leave.
19 Where were you going to go to?

20 A To a party.

21 Q Was it a ---

22 A A cook out, children, yes.

23 Q ---children's party? And they would have all gone
24 with you?

25 A Yes.

SW - V. DAVIS - CROSS

1 Q Okay. And what kind of vehicle do you drive?

2 A Now or then?

3 Q At that time what kind of?

4 A A 1997 Hyundai burgundy.

5 Q And is that -- I'm not a car person. Is that a four
6 door vehicle?

7 A Four door five speed.

8 Q Okay. And there's enough room for you and five
9 children in the vehicle?

10 A Perhaps, three in the back and -- well, four in the
11 back, actually with the car seat.

12 Q Do the best you can.

13 A Right.

14 Q And where would you have parked your car on that
15 day?

16 A I had parked my car on the -- indicated on this side
17 of the parking lot. He got murdered on that side of the
18 parking lot. So I was sitting right here. My car was sitting
19 on this side of the parking lot around the front.

20 Q Okay.

21 A So it's two parking lots. There's one in the front
22 and one in the back.

23 Q Okay. So this drawing does not reveal the actual
24 parking places that would have been in front of your
25 apartment, ---

SW - V. DAVIS - CROSS

1 A Right.

2 Q ---your apartment building?

3 A Right, it would have drew a lit bit more lines down
4 here because there's two parking lots.

5 Q Your apartment -- you were leaving out the door?

6 A I was just fixing to go. I was peeping out the
7 window, indicated that I saw a murder in front of my door.

8 Q So you were peeping out the window?

9 A Yes, sir.

10 Q Is your window, do you have blinds or drapes or
11 what? What do you do to shield, I guess, somebody standing
12 there?

13 A It's a blind there and curtains.

14 Q Okay. And you peeped through the blinds?

15 A Yes, sir.

16 Q And when were you -- you said you were about to
17 leave.

18 A It was approximately 1:40.

19 Q Okay. And you were ---

20 A I came from the back. I was curling my hair; I had
21 finished. So I was peeping out being nosy, you know. I don't
22 have a screen door. I ain't got but one door, one way in and
23 one way out; that's how my apartment is. If you going you
24 jumping out the window. So I was peeping out the window just
25 to check the view, and that's what I saw. We was all lined up

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1 at the door. We didn't never make it out.

2 Q Did you have your keys in the hand?

3 A Yes, sir.

4 Q So you were literally walking out the door then?

5 A No, I peeked out the window before I walked to the
6 door.

7 Q In proximity to the door and the window what would
8 you see -- the window right here and the door to your right,
9 or is it in front of the apartments?

10 A The window right here, the door to my right.

11 Q Okay. So you go to the window, peek through the
12 blinds, and then you would have -- had you made the exit going
13 to your car and you would have gone through the door?

14 A Right.

15 Q Is there a peep hole in the door?

16 A Yes, sir.

17 Q And that's not what you were looking through?

18 A No, sir.

19 Q You indicated that you witnessed the shooting and
20 then that you made the phone call, the 911 phone call?

21 A After he was shot.

22 Q Okay. And when you did that you would have likely
23 had to have walked to the phone or go pick up the phone.

24 A I put them on speakerphone, 911, because I was
25 running back to the window, and I was running back to the

SW - V. DAVIS - CROSS

1 phone. I was hollering and screaming and doing everything I
2 could to save his life.

3 Q All right. And we appreciate that; but you weren't
4 staying at the window the entire time, were you?

5 A No, sir, I wasn't.

6 Q Okay. Your door was closed?

7 A Yes, sir.

8 Q Your window was down?

9 A Yes, the blind was down.

10 Q And the blinds were down. And the incident occurred
11 at least from where you are sitting to where Chief Langley,
12 that's where I think the vehicle was; is that correct?

13 A Well, that's where Maurice was when the -- well,
14 both of them. The vehicle was there too, but when he backed
15 out he was leaving and that's when Maurice stooped down from
16 where Chief Langley at and the car was approximately right
17 here where the little bar at, where she's typing, and he shot
18 him and drove off.

19 Q But from behind the closed door, a closed window, a
20 blind down, you heard the passenger in that vehicle say, I got
21 you now?

22 A Yes, sir.

23 Q And you're absolutely sure that that's what was
24 said?

25 A That's what I heard.

SW - V. DAVIS - CROSS

1 Q And in the commotion you have five children ages 9
2 to I think 3 running around?

3 A 10.

4 Q 10 to 3?

5 A Yes, sir.

6 Q Running around the apartment.

7 A No, they wasn't running.

8 Q They weren't running?

9 A No, because we was lined up I had said earlier.

10 Q Okay. Would you lie?

11 A No, sir.

12 Q For the victim or his family or?

13 A No, sir, I would not.

14 Q Or for his brother?

15 A I got too many children to raise.

16 Q Okay. And you would admit that you were in your
17 apartment peeping through blinds, I assume, something like
18 this right here, is that right, about an inch, two inches; is
19 that right?

20 A Maybe a little bigger.

21 Q Okay. 3-inches?

22 A Right.

23 Q You're looking through the blinds, and you see out
24 the window, you see a vehicle. What kind of vehicle was it
25 that you said the shooter was in?

SW - V. DAVIS - CROSS

1 A It was a gold Stratus. It was gold.

2 Q It was gold?

3 A Yes, sir.

4 Q The vehicle that the shooter was in was gold?

5 That's your testimony?

6 A Yes, sir.

7 Q All right.

8 A Brown, I believe gold brown, gold.

9 Q Okay. And the victim was on the other side of the
10 vehicle from where you were standing peeping through about 3
11 inches through blinds?

12 A The blinds.

13 Q You heard no commotion, you heard no yelling, you
14 heard no ---

15 A No, sir, none of that occurred in front of my
16 window. None of that occurred.

17 Q Just at the time that you were go over to the window
18 and peep out a blind?

19 A He backed up. He pulled Maurice and gunshot went
20 off.

21 Q How long did it take law enforcement to arrive from
22 the time that you made the phone call?

23 A About 20 minutes because I was so panicked and
24 trying to tell them where I was at, and I couldn't half tell
25 them where we was at. I was trying to give them the best

SW - V. DAVIS - CROSS

1 direction and try to see if anybody going to go around and
2 check on them. I was going back and forth.

3 Q Okay. So you walked down, you peeped through the
4 window, you see this shooting, you run to the phone. Your own
5 testimony you're screaming, you're hollering, your children
6 are present.

7 A Yes.

8 Q Did you being upset upset them? Did they start
9 crying?

10 A Yes, they did.

11 Q A lot of commotion going on in your apartment?

12 A No, wasn't a lot of commotion going on. There was
13 just crying. I told you we was lined up to go.

14 Q You make the phone call, the 911 call?

15 A Right.

16 Q You leave the window to go do this?

17 A 'Cause my living room and my kitchen is together,
18 you see what I'm saying. And I ---

19 Q But you leave the window to make the call, correct?

20 A Right. I have a long phone cord and it was on
21 speaker phone as I was talking to 911.

22 Q And you're back and forth, your own testimony,
23 you're back and forth and it is -- it's not quite 20 after 11
24 yet, but if it was at 1:40 the police would have arrived
25 according to that clock. The police would have arrived 20

SW - V. DAVIS - CROSS

1 minutes later. That's your testimony?

2 A Well, it was like 2:20 when they arrived. It was
3 1:45, 1:40 when this occurred.

4 Q When you went out your apartment ---

5 A Yes, sir.

6 Q ---were the police present?

7 A Yes, sir.

8 Q So you did not go out your apartment until the
9 police arrived?

10 A Right.

11 Q Did your children stay in the apartment or did they
12 come outside?

13 A They stayed in.

14 Q In that 20 minute span the victim was out there with
15 his brother and what appeared to be other gentlemen; is that
16 right?

17 A I guess.

18 Q You don't know?

19 A Well, a lot of them was out there but I don't know
20 if they was with him. There was a lot of people out there,
21 just one of his friends and other people aside his brother but
22 a lot of people came.

23 Q So there were lot of people standing around the
24 body?

25 A Right.

SW - V. DAVIS - REDIRECT

1 Q And the only time in which you saw the gold vehicle
2 and the decedent Mr. McRae was when you saw them pulling out,
3 you were looking through the 3 inches, you were looking out
4 the window right at that time and you saw him approach is the
5 only time you saw them together?

6 A That's it; that's all.

7 Q So you would not have seen them at any other point
8 prior to that?

9 A No, sir.

10 Q You indicated in your testimony that as you were
11 peeking through the window out your apartment you saw two
12 black men jump into a car quickly. I think your words exactly
13 were quickly?

14 A Yes.

15 Q Back up quickly?

16 A Yes.

17 Q I have no further questions.

18 THE COURT: Redirect.

19 REDIRECT EXAMINATION

20 BY MS. MUNNERLYN:

21 Q Ms. Davis, you already testified you had blinds.
22 Were they open or closed?

23 A No, they was closed. I opened them.

24 Q You opened them?

25 A Three, four inches.

SW - V. DAVIS - REDIRECT

1 Q Now, you mean you opened the whole blind?

2 A No, ma'am, I just peeped through.

3 Q Okay. You just did it with your hand to peep
4 through?

5 A Right. Right.

6 Q Okay. And didn't you give a statement to police
7 that day?

8 A Yes, ma'am.

9 Q Okay. And do you remember what you told them in
10 that statement as far as the color of the vehicle?

11 A No, ma'am, but I think it was gold. I'm not for
12 sure because it's -- thinking is so bad that what color it
13 was. Goldish brown.

14 Q Okay. Do you recognize that document?

15 A Yes, ma'am.

16 Q What is that document?

17 A I saw the boy come.

18 Q No, no, no, don't read it. I'm just asking you do
19 you recognize that document?

20 A (There was no audible response.)

21 Q What is that?

22 A It's a silver.

23 Q That's not what I'm asking you. What is that
24 document?

25 A It's a testimony I wrote out.

SW - V. DAVIS - REDIRECT

1 Q Okay, you wrote out that statement?

2 A Yes, ma'am.

3 Q Okay. And when did you give that?

4 A The day of the accident, October 14th.

5 Q Okay.

6 A 2006.

7 Q Okay. Now I want to ask you again then, what color
8 did you tell the police on that day that the vehicle was?

9 A Silver.

10 Q Okay. And that was that afternoon after that had
11 just happened?

12 A Yes, ma'am.

13 Q Okay.

14 A But I thought it was silver, gold, one of the color
15 I was trying to see. I know they drove off so fast that white
16 Crown Victoria was in front of them.

17 Q And they drove off fast after the shooting?

18 A Yes, ma'am.

19 Q And in what direction?

20 A To the left -- well, straight up, straight up then
21 to the left because that's how we ---

22 Q Show me on this diagram.

23 A When they left and they went out that way.

24 Q Okay.

25 A And then from the end of the road I don't know.

1 Q Okay. I don't have any further questions.

2 THE COURT: Recross, Mr. Holt.

3 MR. HOLT: No, Your Honor.

4 THE COURT: All right. Thank you, you may step
5 down.

6 All right, ladies and gentlemen, you've been in the
7 courtroom now for about an hour and forty-five minutes so I
8 think it is appropriate that we take our mid-morning break at
9 this time so we are going to take about a 15 minute recess.
10 It's about 25 after, and we'll be ready to start back at 20
11 minutes till 12. So if you'll just relax for a few minutes,
12 then we'll be ready to start back at that time. Again, it's
13 premature for you to begin any discussion of this case. You
14 can talk about anything you want to talk about in the jury
15 room: Weather, need for rain, children, grandchildren,
16 sports, anything at all, but don't talk about this case until
17 I tell you that it is appropriate to do so. But we are going
18 to take about a 15 minute recess at this time so if you would
19 go to your jury room we will send for you very shortly.

20 (WHEREUPON, the jury was removed from the
21 courtroom at 11:21 a.m., and the following proceedings
22 commenced in open court.)

23 THE COURT: All right, Counsel, we'll take about a
24 15 minute recess. Be ready to start back 20 minutes till.
25 Thank you.

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

3 (WHEREUPON, State Exhibits Nos. 23, 24, and 25 were
4 marked for identification only.)

5 THE COURT: Yes, sir.

6 MR. HOLT: Just one matter before we resume.

7 THE COURT: Sure.

8 MR. HOLT: Prior to the trial we had discussion with
9 regard to the newspaper headline, and I had indicated to the
10 Court that I was going to make a motion for continuance to
11 protect the record. Even though the Court brought the jurors
12 out and no one raised their hand I still felt compelled to
13 have that on the record. I understood that the Court was
14 going to deny the motion provided that no one raised their
15 hand. We jumped right into the opening and I didn't want to
16 disrupt the proceedings at that point in flow of the case.

17 THE COURT: Let the record reflect it was timely
18 made; that you did indicate in chambers that you will move to
19 have the matter continued based on that and I indicated that I
20 will deny that motion depending, yeah, if there was no
21 response from the jury. And there was no response from the
22 jury, but from the standpoint of protecting the record it was
23 timely made since it was not in any response to the jury. It
24 was in fact necessary to go further into it.

25 MR. HOLT: Thank you, Your Honor.

1 THE COURT: All right. Ready to resume,
2 Ms. Munnerlyn?

3 MS. MUNNERLYN: Yes, Your Honor.

4 THE COURT: All right. Bring the jury in please.

5 (WHEREUPON, the jury was returned to the courtroom
6 at approximately 11:37 a.m., and the following proceedings
7 commenced in open court.)

8 THE COURT: All right. Thank you, ladies and
9 gentlemen. Now we are ready to resume and the State will
10 continue presenting their testimony.

11 You may call your next witness.

12 MS. MUNNERLYN: Thank you, Your Honor. Colby
13 Harrington.

14 THE COURT: Come around, Mr. Harrington.

15 WHEREUPON,

16 COLBY QUINCY HARRINGTON,
17 having been duly sworn by the Clerk of Court, testified as
18 follows:

19 THE CLERK OF COURT: Come on over here. Have a seat
20 and state your full name.

21 THE COURT: Right up here please, sir.

22 THE WITNESS: Colby Quincy Harrington.

23 DIRECT EXAMINATION

24 BY MS. MUNNERLYN:

25 Q Colby Harrington?

SW - C. HARRINGTON - DIRECT

- 1 A Yes, ma'am.
- 2 Q Okay, all right. Colby, where do you live?
- 3 A
- 4 Q In Bennettsville?
- 5 A Oh, yes, ma'am.
- 6 Q And how are you related to Rondell Knight and
- 7 Brandon Ray?
- 8 A They're my first cousins.
- 9 Q They're your cousins?
- 10 A Yes, ma'am.
- 11 Q First cousin?
- 12 A Yes, ma'am.
- 13 Q And back last year, last October, did you have a
- 14 vehicle?
- 15 A Yes, ma'am.
- 16 Q And what sort of vehicle were you driving at that
- 17 time?
- 18 A 1998 Dodge Stratus.
- 19 Q What color?
- 20 A Gray.
- 21 Q Okay. And did you have -- did you on October 14th
- 22 of last year did you see Rondell Knight?
- 23 A Yes, ma'am.
- 24 Q Okay. And what, if anything, happened between or
- 25 regarding your car happen between you and Rondell Knight?

SW - C. HARRINGTON - DIRECT

1 Tell us what happened. Did he come to your house?

2 A Oh, on this day he spend the night.

3 Q Rondell spend the night with you?

4 A Yes, ma'am.

5 Q And so on the morning of the 14th of October last
6 year y'all woke up and you were both at your house?

7 A Yes, ma'am.

8 Q Okay. And after you woke up what did y'all do?

9 A Nothing. He woke me up, asked me could he use the
10 car.

11 Q Okay, all right. And I'm going to show you what's
12 been marked as State's Exhibits 23, 24, and 25 and ask you if
13 you recognize the vehicle shown in those photographs.

14 A Yes, ma'am.

15 Q Okay. And from where do you recognize that vehicle?

16 A What do you mean?

17 Q What vehicle is that?

18 A The Dodge Stratus.

19 Q What Dodge Stratus, his Dodge Stratus?

20 A Oh, my Dodge Stratus.

21 Q Okay. Those pictures depict your Dodge Stratus?

22 A Yes, ma'am.

23 Q That you owned last October?

24 A Yes, ma'am.

25 Q Okay.

SW - C. HARRINGTON - DIRECT

1 MS. MUNNERLYN: Your Honor, I will move to admit
2 then into evidence State's Exhibits 23 through 25.

3 MR. HOLT: No objection.

4 THE COURT: Any objection? All right, State's
5 Exhibits 23, 24, 25 will be admitted into evidence without
6 objection.

7 (WHEREUPON, State Exhibits Nos. 23, 24, 25 were
8 admitted into evidence.)

9 MS. MUNNERLYN: Thank you, Your Honor.

10 BY MS. MUNNERLYN:

11 Q And you said that Rondell asked to use that
12 particular vehicle, that gray Dodge Stratus that you owned?

13 A Yes, ma'am.

14 Q Now that is a four door vehicle, correct?

15 A Yes, ma'am.

16 Q Okay, all right. And where did -- where did y'all
17 -- did he take you somewhere and then use the vehicle or did
18 he just leave the house with the vehicle? How did that go?

19 A No, ma'am. His girlfriend called and asked him to
20 bring her something to eat and I told him take me to my
21 girlfriend house to get my hair braided.

22 Q And where was your girlfriend's house?

23 A In Blenheim.

24 Q In Blenheim?

25 A Yes, ma'am.

SW - C. HARRINGTON - DIRECT

1 Q So you left your house on and you went to
2 to your girlfriend's house?

3 A Yes, ma'am.

4 Q Who was driving from your house to do you
5 remember?

6 A I'm not sure. I'm not sure. I think it was me.
7 or...

8 Q Okay. So you think you drove the vehicle there.
9 And then once you got to your girlfriend's house do you
10 remember about what time that was?

11 A I want to say like 12:00.

12 Q Okay. 12:00 noon?

13 A Yes, ma'am.

14 Q Middle of the day?

15 A Yes, ma'am.

16 Q Okay, all right. Once you got there then what
17 happened?

18 A I told him I -- I think I told him, well, told him
19 to come back and pick me up.

20 Q Okay.

21 A After, or something, I don't remember.

22 Q Okay. So you stayed at your girlfriend's house?

23 A Yes, ma'am.

24 Q And he drove the car away?

25 A Yes, ma'am.

SW - C. HARRINGTON - DIRECT

1 Q Okay. Do you know where he was going?

2 A I thought he was taking his girlfriend something to
3 eat. That's all I knew.

4 Q Okay, all right. And when did you next see him?

5 A Like 2:00.

6 Q Okay. So a couple of hours later you saw him again?

7 A Yes, ma'am.

8 Q Okay. And when was -- where were you when you saw
9 him next?

10 A Still at my girlfriend's house.

11 Q Okay. And he came driving up or?

12 A Her sister came in the house and was like somebody
13 outside for you.

14 Q Okay.

15 A And I wasn't finished getting my hair braided so I
16 went out, said I'd be out in a minute.

17 Q Okay. Did you give a statement to law enforcement?

18 A Yes, ma'am.

19 Q A written statement?

20 A Yes, ma'am.

21 Q Do you recognize that document?

22 A Yes, ma'am.

23 Q Is that the written statement you gave to law
24 enforcement?

25 A Yes.

SW - C. HARRINGTON - DIRECT

1 Q Okay. Don't read it aloud, but if you would just
2 look at it and refresh your memory. And tell me what time
3 when you gave that statement which was a day or two after this
4 incident, correct?

5 A Yes, ma'am.

6 Q What time did you tell them that he left? Y'all got
7 up and you went to your girlfriend's house.

8 A What time y'all tell me to stay?..

9 Q Yes.

10 A 12:30.

11 Q And what then -- what time did you say in your
12 statement that he came back to your girlfriend's house?

13 A 2:30.

14 Q 2:30, okay. So y'all parted around 12:30 and he got
15 back about 2:30?

16 A Yes, ma'am.

17 Q Okay. And when he came back you went, you said, you
18 went out and spoke to him?

19 A Yes, ma'am.

20 Q And did you leave then?

21 A No, ma'am.

22 Q What did you do?

23 A Went back in the house.

24 Q You came back in the house?

25 A Yes, ma'am.

SW - C. HARRINGTON - DIRECT

1 Q Was your hair finished yet?

2 A No, ma'am.

3 Q What happened from that point?

4 A I got a phone call.

5 Q Okay. And what did you do as a result of that phone
6 call?

7 A Went back outside and asked him what was going on.

8 Q Okay. And what happened at that point?

9 A Nothing really until I went in, back in the house,
10 finished getting my hair braided, then we left.

11 Q Then you left?

12 A Me and him.

13 Q Okay. And where did you go when you left your
14 girlfriend's house?

15 A Back to my house.

16 Q Okay. And what did you do at that point?

17 A Called my daddy, then called 9-1-1.

18 Q And why did you do that?

19 A Because it was my car.

20 Q It was your car?

21 A Yes, ma'am.

22 Q Okay. And why were concerned about your car?

23 A I wasn't concerned about the car; I was concerned
24 about myself.

25 Q Okay. Was there any reason why you needed to be

SW - C. HARRINGTON - DIRECT

1 concerned?

2 A Excuse me?

3 Q Had you been in the car?

4 A No, ma'am.

5 Q Okay. Did you know what had happened while Rondell
6 had your car?

7 A No, ma'am.

8 Q Okay. That was just based on what he told you,
9 correct?

10 A Yes, ma'am.

11 Q So he was gone with your car about two hours?

12 A Yes, ma'am.

13 Q All right. And you called when -- you were advised
14 there may be a problem. You called 9-1-1, correct?

15 A Excuse me?

16 Q You called 911; didn't you?

17 A Yes, ma'am.

18 Q To report that you had your car?

19 A Yes, ma'am.

20 Q And where it was?

21 A Yes, ma'am.

22 Q All right. And that was after you spoke to your
23 father?

24 A I didn't speak to him; I was looking for him.

25 Q You couldn't find him so you went ahead and called

SW - C. HARRINGTON - DIRECT

1 911?

2 A Yes, ma'am.

3 Q Okay. And did they, did law enforcement then come
4 to your house?

5 A Yes, ma'am.

6 Q And did they then talk to Rondell Knight?

7 A Yes, ma'am.

8 Q Okay. And did they look at your car and search your
9 car?

10 A Yes, ma'am.

11 Q Okay. Do you know what happened during that two
12 hours it was gone? Do you yourself know?

13 A No, ma'am.

14 Q You were at your girlfriend's house in Blenheim that
15 entire time?

16 A Yes, ma'am.

17 Q And who was in the vehicle when it left the
18 girlfriend's house?

19 A Rondell.

20 Q Okay. Was anybody else in the car with him?

21 A No, ma'am.

22 Q Okay. When he came back to get you at your
23 girlfriend's house about 2:30 was there anybody in the car
24 with him then?

25 A No, ma'am.

SW - C. HARRINGTON - CROSS

1 Q Okay. He was the only one?

2 A Yes, ma'am.

3 Q And when you went back to your house did you pick
4 anybody else up in the car?

5 A No, ma'am.

6 Q And did you ever see anybody else with Rondell that
7 entire day?

8 A No, ma'am.

9 Q Okay. Are you in school, are you working or?

10 A In school.

11 Q Okay. You still live with your parents?

12 A No, ma'am. Live by myself now.

13 Q Back in October last year were you living by
14 yourself?

15 A No, ma'am, I was living with my daddy.

16 Q Okay. I don't have any further questions.

17 THE COURT: Cross-examination, Mr. Holt.

18 MR. HOLT: May it please the Court.

19 CROSS - EXAMINATION

20 BY MR. HOLT:

21 Q Colby, how old are you?

22 A 23.

23 Q Where do you go to school?

24 A Francis Marion University.

25 Q Okay, good for you. You were -- you weren't with

SW - C. HARRINGTON - CROSS

1 your brother between 12:30 and 2:30?

2 A No, sir, I was with my cousin.

3 Q Okay, I'm sorry, your cousin Rondell Knight. You
4 weren't with him during that time?

5 A No, sir.

6 Q And so you don't have any personal knowledge of
7 anything that happened between 12:30 and 2:30?

8 A I couldn't hear you.

9 Q You don't have any personal knowledge of anything
10 happening between 12:30 and 2:30?

11 A No, sir.

12 Q How far is it from -- you're from Bennettsville
13 area, right?

14 A Yes, sir.

15 Q Are you familiar with Lester community?

16 A Lester?

17 Q Yeah, have you ever heard of Lester community?

18 A Yes, sir.

19 Q And I'm not from Marlboro County, but I assume, is
20 that like a little crossroads community, a country community?

21 A Yes, sir.

22 Q Okay. How far would it take you typically driving
23 normal speed to drive from Blenheim to Lester?

24 A Probably 30 minutes, hour I guess.

25 Q Okay. And you were in Blenheim with your girlfriend

SW - C. HARRINGTON - CROSS

1 the last time you saw your brother prior to him coming back?

2 A Yes, sir.

3 Q You indicated he was going to go get food for his
4 girlfriend. Who is his girlfriend at that time?

5 A What's her name?

6 Q What is her name at that time, the girl he was
7 seeing at that time?

8 A Her name Takka.

9 Q Is it Takka Watson?

10 A I don't know her last name. I just know Takka.

11 Q Takka. Do you know where he was living at that
12 time? Does -- was she living at McColl?

13 A She was staying with my cousin.

14 Q Was that in McColl?

15 A I think so.

16 Q Did she do hair?

17 A Yes, sir.

18 Q Okay. So you understood your brother to be taking
19 food to Takka in McColl; is that right?

20 A Yes, sir.

21 Q And do you know Brandon Ray?

22 A Yes, sir.

23 Q And you're related to him; aren't you?

24 A Yes, sir.

25 Q And he's your cousin?

SW - C. HARRINGTON - REDIRECT

1 A Yes, sir.

2 Q I appreciate your being here today. I'm sorry all
3 this has happened. Good luck in school.

4 A Thank you.

5 MR. HOLT: No further questions.

6 THE COURT: Cross-examine.

7 MS. MUNNERLYN: Just one.

8 **REDIRECT EXAMINATION**

9 **BY MS. MUNNERLYN:**

10 Q Now Rondell is not your brother, is he?

11 A No, ma'am.

12 Q He's your cousin?

13 A Yes, ma'am.

14 Q That would be your first cousin?

15 A Yes, ma'am.

16 Q And would you say you were closer to Rondell Knight
17 or Brandon Ray?

18 A Rondell Knight.

19 Q Okay.

20 MS. MUNNERLYN: I don't have any further questions,

21 Your Honor.

22 THE COURT: Anything further?

23 MR. HOLT: No, Your Honor.

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

25 You may call your next witness.

SW - W. WILKES - DIRECT

1 MS. MUNNERLYN: Thank you, Your Honor. Walter Blake
2 Wilkes.

3 THE COURT: Come around please, Mr. Wilkes.
4 WHEREUPON,

5 WALTER BLAKE WILKES,
6 having been duly sworn by the Clerk of Court, testified as
7 follows:

8 THE CLERK OF COURT: Come on around over here.
9 State your full name.

10 THE WITNESS: Walter Blake Wilkes.

11 DIRECT EXAMINATION

12 BY MS. MUNNERLYN:

13 Q You go by Blake, right?

14 A Yes, ma'am.

15 Q Okay. Blake now, do you live at Apartments?

16 A Yes, ma'am.

17 Q Okay. You live with who there?

18 A My girlfriend.

19 Q All right. What's her name?

20 A Terry.

21 Q Okay. And where -- and what apartment do you live
22 with her there?

23 A

24 Q ?

25 A Yes, ma'am.

SW - W. WILKES - DIRECT

1 Q Now is that a first floor or second floor?

2 A Second floor.

3 Q Second floor?

4 A Yes, ma'am.

5 Q In Building ?

6 A Yes, ma'am.

7 Q Okay. And would that apartment then face the
8 parking lot or face the back of the ---

9 A The back of the building.

10 Q Back of the building, okay. All right. Now all of
11 the apartments in Apartment , the doors that lead into the
12 apartment, each apartment, are they in that breezeway or are
13 they on outside of the ---

14 A They inside the breezeway.

15 Q They're in the breezeway?

16 A Yes, ma'am.

17 Q Okay, all right. You said you're on the second
18 floor?

19 A Yes, ma'am.

20 Q Now do you know Shayna Whaley?

21 A Yes, ma'am.

22 Q And does she live there as well?

23 A Yes, ma'am.

24 Q And what apartment? Do you know what apartment she
25 was in?

SW - W. WILKES - DIRECT

- 1 A Right beside me,
- 2 Q , so it's a second floor apartment?
- 3 A Yes, ma'am.
- 4 Q Right beside ---
- 5 A Yes, ma'am. Right beside me.
- 6 Q Where you and your girlfriend live?
- 7 A Yes, ma'am.
- 8 Q And you -- did you live there last October?
- 9 A Yes, ma'am.
- 10 Q And did you know Maurice McRae?
- 11 A Yes, ma'am.
- 12 Q And how did you know Maurice?
- 13 A I knew him from a while back, just good buddies,
- 14 where I used to come to Dillon and then I didn't talk to him
- 15 for a little while. Time I moved to McColl I finally met back
- 16 up with him again. We just started hanging out then.
- 17 Q Okay, all right. So you just started hanging out
- 18 again. Now what was his relationship with Shayna Whaley?
- 19 A I believe they was a couple then.
- 20 Q Okay. They were a couple?
- 21 A Yes, ma'am.
- 22 Q So they had a girlfriend/boyfriend-type
- 23 relationship?
- 24 A Yes, ma'am.
- 25 Q Okay. And do you know how long they had been seeing

SW - W. WILKES - DIRECT

1 each other?

2 A No, ma'am.

3 Q Okay. For a little while though?

4 A Yeah.

5 Q Okay. And did you know Rondell Knight?

6 A I knew him from where he stayed over there for a
7 little while.

8 Q He stayed where?

9 A At Shayna's.

10 Q At Shayna's.

11 A Yes, ma'am.

12 Q Who lived with Shayna that brought Rondell?

13 A Her sister.

14 Q Her sister?

15 A Yes, ma'am.

16 Q Okay. What is her name?

17 A Olera I believe. Olera.

18 Q Olera?

19 A Olera.

20 Q And so Rondell would come there sometimes?

21 A Well, he stayed night over there a couple of nights
22 with her.

23 Q Okay. Now do you know Takka Watson? Okay. So
24 there was -- there was this girl by the name of Olera who was
25 Shayna's sister?

SW - W. WILKES - DIRECT

1 A Yes, ma'am.

2 Q And Rondell would come spend the night at Shayna's
3 apartment?

4 A Yep.

5 Q Which was right next door to yourself?

6 A Yes, ma'am.

7 Q And that's how you came to know him?

8 A Yes, ma'am.

9 Q Did you know him anywhere else?

10 A No, ma'am.

11 Q And when was the last time he had been and stayed
12 the night at Shayna's apartment when this happened?

13 A A good couple of weeks probably.

14 Q Okay, so it had been a couple of weeks. And did you
15 know the defendant in this case Brandon Ray?

16 A No, ma'am.

17 Q You did not know him. How long had you known
18 Shayna?

19 A Just since I stayed out there like, to my knowledge,
20 I moved in, they moved in right then right after we did.

21 Q And when was that?

22 A June. It was about like June I believe.

23 Q June of?

24 A Yes, ma'am.

25 Q Of last year?

SW - W. WILKES - DIRECT

1 A Yes, ma'am.

2 Q Okay. So that's when you came to know Shayna and
3 ultimately Rondell?

4 A Yes, ma'am.

5 Q And Maurice you had known from Dillon you said?

6 A Yes, ma'am.

7 Q Okay. Now that particular day you were there at
8 home; weren't you?

9 A Yes, ma'am.

10 Q Okay. And the middle of the day do you remember
11 about what you were doing around lunch time?

12 A Not sure. I believe I just walked outside just to
13 walk outside just to see what was going on.

14 Q Okay. And were there people outside or was it sort
15 of empty?

16 A No, ma'am, there wasn't really nobody outside.
17 Everybody was on the other side of the complex.

18 Q Okay. When you say the other side, if you'll look
19 at this diagram right up here. When you say the outside of
20 the complex what do you mean?

21 A Over here.

22 Q Okay. Right here standing in this hallway standing
23 over at Building .

24 A Yes, ma'am.

25 Q Okay. You were there really the only one that at

SW - W. WILKES - DIRECT

1 Building ?

2 A Yes, ma'am.

3 Q Did you see Maurice that morning?

4 A Yeah.

5 Q Okay. What, if anything, did you do with Maurice?

6 A Really, we really didn't do nothing. We just by the
7 time I walk outside he seen me walk out. He come over to
8 speak to me for a few minutes. We stood there and just talked
9 for a few minutes.

10 Q Was this on the second floor?

11 A No, ma'am.

12 Q Or was it one the first floor?

13 A No, we were standing right here bottom first floor
14 right here in the front.

15 Q Sort of this front of the building?

16 A Yes, ma'am.

17 Q Okay. And did anyone come up into the parking lot?

18 A In front of our building?

19 Q Anywhere.

20 A No, ma'am, not that I remember. No one before then.

21 Q When did you first see somebody approach?

22 A Just a few minutes after whenever Brandon and
23 Rondell walked up to our building.

24 Q Okay, all right. Did you see -- when they drove up
25 did you see what they were driving?

SW - W. WILKES - DIRECT

1 A No, ma'am, I ain't see when they drove up. I
2 remember seeing what they left in.

3 Q Okay, all right. When did you first see them?

4 A Part time they come across the parking lot to come
5 over to our buildings, that the first time I seen them but in
6 that day, not approximately then, but walk up.

7 Q And where were they coming from when you saw them?

8 A Out of the hallway. Out of the breezeway, the
9 hall way that cuts through Building.

10 Q And where did they walk from that point?

11 A Straight to the front of Building where we was at.

12 Q And who was standing in front of Building?

13 A Me and Maurice.

14 Q Just the two of you?

15 A Yes, ma'am.

16 Q And nobody else was standing out there?

17 A No, ma'am.

18 Q Was Shayna at home at this time?

19 A No, ma'am.

20 Q Okay. And so it was -- and you, at that time did
21 you -- you did not know Brandon?

22 A Right, I ain't never seen him before.

23 Q Okay. And they approached you?

24 A Yes, ma'am, me and Maurice.

25 Q And what happened when they approached you?

SW - W. WILKES - DIRECT

1 A Rondell spoke but then Brandon Ray didn't speak or
2 nothing, and then that's -- they had a conversation, him and
3 Maurice.

4 Q Tell us about that.

5 A Maurice just told him that he needs to go ahead and
6 go because ---

7 Q Told who?

8 A Brandon Ray and Rondell. Told Rondell he need to go
9 take Brandon out of here, take him home somewhere because he
10 pull a gun on him a couple of weeks before at a football game.

11 Q So Maurice was saying this to ---

12 A Rondell.

13 Q Rondell, okay. Did you -- were you aware of these
14 problems?

15 A No, ma'am.

16 Q Okay. Had -- were you aware that Maurice and
17 Rondell had had any sort of?

18 A No, ma'am, I figured they was pretty close. I mean,
19 they stayed nights with each other upstairs at Shayna's.

20 Q Okay, all right. And so what, what happened next?

21 A Then Maurice told him to hold on a minute, he'll be
22 right back. Maurice walked upstairs. By that time Brandon
23 Ray and Rondell was walking back across the parking lot to get
24 back in the car.

25 Q Now where did Maurice go when he said hold on a

SW - W. WILKES - DIRECT

1 minute, I'll be right back, where ---

2 A Upstairs to Shayna's apartment.

3 Q To Shayna's apartment?

4 A Yes, ma'am.

5 Q And where -- did he go in the apartment?

6 A Yes, ma'am.

7 Q Okay. How long was he in the apartment?

8 A Just a couple of seconds.

9 Q Couple of seconds. And then what did he do?

10 A He just come back out, was coming down the stairs.

11 By that time Brandon Ray and Rondell was walking back to their
12 car.

13 Q And do you know why he went in the apartment?

14 A No, ma'am, not right offhand. He just said he'll be
15 right back, hold on a minute.

16 Q Okay. And when he came back down the stairs did you
17 see anything in his hands or ---

18 A No, ma'am.

19 Q ---anything on him?

20 A I asked him did he have anything on him, he said no.

21 Q Okay.

22 A Because I asked him was he going out there to do
23 anything. I didn't see till the boys was leaving right then

24 but...

25 Q All right, and where are the boys?

SW - W. WILKES - DIRECT

- 1 A About to get in the car.
- 2 Q About to get in the car?
- 3 A Yes, ma'am.
- 4 Q Where was the car?
- 5 A Right here.
- 6 Q Okay. And who -- do you remember who was driving?
- 7 A Rondell.
- 8 Q Rondell got in the driver's seat?
- 9 A Yes, ma'am.
- 10 Q And where did Brandon get in?
- 11 A In the passenger side.
- 12 Q And they got in what did they proceed to do?
- 13 A They backed up and then just sat there for a second
- 14 and then that's when Maurice stepped up to the car.
- 15 Q Now when you say they backed up, show me where they
- 16 backed up.
- 17 A They backed up like turning out this way to go this
- 18 way and they set like right here, the car sit side ways.
- 19 Q You said they just sat there?
- 20 A Yeah, just stopped and paused for a second.
- 21 Q And paused, okay. Were the windows down?
- 22 A Yes, ma'am, the two ---
- 23 Q On the vehicles, the passenger and driver was?
- 24 A Back windows weren't down.
- 25 Q Okay. And where was Maurice at this point?

SW - W. WILKES - DIRECT

1 A He come across the parking lot from here and walked
2 through here and was about to step up to the side of the car.

3 Q Okay. What happened?

4 A Then that's when the gunshot rang out.

5 Q That's when you heard a gunshot?

6 A Yes, ma'am.

7 Q What -- were you looking at the car at that
8 particular time?

9 A Yes, ma'am. I could see like the front of the car
10 and top of it, but I really couldn't see the whole vehicle
11 because the truck was sitting in the way.

12 Q Okay. Could you hear what they were saying?

13 A No, ma'am, I heard Maurice say you got me.

14 Q Okay. Did you hear Maurice say anything immediately
15 prior to him approaching the car?

16 A Huh-uh.

17 Q All right. Do you remember giving a statement to
18 police?

19 A Yes, ma'am.

20 Q And when did you give that statement?

21 A The same night after this happened.

22 Q Same night after it happened?

23 A Yes, ma'am.

24 Q I want you to look at that and see if you recognize
25 that document.

SW - W. WILKES - DIRECT

1 A Yes, ma'am.

2 Q What is that?

3 A That's my statement.

4 Q Okay. And is that the statement you gave that same
5 day this all happened?

6 A Yes, ma'am.

7 Q Okay.

8 A It was that night.

9 Q Just read it, not out loud. Just review it to
10 yourself.

11 A (Pause.)

12 Q Have you had a chance?

13 A Yes, ma'am.

14 Q All right. Now do you remember what you told the
15 police then that day as far as when he began to approach the
16 car?

17 A Ma'am?

18 Q When Maurice began to approach the car?

19 A Yes, ma'am.

20 Q What, if anything, did you hear him say?

21 A I ain't sure. All I really heard was Maurice say,
22 yeah, you got me, yeah, you got me, right after the gunshot.

23 Q Didn't you say in your statement that he said hold
24 on a minute, let me holler at you a minute?

25 A Yeah, yeah, he did say that.

SW - W. WILKES - DIRECT

1 Q Yeah, he did say that?

2 A Yes, ma'am. Yes, ma'am.

3 Q All right. And so when did he say that?

4 A When he was back about right here. He was walking
5 up, told him to hold on a second.

6 Q Okay. When he was walking like when he was on the
7 sidewalk or?

8 A Well, he was about to step right here into the
9 parking lot. He was coming across the grass about to step
10 right here.

11 Q Okay. And that's when he said that?

12 A Yeah.

13 Q All right. And you could still clearly see him at
14 that point; couldn't you?

15 A Yes, ma'am.

16 Q And what happened? Was there any further
17 conversation between them at that point?

18 A (There was no audible response.)

19 Q And then what happened then?

20 A That's whenever the gunshot rang out from Maurice
21 threw his hand up in the air and said, yeah, you got me.

22 Q Now how did Maurice throw his hands up in the air?

23 A Like this right here.

24 Q Okay. Then he said, you got me?

25 A Yeah.

SW - W. WILKES - DIRECT

1 Q Okay. Then when he threw his hands up in the air
2 was there anything in his hands?

3 A No, ma'am.

4 Q Did you ever see anything in his hands as he was
5 approaching the car?

6 A No, ma'am.

7 Q Okay. And after the gunshot rang out and he made
8 the statement, throw up his hands, what happened?

9 A I seen the smoke come out the passenger side and
10 then they sped out.

11 Q Okay. And what did Maurice do?

12 A He -- well, time he got shot he attempted to get
13 back up but he didn't ever get back up.

14 Q He didn't never get back up?

15 A He attempted to.

16 Q Where did he fall?

17 A Right here.

18 Q In the parking space itself?

19 A Yes, ma'am.

20 Q Okay. And who was around at that point?

21 A By that point his brother was all come up, then
22 right after they all come up. There was a whole crowd out
23 there.

24 Q And who approached Maurice? Did anybody approach
25 him?

SW - W. WILKES - DIRECT

1 A I believe his brothers and stuff did, but they just
2 stood around him and sat him up a little bit where he was
3 leaning on him.

4 Q He was still talking a little bit at first; wasn't
5 he?

6 A I ain't sure about all that.

7 Q Okay. But they were -- were they sitting down on
8 the pavement with him?

9 A Yes, ma'am, standing around him.

10 Q Standing around him.

11 A Telling him to hold on a minute, the ambulance will
12 be here.

13 Q Telling him to hold on, the ambulance will be here?

14 A Yes, ma'am.

15 Q And do you know if they took anything off of him?

16 A No, ma'am.

17 Q Okay. You don't know, or they did not take?

18 A I don't know if they ---

19 Q Where were you during this time period?

20 A I was -- I was right here when all this happened,
21 but then I ended up standing right here while the ambulance
22 and all the cops and stuff was coming around.

23 Q And how many people came out after this happened?

24 A Oh, a lot. It was a whole lot of people. You
25 really couldn't -- you couldn't see what was going on on the

SW - W. WILKES - DIRECT

1 ground from people standing around.

2 Q Okay. So if you were any distance away from him you
3 couldn't see him?

4 A Until the last time I seen Maurice he looked up at
5 me that was it.

6 Q Okay. And were you there when law enforcement
7 arrived?

8 A Yes, ma'am.

9 Q And were you there when the ambulance arrived?

10 A Yes, ma'am.

11 Q And was Maurice's body ever moved?

12 A Not from then on until they put him on the
13 stretcher.

14 Q Okay. And you said after the shot was fired the car
15 left?

16 A Yes, ma'am.

17 Q Where did it go?

18 A It headed straight out this way.

19 Q Okay. And how many shots did you hear?

20 A One.

21 Q Okay. And did you see any other cars leaving?

22 A No, ma'am.

23 Q Did you call 9-1-1 or anything?

24 A I didn't have a phone.

25 Q Okay. Do you know anything about this business that

SW - W. WILKES - DIRECT

1 Maurice referred to in the initial conversation that he had
2 had problems Brandon a couple of weeks earlier at that
3 football game?

4 A No, not then, not until Maurice mentioned it then.

5 Q Okay. Do you know about how long it was until law
6 enforcement arrived?

7 A He was -- they was there like just a couple of
8 minutes after it happened, but the ambulance about 20 minutes.

9 Q It took a while for the ambulance to arrive?

10 A Yes, ma'am.

11 Q But law enforcement was there?

12 A Yes, ma'am.

13 Q Okay. And they were there till the ambulance
14 arrived?

15 A Yes, ma'am.

16 Q I don't have any further questions. Please answer
17 any questions Mr. Holt might have.

18 THE COURT: Cross-examination, Mr. Holt.

19 CROSS-EXAMINATION

20 BY MR. HOLT:

21 Q Blake, I have a few questions for you. And if I ask
22 some of the questions asked before I apologize. I'm not
23 trying to trip you up. I'm trying to get a clear picture of
24 what happened. You indicated that you knew Rondell Knight;
25 that he had stayed across the hallway from your apartment; and

SW - W. WILKES - CROSS

1 that you did not know Brandon Ray, had not seen him before. I
2 think in your statement you indicated that as well, correct?

3 A Uh-huh.

4 Q You see them, from that day, you see them approach
5 y'all through the parking lot?

6 A Yes, ma'am.

7 Q And isn't it true that as they were approaching that
8 Maurice McRae in your statement, according to your statement,
9 indicated that Rondell said to you, what's up, Blake?

10 A Yeah, he spoke to me and Maurice.

11 Q Okay. And then, isn't it true that Maurice McRae
12 then told Rondell to take that slob ass nigger away ---

13 A Yeah.

14 Q ---from here because he had just pulled a gun out on
15 me just the other month?

16 A Just a few weeks at a football game.

17 Q And those were his words?

18 A Yes, ma'am -- yes, sir.

19 Q And when he said that, isn't it true that he said it
20 in an angry tone?

21 A Well, it wasn't a angry tone. It was just like he
22 ought to have better sense than coming up here right here to
23 me after he done did something like at the football, right,
24 what you right here close to me for.

25 Q You were never at that football game?

SW - W. WILKES - CROSS

1 A No, sir.

2 Q And there's no -- there's no indication in your
3 statement that anything happened at a football game. In your
4 statement you're just indicating the other month?

5 A Well, just -- I just said whatever they just said in
6 the conversation; that he said that he pulled a gun out on me
7 a couple of weeks ago at a football game.

8 Q And prior to that when Ms. Munnerlyn was asking you
9 questions you didn't know anything about that because you
10 weren't there, were you?

11 A No, sir.

12 Q Isn't it true that once he said that Maurice and
13 Brandon Ray who, you didn't know, they stopped in their
14 tracks; isn't that right?

15 A Maurice and Brandon Ray?

16 Q Yeah, they stopped.

17 A They just stood there for a few seconds. Obviously
18 it did, just looking.

19 Q Okay, for a few seconds?

20 A Yes, sir. I didn't know what was going on.

21 Q Took you off-guard; didn't it?

22 A Yeah.

23 Q It appeared to have taken Mr. Knight and Mr. Ray
24 off-guard; didn't it?

25 A Everyone just stood there and paused.

SW - W. WILKES - CROSS

1 Q And then, isn't it true that Maurice then says, hold
2 on a second, stay right here because I got something for your
3 ass upstairs?

4 A Right.

5 Q That's in your statement, right?

6 A Yeah.

7 Q And is that correct?

8 A Yeah.

9 Q Okay. Now when he said, I got something for you
10 upstairs, he meant he had a gun, right?

11 A I ain't sure.

12 MS. MUNNERLYN: Objection, Your Honor, that's
13 speculation.

14 THE COURT: Objection is sustained.

15 BY MR. HOLT:

16 Q Did you know Maurice to have a gun?

17 A No, sir, I ain't never seen one.

18 Q You've been in his apartment before; haven't you?

19 A Yes, sir. Yes, sir.

20 Q When he said that he went into his apartment?

21 A Yeah.

22 Q Right?

23 A Yeah.

24 Q And isn't it true that Brandon Ray and Rondell
25 Knight immediately started to leave?

SW - W. WILKES - CROSS

- 1 A Yeah, they started walking back to the car.
- 2 Q Okay. And isn't it true they started to get back to
3 the car rather quick; didn't they?
- 4 A Yeah, they was looking backwards the whole time.
- 5 Q They were watching over their shoulder?
- 6 A Yeah.
- 7 Q And you continued to stand in front of the apartment
8 building, right?
- 9 A Yes, sir.
- 10 Q And isn't it true that they got to their car and
11 they got in the car, right?
- 12 A Yes, sir.
- 13 Q And isn't it true they were backing out?
- 14 A Yeah.
- 15 Q And isn't it true at that time Maurice McRae comes
16 out of the building, comes across the parking lot, and tells
17 them to hold up?
- 18 A Well, looked like they was pausing, holding up for a
19 second anyhow, before he even said that.
- 20 Q He was approaching their car, was he not?
- 21 A Yeah.
- 22 Q Yes?
- 23 A Yeah.
- 24 Q He was approaching the car according to you after
25 making a threatening statement?

SW - W. WILKES - CROSS

1 A Uh-huh.

2 Q When you were standing there -- I'm going to
3 approach this little diagram. You were standing somewhere in
4 front of Apartment probably near the breezeway which was in
5 the middle of the building?

6 A We was standing in the beginning of the breezeway.

7 Q Okay. The car was parked over here?

8 A Yep.

9 Q Your testimony is, is they were in the car and they
10 were backing up. And at that time Maurice McRae comes out of
11 the breezeway across the parking lot directly toward them,
12 correct?

13 A Uh-huh.

14 Q Yes?

15 A Yes, sir.

16 Q He didn't stop to talk to you, he didn't stop to
17 talk to anybody else, he was straightforward the car where
18 Brandon Ray was a passenger?

19 A Well, I mean, he spoke to me on his way down the
20 stairs.

21 Q But he didn't stop?

22 A No, he didn't stop.

23 Q He kept going, right?

24 A Yeah.

25 Q After going into the apartment after making the

SW - W. WILKES - CROSS

1 threat?

2 A Yes, sir.

3 Q Your further testimony was, is that you -- you
4 didn't hear Brandon Ray say anything. All you heard was
5 Maurice McRae say, you got me?

6 A Yeah.

7 Q And fell down?

8 A Yeah.

9 Q I know you're not an expert on distances. Are you
10 able to approximate how far it is from here to here? Point
11 Building to the spot where the shooting occurred.

12 A Probably about 20 yards.

13 Q All right. And you've lived there now for a year

14 ---

15 A Going on two years.

16 Q ---plus, okay. And was there anybody in between
17 your vision and the car except for the abandoned car right
18 there in that first parking spot?

19 A No.

20 Q Nobody?

21 A No.

22 Q Was there anybody hanging out in this parking lot in
23 front of Apartment or Building ?

24 A (There was no audible response.)

25 Q Is that a no?

SW - W. WILKES - CROSS

1 A No, sir.

2 Q And I say -- if I ask you is that a no, it's because
3 you're nodding your head I just want everybody to hear it.

4 A No, sir.

5 Q Was there anybody in the parking lot between
6 Building and Building right here other than the Mr. Ray,
7 Rondell Knight, and Maurice McRae?

8 A No, sir, not that I recall, no, sir.

9 Q Okay. And did you ever take your eyes off of
10 Maurice McRae as he approached the car?

11 A No, sir.

12 Q You watched him the whole time?

13 A Yes, sir.

14 Q Did he walk slowly to the car or did he walk fast to
15 the car?

16 A Well, he wasn't running but he wasn't slowly walking
17 either, just like normal pace.

18 Q At what point from Building to the parking lot
19 where this here was, it's your memory that he yelled, hold up
20 a minute, let me holler at you?

21 A Oh, he was already over here. Like I said, they
22 already looked like they was stopping anyhow. They was
23 waiting a second. They was already on the edge of that
24 sidewalk right there.

25 Q So he'd actually made it from there to there when he

SW - W. WILKES - CROSS

- 1 says let me holler at you?
- 2 A Yeah.
- 3 Q Did you see Vula Davis? Do you know her?
- 4 A Yes, ma'am -- yes, sir.
- 5 Q She live in Building ?
- 6 A Yes, sir.
- 7 Q Downstairs apartment?
- 8 A Yes, sir.
- 9 Q Did you see her prior to this incident occurring?
- 10 A No, sir.
- 11 Q Did you see her after the incident occurred?
- 12 A Yes, sir, she was the one that called 911.
- 13 Q My question is, did you see her after the incident?
- 14 A Yes, sir.
- 15 Q You weren't with her when she called the 911 ---
- 16 A No, sir.
- 17 Q ---were you?
- 18 A Huh-uh.
- 19 Q And who was the first person to Maurice McRae after
- 20 the incident occurred?
- 21 A His brothers.
- 22 Q You say brothers plural. Now Charles McRae is the
- 23 brother, correct?
- 24 A Yes, sir.
- 25 Q Who was another brother?

SW - W. WILKES - CROSS

1 A Well, it was -- I don't -- it might have been his
2 brother. It was his -- I don't know his name; I can't recall
3 his name right now. But I know his brother was the first one
4 there and the other boy which I believe was his brother too.

5 Q Charles McRae's brother?

6 A Yes.

7 Q And the identity of the second person we don't know
8 but you assume it is his other brother?

9 A Yes, sir, because I didn't know none of Maurice's
10 brothers until right after all this happened.

11 Q You're standing in front of Building ?

12 A Yes, sir.

13 Q There is a car ---

14 A Yes, sir.

15 Q ---parked right here?

16 A Yes, sir.

17 Q Maurice McRae is lying in the second or third
18 parking place according to this diagram in the parking lot
19 laying down on the ground?

20 A Yes, sir.

21 Q His brother Charles McRae comes from that direction?

22 A All them, that crowd was over here somewhere. I
23 really couldn't tell you. They just come from this direction
24 over here.

25 Q So from your vantage point in Building you could

SW - W. WILKES - CROSS

1 not see his brother or anyone else?

2 A No, I couldn't tell what that crowd was doing over
3 there. I mean ---

4 Q A crowd, so more than one?

5 A Yeah, it was more than one person over there.

6 Q And when we say over there we're referring to the
7 parking lot between Building , , and ?

8 A Yes.

9 Q But when the fatal shot was fired you couldn't see
10 any of them, right?

11 A No, sir.

12 Q And you couldn't see Maurice because the car was
13 blocking your view, right?

14 A I seen from about this much of Maurice because he
15 has a little bit of height on him, was kind of tall.

16 Q So you're saying he actually fell further back so
17 that you could see him around that abandoned car?

18 A Well, I ain't say he fell further back but I
19 couldn't see him around the car. I seen him around the car
20 while he was standing up, seen him over the car.

21 Q When he fell down on the ground you lost your
22 vision, right? You couldn't see him anymore?

23 A Yeah, until I walked up on the sidewalk, right.

24 Q So you couldn't see him. Your testimony before was,
25 is that you stayed back here, I think it was. Now if I'm

SW - W. WILKES - CROSS

1 wrong you correct me. But you stood here and then later on
2 you walked to this point and you never got closer to him. And
3 "this point," being I guess the median between the two parking
4 lots; is that right?

5 A I was right here standing right here because I
6 couldn't see the car so I was standing right here.

7 Q And you were standing over those who had gathered
8 around Maurice McRae?

9 A Well, I was standing back a couple of feet. I
10 wasn't getting in the crowd.

11 Q I believe it was your testimony that you couldn't
12 see what was going on on the ground due to the number of
13 people standing around?

14 A Yeah.

15 Q How many people approximately would you say were
16 standing around Maurice's brother?

17 A 25 or 30.

18 Q 25 or 30.

19 A Including the kids too.

20 Q And kids came out?

21 A Well, I mean yeah, crowd gets like that in the
22 parking lot everybody coming to see what's going on.

23 Q You're standing there when then police came up and
24 then you were standing there and the ambulance came up, right?

25 A Yes, sir. Yes, sir.

SW - W. WILKES - CROSS

1 Q And isn't it true that you actually saw Charles
2 McRae holding his brother?

3 A Yes, sir.

4 Q Isn't it true that you saw Charles McRae take
5 property items off of his brother?

6 A Oh, I've seen -- I didn't see none of that.

7 Q You didn't see Charles McRae take something off of
8 Maurice?

9 A No, sir.

10 Q Did you know Maurice to carry a cell phone?

11 A I believe he had one that day, yeah. He did have
12 one that day because he was calling one of his friends while
13 he and him was standing in the breezeway. That's what he was
14 doing; he was on the phone.

15 Q You continue to live in Building , right?

16 A Yes, sir.

17 Q Have you had any conversations with anybody about
18 this trial?

19 A No, sir.

20 Q You haven't talked ---

21 A Except Shayna. I was -- just asked her could I ride
22 up here today.

23 Q So you road with Shayna to the trial?

24 A Yes, sir, that's the only ride I have..

25 Q You haven't talked to law enforcement? You haven't

SW - W. WILKES - CROSS

1 talked to the victim's family or anybody like that about this
2 case?

3 A (There was no audible response.)

4 Q Is that a no?

5 A No, sir.

6 MR. HOLT: Court's indulgence a moment.

7 THE COURT: Yes, sir.

8 BY MR. HOLT:

9 Q Blake, I'm going to let you go. One more question.

10 Did you have -- you saw them approach initially. You saw
11 Brandon Ray and Rondell Knight approach you and Maurice McRae
12 in front of the building. You saw them coming up you
13 indicated earlier. Maurice says what he says to Rondell. You
14 then -- did you ever hear at any point, Brandon Ray, are you
15 with Maurice McRae, are you or anyone else?

16 A (There was no audible response.)

17 Q Is that a no?

18 A That's no, sir.

19 Q So isn't it true that Brandon Ray came up and
20 remained silent, then left and went back to the car without
21 saying anything to Maurice McRae?

22 A Yes, sir.

23 MR. HOLT: No further questions.

24 THE COURT: Redirect.

25 REDIRECT EXAMINATION

SW - W. WILKES - REDIRECT

1 BY MS. MUNNERLYN:

2 Q So you were standing over in front of Building as
3 Maurice went from crossing the parking lot?

4 A Yes, ma'am.

5 Q Okay. At what point did you move to the spot by
6 Building ?

7 A Right after he got shot and all the crowd come out.

8 Q Okay. And Charles McRae, his brother, ---

9 A Yes, ma'am.

10 Q ---to your knowledge did he ever leave his brother's
11 side?

12 A No, ma'am.

13 Q Until the ambulance got there?

14 A Until the ambulance picked him up off the ground he
15 didn't never leave his side.

16 Q Okay. And you said you thought there was another
17 guy there?

18 A Yes, ma'am.

19 Q Is that guy here today?

20 A Yes, ma'am, he's in the back.

21 Q Okay, all right.

22 MS. MUNNERLYN: I don't have any further questions,
23 Your Honor.

24 MR. HOLT: Nothing, Your Honor.

25 THE COURT: Recross? All right, thank you. You may

SW - S. WHALEY - DIRECT

1 step down.

2 Ms. Munnerlyn, you may call your next witness.

3 MS. MUNNERLYN: Thank you, Your Honor. Shayna
4 Whaley.

5 THE COURT: Come around please.

6 WHEREUPON,

7 SHAYNA WHALEY,

8 having been duly sworn by the Deputy Clerk of Court,

9 testified as follows:

10 THE CLERK OF COURT: Come around here and state your
11 name.

12 THE WITNESS: Shayna Whaley.

13 **DIRECT EXAMINATION**

14 **BY MS. MUNNERLYN:**

15 Q Shayna, that's S-H-A-Y-N-A?

16 A Yes, ma'am.

17 Q Okay. Where do you live?

18 A McColl, Apartments.

19 Q Okay. And what apartment?

20 A Apartment

21 Q ?

22 A Yes, ma'am.

23 Q Okay. And that's located on the second floor?

24 A Yes, ma'am.

25 Q Of

SW - S. WHALEY - DIRECT

- 1 A Yes, ma'am.
- 2 Q And is that where the same apartment where you lived
- 3 in October of last year?
- 4 A Yes, ma'am.
- 5 Q And what was your relationship with Maurice McRae at
- 6 the time of his death?
- 7 A I was going with him. He's my baby daddy. I was
- 8 going with him.
- 9 Q He's your baby's daddy, and you were going with him.
- 10 Y'all had a romantic relationship?
- 11 A Yes, ma'am.
- 12 Q And how long had y'all been seeing each other?
- 13 A Probably about two, three years off and on.
- 14 Q Two and three years off and on?
- 15 A Yes, ma'am.
- 16 Q And most recent -- now, how old is his child?
- 17 A Two.
- 18 Q Two, okay. So he was one last year?
- 19 A Yes, ma'am.
- 20 Q At the time of his death he was one?
- 21 A Yes, ma'am.
- 22 Q Okay. Now what is -- you know Brandon Ray?
- 23 A Yes, ma'am.
- 24 Q Okay. And what has been your relationship with him?
- 25 A We used to go together like April last year.

SW - S. WHALEY - DIRECT

1 Q Okay.

2 A April of last year.

3 Q Okay. So that was in between the times that you
4 were with Maurice?

5 A That was when we was -- we wasn't talking to him.

6 Q Okay, you weren't talking to him?

7 A Maurice.

8 Q Okay. And where were you living when you were
9 seeing Brandon?

10 A In Bennettsville on

11 Q Okay. And how was your relationship with Brandon?

12 A I see him every now and then. He come every now --
13 he come around every now and then. It was all right.

14 Q And how long did y'all see each other as
15 girlfriend/boyfriend or romantically?

16 A We probably went together about like two weeks at a
17 time.

18 Q Two weeks?

19 A Yes, ma'am.

20 Q And why did that end?

21 A Because he had jumped on me.

22 MR. HOLT: Objection, Your Honor.

23 THE COURT: I'm sorry, hold on just a minute. Come
24 around.

25

SW - S. WHALEY - DIRECT

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

3 THE COURT: All right. The Court will sustain the
4 objection and ask the jury to disregard the last answer.

5 BY MS. MUNNERLYN:

6 Q Okay. And so when did the relationship end with
7 Brandon?

8 A I can't remember the date but it was in February.

9 Q Okay. And ---

10 A Not -- I'm sorry, I didn't mean to say February. I
11 meant to say April, I'm sorry.

12 Q April?

13 A Yes, ma'am.

14 Q And since that time had you seen Brandon?

15 A No, ma'am, today.

16 Q Till today, okay. Had you had any conversation with
17 him, talk to him on the phone, or anything like that?

18 A No, ma'am.

19 Q Okay. Had he attempted to contact you?

20 A No, ma'am.

21 Q Okay. And did you know or do you know Rondell
22 Knight?

23 A Yes, ma'am.

24 Q Okay. How do you know Rondell?

25 A Went to school together and we stayed around the

SW - S. WHALEY - DIRECT

1 same neighborhood. My girl that was my friend was going with
2 him.

3 Q And who was that?

4 A Takka Watson.

5 Q Takka Watson?

6 A Yes, ma'am.

7 Q And that was his girlfriend for a period of time?

8 A Yes, ma'am.

9 Q Okay. And did she live with you for a while?

10 A Yes, ma'am.

11 Q And when -- where were you living when he lived with
12 you?

13 A She lived with me when I was staying in
14 Bennettsville and when I was staying in Coward.

15 Q She lived with you at both places when you were in
16 Bennettsville and when you were in McColl?

17 A Yes, ma'am.

18 Q And when she lived with you did you see Rondell
19 then?

20 A Yes, ma'am.

21 Q Okay. When was -- at the time this happened when
22 was the last time Ron, or Takka, had lived with you? How long
23 has it been since she lived with you when the shooting
24 happened?

25 A I really don't know for a fact because I don't

SW - S. WHALEY - DIRECT

1 remember when she left. I remember it been like three weeks,
2 three or four weeks.

3 Q So maybe about three weeks?

4 A Yes, ma'am.

5 Q And when she was staying with you there at the
6 apartments would Rondell come over?

7 A He was there too. He was staying there too.

8 Q He was staying there too?

9 A Yes, sir.

10 Q So he was spending the night too?

11 A Yes, ma'am.

12 Q And how long had it been since you were seeing
13 Rondell at the time of the shooting?

14 A Since the day he had left. They had left from the
15 apartment. I can't remember exactly how long it was.

16 Q Okay. So since they had moved out you hadn't seen
17 them?

18 A No, ma'am.

19 Q Okay. Did you know what kind of relationship
20 Brandon and Maurice had?

21 A No, not really. I ain't -- no, ma'am.

22 Q Okay, did you know if they had problems between
23 them.

24 A No, not really, except for like in school. They
25 have problems in school off and on.

SW - S. WHALEY - DIRECT

1 Q They had problems when you were in school. Now how
2 old are you, Shayna?

3 A Twenty.

4 Q Twenty?

5 A Yes, ma'am.

6 Q Okay. And how old is Brandon?

7 A Brandon is 20.

8 Q And how old was Maurice?

9 A When the shooting happened he was 20.

10 Q He was 20 when the shooting happened?

11 A Yes, ma'am.

12 Q Did you have any idea that Brandon was coming to
13 your house on the day of the shooting?

14 A No, ma'am.

15 Q Had you talked to him that day?

16 A No, ma'am.

17 Q Had you received any kind of phone calls from anyone

18 ---.

19 A No, ma'am.

20 Q ---in that regard?

21 A No, ma'am.

22 Q Where did you -- where did you go that morning?

23 A Went to a ball game in Bennettsville.

24 Q In Bennettsville. What kind of ball game was it?

25 A Football.

SW - S. WHALEY - DIRECT

1 Q Football?

2 A Yes, ma'am.

3 Q Over here at in Bennettsville?

4 A Yes, ma'am.

5 Q Who did you go to the ball game with?

6 A With his sister Valerie, with his -- Maurice's
7 sister.

8 Q Maurice's sister? Okay. And so at what point were
9 you advised that something had happened?

10 A Right after the game we had went to a friend house,
11 and we got a phone call saying he just got shot.

12 Q Now what -- you said you came to a game over here.
13 What time of day was this?

14 A Around 12.

15 Q 12 noon?

16 A Yes, ma'am.

17 Q Okay. It was a organized sport football game, or
18 was it just people getting together and playing?

19 A It was an organized football game.

20 Q With the recreational league or something?

21 A I really don't know for a fact. I just know it was
22 two different teams playing. It was little kids.

23 Q Children playing football?

24 A Yes, ma'am.

25 Q Okay, all right. So do you remember about what time

SW - S. WHALEY - DIRECT

- 1 you went to the football game?
- 2 A Probably about 11:30, 2:00, in between that time.
- 3 Q You stayed after the game you went to somebody's
- 4 house?
- 5 A Yes, ma'am.
- 6 Q And at that point you received a call?
- 7 A Yes, ma'am.
- 8 Q And what did you do then?
- 9 A Got in the car and we left and went to McColl.
- 10 Q Went to McColl. Where in McColl?
- 11 A To the apartments, Apartments.
- 12 Q And what did you find when you arrived there?
- 13 A We were going by the railroad and the ambulance
- 14 going across as we were crossing.
- 15 Q I need you to speak up.
- 16 A We was crossing the railroad track. The ambulance
- 17 was going across. And there was people standing outside.
- 18 Q Okay. When you say the ambulance was going across
- 19 did you meet it or you were behind it or?
- 20 A We was coming across. They were coming across the
- 21 other way going out.
- 22 Q So it was coming from Apartments as you were
- 23 just getting there?
- 24 A Yes, ma'am.
- 25 Q Okay, all right. And so when you arrived there was

SW - S. WHALEY - CROSS

1 Maurice still there?

2 A No, ma'am, they were taking him to the hospital.

3 Q He was in the ambulance?

4 A Yes, ma'am.

5 Q So you never actually saw him?

6 A No, ma'am.

7 Q Did you see Brandon after that?

8 A No, ma'am.

9 Q You said you didn't -- you didn't see him till
10 today, right, ---

11 A Yes, sir.

12 Q ---he walked in the courtroom?

13 A Yes, ma'am.

14 MS. MUNNERLYN: Court's indulgence just one moment.

15 I don't have any further questions. Please answer any
16 questions that Mr. Holt may have.

17 THE COURT: Cross-examination, Mr. Holt.

18 MR. HOLT: Please the Court.

19 CROSS - EXAMINATION

20 BY MR. HOLT:

21 Q Shayna, I'm sorry for the tragedy that you and some
22 of the others are dealing with. You had been involved in a
23 romantic relationship with Brandon Ray that ended as of April
24 2006, correct?

25 A Yes, ma'am -- yes, sir, I'm sorry.

SW - S. WHALEY - CROSS

1 Q And you resumed a relationship sometime thereafter
2 with Maurice McRae?

3 A Yes, sir.

4 Q And you described your relationship with Brandon as
5 off and on over some period of time?

6 A Yes, sir.

7 Q Okay. You moved into the Apartments
8 approximately when?

9 A Around July the 16th. I can't remember.

10 Q Summer of 2006?

11 A Uh-huh.

12 Q Is that right?

13 A Yes, sir.

14 Q July of 2006. And in that apartment Takka Watson
15 lived with you, correct?

16 A Yes, sir.

17 Q And then in that apartment also Rondell Knight would
18 come and spend the night some with Takka Watson who is his
19 girlfriend, right?

20 A Yes, sir.

21 Q And during that time, from the time you moved till
22 October when this incident occurred, Brandon had never come to
23 see you, right? He'd never come to spend the night or
24 anything like that?

25 A No, sir.

SW - S. WHALEY - CROSS

1 Q As far as you knew he didn't know where you lived or
2 at least he hadn't been to your apartment?

3 A Yeah.

4 Q Now you lived with Maurice for some months, correct?

5 A Yes, sir.

6 Q And in that time, you know, you knew what he was
7 doing, you knew where he went, you knew the kind -- what he
8 was up to, right? Y'all were a couple, y'all had a
9 relationship?

10 A Yes, sir.

11 Q And you knew that he had a gun too; didn't you?

12 A He didn't have one.

13 Q He didn't have a gun in your apartment?

14 A No, sir.

15 Q After this incident have you talked to anybody in
16 his family or law enforcement about what you were going to say
17 today?

18 A No, sir.

19 Q And you weren't there on -- you were not at your
20 apartment complex when the shooting occurred?

21 A No, sir.

22 Q Okay.

23 MR. HOLT: No further questions.

24 THE COURT: Redirect?

25 MS. MUNNERLYN: None, Your Honor.

SW - H. WILLIAMS - DIRECT

1 THE COURT: All right. Thank you, you may step
2 down.

3 All right, you may call your next witness.

4 MS. MUNNERLYN: Heath Williams.

5 WHEREUPON,

6 HEATH WILLIAMS,

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

9 THE CLERK OF COURT: State your full name after you
10 sit down.

11 THE WITNESS: Heath Williams.

12 DIRECT EXAMINATION

13 BY MS. MUNNERLYN:

14 Q Where are you employed?

15 A Society Hill Police Department.

16 Q And back in October of last year where were you
17 employed?

18 A McColl Police Department.

19 Q Okay. And all together how many years of law
20 enforcement experience do you have?

21 A Right at four years.

22 Q Okay. And you -- now you didn't actually come out
23 on this particular call, did you?

24 A No, ma'am.

25 Q Okay. But you were involved in the transportation

SW - H. WILLIAMS - DIRECT

1 of some of the evidence, correct?

2 A Yes, ma'am.

3 Q Okay. And in fact, on the next day were you asked
4 to attend the autopsy of the victim?

5 A Yes, ma'am.

6 Q And how did -- did you actually follow the hearse or
7 follow the body as it was transported to Society Hill?

8 A I met with Larry Wilson with the LSD* transport
9 Scotland Memorial that morning. And we left from there; He
10 was driving a van. And he transported the body and I followed
11 the van to Chapel Hill, UNC.

12 Q And the autopsy took place there at the medical
13 examiner's office in Chapel Hill?

14 A Yes, ma'am.

15 Q And were you present for the autopsy?

16 A Yes, ma'am.

17 Q Okay. And in fact, you received a number of items
18 following the autopsy from the doctor, correct?

19 A Yes, ma'am.

20 Q Okay. And I'm going to show you State's Exhibit 6.
21 You recognize that document?

22 A Yes, ma'am, that's what I received from the medical
23 examiner, the items ---

24 Q Okay.

25 A ---that I brought back.

SW - H. WILLIAMS - DIRECT

1 of some of the evidence, correct?

2 A Yes, ma'am.

3 Q Okay. And in fact, on the next day were you asked
4 to attend the autopsy of the victim?

5 A Yes, ma'am.

6 Q And how did -- did you actually follow the hearse or
7 follow the body as it was transported to Society Hill?

8 A I met with Larry Wilson with the (inaudible)
9 transport at Scotland Memorial that morning. And we left from
10 there; He was driving a van. And he transported the body and
11 I followed the van to Chapel Hill, UNC.

12 Q And the autopsy took place there at the medical
13 examiner's office in Chapel Hill?

14 A Yes, ma'am.

15 Q And were you present for the autopsy?

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17 Q Okay. And in fact, you received a number of items
18 following the autopsy from the doctor, correct?

19 A Yes, ma'am.

20 Q Okay. And I'm going to show you State's Exhibit 6.
21 You recognize that document?

22 A Yes, ma'am, that's what I received from the medical
23 examiner, the items ---

24 Q Okay.

25 A ---that I brought back.

SW - H. WILLIAMS - DIRECT

1 Q All right. That indicates that's the evidence
2 disposition itemizing the items that you received?

3 A Yes, ma'am.

4 Q Okay. And those items included the victim's
5 clothing, his blood, and a bullet that was removed from his
6 body, correct?

7 A Yes, ma'am.

8 MS. MUNNERLYN: Your Honor, I believe I'd like to
9 move to admit State's Exhibit 6 at this particular time.

10 THE COURT: Any objection, Mr. Holt?

11 MR. HOLT: No objection.

12 THE COURT: State's number 6 will be admitted
13 without objection.

14 (WHEREUPON, State Exhibit No. 6 was admitted into
15 evidence.)

16 BY MS. MUNNERLYN:

17 Q And I'm going to show you State's Exhibit 1 and
18 State's Exhibit 3.

19 A Okay.

20 Q Do you recognize those items?

21 A Yes, ma'am, those are items that I transported up to
22 SLED.

23 Q All right. And you received these from whom?

24 A From Chief Langley.

25 Q Okay. And you actually initially received them from

SW - H. WILLIAMS - DIRECT

1 whom?

2 A The evidence locker.

3 Q Okay. But, I mean, before you transported them to
4 SLED you got these from?

5 A From the medical examiner.

6 Q The medical examiner, okay. And when you brought
7 them back you transferred them at the McColl Police Department
8 to?

9 A To Chief Langley and he put them in the evidence
10 locker.

11 Q Okay. And thereafter you then transported them to
12 SLED you say?

13 A Yes, ma'am.

14 Q Okay. And then I'm going to show you State's
15 Exhibit 7 and see if you recognize that.

16 A Yes, ma'am.

17 Q Okay, all right. And is that your signature on that
18 evidence request?

19 A Yes, ma'am.

20 Q Okay. And in fact, that is the disposition where
21 you turned those items over to SLED, correct?

22 A Correct.

23 Q Okay.

24 MS. MUNNERLYN: Your Honor, I would move to admit
25 State's Exhibit 7 then at this time.

SW - H. WILLIAMS - DIRECT

1 THE COURT: Any objection, Mr. Holt, to the chain of
2 custody form?

3 MR. HOLT: No objection.

4 THE COURT: All right, State's Number 7 will be
5 admitted without objection.

6 (WHEREUPON, State Exhibit No. 7 was admitted into
7 evidence.)

8 BY MS. MUNNERLYN:

9 Q Now also listed on the form was a gunshot residue
10 kit. You transported that as well, correct? Is that State's
11 Exhibit 2?

12 A Yes, ma'am.

13 Q Okay. And you transported that along with the
14 remaining evidence from McColl Police Department to SLED?

15 A Yes, ma'am.

16 Q As indicated on State's Exhibit 7 which is already
17 in evidence.

18 A Yes, ma'am.

19 Q Okay.

20 MS. MUNNERLYN: Your Honor, I want to go ahead and
21 move to admit State's Exhibits 1 and 3.

22 THE COURT: Any objection, Mr. Holt?

23 MR. HOLT: No objection.

24 THE COURT: State's Number 1 and State's Number 3
25 will be admitted into evidence without objection.

SW - H. WILLIAMS - CROSS

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

3 BY MS. MUNNERLYN:

4 Q Now I think State's Exhibit 7 indicates that you
5 actually delivered those items to SLED on October the 23rd,
6 correct?

7 A Yes, ma'am.

8 Q Which was actually within a very short period of
9 time after this incident occurred?

10 A Yes, ma'am.

11 Q Please answer any questions that Mr. Holt might
12 have.

13 THE COURT: Cross-examination, Mr. Holt.

14 CROSS-EXAMINATION

15 BY MR. HOLT:

16 Q Officer Williams, you were not there at the time of
17 the shooting, were you?

18 A No, sir.

19 MR. HOLT: No further questions, Your Honor.

20 THE COURT: All right, thank you, sir. You may step
21 down.

22 Ladies and gentlemen of the jury, it's about five or
23 six or seven minutes to one which I think it's an appropriate
24 time for us to take our lunch recess. We are going to break
25 for lunch at this time. I'm going to allow you to go get your

1 lunch and ask you to come back to your jury room. And if
2 you'll be back at 2:15. That's about an hour and 20 minutes
3 or so and that should give everybody sufficient time to get
4 lunch. Over the lunch recess do not discuss the case with
5 anyone. Do not allow anyone to discuss it with you. And when
6 you reassemble in the jury room do not discuss the case among
7 yourselves; it's still premature for you to begin any
8 discussion in this case. You have not heard all the testimony
9 in this matter.

10 Also do not read any news reports or listen to any
11 media concerning this case. Again, it is important that you
12 decide this case based on what you hear in this courtroom and
13 not from any other source. So with those admonitions I'm
14 going to excuse you now and allow you to go and get your lunch
15 and ask you to be back in your jury room please at 2:15, and
16 we'll be ready to start at that time. It's about seven
17 minutes to one right now. Thank you, have a pleasant lunch.

18 (WHEREUPON, the jury was removed from the
19 courtroom at 12:50 p.m., and the following proceedings
20 commenced in open court.)

21 THE COURT: Mr. Holt, I had indicated yesterday and
22 I did not do it, but I think it would be a good time to do it
23 now. We got about five minutes or so for me to talk with the
24 defendant about his constitutional rights regarding
25 self-incrimination. I will not require an answer from him at

1 this time, but let me ask you and Mr. McRae (sic) to come up
2 to the rail please.

3 Mr. McRae, you may be called as a witness to testify
4 in your own behalf. I want to know, advise you, that you have
5 a right to invoke the protections given to you by the Fifth
6 Amendment to the Constitution of the United States and a
7 similar counterpart provision of the constitution of the State
8 of South Carolina. The Fifth Amendment to the Constitution of
9 the United States provides in part that no person shall be
10 compelled in any criminal case to be a witness against
11 himself. This provision of constitutional law means that you
12 cannot be compelled or required to testify in this case. This
13 is a right and a privilege which the law extends to you. It
14 is a personal privilege, and no one can waive this right
15 except you. You have the right not to testify but you also
16 have the right to testify. The Court will grant you the right
17 to consult with your lawyer before you make a decision. If
18 you elect not to testify your failure to testify or your
19 election not to testify cannot be used by the State as an
20 inference of guilt, and your failure to testify cannot be
21 considered by the jury in its deliberations. In fact, I would
22 instruct the jury that they are to make no inferences from the
23 fact that you did not testify in this case. If you elect to
24 testify, however, and waive the privileges extended to you by
25 the constitution you would then assume the role of a witness

1 in this case and you would waive or give up your
2 constitutional privilege against self-incrimination. This
3 means that if you voluntarily take the stand and testify that
4 you will subject yourself to the same rules that govern other
5 witnesses, and you may be examined and cross-examined on any
6 relevant issue in this case and you may be impeached to the
7 same extent as any other witness, all of which is subject to
8 the Rules of Law and the Rules of Evidence.

9 I would further advise you that if you elect to take
10 the witness stand and testify that this decision on your part
11 must be made freely and voluntarily, intelligently, and with
12 knowledge of the protections given to you by the constitution
13 and with knowledge of the consequences of your election to
14 testify. Have you understood what I have explained to you
15 about your Fifth Amendment rights?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you have any questions that you would
18 like to ask me about your Fifth Amendment rights?

19 THE DEFENDANT: No, sir.

20 THE COURT: All right. I will, of course, give you
21 plenty of opportunity to talk with your lawyer about this
22 before you make a decision as to whether you should or should
23 not testify, and that election will not come until after the
24 State has closed its case. You understand?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: All right, thank you. You may be
2 seated.

3 All right, anything before we recess for lunch from
4 the State, Ms. Munnerlyn?

5 MS. MUNNERLYN: No, Your Honor.

6 THE COURT: Mr. Holt?

7 MR. HOLT: No, Your Honor.

8 THE COURT: We'll be in recess for lunch then until
9 12:15 -- I mean, 2:15.

10 (WHEREUPON, a lunch break was taken.)

11 THE COURT: All right, back on the record with
12 regard to the matter of the State versus Brandon Ray. Let the
13 record reflect that the State is present through counsel, and
14 the defendant is also present with his counsel. Anything
15 before we bring the jury in, Ms. Munnerlyn?

16 MS. MUNNERLYN: No, sir, I don't believe so.

17 THE COURT: Mr. Holt?

18 MR. HOLT: Nothing, Your Honor.

19 THE COURT: All right. Bring the jury in please.

20 (WHEREUPON, the jury was returned to the courtroom
21 at approximately 2:13 p.m., and the following proceedings
22 commenced in open court.)

23 THE COURT: All right. Good afternoon, ladies and
24 gentlemen, I hope everyone had a pleasant lunch. And before
25 we go forward, and we are ready to go forward, before we go

1 forward I need to ask you, first of all, if anybody has tried
2 to contact you about this case over the lunch recess or make
3 any contact with you at all I would need to know about it now.

4 (There was no response.)

5 THE COURT: Negative response. Apparently no one
6 has been contacted and that's a good thing. I would also ask
7 you that if anyone has read any news stories or seen any or
8 heard any broadcast media regarding this case over lunch
9 recess I would also need to know about that now, if you would,
10 by signify by raising your hand.

11 (There was no response.)

12 THE COURT: No response so that's good as well. All
13 right, we're ready to proceed, Ms. Munnerlyn. You may call
14 your next witness.

15 MS. MUNNERLYN: Thank you, Your Honor. I call
16 Doctor Kevin Green.

17 THE COURT: Doctor Green, come around please.

18 WHEREUPON,

19 KEVIN GARY GREEN,

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

22 THE WITNESS: My name is Kevin Gary Green.

23 DIRECT EXAMINATION

24 BY MS. MUNNERLYN:

25 Q Doctor Green, you are -- tell us, first of all,

SW - K. GREEN - DIRECT

1 about your education and experience.

2 A Medical school graduate who is currently at the
3 University of North Carolina Hospital in Chapel Hill in
4 anatomic clinical pathology training program to become a
5 pathologist. And I'm also working in the office of the chief
6 medical examiner in Chapel Hill doing medical autopsy and
7 medical legal death investigations. I went to medical school
8 at the University of Virginia in Charlottesville, Virginia.

9 Q Okay. And have you ever testified before?

10 A Yes.

11 Q How many times?

12 A This is my second case. I've testified once prior
13 to this.

14 Q So that would be two times you've been qualified as
15 an expert witness?

16 THE COURT: Well, the one time.

17 MS. MUNNERLYN: I'm sorry, he said he test -- this
18 was his second time.

19 BY MS. MUNNERLYN:

20 Q This will be the second time?

21 A Correct.

22 Q Okay, all right. Don't think there's...

23 Your Honor, then I would move to have him qualified as an
24 expert witness in the area of forensic pathology. At this
25 particular point I don't think there's any objection from the

SW - K. GREEN - DIRECT

1 Defense.

2 THE COURT: Any objection to qualifying the witness
3 as an expert in the field of forensic pathology?

4 MR. HOLT: No objection.

5 THE COURT: All right. Ladies and gentlemen of the
6 jury, let me tell you what that means. If a witness is not
7 testifying as an expert the witness's testimony is limited to
8 those things that are rationally based upon the perception of
9 the witness or helpful to a clear understanding of the
10 witness's testimony or to the determination of a fact in issue
11 and do not require special knowledge, skill, experience, or
12 training.

13 However, if scientific technical or other
14 specialized knowledge will assist the trier of fact, and
15 that's you in this case, to determine a fact at issue a
16 witness qualified as an expert by knowledge, skill,
17 experience, training, or education may testify in the form of
18 an opinion. So basically the difference between a nonexpert
19 witness and an expert witness is that an expert witness is
20 allowed to give an opinion in his field of expertise. And I
21 have qualified this witness as an expert in the field of
22 forensic pathology and so he will be able to testify and give
23 his opinion in that field.

24 All right, Ms. Munnerlyn.

25 MS. MUNNERLYN: Thank you, Your Honor.

SW - K. GREEN - DIRECT

1 BY MS. MUNNERLYN:

2 Q Doctor Green, if you would tell me, were you
3 employed or were you assisting with the office of medical
4 examiner, chief medical examiner in Chapel Hill on October
5 15th when the autopsy of Maurice was performed?

6 A Yes, I was.

7 Q And now you were not the actual doctor who was
8 performing the autopsy itself?

9 A That's correct.

10 Q But you were present for the autopsy?

11 A Correct.

12 Q And you have reviewed the records and are prepared
13 to testify regarding the evidence of injury found at the
14 autopsy?

15 A Yes, I've reviewed them and I'm prepared to do that.

16 Q Okay. I'm going to ask you if you recognize what's
17 been marked now as State's Exhibit 10 for identification. Do
18 you recognize that particular document?

19 A I do.

20 Q Okay. And what is that document?

21 A This is the final autopsy report for the case that
22 is in reference today.

23 Q Okay, all right. And you have reviewed that, the
24 complete report?

25 A Yes.

SW - K. GREEN - DIRECT

1 Q Can you tell us what evidence of injury was found
2 when the autopsy was performed?

3 A Okay. Based on the way it shows up in the report,
4 I'll kind of break it down based on body regions kind of like
5 it showed up in the report. There was an abrasion to the left
6 side of the cheek. It was about an inch and a half in
7 diameter. The torso was described next. And to the torso
8 there was a gunshot wound of the right side of the chest which
9 was just a little bit to the right of the nipple. And the
10 features of that gunshot wound were consistent with an
11 entrance gunshot wound. I'll describe the external injuries
12 first, and then I'll move to the actual injuries that happened
13 inside the body as a result of gunshots.

14 The right arm had two gunshot wounds. One of them was
15 kind of to the front of the arm; the other one was to the
16 inside, also kind of to the front part of the arm but it was
17 on the inside. The one that was on the outside front part of
18 the arm had features that were consistent with an entrance
19 gunshot wound, and the wound that was on the inside of the
20 front of the arm had features consistent with an exit gunshot
21 wound. The wounds to the arm, they're consistent with a
22 through and through gunshot wound. It did not strike bone.
23 It really did not strike the skeletal muscle of the arm. It
24 was described as only striking the soft tissue that's just
25 beneath the skin so that bullet entered the skin of the arm,

1 went to the soft tissue that's just below the skin and then
2 exited the skin on this part of the arm.

3 The gunshot wound to the chest entered the chest. It
4 went through the soft tissue beneath the skin. It went
5 through the skeletal muscle that sits in between and on top of
6 your ribs. It passed through the ribs and it struck the right
7 lung and struck an artery that provides blood, supplies blood,
8 and a major artery basically near the heart on the right side
9 of the chest. And the bullet ended up lodged within one of
10 the vertebral bodies of the spine.

11 Q Okay. And now you have -- you have now described
12 three actual gunshot wounds. Now are those wounds consistent
13 with one or more bullets or one or more shots?

14 A Those wounds could be consistent with one bullet
15 having struck the victim, entered the arm, exited the arm, and
16 then entered the chest. The scenario being the
17 characteristics of the wounds, the locations of the wounds,
18 the way the wound lined up would be consistent with that. But
19 if -- that could not be said with one hundred percent
20 certainty. There could have been two separate wounds that
21 caused these injuries, but the findings are certainly
22 consistent with one wound also or one bullet striking the
23 victim.

24 Q And in fact, how many bullets were actually found
25 inside the victim's body and recovered?

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1 A One bullet was found and that's the one that was
2 lodged in the vertebral body of the spine.

3 Q And tell us at what angle, if you can sort of stand
4 up and describe it to the jury, the angle that the bullet
5 traveled and where it ended up lodging.

6 A The bullet that entered the chest went in roughly
7 about right here, and it went from a right to left direction.
8 It went from front to back direction, and it went slightly
9 from top to bottom so from superior to inferior in this
10 general direction like this.

11 Q Okay. And so the angle, if it was a single bullet
12 that caused all three of these wounds, at what angle would the
13 bullet have been coming from in order to cause those injuries
14 as you have described?

15 A It's possible that the arm could have been in a
16 position such as this where the bullet could have come through
17 and went through and through the arm and then entered the
18 chest in the location where we found the gunshot wound in the
19 chest.

20 Q Okay. So you're saying the bullet is coming from a
21 direction like this, okay, so ---

22 A That's right.

23 Q So out toward the sort of in front of into the right
24 of the victim?

25 A Correct.

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1 Q Okay. And you said that angle was slightly
2 downward?

3 A Yes.

4 Q So would that be consistent if with the victim who
5 was leaning forward perhaps?

6 A That orientation of the torso could help to kind of
7 account for that downward motion. Assuming that the shot, you
8 know, if we're saying the shot was not fired from a higher
9 position than a person being leaned forward like this could
10 create the type of angle where that type of wound track could
11 be seen.

12 Q Okay. The wound, the entrance wound down the right
13 side of the chest, in more simple terms for the jury and for
14 me, if you could explain that from there how far below that
15 did it end up in the middle of the back?

16 A Sure, no problem. Just I guess it'd be good to get
17 a little background how we actually determine this. We
18 typically measure the entrance wound in some sort of distance
19 from either the top of the head or from the heel. And then
20 if, let's say, there's an entrance wound and exit wound, we'll
21 measure both of those and then we can use that determination
22 of distance from some landmark on the body to be able to tell
23 which direction the wound track was going based on the height
24 of the -- the height of the entry versus height of the exit.
25 In this case the height from the heel of the foot was

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1 57-inches to this entrance wound, and the height from the heel
2 of the foot to the location where the bullet was found lodged
3 in the spine was 56-inches so the difference was one inch. So
4 roughly we're looking at a downward direction of one inch from
5 the point where the bullet entered the body to the point where
6 it lodged in the spine.

7 Q Okay. And there was some evidence which was
8 collected from the body and transferred to the McColl police
9 officer who was present at the autopsy, correct?

10 A That's correct.

11 Q And one of those items was actually the bullet that
12 was lodged in the body itself?

13 A That's -- the report that I have indicates that the
14 bullet was recovered and collected as evidence.

15 Q Okay. And the autopsy report actually includes a
16 drawing or diagram of the body, correct?

17 A That's right.

18 Q And that shows those three wounds that you've
19 already indicated as G, S, W, A, B and C?

20 A That's correct.

21 Q Okay. And as a result of the autopsy and the
22 evidence that you gathered from the actual autopsy of Brandon
23 Ray were you able to determine a cause of death from this
24 particular?

25 A Yes. The cause of death was determined to be a

1 gunshot wound of the chest.

2 Q Okay. And do you know whether or not -- or do you
3 know how close that gunshot was or how far the gun was from
4 the body when it -- can you tell how far it was from the body
5 of the victim when it was fired?

6 A There are certain things we look for to be able to
7 try to determine in general what the range of fire would be
8 when a bullet strikes the body. Features that would indicate
9 that it was closer would be things like soot around the wound
10 or soot within the wound itself, burning on the skin from the
11 muzzle imprint of the gun, or burned and unburned gun powder
12 plex to cause little burns around the skin. If it's kind of
13 somewhere in that inch to a foot-and-a-half range, and none of
14 those features were present on any of the wounds or on the
15 clothing that was examined. So there was no soot, there was
16 no unburned gun powder particles, or anything like that that
17 was identified so. The wound itself was clarified as a
18 distant range gunshot wound which simply means that those
19 features were not present so we can only say that that gunshot
20 wound was most likely fired from roughly a foot-and-a-half to
21 two feet or beyond further than that.

22 Q Okay. So we're talking, you know, a foot-and-a-half
23 to two feet at least away from the victim?

24 A At least.

25 Q Or further?

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1 A Or further, correct.

2 Q Now so when you say distant, distance range gunshot
3 wound, you don't mean very, very far away, you just mean it's
4 at least a foot-and-a-half, two feet away, or perhaps some
5 distance further?

6 A Correct. Basically in the three ways we classify
7 them. You have generally there's contact gunshot wound.
8 There's intermediate gunshot wounds which are somewhere in the
9 one inch, two foot-and-a-half, two feet range. And then
10 there's distant gunshot wound which is anything beyond the two
11 feet where you don't get the other things that are expelled
12 from the gun leaving evidence around the one or on the
13 clothing as to how close it was.

14 Q Okay.

15 MS. MUNNERLYN: Your Honor, then I would move to
16 admit based on his testimony State's Exhibit 10.

17 THE COURT: Mr. Holt?

18 MR. HOLT: No objection.

19 THE COURT: All right. State's Number 10 will be
20 admitted into evidence without objection.

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

23 MS. MUNNERLYN: Thank you, Your Honor. That's all
24 the questions I would have. If you will please answer any
25 questions Mr. Holt may have.

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1 THE COURT: Cross-examination, Mr. Holt.

2 MR. HOLT: I have no questions, Your Honor.

3 THE COURT: All right. Thank you, Doctor. Thank
4 you for coming. You are excused.

5 You'd like to have this witness excused?

6 MS. MUNNERLYN: Sorry, Your Honor?

7 THE COURT: Would you like to have this witness
8 excused?

9 MS. MUNNERLYN: Yes, please.

10 THE COURT: All right. Ms. Munnerlyn, you may call
11 your next witness.

12 MS. MUNNERLYN: Your Honor, I will next call Joe
13 Powell to the stand.

14 THE COURT: All right, Mr. Powell, come around
15 please.

16 WHEREUPON,

17 JOSEPH D. POWELL,
18 having been duly sworn by the Deputy Clerk of Court,
19 testified as follows:

20 THE DEPUTY CLERK OF COURT: Be seated and state your
21 full name.

22 THE WITNESS: Thank you. My name is Joseph D.
23 Powell, P-O-W-E-L-L.

24 DIRECT EXAMINATION

25 BY MS. MUNNERLYN:

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1 Q Where are you employed?

2 A I'm currently employed at the South Carolina Law
3 Enforcement Division commonly known as SLED.

4 Q Okay. In what capacity are you employed with SLED?

5 A I'm employed there as supervisor doing what is
6 called the Trace Evidence Department where I perform duties as
7 a supervisor as well as accept cases for analysis, things such
8 as gunshot residue, bullets, hole analysis, paint, explosives,
9 glass, accelerants, and other things that may not have a
10 certain area to go to will come to our department.

11 Q Okay. And then you're the supervisor in that
12 particular department?

13 A Yes, ma'am, I am.

14 Q And you have a number of individuals who work under
15 you?

16 A Yes, ma'am, that is correct.

17 Q Okay. And is Iola Simmons one of those individuals?

18 A Yes, ma'am, she is one of my employees.

19 Q Okay. And when any of your employees perform
20 examinations on evidence that's presented to the Trace
21 Department do you approve their reports, review and approve
22 their work?

23 A Well, I -- we have what is called a peer review
24 system where everyone's reports are reviewed by someone else
25 in the department. Just like when I do analysis I will submit

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1 that to. In this case Iola, she would look over it and she
2 would either agree or disagree with my results. If she
3 disagreed with my results then we would then begin to -- she'd
4 ask, tell me what her problems were, and then we would address
5 those issues then she would be able to say I do agree with
6 your results. So everything is one hundred percent peer
7 reviewed.

8 Q Okay. Tell me what is your education and
9 experiences in this particular field.

10 A Yes. I originally received my degree in chemistry
11 from the University of Southern Mississippi. After receiving
12 my degree my wife and myself moved here to South Carolina
13 to actually -- I was working on at that time going to advance
14 degree, but decided I was not going to continue that, became
15 employed at SLED working in what at that time was called the
16 drug evidence department. Drug evidence was both drugs as
17 well as trace evidence. After going through the initial
18 training process I then took on several counties within this
19 state and began to do both drugs as well as trace evidence
20 analysis. Over the years I have been involved with developing
21 methods, protocols, and procedures for trace evidence, and
22 approximately 15 years ago SLED decided to split trace out of
23 the drug department and I went with the drug department and
24 within two years I became the supervisor there.

25 Q And have you been qualified as an expert to testify

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1 in courts in South Carolina before?

2 A Yes, ma'am, I have.

3 Q How many times?

4 A I have been qualified over 600 times in all in both
5 drugs as well as trace evidence, but in the area of trace
6 evidence almost 300 times.

7 MS. MUNNERLYN: Your Honor, then I would move to
8 have this particular witness qualified as an expert to testify
9 in the area of trace evidence.

10 THE COURT: Voir dire with regard to qualifications,
11 Mr. Holt?

12 MR. HOLT: No objection.

13 THE COURT: All right. The witness will be
14 qualified as an expert in the field of examination and trace
15 evidence.

16 And ladies and gentlemen, you recall I told you
17 before that when you have your witness who is qualified as an
18 expert witness that witness can give an opinion, and I have
19 qualified this witness.

20 You may proceed, Ms. Munnerlyn.

21 MS. MUNNERLYN: Thank you, Your Honor.

22 BY MS. MUNNERLYN:

23 Q I'm going to show you what's been marked now as
24 State's Exhibit 4 and see if you recognize that report.

25 A Yes, ma'am. This is a -- one of a copy of the same

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1 report I possess in my case jacket which is report on the
2 testing of some garments for the distance determination as
3 well as the gunshot residue kit and is performed by an analyst
4 in my department Iola Simmons.

5 Q And you have reviewed her file and her work in
6 regards to this matter and are familiar with it?

7 A Yes, ma'am. I have reviewed the work, I looked over
8 the work, and I agree with her conclusions.

9 Q Okay. So you agree with the reports, the report
10 regarding the examination and evidence as set forth in this
11 particular report?

12 A Yes, ma'am, I do.

13 Q Okay.

14 MS. MUNNERLYN: Your Honor, I would move to admit
15 then at this time State's Exhibit 4.

16 THE COURT: Any objection?

17 MR. HOLT: No objection.

18 THE COURT: All right. State's Number 4 will be
19 admitted into evidence without objection.

20 (WHEREUPON, State Exhibit No. 4 was admitted into
21 evidence.)

22 BY MS. MUNNERLYN:

23 Q I'm going to ask if you will go along with me
24 through that report so we can talk about what is in it. First
25 of all, under items of evidence there is listed clothing

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1 belonging to the victim.

2 A Yes, ma'am.

3 Q And how are these items when -- just for explanation
4 for the jury, when evidence comes in to SLED how are those
5 things numbered?

6 A Well normally what will happen when a piece of
7 evidence comes in, is it will be labeled as a unit meaning
8 let's say you have a bag of clothing, well, that receives a
9 number. If it's first piece of evidence it will be a given a
10 number one. Then when we have the opportunity to open that
11 bag up and see what it contains, we will then what's called
12 subitem it so that assume we have a shirt, a pants, underwear,
13 sock and shoes, each one of those items now will be
14 sub-itemed. For example, shirt could be one point one, pants
15 could be a 1 point 2, underwear a one point three and so
16 forth. So it's a way of sub-iteming a larger container once
17 we have a chance to open it up.

18 Q Okay, and this particular -- your particular report
19 starts with item two.

20 A Yes, ma'am.

21 Q Now when evidence comes in to SLED it is presented
22 to more than one department, correct?

23 A Yes, ma'am. We have over -- we have 11 different
24 areas that it can be directed to. And what will happen, each
25 department is responsible for the items of evidence they

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1 receive. For example, in this case I did not receive in the
2 department item one at all; it went to another department for
3 analysis. If it does not come through my department it will
4 be -- will not be reflected on my report; it will be on
5 another department's report.

6 Q Okay. I'm going to just show you State's Exhibit 7
7 which is already in evidence and ask if you recognize that
8 particular form.

9 A Yes, ma'am. This is our forensic service request
10 form. Whenever you bring evidence into the laboratory, you
11 fill it into a computer some of the information that you
12 provide so that we'll know what the evidence is being
13 submitted. And in this case it's listing four items of four
14 major groups of evidence being submitted to laboratory for
15 analysis.

16 Q Okay. Now item one did not come to your department,
17 correct?

18 A No, ma'am, it went to the firearms department.

19 Q Okay. And what was item one listed on there?

20 A Item one is -- was listed as fired bullets, unknown
21 caliber of bullet that was submitted, so there was -- it was a
22 container which they identified as fired bullets and that may
23 mean that it was actually several bullets or it may mean that
24 it was one bullet, been broken up in pieces, and they still
25 would call it bullets as a plural.

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1 Q But that particular item of evidence was sent to
2 which department?

3 A That was sent to the firearms department only.

4 Q Okay. So that you don't have an item one on your
5 report because it simply didn't come to your department for
6 review or examination of any sort?

7 A That is correct.

8 Q It went to another department?

9 A Yes.

10 Q Okay, all right. Well, let's start then -- we of
11 course start with item two, which is the clothing belonging to
12 the victim. What analysis did you make of those particular
13 items just briefly?

14 A What was performed was called a distance
15 determination. The test is prefaced upon the idea that on
16 garments, clothing, when you shoot into it there can be
17 particles of smoke or gun powder or soot and other things that
18 can become trapped in the weave of the garment. And we have a
19 chemical test that we can perform to pull that information out
20 to see if we can find what's called a pattern. Once we have
21 found that pattern we will then take a weapon and shoot it at
22 different distances and then run the same chemical test,
23 compare the two patterns that are produced, and try to find
24 the pattern that most closely matches the sample found on the
25 garment. That was the test that was performed in this case on

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1 this garment.

2 Q Okay. And what was -- let's talk first about item
3 2.1, which is the most important here and that would be the
4 T-shirt from the victim.

5 A Yes, ma'am.

6 Q Tell us the results of that examination.

7 A This T-shirt, we examined it. And I say we, again,
8 Iola would be on it. I verified it, looked at the data, and I
9 agree with the data. What was found was three holes in the
10 garment; they were in the line. They are diagrammed as being
11 one on the outside of the sleeve, one on the inside of the
12 sleeve, and one going into the chest area of the garment. On
13 the three holes, two of those holes actually had something
14 called bullet wipe. Bullet wipe is the material that is on
15 the surface of a bullet when a weapon has been discharged. It
16 would be the grease, some traces of lead, or things. And when
17 it goes to a garment the garment acts as a wipe to wipe off
18 the surface of that bullet, and we get a beautiful little
19 ringlet around the hole. This is consistent with a bullet
20 coming into a garment. In this case we found bullet wipe
21 coming in to the garment. We also found some coming out which
22 means there was still enough left passing through the arm that
23 it did not get cleaned off completely so we actually have some
24 showing on the second hole. By the time it reached the third
25 hole there was no material at all. All the bullet wipe will

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1 tell you is that a bullet has passed through this garment. It
2 doesn't give you any distance because the material will stay
3 on the bullet as long as the bullet is traveling until it runs
4 through something to clean it off.

5 Q Okay, all right. And the next item, 2.2, would be
6 the pair of black jeans with belt.

7 A Yes. All items inside this evidence was examined
8 for bullet holes to see if we could find any kind of holes,
9 anything there. We received the evidence. We have the
10 incident report. We do not know if maybe someone was shot to
11 the leg and it was not noted or whatever, so we actually go
12 through and see if we can find any holes in any of the
13 garments that a person may be wearing. In this case we looked
14 at both a black pair of jeans. There was some boxer shorts.
15 There was a left shoe, one pair of white and pink sock. And
16 that was the extent of the materials that was looked at in
17 this case.

18 Q And so once no holes were found was there any
19 additional testing done in regards to gun powder?

20 A No, ma'am. Without an existence of a hole there is
21 no test that can be performed because a hole is what focuses
22 to a point to see if we can then determine the distance. So
23 without the presence of a hole there's nothing more that can
24 be performed.

25 Q Okay. And as to the holes that were in the T-shirt

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1 you indicated the bullet wipe that was present, was there any
2 gun powder residue other than that found which would -- which
3 would assist us in determining how far this particular bullet
4 may have been shot from?

5 A No, ma'am. Normally a weapon can project bits and
6 pieces of gun powder out to 4 foot. In some cases very large
7 caliber weapons may be 5 foot. But in this case I found no
8 particles or gun powder; there was none listed on the sheet.
9 So thus, we're looking at a weapon that was far enough away
10 that nothing was deposited so you're looking at 4 foot, 5 foot
11 out to a mile-and-a-half. So that would have been the range
12 that this weapon would have been in to leave the pattern that
13 I found which was no pattern other than bullet wipe.

14 Q Okay. So the gun had to have been at least 4 to 5
15 feet from the victim's body when the bullet was fired?

16 A Yes. Now let me describe what I'm saying. We're
17 talking from the garment to the end of the barrel, not
18 necessarily the person holding it. If you push a weapon out
19 before you, you actually may be further than the say 4 to 5
20 foot. Or you may pull the weapon back and you can be closer,
21 but we're talking from the end of the barrel to the garment.

22 Q Okay. It could have been further, but it had to
23 have been at least 4 to 5 feet from the victim when the fire
24 was -- shots fired?

25 A Yes. When you get closer to the 4 foot then you

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1 begin to pick up gun powder particles and they were not there.

2 Q All right. Then I want to move on to the next item
3 listed on the report, item three. Tell us what that
4 particular -- the actual item three itself, what it was.

5 A Item three is called a gunshot residue kit. This is
6 a kit that we give out at SLED and it's composed of two parts.
7 The first part is something called a particle lift. There are
8 four of them and there are flattened pieces of aluminum. They
9 have a sticky adhesive much like you have with adhesive tape
10 or electrical tape, just a sticky surface. And the purpose of
11 the lifts is to go over the skin so that you pick up any
12 particles of smoke, and this smoke is going to be the blue
13 gray material that comes out of a weapon; that this is what
14 you would smell when you shoot a weapon. We're trying to pick
15 up those particles. We'll go over, in this case I'm
16 describing the back of my left hand, we'll go over the entire
17 area of the back left hand, place that lift into a container,
18 take the wound for the palm of the left hand, and go over the
19 palm and so forth until we've covered right palm, right back
20 left palm, and left back. Once we completed with the particle
21 lifts we will then followup with what is called the swabs.
22 This is just nothing but a Johnson and Johnson cotton swab
23 wetted with a weak acid solution. And all you're doing is
24 picking up any of the debris that may have been left much like
25 you would happen when you mop the floor. You're picking up

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1 what you could not pick up with a broom. And you get that
2 material, you place it into a little container labeled from
3 the location it came from. You do the same for all four
4 areas. Once we have this we put it into a kit that is sealed.
5 It's submitted to our laboratory. We will then take, analyze
6 the contents of that kit, and then we render an opinion.

7 Q Okay. Just in general terms what does the gunshot
8 residue kit tell you?

9 A It will tell us if someone has: (a) fired a weapon,
10 handled a weapon, or been exposed to being shot at or being
11 around a weapon. These are the three principal things it can
12 tell us.

13 Q Okay. And how long do those particles stay on your
14 skin?

15 A If someone is alive the materials can remain up to
16 about six hours. What will happen, if you discharge your
17 weapon, the material will deposit itself on palm and back to
18 your hand. As you're handling things, you're touching things,
19 they're being brushed off. Putting your hands in your pocket,
20 you're wiping it off the back. Even if you don't do any of
21 those activities, just your heart beat itself will cause
22 perspiration in your body to begin to absorb the particles.
23 So what happens after six hours the material is gone.
24 However, if you are deceased, no heart action, then the
25 material will stay on your hand until someone physically

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1 removes it. It can remain there for days and it will not go
2 away 'cause there's nothing to remove it.

3 Q Can someone physically do something to remove it?

4 A Oh, yes, you -- if you take the body and wash it
5 down. If you do something to the hands, let's say if you're
6 in the hospital and they do an IV where they wipe your hand
7 down someone can physically remove the material. Once the
8 heart stops the material that's on the hands remains on the
9 hands.

10 Q Okay. And the item three is the gunshot residue kit
11 submitted from Rondell Knight. Tell us what the results were
12 in regards to that particular gunshot residue kit.

13 A On all four areas, right palm, right back, left palm
14 and left back, the one that we depicted did not indicate
15 gunshot residue. There was no indication of any gunshot
16 residue found on either the palm or back on either hand. This
17 could mean -- have one or two meanings. Number one, this
18 person could have discharged a weapon, and then before we was
19 able to collect the kit he had removed it by washing his hands
20 or doing something to remove the material. Or B, he did not
21 shoot a weapon. He did not have any on his hands so he didn't
22 have the -- may have not even fired weapon at all. Those are
23 the two possible causes of the results I got.

24 Q But if he had shot a weapon and had not washed his
25 hands then, and it was within the time frame that you had

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1 discussed, the six hours, then there should be gunshot residue
2 present?

3 A Yes. We have a -- we obviously have a lot of cases
4 we have positive gunshot residue after several hours, 3, 4, 5
5 hours. So yes, you can have residue on your hand when you
6 shoot a weapon after time even doing normal activities.

7 Q But this was definitely consistent with him not
8 having shot a gun?

9 A This is definitely consistent with not firing a
10 weapon; 'or if he had, all the materials was removed before
11 the kit was administered.

12 MS. MUNNERLYN: Court's indulgence just one moment.

13 THE COURT: Yes, ma'am.

14 MS. MUNNERLYN: I don't have any further questions.

15 If you would answer any questions that Mr. Holt has.

16 THE COURT: Cross-examination, Mr. Holt.

17 MR. HOLT: Your Honor, I don't think I have any
18 questions.

19 THE COURT: All right. Thank you, sir. You may
20 step down.

21 Ms. Munnerlyn, would you like to have this witness
22 excused?

23 MR. HOLT: No objection.

24 MS. MUNNERLYN: He can be excused.

25 THE COURT: Thank you for coming.

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1 All right, Madam Solicitor, you may call your next
2 witness.

3 MS. MUNNERLYN: Thank you, Your Honor. I will call
4 Willie James Covington. Actually, Your Honor, since I have --
5 already have one witness I -- Brittany English, if you would
6 come on around.

7 THE COURT: All right. Tell the other witness to
8 wait please.

9 WHEREUPON,

10 BRITTANY ENGLISH,
11 having been duly sworn by the Clerk of Court, testified as
12 follows:

13 THE CLERK OF COURT: Be seated, state your full
14 name.

15 THE WITNESS: Brittany English.

16 **DIRECT EXAMINATION**

17 **BY MS. MUNNERLYN:**

18 Q Where are you employed?

19 A Marlboro County Sheriff's Office.

20 Q In what capacity?

21 A Investigator.

22 Q Okay. And how long have you been employed with the
23 Sheriff's Office as an investigator?

24 A Investigator, March 2006.

25 Q Okay. And prior to that how much law enforcement

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1 experience do you have?

2 A November the 18th, 2000 -- this November 18th will
3 be five years.

4 Q Okay, all right. So in October of last year you had
5 been an investigator for six months or so?

6 A Yes, ma'am.

7 Q All right. And did you have any reason to be
8 involved in the shooting incident which caused the death of
9 Maurice McRae?

10 A Yes, ma'am. We got a call to assist to locate the
11 suspect.

12 Q Okay. And what did you do initially to try and find
13 this particular -- who were you looking for first of all?

14 A Brandon Ray.

15 Q Okay. And what did you do to try and locate him?

16 A We went to his last known address,
17 actually tried to get someone to the door, wasn't able to make
18 contact with anybody. Had received information that he had
19 been dropped off there, and I actually wrote a search warrant
20 for that residence.

21 Q Okay. Tell us first of all, where is this address
22 on ? Where is it located in the county?

23 A If you go out Highway 385 some miles there's a road
24 to your left if you're going out Lester community. It's
25 actually , the last brick house on the left

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1 on that street.

2 Q Okay. So this is several miles outside of
3 Bennettsville and it's located in the community that's known
4 as Lester?

5 A Yes, ma'am.

6 Q Okay, all right. And you say you actually went to
7 that resident and there was no one who responded to your
8 attempts to find him? No one at the house?

9 A No one? No one would come to the door.

10 Q Okay. Then you proceeded at that point to obtain a
11 search warrant?

12 A Yes, ma'am.

13 Q And were you, once you obtained the search warrant
14 were you involved in the execution of the search warrant?

15 A Yes, ma'am.

16 Q Okay. And who else was there with you when you
17 executed the search warrant?

18 A Sheriff Fred Knight, Chief Tommy Langley, Deputy
19 Robbie Chronin (ph), and Investigator Warren McCall and
20 Lieutenant Steven Akers.

21 Q Okay. And when you actually went to execute the
22 search warrant was anyone present at that time?

23 A No, ma'am.

24 Q And what time of day and what day did you actually
25 execute the search warrant?

SW - B. ENGLISH - DIRECT

1 A October 14th, 2006, a return was filled out at 5:40
2 p.m.

3 Q Okay. So that was at the conclusion of the search?

4 A Yes, ma'am, that was as the return, the items taken,
5 were filled out.

6 Q Okay, all right. And did you receive any evidence
7 as a result of that particular search? Well, first of all,
8 what were you looking for?

9 A The search warrant was actually -- and I'll read it.
10 The search warrant was actually written for Brandon Laquan
11 Ray. And any items possibly involved in the shooting death of
12 Maurice McRae to include guns or weapons.

13 Q Okay. And you were not only then looking for the
14 person Brandon Ray but any physical evidence which might have
15 been used including guns or any sort of weapon could have been
16 used in that particular murder?

17 A Correct.

18 Q Okay, all right. And did you find any guns or
19 weapons?

20 A No, ma'am, didn't find any guns.

21 Q Okay. Did you find anything that had anything to do
22 with guns?

23 A Yes, ma'am. We did find -- in a clear plastic bag
24 we found five 32-caliber rounds.

25 Q Okay. 32-caliber rounds that had not been shot or

SW - B. ENGLISH - DIRECT

1 casings ---

2 A Had been unfired.

3 Q Unfired, okay. I'm going to show you then State's
4 Exhibit 20 and see if you recognize that.

5 A Yes, ma'am.

6 Q And what is that?

7 A That's the unfired rounds that was found.

8 Q Okay. And did you place those in that particular
9 evidence bag on this day?

10 A Lieutenant Steve Akers did.

11 Q And you were present with him when those items were
12 taken into evidence, correct?

13 A Yes, ma'am.

14 Q Okay, and are those in the same or similar condition
15 as they were when they were found?

16 A Same condition.

17 Q Okay.

18 MS. MUNNERLYN: Your Honor, I would move to admit at
19 this time State's Exhibit 20.

20 THE COURT: All right.

21 (Pause while Mr. Holt reviews exhibit.)

22 MR. HOLT: No objections, Your Honor.

23 THE COURT: All right. State's Number 20 admitted
24 into evidence without objection.

25

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1 (WHEREUPON, State Exhibit No. 20 was admitted into
2 evidence.)

3 **BY MS. MUNNERLYN:**

4 Q Okay. And I'm going to show you what's been marked
5 as State's Exhibits 21 and 22 and see if you recognize what's
6 shown in those photographs.

7 A Yes, ma'am, I do. It's the same items as in the
8 evidence bag.

9 Q The bullets?

10 A The bullets.

11 Q Okay. And what do those pictures depict?

12 A This is the container the bullets were in actually
13 found between the cushions in a piece of furniture at that
14 residence.

15 Q And so where they're located in that picture is
16 where they were found?

17 A Yes, ma'am.

18 Q And that appears to be a couch or a sofa?

19 A Yes, ma'am.

20 Q Okay. And they are shown in -- as they are in this
21 exhibit, in a plastic bag of some sort that's knotted?

22 A Yes, ma'am.

23 Q And that is how they were found?

24 A Yes, ma'am.

25 Q Okay.

SW - B. ENGLISH - DIRECT

1 MS. MUNNERLYN: Your Honor, I move to admit State's
2 Exhibits 21 and 22.

3 THE COURT: Any objection, Mr. Holt?

4 MR. HOLT: No objection.

5 THE COURT: Admitted into evidence without
6 objection.

7 (WHEREUPON, State Exhibits Nos. 21 and 22 were
8 admitted into evidence.)

9 BY MS. MUNNERLYN:

10 Q Now were you able to examine these bullets and
11 determine what caliber they were?

12 A Yes, ma'am, only by the end, reading the end, around
13 the portion where the bullets fire.

14 Q I'm sorry?

15 A Yes, ma'am. It was stamped on around the end of the
16 bullet.

17 Q And what -- and if you would tell us what caliber
18 they are and what make, if you know, and you can tell us.

19 A Label 32 S and W, Smith and Wesson.

20 Q So that's 32-caliber Smith and Wesson ---

21 A Yes, ma'am.

22 Q ---bullets, okay. And how many bullets are there?

23 A Five.

24 Q How long were y'all there when you were doing that
25 search, do you remember?

SW - B. ENGLISH - DIRECT

1 A Not exactly. I can't give you an exact amount of
2 time. Probably estimate a hour.

3 Q Okay. And during that time period did anyone come
4 or go from the residence?

5 A No, ma'am.

6 Q Did you see any evidence as to whether or not
7 Brandon Ray had been there?

8 A We couldn't tell.

9 Q Okay. Now these 32-caliber bullets are normally
10 fired from what sort of gun? Would that be a revolver, or
11 would it necessarily be a revolver?

12 A I would think it would.

13 Q Would have to be?

14 A Would have to be.

15 Q Okay. Well, how many -- how many bullets does a
16 revolver hold normally?

17 A Normally six.

18 Q Okay. But there are other automatic handguns which
19 hold more than six which would be 32-caliber?

20 A Yes, ma'am.

21 Q All right. And you've already testified that you
22 found five on this particular couch?

23 A Yes, ma'am.

24 MS. MUNNERLYN: That's all I would have. If you
25 would answer any questions of Mr. Holt.

SW - B. ENGLISH - CROSS

1 THE COURT: Cross-examination, Mr. Holt.

2 MR. HOLT: Please the Court.

3 THE COURT: Yes, sir.

4 CROSS - EXAMINATION

5 BY MR. HOLT:

6 Q You were not at the scene at the time this incident
7 occurred, correct?

8 A No, sir, I was not.

9 Q Okay. You indicate you found five bullets under the
10 sofa cushion and you indicated -- Ms. Munnerlyn asked you the
11 question, it's your assumption that it was a six chamber
12 weapon, correct?

13 A Yes, sir, I have no idea what type of weapon it was.

14 Q We really don't know, do we?

15 A No, sir.

16 Q Okay. And there was no gun found, correct?

17 A No, sir.

18 Q And so let me ask you, the bag it was found in was
19 all knotted up tied tightly, correct?

20 A Yes, sir, same bag.

21 Q It hasn't changed. The condition hasn't changed,
22 has it?

23 A No, sir.

24 Q So somebody took some effort to tie them, to tie it
25 up?

SW - B. ENGLISH - CROSS

1 A At some point.

2 Q I'm assuming it's safe to say if you went in with a
3 search warrant you looked through the house thoroughly,
4 correct?

5 A Yes, sir.

6 Q And in your search the only thing that you could
7 find were those five bullets, is that right, as far as this
8 gun and this crime?

9 A Yes, sir.

10 Q Okay. No further questions.

11 THE COURT: Redirect.

12 MS. MUNNERLYN: No redirect, Your Honor.

13 THE COURT: All right. Thank you, sir. You may
14 step down.

15 Ms. Munnerlyn, you may call your next witness.

16 MS. MUNNERLYN: Thank you, Your Honor. Willie James
17 Covington.

18 WHEREUPON,

19 WILLIE JAMES COVINGTON,

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

22 THE CLERK OF COURT: Have a seat and state your full
23 name.

24 THE WITNESS: My name is Willie Covington.

25 DIRECT EXAMINATION

SW - W. COVINGTON - DIRECT

1 BY MS. MUNNERLYN:

2 Q Where do you live, Willie?

3 A I live in Bennettsville.

4 Q You live in Bennettsville? Did you live over here
5 in Bennettsville back in October of last year?

6 A Yes, ma'am.

7 Q Okay. And do you know or did you know Maurice
8 McRae?

9 A Yes, ma'am, I know him.

10 Q And at the time of his death how long had you known
11 him?

12 A Probably two or three months. I start hanging out
13 with him then and I knew of him, but I started hanging out
14 with him two or three months before the incident.

15 Q I'm going to need you to speak up real loud, okay.
16 If you would kind of come up to the microphone and speak into
17 the microphone because everybody has got to hear what you have
18 to say.

19 A Yes, ma'am.

20 Q Now how old are you now?

21 A 17.

22 Q You're 17?

23 A Yes, ma'am.

24 Q Okay, and you had known -- you had just started to
25 hang out with Maurice you said?

SW - W. COVINGTON - DIRECT

1 A Yes, ma'am.

2 Q At last year, last October when this happened?

3 A Yes, ma'am.

4 Q Okay. So you didn't know him real well, hadn't
5 known him for very long?

6 A No, ma'am.

7 Q Okay. And did you know Brandon Ray and Rondell
8 Knight?

9 A I knew of them, you know what I'm saying.

10 Q You knew of them, okay.

11 A But I didn't know them.

12 Q But weren't friends with them?

13 A No, ma'am.

14 Q You didn't do things with them?

15 A No, ma'am.

16 Q All right. And were you at the Apartments
17 that day shortly after lunch time when they came?

18 A Yes, ma'am.

19 Q Okay. Now where were you?

20 A When Maurice was shot I was standing there.

21 Q Okay. Before we get to there let's start from the
22 very beginning. Did you see -- before Brandon Ray and Rondell
23 Knight ever got there did you see Maurice?

24 A He was standing in front of Building.

25 Q He was standing in front of Building?

SW - W. COVINGTON - DIRECT

1 A Yes, ma'am.

2 Q And where were you?

3 A At the time I was staying in front of Building
4 with everybody else.

5 Q In front of ? Okay. If this diagram up here is
6 the Apartments can you kind of point out to the jury
7 where you were?

8 A Yes, ma'am, I was standing right here.

9 Q Okay, all right. And by you said Maurice was
10 standing in front of which building?

11 A A.

12 Q Okay, all right. And do you know, was he talking
13 with anyone at that time?

14 A I seen him standing outside with Blake.

15 Q Blake. That would be Blake Wilkes?

16 A Yes, ma'am.

17 Q Okay, and were you -- when you were standing in
18 front of Building were you standing with anyone?

19 A Yes, I was standing with Darius Hailey, Charles, and
20 it was a bunch of other people outside.

21 Q You were standing with Darius, Hailey, and Charles.
22 Now who was Charles?

23 A His brother, Maurice's brother.

24 Q Maurice's brother. So that would be Charles McRae?

25 A Yes, ma'am.

SW - W. COVINGTON - DIRECT

1 Q So y'all were -- at that point you were standing in
2 front of Building ?

3 A Yes, ma'am.

4 Q Okay. And where were you when Brandon Ray and
5 Rondell Knight drove up?

6 A I was still standing in front of Building.

7 Q And did you talk to him or did you -- where did they
8 go when they first drove in?

9 A They stopped in front of Building over the speed
10 bump, and then some people approached the car and I heard them
11 ask where Maurice was. And they had told him in front of
12 Building. That's when they drove off and parked beside
13 Building right there.

14 Q I'm going to need you to make sure you talk up real
15 loud, okay?

16 A Yes, ma'am.

17 Q So they -- you said they came in. So which way do
18 they come in to the parking lot?

19 A Came in from here.

20 Q Okay.

21 A And stopped here and that's Building. Some people
22 went to the car and talked to them and had asked where Maurice
23 was.

24 THE COURT: Speak up.

25 MS. MUNNERLYN: Talk up.

SW - W. COVINGTON - DIRECT

1 THE COURT: You're away from microphone so keep your
2 voice up.

3 THE WITNESS: When they pulled up they stopped over
4 the speed bump and some people went to the car and talked to
5 them and asked where Maurice was and then ---

6 BY MS. MUNNERLYN:

7 Q Now who asked where Maurice was?

8 A I mean, I was standing -- I think it was Brandon
9 Ray. I mean, I ain't want to say because I didn't go to the
10 car so...

11 Q Who went up to the car?

12 A I couldn't tell you.

13 Q Okay. But you did not approach the car?

14 A I didn't approach the car.

15 Q How far were you from the car when you heard this
16 question?

17 A I was standing like in the breezeway like in front
18 and the car probably right there. It wasn't far from the
19 breezeway.

20 Q So if you were standing where you were right now,
21 about how far from you would the car have been?

22 A Probably to that bench right there behind you.

23 Q This bench? Okay. So the car was about right here
24 and you were standing -- you would be standing in the
25 breezeway?

SW - W. COVINGTON - DIRECT

1 A Of Building.

2 Q In front of the breezeway at Building , okay. And
3 so they kind of came to a stop. You said there was a speed
4 bump?

5 A Yes, ma'am.

6 Q Okay. So they slowed to go over that speed bump.

7 A Yes, ma'am.

8 Q How many people went to the car, do you know?

9 A Probably like three or four, something like that,
10 yes, ma'am.

11 Q What about Charles or Darius, do you know if either
12 one of them approached the car?

13 A I think Darius did.

14 Q Okay.

15 A It's -- I don't think Charles approached.

16 Q Did you have any conversation with them at that
17 point?

18 A To who, Darius?

19 Q With Brandon Ray and Rondell Knight?

20 A No, ma'am.

21 Q Okay, all right. So after you heard this question
22 about Maurice what did they do?

23 A Well, they went and parked there beside Building.

24 Q Okay.

25 A And then when we recognized who they was we walked

SW - W. COVINGTON - DIRECT

- 1 to the pole that was right here and they walked Building.
- 2 Q Okay.
- 3 A Then after ---
- 4 Q All right, slow down. So you're standing in front
- 5 of when they park?
- 6 A Yes, ma'am.
- 7 Q Okay, and who was driving the car?
- 8 A Rondell.
- 9 Q Rondell?
- 10 A Yes, ma'am.
- 11 Q And where was Brandon sitting?
- 12 A Passenger seat.
- 13 Q Front passenger?
- 14 A Yes, ma'am.
- 15 Q Okay. And so they immediately got out or they sat
- 16 in the car for a little bit or what happened?
- 17 A They immediately got out.
- 18 Q They immediately got out. And at that point could
- 19 you see Maurice still?
- 20 A No, ma'am.
- 21 Q Okay. Where -- do you know where Maurice was?
- 22 A No, ma'am.
- 23 Q Okay, all right. So where did they go once they got
- 24 out of the car?
- 25 A They went to Building.

SW - W. COVINGTON - DIRECT

- 1 Q They went to Building?
- 2 A Yes, ma'am.
- 3 Q Okay. And at what point did you move over to the
- 4 light pole you were pointing a while ago?
- 5 A When they got out the car and walked toward
- 6 Building that's when we walked to the pole.
- 7 Q You walked over to the pole?
- 8 A Yes, ma'am.
- 9 Q Okay. And so you were closer to their vehicle at
- 10 that point?
- 11 A Yes, ma'am.
- 12 Q Could you see what they did when they went over to
- 13 Building?
- 14 A No, ma'am.
- 15 Q Okay. Do you know whether or not they talked with
- 16 Maurice when they went over there?
- 17 A No, ma'am.
- 18 Q Okay. Could you hear any conversation or anything?
- 19 A No, ma'am.
- 20 Q Okay. Well, when did you next see them?
- 21 A When I was walking back towards the car.
- 22 Q They were walking back towards the car?
- 23 A Yes, ma'am.
- 24 Q Where were they when you first saw them walking back
- 25 towards the car?

SW - W. COVINGTON - DIRECT

- 1 A They were coming across the parking lot over here.
- 2 Q Okay.
- 3 A Towards the car.
- 4 Q Okay. And what did they do?
- 5 A They got in the car like kind of fast.
- 6 Q Uh-huh.
- 7 A And then Brandon rolled his window down. They was
- 8 backing up. And they stepped over the speed bump right here
- 9 at Building. They got over the speed bump. Maurice like
- 10 close to us about 10, 12 yards walking towards us and then
- 11 that's when I heard Maurice say, holler at me, holler at me.
- 12 Q Okay, I cannot hear you so you need to sit down and
- 13 sit at the microphone again.
- 14 A Yes, ma'am.
- 15 Q Okay. So they got back in the car?
- 16 A Yes, ma'am.
- 17 Q And who was driving at that point?
- 18 A Rondell.
- 19 Q Rondell got back in the driver's seat?
- 20 A Yes, ma'am.
- 21 Q And where did Brandon get?
- 22 A Front passenger seat.
- 23 Q Front passenger seat?
- 24 A Yes, ma'am.
- 25 Q And you said he rolled down his window?

SW - W. COVINGTON - DIRECT

- 1 A Yes, ma'am.
- 2 Q Okay. And then what did they do?
- 3 A They stopped over the speed bump and Maurice ---
- 4 Q And backed out?
- 5 A They backed out first.
- 6 Q And which direction were they going?
- 7 A It was going that way.
- 8 Q Out the other way?
- 9 A Yes, ma'am.
- 10 Q The other way, the same direction of travel they
- 11 were in when they came in except continuing on?
- 12 A Yes, ma'am.
- 13 Q Through the apartment complex?
- 14 A Yes, ma'am.
- 15 Q Okay, all right. And so you're saying there was a
- 16 speed bump there?
- 17 A Yes, ma'am.
- 18 Q And tell us what happened.
- 19 A When they stopped over the speed bump Maurice was
- 20 like, holler at me, you know what I'm saying, had his hands up
- 21 with a smile so I didn't think anything was going on. Then I
- 22 heard a gunshot, one, a gunshot. And then that's when the car
- 23 speeded off and then Maurice fell to the ground and got back
- 24 up and was pointing at the car like, yeah, you got me, you got
- 25 me, and that's when everybody ran over there when he fell.

SW - W. COVINGTON - DIRECT

1 Q Where was Maurice when he said, holler at me, and
2 had his hands up?

3 A He was right between the parking lot towards us
4 towards the pole. He was walking like that, slanted.

5 Q So y'all were standing at the light pole?

6 A Yes, ma'am.

7 Q Okay. Now where the light pole is actually in the
8 grass; isn't that right?

9 A Yes, ma'am.

10 Q Okay. This is all pavement and this right here is
11 grassy?

12 A Yes, ma'am.

13 Q Okay. And the light pole is in here?

14 A Yes, ma'am.

15 Q Okay. So Maurice was where when he threw up his
16 hands and said, you holler at me?

17 A Walk across the parking lot towards this way.

18 Q Okay. Still headed towards y'all?

19 A Yes, ma'am.

20 Q Okay. And when you saw his hands, you've indicated
21 he had them up, did you see anything in his hands?

22 A No, ma'am.

23 Q Okay. Did you see anything in his pockets?

24 A Some keys dangling. That's all I saw.

25 Q Keys dangling? Okay. Anything else?

SW - W. COVINGTON - DIRECT

1 A No, ma'am.

2 Q Okay. And did you hear him say anything else at
3 that point?

4 A No, ma'am.

5 Q So all you heard him say was something about holler
6 at me a minute or something is -- what did he say again?

7 A Holler at me.

8 Q Holler at me?

9 A Yes, ma'am.

10 Q And was there any response from Brandon Ray or
11 Rondell Knight as far as anything that they stated in response
12 to that?

13 A I ain't heard anything, ma'am.

14 Q You didn't hear anything, okay. And what was the
15 next thing that you heard?

16 A A gunshot.

17 Q Do you know where the gunshot was fired from?

18 A No, ma'am, I just know it came from the car.

19 Q It came from the car?

20 A Yes, ma'am.

21 Q Okay. And where was Maurice when the fire was
22 actually -- when the shot was actually fired?

23 A He was in the parking lot.

24 Q He was in the parking lot?

25 A Yes, ma'am.

SW - W. COVINGTON - DIRECT

- 1 Q Okay. How close to the car was he at that point?
- 2 A Probably like ten yards away. It wasn't close.
- 3 Q Like from you to where?
- 4 A Probably you. He wasn't close at all, yes, ma'am.
- 5 Q Okay. From you to me? So 15 feet or so?
- 6 A Yes, ma'am.
- 7 Q Okay. And after the shot was fired what did he do?
- 8 A Who, ma'am?
- 9 Q Maurice.
- 10 A Oh, he fell to the ground and got back up and he
- 11 said, yeah, you got me, you got me, and he fell again.
- 12 Q And then he fell. Did he move or did he fall on the
- 13 same place or?
- 14 A Yes, ma'am, he fell in the same place.
- 15 Q Okay. And where was that? Where did he end up?
- 16 Where did his body end up when he fell?
- 17 A About over here.
- 18 Q Okay. So in the parking space itself?
- 19 A Yes, ma'am.
- 20 Q Okay. And the car went -- tell us again what
- 21 direction, where it went out of the parking lot.
- 22 A It went out through the apartment that way speeding.
- 23 Q Speeding?
- 24 A Yes, ma'am.
- 25 Q Okay. Was there any further conversation?

SW - W. COVINGTON - DIRECT

- 1 A No, ma'am.
- 2 Q Nothing else said from anybody in the car?
- 3 A No, ma'am.
- 4 Q Okay. And did you approach Maurice at that point?
- 5 A Yes, ma'am.
- 6 Q Now who was standing with you? You were still at
7 the light pole?
- 8 A Yes, ma'am, and we walked over there. We walked
9 over there when the car pulled off.
- 10 Q You walked over there when the car pulled off. Now
11 who is we?
- 12 A Charles and Darius Hailey.
- 13 Q And yourself?
- 14 A Yes, ma'am.
- 15 Q The three of you?
- 16 A Yes, ma'am.
- 17 Q Okay, walked over to Maurice. Was Maurice able to
18 talk with you at that point?
- 19 A Yes, ma'am, he was talking to Dukey. He told Dukey
20 to call 911 and get ---
- 21 Q Wait a minute now. You said he was talking to who?
- 22 A Oh, Charles, Dukey. Charles' nickname.
- 23 Q That's his name?
- 24 A Nickname.
- 25 Q That's Charles McRae. Okay, what was he saying?

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1 A He -- he gave Charles's phone and tell him call the
2 rescue squad; and Dukey, he said, where he shot you at. He
3 was like, my chest. And then that was it from Maurice.

4 Q Okay. So he handed him his cell phone?

5 A Yes, ma'am.

6 Q Maurice handed Charles his cell phone?

7 A Yes, ma'am.

8 Q Okay. Did Charles get any of his other belongings?

9 A Keys and money.

10 Q Keys and money?

11 A Yes, ma'am.

12 Q Did you ever see a weapon of any type on Maurice?

13 A No, ma'am.

14 Q What about in his pocket or his clothes or anything
15 like that?

16 A No, ma'am.

17 Q Did you see Charles remove a weapon from him?

18 A No, ma'am.

19 Q Did you see a weapon at any time in Maurice's
20 possession that day?

21 A No, ma'am.

22 Q Okay. Did Charles stay there with him?

23 A Yes, ma'am.

24 Q Where did you go, if anywhere?

25 A I stayed there till the rescue squad came.

SW - W. COVINGTON - DIRECT

1 Q You stayed there till the rescue squad came. So you
2 were there when law enforcement arrived?

3 A Yes, ma'am.

4 Q And who was right around -- what was Charles doing
5 with Maurice until the ambulance came?

6 A He was standing beside him where nobody touch him or
7 nothing like that.

8 Q Okay. He was standing beside him?

9 A Yes, ma'am.

10 Q Did he kneel at any point beside him?

11 A No, ma'am.

12 Q Okay. Was he -- did he stop communicating at all?
13 What was Maurice doing, if anything?

14 A Ma'am?

15 Q Was anyone doing anything to try and assist Maurice
16 at that point?

17 A No, ma'am.

18 Q Okay. And who called 911, do you know?

19 A Charles.

20 Q Charles did? On Maurice's cell phone?

21 A Yes, ma'am.

22 Q Okay. And at that point did -- did you see other
23 people come out?

24 A Yes, ma'am.

25 Q How many people came out?

SW - W. COVINGTON - DIRECT

1 A It was about the whole apartment complex. It was a
2 lot of people outside.

3 Q Did you see anybody else take anything off of
4 Maurice, out of his pockets, or out of his possession?

5 A No, ma'am.

6 Q Okay. Did anybody else approach his body before the
7 ambulance got there?

8 A No, ma'am.

9 Q Do you know Roy White?

10 A Yes, ma'am.

11 Q Was he there when all this happened?

12 A No, ma'am, I don't recall seeing him. I don't
13 recall seeing him out there.

14 Q You don't recall seeing him?

15 A No, ma'am.

16 Q Okay.

17 MS. MUNNERLYN: Court's indulgence just one moment.

18 THE COURT: Yes, ma'am.

19 MS. MUNNERLYN: Okay. Willie, if you would please
20 answer any questions Mr. Holt has.

21 THE WITNESS: Yes, ma'am.

22 THE COURT: Cross-examination, Mr. Holt.

23 MR. HOLT: May it please the Court.

24 **BY MR. HOLT:**

25 Q Willie, you were 16 when this -- when is your

SW - W. COVINGTON - CROSS

- 1 birthday?
- 2 A It's
- 3 Q So you were 16 at the time this incident occurred?
- 4 A Yes, sir.
- 5 Q You were hanging out with Charles McRae. How old is
- 6 Charles?
- 7 A In his 20s, that's all I know, sir.
- 8 Q Do you live at these apartments?
- 9 A On the weekends I stay with my daddy.
- 10 Q Your daddy is a resident there?
- 11 A Yes, sir.
- 12 Q And you were there as a result of your father
- 13 staying there. That's why you were there that day?
- 14 A Yes, sir.
- 15 Q And this occurred on a Saturday?
- 16 A Yes, sir.
- 17 Q Has anybody talked to you about your testimony
- 18 today?
- 19 A No, sir.
- 20 Q Okay. No one talked to you about what you might say
- 21 or what I might ask you?
- 22 A No, sir.
- 23 Q You indicated earlier when you were -- Ms. Munnerlyn
- 24 was asking you some questions. You were standing in front of
- 25 Building ?

SW - W. COVINGTON - CROSS

1 A Yes, sir.

2 Q This is Building right here on this diagram.

3 A Yes, sir.

4 Q Initially you indicated that you saw Maurice McRae
5 and Blake Wilkes?

6 A Yes, sir.

7 Q Standing over here in front of Building .

8 A Yes, sir.

9 Q A little bit later in your testimony you indicated
10 you didn't see them when Brandon Ray and his co-defendant
11 Rondell Knight pulled up; is that right?

12 A Yes, sir.

13 Q Okay. So how do you explain that inconsistency?
14 First you said you saw them over here, then you're saying when
15 they pulled up you had not seen him?

16 A Because, sir, Maurice was walking with me I was
17 looking at the whole time, when he was already with Blake.
18 When Brandon Ray pulled up I wasn't like focused over there; I
19 was looking at Brandon Ray.

20 Q But you had seen them before you ever saw Brandon
21 Ray that day?

22 A Yeah.

23 Q And you saw him over there standing in front of
24 Building ?

25 A Yes, sir.

SW - W. COVINGTON - CROSS

1 Q And you were standing over here in front of Building

2 ?

3 A Yes, sir.

4 Q Had you at any point been over here between in this
5 parking lot between Building , , and ? Had you and your --
6 and the guys you were hanging out with been in that parking
7 lot prior to this incident?

8 A No, sir.

9 Q Okay. You indicated in your testimony you did not
10 approach the car that Rondell Knight and Brandon Ray were in.
11 You did not approach; you stayed back at the building, right?

12 A Yes, sir.

13 Q And when they pulled up, a couple of the guys you
14 were hanging out with approached, one of them was Charles
15 McRae?

16 A Darius Hailey.

17 Q I'm sorry?

18 A Darius Hailey.

19 Q I apologize. Is Darius one of the guys who
20 approached the vehicle?

21 A Yes, sir.

22 Q Where was Charles McRae?

23 A I don't know at the time. I don't know where he
24 was.

25 Q Earlier you said he was standing out hanging out

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1 with you. But now when I asked you the question who
2 approached the car, your answer is you don't know where he
3 was.

4 A No, sir. He got a sister that stay in that
5 building, could have went upstairs; I don't know.

6 Q But he was not standing beside you and he did not
7 approach that car in the parking lot?

8 A No, sir.

9 Q Okay. Is it -- did one or two people approach that
10 car?

11 A It was about three or four.

12 Q Three or four people approached the car that Brandon
13 Ray and Rondell Knight were driving in?

14 A Yes, sir.

15 Q Did they lean over into the window to talk to them
16 or did they stand back at a distance?

17 A I think someone leaned over and Rondell because they
18 knew him.

19 Q Okay.

20 A And they knew Rondell.

21 Q And you knew Rondell and you knew Brandon Ray as
22 well?

23 A I knew of them.

24 Q Don't know them personally but you know of them?

25 A Yes, sir.

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1 Q And that's for both of them?

2 A Yes, sir.

3 Q Three or four young men hanging out with you
4 approached the car, and they're talking to them is what you're
5 saying?

6 A Yes, sir.

7 Q Okay. What was said?

8 A Where is Maurice? Where is Maurice at?

9 Q Okay. Well that's the only thing that you indicated
10 was said. But three or four people approach a car that two
11 people are in, and the only thing that you can tell me that
12 came from that conversation was where is Maurice. Certainly
13 something else was said.

14 A That's all I heard, sir.

15 Q That's all you heard?

16 A Yes, sir.

17 Q Was that all you heard or was that all you were told
18 later?

19 A That's all I heard. That's the only thing I heard,
20 sir.

21 Q And they had their backs to you and you were
22 standing back at the building, but you heard that come from
23 the car through those individuals and that's the only thing
24 you heard from that conversation?

25 A Yes, sir.

SW - W. COVINGTON - CROSS

1 Q Did you know Maurice McRae?

2 A At the time, yes, sir.

3 Q And y'all were buddies. You'd been hanging out you
4 said. You'd been hanging out three to four months, right?

5 A Yes, sir.

6 Q And the other gentleman there, did they all know
7 Maurice, were all y'all buddies together?

8 A Yes, sir.

9 Q And y'all hung around that same apartment complex?

10 A Yes, sir.

11 Q Had you ever seen Brandon Ray in that apartment
12 complex?

13 A No, sir.

14 Q They pull up and then they park the vehicle. Did
15 you see them do that?

16 A Yes, sir.

17 Q They got out of the car. Did you see them anymore
18 beyond that?

19 A No, sir.

20 Q So if he went and he had -- if Brandon Ray and
21 Rondell Knight got out of the car and walked over to the front
22 of the Building, you wouldn't have seen it and you didn't
23 see any of that, did you?

24 A Yes, I did. Yes, sir, I saw it 'cause I walked to
25 the pole. From the pole you can see through Building

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1 Q Why did you walk to the pole?

2 A Because we realized who Brandon Ray was and we knew
3 that Maurice and Brandon was already, you know what I'm
4 saying, getting on. That's why we walked over there.

5 Q You walked over there to see what was going to go
6 on?

7 A Yes, sir.

8 Q And Brandon Ray was not your friend; Maurice McRae
9 was?

10 A Yes, sir.

11 Q And you see Brandon Ray and Rondell Knight walk back
12 to their car?

13 A Yes, sir.

14 Q And I think your -- did you see them pull out of the
15 parking lot quick?

16 A Yes, sir.

17 Q Did you see him jump in the car fast?

18 A Yes, sir.

19 Q Did they backup?

20 A Yes, sir.

21 Q And then you saw your friend Maurice McRae approach
22 the car?

23 A I never saw him approach the car. I saw him walk
24 across the parking lot.

25 Q You saw him coming across the parking lot?

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- 1 A Yes, sir.
- 2 Q And he had his arms up like this?
- 3 A Yes, sir.
- 4 Q Arms up in the air like this right here?
- 5 A Yes, sir.
- 6 Q And you stood over him after he had collapsed on the
- 7 ground, you came over and you stood over him?
- 8 A Yes, sir.
- 9 Q Did you examine -- did you look at him? Did you see
- 10 any wounds on him? Did you see -- did you see anything on his
- 11 body?
- 12 A I didn't examine him, sir.
- 13 Q So you don't know where he was shot?
- 14 A No, sir.
- 15 Q When he fell to the ground the car pulled off?
- 16 A Yes, sir.
- 17 Q And then you and the guys you were hanging out with
- 18 came over to where Maurice McRae was lying on the ground?
- 19 A Yes, sir.
- 20 Q At what point did Charles McRae come up? When did
- 21 you see him again? You said over here you didn't see him when
- 22 they were over at the car?
- 23 A Yes, sir.
- 24 Q When did you see him again?
- 25 A When Maurice was on the ground and I heard Maurice

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1 calling his name, Dukey, Dukey, and I looked there and Dukey
2 was walking towards us.

3 Q Maurice McRae is laying on the ground; he's calling
4 for his brother.

5 A Yes, sir.

6 Q And you were standing approximately right here in
7 this grass area near this pole, and as you were approaching
8 you could hear him uttering the words calling for his brother?

9 A Yes, sir.

10 Q And then it's your testimony that Maurice McRae
11 having been shot pulls the cell phone out, gives it to his
12 brother Charles McRae, and asks him to call 911?

13 A Yes, sir.

14 Q And you were standing there and you heard him utter
15 those words?

16 A Yes, sir.

17 Q And to your knowledge, Charles McRae, he called 911?

18 A Yes, sir.

19 Q You're friends with all these people. Would you --
20 you were standing over the body, was there an opportunity for
21 Charles McRae to have taken something from his brother other
22 than just the cell phone and the wallet and keys?

23 A I mean, there was opportunity but he didn't.

24 Q Why did he take his wallet? Never mind.

25 MR. HOLT: . Court's indulgence.

SW - W. COVINGTON - REDIRECT

1 THE COURT: Yes, sir.

2 MR. HOLT: Your Honor, no further questions.

3 THE COURT: Redirect.

4 MS. MUNNERLYN: Yes, Your Honor.

5 REDIRECT EXAMINATION

6 BY MS. MUNNERLYN:

7 Q Now you were -- you said there were some other
8 people. When the car came up there were three or four that
9 went up and approached the car?

10 A Yes, ma'am.

11 Q One of them was Darius Hailey?

12 A Yes, ma'am.

13 Q But you -- were you hanging out with all those
14 people, were they just sort of all out in the parking lot
15 area?

16 A They were just out in the parking lot.

17 Q Okay. So you don't necessarily remember the other
18 people but you remember Darius because he was with you?

19 A Yes, ma'am.

20 Q Okay.

21 MS. MUNNERLYN: No further questions, Your Honor.

22 THE COURT: Yes, sir.

23 MR. HOLT: Nothing, Your Honor.

24 THE COURT: All right. Thank you. You may step
25 down.

1 All right, ladies and gentlemen, you have been in
2 the courtroom now for about an hour and twenty minutes so I
3 think it's appropriate we take our afternoon recess at this
4 time. We're going to take about 10 or 15 minutes, no more
5 than 15 minutes. If you would go to your jury room and relax
6 for a few minutes. Again, I will tell you that you should not
7 discuss the case among yourselves. It's premature for you to
8 begin any discussion of this matter. You have not heard all
9 the testimony or all the matters that you will hear. Any
10 discussions of this case among yourselves it is premature.
11 But just go to your jury room, relax a few minutes, and we'll
12 send for you very shortly. Thank you.

13 (WHEREUPON, the jury was removed from the
14 courtroom at 3:32 p.m., and the following proceedings
15 commenced in open court.)

16 THE COURT: All right, let's just talk about
17 scheduling for a minute. Madam Solicitor, how many more
18 witnesses you anticipate? I guess basically my question is,
19 do you think we'll finish the State's case this afternoon?

20 MS. MUNNERLYN: No, sir, I don't think so. I don't
21 think I can. I of course have that co-defendant that I need
22 to call outside the presence of the jury and see what he's
23 going to say, but I anticipate he's going to take the Fifth
24 but I need to ---

25 THE COURT: Is he here?

1 MS. MUNNERLYN: Is he here yet? I think he's on the
2 way; I don't think he's here yet, sir.

3 THE COURT: Okay. I mean, we can go ahead with that
4 if we need to break to take his testimony this afternoon. Why
5 do we need to take his testimony outside the presence of the
6 jury?

7 MS. MUNNERLYN: We don't. I think he's going to
8 take the Fifth; I don't think he's going to testify.

9 THE COURT: Oh, okay, I understand. You just need
10 to find that out, but you need to do that ---

11 MS. MUNNERLYN: Right.

12 THE COURT: ---outside the presence of the jury,
13 okay. All right, let's take about 10, 15 minutes. Counsel,
14 take a break and maybe in about ten minutes or so. Come in
15 and let me discuss a couple of things with you in chambers
16 when you get through.

17 MR. HOLT: Thank you, Your Honor.

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

20 (WHEREUPON, State Exhibit No. 26 was marked for
21 identification only.)

22 THE COURT: Anything before we bring the jury in,
23 Madam Solicitor?

24 MS. MUNNERLYN: No, Your Honor.

25 THE COURT: Mr. Holt?

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1 MR. HOLT: No, Your Honor.

2 THE COURT: All right, bring the jury please.

3 (WHEREUPON, the jury was returned to the courtroom
4 at approximately 4:00 p.m., and the following proceedings
5 commenced in open court.)

6 THE COURT: All right. Thank you, ladies and
7 gentlemen, and we are now ready to proceed. Madam Solicitor,
8 you may call your next witness.

9 MS. MUNNERLYN: Thank you, Your Honor. We call
10 Sandy Wilkes.

11 WHEREUPON,

12 SANDY TAYLOR WILKES,

13 having been duly sworn by the Deputy Clerk of Court,
14 testified as follows:
15

16 THE CLERK OF COURT: State your full name.

17 THE WITNESS: My full name is Sandy Taylor Wilkes.

18 DIRECT EXAMINATION

19 BY MS. MUNNERLYN:

20 Q Sandy, where are you employed?

21 A Emergency Services 911.

22 Q Here in Marlboro County?

23 A Yes, ma'am.

24 Q And what is your position there at 911?

25 A Supervisor and trainer second in command.

SW - S. WILKES - DIRECT

1 Q Second in command, okay. And 911 is the emergency
2 call system I guess you will call it?

3 A Yes, ma'am, central dispatch.

4 Q Central dispatch, okay. And so emergency calls come
5 in and you dispatch who?

6 A If there's a need for law enforcement, fire, or
7 rescue.

8 Q And do y'all keep records pertaining to particular,
9 any particular matter or case, regarding the calls and the
10 dispatchers which are made regarding that particular case?

11 A Yes, ma'am, we do.

12 Q Okay. How are those records kept?

13 A They're all kept on a CADD system which is
14 automated. The person calls 911. The information from the
15 phone that they are calling from pops up. We add any
16 information that the caller would give us to the CADD sheet,
17 what we call the CADD sheet, and that's on time stamp and
18 dated by the computer.

19 Q Okay. I'm going to show you what's been marked as
20 State's Exhibit 26 and see if you recognize that particular
21 document.

22 A Yes, ma'am.

23 Q Okay, and what is that?

24 A It's a CADD document. It's a CADD sheet from a call
25 that came in at a particular day and that time.

SW - S. WILKES - DIRECT

1 Q Okay. And so you -- your system produces these?

2 A Yes, ma'am.

3 Q Okay. And how would you -- those are computer
4 generated?

5 A Yes, ma'am.

6 Q Okay. And is that information saved indefinitely?

7 A Yes, ma'am, as far as the CADD computer is
8 concerned, yes, ma'am.

9 Q Okay, all right. And is this the sheet regarding
10 the October 14th, 2006 call made by Vula Davis for a shooting
11 at Apartments?

12 A Yes, ma'am, it is.

13 Q Okay, all right.

14 MS. MUNNERLYN: Your Honor, I will move to admit
15 then at this time State's Exhibit 26.

16 THE COURT: Any objection, Mr. Holt?

17 MR. HOLT: No objection.

18 THE COURT: Admitted into evidence State's Number 26
19 without objection.

20 (WHEREUPON, State Exhibit No. 26 was admitted into
21 evidence.)

22 BY MS. MUNNERLYN:

23 Q I'm going to ask you a few questions about that too
24 and how it's set up. The call dispatch time, it has incoming
25 call there, tell us what that is.

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1 A The incoming call, the date and the time it is
2 exactly when the operator first picks up the phone.

3 Q Okay. And who would have called at that particular
4 time?

5 A It states a Ms.Vula Davis.

6 Q Okay. And that -- so that is the information that
7 appears at the very top?

8 A Yes, ma'am.

9 Q And that, again, that's information -- it is the
10 generated by the computer?

11 A It's generated by the 911 Bell South. The
12 information is filtered from Bell South to 911 ---

13 Q Okay.

14 A ---at the time you pick up the call.

15 Q Okay. So that information was not actually entered
16 or typed in?

17 A No, ma'am.

18 Q Okay. That information came up when the call came
19 in?

20 A Yes, ma'am.

21 Q Okay. Kind of like caller ID in our homes?

22 A Yes, ma'am.

23 Q Okay. And so that incoming call was the first call
24 you received in regards to this incident?

25 A Yes, ma'am.

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1 Q All right. And what time did that come in?

2 A It came in at 13:48.

3 Q Okay. Which would be what time?

4 A 1:48. All of our time is military time.

5 Q Okay, that would be 1:48 p.m.?

6 A Yes, ma'am.

7 Q Okay. Now the call dispatch time, what is -- what
8 do you mean by call dispatch time?

9 A The call dispatch time is when we give a call to an
10 officer, assign that call to an officer.

11 Q And do you know to which officer this was assigned?

12 A It was originally dispatched to 366.

13 Q Okay. And that was a McColl officer, correct?

14 A Yes, ma'am, it's a McColl officer.

15 Q And that was at what time?

16 A At 13:48.

17 Q Which was the same time only ---

18 A A few seconds difference from the original call.

19 Q Okay. So it's pretty immediate?

20 A Yes, ma'am.

21 Q Okay. Thereafter, were there other calls that came
22 in in regard to this particular shooting?

23 A It shows that there was another call at 15:02.

24 Q There are other calls are listed there?

25 A Yes, ma'am, they're in the narrative where -- and as

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1 each dispatcher logs on to add information it logs the
2 dispatcher, the time, and the date that they entered the
3 information.

4 Q Okay, all right. Well, I want to flip over to the
5 second page of that report because there are some codes on
6 here I want to ask you about.

7 A Okay.

8 Q Now you did, or not you, but the dispatchers on that
9 particular day did ultimately dispatch an ambulance, correct?

10 A Yes, ma'am. EMS was dispatched at 13:48 and 51
11 seconds.

12 Q At 13:48?

13 A Uh-huh.

14 Q Okay, that is Medic II?

15 A Medic II, yes, ma'am.

16 Q So that would have been the first ambulance?

17 A Uh-huh.

18 Q And there was actually more than one that was
19 called?

20 A Yes, ma'am. You can make an actual tone for an EMS
21 unit. All the EMS units hear the call as it goes out. Their
22 supervisor determines if other ambulances will respond.
23 Usually to cuttings and shootings or something of that nature
24 more than one ambulance rolls.

25 Q Okay. I want to ask you, what is a 1017?

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1 A It means they're in route.

2 Q Okay. So where it says unit 366 status 1017, he was
3 in route at that particular time? That's over on the
4 right-hand side?

5 A Yes, ma'am.

6 Q Okay. So he was in route at 1:50?

7 A Right.

8 Q And what is 1023?

9 A Means they're on the scene.

10 Q Okay. So then that same unit law enforcement
11 officer was on the scene at 1:51?

12 A Yes, ma'am.

13 Q So all the codes are on the left-hand column and
14 then the times that correspond with that activity are on the
15 right-hand column?

16 A Yes, ma'am.

17 Q Okay. And these codes that say 1017 Scotland ER?

18 A That means they're in route to the hospital.

19 Q Okay, all right. But you were not -- you were not
20 dispatching on this particular day, were you?

21 A No, ma'am.

22 Q You were not one of the dispatchers who received any
23 of these phone calls?

24 A No, ma'am.

25 Q Okay, I don't have any further questions then. If

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1 you would answer any question that Mr. Holt might have.

2 THE COURT: Cross.

3 MR. HOLT: No questions.

4 THE COURT: All right. Thank you. You are excused.

5 No questions.

6 MS. MUNNERLYN: Thank you. Jonathan Covington. May
7 we approach the Bench, Your Honor.

8 THE COURT: Yeah.

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

11 WHEREUPON,

12 JOHNATHAN COVINGTON,

13 having been duly sworn by the Deputy Clerk of Court,

14 testified as follows:

15 THE COURT: Come have a seat, Mr. Covington.

16 DIRECT EXAMINATION

17 BY MS. MUNNERLYN:

18 Q You are Johnathan Covington?

19 A Yes, ma'am.

20 Q Okay. And were you at the Apartments back on
21 October 14th of 2006?

22 A Yes, ma'am.

23 Q Okay. And at that time were you living there?

24 A No, ma'am.

25 Q You were visiting there?

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1 A Yes, ma'am.

2 Q Okay. And who were you with on that afternoon?

3 A Went to see Maurice McRae.

4 Q Went to see Maurice McRae?

5 MR. HOLT: Your Honor, I'm having a hard time
6 hearing him.

7 THE COURT: Pull your chair up a little bit and
8 speak in that microphone. The microphone is on so if you will
9 speak right into the microphone everyone will be able to hear
10 you.

11 BY MS. MUNNERLYN:

12 Q So you went to see Maurice McRae?

13 A Yes, ma'am.

14 Q And did you go to the apartment or where did you go
15 see him?

16 A To the apartment.

17 THE COURT: Lean up please and talk into the
18 microphone.

19 BY MS. MUNNERLYN:

20 Q Speak into the microphone. So you went to his
21 apartment?

22 A Outside the apartment.

23 Q Outside of the apartment. Do you remember what
24 building?

25 A No, we wasn't standing in a building. We were

SW - J. COVINGTON - DIRECT

1 standing in the parking lot.

2 Q Okay. You were standing in the parking lot. If
3 this is a diagram of apartments up here do you
4 recognize where you may have been with him in the parking lot?

5 A (There was no audible response.)

6 Q Do you remember ---

7 THE COURT: Let the record reflect that the witness
8 shook his head. Now give us a verbal response because the
9 reporter can't take down ---

10 THE WITNESS: No, ma'am.

11 BY MS. MUNNERLYN:

12 Q Okay. You have to say yes or no, okay. What --
13 about what time was this, do you know?

14 A Probably about 2 or 3:00.

15 Q Okay. And where -- you said that you just met him
16 in the parking lot, okay?

17 A (There was no audible response.)

18 Q Okay.

19 THE COURT: Is that a yes?

20 THE WITNESS: Yes, ma'am. Yeah.

21 BY MS. MUNNERLYN:

22 Q And what did you do with him in the parking lot?

23 A When I went up to him me and Darius -- him and
24 Darius had walked in.

25 Q Okay. You got to speak clearly and loudly so we can

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1 understand what you're saying.

2 A I said I walked up to him and Darius. Then we had
3 walked into the house and came back outside. Then he told me
4 he wanted me to stand right here. Let me holler at my home
5 boy. And I guess that's when they pulled up and bring him
6 with them and then when they went back to the car Maurice was
7 coming behind them and they --

8 THE COURT: Speak slowly.

9 THE WITNESS: And then when he got in the car
10 Maurice hold his hand, hey man, what's up, holler at me,
11 holler at me. Holding his hand wide out. And I'm like,
12 holler a me. And he pulled out a shot.

13 THE COURT REPORTER: Slow down.

14 BY MS. MUNNERLYN:

15 Q Who pulled out a shot?

16 A Brandon Ray pulled out and shot this man and then
17 walked off and they drove off.

18 Q Okay, all right. Okay, let's back up just a little
19 bit. Slow down. Did you see Brandon Ray and Rondell Knight
20 when they first arrived in their car?

21 A Yes, ma'am.

22 Q Okay. Where were you then?

23 A In the parking lot like beside the parking lot they
24 pulled up in.

25 Q Okay. And did you -- did they stop?

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1 A Yes, ma'am.

2 Q Okay, before they parked?

3 A They -- I know they parked and I -- if they got out
4 or not I don't know.

5 Q Okay. You were still in the parking lot, okay.

6 Could you see the vehicle?

7 A Yeah, a white car.

8 Q Okay. And did they go -- did they -- you said you
9 don't know if they got out or not. When did you ---

10 A I think they did though. I think they did.

11 Q Okay. Did you see them when they were talking with
12 Maurice?

13 A No, ma'am.

14 Q Okay, all right. When was -- when did you see them
15 and Maurice together?

16 A I guess when they were coming back to the car.

17 Q When they were coming back to their car, okay. And
18 they got in? Who was driving?

19 A Rondell.

20 Q And who was in the passenger seat?

21 A Brandon Ray.

22 Q Okay. And when they got back in the car where was
23 Maurice?

24 A Standing in front of the car beside the passenger
25 side door.

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1 Q Okay. And what did they do?

2 A Maurice started talking to him, man, what's up, get
3 out the car, get out the car and holler at me. That's when he
4 pulled out and shot, pulled out a gun and shot Maurice.

5 Q Okay. And you -- where were Maurice's hands at that
6 point?

7 A Like spread wide talking to him.

8 Q Okay. Did he have anything in his hands?

9 A No, ma'am.

10 Q Did you ever see anything in his hands at any point?

11 A No, ma'am.

12 Q Other than saying get out and holler at me did he
13 say anything else?

14 A No, ma'am.

15 Q Okay. And you said Brandon Ray shot?

16 A Yes, ma'am.

17 Q How many times?

18 A One time.

19 Q And where was he when he shot?

20 A Where was who?

21 Q Brandon Ray?

22 A In the passenger side of the car from the passenger
23 seat.

24 Q In the car? And where was the car?

25 A Getting ready to get ready to back out of the

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1 parking lot.

2 Q Okay. And after -- and you said there was how many
3 shots?

4 A One.

5 Q And after that one shot what happened?

6 A They pulled off and rode off.

7 Q And what happened to Maurice?

8 A He just stood there after they rode off.

9 Q Did you hear either them or Maurice say anything?

10 A All I heard I heard Maurice was telling them to get
11 out the car before he shot him.

12 Q But after the -- after the shot did you hear
13 anything?

14 A No, ma'am.

15 Q Okay. And where were you when you heard the shot?

16 A We were right there looking at it.

17 Q Okay. Like how far from it were you?

18 A Probably from here to the chair right there. To the
19 rows, to the row right there.

20 Q To where?

21 A To the front row of them chairs right there.

22 Q To the front row right down here?

23 A (There was no audible response.)

24 Q Okay.

25 THE COURT: Is that a yes?

SW - J. COVINGTON - DIRECT

1 THE WITNESS: Yes.

2 BY MS. MUNNERLYN:

3 Q Okay. So maybe 20, 25 feet?

4 A Yes, ma'am.

5 Q And was there anything between you and them, you and
6 Maurice and the car?

7 A Nothing but a light pole.

8 Q Okay. So you were standing close to the light pole?

9 A Yes, ma'am.

10 Q Who were you standing with?

11 A Me, and Charles McRae and Darius Hailey and some
12 other -- I think about two more, either one more person was
13 out there.

14 Q And y'all were standing near the light pole?

15 A Yes, ma'am.

16 Q Okay. And after Maurice was shot what did he do?

17 A Just sat there, and then we put him on the ground
18 and we called 911.

19 Q Who called 911?

20 A I think his brother. Everybody well -- well,
21 everybody really. Everybody pull out their cell phone and
22 called 911.

23 Q Okay. And did you see anybody doing anything with
24 Maurice at that point?

25 A No, he had -- also when he put him on the ground his

SW - J. COVINGTON - DIRECT

1 brother pulled some keys out of his pocket.

2 Q Okay.

3 A Some keys and his cell phone.

4 Q His brother, that was Charles?

5 A Yes, ma'am.

6 Q Took his keys and a cell phone?

7 A Yes, ma'am.

8 Q Okay. Is that the cell phone he used to call 911?

9 A Yes, ma'am.

10 Q Okay. Did he stay with him until the police got
11 there and the ambulance arrived?

12 A Yes, ma'am.

13 Q Were you there until that time?

14 A Yes, ma'am.

15 Q And where were you until that time? How far from
16 Maurice were you?

17 A Like standing right over him.

18 Q Standing right over him? Okay. Like within just a
19 few feet?

20 A Right there by his side.

21 Q Right there by him, okay. And did you ever see a
22 gun in Maurice's possession?

23 A No, ma'am, he ain't had none period.

24 Q He didn't have any. You didn't see any in his hands
25 or pocket or anything like that?

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1 A No, ma'am.

2 Q And you didn't see -- did you see anybody take
3 anything off of him other than the car keys and the cell phone
4 you've already testified to?

5 A No, ma'am, that was it.

6 Q Okay. Did Maurice say anything at that point? Was
7 he able to talk?

8 A No. I know after Brandon Ray shot only thing he
9 would say -- well, when me and his brother went and told him
10 that he was hit he was like, yeah, he was like he got me but
11 you see he running though. And that was it.

12 THE COURT: Slow down.

13 MS. MUNNERLYN: I can't understand you. You're
14 going too fast.

15 THE COURT: She's got to take down everything that
16 you say, and these people have got to hear everything that you
17 say so speak slowly and clearly. Thank you.

18 BY MS. MUNNERLYN:

19 Q Now tell me that again.

20 A I say whenever he shot him, after he shot him me
21 and him -- me and Maurice brother went up to him about being
22 hit, and he was like, yeah. He was like, yeah. Then when he
23 say that he was like, you see he running but he's scared, you
24 see he running. And then after that he was just put on the
25 ground after that.

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1 Q Okay, okay. Did you see Brandon Ray or Rondell

2 Knight again after that?

3 A No, ma'am.

4 Q Did you know both of them?

5 A Not, not until that day.

6 Q Not until that day. Did you know who they were?

7 A No, ma'am.

8 Q Okay. No further questions. If you would answer
9 any questions that Mr. Holt has.

10 THE COURT: Cross-examination, Mr. Holt.

11 CROSS-EXAMINATION

12 BY MR. HOLT:

13 Q Johnathan, how old are you?

14 A 22.

15 Q You're currently in the Department of Corrections?

16 A Yes, sir.

17 Q Are you related to Willie James Covington?

18 A Yes, sir.

19 Q What's your relation to Willie James Covington?

20 A My brother.

21 Q Would you repeat that?

22 A Brother.

23 Q He's your brother? He's 17 years old and you're 22?

24 A Oh, no. I thought you were talking about my other
25 brother. Oh, no, not him, that's a different one.

SW - J. COVINGTON - CROSS

1 Q Willie James Covington.

2 A I thought you were talking my brother. I got a
3 brother named Willie Covington too.

4 Q Well, was there a Willie Covington out there with
5 you on the date of this incident?

6 A If it was it wasn't my brother. It probably was the
7 light-skinned one. My brother is 23 years old.

8 Q Well, who were you hanging out with on this day?

9 A Maurice. I went to hang out with Maurice.

10 Q So you went to hang out with Maurice. Where were
11 you standing when you saw Brandon Ray and Rondell Knight for
12 the first time?

13 A In the parking lot.

14 Q All right, this is a diagram of the apartment
15 complex, and we've used this during the course of the trial.
16 If His Honor will permit I'm going to ask you to stand up and
17 try to point to the location where you were standing. All
18 right, I apologize. This being apartment Building where
19 Maurice McRae lived. This area right here as being the place
20 where the shooting incident occurred.

21 A We were standing right there.

22 Q So you would have been in the parking lot in front
23 of Building ?

24 A They pulled up right there. That's where ---

25 THE COURT: Speak up please.

SW - J. COVINGTON - CROSS

1 BY MR. HOLT:

2 Q You need to speak up please, I'm sorry. I know that
3 you're not used to this format, but when everybody is trying
4 to hear you it's very important we understand.

5 A If they pulled up right there we were standing right
6 there.

7 Q Okay. Do you remember the direction from which they
8 pulled up?

9 A They, I think, came from that way.

10 Q So it's your understanding that they came from the
11 Apartment direction and approached you down here at
12 Apartment ?

13 A Pulled up right up in here.

14 Q Okay. Did you have a conversation with anybody?

15 A Not with any one of them.

16 Q Did you see anybody have a conversation with them
17 prior to the shooting?

18 A No.

19 Q So the only thing that you saw was them pull up and
20 pull into a parking spot. Did you see them get out of the
21 car?

22 A Yeah, they got out.

23 Q Okay. You didn't watch them where they walked to?

24 A (There was no audible response).

25 Q Is that a no?

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1 A No, because I ain't know them. I ain't know what
2 was going on and I ain't know them so I wasn't really paying
3 that no attention.

4 Q So you didn't know -- you don't know Rondell Knight
5 and you don't know Brandon Ray?

6 A No, sir.

7 Q So if they went over to Building and had a
8 conversation with -- did you understand Maurice McRae to live
9 in Building ?

10 A Yes, sir.

11 Q Okay. If they went over here and had a conversation
12 with him you wouldn't have known about that, you didn't see
13 any of that part?

14 A No, sir.

15 Q The first time that you see them again is when they
16 are coming back to the car; is that right?

17 A Yes, sir.

18 Q Did you see them jump into the car or did you see
19 them casually get into the car?

20 A They casually got into the car.

21 Q So they weren't in any big hurry?

22 A Not that I know of.

23 Q When they got into the car can you point the general
24 area where assuming this is where the car was, is the car
25 parked about right in this area?

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1 A Yes, sir.

2 Q All right. And I'm pointing to the area next to
3 Building C; is that right?

4 A Yes, sir.

5 Q Where were you standing when you saw them getting
6 into their vehicle or that vehicle?

7 A In the same spot I was standing before they pulled
8 up.

9 Q So you were standing still in the parking lot in the
10 drive area in front of Building ?

11 A (There was no audible response.)

12 Q Is that a yes?

13 A Right there.

14 Q Is that a yes?

15 A Yes, sir.

16 Q Where was Charles McRae when you saw them getting
17 into their vehicle to leave?

18 A Standing -- standing right there with me.

19 Q Charles McRae was standing beside you?

20 A (There was no audible response.)

21 Q Is that a yes?

22 A Yes.

23 Q Once again, do you know a 17-year old young man
24 named Willie James Covington?

25 A Not that I know of. I know a Willie, but it might

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1 be the same one, light-skinned with dreads in his hair.

2 Q Was that individual that you're referring to, was he
3 out there that day?

4 A I think so.

5 Q How about Darius Hailey?

6 A Yeah, he was out there.

7 Q He was there too? And were you talking and hanging
8 out with him?

9 A Yes, sir.

10 Q Why is it that you went to this apartment complex
11 where you didn't live, you went to go see Maurice McRae in
12 Building ; but you weren't with him, you were over here in
13 the building , why is that?

14 A 'Cause when I first pulled up Maurice McRae was
15 standing right there. Where we were standing that's where he
16 walked off from me.

17 Q So Maurice McRae was over there near Building ?

18 A Yeah, he was standing with us. Until he walked off
19 and told me he'd be back, he was going to holler at somebody.

20 Q How long had it been when he walked from the
21 proximate area of the parking lot in front of Building back
22 toward, assuming back towards Building ; is that right?

23 A Yes, sir.

24 Q Okay. How long -- how much time had passed before
25 you saw Brandon Ray?

SW - J. COVINGTON - CROSS

1 A Probably about two or three minutes.

2 THE COURT: Excuse me, Mr. Holt. You need the
3 diagram anymore? If not, I'd like to have him sit down in
4 front of the microphone. If you want to refer to it that's
5 fine, but I just think it will be easier.

6 MR. HOLT: If I do I'll ask him to stand up if
7 that's okay with the Court.

8 THE COURT: That's fine.

9 MR. HOLT: Okay, have a seat.
10 I'm sorry, Your Honor. I get carried away sometime.

11 BY MR. HOLT:

12 Q So you're standing in front of Building , you're
13 with Maurice McRae, you're with Charles McRae, you're with
14 Darius Hailey, and at least one other person who you're not
15 sure of his identity. Maurice McRae, the decedent, walks,
16 says I'm going to go holler at somebody, walks from this
17 general area back toward the building which he resided in.

18 A (There was no audible response.)

19 Q Is that a yes?

20 A Yep.

21 Q And two to three minutes later you see Brandon Ray
22 and Rondell Knight pull up?

23 A Yep.

24 Q And it's your understanding they came from the
25 direction of apartment, of Building toward Building and

SW - J. COVINGTON - CROSS

- 1 Building where you were standing; is that correct?
- 2 A Yes, sir.
- 3 Q And you saw them pull into the parking lot?
- 4 A Yep.
- 5 Q And you saw them pull into the parking spot?
- 6 A Yep.
- 7 Q And you saw them get out, walk to, back toward
- 8 Building , come back to the car?
- 9 A Yep.
- 10 Q And isn't it true that you saw them begin to back
- 11 out of the parking lot?
- 12 A Yep.
- 13 Q And isn't it true that's when you saw Maurice McRae
- 14 approach their car?
- 15 A Yep.
- 16 Q And he's asking him to get out of the car?
- 17 A He was asking Brandon Ray to get out the car.
- 18 Q He's confronting Brandon Ray. He's saying get out
- 19 of the car?
- 20 A Let me holler at you, let me talk to you.
- 21 Q Okay. And he wasn't saying it in a friendly way,
- 22 was he?
- 23 A He was saying let me talk to you.
- 24 Q Okay. Well, how would you have interpreted if he
- 25 was saying that to you? How would you ---

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1 A I wouldn't have -- I wouldn't have pulled out no gun
2 and shot him. If he told me to get out and talk to him I
3 would have got out and talked to him.

4 Q Well, did you feel he was in a hostile -- that he
5 was approaching -- he would have been approaching you in a
6 hostile manner?

7 A I still would have got out and talked to him.

8 Q Answer my question. Did you feel he was approach --
9 he would have been approaching you in a hostile manner?

10 A Of course.

11 Q Okay. How was -- what was his posture when he was
12 shot? In other words, Maurice McRae when he was shot, what
13 was his posture? Was his posture standing straight arms down?
14 Was his posture standing straight up, arms straight up, arms
15 out either side? What was his posture to the best of your
16 memory?

17 A Sideways.

18 Q His arms were sideways, raising his hands up?

19 A Yep.

20 Q And isn't it true that he raised his hands up right
21 at the time which he was shot?

22 A No. He been had his hands raised up before he shot.

23 Q Well, how long had he come from Apartment or
24 Building to this spot right here, how much time had passed
25 so that he could be standing there? Had they been talking for

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1 a few minutes or was it just seconds?

2 A I don't know if they were talking or not. All I
3 know when they got -- when they was -- as soon as Brandon Ray
4 got in the car Maurice was just coming to the car.

5 Q So Maurice McRae was following Brandon Ray and
6 Rondell Knight to the car, right?

7 A Guess so.

8 Q Where were you -- all right, I think I asked you
9 this question, and Judge, I apologize.

10 THE COURT: That's all right.

11 **BY MR. HOLT:**

12 Q Where were you standing when you -- when the shot
13 occurred. Tell me where you were standing. If you need to
14 get up and point that's okay. Speak up.

15 A Right up here.

16 Q Speak up.

17 A Right here.

18 Q You're standing in that area, okay. All right, you
19 can have a seat. Now the -- Mr. McRae falls -- I'm sorry, I
20 think you said he stood up, y'all got to him. Y'all laid him
21 on the ground.

22 A Yep.

23 Q And then his comments to you and to Charles McRae
24 was and was also Darius Hailey, come up to at some point?

25 A (There was no audible response.)

SW - J. COVINGTON - CROSS

1 Q Is that a yes?

2 A Yep.

3 Q And his comment was -- his comment was -- I
4 apologize, Mr. Covington. Yes, you see, he is running, he is
5 scared.

6 A Yep.

7 Q Were those his last words that you heard him utter?

8 A Yep.

9 Q And you also saw his brother Charles McRae take
10 personal possessions off of him?

11 A Yep.

12 Q Was that after he had -- I'm sorry, Your Honor,
13 scratch that.

14 THE COURT: No problem, withdrawn.

15 BY MR. HOLT:

16 Q You saw him -- you saw his brother take possessions
17 from him and there were no other words that came from him?

18 A Nope.

19 Q What -- you indicated that it was a white car that
20 they were driving?

21 A Yep.

22 Q And you're confident of that?

23 A Yep.

24 Q Okay. And which direction did they drive from when
25 they left?

SW - J. COVINGTON - CROSS

1 A The same direction they came in.

2 Q So I'm pointing back to this diagram. They parked
3 in front of Building . They pull out, and then they exit
4 back out between Building and Building ..

5 A Yep.

6 Q Did you speak to law enforcement when they arrived?

7 A Nope.

8 Q And you didn't give a statement?

9 A Nope.

10 Q Were you there when law enforcement arrived?

11 A Yep.

12 Q And you stayed throughout the time in which they
13 were there and the ambulance arrived and the ambulance left?

14 A Yep.

15 Q Court's indulgence. Maurice McRae had not lived or
16 had not been staying there very long, had he?

17 A I don't think so. I don't know really.

18 Q Okay. Was that the first time you went to visit him
19 there?

20 A Yep. I know he used to go back and forth over there
21 because I think he had his girlfriend over there. He probably
22 was staying there; I don't really know. I know that day I
23 called him and told him I was coming over there to chill with
24 him, and that's where he was that day.

25 Q How did you call him?

SW - J. COVINGTON - REDIRECT

1 A My cell phone.

2 Q Did you call his cell phone?

3 A Yes, sir.

4 MR. HOLT: I have no further questions, Your Honor.

5 THE COURT: Redirect.

6 REDIRECT EXAMINATION

7 BY MS. MUNNERLYN:

8 Q I just want to make clear one thing. You said when
9 Maurice was approaching the car you said his arms were
10 sideways. What do you mean?

11 A Like ---

12 Q How were his arms?

13 A Like this right here.

14 Q Okay, like that, showing his hands?

15 A Uh-huh. Hands up just like this right here.

16 Q Okay. And was he facing the car or kind of like ---

17 A Facing the car.

18 Q Okay. How far from the car was he?

19 A Probably about from here to where she's at right
20 here.

21 Q Okay, a few feet?

22 A Yes, ma'am.

23 Q Okay. And all that you remember him saying as he
24 was approaching the car was, let me holler at you?

25 A Yes, ma'am.

SW - J. COVINGTON - REDIRECT

1 Q But you said earlier, you said that you wouldn't --
2 that, yeah, he said that but you wouldn't have pulled out a
3 gun and shot him?

4 A No, ma'am.

5 Q So you didn't take that as being threatening?

6 A No, ma'am.

7 Q Okay. Is that -- is that a common way that people
8 talk in when they want talk to somebody about something?

9 A Yes, ma'am.

10 Q I'm going to show you state's -- what's in evidence
11 now as State's Exhibit 23, 24 and 25. Do you -- have you seen
12 that car before?

13 A No, ma'am. If that were the car they were driving I
14 thought it was white.

15 Q Excuse me?

16 A I say if that were the car they were driving I
17 thought it was white.

18 Q Okay. But you could be mistaken about the color?

19 MR. HOLT: Judge, I would object.

20 THE WITNESS: Yes, I was ---

21 THE COURT: Objection sustained.

22 THE WITNESS: I'm still ---

23 THE COURT: Wait just a moment. Whoa, whoa.

24 Objection is sustained.

25 MS. MUNNERLYN: No further questions, Your Honor.

1 THE COURT: All right.

2 MR. HOLT: Nothing, Your Honor.

3 THE COURT: All right, thank you. You may step
4 down. We'll have the witness released, Ms. Munnerlyn?

5 MS. MUNNERLYN: Yes, Your Honor, please.

6 THE COURT: Any objection, Mr. Holt?

7 MR. HOLT: No, Your Honor.

8 THE COURT: All right, you are released. Thank you.

9 MS. MUNNERLYN: Charles McRae.

10 THE COURT: I'm sorry, what was his name?

11 MS. MUNNERLYN: Your Honor, may we approach.

12 THE COURT: Sure.

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

15 THE COURT: All right, I believe you want to change
16 the order of witnesses. You wish to call who now?

17 MS. MUNNERLYN: Yes, Your Honor, Darius Hailey.

18 THE COURT: All right, come around please to be
19 sworn.

20 WHEREUPON,

21 DARIUS RAKEME (PH) HAILEY,

22 having been duly sworn by the Deputy Clerk of Court,

23 testified as follows:

24 THE DEPUTY CLERK OF COURT: Be seated, state your
25 full name.

SW - D. HAILEY - DIRECT

1 **DIRECT EXAMINATION**

2 **BY MS. MUNNERLYN:**

3 Q State your full name.

4 A Middle name too? Darius Rakeme Hailey.

5 Q Darius?

6 A Darius Rakeme Hailey.

7 Q Okay, and spell Darius.

8 A D-A-R-I-U-S.

9 Q You go by Darius, correct?

10 A No, I go my -- another name. I go by another name.

11 Q Okay. What name is that?

12 A Cuda.

13 Q Okay.

14 THE COURT REPORTER: Spell that.

15 THE WITNESS: C-U-D-A.

16 **BY MS. MUNNERLYN:**

17 Q Do you mind if I call you Darius? What's -- what is
18 your relationship -- what was your relationship to the victim
19 Maurice McRae?

20 A That my classmate back in the day.

21 Q Y'all went to school together?

22 A Yes, ma'am.

23 Q Okay. How long had you known him?

24 A I know him for a long time. I just I had went to
25 Scotland (ph) when I had left fifth grade. I went to Scotland

SW - D. HAILEY - DIRECT

1 stayed up around town.

2 Q Okay. And so how long had you known him? Since you
3 were small?

4 A Ma'am?

5 Q You had known him since you were small then?

6 A Yes, ma'am. Since fourth grade, second grade,
7 fourth grade, one of them.

8 Q Okay. Did you know Brandon Ray and Rondell Knight?

9 A I knew Rondell Knight from high school when I came
10 to Marlboro County but I heard -- I heard of him.

11 Q You knew Rondell Knight but you had only heard of
12 Brandon Ray?

13 A I had knew like after it happened like a month. We
14 went to a football game, you know, I had knew him then at the
15 time, a big argument we had at a football game.

16 Q You talking about Brandon Ray now?

17 A Well, I knew him then at the football game.

18 Q What happened at the football game?

19 A Yeah, he trying to start (ph) my cousin.

20 Q Okay. Was Maurice there at that time?

21 A No, ma'am.

22 Q Okay, all right. So you knew who Brandon was?

23 A I knew who he was but...

24 Q But you didn't hang out with him or anything like
25 that?

SW - D. HAILEY - DIRECT

1 A No.

2 Q Okay. You got to say yes or no very clearly because
3 she is taking down everything you're saying, okay?

4 A All right.

5 Q All right. Were you at the Apartments back
6 on October 14th of last year?

7 A Yes, ma'am.

8 Q Did you live there?

9 A I used to live there. I just ---

10 Q In October of last year ---

11 A Ma'am?

12 Q In October of last year did you live there?

13 A October, no, I wasn't.

14 Q Okay. What were you doing there that day?

15 A Well, I had spent the night with my home boy Willie
16 Covington. I spent the night at his house.

17 Q Spent the night at Willie Covington's house?

18 A At his daddy house.

19 Q At his daddy's house?

20 A Yes, ma'am.

21 Q And his daddy lives at Apartment?

22 A Yeah, yes, ma'am.

23 Q Okay, all right. And what were you doing that day
24 around lunch time with them?

25 A Well, just me and Maurice was outside chilling,

SW - D. HAILEY - DIRECT

1 talking and stuff.

2 Q You and Maurice McRae?

3 A Yes, ma'am.

4 Q Okay, where were y'all talking?

5 A Where were we talk ---

6 Q Where were you -- if this is a diagram of
7 Apartments right up here, where were you and he talking?

8 A We was there with them. We was everywhere talking,
9 but we was chilling at , me and him and Willie
10 Covington and we talking. That when a white dude named
11 Timothy Locklair came out there and came and talked with us
12 too.

13 Q Okay.

14 A Then -- you want me to keep going?

15 Q Yeah.

16 A Then after we like talking, you know, Maurice like,
17 I'm going to come right back. So we had walked to the front
18 of the building. We walked out to the front of Building and
19 me, Willie Covington, and Timothy Locklair had walked to
20 Building.

21 Q Okay. And where did Maurice go?

22 A He -- Building. Went to Shayna house.

23 Q He was staying with Shayna at that time?

24 A He say he was.

25 Q Okay. And she lived in Building?

SW - D. HAILEY - DIRECT

1 A Yes, ma'am.

2 Q Okay. And where was Maurice when you first saw
3 Brandon Ray and Rondell Knight?

4 A I believe he was still in the house. He was still
5 in the house in Building.

6 Q He wasn't with you and these other people you
7 mentioned?

8 A When they pulled up he wasn't with us. He was still
9 in Building.

10 Q And when they pulled up where were you?

11 A Right in Building.

12 Q In front of Building?

13 A Yeah.

14 Q Okay. And you remember who was driving the vehicle
15 that they were in?

16 A Yes, ma'am.

17 Q Who?

18 A Rondell.

19 Q Rondell?

20 A Rondell.

21 Q Okay, and where was Brandon?

22 A On the passenger side.

23 Q On the passenger side? In the front seat?

24 A Yes, ma'am.

25 Q Okay. And how did they enter the apartment complex?

SW - D. HAILEY - DIRECT

1 A Ma'am?

2 Q You remember? Do you remember which driveway they
3 came in?

4 A They came in toward that way right there, toward
5 that way right there.

6 Q Okay.

7 A They came and stopped in front of Building and we
8 had walked toward the car. And we walked toward the car they
9 like, I asked them -- I knew Rondell; I spoke to Rondell like.
10 I had spoke to him then. They like, where Maurice at.

11 Q Who said that? Who asked that?

12 A I don't remember tell you the truth. It been a long
13 time; I don't remember. But somebody, one of them asked where
14 Maurice at.

15 Q One of them asked where Maurice was?

16 A Yes, ma'am. They asked him and they walked -- then
17 they had pulled -- they all pulled up right there beside
18 Building.

19 Q Okay, and did they park?

20 A Yes, ma'am. They parked, got out the car. They
21 walked toward building out.

22 Q Okay.

23 A And then that when Blake -- Blake was outside and

24 ---

25 Q Blake was outside where?

SW - D. HAILEY - DIRECT

1 A Outside . Building.

2 Q In front of . Building?

3 A Yes, ma'am.

4 Q And so they walked over that way?

5 A Yeah. Then that when Maurice had came downstairs
6 and I asked -- we was over there at still . Building and they
7 were still talking over there. I was looking, talking. I was
8 like, what they talking about, so I went I walked towards
9 Building to see what they talking about. That where I had
10 notice they stop talking then. They had -- they were walking
11 back to the car. I walked over there. They walked back
12 towards the car and so we were walking at, by the light pole.
13 This is a light pole right there.

14 Q Okay, slow up just a minute. Now you -- when they
15 were over in front of . Building you said they were talking?

16 A Yeah, they was having a conversation. I don't know
17 what they were talking. Only Blake know that.

18 Q You could not hear what they were saying?

19 A Huh-uh. We way over there at . Building.

20 Q But you could tell they were having a conversation?

21 A Yeah, they were. I know they were having a
22 conversation.

23 Q Okay, all right. So you proceeded at that point
24 back over toward close to the light pole?

25 A Ma'am?

SW - D. HAILEY - DIRECT

1 Q When did you go over toward the light pole?

2 A Yeah. We was like, I was like, I think I like what
3 they talking about over there and I about walk toward -- I
4 about walk over there. As soon as I walk over there they were
5 coming back towards the car.

6 Q How far walking over there, how far did you get
7 before you saw they were headed back towards the car?

8 A Right there -- from the light pole right that there.

9 Q Okay.

10 A The car was parked right there so I like right
11 there. There was some more people right there too and we was
12 right there talking.

13 Q Okay. And so who was walking back towards the car?

14 A Brandon Ray and Rondell Knight.

15 Q Where was Maurice, do you know?

16 A Well, they say he had went over to the house.

17 Q I didn't ask you what they said. Did you see
18 Maurice at that point?

19 A No, I ain't seen him there. I didn't see him. They
20 walked over to the car. I didn't see him.

21 Q Okay, all right. And so what did they do?

22 A They got back in the car. They backed up real slow.
23 They backed real slow. Then that when Maurice had came out
24 and walking.

25 Q Backed up, which way did they back up?

SW - D. HAILEY - DIRECT

1 A Backed up toward -- they backed up toward going that
2 way.

3 Q Like they were going to continue going the same way?

4 A Same way, yeah, Maurice at, whatever. But they
5 start -- they slow down a little bit. And that when he say --
6 I mean, Maurice came, they slowed down. Then Maurice came
7 out, yoe, y'all need to holler at me.

8 Q Maurice said what?

9 A Y'all need to holler at me.

10 Q Y'all need to holler at me?

11 A Yes, ma'am.

12 Q And where was he when he said this?

13 A Who, Maurice?

14 Q Yes.

15 A He was like way back this way, like right there.
16 Maurice like coming up like right over there, like, holler at
17 me. Then after he said that then that when Brandon Ray say I
18 got you now. Then that when he turned his head and shot like
19 that.

20 Q Now you said Brandon Ray said what?

21 A Oh, I got you now.

22 Q When did he say that?

23 A Before he pulled the trigger.

24 Q Okay, where was he when he said that?

25 A Who? Brandon Ray?

SW - D. HAILEY - DIRECT

1 Q Right.

2 A He was in the car.

3 Q In the car?

4 A Yeah, they stopped. They stopped, went back up
5 there. They backed up, face that way, going that way
6 toward -- then they stopped.

7 Q So they backed up and just stopped?

8 A Yeah.

9 Q How long were they there?

10 A They wasn't there too long. When they backed up
11 Maurice coming out.

12 Q Right.

13 A And they face that way, and Maurice coming up, say
14 y'all need to holler at me. And that was actually how he then
15 he turned and shot like that, one shot.

16 Q Shot one shot?

17 A Yes, ma'am.

18 Q Did you see the gun?

19 A I seen a gun, but I didn't know what kind of gun it
20 was.

21 Q Okay.

22 A It happened so quick I didn't know what kind of gun.

23 Q It was a handgun?

24 A Yes, ma'am.

25 Q Okay. And in what direction did he shoot?

SW - D. HAILEY - DIRECT

- 1 A Toward Maurice, it like that; he shot like that.
- 2 Q And how far was Maurice from the car when he shot?
- 3 A Like 10, 15 feet away.
- 4 Q Okay. And the car was still sitting still at the
- 5 time he shot?
- 6 A Yes, ma'am. Yes, ma'am.
- 7 Q Okay. And once he shot did Maurice say anything?
- 8 A Yeah.
- 9 Q What did Maurice do?
- 10 A He shot -- Maurice fell, got back up like, yeah, he
- 11 got me, he got me. He said that. Then that when his big
- 12 brother Charles McRae came up and said, Maurice lay down, lay
- 13 back down, lay back down, so the bullet wouldn't travel. So
- 14 he laid back down.
- 15 Q Okay. And where was Charles when all this happened?
- 16 A Charles was at my cousin house, Doug house.
- 17 Q Okay. And he came out?
- 18 A He had came out like, well, when they parked the car
- 19 they got out the car, but Charles still at my cousin house
- 20 then. Soon as they were coming back Charles came out the
- 21 house too and came to the light pole with us.
- 22 Q Okay. So who was standing there with y'all when all
- 23 this happened?
- 24 A Me, Willie Covington, Charles McRae, and Johnathan
- 25 Covington.

SW - D. HAILEY - DIRECT

1 Q Okay. Y'all were all standing near the light pole
2 when the shooting actually occurred?

3 A Yes, ma'am. We were at that light pole right there.

4 Q Okay. And you said that Maurice said, he got me,
5 or?

6 A Yes, ma'am. He had fell and got back up, like, he
7 got me, he got me.

8 Q Where did he fall?

9 A Ma'am?

10 Q Where did he fall?

11 A He didn't really fall. He was like that. Caught
12 hisself, got up. Like, yeah, he got, he, he got, me.

13 Q Then what happened?

14 A He had -- his big brother Charles McRae came around
15 and told him to lay back down where the bullet won't travel.

16 Q Okay, so he laid back down?

17 A Yes, ma'am.

18 Q Right there?

19 A Yeah, he had laid back down right there.

20 Q Right where he was? He didn't move?

21 A Ma'am?

22 Q He didn't move?

23 A No, ma'am.

24 Q Okay. And once he laid down did he talk anymore?
25 Did he say anything else?

SW - D. HAILEY - DIRECT

1 A He -- all he gave, his big brother Charles McRae his
2 cell phone.

3 Q What did Charles do with his cell phone?

4 A Ma'am?

5 Q What did Charles do with his cell phone?

6 A He had told him to call the police, call 911. He
7 called 911.

8 Q Okay. Did Charles take anything else off of
9 Maurice?

10 A Only thing he had -- only thing he took was the --
11 his keys, the house keys, Shayna house keys. Maurice hand him
12 the phone and the phone -- along with the phone having the
13 money with him he had some money in his pocket he gave Charles
14 McRae.

15 Q What, he had some money?

16 A Yes, ma'am, he had some money.

17 Q He gave -- and he gave it to Charles McRae?

18 A Yes, ma'am.

19 Q Where was this money?

20 A In his pocket. He had -- the money -- the money in
21 his pocket was the same pocket so he had all the stuff at was
22 in pocket with the phone. And he had the keys in his pocket,
23 and he got the keys out his pocket.

24 Q Okay. And he handed all that to Charles. And
25 Charles ---

SW - D. HAILEY - DIRECT

1 A (There was no audible response.)

2 Q You have to say yes or no. He handed all that to
3 Charles?

4 A Well, he handed the phone and the money to Charles.

5 Q Okay. And where were the keys at that point?

6 A On the ground.

7 Q Okay. Did you see anything else on Maurice as far
8 as any kind of weapon or gun or anything of that nature?

9 A I didn't see anything on Maurice. He didn't have no
10 gun. He didn't have no gun.

11 Q Okay. When he was approaching the car when he said,
12 yoe, holler at me, what was his posture, what was he doing,
13 Maurice?

14 A He just started walking like, yoe, y'all need to
15 holler at me like that. That when Brandon Ray say, I got you
16 now, then he just got there and shot.

17 Q Okay. And did you -- at that time did you see
18 anything in Maurice's hand?

19 A I didn't see anything. He ain't had nothing.

20 Q Okay. Did you know what the relationship was
21 between Brandon Ray and Maurice McRae? Did you know whether
22 or not it was good or bad?

23 A I didn't know anything. I didn't know -- I knew
24 they had problems.

25 Q You knew they had problems?

SW - D. HAILEY - DIRECT

- 1 A Yeah.
- 2 Q Okay. Was Roy White there that day?
- 3 A Ma'am?
- 4 Q Was Roy White there that day?
- 5 A Well, he was around it but he had -- he wasn't at
- 6 the scene but he was out -- he wasn't out there but he was
- 7 somewhere else. But he was out there earlier.
- 8 Q He was out there earlier.
- 9 A He was out there earlier, but you know, he
- 10 disappeared somewhere.
- 11 Q Okay. Now you said when they were backing out they
- 12 stopped, right?
- 13 A Ma'am?
- 14 Q Back before the shooting you said they were backing
- 15 out and they stopped?
- 16 A Yes, ma'am.
- 17 Q Where did they stop?
- 18 A They were backed up here like they would drive a
- 19 little bit by the speed bump. Stopped by the speed bump.
- 20 Q Stopped at the speed bump?
- 21 A Yes, ma'am.
- 22 Q And they sat there. And Maurice ---
- 23 A They didn't sit there long though. When they were
- 24 backing out that when Maurice was coming out so they drove by
- 25 the speed bump. Then that when Maurice came, walked over

SW - D. HAILEY - DIRECT

1 there.

2 Q Okay. What, if anything, was Rondell doing during
3 the time that Maurice was approaching the car?

4 A Ma'am?

5 Q Do you know what Rondell was doing when Maurice was
6 coming up to the car?

7 A He wasn't doing nothing. They just came up to the
8 car.

9 Q They were in the car and they had backed up and they
10 were sitting there?

11 A Yeah.

12 Q Is there any reason why they couldn't have just gone
13 off, driven on?

14 A I don't know why they stopped to tell you the truth.

15 Q You don't know why they stopped?

16 A Huh-uh.

17 Q Now you stayed there until the police got there and
18 the ambulance got there, right?

19 A Yes, ma'am.

20 Q And did Charles stay with his brother until the
21 ambulance took him to the hospital?

22 A Yes, ma'am. We all were there.

23 Q You all stayed there. And once they took him to the
24 hospital were you one of the ones that took him to the police
25 department?

SW - D. HAILEY - DIRECT

1 A Yes, ma'am.

2 Q And you gave a written statement?

3 A Ma'am?

4 Q And you gave a written statement?

5 A Yes, ma'am. We ain't finished it; we had left.

6 Q Okay. Why did you not finish it?

7 A 'Cause we had heard -- they had heard his brother
8 had got killed, his brother was dead. His brother was dead so
9 we had, like, everybody rushed, got in the car, and left.

10 Q Okay. Court's indulgence just one moment. I'm
11 going to show you what's been marked as State's Exhibits 23,
12 24, and 25 and see if you recognize the vehicle in those
13 photographs.

14 A Yes, ma'am.

15 Q What vehicle is that?

16 A Ma'am?

17 Q What -- where do you recognize that vehicle from?

18 A Apartment.

19 Q The apartments?

20 A Apartment.

21 Q Who was driving that vehicle?

22 A Rondell.

23 Q Okay. Please answer any questions Mr. Holt has.

24 THE COURT: Cross-examination, Mr. Holt.

25 CROSS-EXAMINATION

SW - D. HAILEY - CROSS

1 BY MR. HOLT:

2 Q Good afternoon, Darius. You were -- how old are
3 you?

4 A Yes, ma'am -- yes, sir.

5 Q How old are you?

6 A Oh, 21.

7 Q You're 21 years old? And you testified that you are
8 good friends with Maurice McRae?

9 A Yes, sir.

10 Q You know of Rondell Knight.

11 A I knew him from high school.

12 Q You knew him from high school. You only knew
13 Brandon Ray by reputation, did not have a -- had not met him
14 and not had a personal relationship with him, right?

15 A (There was no audible response.)

16 Q Is that a yes?

17 A Yes, sir.

18 Q Okay. They pulled up into the parking lot. You
19 were standing, I think you indicated you were standing
20 somewhere in the proximity of Building ; is that right?

21 A Yes, sir.

22 Q Okay, and you were standing with who when you saw
23 them pull up in the car?

24 A It was me, Willie Covington, and some more people.
25 I can't remember; it's been a year. I don't know.

SW - D. HAILEY - CROSS

- 1 Q Charles McRae was not one of them, right?
- 2 A Charles McRae at my cousin Doug house.
- 3 Q Okay. Charles McRae was at your cousin ---
- 4 A Doug house.
- 5 Q Doug's house, all right. Now this is an apartment
- 6 complex, but when you say house don't you mean an apartment?
- 7 A Apartment.
- 8 Q I just don't want the jury to be confused between
- 9 the two.
- 10 A All right.
- 11 Q Which one -- does this rendition, this drawing,
- 12 reflect n Apartments as far as you know it?
- 13 A That's it; that's it. Right.
- 14 Q That's it right there?
- 15 A Yes, sir.
- 16 Q And when you're standing in front of Apartment
- 17 Building where would your cousin Doug's apartment be?
- 18 A Building.
- 19 Q Building?
- 20 A Yes, sir.
- 21 Q So Charles McRae was in Building at the time which
- 22 Brandon Ray and Rondell Knight pulled up into the parking lot,
- 23 right?
- 24 A (There was no audible response.)
- 25 Q Yes.

SW - D. HAILEY - CROSS

1 A Yes, sir.

2 Q Okay.

3 A (There was no audible response.)

4 Q Again, did you approach the car? Did you go up to
5 the car to say, hey, what's up, or anything like that?

6 A I spoke to Rondell.

7 Q You said hey because you knew Rondell?

8 A I knew Rondell; I spoke with him.

9 Q Had you seen Rondell at that apartment complex
10 before?

11 A I ain't never seen both of them at that apartment.
12 I been there all my life; I ain't never seen them,

13 Q And you were -- where do you live.?

14 A I live in in McColl.

15 Q So you live in McColl?

16 A Yeah.

17 Q And it's not unusual you to go out there and see
18 some of your buddies?

19 A Sir?

20 Q You go out there?

21 A Yeah, I go out there and chill.

22 Q Okay, you go out there and hang out and see your
23 buddies, yes?

24 A Uh-huh.

25 Q Yes?

SW - D. HAILEY - CROSS

1 A Yes, sir.

2 Q And you had not seen Rondell nor Brandon Ray out
3 there before?

4 A No, sir.

5 Q Okay. Did you see -- was it -- how often would you
6 go out there, weekly, once a month? How often would you go?

7 A Every day.

8 Q Every day?

9 A Uh-huh.

10 Q And you been going out there for the last several
11 years?

12 A I used to live out there.

13 Q Okay. Did you know Rondell Knight lived out there
14 for a period of time?

15 A Rondell Knight?

16 Q Yeah.

17 A Huh-huh. No, sir.

18 Q Didn't know that?

19 A No, sir.

20 Q And did -- and you knew Maurice McRae lived out
21 there?

22 A He had told me that. He told me that day. He told
23 me he live out there. He live out there with Shayna.

24 Q Off and on. They had a relationship off and on. He
25 would go out there and ---

SW - D. HAILEY - CROSS

1 A Yeah.

2 Q ---stay with her sometimes and sometimes he'd be
3 somewhere else?

4 A Yeah, yes, sir.

5 Q Okay. And what time did you -- you spent the night
6 the night before so you were there that morning and you were
7 hanging out?

8 A Yes, sir.

9 Q And you were hanging out with Willie James Covington
10 and he's about 16, 17 years old; is that right?

11 A Yes, sir.

12 Q And you're 21?

13 A I was 20 at the time.

14 Q You were 20 at the time? It was a year ago?

15 A (There was no audible response.)

16 Q Yes, sir?

17 A Yes, sir.

18 Q Okay. So you're a few years older than Willie James
19 Covington?

20 A Yes, sir.

21 Q Is he related to you in any way? How are you ---

22 A I know Willie since like -- I knew Willie for a
23 while now.

24 Q Okay. Even though you're a few years apart y'all
25 are buddies.

SW - D. HAILEY - CROSS

1 A (There was no audible response.)

2 Q Yes?

3 A Yes, sir. Well, I used to hang with his cousin and

4 I knew him through his cousin so we was -- all got along out

5 that apartment. We got along at the apartments. It was ---

6 Q Y'all were all buddies out there.

7 A You at the apartment you cool with us, you chill

8 with us.

9 Q You cool with us, you chill with us.

10 A Yes.

11 Q So if you hang out those apartments you're kind of

12 in the club, you're one of the guys.

13 A Yeah, well...

14 Q Y'all were all cool with each other; y'all were all

15 friends.

16 A Yeah.

17 Q Yes?

18 A Yes, sir.

19 Q Okay. Now how close did you get to Rondell Knight

20 when you spoke to him in the car?

21 A I gave him a handshake.

22 Q You shook his hand?

23 A Yes, sir.

24 Q You came over to the car, presumably leaned over,

25 you shook his hand?

SW - D. HAILEY - CROSS

1 A He had opened door a little bit and hand out; that's
2 it.

3 Q So you were okay with Rondell Knight?

4 A Yeah, I'm okay with him.

5 Q And what else was said? You indicated that somebody
6 in the car asked where Maurice was, but you're not sure who it
7 was.

8 A I'm not sure.

9 Q Well, isn't it possible that it was -- that there
10 are two in the car, isn't it possible Rondell Knight who asked
11 where Maurice was?

12 A I can't remember.

13 Q You don't remember; you don't know?

14 A I don't remember.

15 Q You just know somebody said it in the car, from the
16 car?

17 A No.

18 Q What was your answer?

19 A Maurice over there in A Building.

20 Q What did they do then?

21 A Who?

22 Q Rondell Knight and Brandon Ray?

23 A They parked right up beside C Building.

24 Q Okay, and pulled in, parked beside the building.
25 And you stayed back over in this direction?

SW - D. HAILEY - CROSS

1 A We go there right there in Building.

2 Q Toward Building? And you saw them walk toward
3 Building?

4 A Uh-huh.

5 Q Rondell Knight and Brandon Ray?

6 A (There was no audible response.)

7 Q You saw them actually have a conversation with
8 Maurice McRae or what appeared to be a conversation?

9 A Yes, sir.

10 Q But you couldn't hear it because you were too far
11 away?

12 A Yes, sir.

13 Q Did you see any hand gesturing, any -- a threatening
14 pose by either Rondell Knight or Brandon Ray toward Blake or
15 ---

16 A No, sir.

17 Q ---or Maurice?

18 A No, sir.

19 Q And then you saw Brandon Ray and Rondell Knight
20 leave back toward the car that they came in?

21 A Yes, sir.

22 Q Did you see Maurice McRae leave the parking lot of
23 the breezeway and go back in to Building ?

24 A Yes, sir.

25 Q You saw him go back in the building; didn't you?

SW - D. HAILEY - CROSS

1 A I saw him go in the building.

2 Q Then you saw him come back out, follow them toward
3 that car; didn't you?

4 A He followed them.

5 Q He followed them from Building back toward the car
6 where Brandon Ray and Rondell Knight had gone to, right?

7 A Didn't follow him. He came out. He wasn't
8 following them; he came out the building.

9 Q And they had already gotten to the car?

10 A They got in the car; they were backing up. That
11 when he came out Building. He came out Building.

12 Q He walked straight from building to the car,
13 right, and didn't stop?

14 A Well, he probably coming toward us. He coming
15 toward us; we was outside waiting on him. And so he came out,
16 you know what I'm saying, he was still out there. He was
17 like, y'all need to holler at me. You know, they were
18 talking.

19 Q And during this time, isn't it true that you were
20 standing over here and you were standing with some of your
21 friends and y'all were hanging out and y'all were talking, and
22 y'all weren't watching the whole time, were you?

23 A I was watching; I was watching. I was looking.

24 Q So you weren't distracted one bit. You had your
25 friends, y'all were all hanging out and you were watching what

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1 was going on in front of Building the whole time?

2 A What I was saying, that went Maurice -- I ain't
3 never seen them out there. Of course I'm going to look and
4 see what happening.

5 Q Did you know that Shayna Whaley lived in that
6 apartment in Building ?

7 A Yes, sir.

8 Q You knew she did?

9 A (There was no audible response.)

10 Q Did you know that Brandon Ray had a relationship
11 with her?

12 A I heard they were talking, but I didn't knew -- I
13 heard they were talking.

14 Q You indicated when -- the shot was fired, were you
15 close enough to have seen Brandon Ray in the vehicle?

16 A I was the close enough to hear about it, right
17 there.

18 Q And when you demonstrated, the shot being fired,
19 isn't it true that Brandon Ray did like this and turned his
20 head just like you did twice on the stand when you were
21 demonstrating?

22 A Yeah, he did. He did that. I seen him.

23 Q He turned his head away from Maurice McRae?

24 A Uh-huh.

25 Q Right?

SW - D. HAILEY - CROSS

1 A (There was no audible response.)

2 Q Is that a yes?

3 A Yes, sir.

4 MR. HOLT: Court's indulgence.

5 THE COURT: Yes, sir.

6 BY MR. HOLT:

7 Q When Brandon Ray and Rondell Knight pulled up into
8 the parking lot you spoke to them. They then pulled into in
9 front of Building .

10 A Yes, sir.

11 Q How much time passed between them getting out of the
12 vehicle going to Building . and then coming back to the
13 vehicle? How much time in your opinion, just your own
14 opinion, passed when getting out of the car and then coming
15 back to the car? Is it seconds, was it minutes, 10, 15
16 minutes?

17 A It was no more than five minutes. It probably like
18 three minutes; something like that, we do all that.

19 Q Okay. So you speak to them, they pull off, and
20 about three minutes later they're coming back to their car and
21 getting in the car to leave?

22 A Yes, sir. It wasn't a long conversation. I don't
23 know what they were talking about. Only Blake know what they
24 were talking about.

25 Q It was brief, right?

SW - D. HAILEY - CROSS

1 A I said only Blake know what they were talking about.
2 I don't know what they were talking about.

3 Q But from your standpoint it was a brief conversation
4 and Blake Wilkes is the only person who would have been privy,
5 who would have been standing there, during that conversation,
6 right?

7 A They only one that know what they were talking
8 about. I don't know what they were talking about.

9 Q I'll take that as a yes. Now Charles McRae was in
10 another apartment building when you had the conversation with
11 Rondell Knight?

12 A There was a conversation?

13 Q It was a, hey, what's up, and Charles McRae wasn't
14 there, he was in a building?

15 A Uh-huh.

16 Q Okay. No further questions.

17 THE COURT: Redirect.

18 REDIRECT EXAMINATION

19 BY MS. MUNNERLYN:

20 Q I think earlier when you testified -- well, Mr. Holt
21 asked you how -- where you thought Maurice was coming.
22 Maurice was coming across here like coming from the front. I
23 think you said he was coming, like was coming toward us,
24 toward you, and the guys you were standing with ---

25 A Yeah.

SW - D. HAILEY - CROSS

1 Q ---right? So you would have been walking at an
2 angle like this.

3 A Yeah.

4 Q And when he was walking, he got close to the car he
5 was still sort walking at that angle toward y'all?

6 A Yeah. I'm saying he was coming like that. Then he
7 was like, y'all need to holler at me. Like that right there.
8 I don't know what he did it for it. I don't know what he said
9 or did it for 'cause, like I said, Blake know what they were
10 talking. If I know what they were talking about I could tell
11 you more, but I don't know what they were talking about. He
12 came like, y'all need to holler at me.

13 Q Okay. But the way you describe it, isn't it true
14 that you're saying then that he's walking at an angle toward
15 you, not directly toward the car ---

16 A He wasn't going toward the car.

17 Q Okay. Towards you?

18 A Yes, ma'am.

19 Q So more at an angle toward you so he would be at an
20 angle from the car?

21 A We wasn't going to the car.

22 Q Right. So he wasn't walking straight to the car?

23 A Huh-uh.

24 Q He was walking towards y'all?

25 A Yeah.

1 Q Okay.

2 MS. MUNNERLYN: I don't have any further questions.

3 THE COURT: Re-cross.

4 MR. HOLT: Nothing further.

5 THE COURT: All right. Thank you, sir. You may
6 step down.

7 All right, ladies and gentlemen of the jury, it is
8 about 5:10 and we are going to dismiss at this time. Before
9 do I that let me talk with counsel about one thing at side bar.
10 please.

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

13 THE COURT: All right. As I said, ladies and
14 gentlemen, we are going to adjourn for the afternoon. I'm
15 going to allow you to go to your homes and families. Now I
16 again want to give you the same admonitions that I have given
17 you before; that is, do not talk with anyone about this case
18 over the evening recess. When you see your family or your
19 friends do not discuss the case with them and do not allow
20 them to discuss it with you. You've got to decide the case
21 based on the evidence that you hear in the courtroom and not
22 on the basis of what anyone else might say. Do not allow
23 anyone to talk with you about the case. If anyone should
24 approach you or try to talk to you about the case over the
25 evening recess get their name and description and report it to

1 me in the morning. Do not read any news stories or listen to
2 any broadcast media reports of this case. If there is
3 anything on broadcast media, either radio, television, or
4 anything in the newspaper, simply put those aside, do not read
5 them at all because you, again, have got to decide what the
6 case based upon what you what hear in the courtroom.

7 With those admonitions then I'm going to excuse you
8 now, allow you to go back go to your homes and your families
9 and ask you to please be back in your jury room tomorrow
10 morning at 9:30 and we'll be ready to begin promptly at that
11 time. Have a pleasant evening. I'll see you tomorrow.

12 (WHEREUPON, the jury was removed from the
13 courtroom at 5:11 p.m., and the following proceedings
14 commenced in open court.)

15 THE COURT: All right, let the record reflect that
16 prior to excusing the jury I consulted with counsel at side
17 bar because we are aware of a story that did appear in the
18 bi-weekly newspaper that came out today, and inquired of
19 counsel as to whether I should make any specific reference to
20 that newspaper and tell them not to read that. And it was
21 decided between the Court and counsel that a general
22 admonition would be the best way to handle it. Do you agree
23 with that, Ms. Munnerlyn?

24 MS. MUNNERLYN: Yes, Your Honor.

25 THE COURT: Mr. Holt?

1 MR. HOLT: Yes, Your Honor.

2 THE COURT: Yes, sir. All right, let's do ahead
3 and take care of that one matter with regard to witness that
4 you don't think is going to testify and get that taken care of
5 today, Ms. Munnerlyn.

6 MS. MUNNERLYN: Okay. If y'all will bring Rondell
7 Knight out. I believe he's with his attorney.

8 THE COURT: And what I think would be the thing to
9 do is to cut out -- get his name and then just ask four or
10 five very pointed questions and let's see what his answer is
11 going to be.

12 WHEREUPON,

13 RONDELL KNIGHT,
14 having been duly sworn by the Clerk of Court,
15 testified as follows:

16 THE COURT: Come around please, Mr. Knight. Have a
17 seat right up here. We're not going to do anything until
18 Mr. Blake gets here.

19 (Pause.)

20 THE COURT: All right, let the record reflect now
21 that the witness -- the State has called Mr. Rondell Knight.
22 This testimony is being proffered in the absence of the jury
23 to determine what the defendant's testimony -- I mean, what
24 the witness's testimony is going to be. Ms. Munnerlyn, I
25 understand that Mr. Knight is a co-defendant; is that correct?

1 MS. MUNNERLYN: That's right, Your Honor.

2 THE COURT: All right. And he is here with his
3 counsel, Mr. Daniel Burke (sic) who is present in the
4 courtroom. All right, is that right?

5 MR. BLAKE: Blake, Your Honor.

6 THE COURT: Blake, excuse me, okay. Too many new
7 names for me. Madam Solicitor, go ahead.

8 MS. MUNNERLYN: Thank you, Your Honor.

9 **DIRECT EXAMINATION**

10 **BY MS. MUNNERLYN:**

11 Q You are Rondell Knight?

12 A Yes, ma'am.

13 Q Okay. And back on October the 14th of last year
14 were you with Brandon Ray?

15 A Yes, ma'am.

16 Q Okay. And did you go to the Apartment?

17 A I invoke my Fifth Amendment Right and do not wish to
18 testify.

19 THE COURT: Go ahead.

20 **BY MS. MUNNERLYN:**

21 Q Did y'all actually park in the parking lot at
22 Apartments and see Maurice McRae?

23 A I invoke my right, my Fifth Amendment Right. I do
24 not wish to testify.

25 Q Okay. And when Maurice approached the car can you

1 tell me what Brandon Ray said and did?

2 A I invoke my right and do not wish to testify.

3 Q Okay.

4 THE COURT: All right, let me ask you, Mr. Knight.

5 The Solicitor has asked you several questions about what

6 happened on the evening or afternoon of October 14th, 2006.

7 Those questions that you have answered, except for the fact

8 that you were with Mr. Ray but anything with regard to the

9 happenings there in that, on that particular afternoon, you

10 invoked your right not to testify in this matter on the

11 grounds that it may tend to incriminate you; is that correct?

12 THE WITNESS: Yes, sir.

13 THE COURT: Would it be your intention that no

14 matter what questions that the Solicitor asked you about what

15 happened that afternoon in that parking lot, would this be

16 your same answer to all the questions?

17 THE WITNESS: Yes, sir.

18 THE COURT: And would you testify, if asked any

19 questions about anything that happened during the time that

20 you were there in the parking lot that afternoon, would you

21 give an answer other than the right to invoke your Fifth

22 Amendment rights?

23 THE WITNESS: No, sir.

24 THE COURT: All right. All right, thank you.

25 Ms. Munnerlyn, do you contend that his testimony is

1 admissible or is it not admissible?

2 MS. MUNNERLYN: Your Honor, of course I have a
3 written statement which I would proffer through the officer
4 who took that statement, and I would argue that he is -- since
5 he has invoked his Fifth Amendment, his privilege under the
6 Fifth Amendment ---

7 THE COURT: But as far as this witness' testimony is
8 concerned you don't intend to proffer it before the jury?

9 MS. MUNNERLYN: No, no, sir.

10 THE COURT: But for purposes of the Court's ruling
11 on it we can get him to the matter as to whether or not the
12 statement falls under Hearsay exemptions of non available
13 witness.

14 Mr. Holt, do you think that -- do you agree that the
15 testimony is -- that the witness's position and testimony
16 invoking his Fifth Amendment right is not admissible before
17 the jury?

18 MR. HOLT: Your Honor, if I can ask my client a
19 question.

20 THE COURT: All right. Of course you can ask him
21 some questions if you want to see what his answer is going to
22 be, if you want to ask the witness any questions.

23 MR. HOLT: Okay. Thank you, Judge.

24 (Mr. Holt confers with the defendant).

25 MR. HOLT: May it please the Court.

1 THE COURT: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. HOLT:

4 Q You any kin to Rondell Knight (sic)?

5 A Yes, sir.

6 Q Mr. Knight, you're the cousin of Brandon Ray?

7 A Yes, sir.

8 Q Okay. And ---

9 MR. BLAKE: Your Honor, can I have a moment with my
10 client?

11 THE COURT: Yes, sir, I thought you had already
12 conferred with him.

13 MR. BLAKE: Well, I have, but he didn't expect this
14 great questioning and he would have answered the same way from
15 the very first question if he'd known the option. But I think
16 he understands now.

17 THE COURT: All right. Go ahead, sir. Go ahead,
18 Mr. Holt.

19 MR. HOLT: I apologize. I'm not trying to confuse
20 anybody, Judge. I just want to be clear and the record to be
21 clear.

22 THE COURT: Yes, sir, that's fine. Go ahead.

23 MR. HOLT: I had planned if the State didn't call
24 him it had been my intent to call him as a witness.

25 Mr. Knight ---

1 THE COURT: Well, you can still do that later if you
2 want to do that.

3 MR. HOLT: Yes, sir, and I might do that in order
4 to -- I have to think through it all but.

5 BY MR. HOLT:

6 Q You -- the State asked you some questions and you
7 took the Fifth Amendment. And I guess my first question would
8 be, were you with Brandon Ray out at the apartment complex on
9 the day in October?

10 A Yes, sir.

11 Q You were? And were you the driver of the vehicle in
12 the parking lot?

13 MR. BLAKE: Can I have just a moment, Your Honor,
14 sorry to take up the Court's time.

15 THE COURT: Yes, sir. Sounds like to me that he
16 have a chance to talk to -- you had a chance to talk with him.
17 Now he's answering the questions; he's about to waive his
18 rights.

19 MR. BLAKE: That's why I want to let him know what's
20 going on.

21 (Mr. Blake confers with his client, the witness.)

22 THE COURT: All right. Let the record reflect that
23 the Court gave the witness an opportunity to confer with
24 counsel.

25 Proceed, Mr. Holt.

1 MR. HOLT: Thank you, Your Honor.

2 BY MR. HOLT:

3 Q Rondell, you went to the apartment complex with
4 Brandon Ray. Did you get out of the vehicle and approach
5 Building ?

6 A I invoke my Fifth Amendment rights.

7 MR. HOLT: Thank you. No further questions, judge.

8 THE COURT: All right. That being the case then, at
9 this point in the trial, Mr. Holt, do you contend that this,
10 the testimony of this witness whereby he invokes his Fifth
11 Amendment Right is admissible before the jury?

12 MR. HOLT: At this point it would be inadmissible,
13 Your Honor. I would concur with the State on that.

14 THE COURT: Would be inadmissible?

15 MR. HOLT: Inadmissible.

16 THE COURT: Okay, all right. That being the case
17 then, the Court would rule that the defendant has invoked his
18 Fifth Amendment Rights in refusing to testify in the matter,
19 or in exercising his right not to have to testify in this
20 matter -- refusing was the wrong word -- at which he has a
21 right to do under the law. The witness is the sole judge as
22 to whether the questions are potentially incriminating, and he
23 has concluded that they are and he has that right. And with
24 the agreement of the State and the Defense his testimony
25 answering that question by invoking -- answering all the

1 questions by invoking his Fifth Amendment Rights is
2 inadmissible at this time.

3 All right, thank you, Mr. Knight, you may step down.

4 Now just for purposes of the Court doing whatever it
5 has to do in connection with it, Ms. Munnerlyn, I understand
6 that you have a statement from this witness that you plan to
7 offer under the Hearsay exemption of unavailability of a
8 witness; is that correct?

9 MS. MUNNERLYN: Yes, sir.

10 THE COURT: Mr. Holt, what's your position on that?

11 MR. HOLT: This is all kind of happening fast,
12 Judge. I'm not -- I'd like to be able to at least do a little
13 bit of research on that issue. I do think I'm going to at
14 least initially object for the record, but I would like an
15 opportunity to have read over that and offer the Court a more
16 thorough opinion. I apologize for asking the Court for that.

17 THE COURT: No problem. This is the end of the day,
18 and I understand that. It does appear to fall under Rule 804
19 of the Rules of Evidence, and of course, I'll let you look at
20 it. I'm not going to rule on it at this point, but I will
21 call your attention to 804 subparagraph A(1). Unavailability
22 of a witness include situations which the declarant, one, is
23 exempted by ruling of the Court on the ground of privilege
24 testifying concerning the subject matter of the declarant's
25 statement. So we'll address that in the morning, and I won't

1 rule on it at this time. She hadn't offered the statement at
2 this time, but she is going to offer the statement at this
3 time.

4 Just for the sake of getting beyond this hurdle, you
5 don't contest the authenticity of the statement that this
6 witness gave the statement, just whether it is admissible
7 under one of the exceptions of the Hearsay rule; is that
8 right? You don't question that he made the statement, do you?

9 MR. HOLT: I don't question he made the statement,
10 but there will be perhaps an issue because there's a word or
11 two in there that I'm concerned about the jury reading or
12 hearing and we can take that matter up. Specifically, there
13 was a reference to ---

14 THE COURT: Well, let's handle it this way then. At
15 the time that you offer the statement matter, Madam Solicitor,
16 let's do it outside the presence of the jury. Maybe we ought
17 to do it first thing in the morning before we bring the jury
18 in, and I can look at the statement and you can cross-examine
19 whoever the statement is being offered through as to contents
20 of the statement and we will take it up at that point in the
21 morning. So let's recess then until 9:30 in the morning.
22 Thank you.

23 MS. MUNNERLYN: Thank you, Your Honor.

24 (WHEREUPON, the proceedings were concluded for the
25 day to be reconvened on September 12, 2007.)

1 THE COURT: All right, we're back on the record with
2 regard to the matter of the State versus Brandon Laquan Ray.
3 The State is present represented by the solicitor. The
4 Defendant is present with his counsel. In a pretrial
5 conference this morning my understanding is, Madam Solicitor,
6 that the State now wishes to proffer a statement into
7 evidence. I'll be glad to hear from you on that subject.

8 MS. MUNNERLYN: Yes, Your Honor. The statement of
9 Rondell Knight has been marked as State's Exhibit 8. It is a
10 three page written statement which we would anticipate calling
11 Jeffrey Locklair who actually was the officer who took the
12 statement and would offer it into evidence and have him
13 publish it at the time that I offer it into evidence. We
14 would argue that under 804(a) (1) that Rondell Knight is
15 unavailable as a witness, and therefore, the statement is
16 admissible and is not Hearsay under 804(b)(3), which is a
17 statement against interest. And so for that reason we would
18 offer the statement itself because, of course, yesterday
19 afternoon we did call Rondell Knight outside the presence of
20 the jury and he did take the Fifth Amendment and wished not to
21 testify.

22 THE COURT: All right. Mr. Holt, I'll be glad to
23 hear from you.

24 MR. HOLT: Please the Court, Your Honor, it's our
25 position with regard to the statement that it would be -- any

1 probative value would be outweighed by the prejudicial effect
2 it would have on my client. Mr. Knight is not -- was here
3 yesterday. He's one of our witnesses that we would still wish
4 to call. We believe it's our opportunity so he's still sort
5 of in the wings and it may be premature, but nevertheless,
6 there was some language in the statement that we find -- we
7 find could be misleading to the jury. There's no basis for it
8 in the case. In pretrial conversations I indicated that there
9 was a reference to a gang in there; that there's no basis for
10 that the case, no evidence suggesting that. And we would
11 object in whole as to the statement but part as to the
12 reference to the gang. I think it's just one sentence that I
13 would specifically object to as far as the offending language.

14 THE COURT: Mr. Funderburk, would you hand me the
15 copy of the statement.

16 All right, Ms. Munnerlyn, anything in response to
17 Mr. Holt's ---

18 MS. MUNNERLYN: Yes, sir.

19 THE COURT: ---argument?

20 MS. MUNNERLYN: Yes, Your Honor. The statement is
21 the statement. This is the statement that was given by this
22 particular co-defendant. It's part of the story; it's part of
23 what happened. It's part of what was actually said at that
24 particular time. I think it's part of the case. Now that
25 does not mean necessarily that, you know, we're going to get

1 up and argue, you know, it's all gang related. But, you know,
2 I think that is there and it's part of it. It's part of, you
3 know, what was actually said at the time and I think that's
4 something that should be presented to the jury and the jury
5 should be aware of it for whatever purpose it serves. It was
6 said at the time, and so it is a part of this particular case
7 and however small that may be it is a part of it.

8 THE COURT: All right, let me read the statement.

9 (Pause.)

10 THE COURT: All right. I have reviewed the
11 statement, and first of all, it is my feeling that it is not
12 inadmissible because of Hearsay. In fact, it falls square
13 within the exception to the Hearsay Rule 804(a)(1) where a
14 unavailable witness, a Hearsay statement is admissible if the
15 witness is unavailable. And subparagraph (a)(1) clearly says
16 is that it is exempted by ruling of the Court on the grounds
17 of privilege from testifying concerning the subject matter of
18 declarant's statement and I have ruled based upon Mr. Knight's
19 taking of the Fifth Amendment that his testimony, of course,
20 is not before the Court and so that meets the definition of
21 unavailability.

22 The question then becomes whether or not the
23 statement in its entirety is inadmissible because the
24 prejudicial effect outweighs the probative value, and I don't
25 think that is the case. I think that the probative value is

1 very strong. It is a recitation of what happened out there on
2 the scene which is very much disputed, and it would be my
3 finding that the probative value is not outweighed by the
4 prejudicial effect and would overrule the defendant's
5 objection to the entire statement on that grounds. However, I
6 do think that that very short sentence in there does not add
7 anything to the statement; that it is prejudicial and it can
8 very easily be directed. The statement is that, why did you
9 bring that -- and then in parentheses "slob ass", end
10 parentheses, here. And then it says "in blue town." It would
11 be very easily to stop it here, take out in blue town, and
12 take out that next sentence about, I guess that's some gang
13 related talk. So I'm going to require -- I think that is
14 outweighed -- the probative value of that is outweighed by the
15 prejudicial effect so I'm going to require that part of the
16 statement will be redacted and but the rest of the statement
17 would be admissible.

18 So what you can do at this point if you want to,
19 Ms. Munnerlyn, is have your witness read the statement, go
20 ahead and mark it somehow or another so that he skips over
21 that part, doesn't read that part, and then actually before
22 it's taken to the jury, or given to the jury, copies can be
23 made and that can be redacted from the statement.

24 MS. MUNNERLYN: Your Honor, if you would just note
25 my objection.

1 THE COURT: Yes, ma'am.

2 MS. MUNNERLYN: Now you're saying the portion you're
3 ordering to be redacted starts at in?

4 THE COURT: Yes, ma'am.

5 MS. MUNNERLYN: And ends at talk?

6 THE COURT: Right. And I guess, Mr. Holt, you will
7 take exception to that ruling as well; you certainly have that
8 right.

9 MR. HOLT: I do, Your Honor.

10 THE COURT: Okay.

11 MS. MUNNERLYN: Your Honor, I anticipated we don't
12 have a blackout marker. I have all others but not black but
13 what we had thought about doing was whiteout. I don't know if
14 that ---

15 THE COURT: Who is going to publish the statement?

16 MS. MUNNERLYN: Jeffrey Locklair.

17 THE COURT: All right. Well, that can be taken care
18 of later as far as actually taking care of it before it goes
19 to the jury. But for purposes of going forward right now just
20 point out to Mr. Locklair -- put a little bracket around the
21 part he's not to read and then once I let it in and he
22 publishes the statement it can be -- he can just skip over
23 that part.

24 MS. MUNNERLYN: Yes, sir.

25 THE COURT: Okay, all right, anything before we

1 bring the jury in, Ms. Munnerlyn?

2 MS. MUNNERLYN: No Your Honor.

3 THE COURT: Mr. Holt?

4 MR. HOLT: No, Your Honor.

5 THE COURT: All right, bring the jury in please.

6 (WHEREUPON, the jury was returned to the courtroom
7 at approximately 9:56 a.m., and the following proceedings
8 commenced in open court.)

9 THE COURT: All right. Good morning, ladies and
10 gentlemen, and I thank you for your promptness in being back
11 here and I apologize for keeping you waiting in the your jury
12 room for a few minutes but we did have some legal issues that
13 we had to deal with and we have taken care of those matters.
14 So we have been in the courtroom working since sometime now,
15 and it has not been keeping you waiting in the jury room
16 unnecessarily. I do need to ask you now if anyone has tried
17 to talk to you or approach you about this case in any manner
18 whatsoever over the evening recess I would need to know about
19 it now.

20 (There was no response.)

21 THE COURT: Negative response. I assume no one has
22 tried to talk with you and that's a good thing. The other
23 question that I would ask if anybody has read any news stories
24 or seen anything on television or heard any other media
25 broadcast about this matter over the evening recess I would

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1 also need to know about that now.

2 (There was no response.)

3 THE COURT: Again, negative response, and that is a
4 good thing and I appreciate that. Thank you very much, and we
5 are now ready to go ahead.

6 Ms. Munnerlyn, you may call your next witness.

7 MS. MUNNERLYN: Thank you, Your Honor, I would call
8 Charles McRae.

9 WHEREUPON,

10 CHARLES MCRAE,

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

13
14 THE DEPUTY CLERK OF COURT: Be seated, state your
15 full name.

16 DIRECT EXAMINATION

17 BY MS. MUNNERLYN:

18 Q You are Charles McRae?

19 A Yes, ma'am.

20 Q Okay. I need you to speak up real loud and speak
21 into the microphone so everybody can hear you when you talk
22 and speak slowly and clearly. How are you related to Maurice
23 McRae?

24 A My baby brother.

25 Q Okay. And how old are you now?

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- 1 A 25 -- 24, I'll be 25.
- 2 Q And you'll be 25 on your birthday?
- 3 A Yes, ma'am.
- 4 Q And where were you living back in October of last
5 year?
- 6 A I was living with my mom but I had a friend in the
7 apartments that I was talking to.
- 8 Q You had a friend in the -- that lived in the
9 Apartments?
- 10 A Yes, ma'am.
- 11 Q And were you in fact there on October 14th?
- 12 A Yes, ma'am.
- 13 Q Okay. Now what were you doing over there? You were
14 visiting your friend?
- 15 A Yes, ma'am. That's where I was -- he was to his
16 friend's house and I was to my friend's house.
- 17 Q Okay. "He" you're talking about Maurice was at his
18 girlfriend's house?
- 19 A He -- yes, ma'am.
- 20 Q And you were at your girlfriend's house?
- 21 A Yes, ma'am.
- 22 Q Now where did your girlfriend live?
- 23 A In Building.
- 24 Q Building?
- 25 A In front of building where he got shot.

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1 Q Okay, all right. And had you seen him that morning?

2 A Yes, ma'am.

3 Q Been outside and talked to some other people that
4 morning?

5 A No. Me and him talked together, but I don't know
6 what probably what he did after that fact but.

7 Q Okay, all right. Did you see Darius Hailey and
8 Willie Covington?

9 A Yes, ma'am.

10 Q Okay. You had some conversation with them?

11 A Yes, ma'am. We walked over to my cousin's house
12 together, but they stayed outside but I went in.

13 Q Where's your cousin's house?

14 A In . He was living in building but he moved now.

15 Q Okay, all right. And what was your cousin?

16 A It was Doug Housin (ph) and Sharome Brown.

17 Q And at that time he was living in Building?

18 A My cousin, yes, ma'am.

19 Q Okay, all right. But they did not go in with you;
20 you went in?

21 A I went in, yes, ma'am.

22 Q Okay. And when you came out did you notice anything
23 in particular that was going on?

24 A No, ma'am. When I came out all I seen was Rondell
25 Knight and Brandon Ray walking towards their car.

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1 Q Okay. Now when you went in were they there?

2 A No, ma'am, I didn't see them there.

3 Q They had not yet arrived when you went into
4 building to see your cousin?

5 A I didn't see them none out there till when I came
6 back out.

7 Q Okay. So when you came back out -- where did you
8 come? If this is the diagram of Apartments where did
9 you come to when you came -- when you exited the Building
10 did you go to where the other men were standing?

11 A All right. right here. I come out of
12 We were standing right there like right here where the tree.

13 Q Okay. And when did you first see Brandon Ray and
14 Rondell Knight?

15 A Walking on the sidewalk going to their car.

16 Q You can get up and point to it if you need to.
17 Where exactly?

18 A Walked on the sidewalk right there going to their
19 car.

20 Q And where was their car parked?

21 A Right here in the parking spot in front of C.

22 Q And what kind of car were they driving?

23 A It looked like a Dodge Plymouth, but you know,
24 everybody was trying to describe at the same time, gave
25 statement but I'm familiar with Dodge Plymouth.

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1 Q Do you remember what color it was?

2 A It was silverish, gray looking.

3 Q Okay. So where did you stand with these people
4 during the events that transpired after that?

5 A We were standing right here.

6 Q Okay.

7 A In the area there was a tree, tree right here.

8 Q All right. Could you see your brother Maurice at
9 that point?

10 A No, ma'am, I didn't see him. They had -- when I
11 seen Maurice he was walking on the sidewalk coming towards.
12 They back their car out. They was going out that way and they
13 jumped over the little speed bump. There was a speed bump
14 right here. They got over the speed bump and they sat there
15 and waited. I wondered what they were waiting on, but I never
16 seen nobody. So I seen Maurice coming around the corner, and
17 then I heard Brandon with his head out the window say, I got
18 you now, and Maurice drew his hand, what up man. And then he
19 stuck the gun out the window and he shot.

20 Q Okay. Go ahead and sit back down. Now you -- you
21 were standing there with the other guys the entire time you
22 were seeing all this happened?

23 A Yes, ma'am, I was too far away from them. Could
24 have stopped, you know, the distance.

25 Q All right. Where was Maurice going? When you first

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1 saw him you said coming around the corner?

2 A Yeah, he was on the sidewalk walking towards us.

3 Q Okay. And you said the car was stopped waiting?

4 A Yes, ma'am.

5 Q Okay. And who was driving the car?

6 A Rondell Knight.

7 Q And where was Brandon sitting?

8 A On the passenger side in the seat.

9 Q Okay. And did you know him?

10 A I knew Brandon Ray from the time of the court
11 incident that when he spit on me and my friend in the
12 courtroom, and then we got in a fight where he got my cousin,
13 got in a fight with my friend rather, and they locked him up
14 for 24 hours. And then tried to say I was fighting with him,
15 but I didn't. They had told me so he had -- I ain't had
16 nothing to do with it. That's how I knew him.

17 Q So you knew him from that. What about Rondell?

18 A Rondell was talking to my cousin Takka Watson, and
19 he used to be around us all the time.

20 Q So you knew him quite well?

21 A Quite well.

22 Q Okay. How long had you --

23 A He spoke to me. When they were getting in the car
24 Rondell spoke to me.

25 Q So when you were standing with these other guys out

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1 at the tree ---

2 A Yes, ma'am.

3 Q ---and he -- they were approaching to get back in
4 the car ---

5 A Car.

6 Q ---he spoke to you?

7 A Rondell like, what up. I was like, what's going on.

8 Q And what about Brandon?

9 A He ain't never look up. He had his head down with a
10 black hoodie over his head getting in the car.

11 Q He had his head down with what?

12 A A black hoodie on his head.

13 Q A black hoodie over his head?

14 A Yeah.

15 Q Okay, all right. And they got in the car?

16 A Yep.

17 Q And you said they backed out.

18 A They backed straight, jumped over the speed bump.

19 And so when he got over the speed bump they sat there for like

20 maybe five minutes. Then I seen Maurice coming on the

21 sidewalk walking, and then I heard Brandon Ray when he say, I

22 got you now.

23 Q Did you know who he was talking about when he said I
24 got you now?

25 A It was 'cause the incident before at the school

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1 house he, I believe it was like a week to two weeks before, he
2 pulled out a gun on about on all the Clio people, went to
3 McDonalds, pulled out the gun the same night.

4 Q Who is that? Who pulled out the gun?

5 A Brandon Ray, the same gun that he shot him with.

6 Q And Maurice was there?

7 A To the school house.

8 Q Y'all were at the school house?

9 A To a football game.

10 Q At a football game, okay. So you knew there had
11 been problems?

12 A I had -- I didn't knew major problems but I didn't
13 know, see, 'cause they -- I don't know really from school or
14 not, but Maurice had been to school about five years so I know
15 he didn't, you know, had no recent confrontation with him
16 because he always be's around me.

17 Q Okay, all right. But did he -- how, but when he was
18 around Brandon how was his relationship?

19 A He ain't never been around Brandon.

20 Q Okay, all right. So he says this, I got you now,
21 and at that -- when he says that how close is Maurice to the
22 car?

23 A Maurice was still on the sidewalk and they was in
24 the road and Maurice still on the sidewalk when he shot the
25 gun.

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1 Q Okay, so they were in the road. So they were ---

2 A Parked straight. Maurice McRae was still on the
3 sidewalk.

4 Q Okay. There was at least the length of a parking
5 space between him?

6 A Yeah. It was probably the length of -- probably the
7 length of that parking spot, more that way. This whole
8 parking spot right here about that way from the sidewalk to
9 the road.

10 Q Okay. Sidewalk out to the road where their car was
11 ---

12 A Yes.

13 Q ---stopped, okay. And so he says, I got you now,
14 and what does Maurice do?

15 A Throw his hands up, well, what up, man.

16 Q Well, "what up," what do you mean by that?

17 A He was like, what up. The he like, I got you now.
18 He was like, what up man. Well like, he went back to like he
19 wasn't going to back down from him if he were to try anything.

20 Q Okay.

21 A --cause ---

22 Q So the car is sitting, just say, the car is sitting
23 right here, they're stopped ---

24 A Yeah, facing.

25 Q ---to go out this way.

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- 1 A Yeah.
- 2 Q And Maurice is coming up here.
- 3 A On the sidewalk.
- 4 Q Was ---
- 5 A Walking.
- 6 Q How was Mau---
- 7 A He was walking towards us over here.
- 8 Q Over here?
- 9 A Yes, going this way where we were standing up in the
- 10 tree.
- 11 Q Get up, if you would, and show us how he would have
- 12 been in relation to the car. This is the car right here?
- 13 A Point this way.
- 14 Q Right.
- 15 A Okay. And Maurice on the sidewalk.
- 16 THE COURT: Keep your voice up now.
- 17 THE WITNESS: He was on the sidewalk.
- 18 BY MS. MUNNERLYN:
- 19 Q Act like you're Maurice McRae walking.
- 20 A Yeah, walking on the sidewalk, they in the road. He
- 21 walked on the sidewalk like this and then Brandon Ray said, I
- 22 got you now. He was like, well what up then.
- 23 Q Okay.
- 24 A Just like that. And he reached the gun out the
- 25 window and shot the gun.

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1 Q Who shot the gun?

2 A Brandon Ray.

3 Q Okay, you can have a seat right there. When he shot
4 the gun what was Maurice doing at that point?

5 A When he shot the gun, that's when he must have got
6 hit already 'cause when he got hit he was like, oh, and he
7 fell back, stood back up. They had pulled off. He seen them
8 when they pulled off, but he wasn't down yet. He fell down
9 after they was gone and after the first call to 911.

10 Q So he didn't fall until really -- they took off as
11 soon as the shot?

12 A As soon as the shot, he wasn't even looking when he
13 shot the gun. He just ---

14 Q Who wasn't looking?

15 A Brandon Ray. He just had the gun out the window,
16 goes pow, just like that.

17 Q Okay. And so they took off immediately then?

18 A Immediately.

19 Q Slow, fast?

20 A Fast, took off fast.

21 Q Okay. And in -- continuing in the same direction
22 they were, the car was already heading?

23 A Yes, ma'am.

24 Q Okay. Was there any more conversation or anymore
25 statements made by Brandon Ray at that point?

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1 A No, ma'am.

2 Q And what about Maurice?

3 A No, ma'am. Only thing he told me reach in his
4 pocket and he grabbed that phone and his money was with the
5 phone. He told me to dial 9-1-1. That was his last words,
6 dial 9-1-1, and that's when I dialed 9-1-1. But there was
7 another call going through too but then I just hung -- I got
8 mad because it took them a long -- 9-1-1 a long time to come
9 so I just hung up my phone like that and.

10 Q Okay, what -- so happened now?

11 A It took a long time for 9-1-1 to show the ambulance.

12 Q It took a long time for them to get there?

13 A Get there.

14 Q Oh, okay. But did your call actually go through?

15 A Yes, ma'am. It went through but then they was like
16 unit on the way, unit on the way, but now unit ain't show up
17 yet.

18 Q Okay. How many times did you talk to him?

19 A Who, 9-1? I talked to 9-1 twice, one time, once.
20 That was the first call and then I got mad; I hung up the
21 phone.

22 Q Okay. And you gave them some information; didn't
23 you?

24 A Yes, ma'am.

25 Q Okay.

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1 A No, police were there when I was talking to 9-1-1.

2 Q Okay. So the police arrived pretty quick?

3 A Pretty quick, yes, ma'am.

4 Q Okay. But it took the ambulance a little longer?

5 A Yes, ma'am.

6 Q Okay. You knew the identification of the two
7 occupants in the vehicle, right?

8 A Yes, ma'am.

9 Q And did you tell the 9-1-1 operator who the suspect
10 was in that particular?

11 A Yes, ma'am.

12 Q You said who was shot?

13 A I told them everything.

14 Q Okay, all right. Now you -- when did he -- was he
15 still standing, laying down? Where was he when he was handing
16 this cell phone and money to you?

17 A He was sitting down on his butt, on his butt area,
18 but he was leaning over one arm like this. And then he was
19 like call 9-1 and he said back laying on the ground and I was
20 dialing 9-1-1 at the same time.

21 Q Okay. And that was on his phone?

22 A On his phone.

23 Q Not your phone, but his phone?

24 A Not my phone, his phone.

25 Q Okay. And what did you do? Did you -- what did you

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1 do with the money and the cell phone then?

2 A I had the money and cell phone. I gave it to my mom
3 when I got to the house.

4 Q Okay, so you kept it?

5 A I kept it till they got back from the hospital; I
6 gave them everything.

7 Q Okay. Did you take anything else off of him?

8 A No, ma'am.

9 Q Okay. Just the money and the cell phone?

10 A Well, I didn't take it off of him; he handed it to
11 me.

12 Q I got you, okay. What about any keys?

13 A The keys was on the ground the whole time.

14 Q Okay. Did you pick those keys up?

15 A When the girl, his baby mom, when she need the house
16 key she was crying. She was going back with us so we got the
17 keys; he handed her the house key.

18 Q Okay. So they were still on the ground, and you
19 just picked them up and gave it to them?

20 A Yes, ma'am, right beside the shoe.

21 Q What happened to his shoe?

22 A We took the shoe off for him to keep wiggling his
23 toes so to keep his toes moving we know he still alive, if he
24 can hear us. And he was wiggling his toes just like that.

25 Q So even though he wasn't talking to you he was

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1 wiggling ---

2 A He was hearing us when we say wiggle your toes. He
3 heard us. He was wiggling his toes every time we talked to
4 him. All of sudden he just stopped.

5 Q Okay. He stopped before the ambulance got there?

6 A Before the ambulance got there.

7 Q Okay. Now there has been some discussion about a
8 second brother being present?

9 A Yeah.

10 Q Did y'all have another brother that was there that
11 day?

12 A Yeah, he wasn't -- he didn't know what went on. He
13 was in the house. All he know when the fellow say, oh, your
14 brother got shot. He came out there with me there when I was
15 down there with me. He ran outside with me. He was just
16 rolling on his back; that it will be okay. That's all he
17 said.

18 Q And what is that brother's name?

19 A Timothy McRae.

20 Q Okay, Tim McRae, or Timmy McRae.

21 A Timothy McRae.

22 Q Timothy, okay. And where did he live?

23 A He lived in Building.

24 Q In Building?

25 A Yeah, where his girlfriend live in but he be go

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1 with me. He live with us at the time, you know.

2 Q On this particular day he was over at his
3 girlfriend's house?

4 A No, he was to my cousin house where I was at.

5 Q Okay.

6 A We was playing a game over there and that's where he
7 was, playing a game.

8 Q So when all this shooting occurred and Maurice fell
9 and he was on the ground, where was Timothy?

10 A He was in the house.

11 Q In whose house?

12 A My cousin Doug house in Building.

13 Q In Building? Okay.

14 A Yes, ma'am.

15 Q And when did he come out?

16 A After the shot, after the boy and everything was
17 gone he came out there with me.

18 Q Okay. Now you've already mentioned Shayna without
19 saying her name. What was Maurice's relationship with Shayna
20 Whaley?

21 A His girlfriend.

22 Q That's his girlfriend?

23 A Yes, ma'am.

24 Q They had a child together?

25 A Yes, ma'am.

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1 Q Okay. And Maurice was staying with her on and off?

2 A On and off like that, back and forth. Like if you
3 out there you can't -- man can't be on a leash out there with
4 the apartment so he just back and forth home, and he go chill
5 with the baby for a while and go back home.

6 Q Okay. Do you know if Shayna had any relationship
7 with Brandon Ray?

8 A No, ma'am.

9 Q Okay. How many shots were fired?

10 A One.

11 Q You only heard one?

12 A One. I seen one shot.

13 Q You saw it?

14 A I saw one shot.

15 Q Tell me what you saw.

16 A I seen him stick the gun out the window and he shot
17 the gun and all the gun smoke and everything with it in the
18 air and then they drove off.

19 Q Okay. And what were Maurice's wounds? Where was he
20 shot?

21 A When I first saw it I thought it was chest area
22 'cause when I was lift his shirt and see the blood from the
23 chest area. But when I checked there then went through his
24 right arm then went through his chest area right there.

25 Q Okay. But he had blood on the front of him you

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1 said?

2 A On the front of him.

3 Q Now you said you -- when he was laying back on that
4 one arm that he took his cell phone, his money, and gave it to
5 you.

6 A He said call 9-1.

7 Q And you said you took his shoe off because ---

8 A I told him to take the shoe off and he -- so he
9 could wiggle his toes if he heard me, and he would wiggle his
10 toes and everything.

11 Q And you picked up the keys and gave them to Shayna
12 after?

13 A That was after when the ambulance and them got
14 there, that's when she got her car keys, her house keys
15 rather.

16 Q Other than the cell phone, the money, and the keys,
17 was there anything that was taken from Maurice's body from his
18 clothing or anything from around him?

19 A No, ma'am. No, ma'am.

20 Q Okay. And were you there with him until the
21 ambulance arrived?

22 A Until the ambulance was right there on the ground
23 the whole time.

24 Q You were there with him on the ground the whole
25 time?

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- 1 A The whole time, never moved.
- 2 Q Okay. And who all was around you?
- 3 A Just me, Maurice, Tim, Johnathan Covington, at the
- 4 time Darius Hailey.
- 5 Q Okay. And did other people come out?
- 6 A Other people came out the house. They came out
- 7 after everything was down, you know, they all came out.
- 8 Q And they were standing where?
- 9 A Right around the crowd, around everybody, right
- 10 there, made a little circle around the ambulance and all.
- 11 Q So there was just a big crowd around?
- 12 A Yes, ma'am.
- 13 Q Even when law enforcement arrived they were there?
- 14 A No, when law enforcement arrived they told everybody
- 15 to back up from around the suspect like that.
- 16 Q Okay. Do you know Black White or Blake Wilkes?
- 17 A Yes, ma'am.
- 18 Q Did you see him that day?
- 19 A No, ma'am, I didn't see him that day.
- 20 Q Okay, but you -- you weren't there when -- you
- 21 weren't outside when Brandon Ray and Rondell Knight first got
- 22 there?
- 23 A No, ma'am.
- 24 Q You did not see when they had a conversation with
- 25 Maurice at Building ?

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1 A No, ma'am.

2 Q You weren't advised at all of that when this
3 shooting occurred?

4 A I wasn't advised of none of that. All I seen was
5 the shooting and they walking right back toward their car.

6 Q When you say after Brandon Ray said, I got you now,
7 and Maurice ---

8 A Right.

9 Q ---said ---

10 A What up man.

11 Q What up?

12 A What up man. That's it, you, like that. What up
13 man. And then Brandon Ray stuck the gun out window and shot
14 the gun.

15 Q Okay. Was there anything in Maurice's hand when he
16 did that?

17 A No, nothing.

18 Q Did you see anything in his belt or ---

19 A Nothing.

20 Q ---pants or pocket when he did that?

21 A I'm'll tell you, as long as we there going to McColl
22 we ain't never had to take no weapon. We didn't need no
23 weapon. We never bothered nobody; nobody ever bothered us.

24 Q Y'all never had any problems?

25 A No, we never had any problems with McColl.

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1 Q Do you know Roy White?

2 A I seen him before, yes, ma'am.

3 Q Was he there that day?

4 A No, ma'am, I didn't see him.

5 Q Okay. Did you see him when you were sitting with
6 your brother?

7 A No, ma'am, I didn't see him.

8 Q How long was it before the ambulance arrived?

9 A About -- took about 35, 40 minutes before they
10 arrived.

11 Q Seemed like a long time?

12 A It was a long time.

13 Q And once they removed your brother and were
14 transporting him to the hospital where did you go?

15 A To the police department to write my statement.

16 Q You went immediately to the McColl Police
17 Department?

18 A Immediately to McColl Police Department. They told
19 me to come up there, follow them up there, so I can get my
20 statement down and that's where I went.

21 Q Okay. And you went in; and you did, in fact, start
22 writing a written statement?

23 A I started writing a statement till they had a phone
24 call saying my brother died and I just left out. I ran out.

25 Q You just ran out?

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1 A Just ran out.

2 Q Okay. And who was there with you? Were you riding
3 with some other people?

4 A Me, my brother Tim, and my brother Paris McDuffey.

5 Q Paris McDuffey?

6 A Yes, ma'am.

7 Q So the three of you were riding together?

8 A Yeah, and we was going to Clio but Tommy Langley say
9 we need to go write our statement so I went up to the police
10 department to write my statement. And then they called and
11 the car where they was at, waiting on him, and they told me he
12 got killed, he died, so I just ran out the police station and
13 kept going.

14 Q Okay. And did you see your parents? Did they come?

15 A I seen them when I got up to the ambulance. They
16 rode with him to the hospital.

17 Q They rode on the ambulance with him?

18 A Yes, ma'am.

19 Q Who -- so you rode with your brother Tim and Paris.
20 Whose car were you in when you went to the hospital?

21 A My father's.

22 Q Your father's car?

23 A Yes, ma'am.

24 Q So y'all were driving your father's car?

25 A Yeah.

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1 Q He was in the ambulance?

2 A My father came in up in his car by himself. My mom
3 and them was coming from Bennettsville so when he got there
4 they all -- both them jumped in the ambulance, and I took his
5 car and went to the police department.

6 Q Okay. And somebody else had your -- your mother
7 came with somebody else?

8 A No, she had her car but we had -- my sister, she can
9 drive a car too.

10 Q So your sister drove your mother's car?

11 A Yes, ma'am.

12 Q And there were other individuals who went to the
13 McColl Police Department also, right?

14 A When I went up there I was the only one went up
15 there then. And Darius, but Darius ain't stay long so then I
16 just fill out my application, my statement; that was it.

17 Q Okay. And when you left there where did you go?

18 A Home.

19 Q Home?

20 A Yes, ma'am.

21 Q Now had you seen Brandon Ray out there at the
22 Apartments before?

23 A No, ma'am, never seen him out there.

24 Q And now had Rondell Knight been out in the
25 Apartments?

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1- A Yes, ma'am, he was living with Maurice and his
2 girlfriend at the time.

3 Q He was living with them?

4 A Yes, ma'am.

5 Q And why was that? Who was living with them?

6 A Takka Watson and Rondell and Shayna.

7 Q Okay. So his girlfriend was staying with Shayna so
8 that's ---

9 A Yeah, if he was ---

10 Q ---why he had been out there?

11 A Yeah, he was living with them too.

12 Q Okay.

13 A The two, she kicked both of them out the house.

14 Q Shayna did?

15 A Yeah, she kicked both of them out the house.

16 Q Prior to this happening, right?

17 A Before this happening.

18 Q Okay. Do you know when that was?

19 A Not off the bat. I don't know when it was. I know
20 she had kicked them out the house.

21 Q Okay. How long had it been since you had seen him
22 when this happened?

23 A I don't since -- seen Rondell? Since murder him I
24 ain't seen him.

25 Q No, no, I mean, when the shooting incident happened

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1 how long had it been since you had seen Rondell before then?

2 A I ain't been seeing him; he had moved.

3 Q Okay. So he had moved and hadn't been around the
4 Apartments for ---

5 A No, he hadn't been around.

6 Q For how long?

7 A I can't say I remember. I don't know.

8 Q But it had been a little while?

9 A I don't know. I don't know how long it been.

10 Q Okay. But there weren't any problems between
11 Maurice McRae and Shayna as far as you knew, were there?

12 A No, ma'am.

13 Q And he was still continuing to stay with her?

14 A Ma'am?

15 Q He was still continuing to stay with Shayna?

16 A Like back and forth, you know.

17 Q Back and forth between your parents' house and her?

18 A Yeah.

19 Q Okay. I'm going to show you what's in evidence now
20 as State's Exhibits 23, 24, and 25, and see if you recognize
21 the vehicle that's shown in those photographs.

22 A Yes, ma'am.

23 Q Where do you recognize that vehicle from?

24 A I see the vehicle in Bennettsville one time before.
25 Rondell usually drive that vehicle.

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1 THE COURT: Keep your voice up.

2 THE WITNESS: Rondell usually drives that vehicle.

3 BY MS. MUNNERLYN:

4 Q Rondell usually drives that vehicle?

5 A Yes, ma'am.

6 Q And did you see it on October 14th?

7 A Yes, ma'am.

8 Q And where did you see it?

9 A It was parked in the parking spot right here. When
10 I walk out there they were walking to this vehicle.

11 Q Okay. And who drove that vehicle out of the
12 apartment complex?

13 A Rondell Knight.

14 Q Okay. And that is the gray Dodge Stratus that you
15 described to 9-1-1?

16 A 9-1-1.

17 Q I don't have any further questions, Your Honor. If
18 you would please answer any question Mr. Holt has.

19 THE COURT: Mr. Holt, cross-examination.

20 MR. HOLT: Please the Court.

21 CROSS-EXAMINATION

22 BY MR. HOLT:

23 Q Charles, isn't it true that when you left McColl
24 Police Department you weren't going home, you were going to go
25 look for Brandon Ray and Rondell Knight; isn't that true?

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1 A No, sir.

2 THE COURT: Sit up and talk into the microphone.

3 THE WITNESS: No, sir.

4 BY MR. HOLT:

5 Q You're telling me that you drove in McColl Police
6 Department to Clio to your house?

7 A Yes, sir.

8 Q And you didn't go looking for him after this
9 incident?

10 A No, sir.

11 Q You loved your brother?

12 A Yes, sir.

13 Q Broke your heart when your brother passed away?

14 A Yes, sir.

15 Q You'd do anything to try to fix this; wouldn't you?

16 A If I could I would, but it's in God's hands now.

17 Q And you -- Mr. McRae, you don't live out there;

18 Maurice didn't live out there. Rondell Knight, y'all stayed
19 with your girlfriends out there when you can, right?

20 A Yes, ma'am -- yes, sir.

21 Q Okay. So you're not on the lease. You're not
22 legally out there, are you?

23 A No, sir, I be out there. When I goes out there I be
24 out there.

25 Q So young men hanging out there, at least the ones

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1 you've described, none of them officially live out there?

2 A Yeah, they do. They did -- they did live out there
3 but they moved now.

4 Q Okay. Now you stated that when the morning of or at
5 least on some point on that day -- I'm going to refer you to
6 this drawing over here of Apartments. Does this look
7 relatively accurate to you?

8 A Yes, sir.

9 Q Okay. Now you're turned away from the microphone
10 and that's okay, but you do need to speak up because the judge
11 is behind you and he can't hear you and the court reporter is
12 right there. No one is going to be able to hear you. I want
13 this jury to hear you too.

14 A All right.

15 Q Now where were you standing when you saw Maurice
16 McRae on that day for the first time?

17 A There was -- I was standing -- I was there.
18 Everyone I called -- Maurice McRae calls me, asked me, or did
19 everything straight. Everything is straight but.

20 Q What does everything is straight, what does that
21 mean?

22 A Like if you straight, you're good. For a case like
23 if you leave you all right. If I go somewhere you be all
24 right. You feel? You understand now?

25 Q Do I feel you; do I understand you?

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1 A Do you understand me?

2 Q Well, I'm the one asking the questions but to be
3 honest with you, no, I don't understand you. So let me ask
4 you this. You said you called him on the telephone?

5 A Yes, he called me or I called him.

6 Q Okay. Well how -- how would you have called him?

7 A I had a phone too.

8 Q Okay. So you had a phone but you took your
9 brother's phone and you called 9-1-1?

10 A He handed me his phone.

11 Q Okay. You didn't use your own phone to call 9-1-1?

12 A No, my phone was upstairs charging. If I had had my
13 own phone I would have called 9-1-1 before it happened.

14 Q What building was it charging in?

15 A In Building.

16 Q Building upstairs or downstairs?

17 A Upstairs.

18 Q Did you know the young lady Vula Davis that lives
19 downstairs?

20 A I knew her, yes, ma'am -- yes, sir.

21 Q Okay. Well, you talked to your brother that morning
22 at some point. Do you remember what time you talked to him?

23 A Not off the bat I can't remember.

24 Q Don't remember that?

25 A Don't remember.

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1 Q You remember all these other details, but you don't
2 remember when you talked to your brother.

3 A I know that I don't remember though.

4 Q Okay. Well, you don't remember that. So you spoke
5 to him on the phone the first time you saw him that day?

6 A That morning. We got out that morning together.
7 And he got up, we got up starting talking. He making phone
8 calls because he was fixing to go and that's when everything
9 happened. He made the phone call.

10 Q He was making phone calls and he was getting ready
11 to go?

12 A Yes, sir.

13 Q Where was he going to go?

14 A At home I guess.

15 Q Did y'all both spend the night out there?

16 A Yes, sir.

17 Q Okay. Spent the night out there even though you're
18 not on the lease, you're not supposed to be there.

19 A You can be there, but you just can't constantly stay
20 there. You can go visit any time but you just can't stay
21 there.

22 Q Like spend the night you can't spend the night
23 there?

24 A You can spend the night, but you can't stay, be
25 staying there, staying there.

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1 Q All right. So where did you visibly see him and
2 talk to him when y'all got up?

3 A We met me up together outside.

4 Q Okay. Well, I understand him to be living in
5 Building and you be living in Building . Where outside did
6 y'all get together?

7 A All of us together, it ain't -- I can't remember
8 where all of us got together at.

9 Q You don't remember where you and your brother first
10 met?

11 A No, I can't remember that. All I remember is he
12 pulled out the gun and shot the gun after that.

13 Q And that's what you remember?

14 A That's all I seen.

15 Q Okay. You don't remember when you and your brother
16 talked out there or what time it was or where even it was you
17 talked, but you know you talked to him that morning?

18 A Talked to him that morning.

19 Q Okay. Do you remember a young man named Willie
20 James Covington?

21 A Yes, sir.

22 Q Okay. You remember him being there?

23 A Yes, sir.

24 Q You didn't indicate that earlier. Willie James
25 Covington, did you see him prior to the shooting incident?

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1 A Yes, sir.

2 Q Okay. And you weren't there when Brandon Ray and
3 Rondell Knight pulled into the parking lot, were you?

4 A No, sir.

5 Q Okay, 'cause you were up here in Building ?

6 A D, yes, sir.

7 Q Okay. So you came over here to see somebody in
8 Building ?

9 A My cousin Doug.

10 Q And isn't it true that you were in Building at the
11 time that the shooting occurred, you never saw any of this?

12 A No, I wasn't in Building when the shooting
13 occurred. I seen when they were walking back to their care,
14 getting in their car. I then I say spoke to him, to Rondell,
15 Knight, he spoke back to me.

16 Q Well, you indicated also that your brother said,
17 what up?

18 A After Rondell say, I got you now, he say what up?

19 Q So you heard Rondell Knight say ---

20 A I got you.

21 Q You spoke to Rondell Knight and then you heard ---

22 A Brandon Ray.

23 Q Brandon Ray say I got you now.

24 A Yes, sir.

25 Q Okay.

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1 THE COURT: Yes, sir, I was -- the two of you are
2 talking at the same time. I want to make sure that you don't
3 overlap the questions with the answers. She can't take
4 everything. Go ahead.

5 BY MR. HOLT:

6 Q The judge is instructing us for me to ask the
7 question and you answer and give enough pause in between,
8 okay. If I rush you I apologize. Now let me try to clarify
9 this. You're indicating that you went from the apartment
10 building and walked over toward Building; is that right?

11 A No, sir. When we all left from one spot and went
12 to -- I broke off and went to building. The rest of us
13 standing out front of Building up under the tree right
14 there. When I went I was going there in Building there. I
15 come around building and seen Rondell, Brandon Ray, walking
16 on the sidewalk. I seen them walking on the sidewalk coming
17 back from that way from Building.

18 Q You saw them at this point right here between the
19 parking lot and Building in these parking places.

20 A Yeah, walking -- this is, say this is Building ,
21 this is the sidewalk, okay. They were walking on the
22 sidewalk, get in their car.

23 Q And they were in a hurry too; weren't they?

24 A No, they took their time walking to the car. They
25 weren't rushing, running, or nothing.

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1 Q Okay. So it's your testimony that they were
2 casually walking to their car?

3 A Yeah, looking back like they were looking back for
4 something. Rondell looked back. Brandon Ray never looked
5 back. He kept head down and walked straight to the car.

6 Q And they were not in a hurry and they didn't jump in
7 the car in a hurry and they didn't try to pull out in a hurry?

8 A They backed up and situated and waited on to get
9 around that corner for five minutes?

10 Q For five minutes your testimony was that they waited
11 right here at that speed bump for five minutes.

12 A They jumped that speed bump. They went over the
13 speed bump getting ready to go. And they got over the speed
14 bump in front of C. They were ready to go across the next
15 speed bump.

16 Q For five minutes they waited on your brother?

17 A At least five minutes they waited.

18 Q And the five minutes you stood down here, it's your
19 testimony you were standing here?

20 A Up under the tree.

21 Q Because you had already watched them walk, get in
22 their car, back up, get over the speed bump, and stop. For
23 five minutes they waited?

24 A At least five minutes.

25 Q At least five. Could it have been longer?

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1 A No.

2 Q At least means minimum of five. Could it have been
3 longer or was it less?

4 A Probably a little less, couldn't tell.

5 Q Okay. Approximately five minutes they parked right
6 here?

7 A Waiting.

8 Q Waiting. And you don't know what they are waiting
9 on but your brother then starts walking this way?

10 A On the sidewalk. He was on the sidewalk. They was
11 in the middle of the road.

12 Q And for five minutes you stood back here?

13 A Yeah.

14 Q Watching them?

15 A Yeah, I didn't know what -- I didn't know what was
16 going on. I just come out of Building. I didn't know ---

17 Q Did you see a white car in front of them?

18 A No, sir.

19 Q You never saw a white vehicle?

20 A No, it was clear open. It was a clear open and go.

21 Q Never saw a white Crown Vic in front of them?

22 A None, I ain't never seen no white Crown Vic.

23 Q But you saw -- you spoke to Rondell Knight?

24 A Yeah.

25 Q You saw Brandon Ray say I got you. You heard

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1 Brandon Ray say I got you now. You saw him stick the gun out
2 the window and turn his head and fire?

3 A And fire.

4 Q And you saw your brother or your heard your brother
5 say ---

6 A No, I seen him. He was like, he was like, he got
7 me, he got me. He was still standing.

8 Q But you never ---

9 A Then he fell.

10 Q Okay. Did you hear your brother say, hold up, let
11 me holler at you a minute?

12 A No, sir, I never heard him say anything like that.

13 Q Okay. But you were standing right here and he was
14 approximately in this area. You didn't hear him say that?

15 A I ain't never heard him say that. I heard Brandon
16 Ray say, I got you now, and he pulled his hand up and I was
17 like that up and he fired a pistol.

18 Q Five minutes they sat there?

19 A You know, I didn't -- like five or under, but they
20 sat and waited.

21 Q When the shooting occurred would you demonstrate for
22 me, for the jury, the Court, your brother's -- his posture or
23 his position at the time that he was shot?

24 A He was like this. He was like, well, what up man.
25 And he was like walking on the sidewalk facing going towards

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1 him. He was like, what up man. And he was like stuck the gun
2 out the window and he shot. And when he shot he didn't fall
3 straight; he fell back. Picked hisself back up, still
4 standing like, he got me. And then he all of a sudden he just
5 fell down and sat down on his butt and gave me the phone, like
6 dial 9-1.

7 Q And you did not see nor you could hear any
8 conversation that may have taken place between Rondell Knight
9 and Brandon Ray, your brother, and Blake Wilkes?

10 A No, never heard a conversation.

11 Q You don't know anything about what happened over
12 here?

13 A No, don't know anything about what happened over
14 there.

15 Q Your testimony is that you saw the shooting over
16 here.

17 A Saw the shooting over there. That's what I said.

18 Q Now following the incident there was a lot of
19 commotion going on out there; wasn't there?

20 A No, there wasn't no commotion.

21 Q Oh, it was calm?

22 A It was calm.

23 Q Your brother was just shot and it was calm?

24 A It was calm. I was pe-- I was mad but I was -- we
25 was calm at the same time 'cause he was going to the hospital

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1 and he was still in the ambulance.

2 Q Your brother handed you his phone and hands you his
3 wallet.

4 A No, he had never carried a wallet. He never carried
5 a wallet. His money was in his pocket. Went in his pocket
6 and all that came out together and say call 9-1-1.

7 Q How much money was it?

8 A Nuttin' but two hundred dollars. My momma got that.

9 Q Two hundred dollars?

10 A Two hundred dollars and his cell phone. That's the
11 only thing he gave me.

12 Q And isn't it true you took more than just that off
13 of him; that you took the gun off of him too?

14 A No, he ain't have a pistol. I just told you if he
15 had had a pistol they ---

16 Q What would he have done?

17 A If he had had a pistol, if he had had a pistol
18 probably he wouldn't have fall straight down. If he had a gun
19 in his hands, if he had a gun in his possession, when he got
20 shot he didn't -- he fell back, stood up, and he say I know he
21 seen them, they be back at the apartments. He fell after they
22 was gone.

23 Q And they took off fast?

24 A They took off fast.

25 Q And you went running down here to your brother?

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1 A Running right back to him right there.

2 Q And you loved your brother and you were there to
3 protect him and care for him?

4 A If I can protect him I can protect him but I guess
5 it was his time to go.

6 Q It was his time to go?

7 A Yeah. God set all his plans, plans out the way he
8 going to take.

9 Q Okay. Well, that's interesting, Mr. McRae. You
10 referenced an incident earlier in which there was some sort of
11 altercation that preceded, that came before, this incident
12 here we're here about today, and you indicated schoolhouse or
13 something to that effect. You weren't there, were you?

14 A Where, at the school house?

15 Q Yes, sir.

16 A I was get there -- I was parked right beside him and
17 his girlfriend Tiffany. What Tiffany last name? I forget her
18 last name. I was parked right beside her van when the car got
19 the gun for him and took it back to him.

20 Q Okay.

21 A She ---

22 Q And how old are you?

23 A 24 years old.

24 Q You're 24 years old?

25 A Yes, sir.

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1 Q What you doing at the school house, Mr. McRae?

2 A We was at a football game.

3 Q So you were at a football game?

4 A Marlboro County High School.

5 Q And that's not what you said.

6 A That's what I said. We was at the football -- at
7 the game.

8 Q So you were the one at the football game who
9 witnessed this?

10 A Everybody -- everyone witnessed it.

11 Q Well, that's not what I've heard yet. You're the
12 first one. So tell me this, has anybody spoken to you about
13 your testimony today?

14 A No, nobody spoke to me.

15 Q Has anybody told you what I might ask you or
16 anything like that?

17 A No, no, sir.

18 Q Have you spoken to your family or anyone?

19 A No, sir. I told ---

20 Q You understand you're under oath?

21 A I'm under oath. Say I come in here tell you what I
22 know, what I heard, what I seen.

23 Q And you love your brother; don't you?

24 A And I love him.

25 MR. HOLT: No further questions, Judge.

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1 THE COURT: Redirect, Ms. Munnerlyn.

2 REDIRECT EXAMINATION

3 BY MS. MUNNERLYN:

4 Q Do you know remember when this incident was? You
5 were saying Schoolhouse?

6 A Yes, ma'am, at Marlboro County High School.

7 Q Well, what time of day did this happen?

8 A It was night, it was about 9:30, 10:00. They was
9 when the football game was going on.

10 Q Okay. So it was actually at the football field
11 which is just at the stadium which is just beside the school?

12 A Yes, ma'am.

13 Q Okay. And you were there, you were present when
14 this happened?

15 A Yes, ma'am.

16 Q And Maurice was as well?

17 A Maurice was present too and a couple of more people
18 was present. He pulled out a gun on more than just Maurice.
19 He pulled out on a couple more people too.

20 Q Okay.

21 MS. MUNNERLYN: I don't have any further questions,
22 Your Honor.

23 THE COURT: Recross.

24 RECROSS-EXAMINATION

25

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1 BY MR. HOLT:

2 Q Did you call the police?

3 A Who?

4 Q Did you call the police?

5 A No, the police was already on -- they was already on
6 the way then.

7 Q Okay. Did he get arrested for that?

8 A No, no, they couldn't catch him. They couldn't find
9 him.

10 Q He just got away?

11 A He got away.

12 Q All right. So your testimony, everybody's
13 testified, your testimony is that you saw a gun out there;
14 that he presented it; and then police were there; he didn't
15 get arrested, and he got away?

16 A He wasn't -- he wasn't there in the stadium. He was
17 in the parking lot.

18 Q So now ---

19 A They ran -- they ran to the parking lot for the gun.
20 The girl met him with the gun in the parking lot.

21 Q So you never actually saw a gun, did you?

22 A Yeah, I seen the gun. I seen the gun.

23 Q So you're at the ball game, the girl runs to go get
24 a gun?

25 A Yeah.

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1 Q And he meets her; police are all around?

2 A No, the police get ---

3 Q Jest let me finish my question. And then you're in
4 the stadium. You're actually in the stadium part of the
5 complex; he's out in the parking lot. And it's your testimony
6 in front of this jury that you saw the gun?

7 A I wasn't in the stadium. I was at my car. I was
8 parked right beside, seen the girl go in the car and get the
9 gun, and I seen get the gun. She told us you better leave
10 because somebody fixing to be left standing down here. That
11 what she told me.

12 MR. HOLT: Judge, I object to him telling us what
13 the girl ---

14 THE COURT: All right. You can't testify to what
15 someone else said in the manner ---

16 THE WITNESS: She told me ---

17 THE COURT: No, sir, I'm telling you you cannot
18 testify as to what someone said. That under our rules it's
19 Hearsay. You cannot testify to that. I'm instructing you not
20 to testify as to what anyone told you. I ask the jury to
21 disregard that answer. All right. You would not have any way
22 of knowing that, but that is -- that's the ruling of the
23 Court so go ahead, sir.

24 MR. HOLT: No further questions.

25 MS. MUNNERLYN: No further questions.

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1 THE COURT: All right, thank you. You may step
2 down. Ms. Munnerlyn, you may call your next witness.

3 MS. MUNNERLYN: Jeffrey Locklair.

4 WHEREUPON,

5 JEFFREY LOCKLAIR,

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

8 THE WITNESS: Jeffrey Locklair.

9 DIRECT EXAMINATION

10 BY MS. MUNNERLYN:

11 Q Where are you employed?

12 A Marlboro County Sheriff's Office.

13 Q And how long have been working in law enforcement?

14 A 22 years, 5 months.

15 Q And how long have you been employed with Marlboro
16 County Sheriff's Department?

17 A Since January 2005.

18 Q And in what capacity are you working for them?

19 A I'm the supervisor of criminal investigations and
20 also do narcotics as well as criminal investigation along with
21 the rest of them.

22 Q Okay. And were you working in that capacity back in
23 October of last year?

24 A Yes, ma'am, I was.

25 Q Okay. Now you're familiar with the shooting

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1 incident that occurred in McColl October the 14th which left
2 Maurice McRae dead.

3 A Yes, ma'am.

4 Q Okay. And that's actually a McColl case, correct?

5 A Yes, ma'am.

6 Q And was the Sheriff's Office asked to assist in the
7 investigation of that particular murder?

8 A Yes, ma'am. I got called at home and was asked to
9 go to McColl to help them; that they had had a shooting there
10 at Apartments. And we notified -- or I notified the
11 rest of the other investigators to come in that area.

12 Q Okay. Did you -- did you actually go to the scene
13 where the shooting happened?

14 A Yes, ma'am.

15 Q Okay.

16 A Because I live approximately three, three-and-a-half
17 miles from Apartments.

18 Q And when you arrived there what did you find?

19 A There were people on the outside of the complex. I
20 had to wait on getting one of the other officers to come show
21 me where the incident took place. And I spoke with some of
22 the people that was on the outside.

23 Q Was Maurice still there? Was he -- had he already
24 been removed from the scene?

25 A No, he had already gone.

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1 Q Okay. And you -- did you take any statements from
2 any witnesses at that time?

3 A No, ma'am.

4 Q Okay. Later did you have an occasion to speak with
5 Rondell Knight?

6 A Yes, ma'am.

7 Q Okay. And where, do you recall where that
8 conversation occurred?

9 A At the McColl Police Department.

10 Q Okay. And as a result of your conversation with him
11 did you take a written statement from him?

12 A Yes, ma'am, I did.

13 Q And you understood that he was charged in this
14 incident as well?

15 A Yes, ma'am. I understood that he was the driver of
16 the car; that when the incident took place that he was the
17 actual driver of the car.

18 Q Okay, not the shooter but the driver?

19 A The driver.

20 Q Okay, all right. And he had been already been
21 advised of his Miranda warnings, correct?

22 A I believe so.

23 Q I'm going to show you State's Exhibit 9 and see if
24 you recognize what that form is.

25 A Yes, ma'am. It's a Miranda warning form that I have

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1 used in the past. And this is one that the McColl Police
2 Department read his Miranda rights to him and he signed it.

3 Q Okay. And that was on the date that you spoke with
4 him, correct?

5 A Yes, ma'am, October 14th, 2006, and they Mirandised
6 him at 16:07 that afternoon.

7 Q 16:07 would be?

8 A Would be 7 minutes after 4.

9 Q 4:07?

10 A Yes, ma'am.

11 Q Okay, all right. Then I'm also going to show you
12 State's Exhibit 8. Do you recognize that particular document?

13 A Yes, ma'am, it's a voluntary statement of Rondell
14 Knight. It has his signature at the bottom, my signature on
15 it beside his. The date is October 14th, 2006 at 6:40 p.m.

16 Q Okay. Before we go into that let me ask you, do you
17 recognize what's in State's Exhibit 2?

18 A Yes, ma'am. This is a gunshot residue evidence
19 collection kit that I performed on Rondell Knight that
20 afternoon at 6:25 p.m.

21 Q Okay. So you actually performed the kit, removed
22 the particles, if any, from his hands and put them in the kit?

23 A Yes, ma'am.

24 Q Prior to taking the statement or after?

25 A Yes, ma'am, prior to taking a statement I performed

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1 this kit on his hands and sealed it with evidence tape and it
2 has my initials on it and also the date.

3 Q Okay. And then that was later turned over to McColl
4 Police Department and transported to SLED later?

5 A It was turned over to them that afternoon.

6 Q Okay, all right.

7 MS. MUNNERLYN: Your Honor, I would move to admit
8 then at this time State's Exhibit 2.

9 THE COURT: Any objection, Mr. Holt?

10 MR. HOLT: No objection.

11 THE COURT: State's Number 2 is admitted into
12 evidence without objection.

13 (WHEREUPON, State Exhibit No. 2 was admitted into
14 evidence.)

15 BY MS. MUNNERLYN:

16 Q Okay. So after you had completed the gunshot
17 residue kit then you began speaking with Rondell about the
18 events of that particular day?

19 A Yes, ma'am.

20 Q Okay. And tell us then how that particular session
21 went.

22 A We started talking, and he first would just bounce
23 around with information as to the events that occurred out
24 there as to why they were there. He would give you a little
25 bit, and then, then he would just continue on. He would give

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1 you a little bit more, and it was like he wanted to give you
2 the complete truth; he wasn't a matter of fact. So it took me
3 a little, you know, a few minutes sitting there talking to him
4 and just letting him know, look, I don't -- I don't need an
5 answer as to ---well, I don't -- maybe he did. Well, if you
6 were sitting there if nobody else with was there, you either
7 know or didn't know so that's the kind of game he played with
8 me that afternoon for a while and so finally he broke down and
9 he finished giving me the statement.

10 Q Okay. And he told you completely what had happened?

11 A Yes, ma'am.

12 Q From the morning until after everything was ---

13 A Yes, ma'am.

14 Q ---completed?

15 A Till he was picked up.

16 Q Okay. And that actually was a three-page written
17 statement, correct?

18 A Yes, ma'am.

19 Q Okay, and you wrote the statement?

20 A As he would give me the information I would write it
21 down.

22 Q So as he spoke you wrote it?

23 A Yes, ma'am.

24 Q Okay. And he signed it, correct?

25 A Yes, ma'am. And put his initials on all four

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1 corners of each page.

2 Q The initials RK appear on the four corners of each
3 three pages?

4 A Yes, ma'am. And my initials, where it says end of
5 statement, my initials goes at the end of that statement.

6 Q Okay.

7 A And he signed the front page.

8 Q Okay. So this document, this written document, is a
9 statement accurately reflecting the statement he gave you that
10 particular day, the date the incident actually happened?

11 A Yes, ma'am. The only way that those information
12 could be put on this paper is because I was not present when
13 it happened so therefore the information that I got put on
14 this paper came from him.

15 Q Okay, all right. And this was at 6:40 p.m.?

16 A Yes, ma'am.

17 Q So when you took the statement, the written
18 statement itself ---

19 A Yes, ma'am.

20 Q ---I think you already testified that the gunshot
21 residue kit, I think you did that at 6:25?

22 A Yes, ma'am.

23 Q So there was about a 15 minute or so period in there
24 and then you started the written statement?

25 A Yes, ma'am.

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1 Q Okay, all right.

2 MS. MUNNERLYN: Your Honor, then I would move to
3 admit the statement at this particular time which is State's
4 Exhibit 8.

5 THE COURT: All right. The statement will be
6 admitted subject to previous rulings in the Court on this
7 matter and your position is protected, Mr. Holt.

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

10 MS. MUNNERLYN: Thank you, Your. Your Honor, I
11 would now ask that the witness publish the ---

12 THE COURT: Just for the record I do want the record
13 to reflect that contemporaneous objection is being made and
14 that's the order.

15 MR. HOLT: Thank you.

16 THE COURT: Okay.

17 MS. MUNNERLYN: Thank you, Your Honor.

18 BY MS. MUNNERLYN:

19 Q I would just ask that you at this time read the
20 statement as it is written there on the actual document.

21 A Okay. It starts out at the very beginning dated
22 October 14th, 2006 at 6:40 p.m. Place is McColl Police
23 Department. It says, I, Rondell Knight am 19 years old and I
24 live at , Bennettsville, South
25 Carolina, 29512. I am giving this statement to Investigator

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1 Jeffrey Locklair -- and my badge number at that time was
2 314 -- who has identified himself as investigator of Marlboro
3 County Sheriff's Department. And just below that it also
4 gives him his Miranda warnings again. The statement begins as
5 follows: "October 14th, 2006 I got up at approximately 9:00
6 a.m. I had spent the night with my cousin Colby Harrington.
7 He lives on in Bennettsville. My girlfriend
8 called -- and in parentheses it's Takka Watson, Watson -- and
9 she said when I came over today to go by the Chinese place and
10 pick up her a plate and I told her I would. Colby had left
11 after he got off the phone and I dropped him off at his
12 girlfriend's house, and then I got in the car and went to
13 Brandon Ray's house in Lester. I pulled up in the driveway
14 and got out and went inside and sat down in the first chair by
15 the door and Brandon was sitting by the wall. I stayed there
16 about 35 to 45 minutes, and I told him that I was about to go
17 to McColl and he said can I ride with you to see Shayna Whaley
18 and I said okay. So we left, came up by the new Tatum (ph)
19 store and took the back way into McColl. We went straight to
20 the Chinese restaurant -- and I abbreviated it -- and picked
21 up a plate for my girlfriend and then we went to
22 Apartments to girlfriend's apartment next to the office. We
23 stayed there for about 15 minutes, then we left and came up
24 Avenue and turned on to Church Street, then made a
25 right on the street that comes out by the church and medical

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1 center. Then made a right and went to Apartments and
2 turned in the first driveway and then turned in the parking
3 lot next to a Mustang. We got out. I walked over towards
4 Building and there were -- there were two guys standing out
5 front, a black guy and a white guy. The black guy was Maurice
6 McRae and the white guy's first name is Blake. That all I
7 know. When we walked up Maurice spoke up and said, Rondell,
8 why did you bring that slob ass here. They then started
9 fussing with each other. Maurice then said, Rondell, take
10 that nigger from out here because he didn't belong out here.
11 Then I spoke up and said why, and Maurice said because he,
12 Brandon, had pulled a gun out on me one day. So I said let's
13 go and then me and Brandon started walking off and they were
14 still arguing. Then Maurice said I'm going to get my gun and
15 you better be gone. Then I got in the car and then Brandon
16 got in. So I started the car and was backing up and I had
17 backed up to the bump when I saw Maurice walking up near the
18 car. And as I started to pull off I heard one gunshot and I
19 looked. I saw Maurice fall in the same parking space that we
20 had just backed out of. Brandon then took the gun and took
21 out one shell and closed the gun back up and then Brandon put
22 the gun back under his shirt. I don't know if he put it in
23 his pocket or it -- or his waist on his right side. The gun
24 was a long barrel revolver black in color. Maurice never had
25 anything in his hands when he was walking up. Brandon then

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1 said take me to Lester after Brandon turned up the music. I
2 saw Brandon shoot Maurice with the gun. I pulled off fast and
3 left out across the railroad tracks, then turned on to 381 and
4 went around McColl and came out to 401. Then I turned left
5 and went to Tatum and turned by the post office and then
6 carried Brandon to his house in Lester. I pulled up in front
7 of his house and then Brandon said, you know not to tell
8 anybody. Then I backed in the driveway and pulled off. I saw
9 Brandon go in the front door of his house. Brandon still had
10 the shell casing in his hand the whole time. And when he got
11 out at his house I left and went straight to my cousin's house
12 where I told them about the shooting, and my aunt, Carol Cook,
13 called 9-1-1 and then the Sheriff's Department brought me back
14 to the McColl Police Department and that's the end of the
15 statement.

16 Q Okay.

17 MS. MUNNERLYN: Your Honor, along with that
18 statement I would move to admit also at this time State's
19 Exhibit 9 which is the Miranda warning Form ---

20 THE COURT: Mr. Holt.

21 MS. MUNNERLYN: ---for Rondell Knight.

22 (Mr. Holt reviews State's Exhibit 9.)

23 MR. HOLT: No objection to Exhibit Number 9.

24 THE COURT: State's 8 and 9?

25 MS. MUNNERLYN: Yes, sir.

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1 THE COURT: State's 8 already in. State's 9 has
2 been admitted without objection 9.

3 (WHEREUPON, State's Exhibit No. 9 was admitted into
4 evidence.)

5 THE COURT: Mr. Holt, cross-examination.

6 CROSS - EXAMINATION

7 BY MR. HOLT:

8 Q It sounds like, you know, you're going to retire 22
9 years and how many months?

10 A My boss man stepped out. I have one more term and
11 that's when I'm leaving.

12 Q I appreciate your service. You -- Jeff, you weren't
13 there during the conversation between Rondell Knight, Brandon
14 Ray, Maurice McRae, Blake Wilkes, were you?

15 A No, sir.

16 Q And you weren't there at the time of the shooting,
17 were you?

18 A No, sir.

19 Q You met with Rondell Knight after y'all had started
20 piecing the investigation together you started -- y'all had
21 already spoken to or different officers had spoken to
22 different witnesses, correct?

23 A Yes, sir.

24 Q And y'all had sort of the mental framework of what
25 happened, just nothing reduced to writing as far as

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1 statements?

2 A Right.

3 Q Had anybody else provided a statement prior to
4 Rondell Knight?

5 A Not to my knowledge.

6 Q Was his the first statement that you required?

7 A That's the only statement that I took.

8 Q But other statements were acquired by other law
9 enforcement officers involved in the investigation, right?

10 A I imagine so because if there was any statements
11 taken prior to us being called it was taken by Chief Langley
12 or some of his personnel.

13 Q Okay. You indicated that Rondell was evasive at
14 some point and wasn't giving you the full picture. And over a
15 period of time that's when he started becoming a little bit
16 more cooperative or at least giving you a better idea of what
17 had happened. In that process isn't there a lot of stopping
18 and starting and starting again and stopping where give a
19 little bit of information, stop, kind of go off in a different
20 direction you have to really kind of back in?

21 A Yes, sir.

22 Q And as they're writing the statement you're the
23 actual one writing it?

24 A Yes, sir.

25 Q And no one is suggesting you wrote anything improper

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1 but it's your handwriting, you're writing the statement as
2 he's talking to you?

3 A Yes, sir.

4 Q Do you ever -- when you hit a point, do you ever
5 suggest to him that you know, listen Rondell, we know this is
6 not true or this is, you know, the facts that we have so far
7 or telling us that's different. And then he'll kind of, he'll
8 come around again and give you a little bit more; is that
9 right?

10 A The information that I put in that statement came
11 from him. I couldn't put it any other way even though I had
12 already talked with Chief Langley and some of his staff that
13 he tells that Mr. Rondell Knight's statement came from him.

14 Q Were they ---

15 A That's the only way I could have gotten that
16 information.

17 Q Was the statement though in response to questions
18 though?

19 A Yes, sir.

20 Q Okay. So as he begins -- or as you begin writing
21 he's talking, he would give you some information, you would
22 reduce it to writing. You would ask him then throughout the
23 statement you would ask him questions?

24 A Yes, sir.

25 Q Okay. So in effect, you're leading him to some

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1 degree, not getting false information but you're leading him
2 to where you want him to go, correct? I mean, and that's part
3 of police work?

4 A Not to where I want him to go. It's just that I
5 want him to be able to tell me the truth nothing, but the
6 truth. I don't care about yesterday; I don't care about
7 tomorrow. What I need to know from him is what occurred that
8 afternoon. And that's all I asked him to do. I don't -- I
9 don't want him to tell me something that ain't true because
10 there comes a day that you have to face that statement.

11 Q I understand. I'm not suggesting that. What I'm
12 asking is, you have to ask him questions periodically through
13 the statement to get him to continue to give you answers,
14 correct?

15 A Yes, sir. I started out by asking him you tell me
16 what you did from this morning through this afternoon. And it
17 needs to read like a book; and there's always a beginning, a
18 middle, and a end.

19 Q Was he under arrest at this time?

20 A I would say he was in custody.

21 Q Okay. He was under the -- he had been informed that
22 he was going to be charged with murder, correct?

23 A Yes, sir.

24 Q And is his statement -- after the shooting incident
25 as part of his statement he clearly says that the gun belonged

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1 to Brandon Ray in his statement, right?

2 A Yes, sir.

3 Q And he wanted that to be clear in his statement,
4 right?

5 A Yes, sir.

6 Q And all you know is what he put down, right?

7 A Yes, sir.

8 Q Okay. You had no prior really information except
9 for some of the stuff you heard; but as far as the gun was
10 concerned, what he said there, that being his gun, as far as
11 you knew that was correct?

12 A That's all I knew.

13 Q In the statement Rondell Knight indicates that
14 Brandon wanted to go see a girl, Shayla Whaley -- Shayna
15 Whaley, right?

16 A Yes, sir.

17 Q Didn't indicate in the statement he wanted to go see
18 Maurice McRae, did it?

19 A No.

20 Q And also in the statement it makes no reference to
21 any conversation between Rondell Knight, the driver of the
22 vehicle, Brandon Ray the passenger, and anybody in front of
23 Building , did it?

24 A No.

25 Q And in his statement he made no mention of seeing

SW - J. LOCKLAIR - REDIRECT

1 anybody associated to this corner down here, we've heard some
2 testimony of, such as Charles McRae, Willie James Covington,
3 Johnathan Covington, Darius Hailey. None of those four
4 individuals were referenced in that statement, were they?

5 A No.

6 Q Court's indulgence. Jeffrey, I don't have anymore
7 questions. I appreciate your answering them. I appreciate
8 your service.

9 THE WITNESS: Thank you.

10 THE COURT: Re-cross.

11 MS. MUNNERLYN: Thank you, Your Honor.

12 **REDIRECT EXAMINATION**

13 **BY MS. MUNNERLYN:**

14 Q Investigator Locklair, in your experience as an
15 investigator and questioning witnesses and taking statements
16 and in followup in a trial where witnesses actually testify,
17 is it normal for some details sometimes to be left out of a
18 statement or not be included for the statement sometimes not
19 to have every single detail in it?

20 A Yes, ma'am.

21 MR. HOLT: She's leading.

22 THE COURT: Yeah.

23 MR. HOLT: That was a very expansive leading
24 question and I would ask it's her witness, if she could just
25 ask the question.

SW - J. LOCKLAIR - REDIRECT

1 THE COURT: All right, I will sustain the objection
2 on leading. Rephrase your question please.

3 MS. MUNNERLYN: Okay.

4 BY MS. MUNNERLYN:

5 Q In your experience from witnesses testifying in
6 court tell us how statements normally come out.

7 A By asking -- by us knowing some of the facts and
8 then take those facts and ask it of the person that we're
9 interviewing, that is how we normally get the statement.
10 You're not always going to end up with the truth, every little
11 detail. They will purposely sometimes leave out certain
12 information to keep you from knowing it. That's why you have
13 to interview other people. You don't solely rely on one
14 person or one statement. That's why we interview, try to
15 interview everybody that either seen something or know
16 something about that particular incident.

17 Q Okay. Is it unusual for additional information to
18 come out ---

19 A No.

20 Q ---at trial?

21 A No.

22 Q During the questioning and the time that you were
23 taking the statement did you question him specifically about
24 what people were there?

25 A No.

1 Q Okay. Did you know at that time all of the details
2 and what all the other witnesses were saying?

3 A No.

4 Q I don't have any further questions.

5 THE COURT: Re-cross?

6 MR. HOLT: Nothing, Your Honor.

7 THE COURT: All right. Thank you, sir. You may step
8 down.

9 Counsel, let me see you at side bar just a minute
10 for scheduling.

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

13 THE COURT: All right. Madam Solicitor, you may
14 call your next witness.

15 MS. MUNNERLYN: Your Honor, the State would rest at
16 this time.

17 THE COURT: All right. All right, ladies and
18 gentlemen, you have heard the State announce that they have
19 rested which means they have presented all of the testimony
20 that they're going to present at this time. And there are
21 certain matters of law which I now need to take up with the
22 attorneys in this case. This will probably take us about 15
23 or 20 minutes. It is appropriate that we take a break, or a
24 mid morning break about this time any how, so I'm going to ask
25 you to go to your jury room. Please do not discuss the case

1 among yourselves. You still have not heard everything that
2 you will hear in connection with this matter, and any
3 discussion about the matter at this time is still premature on
4 your part. But we do have to take up these matters of law and
5 let court personnel will take a brief recess, then we will be
6 ready to go forward. So if you would go with the bailiff to
7 your jury room. We'll send for you in about 20 minutes.
8 Thank you.

9 (WHEREUPON, the jury was removed from the
10 courtroom at 11:15 a.m., and the following proceedings
11 commenced in open court.)

12 THE COURT: All right, Mr. Holt, before I call on
13 you for motions and matters that we need to discuss from your
14 standpoint I want to just get on the record with regards to
15 the statement. I think the ruling of the Court is clear and
16 the position of your position is clear as well, but for
17 purposes of the record I want to make sure that it is. It is
18 my understanding that the objection was not under 804 in
19 questioning the admissibility under the Hearsay rule, but
20 rather the objection was one under 403 and relevancy questions
21 in 403, the prejudicial effect; is that correct?

22 MR. HOLT: That's right, Your Honor.

23 THE COURT: All right. Okay, good. All right, I'll
24 hear from you, Mr. Holt, with regard to motions on behalf of
25 the defendant.

1 MR. HOLT: Your Honor, briefly we would move for
2 directed verdict. We do not feel the State has met their
3 burden with regard to the charges, and Your Honor, we just
4 don't feel like the evidence has been met for murder and even
5 in a light most favorable to the State feel they have not
6 carried that. We would ask for motion, directed verdict.

7 THE COURT: All right. Ms. Munnerlyn.

8 MS. MUNNERLYN: Your Honor, of course there have
9 been numerous witnesses who were there at the time this
10 incident occurred who have testified that the defendant is
11 himself the one who had the gun, who fired the one gunshot,
12 who ultimately did kill the victim Maurice McRae. And of
13 course, the events surrounding that is all in evidence. I
14 don't think there's -- there has been, of course, the
15 defendant has not yet testified so that these were issues of
16 self-defense that's not yet before you, but I think there's
17 certainly some evidence there to support a murder for this to
18 go to the jury.

19 THE COURT: All right. Counsel, you all are both
20 are aware, I'm sure, that of the rule regarding directed
21 verdict that is that under Rule 19 the Court shall direct a
22 verdict in defendant's favor of any offense charged with
23 indictment after evidence on either side is closed if there's
24 a failure of competent evidence and is used. In that rule
25 competent evidence means that admissible evidence tending to

1 prove the charge in the indictment and ruling on the motion
2 the trial judge shall consider only the existence or
3 nonexistence of the evidence and not its weight. Of course,
4 the crime for which the defendant is charged is murder which
5 is defined as the willful, felonious killing of a human being
6 with malice aforethought, the malice being either expressed or
7 implied. I believe that all -- there's evidence of all the
8 elements of murder in this case, that a human being was killed
9 by another human being, and there is sufficient evidence of
10 malice even if from nothing more than the inference to be
11 drawn from the use of a deadly weapon. And so for that
12 reason, there is evidence in the record whereby the jury could
13 reach a verdict of guilt of murder, and it would be improper
14 for the Court to direct a verdict and I will respectfully deny
15 the motion.

16 MR. HOLT: Thank you, Your Honor.

17 THE COURT: All right. I am going -- anything else
18 I'm going to talk with the defendant about, again, about his
19 constitutional rights regarding testimony. Mr. Holt, do you
20 want to talk with him before I do that, or you think he's
21 prepared to respond?

22 MR. HOLT: I think he's prepared, Your Honor.

23 THE COURT: All right. Come on up, Mr. Ray. All
24 right, Mr. Ray, you recall that yesterday I discussed with you
25 your constitutional privilege against self-incrimination and

1 your right to either testify or not testify in this matter.

2 Have you had a chance to talk with your lawyer about whether
3 you should or should not testify?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Have you understood your discussions
6 with him?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Have you understood what both he and I
9 have explained to you about your constitutional rights and
10 privileges against self-incrimination?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you have any questions that you want
13 to ask either Mr. Holt or me regarding your constitutional
14 rights, privileges against self-incrimination?

15 THE DEFENDANT: No, sir.

16 THE COURT: Have you made a decision as to whether
17 you do or do not wish to testify in this case?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And is that decision on your part freely
20 and voluntarily made?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And what is that decision?

23 THE DEFENDANT: To testify, sir.

24 THE COURT: You do wish to testify? All right.
25 Thank you. The Court will find then that the decision of the

1 defendant to testify in this matter is a free, voluntary,
2 intelligent, and knowing decision after having been advised by
3 both the Court and his counsel of his constitutional rights
4 and that he understands those rights and of course the Court
5 will permit him to testify. Thank you.

6 MR. HOLT: Thank you, Your Honor.

7 THE COURT: You may be seated. All right, anything
8 else before we go forward? We'll take a recess, but before we
9 go forward, Mr. Holt, we'll take about ten more minutes before
10 we're ready to go. You ready to go?

11 MR. HOLT: Your Honor, may we approach?

12 THE COURT: Sure.

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

15 THE COURT: All right, back on the record. And
16 Mr. Holt, I understand you have a witness situation that you
17 wanted -- that we discussed at side bar and you want to put on
18 the record.

19 MR. HOLT: Yes, sir, may it please the Court, there
20 is a witness by the name of Roy White. Mr. White, we had
21 information that he is a witness to the incidences of this
22 date and his name has been mentioned in prior testimony by
23 some State's witnesses. The subpoena that we have has not
24 been served upon him. He's -- he was in the building this
25 morning, and I asked sheriff's deputies to locate him for me

1 and I have been informed they have not found him. I
2 understand that they're -- most of them are aware of who he is
3 as a result of a matter. But if the Court could instruct them
4 to look for him I would -- my client and I would appreciate
5 it.

6 THE COURT: All right. I would request the
7 sheriff's office -- I'm not sure who is in charge from the
8 Sheriff's Office here. You look like a ranking man; you may
9 want to pass it on to some of the other officers but I would
10 request the Sheriff's Office to lend their assistance in any
11 way they can in trying to locate and bring to court Mr. Roy
12 White as a witness in this case so if you would get that word
13 out.

14 THE OFFICER: Yes, sir.

15 MS. MUNNERLYN: Your Honor, I would just advise you
16 I did issue a subpoena for him and I did speak with him. He
17 was advised to be here. Of course, he has not been here.

18 THE COURT: And you have not released him from your
19 subpoena?

20 MS. MUNNERLYN: No, sir.

21 THE COURT: So he is under subpoena so if you will
22 have the appropriate law enforcement officers try to find Mr.
23 White and bring him to Court, thank you. All right. Now I
24 believe we also may have a matter that involves Mr. Knight and
25 so let's take our recess at this time and give them a chance

1 to get Mr. Knight here as well as Mr. Blake and let's go into
2 those matters before we bring the jury back in and then after
3 that we'll proceed with the Defense case.

4 MR. HOLT: Thank you, Your Honor.

5 THE COURT: All right, thank you.

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

8 THE COURT: Let's go back on the record with regard
9 to the matter of State versus Brandon Ray. The State is
10 represented by Ms. Munnerlyn. The defendant is present and
11 represented by Mr. Holt. We are resuming after the motion for
12 directed verdict. Prior to taking our morning break I
13 directed the Sheriff's Office to try to locate Mr. Roy White.
14 I understand he has not been located. I want it clearly
15 understood that Mr. Knight is under subpoena, albeit from the
16 State, but he has not been released from his subpoena and I
17 want the Sheriff's Office so continue to find -- try to find
18 him. And I will tell you that, Mr. Holt, if he's not located
19 by the time that you have to close your case I'm going to have
20 a bench warrant issued for his arrest and have him brought
21 into court for violation of the subpoena.

22 MR. HOLT: Thank you.

23 THE COURT: Now the next matter is that I believe
24 you want to call a witness and we needed to take up that
25 witness' testimony outside the presence of the jury; is that

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1 right, Mr. Holt?

2 MR. HOLT: Yes, Your Honor.

3 THE COURT: And that is Mr. Knight?

4 MR. HOLT: Rondell Knight, Your Honor.

5 THE COURT: All right. Bring Mr. Knight around
6 please.

7 All right. I think Mr. Funderburk, you can -- we'll
8 go ahead and swear him. He was sworn yesterday. It would
9 still be the same case. I'll have you swear him again.

10 WHEREUPON,

11 RONDELL KNIGHT,

12 having been duly sworn by the Clerk of Court, testified as
13 follows:
14

15 THE CLERK OF COURT: Again state your name please.

16 THE COURT: Come around and have a seat, Mr. Knight.

17 The witness is being called by the defendant and his testimony
18 is being proffered in the absence of the jury. All right,
19 Mr. Holt.

20 MR. HOLT: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY MR. HOLT:

23 Q Mr. Knight, were you with Brandon Ray on the date of
24 this incident?

25 A I invoke my right, my Fifth Amendment right and do

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1 not wish to testify.

2 Q And were you the driver of the vehicle that drove to
3 the Apartments?

4 A I invoke my Fifth Amendment right and do not wish to
5 testify.

6 THE COURT: All right, Mr. Knight, if you were asked
7 any further questions by Mr. Holt or Ms. Munnerlyn with
8 regards to the facts and circumstances surrounding this
9 incident on October 14th, 2006, would you answer the questions
10 factually or do you intend to invoke your Fifth Amendment
11 right?

12 THE WITNESS: Intend to invoke my Fifth Amendment.

13 THE COURT: No matter what the question is regarding
14 the incident?

15 THE WITNESS: Yes, sir.

16 THE COURT: All right, that being the case,
17 Mr. Holt, I believe he does have the right to invoke his Fifth
18 Amendment right. The witness is the judge of whether or not a
19 question is incriminating to him so he has the right to invoke
20 that right. It's my view that this testimony should not be
21 proffered in front of the jury. What is your position?

22 MR. HOLT: I have no objections.

23 THE COURT: All right. You agree, Ms. Munnerlyn?

24 MS. MUNNERLYN: Yes, Your Honor.

25 THE COURT: All right, thank you. You may be

1 seated. You may step down.

2 Mr. Holt, anything before we bring the jury in?

3 MR. HOLT: Nothing further, Your Honor.

4 THE COURT: All right, bring the jury in please,
5 ma'am.

6 (WHEREUPON, the jury was returned to the courtroom
7 at approximately 11:49 a.m., and the following proceedings
8 commenced in open court.)

9 THE COURT: All right, thank you, ladies and
10 gentlemen, and we have tend to the matters of law and Court's
11 personnel have taken a break. You had heard before we took
12 the recess that the State had rested. That means they have
13 presented all the testimony that they will present at this
14 time and now the Defense has the right to present any evidence
15 or any testimony to you that they wish to present.

16 Mr. Holt, you may proceed.

17 MR. HOLT: Thank you, Your Honor. Your Honor, the
18 Defense calls Brandon Ray.

19 THE COURT: All right, Mr. Ray, come around please.
20 WHEREUPON,

21 BRANDON LAQUAN RAY,
22 having been duly sworn by the Deputy Clerk of Court,
23 testified as follows:

24 THE CLERK OF COURT: Come on around and state your
25 full name please, sir.

1 THE COURT: Counsel before we begin check have a
2 side bar just a.

3 THE WITNESS: Brandon Laquan Ray.

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

6 THE COURT: I meant to take up one other matter of
7 law before I brought you in. I failed do that. I am going to
8 have to do that at this time. So before we start with
9 testimony on this witness you're going to have to go out just
10 a minute while we take care of this matter. I'm sorry. Thank
11 you very much.

12 (WHEREUPON, the jury was removed from the
13 courtroom at 11:55 a.m., and the following proceedings
14 commenced in open court.)

15 THE COURT: All right, the matter that we took up at
16 the side bar had to do with the defendant's criminal record
17 and whether they were impeachable offenses. And
18 Ms. Munnerlyn, what is the State's position on that?

19 MS. MUNNERLYN: Your Honor, of course under 609
20 where the defendant is testifying you of course look at
21 whether or not the offenses carry more than a year. These
22 particular offenses on his record do carry more than a year
23 and they are not -- it's not a murder; they are not so similar
24 in nature to this particular charge that I think they are
25 prejudicial so I believe that they should be able -- we should

1 be able to bring those out in regards to his credibility
2 impeachment, for impeachment purposes on. Of course, they're
3 assault and battery of high and aggravated nature and
4 distribution of crack and distribution of crack within
5 proximity to a school. All of those were convictions ---

6 THE COURT: So first of all, tell me what charges
7 are that you intend to use.

8 MS. MUNNERLYN: Okay. Assault and battery of high
9 and aggravated nature.

10 THE COURT: All right.

11 MS. MUNNERLYN: That conviction was October 13th,
12 2004. And then he had distribution of crack cocaine and
13 distribution of crack cocaine within proximity of a school,
14 and that was October 20th, 2004.

15 THE COURT: Both of them?

16 MS. MUNNERLYN: Yes, sir.

17 THE COURT: Okay. All right, Mr. Holt.

18 MR. HOLT: Your Honor, the different charges here,
19 one is a drug related offense and I see -- I do not see how
20 there's any -- I don't know what probative value is there with
21 regards to a murder charge. Having been mentioned at all it
22 would only be used to discolor the defendant. He's on trial
23 for murder and it clearly is prejudicial and it happened I
24 think when he was approximately 16, 17 years old. The other
25 issue, the ABHAN, but same time frame, same age, the

1 convictions were 2004. I'm not sure the offense dates, but
2 still he's a minor. And there again, I'm afraid that the --
3 it's my opinion it's overly prejudicial and that it dominates
4 that issue and will colour the defendant based just upon that
5 without regard to his testimony and facts of the case. So I
6 would ask that that not be brought up unless, you know, for
7 example he were to bring it up and that's opening the door and
8 we're staying away from that.

9 THE COURT: Okay. All right, Ms. Munnerlyn, let me
10 hear from you with regard to what you think the probative
11 value of the convictions are.

12 MS. MUNNERLYN: Your Honor, of course we offer them
13 only for impeachment purposes. I'm sure you would advise the
14 jury of the credibility of the witnesses. And the problem in
15 this case, or what we have in this case, is his credibility is
16 really becoming the issue here because I'm assuming that he is
17 going to testify and his testimony is going to be in conflict
18 with all the witnesses that have testified for the State. And
19 so you know, his -- it's going to become a real issue with the
20 jury whether told him versus the witnesses that have testified
21 for the State. So credibility is the big issue for us here.
22 And we think that these offenses should come in. They should
23 be aware of them in regards to his credibility. I do not
24 think they are prejudicial because they're not so similar to
25 the current charge before the Court that they would tend to

1 prove that he is guilty of murder itself. Now I think under
2 State versus Coff, if in fact, he had a conviction for murder
3 or voluntary manslaughter then certainly that would be too
4 prejudicial for us to present for impeachment purposes, but I
5 do not think that these are, and I think because of the
6 credibility issue that has arisen in this particular case that
7 we should be allowed to bring these up and to question him
8 about the convictions for these.

9 THE COURT: All right. All right, Rule 608 of the
10 South Carolina Rules of Evidence provides in paragraph (a)
11 subparagraph (1) that evidence that an accused has been
12 convicted of such a crime shall be admitted but such a crime
13 as referring to a crime that is over one year, and I mean,
14 that carries punishment over one year, is not more than ten
15 years old. But Rule 409(a)(1) provides that evidence that an
16 accused has been convicted of such a crime shall be admitted
17 if the Court determines that the probative value of admitting
18 this evidence outweighs its prejudicial effect to the accused.
19 And of course, these two crimes do meet the time limits as
20 effected as provided by the rule; that is, that the conviction
21 is within ten years, both of them having occurred in 2004.
22 Thus, the Court then has to embark on a 401, 402, 403 analysis
23 of whether the prejudicial effect of the convictions is -- are
24 outweighed or substantial outweighs or is substantially
25 outweighed by the probative value or the other way around

1 should be. What I have to make a determination is whether the
2 probative value is substantially outweighed by the danger of
3 unfair prejudice, confusion, or the issues of misleading the
4 jury or by considerations of undue delay, waste of time or
5 needless presentation of cumulative evidence.

6 In thinking about the matter and looking at the
7 matter I can appreciate and I do believe that credibility is a
8 crucial issue in this case and that credibility is relevant to
9 the considerations before the jury. I don't think that the
10 prejudicial effect -- that the probative value is
11 substantially outweighed by the danger of unfair prejudice or
12 prejudicial effect because they're not similar crimes. They
13 are of assault and battery high and aggravated nature and
14 distribution of crack. I think they do affect the credibility
15 of the witness but don't go to the actual commission of this
16 crime, and so therefore, the prejudicial effect is not
17 outweighed by the probative value and I think that they are
18 admissible under 403 and I will allow cross-examination -- or
19 I will allow them into evidence or the fact that he has these
20 convictions into evidence based on my weighing of the
21 prejudicial effect against the probative value.

22 I agree, Mr. Holt, I think that if they were the
23 same type charges, crimes of violence or murder, or anything
24 of that nature then that would be a different matter; but
25 they're not the same type crimes at all and I think they do go

1 to the issue of credibility which is an issue for this jury to
2 consider. All right, I will allow them. Thank you.

3 MS. MUNNERLYN: Thank you, Your Honor.

4 MR. HOLT: Judge, my objection noted for the record.

5 THE COURT: Yes, sir, it's noted.

6 MR. HOLT: Your Honor, the one other thing is that
7 my client is Florida out now he's been sworn in ruling may he
8 and I have the conversation before I don't know whether the
9 Court's ruling would have an effect upon his decision to
10 testify at this juncture. He is under oath.

11 THE COURT: Well, you can take him down, talk to
12 him, and we'll ask him again before we go forward if you would
13 like to. You want to speak with him for a minute
14 confidentially or you just want to ask ---

15 MR. HOLT: I'll just ask him right here.

16 THE COURT: Yes, sir.

17 MR. HOLT: Brandon, do you understand what the
18 conversation we just had between myself and Ms. Munnerlyn and
19 the Court?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You had some things happen in your past
22 and under cross-examination the State is likely to bring those
23 up and ask you about them. Do you understand that?

24 THE DEFENDANT: Yes, sir.

25 MR. HOLT: Okay. Now do you have any objections

1 about going forward and testifying even though they may do
2 that.

3 THE DEFENDANT: No, sir.

4 MR. HOLT: So do you want to go forward now?

5 THE DEFENDANT: Yes, sir.

6 MR. HOLT: You want to ask me anything in private or
7 discuss this in private with me?

8 THE DEFENDANT: Yes, sir.

9 MR. HOLT: I don't -- do you want like to come down
10 and talk to me before we go forward?

11 THE DEFENDANT: (No verbal response.)

12 MR. HOLT: Is that a yes? You need to answer.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Okay, you may step down talk and with
15 your lawyer.

16 (Pause.)

17 (Attorney confers with the defendant.)

18 MR. HOLT: Your Honor, we have conferred and he's
19 ready to resume the stand.

20 THE COURT: All right, I'll ask him a couple of
21 questions.

22 MR. HOLT: Thank you.

23 THE COURT: All right, Mr. Ray, I did give you a
24 chance to talk with your lawyer after the Court's ruling that
25 your prior convictions are admissible if either side decides

1 to go into them. I want to insure that you understand that
2 they do have that right to ask the questions about your
3 previous criminal record. You understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And has that affected your decision as
6 to whether you should or should not testify in this case?

7 THE DEFENDANT: No, sir.

8 THE COURT: And you freely and voluntarily waive
9 your right, your constitutional rights against
10 self-incrimination even in view of the fact that they can ask
11 about your criminal record; is that correct?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. Okay, I think we're ready to
14 go forward. Anything further, Mr. Holt, before we bring the
15 jury in?

16 MR. HOLT: No, Your Honor.

17 THE COURT: All right, bring the jury in please.

18 (WHEREUPON, the jury was returned to the courtroom
19 at approximately 12:09 p.m., and the following proceedings
20 commenced in open court.)

21 THE COURT: Thank you, ladies and gentlemen, we have
22 now resolved those legal issues we had to address and they're
23 taken care of. We are ready to go forward. The Defense has
24 called the defendant Mr. Brandon Ray as a witness in this
25 case.

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1 You may proceed, Mr. Holt.

2 MR. HOLT: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY MR. HOLT:

5 Q Brandon, you've already identified yourself. Tell
6 us your name one more time.

7 A Brandon Laquan Ray.

8 Q Okay, Brandon, now I want you to kind of lean
9 forward so that everybody can hear your voice. And when you
10 answer, try to not lean back into your chair, okay? It takes
11 you away from the microphone.

12 A Yes, sir.

13 Q Okay. You understand that when you give an answer
14 you need to verbalize your answer and speak with words as
15 opposed to shaking your head or nodding your head, okay?

16 A Yes, sir.

17 O Okay. Brandon, what is your date of the birth?

18 A

19 O And you're 20 years old now?

20 A Yes, sir.

21 Q And what is your -- what's the last address that you
22 had?

23 A , Bennettsville, South Carolina,
24 which is known as Lester community.

25 Q Okay, all right. I want you to try to speak as clear

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1 as you can, okay. And the court reporter is not familiar with
2 certain geographical places in Marlboro County and names you
3 might use so was that is what you said?

4 A Yes, sir.

5 Q Okay. You indicated it's in the Lester community?

6 A Yes, sir.

7 Q Would you describe the Lester community. I'm not
8 from Marlboro County so describe it. Is that crossroads
9 community or?

10 A It's a community, like a country, the country part
11 of Bennettsville, South Carolina.

12 Q Okay. And who were you living with?

13 A I was staying with my mother then, but at the time I
14 was staying at the house by myself.

15 Q Okay. Is your family from the Lester community?

16 A Yes, sir.

17 Q Is that your mother's side of the family from Lester
18 community?

19 A Yes, sir.

20 Q Is your mother present in the courtroom today?

21 A Yes, sir.

22 Q What's your mom's name?

23 A Debra Carter.

24 Q Debra Carter?

25 A Yes, sir.

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- 1 Q How about your grandma?
- 2 A Yes, sir.
- 3 Q She's present too?
- 4 A Yes, sir.
- 5 Q And what is her name?
- 6 A Janie Ray.
- 7 Q You indicated that you were staying by yourself at
- 8
- 9 A Yes, sir.
- 10 Q Were you -- how long were you there that you lived
- 11 there by yourself?
- 12 A About four, four or five days prior to the incident,
- 13 sir.
- 14 Q Four or five days? So had you just moved in?
- 15 A Yes, sir.
- 16 Q Prior to living at where had you
- 17 lived?
- 18 A which is my grandmother's address.
- 19 Q Is that in Bennettsville?
- 20 A Yes, sir.
- 21 Q Slightly outside of the downtown area?
- 22 A Yes, sir.
- 23 Q Who did you live there with?
- 24 A My grandmother, Janie Ray.
- 25 Q Where was your mother during this time?

DW - B. RAY - DIRECT

1 A She was staying at Myrtle Beach, sir.

2 Q Okay. And had she previously lived in Bennettsville
3 area, Marlboro County?

4 A Yes, sir.

5 Q How long had she lived in -- lived at the Beach?

6 A About a half year, sir.

7 Q Okay.

8 A Six months.

9 Q Six months? Brandon, you've been charged with
10 murder and possession of a weapon with commission of a crime.
11 Is that correct?

12 A Yes, sir.

13 Q So in October 2006 you still have a fresh memory of
14 the incident we've been discussing here today?

15 A Yes, sir.

16 Q Do you remember who you were with that day?

17 A Yes, sir.

18 Q Who were you with?

19 A Rondell Knight.

20 Q Where did you first see Rondell Knight on that day?

21 A At my house, sir.

22 Q And that's in -- at ?

23 A Yes, sir.

24 Q Who was home with you when you first saw him?

25 A No one.

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1 Q You were by yourself?

2 A Yes, sir.

3 Q Did you have a telephone at this residence?

4 A No, sir.

5 Q You had an opportunity to have one installed?

6 A No, sir, not at the time, sir.

7 Q Did you have basically utilities such as running
8 water and electricity?

9 A Yes, sir.

10 Q Whose home is it? Who owns the home?

11 A My mother -- my mother know that. I don't -- I
12 don't basically know who's the owner the home. My mother was
13 just renting the home.

14 Q Is it -- do you have family that live nearby or next
15 door?

16 A My grandmother own the house next door.

17 Q Okay. Did you have family living next door?

18 A Not at the time, sir.

19 Q Now what time approximately would you say that you
20 saw Rondell Knight on this morning?

21 A Maybe 10:30 to 11:00, maybe a little later.

22 Q Do you know how you were dressed when you saw him?

23 A I was just really getting up so I can't -- I don't
24 really remember. Probably had some shorts on; that was it,
25 sir.

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1 Q And do you remember the conversation with Rondell
2 Knight when you got to the house?

3 A Previously he was just talking, you know what I'm
4 saying, his family problems and asking me, you know what I'm
5 saying, telling me that he didn't have no place really stable
6 to at the time, could he come stay out there with me. It was
7 just that kind of conversation, sir.

8 Q How did he come to your house?

9 A By a car.

10 Q Did he live in close proximity to your house?

11 A No, sir.

12 Q Do you know whose car he drove?

13 A Yes, sir.

14 Q Whose car did he drive?

15 A Colby Harrington.

16 Q And that was Colby Harrington who testified earlier,
17 I guess, yesterday in this trial?

18 A Yes, sir.

19 Q And are you related to Colby Harrington?

20 A Yes, sir.

21 Q How are you related?

22 A First cousin.

23 Q Do you know him well?

24 A Yes, sir.

25 Q Is Rondell Knight, is he your cousin?

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1 A Yes, sir.

2 Q You and Rondell were there in the home. Did y'all
3 leave together?

4 A Yes, sir.

5 Q Where did y'all go?

6 A McColl, South Carolina.

7 Q Where were y'all -- why were y'all going to McColl?

8 A Rondell Knight said he had to take his girlfriend
9 Takka Watson something to eat.

10 Q Did you ask to ride along?

11 A Yes, sir.

12 Q Did you have any business in McColl that you wanted
13 to go to McColl?

14 A No, sir, not previously, no, sir.

15 Q Did you have conversation with Rondell Knight about
16 seeing Shayna Whaley?

17 A Along the ride in the car, sir.

18 Q In the car as y'all were driving in the car?

19 A Yes, sir.

20 Q So in the car was when she -- her name was
21 mentioned. Can you tell us how it was discussed or what was
22 discussed.

23 A Well, he was saying he had rode through her -- I
24 seen your ex-girlfriend the other day. And I was like, where,
25 who you talking about. He was like, Shayna Whaley. I was

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1 like, where you see her at. He say he rode a scooter through
2 there like two or three days prior to the incident. He was
3 like, I was like, I was like, where she stay at now. He was
4 like, McColl, South Carolina at Apartments. I say, I
5 ain't never been to Apartments, I don't know. He say,
6 well, if we got time because I don't want to be late talking
7 Colby car back because I don't want Colby be fussing. So he
8 was like, we'll stop by there. I asked him, I said, well, I
9 don't mind.

10 THE COURT REPORTER: Hold on, slow down please.

11 THE WITNESS: I'm sorry.

12 **BY MR. HOLT:**

13 Q Brandon, I know you're anxious, but I want you to
14 slow down a little bit.

15 A I apologize.

16 THE COURT REPORTER: You said you didn't want Colby
17 fussing.

18 THE DEFENDANT: He say he didn't want Colby fussing
19 about the car, about bringing the car back late.

20 THE COURT REPORTER: Okay, thanks.

21 THE DEFENDANT: So he said if we had time we would
22 stop by there.

23 **BY MR. HOLT:**

24 Q You're in the car with Rondell Knight and driving
25 the car, did y'all stop anywhere between your home in the

DW - B. RAY - DIRECT

1 Lester community in the car?

2 A Yes, sir.

3 Q You stopped somewhere ---

4 A No.

5 Q ---between ---

6 A No, sir.

7 Q Okay. Where is the first place that you stopped the
8 vehicle?

9 A The Chinese restaurant in McColl.

10 Q And what were y'all doing there?

11 A Rondell Knight was buying Takka Watson something to
12 eat.

13 Q Takka Watson, is that his girlfriend?

14 A Yes, sir.

15 Q Shayna Whaley testified here. Have you had a
16 romantic relationship with her in the past?

17 A Yes, sir.

18 Q When was the most recent time that you would have
19 had a romantic relationship with her?

20 A April of 2006 which was last year.

21 Q And in April of 2006 the relationship ended?

22 A Yes, sir.

23 Q Okay. Now you were driving -- you went to the
24 Chinese restaurant. Did you get out of the vehicle at the
25 Chinese restaurant?

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1 A No, sir.

2 Q You stayed in?

3 A Yes, sir.

4 Q Were you driving or were you the passenger?

5 A I was passenger, sir.

6 Q All right. Did you see anybody there?

7 A It was some people they was working on some
8 construction back and forth across the street. They was
9 toting stuff back across the street, but I didn't know anyone
10 who was out there.

11 Q Okay. And where did you go after the Chinese
12 restaurant?

13 A To Apartments which is like right behind
14 the corner from the police station.

15 Q And is that in McColl?

16 A Yes, sir.

17 Q And you went to see -- you went to
18 Apartments?

19 A Yes, sir.

20 Q And what was the purpose of going to
21 Apartments?

22 A Rondell Knight say that was Takka Watson was at
23 doing, doing somebody hair which I didn't know, you know I'm
24 saying, which he say he had to go take her -- take her the
25 food he had just ordered for her.

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1 Q Did you understand Takka Watson to live in those
2 apartments?

3 A No, sir.

4 Q She just happened to be there?

5 A Yes, sir.

6 Q Okay. Had you ever been to those apartments before?

7 A A while back. It's been like five or six years
8 maybe.

9 Q Okay. Had you been to the apartments to see Takka
10 Watson?

11 A No, sir.

12 Q Okay. What did you find when you got to the
13 apartment complex?

14 A It was some people standing outside in which there
15 was a girl that I knew from school her named Deiara (ph)
16 Graham which she walked up and hugged me. Then we walked
17 inside the apartment to where Takka -- around there to where
18 Takka Watson was. We got inside the apartment. She was doing
19 one female hair, which I did not know, and it was another
20 female. So the only thing we sat in the house what was like
21 maybe 20, 30 minutes at the most, maybe a little longer.

22 Q Okay. And why did y'all leave?

23 A Rondell Knight said, you know what I'm saying, he
24 had to take Colby back his car.

25 Q Okay. Did you ask to see Shayna? Is it Shayna, is

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1 that her name?

2 A Yes, sir.

3 Q Okay, did you ask to go by her apartment?

4 A After we was back in the car.

5 Q Okay. And where did y'all go then?

6 A We went to Apartments.

7 Q Okay. Is there any dispute that you were riding in
8 the vehicle that's been entered into evidence, the
9 photographs, the gray stratus, is there any dispute about
10 that?

11 A No, sir.

12 Q Okay. So you don't deny that you were riding in
13 that vehicle with Rondell Knight?

14 A No, sir.

15 Q Was there anybody else in the vehicle with y'all?

16 A No, sir.

17 Q You left the Apartments and you drove to
18 the n Apartments; is that what you stated?

19 A Yes, sir.

20 Q Did you stop anywhere between there?

21 A No, sir.

22 Q Did you see anybody between and
23 Apartments ---

24 A Besides the cars and stuff that was passing, no,
25 sir.

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1 Q Do you have a cell phone?

2 A No, sir.

3 Q Or did you have a cell phone at that time?

4 A No, sir.

5 Q Do you know if Rondell Knight had a cell phone?

6 A No, sir, not -- I wasn't advised, no, sir.

7 Q You didn't see one?

8 A No, sir.

9 Q May I approach, Judge. Brandon, you went to
10 Apartments?

11 A Yes, sir.

12 Q Now as you turn, you've sort of been able to watch
13 everybody else, you don't speak into the microphone so your
14 voice isn't amplified. Now I need you to speak up so that the
15 Court can hear you and the court reporter and the jurors.

16 A Yes, sir.

17 Q Okay. Can you stand up and point to this diagram
18 that we've referenced throughout the trial ---

19 A Yes, sir.

20 Q ---as to where you pulled into the apartment complex
21 of Rondell Knight.

22 A Yes, sir. We came up the main road and came in
23 through this way right here.

24 Q Okay. You came in through that entry way into the
25 parking lot?

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1 A Yes, sir.

2 Q Did you -- did you see anybody as you came into the
3 parking lot?

4 A Yeah, we got right here, sir.

5 Q And you're pointing to the area near Building ?

6 A Yes, sir.

7 Q Okay. And who did you see?

8 A It was fellows I didn't know, sir. It was just only
9 one fellow I recognize which was Willie Covington.

10 Q You're indicating that you recognized Willie
11 Covington. Is that the same Willie Covington who testified in
12 this trial?

13 A Yes, sir.

14 Q Okay. And where did you -- where did you see him
15 standing?

16 A He was standing like in the back of the crowd, sir.

17 Q He was away from the people closest to y'all?

18 A Yes, sir.

19 Q Was -- as you -- and you were in the passenger seat
20 still?

21 A Yes, sir.

22 Q Did you communicate or talk with anybody who was
23 standing in the parking lot?

24 A No, sir.

25 Q Did Rondell Knight?

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- 1 A Yes, sir.
- 2 Q Rondell Knight open the door or anything like that?
- 3 A No, sir.
- 4 Q Was his window down?
- 5 A Yes, sir.
- 6 Q All right. Did it appear that Rondell Knight knew
7 these people by the way he greeted them or they greeted him?
- 8 A Yes, sir.
- 9 Q Did anyone say anything to you?
- 10 A No, sir.
- 11 Q Did you ask where Maurice McRae was?
- 12 A No, sir.
- 13 Q Did Rondell Knight ask where Maurice McRae was?
- 14 A No, sir. And if he did, with the music and stuff I
15 wasn't really listening.
- 16 Q Well, did you know that Maurice McRae frequented
17 that apartment complex?
- 18 A What do you mean by that, sir?
- 19 Q Did you -- would you have had -- well, back up, have
20 you been to Apartments before?
- 21 A No, sir.
- 22 Q Did you know anybody who lived out there?
- 23 A No, sir.
- 24 Q Did you have any reason to believe that Rondell -- I
25 mean, I'm sorry, Maurice McRae, would have been there?

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1 A No, sir.

2 Q Did you know that he and Shayna were involved in a
3 relationship?

4 A At the time or previously before?

5 Q Well, answer the question at the time and then I'll
6 ask you before.

7 A Oh, yeah -- no, sir.

8 Q So at this time in October 2006 it's your testimony
9 you were not aware that they were, that they were involved in
10 a romantic relationship?

11 A No, sir.

12 Q Had you had any contact with Shayna from April of
13 2006 to October 2006?

14 A No, sir.

15 Q Had you tried to call her or communicate with her or
16 anything like that?

17 A No, sir.

18 Q Now you asked the question whether or not before,
19 did you know if they had a relationship sometime in the past?

20 A Yes, sir.

21 Q And that was a romantic relationship?

22 A I don't know; I just know they had a relationship.

23 Q Okay. Did they have a child together?

24 A Yes, sir.

25 Q Okay, fair to say they had a romantic relationship.

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1 So you were -- you're in the parking lot and a con -- words
2 were spoken.

3 A Yes, sir.

4 Q What happened then?

5 A We then pulled up and parked.

6 Q Okay. And did you ask Rondell Knight where Shayna's
7 apartment was?

8 MS. MUNNERLYN: Objection, leading, Your Honor.

9 THE COURT: Overruled. Just because it's yes or no
10 does not make it a leading question. Objection is overruled.

11 Go ahead, finish your question. You didn't finish
12 your question.

13 **BY MR. HOLT:**

14 Q Did you ---

15 A He pulled up ---

16 THE COURT: Wait just a minute.

17 MR. HOLT: I'm not sure I remember it now.

18 THE COURT: Ask the question again.

19 MR. HOLT: All right, I'll try.

20 THE COURT: Did you ask where her apartment was.

21 **BY MR. HOLT:**

22 Q Did you ask Rondell where her apartment was?

23 A No, sir.

24 Q Did he indicate he knew where the apartment was?

25 A Yes, sir.

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1 Q Had he been, to your knowledge, had he been to that
2 apartment before?

3 A Yes, sir.

4 Q He lived -- had his girlfriend Takka Watson lived
5 with Shayna Whaley previously?

6 A I'm saying, well not -- me and Shayna Whaley, we was
7 talking. They were staying together then.

8 Q So you and Shayna were involved, Takka Watson and
9 Shayna were roommates?

10 A Yes, sir.

11 Q All right. Did you have -- okay. So y'all pulled
12 in the parking lot?

13 A Yes, sir.

14 Q What did y'all do then?

15 A We get out the car and walk toward Building where
16 Rondell Knight was saying that was where the direction of the
17 building Shayna that stay in.

18 Q So Rondell Knight indicated that was the direction
19 of the building where Shayna stayed?

20 A Yes, sir.

21 Q All right. And how did you -- can you point with
22 your fingers so the jury can see, can you point your finger
23 from the point where you parked to in the direction that you
24 walked.

25 A Down the sidewalk, sir, cut going straight right

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1 towards the building, yes, sir.

2 Q And this area right here between Building ,
3 Building , Building , that's a parking lot?

4 A Yes, sir.

5 Q And y'all came across the parking lot at an angle?

6 A Yes, sir.

7 Q Were you carrying anything?

8 A No, sir.

9 Q Did you have anything in your hands?

10 A No, sir.

11 Q Did you have anything in your pockets?

12 A No, sir.

13 Q Were you carrying a weapon?

14 A No, sir.

15 Q Who did you encounter as you came across the parking
16 lot, or did you encounter anybody?

17 A As I was crossing the parking lot? No sir.

18 Q Yes, sir.

19 A Nobody.

20 Q And did you -- did you come upon Maurice McRae?

21 A When I got in front of Building he had his back
22 turned toward me which Walter Blake was standing beside him,
23 the white fellow that testified. I didn't know who he was.

24 Q I want you to speak up because the lady in the back
25 corner might be having a hard time hearing you, okay?

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1 A All right. As we were walking up Maurice McRae had
2 his back turned to me and there was a white male standing
3 beside which Walter Blake is the one that testified yesterday.
4 Walter Blake was facing me. I didn't know until we got up
5 who Maurice McRae was, and then he turned around which he
6 verbally assaulted me.

7 Q Okay. But did you know who Maurice McRae was?

8 A Once he turned to see me I seen his face.

9 Q But you knew who he was prior to this? You knew who
10 Maurice McRae was?

11 A Yes, sir.

12 Q Okay. Were y'all friends?

13 A No, sir.

14 Q Were you enemies?

15 A No, sir.

16 Q Okay. Now you're in front of Building , are you
17 still with Rondell Knight?

18 A Yes, sir.

19 Q Maurice McRae turns around and he's standing with
20 Blake Wilkes.

21 A Yes, sir.

22 Q What happens next?

23 A Maurice McRae say, Rondell Knight, why did you bring
24 the slob ass nigger out here.

25 Q Okay.

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- 1 A Excuse my language everyone.
- 2 Q Okay, all right. Those were words that were uttered
3 by Maurice McRae to Rondell Knight and you?
- 4 A Yes, sir.
- 5 Q Did you -- what did you -- what was your response to
6 that?
- 7 A I was like totally shocked. I didn't even know what
8 was going on. I was -- just stopped and looked up, what was
9 going on.
- 10 Q Okay. Were you wearing anything on your head that
11 day?
- 12 A I was wearing a hat, sir.
- 13 Q A hat? What kind of hat?
- 14 A A Miami team hat, a Miami, basketball team. It was
15 gray, red, white, and black.
- 16 Q Do you know what a hoodie is?
- 17 A Yes, sir.
- 18 Q Did you hear some testimony earlier about a hoodie?
- 19 A Yes, sir.
- 20 Q What is a hoodie?
- 21 A Like a black pullover like hoodie, kind of like
22 pullover on.
- 23 Q Something tied to your head, it's not a ball cap?
- 24 A No, sir.
- 25 Q You were standing -- you were standing there and he

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1 said those words to you. Did you say anything to Ron -- did
2 you say anything to Maurice McRae?

3 A No, sir.

4 Q Did you argue with Maurice McRae?

5 A No, sir.

6 Q Did you have your hands in your pockets?

7 A No, sir.

8 Q Did you threaten him with a gun?

9 A No, sir.

10 Q Did -- what did Maurice McRae do next?

11 A Rondell Knight asked him why he kept going on. He
12 kept saying I don't belong out there. Then he say, as a
13 matter of fact, I'm going to my house and get my gun, your ass
14 better be gone by the time I get back. Excuse my language
15 again everyone.

16 Q So he said he was going to go get a gun?

17 A Yes, sir.

18 Q Did you feel threatened?

19 A Yes, sir.

20 Q Were you afraid?

21 A Yes, sir.

22 Q Did you feel your life was in danger?

23 A Yes, sir.

24 MS. MUNNERLYN: Leading, Your Honor, objection.

25 THE COURT: All right, let's don't lead him. Ask

DW - B. RAY - DIRECT

1 him just open, ask open ended questions.

2 MR. HOLT: Yes, sir.

3 BY MR. HOLT:

4 Q What did you do next?

5 A We turned around, sir. I started walking back
6 towards the car, sir.

7 Q Did you look over your shoulder?

8 A Yes, sir.

9 Q Did you look over your shoulder to see if you saw
10 Maurice McRae?

11 A Yes, sir.

12 Q What did Maurice McRae do?

13 A He walked up into the apartment, one of the
14 apartments, sir.

15 Q Did he go into the breezeway area that's been
16 referenced earlier in Building ?

17 A Yes, sir.

18 Q Did you lose sight of him?

19 A No, sir.

20 Q Were you able to see him the entire time?

21 A Yes, sir.

22 Q Did he go into an apartment?

23 A Yes, sir.

24 Q Where did -- what did you do?

25 A I kept on walking toward the car, sir.

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1 Q Okay. Were you ahead or behind Rondell Knight as
2 you walked to the car?

3 A I was ahead of Rondell Knight, sir.

4 Q Were you walking fast or were you walking slow?

5 A I was walking fast, sir.

6 Q Why were you walking fast?

7 A I was scared, sir.

8 Q Did you say anything to Blake Wilkes?

9 A No, sir.

10 Q Did you know Blake Wilkes?

11 A No, sir.

12 Q You heard him testify the other day. Was that the
13 same person who you saw at Building A, was the person who
14 testified the other day?

15 A Yes, sir.

16 Q Did you reach the car?

17 A Yes, sir.

18 Q Did you get to the car before Rondell Knight?

19 A Yes, sir.

20 Q Were you -- did you say anything to Rondell Knight
21 as y'all were walking to the car?

22 A Kept telling him, come on, let's go man, let's get
23 out of here.

24 Q How far ahead of him were you?

25 A Maybe 2 or 3 feet.

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1 Q Was he following you?

2 A Yes, sir.

3 Q Was the car locked or was it unlocked?

4 A It was unlocked, sir.

5 Q Did you get into the car?

6 A Yes, sir.

7 Q Did Rondell Knight get into the car?

8 A Yes, sir.

9 Q What did y'all do then?

10 A We then cranked the car up and backed out, sir.

11 Q Okay. And do you know -- do you know how -- can you
12 point to the diagram and show us kind of how he backed out?

13 A Kind of backed out like come back like right here.

14 Q So he was in reverse going back towards sort of
15 Building ?

16 A Yes, sir.

17 Q And were -- and then was there a speed bump right
18 there, or do you remember one?

19 A I don't recall, sir. My focus was totally somewhere
20 else, sir.

21 Q What were you focused on?

22 A Maurice McRae 'cause he saying he was going to get a
23 gun.

24 Q All right. When did you see Maurice McRae again?

25 A As we were getting in the car and the car started to

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1 back out I noticed him making his way back across the parking
2 lot, sir.

3 Q How would you describe his pace or the speed of
4 which he was coming cross the parking lot?

5 A He was walking real fast, sir.

6 Q And was he coming in your direction?

7 A Yes, sir.

8 Q When you got in the car -- do you recall a car, an
9 abandoned car on the corner there?

10 A Yes, sir.

11 Q Okay. When you got in the car did you notice any
12 gentlemen standing back here in the grassy area?

13 A No, sir.

14 Q Do you recall Charles McRae being close enough to
15 speak to Rondell Knight as you got in the car?

16 A No, sir.

17 Q I'm going to list some names for you. Do you know
18 Charles McRae?

19 A Yes, sir.

20 Q Did you see him there that day?

21 A No, sir.

22 Q Did you see him when you pulled in in front of the
23 Building ?

24 A No, sir.

25 Q And you -- did you see him as you were getting in

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1 the car to pull out?

2 A No, sir.

3 Q Did you see James Covington? Do you know -- did you
4 know James Covington who testified yesterday?

5 A Jonathan Covington.

6 Q I apologize, Jonathan Covington.

7 A No, sir.

8 Q You did not know him?

9 A No, sir.

10 Q Willie James Covington?

11 A Yes, sir.

12 Q You knew him? Did you see him that day?

13 A Yes, sir.

14 Q I think you indicated you saw him back?

15 A Yes, sir, in front of Building, sir.

16 Q Did you know who approached the car? Did you
17 recognize any of those people when you pulled into Building ?

18 A The fellow that testified yesterday with the dreads,
19 sir.

20 Q Was that Darius Hailey?

21 A Yes, sir.

22 Q You recognized him?

23 A Yes, sir.

24 Q Okay. As you backed out you indicated before that
25 you were nervous. Were you still nervous as you backed out?

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- 1 A Yes, sir.
- 2 Q Why were you nervous?
- 3 A Because he was walking across the parking lot real
- 4 fast, sir. He say he was going to get a gun, sir.
- 5 Q Well, what did you think he was going to do?
- 6 A Thought he was going to shoot me, sir.
- 7 Q How close -- as you backed out -- I'm sorry, I
- 8 apologize. How long was he in Building ?
- 9 A I'd say couldn't have been no longer than 20 to 30
- 10 seconds, sir.
- 11 Q So walked in and walked out?
- 12 A Yes, sir.
- 13 Q When -- and it's your testimony that you walked from
- 14 Building straight to your car and got in?
- 15 A Yes, sir.
- 16 Q How long did it take you to walk from Building to
- 17 get to the car?
- 18 A Maybe 30, 40 seconds, sir. Maybe not that long,
- 19 sir.
- 20 Q Speak up so they can hear you now.
- 21 A Maybe 30, 40 seconds sir. Maybe not even that long.
- 22 Q And as you backed out did you wait for five minutes
- 23 to ---
- 24 A No, sir.
- 25 Q Did you wait any period of time?

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1 A No, sir.

2 Q Were you driving?

3 A No, sir.

4 Q Did you give Rondell Knight any instructions as to
5 go slow, go fast?

6 A No, sir.

7 Q Were you speaking to Rondell Knight?

8 A No, sir, I was totally shocked. I was kind of like
9 hypnotized. I seen him coming towards me I didn't know what
10 to do; I didn't want to say nothing.

11 Q Did you say anything to Maurice McRae?

12 A No, sir.

13 Q Did you say, I got you now?

14 A No, sir.

15 Q What did you see Maurice McRae doing?

16 A At which time, sir?

17 Q Well, you backed out and you see him approach and
18 tell me what happens next.

19 A He walked up to the car, say yoe, holler at me, you
20 know what I'm saying, what's up, holler at me, where you
21 going? And then he then reaches into his back pocket and
22 comes around and bringing his arm around. And I leaned over
23 in the seat and grabbed the gun and fired one shot, sir.

24 Q Okay. Where was the gun that was in your car?

25 A It was laying right there on the seat in between me

DW - B. RAY - DIRECT

1 and Rondell Knight, sir.

2 Q Why did you shoot Maurice McRae?

3 A Because try to keep him from shooting me, sir. He
4 was raising his hand and he went in the back pocket, sir. I
5 thought he was going to shoot me. I was only trying to defend
6 myself. I thought he was about to shoot.

7 Q And was this after he had threatened you with the
8 gun?

9 A Yes, sir.

10 Q Were you scared when you were in that car?

11 A Yes, sir.

12 MS. MUNNERLYN: Objection again, leading, Your
13 Honor.

14 THE COURT: All right. Yes, ask him -- let's use
15 open ended questions. Ask him how he felt.

16 BY MR. HOLT:

17 Q Tell me how you felt when you were in the car.

18 A I was scared, sir, and nervous. Only thing I know I
19 never been in a situation quite that. I felt like I was
20 trapped and couldn't go nowhere.

21 Q Had you followed his instructions to leave the
22 apartment complex?

23 A Yes, sir.

24 Q Did you go directly to your car?

25 A Yes, sir.

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1 Q Were you and Rondell in the process of leaving?

2 A Yes, sir.

3 Q Were you able to get out of the car to gain safety?

4 A No, sir.

5 Q Have a seat. Brandon, when the shot was fired did
6 you see Maurice McRae fall down or anything like that?

7 A No, sir.

8 Q Why not?

9 A Because I was still leaned over the seat because I
10 thought -- I didn't -- I thought he was about to start
11 shooting at the car.

12 Q Did you know if -- did you know if you had shot him
13 with the one shot?

14 A No, sir.

15 Q Did you say anything to Rondell Knight at that
16 point?

17 A I kept telling Rondell, go, go, get out of here.

18 Q Were you yelling it or were you speaking a normal
19 conversational tone?

20 A I was yelling it, sir.

21 Q Where did you go next?

22 A Rondell Knight then took me, drop me off at my house
23 in Lester.

24 Q When did you last see the weapon that was used in
25 this incident?

DW - B. RAY - DIRECT

1 A It was in the car with Rondell Knight, sir.

2 Q Did you have a car at the house in Lester?

3 A No, sir.

4 Q When you got to your house did you have a
5 television?

6 A Yes, sir.

7 Q Did you have a radio?

8 A Yes, sir.

9 Q Did you know at that point when you got to the house
10 in Lester whether Maurice McRae had been shot?

11 A No, sir.

12 Q How did you leave the house in Lester?

13 A A girl named Heather that I met on my birthday, was
14 , I'm saying which I invited her to my birthday party.

15 And I met her when I was shopping at Carls (ph) Food Center
16 buy my, buy groceries and stuff for my party. And when she
17 pull up in the yard she was coming speak to me that day. She
18 said she had the day off work.

19 Q So a friend stops by the house?

20 A Yes, sir.

21 Q What did you ask her to do?

22 A I told her I had a friend at Highpoint, North
23 Carolina that had just had a baby and would ask her would she
24 take me up there, sir.

25 Q Why were you going to Highpoint, North Carolina?

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1 A Because I was scared. I thought Maurice McRae and
2 his friends was going to come looking for me and try to shoot
3 me. I was scared. I was just trying to get away from the
4 scene and everything that was going on, sir.

5 Q Did you find out at a later time that Maurice McRae
6 had, in fact, been shot and had died as a result of that?

7 A It was -- it wasn't until a couple of days later,
8 sir.

9 Q Okay. And did you turn yourself in to authorities
10 at that time?

11 A No, sir.

12 Q Why did you not do that?

13 A Because I was scared. I was saying I was charged
14 with murder. I didn't think no one would believe me, I'm
15 saying, which they didn't. Which they locked me up they still
16 charged me with murder. I was scared. I never been in a
17 situation like that before.

18 Q Okay, you never been charged with murder before?

19 A No, sir.

20 Q Have you regretted your decision to not turn
21 yourself in?

22 A Yes, sir.

23 Q Are you sorry about what happened?

24 A I'm very sorry, and mostly for the family and
25 everybody else I'm saying. I can truly -- I don't -- I'm

DW - B. RAY - DIRECT

1 saying I can't really live with myself now. I can't sleep at
2 nights. I lose sleep. This right here did a whole lot to me,
3 you know what I'm saying, it really hurt.

4 Q Brandon, some ammunition was found at the house in
5 Lester?

6 A Yes, sir.

7 Q Did you know the ammunition was there?

8 A No, sir.

9 Q The previous testimony it was found in the sofa
10 under the cushion?

11 A Yes, sir.

12 Q Are you aware of that?

13 A Yes, sir.

14 Q Were you aware of the ammunition being under the
15 cushion?

16 A No, sir.

17 Q When you moved in, when you moved into the home in
18 Lester, had you had an opportunity to clean the house, do
19 anything like that?

20 A It was some things I -- going over some things
21 'cause I had to -- the main part I had to cut that grass you
22 know what I'm saying which I was in the process of doing, you
23 know what I'm saying, which the grass in the front yard was
24 half cut. I had a whole lot of other things I had to do,
25 which moving stuff from here to here.

DW - B. RAY - DIRECT

1 Q Okay.

2 MR. HOLT: Court's indulgence one moment, Your
3 Honor, just to check my notes.

4 THE COURT: Yes, sir.

5 BY MR. HOLT:

6 Q Brandon, did I ask you anything about a football
7 game?

8 A No, sir.

9 Q Okay. Did you have any -- there was some prior
10 testimony with regard to a football game by Charles McRae. Do
11 you recall an incident where there was a gun involved or the
12 threat of a gun at a football game?

13 A No, sir.

14 Q Do you recall seeing Maurice McRae out at a football
15 game?

16 A Yes, sir.

17 Q Approximately when was that?

18 A Like the beginning of August, sir.

19 Q August of 2006?

20 A Yes, sir.

21 Q Did you have a conversation with him at that game?

22 A It was a whole lot of people around, sir, inside the
23 game. I think we might have said hey. But before that I
24 don't think it was too much -- I might be mistaken that, sir.

25 Q I'm sorry, you may have said hey?

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1 A Yes, sir.

2 Q Did -- did you have a -- did you have any animosity
3 with him at that time?

4 A No, sir.

5 Q Had you had -- the two of you had any incidences in
6 your past, fighting or anything like that?

7 A No, sir.

8 Q Did you have a gun at a football game in August of
9 2006?

10 A No, sir.

11 Q Were you arrested for that?

12 A No, sir.

13 Q Brandon, you've been arrested in the past; have you
14 not?

15 A Yes, sir.

16 Q And you're how old now?

17 A 20 years old, sir.

18 Q Have you been convicted of assault and battery of a
19 high and aggravated nature?

20 A Yes, sir.

21 Q When was that, Brandon?

22 A October 13th of 2004, sir.

23 Q Two years prior to this incident roughly?

24 A Yes, sir.

25 Q How old were you at that time?

DW - B. RAY - DIRECT

1 A 17, sir.

2 Q And was it an incident that involved a weapon?

3 A No, sir.

4 Q Was it a fight?

5 A Yes, sir.

6 Q And who was -- who was involved in that matter with

7 you?

8 A Cedric McLean or Innis or something, and Francis

9 Miller, Courtney Coe, and myself, sir.

10 Q So there's more than one -- I mean, there was more

11 than two people involved?

12 A Yes, sir.

13 Q Were there other people charged with it as well or

14 just you?

15 A It was two other people charged, sir.

16 Q Okay. Did you plead guilty to that?

17 A Yes, sir.

18 Q All right. Do you have a drug charge?

19 A Yes, sir.

20 Q Can you tell me about that?

21 A Well, I was 16 years old which I think was like

22 beginning or maybe about April of 2004, sir. We were standing

23 around in the yard, sir, in which the police ran up in the

24 yard and there were some drugs found around in the area around

25 me, sir, and which I didn't know no better. They took me in

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1 since it was in, I'm saying, around my possession I owned up
2 to it. I didn't know no better. They were telling me, well
3 you do this or this around there, and I didn't want to take it
4 to trial. I was scared to take it to trial 'cause I was
5 young, sir, so I go ahead and pled guilty, sir.

6 Q You were 16 at the time?

7 A Yes, sir.

8 Q Have you ever been a victim?

9 A What you mean, sir?

10 Q Have you ever been a victim of a crime?

11 A A victim of a crime?

12 Q Yes, sir.

13 A Yes, sir, I have been shot two times ---

14 MS. MUNNERLYN: Object to that, Your Honor, it's
15 irrelevant.

16 THE COURT: Yes, sir, come up counsel.

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

19 THE COURT: Objection is sustained. The jury will
20 disregard the question and the answer.

21 MR. HOLT: Brandon, that's all the questions I'm
22 going to ask you. Ms. Munnerlyn is going to ask you a series
23 of questions on cross-examination. I want you to answer her
24 questions, and the Court might ask some questions. Remember
25 to speak clearly for the jury, okay?

DW - B. RAY - CROSS

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Cross-examination, Ms. Munnerlyn.

3 MS. MUNNERLYN: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MS. MUNNERLYN:

6 Q Brandon, you were just talking to your attorney
7 about this drug conviction you were saying you didn't know any
8 better. But you did plead guilty to that.

9 A Yes, ma'am.

10 Q You do have a conviction for drugs?

11 A Yes, ma'am.

12 Q No question about that?

13 A No, ma'am.

14 Q Okay. And you do have a conviction for assault and
15 battery of a high and aggravated nature?

16 A Yes, ma'am.

17 Q Okay. And now you say you left the gun on the seat
18 in the car?

19 A You mean me on the seat like?

20 Q On the seat in the car?

21 A Yes, ma'am.

22 Q And where was Rondell when you left it?

23 A Rondell Knight was still in the car, ma'am.

24 Q Okay. And nobody else was in the car?

25 A No, ma'am.

DW - B. RAY - CROSS

1 Q What happened to the bullets that were in it?

2 A I don't know, ma'am.

3 Q Okay. And it's just a coincidence that five bullets
4 are found in the couch in the house where you lived by
5 yourself.

6 A Yes, ma'am.

7 Q Five bullets. It's a revolver. It was a revolver,
8 right?

9 A Yes, ma'am.

10 Q And you just decided as soon as you got back, as
11 soon as Rondell dropped you off and Heather pulled up, you
12 decided that was when you needed to leave to go to Highpoint?

13 A Yes, ma'am.

14 Q You weren't even going to find out if Maurice was
15 shot; you were getting out of there. And you were leaving
16 because you knew you had shot him and that it was not in
17 self-defense. You never saw a gun that day, did you?

18 THE COURT: Let's make it a question now. We're not
19 asking questions. You're just making statements please.

20 BY MS. MUNNERLYN:

21 Q You never saw a gun that day, did you, in Maurice's
22 hand?

23 A I saw something shiny or metallic like which I
24 thought was a gun, ma'am.

25 Q Oh, now you say you saw something shiny. And you

DW - B. RAY - CROSS

1 didn't say that in your direct testimony, did you? When Mr.
2 Holt was asking you you never said you saw anything, did you?

3 A I don't remember. I don't remember, ma'am.

4 Q You don't remember what you just said 30 minutes
5 ago?

6 A (There was no response.)

7 Q All you said was he had his hand going toward his
8 back pocket; isn't that right?

9 A No, I say he was pulling coming around, ma'am.

10 Q And you were going to these apartments and you knew
11 that Shayna and Maurice had a baby together?

12 A Yes, ma'am.

13 Q You knew they had had a relationship to the extent
14 that they had had a child together?

15 A Yes, ma'am.

16 Q And even knowing this, when you approach and you see
17 Maurice you're still standing there and talking to him.

18 A No, ma'am, I never spoke to Maurice, ma'am.

19 Q You're in the midst of a conversation right there in
20 Building . You said that went on for -- for a few minutes
21 you said, oh, they continued to talk and fuss and you just
22 stood there.

23 THE COURT: Ask questions, Ms. Munnerlyn. You're
24 not asking questions. Ask a question.

25

DW - B. RAY - CROSS

1 BY MS. MUNNERLYN:

2 Q Didn't you just stand there while that conversation
3 went on?

4 A Yes, ma'am, I...

5 Q You didn't start leaving immediately, did you?

6 A I didn't know what going on at first; I was shocked,
7 ma'am.

8 Q And which hand was Maurice supposedly reaching with?

9 A His right hand, ma'am.

10 Q And how far from the car, was he?

11 A Approximately like 5 or 6 feet, ma'am.

12 Q And you -- I think you said in your direct testimony
13 that you weren't telling Rondell anything at that particular
14 point.

15 A No, ma'am.

16 Q You didn't say that? You didn't tell him anything?

17 A I was shocked, ma'am. I was shocked. I was looking
18 at Maurice McRae, ma'am.

19 Q You were just sitting in the car, right?

20 A I was kind of like leaned over, ma'am.

21 Q Okay. You didn't say -- at that point you didn't
22 say to him, go, let's go, we got to get out of here?

23 A I didn't really say that until Maurice -- I start
24 seeing Maurice reach, ma'am.

25 Q Till you shot?

DW - B. RAY - CROSS

1 A No, ma'am.

2 Q Didn't you just testified when Mr. Holt was
3 questioning you that after you shot is when you told Rondell,
4 go, let's go, go, go, yelling?

5 A No, ma'am. I said after I leaned over, after I seen
6 Maurice McRae reach for a gun, ma'am, I started leaning over
7 in the seat and I start telling Maurice -- telling Rondell
8 Knight, go, go, let's get out of here, and then I then took
9 the gun and fired one shot, ma'am.

10 Q So he started going and you fired?

11 A I don't know if the car was pulling off, ma'am.

12 Q And you never looked back to see whether or not he
13 was shot?

14 A No, ma'am, I stayed laid over in the seat, ma'am.

15 Q And you didn't have a telephone at your house?

16 A No, ma'am.

17 Q You sure about that?

18 A Yes, ma'am, a hundred percent sure, ma'am.

19 Q You didn't have a cell phone?

20 A No, ma'am.

21 Q And you left and you went to Highpoint, no question
22 about that, right?

23 A No, ma'am.

24 Q That day?

25 A Yes, ma'am.

DW - B. RAY - CROSS

1 Q Okay. And this Heather person took you to
2 Highpoint?

3 A Yes, ma'am.

4 Q You don't know what Heather's last name is?

5 A No, ma'am.

6 Q So this girl you just met pulls up in your yard.
7 You don't even know her last name, and you ask her to take you
8 to Highpoint?

9 A Yes, ma'am.

10 Q And who did you stay with in Highpoint?

11 A A very good friend of mine named Kamarie (ph)
12 Miller, ma'am.

13 Q Who?

14 A Kamarie Miller. The house ---

15 Q Kamarie Miller.

16 A Which is the house they picked me out of, ma'am.

17 Q I'm sorry?

18 A Which that was house police had picked me up out of,
19 ma'am.

20 Q When you were arrested that's where they arrested
21 you?

22 A Yes, ma'am.

23 Q But you were staying with him the whole time?

24 A Yes, ma'am.

25 Q In fact, you stayed with him for more than a month

DW - B. RAY - CROSS

1 before they actually arrested you; isn't that right?

2 A Yes, ma'am.

3 Q So that was -- you testified on direct that you
4 learned that Maurice had died a couple of days after the
5 shooting.

6 A Yes, ma'am.

7 Q So you knew for almost a month that they were
8 looking for you for murder, and you did not come forward, you
9 didn't tell anybody about what had happened. Isn't that
10 right?

11 A Yes, ma'am.

12 Q You just stayed up in Highpoint, North Carolina?

13 A Yes, ma'am.

14 Q You said that you and Maurice weren't friends?

15 A No, ma'am.

16 Q Y'all didn't get along, did you?

17 A It wasn't that; it just that we wasn't friends. We
18 never hung out together. I'm saying as far as we see each
19 we'll speak. It's just, I'm saying, hey, how are you doing or
20 keep going, Ma'am.

21 Q But y'all been seeing the same girl off and on for
22 some period of time?

23 A Yes, ma'am.

24 Q In fact, you were coming to see her and she had a
25 baby with him?

DW - B. RAY - CROSS

1 A Yes, ma'am.

2 Q That didn't sit well with him, did it?

3 A Guess not, ma'am.

4 Q And you expected that; didn't you?

5 A At a point of time I didn't know he was out there,
6 ma'am.

7 Q But if you had known he was out there you would have
8 expected that; wouldn't you?

9 A Yes, ma'am, I guess.

10 Q No question you were driving that gray -- or you
11 were passenger in that gray Dodge Stratus with Rondell Knight,
12 right?

13 A Yes, ma'am.

14 Q Sort of a steel gray. And y'all were going to see
15 Shayna, and Rondell knew where Shayna lived, right?

16 A Yes, ma'am.

17 Q She lived over in Building ?

18 A Yes, ma'am, According to what Rondell knight said,
19 Ma'am.

20 Q Yes, sir. You didn't go over and park in front of
21 Building , you parked over here; didn't you?

22 A Yes, ma'am.

23 Q That's because you knew there were going to be
24 problems; is that right?

25 A No, ma'am.

DW - B. RAY - CROSS

1 Q And when Maurice -- if this is the car, if I'm in
2 the car and I'm you, show me how Maurice approached the car.

3 A First he was coming up, ma'am. He was like ---

4 THE COURT: Keep your voice up.

5 THE WITNESS: First he was approaching the car. He
6 was like, yoe, what's up, holler at me now, I'm saying, where
7 you going at, why you running. I was like, I ain't say
8 nothing, ma'am. I was like totally -- I was like what going
9 on. I just tapping, like tapping Rondell. He was like, well
10 all right, hold up. He reach in his back pocket he was coming
11 around, ma'am. That's when I leaned over. I then leaned over
12 and told Rondell Knight, I said, start going, I squeezed one
13 shot, ma'am.

14 Q So then you shot out the window?

15 A Yes, ma'am.

16 Q And he was facing you like that?

17 A Yes, ma'am.

18 MS. MUNNERLYN: Okay. I don't have any further
19 questions, Your Honor.

20 THE COURT: Have a seat.

21 Redirect Mr. Holt.

22 REDIRECT EXAMINATION

23 BY MR. HOLT:

24 Q Just for clarification, you dated Shayna Whaley and
25 that relationship ended in April or 2006?

DW - B. RAY - REDIRECT

1 A Yes, sir.

2 Q Prior to then had Shayna been involved with Maurice
3 McRae?

4 A You say prior?

5 Q Prior to your relationship she had had a
6 relationship with Maurice McRae?

7 A What you mean, after that?

8 Q Prior to your relationship, before your relationship
9 with Shayna.

10 A Oh, yes, sir.

11 Q Okay. No further questions.

12 THE COURT: Re-cross.

13 MS. MUNNERLYN: Court's indulgence just one moment.

14 No further questions, Your Honor.

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

16 All right, ladies and gentlemen, it's a few minutes

17 after 1, and I think it's appropriate that we take our lunch

18 recess at this time and we're going to do that. I am going to

19 excuse you and allow you to go and get lunch and ask you to be

20 back in the courtroom and please -- I mean, back in your jury

21 room please at 2:15. Again, over the lunch recess do not

22 discuss the case with anyone. Do not allow anyone to discuss

23 it with you and do not read any news reports or listen to any

24 broadcast media reports about this case. But if you would,

25 be back in your jury room please at 2:15 we'll be ready to

1 resume at that time. Have a pleasant lunch and I'll see you
2 in afternoon.

3 (WHEREUPON, the jury was removed from the
4 courtroom at 1:09 p.m., and the following proceedings
5 commenced in open court.)

6 THE COURT: All right. Counsel, we will recess for
7 lunch until 215. At that time, Mr. Holt, we'll determine what
8 the status of this missing witness is. And we're going to
9 have to go forward if he's not here by that time so we'll have
10 to go forward with that at that time. Anything before we
11 recess for lunch?

12 MS. MUNNERLYN: Yeah, your Honor, I just wanted to
13 let you know I had them check on that return. It was my
14 understanding he had been served with my subpoena because he
15 did appear on Thursday with my other witnesses. But he
16 technically, I'm told, was not served with my subpoena
17 although he did appear and I did inform him that he needed to
18 be here this week. Of course, he hasn't returned. That was
19 last Thursday that I spoke with him and he was supposed to be
20 back yesterday morning.

21 THE COURT: All right. Well, I'll still try to get
22 him here, but I don't know that I can hold him in contempt if
23 he hadn't been served with a legal subpoena but we'll just
24 have to see about what happens there if they don't find him in
25 the next hour. All right, anything before we recess for lunch

1 other than that, Ms. Munnerlyn?

2 MS. MUNNERLYN: No.

3 THE COURT: Mr. Holt?

4 MR. HOLT: No, Your Honor.

5 THE COURT: We will be in recess for lunch. Let me
6 see counsel in chambers please. Thank you.

7 (WHEREUPON, a lunch break was taken and
8 court resumed at 2:15 p.m.)

9 THE COURT: All right. Back on the record with
10 regard to the matter of the State versus Brandon Ray. Let the
11 record reflect that the State is present represented by
12 Ms. Munnerlyn. The Defense is present. Defendant is present
13 with his counsel, Mr. Holt. We are in the process of taking
14 testimony from the defendant's side of the case. Mr. Holt,
15 anything before we bring the jury in?

16 MR. HOLT: Your Honor, I've not received any
17 information with regard to Roy White. It's my understanding
18 that he has conferred with Dan Blake, public defender's office
19 and it's his -- he has communicated with him. Roy White
20 indicated to him he would be here at 1:00. To my knowledge he
21 still has not arrived.

22 THE COURT: All right. And I assume that law
23 enforcement has been unsuccessful in locating him?

24 MS. MUNNERLYN: I assume so, Your Honor. I know
25 they had been by the grandmother's house where he lives but

1 wasn't able to locate him there.

2 THE COURT: All right. I don't know of anything else
3 we can do, Mr. Holt. We'll see at the end of this witness if
4 he has been located, and if not, we'll just have to go
5 forward. All right, bring the jury in please.

6 (WHEREUPON, the jury was returned to the courtroom
7 at approximately 2:18 p.m., and the following proceedings
8 commenced in open court.)

9 THE COURT: All right, thank you very much, ladies
10 and gentlemen. Thank you for your promptness in being back
11 here. We have concluded matters of law which I needed to take
12 care of as well as getting a lunch break for Court personnel
13 and we are now ready to go forward. I will ask you now as I
14 did at the beginning of the case this morning if anyone has
15 approached you or tried to talk to you about this case in any
16 manner whatsoever over the lunch recess I would need to know
17 about it now.

18 (There was no response.)

19 THE COURT: Negative response. Appears that no one
20 has and that's a good thing. But also ask you if anyone has
21 read anything or heard any news media reports of this case
22 over the lunch recess I would also need to know about that
23 now.

24 (There was no response.)

25 THE COURT: And again, negative response, and that

DW - D. CARTER - DIRECT

1 is a good thing. And we are ready to go forward. You will
2 recall that the defendant was presenting his side of the case
3 and he has a right to present any additional witnesses that he
4 wishes to present at this time.

5 Mr. Holt.

6 MR. HOLT: May it please the Court.

7 THE COURT: Yes, sir.

8 MR. HOLT: Defense calls Debra Carter.

9 THE COURT: All right, Ms. Carter, come around
10 please.

11 WHEREUPON,

12 DEBRA MARIA CARTER,

13 having been duly sworn by the Deputy Clerk of Court,

14 testified as follows:

15 THE WITNESS: Debra Maria Carter.

16 **DIRECT EXAMINATION**

17 **BY MR. HOLT:**

18 Q Debra, what's your relationship to Brandon Ray?

19 A He's my oldest son.

20 Q How many children do you have?

21 A Three.

22 Q Where do you live, Debra?

23 A Currently I just moved back from North Myrtle with
24 my mom at

25 Q And what is your mother's name?

DW - D. CARTER - DIRECT

1 A Janie Ray.

2 Q Where were you born and raised?

3 A Marlboro County, Bennettsville.

4 Q Marlboro County. And when did you move back to
5 Marlboro County from the Beach?

6 A June 8th of this year.

7 Q 2007?

8 A 2007.

9 Q Where were you living in October 2006?

10 A Green Sea which is like 20 minutes from North Myrtle
11 Beach.

12 Q Were you present at the Apartments on the day
13 of this incident?

14 A No, sir.

15 Q The home that Brandon was living in, the
16 address?

17 A ?

18 Q Yes, ma'am.

19 A Uh-huh.

20 Q Are you familiar with that property?

21 A Yes.

22 Q What 's your knowledge or familiarity with that
23 address?

24 A That's my home.

25 Q Have you lived there previously?

DW - D. CARTER - DIRECT

1 A Yes.

2 Q Do you have a -- do you have a deed to that property
3 or do you lease it or is it in the family? Can you explain?

4 A No, it's my brother's home. I was renting to --
5 renting to buy. He lives in Charlotte, North Carolina.

6 Q And you lived in that home previously. Had you
7 lived in that home on previously?

8 A Yes.

9 Q When did you stop residing there full time?

10 A I moved to Green Sea maybe June of 2006.

11 Q Was the home occupied from June to October or was it
12 ever vacant?

13 A Well, it was vacant. I had two instances where two
14 of my second son, Maria Ray, two of his friends was living in
15 my home without permission.

16 Q What did you do about them living in your home?

17 A Well, we have a home -- my mother has a family home
18 which is right next to my house, and he goes out there because
19 I gave him a key to my house as well as my mom's to keep check
20 on the properties. And he went there I think three or four
21 times and the first incident is where ---

22 MS. MUNNERLYN: Your Honor, I would object, Your
23 Honor unless she knows of her own knowledge about this.

24 THE COURT: All right.

25 MR. HOLT: Okay.

DW - D. CARTER - DIRECT

1 THE COURT: You will not have any way of knowing
2 this, but you can only testify to those things that are within
3 your personal knowledge.

4 THE WITNESS: Okay.

5 THE COURT: And so unless you did it or unless you
6 were there when it was done you would of course would not --
7 it would not be within your personal knowledge so wait just a
8 minute and let Mr. Holt ask you the question.

9 MR. HOLT: Thank you, Judge.

10 BY MR. HOLT:

11 Q Did you take efforts to evict or to remove anybody
12 that was living there who shouldn't have been?

13 A I went to their homes and talked to their parents.

14 Q Okay. And did they then move out?

15 A Yes, they did. Well, one, which there is his -- I
16 don't know his real name; his nickname is Smurf. And he
17 didn't get -- I didn't get any of his belongings out the
18 house.

19 Q Okay. Did you then give permission to Brandon Ray
20 to stay in the house?

21 A Yes, I did.

22 Q Approximately when was that?

23 A It was in October.

24 Q Okay. About the same time as this incident?

25 A Yes, sir.

DW - D. CARTER - DIRECT

1 Q Okay.

2 A It might have been maybe a week prior to that.

3 Q Had the yard grown up?

4 A Yes, sir, the grass was maybe about this high
5 because it had no one staying there.

6 Q Did you have any personal knowledge of a gun or guns
7 being in the home?

8 A No, sir.

9 Q Did you have any personal knowledge of any
10 ammunition being in the home?

11 A No, sir.

12 Q This is your son?

13 A Yes, it is.

14 Q Would you get on the stand and lie for him?

15 A No, sir.

16 Q Okay. Do you love him?

17 A Yes, sir.

18 Q Okay. How old are you?

19 A 36.

20 Q Where are you employed?

21 A Townsend Cleaners.

22 Q Is that in Bennettsville?

23 A Yes, sir.

24 Q Okay.

25 MR. HOLT: No further questions.

DW - D. CARTER - CROSS

1 THE COURT: Cross-examination, Ms. Munnerlyn.

2 MS. MUNNERLYN: Thank you, Your Honor.

3 CROSS - EXAMINATION

4 BY MS. MUNNERLYN:

5 Q Now Ms. Carter, you weren't at Apartments on
6 the day of this incident, were you?

7 A No, sir -- I mean, no, ma'am.

8 Q In fact, you weren't even living in the
9 Bennettsville area when this happened, were you? You were
10 living in North Myrtle Beach at that time.

11 A Yes, ma'am.

12 Q And your son had moved back into the house at
13 a few days before this happened?

14 A Yes, ma'am, maybe a week.

15 Q And he was the only one living there?

16 A Yes, ma'am.

17 Q And a couple of days after this incident you were
18 actually contacted when they were looking for your son;
19 weren't you?

20 A Yes, ma'am.

21 Q And did you have any conversation with him about
22 that?

23 A No, ma'am, I haven't had any contact with my son.

24 Q You didn't have any contact with him ---

25 A After the incident, no, ma'am.

DW - D. CARTER - CROSS

1 Q Okay. So while he was in Highpoint you didn't have
2 any conversations with him, he didn't contact you, or anything
3 like that?

4 A No, ma'am.

5 Q Okay.

6 MS. MUNNERLYN: I don't have any further questions.

7 THE COURT: Redirect.

8 MR. HOLT: Nothing further, Your Honor.

9 THE COURT: All right, thank you. You may step
10 down.

11 All right, Mr. Holt.

12 MR. HOLT: Please the Court, that is the defendant's
13 case, Your Honor.

14 THE COURT: All right. So Defense rests?

15 MR. HOLT: Yes, sir. The witness who we referenced
16 before has still not appeared.

17 THE COURT: All right, the Defense rests. Anything
18 in reply?

19 MS. MUNNERLYN: No, Your Honor.

20 THE COURT: All right. All right, ladies and
21 gentlemen, you have now heard all of the testimony in
22 connection with this matter and there are only two things that
23 remain to be done. Those are the instructions on the law.
24 First, the arguments of counsel and then the instructions on
25 the law by the Court. Before we do that, however, there are

1 certain matters of law which I now need to take up with the
2 attorneys. I will take those up at this time, and as soon as
3 we have resolved those issues we will bring you back to the
4 courtroom for the attorney's arguments and the instructions on
5 the law and then you will be allowed to go to your jury room
6 to deliberate your verdict.

7 So again, I appreciate your patience and we are
8 moving forward on this matter, but still it would be premature
9 for you to begin any discussion of this case at this time.
10 There's still two things that remain to be done before you
11 begin to deliberate your verdict, but I do have to ask you to
12 go to your jury room right now while I take up these matters
13 of law and we'll be ready to go forward in just a few minutes.
14 Thank you. If you would, go with the bailiff.

15 (WHEREUPON, the jury was removed from the
16 courtroom at 2:30 p.m., and the following proceedings
17 commenced in open court.)

18 THE COURT: All right, Mr. Holt, motions on behalf
19 of the defendant?

20 MR. HOLT: Renew our motion for directed verdict,
21 Your Honor.

22 THE COURT: All right. The motions for directed
23 verdict again under Rule 19 have been made by the Defendant
24 and at this point or at any point with motion for directed
25 verdict the Court is to judge the existence of the evidence,

1 not the weight to be given to it. And in my view there is
2 evidence in the record by which the jury could find the
3 defendant guilty of the crimes for which he is charged. It is
4 up to the jury, up to the jury to determine the credibility or
5 the weight to be given to the evidence and so I will
6 respectfully deny the motion for directed verdict.

7 All right, counsel, in chambers over the lunch
8 recess we discussed verdicts and what issues were going to the
9 jury, and I believe it is agreed by the parties that there are
10 three issues for the -- or two issues for the jury to decide;
11 that is, either murder or voluntary manslaughter or not
12 guilty. And that the possible verdicts are murder, voluntary
13 manslaughter, and not guilty, and that I would charge the jury
14 on both murder and voluntary manslaughter. Do you agree,
15 Ms. Munnerlyn?

16 MS. MUNNERLYN: Yes, sir.

17 THE COURT: Mr. Holt?

18 MR. HOLT: Yes, Your Honor.

19 THE COURT: All right. Also, Counsel, I have
20 thought about the issue and there has been a request made that
21 I charge self-defense. I have thought about the issues that
22 you've raised, Ms. Munnerlyn, and I think that there are some
23 close questions as to whether all of the elements are met;
24 specifically, the duty to retreat or to move away and get away
25 from the danger. But it's pretty clear that in the law of

1 self-defense that a defendant does have the right to act on
2 appearances and if he believes himself in imminent* danger it
3 is the test that the jury has to apply to whether a reasonable
4 prudent person of ordinary firmness and courage would have
5 entertained the same belief. I believe that all of these are
6 factual issues for the jury's determination and so the Court
7 will charge the defense of self-defense, okay. Now how
8 much -- are you going to open on the law, Ms. Munnerlyn, or
9 are you going to waive opening?

10 MS. MUNNERLYN: I would ---

11 THE COURT: Unless he requires it.

12 MS. MUNNERLYN: Yeah, unless he requires it I would
13 just make one argument.

14 THE COURT: Do you want her to open on the law or
15 you don't mind if she just closes? She waives her opening
16 argument.

17 MR. HOLT: I will request that she open with the
18 law.

19 THE COURT: Okay. If you'll open on the law, then
20 Mr. Holt will give his closing argument and then you would
21 have the right to close. How much time you think you need all
22 together approximately? I mean, I practiced law for 30 years.
23 I never liked to argue against the clock but I do like to have
24 some estimate of what's going to be. When I first got this
25 job about 12 years ago, a little simple wreck case that I was

1 hearing and I failed to ask the defense counsel, maybe it's
2 just because he was representing insurance company. But I
3 failed to ask defense counsel how much time he needed for
4 argument, a little old wreck case I thought it could have been
5 argued in 10. 55 minutes later he was still going strong. I
6 do like to get some idea how much time you think you need.

7 MS. MUNNERLYN: Your Honor, I don't think I will
8 need any more than 30 minutes all together. I don't think so.

9 THE COURT: How much you need, Mr. Holt?

10 MR. HOLT: I would imagine 30 minutes.

11 THE COURT: All right. I think that both of you
12 ought to be able to conclude in 30 minutes, and then of course
13 I'll have to do the charge so we'll go ahead and do that. You
14 need any time before we go forward, Ms. Munnerlyn, or you
15 ready to go?

16 MS. MUNNERLYN: If I could have just a few minutes
17 then I would be ready.

18 THE COURT: All right. All right, let's plan to go
19 forward at -- by that clock up there at 15 till. That's about
20 8 or 9 minutes, okay?

21 MR. HOLT: Thank you, Your Honor.

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

24 THE COURT: All right, back on the record with
25 regard to the matter of State versus Ray. Mr. Ray is present

1 with his counsel. The State is also present. We have
2 concluded all the testimony in this case and we are going into
3 closing arguments. Anything before we bring the jury in and
4 go forward, Ms. Munnerlyn?

5 MS. MUNNERLYN: No, Your Honor.

6 THE COURT: Mr. Holt?

7 MR. HOLT: No, Your Honor.

8 THE COURT: All right. Bring the jury in please.

9 (WHEREUPON, the jury was returned to the courtroom
10 at approximately 2:43 p.m., and the following proceedings
11 commenced in open court.)

12 THE COURT: All right, ladies and gentlemen, good
13 afternoon again. And I will tell you now that we are ready to
14 go forward with the remainder of this case. I told you before
15 we took a brief recess just then that you have now heard all
16 of the testimony and evidence in this case. And there are
17 only two things that remain to be done. Those are the
18 arguments of counsel and the instructions on the law by the
19 Court. I will tell you now, as I did at the first of this
20 case, that the arguments of counsel are not evidence. They
21 are simply the lawyers' views what they think the evidence
22 shows. You will decide this case based upon the evidence that
23 you have heard from this witness stand and from any exhibits
24 that have been introduced into evidence. After the lawyers
25 have concluded their summations or closing arguments to you I

1 will then instruct you on the law of South Carolina as it
2 applies to the issues in this case and you will apply that law
3 to the facts as you find those facts to be and arrive at a
4 verdict. You will hear first by way of closing argument from
5 Ms. Munnerlyn on behalf of the State, then from Mr. Holt on
6 behalf of Defense, and then Ms. Munnerlyn will have the right
7 to make the closing argument to you.

8 Madam Solicitor.

9 MS. MUNNERLYN: Thank you. May it please the Court,
10 Your Honor.

11 THE COURT: Yes, ma'am.

12 MS. MUNNERLYN: Mr. Holt, ladies and gentlemen of
13 the jury, we are finally at the conclusion of this case, and I
14 want to thank you upfront for your attention to all the
15 witnesses and soon this matter will be in your hands. I am --
16 I stand before you now just briefly. I want to talk to you on
17 the law. And you have before you the charges of murder,
18 possession of a weapon during the commission of a violate
19 crime. These are the two crimes which you will have to
20 consider. And in addition to murder the judge is going to
21 charge you the lesser included crime of voluntary
22 manslaughter, okay. So you're actually going to be looking at
23 three different crimes and will make two considerations there.
24 So first of all, I want to talk to you about the burden of
25 proof, and the judge of course is going to charge you about

1 what the law is so if I say anything that's in conflict with
2 what he says at the end of the case of course you take what he
3 says. But I want to just tell you how I believe all this lays
4 out as far as the law is concerned and what you have to
5 consider.

6 First of all, of course as I stated at the beginning
7 of the case, it is the State's responsibility, our burden of
8 proof, to prove to you that both of these crimes were
9 committed beyond a reasonable doubt, okay. That is -- I know
10 we've all heard that term whether it be on TV or growing up in
11 school or wherever, but the burden of proof in the criminal
12 court system is beyond a reasonable doubt, okay. That is not
13 any doubt; that is a reasonable doubt. It is if you are
14 firmly convinced then you are convinced beyond a reasonable
15 doubt. You have -- in order to not have been convicted you
16 have to have a doubt to which you can assign a specific
17 reason, okay. It cannot be any doubt; it has to be a
18 reasonable doubt that you can specifically state. So if you
19 are firmly convinced of the evidence after you have heard it
20 and you go back and you deliberate, then you must find that
21 the defendant is guilty.

22 And you, first of all, at the crime of murder -- a
23 murder is, of course, there are several elements. Murder is
24 the unlawful killing of another with malice aforethought,
25 okay. And malice, we all understand what the unlawful killing

1 of another is. It's when you kill somebody and they're dead.
2 And then the next consideration is with malice aforethought.
3 And what really is malice. It's hard to explain. It's an
4 evil intent. It's a heart bent on evil. It's sometimes very
5 hard to grasp. But it can be expressed or implied. Sometimes
6 you have an expression of malice, you know, perhaps someone
7 actually says, you know, I'm going to kill that person. You
8 don't often have that so of course you have cases where you
9 have implied malice, okay. It can be implied through actions,
10 through words, and through various things. And one of those
11 things that implies malice is the use of a deadly weapon,
12 okay. And of course in this case you have the use of a
13 firearm, a pistol, a handgun, and all it took was one bullet
14 to cause the death of the victim. If you are not convinced
15 that malice exists and that malice -- when we talk about that
16 we say malice aforethought. Malice aforethought just simply
17 means it has to exist previous to the actual killing. It can
18 be that moment or it can be weeks before; but it has to exist
19 prior to the actual blow that caused the death, okay. If,
20 however, you consider the evidence and you determine that the
21 facts do not meet those elements, then you consider next the
22 lesser included crime of murder which the judge is going to
23 charge you is voluntary manslaughter. And what voluntary
24 manslaughter is, is the same thing, the unlawful killing of
25 another, only this time it is without malice aforethought,

1 okay. This is the killing where you often here is it's in the
2 sudden heat of passion. It's with sufficient legal
3 provocation, okay. You don't have that malice -- you remove
4 the malice and there's something there which provokes the
5 sudden heat of passion, okay, and causes the defendant to fire
6 the fatal shot or to strike the fatal blow, okay. And this
7 can be any of a number of things. It can be arguments, it can
8 be words, it can be maybe a fight between the two that lead up
9 to the actual killing. That provokes the heat of passion. It
10 can be -- it can actually be threatening behavior, if you
11 believe the defendant's story in this particular case. Then
12 it can be a victim approaching in a threatening manner which
13 provokes, sufficiently provokes, the heat of passion; thus,
14 you have voluntary manslaughter.

15 And then, of course, you have the third crime which
16 is possession of a weapon during the commission of a violent
17 crime, okay. And you cannot decide that particular crime
18 until you've decided murder or manslaughter which is -- which
19 is applicable. If you find one of those guilty then you will
20 get this particular charge because both murder and
21 manslaughter are violent crimes. If you were to find guilty
22 on either one of those then you look at whether or not the
23 defendant had possession of a weapon when he committed that
24 particular crime. And if you are convinced firmly that he
25 did, then again, you would find guilty on that charge as well.

1 And I'm going to have just have a few minutes here
2 because I'm going to come back and talk to you again about the
3 facts. And I just wanted to talk to you a minute about the
4 law. I'm required to do that at the beginning. So I want you
5 to remember everything that Mr. Holt says when I stand up. He
6 is here to defend his client and to confuse you and to bring
7 up issues and I want you to stay focused on what is before
8 you, and I appreciate your attention and this matter will be
9 in your hands before long. Thank you.

10 THE COURT: Mr. Holt.

11 MR. HOLT: May it please the Court.

12 THE COURT: Yes, sir.

13 MR. HOLT: Good afternoon. We're here at last. I
14 feel like we've been here for longer than just a couple of
15 days. It seems like it's been a week. I imagine you feel the
16 same way being ushered in and out. I appreciate your
17 attention. Y'all have followed very closely and I was
18 impressed with that. I thank you for your service. I stood
19 up here the other day and introduced myself to you. I guess
20 it was Tuesday morning. And I indicated to you this was a
21 complicated case and that on the surface it probably looks
22 like what the State is telling you. You've heard a very
23 complicated, yet tragic story, and somebody did lose their
24 life. We didn't try to beat around the bush and indicate that
25 my client was not a part of that. You'll notice during the

1 testimony of the State's witnesses most of the law enforcement
2 officers and the doctors and the SLED people, we didn't spend
3 a lot of time talking to them because there really wasn't any
4 kind of question about the end result. The question was how
5 we got there, and that's where all these people who testified
6 sort of plugged into this process. You can imagine when
7 you're trying a case and you're trying to pay attention to
8 everything the State has asked a witness and you get up here
9 and you cross-examine somebody, you're writing furiously
10 trying to keep track of everything in your notes. And then
11 you're asked to come up and try to sum up the case. If I
12 appeared at times going in different directions I apologize;
13 don't hold it against my client. It's the nature of the beast
14 of this process, to stand up here and we often get -- the main
15 point is to try to sum up the case so you can sort of see it
16 for what it is.

17 I'd like to begin by telling you my client's story
18 again, and you'll listen to it and compare it to the story
19 that I gave you the other day. And then you compare it to the
20 story Ms. Munnerlyn gave you the other day in her opening
21 remarks. Then I'd like to talk to you about some of the
22 witness's testimony, point out some things that I think are
23 significant, that I think that are relevant to your
24 deliberations. The first is I'm going to explain to you the
25 general aspects of the law. His Honor is going to give you a

1 much greater description of the law so that it -- so that you
2 know what you didn't understand before you certainly should
3 understand by that point. But he's also going to charge you
4 with something else. He's going to tell you what the
5 definition of self-defense is, And I think it's important that
6 you listen to that very carefully and apply what he tells you
7 about that to these facts in this case. This is not marked as
8 an exhibit and won't be available to you when you deliberate.
9 I have no objections to it, we've referred to it so much, but
10 I'm going to point back to it if y'all would indulge me just
11 for a moment. My client, Brandon Ray, I introduced you to. I
12 told you he was kind of a big kid. He's gained a lot of
13 weight over the last few months eating potato chips and things
14 like that at the detention center. I told you that he had a
15 kind smile, he was shy. He was a little unsure of himself as
16 many 20 years olds are. He was 19 at the time that this
17 incident occurred. You also met his momma. I think it's
18 important to know his mother, to see her, to see her face, to
19 hear her voice, and to connect the two because he's still a
20 kid in a man's body. Brandon got up here earlier this
21 afternoon, gave some testimony about what happened on that
22 dreadful day. His testimony was consistent with Rondell
23 Knight. Rondell Knight sort of been the mystery person to
24 some extent, but the statement was read by the law enforcement
25 officer, the statement that he gave. I think you're going to

1 have that statement in your deliberations; but that statement
2 is consistent, at least the initial aspects of it, with my
3 client's testimony. My client was at home, doesn't have a
4 telephone, has no way of calling saying, you know, come get
5 me. Rondell Knight goes by to see him. They then go for a
6 ride. They drive to McColl to get dinner or lunch for the
7 young lady named Takka Watson who was in the car. They stop
8 off at a Chinese restaurant there and gets a plate and then
9 they go on to the apartment complex. They don't stay very
10 long. You heard Brandon Ray tell you about the romantic
11 interest that he had with Shayna Whaley. And Ms. Whaley got
12 up here and testified, gave some, a little bit of background.
13 She wasn't here that day. But there's no question she
14 admitted they had been involved at one time. In her own
15 testimony she indicated that there didn't appear to be any bad
16 blood between Brandon Ray and Maurice McRae, the victim.
17 Brandon Ray has indicated he'd not been around her in a number
18 of months, wasn't aware that she was involved again with
19 Maurice McRae. And as you also heard from Maurice's own
20 brother, Charles McRae, none of them officially lived there.
21 They stayed there periodically and they were not on the
22 leases. So Brandon goes to this apartment complex wanting to
23 see Shayna. He even told Rondell Knight, even told Jeffrey
24 Locklair in his statement, that he wanted to go see Shayna.
25 There's no reference to Maurice McRae. And the solicitor's

1 office gave you that statement. They wanted you to see that.
2 They go there and they pull in. That's where the testimony
3 gets really, really fuzzy to me. Perhaps it's clear for you,
4 but it was very fuzzy for me. Depending on who you believe,
5 it was a very cold blooded, calculated killing or it was a
6 very, very unfortunate situation turned bad and somebody acted
7 in self-defense. Maurice McRae apparently at some point had
8 been in the vicinity of or There's
9 some question about where he was, who he was hanging out with.
10 Each of the witnesses seem to give some sort of conflicting
11 testimony at least what I heard. At one time we have him
12 standing over here, walking to Building and saying he's
13 coming right back, and it hadn't been but a few moments. And
14 his own brother who testified this morning said that they had
15 been hanging out; that he had been gone for some period of
16 time. There's no question that Rondell Knight and Brandon Ray
17 pulled into the parking lot because Brandon Ray was a
18 passenger in the car. It appears that there was some
19 conversation there in the parking lot. Some people approached
20 the car. There was a young man named, I think Willie James
21 Covington, who testified and standing back. He indicated that
22 he heard someone ask where Maurice was. Well, standing back
23 at the building, the people who were standing at the car had
24 ample opportunity to hear that. And I think maybe Darius
25 Hailey was the only one who indicated that that was said, but

1 he was standing back and his view was blocked by several
2 people standing around the car, yet that's what he hears.
3 Nevertheless the car moved forward. Charles McRae indicates
4 that he was standing there. Well, he indicates he goes to
5 Building . Willie James Covington says Maurice McRae -- I
6 mean, Charles McRae, is standing there, the brother, is
7 standing there. What is it? Says little inconsistencies that
8 I heard and I know you all heard. What is it? These are the
9 same people who are sort of the glue for the State's case.
10 They're the ones who are all standing on this corner kind of
11 here in Building and there within close proximity to where
12 the shooting occurred. And they all say, that's when they
13 first see Brandon Ray. Some of them didn't even know who he
14 was. For example, they pull in and James Covington over here,
15 he had an interesting story to tell; I'll get to him in a
16 moment. But they pull in; there's no dispute about that.
17 Brandon Ray says he pulled in. Brandon gets out, walks over
18 to Apartment thinking he's going to see Shayna Whaley. It
19 occurs to him that Maurice McRae is standing there. He had
20 his back turned to him; he turns around. Rondell Knight,
21 Rondell Knight, is a -- is a very good witness for us in this
22 instance right here, as is Blake Wilkes. If you really get
23 down to the heart of this case, everything that's happened,
24 everything that was said prior to this day, moments after the
25 shooting, what led to everything happened right here in front

1 of Building . There's no dispute about that. These
2 individuals down here, a few of them say that they saw them
3 standing over here and had no idea what they were talking
4 about. Vula Davis in Building didn't even know they were
5 talking. No law enforcement officer was able to testify as to
6 the conversation there except Jeffrey Locklair, and he only
7 reported what was told to him. And that is consistent with
8 what my client said.

9 The three people that were offering today -- who
10 offered testimony one way or the other, all indicate for the
11 most part the same thing. They approach Morris McRae,
12 consulted, whatever you want to call it -- you heard the words
13 I'm not going to repeat them -- to Rondell Knight and Brandon
14 Ray. And Brandon Ray didn't stop right then., indicated he
15 was shot, he was taken off-guard, and didn't say anything.
16 Blake Wilkes is standing there -- and he got on the stand and
17 he testified. He never -- and he said -- I asked him
18 point-blank -- was there, did Brandon Ray say anything. He
19 said, no, he never said anything to Maurice McRae. Maurice
20 McRae, I mean, yeah, Maurice McRae then says he makes
21 reference to a gun. Of all the witnesses who testified the
22 only one, the last who got up here was Charles McRae, and he
23 testified about a gun at a football game. But then you heard
24 on cross-examination -- I became very confused as to what he
25 saw and where he saw it; I'll leave that with you. But

1 nevertheless, that's in Rondell Knight's statement that
2 Maurice McRae says he pulled a gun on me or, I got something
3 for you. And both Rondell Knight and Brandon Ray say that he
4 used -- he threatened him with a gun, going to go get a gun
5 out of your apartment. And then in Blake Wilkes' testimony he
6 indicated that he said, I've got something for you. Well,
7 that's three people, one way or another, their testimony all
8 indicate roughly the same thing. Well, what -- the question
9 to yourself then the threats been made, he was challenged,
10 what did he do? He didn't respond with arguing words; he
11 started to retreat. He retreated back to the car in which he
12 came in. He got in the car and there was some testimony he
13 went quick and there was other testimony he went slow. Weigh
14 the credibility of the witnesses best that you can.

15 He then gets to the car and they were going to back
16 out and leave. Some of the witnesses had different color
17 cars. Some of the witnesses had a car in front of them
18 slowing them down. Nevertheless, it's clear from everybody
19 for my client the car backs out and leaves out the entrance
20 between Building and Building in this direction. At that
21 time who shows back up on the scene after making a threat,
22 after saying he's going to go in the pavement after he says
23 he's going to go in and get a gun? Who comes out of that
24 apartment, is Maurice McRae. He was following through with
25 the threat. My client, Brandon Ray, had already retreated to

1 the car, was backing up. You heard his own words. You weigh
2 his credibility. You determine whether or not you think that
3 the emotion was there; that he was scared. He said he was
4 scared. He was afraid. This young man had threatened his
5 life; he was trying to get out of there. He was trying to get
6 his friend Rondell Knight out of there. Let's go, let's go,
7 let's go.

8 And at that time Maurice McRae comes up to the car.
9 Once again, this fact gets a little fuzzy. You have eyes
10 watching it from different angles, from different people
11 having different interests in this case. But it's clear that
12 Maurice McRae came back to the car and confronted them. Some
13 say he was walking beyond them toward the building perhaps by
14 Building . His brother wanted you to believe that; that he
15 just happened to be walking by. But his brother didn't know
16 any of the events that happened in front of Building .
17 They're in the car; see them coming up, Brandon Ray is
18 intimidated, he feels threatened. Unfortunately a life was
19 lost, but there was a gun in that car. And I'm convinced the
20 only reason my client is alive today is because there was a
21 gun in the car. I can't imagine how you see that in your own
22 eyes; and it is disturbing, but nevertheless, that is the --
23 some people live in that kind of lifestyle. And he pulled a
24 gun. Did not -- he was scared; he was leaning over. He was
25 encouraging the driver; he was not driving. It wasn't as if

1 he came -- he was leaving the car. He was retrieving. He was
2 not driving so he couldn't hit the pedal. He was demanding
3 his driver hit the pedal and go, and it appears there could
4 have been somebody blocking him too. My client was fixated on
5 Maurice McRae coming at him. Maurice McRae comes up, and then
6 my client feels threatened. Maurice McRae says, let me holler
7 at you, let me holler at you, get out, let me holler at you.
8 After making a threat with a gun, ordering my client to leave
9 and now he's come back and get back in his face. My client
10 afraid for his life grabbed the pistol thinking he's about to
11 get shot and fires one time looking away, almost bracing
12 himself for being shot himself.

13 It's not just him saying that he looked away and
14 that he was hunched over. You heard that from I believe it
15 was Darius Hailey as well as you heard that from Charles
16 McRae, the brother. There's no question that he was trying to
17 defend himself and get out of there, and as soon as the shot
18 was fired they took off. And I know it's troubling for us to
19 understand why a young man would flee, but let me try to
20 explain in his own words or at least through his own eyes what
21 happened. He thought, was not aware that Maurice McRae had
22 died as a result of this or that he had even been shot. His
23 fear, a country boy from Lester, his fear is that Maurice
24 McRae and/or others come looking for him. He leaves the
25 house, stays there very briefly. He doesn't appear from any

1 of the testimony from law enforcement that he stayed there for
2 any extended period of time. And they'll have you believe
3 that he took the time to discard a weapon and save five
4 bullets and put them under a sofa. Perhaps it's significant
5 in their eyes the five bullets were there. I haven't quite
6 made the connection. The five bullets were there. They were
7 wrapped up and it just doesn't make sense. There was no gun,
8 but nevertheless, my client then leaves and goes out of state.

9 I'm from Darlington county. And I don't live as
10 close to the state line as you do, and I know that a lot of
11 people in Marlboro County, they'll take a shorter road and
12 drive to Laurinburg, drive somewhere else to shop so, it's not
13 a big deal to jump back and forth from the county and I think
14 some of you probably even have family that live on other side
15 of the state line. Crossing the State line is not a big deal.
16 It sounds very, very serious -- and it is under the
17 circumstances -- but yet, people do it every day. They cross
18 the state line to go to church, to work, school, whatever. So
19 he leaves and goes to Highpoint, North Carolina, finds out a
20 few days later that Maurice McRae has died. So going from
21 fear of being, of retribution, he goes from fear of being
22 prosecuted. And he's scared, and he didn't use good judgment.
23 But he's not on trial today at all for using bad judgment
24 following the scene; he's on trial for murder. I say all that
25 because I think that sometimes what we do is we try to find

1 some of things that we don't like about it and try to color
2 somebody or make somebody. If you really, really focus on the
3 facts here it's -- there was a threat made at Building ; my
4 client retreated. He did nothing to contribute to that. He
5 did nothing to bring that on. The State will have you believe
6 that he should have been afraid, he should not have down had
7 he known, because that was Maurice McRae's girlfriend when my
8 client said he didn't know they were together; he hadn't been
9 in touch with her. But even so, it doesn't justify going and
10 getting a gun and threatening to kill somebody. My client
11 then did nothing wrong to provoke that, retreated as his duty
12 was, and then on the last moment used the force that he
13 thought was necessary when he thought he saw a gun. I asked
14 the question of every witness here whether they had removed
15 the gun. They removed the cell phone, they removed money,
16 they removed keys. Law enforcement never asked for those
17 things and it doesn't appear law enforcement even asked when
18 they got there if anybody removed anything off the body. I
19 asked that question; it doesn't appear that they did. My
20 client said he saw a gun. My client had just been threatened
21 with a gun. I think it's reasonable to infer or to believe
22 that someone who threatens to kill you says he's going into a
23 building to get a gun and then marches all the way across the
24 parking lot to where you were trying to leave and then begins
25 to pull something from his pocket, it's reason to believe

1 that's a gun and you see something that appears to be a gun
2 and then you don't stick around to look for the gun. I guess
3 had he, maybe the State would be satisfied if he had got out
4 the car and then looked for gun.

5 The case is yours now. I do truly appreciate you
6 being here. There's no question in my mind this case is a
7 case of self-defense. I don't know how else my client could
8 have behaved any different under the circumstances. He was
9 cornered in that car, was not the driver, had no way to
10 escape. There was a question about how long did they stood in
11 front of that. They parked there you heard five minutes,
12 which I think is completely unrealistic; it was just moments.
13 I think Vula Davis even indicated it was just moments. Vula
14 Davis looking out the window through 3 inches through the
15 blinds, looks through the window and saw the shooting. So I
16 don't want to belabor the point; I've made my argument. We've
17 argued the case. You know, it -- you're going to soon find
18 out what the law is. Please do apply these facts. And I ask
19 you to go back to what happened Building and think about the
20 four people who were there. One of them has passed and you
21 heard one way or another from all three of them. I ask that
22 you focus on that. Forget about the other distorted things
23 about what the guys down at the end of the parking lot saw or
24 thought they heard. Focus on that. Because every one of
25 their testimonies was different in different way. One of them

1 heard Maurice McRae say, let me holler at you, or what's up,
2 or you got me now. Or some heard Brandon Ray say, I got you,
3 and then other people didn't hear it. But then Jonathan
4 Covington did say that Maurice McRae came in a threatening
5 posture and was threatening him, was coming toward Brandon Ray
6 in a threatening manner. And you heard -- he was the young
7 man from SCDC; he got on there.

8 I have a great deal respect for Ms. Munnerlyn. She
9 is a first class professional, a great lawyer. She has been
10 making a very compelling case for the State. She's done a
11 very good job here today, and I think we tried a very
12 efficient case. I think at the conclusion of the case though
13 she's going to ask you about malice, and you know, where the
14 malice was. I don't think there was any. I think you're
15 going to come back to self-defense and that conversation that
16 happened in front of Building . On behalf of my client I
17 thank you for your patience. Thank you for serving as jurors.

18 THE COURT: Ms. Munnerlyn.

19 MS. MUNNERLYN: May it please the Court, Your Honor.

20 THE COURT: Yes, ma'am.

21 MS. MUNNERLYN: Mr. Holt, ladies and gentlemen, this
22 is the last time I will talk with you and then this matter
23 will be in your hands. Talked to you about the law and now we
24 need to talk about what the evidence is and what you can fit
25 into those evidence, how you can satisfy those questions. And

1 you know, you heard from a lot of different people, and
2 nobody -- none of them were exactly the same. And I will
3 submit to you that it's normal because no two people hear or
4 see the same thing the same way. So there are always going to
5 be the little differences. But by and large, when you look at
6 the case and you hear all of the evidence and you look at the
7 physical evidence, you have to try and take that and fit it
8 together. It's like a puzzle, what makes sense and what does
9 not make sense, what fits and what doesn't. And I would
10 submit to you, the biggest piece of that puzzle is Maurice
11 McRae himself. He is not here. His family no longer has him;
12 he's gone. He cannot speak for himself. We are doing the
13 best we can to speak for him of what happened that day. But
14 what can speak for him is his injuries, how he died.

15 You have a number of documents here, one of which is
16 your autopsy report. And you heard from Doctor Green who
17 came; he testified to you about those injuries. And as part
18 of this autopsy -- and I encourage you to read through it.
19 It's got a little, a small portion of it which they talk about
20 the entire autopsy, but it's one portion of the actual autopsy
21 that talks about the evidence of injury. I would encourage
22 you to read that so you can understand really what we're
23 talking about here. But here on the diagram -- and he
24 testified to it and he tried to explain to you how the
25 injuries were, but you can see there are three holes for one

1 bullet. We know that it was only one bullet. We know there
2 was only one shot fired, but there are three holes. The
3 bullet traveled through not the bone, but through the meaty
4 tissue, the muscle here. Through his arm and entered, not
5 here, not the front of him, it entered the side of his chest,
6 passed through his arm, completely through his arm. Entered,
7 exited, then entered his body. And then it traveled through
8 his body back toward his backbone basically. It lodged in
9 the, what they call the vertebral bodies, in his -- the
10 vertebra in his back in his spine here. The only way for that
11 bullet to have traveled that path was for him to have been at
12 an angle such as this from the gun. He could not have been
13 facing the car directly. He had to have been at an angle for
14 the bullet to have traveled in such a fashion. And take that
15 and see if you can fit Brandon Ray's testimony with that
16 injury. Nobody can change this, okay? This is, as it is,
17 it's not the somebody's testimony that change one day to the
18 next. There's no changing this injury and the path of that
19 bullet, and it speaks volumes. And the shirt he was wearing,
20 if you want to look further, the shirt he was wearing, he was
21 wearing when he was shot, is in State's Exhibit 3 in this box.
22 We'll send gloves back. You're welcome to take it out and
23 look at the holes in it, see exactly the evidence where that
24 bullet traveled. How could he have been standing in order to
25 be shot in such a fashion. And I submit to you that there's

1 no way it could have happened the way that Brandon Ray said.
2 Could not have been facing the car directly. And I asked him
3 specifically that question; and he said, oh, yes, he was
4 facing me just like this, face to face. But it could not --
5 the injury just does not support that.

6 There are a lot of inconsistencies here, but
7 let's -- but there are also a lot of -- there's also a lot of
8 consistencies between various people's testimony and that's
9 what you've got to put together. They entered -- they come
10 there. We know there's a history between Maurice and Brandon
11 Ray. We know they've had some problems in the past. He even
12 admitted, yeah, they'd both seen Shayna; he knew she had a
13 child with him. And he even admitted that, yep, if he had
14 known Maurice was there he wouldn't have gone there. He knew
15 that was going to be a problem. He knew Maurice was not going
16 to like that if he went there. When I asked him that on
17 cross, if you had known he was there you knew that was going
18 to be a problem, oh yeah, of course. He submits that he
19 didn't know till he got there; but he knew, he knew that was
20 going to be a problem.

21 He goes there looking for Shayna Whaley knowing he
22 has this history with Maurice McRae; they don't get along.
23 There's been testimony that there was an incident as close as
24 a month or so before this happened involving a gun that
25 Brandon Ray had and he presented it to Maurice McRae. So

1 there's a history of disagreement between these two. He
2 goes -- they don't come over here. They're going to Building
3 to see Shayna but they don't go over there. Now that's
4 interesting. Why would they park here, and not there? Is it
5 because they can easily go out right there. They don't have
6 to worry about backing up, going here, going there, going out.
7 Easily get right out there perhaps. They come in and there's
8 a group of guys here. And they stop and actually talk to
9 them. Now Brandon doesn't talk to them. Rondell knows most
10 of them and he speaks. And what do they do? They don't ask
11 for Shayna; they ask for Maurice. Yeah, they're looking for
12 Shayna, at least that's the way they want to frame it after
13 the fact. But no, when they go and they get there, didn't
14 even park there, they're asking where's Maurice. They pull in
15 and they immediately walk over here. And who's there?
16 Maurice, and Blake Wilkes. And he tells you, yeah, as
17 expected there's this rift and Maurice does not like the fact
18 that Brandon Ray is there. You don't have any business here,
19 you need to go on. Of course he uses a little different
20 language. Rondell, you need to take him away from here. And
21 he says and I don't -- I don't know what he was going up to
22 the apartment to get. Some reason he wanted him to leave. I
23 don't think there's any question he wanted him to leave. This
24 is where he stays with his girlfriend and his child. He
25 doesn't have any business wanting in on that. He -- I got

1 something for you. Goes upstairs, comes back down. They
2 come -- they start walking to the car. They get in; they back
3 out. Only they don't, you know, they don't leave. They're
4 still there. And two or three of the witnesses say that,
5 yeah, they stopped and waited. It was like they were waiting
6 on something. Now these guys that were standing around over
7 here, when they saw them coming back, knew Maurice was over
8 here, they knew there was a problem. They knew from here over
9 to here because they knew there was going to be a problem.
10 Because Brandon Ray didn't belong there; he had a problem with
11 Maurice McRae. So they come back and get in their car and
12 they back out and low and behold they sit there and here comes
13 Maurice walking here on this sidewalk, okay. Here's the car
14 over here ready to leave. Maurice is walking, as the
15 witnesses have testified, like this, at an angle, here's the
16 car. We know he has to be at least 4 to 5 feet from the end
17 of the gun. Joe Powell testified to that. He -- they did all
18 the gunshot residue on the T-shirt. There wasn't any
19 present -- gun had to be at least 4 to 5 feet. So he didn't
20 get that close to the car. He was at least that far away from
21 the car. And the witnesses who were sitting, standing over
22 here say, yeah, he's coming toward us. He's walking toward
23 us. The car is there; he's walking toward them. Remember
24 that bullet wound. Through the arm into the side of the
25 chest. Through the arm and into the side of the chest. Not

1 here, but here. And what do they say? You know, they all say
2 something a little different but Maurice says, they're still
3 there, they're still here. He told Rondell to take him away
4 and they're still here. And so what does he say? He's like,
5 what's up or, let me holler at you. Just like that. His
6 hand kind of -- his hands up now where everybody can see me.
7 And what does Brandon do at that point? At least two
8 different people hear him say before he ever shoots that gun,
9 I got you now. And he fires it. He's in the passenger seat.
10 He fires it out of the window. Maurice is over here at an
11 angle for that bullet to go in right there. I got you now.
12 Not, get away from me, leave me along, we're leaving here.
13 No, he says -- this is not self-defense; this is murder,
14 ladies and gentlemen. I got you now. All it took was one
15 shot, ladies and gentlemen 'cause the other five bullets --
16 State's Exhibit 5, the fired bullet that was removed from the
17 vertebra of Maurice McRae, 32 Smith and Wesson caliber, one
18 bullet, a revolver. Remember, the defendant admits it was a
19 revolver. Rondell Knight's statement said it was a revolver.
20 Brittany English testified revolvers hold six bullets. He
21 shot one. What was at his house? Five -- one, two, three,
22 four, five, .32-caliber Smith and Wesson bullets. So there's
23 the other five bullets, ladies and gentlemen.
24 Unfortunately, we don't have the gun because we all
25 know Brandon Ray, he didn't stick around. He didn't stick

1 around any amount of time. He was gone as soon as -- as soon
2 as Rondell Knight dropped him off at his house he was gone.
3 And look at this statement, Rondell Knight. What does Rondell
4 say? I pulled up in front of his house and then Brandon said,
5 you know not to tell anybody. You just shot somebody in
6 self-defense, why would you not? Why would you care if you
7 told anybody? If it was truly self-defense why would you even
8 care? Don't tell anybody.

9 Heather pulls up in the yard, says, listen, I got to
10 go see this friend just had a baby, it's in Highpoint, North
11 Carolina. I don't even know your last name, but can you drive
12 me up to Highpoint a couple of hours away. Heather, no last
13 name, just met her at Carl's Food Center, I need you to take
14 me up to Highpoint so I can see this girl who just had a baby.
15 He gets up there and he finds out within a couple of days low
16 and behold Maurice did die, and they got a murder warrant for
17 him. Claiming self-defense, but no, he's not going to come
18 back and tell anybody. He doesn't even call his mama. Mama
19 doesn't even know where he was. They -- law enforcement goes
20 to his mama, you know, we got this warrant for him, we need to
21 find him; don't you know where he is. No contact. No contact
22 with Brandon Ray because he's fled to Highpoint, North
23 Carolina where he is hiding from the police. And it takes
24 them the assistance of the U.S. marshals to locate him there
25 and it takes until November 17th, more than one month for them

1 to find him and arrest him. And even then, nothing about
2 self-defense. What makes sense, ladies and gentlemen? How do
3 you fit the pieces of the puzzle together? Because they can't
4 -- you can't make everybody's testimony fit, okay? You start
5 with what can't be changed. Where there is no issue of
6 credibility the physical evidence that's present that speaks
7 for itself and you go from there.

8 And I think once you sit down and you look at all of
9 this, the clothing, the bullets, the autopsy, or the photos,
10 all of the evidence and you put together the testimony of all
11 the witnesses, the only way to fit everything together is for
12 the defendant to have committed the crime of murder. And he
13 has -- he is claiming self-defense. He is claiming
14 self-defense. And the judge is going to tell you there are
15 really four elements for self-defense to be established, and I
16 don't think he has met those. And you listen closely to what
17 he has to say. The defendant has to be without fault in
18 bringing on the difficulty. Brandon Ray had been without
19 fault in coming there (inaudible). I submit to you he was
20 not. He knew that was happening. He had his plan. He knew
21 Maurice was going to building when he asked for him when
22 they both arrived. He approached him and he had that motive
23 and he said, I got you now, before they ever fired. And he
24 has to be under an actual belief that he was -- he was in
25 imminent serious bodily -- in danger of losing his life or

1 having serious bodily injury and that a reasonable person
2 would have believed the same thing. And then finally, that he
3 had no other means of avoiding the danger. He had no other
4 means but to fire the gun. But remember, he and Rondell are
5 already in the car, they've already backed out, they're
6 already headed to go out. And he sat here on this stand and
7 he told you, no, I didn't tell Rondell anything, not till I
8 shot, then I was yelling go, go, get out of here. Of course
9 he was yelling it then. He should have left right as soon as
10 they got in that car. He could have told Rondell at that
11 moment, not after he shot the shot, let's go, get out of here.

12 There never was any gun in Maurice's possession.
13 Nobody ever saw one. There wasn't anything removed from him.
14 They were in the car leaving and he shoots him. Let the
15 evidence speak for itself. And I know you will do the right
16 thing and your verdict will then speak the truth. Thank you.

17 THE COURT: All right. Mr. Foreman, and ladies and
18 gentlemen of the jury, if you would give me your attention.
19 You have followed very patiently and listened very attentively
20 to the presentation of evidence in this case and also to the
21 able arguments made by the solicitor, Ms. Munnerlyn on behalf
22 of the State, and Mr. Holt on behalf of the defendant, and I
23 thank you for that. It now becomes the duty of the trial
24 judge under the constitution of this state to charge and
25 instruct you in the law applicable to this case. And it is

1 your duty as jurors to accept and apply the law as the Court
2 will now state it to you. And as jurors it is your exclusive
3 duty to decide all of the issues of fact in this case; and for
4 that purpose to determine the effect, the value, the weight,
5 and the truth of the evidence presented to the effect that
6 both the State and the defendant will receive a fair and
7 impartial trial. Both the State and the Defendant have the
8 right to expect that you will conscientiously consider and
9 evaluate the evidence and apply the law of the case thereto.

10 Now when I use the word defendant I refer to
11 Mr. Brandon Ray. The State of South Carolina by the bills of
12 indictment in this case, which I hold in my hand, charge the
13 defendant with two offenses. In indictment number 657 he is
14 charged with the offense of murder and it is alleged that
15 Brandon Laquan Ray did in Marlboro County on or about October
16 14th, 2006 feloniously, willfully, and with malice
17 aforethought kill one Maurice McRae by shooting Maurice McRae
18 with a handgun and that he did die as a result of that and the
19 charge is one of murder. The other charge in indictment
20 Number 658 is that Brandon Laquan Ray did in Marlboro County
21 on or about October 14th, 2006 was in possession of a weapon
22 and did visibly display a firearm during the commission of a
23 violent crime, specifically, the crime of murder. To these
24 charges and to these indictments the defendant has entered a
25 plea of not guilty. This plea of not guilty places the burden

1 of proof on the State to prove by evidence which satisfies you
2 the jury of the guilt of the defendant beyond a reasonable
3 doubt before you, the jury, can find him guilty. The
4 defendant Mr. Ray is presumed in the law innocent of the
5 charges contained in these indictments. It is a cardinal and
6 fundamental rule of the law of evidence that a defendant,
7 irrespective of the enormity of the charges against him, will
8 always be presumed innocent of the crime for which he is
9 indicted unless and until the guilt of the defendant had been
10 proven by evidence which satisfies you, the jury, of his guilt
11 beyond a reasonable doubt.

12 The presumption of innocence is not just a legal
13 theory; it is not just a legal phrase. The presumption of
14 innocence is a substantial right to which every accused is
15 entitled. Our Supreme Court has declared that the presumption
16 of innocence is like a robe of righteousness placed about the
17 shoulders of this defendant; and it remains with him and
18 assigns to him that class, the innocent, until that
19 presumptive robe of righteousness has been stripped from his
20 person by evidence satisfying you, the jury, of his guilt
21 beyond a reasonable doubt. The presumption of innocence
22 accompanies the defendant from the time of his arraignment and
23 appearance in this court and continues with the defendant
24 until -- continues with the defendant after you retire to the
25 jury room to deliberate your verdict. The presumption of

1 innocence continues in existence to the benefit of the
2 defendant until you, the jury, reach the conclusion that the
3 State has proven the guilt of the defendant beyond a
4 reasonable doubt.

5 Now the State is not required to prove the guilt of
6 a defendant beyond all doubt or beyond every doubt but beyond
7 a reasonable doubt. What is a reasonable doubt? It is not an
8 imaginary or fanciful doubt or weak doubt. It is a
9 substantial doubt. It is a doubt which the words imply, a
10 doubt which you can give or assign a reason based on the
11 testimony and evidence in this case. A reasonable doubt is
12 not any sort of a doubt. You and I know from everyday
13 experiences that you may have a sort of a doubt about any
14 matter that arises no matter how trivial it may be or how
15 serious it may be. A reasonable doubt is a doubt which makes
16 an honest, sincere, conscientious juror in search of the truth
17 hesitate to act. Proof beyond a reasonable doubt is proof
18 which leaves you firmly convinced of the defendant's guilt.
19 If you have a reasonable doubt for which you can give or
20 assign a reason as to the guilt of the defendant, then he is
21 entitled to a verdict of not guilty. Reasonable doubt may
22 arise from the evidence which is in the case or from the lack
23 of evidence in the case. You, the jury, must make the
24 determination of whether or not reasonable doubt exists as to
25 the guilt of the defendant. The very fact, however, that the

1 jury engages in a full and free discussion of the issue of
2 guilt or non guilt in this case with a normal conversational
3 ebb of the flow on these issues does not automatically mean
4 that reasonable doubt exists in this case or in any other
5 case.

6 I charge you that the defendant is entitled to every
7 reasonable doubt arising in the whole case or arising in any
8 defenses that have been raised. If you have a reasonable
9 doubt as to what, how that issue should be resolved it would
10 be your duty to resolve that doubt in favor of the defendant.
11 A defendant, ladies and gentlemen, is not required to prove
12 his innocence but the State is required by law to prove every
13 essential element of the offenses charged against the
14 defendant by evidence which satisfies you, the jury, of the
15 guilt of the defendant beyond a reasonable doubt before you
16 can convict a defendant and find him guilty. If then, upon
17 the whole case, you have a reasonable doubt as to the guilt or
18 innocence of the defendant, he is entitled to that reasonable
19 doubt and would be entitled to an acquittal of a verdict of
20 not guilty. But on the other hand, if upon the whole case you
21 find that the State has proven by evidence which satisfies
22 you, the jury, of the guilt of the defendant beyond a
23 reasonable doubt then in such circumstances is would equally
24 be your duty to convict the defendant and find him guilty.
25 Now if you find the defendant guilty but you have a reasonable

1 doubt as to whether the defendant be guilty of the greater
2 crime charged or the lesser crime charged then you would
3 resolve that reasonable doubt in favor of the defendant and
4 write a verdict only as to the lesser charge. But of course
5 you cannot write a verdict of guilty to any charge against
6 that you -- unless you find that all of the elements of that
7 charge have been proven by the State beyond a reasonable
8 doubt.

9 Now I instruct you that the indictment in this case
10 which I hold in my hand cannot be considered by the jury as
11 evidence in this case. The indictment is simply the formal
12 written instrument which contains the charge against the
13 defendant and serves as the formal document by which this case
14 is brought to trial.

15 Now during this trial, ladies and gentlemen, each of
16 us, you and I, have certain duties to perform. As the trial
17 judge it is my responsibility to preside over the trial of
18 this case and I also have the duty to rule upon or pass upon
19 the admissibility of evidence offered during the progress of
20 the trial. The Court rules only on the admissibility of the
21 evidence, not the weight or the truthfulness of the evidence.
22 That is a matter for you to determine. You are to consider
23 only the competent evidence before you and you to disregard
24 and disabuse from your mind any testimony ordered stricken
25 from the record during the course of this trial, if there be

1 any, and you are to consider only the testimony which has been
2 presented from the witness stand together with any exhibits
3 that have been introduced into evidence.

4 I have the additional duty to charge you with the
5 applicable law in this case. As the presiding judge I am the
6 sole judge of the law of this case, and it is your duty to
7 accept and apply the law as I now state it to you. If you
8 have a preconceived idea as to what the law is or what the law
9 ought to be in this case and it does not agree with what I
10 tell you the law is, you are obligated under your oath to
11 abandon this preconception on your part because you are sworn
12 to accept and apply the law precisely as the Court states it
13 to you. In every case tried in this Court before a jury the
14 jury becomes the sole and exclusive judge of the facts. You,
15 the jury, are the judge of the facts in this case. The Court
16 is the judge of the law. The constitution of this State has
17 declared that the trial judge shall not intimate, state,
18 comment upon, or make any statement to a trial jury about the
19 facts of a case. Since you are the trial judge of the facts
20 you're not to infer from anything that I have said during the
21 progress of this trial in ruling upon the admissibility of the
22 evidence or otherwise, or anything that I say to you now
23 during the course of this charge to you that I have any
24 opinion about the facts in this case; I do not. The law does
25 not permit me to have an opinion. That is a matter that is

1 solely for you, the jury, to determine. As jurors then it is
2 your duty to determine as I have stated the effect, the value,
3 the weight, and the truth of the evidence presented during the
4 course of this trial. Necessarily then, you must assess the
5 credibility of the witnesses who have testified in this case.
6 Credibility is simply a legalistic term meaning believability.
7 It becomes your duty to analyze and evaluate the evidence and
8 to determine that evidence which convinces you of its truth.
9 I charge you that in determining the question of credibility
10 or believability of the witnesses you have the right to
11 believe one witness as against several witnesses or several
12 witnesses as against one witness. You may believe a part of
13 the testimony of a witness and reject the remaining part of
14 the testimony of that same witness. You may believe the
15 testimony of a witness in its entirety or you may reject the
16 testimony of a witness in its entirety. You may consider
17 whether any witness has exhibited any interest, any bias, or
18 any prejudice in the case, and you may consider the demeanor
19 or the appearance of the witness from the witness stand. And
20 you may consider the opportunity for knowledge concerning
21 those things about which a witness testified. These
22 considerations you do not exercise arbitrarily, but if in your
23 good judgment there is sound reason in the record for so
24 doing. Because your objective, ladies and gentlemen, is to
25 determine the truth whether it comes from one or more

1 heart regardless -- a heart regardless of social duty and
2 fatally bent on mischief. Malice is the wrongful intent to
3 injure another person. It indicates a wicked or depraved
4 spirit, intent on doing wrong. Malice is legal term implying
5 wickedness and excluding just cause or excuse. It is the
6 doing of a wrongful act intentionally and without just cause
7 or excuse. The term malice indicates a form, purpose, a
8 design to do a wrongful act under the circumstances that
9 exclude any legal right to do it. Malice may be expressed or
10 implied. The words expressed or implied add nothing to the
11 meaning of the word malice. They do not imply different kinds
12 of malice but merely show the manner which the only kind of
13 malice known in the law may be shown to exist; that is, either
14 by positive evidence or by inference. Expressed malice is
15 when there is deliberate intention to unlawfully take the life
16 of another. Implied malice is when circumstances demonstrate
17 a wanton or reckless disregard for human life or a reasonably
18 prudent man would have known that according to the through
19 common experiences that there was a plain and strong
20 likelihood that death would follow the contemplated act. The
21 law says that one intentionally kills another with a deadly
22 weapon, the implication of malice may arise. If facts are
23 proven beyond a reasonable doubt sufficient to raise an
24 inference of malice to your satisfaction, this inference would
25 be simply an evidentiary fact to be taken into consideration

1 by you, the jury, along with the other evidence in this case
2 and you may give it such weight as you determine it should
3 have.

4 A deadly weapon is any article, instrument, or
5 substance which is likely to cause death or great bodily harm.
6 Whether an instrument or object has been used as a deadly
7 weapon depends upon the facts and circumstances of each case.
8 Although malice must be aforethought there is no requirement
9 that it must exist for any appreciable length of time before
10 the commission of the act. It may be conceived at the very
11 moment the act occurs. It must be some -- but there must be a
12 combination of evil intent and the act producing the result.

13 Now on the legal principal that the lesser or the
14 greater offense includes the lesser offense and they -- I'm
15 going to instruct you on the law of voluntary manslaughter,
16 which is a lesser included offense of murder. What is
17 voluntary manslaughter? Section 16-3-50 of the Code of Laws
18 of South Carolina defines manslaughter as the unlawful killing
19 of another without malice expressed or implied. Voluntary
20 manslaughter is the unlawful killing of a human being without
21 malice in sudden heat of passion upon sufficient legal
22 provocation. To prove voluntary manslaughter the State must
23 demonstrate beyond a reasonable doubt that the defendant
24 unlawfully killed another without malice and sudden heat of
25 passion based upon sufficient legal provocation. Heat of

1 passion alone will not suffice. Both heat of passion and
2 sufficient legal provocation must be present at the time of
3 the killing to constitute voluntary manslaughter. The sudden
4 heat of passion upon sufficient legal provocation while it
5 need not dethrown reason entirely or shut out knowledge and
6 volition must be such as would naturally disturb the sway of
7 reason and render the mind of an ordinary person incapable of
8 cool reflection and produce that according to human experience
9 may be called an uncontrollable impulse to do violence. The
10 passion need not be so overpowering as to shut out all
11 knowledge and destroy volition. To constitute sufficient
12 legal provocation the provocation must come from some act
13 of/or related to the victim. The provocation of the deceased
14 must be such as naturally and instantly produces in the mind
15 of a person ordinarily constituting the highest degree of
16 exasperation, rage, anger, sudden resentment, or terror,
17 rendering the mind incapable of cool reflection. If
18 sufficient legal provocation does not exist, the killing even
19 if committed during the heat of provo -- the heat of passion,
20 is not voluntary manslaughter. Provocation must deprive one
21 of the power of self-control but need not entirely dethrone
22 reason.

23 All right. Now ladies and gentlemen, in this case
24 the matter of self-defense has been raised. Self-defense is a
25 complete defense. If established you must find the defendant

1 not guilty. There are four elements required by the law to
2 establish self-defense. First, the defendant must without
3 fault in bringing on the difficulty. Secondly, the defendant
4 must have been in actual imminent danger of losing his life or
5 sustaining serious bodily injury, or he must have actually
6 believed he was in imminent danger of losing his life or
7 sustaining serious bodily injury. Third, if his defense is
8 based upon his belief of imminent danger a reasonably prudent
9 person of ordinary firmness and courage would have entertained
10 the same belief. If the defendant actually was in imminent
11 danger then the circumstances would be such as would warrant a
12 person of ordinary prudence, firmness, and courage to shoot
13 the fatal shots in order to save himself from serious bodily
14 harm or losing his own life. And finally, as a fourth
15 element, the defendant had no other probable means of avoiding
16 the danger of losing his own life or sustaining serious bodily
17 injury than to act as he did not in the particular instance.
18 Those are the elements of self-defense.

19 A defendant in a self-defense case has the right to
20 act on appearances. A defendant must have believed he was in
21 imminent danger, not that he was actually in such danger,
22 because he had the right to act on appearances and under the
23 circumstances as they appeared to him. He believed he was in
24 such danger and a reasonable prudent man of ordinary firmness
25 and courage would have entertained the same belief. Words

1 accompanied by hostile acts depending on the circumstances
2 establish a plea of self-defense. Self-defense is not
3 available to one who uses language so obstreperous that a
4 reasonable person would expect them to bring upon a physical
5 encounter and which did actually contribute to bringing it on.

6 Now I would tell you that there is no burden on the
7 defendant to prove self-defense. The defendant is not
8 required to prove any element of self-defense. The burden is
9 on the State to disprove self-defense beyond a reasonable
10 doubt. If you have a reasonable doubt as to the defendant's
11 guilt after considering all of the evidence including the
12 evidence of self-defense, then you would find the defendant
13 not guilty. On the other hand, if you have no reasonable
14 doubt as to the defendant's guilt after considering all of the
15 evidence including the evidence on self-defense then you would
16 find the defendant guilty.

17 Now those are the principal charge in this case, but
18 in addition, there is a second indictment and you would only
19 go to considering the second indictment if you find the
20 defendant guilty of murder or voluntary manslaughter. Let me
21 say that again. You will not go to considering the second
22 indictment in this case, that is, the possession of a firearm
23 during the commission of a violent crime unless you find him
24 guilty of either murder or voluntary manslaughter. Section
25 16-23-490 of our Code makes it illegal to possess a firearm

1 during the commission of a violent crime. Section 16-1-60
2 provides that a violent crime includes the offense of murder
3 and the offense of voluntary manslaughter. So for you to find
4 the defendant guilty of the separate statutory offense of
5 possessing a firearm during a violent crime you must first
6 find the defendant guilty of either murder or voluntary
7 manslaughter. As used in our code a firearm is defined as any
8 machine gun, automatic rifle, revolver, pistol, or any deadly
9 weapon which will or is designed to or may be readily
10 converted to expel a projectile.

11 Now ladies and gentlemen, I have about finished my
12 instructions to you, but I will tell you that you are not
13 partisans or advocates for the State of South Carolina or for
14 this defendant. You do not serve on the jury to reward your
15 friends or to punish your enemies. Obviously such a perverted
16 system of justice would be intolerable. You have been
17 selected by both the State and the Defendant in this case as
18 fair and impartial jurors. It is your duty then by your joint
19 deliberations to determine the truth in this case giving to
20 the defendant the benefit of each and every reasonable doubt
21 on each and every issue; and then to the facts which you
22 determine to be true, you then take apply the law which has
23 been given to you by this Court and thus arrive at a verdict
24 which does speak the truth. Because the word verdict, ladies
25 and gentlemen, has a Latin derivative. It comes from the

1 Latin word veredicto meaning to speak the truth or true
2 saying. And when you have done that you will have satisfied
3 your oath as jurors and you will have discharged your duty to
4 this Court.

5 Now I want to instruct you on the forms of verdict
6 in this case. If the State has failed to prove the guilt of
7 the defendant beyond a reasonable doubt your verdict would be
8 two words, not guilty. If the State has proven the guilt of
9 the defendant beyond a reasonable doubt your verdict would be
10 one word, guilty. I would tell you now that the verdict you
11 render in this case must be the verdict of each and every
12 juror. It must be your unanimous verdict. All twelve of you
13 must agree on the verdict which you authorize the foreman to
14 write. Now in this case on the murder charge, the murder
15 indictment let's say, there are three possible verdicts and I
16 have written on a sheet of paper your possible verdicts in
17 each indictment. I would tell you that the order which I have
18 put your possible verdicts on these sheets has no significance
19 whatsoever, and you should not infer from the order in which I
20 have put them on these sheets of paper that I have any opinion
21 as to what your verdict should be; I do not. The law does not
22 allow me to have an opinion, but obviously in putting
23 something down on paper I had to put something first and put
24 something second. But on the indictment number 0657, which is
25 the murder indictment but would also include the lesser

1 included offense of voluntary manslaughter, there are three
2 possible verdicts. Across the top up here I put, State of
3 South Carolina, County of Marlboro, the Court, the case name
4 and number, and we -- verdict: We, the jury, by unanimous
5 consent find the defendant Brandon Laquan Ray guilty of murder
6 or guilty of voluntary manslaughter or not guilty. One of
7 those three and you would signify your verdict by putting a
8 check or X out by whichever is the unanimous verdict of the
9 jury. And Mr. Foreman, you would sign your name here and we
10 would return you to the jury room. Now your work is not quite
11 finished at that stage. If, and only if, you find the
12 defendant guilty of either murder or guilty of voluntary
13 manslaughter you would go to consider the possible verdict in
14 indictment number 658, and that is: we, the jury, by unanimous
15 consent on the charge of possession of a weapon during the
16 commission of a violent crime find the defendant Brandon
17 Laquan Ray guilty or not guilty, which you would consider this
18 indictment only if you find him guilty of either murder or
19 guilty of voluntary manslaughter. If you find him not guilty
20 of those, either of those charges, you would not use this
21 verdict form at all.

22 Now I'm going to send you to your jury room. I'm
23 going to ask you not to begin your deliberation just yet. The
24 law does require that I take up certain matters with the
25 attorneys in this case. If it is not necessary for me to

1 bring you back into the courtroom for additional instructions
2 the bailiff will bring you the verdict forms, will also bring
3 you the exhibits that have been introduced into evidence, and
4 will instruct you to begin your deliberations. When you have
5 reached a verdict simply knock on the door and we will return
6 you to the courtroom as soon as possible. So I am going to
7 excuse you at this time, ask you to go to your jury room.
8 Don't begin your deliberations just yet. And I'm going to ask
9 the alternate to stay with me please. Thank you. If you
10 would go to your jury room.

11 (WHEREUPON, the jury was removed from the
12 courtroom at 4:07 p.m., and the following proceedings
13 commenced in open court.)

14 THE COURT: Any additions or exceptions on behalf of
15 the State, Ms. Munnerlyn?

16 MS. MUNNERLYN: No, Your Honor.

17 THE COURT: On behalf of Defendant, Mr. Holt?

18 MR. HOLT: No, Your Honor.

19 THE COURT: All right. Check the exhibits, counsel,
20 make sure that things that you've got can go into evidence.

21 And Madam Bailiff, here are the verdict forms. And
22 if you'll get the exhibits and take them. And if y'all will
23 let me talk to the alternate just a minute.

24 (Alternate is returned to the courtroom.)

25 THE COURT: I cannot allow but twelve jurors to make

1 the decision in this case. You have heard all of the evidence
2 in this case, but you're not going to participate in the
3 decision. The law only allows me to have twelve jurors.
4 However, the purpose of drawing an alternate is in the event
5 somebody gets sick, is not able to finish, so that we can
6 substitute the alternate. So I am going to excuse you from
7 any further service in connection with this case. I will tell
8 you that once you've been excused by a juror there is nothing
9 illegal about your talking with anyone about your service.
10 There's nothing illegal about anyone talking with you about
11 your service. It's a practice of which I strongly disapprove
12 and I strongly discourage, but it's not illegal. But it's up
13 to you as to whether you want to talk to anybody or don't want
14 to. I would ask that you not talk with anybody about this
15 case until after this jury has returned a verdict. You won't
16 know exactly when that is so I would ask you not talk to
17 anybody about it until at least tomorrow. But other than I'm
18 going to excuse you. You are free to go from any further
19 responsibility in this case.

20 (Alternate was excused.)

21 (Jury began its deliberations at 4:15 p.m.).

22 THE COURT: All right, counsel, we have a note from
23 the jury foreman which I'm going to give to the court reporter
24 and have her mark it as Court's Exhibit Number 1. The
25 question is, can we have a copy of the self-defense law. I

1 propose to tell them that I do not have a written copy that
2 they can have, but that I will reinstruct them on law to
3 self-defense. Any objection to that procedure, Ms. Munnerlyn?

4 MS. MUNNERLYN: No, Your Honor.

5 THE COURT: Mr. Holt?

6 MR. HOLT: No, Your Honor.

7 THE COURT: All right, bring the jury in please.

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

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

12 THE COURT: Ladies and gentlemen, I have your note
13 regarding the law on self-defense; and while I do not have a
14 written instruction that I can give to you, I will reinstruct
15 you on the law of self-defense and I'll try to go slowly and
16 make it very clear. Self-defense is a complete defense. If
17 established you must find the defendant not guilty. There are
18 four elements required by law to establish self-defense.
19 First, the defendant must be without fault in bringing the
20 difficulty. Secondly, the defendant must have been in actual
21 imminent danger of losing his life or sustaining serious
22 bodily injury, or he must have actually believed that he was
23 in imminent danger of losing his life or sustaining serious
24 bodily injury. Third, if the defense is based upon his belief
25 of imminent danger, a reasonably prudent person of ordinary

1 firmness and courage would have entertained the same belief.
2 If the defendant actually was in imminent danger then the
3 circumstances was such that would warrant a person of ordinary
4 prudence, firmness, and courage to shoot the fatal shot in
5 order to save himself from serious bodily harm or losing his
6 own life. And fourth, the defendant had no other probable
7 means of avoiding the danger of losing his own life or
8 sustaining serious bodily injury than to act as he did in this
9 particular instance. These are the four elements of
10 self-defense.

11 A defendant in a self-defense case has the right to
12 act on appearances. A defendant must have believed he was in
13 imminent danger, not that he was actually in such danger
14 because he had the right to act on appearances and under the
15 circumstances as they appeared to him. If he believed he was
16 in such danger and the reasonably prudent man of ordinary
17 firmness and courage would have entertained the same defense,
18 the same belief, the defense of self-defense is available.
19 Words accompanied by hostile acts may depending on the
20 circumstances establish a plea of self-defense. Self-defense
21 is not available to one who uses such obstreperous language
22 that a reasonable person would expect it to bring on a
23 physical encounter and which did actually contribute to
24 bringing it on. There is no burden on the defendant to prove
25 self-defense. The defendant is not required to prove any

1 element of self-defense. The burden is on the State to
2 disprove self-defense beyond a reasonable doubt. If you have
3 a reasonable doubt as to defendant's guilt after considering
4 all the evidence including the evidence of self-defense you
5 must find the defendant not guilty. On the other hand, if you
6 have no reasonable doubt of the defendant's guilt after
7 considering all of the evidence including the evidence of
8 self-defense, then you must find the defendant guilty.

9 I believe that's about as clearly as I can state
10 what the law of self-defense is, and I would ask you go to
11 back to your jury room and consider your -- continue to
12 deliberate. Thank you.

13 (WHEREUPON, the jury was removed from the
14 courtroom at 5:14 p.m., and the following proceedings
15 commenced in open court.)

16 THE COURT: Any objections to the additional
17 instructions on behalf of the State, Ms. Munnerlyn?

18 MS. MUNNERLYN: No, Your Honor.

19 THE COURT: On behalf of defendant, Mr. Holt?

20 MR. HOLT: No, Judge.

21 THE COURT: All right, we'll be at ease.

22 MS. MUNNERLYN: Your Honor, there is one thing that
23 I would put in the record. I had discussed this with
24 Mr. Holt. I have got a copy of that subpoena for Mr. White,
25 and it was transmitted to the Sheriff's Office on August 21st.