

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Lancaster County

Honorable Daniel McLeod Coble, Circuit Court Judge

CHRISTOPHER MARQUAVIOUS MOORE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001080

APPENDIX

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D'ANGELO ROSEBORO - DIRECT

1 A My whole life.

2 Q All right. And did you hang around with Derrick
3 Dixon, Quinton McClinton and Christopher Moore and Buchanan
4 a lot?

5 A When I am in Chester.

6 Q And at the time that this happened were you living in
7 Chester?

8 A No, ma'am.

9 Q Were you living in Rock Hill?

10 A Yes, ma'am.

11 Q And once you got over to the house at Chester Homes
12 did y'all -- did the five of y'all start talking about
13 leaving there and going somewhere else?

14 A Eventually, yes.

15 Q What was the discussions?

16 A The discussion was somebody owed us some money and we
17 were going to get what we was owed basically.

18 Q What did they owe you money for?

19 A Like drugs or something.

20 MR. FRICK: Your Honor, objection to testimony under
21 ground previously stated on 404B and 403.

22 THE COURT: Overruled.

23 Q Okay. So they owed you money for drugs so you were
24 going over there to collect money. Did you y'all talk
25 about what you were going to do before you left Chester

D'ANGELO ROSEBORO - DIRECT

1 Homes?

2 A No, ma'am.

3 Q Did you talk about the fact that you were going to go
4 over there and try to get your money back from the people
5 that owed you money?

6 A Oh, yes, ma'am.

7 Q Who were the people that owed you money, do you know
8 any of their names?

9 A No, ma'am.

10 Q Did you know where they lived?

11 A No, ma'am, not until we got to where we were going.

12 Q But you would assume that somebody else that was going
13 with you must have known where they lived; is that right?

14 A Yes, ma'am.

15 Q But you personally didn't know.

16 A No, ma'am.

17 Q Okay. So did y'all leave the place at Chester Homes
18 and go over to this place where you were going to collect
19 the money?

20 A Yes, ma'am.

21 Q Where did you end up going to collect the money, do
22 you remember what street it was?

23 A Featherstone Road.

24 Q Okay. So when you got -- when you left Chester Homes
25 did y'all get into a gold Dodge Ram pickup truck to go over

D'ANGELO ROSEBORO - DIRECT

1 there and collect the money?

2 A Yes, ma'am.

3 Q And tell us who -- I want you to walk slowly through
4 it, who went with you and who got -- and where did they sit
5 in the car.

6 A Mr. Quinton was driving, Buchanan was on the
7 passenger side, Dixon was on the window, I was in the
8 middle and Mr. Moore was behind the passenger.

9 Q Okay. Did you have a gun with you?

10 A Yes, ma'am.

11 Q How many?

12 A One.

13 Q What kind of gun did you have with you?

14 A A .45.

15 Q And where did you get it?

16 A I had already had it.

17 Q And did Terrance Buchanan have a gun with him?

18 A Yes, ma'am, I believe so.

19 Q Do you know what kind of gun it was?

20 A No, ma'am.

21 Q Do you know how many guns he had?

22 A No, ma'am.

23 Q All right. Did Quinton McClinton have a gun with him?

24 A I don't remember seeing him with a gun but I think
25 so.

D'ANGELO ROSEBORO - DIRECT

- 1 Q And what about Derrick Dixon?
- 2 A Yes, ma'am.
- 3 Q Do you know what kind of gun he had?
- 4 A No, ma'am.
- 5 Q And what about Chris Moore?
- 6 A Yes, ma'am.
- 7 Q What kind of gun did he have?
- 8 A A big gun.
- 9 Q I'll show you what has been entered into evidence as
10 State's 12. Is this the gun that Chris Moore had?
- 11 A I think so.
- 12 Q Did it look like this?
- 13 A Yeah.
- 14 Q So you guys are all in the car or the truck in the
15 places you said that you were sitting, and now at this
16 point do you start driving.
- 17 A Pardon me?
- 18 Q I said you've already described everybody is in the
19 truck and everybody has got the gun and now you start out
20 on this journey to go collect money.
- 21 A Yes, ma'am.
- 22 Q Where did you end up?
- 23 A On Featherstone Road.
- 24 Q Are you pretty familiar with Chester?
- 25 A Yes, ma'am.

D'ANGELO ROSEBORO - DIRECT

- 1 Q Did y'all park on Featherstone Road?
- 2 A Yes, ma'am.
- 3 Q Did you know where you were parking and whose house
- 4 you were parking at?
- 5 A No, ma'am.
- 6 Q All right. Just take a second to look at the map and
- 7 get familiar with it. And do you see Featherstone Road on
- 8 this map?
- 9 A Yes, ma'am.
- 10 Q Is that where you ended up in the truck?
- 11 A Yes.
- 12 Q All right. And what were y'all going to do when you
- 13 got to Featherstone Road? You said you parked the truck,
- 14 did y'all all get out or stay in?
- 15 A We got out.
- 16 Q Where did you go?
- 17 A We walked through the grass to Holmes Road.
- 18 Q Walked through the grass to Holmes Road?
- 19 A Yes.
- 20 Q What were you going to do at Holmes Road?
- 21 A Go get the money that was owed to us.
- 22 Q It that where the house was that y'all were going to?
- 23 A On Holmes Road, yes.
- 24 Q Can you point out Holmes Road on that map, please?
- 25 A (Witness complies.)

D'ANGELO ROSEBORO - DIRECT

1 Q So why were you going to go to Featherstone Road to go
2 to Holmes Road? How were you going to get to Holmes Road
3 to Featherstone Road?

4 A Walk.

5 Q Were you going to walk on a road, or how were you
6 going to get there?

7 A Through the grass.

8 Q So did you start walking through the grass?

9 A Yes, ma'am.

10 Q Okay. When you got out of the truck did you have your
11 gun with you?

12 A Yes, ma'am.

13 Q To your knowledge did everybody else in the truck also
14 get out with the guns that you described them having? Did
15 everybody take the guns out of the truck and start walking?

16 A Yes, ma'am.

17 Q And did you get all of the way over to Holmes Road?

18 A No, ma'am.

19 Q Did you stop somewhere?

20 A Yes, ma'am.

21 Q Where did you stop?

22 A In like the middle of the grass.

23 Q Why did you stop?

24 A This car had seen us or something like that and then
25 we realized that no one was there at that home.

D'ANGELO ROSEBORO - DIRECT

- 1 Q So nobody was there at which home?
- 2 A Holmes Road.
- 3 Q So the one you are going to nobody was there.
- 4 A Yes, ma'am.
- 5 Q And you just mentioned a car, which car are you
- 6 talking about?
- 7 A That was a car on Featherstone Road that rode past
- 8 us.
- 9 Q Did that kind of spook y'all?
- 10 A Yes.
- 11 Q Did y'all stay and hangout after you saw the car or
- 12 did y'all leave?
- 13 A We was already leaving because we already realized
- 14 that nobody was there.
- 15 Q And so you see the car. Did you know whose car it was
- 16 that rode past you?
- 17 A No, ma'am.
- 18 Q Were they going fast, slow or could you tell?
- 19 A Not really.
- 20 Q Okay. And so did y'all leave the field at that point
- 21 in time?
- 22 A Yes, ma'am.
- 23 Q And where did you go?
- 24 A On the way home we were --
- 25 Q Well, let's stop. Did you get back in the truck?

D'ANGELO ROSEBORO - DIRECT

1 When you left the field did you get back in the truck to
2 drive away?

3 A Yes, ma'am.

4 Q All right. When you got back in the truck, was
5 everybody still sitting in the same place that you just
6 told us about?

7 A No, ma'am.

8 Q Well, then walk us through really slowly of who was
9 sitting where in the truck at that point.

10 A McClinton was still driving, Buchanan was still on
11 the passenger side, the only ones that switched was me and
12 Dixon. I was on the window at this time and he was in the
13 middle.

14 Q Was Chris Moore still sitting behind the passenger
15 next to the door?

16 A Behind the passenger, yes, ma'am.

17 Q Okay. So where did you go?

18 A We all got back in the truck and rode to the top of
19 Featherstone Road.

20 Q And can you show the jury on the map? All of these
21 people are from Fairfield County.

22 A This is the stop sign, we got right here, went to the
23 stop sign.

24 Q And which road were you going to? How were you going
25 to get out of there?

D'ANGELO ROSEBORO - DIRECT

1 A Featherstone leads to Old York Road.

2 Q So were you going to Old York Road?

3 A Yes, ma'am.

4 Q Where is Old York Road?

5 A Is this it right there?

6 Q It's labeled, you're going to have to find it on the

7 map, I can't testify for you.

8 A It's here.

9 Q Is that Old York Road?

10 A Yes, ma'am.

11 Q So you said you left out of Featherstone and you went

12 and turned on Old York Road, where did you go? Let me ask

13 you this, when you were coming off Featherstone did you see

14 anything unusual?

15 A Yes, ma'am.

16 Q And what did you see?

17 A We see a car before we get to the stop sign at the

18 stop sign just waiting, they had their hazard lights on.

19 Q They had their hazard lights on?

20 A Yes, ma'am.

21 Q Could you tell or do you know if that was the same car

22 that had rolled past you earlier when you were still in the

23 field?

24 A I couldn't tell, but then again I can tell because

25 the car was pointing at the truck.

D'ANGELO ROSEBORO - DIRECT

1 Q So the car was pointing at the truck?

2 A Yes, ma'am.

3 Q At that point in time do you see any other cars?

4 A Yes, ma'am. It was a red Cadillac turning onto
5 Featherstone.

6 Q And where was it coming from?

7 A Old York Road.

8 Q So the red Cadillac is coming in and you're behind the
9 car with the hazards on. What did y'all do?

10 A Went around the car with the hazards on, that's just
11 before the Cadillac pulled onto the road while we're at
12 the stop sign. The car pulled up and that's when she
13 started pointing at the truck, I guess, to let him know
14 that's the truck.

15 Q Did you know any of these people in these other cars?

16 A No, ma'am.

17 Q Did anybody in the truck say anything?

18 A No, ma'am.

19 Q Or make any comments about who the people were or
20 anything like that?

21 A No, ma'am.

22 Q All right. So where did y'all go once you pulled
23 around the car? You said you turned on Old York Road,
24 where did you go after that?

25 A We were about to go to Chester Homes and then the car

D'ANGELO ROSEBORO - DIRECT

1 was following us.

2 Q How do you know it was following you?

3 A Because when we went through the light it ran the red
4 light and kept behind us.

5 Q Was it flashing brights at you or doing anything like
6 that or could you tell? Were you looking behind you?

7 A At first I was looking back.

8 Q When you say you came out of -- show us on the map.
9 You come down Old York Road, you said you got to the red
10 light and the car went through the red light, show me where
11 that was, please.

12 A We made a left off Featherstone onto York Road, we
13 made a left like going towards Chester Homes. I don't
14 know how long the road is but I'm pretty sure the light
15 will probably be about right here.

16 Q Keep going, what happened after that?

17 A We go through the light, the car runs the red light
18 and keeps following us. We was on our way to Chester
19 Homes when we realized the car was following us so we kept
20 going making sure the car was following us, it was
21 following us and we were trying to get away. We turned
22 onto -- I don't know the name of that road but it leads to
23 Saluda, but we turned onto that road and we turned onto
24 Saluda and we rode up to Saluda by the barbershop and we
25 had to turn onto McClure Street.

D'ANGELO ROSEBORO - DIRECT

1 Q Did y'all stop anywhere on this route or did you just
2 keep going?

3 A Yeah. We stopped like right there beside the
4 barbershop on McClure Street.

5 Q Did anybody say to stop the car? Why did y'all stop,
6 do you know?

7 A We was trying to see what the guy was following us
8 for.

9 Q At what point did you realize he was following you?
10 About where on this map were you when you realized he was
11 following you?

12 A When he sped -- we really kind of knew at the
13 Featherstone stop to be honest because of the way the car
14 pulled on and we made the left, he backed into the traffic
15 instead of like making three point turn, go to the stop
16 sign and then make the left, he backed onto the traffic
17 while cars was coming and shot behind us right there.

18 Q And so you said you got to the barbershop and you
19 stopped to see what he wanted. Did y'all find out what he
20 wanted?

21 A No, ma'am.

22 Q Did anybody roll down the window to talk to him?

23 A I think I let the window down, but after that we just
24 pulled off.

25 Q Did he start to get out of the car or anything, did

D'ANGELO ROSEBORO - DIRECT

- 1 you see him?
- 2 A He probably walked to the end of his car where the
- 3 gas tank was.
- 4 Q Was he holding anything in his hands?
- 5 A I couldn't tell, it was dark.
- 6 Q Were you looking at him?
- 7 A Yeah, I think I did look when he got out of the car.
- 8 Q Did you recognize him? To your knowledge did anybody
- 9 else in the car recognize him?
- 10 A No, sir. I mean, no, ma'am, I'm sorry.
- 11 Q You said then the car you were riding in took off.
- 12 A Yes, ma'am.
- 13 Q And did you see what the man in the red Cadillac did?
- 14 A Like he kind of jogged back to his car and got back
- 15 in his car and followed behind us again.
- 16 Q So where did y'all go?
- 17 A We made a left off McClure Street onto Patrick
- 18 Street.
- 19 Q And could you see the car behind you at that point?
- 20 A Yes, ma'am, it was coming up pretty fast.
- 21 Q All right. Did anything unusual happen at that point?
- 22 A We heard gunshots.
- 23 Q Did you hear them?
- 24 A Yes, ma'am.
- 25 Q How many did you hear?

D'ANGELO ROSEBORO - DIRECT

1 A Like one.

2 Q One? Okay. And can you point on the map about where
3 you were when you heard the gunshots?

4 A We made a left onto Patrick Street so -- we made a
5 left onto Patrick Street so we probably started -- the
6 daycare would probably be right here, then you have to go
7 around that curve, he started shooting like right off this
8 curve right here.

9 Q And what did y'all do?

10 A Speed up to get away from the car, make a left onto
11 First Street, made a right back onto Saluda and made a
12 left onto Roundtree Circle -- we made a left off Saluda to
13 get back to Roundtree Circle by the church.

14 Q Okay. Where is Roundtree Circle?

15 A (Witness points on map.)

16 Q Now, is this an area that you're familiar with?

17 A I wouldn't say familiar with but I know where the
18 area is.

19 Q And you knew it before that date, right?

20 A Yes, ma'am.

21 Q So once you got over -- when you got turned onto
22 Parkway to go to Roundtree which you just talked about, did
23 you see the car behind you at that point?

24 A Yes, ma'am, it was coming up pretty fast.

25 Q At any point did anybody in the car that you were

D'ANGELO ROSEBORO - DIRECT

1 riding in shoot out of the truck?

2 A Yes, ma'am.

3 Q Where were you when that happened?

4 A On the window behind the driver.

5 Q Okay. I'll come back to that in just a second. Where
6 along the route were you? What street were you on?

7 A I don't know the name of the street, but we was on
8 the road, like once you make the left off Saluda to get
9 back Roundtree, the street by the church, we were like
10 right there by the ball park.

11 Q Are there railroad tracks on that road?

12 A Yes, ma'am.

13 Q Had you crossed -- from the time you turned when the
14 shot or shots were fired --

15 A We hadn't crossed the railroad tracks.

16 Q You had not just crossed the railroad tracks.

17 A No, ma'am.

18 Q About how fast were you going?

19 A I can't really say the exact speed because I wasn't
20 looking at the -- but pretty fast.

21 Q And how far behind you was the Cadillac? I mean car
22 lengths, let's just use that, that's the easiest way to do
23 it, if you can tell, if you can't it's okay.

24 A I can't really tell.

25 Q You said that you came up that street that goes to

D'ANGELO ROSEBORO - DIRECT

1 Roundtree and that you did turn on Roundtree -- and I will
2 take this map away, okay? Was anybody saying anything? In
3 the truck you were in was anybody saying anything?

4 A No, ma'am.

5 Q Nobody was talking in the truck? Okay. Now, I want
6 to go back to what you touched on just a second ago, and
7 you said once you turned that somebody did fire a gun out
8 of the car that you were riding in. Was the gun fired back
9 toward the car behind you?

10 A Yes, ma'am.

11 Q Who fired the shot, how did it happen?

12 A I did.

13 Q Okay. And could you tell the jury exactly what
14 happened and how you went about that? Why did you decide
15 -- I mean, you just made the decision on your own or was
16 somebody in the car talking to --

17 A No. He was shooting at us so we shot the window and
18 shot back.

19 Q Did you just make this decision to do this on your own
20 or did somebody else -- did y'all talk about it, that's
21 what I'm asking.

22 A Didn't nobody have to talk about it. If somebody be
23 shooting at you, you would shoot back, right, if you had a
24 gun?

25 Q I wasn't in the situation, I don't know. I need to

D'ANGELO ROSEBORO - DIRECT

1 ask you the questions, though, and you need to answer the
2 questions. Did you make -- you made the decision on your
3 own to shoot?

4 A I made the decision on my own to shoot.

5 Q How did you go about shooting out of the car window?
6 Was the car window still down from when you had tried to
7 talked to the man at the barbershop?

8 A No. Because once we pulled off at the barbershop I
9 had let the window back up.

10 Q And did you roll it back down?

11 A I rolled it back down, yeah.

12 Q Was so you could fire out the window?

13 A Yeah. Because the man was too close to us so I guess
14 I was just trying to get him off us.

15 Q Okay. And so did you lean out of the window to fire
16 the gun?

17 A I can't remember, I think I just stuck my arm out.

18 Q And just fired back toward the car?

19 A Yes, ma'am.

20 Q Did you look back after you did it?

21 A I can't remember.

22 Q You said you did it to try to get the guy to back off
23 of you. Did it work?

24 A Did it work?

25 Q Did he back off?

D'ANGELO ROSEBORO - DIRECT

1 A Not really.

2 Q Now, I'll show you what has been marked as State's 7
3 that been entered into evidence. Did anybody else in the
4 car fire any other shots? The truck that you were riding
5 in, did anybody else fire any other shots?

6 A No, ma'am.

7 Q And did you hear -- show -- this is -- are you
8 familiar with this map, number seven?

9 A Yes, ma'am.

10 Q Okay. Can you show us, where is Roundtree Circle?

11 A Right here.

12 Q Okay. So when you turned onto it where were you
13 coming from?

14 A This way right here.

15 Q And so when you turned the corner going on Roundtree
16 Circle, do you know about how fast you were? Would you say
17 you were going pretty fast or not fast? If you don't know
18 just say you don't know.

19 A When?

20 Q When you turned from that street onto Roundtree
21 Circle.

22 A Right here?

23 Q Yeah?

24 A Made a left?

25 Q Uh-huh.

D'ANGELO ROSEBORO - DIRECT

- 1 A We were slowing down.
- 2 Q You were slowing down? Did anybody at that point in
- 3 time make any statements, anybody in the car say anything?
- 4 A Christopher Moore said let him out.
- 5 Q He said "Let me out?"
- 6 A Yes, ma'am.
- 7 Q Did anybody else in the car say anything?
- 8 A No, ma'am.
- 9 Q Did the truck -- Mr. McClinton stop the truck to let
- 10 him out?
- 11 A Yes, ma'am.
- 12 Q He did? Where did he stop the truck?
- 13 A Right here.
- 14 Q What happened when he stopped the truck?
- 15 A He pulled off but Mr. Moore got out, and then --
- 16 Q Did Moore open the door himself and get out of the
- 17 truck?
- 18 A Yes, ma'am.
- 19 Q Did you hear any gunshots at that time?
- 20 A No, ma'am.
- 21 Q Did you hear any gunshots at anytime after that?
- 22 A Yes, ma'am.
- 23 Q Where were you in the -- y'all just let Moore out and
- 24 drove off and left him there?
- 25 A Yes, ma'am.

D'ANGELO ROSEBORO - DIRECT

1 Q Where did y'all go?

2 A On around to Roundtree, like we just kept going
3 around.

4 Q Did McClinton stop the truck somewhere?

5 A Yes, ma'am.

6 Q About where was that if you can tell me?

7 A (Witness indicates.)

8 Q So as you're going around the corner you stated you
9 hear more gunshots. Do you remember how many gunshots you
10 heard?

11 A No, ma'am.

12 Q Was it one, two, three, eight, a lot, a little?

13 A A good little bit.

14 Q A good little bit. About how far around were you when
15 you heard them?

16 A Like right here.

17 Q Did anybody in the truck say anything at that point?

18 A No, ma'am.

19 Q Did you have a cellphone with you during this time?

20 A No, ma'am, I never had a phone.

21 Q Okay. When Moore got out of the car, did he have a
22 gun in his hand, State's 12 that I just showed you, that
23 big gun? I think that's what you called it.

24 A Yes, ma'am.

25 Q Did you turn back to see what he did or where he went

D'ANGELO ROSEBORO - DIRECT

1 or anything?

2 A No, ma'am.

3 Q Where did you go?

4 A On around the street there.

5 Q Okay. So when you get out of the truck did you go

6 somewhere after that?

7 A Oh yes, ma'am, I ran.

8 Q Did you run with someone or did you run by yourself?

9 A I followed Derrick Dixon.

10 Q And where did you go?

11 A To a house, we jumped the fence into a back yard.

12 Q Did you know whose house you were going to?

13 A Yes, ma'am.

14 Q What was the person's name, just the first name?

15 A I don't know his real name, but we call him Rosea.

16 Q Do you know what street Rosea lives on?

17 A York Road.

18 Q At some point in time had you met back up with Chris

19 Moore?

20 A Yes, ma'am.

21 Q Were you still in the Rountree Circle area when you

22 met up with Chris Moore?

23 A No, ma'am.

24 Q Tell me about -- when you went to Rosea's house you

25 said you followed Dixon and that's where you went. Did you

D'ANGELO ROSEBORO - DIRECT

1 still have your gun with you?

2 A Yes, ma'am.

3 Q To your knowledge did Dixon still have his gun with
4 him?

5 A I'm believe so.

6 Q And what did you do with your gun?

7 A I hid it.

8 Q Where did you hide it?

9 A In a yard somewhere.

10 Q Is this Rosea's yard or somebody else's yard?

11 A Rosea's yard.

12 Q Did you see Derrick Dixon do anything with his gun?

13 A No, ma'am.

14 Q At some point in time did Chris Moore -- did you meet
15 back up with Chris Moore?

16 A Yes, ma'am.

17 Q Were you still at Rosae's house at that point or were
18 you somewhere else?

19 A Rosae's house.

20 Q All right. Could you tell the jury about how you
21 ended up meeting back up with Chris Moore?

22 A We all just happened to end up running to the same
23 spot.

24 Q So Chris Moore just ran up and y'all just all ended up
25 in the same place?

D'ANGELO ROSEBORO - DIRECT

- 1 A Yes, ma'am.
- 2 Q Did you call somebody to come pick you up?
- 3 A Shonda.
- 4 Q Is that Lashonda Wray?
- 5 A Yes, ma'am.
- 6 Q Did you know her from before?
- 7 A Yes, ma'am.
- 8 Q Had you known her for a long time?
- 9 A Yes, ma'am.
- 10 Q All right. And when y'all called her, did you tell
- 11 her to come pick you up at Rosae's house?
- 12 A Yes, ma'am.
- 13 Q Was Rosae home?
- 14 A No, ma'am.
- 15 Q Did y'all ever go inside the house?
- 16 A No, ma'am.
- 17 Q Did she come pretty fast?
- 18 A Yes, ma'am.
- 19 Q All right. When you got -- what kind of car was she
- 20 driving if you know?
- 21 A A Honda.
- 22 Q Do you remember what color it was?
- 23 A White.
- 24 Q And did you get into the car with her?
- 25 A Yes, ma'am.

D'ANGELO ROSEBORO - DIRECT

1 Q Did she have anybody else in the car with her when she
2 came to come pick you up?

3 A A female.

4 Q Did you know that lady?

5 A No, ma'am.

6 Q All right. And did you get into the -- so you had to
7 sit in the back seat I'm guessing, right?

8 A Yes, ma'am.

9 Q And when you got into Lashonda Wray's back seat, do
10 you remember who sat where?

11 A Yes, ma'am.

12 Q Could you tell me about that, please?

13 A I was in the middle, Moore was behind the passenger
14 and Dixon was behind the driver.

15 Q And I'm going to stop you just a second, back up just
16 a second. When you saw Moore at Rosae's house, did he have
17 this big gun with him anymore?

18 A No, ma'am.

19 Q Did you notice anything about Moore's hand or
20 anything?

21 A No, ma'am.

22 Q Was there any conversations in the car when you got in
23 the car with Lashonda Wray?

24 A No, ma'am, besides where she was taking us to.

25 Q And where was she taking you to?

D'ANGELO ROSEBORO - DIRECT

- 1 A Dixon's house.
- 2 Q Did she take you there?
- 3 A Yes, ma'am.
- 4 Q And did she drop you off or did she go inside with
- 5 you?
- 6 A I want to say she went in and then she left right
- 7 after that.
- 8 Q And did you stay there?
- 9 A No, ma'am.
- 10 Q Did you hang out there -- maybe not spend the night
- 11 but did you hang out there for any period of time?
- 12 A Yes, ma'am.
- 13 Q What did y'all do while you were there? Where did you
- 14 go in the house and what did y'all do?
- 15 A We went to Derrick's room.
- 16 Q Did y'all talk about what had happened on Roundtree
- 17 Circle that night?
- 18 A No, ma'am.
- 19 Q I show you what's been marked as State's 97. I
- 20 believe this is a statement you gave to law enforcement to
- 21 Agent Blackmon with SLED March 14th of 2016, do you
- 22 recognize that?
- 23 A Yes, ma'am.
- 24 Q And is that your signature at the bottom?
- 25 A Yes, ma'am.

D'ANGELO ROSEBORO - DIRECT

1 Q And that was done in the presence of your attorney,
2 Ms. Moody; is that correct?

3 A Yes, ma'am.

4 Q Do you recall saying "At that time I observed blood on
5 one of Moore's hands and he had it wrapped with something?"

6 A Yes, ma'am.

7 Q Do you remember that now?

8 A Yes, ma'am. He had on a white T-shirt.

9 Q He had a white T-shirt wrapped around his hand? Mr.
10 Roseboro, you were charged in this event as well, weren't
11 you?

12 A Yes, ma'am.

13 Q But you weren't charged with murder, were you?

14 A No, ma'am.

15 Q What were you charged with?

16 A Accessory before and after.

17 Q And has anybody promised you anything to get you to
18 come testify today?

19 A No, ma'am.

20 Q Anybody promise you anything to come get you to talk
21 to law enforcement or make statements or tell the truth in
22 this case?

23 A No, ma'am.

24 Q And do you want to be here?

25 A No, ma'am.

D'ANGELO ROSEBORO - DIRECT

1 Q You're here because you were subpoenaed by the State
2 to come and tell the truth, correct?

3 A Yes, ma'am.

4 Q I'll ask you one more thing. Was there any talk when
5 y'all got to Rosea's yard, did you talk to Chris Moore or
6 did you talk -- did anybody say anything when you met up in
7 the yard about what had just happened?

8 A He asked if we got a ride.

9 Q Who asked that?

10 A Moore.

11 Q And that was all he said?

12 A (Nods head yes.)

13 Q Is that a yes? I'm sorry, he's got to take it down.

14 A Yes, I'm sorry.

15 MS. HALL: I don't have any further questions, please
16 answer anything Mr. Frick may have for you.

17 CROSS EXAMINATION

18 BY MR. FRICK:

19 Q Mr. Roseboro, what did you say y'all were doing when
20 y'all were all together?

21 A Just chilling, hanging out.

22 Q Okay. And then y'all decided to go over and do
23 whatever y'all was gone do on Holmes Road.

24 A Yes, sir.

25 Q And everybody got in the car with a gun.

D'ANGELO ROSEBORO - DIRECT

- 1 A Yes, sir.
- 2 Q Okay. Did y'all know if anybody was going to be home?
- 3 A No, sir.
- 4 Q Y'all just decided to head over there.
- 5 A Yes, sir.
- 6 Q Okay. And then you head over -- why don't you go
- 7 straight on over to Holmes Road?
- 8 A Never thought about that.
- 9 Q Okay. The place that y'all parked, is that a pretty
- 10 good path through?
- 11 A Is you asking is a pretty good path to get where were
- 12 going?
- 13 Q Yeah. All I'm trying to ask is where you're going to
- 14 Featherstone if you were trying to get to Holmes Road.
- 15 A I mean, I would say we parked on Featherstone to not
- 16 be seen to go to Holmes Road.
- 17 Q By the folks on Holmes Road?
- 18 A Yeah.
- 19 Q Was anybody that y'all were looking for on
- 20 Featherstone?
- 21 A No, sir.
- 22 Q Were y'all intending to do anything on Featherstone?
- 23 A No, sir.
- 24 Q Did y'all do anything on Featherstone?
- 25 A No, sir.

D'ANGELO ROSEBORO - CROSS

1 Q Did y'all go on this property that y'all parked on and
2 take anything?

3 A No, sir.

4 Q Did y'all intend to?

5 A No, sir.

6 Q Did you know Odell Williams had property over there?

7 A No, sir, I don't even know him.

8 Q You don't know him at all.

9 A No, sir.

10 Q So you certainly didn't know his wife lived across the
11 street.

12 A No, sir.

13 Q Okay. So y'all didn't intend to do anything to Odell
14 Williams or his family or his property.

15 A No, sir.

16 Q Y'all were going to go deal with some folks on Holmes
17 Road.

18 A Yes, sir.

19 Q That's it.

20 A Yes, sir.

21 Q And then when this didn't pan out where were y'all
22 going?

23 A Back to where we came from.

24 Q And that was?

25 A Chester Homes.

D'ANGELO ROSEBORO - CROSS

1 Q States Number 4, I think we remember the numbers by
2 now. All right. Y'all start out -- I'll borrow this for a
3 second. Y'all start out right along in here, right?

4 A Yes, sir.

5 Q Okay. This red line that's drawn on this picture,
6 does that accurately reflect the path that y'all took
7 during this event?

8 A Yes, sir.

9 Q This is exactly the way y'all went through Chester.

10 A Featherstone, York Road, to the road by the train
11 tracks at the end of York Road that lead you to Saluda.
12 We made a left on Saluda, make a right onto McClure Street
13 by the barbershop, made a left onto Patrick, made a left
14 onto First, made a right to Saluda, then made a left off
15 of Saluda to get to Roundtree.

16 Q Let me ask you this, I'm going to give you the stick.
17 If you started on Featherstone and you were driving the car
18 and you wanted to go to Roundtree Circle, how would you get
19 there?

20 A Me?

21 Q Yes, sir.

22 A Off Featherstone down York Road.

23 Q Okay. And then?

24 A Take you to Roundtree?

25 Q Yes, sir.

D'ANGELO ROSEBORO - CROSS

1 A I would have made a left. Instead of going straight
2 down to Chester Homes I would have beared off to the left
3 and went over the train tracks and then right there in
4 Roundtree.

5 Q So you wouldn't have gone that way and turned this way
6 and done all of that stuff?

7 A No.

8 Q That's not the most direct route to Roundtree Circle?

9 A No, sir. It could have been way faster.

10 Q And whereabouts did -- at least in your mind, did you
11 believe that y'all was being followed?

12 A In my mind?

13 Q Yes, sir.

14 A When that car ran through that red light.

15 Q Where? Point to it.

16 A Before you get to Roundtree Circle and York Road
17 right here.

18 Q What road is this right here, the one that's going
19 around that ain't in red?

20 A Dawson Drive.

21 Q Okay. Is there an intersection right here? No, right
22 in this area.

23 A There's a stoplight.

24 Q The stoplight. Is that the stoplight you're talking
25 about?

D'ANGELO ROSEBORO - CROSS

- 1 A Yes, sir.
- 2 Q So in your mind at this point you know that somebody
- 3 is following you, is that what you said?
- 4 A Yes, sir.
- 5 Q Do you remember about how fast y'all's was going?
- 6 A Not right off the top of my head, but pretty fast.
- 7 Q You're going faster than the speed limit in downtown
- 8 Chester?
- 9 A Yes, sir.
- 10 Q Did anybody -- y'all did come to a stop at some point;
- 11 is that correct?
- 12 A On McClure Street.
- 13 Q McClure Street. Why did y'all stop?
- 14 A To see why the guy was following us.
- 15 Q Anybody say stop?
- 16 A No.
- 17 Q Did the guy get out of the car?
- 18 A Yes, sir.
- 19 Q He did? All of way out, part of the way out?
- 20 A All of the way out. He probably walked to like the
- 21 gas tank, like to the trunk of the car, of his car.
- 22 Q Of his car?
- 23 A Yeah.
- 24 Q Did he ever get to y'all's car?
- 25 A No, sir.

D'ANGELO ROSEBORO - CROSS

- 1 Q And you were the one at the window, weren't you?
- 2 A Yes, sir.
- 3 Q And you rolled down the window, right?
- 4 A Yes, sir.
- 5 Q Were you going to conversate with him?
- 6 A I was going to ask him why he was following us but we
- 7 had already pulled off.
- 8 Q You had a gun in your hand, were you going to shoot
- 9 him?
- 10 A No, sir.
- 11 Q Did anybody in the car intend on shooting him?
- 12 A No, sir.
- 13 Q Had anybody cocked their gun and got it ready to shoot
- 14 him?
- 15 A No, sir.
- 16 Q Nobody in y'all's car got out, did they?
- 17 A No, sir.
- 18 Q He didn't come up and have a conversation, did he?
- 19 A No, sir.
- 20 Q Because y'all drove off.
- 21 A Yes, sir.
- 22 Q Why did y'all drive off?
- 23 A To get away from him.
- 24 Q Okay. Where were y'all headed, do you know?
- 25 A No, sir.

D'ANGELO ROSEBORO - CROSS

1 Q You weren't driving. Did you have any idea where you
2 were going?

3 A No, sir.

4 Q No one in the car had said, "We're going to go this
5 way?"

6 A No, sir.

7 Q Quinton didn't tell nobody, did he?

8 A No, sir.

9 Q It's after McClure I believe you said you hear some
10 shots.

11 A When we made the left onto Patrick Street and I hear
12 shots.

13 Q Is that before the little flower shop right there
14 that's at the intersection of First of Patrick? Little
15 store right there at the corner of First and Patrick, do
16 you know what I'm talking about? If you don't, that's
17 fine.

18 A No, sir.

19 Q Okay.

20 A Are you talking about the store in front of the
21 barbershop?

22 Q There's a store. That's all right, if you don't know
23 it that's all right, that's fine. When you're on Patrick
24 Street, about where were you when you hear shots?

25 A Going around the curve like once we passed the

D'ANGELO ROSEBORO - CROSS

1 daycare on the right.

2 Q All right. And I believe you just testified that you
3 heard one shot. Is that how many shots you heard?

4 A I mean, I heard them and ducked my head, it could
5 have been more.

6 Q Could have been more?

7 A I'm not sure.

8 Q I think the solicitor asked you about a statement that
9 you gave back last year. There's a line right here, do you
10 see -- how many shots did you say back then?

11 A A couple.

12 Q Would it be fair to say that your memory was more
13 accurate some time ago than it might be today?

14 A I mean, I might not be able to remember everything
15 because it happened two years ago.

16 Q And this statement was given some time ago, right?

17 A Yeah, awhile.

18 Q Where were the shots coming from?

19 A Behind us.

20 Q You're certain of that?

21 A I mean, I'm positive.

22 Q How are you so positive?

23 A Because I'm on the window, Mr. Moore on the window,
24 Dixon in the middle, if they were to shoot a gun in my ear
25 I would have heard it louder than what I heard it.

D'ANGELO ROSEBORO - CROSS

1 Q Were there any other cars on the road with y'all other
2 than you and this Cadillac?

3 A No, sir.

4 Q Okay. You had a, gun. You're familiar with guns.

5 A Yes, sir.

6 Q This was definitely a gunshot you heard?

7 A Yes, sir.

8 Q Do you know how this gun sounds? Have you ever heard
9 it fired before?

10 A No, sir.

11 Q Okay. The gunshots you heard, did they sound like
12 normal gunfire or different than normal gunfire?

13 A Just real fast.

14 Q And nobody in y'all's car shot back at that time,
15 right?

16 A What time?

17 Q On Patrick.

18 A No, sir.

19 Q Okay. And still you really got no idea where you are
20 heading to, right?

21 A No, sir.

22 Q Okay. Did you ever hear anymore gunshots coming from
23 behind you?

24 A No, sir.

25 Q But at some point you decide to lean out and shoot one

D'ANGELO ROSEBORO - CROSS

1 back.

2 A Yes, sir, because the guy was still following us. I
3 mean --

4 Q Okay. You say I mean, is that it or you got more?

5 A I mean, the guy was stilling following us so I shot
6 to try to get him off of us.

7 Q Were you aiming or did you just stick your arm out the
8 window?

9 A Just stuck my arm out of the window.

10 Q How many times did you shoot?

11 A Once, my gun jammed.

12 Q Okay. And that is the State's Number 15. Can you
13 tell what that's a map of?

14 A Roundtree Circle.

15 Q Okay. Can you point on that map which direction y'all
16 were coming from?

17 A This direction.

18 Q Okay. That's Parkway coming into Roundtree right
19 there, that's what you're doing?

20 A Yes, sir.

21 Q Is the place where you shot the gun on the map on this
22 particular map?

23 A No, sir.

24 Q Okay. Pretend like it kind of is and kind of give us
25 a general idea of where you were or where you believed you

D'ANGELO ROSEBORO - CROSS

1 were when you shot.

2 A On down Parkway at the ball park.

3 Q Down past Vance Street, the little road coming off
4 there?

5 A I was on back some.

6 Q Okay. Had you crossed the railroad tracks yet?

7 A No, sir.

8 Q I'm going to leave this here for a second. I've got
9 you, you're good. Okay. Now, where does the car slowdown
10 y'all's car, where does Quinton slowdown?

11 A (Witness indicates.)

12 Q Right there? Okay.

13 A When we made the left onto Roundtree Circle.

14 Q When you made the left onto Roundtree. Okay. When
15 does Chris get out of the car?

16 A When we made the left on Roundtree Circle.

17 Q Okay. Did the car completely come to a stop?

18 A No, sir.

19 Q Did it slowdown?

20 A Slowdown? Yeah.

21 Q How much did it slowdown?

22 A I don't know.

23 Q Okay. Did anybody tell Chris to get out of the car?

24 A No, sir.

25 Q Did Chris say anything when he got out of the car?

D'ANGELO ROSEBORO - CROSS

- 1 A No. He just said, "Let me out," before he got out.
- 2 Q Did he say what he was going to do?
- 3 A No, sir.
- 4 Q Nobody said, "Chris, that sounds like a good idea?"
- 5 A No, sir.
- 6 Q And he had the gun in his hand, right?
- 7 A Yes, sir.
- 8 Q Did he open up the car and step out?
- 9 A Yes, sir.
- 10 Q Did he put his foot on the ground and stand there?
- 11 A No, sir.
- 12 Q What happened?
- 13 A I think he fell.
- 14 Q You think he fell? Do you know he fell or do you
- 15 think he fell?
- 16 A He fell.
- 17 Q He fell?
- 18 A Yes, sir.
- 19 Q You're certain. You was in the car, not me, you're
- 20 the one who has got to tell.
- 21 A Yes, sir.
- 22 Q Okay. Did you look back and see him?
- 23 A No, sir.
- 24 Q Did you hear anything back behind you?
- 25 A No, sir.

D'ANGELO ROSEBORO - CROSS

1 Q All right. I'm going to ask you about your statement
2 again. Start with that line and go to that sentence. The
3 truck never --

4 A The truck never completely stopped and Moore fell out
5 of the truck.

6 Q Yes, sir. And then?

7 A Oh, keep reading?

8 Q A little bit more.

9 A Fell out of the truck -- Moore fell out of the truck
10 and the gun fires one shot.

11 Q Okay. So in your statement to law enforcement you
12 said Chris falls out the truck and the gun fires a shot.

13 A And the gun goes off.

14 Q Is that accurate, is that the truth?

15 A I believe so.

16 Q Anybody get out with Chris?

17 A No, sir.

18 Q Y'all kept on going.

19 A Yes, sir.

20 Q Got any idea why nobody got out to help Chris?

21 A I don't know.

22 Q Do you know why Chris got out?

23 A No.

24 Q Then after that I believe you said you didn't hear
25 anymore shots, or did you hear more shots? I'm sorry, I'm

D'ANGELO ROSEBORO - CROSS

- 1 getting all tangled up myself.
- 2 A When?
- 3 Q After Chris gets out y'all come on down Roundtree, do
- 4 you hear anymore gunshots?
- 5 A Yes, sir.
- 6 Q Do you know how many?
- 7 A No, sir.
- 8 Q At some point you meet back up with Chris, right?
- 9 A Yes, sir.
- 10 Q Were y'all still on Roundtree when y'all met up?
- 11 A No, sir.
- 12 Q This was over at Rosae's house?
- 13 A Yeah, on York Road.
- 14 Q How long have you known Chris?
- 15 A All of my life.
- 16 Q All your life. You hung out a good bit?
- 17 A Yes, sir.
- 18 Q When you saw him at Rosae's house, how is he acting?
- 19 A I can't tell you.
- 20 Q Okay. That's fine. Was there any conversations about
- 21 what happened?
- 22 A No, sir.
- 23 Q And I think the solicitor reminded you of a statement.
- 24 You did see that he had something wrapped around his hand.
- 25 A Yes, sir.

D'ANGELO ROSEBORO - CROSS

1 Q Did y'all ever talk about that injury or what that
2 was?

3 A No, sir.

4 MR. FRICK: Thank you, sir, that's all of the
5 questions I have.

6 MS. HALL: I don't have anything further for this
7 witness, we would ask that he be excused.

8 MR. FRICK: No objection.

9 MS. HALL: At this time the State would call Derrick
10 Dixon. Is that okay?

11 THE COURT: How long will he take?

12 MS. HALL: He's going to be about like these guys
13 were. We might need to take a break.

14 THE COURT: Let's take a recess, everybody can step
15 back and get a Coca Cola or whatever refreshments they
16 have.

17 (A break was taken.)

18 MS. HALL: State calls Derrick Dixon.

19 The witness, DERRICK DIXON, was first duly sworn and
20 testified as follows:

21 DIRECT EXAMINATION

22 BY MS. HALL:

23 Q Mr. Dixon, do you have a nickname that you go by?

24 A Ma'am?

25 Q Do you have a nickname?

D'ANGELO ROSEBORO - CROSS

- 1 A Yes, ma'am.
- 2 Q What is it?
- 3 A Hatchet.
- 4 Q And do you know the defendant in this case, Chris
- 5 Moore?
- 6 A Yes, ma'am.
- 7 Q Do you know him to go by any nicknames?
- 8 A Quay.
- 9 Q Anything else?
- 10 A No, ma'am.
- 11 Q The person that you know as Chris Moore, Quay, do you
- 12 see him here in the courtroom today?
- 13 A Yes, ma'am.
- 14 Q Could you point him out for the jury please.
- 15 A (Witness complies.)
- 16 Q Please let the record reflect that he's pointing to
- 17 the defendant, Chris Moore. On November 4th -- how do you
- 18 know Quay?
- 19 A Went to school together.
- 20 Q For how long?
- 21 A Since elementary.
- 22 Q Did you go to high school with him?
- 23 A Yes, ma'am.
- 24 Q Do you know Derrick Dixon?
- 25 A Yes, ma'am.

DERRICK DIXON - DIRECT

1 Q I mean, not Derrick Dixon, I'm sorry, you are Derrick
2 Dixon. Do you know D'Angelo Roseboro?

3 A Yes, ma'am.

4 Q Do you know him to go by a nickname?

5 A No, ma'am.

6 Q All right. How long have you known him?

7 A Most all of my life.

8 Q Are you pretty close with him?

9 A Yes, ma'am.

10 Q What about Quinton McClinton?

11 A Yes, ma'am.

12 Q Do you know him to go by a nickname?

13 A No, ma'am.

14 Q How long have you known him?

15 A All of my life.

16 Q All right. And what about Terrance Buchanan?

17 A Yes, ma'am.

18 Q Do you know him to go by a nickname?

19 A No, ma'am.

20 Q And how long have you known him?

21 A For a good minute.

22 Q For a good minute? Okay. Would you say you hung out
23 with these guys regularly, the ones that we just talked
24 about?

25 A Yes, ma'am.

DERRICK DIXON - DIRECT

- 1 Q Were you with him on November the 4th of 2014?
- 2 A Yes, ma'am.
- 3 Q What were y'all doing?
- 4 A Nothing, chilling.
- 5 Q Had you been with D'Angelo Roseboro earlier during the
- 6 day?
- 7 A Yes, ma'am.
- 8 Q Where had y'all been hanging out?
- 9 A At Chester Homes.
- 10 Q Had you been there with him all day or did you go to
- 11 Chester Homes with him at some point during the day?
- 12 A Went to Chester Homes.
- 13 Q And was anybody else I just mentioned, were they at
- 14 Chester Homes?
- 15 A Yes, ma'am.
- 16 Q All of them or some of them?
- 17 A Yes, ma'am, all.
- 18 Q All of them?
- 19 A Yes, ma'am.
- 20 Q How old are you?
- 21 A Twenty.
- 22 Q Do you know how old Roseboro is?
- 23 A No, ma'am.
- 24 Q Do you know how old Quinton McClinton is?
- 25 A No, ma'am.

DERRICK DIXON - DIRECT

1 Q Is he older than you or younger than you?

2 A Older.

3 Q Do you know how old Chris Moore is?

4 A Yes, ma'am.

5 Q How old?

6 A Twenty.

7 Q So he's the same age as you, right, because you guys
8 were in school together.

9 A Yes, ma'am.

10 Q So y'all are hanging out at Chester Homes, at some
11 point in time did y'all decide to leave Chester Homes and
12 go somewhere else?

13 A Yes, ma'am.

14 Q Where were you going? Did you talk about where you
15 were going and what you were going to do?

16 A We were going to Holmes road.

17 Q Why were you doing that?

18 A Because some people had owed us money and we were
19 going to get our money back.

20 MR. FRICK: Your Honor, I object to the statement on
21 the grounds previously stated 404B and 403.

22 THE COURT: Same ruling, overruled.

23 Q What did they owe you money for?

24 A Ma'am?

25 Q Do you know what they owed you money for?

DERRICK DIXON - DIRECT

1 A No. We had let them hold some money and they
2 supposed to have gave it back.

3 Q And they never gave it back?

4 A Yes, ma'am.

5 Q Was it a lot of money, or do you know how much money
6 it was?

7 A No, ma'am.

8 Q But you said you were going over to Holmes Road to
9 collect the money. Do you know the names of any of the
10 people who lived at the house you were going to?

11 A No, ma'am.

12 Q When you went over to Holmes Road to get the money,
13 did you have a gun with you?

14 A Yes, ma'am.

15 Q What kind of gun did you have?

16 A A .40.

17 Q A .40 caliber gun? Was it a semi -- do you know what
18 the difference is between a semiautomatic and a revolver?

19 A Yes, ma'am.

20 Q Was yours a semiautomatic or a revolver?

21 A Semiautomatic.

22 Q And to your knowledge did Derrick Dixon have a gun?

23 I'm sorry, I keep doing this, did D'Angelo Roseboro have a
24 gun?

25 A Yes, ma'am.

DERRICK DIXON - DIRECT

- 1 Q What kind of gun did he have?
- 2 A A .45.
- 3 Q .45? And what about Quinton McClinton, did he have a
- 4 gun?
- 5 A I didn't see him with a gun.
- 6 Q You didn't see a gun?
- 7 A No, ma'am.
- 8 Q You gave a statement back to law enforcement back in
- 9 March of 2016, didn't you?
- 10 A Yes, ma'am.
- 11 Q I'll show you that statement. Do you recognize that?
- 12 A Yes, ma'am.
- 13 Q Is that your signature at the bottom of it?
- 14 A Yes, ma'am.
- 15 Q And was it given in the presence of your attorney?
- 16 A Yes, ma'am.
- 17 Q All right. I'm going to draw your attention to page
- 18 two of that statement. At that time did you tell law
- 19 enforcement "Quinton was armed with a handgun but I don't
- 20 know what kind?"
- 21 A Yes, ma'am.
- 22 Q Do you remember making that statement?
- 23 A Yes, ma'am.
- 24 Q Is that correct?
- 25 A Yes, ma'am.

DERRICK DIXON - DIRECT

- 1 Q All right. So when you guys left to go did Chris
2 Moore have a gun?
- 3 A Yes, ma'am.
- 4 Q Did he have this gun right here?
- 5 A Yes, ma'am.
- 6 Q Or something -- okay. Did he carry that out of the
7 house at Holmes Road and put it in the truck or was it
8 already in the truck when you got there?
- 9 A Already in the truck.
- 10 Q The gun that you had, who did it belong to?
- 11 A Ma'am?
- 12 Q The gun that you had, you said you had a .40?
- 13 A Yes, ma'am.
- 14 Q Did you say a .40?
- 15 A Yes, ma'am.
- 16 Q Did that belong to you or did somebody give it to you?
- 17 A Belonged to me.
- 18 Q Where did you get it?
- 19 A I been had it for a minute.
- 20 Q For a minute? Okay. All right. And so you got all
21 of the guns. Did you get in a gold Dodge Ram truck?
- 22 A Yes, ma'am.
- 23 Q Whose truck was that?
- 24 A I don't know.
- 25 Q Had you ever seen it before?

DERRICK DIXON - DIRECT

- 1 A No, ma'am.
- 2 Q Who was driving?
- 3 A Quinton.
- 4 Q And who was riding in the front passenger side?
- 5 A Buchanan.
- 6 Q And where did Chris Moore sit?
- 7 A Behind the passenger.
- 8 Q And where did you sit?
- 9 A Are you talking about on the way there?
- 10 Q Yes, on the way there.
- 11 A Behind the driver.
- 12 Q And who sat in the middle back?
- 13 A Roseboro.
- 14 Q Okay. All right. And so you start out at -- you said
- 15 you started out at Chester Homes headed to Holmes Road. I
- 16 show you what's been marked as State's Exhibit 4. You're
- 17 pretty familiar with Chester, right?
- 18 A Uh-huh.
- 19 Q You grew up there? You said you grew up in Chester?
- 20 A Yes, ma'am.
- 21 Q All right. Take that stick for me, please. And when
- 22 you started out, where did you end up parking the truck,
- 23 where did y'all end up going?
- 24 A I forgot the name of the road.
- 25 Q Okay. So where is Holmes Road on this map?

DERRICK DIXON - DIRECT

- 1 A (Indicates.)
- 2 Q Where is Featherstone?
- 3 A Right there.
- 4 Q And you said you parked on Featherstone Road?
- 5 A Yes, ma'am.
- 6 Q What did you do -- did y'all get out of the car or did
- 7 you stay in the car?
- 8 A We got out of the car.
- 9 Q Did you know where you were parked or anybody that
- 10 lived around that area besides the people whose house you
- 11 were going to?
- 12 A No, ma'am.
- 13 Q All right. Well, when you parked on Featherstone
- 14 Road, did you get out of the car?
- 15 A Yes, ma'am.
- 16 Q And when you did did you take your gun with you?
- 17 A Yes, ma'am.
- 18 Q And did everybody else in the car with you, all other
- 19 four people, get out of the car?
- 20 A Yes, ma'am.
- 21 Q And did they all take their guns with them when they
- 22 got out?
- 23 A Yes, ma'am.
- 24 Q Did Chris Moore take that State's 12 with him, that
- 25 rifle?

DERRICK DIXON - DIRECT

- 1 A Yes, ma'am.
- 2 Q All right. And where did y'all go?
- 3 A Holmes Road.
- 4 Q Why were you parking on Featherstone to go to Holmes?
- 5 A We didn't park on Featherstone.
- 6 Q How were you going to get to Holmes Road, though?
- 7 A Walk.
- 8 Q Walk where?
- 9 A Right here.
- 10 Q Through the grass?
- 11 A Yes, ma'am.
- 12 Q Okay. And could you see where you were going from
- 13 where you parked on Featherstone Road?
- 14 A Yes, ma'am.
- 15 Q So you could see the house you were trying to get to?
- 16 A Yes, ma'am.
- 17 Q Now, all five of you get out of the car, you already
- 18 testified to that, and you all took your guns with you.
- 19 Did you all start heading over that way toward Holmes Road?
- 20 A Yes, ma'am.
- 21 Q At some point did you stop or did you make it to the
- 22 house?
- 23 A We stopped.
- 24 Q Why did you stop?
- 25 A Because nobody was there.

DERRICK DIXON - DIRECT

- 1 Q Nobody was there?
- 2 A Yes, ma'am.
- 3 Q And did you stop and go back to the truck at that
- 4 point?
- 5 A Yes, ma'am.
- 6 Q You went right back to the truck?
- 7 A We stayed out there about ten minutes.
- 8 Q You stayed out where about ten minute?
- 9 A Right there on Holmes Road, right there.
- 10 Q Did all five of you sit there together?
- 11 A Yes, ma'am.
- 12 Q Why were you sitting there?
- 13 A To see if somebody was coming.
- 14 Q And at some point in time did y'all decide to leave?
- 15 A Yes, ma'am.
- 16 Q What made you decide to leave?
- 17 A Nobody came.
- 18 Q Because nobody came home?
- 19 A Yes, ma'am.
- 20 Q So did you all go back to the truck?
- 21 A Yes, ma'am.
- 22 Q Did you all take the guns we talked about back to the
- 23 truck with you?
- 24 A Yes, ma'am.
- 25 Q And did all five of you sit back in the same places in

DERRICK DIXON - DIRECT

1 the truck?

2 A No, I got in the middle.

3 Q You got in the middle of the back seat?

4 A Yes, ma'am.

5 Q Okay. Where was Roseboro?

6 A Behind the driver.

7 Q So back to State's 7. I'm sorry, State's 4. So when
8 you go -- when you get back in the truck where did you go?

9 A Leaving down to Featherstone.

10 Q And going where?

11 A Going home.

12 Q Going home? Okay. And can you tell us what happened
13 when you started trying to leave?

14 A We was trying to leave and we saw a car pull on the
15 side of the road when we were leaving, a red Cadillac
16 pull --

17 Q A car pulled over to the side of the road when you
18 were leaving. Did you notice anything unusual about that
19 car?

20 A No, ma'am.

21 Q And you said a red Cadillac pulled in. What happened
22 after that?

23 A We were leaving, the car turned around and got behind
24 us.

25 Q Which car?

DERRICK DIXON - DIRECT

- 1 A The red Cadillac.
- 2 Q And did y'all leave Featherstone Road?
- 3 A Yes, ma'am.
- 4 Q And where did you go?
- 5 A Went down York Road.
- 6 Q Can you point, please?
- 7 A (Witness complies.) Went on York Road.
- 8 Q And at what point was the Cadillac behind you at this
- 9 point in time, or where did you realize it was behind you?
- 10 A Say again?
- 11 Q When did you realize the Cadillac was behind you?
- 12 A When we went through the light and it went through
- 13 the light with us.
- 14 Q Which light?
- 15 A The light coming up York Road.
- 16 Q Okay. And so did y'all keep driving?
- 17 A Yes, ma'am.
- 18 Q Okay. Where did you go?
- 19 A We kept going. We turned on Saluda --
- 20 Q Okay.
- 21 A -- and we turned on Saluda and we were fixin' to stop
- 22 and see what he wanted and he pulled over.
- 23 Q So you said you stopped to see what he wanted?
- 24 A Yes, ma'am.
- 25 Q Okay. And did you -- did somebody roll the window

DERRICK DIXON - DIRECT

1 down to talk to him?

2 A No, ma'am.

3 Q Nobody ever rolled the window down? Okay. Did
4 anybody know who was in the Cadillac?

5 A No, ma'am.

6 Q I'm going to go back to the statement that you gave.
7 We'll refer to page two. Do you remember telling, "The
8 driver of the Cadillac was flashing his lights and he said"
9 -- hang on a second. "The only person inside the truck who
10 knew the driver of the Cadillac was Buchanan, he told the
11 driver of the Cadillac it's a man who used to coach him in
12 football. I did not know the man." Did Buchanan tell you
13 that he was on police stuff?

14 A Yes, ma'am.

15 Q Was he referring to the driver of the Cadillac when he
16 said that?

17 A Yes, ma'am.

18 Q What did that mean to you, he's on police stuff, what
19 does that mean to you?

20 A That he was following us trying to -- we thought he
21 was trying to call the police.

22 Q Thought he was trying to call the police?

23 A Yes, ma'am.

24 Q Okay. And was the Cadillac flashing his lights?

25 A Yes, ma'am.

DERRICK DIXON - DIRECT

- 1 Q Was that what made y'all stop?
- 2 A Yes, ma'am.
- 3 Q And you said you wanted to stop to see what he wanted;
- 4 is that correct?
- 5 A Yes, ma'am.
- 6 Q But you didn't roll down the window.
- 7 A No, ma'am.
- 8 Q Did the Cadillac pull in to talk to you?
- 9 A Yes, ma'am.
- 10 Q And did you see the driver of the Cadillac get out of
- 11 his car?
- 12 A Yes, ma'am.
- 13 Q What did he do when he got out of the car?
- 14 A He started walking toward the truck.
- 15 Q Was his whole body out of his car at that point
- 16 walking towards you?
- 17 A Yes, ma'am.
- 18 Q Did you see anything in his hands?
- 19 A I couldn't really tell, he had like a phone in his
- 20 hand.
- 21 Q Did you see a gun in his hand?
- 22 A No, ma'am.
- 23 Q Did he ever make it to your car to talk to you?
- 24 A No, ma'am.
- 25 Q What happened?

DERRICK DIXON - DIRECT

1 A We pulled off.

2 Q Were any words ever exchanged between anybody in the
3 truck and the driver of the Cadillac?

4 A No, ma'am.

5 Q So did you look behind you after you pulled off?

6 A Yes, ma'am.

7 Q And what did you see?

8 A He started back following us.

9 Q Okay. At any point in time did you hear any gunshots?

10 A Yes, ma'am.

11 Q Where was that?

12 A When we were coming down the road when we left there.

13 Q When you left what?

14 A When we left the barbershop. We had pulled over
15 right there, when we left he started following us and I
16 heard gunshots.

17 Q Do you remember what street you were on?

18 A No, ma'am.

19 Q Did you look back?

20 A Yes, ma'am.

21 Q Did you see anything?

22 A I saw flame coming out of the car.

23 Q A flame coming out of the car.

24 A Yes, ma'am.

25 Q How far behind you was the Cadillac at that time?

DERRICK DIXON - DIRECT

1 A Not far.

2 Q Help me out here; a car length, two car lengths? If
3 you don't know that's okay, but if you could tell us in
4 terms of car lengths how far away he was.

5 A Probably about three.

6 Q About three car lengths. And were you still on
7 McClure Street at that time?

8 A Yes, ma'am.

9 Q Okay. So you keep going, and at some point in time
10 did you end up back on Saluda Street?

11 A Yes, ma'am.

12 Q All right. And how far away was he from you at that
13 time?

14 A Not that far.

15 Q Not three car lengths?

16 A No, ma'am.

17 Q Did y'all turn onto Parkway at some point?

18 A Yes, ma'am, we turned of Saluda.

19 Q Turned off Saluda and onto Parkway?

20 A Yes, ma'am.

21 Q And when you are going down Parkway -- hang on a
22 second.

23 (Break in proceedings.)

24 Q At some point did somebody in your truck shoot back
25 toward the car?

DERRICK DIXON - DIRECT

1 A Yes, ma'am.

2 Q Who did that?

3 A Roseboro.

4 Q Was that pretty close to the intersection right where
5 you turn from Saluda onto Parkway?

6 A Near there.

7 Q And are there railroad tracks somewhere along Parkway
8 before you hit Roundtree Circle?

9 A Yes, ma'am.

10 Q Let me back up and a question you just a second. When
11 you said you heard the gunshots on McClure Street, how many
12 gunshots did you hear?

13 A A couple.

14 Q Just a couple? Okay. And so when you now were on
15 Parkway and you said that Roseboro reaches out of the car
16 or the truck that y'all are riding in and shoots back
17 towards the Cadillac; is that correct?

18 A Yes, ma'am.

19 Q And how many shots did he fire?

20 A One.

21 Q Was anybody in the truck saying anything at this time?

22 A No, ma'am.

23 Q Did anybody in the truck say anything the whole time
24 y'all are riding around while he is following you?

25 A No, ma'am.

DERRICK DIXON - DIRECT

1 Q How fast were you going?

2 A Fast.

3 Q Okay. At some point in time -- I want to go back to
4 this Parkway. At some point in time when you're coming
5 down Parkway you said that when you turned from Saluda onto
6 Parkway that somewhere in here -- point to where Roseboro
7 fired.

8 A Right there (indicating.)

9 Q You said you were on Parkway. Saluda to Parkway. And
10 where did Roseboro fire the shot?

11 A Probably right there (indicating.)

12 Q And I want to help you orient yourself to the map.
13 This is Saluda, this is Parkway. So if you're turning from
14 Saluda onto Parkway --

15 A Right here (indicating.)

16 Q That was about where he was when he fired the shot?

17 A Yes, ma'am.

18 Q So close to the railroad track?

19 A Yes, ma'am.

20 Q Okay. And McClinton sped up at that point?

21 A Yes, ma'am.

22 Q Okay. And do you know why he sped up?

23 A We was trying to get away.

24 Q And at the time that you hit the railroad tracks, how
25 far behind you was the Cadillac?

DERRICK DIXON - DIRECT

- 1 A Probably about three car lengths.
- 2 Q Did you say y'all went over the railroad tracks pretty
3 fast?
- 4 A Yes, ma'am.
- 5 Q Were you looking behind you?
- 6 A Ma'am?
- 7 Q Were you looking behind the truck?
- 8 A Yes, ma'am.
- 9 Q So back to -- this is State's 7, I believe. Yeah.
10 Take a second to look at this map and make yourself
11 familiar with this area. Does it look familiar to you?
- 12 A Yes, ma'am.
- 13 Q So when you were coming down -- if you pick up where
14 you left off, if you're coming down Parkway about to turn
15 onto Roundtree, where were you?
- 16 A (Indicates.)
- 17 Q Okay. At some point does -- and that's pretty close
18 to the railroad tracks, right?
- 19 A Uh-huh.
- 20 Q At some point did Moore exit the vehicle?
- 21 A Yes, ma'am.
- 22 Q Does he say anything or was anything said to him?
- 23 A No, ma'am.
- 24 Q He never said anything? I'm just asking you.
- 25 A No, ma'am.

DERRICK DIXON - DIRECT

1 Q Okay. I'm going to show you your statement again that
2 you gave in March. Isn't it true that you told law
3 enforcement Moore said, "I'm about to get out?"

4 A Yes, ma'am.

5 Q All right. And when the truck turns onto Roundtree
6 Circle, where was Moore when he said that, or where was the
7 truck when Moore said that?

8 A (Indicates.)

9 Q Okay. And did McClinton slow down?

10 A Yes, ma'am.

11 Q And Moore did open the door and get out?

12 A Yes, ma'am.

13 Q When he got out can you explain to the jury what
14 happened?

15 A When he got out he had the gun and like he had fell.

16 Q Did he take this gun with him when he got out of the
17 truck?

18 A Yes, ma'am.

19 Q And did you see him fall when he got out of the truck?

20 A Yes, ma'am.

21 Q And you said the gun went off, is that what you just
22 testified to?

23 A Yes, ma'am.

24 Q And so when he hit the roadway is that your testimony
25 that the gun went off?

DERRICK DIXON - DIRECT

- 1 A Yes, ma'am.
- 2 Q Did you look -- did you get out?
- 3 A No, ma'am.
- 4 Q Where did you go?
- 5 A We kept in.
- 6 Q So everybody else stayed in the truck and left Moore.
- 7 A Yes, ma'am.
- 8 Q Did you look back to look at Moore?
- 9 A We couldn't see when we went around the corner, we
- 10 didn't see anything.
- 11 Q Okay. And as you were going around the corner at any
- 12 point in time did you hear more gunshots?
- 13 A Yes, ma'am.
- 14 Q Where were you when you heard that if you know?
- 15 A I don't remember.
- 16 Q Did you look back when you heard gunshots?
- 17 A (Inaudible.)
- 18 Q So by the time you hear gunshots you were already
- 19 around corner?
- 20 A Yes, ma'am.
- 21 Q Which corner is that?
- 22 A (Indicates.)
- 23 Q And where did you end up parking if you remember?
- 24 A (Indicates.)
- 25 Q Somewhere around the corner?

DERRICK DIXON - DIRECT

- 1 A Yes, ma'am.
- 2 Q And did you guys stay in the truck or did y'all get
3 out of the truck?
- 4 A We got out of the truck.
- 5 Q Did all four of the remaining passengers in the truck
6 get out -- or three passengers and the driver, did
7 everybody get out or did somebody stay in?
- 8 A Everybody got out.
- 9 Q And when you got out did you take your guns with you?
- 10 A Yes, ma'am.
- 11 Q Where did you go?
- 12 A We ran.
- 13 Q Did you run with anybody or did you run by yourself?
- 14 A Me and Roseboro ran.
- 15 Q And where did you go?
- 16 A We went York Road.
- 17 Q Where were you going? Were you going to somebody's
18 house or were you just running, or what were you doing?
- 19 A We was just running.
- 20 Q Did you stop somewhere?
- 21 A Yes, ma'am.
- 22 Q Where did you stop?
- 23 A On York Road at a house.
- 24 Q Did you know who the house belonged to?
- 25 A Yes, ma'am.

DERRICK DIXON - DIRECT

- 1 Q Who?
- 2 A My homeboy.
- 3 Q And what's his name?
- 4 A Durrell (phonetically.)
- 5 Q Does he go by a nickname?
- 6 A No, ma'am.
- 7 Q Okay. Did you still have your gun with you at that
- 8 point in time?
- 9 A Yes, ma'am.
- 10 Q Did you keep -- what did y'all do after that?
- 11 A We hid it.
- 12 Q You hid what?
- 13 A We hid our guns.
- 14 Q You hid the guns. Okay. You hid your gun?
- 15 A Yes, ma'am.
- 16 Q And then I'm assuming what you're talking about is
- 17 Roseboro hiding his gun because he is the one who was with
- 18 you at that point, right?
- 19 A Yes, ma'am.
- 20 Q Did you know where Quinton McClinton was at this time?
- 21 A No, ma'am.
- 22 Q And did you know where Terrance Buchanan was at this
- 23 time?
- 24 A No, ma'am.
- 25 Q So you're at the person's house, you hide the guns.

DERRICK DIXON - DIRECT

1 Did you go inside the house?

2 A No, ma'am.

3 Q Did you knock on the door?

4 A No, ma'am. He knocked on the door but no one was

5 there.

6 Q Okay. At some point in time did you meet back up with

7 Chris Moore?

8 A Yes, ma'am.

9 Q And did you do that at this house that you were at or

10 was it somewhere else?

11 A The house.

12 Q Where did you find Moore?

13 A He came through the back yard.

14 Q At that point in time did he have that rifle with him?

15 A No, ma'am.

16 Q Did he say anything to you?

17 A No, ma'am.

18 Q Did y'all call anybody or do anything?

19 A Yes, ma'am.

20 Q Who did you call?

21 A Shonda.

22 Q Who called her?

23 A Moore.

24 Q And did you have a phone with you?

25 A Yes, ma'am.

DERRICK DIXON - DIRECT

1 Q Did you use your phone to call or did he use his own
2 phone?

3 A My phone.

4 Q Had you had this phone with you the entire time you
5 would have been in the truck?

6 A Yes, ma'am.

7 Q So Moore used the phone, you called Lashonda. Do you
8 know who he called? I'm sorry if you already answered
9 that, I can't remember.

10 A I did.

11 Q Did you say Lashonda Wray?

12 A Yes, ma'am.

13 Q He used the phone to call Lashonda. How long did it
14 take to get her there, do you remember?

15 A No, ma'am.

16 Q Did she come and pick y'all up?

17 A Yes, ma'am.

18 Q Did y'all wait at that house for her to come get you?

19 A Yes, ma'am.

20 Q Did she have somebody else with her when she got
21 there?

22 A Yes, ma'am.

23 Q Who was it?

24 A I don't know.

25 Q Was it a man or a woman?

DERRICK DIXON - DIRECT

- 1 A Huh?
- 2 Q Was it a man or a woman?
- 3 A A woman.
- 4 Q Was that person sitting in the front passenger seat?
- 5 A Yes, ma'am.
- 6 Q Did y'all get in the back seat?
- 7 A Yes, ma'am.
- 8 Q Where was everybody sitting in the back seat?
- 9 A I think I was sitting behind the driver, Roseboro was
10 in the middle and Moore was on the other side.
- 11 Q So Moore was behind the passenger?
- 12 A Yes, ma'am.
- 13 Q Where did you go?
- 14 A To my house.
- 15 Q Was anybody else at your house?
- 16 A No, ma'am.
- 17 Q There was nobody else there? Did Lashonda Wray come
18 with you or did she just drop you off?
- 19 A Dropped me off.
- 20 Q Okay. And did Moore say anything? Did y'all have any
21 conversations in the car about anything that had just
22 happened?
- 23 A No, ma'am.
- 24 Q Did y'all have any conversations in the yard about
25 anything that had just happened?

DERRICK DIXON - DIRECT

1 A No, ma'am.

2 Q Did you have any conversation when you got back to
3 your house about anything that had just happened?

4 A Yes, ma'am.

5 Q What was said?

6 A Moore said the dude started shooting at him.

7 Q I'll just go back to your statement again. And what
8 you initially told law enforcement is, "Moore did not say
9 much about what occurred on Roundtree Circle when he got
10 out with the rifle other than 'me and the old man was
11 shooting at each other and the old man was shooting back at
12 me.'" Isn't that what he told you?

13 A I didn't say shooting back.

14 Q Isn't that your signature?

15 A Yes, ma'am.

16 Q That statement was given in the presence of your
17 attorney, right?

18 A Yes, ma'am.

19 Q And you had the opportunity to read over it. And you
20 said -- and when you signed it it says each page bears my
21 initials and you certify that the facts contained herein
22 are true and correct, isn't that what it says right there?

23 A Yes, ma'am.

24 Q And you signed it. Yes or no?

25 A Yes, ma'am, but I didn't say he was shooting back.

DERRICK DIXON - DIRECT

1 Q Moore told you he was shooting at the man in the red
2 Cadillac, right?

3 A Yes, ma'am, they exchanged the shots.

4 Q Give me one second.

5 (Break in proceedings.)

6 Q Going back to when Moore got out of the truck. Did
7 y'all drive off with the truck door open or was it closed?

8 A Open.

9 Q And again going back to your statement, isn't it true
10 that you told law enforcement at one point in time that
11 Moore actually pushed the door closed?

12 A Yes, ma'am.

13 Q You told that to law enforcement?

14 A Yes, ma'am.

15 Q You're saying that that's not what happened.

16 A Yes, ma'am.

17 Q Yes, ma'am what?

18 A That is.

19 Q That is what happened. So Moore closed the door?

20 A Yes, ma'am.

21 Q So when you drove off the door was closed.

22 A Yes, ma'am.

23 Q And Moore was out of the truck.

24 A Yes, ma'am.

25 Q You said when you were rounding the corner on

DERRICK DIXON - DIRECT

1 Roundtree Circle you heard gunshots but you looked back,
2 there was no point in looking back because you couldn't see
3 Moore because you were around the corner, right?

4 A Yes, ma'am.

5 Q How many gunshots did you hear at the time?

6 A A lot.

7 Q Okay. And one more thing. I want to go back to your
8 statement one more time. Isn't it true you told law
9 enforcement that "McClinton sped up on Parkway Road and
10 placed some distance between our truck and the Cadillac?"

11 A Yes, ma'am.

12 Q And that's your testimony here today?

13 A Yes, ma'am.

14 Q All right. Mr. Dixon, you got charged in this event,
15 didn't you?

16 A Yes, ma'am.

17 Q But you weren't charged with murder.

18 A No, ma'am.

19 Q What were you charged with?

20 A Accessory.

21 Q Accessory. Have you been promised anything to get you
22 to come to court to testify?

23 A No, ma'am.

24 Q Were you promised to give statements to law
25 enforcement?

DERRICK DIXON - DIRECT

1 A No, ma'am.

2 Q And do you want to be here doing this today,
3 testifying?

4 A No, ma'am.

5 Q Aren't you just here because the State subpoenaed you
6 to come?

7 A Yes, ma'am.

8 MS. HALL: Thank you. Please answer any questions
9 from Mr. Frick.

10 CROSS EXAMINATION

11 BY MR. FRICK:

12 Q All right, Mr. Dixon, this is State's Number 4. The
13 red line that goes all the way around here --

14 A Uh-huh.

15 Q -- is that the path that y'all traveled in this truck?

16 A Yes, sir.

17 Q That's it, this is the way y'all went, Featherstone,
18 York, all of this back round here, back to Roundtree
19 Circle.

20 A Yes, sir.

21 Q To your recollection as you were coming off of
22 Featherstone did you think you were being followed?

23 A When we turned off Featherstone.

24 Q Point to your mind where you think that y'all had
25 somebody following you?

DERRICK DIXON - CROSS

1 A When we left Featherstone the Cadillac turned and
2 followed us. When we went to the light, he went to the
3 light too and he followed us.

4 Q So somewhere in this area you've got it in your mind
5 something is going on.

6 A Uh-huh.

7 Q You've got to say yeah or no.

8 A Yes, sir.

9 Q All right. If you are driving the car, Mr. Dixon, and
10 you're on Featherstone and you want to get to Roundtree
11 Circle, how would you get there starting at Featherstone?

12 A I would go down York Road.

13 Q So you wouldn't do all this.

14 A No, sir.

15 Q Okay. Now, let's go back to what y'all was doing over
16 there in the first place. You wanted to go see some people
17 on Holmes Road, right?

18 A Yes, sir.

19 Q Had some issues with them, right?

20 A Yes, sir.

21 Q Going to go take care of that, right?

22 A Yes, sir.

23 Q Why you park on Featherstone? You don't know? It
24 wasn't your idea?

25 A (Shake head no.)

DERRICK DIXON - CROSS

- 1 Q You just went along with the group?
- 2 A Uh-huh.
- 3 Q Okay. Did y'all have plans to do any dealings with
- 4 anybody on Featherstone?
- 5 A Did we have plans to what?
- 6 Q Were y'all looking for anybody that stayed on
- 7 Featherstone?
- 8 A No.
- 9 Q No?
- 10 A No, sir.
- 11 Q In fact, did y'all come in contact with anybody on
- 12 Featherstone?
- 13 A No, sir.
- 14 Q Did you know that you were parked on Odell Williams'
- 15 property?
- 16 A No, sir.
- 17 Q Did you know that Odell Williams' wife lived across
- 18 the street?
- 19 A No, sir.
- 20 Q Did y'all have any plans whatsoever to do anything to
- 21 Odell Williams' property or family?
- 22 A No, sir. I don't even know where his property is to
- 23 the date.
- 24 Q Whatever y'all went to go do it didn't happen, right?
- 25 A No, sir.

DERRICK DIXON - CROSS

- 1 Q Just decided to go home, right?
- 2 A Yes, sir.
- 3 Q Where was y'all heading back to?
- 4 A Our home.
- 5 Q Where specifically?
- 6 A Saluda Street.
- 7 Q As y'all are coming down around near the barbershop or
- 8 whatever we're calling it, did y'all stop?
- 9 A Yes, sir.
- 10 Q Okay. Did anybody say stop the car?
- 11 A No, sir, we were stopped at Saluda.
- 12 Q Okay. But did anybody say, "Hey, let's stop and see
- 13 what that dude wants?"
- 14 A No, sir.
- 15 Q Quinton just stops the car.
- 16 A Yes, sir.
- 17 Q But Quinton takes off again, doesn't he?
- 18 A Yes, sir.
- 19 Q Okay. No conversation between the two cars.
- 20 A No, sir.
- 21 Q Nobody threatened anybody in that car.
- 22 A No, sir.
- 23 Q Y'all leave, the car follows y'all again, right?
- 24 A Yes, sir.
- 25 Q Okay. About how much longer is it before you hear

DERRICK DIXON - CROSS

- 1 gunshots?
- 2 A Not long.
- 3 Q How far had y'all got?
- 4 A Up the street.
- 5 Q Up the street. Tell me what you did.
- 6 A We were riding up the street and heard the gunshots.
- 7 Q Okay. You know it was gunshots?
- 8 A Yes, sir.
- 9 Q You knew what gunshots sound like?
- 10 A Yes, sir.
- 11 Q Those were gunshots.
- 12 A Yes, sir.
- 13 Q Okay. Do you know what direction those gunshots were
- 14 coming?
- 15 A From behind us.
- 16 Q How do you know that?
- 17 A I saw the flames.
- 18 Q You saw the shots. Okay. And it was the same car?
- 19 A Yes, sir.
- 20 Q The same red Cadillac?
- 21 A Yes, sir.
- 22 Q Same dude who got out at the barbershop and got back
- 23 in that same car?
- 24 A Yes, sir.
- 25 Q The same car that started following y'all on

DERRICK DIXON - CROSS

- 1 Featherstone?
- 2 A Yes, sir.
- 3 Q All right. At that point is anybody in y'all's car
- 4 shooting back at this Cadillac?
- 5 A No, sir.
- 6 Q At some point somebody did stick a gun out the window?
- 7 A Yes, sir.
- 8 Q Who?
- 9 A Roseboro.
- 10 Q Roseboro? Okay. Did you ever shoot?
- 11 A No, sir.
- 12 Q Do you know about where y'all were when Roseboro shot?
- 13 A Yes, sir.
- 14 Q Where?
- 15 A We were still on Parkway.
- 16 Q Had you gotten close to Roundtree or closer to the
- 17 railroad tracks?
- 18 A Closer to the railroad tracks.
- 19 Q Do you know where Vance Road is, Vance Drive?
- 20 A Yes, sir.
- 21 Q Okay. Had y'all gotten that far yet?
- 22 A No, sir.
- 23 Q Before then?
- 24 A Yes, sir.
- 25 Q So before Vance before the railroad tracks.

DERRICK DIXON - CROSS

- 1 A Yes, sir.
- 2 Q Still on Parkway.
- 3 A Yes, sir.
- 4 Q Did anybody tell Chris Moore to get out of the car?
- 5 A No, sir.
- 6 Q Are you certain of that?
- 7 A Yes, sir.
- 8 Q But he said he's getting out.
- 9 A Yes, sir.
- 10 Q What exactly did he say?
- 11 A Let him out.
- 12 Q Is that what he said?
- 13 A Yes, sir.
- 14 Q Exactly?
- 15 A Yes, sir.
- 16 Q "Let me out." Okay. And he took that gun with him.
- 17 A Yes, sir.
- 18 Q Do you have any idea what he was going to go do?
- 19 A We was really trying to get away.
- 20 Q Okay. How about Chris?
- 21 A Trying to get away.
- 22 Q Did he say he was going to go do anything?
- 23 A No, sir.
- 24 Q Had the car stopped, the truck y'all were in, had it
- 25 stopped when he was getting out.

DERRICK DIXON - CROSS

1 A It slowed down.

2 Q What you mean slowed down. You said y'all was driving
3 fast now he's slowing down. You've got to give me some
4 kind of --

5 A We had to slow down to go around the corner.

6 Q Okay. So slow enough to get around the corner but you
7 didn't stop.

8 A No, sir.

9 Q Chris opens up the door. I believe you said in the
10 statement solicitor was talking about he fell out; is that
11 correct?

12 A Yes, sir.

13 Q Did he hit the ground?

14 A Yes, sir.

15 Q You saw him hit the ground?

16 A Yes, sir.

17 Q And that gun went off.

18 A Yes, sir.

19 Q Did you see him anymore after he hit the ground?

20 A No, sir.

21 Q And then y'all went on down the road a little bit.

22 A Yes, sir.

23 Q Why ain't you get out?

24 A Trying to get away.

25 Q All right. Now, the solicitor was talking about this

DERRICK DIXON - CROSS

1 statement that you gave -- solicitor was showing you some
2 statement that you gave in March of this year, right?

3 A Yes, sir.

4 Q Talking about Chris' statement of he was shooting back
5 at the guy, right?

6 A Yes, sir.

7 Q Isn't it true that after you got charged with this you
8 bonded out and got rearrested on something else?

9 A Yes, sir.

10 Q Did you give this statement to help yourself out in
11 this case too?

12 A No, sir.

13 Q But you do have other trouble, don't you?

14 A Yes, sir.

15 Q And you do hope to get some kind of benefit for
16 helping the State out here, don't you?

17 A No, sir.

18 Q Just doing it out of the goodness of your heart huh?

19 All right. Mr. Dixon, you said a couple of times you were
20 trying to get away. Why were you trying to get away?

21 A Because we had guns in the car.

22 MR. FRICK: Okay. Thank you, sir, that's all of the
23 questions I have.

24 MS. HALL: That's all. I don't have anything further.

25 We would ask that he be excused.

DERRICK DIXON - CROSS

1 MR. FRICK: No objection, Your Honor.

2 THE COURT: The witness is excused, thank you.

3 The witness, STEVIE BRELAND, was first duly sworn and
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MS. HALL:

7 Q Mr. Breland, you're dressed that way because you're
8 currently in jail; is that correct?

9 A Yes, ma'am.

10 Q On February 17th of 2016 were you -- or actually let
11 me just back up. On February 8th of 2016 were you involved
12 in a car accident?

13 A Yes, ma'am.

14 Q And on February 17th of 2016 were you charged with hit
15 and run death in that instance?

16 A Yes, ma'am.

17 Q And did you go for a bond hearing -- did all of that
18 happen in Chester County?

19 A Yes, ma'am.

20 Q And did you go for a bond hearing in Chester County
21 around about April 1st?

22 A Yes, ma'am.

23 Q When you came back to that bond hearing did you go to
24 the Chester County jail?

25 A Yes, ma'am.

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1 Q And at that point in time what cell were you put in
2 and who was in the cell with you?

3 A Cell block C.

4 Q And prior to going to the bond hearing what cell block
5 had you been in?

6 A Cell block D.

7 Q So when you came back from the bond hearing into cell
8 block C, who if anyone was in the cell with you?

9 A Mr. Chris Moore.

10 Q And do you see Mr. Chris Moore here in the courtroom
11 today?

12 A Yes, ma'am.

13 MS. HALL: Please let the record reflect he is
14 pointing to the defendant.

15 Q At some point in time did you -- while you were in
16 that jail cell with Chris Moore, did you have a
17 conversation with him about this case?

18 A Yes, ma'am.

19 Q What did he tell you?

20 A We just talked about the case. He showed me a couple
21 of motion of discoveries and a couple of pictures.

22 Q And these were things that pertained to this case.

23 A Yes, ma'am.

24 Q Law enforcement documents and photographs?

25 A Yes, ma'am.

STEVIE BRELAND - DIRECT

1 Q All right. About how long had y'all been in the cell
2 together before you started talking about his case?

3 A From April 1st until Mr. Moore went to --

4 Q Did he get moved at some point in time out of your
5 cell?

6 A Yes, ma'am.

7 Q But when he was talking to you about the case did you
8 know anything about the case before he started talking to
9 you about it?

10 A No, ma'am, I'm not from this area.

11 Q Okay. Where are you from?

12 A Charleston, South Carolina.

13 Q Have you ever lived in Chester?

14 A No, ma'am.

15 Q Have you always lived in Charleston?

16 A Yes, ma'am.

17 Q And is your family in Charleston?

18 A Yes, ma'am.

19 Q You stated that he gave you some of his discovery and
20 let you look through it?

21 A Yes, ma'am.

22 Q At some point in time did you have any conversation
23 with him about shooting a gun?

24 A Yes, ma'am. He was explaining to the point of what
25 was going on with his case, and that a councilman had

STEVIE BRELAND - DIRECT

1 gotten killed, he was explaining all his motion for
2 discovery and he was showing me what had happened.

3 Q Okay. Did you -- what did he tell you?

4 A He was saying at a point of time that he was being
5 chased by the councilman. And one of the photos showed
6 that they turned on a street where it was a very sharp
7 left turn, and Mr. Moore said that the gun had dropped on
8 the ground, that he got out to retrieve the gun, and he
9 said that when he got out they pulled off and they left
10 him, and then as he was running across the street he said
11 that he hold the gun up and was shooting over his left
12 shoulder. And at the time when I said, "Well, Chris, I'm
13 about 5-10 and a half and you are about 6-3, about 6-4,
14 usually I stand when I stand up to my car and my car
15 catches me about top of my chest, so if you were shooting
16 at your shoulder length you should have shot over the
17 councilman's car and it shouldn't have hit it." But he
18 said he was running and shooting at the same time.

19 Q Did you do any military service or anything in your
20 background?

21 A Marine Corps.

22 Q Have you ever seen a gun like -- I'll show you what
23 has been marked as State's Exhibit 12 and entered into
24 evidence. Have you ever seen a gun like this?

25 A Similar to that, yes, ma'am.

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1 Q Did you and Chris Moore have any conversations about
2 what kind of gun he was talking about shooting over his
3 shoulder?

4 A No, ma'am. We didn't talk about the type of gun he
5 had but it was a semiautomatic. And it was a
6 semiautomatic and I told him, "If you were shooting over
7 your shoulder and normally a M16 or AK usually it would
8 deafen your ear." And one of the motion of discovery all
9 of the shells -- he said he fired 17 times, but he stated
10 that he was running and shooting over his shoulder. Well,
11 on the motion of discovery it should have been some shells
12 in the same direction that he was traveling and shooting,
13 because guns of this particular kind eject the bullets out
14 on the right side. So there wasn't -- on the motion of
15 discovery investigators said there wasn't no shells as he
16 was traveling like he said he was.

17 Q So did you kind of call him out on that?

18 A Well, I told him, I said, "Well, Chris, you know, I
19 mean, it seems like according to what's on the paper that
20 you turned and fired, it didn't seem like you were running
21 and shooting." Because the evidence kind of state that
22 because 17 shells are in one place -- and normally when
23 you fire this type of weapon if you move slightly to your
24 left, but that's what one of the motions says is there's a
25 lot of cases in one spot, but then it slightly move from

STEVIE BRELAND - DIRECT

1 right to left, so that means that he was firing and aiming
2 and moving at the same time.

3 Q Have you ever shot a gun like that?

4 A Similar to that, M16, AK.

5 Q Under what circumstances were you firing a gun like
6 that?

7 A A military -- type of gun like that is made for
8 military, it's not made for hunting rabbits or squirrels
9 or deers.

10 Q So when you shot that gun you had done it in a
11 military setting?

12 A Yes, ma'am.

13 Q When you said that to him and were talking about the
14 way that the cartridges had been ejected from that gun,
15 what did he say to you?

16 A He just stated that, you know, he was firing at him
17 because he said the councilman was firing at him, and he
18 said he fired six times and he said that he could hear the
19 bullets coming by. I asked Chris I said, "Did the
20 investigators get any shells out of the councilman's car?"
21 Because if he fired six times it's kind of impossible for
22 him to reload and drive trying to chase someone, because
23 normally you're driving at a speed of maybe about 45 to
24 50, 55 to 60 miles an hour, you've got the wheel with one
25 hand and pop the revolver and load with the other. The

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1 only other way that you can do that is if you've got a
2 speed loader, and I've had revolvers. And normally when
3 you don't have time to start putting individual cartridges
4 you have a speed loader and you just drop it in, cock back
5 and start back shooting.

6 Q At any point in time did he make any statements to you
7 about Quinton McClinton?

8 A I asked him, I said: Well, when you fall out of the
9 truck to get the gun," I said, "Seem like -- why would
10 they leave you? And I said, "Chris, be straight, who told
11 you to get out of the truck?" And he said, "Well, Quinton
12 told me to get out of the truck."

13 Q And at that point in time did that make sense to you?

14 A Yes, ma'am. Because, I mean --

15 Q I'll have to ask you to lean up, otherwise it won't
16 stop buzzing.

17 A Yes, ma'am. Because if you've got five individuals
18 in the truck and you're being chased by someone -- because
19 I asked him, I said, "Well, five individuals in the truck,
20 why did nobody use their cellphone to call the police and
21 say somebody is chasing us?" He didn't say anything to
22 that. And then I said, "Well, why did you get out of the
23 truck and why did they leave you?" And he said, "Well,
24 Quinton told me to get out and shoot the councilman."

25 Q All right. I'm going to show you what's been marked

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1 as State's 91. Do you recognize this?

2 A Yes, ma'am.

3 Q Let me see it real quick. What is it?

4 A I gave this to a officer, a CO, and said that I had
5 some information on the Chris Moore case, I said my
6 Chester lawyer was Brian Grier and to call him and tell
7 him to come down and see me.

8 Q And did you give that note to somebody? You said that
9 the CO, is that a corrections officer at the detention
10 center?

11 A Yes, ma'am.

12 Q Do you remember his name?

13 A No, ma'am, we just call him Shells.

14 Q But you gave that note to him. Did Brian Grier
15 ultimately come and talk to you about this case?

16 A Yes, ma'am.

17 Q Did you tell him what you've told the jury here today?

18 A Yes, ma'am.

19 Q And then at some point in time were you taken to the
20 speak with officers?

21 A Yes, ma'am.

22 Q And that was -- was Mr. Grier with you when you went
23 to do that?

24 A Yes, ma'am.

25 Q And did you at that time meet with SLED Agent Lee

STEVIE BRELAND - DIRECT

1 Blackmon?

2 A Yes, ma'am.

3 Q Did you give a written statement to him?

4 A Yes, ma'am.

5 Q And what inspired you to do that? Did anybody come to
6 you and ask you information?

7 A No, ma'am.

8 Q Have you been promised anything for providing this
9 information?

10 A No, ma'am. When me and Chris Moore talked, you know,
11 and I came back from my bond hearing I was kind of -- and
12 I moved in with Chris I was kind of down myself, and Chris
13 gave me some good inspiration and we talked about God and
14 everything, and I told him, I said, "Well, you know -- he
15 lifted me up and then we started talking. I told Chris, I
16 said -- after being in the cell with Chris listening to
17 the conversations on the phone and things like this "It
18 seemed you haven't kind of changed your ways." I told
19 him, "When you start telling God to help you and to
20 forgive you, you not only can say it, you've got to show
21 it." And then during that time they were in cell block D,
22 he came back and made a statement while me and Inmate
23 Jennings and Inmate White was in the cell, he said that he
24 was going to go ahead beat up an inmate there so he can
25 get back over to cell block C, because A is where Mr.

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1 Quincey (sic) at and that's where they -- because Mr.
2 Quincey and Mr. Moore talks all the time back through the
3 vent, but they couldn't do it because Mr. Quinton has been
4 in A and Mr. Moore be in D.

5 Q When you're talking about Mr. Quinton, are you talking
6 about Quinton McClinton?

7 A Yes, ma'am.

8 Q So did he ultimately beat up somebody or get into a
9 fight with somebody at the jail?

10 A Yes, ma'am. Because he stated that -- he must have
11 said it out loud and all of us kind of heard it because we
12 were right across the cell, because D and C is right
13 across from each other. He didn't try to hide the fact
14 what his plan was but it didn't exactly work out the way
15 he wanted.

16 Q Did he get in a fight with somebody?

17 A Yes, ma'am.

18 Q And could you describe the person he got in a fight
19 with if you know what he looked like?

20 A It was another inmate. There's a reason that -- if
21 you said you done changed and you done turned your life
22 over you shouldn't go back to the same things that you
23 were doing, and to boldly tell somebody that you're going
24 to beat up them to try to get back and talk to another
25 man, you're still doing the same thing you've been doing.

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1 And he could have killed that man because he picked him up
2 and slammed him on his face.

3 Q All right. Was it at that point that you wrote the
4 note and requested somebody from law enforcement to come
5 talk to you, or for your attorney to come talk to you?

6 A Yes, ma'am. Because me and Inmate Jennings and
7 Inmate White, we wrote an inmate request saying that we
8 didn't want Chris back in our cell because there may be a
9 chance that he will jump on one of us.

10 Q So that's the reason that you give for coming to
11 court.

12 A Yes, ma'am.

13 Q And has the State promised anything to get you to come
14 to court today and testify?

15 A No, ma'am.

16 Q Has the State ever discussed your case with you in any
17 way?

18 A No, ma'am.

19 MS. HALL: Your Honor, at this time State would move
20 91 into evidence.

21 MR. FRICK: No objection, Your Honor.

22 THE COURT: In without objection.

23 (The note was received as State's 91.)

24 MS. HALL: Okay. I don't have anything further,
25 please answer any questions of Mr. Frick.

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1 CROSS EXAMINATION

2 BY MR. FRICK:

3 Q Mr. Breland, when did you write that note?

4 A I wrote it right about the time Mr. Moore attacked
5 the inmate.

6 Q When was that?

7 A That was at the Chester Correctional Center.

8 Q I know where it was, when was it?

9 A When was it you said?

10 Q Yes.

11 A Don't know the exact date, sir.

12 Q Wow. You know a lot of details but you don't remember
13 when you wrote the note.

14 A It was fighting and stuff carrying on so I didn't
15 know exactly -- if you pull the Chester County inmate
16 request form it will tell you the date.

17 Q Okay. All right. But it was after your bond got
18 denied, right?

19 A Yes, sir.

20 Q And it was after some previous stuff, right?

21 A Yes, sir.

22 Q Do you watch TV in the jail?

23 A Yes, sir.

24 Q Did you see stuff about this case on TV?

25 A Little bits and parts.

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1 Q Uh-huh. Was that before or after you sent the note?

2 A That was after.

3 Q After. Okay. So your bond has been denied, you're
4 charged with killing somebody by running over them, right?

5 MS. HALL: Objection, Your Honor, that's a
6 misclassification.

7 MR. FRICK: Hit and run death results. I'll rephrase
8 the question Your Honor.

9 Q Are you charged with hit and run death results?

10 A Yes, sir.

11 Q The nature of your crime is someone died because you
12 hit their car, right?

13 A Yes, sir.

14 Q What do you do for a living?

15 A Drive a truck.

16 Q Or what do you used to do for a living?

17 A Drive a truck.

18 Q You don't have that license anymore, do you?

19 A I still have it, sir.

20 Q The federal government didn't suspend it?

21 A No, sir.

22 Q Would you like to see the documentation on that?

23 A You're welcome to show it, sir.

24 Q Mr. Breland, I want to show you something from the
25 Federal Motor Carriers Association. You don't have to read

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1 that out loud, just look over it.

2 A Yes, sir.

3 Q Have you still got a license?

4 A Still have one, sir.

5 Q Okay. Mr. Breland, apparently you and the federal
6 government disagree. All right. Mr. Breland, where are
7 you from?

8 A Charleston, South Carolina.

9 Q Charleston, South Carolina. Have you got any
10 connection whatsoever to Chester?

11 A No, sir.

12 Q Know anybody there?

13 A No, sir.

14 Q Home is back in Charleston, right?

15 A Yes, sir.

16 Q Where are you being housed right now?

17 A Where am I being housed right now?

18 Q Yeah. Where are you being incarcerated?

19 MS. HALL: Your Honor, it's irrelevant to what you are
20 testifying about. Can we approach?

21 THE COURT: Sustained.

22 MS. HALL: Okay, thank you.

23 MR. FRICK: Your Honor, I need to put something on the
24 record.

25 THE COURT: Ladies and gentlemen of the jury, if you

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1 could step out, please.

2 (The jury left the courtroom.)

3 MR. FRICK: I would like to have it on the record.

4 MS. HALL: Can we approach, please?

5 THE COURT: Wait a minute, neither one of you
6 approach, it's sustained. You can wait until after we
7 finish to put any objection or anything on the record, but
8 you're not going to elicit from this inmate where he is
9 housed, am I clear?

10 MR. FRICK: I understand, Your Honor.

11 MS. HALL: Thank you.

12 (The jury returned to the courtroom.)

13 BY MR. FRICK:

14 Q You're a truck driver by trade, correct?

15 A Yes, sir.

16 Q Okay. And you were in the Marines?

17 A Yes, sir.

18 Q How long were you in the Marines?

19 A 16 years.

20 Q What was your job in the Marines?

21 A Start out truck driver M-35, then I went to brunt.

22 Q So you were a truck driver in the Marines.

23 A Yes, sir.

24 Q Okay. I missed the part, Mr. Breland, when you became
25 qualified as an expert in ballistics.

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1 A I never said I was an expert in ballistics. I
2 compared the type of weapon that I shot in the Marine
3 Corps.

4 Q And you talked about where shell casings should have
5 landed if someone is standing in one direction, wouldn't
6 that be your opinion?

7 MS. HALL: Objection, Your Honor. Mr. Frick should
8 have -- if he wanted Mr. Breland not to have testified to
9 that he should have objected when I was directing him,
10 there was no objection made to that. Mr. Breland was not
11 qualified as an expert, he was just testifying based on his
12 knowledge and his experience as a member of the military.

13 THE COURT: I'm going to have to overrule you on that.
14 I'll give you the opportunity to cross examine him on that
15 but that doesn't mean we're going to get into an argument,
16 now.

17 MR. FRICK: I understand, Your Honor.

18 Q Now, he told you that it was a semiautomatic weapon,
19 right?

20 A Yes, sir.

21 Q But didn't tell you what kind.

22 A No, sir.

23 Q He told you that somebody told him to get out of the
24 truck.

25 A Yes, sir.

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1 Q Okay. But when you first started talking about this
2 you said that Mr. Moore said the gun fell out of the truck
3 and that's why he was getting out of the truck. Which is
4 it, Mr. Breland?

5 A You would have to ask him because that's what he
6 stated to me.

7 Q And you gave a statement to law enforcement about
8 this, right?

9 A Yes, sir.

10 Q A written statement.

11 A Yes, sir.

12 Q And you reviewed this statement, right?

13 A Yes, sir.

14 Q Signed the statement.

15 A Yes, sir.

16 Q Said this is your statement, right?

17 A Yes, sir.

18 Q Okay. I'm going to ask you to look at that. Tell me
19 the part in your statement where you said the thing about
20 the gun falling out of the truck that's why Chris Moore got
21 out.

22 A Right here, sir.

23 Q Where is it?

24 A Right there where it says, "I asked him about how he
25 got out of the truck and he said at first that the gun

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1 fell out and he fell out trying to get the gun and the
2 truck pulled off."

3 Q Okay. All right. But you're trying to tell us that
4 he was going after the gun, but that's not exactly what you
5 said here, was it?

6 A No, sir. I said just exactly how I read it out.

7 Q When did you become incarcerated on the charges you're
8 incarcerated?

9 A February the 10th.

10 Q And your bond hearing was in Chester County on April
11 1st.

12 A Yes, sir.

13 Q And your bond hearing was denied.

14 A Yes, sir.

15 Q And after that is when you decided to give a
16 statement.

17 A No, sir.

18 Q Chronologically, isn't that what occurred?

19 A No, sir.

20 Q Are you saying you didn't give this statement after
21 you had your bond hearing?

22 A No, sir.

23 Q I'm confused, Mr. Breland. Can you tell me down here
24 when you gave a statement?

25 A I gave the statement after Mr. Moore was put in cell

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1 block D.

2 Q When did you sign this statement?

3 A That was done on April 1st.

4 Q Try again, Mr. Breland. When did you sign that
5 statement? What's the date at the bottom of that page?

6 A The date is the 25th but it was taken on the first of
7 April.

8 Q Of what month?

9 A April the 1st is when I signed that statement. The
10 date that they have on it is different because that's the
11 date that I went for my bond hearing, and when I went for
12 my bond hearing they took me up to talk to investigators
13 and that's the time I gave that statement.

14 Q What is that date right there?

15 A That's the 25th.

16 Q Of what month?

17 A That should be May.

18 Q Okay. At what time?

19 A 10:50.

20 Q And is that your signature?

21 A Yes, sir.

22 Q So you signed this statement at 10:50 on the 25th of
23 May of this year, correct?

24 A Yes, sir.

25 Q So you gave this statement a month after you had had

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1 your bond denied, correct?

2 A Yes, sir.

3 Q And your testimony is that you have not received nor
4 do you expect to receive anything from the State for this
5 testimony?

6 A Yes, sir.

7 Q That's what you're telling us.

8 A Yes, sir.

9 MR. FRICK: One second, Judge.

10 THE COURT: Yes, sir.

11 (Break in proceedings.)

12 MR. FRICK: Thank you, Mr. Breland, that's all the
13 questions I have.

14 REDIRECT EXAMINATION

15 BY MS. HALL:

16 Q Mr. Breland, when you were in the military, where were
17 you driving that truck?

18 A Ma'am?

19 Q When were you in the military driving the truck where
20 were you, what state or country or whatever were you in?

21 A I was Camp Lejeune, Georgia, California, different
22 stations, ma'am.

23 Q You said you were in the military for 16 years; is
24 that correct?

25 A Yes, ma'am.

STEVIE BRELAND - CROSS

1 Q During --

2 MR. FRICK: Your Honor, I'm going to object to where
3 she's going.

4 THE COURT: Is this concerning the driver's license?

5 MS. HALL: This has to do with the military part of
6 the gun.

7 MR. FRICK: Your Honor, may we approach and I can tell
8 you --

9 (A bench conference was held.)

10 Q Mr. Breland, have you ever been to Iraq?

11 A Ma'am?

12 Q Have you ever been to Iraq or --

13 A I done two tours of Desert Storm.

14 Q And I want to go through the chronology that Mr. Frick
15 was asking you about. You stated that you got arrested in
16 February; is that correct?

17 A Yes, ma'am.

18 Q And then you went for -- and at that point in time
19 what cell block -- between February and the time that you
20 went for the bond hearing what cell block were you in?

21 A Before I went for the bond hearing I was in D block.

22 Q Okay. So when you went to the bond hearing on April
23 1st and came back to the detention center, what cell block
24 were you put in then?

25 A I was put in cell block C with Mr. Chris Moore.

STEVIE BRELAND - REDIRECT

1 Q So from February until April you never had really any
2 time to talk to Chris Moore.

3 A No, ma'am.

4 Q So at some point when you get put back in the cell
5 block with Chris Moore, is that when he begins to tell you
6 this story?

7 A Yes, ma'am.

8 Q And the story that he tells you -- I want to go
9 through that too on your statement because Mr. Frick
10 touched on this, he said that -- it was a little bit
11 confusing. Isn't it true that the first set of facts that
12 Mr. Moore gave you -- he let you look at his discovery,
13 right?

14 A Yes, ma'am.

15 Q And then he starts to tell you a story about how he
16 fell out of the car and how the truck pulled off, and then
17 he fell out and he was trying to get -- the gun had fallen
18 out of the truck and he was trying to get out of the truck
19 to go get the gun when he fell down; is that true?

20 A Yes, ma'am.

21 Q And then isn't it true pursuant to your statement that
22 you called him out on that?

23 A Yes, ma'am.

24 Q Did you believe that story?

25 A Well, you know, a truck that's moving and he said he

STEVIE BRELAND - REDIRECT

1 fell out, he did say -- I said, "Chris, you should have
2 some bruises or something on your arm" --

3 MR. FRICK: Your Honor, I object, he's not been
4 qualified as an expert in bruising.

5 MS. HALL: And that's fine, I'll clear it up.

6 Q Let's not talk about what he had on him or anything
7 like that, I'm going to ask you some questions and if you
8 could just tell me yes or no, and if you feel like you need
9 to explain a little bit that's fine. Did you believe the
10 story he told you to begin with, yes or no, about following
11 falling out of the truck?

12 A No, ma'am.

13 Q And so did you press him a little bit more and say,
14 "That can't be it, it must be something else?" Did he
15 continue at that point in time to give you different facts?

16 A Yes, ma'am. He just stated that he got out in order
17 to get the gun. He didn't say -- when I asked him I said,
18 "Well, did you fall out or did you get out?" He stated,
19 "I got out of the truck."

20 Q And did he state to you after you pressed him and kind
21 of called him out on this story that you didn't believe,
22 did he state to you at that time that Quinton McClinton --
23 in our statement did you say, "I asked him if somebody told
24 him to get out of the truck," did you ask him that?

25 A Yes, ma'am.

STEVIE BRELAND - REDIRECT

1 Q And at that point in time did he say, "Yeah, Quinton
2 told me to get out and shoot that man?"

3 A Yes, ma'am.

4 Q And isn't it also true that at the beginning when he
5 first started talking to you he was giving the story that
6 you talked about a minute ago about running and shooting
7 over his shoulder.

8 A Yes, ma'am.

9 Q Did you -- yes or no and if you need to explain, but
10 yes or no, did you believe that story?

11 A No, ma'am.

12 Q All right. And at that point in time pursuant to your
13 statement did he say to you, "I turned and shot at him and
14 I wasn't shooting over my shoulder?" Did Chris Moore make
15 that statement to you? Did he ever say that -- give you a
16 different story about how he shot?

17 A No. He said -- I stated, I said, "Now Chris, come
18 on, be real, it looks by the motion of discovery that 17
19 shells that was on the ground, looks like you turned and
20 fired."

21 Q And what did he say?

22 A He said yeah, he did.

23 MS. HALL: I don't have any further questions.

24 MR. FRICK: Your Honor, very briefly if you'll allow
25 me follow-up?

STEVIE BRELAND - REDIRECT

1 THE COURT: Sure.

2 RECROSS EXAMINATION

3 BY MR. FRICK:

4 Q It's your testimony here today you didn't know
5 anything about Christopher Moore or Christopher Moore's
6 case before April 1st?

7 A No.

8 Q You did not or you did?

9 A I didn't know anything about it.

10 Q You did not. Okay. Your statement again, there's a
11 line, what does that line say?

12 A "I had already "--

13 Q Read the line.

14 A -- "known Chris just because of jail talk and
15 everybody knew that he had killed the councilman."

16 Q So you already knew according to your statement, you
17 already knew what his case was.

18 A I didn't know about the case. You can't go by what
19 people say.

20 Q "I had already known that Chris Moore was in there
21 just because of jail talk, and everybody knew he had killed
22 the councilman." You're saying you didn't know anything
23 about his case?

24 A No, sir, not about that.

25 MR. FRICK: Thank you.

STEVIE BRELAND - RECROSS

1 THE COURT: Anything else?

2 FURTHER REDIRECT EXAMINATION

3 BY MS. HALL:

4 Q Let me make sure we got this straight, you had heard
5 that he had killed a councilman; is that correct?

6 A Yes, ma'am.

7 Q But not necessarily from Chris Moore at that time,
8 correct?

9 A Yes, ma'am.

10 Q And you didn't know anything about the facts and
11 circumstances surrounding the crime; is that correct?

12 A Yes, ma'am, because I'm not from here.

13 Q But then once Chris Moore came to be in your cell that
14 is when you learned about the actual facts in the case.

15 A Yes, ma'am.

16 Q From him.

17 A Right.

18 MS. HALL: Nothing further.

19 THE COURT: Anything else?

20 MS. HALL: Your Honor, we would ask that Mr. Breland
21 be excused.

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

23 MS. HALL: Your Honor, that's -- may I approach -- we
24 approach?

25 (A bench conference was held.)

1 THE COURT: We're going to stop for the day. I was
2 just talking to counsel and it went a little quicker than
3 we thought so we'll stop, fire back up at 9:30 in the
4 morning. Remember my instructions, don't let anybody
5 contact you. The jury is excused for the evening, we'll
6 see you at 9:30 in the morning, y'all have a good evening.

7 (Court recessed for the day and resumed on Thursday
8 June 30th, 2016 at 9:30 a.m.)

9 THE COURT: Yesterday concerning the questions and me
10 sending the jury out, we just had a side bar, an
11 in-chambers conference. Mr. Frick, you want to get
12 something on the record and see if we can't resolve it?

13 MR. FRICK: Your Honor, yesterday when Mr. Breland was
14 testifying I inquired as to something and we had a side bar
15 on that matter, I was trying to get into whether he had
16 received any benefit whatsoever and I think we have
17 discussed that in chambers, and I would ask you to allow me
18 to delve into it in closing without going into great
19 specifics.

20 MS. HALL: And the State has no problem with Mr. Frick
21 referring to the fact that he has been moved from the
22 Chester County Detention Center, however the specific
23 location of Mr. Breland the State would request that that
24 not be disclosed.

25 THE COURT: Obviously from the Court's point of view I

1 was a little concerned about security issues, and I
2 certainly understand Mr. Frick's argument on this and I am
3 going to allow him to cover that issue in his closing if he
4 so desires just to make sure.

5 MS. HALL: And just to make sure we have the
6 parameters straight on that, he's allowed to say that Mr.
7 Breland was moved from the Chester County Detention Center
8 but not to give anymore specifics regarding his actual
9 location.

10 THE COURT: I think that's --

11 MR. FRICK: I understand.

12 MS. HALL: Thank you.

13 (The jury returned to the courtroom)

14 THE COURT: Good morning everyone. Thank you for your
15 patience this morning, we've had some technical
16 difficulties this morning which I find to be quite common
17 in our computer age, hopefully we got all of that
18 straightened out. Solicitor?

19 MS. HALL: Thank you, Your Honor. States calls Chris
20 Reynolds.

21 The witness, CHRISTOPHER REYNOLDS, was first duly
22 sworn and testified as follows:

23 DIRECT EXAMINATION

24 BY MS. HALL:

25 Q Your name is Chris Reynolds?

1 A Yes, ma'am.

2 Q And where are you employed?

3 A Chester County Sheriff's Office.

4 Q How long have you worked there?

5 A A total of about seven years now.

6 Q And were you working on the night of November 4th of
7 2014?

8 A Yes, ma'am, I was.

9 Q And did you work in the weeks subsequent to that on
10 this case?

11 A I did.

12 Q And what are your responsibilities at the sheriff's
13 department?

14 A I'm a detective investigator with the Chester County
15 Sheriff's Office.

16 Q And were you detective and investigator at the time of
17 this incident?

18 A Yes, ma'am, I was.

19 Q As you were investigating this incident, I'm going to
20 show you what's been marked as State's 84. Did you have a
21 chance to review this before coming to court today?

22 A Yes, ma'am, I did.

23 Q And what is it?

24 A That would be the interview between myself and the
25 defendant, Christopher Moore.

CHRISTOPHER REYNOLDS - DIRECT

1 Q And so at some point in time how did that come about,
2 the interview with Mr. Moore?

3 A The interview with he and I started at the office
4 under -- in our investigations department.

5 Q Did you instigate the interview or did he ask to talk
6 to you?

7 A I can't remember.

8 Q Okay. And at some point in time you heard from a
9 witness Kira Bagley; is that correct?

10 A Yes, ma'am.

11 Q And where did she live?

12 A She lives in Chester.

13 Q All right. About on which street?

14 A Over toward I think it's First Street.

15 Q And at some point in time during the course of your
16 investigation did you have an occasion to speak with her
17 about this case?

18 A Yes, ma'am. The night of the incident I received a
19 call from Major McDaniel asking us to come in and assist
20 with investigations. And once I arrived on scene we were
21 notified by another officer that there may have been some
22 type of witness that heard something that night.

23 Q Okay. And did you -- where did you meet with her?

24 A I first met with her down toward Parkway at the
25 church on Parkway. She didn't feel safe at the time

CHRISTOPHER REYNOLDS - DIRECT

1 because of the incident that occurred so we went and met
2 behind Bi-Lo Grocery Store, it was me and her and another
3 individual.

4 Q Okay. Was that somebody who was with her or was that
5 another investigator?

6 A Yes, it was.

7 Q All right. And based on the information she gave you,
8 did you ultimately get a video from a residence located at
9 First and Patrick Street?

10 A Yes, ma'am. After I collected a -- I collected a
11 written statement from Kira Bagley that night, and then it
12 led to the investigation over toward First Street and
13 Patrick Street.

14 Q All right. And did you -- who lives at First and
15 Patrick?

16 A That would be Mr. Richard Gray.

17 Q And you knew that he had a video camera on his house?

18 A I did. He and I -- I had a previous -- a few months
19 before that his house was broken into and I advised him to
20 put up some type of surveillance cameras, and once I got
21 the information from Ms. Bagley we went over and made
22 contact with him the night of the incident and reviewed
23 some video surveillance he had.

24 Q Okay. And as part of your investigation, did you go
25 look for any evidence around First and Patrick Street?

CHRISTOPHER REYNOLDS - DIRECT

1 A Yes, ma'am. After -- we started the investigation
2 over toward Patrick Street after we acquired her written
3 statement.

4 Q Is this after talking with Kira Bagley and knowing
5 that something might have happened over in that area?

6 A Yes, ma'am. Because of some of the things that she
7 put in her statement led us over toward that
8 investigation, over toward Patrick Street and First
9 Street.

10 Q And tell me again, when did you talk to her?

11 A The night of the incident. It was maybe probably a
12 hour or hour and a half after we discovered Odell was
13 shot.

14 Q Okay. So after you talked with her and get the
15 statement, you said you went back over to the Patrick
16 Street area?

17 A Yes, ma'am.

18 Q And what were y'all doing over there?

19 A We walked up and down Patrick Street looking for
20 shell casings for any type of evidence that led to this
21 investigation.

22 Q And was that because talking with Kira Bagley she had
23 talked about hearing shots over in that area?

24 A Yes, ma'am. She stated in her statement that she
25 heard shots while she was sitting on First Street.

CHRISTOPHER REYNOLDS - DIRECT

1 Q Okay. And so you're over there and you're looking for
2 evidence over there. How did you go about looking for
3 evidence over there?

4 A Myself and a number of officers walked up and down
5 Patrick Street. We actually closed down the sides of the
6 street and walked up and down trying to look for shell
7 casings or anything with flashlights at the time.

8 Q So you looked with a flashlight?

9 A Yes, ma'am. It was dark, it was that night.

10 Q And did you find anything?

11 A No, ma'am, we didn't.

12 Q So did you actually -- were you involved in serving
13 Mr. Moore with a warrant?

14 A Yes, ma'am, I was.

15 Q Could you tell the jury the circumstances relating to
16 that, where you were and how you went about doing it?

17 A Myself and Detective St. Clair, we were inside the
18 jail where the booking area is as we call it, and you
19 actually have a desk and then you have a few cell doors
20 where they hold inmates as they're coming in for
21 processing. Detective St. Clair signed -- I think he
22 signed the warrant so he can't serve it, another officer
23 has to serve it. So we asked one of the jailers, one of
24 the commanding officers to open the door so we could talk
25 to Mr. Moore and serve him the warrant. And once we

CHRISTOPHER REYNOLDS - DIRECT

1 served -- the way we served the warrant is we read all of
2 the information on it, from the top down to the bottom, we
3 actually confirm his -- his date of birth, if he has his
4 license, address, social security number, all of the
5 information that's on there.

6 Q Did you follow that process when you served him with
7 this warrant?

8 A Yes, ma'am.

9 Q At any point in time during the service of the warrant
10 did he make any statements to you? I'm talking about the
11 defendant.

12 A He did. They opened up the cell door for us and he
13 stood pretty close to the cell door, just a small distance
14 between us, and once I read the warrant to him and
15 explained to him what the warrant says, and once it got to
16 the part where I said "You're being charged with murder,"
17 he made a statement to me, and his statement was, "I ain't
18 going down for this shit by myself."

19 MR. FRICK: Your Honor, object to that statement under
20 the previous grounds.

21 THE COURT: So noted.

22 Q And was that on November 14th of 2014?

23 A I would have to look at the date of the warrant that
24 was served, but I believe that's the correct date.

25 Q Is this a copy of the warrant that you served on him?

CHRISTOPHER REYNOLDS - DIRECT

1 A Yes, ma'am. That's my signature at the bottom, 11/14
2 of 2014.

3 Q Okay. And I'll show you again what's been marked as
4 State's 84. That was the jacket that was containing the
5 disc that had the interview on it, we talked about that?

6 A Yes, ma'am.

7 Q What date was the interview?

8 A 11/14 of 2014.

9 Q So it was the same day as the warrant was served.

10 A Yes, ma'am.

11 Q And did you have an occasion to review -- like we
12 talked about, you had occasion to review this before you
13 came to court today.

14 A I did.

15 Q It's in the same condition as it was, you actually
16 pulled it off a recording device; is that correct?

17 A Yes, ma'am.

18 Q And when you took the statement from the defendant did
19 you Mirandize him?

20 A I did.

21 Q And it will probably be on the video, but could you
22 explain to the jury the process you went to go in?

23 A Yes, ma'am. Once we make contact with a defendant at
24 the time, the first thing we do is we setup our interview
25 room, it's audio and video recorded so it records

CHRISTOPHER REYNOLDS - DIRECT

1 everything we say, once we bring in him the first thing we
2 talk about is his Miranda rights. And we have a form,
3 which should be in the file, where we explain each line to
4 him, start with number one and he initials each line as
5 we're reading so we explain it to him. And then there is
6 actually a statement at the bottom where he waives his
7 Miranda rights if he wants to give us a statement, and he
8 did sign it and we dated it.

9 Q Okay. And did he give you a statement?

10 A Yes, ma'am, he did.

11 Q And that is included on this video.

12 A That's going to be on the interview.

13 MS. HALL: Your Honor, at this time the State would
14 move 84 into evidence.

15 MR. FRICK: No objection, Your Honor.

16 MS. HALL: And we would ask permission to publish that
17 to the jury.

18 THE COURT: In without objection.

19 (The video recording was received as State's 84.)

20 MS. HALL: And, Your Honor, prior to coming here I
21 believe the defense counsel and I had talked about stopping
22 it at certain points where places where the information was
23 irrelevant to this case and I just wanted to go ahead put
24 that I will be doing that.

25 (At this time the video was played.)

CHRISTOPHER REYNOLDS - DIRECT

1 Q Mr. Reynolds, there is a window, isn't there, in the
2 interview room?

3 A Is there a window?

4 Q Yeah.

5 A Yes, ma'am.

6 Q What is that window?

7 A That's a viewing room on one side, you can see into
8 the room, you can't see out of the room.

9 Q And inside -- what's on the other side of it?

10 A It's two recording monitors and also a speaker where
11 you can hear the interviews taking place.

12 Q So people can sit in that room and hear what's going
13 on in the other room?

14 A Yes, ma'am.

15 Q But the people in the actual interview room can't see
16 or hear what's going on in the monitoring room; is that
17 right?

18 A Yes, ma'am.

19 Q Did you -- I'm going to show you what's been marked as
20 State's 4. And just really briefly, this is the route that
21 was established that was taken by the defendant and the
22 victim and the people in the truck the night of the
23 incident; is that correct?

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

25 Q Did you have occasion to clock this route in terms of

CHRISTOPHER REYNOLDS - DIRECT

1 mileage?

2 A I did, partial.

3 Q Which part did you clock?

4 A I rode from -- I reset mileage at the corner of
5 Featherstone and followed it to down to Brawley Street.

6 Q When you're talking about the corner of Featherstone,
7 you're talking about the corner of Featherstone and Old
8 York Road?

9 A Yes, ma'am.

10 Q Could you point that out for the jury, please?

11 A You have Featherstone and then you have old York Road
12 here.

13 Q And then where is the bypass?

14 A The bypass -- come down and this is the bypass.

15 Q Show the jury where you clocked it.

16 A I clocked it from the corner right here where the
17 stop sign is at Featherstone down to where they turned
18 left on Brawley Street.

19 Q Did you clock it to the light at the bypass as well?

20 A Yes, ma'am. I didn't, I'm sorry. I only clocked it
21 from Featherstone to Brawley Street.

22 Q And how far is that?

23 A That is approximately 1.1 miles.

24 Q And do you recall whether the interview that happened
25 or that took place with Chris Moore we just watched, was

CHRISTOPHER REYNOLDS - DIRECT

1 that before or after he was served with the murder warrant?

2 A I can't remember, I would have to look at the time.

3 Q Okay. Do you have notes or anything that you could
4 tell me?

5 A No, ma'am, I don't. I would have to go by the disc,
6 which was -- I think they said it was on the 14th, that
7 was on 11/14 of 2014 with the interview.

8 Q Right, we established that earlier. What I was trying
9 to find out was timing wise because it was both on the same
10 day.

11 A Yes, ma'am.

12 Q So I was trying to find out if you interviewed him
13 before or after?

14 A I believe it was after, I'm not 100 percent sure
15 though.

16 Q All right. And I'll show you what has been marked as
17 State's 83. Do you recognize this?

18 A Yes, ma'am.

19 Q Okay. And what is that?

20 A This is a copy of the phone call from Christopher
21 Moore.

22 Q Okay. And when you say a copy of the phone call, what
23 do you mean?

24 A All phone calls are audio recorded from the jail.

25 Any outgoing calls that any inmate -- whenever they call

CHRISTOPHER REYNOLDS - DIRECT

1 somebody once they pick up the phone it tells them that
2 every phone call will be audio recorded and that's one of
3 them.

4 Q And did you hear this on the jail recording system?

5 A Yes, ma'am.

6 Q And did you make this recording and pull it off onto a
7 disc?

8 A I did.

9 Q What's the date of that?

10 A I'll have to look at the disc again, I'm sorry. It
11 was multiple calls he made so I would have to refresh my
12 memory. This was on -- it says audio on December 17th of
13 2015 from the jail.

14 Q Just before --

15 MS. HALL: Your Honor, at this time the State would
16 move 83 into evidence.

17 MR. FRICK: No objection.

18 THE COURT: In without objection.

19 (The disc was received as State's 83.)

20 MS. HALL: In just a minute I would like permission to
21 publish it but I would ask one more thing read quick.

22 Q Did you at any other time interview the defendant or
23 the one that you saw, was that the only interview you ever
24 did?

25 A That was the only time I interviewed him at the

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1 sheriff's office.

2 Q I want to show you what's been marked as State's
3 Exhibit 98. Do you recognize that document?

4 A I do. It's actually a Chester County Detention
5 Center inmate request form.

6 Q What are those used for?

7 A Any inmate that wants to speak with an officer or
8 investigator they have to fill out a form, and once they
9 fill out the form they send it over, either an email or
10 actually bring the form over to us to our office, and
11 that's an official request for them to speak with us.

12 Q And who was that -- was that filled out by someone?

13 A It was filled out by Christopher Moore.

14 Q Does it have a date on it?

15 A It says holding unit five, and the date is November
16 14th of 2014.

17 Q And that was the date the interview was done and
18 warrant was served; is that correct?

19 A Yes, ma'am.

20 Q And what does it say?

21 A It says explanation of a request, he writes, "I would
22 like to talk to Chris Reynolds about the murder charge I
23 was charged with."

24 Q Thank you.

25 MS. HALL: Your Honor, at this time the State would

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1 move 98 into evidence.

2 MR. FRICK: No objection.

3 THE COURT: In without objection.

4 (The form was received as State's 98.)

5 MS. HALL: I don't have any further questions for you,
6 please answer anything that Mr. Frick may have.

7 CROSS EXAMINATION

8 BY MR. FRICK:

9 Q Is it unusual for you to get a request from an inmate?

10 A No, it's not.

11 Q Particularly with someone charged with murder?

12 A That's the first one I've got a request from somebody
13 charged with murder.

14 Q Uh-huh. You became involved with the case the night
15 of the incident, correct?

16 A That's correct, yes, sir.

17 Q That was November 4th, right?

18 A That's correct.

19 Q Do you know about what time you got a call?

20 A I'm not real sure.

21 Q Okay. That's fine.

22 A I was just contacted by my Major said get to town
23 now, we need all hands on deck.

24 Q Major Burly was the on-call and he had to get
25 everybody rounded up because it's a pretty major case,

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1 right?

2 A Yes, sir, he's our Major.

3 Q At some point in the evening you -- I think the
4 solicitor told you that -- or elicited from you that you
5 spoke to Ms. Bagley?

6 A Yes.

7 Q Was that on the night of the 4th?

8 A That was.

9 Q And you did go talk to her at some point?

10 A It was the night that the incident occurred, it may
11 have been after 12:00 so I'm not sure.

12 Q I ain't trying to trip you up on that, I understand.

13 A I would just have to look at her statement.

14 Q I got you. But either the late hours of the 4th into
15 the early hours of the 5th, correct?

16 A Yes, sir, that's correct.

17 Q Soon after you became involved, correct?

18 A Yes, sir.

19 Q And when did you go over to Patrick Street to walk
20 around looking for stuff?

21 A It was shortly -- it was the same night, maybe into
22 the 5th, but it was shortly after I acquired her
23 statement.

24 Q Okay. Did you go back and get any equipment, get any
25 other people?

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1 A No, sir, I actually made a phone call. We had to
2 report everything to Major McDaniel, and I think it was --
3 if I can remember it was Chief Deputy Sprouse that met us
4 over there then at the corner of First Street and Patrick
5 Street.

6 Q And then y'all walked down Patrick?

7 A Yes, sir.

8 Q You said you just used the flashlight that night?

9 A I did.

10 Q Okay. Where if anywhere did you document that you
11 went down Patrick Street?

12 A I'm not sure if I did document that.

13 Q You didn't, did you?

14 A I would have to look back at the case file, but if
15 it's not under the supplemental I didn't document it, no,
16 sir.

17 Q Okay. If you did not why would you not have?

18 A Sir?

19 Q If you did not document it why would you not have?

20 A Why would I not have documented it?

21 Q Yes.

22 A It was just on oversight by myself.

23 Q You've got a shooting case.

24 A Yes, sir.

25 Q You hear that there's a possible shooting over on

CHRISTOPHER REYNOLDS - CROSS

1 Patrick Street, you look over there, nothing was found.

2 A Just that night everything was going on, we reported
3 back to the case agent, which was Detective St. Clair. I
4 believe he did most of the documenting once we gave him
5 the information we have.

6 Q Okay. Do you recall -- I know y'all -- y'all then got
7 a video from Mr. Gray's house, right?

8 A We didn't acquire the video that night because we
9 didn't have a flash drive and he didn't exactly know how
10 to download it down to a flash drive. We did watch the
11 video that night because I remember his DVR was in a
12 secluded place in his house for safety. But we did watch
13 the video that night and, of course, I reported it back to
14 my Major and Detective St. Clair, the lead case agent.

15 Q And in that video you see a truck followed by a car,
16 right?

17 A I do.

18 Q And y'all determined that to be the car that contained
19 Mr. Moore?

20 A Yes, sir.

21 Q And the Cadillac was Mr. Williams?

22 A Yes, sir.

23 Q Did y'all receive any information that showed that
24 that chase was ever the other way?

25 A I don't remember. I don't think so.

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1 Q You don't remember or you didn't receive it?

2 A No, I haven't received any information.

3 Q Did you go look at any other videos in this case,
4 surveillance videos?

5 A I didn't myself.

6 Q Did you go with anybody else?

7 A No, sir.

8 Q Are you sure?

9 A I would have to look back at the notes.

10 Q Take a look at that. It's all right, it's a lot of
11 stuff.

12 A This was 11/6. We did. We went to the Speedy
13 Station, which used to be the Texaco Station, and looked
14 at -- it says right here in our notes in our supplemental
15 on 11/6 of 2014 that "Detective Reynolds and Detective
16 Sanders went to [REDACTED] Saluda Street, the 99 Express and
17 looked at surveillance video. Detective Reynolds and
18 Detective Sanders checked the video 19:59 p.m. to 20:15
19 p.m. and could not recognize a Dodge Ram or the Cadillac
20 of the video in the timeframes." So, yes, sir, we went
21 to -- and I'm sorry, it's not the Texaco, that's the
22 Saluda Street 99 Expressway.

23 Q Okay, that's fine?

24 A It's in the city so I'm not too familiar with the
25 names of them.

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1 Q That's fine. But y'all went over there and looked at
2 a video, it didn't tell you anything.

3 A No, sir.

4 Q But that was important enough to write down.

5 A Yes, sir. I think Detective Sanders -- can I see
6 that again?

7 Q Yes, sir.

8 A I'm not sure if I documented that or if it was
9 Detective Sanders that documented that.

10 Q I believe it was Detective Sanders, I'll give you
11 that.

12 A Yes. Detective Sanders actually typed this up, so he
13 did document it.

14 Q Okay. But you didn't document going over to Patrick
15 Street.

16 A No, sir.

17 Q Okay. Let's briefly talking about the video. I'm
18 sorry, I had a cold all week, my hearing is a little messed
19 up.

20 A Mine too.

21 Q When the solicitor asked you about that window, what
22 did you say was on the other side of there?

23 A It's a viewing room where you can only see out of the
24 viewing room. There's two different monitors -- the way
25 it's set up, we have the viewing room in the middle, then

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1 we have two different interview rooms, it's audio and
2 video recorded. It's two monitors and two recorder
3 devices for the audio and video and a few chairs inside.

4 Q Did you say you could or could not hear in there?

5 A You can hear in there. You have a volume switch on
6 the monitor itself.

7 Q All right, I was making sure. All right. Now, in
8 that video when you talked to Mr. Moore, do you know how
9 old he was when you talked to him?

10 A Yes, sir.

11 Q How old was he?

12 A I would have to look back but I believe he was 17 or
13 18, I'm not sure. I know he was an adult.

14 Q But still in teenage years.

15 A That's correct.

16 Q And there was something there about you giving him the
17 request form, did I hear that correctly? How do you get
18 one of these forms?

19 A He has to request it from the C.O. in the jail. If
20 they request to speak to an officer or an investigator
21 then they'll give them the form.

22 Q I thought I heard, and correct me if I'm wrong on
23 this, that in the video you said that you gave him the
24 form.

25 A I don't remember if I gave him the form. We have in

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1 the past -- once they requested to speak with us we have
2 actually went to the counter, the booking counter and they
3 gave us a form to give to the inmate while they're sitting
4 inside the jail cell, we've done that in the past. But I
5 don't remember if that night -- I don't remember that
6 night if I gave him the form or not.

7 Q Okay. Jumping a little bit ahead. The phone call
8 that got played.

9 A Yes, sir.

10 Q Do you remember when that phone call was?

11 A It was after a bond hearing if I remember correctly.

12 Q Okay. But the date of it, not necessarily
13 specifically, but --

14 A No, sir.

15 Q -- was it some time after this, the incident?

16 A Yes, sir. It was during a bond hearing, or shortly
17 after a bond hearing.

18 Q About a year later, wasn't it?

19 A I think so, yes, sir, whatever the date was on there.
20 I don't remember what the date was, I think it was 2015.

21 Q But it wasn't right after your interview with him and
22 all of that.

23 A No, sir, it was not. It was some time later.

24 Q I think we've got State's Number 83. Is there a date
25 on there?

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- 1 A Yes, sir, it's December 17th of 2015.
- 2 Q 2015. You didn't get the warrant, right?
- 3 A No, sir.
- 4 Q You served the warrant.
- 5 A Yes, sir.
- 6 Q But you were involved in the investigation, right?
- 7 A That's correct.
- 8 Q The warrant charges Christopher Moore with murder.
- 9 A That's correct.
- 10 Q Murder requires the intentional killing of someone
- 11 with malice aforethought; is that correct?
- 12 A That's correct.
- 13 Q To get that warrant you've got to get a magistrate to
- 14 agree that you have probable cause, correct?
- 15 A That's correct.
- 16 Q In the interview you tell Chris, "We know y'all didn't
- 17 mean to do that."
- 18 A That's correct.
- 19 Q Were you being truthful with him when you told him
- 20 that?
- 21 A That's part of a procedure that we use, kind of a
- 22 tactic, we use that once you're inside of the interview
- 23 room. At the time we knew that he was involved we just
- 24 didn't know the extent of it.
- 25 Q Uh-huh. What else did you lie to him about?

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1 A In interview room?

2 Q Yes, sir.

3 A I don't remember.

4 MR. FRICK: Thank you, that's all the questions I
5 have.

6 REDIRECT EXAMINATION

7 BY MS. HALL:

8 Q When you say it's a tactic, what's the tactic designed
9 to do?

10 A It's to give him the opportunity to -- you heard in
11 the video, I asked why it happened, we knew that he had a
12 part in it, we just didn't know what type of role he had
13 at the time. But we asked him multiple times why it
14 happened, how it happened and just plain out why, which he
15 never gave an excuse as to why it happened.

16 Q But when you use a tactic, is it designed to make
17 somebody feel comfortable enough to be able to talk with
18 them friendly?

19 A It is.

20 Q Typically when you interview suspects do you just
21 throw it all out there and tell them everything you know
22 about the case?

23 A No, ma'am, we don't.

24 Q Why is that?

25 A We don't lead the suspect into making a false

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1 statement. A lot of times we just don't want them to know
2 exactly what we have, because sometimes they'll actually
3 speak about the case and give us clues about what happened
4 so we do not tell them 100 percent of what we have.

5 MS. HALL: Thank you, Your Honor, nothing further.

6 MR. FRICK: Nothing further, thank you.

7 THE COURT: You can step down.

8 MS. HALL: State calls Lee Blackmon.

9 The witness, LEE BLACKMON, was first duly sworn and
10 testified as follows:

11 DIRECT EXAMINATION

12 BY MS. HALL:

13 Q Your name is Lee Blackmon?

14 A That's correct, Lee Blackmon.

15 Q And where are you employed?

16 A I'm employed with the South Carolina Law Enforcement
17 Division.

18 Q And how long have you been employed there?

19 A Approximately nine years.

20 Q And how long have you been a law enforcement officer?

21 A Around 23 years.

22 Q Prior to going to SLED where did you work?

23 A I started my service in 1993 with the City of
24 Lancaster. In 1997 I moved to the Lancaster County
25 Sheriff's Office, shortly thereafter I became an

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1 investigator in the investigative section in the Lancaster
2 County Sheriff's Office, and then after approximately five
3 years I became a lieutenant supervisor at the sheriff's
4 office. I came to SLED in 2007.

5 Q And what were your duties at SLED?

6 A Our duties at SLED, we work at really the discretion
7 of the governor and state grand jury's office and attorney
8 general's office, most often we're involved in assisting
9 local agencies. And my main regional areas of work is
10 really the Northern Midlands, I'm in the Midlands
11 investigative section, which covers from Lancaster all of
12 the way to Akin. But I'm generally assigned to cases in
13 Chester County, Lancaster County, Fairfield County and
14 Kershaw County. What we do is if a major crime occurs and
15 an agency calls and asked for our assistance in coming to
16 investigate, we basically come in and supplement their man
17 power. I come from a sheriff's office which is kind of
18 rural, I have been here to Fairfield County to help to
19 assist them in investigations. We basically come in and
20 supplement their investigators, we work along side them in
21 an assisting role. We do have resources at SLED,
22 including our lab and as was testified before as far as
23 our crime scene investigators who can come up. We come in
24 and assist those investigators and provide the assets to
25 them that SLED may have to offer. We also investigate

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1 public corruption official conduct cases, but also
2 investigate officer involved shootings and things along
3 that line as well.

4 Q And what is your job at SLED?

5 A I'm a special agent sometimes referred to as a field
6 agent. I'm a resident agent over Lancaster County, and
7 I'm an investigator basically is my role, I'm an
8 investigator.

9 Q And were you acting in that capacity when this event
10 occurred on November 4th of 2014?

11 A I was.

12 Q And did you -- did SLED get a call from the Chester
13 County Sheriff's Office to assist in this investigation?

14 A We did. I cannot remember which of my supervisors
15 had called me, but indicated that Major Burly McDaniel of
16 the Chester County Sheriff's Office had requested
17 investigative services, which is the role that I fall
18 under, and that also a request had been made for crime
19 scene investigators to respond to the scene as well.

20 Q Okay. And were y'all involved with this investigation
21 initially like from the very beginning?

22 A Yes, we were. I was there that night, I don't recall
23 exactly what time I arrived, it was before midnight when I
24 arrived over there at the scene. And I was assisting with
25 the case approximately a week and a half or two maybe two

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1 and a half weeks before our assistance with the case was
2 no longer needed. We come in sometimes -- like I said the
3 sheriff's office, there's certainly parts of the sheriff's
4 office that just have the man power to do that, but there
5 are other sheriff's offices in rural counties and a
6 smaller county, they just don't have the man power to keep
7 that investigation flowing as it needs to throughout this
8 process. And we came in and we assist them and supplement
9 their investigators until a point is reached where the
10 investigation may be scaled back and they can take over
11 and complete the investigation on their own.

12 Q Did you actually respond to the scene that night of
13 the November 4th?

14 A I responded directly to Roundtree Circle.

15 Q And what did you do when you were there? Did you
16 assist crime scene people or did you do your own thing, or
17 what were you doing?

18 A When we generally arrive it's an unwritten protocol
19 with us is, we make sure our crime scene agents, in this
20 case Melinda Worley and Brittany Burke, that they have the
21 resources they need, they have the assistance they need
22 and beginning to process those particular things that they
23 have to process. And the maps have been shown of an area
24 essentially around Roundtree Circle that this incident
25 took place, it's a large area, and a lot of times one of

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1 the main things we want to do when we get to a scene like
2 this is to preserve that evidence, make sure it's there
3 and make sure that evidence isn't overlooked and to
4 collect that evidence in the most appropriate way we can
5 get it collected, so we can spend a lot of time maybe
6 holding flashlights or searching with them to help find
7 some of these pieces of evidence.

8 Q And as an investigator that's helpful to your role in
9 determining what's going on at the scene; is that correct?

10 A Absolutely. Any evidence that is obtained from the
11 scene is a clue that helps us try to determine exactly
12 what happened in the case.

13 Q All right. Did you -- did you stay in Chester that
14 night all night?

15 A I was in Chester that night, and that was on the 4th,
16 and I stayed over all night that night. And on the 5th, I
17 can't remember exactly what time -- because after awhile
18 you do have to get rest, we have worked a lot of hours in
19 a row before but after awhile you have to get rest. I
20 don't recall exactly what time on the 5th that I did sign
21 off that I was headed home to get rest. But yes, I was
22 there throughout that particular evening and the following
23 morning.

24 Q And did you come back to Chester on November 6th?

25 A I did.

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1 Q And what was the purpose of that?

2 A We came back. We actually had -- my lieutenant came
3 back and we had I think two additional SLED agents came up
4 as well to begin working leads on the case.

5 Q Did any of those leads involve information that some
6 things had happened on Patrick Street?

7 A Yes. I had heard initially that there was a video
8 that had been recovered, or an incident observed showing
9 that this particular part of the event had traveled
10 through that area. There was a video that showed both
11 vehicles traveling in front of the residence, and that
12 residence was at Patrick Street making a left-hand turn
13 onto First Street. It was some indications that there
14 were gunshots heard in that area around about the same
15 time as this incident.

16 Q Okay. So what did you do on Patrick Street?

17 A On Patrick Street, I had information that the
18 sheriff's office and some investigators had gone and
19 searched that area at night and I had learned that prior
20 to me leaving on the 5th. And so what I did was when I
21 came back the next day -- because at that point we do not
22 believe it would have to require our crime scene agents to
23 come back to the scene, and one of the tools that we had
24 used on the 5th was a metal detector to locate some shell
25 casings and I was the person who operated that. I just

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1 have my own personal metal detector, it's a hobby that I
2 have. I'm not the one you see on the beach looking for
3 jewelry and coins and everything, but I enjoy looking for
4 historic type things so I had my own personal metal
5 detector and I know how to use it. So whenever I came
6 back on the 6th I brought my own personal metal detector
7 with the intentions of going to Patrick Street, and any
8 other place that may be probative to go through.

9 Q What were you looking for when you went to Patrick
10 Street?

11 A At that point we really didn't know. The evidence at
12 that point in the case, we knew that there was a weapon
13 found in Mr. Williams' vehicle that appeared to have been
14 fired twice, at some point fired twice, there were two
15 empty shell casings in there. And you know, we knew there
16 were -- that guns had been recovered that appeared that
17 may have come from that particular crime scene. So I went
18 back, searched a very narrow area on both sides of the
19 road with the metal detector just trying to locate any
20 shell casings or possibly lead projectiles.

21 Q Did you locate anything?

22 A Didn't locate anything at all.

23 Q Did you talk to anybody about that?

24 A No, I simply went over there. We had a lot going on
25 on the 6th with our investigators over there and it was a

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1 window of opportunity for me to go over there and look.

2 Q And you stated you had gone over -- there were other
3 SLED agents.

4 A The other SLED agents were doing different tasks as
5 far as going out and interviewing different individuals at
6 that time, I just had a window of opportunity to go back
7 over to Patrick Street as I had planned to do. I searched
8 down both sides of the road with the metal detector,
9 because the metal detector had greatly assisted us on the
10 5th on locating some of the fired cartridges that have
11 been discussed in this case that were located there on
12 Parkway at the residence.

13 Q When we were referring to the shell casings and the
14 metal detector, are you talking about the markers and
15 things that are indicated on this Exhibit, State's 58?

16 A I am. On the morning of the 5th I traveled over
17 to -- I drove over to Roundtree Circle in part because you
18 can see one thing at nighttime and it gives you more
19 appearance because, you know, when daylight comes you can
20 see a lot more and get a better understanding, so at first
21 light that's when I went back over to the Roundtree Circle
22 area. When I arrived over there I actually observed that
23 there were four -- at least three or four bullet defects
24 that appeared to be in the ditch right beside Roundtree
25 Circle and Parkway. When I observed those it was like --

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1 it looked to me like bullet holes that had kicked dirt up
2 and it didn't appear that those things had left. I
3 immediately called Brittany Burke, the crime scene agent,
4 she was leaving but had not gotten completely too far away
5 from Chester, so I requested that she come back and for us
6 to continue the search in that area. I also notified the
7 investigators with the sheriff's office and they came over
8 and arrived as well and assisted with that search.

9 Q All right. As part of your investigation, did you
10 have -- were you present when the inventory of Odell
11 Williams' car was taken?

12 A I was.

13 Q And were you able to inspect the vehicle?

14 A I was there as they were collecting evidence from
15 that vehicle.

16 Q At any point in time was a speed loader or anything
17 like that ever found in that car?

18 A I've heard a speed loader described, which I'm not a
19 firearm expert, I knew what one was, I used one very early
20 in my career. No speed loaders were found inside that
21 vehicle. There was no boxes of ammunition discovered
22 inside of that vehicle. The only thing that was
23 discovered inside of that vehicle related to firearms was
24 there were some projectiles that were located. As far as
25 the weapon, there was a revolver found in there with two

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1 spent cartridges and I think probably four or five live
2 cartridges located inside the firearm.

3 Q And when you're talking about the projectiles, are you
4 talking about the things that had been shot into the car?

5 A Yeah. They had been shot into the car.

6 Q With regard to live ammunition, I want to be sure that
7 we're clear, the only four rounds of live ammunition
8 related to that .32 were in the gun.

9 A Correct. There were no other lose laying around
10 unfired projectiles for that particular weapon, or any
11 particular weapon besides that.

12 Q And the only two fired projectiles are cartridge
13 cases -- or not projectiles, but the only two cartridge
14 casings that you found pertaining to that .32, those were
15 also found inside the car?

16 A They were found inside of the gun that we determined
17 was Odell Williams' firearm.

18 Q All right. Did you have occasion to inspect the
19 radiator of the car?

20 A Yes, we did, we did that at a later point. When I
21 arrived that night you could see a pool of fluid in the
22 roadway shortly after you turned off of Parkway onto
23 Roundtree Circle. I'm not an automobile expert, but I
24 leaned over and what I first observed it and gave the
25 appearance of being radiator fluid. I leaned over and

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1 smelled it, it smelled like antifreeze. I stuck my finger
2 in there and rubbed it together and it felt like
3 antifreeze that was there in the roadway.

4 Q I'm going to show you what's been marked as State's
5 92. Just to be clear about this, can you point to the area
6 where the antifreeze was?

7 A Antifreeze -- this is Parkway, this is Roundtree, the
8 antifreeze would have been about in this general area
9 right in here.

10 Q Okay. And what if any conclusions did that lead you
11 to draw regarding the vehicle and placement of the vehicle?

12 A It was a possibility that the vehicle was struck
13 somewhere around the radiator or radiator hose area
14 damaged and it caused it to possibly leak at that
15 particular area.

16 Q Was there a lot of radiator fluid, a little bit?

17 A There again I'm not an automobile expert and how fast
18 radiator fluid might come of something if a hose busted or
19 whatever, but there was enough that it had pooled and
20 there was a little slope in the road as most roads are,
21 and the antifreeze had pooled. It had also started to
22 drain toward the fog line at the edge of the roadway.

23 Q Did you observe any tire marks or anything else in
24 that area?

25 A The only tire marks or things that I observed in that

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1 area were the ones that appeared after Mr. Williams had
2 been shot that his vehicle continued down the roadway
3 across several yards and eventually rested up against the
4 residence.

5 Q And when you were inventorying the car, I want to show
6 you what's been introduced into evidence as State's Exhibit
7 53B. I believe that's a photograph of Mr. Williams
8 cellphone?

9 A That's correct.

10 Q Or the cellphone that was in Mr. Williams' car.

11 A That's correct.

12 Q Where was that located in the car?

13 A Like I said, it was in the right side of the
14 passenger floorboard. In other words the driver is here,
15 the passenger floorboard on the right side over there in
16 the floor.

17 Q So that's why -- okay. All right. And what's the
18 fusion center?

19 A Fusion center is the intelligence center of SLED, and
20 we have one of the best ones in the country. If you've
21 ever seen a movie or a FBI thing and you see a war room
22 where there's TV monitors and there's individuals that are
23 sitting there analyzing or looking up information on
24 certain people who may have been involved in a crime,
25 that's what our intelligence center does. We have people

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1 that are experts down there and just -- the department of
2 motor vehicles gets information from them. We have
3 individuals who are associated with probation and parole
4 pardon services who can get information for us. We also
5 have experts that work in the area and mapping and doing
6 certain things. We also have experts there that work in
7 the area of analyzing cellphone information if we obtain
8 it from that particular case.

9 Q And are they able to dump phones or look on phones to
10 find out if anybody has made incoming or outgoing calls?

11 A We do. We also have the power by going to a
12 magistrate and obtaining a search warrant and sending it
13 off to that certain provider of that phone to get
14 information. There is a process where they can take the
15 phone and attach it to a machine, there again, I'm not
16 qualified to do that but I've watched it occur. They
17 simply hook a machine up to a cellphone and it allows that
18 computer to make a duplicate image of the data that is on
19 that cellphone, we just simply call it capturing the image
20 of that phone. It may be -- it'll have the recent calls
21 on there, photographs, text messages and things along that
22 line.

23 Q And did y'all collect some phones in this case?

24 A We did. We also collected some information through
25 search warrants and different things.

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1 Q And all of those phones that were submitted to the
2 fusion center, did y'all find anywhere that anybody had
3 made an attempt to call 911?

4 A We determined that no one -- all of the information
5 that we had from those individuals that were in the Dodge
6 Ram truck, those individuals who testified in this
7 courtroom so far, that none of those individuals made
8 phone calls to 911, did not appear that they made phone
9 calls to any law enforcement officials or anything along
10 that line as far as we could not attempt to reach law
11 enforcement on it. We did also search Mr. Williams' phone
12 as well to determine if he had reached and attempted to
13 call 911 and we find out he had not. We also did a search
14 to see if he had contacted anyone, being a councilman, to
15 see if he had reached out to any of his law enforcement
16 potential contacts that he may have, but there were no
17 phone calls that he made during this timeframe. So in
18 summary it appeared that no one in either vehicle had made
19 any attempt to dial 911 or reach out to 911 or any police
20 officers.

21 Q Okay. And to go back to when you were walking around
22 on the 6th with your metal detector, what area did you
23 cover?

24 A I covered from McClure Street to First Street.

25 Q And would that include Patrick Street?

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1 A That's what I'm saying, Patrick Street from McClure
2 street to First Street.

3 Q And at some point -- and you touched on this a second
4 ago, after a couple of weeks with helping with the
5 investigation, SLED stepped back and allowed the sheriff's
6 department to at that point -- I think you said that it was
7 to a manageable state to where the sheriff's department
8 could continue on their own?

9 A Correct.

10 Q And so SLED became uninvolved at that point.

11 A That's correct. Our lab was still processing
12 evidence and things from them, but as far as where my
13 section as far as the criminal investigation side of the
14 case, our assistance was no longer needed at that point.

15 Q And some time in May of 2015 was SLED again contacted
16 and asked to become reinvolved in the case?

17 A We were. We were contacted by the solicitor's office
18 to come in and look over the case, which we commonly do in
19 these cases to complete some additional investigative
20 activities.

21 Q And what was one of the first things you did when you
22 were contacted to become reinvolved in the investigation?

23 A One of first things we did, we knew that there were
24 individuals who had been charged in this particular crime
25 and I think everyone of these individuals at that point

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1 had retained or been represented by attorneys, and contact
2 was made through those attorneys to arrange for us to
3 interview those witnesses.

4 Q And did you indeed interview Derrick Dixon?

5 A Yes, I did.

6 Q And that was in the presence of his attorney?

7 A Yeah. It was Derrick Dixon, I think, may have been
8 Nathan Sheldon if I'm not mistaken was his attorney.

9 Q At the initial time you interviewed him, did he give a
10 written statement, or did you take a written statement?

11 A He did not give a written statement. A written
12 statement in other words, is where he provides his
13 information, it was typed handwritten by him and written
14 by me, and then there's a place for him to sign that that
15 is his statement. And if they do not do that I simply
16 take notes and put it in to what we call a memorandum of
17 interview which is just a simple I memorialize what he's
18 told me, and I type that document out according to what
19 he's told me, it's not something that he signs.

20 Q And that's just an informational tool to relay the
21 information back to the solicitor's office to let them know
22 what information he has.

23 A Absolutely.

24 Q With regard to -- at some point in time in preparation
25 for coming to court, did you go back and talk to Derrick

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1 Dixon in the presence of his attorney again to obtain an
2 actual written statement?

3 A Yes, we did, and this would have been sometime in
4 April of 2016. I went back and as I told you before, was
5 obtaining what we would call a voluntary statement where
6 we interviewed him and I typed out that statement using
7 the words that he was telling me, and then had that
8 document printed -- his signature -- he read it line by
9 line, I read it to him and he signed that document
10 indicating that the information within that statement was
11 correct and it was his words.

12 Q And again that was done in the presence of his
13 attorney as well?

14 A Absolutely.

15 Q All right. And with regard to D'Angelo Roseboro, when
16 you became involved with the investigation again, was he
17 contacted through his attorney and asked to talk with you?

18 A Yeah. His attorney was, I think, Leah Moody out of
19 Rock Will. We went to her office and interviewed him. He
20 was not willing at that point to produce a voluntary
21 statement or a signed statement, and so I completed what
22 we refer to as a memorandum of interview. And later in
23 April of this year we returned to her office, interviewed
24 him again and obtained a voluntary statement, which was
25 again his words typed out, and he read it, agreed those

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1 are his words and signed those statements.

2 Q And both of them were voluntary, it's just one was
3 written and one was not; is that correct?

4 A That's correct. Both -- information he provided when
5 I prepared the memorandum of interview was all voluntary,
6 the attorneys were sitting there with him.

7 Q Both times.

8 A Both times.

9 Q And that was true with D'Angelo Roseboro as well.

10 A That's correct, and Terrance Buchanan as well too.

11 Q And Terrance Buchanan, early on he gave a statement to
12 Sheriff Underwood; is that correct?

13 A That is my understanding, he had originally given a
14 statement to law enforcement.

15 Q And at some point in time did you go back and talk
16 with him again?

17 A I did.

18 Q And was that in the presence of his attorney, Jimbo
19 Morton?

20 A Right. Matter of fact, it occurred in Jimbo Morton's
21 office, the first initial conversation.

22 Q And was it the same thing where he didn't give a
23 written statement and you did a memorandum of interview,
24 but then he went back around April or May, or April or
25 March and somebody took a written statement from him?

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1 A That's correct, in which he provided his words as far
2 as his of what had occurred and he did sign that as being
3 his statement.

4 Q And again, that was done in the presence of his
5 attorney both times.

6 A Presence of his attorney.

7 Q With regard to Quinton McClinton.

8 A It is my understanding that Quinton McClinton was
9 uncooperative in the initial stages of the investigation.
10 My understanding is that attempts were made through his
11 attorney to make contact with him and see if he was
12 willing to cooperate, and he was not willing to cooperate
13 with this investigation.

14 Q So you've never talked to him or taken a statement
15 from him.

16 A I have not.

17 Q Are you aware of any statement he's ever given during
18 the course of this entire investigation?

19 A I don't have knowledge of any statements he has
20 given.

21 MS. HALL: I don't have anything further, please
22 answer anything of Mr. Frick.

23 CROSS EXAMINATION

24 BY MR. FRICK:

25 Q Special Agent Blackmon, you were involved in this case

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1 the night it occurred, correct?

2 A That's correct. I responded to Roundtree Circle,
3 that was the area that I was told to respond to.

4 Q And then continued as the case went along, and I think
5 the solicitor asked you about some interviews that you just
6 talked about here, and you said you completed some
7 investigation activities. Was there anything other than
8 collecting statements?

9 A As far as --

10 Q Was there anymore evidence collected?

11 A No, there was no more evidence collected.

12 Q Physical evidence is what I mean, I mean obviously
13 statements.

14 A Yeah, statements.

15 Q Okay. All right. And essentially these were
16 follow-up interviews, right?

17 A That is correct.

18 Q Okay.

19 A Anytime an opportunity arises where we can go back
20 and talk to someone that's involved in the case and we
21 need to, we definitely want to gather as much information
22 from them, because they were present when the incident
23 occurred, to get as much information as we can from them.

24 Q Without going into a lot of detail, do you recall the
25 different statements?

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1 A I don't recall them as far as word by word or
2 anything.

3 Q Do you recall if they were fairly consistent?

4 A They were fairly consistent. You will find some
5 inconsistencies at times, you'll find some individuals
6 that recall or recant exactly word by word verbatim
7 exactly they tell you at each time they talk to you, and
8 in my 23 years you will find people who may not recall or
9 recollect the same information.

10 Q All right. The solicitor was also asking you about
11 the -- I think she called it inventory of the Cadillac?

12 A It was basically a search of the Cadillac. We were
13 there watching what they were doing seeing what they
14 were -- I think I may have even held a flashlight or two
15 while they were inventorying it.

16 Q But you didn't collect the stuff.

17 A I do not collect evidence like that. I say I do not,
18 there are times when we may be on a scene somewhere and --

19 Q I was fixin' to say, Agent Blackmon, you know what I'm
20 going to ask you next. You just told me you don't collect
21 evidence yet, you tell the solicitor you went out to
22 Patrick Street looking for evidence.

23 A What I was saying is this, this was a generalized
24 statement what I was about to make: There are times where
25 we do get called out to assist with investigative

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1 activities with the sheriff's office or police officers
2 and we may not have our crime scene there. When I was
3 with the sheriff's office there were times where we simply
4 just didn't call SLED to come up and collect evidence. I
5 don't consider myself a crime scene expert, but I do know
6 how to manage and control evidence and to maintain the
7 integrity of evidence that we may collect at a scene. But
8 I did not collect evidence related to this case.

9 Q Right. But in looking at a scene, I think you said
10 you're looking for any relevant evidence, right?

11 A That's correct.

12 Q If there is a statement that there's a shooting that
13 occurs somewhere and you go look and you find no evidence
14 supporting that, wouldn't that be evidence?

15 A There was no evidence collected.

16 Q Right.

17 A When we look at evidence as far as physical evidence
18 and things, tangible that you can hold in your hand were
19 the type of things that I was going out to Patrick Street
20 to look for, it was shell casings or anything that might
21 relate to firearms.

22 Q So you heard information at least from Ms. Bagley,
23 right, that there was a shooting.

24 A I don't recall exactly how I heard it. I was
25 informed by someone there was a report that shots had been

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1 fired over in that Patrick Street area.

2 Q And Investigator Reynolds went out there and you
3 followed up on that.

4 A That's correct. My understanding was they had gone
5 out there during the nighttime hours.

6 Q It was important enough to follow-up on, you don't see
7 anything --

8 A There was no evidence collected on Patrick Street
9 related to firearms.

10 Q And the fact that you don't find anything where
11 someone says that a shooting occurred is not relevant?

12 A I believe it would be relevant in the case that
13 someone did hear gunshots on Patrick Street.

14 Q Okay. I'll show you this. I think you may be
15 familiar with that.

16 A This is a South Carolina Law Enforcement Division
17 crime scene investigative summary. And this is a document
18 that is produced from our crime scene folks. The
19 individuals of our agency come out and do crime scene
20 investigations, they come out and would do -- mostly like
21 I said in this particular case two agents comes out. One
22 of those agents becomes the case agent in any particular
23 scene, and that agent will in the end create a document
24 describing what crime scene investigators have done as far
25 as their part of the investigation. This crime scene

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1 investigation summary basically depicts what tasks we
2 performed by those crime scene agents.

3 Q Okay. Now, you didn't write that document, right?

4 A This was not from the -- this came from the crime
5 scene -- the crime scene investigation folks.

6 Q Okay. Now, it contains some summaries of all of the
7 information, correct?

8 A Yes. It contains summaries of their activity and
9 what they did as far as those crime scenes.

10 Q At the very beginning they have to be apprized of what
11 law enforcement, local law enforcement had come upon,
12 right?

13 A Yeah, when they arrive they have no idea. We
14 generally -- and this is how it happens, is I call our
15 operation center and find out which crime scene agents are
16 responding, and if I have information that I can provide
17 them over the phone that this is what they're kind of
18 looking at they can prepare in their minds is can two
19 agents handle this or do they need to ask for additional
20 resources. Plus it also gives them a further mind as
21 they're driving up to that scene to kind of get an idea in
22 their mind, "We need to perform task A, B, C, D, here is
23 the type of things I need to get my mind around to be
24 looking for."

25 Q But it doesn't just simply contain what they did on

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1 Roundtree Circle, does it?

2 A I'm pretty sure it contains information where the
3 vehicle was concerned to where it was.

4 Q Talks about Agent Oliphant going up to Rock Hill to
5 see the autopsy?

6 A Agent Oliphant is also -- he works with the crime
7 scene investigative unit, and his information would be
8 obtained in here because he works out of this section.

9 Q And page 11 there's a document in there that talks
10 about collecting some stuff, I think I have it marked with
11 a paper clip so you can flip through it.

12 A I see it.

13 Q Is that some items that were collected at the jail?

14 A It appears to be, yes, sir.

15 Q Okay. Talks about collecting Chris Moore's underwear,
16 doesn't it?

17 A I believe it does, Hanes Underwear, I believe.

18 Q Okay. Chris Moore's underwear is relevant but Patrick
19 Street is not?

20 A Patrick Street was relevant, we searched Patrick
21 Street.

22 Q Well, where is it in that report?

23 A This report -- again, I think I've already testified
24 to this, this report is created by our crime scene folks
25 as far as their activities in this case. I do not work in

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1 the crime scene section, I work in the Midlands
2 investigator section.

3 Q Then why did you go to a crime scene?

4 A Well, Mr. Frick, I go to a lot of crime scenes.

5 Q You said you went to Patrick Street by yourself, it
6 wasn't necessary to call them back.

7 A We did not find it necessary at that point. It had
8 already been searched one time by the sheriff's office. I
9 have been to a lot of crime scenes, we work hand in hand
10 with our crime scene investigators. And there again, some
11 of these scenes can be spread out to a large area where
12 when we get there there's a lot of information, a lot of
13 places that need to be searched and we simply don't just
14 put two crime scene agents out there and expect them to be
15 able to use their resources to find all of this. We may
16 hold a flashlight for them, we may, as I did in this case,
17 operate a metal detector in efforts to locate evidence.
18 There again, if evidence is located, if it is located, we
19 simply just mark that or identify, "Hey, there's evidence
20 here," and those crime scene agents, they specialize in
21 this, they would come and collect that evidence in the
22 appropriate way and bag it and mark it as such and they
23 can later identify that where it's located. Patrick
24 Street, we did not find any evidence related to this case.
25 Q And so it wasn't important.

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1 A It wasn't --

2 Q The fact that you found nothing wasn't important?

3 A We found no evidence related to this case on Patrick
4 Street.

5 Q All right. Let's go to some photos. You took them --
6 you didn't do the analysis of the phones, the fusion center
7 did that, correct?

8 A That is correct.

9 Q And it was determined that no one in this case
10 contacted law enforcement or any known law enforcement
11 officials.

12 A That included individuals in the truck as well as
13 Odell Williams, Mr. Williams and his phone.

14 Q So you did look at Odell Williams' phone, he didn't
15 call 911 either.

16 A As I testified earlier he did not.

17 Q And didn't call anybody at the city police department?

18 A We found no calls that he'd called anybody in a law
19 enforcement capacity.

20 MR. FRICK: Agent Blackmon, give me one second, I may
21 be through.

22 (Break in proceedings.)

23 MR. FRICK: Thank you, sir, that's all of the
24 questions I have.

25 REDIRECT EXAMINATION

LEE BLACKMON - CROSS

1 BY MS. HALL:

2 Q It was important to go to Patrick Street to look to
3 see if there was any evidence; isn't that correct?

4 A That's correct.

5 Q But if you don't find anything there's nothing to
6 write down, right?

7 A No. We searched that area, did not locate anything
8 on Patrick Street in reference to this case.

9 Q And in that crime scene investigative summary that Mr.
10 Frick gave you, did you notice that any of the crime scene
11 people documented, "Well, I look over here and didn't find
12 anything?"

13 A The scene was fairly large, it was a large area over
14 there. They didn't document they went by this particular
15 tree and didn't see something, that kind of stuff doesn't
16 get documented. If they would have found evidence by that
17 tree it would have definitely been documented and marked.

18 Q And that's my point, they document what they find,
19 correct?

20 A And very often if anything would have been found on
21 Patrick Street -- and they don't always like for us to do
22 this but it is an important case -- if any evidence would
23 have been located I know exactly what I would have done, I
24 would have marked that and I would have probably stood by
25 that road until we had one of our crime scene agents

LEE BLACKMON - REDIRECT

1 arrived at that scene up there and collected it the way
2 they had collected other evidence in this case.

3 Q And it would have been documented because something
4 would have been found.

5 A Absolutely.

6 MS. HALL: Thank you.

7 MR. FRICK: Nothing further, Your Honor.

8 THE COURT: You can step down, thank you, sir.

9 MS. HALL: I just need one second to look at
10 something. I just want to make sure all of the maps and
11 diagrams have been entered into evidence so I just want to
12 go through real quick and move them in that way if they're
13 not in. Or we could take a break.

14 THE COURT: Ladies and gentlemen, you want to step
15 back and take your morning break?

16 (The jury left the courtroom and a break was taken.)

17 THE COURT: Regards to the evidence up to this point
18 is everything checked off?

19 MS. HALL: Yes, sir.

20 THE COURT: Let the record reflect that should I have
21 failed to say in without objection on any of the exhibits
22 clear the record by saying that they are in by the fact no
23 objections more or unless, I guess you could say consented
24 to. All right. What else?

25 MS. HALL: At this time the State rests.

1 MR. FRICK: If you want to go ahead and deal with my
2 motion, Your Honor, and I can renew them on the record or
3 whatever I need to do.

4 THE COURT: If y'all will agree to waive the jury
5 coming back in and playing musical chairs, it's fine with
6 me.

7 MR. FRICK: It's okay with me, Judge.

8 MS. HALL: And I can rest on the record when they come
9 back in.

10 THE COURT: Okay, good.

11 MR. FRICK: Judge at this time, first motion I would
12 like to make, and I think there's still developing case law
13 in this area so I would ask to renew my motion for immunity
14 pursuant to 16-11-450. I think you've heard all of the
15 evidence, you've heard more than you would have heard at
16 the hearing itself and at this time I would renew that
17 motion. I would also move on to my directed verdict motion
18 at this time, Your Honor. At this time the defendant would
19 move for a directed verdict given -- taking the evidence in
20 the light most favorable to the State I do not believe that
21 there was enough evidence for this to be sent to the jury,
22 it can be decided as a matter of law by Your Honor on the
23 first grounds of self-defense. I do believe that the
24 evidence would suggest that my client would satisfy the
25 prongs of self-defense; not at fault in bringing the

1 action, not involved in illegal activity at the time of
2 event. I understand the unlawful possession of the
3 firearm, however under Burris that does not in and of
4 itself defeat the unlawful activity part and no other way
5 to avoid the danger. Secondly, if that is not granted,
6 Your Honor, I believe that the testimony elicited by the
7 State showed that the firearm was fired in two different
8 ways; one, upon my client falling on the ground it fires,
9 in the statement of Mr. Breland who said my client told him
10 that he held the gun back this way. Either one of those I
11 believe would be the reckless use of a firearm and I
12 believe it would be appropriate if you send the case
13 forward to the reduced charge to involuntary manslaughter
14 and send it to the jury to that. Failing all of that I
15 would ask you to consider that there is no other direct
16 evidence showing my client guilty of the -- for forming
17 intent to unlawfully kill Mr. Williams and all of the
18 evidence that the State has is circumstantial on that
19 regard, and merely circumstantial and not substantial
20 circumstantial and the case itself should be dismissed.
21 That would conclude my motions on that.

22 THE COURT: Solicitor?

23 MS. HALL: With regard to Mr. Breland's testimony, I
24 guess Mr. Frick, he just didn't mention the part where Mr.
25 Breland said, "Mr. Moore told me that he was shooting over

1 his back and I didn't believe him," at which point Mr.
2 Moore says, "Actually I did turn around and shoot him." So
3 that I think negates his -- or at least responds to his
4 request that this case be reduced to an involuntary
5 manslaughter case. The State has presented evidence there
6 was an unlawful killing, there was malice and that's
7 indicated if nothing else by the number of times he fired
8 in that he was told to get out of the car, which he did.
9 The intent to kill, which he -- that can be implied because
10 he obviously shot a firearm in the direction of the victim
11 after he had said "Let me out of the car." And then the
12 doctor came and testified that the defendant -- the victim
13 died as a proximate result of the injuries inflicted by Mr.
14 Moore. I believe all of that is enough to send it to the
15 jury for -- on the murder charge. The additional charge,
16 possession of a weapon during the commission of a
17 advisement crime, the State presented evidence that murder
18 itself is a violent crime, and that Mr. Moore possessed
19 that rifle during the commission of a violent crime, which
20 would be enough evidence to send that to the jury as well.
21 With regard to self-defense, the State's position is that
22 there's not been any evidence as to self-defense at this
23 time. There's never been any evidence that anybody was
24 scared. There's never been any evidence that they thought
25 they were going to be shot and killed. There was no

1 evidence that Mr. Moore ever attempted to retreat or to
2 avoid the difficulty in any way. And so the State would
3 just ask the Court to rule for the State on those and deny
4 Mr. Frick's motion.

5 THE COURT: Okay. On the Castle Doctrine, Duncan, we
6 call it a Duncan hearing, based on the previous testimony
7 and evidence presented a couple of months ago, I believe on
8 the Monday on the first day of that week, which we can
9 separate from the actual trial, based on that hearing and
10 the decision rendered there, based on what we heard in this
11 trial I will deny any motions on the Castle Doctrine as I
12 did before. On the directed verdict, as far as a part of
13 that motion about the jury charges or any determination
14 about the self-defense, I'm going to have to wait until
15 we've completed the trial, but up until this point I have
16 to deny the directed verdict motion. Based on the evidence
17 before the Court it still appears that the evidence
18 developed at this point is going to have to be a jury
19 decision. What else?

20 MR. FRICK: Your Honor, two other quick issues. It
21 may be appropriate at this time to address my client as to
22 if he is testifying because that would address what my next
23 two issues are.

24 THE COURT: Mr. Moore, if I could have your undivided
25 attention. I need to get on the record and speak with you

1 about your 5th Amendment Rights which involve self
2 incrimination. It's your constitutional protections not
3 only under the United States Constitution, specifically the
4 5th Amendment, but also State constitutional provisions.
5 And the way it works, you certainly have a right to testify
6 at your own defense, but you have constitutional rights to
7 elect not to testify. Any decisions that you make in
8 regard to this has to be your decision and yours alone, it
9 needs to be intelligently entered into and freely and
10 voluntarily entered into. If you elect to testify you need
11 to fully understand that you could be treated just like any
12 other witness, directly examined, indirectly, cross
13 examined, impeached, just as any other witness of course,
14 which would all be within the limitations of our
15 evidentiary procedural rules. And so in regard to that I
16 need to ask you, have you thoroughly discussed that with
17 your attorneys?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you understand their advice?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you fully understand that under your
22 constitutional rights you have a right to remain silent?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Have you made a decision about that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And you understand what they have gone
2 over with you?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And you understand what I have gone over
5 with you?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Have you reached a decision in that
8 regard?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And what is your desire?

11 THE DEFENDANT: I will take the stand.

12 MR. FRICK: Thank you, Your Honor.

13 MS. HALL: And, Your Honor, just to be clear, we've
14 covered this before but Mr. Moore does have a prior
15 conviction for a failure to stop for a blue light which has
16 occurred within the past ten years, and the State would
17 offer that during cross examination to impeach him in the
18 event he does testify.

19 MR. FRICK: And, Your Honor, the defense is concerned
20 about the prejudicial nature versus the probative value of
21 that. I certainly understand the State can introduce it
22 and I know the State intends to argue that defeats
23 self-defense presuming that I get the Judge to charge that
24 after my client testifies. Your Honor, we would concede
25 that my client does have a prior conviction, and I hand you

1 up Old Chief in regard to that. We would stipulate that my
2 client has a conviction which prevented him from legally
3 possession a firearm without going into detail what the
4 conviction was.

5 MS. HALL: And, Your Honor, we did that -- and the
6 State concedes and we can just go ahead -- the way the
7 State would address that was that Mr. Moore had been
8 convicted of a misdemeanor offense for which he was on
9 probation at the time that this offense occurred.

10 MR. FRICK: That would be fine, Your Honor.

11 THE COURT: That's the cleanest way to do it.

12 MS. HALL: That's fine.

13 MR. FRICK: Your Honor, I would ask the Court to
14 reconsider my -- since there's a motion in limine, I guess
15 we're in the middle of the trial, consider it in the realm
16 of the trial my motion to allow testimony in the defense of
17 my client regarding the pending charge for threatening a
18 public official against Mr. Odell Williams.

19 THE COURT: No, I'll deny that.

20 MR. FRICK: I understand. Judge, I do want to just so
21 we can -- I would rather it be cleaner on the record once
22 we get in front of the jury. I believe if you review the
23 transcript there was one point where my client stated
24 during the last trial that he knew of the situation through
25 reading in the newspaper. At that time there was no

1 objection, we didn't go any further into it, but I do want
2 to inquire unto the Court if my client can speak to that as
3 it refers to his state of mind under self-defense. As
4 we're all aware it's a reasonable person and you get to
5 take all of the factors that you've got into consideration,
6 and if that came into his mind that he was aware, not
7 specifics, we can't get into the specifics of the event
8 under that, but he was aware that Mr. Williams had had some
9 difficulties, I think he can testify to that and I would
10 ask the Court's ruling on that.

11 MS. HALL: And the State would -- the State would
12 object to that. We would not -- we've already ruled, or
13 you've already ruled and we would just ask the ruling to
14 stand that there would be no reference whatsoever to any
15 prior instances involving the victim and anyone else with
16 the exception of Mr. Moore. And my understanding is there
17 are no prior instances where Mr. Moore and Mr. Williams had
18 ever had any contact with one another.

19 MR. FRICK: And just so I'm clear for the record, my
20 argument to talk about the specific incidents itself is
21 under Day and 405, and that argument is to the mindset of
22 the victim at the time of the incident. What I'm talking
23 about now is to establish self-defense and show that he
24 complied with the reasonable person standard, all of the
25 factors that are in his head, my client's head at the time,

1 just to clarify.

2 THE COURT: You're trying to get something in through
3 the back door that you can't get in through the front door.
4 I read these cases. Clearly if the prior difficulty had
5 been directed toward the victim, and you might could even
6 stretch toward if he was in the presence of something like
7 that happening toward a family member or somebody that was
8 directly in his presence. But no, I would have to deny
9 that.

10 MR. FRICK: I understand. I'm just trying to make
11 sure we cover everything before we start back up. I think
12 we did.

13 THE COURT: All right. Bring the jury in.

14 (The jury returned to the courtroom.)

15 THE COURT: Solicitor?

16 MS. HALL: Your Honor, at this time the State rests
17 its case.

18 THE COURT: All right.

19 MR. FRICK: At this time the defense would put its
20 motion on the record that it handled in-camera.

21 THE COURT: So noted.

22 MR. FRICK: Thank you, Your Honor. At this time
23 defense calls Christopher Moore.

24 The witness, CHRISTOPHER MOORE, was first duly sworn
25 and testified as follows:

1 DIRECT EXAMINATION

2 BY MR. FRICK:

3 Q Give us your name for the record.

4 A Christopher Moore.

5 Q And if you need to pull that towards you so we can all
6 hear you. Where are you from, Mr. Moore?

7 A From Chester.

8 Q How long have you been in Chester?

9 A All my life.

10 Q How old are you now?

11 A 20.

12 Q How old were you in November of 2014?

13 A 18.

14 Q Where did you go to school?

15 A Chester High.

16 Q Did you complete it?

17 A No, sir, not really.

18 Q How far did you go?

19 A I dropped out in the 12th grade.

20 Q You got to the 12th grade?

21 A Yes, sir.

22 Q All right. All right, Mr. Moore. On the night of
23 November 14 (sic), 2014, where did it begin?

24 A It started on Chester Homes. We was all in Chester
25 Homes; me, McClinton, Roseboro, Dixon and Buchanan.

CHRISTOPHER MOORE - DIRECT

- 1 Q What was going on there?
- 2 A Nothing, we were all chilling at a like kickback.
- 3 Q Okay. Did something else happen?
- 4 A No, sir, we was all chilling.
- 5 Q Did y'all stay there?
- 6 A No, sir.
- 7 Q Where did y'all go?
- 8 A Holmes Road.
- 9 Q How did y'all decide to go there?
- 10 A In a truck. The guys owed us money so we got in the
- 11 truck and we all went up there.
- 12 Q Okay. Did you have guns?
- 13 A Yes, sir.
- 14 Q Do you remember who had what?
- 15 A Yes, sir. I had the gun that's sitting right there,
- 16 then Buchanan had a nine and .38, and Roseboro had a .45
- 17 with a 30 round magazine. Dixon had a .40 with a 30 round
- 18 and McClinton had a .40 with a 30 round.
- 19 Q The truck, do you know where this truck came from?
- 20 A I didn't know where it come from but I know whose
- 21 truck it was.
- 22 Q You're familiar with this truck?
- 23 A Yes, sir.
- 24 Q Had you been in this truck before?
- 25 A Yes, sir.

CHRISTOPHER MOORE - DIRECT

1 Q About what time of night was it when y'all got in the
2 truck and went over to Holmes Road?

3 A I can't remember exactly what time, probably around
4 about seven or eight, it was getting dark.

5 Q Do you remember who was sitting where in the truck?

6 A Yes, sir.

7 Q Tell us.

8 A I was behind the passenger, Buchanan was in the front
9 seat and McClinton was driving, Dixon was at the window
10 and Roseboro was in the middle.

11 Q Y'all were going over to Holmes Road, but did y'all go
12 to Holmes Road?

13 A No, sir, we stopped on Featherstone.

14 Q Why did we go to Featherstone?

15 A Because we could see the house from where we were.

16 Q Okay. Did y'all know anybody else on Featherstone?

17 A No, sir, I didn't.

18 Q You didn't. Did anybody else seem to?

19 A No, sir, not at that time.

20 Q Did y'all have any conversations with anybody on
21 Featherstone?

22 A No, sir.

23 Q Did y'all go on any property on Featherstone?

24 A We was parked in the parking lot but I didn't know it
25 was someone's property.

CHRISTOPHER MOORE - DIRECT

1 Q You didn't know where you was parked?

2 A No. I didn't know whose property it was.

3 Q Okay. Did you know the Williams at the time?

4 A No, sir.

5 Q All right. Y'all parked on Featherstone, you get out
6 of the car. Where do y'all go?

7 A We went through the field, it's like a field area and
8 then we stopped in the middle like on our way to Holmes
9 Road.

10 Q Okay. Still got the guns?

11 A Yes, sir.

12 Q Have you still got that gun?

13 A Yes, sir.

14 Q What did y'all do?

15 A We stopped in the middle of the field because we know
16 there wasn't no lights on in the house and wasn't no cars
17 there, so we all just basically stopped in the middle of
18 the field.

19 Q Is this a wide open field? Tell me about this field.

20 A It's not really wide open. It's got some trees in
21 the area but -- it's basically wide open, but you've got
22 some trees there.

23 Q You could see the house that y'all were looking for.

24 A Yes, sir, you could see the house clearly.

25 Q Could you see back to Featherstone?

CHRISTOPHER MOORE - DIRECT

1 A Yes, sir.

2 Q Could you see your truck?

3 A Yes, sir.

4 Q Did you notice anything on Featherstone?

5 A No, sir.

6 Q And nothing is going on on Holmes Road. How long were

7 y'all in the field?

8 A About ten or 15 minutes.

9 Q Then y'all decided to do what?

10 A We all just decided to leave. No one had ever stated

11 that it was time to go, it was car and might have got

12 spooked, we just left because weren't nobody there.

13 Q When were y'all going then?

14 A Back to Chester Homes.

15 Q Y'all go back to the truck.

16 A Yes, sir.

17 Q Everybody get back in the same spot or in different

18 spots?

19 A Everybody got back in the same exact spot.

20 Q Okay. Still hadn't run into anybody?

21 A No, sir.

22 Q Did you notice any other vehicle on Featherstone?

23 A No, sir, not at that time. Once we made it to the

24 stop sign we noticed there was a car parked with their

25 hazard lights on.

CHRISTOPHER MOORE - DIRECT

- 1 Q Do you have any idea how long Featherstone is?
- 2 A It's a nice long road.
- 3 Q And where were y'all parked?
- 4 A Almost at the deadened.
- 5 Q You don't see a car pass you or any other vehicle?
- 6 A No, sir, because our main focus was the house.
- 7 Q Okay. Y'all didn't have any interaction with anybody
- 8 else.
- 9 A No, sir.
- 10 Q Didn't stop on this property and pick something up.
- 11 A No, sir.
- 12 Q No one walked across the street over to Ms. Williams
- 13 house.
- 14 A No, sir.
- 15 Q Okay. You get up to the stop sign. What's going on
- 16 at the stop sign?
- 17 A Once we got back in the truck we started pulling up
- 18 and we saw the car at the stop sign and had the hazard
- 19 lights on, so by that time --
- 20 Q What car do you see at the stop sign?
- 21 A Not the Cadillac, it was another car and I can't
- 22 remember exactly what car it was.
- 23 Q You don't whose it is?
- 24 A I don't know whose it is.
- 25 Q Did you see people in it?

CHRISTOPHER MOORE - DIRECT

- 1 A No, sir, I was in the back seat.
- 2 Q You said it had lights on?
- 3 A Yeah, the hazard lights.
- 4 Q Okay. All right, go ahead.
- 5 A And so by that time as we decided to go around the
- 6 truck the Cadillac was coming in, and as it was coming in
- 7 we was going off the road, I never saw nobody pointing or
- 8 nothing like that.
- 9 Q Okay. Did you recognize that Cadillac?
- 10 A No, sir, not at that time.
- 11 Q Not at that time?
- 12 A No, sir.
- 13 Q Did you know that Cadillac?
- 14 A No, I never knew the Cadillac.
- 15 Q Okay. You know it now because of this case?
- 16 A That's exactly where I know it.
- 17 Q Okay. Did you see anybody in the Cadillac?
- 18 A No, sir.
- 19 Q Did you or anybody in your car roll down a window,
- 20 talk to either this other car that's got the light flashing
- 21 or this Cadillac?
- 22 A No, sir.
- 23 Q Did they point a gun out the window?
- 24 A No, sir.
- 25 Q Did y'all have any intent to do anything whatsoever on

CHRISTOPHER MOORE - DIRECT

- 1 Featherstone Road?
- 2 A No, sir.
- 3 Q Okay. After you see the Cadillac what happens?
- 4 A We get on -- go around it and we start heading back
- 5 down York Road like going back to Chester Homes.
- 6 Q That's where you're going.
- 7 A Yes, sir.
- 8 Q Chester Homes.
- 9 A Yes, sir.
- 10 Q Where is Chester homes?
- 11 A You've got to pass Rountree Circle, and once you pass
- 12 Roundtree Circle you've got to come through the bypass
- 13 like and then you pass Roundtree Circle and Chester Homes
- 14 down a little bit, it will be on your right-hand side.
- 15 Q Okay. I'll show you State's 4. All right. Mr.
- 16 Moore, do you recognize this map?
- 17 A Yes, sir.
- 18 Q Take the stick, try not to stick me with it. Show me
- 19 where y'all started out.
- 20 A Chester Homes is like -- this is Roundtree Circle and
- 21 we have got it covered, they've got Chester Homes covered.
- 22 Chester Homes would be right behind this, and then we went
- 23 up there to here and as we left we came off this road
- 24 right here.
- 25 Q Okay. Now, this red line you see all around here.

CHRISTOPHER MOORE - DIRECT

1 A Yes, sir.

2 Q Is that the route y'all took that night?

3 A Yes, sir.

4 Q Did you ever notice the Cadillac was following you?

5 A By the time we got right here at the intersection.

6 Q Before the bypass there?

7 A Yes, sir, like right by the bypass.

8 Q Okay. Anybody say anything?

9 A No, sir.

10 Q Anybody do anything?

11 A No, sir.

12 Q Then what did y'all do?

13 A We kept going. Like once we passed here and we went

14 through the light, and by that time I think McClinton

15 stated that he thought the car was following him, and then

16 I didn't never look back, I don't know about nobody else

17 but I never looked back. And so by that time we came on

18 down and we passed Chester Homes, and so by that time we

19 came to Brawley Street. When we came to Brawley Street

20 the car -- like you could see the lights on them, now you

21 could see the lights coming through the car, and so then

22 we're picking up speed a little bit and we come on down to

23 Saluda, and then we make a left right there, then we turn

24 right here onto McClure Street, and by the time we got to

25 McClure Street we stop, and it's like a barbershop right

CHRISTOPHER MOORE - DIRECT

1 there so we all just stop. And the only reason we stopped
2 is because Buchanan stated, "Let's see what he want," so
3 then we stopped in the middle of the road right here. And
4 so by that time McClinton just stopped, and then the car
5 pulled into the barbershop. And once he pulled into the
6 barbershop I think Dixon rolled down the window to see
7 what the man wanted, nobody never said nothing. But that
8 time Buchanan stated, "Man, that's the policeman mother
9 F'er Odell." And so by that time that's what McClinton
10 say --

11 Q Did you know who he was talking about?

12 A No, sir.

13 Q Okay. Go ahead.

14 A So by that time that's when we took off, and then we
15 took off and McClinton said, "I don't want no F'g police."
16 And so by that time we took off and we're going real fast
17 now, so by that time we slowed up to turn on Patrick
18 Street, and as soon we turned on Patrick Street it's like
19 a little curve right in here, we hear three gunshots.

20 Q Where did the shots come from?

21 A They come from behind us.

22 Q How do you know that, Chris?

23 A Because I've been in plenty of incidents where I done
24 been shot at.

25 Q Go on.

CHRISTOPHER MOORE - DIRECT

1 A And so by that time we make -- come down and we make
2 it to First Street. When we make it to First Street we
3 yield at the stop sign, we didn't come to a complete stop
4 at the stop sign, we basically yielded. So when we
5 yielded McClinton hit the gas real hard by that time, he
6 floored it. So by that time when we are getting ready to
7 come off this street right here he had to maneuver into
8 this little apartment right here, because if he didn't
9 maneuver we would have run right -- there is a pole that
10 sits right here and so if he didn't maneuver we would have
11 run right into the pole. So by the time we made the right
12 and we made it back to Saluda Street, then I looked back
13 and I noticed Odell almost hit a car as he was coming down
14 the road. So by the time we made a left onto Parkway I
15 kind of basically kind of know where we're going, we're
16 going back to Roundtree Circle.

17 Q Anybody say that's where y'all going?

18 A Nobody, never. I just knew that's where we was
19 going. So by that time once we got about in here I heard
20 three more shots coming from behind me, and so then by
21 that time that's when Roseboro leaned out the window and
22 fired a shot back. And so then McClinton stated to him,
23 "H no, that's the police bro." So that's when Roseboro
24 got back in the car, he never did it on his own because
25 McClinton told him, "Don't fire a gun." And so by that

CHRISTOPHER MOORE - DIRECT

1 time we jumped the tracks, there's some train tracks right
2 here and so then we jumped them tracks and we came up. I
3 never really saw the car on us no more now, but he's still
4 coming because you can see his lights on us like he was on
5 us on Brawley Street, so by that time we make it to
6 Roundtree, I stated to McClinton, "Let me throw the gun
7 out." I never just said, "Let me out."

8 Q Stop and let me get another picture. While I'm doing
9 that, tell us what happened right there at Roundtree.

10 A At Roundtree as I started to throw the gun out
11 McClinton told me "There he go," and so by that time I had
12 my one foot out the car getting ready to throw the gun and
13 he hit the gas and that caused me to fall, I busted up my
14 hand and my elbow.

15 Q Is your elbow still messed up?

16 A Yes, sir. You could see the scar still on my elbow.

17 MR. FRICK: Your Honor, can he roll up his sleeve to
18 show the scar?

19 THE COURT: Sure.

20 A (Witness complies.)

21 Q How is your finger?

22 A I don't have a fingernail no more.

23 MR. FRICK: Your Honor, may he step down and show his
24 finger to the jury?

25 A (Witness steps down.)

CHRISTOPHER MOORE - DIRECT

- 1 Q But no one told you to get out.
- 2 A No, sir.
- 3 Q Why did you get out?
- 4 A So I could throw the gun. I wasn't going to really
- 5 get all of the way out of the truck, I was just going to
- 6 throw the gun.
- 7 Q Where were you going to throw it?
- 8 A Into the ditch. It's a ditch that sits right off at
- 9 Roundtree Circle and I was going to throw it into the
- 10 ditch.
- 11 Q Why did you want to throw it into the ditch?
- 12 A Because I knew we could come back and get it.
- 13 Q Now, you are familiar with Roundtree Circle.
- 14 A Yes, sir.
- 15 Q You've grown up in Chester.
- 16 A Yes, sir.
- 17 Q You've been around that neighborhood?
- 18 A Been around that neighborhood for a long time.
- 19 Q This is State's Number 7. What is this, Chris?
- 20 A Roundtree Circle.
- 21 Q Okay. Where were you when you got out of the truck?
- 22 A Right here.
- 23 Q Right at the intersection?
- 24 A Yes, sir.
- 25 Q Okay. At the stop sign or past it?

CHRISTOPHER MOORE - DIRECT

1 A Like right in here a little bit. The stop sign sits
2 right here, the stop sign sits on the road and we was
3 right there.

4 Q Okay. Do you -- when you fell out of the truck where
5 did you fall?

6 A Right here.

7 Q How did you fall?

8 A When McClinton hit the gas.

9 Q Were you stepping out of the truck?

10 A No, sir.

11 Q Explain to me this situation, Chris, I'm trying to get
12 my brain wrapped around it.

13 A How it really happened, when I told him to let me
14 throw the gun out the car never came to a complete stop,
15 that's how I basically fell-fell, because once he hit the
16 gas then my whole body fell with the gun in my hand.

17 Q How much did he slow down?

18 A Like not much. You couldn't just get out of the car,
19 you just couldn't get out of the car while he was still
20 going.

21 Q Okay. Did you fall face first on the ground on your
22 butt? What happened?

23 A No. I fell back on my back like that trying to catch
24 myself.

25 Q Okay. Had this in your hand?

CHRISTOPHER MOORE - DIRECT

- 1 A Yes, sir.
- 2 Q Did that go off?
- 3 A Yes, sir.
- 4 Q All right. What happens as you're getting up off the
- 5 ground?
- 6 A As I start getting up off the ground you can hear Mr.
- 7 Williams' car coming.
- 8 Q How do you know it was Odell Williams' car?
- 9 A Because that's the exact same car that was coming,
- 10 like that's the same car that was behind us.
- 11 Q Okay. You see it coming at you?
- 12 A Yes, sir.
- 13 Q Can you see the lights?
- 14 A Yes, sir.
- 15 Q Can you tell about how far away it is?
- 16 A Probably about at Vance Drive.
- 17 Q Vance?
- 18 A Yes, sir.
- 19 Q This is State's Number 15. You're falling out of the
- 20 car. Tell us where you were with what you just told us.
- 21 A Right here (indicating.)
- 22 Q That's where you are.
- 23 A Yes, sir.
- 24 Q Where do you believe the Cadillac is?
- 25 A Right here.

CHRISTOPHER MOORE - DIRECT

1 Q All right. Then what happened?

2 A That's when I turned around, hopped up, I started
3 taking off to run this way, and you can see there's no
4 trees here and there's a yard right here, it was like a
5 car right here in this yard, so by that time my plan was
6 to get behind this car. By that time Mr. Williams is
7 driving so fast he's coming around this way right here and
8 by the time I hear the -- by the trying I'm to run I hear
9 two gunshots and I started shooting back. I heard two
10 gunshots so I just started shooting back.

11 Q How many gunshots did you hear at that point?

12 A I heard two gunshots then.

13 Q And you shot that gun?

14 A Yes, sir.

15 Q How many shots?

16 A It was a bunch of them. I know I still had bullets
17 in the gun, I didn't empty the clip, I still had bullets
18 in the gun.

19 Q Did you have another clip?

20 A Yes, sir.

21 Q Was it loaded?

22 A Yes, sir. It was fully loaded with 30 bullets in it.

23 Q Nobody got out of the truck with you?

24 A No, sir.

25 Q Did you ever walk up to the Cadillac?

CHRISTOPHER MOORE - DIRECT

- 1 A No, sir.
- 2 Q Why did you shoot?
- 3 A Because I felt like my life was in danger.
- 4 Q Why did you feel that way, Chris?
- 5 A When you've got someone chasing you all through town,
6 you turn down all these different roads and you're driving
7 at a high rate of speed through town and you hear gunshots
8 coming at you, I'm trying to run, I'm trying to get away
9 and then you feel like you're trapped in a corner, what is
10 you supposed to do?
- 11 Q Now, in fairness you weren't supposed to have that gun
12 at that time, were you?
- 13 A No, sir, I wasn't supposed to have it.
- 14 Q You've been convicted of a misdemeanor and were on
15 probation at that time?
- 16 A Yes, sir.
- 17 Q And that prohibited you from having that gun?
- 18 A Yes, sir.
- 19 Q You don't recall how many times you pulled the
20 trigger?
- 21 A I know I was pulling fast, I wasn't just -- I was
22 running and pulling fast.
- 23 Q How were you pulling it, Chris?
- 24 A Just real fast (indicating.)
- 25 Q Until it quit?

CHRISTOPHER MOORE - DIRECT

1 A Yes, sir.

2 Q Were you scared?

3 A Yes, sir.

4 Q Where did you go after that?

5 A I got behind the car. When I got behind the car, Mr.
6 Williams' car was just stopped in the road and so I'm just
7 looking to see if he's going to keep going, what's going
8 to happen. That's when the car took off at a high rate of
9 speed, and then by that time I took off running down Vance
10 Drive. And then I heard a big old boom, I hear it all of
11 the time in my sleep, I hear it all the time, and so by
12 the time I heard that I started packing my pocket to call
13 McClinton to see where they at and so then I noticed I
14 didn't have my phone. And so I ran back to the top of
15 Roundtree Circle and looked for my phone where I fell at,
16 that's when I found my phone. I took off running through
17 the grass like -- I could show you on the map exactly
18 where I took off running at.

19 Q Now, let me ask you this while I'm doing that. Have
20 you still got this gun in your hand?

21 A Yes, sir.

22 Q Now, you said your original intent was to get rid of
23 that gun.

24 A Yes, sir.

25 Q Why have you still got the gun?

CHRISTOPHER MOORE - DIRECT

1 A I just didn't want to throw it at that time. I'm
2 scared, I'm getting shot at once again, I don't know where
3 he is at, don't know whether he's going to be coming back
4 this way or not and I'm trying to get away.

5 Q Okay. All right. Tell me where your phone was.

6 A My phone was right here in the middle of the road
7 where I had fell at.

8 Q Did you stay on Roundtree?

9 A No, sir. I ran here, got behind the car. Once I got
10 behind the car that's when I looked and Mr. Williams was
11 just sitting in the middle of the road.

12 Q Where was he sitting?

13 A Right in the middle of the road, right here
14 (indicating.)

15 Q Did he do anything else?

16 A No, he just stopped. By that time he just took off
17 at a high rate of speed.

18 Q Which direction?

19 A Coming back down this way (indicating.)

20 Q Did you hang around to see what happened?

21 A No, sir. I took off running that way up Vance Drive.

22 Q And then you came back?

23 A Yes, sir.

24 Q Then what, what did you do?

25 A When I came back to get my phone I patted on the

CHRISTOPHER MOORE - DIRECT

1 ground and looked for it, and by the time I patted on the
2 ground I took off running this way, nobody was in the
3 house. That's when I seen Ray Ray, Mr. Rafaell Jackson,
4 and I started yelling and screaming for a ride trying to
5 get away. So when I ran up to his truck because he
6 stopped, I asked him for a ride with the gun on the side
7 of, me so basically he couldn't see, and I was like, "Man,
8 let me get a ride." He told me, no, that I looked hot,
9 and he took off.

10 Q He said you look what?

11 A He told me I looked hot.

12 Q What did that mean?

13 A I guess like I had did something, I was scared or
14 something.

15 Q Okay. Go ahead.

16 A So by that time I took back off running around here
17 and came back here, and by that time I met up with
18 Buchanan, and when I met up with him we started stashing
19 our guns. I ran over there and stashed my gun at the shed
20 and then he stashed his guns behind this fence right
21 there, I noticed that I still had the clip in my pocket
22 and so I went and threw the clip right there. By that
23 time you could hear the police, you could hear everybody
24 coming, so we tried to make it across this field right
25 here but because there was so many police in the area,

CHRISTOPHER MOORE - DIRECT

1 that's when we started hopping the fence right here. We
2 came out this way and that's when we split up, he went
3 that way, I ran straight across the street and came over
4 the tracks and went to my friend Rosae's house.

5 Q You stashed the gun, you're trying to run from the
6 police, but you're telling us that you were there shooting
7 at Odell because you were defending yourself. Why didn't
8 you stay and tell them the story?

9 A Because I know I ain't supposed to have the gun, I
10 know my background and I just didn't want to talk to the
11 police.

12 Q All right. Did you and the other guys talk about what
13 happened?

14 A No, sir.

15 Q Where did y'all go?

16 A We went back to Dixon's house.

17 Q Is that where you spent the rest of the night?

18 A Yes, sir.

19 Q And you got picked up some time later?

20 A Yes, sir.

21 Q You saw the statement that you gave to Investigator
22 Reynolds.

23 A Yes, sir.

24 Q Was that the truth?

25 A No, sir, it was all a lie.

CHRISTOPHER MOORE - DIRECT

1 Q Why?

2 A Because I was just locked up, I was in a holding cell
3 for nine days, I was basically just trying to throw it off
4 on someone else because I had just got charged with
5 murder. You would just have to be in my shoes to feel
6 what it feels like to be charged with murder and knowing
7 that you could be spending the rest of your life in
8 prison, it just was a bad feeling. I just tried to fight
9 my way out of there and try to lie my way out of it.

10 Q You're aware that if you're defending yourself it's
11 perfectly legal to do something.

12 A Yes, sir. But I wasn't looking at it at that time.
13 I was just looking at I had just got charged with murder
14 and my background, I just wasn't looking at it at that
15 time like that.

16 Q All right. You know what you told Chris Reynolds that
17 day, you're telling us a different story today.

18 A Yes, sir.

19 Q Why are you telling us that different story now?

20 A Just to tell the truth. Because I've been sitting in
21 jail for 21 months and that's a lot of thinking, it's a
22 lot of maturing and it's a lot of becoming a man. At the
23 time I was a young kid and I did a lot of dumb things and
24 at the time you want to find a way out of it. You sit in
25 jail for 21 months you've got a lot of time to yourself to

CHRISTOPHER MOORE - DIRECT

1 think and really realize that really it's just the time to
2 tell the truth.

3 Q All right. Let's see if we can go back in and fill in
4 a couple of details. At no time anybody says we're going
5 to go back to Roundtree?

6 A No, sir.

7 Q At what point in time is it pretty clear y'all are
8 being followed?

9 A Coming back the bypass right by the light.

10 Q Okay. All right. State's Number 4, if you were
11 driving that car, Christopher Moore, and you are on
12 Featherstone and you want to get to Roundtree Circle, how
13 would you do it?

14 A Come straight off here, come right off here and turn
15 right over the tracks on the road.

16 Q What road is that?

17 A That's coming off York Road and that's Parkway,
18 Roundtree Circle would be right here.

19 Q It runs right into it.

20 A Yes, sir.

21 Q Now, you said earlier that y'all were going to go back
22 to Chester Homes?

23 A Yes, sir.

24 Q You didn't go by there.

25 A No, sir.

CHRISTOPHER MOORE - DIRECT

1 Q Why?

2 A Because we were getting followed.

3 Q When we get down here to the barbershop you said there
4 was, I guess, somewhat of an interaction, is that fair to
5 say?

6 A Yes, sir.

7 Q Tell me what happened.

8 A Once we got to the barbershop we pulled in, and then
9 when we pulled in Mr. Williams pulled into the barbershop,
10 and then the only reason we stopped was because Buchanan
11 wanted to see who it was, like, "Let's stop to see who it
12 is."

13 Q He said that?

14 A Yes, sir, he said that.

15 Q Did Odell Williams get out of his car?

16 A I didn't see Mr. Williams get out of the car.

17 Q But y'all didn't stay.

18 A No, sir.

19 Q Why didn't y'all stay?

20 A Because Buchanan stated that that's that police
21 mother F'er Odell Williams.

22 Q And Quinton took off.

23 A Yes, sir.

24 Q Do you know why Quinton took off?

25 A No, sir.

CHRISTOPHER MOORE - DIRECT

- 1 Q You're on Patrick Street.
- 2 A Yes, sir.
- 3 Q Where again are you sitting in the car? Are you in
- 4 the --
- 5 A I'm in the back passenger.
- 6 Q Is your window up or down?
- 7 A My window is up.
- 8 Q Did you ever roll your window down?
- 9 A No, sir.
- 10 Q Did you ever point that gun out the window?
- 11 A No, sir.
- 12 Q Did anybody else ever point their gun out the window?
- 13 A Not at that time.
- 14 Q But it happen later on?
- 15 A Yes, sir.
- 16 Q And how many times were shots fired from y'all's
- 17 truck?
- 18 A Once.
- 19 Q One.
- 20 A Yes, sir.
- 21 Q Do you know what kind of gun that was?
- 22 A A .45 that Roseboro had.
- 23 Q You're certain of that.
- 24 A I'm positive.
- 25 Q Only shots that were fired from your truck.

CHRISTOPHER MOORE - DIRECT

1 A Yes, sir.

2 Q All right. Back on Patrick Street. How close is the
3 Cadillac to y'all when you hear the shots?

4 A About two cars away.

5 Q Are you looking back behind you?

6 A Not really, but you could see the lights coming from
7 the car.

8 Q Do you see shots fired?

9 A No, sir. I never saw shots coming from Mr. Williams'
10 car.

11 Q But you heard them.

12 A Yes, sir.

13 Q Sound like a big gun, small gun?

14 A Smaller gun. It didn't sound like that gun but it
15 was smaller.

16 Q Did it hit the truck, do you know?

17 A I wouldn't know.

18 Q All right. Throughout this trip how fast were y'all
19 going?

20 A We were going fast.

21 Q Tell us what that means, Chris.

22 A Like fast is fast, like you're going interstate
23 highway fast, something like that. We weren't driving the
24 speed limit. Once we was coming down York Road we were
25 doing a little bit over the speed limit and when we turned

CHRISTOPHER MOORE - DIRECT

1 on Brawley we were doing a little bit over. Once we took
2 off McClure Street, that's when we were going about 70.

3 Q Okay. How about when you hit the railroad tracks back
4 on Parkway?

5 A We were really going then, I can't tell you exactly
6 what speed but we was going. We jumped the track.

7 Q Okay. You had a cellphone on you?

8 A Yes, sir.

9 Q You didn't call anybody?

10 A No, sir.

11 Q Why not?

12 A I just didn't think to call anybody and I wouldn't
13 call the cops. We've got all of these guns, I knew that
14 wouldn't be the smartest thing to do.

15 Q You didn't jump out of the car and go hide in that
16 ditch and wait for Odell to show up?

17 A No, sir. I didn't want to kill Mr. Williams, I'm
18 very sorry that Mr. Williams is dead. I know there's a
19 lot of people that want to try to make me look like I
20 tried to kill Mr. Williams. I didn't intend to kill him,
21 I didn't try to kill him, I wanted to get away. You're
22 getting chased 3.3 miles around town, get shot at at a
23 high rate of speed, all of the turns we turned we were
24 trying to get away. I didn't want to kill Mr. Williams, I
25 did not, I didn't try to kill Mr. Williams, I just wanted

CHRISTOPHER MOORE - DIRECT

1 to get away. That was my whole intention was to get away.

2 Q Is that why you got out of the truck and ran?

3 A Yes, sir.

4 Q Did you fire anymore shots after you got behind that?

5 A What do you mean after I got behind it?

6 Q You said that there was a car that you were trying to
7 get behind it, right?

8 A Yes, sir.

9 Q Number 7. Where is the car?

10 A In this yard right here (indicating.)

11 Q Okay. And you did get behind it?

12 A Yes, sir.

13 Q Did you fire anymore?

14 A No, sir. I still had bullets in the gun but I never
15 fired any.

16 Q Could you see where the Cadillac was from where you
17 were?

18 A You can see it in the road.

19 Q Right then?

20 A Yes, sir.

21 Q But you didn't see it wreck?

22 A No, sir, I didn't see it wreck. I just heard a loud
23 boom.

24 Q And you didn't walk down there.

25 A No, sir.

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1 Q Did anybody else walk down there?

2 A Not that I know of.

3 Q I show you what's been marked State's Number 98. Do
4 you recognize that?

5 A Yes, sir.

6 Q What is that?

7 A I wrote Mr. Reynolds and asked to speak to him, he
8 had gave me this request.

9 Q Why did you write him that?

10 A Because basically the same thing I said on the video,
11 trying to go in there and push something off on somebody
12 else instead of being a man and taking the fall myself.

13 Q Did they take photographs of your injuries?

14 A Yes, sir. They took photographs of my arms, my elbow
15 and my finger.

16 Q In fact, you were still wearing a cast in that video,
17 weren't you?

18 A Yes, sir. And then another thing for the record,
19 I've been apologizing to the family and everybody, I don't
20 know if anyone will accept my apology but I'm honestly and
21 truly sorry that Mr. Williams' life had to be taken. I
22 did not try to kill him, I did not try to hurt him. I
23 just ask for forgiveness, one, but the main thing is I
24 want to be free of anything. But the main thing is I'm
25 honestly and truly sorry. Like I said in my bond hearing

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1 and I said numerous times, if I could give my life for his
2 life I would. When you're young you make mistakes and you
3 all do dumb things, but end of the day I am sorry for what
4 I did.

5 MR. FRICK: Thank you, Mr. Williams, that's all of the
6 questions I have. Answer anything that the solicitor may
7 have.

8 CROSS EXAMINATION

9 BY MR. MAXWELL:

10 Q Mr. Moore, how well do you remember the events of that
11 night by detail?

12 A I remember them very well.

13 Q Very well?

14 A Yes, sir.

15 Q What time did you go to Holmes Road -- excuse me,
16 Chester Homes that day?

17 A Probably about two or three in the evening.

18 Q Is that in the afternoon when you say two or three?

19 A Yes, sir, in the afternoon.

20 Q Who lives at Chester Homes?

21 A There's a lot of people that I know stay out there.
22 One of my friends name Quavo (phonetically) and Dee
23 Alexander to be exact.

24 Q And whose apartment were you at?

25 A We were at Quavo's at first and then we went to

CHRISTOPHER MOORE - CROSS

1 Gidget's.

2 Q What were y'all doing all day?

3 A Really just chilling, playing games, just a little
4 kick back.

5 Q What else?

6 A And we smoked.

7 Q Smoked what?

8 A Marijuana.

9 Q Starting at 2:00 or 3:00 when you got there?

10 A Yes, sir.

11 Q Did you smoke until you left to go to Holmes Road at
12 8:00?

13 A Yes, sir.

14 Q Did you get high?

15 A I smoked marijuana everyday on a daily basis.

16 Q Did the other guys that ended up going with you to
17 Holmes Road, did they smoke?

18 A Yeah, we all smoked.

19 Q Do you recall testifying under oath before that y'all
20 got really high before you decided to go over there?

21 A Yes, sir, I remember that.

22 Q And that's what you said, that y'all got really high
23 before you got over there.

24 A I'm not going to say really high but we was high.

25 Q Well, that's what you said, really high, correct?

CHRISTOPHER MOORE - CROSS

1 A Yeah, really high.

2 Q Whose idea was it to go over to Holmes Road?

3 A Wasn't no one's idea, we was just going to get money
4 that was owed to us.

5 Q With guns, correct?

6 A Yes, sir.

7 Q And again, to start that day off did you have a gun
8 with you?

9 A No, sir.

10 Q Where did you get this gun here from?

11 A It was in the truck.

12 Q Mr. Buchanan, how many guns did he have?

13 A He had two.

14 Q Where did he get those guns from?

15 A I guess they was his.

16 Q Did you give him a gun at some point?

17 A Not at that time. We was at Quavo's house and I
18 think we did give him a gun.

19 Q That same day?

20 A Yes, sir.

21 Q What kin of gun?

22 A I think .38.

23 Q Pistol, handgun?

24 A Yes, sir.

25 Q Derrick Dixon, did he have a gun?

CHRISTOPHER MOORE - CROSS

- 1 A Yes, sir.
- 2 Q D'Angelo Roseboro?
- 3 A Yes, sir.
- 4 Q Did you give D'Angelo Roseboro a gun?
- 5 A No, sir.
- 6 Q Not at any point in time did you give Mr. Roseboro a
- 7 gun?
- 8 A I don't think so, I don't remember I gave him no gun.
- 9 Q And Quinton McClinton, did he have a gun?
- 10 A Yes, sir, he had his own gun.
- 11 Q This gun here, had you ever seen it before that day?
- 12 A Yes, sir.
- 13 Q Where?
- 14 A In the country.
- 15 Q In the where?
- 16 A In the country.
- 17 Q What did you do with it out in the country?
- 18 A I think we shot it a couple of times just down there
- 19 shooting a gun in the country.
- 20 Q How long before this incident were you out shooting it
- 21 in the country?
- 22 A Months and months.
- 23 Q So where is it at in the meantime between you shooting
- 24 in the country and November 4th of 2014?
- 25 A I can't tell you that, sir, it's not my gun.

CHRISTOPHER MOORE - CROSS

1 Q Where was it the first time you saw it on that
2 evening?

3 A It was in the truck.

4 Q Where was it at in the truck?

5 A In the back seat.

6 Q And that's where you were sitting at.

7 A Yes, sir.

8 Q Were you sitting behind the passenger?

9 A Yes, sir.

10 Q Whose house were y'all going to on Holmes Road?

11 A Timothy Franklin.

12 Q Again, whose idea was it to go over there?

13 A It wasn't really nobody's idea, we just wanted to get
14 money that was owed to us.

15 Q When was this plan or thought to go get this money,
16 when was it first talked about or discussed?

17 A It wasn't talked about, it was readily discussed
18 at -- it was a drug deal that went bad. We was going back
19 to get our money and we knew that we had to get guns
20 because these guys got guns also.

21 Q How much money was this dispute y'all had over?

22 A It was some thousands of dollars.

23 Q Your money?

24 A It was me and McClinton's money.

25 Q Are you a business man or anything?

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1 A No. I'm not a business man, not no guy that goes
2 collect loans or nothing like that, I just wanted to get
3 my money.

4 Q When y'all get over to Holmes Road who decides to park
5 on Featherstone?

6 A There wasn't really a decision, I think just
7 Buchanan's grandmother stayed on that road is the only
8 reason we parked there.

9 Q Who is driving the truck at this point?

10 A McClinton.

11 Q So he drives the car over to Featherstone and parks it
12 next to this property?

13 A Yes, sir.

14 Q And you had never been over there before, correct?

15 A No, sir.

16 Q But it's dark outside.

17 A Yes, sir.

18 Q When you get out of the car, do you have your gun with
19 you?

20 A Yes, sir.

21 Q Everybody else has their guns then?

22 A Yes, sir.

23 Q When you get out of the truck you said you can see the
24 house y'all were intending to go to on Holmes Road?

25 A Yes, sir.

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1 Q What is between the house and where y'all parked, how
2 would you describe the area?

3 A It was like a field, like basically it was just an
4 open field, have a couple of trees.

5 Q Is that where y'all went and stayed for ten or 15
6 minutes I think you testified?

7 A If the field.

8 Q What was the plan?

9 A It wasn't really a plan, we never planned nothing, we
10 just were going back to get our money.

11 Q Did y'all ever talk about if y'all were going to try
12 to take your money inside, outside, who was going to go in
13 the back, front or lookout?

14 A No, we didn't talk about nothing. We're just
15 together, we knew where they be at, just go our money.

16 Q Were you going to point guns at them and take the
17 money?

18 A Yeah, we was going to point guns.

19 Q Forcefully.

20 A Yeah.

21 Q You were going to take this money by force.

22 A If you have a gun you're going to take it by force.

23 Q And that's what your intentions were.

24 A Yes, sir.

25 Q And you said these other people also had guns too?

CHRISTOPHER MOORE - CROSS

- 1 A Yes, sir.
- 2 Q But y'all were willingly going over there knowing
3 these people had guns to collect this debt.
- 4 A Yes, sir.
- 5 Q And you weren't scared about that.
- 6 A We weren't scared, we just wanted our money back.
- 7 Q You were willing to do that. You were willing to take
8 the money, go confront people that you think had guns and
9 take that money back.
- 10 A Yes, sir.
- 11 Q Nobody ended up coming home, no lights or cars at that
12 house?
- 13 A No, sir, no lights and no cars.
- 14 Q And why did y'all get back in the Dodge Ram?
- 15 A Because there was no one there, it was time to go.
- 16 Q Who decided it was time to go?
- 17 A No one.
- 18 Q You didn't see any car on Featherstone.
- 19 A I never saw no car, no one ever stated that it was a
20 car there.
- 21 Q Did everybody get back in the same seats?
- 22 A Yes, sir.
- 23 Q And you were back on the passenger's side?
- 24 A Yes, sir.
- 25 Q To go back a second, why didn't y'all park on Holmes

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1 Road if you were going to Holmes Road?

2 A Because we didn't want to basically park where we was
3 going.

4 Q You wanted to take somebody by surprise if you were
5 about to take the money from, weren't you?

6 A It wasn't by surprise, it was because we thought they
7 was there so we was going to park there, get our money.
8 If it could have been shooting, it could have been
9 anything, we didn't want to park the car near there.

10 Q Park a block away so you could ambush them?

11 A No, it's not ambush them.

12 Q When you left Featherstone back in the car, where were
13 y'all going to? Where were y'all returning to?

14 A Going back to Chester Homes.

15 Q And you ended up passing by there a short while later.

16 A Because Mr. Williams was following us.

17 Q You noticed him -- how did you notice him? How did
18 you know he was following you?

19 A The lights -- as we go on Brawley Street I noticed
20 that we were been following because Quinton McClinton
21 stated it, but as you get on Brawley Street you could see
22 the lights in the back of the car.

23 Q Did you ever look behind you?

24 A Yes, sir, probably once or twice.

25 Q Anything noticeable about the lights on his car?

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1 A No, sir.

2 Q Was he flashing his lights?

3 A I don't remember him flashing his lights.

4 Q Do you remember testifying before that you saw him
5 flashing his lights trying to get your attention?

6 A No, sir.

7 Q But you kept going past Chester Homes, correct?

8 A Yes, sir.

9 Q Why didn't you just go to Chester Homes?

10 A Because we're being followed, we don't know who this
11 was.

12 Q You take some turns and you end up over by the
13 barbershop I think that's on McClure Street?

14 A Yes, sir, take a lot of turns.

15 Q Again, whose idea was it to stop in the middle of the
16 road there on McClure Street?

17 A Buchanan.

18 Q He wanted to see what the person wanted, correct?

19 A Yes, sir.

20 Q But y'all didn't give Mr. Williams -- the person who
21 ended up being Mr. Williams a chance to say what he was
22 following y'all for.

23 A Because Buchanan stated "That's that police mother
24 F'er Odell Williams." And then McClinton said, "I don't
25 want to F with no police," and we took off.

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1 Q So at that point y'all believe it could be a policeman
2 following y'all.

3 A Yeah.

4 Q You took off pretty fast there.

5 A Yes, sir, we took off real fast.

6 Q And was it shortly after there when you first heard
7 those other shots?

8 A As soon as we turned on Patrick Street it was right
9 in the middle of the dip and we heard three gunshots.

10 Q Three gunshots?

11 A Three gunshots.

12 Q What did y'all do after you heard those gunshots?

13 A We kept going.

14 Q Sped up?

15 A Sped up.

16 Q Were you going highway speed or interstate speed as
17 you've just testified?

18 A There's a stop sign right there, so once you come
19 around the stop sign you have to yield so we yielded. We
20 were supposed to stop at the stop sign but we yielded and
21 then that's when we started going highway fast on First
22 Street.

23 Q And then First Street went -- did you hear more shots
24 on First Street?

25 A No, sir.

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1 Q Where did you go from First Street?

2 A We turned right onto Saluda and then we was going so
3 fast that we didn't maneuver until a little parking spot
4 area, we ran right into the pole. And when we turned
5 right onto Saluda, we were going still fast and Mr.

6 Williams behind us, he almost hit a car coming off of
7 First Street, and then by that time that's when we turned
8 left onto the Parkway and that's when we really sped up.

9 Q Again going back up the highway interstate speed on
10 Parkway.

11 A Yes, sir.

12 Q Then you heard more gunshots on Parkway?

13 A I heard three more gunshots.

14 Q Three more. So now we're talking about six shots?

15 A Six shots.

16 Q And according to you all of those shots at least as
17 far as you're aware, those shots are coming from Mr.
18 Williams or his car?

19 A I think they're coming from Mr. Williams.

20 Q And that's when I think D'Angelo Roseboro --

21 A Hung out the window and fired the shots.

22 Q Fires his shot out.

23 A Yes, sir.

24 Q Anybody else try to shoot then?

25 A No, sir.

CHRISTOPHER MOORE - CROSS

1 Q And it was Mr. McClinton that says, "That's police,
2 don't shoot at them anymore," correct?

3 A Yes, sir.

4 Q That was only one shot from Mr. Roseboro.

5 A Yes, sir.

6 Q And that was out of the driver's side back window?

7 A Yes, sir.

8 Q Was that before or after the railroad tracks?

9 A That was before the railroad tracks.

10 Q And y'all went over the railroad tracks shortly
11 thereafter?

12 A Yes, sir, real fast.

13 Q Real fast. Didn't stop for them or didn't slow down
14 for them.

15 A No, sir, we were trying to get away.

16 Q I think you stated you put some distance between y'all
17 and Mr. Williams at that point?

18 A A good distance. That's how I was able to fall out
19 of the truck and get out of the road.

20 Q Was it shortly thereafter that you came up on
21 Roundtree?

22 A Yes, sir.

23 Q Was there any discussion before you got to Roundtree
24 about what y'all were going to do at Roundtree?

25 A No, sir.

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1 Q Mr. McClinton didn't tell y'all what y'all were going
2 to do there.

3 A No, sir.

4 Q He didn't say y'all were all going to park the truck
5 back there and run.

6 A No, sir.

7 Q So there was no discussion about what y'all were going
8 to do at Roundtree.

9 A No, sir.

10 Q Just pure silence.

11 A Once we made it at the turn I told him let me throw
12 the gun out.

13 Q And you were going to throw the gun out why?

14 A Because I didn't want him to have it in the car no
15 more. We don't know if the police is fixin' to get on us,
16 we don't know nothing.

17 Q Why was that spot at Roundtree the best spot for you
18 to throw the gun out?

19 A Because I know the ditch was right there and if ain't
20 nobody get the gun we were going to be able to get the gun
21 back.

22 Q Was that y'all's neighborhood?

23 A Yes, sir, we all be over there.

24 Q Got a lot of friends in that neighborhood?

25 A I used to stay over at that neighborhood for a very

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1 long time.

2 Q But you trust that you can retrieve that gun from that
3 neighborhood if you threw it out on the side of the road
4 there.

5 A Yes, sir.

6 Q And y'all slowed down to do it.

7 A Yes, sir.

8 Q You told McClinton to slow down so you could throw
9 this gun out?

10 A No. I told him to let me throw the gun out and
11 that's when he started to slow down.

12 Q How were you going to go about throwing the gun out?

13 A I was going to throw it. I was going to open the
14 door and throw the gun.

15 Q Why did you need to open the door to throw it out?

16 A Because if you can show the jury, you can pull the
17 beam of the gun out, that's how.

18 Q If I threw this gun straight out the window like that
19 it wouldn't fit?

20 A It had a beam on it, sir, and then you pulled the
21 back of the gun out, that is right there.

22 Q Would you say the window is about the size of this
23 screen, probably a little bit bigger?

24 A Probably so.

25 Q And the gun wouldn't fit through something like that

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1 if you were throwing it out the window?

2 A I wasn't thinking about throwing it out the window.

3 And then the back was out so I wasn't thinking about -- I

4 just wanted to throw it out. If you could pull the back

5 out and show the jury how long the gun actually is, they

6 can see --

7 Q Well, it doesn't change its width by pulling it out.

8 A No. You're thinking you can throw it out the window,

9 sir, you ain't just going to throw that gun out the window

10 like that, I wasn't thinking of it like that.

11 Q Why not?

12 A Because I just wasn't thinking about throwing it out

13 the window like that.

14 Q If somebody is chasing you and you want to get away

15 from them and you don't get caught guns in the car, why

16 wouldn't you just throw it out and get out of there?

17 A Because I most definitely wanted it to go in the

18 ditch, and if you could pull the back of the gun out and

19 show the jury how long the gun is you wouldn't think of

20 just throwing it out the window.

21 Q Because you wanted to get it back?

22 A Yeah, pretty much.

23 Q And when you got out -- or when you opened the door to

24 throw it out that's when you fell out because he sped off.

25 A Yes, sir.

CHRISTOPHER MOORE - CROSS

1 Q Because Mr. McClinton said, "There he comes again," or
2 something like that.

3 A Yes, sir.

4 Q But y'all had that distance between y'all enough for
5 you to slow down, enough for y'all to slow down, enough for
6 you to open the door and to at least think about throwing
7 this out, and then he comes up behind y'all and interrupts
8 y'all again and that's when y'all take off again.

9 A Yes, sir, he's on Vance Drive.

10 Q But you fell then, right?

11 A Yes, sir.

12 Q And then you had to get back up.

13 A Yes, sir.

14 Q The gun goes off at some point right there.

15 A Yes, sir.

16 Q You've got to pick the gun back up?

17 A Yes, sir.

18 Q Did you shut the door?

19 A I didn't shut the door.

20 Q Didn't Mr. Dixon say he saw you shut the door? That's
21 not true?

22 MR. FRICK: Objection, pitting the witness, Your
23 Honor.

24 MR. MAXWELL: I'll move on.

25 Q And then after you pick the gun up -- get up, pick the

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1 gun up and the truck is already gone, then you see Mr.

2 Williams car on Vance Drive?

3 A Coming down Vance Drive.

4 Q And you go into the yard.

5 A I take off running.

6 Q To the right trying to get a car over there you say.

7 A Yes, sir.

8 Q And then when does he start shooting again according
9 to you?

10 A Like immediately once I hit the grass I heard two
11 gunshots.

12 Q What street would his car have been on?

13 A I wasn't looking back.

14 Q You're running towards the car that's parallel to
15 Parkway, right?

16 A Yes, sir.

17 Q He's coming down Parkway, he's going to take a left
18 behind you onto Roundtree, is that right, according to your
19 testimony?

20 A Yes, sir.

21 Q Did you see him coming down Parkway there?

22 A He's by Vance Drive once I was getting out of the
23 road by that time.

24 Q So y'all were face to face, correct?

25 A When I'm getting out of the road, sir, then he's

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1 coming past Vance Drive. Once I hit the grass he should
2 be on Roundtree Circle and that's when I hear him, the two
3 gunshots once I hit the grass and I hear him shooting at
4 me and I shoot back.

5 Q When you ran you ran towards Vance Drive to where that
6 car was, correct?

7 A Right.

8 Q So you don't know where his car was when the next two
9 shots were fired.

10 A Yeah. After I heard two shots he had to be on
11 Roundtree Circle.

12 Q So just so we're clear there was three shots on
13 Patrick Street?

14 A Three shots on Patrick Street.

15 Q Three shots on Parkway?

16 A Three shots on Parkway.

17 Q And two shots on Roundtree.

18 A Right.

19 Q For a total of eight shots.

20 A Right.

21 Q Your belief is those came from Mr. Williams.

22 A Right.

23 Q Those eight shots?

24 A Yes, sir.

25 Q And you started shooting back in the yard.

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- 1 A Yes, sir.
- 2 Q How did you have the gun?
- 3 A Just like this, shooting over my shoulder.
- 4 Q Is that fairly accurately to how you had it?
- 5 A Where your body turned just a little bit running,
- 6 yes, sir.
- 7 Q That's how you were shooting.
- 8 A Yes, sir.
- 9 Q Have you ever practiced that before?
- 10 A No, sir.
- 11 Q Were you running while you were doing it?
- 12 A Yeah, I was running while I was doing it.
- 13 Q Towards that car, kind of down parallel to Parkway.
- 14 A Yes, sir.
- 15 Q Shooting like that.
- 16 A Yes, sir.
- 17 Q Eighteen times.
- 18 A Yes, sir.
- 19 Q There was a clip in here.
- 20 A Yes, sir.
- 21 Q You say it was fully loaded?
- 22 A Yes, sir, it was fully loaded.
- 23 Q And it carries up to 30 bullets; is that correct?
- 24 A Yes, sir.
- 25 Q Did you shoot all 30 of them?

CHRISTOPHER MOORE - CROSS

- 1 A No, sir.
- 2 Q You stated earlier that fired until it quit.
- 3 A No, I never said that.
- 4 Q You didn't say just a little bit ago in direct
5 examination you didn't say, "I kept pulling the trigger
6 until it quit."
- 7 A No. I said I kept pulling it until I got behind the
8 car.
- 9 Q But every shot you fired was like that.
- 10 A Yes, sir.
- 11 Q And you hit Mr. Williams' car at least six times,
12 correct?
- 13 A Yes, sir. Out of 18 shots I hit the car six times.
- 14 Q At least six times.
- 15 A At least six times. I know it was six times because
16 it was in my motions and all of that the car was only hit
17 six times out of 18 bullets.
- 18 Q And one of those bullets hit Mr. Williams in the face,
19 correct?
- 20 A Yes, sir.
- 21 Q Killing him.
- 22 A Yes, sir.
- 23 Q But yet he stopped -- according to you when you got
24 behind the car you saw his car in the middle of that road.
- 25 A I didn't say I saw no car in the middle of the road,

CHRISTOPHER MOORE - CROSS

1 sir.

2 Q You said -- correct me if I'm wrong - that when you
3 got behind the car you look behind you, his car was
4 stopped.

5 A Once I got behind the car that's when I saw Mr.
6 Williams' car in the middle of the road.

7 Q On Roundtree?

8 A On Roundtree.

9 Q After he had just made the turn.

10 A He had to have just made the turn if he was sitting
11 on Roundtree.

12 Q And his car was stopped at that point?

13 A Yes, sir.

14 Q And then his car took off again.

15 A Yes, sir.

16 Q And then you heard something.

17 A I heard a very loud boom.

18 Q And you ran back towards Vance.

19 A Yes, sir.

20 Q Then you said, "I don't have my phone."

21 A Yes, sir.

22 Q You've still got the gun with you, right?

23 A Yes, sir.

24 Q You've got another clip, two, don't you, two clips?

25 A Yes, sir.

CHRISTOPHER MOORE - CROSS

1 Q But both of them were fully loaded?

2 A Both of them was fully loaded?

3 Q 30 shots each. So you had 60 bullets with you to
4 start out that night?

5 A Yes, sir.

6 Q You ran back to look for your phone, correct?

7 A Yes, sir.

8 Q Back to where you just claimed you were getting shot
9 at, right?

10 A Yes, sir.

11 Q When you saw Mr. Williams' car in the middle of the
12 road and then it takes off, did you see where his car went?

13 A Down Roundtree Circle.

14 Q But did you see where it stopped or anything?

15 A No. I heard a loud boom, I just heard a very loud
16 boom.

17 Q Did you know what it was?

18 A No, I never knew what it was.

19 Q But you decide to go all the way down Vance and then
20 come back, correct?

21 A I didn't go all of the way down Vance, I said I went
22 down --

23 Q You went toward Vance, correct?

24 A Yes, sir.

25 Q And then you decide to go back to where you were

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1 getting shot at, right?

2 A Yes, sir.

3 Q To get your phone.

4 A Yes, sir.

5 Q When you got out of the truck right before the gun
6 went off -- before I ask that question, you've shot this
7 gun before.

8 A Yes, sir.

9 Q You know it works.

10 A Yes, sir.

11 Q Is there a safety on it?

12 A Yes, sir, there's a safety.

13 Q Now, when you got out of the truck the gun goes off.

14 A Yes, sir.

15 Q The safety wasn't on, was it?

16 A The safety wasn't on since he made it to Mr.
17 Franklin's house.

18 Q The safety was off when you were about to go throw it
19 out, correct?

20 A Yes, sir. Every time I seen the gun we don't ever
21 put the safety on it, the safety is always off if. When
22 I'm on the streets with a regular gun the safety is always
23 off.

24 Q You stated you didn't call the police because you
25 didn't want to get caught with guns, would that be correct?

CHRISTOPHER MOORE - CROSS

1 A Yes, sir.

2 Q Would that have been the feeling for everybody else in
3 that car?

4 A I can't tell you their feelings, sir.

5 Q Y'all didn't talk about it.

6 A No, sir. I've been around them guys a long time,
7 none ever wanted to get caught by no cops.

8 Q Mr. Moore, when you were taken into custody, I think
9 was it on November 6th of 2014?

10 A Yes, sir.

11 Q And have you been incarcerated since then?

12 A Yes, sir.

13 Q And you've had a chance to, I guess, go over your
14 file, go over the evidence against you with your attorney?

15 A Yes, sir.

16 Q Isn't it true the first time you've told this story to
17 authorities was some time in the past couple of months?

18 A I think so.

19 Q You didn't tell the police this story a year ago.

20 A No, sir.

21 Q Or a year and a half ago.

22 A No, sir.

23 Q And when you got arrested on November 6th, it was
24 about a week or ten days or so later when you met with
25 Detective Reynolds, correct?

CHRISTOPHER MOORE - CROSS

1 A It was probably a week, I was in the holding cell for
2 nine days.

3 Q And in that interview you swore up and down you had
4 nothing to do with this, right?

5 A Right.

6 Q And you had already been arrested for murder at that
7 point in time.

8 A Yes, sir. They had served me a warrant -- they
9 served me two warrants. They served me one while I was at
10 the hospital and they served me one when I came back.

11 Q And you stated today, I believe, you were trying to
12 just push the blame on somebody else.

13 A Yes, sir.

14 Q Aren't you trying to push the blame off on Mr.
15 Williams today?

16 A Say what?

17 Q You're trying to push the blame off to Mr. Williams
18 today?

19 A No, sir.

20 Q When you made the request -- when you made the
21 statement to Detective Reynolds, you wanted to talk with
22 him, you sent something to him saying, "I want to talk to
23 you."

24 A Yes, sir.

25 Q Mr. Moore, just to be clear, every shot you fired was

CHRISTOPHER MOORE - CROSS

1 like that?

2 A Yes, sir, every shot fired was like that.

3 Q You didn't put that stock on your shoulder and take
4 aim and as Mr. Williams' car came around that road unload
5 on that car?

6 A No, sir.

7 Q That's not what happened.

8 A I didn't never -- even if someone was -- you're still
9 being chased 3.3 miles around town and shot at, you're
10 still being chased -- I never once did that but you're
11 still being chased around town 3.3 miles getting shot at
12 chased at a high rate of speed, I didn't actually turn
13 around and shoot the gun like that when I was doing it
14 like that because you're still being chased. It was not
15 the fact that somebody is still chasing and shooting at
16 you.

17 Q But hit his car at least six times.

18 A Yes, sir.

19 MR. MAXWELL: Beg the Court's indulgence.

20 (Break in proceedings.)

21 Q Again, let's go back to when y'all were on Parkway.

22 A Yes, sir.

23 Q Mr. McClinton is driving.

24 A Yes, sir.

25 Q He's made the decision he don't want to mess with the

CHRISTOPHER MOORE - CROSS

1 police and that's when y'all took off from around the
2 barbershop, right?

3 A Yes, sir.

4 Q And again just so we're clear, according to your
5 testimony today he did not tell y'all that we're going to
6 go to Roundtree and run.

7 A No, sir.

8 Q Have you ever testified to anything to the contrary to
9 what you've testified today?

10 A No, sir.

11 Q And again, you've given prior testimony before under
12 oath.

13 A Yes, sir.

14 Q You didn't testify before that, "We jumped the tracks,
15 it was like he wasn't right behind us no more. I don't
16 know whether Roseboro's shot slowed him down or whether he
17 was reloading, and then McClinton told to say we was all
18 going to make it to the middle of Roundtree Circle and we
19 were all going to run?"

20 A I don't remember saying that?

21 Q You don't remember saying that?

22 A I probably did but I don't remember saying that.

23 Q Well, do you remember Mr. McClinton telling y'all that
24 on that evening?

25 A I don't remember him saying that, sir.

CHRISTOPHER MOORE - CROSS

1 Q Everybody else got away that night without -- got away
2 safely, I guess, without being shot at by Mr. Williams at
3 that intersection, right?

4 A Yes, sir, because he was already shot.

5 Q Because they stayed in the car.

6 A Not only because did they stay in the car because we
7 got into an altercation and he was already shot.

8 Q They made it to safety, correct?

9 A Yes, sir.

10 MR. MAXWELL: Nothing further.

11 MR. FRICK: No more questions, Your Honor. Defense
12 rests, Your Honor.

13 THE COURT: Anything in rebuttal?

14 MR. MAXWELL: None from the State, Your Honor.

15 (Break in proceedings.)

16 THE COURT: Okay. All right, ladies and gentlemen,
17 Madam Clerk very graciously sent out for lunch for y'all so
18 we won't be breaking and leaving from here for lunch so we
19 can get y'all fed, and we'll come back, we'll have closing
20 arguments and the Judge's charge on the law and we'll let
21 you begin deliberations. But once again, please do not
22 deliberate this case, don't even discuss it until that time
23 comes, okay? All right. Let's try to hold it to 45
24 minutes, we'll try to get started back in here about ten to
25 2:00. If y'all finish up and y'all want to get started

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1 quicker then that, Madam Forelady, let us know and
2 everybody else because we'll be on standby. Everybody
3 remain seated while the jury steps back for lunch.

4 (The jury left the courtroom.)

5 THE COURT: I want to put a couple of thing on the
6 record for possible appellate review. I had already ruled
7 on the issue of the admission of evidence about Odell
8 Williams having some type of squabble and maybe some
9 threats issued with the police chief. I want to point out
10 in the defendant's testimony two sentences that were
11 stated, he didn't know Williams at the time, and later on
12 in the testimony I think the exact words were "didn't know
13 the policeman he was talking about." So I think that
14 raises some issues about manufacturing defenses, Counsel,
15 so I didn't want anybody down there at the Court of Appeals
16 or Supreme Court overlooking that. And I add that for my
17 protect in the previous ruling. All right. Y'all ready to
18 argue?

19 MS. HALL: Yes, sir.

20 MR. FRICK: I just wanted to clarify, you were not
21 changing the charges, correct?

22 THE COURT: No, I'm not changing the charge. I was
23 just protecting myself on my ruling about that previous
24 squabble between --

25 MR. FRICK: That's what I thought you were talking

1 about, I just wanted to make sure I was clear so I don't
2 mess up when I get up here.

3 THE COURT: No.

4 (The jury returned to the courtroom.)

5 THE COURT: I hope everyone enjoyed their lunch and I
6 thank Madam Clerk for taking care of that for us. Ready
7 for closing arguments?

8 MR. FRICK: Defense is ready.

9 MS. HALL: Yes, sir, we are ready.

10 MR. FRICK: Your Honor, Solicitor, ladies and
11 gentlemen of the jury. It took a little bit of time but we
12 finally got there, and you've heard all of the evidence in
13 this case and now it's time for us to come forward and give
14 our summation. And bear in mind, and the Judge will remind
15 you of this as well, whatever we say is not evidence. Of
16 course he is going to give you the law, I'm going to give
17 you what I think it says but you've got to apply what he
18 says. And as I told you when we started on Monday, this is
19 not a who done it, this is a why done it, and now you know
20 why I say that. Now, what the State does is they will come
21 up here in a second and remind you that these young men had
22 a bunch of guns and were going to do some bad things over
23 on Holmes Avenue, or Holmes Road. They also have to do a
24 little bit of a tap dance because you cannot use that and
25 consider that as evidence that somebody would commit

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1 another crime. Prior bad acts doesn't allow you to go,
2 "Oh, that's a bad person who has done bad thing before,
3 they must have done this bad stuff now." So they'll say,
4 "Look over here but don't pay any attention to it," but
5 you're not going to be able to help them be able to do
6 that, and what I'm telling you is you can't consider it for
7 that reason. What we've got to talk about is where does
8 this really begin, ladies and gentlemen? You heard the
9 testimony from Christopher Moore, you heard the testimony
10 from the other gentlemen who were in the car with him that
11 night about what their intentions were that night. They
12 intended to go to Holmes Road to go meet up with some other
13 guys who they'd had a transaction with, not necessarily a
14 legal transaction, and take their money back by force.
15 They had all of these guns, that's what we went to go do.
16 They park on Featherstone Road, which you have now become
17 much more familiar with, and walked across a little
18 cut-through to Holmes Road. Well, what happens when they
19 get there? There ain't nobody home. So they decide,
20 "Well, let's just go back." And everybody tells you that
21 no one has any intension of doing anything to anyone on
22 Featherstone. In fact, the majority of the folks in the
23 car don't even know anybody on Featherstone, don't know
24 where they were parked, don't know who's located there.
25 They make no contact with anyone. The testimony of the

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1 Williams family is they don't see any people, they don't
2 see anybody stealing anything from the property because
3 they didn't -- the guys didn't do anything on Featherstone,
4 they were leaving. They were getting in the car and they
5 were leaving. Whatever wrong, whatever bad act that they
6 were there to commit they had abandoned and they were going
7 away with no intent to do anything else. So they go down
8 the road and they see this one car on the side of the road
9 who points out to Odell Williams' Cadillac, "That's the
10 truck, that's the one we called you about." But for them
11 pointing this truck out he would have never known what to
12 look for. So then you hear that he turns around and by
13 some accounts back across traffic, York Road, backs across
14 traffic and then begins to follow the truck. Now, the
15 testimony of I believe just about everybody who was in that
16 truck said somewhere before we got to the bypass where
17 there is a big traffic light right here, before we get to
18 the bypass we realize that this car is following us. Make
19 this perfectly clear, everyone testifies this is the 3.3
20 mile route that we take through Downtown Chester, the
21 people in the truck realize up here, as the solicitor had
22 one of the investigators point out from here to Brawley
23 Street is a little over a mile. At this point before the
24 bypass, we'll call it halfway, fine, at about a half a mile
25 they realize something might be going on. Now, the State

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1 is going to come up here in a minute and is going to talk
2 about how these guys developed a plan, that they were going
3 to lure Mr. Williams back to the neighborhood they were
4 familiar with, Roundtree Circle, and they were going to
5 lure him in there. This was the great plan, they were
6 going to lay in wait and shoot him. Well -- and you saw me
7 ask everyone who was in the car, "If you were driving the
8 car and you were on Featherstone and you were going here,
9 what route would you take?" And not a single one of them
10 said, "I would go all the way down here, cut back on
11 Saluda, go down McClure, come up First, Patrick," not a
12 single one of them said they would do it that way. So if
13 they really are going back to Roundtree we can go the
14 bypass, come down Vance, that was testified to, you can
15 continue on and cut across on Parkway which intersects
16 right with York Road. So what does that indicate? He's
17 trying to get away from that car. We get down to this area
18 in here where someone says, "But let's see what's going on,
19 let's check out and see who this guy is." Maybe they
20 recognize who it was but it was pretty clear not everybody
21 in that car knew who was behind them. They pull over, the
22 guy gets maybe out, maybe not out, who knows, but what we
23 do know is Quinton McClinton pushed the gas and they drove
24 off. What does that mean? They didn't want a
25 confrontation, they wanted to get away from whoever this

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1 was, they simply wanted to get away. And if these bad guys
2 are so intent on doing bad things they had this gun with
3 two clips, they had this gun that was loaded, they had this
4 gun that was loaded, and instead of taking care of it at
5 the barbershop they drove off. You hear testimony from
6 everybody in the car that when they got on Patrick Street
7 they hear shots behind them, and everyone of those young
8 men clearly are familiar with what a gun sounds like, and
9 they said it sounds like a small -- it was a small gun
10 behind us. They said it wasn't any other cars on the road.
11 And what did we find out later? This is the gun that's in
12 that car. So we hear shots over there. We continue on.
13 Now, it will be debated how many shots actually occurred,
14 no question about that, you heard differing testimony on
15 that, that's to be expected. Not everybody is going to say
16 exactly the same thing. Two people can look at one thing
17 and come up with two different ideas of what was going on
18 there. But what you heard was the consistent statement
19 from everybody that the shots came from the Cadillac at
20 least two times on Patrick Street. The car continues to
21 follow them, they don't shoot back at that point with this
22 gun, this gun and this gun in the car, they don't shoot
23 back, they don't stop in the middle of road, pile out and
24 unload. No. They sped up. They sped up to get away,
25 turned again. And we know, we know that it was the

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1 Cadillac behind the truck because, one, there's no
2 information that contradicts that, none. I asked the
3 investigator, "Did you hear about that? No. Never heard
4 any information that the chase was any other way but this."
5 You've got a video from Patrick Street, right at the corner
6 of Patrick and First at a stop sign. They don't stop for
7 the stop sign, neither one of them, they go through. You
8 heard Ms. Bagley's statement, she's sitting in her car on
9 the side of the road, she says cars go by so fast that it
10 shook the car. These cars were traveling at a great speed.
11 What does that indicate? The truck is trying to get away,
12 the Cadillac is intent on a confrontation. Why would you
13 chase this car on this curvy path through these
14 neighborhoods if you did not intend to have a confrontation
15 with people in that truck? We travel on, we get to
16 Parkway, and you hear at some point one of the guys in the
17 truck leans out the window and shoots his .45 back one
18 time. It happens before the railroad tracks. The railroad
19 tracks are cutting through right around in this area,
20 here's Parkway, before the railroad tracks one of them
21 shoots back. Now, why is that important? Well, because
22 nobody bothers to go over there, I'll get back to that in a
23 second. All right. So now we're down to the meat of the
24 case, what gets us here, and why are we here? Because at
25 this intersection right here Christopher Moore had to make

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1 a decision. He made one decision to try to remove himself
2 from that truck. Now, you're going to hear shortly that he
3 removed himself from the safety of that truck, if only he
4 would have stayed in that truck we could have avoided all
5 of that. I ask you how safe was that truck really? We've
6 already gone three miles at high speed through town being
7 shot at, who wants to stay in that truck? So he gets out,
8 in fact, falls out, hits the ground right here. You saw
9 his finger, it's still busted up over a year and a half
10 later, still has scars on his elbow from falling out of the
11 truck hitting that asphalt. There is no dispute that when
12 he hit the ground this gun goes off, he had it in his hand.
13 He told you, "You know, to be honest with you, I really
14 just wanted to ditch the gun because I wanted to come back
15 and get it." No real reason for him to tell you that,
16 nobody is going to dispute him if he says something else,
17 so why would he get up there and lie about that? That was
18 the truth, ladies and gentlemen, and I'll give you a little
19 bit more in a moment about why you can believe what he
20 said. As he's getting up off the ground he looks up, and
21 right about -- he's here, this is the intersection,
22 Roundtree and Parkway. He says, "I see the car is near
23 Vance Street," that's it right there. He looks up and the
24 car is about that far away from him. He tells you, "I hear
25 more shots." No one in the car can dispute that, they

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1 weren't there, they all -- many of them at least said they
2 heard this gun because it is pretty darn loud. This one is
3 not so much, loud enough if you're standing beside it, but
4 if you're out a block away or so maybe not so loud. So
5 Chris Moore is trying to get off the ground, busted up, his
6 finger is busted up, his elbow, the gun has already gone
7 off one time, you can imagine it's nighttime, okay? If
8 Odell Williams is about right here and the truck is slowing
9 down right here, what would be the one thing you would need
10 to do is slowdown? You've got to press on the brake. What
11 happens when you press on the brake? The lights flash. He
12 knows they're showing down right here so he's speeding up.
13 A car is coming at you that has already shot at you,
14 there's no doubt about it, already shot at you, you hear
15 more shots, and even if you don't hear more shots if you've
16 been shot at before you've got reason to believe you are
17 going to be shot at again, you ain't got to wait to find
18 out, you can go ahead and defend yourself. So regardless
19 of whether you want to believe that there were more shots
20 fired or not, and I submit to you that more shots were, in
21 fact, fired, it really doesn't matter. It all depends on
22 what you think if you're the person laying on the ground
23 who has been shot at, and he told you, "I didn't think I
24 had anything else I could do but shoot," and that's what he
25 did. Now, the State will have you to believe that when he

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1 got out of that car first according to the statement of Mr.
2 Breland, Mr. Moore admitted to him, "Well, you know Quinton
3 McClinton told me to get out of that car and take care of
4 that situation." Okay. Many reasons why there's no reason
5 to put stock in anything that that man had to say that
6 we'll get to in a second, but I submit to you, does that
7 make any sense? You've got three other guys in the car
8 that have got guns, you want to take care of this guy,
9 you're back in the place that you wanted to get him to,
10 you're going to let the one dude take care of it? Because
11 you've still got this gun, and this gun, and that gun. No.
12 Oh, and then apparently what he does is he steps out of the
13 car and then he stands there, he aims and he shoots 18
14 times. Ladies and gentlemen, Chris Moore must be the worst
15 shot in the world if that's what he did, because you've got
16 18 shell casings that are not all in the same spot but in
17 many different spots. 18 shots. Now, you've got 18 shell
18 casings, you can go look at them all you want, this gun got
19 fired 18 times, nothing to change that. Six of them hit
20 this Cadillac, six of them. Is that somebody lying in
21 wait? Does that make sense? And they're in the front,
22 you've got some on the side, they're all kinds of different
23 direction, and one, one hit Odell Williams, one unfortunate
24 shot strikes him through and through in the jaw. Is that
25 somebody lying in wait or is that somebody who's scared

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1 running? And he was doing this, he told you "I was pulling
2 the trigger like this." Furthermore, he told you he had
3 bullets still left in that clip, and he had 30 more in this
4 one, so if he really, really was ordered to kill Odell
5 Williams, why would he run down Vance Street? Why would he
6 not go up to the Cadillac and make the kill shot? Because
7 he didn't intend to do it. He shot because he had to.
8 Now, he admitted he's got a misdemeanor conviction for
9 which he was on probation at the time, he should not have
10 had a firearm, but just because you shouldn't have a gun
11 doesn't mean that you can't defend yourself if you happen
12 to have it. Now, it's fair to say that he had a cellphone
13 and he didn't call anybody, other people had cellphones and
14 they didn't call anybody, but Odell had a cellphone too,
15 and he was the 20 something year veteran of law enforcement
16 and he's the one who had been on city council since 1997.
17 You have a pistol on one side and a cellphone on the other
18 and he chose to reach for the pistol. Now, with the
19 cellphone he could have called law enforcement, could have
20 called anybody, city councilman that long you would think
21 perhaps he could call the chief of police himself. He
22 didn't do any of that. He took matters into his own hands,
23 decided to chase this car and shoot at it with really no
24 provocation. They were on his property. What did he want
25 from them? Nobody said he saw anything missing. Did he

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1 want them gone? Well, they left. We talked about Chris
2 Moore and his car going back to Chester Homes, they could
3 have stopped at Chester Homes because they drove right by
4 it. You also heard Odell Williams lived on Brawley Street,
5 they drove right by it too and he didn't stop. Now, what
6 about this gun? Because, I mean, "Come on, Frick, it's a
7 revolver, six shots, two of them were fired. I mean, are
8 you trying to tell me that he shoots it two times or
9 unloads is what you're trying to tell me, he unloads this
10 gun, reloads it, all of this while he is driving?" Well,
11 Dan DeFreese told you it is possible and with practice you
12 can get better with it. Perhaps he was an expert with it,
13 we have no idea, but it is within the realm of possibility
14 as you've heard. Or maybe it's something else. See, there
15 is other shells casings out there. We find at least one
16 shell casing up here at Vance Drive where Chris Moore says
17 he sees Odell's car while he's laying on the road and he
18 hears more shots. Guess what else we have got too? Marker
19 H. What is marker H? Well, translate on the SLED report
20 that you have in evidence as item number 30, because item
21 number 30 is a fired bullet jacket fragment. Dan DeFreese
22 told you, "I can't tell you what caliber that was." He
23 couldn't tell you whether any of these guns or none of
24 these guns fired that round. Marker J, marker H and here
25 is the shell casing that they found, and yes, it had the

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1 devil beat out of it, and DeFreese told you that could
2 happen by being run over by at least one car. At least
3 three witnesses got on that stand and said, "Once we heard
4 the shots we drove over to Roundtree Circle, we came
5 through this way, right in this area." There's Vance
6 Drive, that's where that shell casing is found, they all
7 said they drove through that way. And also we got this,
8 it's found a little further up the road at [REDACTED] Parkway, an
9 inexplicable shell casing that just happens to be another
10 .40 caliber shell casing. Well, it's not important enough
11 for this matter. We also have this nice picture of the --
12 I guess this is the rail of the bed of Mr. Binnall's truck,
13 the truck that was used that night, and you see this thing
14 that they call a bullet mark. Now, the crime scene person
15 said they could guesstimate as to the direction of travel,
16 couldn't tell you the direction of travel, maybe it's a
17 bullet mark, maybe it's not a bullet mark, I don't know,
18 maybe it was fired out of that truck, maybe it was coming
19 from the other direction. But here is what we also know,
20 Mr. Binnall told you he's in construction, this is the bed
21 of his truck, it's got more than a couple of dents in the
22 back of it so maybe it's not a bullet at all. Now, why can
23 you put any faith in what Chris Moore is telling you? For
24 one, you heard him from that stand and he told you the
25 story, and he told you the day that he talked to Chris

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1 Reynolds he was lying, he was scared. 18 year old young
2 man in there by himself, doesn't know what's going on,
3 knows he's charged with murder, trying to figure out what
4 they know basically, so he says, "I wasn't there," just
5 lied. Not uncommon. Chris Reynolds told you he wasn't
6 exactly honest with Chris Moore either, so nobody was
7 telling the truth on that video. Why would Chris come
8 tell -- change his statement and come tell you today this
9 is what happened, and tell you things like, "No, I really
10 wanted to come back and get that gun?" Because it's the
11 truth. And he didn't have to tell you the truth, because
12 without him really putting himself there you've got
13 statements that say he might have been there but nothing
14 else. See, a swab here, a swab here, they swabbed this,
15 all places that you would have touched can't match his DNA.
16 No fingerprints. That's how you know you can put
17 reliability on what he tells you. Now, certainly here in a
18 second the State will tell you don't pay any attention on
19 that, his DNA is on the scene. Well, you know, they told
20 you this is the place he is familiar with, that's what
21 they're relying on, of course his DNA might be out there.
22 But he tells you, "That's the path of travel I went that
23 night. So yeah, I was bleeding, yeah, that's my blood on
24 that fence, yeah, that's my blood on that car." His
25 statements are consistent with the statements that you've

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1 heard and they're all consistent with each other, that's
2 what happened in that car. Now, the State wants you to
3 rely on someone who came up here yesterday with their own
4 charges and tells you out of the goodness of their heart
5 they just wanted to come up here and tell the truth. Now
6 Mr. Breland who served our country in Iraq driving trucks,
7 apparently can tell you where these shell casings should
8 have fallen if Chris would have been holding the gun that
9 way. Now, he's there in February, goes to court and
10 doesn't get a bond in April, and then by May he gets a dose
11 of conscious and wants to help out. Ladies and gentlemen,
12 as you I told you at the very beginning, you can believe
13 all, some or none of what you hear, and you can also
14 determine whether there's any motivation. Now, Mr. Breland
15 can get up here and say all he wants that he ain't getting
16 anything out of this, but he ain't in Chester anymore, he
17 got moved. Does he expect to get something out of this?
18 You bet. Awfully convenient the timing of the statement he
19 gives. As you have heard time and time again and the State
20 is going to tell you, the Judge is fixin' to tell you and
21 I'm going to tell you again, the State has got to prove
22 their case beyond a reasonable doubt. Chris Moore doesn't
23 have to prove a thing, doesn't even have to get up here and
24 tell you his side of the story. The State has to prove
25 beyond a reasonable doubt that he did unlawfully kill Odell

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1 Williams with malice aforethought. That doesn't mean,
2 "Well, I've listened to this and he seems like he's hanging
3 out with some bad dudes and maybe he's a bad dude and I
4 think maybe he did do this," it's not even maybe he
5 probably did this. No. Is there any other reasonable
6 explanation other than he unlawfully killed Odell Williams?
7 The burden is entirely over here. And the fact of the
8 matter is, yes, there's an explanation, he had to defend
9 himself, he had the right to do it. Despite all of the
10 other bad choices he made that evening it didn't take away
11 his right to defend himself, and that's exactly what he did
12 and that's all that he did. Did he want to do that? No,
13 but he didn't ask for it either. Despite what the State
14 wants you to believe he didn't ask for that confrontation.
15 If this would have been Holmes Road you've got a different
16 story, ladies and gentlemen, but that was done. No. The
17 reason why we're here today is because Odell Williams
18 decided to chase a truck through Downtown Chester and shoot
19 at it, that is why we are here. What was the state of mind
20 with those young men in that car? Chris Moore told you he
21 was scared but he wasn't the only one. Dixon got up there
22 under cross examination of the solicitor -- direct
23 examination, solicitor was asking about what was going on
24 in the car and he said, "We're getting shot at, what would
25 you do?" Exactly. That's the state of mind. These bad

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1 guys out to do bad things were scared. They had enough gun
2 power, they were still trying to get away. That's why we
3 are here, ladies and gentlemen, the decision of Odell
4 Williams to follow this car and shoot at it. Chris Moore
5 did what he thought he had to do, and that's all you've got
6 to do, ladies and gentlemen. If you're in that situation
7 what would a reasonable person do? If you've been shot at,
8 you've been chased, you think you could be shot at more,
9 you hear more shots, you don't have to wait to find out the
10 intentions of your aggressor and you can shoot this gun 18
11 times if you feel that's what's necessary. Because the law
12 does not say that have you to use any particular type of
13 weapon to go against your aggressor if it's necessary to
14 defend yourself, and it doesn't say you have to stop after
15 three shots. No. It says you can continue firing, if you
16 are justified in the first shot you can continue firing
17 until the threat is gone, and that's what Chris Moore did.
18 And he could have fired more but he did not. Ladies and
19 gentlemen, he acted in self-defense, that's all it was pure
20 and simple. And once the defense has shown you
21 self-defense the State must disprove it beyond a reasonable
22 doubt. He had to make a call, it was him or Odell, he did
23 what he had to do and he was within his rights and he acted
24 in self-defense. Regardless of whatever else had happened
25 that night he was within his rights, he is not guilty of

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1 murder. Thank you for your time, attention and your
2 service.

3 THE COURT: Solicitor?

4 MS. HALL: Thank you, Your Honor. Been trying to take
5 notes during the course of this, I finally gave up so y'all
6 bear with me. We do have the burden of proof, it's
7 something I told you in my opening that we happily accept.
8 You know, there's a saying or there's actually -- I think
9 it's in a book, what a tangled web we weave when first we
10 practice to deceive, and it's about telling lies. And I
11 would submit to you that's what Chris Moore wants to come
12 in here and do. He wants to tell you the lies and he wants
13 you to believe them. And I would submit to you that he's
14 had 21 months after he gave you -- all of this stuff that's
15 in evidence including the video and the audio recordings,
16 everything is in evidence, you can look at it, it is your
17 purview to review it as much as you want to or as much as
18 you feel you need to. He came out of the gate telling
19 lies, and the minute that he figured out that the State had
20 evidence against him he's spent the last 21 months
21 reviewing that and trying to come up with a different lie
22 that would actually fit what he knew the State had against
23 him. He's had a lot of time to think about it and he's had
24 a lot of time to crack it and he's trying to beat it. The
25 State is not looking for anything but the truth and that's

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1 what your verdict has got to speak. It comes from the
2 Latin term, we talked about this in opening and you're
3 going to hear His Honor talk about it again, it's a verdict
4 that speaks the truth, that's what it means, and that's
5 what the State is asking for here, to look through all of
6 these filters and webs that he's trying to weave and to
7 render a verdict that speaks the truth. I would submit to
8 you that the truth is he didn't feel threatened, he didn't
9 feel scared. They went over to a place where they knew
10 people had guns, they had been shot at before, they were
11 going to a place where they knew that they probably were
12 going to get shot at. He wasn't afraid of being shot at.
13 And I would submit to you that Odell Williams didn't shoot
14 at him at all, and I'm going to come back to that in a
15 minute. And I want you to stop and think, it's blame the
16 victim, blame the victim. Mr. Frick in his opening -- and
17 I took offense to this, he compared Odell Williams to a
18 rooster. This was a human being, this was a person who
19 thought his property -- things had been taken from his
20 property before, he thought his property was being
21 violated. He's an ex-cop, he's a city councilman, he's a
22 ten year old little league football coach. He came because
23 his wife called him, "Hey man, something is going on over
24 here, can you come check this out?" Because that's what he
25 told her to do. He wasn't looking for trouble. He was

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1 trying to stop whatever was going on and he went into cop
2 mode. When he saw people coming out in the truck that he
3 didn't recognize because these guys had borrowed a truck so
4 they can go ambush people at the road next door, he didn't
5 recognize that truck. For all he knew all of his
6 possessions, or most of them or some of them or whatever,
7 valuable things that he had worked his whole life to get
8 were in the back of that truck and they were leaving and he
9 was tired of being violated, so he went to see what was
10 going on. He flashes his lights. The defendant testified
11 before, said one thing -- it's just what is it today that
12 he's going to say to try to get you to believe him? He
13 testified in the past that he was flashing his lights as
14 us, he was trying -- everybody else in the car thought he
15 was too. And Terrance Buchanan said even though nobody --
16 for all they knew these were the people on Holmes Road
17 coming after them, they didn't know who it was. He said,
18 "Let's stop and see what's going on." So they do, they
19 stop. But they weren't scared, they were trying to get
20 away because they knew they were going to get in trouble if
21 they got caught with one of these guns in the car, they
22 were trying to get away. They stopped but they didn't stop
23 long enough to talk to Mr. Williams, who got out of the
24 car, and you heard one of the co-defendants say, "I thought
25 he had a phone in his hand," never saw a gun, and I would

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1 submit that they stopped to try to be able to pull off fast
2 enough to get away from him again so they wouldn't get
3 caught. So they pull out -- I'm trying to look for my map,
4 here it is -- flashing lights, pulling out, coming down
5 this street. They don't realize until they're about right
6 there that they're being followed. They said he was
7 flashing the lights -- at the point they realize they were
8 followed they went a little ways further, and this is 1.1
9 miles, and I want to talk about this, too, and I might come
10 back to it in a minute. 1.1 miles to right there, 3.3
11 miles all around this. And Mr. Frick was talking, well,
12 they passed Chester Homes, why didn't they just turn by the
13 bypass and go there? Well, at that point they just were
14 realizing they were being followed. It's not like they
15 were making decisions about where to go at that point, they
16 just figured out he was following and now they're trying to
17 lose him. So they go down the street, they pull over at
18 the barbershop, they pull out, they say that -- and you
19 heard witnesses say that there were two shots -- they heard
20 two shots fired. People in this neighborhood tell y'all
21 that this is not uncommon, this was not something we
22 thought was important enough to call 911. You heard Kira
23 Bagley say, "Yeah, I saw them coming by and that was odd,
24 but the gunshots were not odd." And I would submit to you
25 this is an ex-cop, he's tried to stop them, he's tried to

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1 talk to them. And this is if you believe that those
2 gunshots came from his gun, I would submit to you what
3 happened is he fires two shots out the window of his car,
4 warning shots to get them to stop. This was his community.
5 He's not going to go shooting at people risking hitting
6 people's houses, warning shots still trying to get them to
7 stop the car. They don't stop, they keep going. 3.3 miles
8 on what the defendant classified as interstate speed.
9 Granted, you probably can't get to interstate speed on
10 these little tiny roads, but at some point highway
11 interstate speed. That doesn't take that long. Think
12 about it, 60 miles per hour in a car on the interstate
13 takes about two minutes, so if you average that out this
14 might have been a three minute situation. So they go to
15 the place they're familiar with, they go to the place where
16 they know the area, and Quinton McClinton told them at some
17 point when they were coming up Parkway you heard D'Angelo
18 Roseboro, he's like, "Yeah, I decided I was going to shoot
19 back." And this is significant because Mr. Frick wants you
20 to say, well -- I don't know what he was getting at when he
21 was talking about these .40 caliber gun bullets at mile
22 markers H and J. This is evidence that was recovered, yes.
23 Again, Maurice James, "Stuff like this happens all of the
24 time in our neighborhood." There are shots, people
25 walking, bullets all over the ground, we don't know what's

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1 going on." They never found a .40 caliber gun to compare
2 these too, and I would submit that doesn't really have
3 anything to do with the case. They found a .45 shell
4 casing, yeah, that might have something to do with the case
5 because that's the one that D'Angelo Roseboro says he
6 fired. But I would submit that's just a red herring to
7 throw you off. It really doesn't have anything to do with
8 it and I don't know where he was going when he said, "Oh
9 yeah, it's got road rash all over it." You heard Dan
10 DeFreese say that this thing that didn't match anybody
11 else's gun, not only did it have road rash but it looked
12 like it kind of rusted, been out there for awhile. But
13 again not, uncommon because these people endure this kind
14 of situation all the time. This is where the things become
15 significant. They're rolling around the corner on
16 Roundtree, and -- you know, you're going to have to judge
17 the credibility of the witnesses, that's your job and His
18 Honor is going to instruct you about that. You come here
19 with common sense, reasonable people, you've dealt with
20 people all of your lives, you have to determine who is
21 credible and who has a reason to fabricate this. You hear
22 all of the co-defendants sit up here and talk, the three of
23 who decided to give statements to law enforcement, Quinton
24 McClinton zipped it, hadn't cooperated at all, the three
25 who come up here -- and I would submit they're riding the

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1 fence. Mr. Frick would have you believe we brought these
2 witnesses up here, unfortunately these witnesses are what
3 we have. They came, they gave their statements, they're
4 doing the best they can to give you the whole picture, but
5 at the same time they are riding the fence. They're
6 friends with the defendant in the case, they've known him
7 almost all their lives except for Terrance Buchanan, I
8 think he said he had known him a couple of years. And
9 they're trying not to throw Quinton McClinton under the
10 bus, they won't tell you that he told him to get out of the
11 car. He rolls around the corner and if you've got this
12 back in here is where that shot occurs, the railroad
13 tracks, and even the defendant himself says, "Yeah, I got
14 out. We put distance between us." Quinton McClinton told
15 us that the plan was, "We were going back to Roundtree
16 Circle and when we went around the corner we were all going
17 to get out and run." Why on earth if that was the plan
18 told to you would you decide somewhere up in here before
19 you have the opportunity to get out and run, why on earth
20 would you jump out of a car? Why on earth would you open
21 the door to the car to throw the gun out? You've got the
22 biggest gun in the situation, why would you throw this out
23 if you were truly afraid for your life? It doesn't make
24 any sense at all, it's a ridiculous, ridiculous story. So
25 he comes around the corner -- I would submit to you that

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1 Quinton McClinton did tell him -- this is the only thing
2 that makes sense -- and Stevie Breland -- Mr. Frick is
3 like, "Well, Stevie Breland" -- yeah, he got moved from
4 Chester when he gave the statement, he wasn't safe in the
5 Chester County Jail anymore, he's not from that area. And
6 Mr. Frick would have you believe he just had a dose of
7 conscious and all of the sudden decided to come forward to
8 give his story. No. I would submit that he was in a
9 situation -- he had confided -- he tells you, "I confided
10 in Chris Moore, I was feeling kind of down, he made me feel
11 better. We had a lot of talk, I thought he had changed. I
12 thought that he was repentant, I'm repentant, I thought
13 that he was repentant." He's charged with hit and run, he
14 hit a car on the interstate, somebody dies, that is not an
15 intent crime. He is repentant, he's sorry about that, he
16 has these conversations with Chris Moore. He says, "I
17 think the guy is on the right track," he's feeling about it
18 so -- but then things start to happen, and he says, "I hear
19 him making phone calls and I hear him talking about ways to
20 get to Quinton McClinton, and I hear him talking about how
21 'I'm going to beat up this little kid to get down the
22 hallway.'" And he's like "No, no, no, I'm not dealing with
23 this anymore, somebody has got to tell the truth." So if
24 you want to call that a dose of conscious, quite frankly I
25 don't care what you call it, I would submit that is the

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1 truth and that is what makes sense. Quinton McClinton --
2 you get in the truck -- the truck, it's borrowed so he can
3 kind of hide from detection -- you get in the truck with
4 this big gun, put it in the back seat, basically armed --
5 said, "Yeah, Chris, here's your big gun." And Chris is
6 like, "Well, that's cool because I've got this big gun and
7 I'm going to give Terrance Buchanan my little gun," so now
8 I've got this big gun." And Quinton says, "When we get
9 around this corner, Chris, you get out and take care of
10 this guy, you get out and shoot that man and stop him
11 because we don't want to get caught. We don't want to get
12 caught with all of these guns in the car." That is what
13 makes sense. It doesn't make sense to just open the door,
14 throw the gun out and fall on the ground if you're truly
15 being chased and you're truly afraid. And the interesting
16 thing is -- and this is Mr. Frick's picture, he puts it
17 into evidence for you and I like it and I will show it to
18 you. Again, blame the victim. Why didn't the victim call
19 the police? Well, these guys in this car -- and they all
20 testified to this, even Chris Moore did, they all had guns
21 in their pockets -- I mean phones in their pockets, and
22 guns, but phones in their pockets. Nobody in that car
23 called 911. And I would submit, it's understandable, they
24 didn't want to get caught by the police, they didn't want
25 to get caught by the policeman they thought was chasing

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1 him, why would they call the police to come to them? And I
2 can't find his picture so I'm going to use mine. He
3 calls -- at some point after Mr. Williams got out of the
4 car at the barbershop, maybe they did see him with a phone
5 in his hands but he laid it on the seat, he couldn't reach
6 it. How is he supposed to call for help while driving the
7 car 70 miles per hour, however fast interstate speed is,
8 getting over here and trying to reach his phone on the
9 floorboard on the passenger side of his car? He can't
10 reach the phone to call 911. I would submit to you if he
11 would have been able to reach it he probably would have
12 called 911, call for backup because that's what cops do.
13 So they roll around -- and this is where -- again, you've
14 got to go with your common sense and you've got to go with
15 what makes sense. We've got this. And I'm actually going
16 to -- this is the house -- let me get it the right way so
17 you can see -- the house on Parkway Drive. So they're
18 coming around the corner here, they get out and Chris gets
19 out here, falls down, the gun goes off, shell casing in the
20 road, and he would have you believe that he can't find
21 anywhere to hide over here. And part of self-defense is
22 you have a duty to try to figure out some other way besides
23 killing a person to get away, that is a duty that you have,
24 and His Honor will charge you that and we will come to that
25 again in a moment. So instead of running across the street

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1 to hide, which is ultimately where he ran to hide his gun
2 and he is familiar with that, he runs across the street and
3 he sets up because he knows when he gets out he's got some
4 time. And he by his own statement says, "I'm over here --
5 I saw him, he was around Vance Drive when I got out of the
6 car." All he had to do was run over here, run over there,
7 run over here, he had plenty of places that he could have
8 gone to get away from him. But no, he chooses to go into a
9 space where there's nothing to hide behind. And the
10 codefendants say, "Yeah, we heard the big shots," they
11 never say we heard the little shots. Mr. Frick says,
12 "Well, they were around the curve, maybe they didn't hear
13 the little shots." They sure enough heard them when they
14 were on Patrick Street, everybody did, a half block away,
15 it's pretty easy to hear this gun a half block away, that's
16 about how far they were on Patrick Street when they heard
17 it. But before they heard the big gun they made it all the
18 way around the corner, they can't even see him anymore.
19 Think about the amount of time and what makes sense. He
20 gets out, the victim is coming, he's in the dark, okay? He
21 can't see. He knows where he is because he's got big
22 lights on his car but he can't see where the defendant is.
23 He's coming around the curve, at some point the defendant
24 runs back over here, maybe he runs back over here, wherever
25 he gets he starts shooting at the victim and that is what

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1 makes sense. I would submit to you he's standing about
2 right here, and he takes this big gun and he sets up
3 because he's got some time. He's got the Vance coming
4 here, go around the curve and he opens the fire and he
5 ambushes him, which is exactly what they were going to do
6 to the people on Holmes Road. So there's a pattern of
7 behavior developing here, and he shoots and he shoots and
8 shoots and he shoots and he shoots, and as he's shooting
9 he's turning. And you heard -- this is where the bullet
10 ejects from, this is where the cartridge cases are, all
11 these things that were found in the road this where they
12 come out. Just shooting as he goes all the way around, and
13 that's where all of this comes from. That's where he --
14 and he ultimately ends up while the victim still on -- now,
15 he's on Roundtree, he is shooting still following and these
16 end up in the embankment over here -- you can't see --
17 these end up in the embankment over here, two of them which
18 they were able to dig out of the dirt in the ditch, and two
19 of them where they could tell there were bullets but they
20 never could find anything in there. That is what makes
21 sense. And that's what Stevie Breland tells you happened,
22 that once the defendant started to trust him -- because he
23 kept giving him these stories, the same stories he's trying
24 to feed you, and Stevie Breland says, "That really doesn't
25 make any sense, man, come up with something else." The

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1 truth will always make sense. When you say you're running
2 saying your running and you're shooting, shooting, that
3 doesn't make any sense. It doesn't make any sense in terms
4 of this, and it doesn't make any sense in terms of this.
5 Now, you heard Melinda Worley testifying about this, and if
6 you think about dowel rods, which we've been using here,
7 you've got to have two points in order to be able to --
8 there's got to be a hole outside and a hole inside to be
9 able to find the trajectory point, on a windshield you
10 can't do it. And think about Mr. Williams, he starts
11 taking on fire somewhere in here, his windshield gets
12 crashed completely up, can't see where he's going and the
13 defendant says, "Oh well, the car only got shots six
14 times." Well, we don't know that. His window was actually
15 busted out, and you could see that in the picture. The
16 windshield glass is all over the floor right next to his
17 gun and there was no window left on the car. So his car --
18 he can't see he, has no way to see out of the windshield.
19 Look at that. So I would submit to you that once he's hit,
20 not his car but himself, and his radiator -- because Mr.
21 Moore is in front of him, there's no way to hit the
22 radiator if you're not in front of the car. If he's not
23 coming up the street and you're not shooting at him there's
24 really no way to hit the radiator. So he stops because he
25 has to, and gee, that's where Agent Blackmon told you

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1 there's a pool of radiator fluid. And you'll have the
2 photograph of G and it pools up, and then you'll see at
3 some point where Mr. Williams hits this house -- or sorry,
4 hits this house, hits a mailbox on the way to the house and
5 that's where his car comes to rest. And the truth is that
6 while the evidence does show and you can think that maybe
7 he did do this on Patrick Street, there's another
8 possibility. He was alive, y'all. You hear Kyle Cummings
9 talk about we got him out of the car, he stood up, sat in
10 the chair while he's bleeding to death and the EMT man gets
11 there and says, "Yeah, he actually walked to the stretcher
12 and he died on the way to the hospital." He's still alive.
13 And the other possibility is this -- and I'm not telling
14 you which one to believe because I would submit to you that
15 either one of them does not amount to self-defense. This
16 did not amount to self-defense and this certainly does not,
17 and this is where the interested part is. You heard
18 Whitney Berry, the SLED lady, come in and say he has got
19 gunshot residue on both of his hands. She can't really
20 tell for sure what happened but it's on both of his palms
21 and both of the backs of his hands. And I would submit to
22 you when he stopped here he got out of his car, and like a
23 cop would do, he shot two times trying to defend himself,
24 and then he was bleeding to death, he lost -- he became
25 weak and he had to sit back down and he dropped his gun

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1 right next to where he sat, and he sat down, he put his
2 foot on the gas and he ended up in that house and that's
3 where his car finally came to rest. And in the meantime
4 the defendant, according to his testimony, was running all
5 around scared to death, really doesn't know who Mr.
6 Williams is, thinks this guy shot at him, which I will make
7 time to come back to, but he's got the -- somehow he's
8 brave enough, "Well, I ran down here, but oh my gosh I
9 forgot my cellphone so I should probably go back to the
10 scary place because I'm really not sure what's going on
11 over there and get my cellphone out of the street." I
12 submit to you again that makes absolutely no sense. If he
13 was truly afraid why on earth would he do that? I would
14 submit that maybe he never even did it. So now he's
15 sitting in jail. Well, first he's running around. So they
16 run around and they run over to this bush -- runs over
17 to -- and he runs over to the shed and ditches his gun,
18 because now it's probably time to get rid of the gun,
19 you've done what you needed to do. His friends have left
20 them, they come back and they meet back up, at least he and
21 Terrance Buchanan meet back up over here while Terrance
22 Buchanan is ditching his guns under the bush. And Chris
23 Moore -- and this is the other interesting thing that I
24 want you guys to think about, he's like, "Yeah, I had two
25 clips and they each had 30 bullets in them." Okay. So now

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1 he has got 60 bullets. And he says no -- he never really
2 -- "But I only shot, I didn't shoot them all." First of
3 all he says on the stand, "I shot until it wouldn't fire
4 anymore," and then he said, "But I only shot 28 of them out
5 of there." Well, this thing was empty, ditched under a
6 bush on the way to ditch the gun. And then he says that
7 the other one, which is this one, "I never used that one,"
8 it's only got 28 in it. I submit to you he switched it out
9 and he fired two more shots after he switched it. But he
10 wants you to believe that Mr. Williams -- that's an easy
11 thing to do because it's got a clip. And you saw Dan
12 DeFreese talk about that -- he wants you to somehow believe
13 now that he's had time to go back and think about it, well,
14 if you start to do the math and you would have six shots
15 and you know two are fired but you go back and you can say,
16 "Well, he kept shooting at me so he used six and then he
17 must have shot some more, so two more times would make
18 eight, which leaves four in there." It makes sense when
19 you think about him trying to figure this out but it
20 doesn't make any logical sense when you think about the
21 circumstances under which Mr. Williams would have had to
22 try to deal with this situation. He's driving a car -- his
23 wife said he's right-handed -- he's driving this car at
24 interstate speed, and the defendant would have you believe
25 that somehow he's able to -- and you guys will have this

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1 back there -- pull it out and there's a little latch on
2 there, you've got to pull this thing forward, pull the
3 barrel out, and then you've got to shoot it backwards to
4 dump the bullets out, and it might get caught because
5 there's this little thing there, and then you've got to
6 somehow reload it, but maybe he had a speed loader. Well,
7 that was never found. No shell casings was ever found,
8 nothing was ever found. The only thing that was found was
9 in the gun. I would submit to you that was all there ever
10 was. He had no more live rounds, he had nothing. This was
11 his gun, he's a cop, cops carry guns, that's what they do,
12 it doesn't matter if they're retired or anything. And if
13 any of you know cops I would submit to you that you would
14 think the same thing and you would realize the same thing.
15 They go out with a gun, it's like getting dressed in the
16 morning putting on their pants. But he did not reload that
17 gun, and I would submit to you that he either fired the two
18 warning shots or he fired when fired upon. So they come
19 around, they ditch the empty magazine. Now, he's ditched
20 the gun with the 28 bullets that are left. Terrance
21 Buchanan hit it, he's gone, and Chris Moore starts running,
22 and he's running over to Rosae's house or running
23 somewhere, I don't know where he was going, but he ended up
24 at Rosae's house, which everybody testified was on old York
25 Road. And you heard Lashonda Wray, who was about the least

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1 happy person to be here besides Rafael Jackson, say that
2 it's right around in here, it's on York Road. If this is
3 Roundtree Circle, all he had to do -- right there, that's
4 where the bush is and that's where the shed is, and he runs
5 over here and now he's in the yard, meets back up with
6 Derrick Dixon and in doing so jumps over a fence which he
7 gets his blood on and he touches that white Crown Victoria
8 which he gets his blood on. And then, you know, when he's
9 giving his statement he doesn't realize that he's left
10 anything behind. He might realize, "Oh yeah, maybe I
11 didn't get into that truck, but maybe my fingerprints might
12 be on the door because I actually really did get into it so
13 I had to touch the handle, so let me figure out how I can
14 make that up because I've got to account for that," because
15 he knows there might be fingerprints. So he says, "Yeah,
16 well, I have touched it while I spoke with the people in
17 the truck," so he has got to account for that but he
18 doesn't realize that he's left blood all over the scene.
19 Mr. Frick would say, or did say he doesn't have
20 fingerprints on the gun, he doesn't have blood on the gun.
21 Okay. Well, you also heard the SLED agents testify they
22 swabbed things -- they did swab not this magazine but the
23 one that was found next to the gun, and they did find
24 something on there that he could not be excluded as a
25 contributor to, one in 19 million chance of finding a

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1 random person in the street besides him who touched that.
2 I would submit to you that's pretty significant. So now
3 he's tied to the scene, he's tied to the gun, he's tied to
4 the truck and he's swimming backwards trying to figure out
5 what he's going to say, and this self-defense claim is all
6 he's been able to come up with, and I submit it is
7 ludicrous and unreasonable and unbelievable. Because if
8 you are truly afraid you don't ditch the biggest gun in the
9 car, you don't get out of the car, you don't open the door
10 to get out of the car. If you wanted to throw the gun out
11 it's like Mr. Maxwell touched on when he was cross
12 examining, throw it out the window if you really truly want
13 to get rid of it, but I submit to you he didn't, he didn't
14 want to get rid of it. And I would also submit that he of
15 all people was the least credible witness. He's the one
16 who's got the most to gain by getting you to believe
17 something that's not true. He was on probation, he wasn't
18 supposed to have a gun, he was -- and Derrick Dixon said on
19 the stand -- and you guys need to remember it the way you
20 remember it, but my recollection of it is that he didn't
21 say we were scared, he said we were scared of getting
22 caught with all of these guns in the car. Derrick Dixon
23 was the last of the three co-defendants to testify, and
24 that was his statement, "We weren't scared, we were scared
25 of getting caught." And that was the purpose of Quinton

CLOSING ARGUMENTS

1 McClinton saying, "Get out of the car and shoot that man,"
2 so we don't get caught, we've got to get away no matter
3 what it takes. And you can go back and you can listen to
4 that jail call because that sort of goes along with what
5 I'm telling you. When Mr. Moore calls his -- I don't know
6 it was, it was a lady after his bond hearing, he calls her
7 from the jail phone and it's recorded, he never says that
8 if the victim hadn't been shooting at us we would never be
9 here, he said if the victim hadn't been following us we
10 would never be in this situation. And even Buchanan said,
11 "When I hooked back up with him when he was getting out of
12 the car, he was calm, he didn't seem to be scared. When I
13 hooked back up with him" -- and Ray Ray says the same
14 thing, "When I hooked back up with him he seemed nervous,"
15 Ray Ray said "Like something was going down and I am not
16 putting you in my car." He had been running, he had been
17 firing the gun, there was adrenaline going, and yeah, he
18 was still scared of getting caught because he knew that the
19 police were on their way. That's his motivation is to get
20 away from the truck, and that's what he's trying to get you
21 to buy in to. And Maurice James, I want to talk about her
22 real quick because Mr. Frick touched on this, she lives
23 about here, right about there on the Parkway. Her
24 testimony was, "Yeah, I heard a couple of shots and they
25 didn't sound too loud, and then I heard a bunch of shots

CLOSING ARGUMENTS

1 that sounded really loud." So her house is about right
2 here, and Mr. Moore starts firing either here or here
3 depending on where you believe he stands when the defendant
4 came, the shots -- regardless they get closer to her house
5 at some point right around in here. I'm going to talk
6 about -- and again, His Honor has to give you the law and
7 you have to be the finders of fact and apply it to the law
8 as he gives it to you, not as I state that it is. There's
9 elements of murder, it's an unlawful killing with malice
10 aforethought. I touched on this in my opening, malice
11 aforethought is acting with a depraved heart, not caring
12 about the consequences. I submit to you that pulling the
13 trigger on this gun -- and it's at least 18 times because
14 if he had 60 rounds and only 28 left, that was 32, 18 is
15 what they found. He pulled this trigger -- and Dan
16 DeFreese tells you, think about it, it's not an automatic
17 gun, it's a semiautomatic, every time you fire a shot
18 you've got to pull the trigger. So I want to do this for
19 you and I want you to think about it. I am going to pull
20 it 18 and I'm going to stop, and I'm going to go ahead and
21 pull it 10 times. If this is not malice I don't know what
22 is.

23 (Starts pulling the trigger of the gun.)

24 MS. HALL: That's 18.

25 (Starts pulling the trigger of the gun.)

JURY CHARGE

1 MS. HALL: And if you look at those dowel rods in the
2 car and you think about the height of the defendant, and
3 you for one second that he was shooting over his shoulder,
4 that's coming up. That's consistent with either standing
5 or being down on the ground shooting as he was coming
6 around the corner. Intent, it's an intent crime, you have
7 to intend to kill. And it doesn't mean that you have to
8 intend the kill the person you're shooting at, it doesn't
9 mean that you have to -- intent is something that can be
10 implied. If you're shooting that gun 18 to 28 times at a
11 person driving a car, or at a car being driven by a person
12 you can pretty much figure out what the consequences could
13 be, and that's all that's required for intent. Mr. Frick
14 wants to talk about self-defense. Yes. He can raise it
15 and we have to disprove it, and I would submit to you we
16 have already done that. But in order to fully think about
17 it we have to think about the elements of self-defense, and
18 His Honor is going to charge you about this as well. The
19 defendant must be without fault in bringing on the
20 difficulty, just simple possession of that gun is not
21 enough to bring on the difficulty. When he exits the car
22 he's bringing on some difficulty. For all we know he
23 thought that the people from Holmes Road was following him,
24 he'd brought on that difficulty, he thought he was shooting
25 at them, he didn't know who he was shooting at. The

JURY CHARGE

1 defendant's conduct was the type which was reasonably
2 calculated to provoke a deadly assault, which there was no
3 deadly assault here, and I would submit to you that's a
4 prong that doesn't apply at all. So then you get to
5 imminent danger. The second element is that the defendant
6 was actually in immanent death or serious bodily harm, or
7 that he actually believed that he was in danger of this.
8 This is a reasonable person standard, you guys are
9 reasonable people. He got out -- and I will tell you, Mr,
10 Frick said that I was going to, he got out a perfectly safe
11 truck with several cellphones in the car with this big gun,
12 this big rifle to get out and shoot him. Even if he was
13 wasn't intending to get out he's putting himself in harms
14 way. A reasonable person would not do that. A reasonable
15 person would stay in the car and call the police. If you
16 truly think and you're truly scared, wouldn't you rather
17 get in trouble for having guns than ending up shot? And he
18 would have to believe -- even if he was scared in the car,
19 he would have to believe that there was no reasonable way
20 to avoid killing this man than by the actions that he took.
21 And again, call the police, don't get out of the car,
22 there's several ways to avoid this. And then the last
23 prong of that that I wanted to talk about that is no other
24 way to avoid the danger. Again, don't get out of the car,
25 call the police. There has to be no other way to avoid the

JURY CHARGE

1 danger than to do what you do, and I would submit in this
2 case there were many other ways to avoid the danger. He
3 stepped out of the car because Quinton McClinton told him
4 to step out of the car and take care of this guy and he
5 followed orders. I want to talk about reasonable doubt,
6 and I've already said -- this will be the third time at
7 least. This is important -- reasonable doubt is -- we have
8 the burden of proof, it is beyond a reasonable doubt.
9 Reasonable doubt is defined in the law, and His Honor will
10 talk to you about this, it's a doubt that would cause a
11 person to hesitate to act, and they go on and define it as
12 it has to leave you firmly convinced of every element of
13 the crime. The State has to present evidence that leaves
14 you firmly convinced that there's no other reasonable
15 conclusion to draw and that's exactly what happened. I
16 would submit we have given you evidence that should leave
17 you firmly convinced that this was an unlawful killing,
18 that the defendant was malicious in doing so and that it
19 caused the death of Mr. Williams. And you heard the doctor
20 talk about it and you've heard the SLED people say, yeah,
21 there was a projectile in the car, it had his blood and
22 tissue on it, this is the shot that killed him. And then
23 the other crime that he's charged with is possession of a
24 weapon during the commission of a violent crime. Murder is
25 a violent crime. If you find him guilty of murder, he did

JURY CHARGE

1 it with that gun, he's guilty. The defense's job is to
2 confuse you and to believe the defendant's lies. Don't
3 fall for it. We come seeking the truth and we come seeking
4 justice for Odell Williams, but we also come seeking
5 justice for his family. Chris Moore killed him
6 intentionally and unlawfully, he did so with malice
7 aforethought, and that he possessed that big gun right
8 there to carry this out, and I would submit there is no
9 other reason or conclusion but that he is guilty of both of
10 those charges. Thank you for your attention.

11 THE COURT: The next phase of the trial is the Judge's
12 charge on the law. Does anybody need to recess? Okay.
13 Madam Forelady and ladies and gentlemen of the jury, if I
14 could have your undivided attention. I want to thank you
15 for listening attentively to the presentation in this case,
16 and I want to thank counsel for their able presentations
17 and able arguments. It now becomes the duty of the Trial
18 Judge under the constitution of the State of South Carolina
19 to charge and instruct you the law applicable to the case,
20 and it is your duty as jurors to accept and apply the law
21 as I state it to you. As jurors it is your exclusive duty
22 to decide all of the issues of fact in this case and for
23 that person -- or that purpose to determine the effect, the
24 value and the weight of the evidence. Both the State and
25 the defendant have a right to expect that you will

JURY CHARGE

1 conscientiously consider and evaluate the evidence and
2 apply the law of the case thereto, to the end that both the
3 State of South Carolina and the defendant will receive and
4 obtain a fair and impartial trial in this case. When I use
5 the word defendant I'm referring to Mr. Moore. The State
6 of South Carolina by the bills of indictment in this case
7 have charged the defendant with the offenses of murder and
8 possession of a firearm during the commission of a felony.
9 To the charges the defendant has entered a plea of not
10 guilty, and the plea of not guilty by a defendant places
11 the burden of proof on the State to prove by evidence the
12 guilt of a defendant beyond a reasonable doubt before you,
13 the jury, can find the defendant guilty. A defendant is
14 presumed in law innocent of the charges contained in the
15 indictment. It's a cardinal and fundamental rule of the
16 law of evidence that a defendant, irrespective of the
17 enormity of the charges against him, will always be
18 presumed innocent of the crimes for which he is indicted
19 unless and until the guilt of the defendant has been proved
20 by evidence that satisfies you, the jury, of his guilt
21 beyond a reasonable doubt. The presumption of innocence is
22 not a mere legal theory, it's not just a legal phrase, the
23 presumption of innocence is a substantial right to which
24 every accused is entitled. Our Supreme Court has declared
25 that the presumption of innocence is like a robe of

JURY CHARGE

1 righteousness placed about the shoulders of the defendant
2 and it remains with him and assigns him to that class of
3 innocence until that presumptive robe of righteousness has
4 been stripped from his person by evidence satisfying you,
5 the jury, of the guilt of the defendant beyond a reasonable
6 doubt. The presumption of innocence accompanies a
7 defendant from the time of his arraignment and appearance
8 in the court and continues with the defendant throughout
9 every stage of the trial and continues with the defendant
10 until after you retire to the jury room to deliberate your
11 verdict. The presumption of innocence continues in
12 existence to the benefit of the defendant until you, the
13 jury, reach the conclusion that the State has proved the
14 guilt of the defendant beyond a reasonable doubt. The
15 State is not required to prove the guilt of a defendant
16 beyond all doubt or beyond every doubt, but beyond a
17 reasonable doubt. Some of you may have served as jurors in
18 civil cases where you were told that it is only necessary
19 to prove that a fact is more likely true than not true. In
20 criminal cases the government's proof must be more powerful
21 than that, it must be beyond a reasonable doubt. Proof
22 beyond a reasonable doubt is proof that leaves you firmly
23 convinced of the defendant's guilt. There are very few
24 things in this world that we know with absolute certainty,
25 and in criminal cases the law does not require proof that

JURY CHARGE

1 overcomes every possible doubt. If based upon your
2 consideration of the evidence you are firmly convinced that
3 the defendant is guilty of the crime charged you must find
4 him guilty. If on the other hand you think there is a real
5 possibility that he is not guilty, you must give him the
6 benefit of the doubt and find him not guilty. A defendant
7 is entitled to every reasonable doubt arising in the case
8 and arising in any defenses. In this case the defense of
9 self-defense has been raised, and when that is raised and
10 presented by a defendant then the State must disprove the
11 self-defense. If upon any issue of fact essential to
12 conviction and a verdict of guilt you have a reasonable
13 doubt as to how that issue should be resolved, it would be
14 your duty to resolve that reasonable doubt in favor of the
15 defendant. The defendant, as I have told you, is not
16 required to prove his innocence, but the State is required
17 in law to prove every essential element of the offense
18 charged against the defendant by evidence that satisfies
19 you, the jury, of the guilt of the defendant beyond a
20 reasonable doubt before you can convict a defendant and
21 find him guilty. If then in the case you have a reasonable
22 doubt as to the guilt or the innocence of the defendant, he
23 is entitled to a reasonable doubt and would be entitled to
24 an acquittal and a verdict of not guilty. On the other
25 hand if upon the case you find that the State has proved by

JURY CHARGE

1 evidence that satisfies you, the jury, of the guilt of the
2 defendant beyond a reasonable doubt, then in such
3 circumstance it would equally be your duty to convict the
4 defendant and find him guilty. Now, up here on the desk I
5 have the indictments in the case that you will have later
6 on in the jury room. An indictment is not evidence and
7 cannot be considered by the jury as evidence in the case,
8 an indictment is simply the formal written instrument which
9 contains the charges against the defendant and serves as a
10 document by which the case is processed into the court.
11 Now, during the trial each of us, you and I, have certain
12 duties to perform. As the Trial Judge it is my
13 responsibility to preside over the trial of the case, and I
14 also have the duty to rule upon or pass upon the
15 admissibility of the evidence offered during the progress
16 of the trial. You are to consider only the competent
17 evidence before you, and you are to disregard and disabuse
18 from your mind any testimony ordered stricken from the
19 record of this case during the progress of the trial if
20 there be any. And you are to consider only the testimony
21 and evidence which has been presented from this witness
22 stand together with any exhibits admitted into the record
23 in this case, and any stipulations of counsel made into the
24 record, if there be any. I have the additional duty to
25 charge you the applicable law of the case. As the

JURY CHARGE

1 Presiding Judge I am the sole judge of the law of the case
2 and it is your duty to accept and apply the law as I state
3 it to you. If you have a preconceived idea as to what the
4 law is or what the law ought to be in this case and it does
5 not agree with what I tell you the law is, you are
6 obligated under your oath to abandon this preconception on
7 your part, because you are sworn to accept the law
8 precisely as the Court states it to you. In every case
9 tried in this court before a jury the jury becomes the sole
10 and exclusive judge of the facts of the case. You, the
11 jury, are the judge of the facts in the case and the Court
12 is the law of the case. The constitution of this state has
13 declared that the Trial Judge shall not intimate, state,
14 comment upon or make any statement to a trial jury about
15 the facts in the case. Since you are the sole judge of the
16 facts you are not to infer from anything that I have said
17 during the progress of this trial in ruling upon the
18 admissibility of evidence or otherwise, or anything that I
19 say to you during the course of this charge to you that I
20 have an opinion about the facts. The law does not let me
21 have an opinion about the facts. That is a matter solely
22 for you, the jury, to determine. As jurors then it is your
23 duty to determine, as I have stated to you, the effect, the
24 value and the weight of the evidence presented during the
25 course of this trial. Necessarily then you must assess the

JURY CHARGE

1 credibility of the witnesses who have testified in the
2 case. Credibility is simply a legalistic term which means
3 believability. It becomes your duty to analyze and
4 evaluate the evidence, and to determine the credible
5 evidence. I charge you that in determining questions of
6 credibility or believability of the witnesses you may
7 believe one witness as against several witnesses, or
8 several witnesses as against one witness. You may believe
9 a part of the testimony of a witness and reject the
10 remaining part of the testimony of that same witness. You
11 may believe the testimony of a witness in its entirety or
12 reject the testimony of a witness in its entirety. You may
13 consider whether any witness has exhibited any interest,
14 any biases or any prejudices in the case, and you may
15 consider the demeanor of a witness and the appearance of a
16 witness from the witness stand, and you may consider the
17 opportunity for knowledge concerning those things about
18 which a witness testified. And in doing so in exercising
19 your mental processes, the law simply requires that you
20 exercise your good judgment, your common sense, your sense
21 of logic and reason and your experiences in life. It is
22 often said jurors cannot leave their common sense at the
23 courthouse step. I ask you and charge you at this time to
24 apply these attributes of ability to the evidence and
25 determine the weight of the evidence to the state of facts

JURY CHARGE

1 in which you, the jury, determine, you take and apply the
2 law as I state it to you and thus arrive at a true verdict
3 in the case. Now I need to speak with you about the
4 specific crimes charged. The charge in the first
5 indictment I have up here is that of murder. I'm going to
6 read to you section 16-310 of the Code of Laws of South
7 Carolina of 1976 as amended which states murder is the
8 killing of any person with malice aforethought either
9 expressed or implied, and I point out to you that inferred
10 also means the same thing as implied. Murder is the
11 unlawful killing of any person with malice aforethought
12 either expressed or inferred. Once again, implied means
13 the same thing. Hence in order to convict one of murder
14 the State must not only prove the killing of the deceased
15 by the defendant, but that it was done with malice
16 aforethought. Such proof must be beyond a reasonable
17 doubt. Malice aforethought is an essential element for the
18 crime of murder. What is malice? Malice is defined in the
19 law of homicide as a term of art. Malice does not
20 necessarily mean an actual intent to kill. It is a
21 technical term importing wickedness and excluding just
22 cause or legal excuse. It is something which springs from
23 wickedness, from depravity, from a depraved spirit, from a
24 heart devoid of social duty and fatally bent on mischief.
25 The words expressed or inferred malice do not mean

JURY CHARGE

1 different kinds of malice, but merely the manner in which
2 the only kind of malice known to the law may be shown to
3 exist, that is to say either by direct evidence or by
4 inference. Malice may be expressed as where previous
5 threats of vengeance, lying in wait or other circumstances
6 show directly that an intent to kill was entertained.
7 Malice may be inferred where, though, no expressed intent
8 to kill is proved by direct evidence, it may be inferred
9 from the facts and circumstances which are proved. Malice
10 may be inferred from the willful, deliberate and
11 intentional doing of an unlawful act without just cause or
12 legal excuse. In other words in its general signification
13 malice means the doing of a wrongful act intentionally
14 without justification or legal excuse. But even if facts
15 proved are sufficient to raise an inference of malice this
16 inference would be simply an evidentiary fact to be taken
17 into consideration by you, the jury, along with all the
18 other evidence in the case, and you may give it such weight
19 as you determine it should receive as to whether or not
20 malice has been proved beyond a reasonable doubt. There
21 must be malice aforethought, and while the law does not
22 require that malice shall exist for any particular length
23 of time before the commission of act, it must be
24 aforethought. There must be a combination of a previous
25 evil intent and the act producing the fatal result. I

JURY CHARGE

1 charge you that the State is not required to prove a motive
2 for homicide. The other charge and indictment in it is for
3 possession of a firearm during the commission of a violent
4 crime. That comes from 16 -- section 16-23-490 of the code
5 of laws of the State of South Carolina 1976 as amended. It
6 makes it illegal to possess a firearm or visibly display
7 what appeared to be a firearm during the commission of a
8 violent crime. Section 16-160 provides that a violent
9 crime includes the offense of murder. For you to find the
10 defendant guilty of this separate statutory offense of
11 possession of a firearm during a violent crime, you must
12 first find the defendant guilty of murder. If you find the
13 defendant guilty of murder, then you must determine whether
14 the State has proved beyond a reasonable doubt that the
15 defendant was in possession of a firearm or visibly
16 displayed what appeared to be a firearm during the
17 commission of murder. As used in section 16-23-490 of the
18 South Carolina Code, a firearm is defined as any machine
19 gun, automatic rifle, revolver, pistol, or any weapon which
20 will or is designed to or may be readily converted to expel
21 a projectile. Now, you have heard the term self-defense.
22 The defendant has raised the defense of self-defense. It
23 is a complete defense, and if it is established you must
24 find the defendant not guilty. The State has the burden of
25 disproving self-defense by proof beyond a reasonable doubt.

JURY CHARGE

1 If you have a reasonable doubt of the defendant's guilt
2 after considering all of the evidence, including the
3 evidence of self-defense, then you must find the defendant
4 not guilty. On the other hand if you have no reasonable
5 doubt of the defendant's guilt after considering all of the
6 evidence, including the evidence of self-defense, then you
7 must find the defendant guilty. The following elements are
8 required to establish self-defense. One, without fault.
9 First the defendant must be without fault in bringing on
10 the difficulty. If the defendant's conduct was the type
11 which was reasonably calculated to and did provoke a deadly
12 assault, the defendant would be at fault in bringing on the
13 difficulty, and would not be entitled to an acquittal based
14 on self-defense. Second element, immanent danger. The
15 second element of self-defense was that the defendant was
16 actually in immanent danger of death or serious bodily
17 injury, or that the defendant actually believed that he was
18 in immanent danger of death or serious bodily injury. If
19 the defendant was actually in immanent danger it must be
20 shown that the circumstances would have warranted a person
21 of ordinary firmness and courage to strike the fatal blow
22 to prevent death or serious bodily injury. If the
23 defendant believed he was in imminent danger of death or
24 serious bodily injury, it must be shown that a reasonable
25 prudent person of ordinary firmness and courage would have

JURY CHARGE

1 had the same belief. In deciding whether the defendant
2 actually was or believed he was in immanent danger of death
3 or serious bodily injury you should consider all of the
4 facts and circumstances surrounding the crime, including
5 the physical condition and characteristics of the defendant
6 and the victim. Let me speak to you about a right to act
7 on appearances. The defendant does not have to show that
8 he was actually in danger. It is enough if the defendant
9 believed he was in immanent danger and a reasonably prudent
10 person of ordinary firmness and courage would have had the
11 same belief. The defendant has the right to act on
12 appearances even though the defendant's belief may have
13 been mistaken. It is for you to decide whether the
14 defendant's fear of immanent danger of death or serious
15 bodily injury was reasonable and would have been felt by an
16 ordinary person in the same situation. Third element, no
17 other way to avoid danger. The final element of
18 self-defense is that the defendant had no other probable
19 way to avoid the danger of death or serious bodily injury
20 than to act as the defendant did in this particular
21 instance. A person cannot be required to make an exact
22 calculation as to the degree or amount of force which may
23 be needed to avoid death or serious bodily harm, therefore
24 in self-defense the defendant has the right to use the
25 force needed to avoid death or serious bodily harm. The

JURY CHARGE

1 force used in self-defense does not have to be limited to
2 the degree or amount of force used by the victim. The
3 defendant has the right to use so much force as appeared to
4 be necessary for complete self protection in which a person
5 of ordinary reason and firmness would have believed would
6 be needed to prevent death or serious bodily harm. If the
7 defendant is justified in defending himself and in firing
8 the first shot, then the defendant is also justified in
9 continuing to shoot until it is apparent that the danger of
10 death or serious bodily injury has completely ended. I
11 will speak with you about type of evidence. There are two
12 types of evidence which are generally presented during a
13 trial, that is direct evidence and circumstantial evidence.
14 Direct evidence is the testimony of a person who asserts or
15 claims to have knowledge of the facts such as an eye
16 witness. Circumstantial evidence is proof of a chain of
17 facts and circumstances indicating the existence of a fact.
18 The law makes absolutely no distinction between the weight
19 or value to be given to either direct or circumstantial
20 evidence, nor does a greater degree of certainty required
21 of circumstantial evidence than of direct evidence. You
22 should weigh all of the evidence in the case, and after
23 weighing all of the evidence you are not convinced of the
24 guilt of the defendant beyond a reasonable doubt, you must
25 find the defendant not guilty. I certainly in no way tell

JURY CHARGE

1 you what types of evidence are in this case, that is
2 strictly within your fact finding duty as jurors. I also
3 charge you that the issue of punishment for a particular
4 crime is not a concern of the jury. Your concern is the
5 determination of guilt or innocence, punishment is the
6 concern of the Court. Ladies and gentlemen, you are not
7 partisans or advocates for the State or for the defendant.
8 You do not serve as jurors to reward friends or to punish
9 enemies, obviously such a perverted system of justice would
10 be intolerable in our society. You have been selected by
11 both the State and the defendant to be fair and impartial
12 jurors. It is your duty then by your joint deliberations
13 to determine the truth in this case of the evidence or the
14 believability or credibility of the witnesses and evidence,
15 giving to the defendant the benefit of every reasonable
16 doubt on each and every issue, then to the facts which you
17 determine to be, you then take and apply the law, which has
18 been given to you by the Court, and thus arrive at a
19 verdict which does speak the truth of the case. For the
20 word verdict is a Latin derivative, which means a true
21 saying, and when you have accomplished these
22 responsibilities you will have satisfied your oath as
23 jurors and you will have discharged your duty to the Court.
24 I will speak with you about the forms of the verdict in the
25 case, you will have to take up the indictments separately.

JURY CHARGE

1 If the State has failed to prove the guilt of this
2 defendant beyond a reasonable doubt your verdict would be
3 two words; not guilty. If the State has proved the guilt
4 of the defendant beyond a reasonable doubt, your verdict
5 will be one word; guilty. The verdict that you render in
6 this case must be the verdicts of each and every juror, it
7 must be your unanimous verdict. All 12 jurors must agree
8 on the verdict which you authorize Madam Forelady to write
9 for the jury. Once again, in regards to that statutory
10 offense of possession of a firearm during the commission of
11 a violent crime you cannot find the defendant guilty unless
12 you have found the defendant guilty of murder. Madam
13 Forelady, I have the indictments up here. You will find on
14 this left-hand corner on the caption side of the
15 indictments an area that says verdict, it will be your duty
16 to write the appropriate verdict and sign your name and
17 date it, and once you've reached a verdict to knock on the
18 door and let us know. All right. I've got to check in
19 with the lawyers one last time, and during that process we
20 have to check and make sure all of the exhibits are
21 present. As soon as we finish that task that we have to
22 check off on there we will send the items of evidence back
23 to you, along with these verdict forms, and only until then
24 will you be begin your deliberations, so just relax a few
25 minutes and let us get this back to you. Once that is

JURY CHARGE

1 delivered to you, you may commence your deliberations.

2 Madam Forelady, I also have to instruct you that if anybody
3 needs to take a restroom break, a smoke break or leaves the
4 room, these deliberations -- or for any such reason cease
5 your deliberations until you've got all 12 back, okay? All
6 right, if y'all will step back.

7 (The jury left the courtroom.)

8 THE COURT: All right. First of all, anything else
9 for the record? Any exceptions or additions?

10 MS. HALL: The only thing that you didn't charge that
11 is the expert witness charge, I don't know if that's
12 necessary.

13 THE COURT: I can do it if y'all want me to.

14 MS. HALL: That's up to him. I don't have any problem
15 with you not doing it but I want to be fair about --

16 MR. FRICK: I'm fine with the charge you gave, Your
17 Honor.

18 MS. HALL: That's fine.

19 THE COURT: If either one of you want it I don't mind
20 charging it.

21 MS. HALL: I don't care to have it, but in deference
22 to Mr. Moore I wanted to bring that up.

23 MR. FRICK: I think we're fine.

24 (The exhibits were collected, indictments sent back
25 And the jury began deliberations.)

JURY VERDICT

1 THE COURT: I have been informed by the forelady that
2 they have reached a verdict. No matter what the verdict is
3 I ask everybody to please take whatever the jury has done
4 without any display of any bad behavior in the courtroom, I
5 mean, I know emotions are high. If you feel like you can't
6 control yourself you certainly need to step back out, but
7 everybody has been well behaved so I don't think we're
8 going to have any problem with that. Bring the jury in.

9 (The jury returned to the courtroom.)

10 THE COURT: All right. Madam Clerk, the jury has
11 reported.

12 THE CLERK: 2015-GS-12-85, the State versus
13 Christopher Marquavious Moore, the verdict is guilty.
14 2015-GS-12-086, the State versus Christopher Marquavious
15 Moore, indictment for murder, is guilty. Signed Deborah R.
16 Evans, foreperson.

17 THE CLERK: Madam Forelady, ladies and gentlemen of
18 the jury if this is your verdict so say you all please
19 raising your right hand. Thank you.

20 THE COURT: Anything further of the jury?

21 MR. FRICK: Defense request polling.

22 THE COURT: Madam Clerk, if you would poll the jury
23 individually.

24 THE CLERK: Okay. Mrs. Burns, was this your verdict?

25 THE JUROR: Yes.

JURY VERDICT

1 THE CLERK: Is this still your verdict?
2 THE JUROR: Yes.
3 THE CLERK: Mrs. Lumpkin, was this your verdict?
4 THE JUROR: Yes.
5 THE CLERK: Is this still your verdict?
6 THE JUROR: Yes.
7 THE CLERK: Mr. Muller, was this your verdict?
8 THE JUROR: Yes.
9 THE CLERK: Is this still your verdict?
10 THE JUROR: Yes.
11 THE CLERK: Ms. Sampson, is this your verdict?
12 THE JUROR: Yes.
13 THE CLERK: Is it still your verdict?
14 THE JUROR: Yes.
15 THE CLERK: Ms. Durham, is this your verdict?
16 THE JUROR: Yes.
17 THE CLERK: Is it still your verdict?
18 THE JUROR: Yes.
19 THE CLERK: Ms. Carolina Evans, was this your verdict?
20 THE JUROR: Yes.
21 THE CLERK: Is it still your verdict?
22 THE JUROR: Yes.
23 THE CLERK: Ms. Boulware, was this your verdict?
24 THE JUROR: Yes.
25 THE CLERK: Is it still your verdict?

JURY VERDICT

1 THE JUROR: Yes.

2 THE CLERK: Mr. Trapp, was this your verdict?

3 THE JUROR: Yes.

4 THE CLERK: Is it still your verdict?

5 THE JUROR: Yes.

6 THE CLERK: Mr. Truesdale, was this your verdict?

7 THE JUROR: Yes, ma'am.

8 THE CLERK: Is it still your verdict?

9 THE JUROR: Yes, ma'am.

10 THE CLERK: Ms. Pearson, was this your verdict?

11 THE JUROR: Yes.

12 THE CLERK: Is it still your verdict?

13 THE JUROR: Yes.

14 THE CLERK: Ms. Bagley, was this your verdict?

15 THE JUROR: Yes.

16 THE CLERK: Is it still your verdict?

17 THE JUROR: Yes.

18 THE CLERK: Ms. Murphy, was this your verdict?

19 THE JUROR: Yes.

20 THE CLERK: Is it still your verdict?

21 THE JUROR: Yes.

22 THE COURT: Polling is complete. Anything else?

23 MR. FRICK: No, sir.

24 (The jury was dismissed.)

25 THE COURT: The first thing I have to establish before

JURY VERDICT

1 we get into mitigation, what was the age of the defendant
2 when this occurred?

3 MR. FRICK: I believe it was 18 at the time.

4 THE COURT: Eighteen?

5 MR. FRICK: Yes, sir.

6 THE COURT: So that -- we don't -- we can go forward.
7 If he was younger than 18 we would have to have additional
8 testimony and a hearing on it. Solicitor?

9 MS. HALL: I didn't print any sentencing sheets, Mr.
10 Maxwell is going to get those. I feel confident that
11 somebody from the victim's family would like to say
12 something, am I correct in assuming that? Would you like
13 to hear from them first?

14 THE COURT: Sure.

15 MS. HALL: Your Honor, the rest of the family didn't
16 get in in time for the reading of the verdict, would it be
17 okay if we just hang tight for just a minute so we can get
18 them in here? Because she says they would like to be
19 present for this.

20 THE COURT: Sure.

21 (Break in proceedings.)

22 MS. HALL: His date of birth was 5/13 of '96. So this
23 occurred on October 4th of 2000 -- November the 4th of
24 2014. At this time I would like the Court to hear from
25 Coretta Williams, she's the victim's daughter.

SENTENCING HEARING

1 THE COURT: Ms. Williams?

2 THE SPEAKER: Number one, and something that I hope
3 that everyone in here takes away is that today is not a
4 good day. That guilty verdict, it doesn't make my heart
5 sing because he's thrown his life away, but my dad is not
6 here anymore. I don't really know what to feel, but we've
7 talked. My dad, 2:00 or 3:00 in the morning was up with
8 me, nose bleeds, you name it he's done it in the community.
9 We sacrificed so much because he was always out in the
10 community whether it was working to get paid, working for
11 free, taking somebody to football practice, basketball
12 practice, softball practice, Boy Scouts, you name it he's
13 done it. The day after my dad passed away my brother went
14 to a -- job because they were concrete finishers, he went
15 to a job to finish it because of the work ethic that my dad
16 instilled in him. It's a huge loss. It's a huge loss. My
17 dad's sister, honestly I don't know if she's changed her
18 mind but she said, "I hope he doesn't get life." But me
19 and my siblings and my mother, we can be selfish and that's
20 what we ask for, because maybe he will use that opportunity
21 to change his life and to speak life into others. I do
22 believe people can change but he's not there yet, that's
23 not my judgment call to make, but that's my opinion. And
24 because of the loss that we've suffered, my brother works
25 hard, now you've got people threatening his life because my

SENTENCING HEARING

1 dad is not here anymore? That's not fair and it's not
2 right. Thank you.

3 THE COURT: Thank you.

4 MS. HALL: I'm going to pass up sentencing sheets, but
5 at the same time I am going to pass up a copy of the
6 defendant's juvenile record instead of reading it publicly.

7 MR. FRICK: Your Honor, the solicitor has provided me
8 a copy and I've seen it.

9 THE COURT: And as far as an adult record I think
10 that's already come out in the evidence. Well, no, it did
11 not come out in the evidence, it just came out a
12 misdemeanor through side bar. I understand that -- you
13 might better go ahead and just publish that.

14 MS. HALL: I've got a couple of things to say with
15 that regard. On June the 2nd of 2014 in York County he was
16 convicted of failure to stop for a blue light, that was
17 approximately five months prior to this event. He was
18 convicted, he received one year and suspended on one year
19 of probation. At the time of this event he was also on
20 bond on a burglary first charge. One of the conditions of
21 his bond is that he be on house arrest with his mother, and
22 that was the situation when this occurred. Mr. Williams --
23 we've been through this as you know twice, and for the last
24 two years I've been involved with the victim's family. He
25 was public servant, I think the Court can tell from what

SENTENCING HEARING

1 has gone on here, he was a 27 year veteran of the police
2 force, he retired. He was a city councilman, I believe Ms.
3 Williams testified he had been a city councilman for about
4 16 years. He was very involved with youth in the
5 community. And while anything -- no matter what the
6 sentence is it's not going to bring him back, I think
7 Corretta touched on that when she spoke to the Court. The
8 State's interest is not only punishing people for what
9 they've done but it is for protecting people in the future
10 from what this defendant has shown his capabilities are and
11 what his pattern of behavior has been. He's a documented
12 gang member as the Court knows, he has been for some time,
13 he was at the time of this event. He has shown -- from
14 what I've seen he's shown little to no remorse. He's come
15 to bond hearings, he's said, "I'm sorry, if I could take it
16 back I would," and then he continues -- he will continue to
17 tell the Court to spin lies to try to get himself out of
18 trouble and to blame. I take complete offense with the way
19 that he blamed the victim for this event. The State is
20 asking for a life sentence. He's acted with a complete
21 disregard for the safety of not only Mr. Williams but for
22 the entire community, and the State takes the position that
23 he is a big danger to the community and we would ask the
24 Court to go along with what the State is asking for at this
25 time. And I beg the Court's indulgence just a minute, I

SENTENCING HEARING

1 don't know if Mr. Newman wants to say anything.

2 (Break in proceedings.)

3 MS. HALL: Thank you, that's all we have.

4 THE COURT: Mr. Frick?

5 MR. FRICK: Thank you, Your Honor. Mr. Moore, Chris
6 as I call him, is 20 years of age as he stands before you
7 right now, when this event occurred he was 18 years of age
8 as you've heard. I have known Chris now for those two
9 years. We have met a whole lot and we have talked a whole
10 lot. I will tell you when we first met this is a different
11 young man. This was a cocky young man, this was almost an
12 arrogant young man when I met with him the first time, and
13 over the two years that I've met with him this a young man
14 who has realized that he was on a bad path and he did not
15 want that to be his life and does not want to return to
16 that life style. I certainly understand why the solicitor
17 says what she says, but I can tell you personally, and I
18 think Your Honor may know that I don't go on a personal
19 note very often, personally I've seen changes in Chris. He
20 is a smart man. Absolutely right, this is a tragedy on
21 both sides. It's a tragedy for the loss of life, it's a
22 tragedy that Mr. Moore is not going to be able to go
23 forward with the talents that he has. He's demonstrated to
24 me that he really can be a productive person in society and
25 I think he's going to be regardless of what happens, Your

SENTENCING HEARING

1 Honor. He has learned a whole lot and I think he can
2 educate folks regardless of his station. Your Honor, I'm
3 not going to try to relitigate the case but there's a
4 reason why we went forward as a self-defense argument and I
5 think the Court is aware of why we did that. The evidence
6 suggests that the victim did not necessarily have clean
7 hands himself in this situation. Obviously the jury found
8 what they found and that may find its way to litigation in
9 another day, but I do believe that the remorse that Mr.
10 Moore has expressed is genuine, but on the same token, Your
11 Honor, he did believe his life was in jeopardy as well.
12 And while certainly the jury did not find that he acted
13 within the law and the Judge must sentence him accordingly
14 I do believe that's where his mind was that night, and if
15 he did not feel that way he probably would not have acted
16 that way. Your Honor, I have not had an opportunity to
17 talk with the family, you see he's got strong family
18 support here, I don't know if anyone is able to address the
19 Court, but if they wish to I would ask you to hear from
20 them at this time.

21 THE COURT: Yes, sir?

22 MR. FRICK: Anybody? Speak loud enough and give them
23 your name.

24 THE SPEAKER: My name is Lawrence Moore, I'm
25 Christopher's father. I just want to say I'm sorry for the

SENTENCING HEARING

1 family, which I said publicly once before. I hate this
2 happened. I just don't want to see my son go to jail for
3 the rest of his life, but, you know, there are consequences
4 for our actions so I mean, it is what it is. We support
5 him, we love him and I hate it happened but there's reasons
6 why it happened. It all happened because there's some
7 things happened that transpired before it happened, so we
8 just sorry it happened. I love my son, I support my son, I
9 stand behind my son 100 percent, so it is what it is.
10 Thank you.

11 THE SPEAKER: I'm his mother, Tonya Stewart. Chris is
12 a good child, Chris have a good heart. Chris have changed.
13 The DA tried to make my child out like he was an animal,
14 the Williams family -- he said he was sorry. God forgave
15 him, we forgave him, they should have. My child is
16 nobody's animal and he don't deserve for his life to be
17 taken (sic) away from him for the rest of his life. What
18 if Odell had have killed my child, would we be here? No.
19 Just as good as my child deserve his freedom, I'm losing my
20 child just like they lost their father. That's mine, I
21 gave birth to him. No. I don't have no remorse for the
22 Williams family, I don't because their father could have
23 took my child's life. And at the end of the day he is
24 mine's. I love him. And yes, he is a changed man. I know
25 he's changed man. I talk to my child every day. I visit

SENTENCING HEARING

1 my child everyday, I know the change. And all I say is
2 have mercy upon his life because he's still young and he
3 still deserve a second chance at life. I love my child
4 just like she loved her father. I mean, he made a mistake,
5 I forgived (sic) him and God forgave them, them are the
6 only people that have to forgive him, and as long as God
7 forgive him I have no objection with nothing. I love you,
8 son. It's a consequence that you have got to go through,
9 but mama love you. I love you.

10 THE COURT: Thank you.

11 MR. FRICK: If you would hear from Mr. Moore.

12 (Break in proceedings.)

13 THE COURT: All right, Mr. Moore.

14 THE DEFENDANT: I'm just very sorry that it happened.
15 My intention that night was not to kill that man. I know a
16 jury found different. I know the solicitor trying to make
17 me seem like this guy, this and that. We all make mistakes
18 in our life. I was in a neighborhood gang, it wasn't a
19 gang but it was a neighborhood, we all did bad things, but
20 I'm grown now and I learned from my mistakes. Like I said,
21 I did not mean to kill Mr. Williams that night, I honestly
22 didn't, that wasn't my intent. The whole courtroom, wasn't
23 nobody there but you would just have to put yourself in my
24 shoes that night. You're being chased around town, a guy
25 shooting at you, you're turning, you're turning and you're

SENTENCING HEARING

1 turning, the truck is not the safest place to be and I fall
2 out of the truck, sir, and I had to do what I had to do.
3 That's basically all I felt, a lot of people might not feel
4 the same way, a lot of people might feel different. Like I
5 said, I'm sorry to the Williams family, I am, I truly am.
6 They might not think it, they might be thinking I'm lying
7 to get my way out of this, there's no situation about it.
8 I've lost a brother, got killed, I've had a lot of bad
9 things happen in my life. I don't just say this so you
10 don't give me life in prison, if that's your intentions I
11 guess that's what I have to deal with for the rest of my
12 life. But at the end of the day I can't sleep at night
13 also knowing I took Mr. Williams' life, that's something
14 that will haunt me for the rest of my life. It's not just
15 something -- it's something to deal with, taking a life is
16 hard to deal with and especially when you didn't intend to
17 take that life. That is my main thing, I didn't intend to
18 kill Mr. Williams, I didn't, I didn't mean to kill him.
19 I'm sorry to whoever, I'm sorry to the family. It's just
20 the truth, I didn't mean to kill him that night, sir, I
21 didn't. And I thank you.

22 THE COURT: Well, from your -- well, first of all let
23 me cover some procedures that I need to discuss with you.
24 The jury has found you guilty, I'm put in the position to
25 have to pass sentence, please understand that you have a

SENTENCING HEARING

1 right to appeal this verdict and decision and sentence. In
2 order to do so you have to file a notice of appeal within
3 ten days of sentencing. Mr. Frick, if you will, if he
4 desires to appeal you would need to begin that process with
5 assisting with the notice of appeal and then the staff down
6 in Columbia will normally take that over.

7 MR. FRICK: Yes, sir.

8 THE COURT: You're more familiar with that than
9 certainly I am. Well, even from your own testimony in
10 looking -- a lot of these cases were dismissed, but it sort
11 of catches the eyes that you had probation back several
12 years ago, assault and battery third degree and it seemed
13 like a shoplifting, a lot of cases dismissed for an assault
14 nature. But, you know, I've already said -- and I've been
15 involved in the criminal justice system for over 40 years,
16 and up until this very day I say that the court system,
17 legal system still is based on common sense. And my common
18 sense tells me from the evidence I heard that you and your
19 co-defendants started out that particular day looking for
20 trouble. It's clear cut that y'all went with the intention
21 of committing an armed robbery over drug monies. Common
22 sense tells me that is a serious strike against you. You
23 had already been convicted of a crime that you were fully
24 aware of that you weren't supposed to be possessing a
25 firearm. This was not a mere pistol, this was a

SENTENCING HEARING

1 semiautomatic rifle that wasn't made for hunting purposes.
2 Common sense also tells me that the victim, being a former
3 police officer who retired in 1997, fired two shots to try
4 to get y'all's attention to stop. That was the old way
5 that police officers handled that, not that it was right or
6 wrong, but today in law enforcement you've got procedures
7 and protocol that across the board forbids that, but he was
8 of the old school. Common sense tells me he fired two
9 shots out that window trying to get y'all to stop. And the
10 worst mark -- well, another mark that really gives me a
11 problem is that the driver of the car pulled over with the
12 intent of luring the victim out of his car so you could
13 escape. By that time y'all had full knowledge that he was
14 possibly a policeman, why in the name of the Good Lord
15 didn't y'all stop right then and deal with it? Then a high
16 speed chase. I am firmly convinced that you were told to
17 get out of that car and put a stop to it. I am certainly
18 not impressed with any argument there was any self-defense
19 here. You got out of that vehicle with the full intention
20 of stopping Mr. Williams with whatever it took. Two shots
21 out of that revolver, no evidence anywhere to indicate all
22 of these other shots, all fabricated. You murdered Mr.
23 Williams. Therefore on the murder charge you are sentenced
24 to life in prison without eligibility of parole. On the
25 weapons charge, which is really horrendous in that you knew

SENTENCING HEARING

1 you shouldn't have had that firearm to start with, five
2 years consecutive. Sheriff, you can transport him down to
3 Columbia.

4 (End of trial proceedings.)

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1 I, the undersigned, Michael C. Watkins,
2 Official Court Reporter for the Sixth Judicial
3 Circuit of the State of South Carolina, do hereby
4 certify that the foregoing is a true, accurate and
5 complete transcript of the proceedings had and
6 evidence introduced in the trial of the captioned
7 case relative to appeal in the Court of General
8 Sessions for Chester County, South Carolina, on the
9 27th-30th days of June, 2016.

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

12

13

October 24, 2016

14

15


Michael C. Watkins

16

17

Court Reporter

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19

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FORM 5

STATE OF SOUTH CAROLINA)

County of Chester S.C. 29706)Christopher M. Moore)

Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2019-CP12-00491

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention TCCF, 415 U.S. HWY 49 North,
Tutwiler, MS 38963
2. Name and location of Court which imposed sentence Fairfield County,
101 S Congress St, Winnsboro S.C. 29180
3. Name(s) of co-defendant(s) (if any) Derrick Dixon, Deangelo Roseboro,
Terrance Buchanan, and Quinton McClinton
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2014A1210100521
 - (b) Appellate Case NO 2016-001429

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CLERK OF COURT
JESSIE L. BROWN

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) June 29, 2018, Life
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty Not Guilty
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Commission of Indigent Defense
- ii. Division of Appellate Defense
- iii. PO Box 11589 Columbia SC 29210
- (b) the result in each such Court to which you appealed:
- i. Denied
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. November 27, 2018
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) _____

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CLERK OF COURT

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) ineffective for failing to present evidence of a victimless crime
- (b) for failing to Request witness testimony helpful to the defendant
- (c) for failing to instruct or request mutual combat as a defense to the jury
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Counsel's failure to present said evidence prejudice towards defendant
- (b) Counsel performance was below professional Norm in providing helpful
- (c) testimony to defendant, Counsel's ineffectiveness caused defendant to get a more severe Sentence.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

N/A

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. N/A
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. N/A
- ii. _____
- iii. _____

Revised 3/2003

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) Counsel was ineffective for failing to raise these issue at trial,
 (b) Appeal was ineffective for failing to raise these issues in appeal
 (c) Such failure denied defendant of his one fair bite at the apple

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? N/A
 (b) your trial, if any? William Frick
 (c) your sentencing? William Frick
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Susan B Hackett
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 i. William Frick, 101 S Congress St,
Winnsboro SC, 29180
 ii. South Carolina Commission on Indigent Defense
Division of Appellate Defense, PO Box 11589, Columbia, SC 29211-1589
 iii. _____
 (b) the proceedings at which each such attorney represented you:
 i. Trial Lawyer
 ii. Appeal Lawyer
 iii. _____

19. State clearly the relief you seek in filing this application:

Case remanded and Reversed

20. Are you now under sentence from any other court that you have not challenged?

N/A

STATE OF SOUTH CAROLINA)

County of Chester)

VERIFICATION

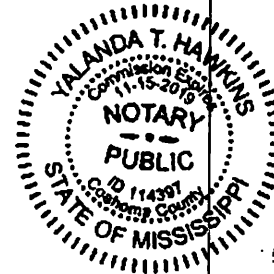
I, Christopher Marquand Moore, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Christopher Moore

SWORN to and subscribed before me this 13th
day of September, 2019.

Yalanda T. Hawkins (L.S.)
Notary Public

My Commission Expires: 11/15/2019



SEP 24 A 11:42

COURT

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Christopher M. Moore, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Christopher M. Moore
Applicant

SWORN or affirmed to and subscribed before me this
day of September, 2019.

Yalanda T. Hawkins
Notary Public

My Commission Expires: 11/15/2019



2019 SEP 24 A 11:42

CLERK OF COURT
CO. SEC.

Mutual Combat

The doctrine of mutual combat has existed in South Carolina since at least 1843, but has fallen out of common use in recent years. The case law does establish that there must be "mutual intent and willingness to fight" to constitute mutual combat. (State vs Graham). Mutual intent is "manifested by the acts and conduct of the parties and the circumstances attending and *232 leading up to the combat." Id whether or not mutual combat exists is significant because "The plea of self-defense is not available to one who kills another in mutual combat" (State vs Jones) in order to claim self-defense, the defendant "must be without fault in bringing on the difficulty." (State vs Davis). Because mutual combat requires mutual intent and willingness to fight, if a defendant is found to have been involved in mutual combat, the "no fault" element of self-defense cannot be established.

CLERK OF COURT
J. L. S.C.

2019 SEP 24 A 11:43

Case LAWS

1. Hancock v Trammell

- United States Court of Appeals, Tenth Circuit
 § August 18, 2015 § 798 F.3d

- Headnote: At Oklahoma state murder trial, jury instruction on "mutual combat" exception to self-defense was supported by sufficient evidence; although victim started altercation with defendant, there was evidence of breaks in action before defendant shot victim

- Document Preview: Criminal Justice - Counsel at murder trial, Counsel's failure to request instructions on manslaughter while resisting criminal attempt did not prejudice defendant.

2. U.S. vs Ladeaux

- United States Court of Appeals, Eighth Circuit
 § December 6, 2002 § 52 Fed

- Headnote: Defendant who murdered her husband during course of fight was entitled to a self-defense instruction where jury could rationally find that defendant used such force that she reasonably believed was necessary to protect herself from unlawful physical harm about to be inflicted upon her; defendant found her husband on his former girlfriend's bedroom floor, and began physical fight with him, and several other people joined in the fight against defendant before defendant

allegedly ~~had~~ 'iled the house, arming herself with a kitchen knife as she allegedly attempted to leave.

3. Huber v. U.S.

- State vs Taylor
(Supreme Court of S.C.) (June 12, 2003) (356 S.C. 229)

State V.S. Curry

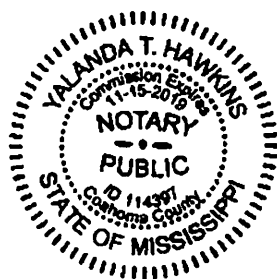
1. when applicable, the act provides immunity ***266 from prosecution. Claiming self-defense, Appellant sought to invoke section 16-11-440(c) of the act at the directed verdict stage, the trial court denied the motion, finding that appellant failed to establish his entitlement to immunity under section 16-11-440(c), because there is evidence to support the decision of the trial court, we affirm.
2. Section 16-11-440(A), the main thrust of the Act, provides a presumption of reasonable fear of imminent peril of death or great bodily injury to a person who uses deadly force if he is attacked by or attempting to remove another from a dwelling, residence, or occupied vehicle. However, the presumption of subsection (A) does not apply if the victim has an equal right to be in the dwelling or residence. S.C. Code & 16-11-440(B). Because Collins was a social guest and rightfully in the apartment, subsection (A) is inapplicable to Appellant, and he is therefore defaulted into subsection ©, which deals with the use of force by one who is attacked in another place where he has a right to be.
3. A claim of immunity under the act requires a pretrial determination using a preponderance of the evidence standard, which this court reviews under an abuse of discretion standard of review, state V. Duncan, 392 S.C. 404, 709 S.E.2d 662(2011) * 371 In Duncan, we set forth the pretrial procedure, burden of proof and appellate standard of review under the act. Because appellant misapprehends the reach of the act, we take this opportunity to interpret what we believes to be the legislative intent regarding a trial courts authority to weigh the underlying claim of self-defense in determining an accused entitlement to immunity.
4. Section 16-11-450 provides immunity from prosecution if a

person is found to be justified in using deadly force under the act. Section 16-11-440 ©, the pertinent "force" section, states. .A person who is not engaged in an unlawful who is not engaged in an unlawful activity and who is attacked in another place where he has.

Mutual Combat

The doctrine of mutual combat has existed in south carolina since at least 1843, but has fallen out of common use in recent years. The case law does establish that there must be "mutual intent and willingness to fight" to constitute mutual combat.(State vs Graham). Mutual intent is "manifested by the acts and conduct of the parties and the circumstances attending and *232 leading up to the Combat.

Yalanda T. Hawkins
11/15/2015



200 SEP 20 A 11:13
CLERK OF COURT

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHESTER	)	FOR THE SIXTH JUDICIAL CIRCUIT
	)	
Christopher M. Moore, #368837,	)	Case No.: 2019-CP-12-0491
Applicant,	)	
	)	
v.	)	
	)	RETURN
State of South Carolina,	)	(Counsel Retained)
Respondent.	)	

FILED

2021 MAR 30 A 10:21

CLERK OF COURT
CHESTER CO S.C.

In response to Christopher M. Moore's (Applicant) action for post-conviction relief (PCR) commenced September 24, 2019, and received by the State December 8, 2020, the State makes this return.

I. Procedural History

Applicant is confined in the South Carolina Department of Corrections (SCDC) pursuant to orders of commitment of the Chester County Clerk of Court. Applicant was indicted at the June 2015 term of the Chester County Grand Jury for murder (2015-GS-12-0086) and possession of a firearm during the commission of a violent crime (2015-GS-12-0085).¹ The charges were brought after the fatal shooting of Odell Williams following a high speed pursuit. Applicant was represented by William P. Frick and Devon Nielson. Julie Hall, Riley Maxwell, and Randy Newman prosecuted the case.

Applicant's case proceeded to a jury trial April 18, 2016, before the Honorable Paul M. Burch. During the deliberations, the jury sent multiple notes to the judge requesting to hear testimony again, seeking re-instruction on self-defense, and requesting to go home for the evening

¹Applicant does not list the weapons charge in his PCR application.

and reconvene the following day. R. 1020, l. 6 - R. 1024, l. 12; R. 1024, l. 18 - R. 1. 028, 11. 23; R. 1029, 11. 1-14; R. 1042, 11. 1-8; R. 1900; R. 1901; R. 1902; R. 1903; R. 1904.

Nevertheless, the jury was unable to reach a verdict. R. 1038, 11. 1-11; R. 1903. Thereafter, Judge Burch gave the jury additional instructions - imploring them to reach a unanimous decision. R. 1038, l. 17 - R. 1041, l. 19. However, the jury returned to the courtroom, informing the judge that the jury was "hopelessly deadlocked." R. 1042, 11. 19-21; R. 1904. The judge then released the jury. R. 1042, l. 22 - R. 1043, l. 19. Although Judge Burch did not formally grant a mistrial, he indicated everyone would "go back to ground zero on it." R. 1043, 11. 20-21.

The State, represented by Julie Hall and Riley Maxwell, called Appellant to trial for a second time before Judge Burch and a jury on June 27-30, 2016. R. 1052. William Frick represented Appellant. R. 1052. This trial was also held in Fairfield County. R. 1052. At the conclusion of the trial, the jury found Appellant guilty as charged. R. 1850, 11. 12-16. Judge Burch sentenced Appellant to life imprisonment without the possibility of parole for murder and to a five-year consecutive sentence for possession of a weapon. R. 1850, l. 24 - R. 1851, l. 2; R. 1907; R. 1910.

On July 1, 2016, Applicant filed and served his notice of appeal. Appellate Defender Susan B. Hackett perfected Applicant's appeal by filing an *Anders*² brief to the court of appeals presenting the following issue:

1. Did the trial judge err in failing to grant Appellant immunity from prosecution pursuant to the Protection of Persons and Property Act where (1) the deceased engaged in a high-speed pursuit of Appellant and his friends and shot at them during the chase, (2) Appellant fell from the truck in which he was riding during the chase, and (3) Appellant fired his gun at the deceased while trying to run from the deceased?

² *Anders v. California*, 386 U.S. 738 (1976).

The court of appeals dismissed the appeal in an unpublished decision. *Moore v. State*, 2018-UP- 405 (filed November 7, 2018). The case was remitted back to the circuit court November 27, 2018.

II. Current Application

Applicant timely commenced this PCR action on September 24, 2019. Applicant asserts he is being held in custody unlawfully, alleging:

1. Ineffective assistance of trial counsel:
 - a. Failing to present evidence of a victimless crime
 - b. Failing to request witness testimony helpful to the [Applicant]
 - c. Failing to instruct or request mutual combat as a defense to the jury
2. Ineffective assistance of appellate counsel:
 - a. Failing to raise the issues in appeal

Applicant requests relief in the form of his case being remanded and reversed.

Attached herewith and incorporated herein are the Chester County Clerk of Court records regarding the subject conviction, Applicant's SCDC records, the trial transcript, the appellate records (including the record on appeal), and the records of this PCR action. The State reserves the right to amend this Return upon receipt of any relevant materials

III. Response to Allegation of Ineffective Assistance of Trial Counsel

The State submits that Applicant's allegations of ineffective assistance of trial counsel are without merit. To establish ineffective assistance of counsel, the PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. *Strickland v. Washington*, 466 U.S. 668, 687–88 (1984); *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989).

“The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases.” *Watson v. State*, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). To establish prejudice, the applicant must prove “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625.

Strickland requires trial counsel must be given leeway to make reasonable strategic decisions. No particular set of detailed rules for counsel’s conduct can satisfactorily take account of the variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how best to represent a criminal defendant. *Strickland*, 466 U.S. at 688-689. “Representation is an art, and an act or omission that is unprofessional in one case may be sound or even brilliant in another.” *Id.* at 691. Therefore, judicial scrutiny of counsel’s performance must be highly deferential. *Id.* at 689. Where counsel articulates a valid strategic reason for his action or inaction, counsel’s performance should not be found ineffective. *Roseboro v. State*, 317 S.C. 292, 454 S.E.2d 312 (1996); *Underwood v. State*, 309 S.C. 560, 425 S.E.2d 20 (1992); *Stokes v. State*, 308 S.C. 546, 419 S.E.2d 778 (1992). Courts must be wary of second guessing counsel’s trial tactics; and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel. *Whitehead v. State*, 308 S.C. 119, 417 S.E.2d 529 (1992). In making a fair assessment of attorney performance, a court must make every effort to “eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel’s challenged conduct, and to evaluate the conduct from counsel’s perspective at the time.” *Strickland*, 466 U.S. at 689.

Counsel must, at a minimum, make some effort to interview potential witnesses identified by the defendant, and make an independent investigation of the facts and circumstances of the

case. *Edwards v. State*, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011); *Walker v. State*, 407 S.C. 400, 405, 756 S.E.2d 144, 147 (2014). To support a claim that trial counsel was ineffective for failing to interview or call potential witnesses, a PCR applicant must produce the witnesses at the PCR hearing or otherwise introduce the witnesses' testimony in a manner consistent with the rules of evidence. *Glover v. State*, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). The applicant's mere speculation about what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice. *Id.*

Here, Applicant cannot satisfy either requirement of *Strickland*. However, the record likely does not refute or disprove Applicant's allegations of ineffective assistance of trial counsel; therefore, the State requests an evidentiary hearing to fully resolve the issues. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court").

IV. Response to Allegation of Ineffective Assistance of Appellate Counsel

The State submits that Applicant's allegations of ineffective assistance of appellate counsel are without merit. A defendant is entitled to effective assistance of appellate counsel. *Southerland v. State*, 337 S.C. 610, 615, 524 S.E.2d 833, 836 (1999). Although appellate counsel is required to provide effective assistance of counsel, "appellate counsel is *not* required to raise every non-frivolous issue that is presented by the record." *Thrift v. State*, 302 S.C. 535, 539, 397 S.E.2d 523, 526 (1990) citing *Jones v. Barnes*, 463 U.S. 745, 103 S.Ct. 3308, 77 L.Ed.2d 987 (1983). "For judges to second-guess reasonable professional judgments and impose on ... counsel a duty to raise every 'colorable' claim suggested by a client would disserve the very goal of vigorous and effective advocacy..." *Jones*, 463 U.S. at 754, 103 S.Ct. 3308.

Generally, in analyzing a claim of ineffective assistance of appellate counsel, the Court applies the *Strickland* test just as it would when analyzing a claim of ineffective assistance of trial counsel. *See Southerland v. State*, 337 S.C. 610, 616, 524 S.E.2d 833, 836 (1999). Thus, in this case, we ask 1) whether appellate counsel's performance was deficient, and 2) whether Respondent was prejudiced by appellate counsel's deficient performance. *Bennett v. State*, 383 S.C. 303, 309, 680 S.E.2d 273, 276 (2009). To prove prejudice, the applicant must show that, but for counsel's errors, there is a reasonable probability he would have prevailed on appeal. *Anderson v. State*, 354 S.C. 431, 434, 581 S.E.2d 834, 835 (2003). The Respondent submits that the Applicant cannot satisfy either requirement of the *Strickland* test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. *See Sharper v. State*, 279 S.C. 264, 305 S.E.2d 247 (1983).

V. Any Future Amendments and Invocation of Discovery

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. *See* Rule 11, SCRPC. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State pursuant to *Love v. State*, 428 S.C. 231, 834 S.E.2d 196 (2019), or, alternatively, the State will request a continuance in the matter. *See id.* at 245, 834 S.E.2d at 203 (Kittredge, J., dissent) ("If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.").

Pursuant to section 17-27-150 of the South Carolina Code, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Further, the State requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. As noted above, the State reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to the State. *See Love*, 428 S.C. 231, 834 S.E.2d 196.

VI. Any and All other Allegations

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

VII. Conclusion

WHEREFORE, the State requests an evidentiary hearing be held on the claim of ineffective assistance of trial counsel and the claim of ineffective assistance of appellate counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

MICHAEL D. DAVIDSON
Assistant Attorney General

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Columbia, SC 29211

March 11, 2021

FILED
2021 MAR 30 A 10:21
CLERK OF COURT
CHESTER CO S.C.

FILED
2021 MAR 30 A 10:21
CLERK OF COURT
CHESTER CO S.C.

STATE OF SOUTH CAROLINA	) COURT OF COMMON PLEAS
COUNTY OF LANCASTER	) 2020-CP-12-0491
	)
	)
	)
	)
Christopher Moore	) TRANSCRIPT OF RECORD
vs.	)
The State	)
	) Lancaster, South Carolina
<u>DEFENDANT</u>	) February 16, 2023

B E F O R E:

THE HONORABLE DANIEL COBLE.

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

DAYNE C. PHILLIPS, ESQUIRE
Attorneys for the Appellate

DANIELLE DIXON, ASSISTANT ATTORNEY GENERAL
Attorney for the Respondent

KESHIA REED
Official Court Reporter

1			<u>I N D E X</u>		
2	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	Christopher Moore				
4	Mr. Phillips	7		38	
5	Ms. Dixon		26		
6					
7	William Frick				
8	Mr. Phillips	41		139	
9	Ms. Dixon		118		
10					
11	Susan Hackett				
12	Mr. Phillips	147		166	
13	Ms. Dixon		159		170
14					
15	Certificate of Reporter	180			
16					
17					
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1 THE COURT: All right. We're going to go ahead
2 and get started on the record. This is a PCR for
3 Christopher Moore 2020-CP-12-0491.

4 (WHEREUPON, a pause in the proceedings.)

5 THE COURT: All right. Let the record reflect
6 that Mr. Moore is present today with his attorney Mr.
7 Phillips. Yes, ma'am.

8 MS. DIXON: May it please the Court. I'm
9 Danielle Dixon assistant attorney general for the State of
10 South Carolina. This is the case of Christopher Moore v.
11 State docket number 2019-CP-12-491. Mr. Moore is
12 currently serving a life sentence. He was indicted in
13 June of 2015 by the Chester County grand jury for murder
14 and possession of a weapon during the commission of a
15 violent crime. Those are indictment numbers 2015-GS-12-85
16 and 86. These charges arose from the fatal shooting of
17 Odell Williams, which occurred November 4th 2014. He
18 proceeded to a jury trial before the Honorable Paul Burch.
19 The first trial was held April 18th through 23rd 2016. He
20 was represented by William Frick and Julie Hall prosecuted
21 the case. They did have a pretrial immunity hearing prior
22 to that, that was under the Protection of Persons and
23 Property Act. The Court denied immunity under that act.
24 And he proceeded to trial and that immunity hearing is on
25 the record on appeal at pages 92 to 139. That trial ended

1 with a hung jury.

2 He was retried June 27th through 30, 2016, and
3 ultimately convicted as indicted. He was sentence to life
4 for murder and five years for the possession of a weapon
5 charge. He filed a direct appeal which was perfected by
6 appellate defender Susan Barbara Hackett. She filed an
7 Anders brief. And the Court of Appeals ultimately
8 dismissed the appeal finding there were no issues of
9 arguable merit. The remittitur was sent November 27th
10 2018. Mr. Moore timely filed this PCR application
11 September 24th 2019 raising claims of ineffective
12 assistance of trial counsel and appellate counsel. He has
13 more recently amended his application. There are now 53
14 claims against trial counsel and three or four claims
15 against appellate counsel.

16 Your Honor, we would move to strike first of all
17 B2, which is related to appellate counsel and our basis
18 for that would be that unless he can set forth with
19 specificity what preserve claim he thinks should have been
20 raised during this hearing. This is not going to be a
21 post-hearing fishing expedition. I think he needs to set
22 forth during this hearing today what preserved claims he
23 thinks would have been meritorious. Otherwise, we would
24 move to strike that claim.

25 THE COURT: Is that on page 14 and 17 of ---

1 MS. DIXON: I do not have -- it's under
2 appellate counsel second claim, yes.

3 THE COURT: Appellate counsel provided
4 ineffective assistance of counsel in the event trial
5 counsel properly preserved other meritorious issues for
6 appellate review.

7 MS. DIXON: Correct, and that's just so broad.
8 We need to know today what claims we will be responding
9 to.

10 THE COURT: All right. I'll take it under
11 advisement.

12 MS. DIXON: And then we would also concede issue
13 A 52 and basically the base -- that's the one dealing with
14 the five-year sentence for possession of a weapon during a
15 violent crime. And we do concede that pursuant to the
16 statute he should not have been sentenced to that. And so
17 we concede that the sentence for the five-year weapon
18 charge should be vacated not the conviction and not the
19 murder or the murder sentence.

20 THE COURT: All right, very well. We go along
21 with that concession.

22 MS. DIXON: And then we also move for summary
23 judgment as to issues four and five. I do have legal
24 argument. I don't know if you would prefer to hear that
25 now or ---

1 THE COURT: That A4 and five?

2 MS. DIXON: Yes, sir, A4 and five. One dealing
3 with trial court's improper opening comments and the other
4 dealing with failing to object to the State's comment
5 during opening argument.

6 THE COURT: Well, your objection is noted.
7 We're going to put it off until the record -- after we
8 hear testimony.

9 MS. DIXON: Okay.

10 THE COURT: So to see if it's necessary, if it
11 has merit or not.

12 MS. DIXON: All right. And with that, I think
13 we will turn it over.

14 THE COURT: All right. Thank you, ma'am.

15 MS. DIXON: Thank you.

16 THE COURT: Yes, sir, Mr. Phillips.

17 MR. PHILLIPS: Thank you, your Honor. Instead
18 of outlining all the issues your Honor, I know Ms. Dixon
19 has been given a copy of the amended application and it's
20 a long list. A lot of times I'll read them out, but I'm
21 sure you don't want me to read verbatim 50 something
22 allegations, so we be fine with going ahead and presenting
23 testimony.

24 THE COURT: For the record, I do have a copy of
25 that, Mr. Moore, that I been provided all the transcripts

1 a copy of what your attorney is referring to. If I don't
2 have anything, I either have it on my computer or I'll get
3 it from your attorney or from the State. Okay, we'll go
4 right ahead.

5 MR. PHILLIPS: Thank you, your Honor. The
6 applicant will call himself to the witness stand.

7 THE COURT: Come right here to be sworn as a
8 witness, sir.

9 BAILIFF: Raise your right hand please. Do you
10 solemnly swear or affirm the testimony you're about to
11 give be the truth, the whole truth, and nothing but the
12 truth so help you God?

13 THE DEFENDANT: Yes, sir.

14 THE CLERK: Please be seated in the witness
15 stand.

16 THE COURT: Make sure you speak into that
17 microphone, so that we can hear everything, the court
18 reporter can get everything that you say, okay.

19 THE WITNESS: Yes, sir.

20 WHEREUPON,

21 Christopher Moore,
22 after first having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. PHILLIPS:

25 Q Good morning, Mr. Moore.

1 A Good morning.

2 Q And you've already said your name for the record?

3 A No, sir.

4 Q All right. Would you go ahead and introduce yourself
5 to the Court?

6 A Christopher Moore.

7 Q All right. Mr. Moore, if you could explain when you
8 first met your trial counsel Mr. Frick?

9 A All right. It was after I had been assigned a guy
10 name Osyrus Hinton and then they appointed me Mr. Frick.

11 Q And you remember around about when that was -- what
12 date when that took place?

13 A No, sir.

14 Q Several years ago?

15 A Over about eight and a half, nine years ago.

16 Q Okay. And during the course of that representation
17 just kind of outlining how many times, did he come and
18 meet with you?

19 A Probably 11 or 12 at the most.

20 Q All right. So he met with you over the course of
21 that amount of time -- a fair number of times?

22 A Yes, sir.

23 Q And so with that being said, during those meetings
24 what did you talk about?

25 A Majority of the case most likely, but it was really

1 more of the case -- a lot going on during with the case.

2 Q Be specific. So y'all reviewed the discovery, the
3 evidence that the State had?

4 A Yes, sir.

5 Q Okay. And during that point, did y'all talk about
6 legal issues that were present with the discovery?

7 A Yes, sir.

8 Q And so, again, try to be specific as possible. I'm
9 not trying to put words in your mouth, so you're meeting
10 with him going over the evidence what specifically are you
11 and he discussing?

12 A Basically, like we was gone go over self defense and
13 then a stand-your-ground law. And then majority of the
14 things was like when we had a new witness from -- it was
15 like they called it a jailhouse snitch whatever however
16 you want to put it in terms. And that's a lot that we
17 talked about, talked about my co-defendant testifying at
18 trial. He was like it wasn't a good idea due to his
19 record, but I wanted him to testify because that would
20 have led to be known if he ever told me to get out of the
21 car or if I fell out of the car, which while I was
22 sentence like a lot of the jurors was saying that they
23 wanted to hear from the driver. And they never even let
24 the driver testify in court.

25 Q Okay. What was the driver's name?

1 A Quintin McClinton.

2 Q All right. And as far as your -- so he did not
3 testify?

4 A No, sir.

5 Q All right. Did you have any discussion with your
6 lawyer about him testifying?

7 A Yes, sir.

8 Q All right. And during those discussions, did y'all
9 talk about kind of what your rights were that you had an
10 opportunity if you wanted to to testify?

11 A No, he ain't talk about my rights. He was just like
12 it wasn't a good idea to let Mr. McClinton testify.

13 Q Okay. So you did discuss with him whether that
14 witness as far as you calling him a witness y'all did
15 discuss that?

16 A Yes, sir. Yes, sir.

17 Q Okay. And so during that part if we could go through
18 some of the things you mentioned, the self-defense, what
19 did you and your lawyer discuss about self defense?

20 A Actually, like I wouldn't be able to say with self
21 defense if I got out of that car on my own. You know, if
22 I got out intentionally to kill him, it wouldn't be self
23 defense, but if I fell out, we could go for stand your
24 ground.

25 Q Okay. So he essentially said this is the law of self

1 defense and you and him discussed the facts of what
2 occurred?

3 A Yes, sir.

4 Q Whether it applied?

5 A Yes, sir.

6 Q All right. Now, same for stand your ground, y'all
7 went into that as well at the same time?

8 A Yes, sir.

9 Q All right. As far as the jailhouse witness, the
10 snitch, what did y'all discuss about it just that he had a
11 statement against you?

12 A Yes, sir. Yes, sir.

13 Q Anything other specific that y'all discussed as far
14 as him being a potential witness?

15 A Yes, I remember that day like it was yesterday. They
16 took me back to Fairfield County and tell me I was going
17 back to trial. And then when I got to Fairfield County,
18 he was there to see me. And he show me a paper and he was
19 like this is why we back. I was -- I read the statement.
20 I was like I never talk to this man about none of this
21 stuff. The man name was Stevie Breland. His real name
22 was Stevie Breland. And he was actually in the county
23 jail for hit and run death by a vehicle. And they allowed
24 him to take the stand on me I was like I never told this
25 man anything.

1 Q So y'all did have a good thorough discussion about
2 your interactions with this individual?

3 A Yes, sir.

4 Q Okay. Now, as far as the reviewing of the evidence
5 if you could be specific, how did y'all go through the
6 evidence? Did he give you a copy of it?

7 A Yes, sir, he gave me a copy of mostly everything.

8 Q Did y'all watch any videos?

9 A Yes, sir.

10 Q Y'all listen to any audio?

11 A Yes, sir.

12 Q And during that time, it was all in preparation for
13 trial. You ultimately had two of those?

14 A Yes, sir.

15 Q All right. What occurred after the first trial?
16 Really, that's our focus at this point. We've had the
17 first trial now leading up to the second trial. What was
18 the interaction -- how many times did y'all meet between
19 that part.

20 A I didn't see him no more until it was actually time
21 for me to go back to Fairfield County.

22 Q Okay. So all the times you met with him was prior to
23 the first trial?

24 A Yes, sir.

25 Q I'm trying to make a good time line?

1 A And I went back to court for a bond hearing. And for
2 the bond hearing, the judge allowed me a bond, but he gave
3 me a time limit to take me back to trial. And that's when
4 I end up going back to Fairfield and I met with him then
5 about the statement that jailhouse guy told on me.

6 Q What -- do you remember what was significantly
7 different from that first trial to the second trial?

8 A It went way faster. Like, it was way faster. Like,
9 it was just staged, like it was just everything was set.
10 It seem like everything was lined up in order.

11 Q And I guess being specific again about the evidence
12 and witnesses. Did anything else stand out as far as
13 difference between the first trial and second trial? Did
14 anybody else testify in the second trial that didn't
15 testify in the first trial?

16 A Stevie Breland guy he testified and it wasn't no new
17 witnesses or no new statements.

18 Q That was the big one?

19 A Yeah, that was the biggest part of the trial.

20 Q So he was in your opinion he was a critical witness?

21 A Yes, sir.

22 MS. DIXON: Object to leading.

23 THE COURT: Overruled.

24 BY MS. DIXON:

25 Q And so ultimately he testifies and his testimony is

1 different obviously than what was presented during the
2 first one?

3 A Yes, sir.

4 Q All right. And you essentially gave him the label of
5 what, you know, kind of the street name of a jailhouse
6 snitch somebody that an informant from the jail?

7 A Yes, sir.

8 Q And you discussed that specifically with your lawyer?

9 A Yes, sir.

10 Q And you made it clear that none of that was true?

11 A Yes, sir.

12 Q Okay. So y'all were prepared he was getting ready
13 for his cross-examination of that witness. All right.

14 Now, as far as that's concern was there anything else --

15 you said there wasn't any additional meetings with him

16 between the first trial and the second trial. Did y'all

17 discuss any specific legal issues preparing for that

18 second trial? Did anything -- was there any other

19 preparation done as far as you being involved in the legal

20 issues that occurred that came up during that first trial?

21 A No, sir, we just went in it the same way we went at
22 it the first time.

23 Q Understood. So what were the biggest -- I guess,

24 again not trying to put words in your mouth. As far as,

25 again, your decisions or your -- did you have any input

1 between the first and second trial even during the second
2 trial about things that occurred during the trial?

3 A No, sir.

4 Q Okay. Was there any discussions with him about that
5 as far as, again, we were talking about stand your ground?
6 Did he ever discuss person -- Protection of Persons and
7 Property Act with you?

8 A Yes, sir, I remember him talking about that.

9 Q What did he talk about just trying to outline exactly
10 what happened?

11 A I don't remember exactly how it came to tell you.

12 Q You definitely discussed it?

13 A Yes, sir.

14 Q Okay. Now, as far as jury selections concern, was
15 there any specific discussion about striking certain
16 jurors? Anything of that nature?

17 A No, when we was sitting down, it was just certain
18 people that I didn't like. Certain, people that I didn't
19 like. I was like I didn't like them. He didn't like some
20 of them either. We went along with some of the same
21 things. It was this one girl that I remember real good
22 name was Lacrosha Sampson. And I was locked up in the
23 county jail with one of her cousins in Fairfield and her
24 name was Lacrosha Sampson and she was on my jury trial.
25 And I actually knew her to be honest.

1 Q And you told him about that?

2 A Yes, sir.

3 Q So he knew that you had that connection with her?

4 A Uh-huh.

5 Q All right. Anything else about after the jury was
6 selected about whether or not to pursue a Batson? You
7 have any idea what that is?

8 A No, sir, I don't know what that is.

9 Q Never discussed that with you?

10 A No, sir.

11 Q Now, as far as Stevie Breland, did he ever go into
12 any legal issues about trying to challenge him as far as
13 his prior convictions with what we call impeachment? Did
14 y'all discuss any of that?

15 A No.

16 Q And as far as any other issues related to his
17 testimony as it was going on, did he talk to you actively
18 during the testimony of Stevie Breland about any specific
19 issues? Did y'all discuss anything else about Stevie
20 Breland other than what y'all prepared prior to the trial?

21 A No, sir.

22 Q All right. So there's no other information that he
23 would have got from you related about Stevie Breland other
24 than what y'all discussed?

25 A No, sir.

1 Q Now, with certain testimony, specifically did y'all
2 discuss anything about reasons why he wouldn't have
3 objected to certain issues? Did he ever discuss any of
4 that with you?

5 A No, sir, besides the fact of saying an assault riffle
6 in the courtroom. Like, that was one of the biggest
7 things they were constantly drilling it talking about
8 assault riffle in the courtroom -- assault riffle, assault
9 riffle and that was the biggest objection kept objecting
10 to.

11 Q No other discussions about that. Y'all -- he mainly
12 handled that part and you just kind of was sitting back?

13 A Yes, sir, I didn't really know nothing at that time
14 about no law.

15 Q Okay. Now, as far as other witnesses, was there
16 things that he did in the second trial that you notice
17 that were different from the first?

18 A It's way more calmer. The first trial he was
19 drilling them. He was more into it. The second trial
20 just didn't feel like he was fighting. It was like the
21 fight wasn't there no more.

22 Q Did y'all have any discussion prior to that second
23 trial about making a motion to sequester witnesses. In
24 other words, although there was a first trial keeping
25 witnesses out of the crime during the testimony like how

1 we're doing now where we talking where you wouldn't have
2 witnesses on a witness list able to observe? Did y'all
3 have any discussion about that?

4 A No, sir.

5 Q Okay. As far as any of the exhibits that the State,
6 the government, the prosecutors admitted, did y'all have
7 any discussions about of any those exhibits?

8 A No, sir.

9 Q Okay. Was there any exhibits that were admitted at
10 trial that you'd never seen before when y'all were
11 meeting -- when you were meeting with him?

12 A Can you -- I don't really understand what you're
13 saying.

14 Q So when the prosecutors were putting in evidence to
15 try to prove their case, was there any piece of evidence
16 that they handed up or discussed that you and your lawyer
17 had never talked about the first time you ever heard about
18 it was here in the courtroom?

19 A There was some things most definitely it was bringing
20 in I heard them say. I don't got that. No, I have that
21 paper. And then they gave them a copy of it in the
22 courtroom exactly what it was -- I don't know exactly what
23 it was.

24 Q Okay. You can't remember exactly different things?

25 A No, sir.

1 Q But you said there were certain things that would
2 come up and your lawyer say didn't have a copy of?

3 A Yes, sir.

4 Q But unfortunately you don't remember what specific?

5 A No, sir, I don't remember specifically.

6 Q Okay. Now, as far as certain witnesses were
7 testifying, you said there was no discussion objecting --
8 about objecting to certain witnesses as far as whether
9 they would be used as an expert witness to provide expert
10 testimony none of that?

11 A No, sir.

12 Q Was there any discussion on your lawyers part with
13 you about hiring expert witnesses?

14 A Uh-uh.

15 Q Okay. So you never discussed that?

16 THE COURT: If you would just answer ---

17 A No, sir.

18 THE COURT: For the record, the court reporter
19 won't get that so if there is a record any other court
20 won't know what you're saying. So I just want to protect
21 your record and just to make sure that it's clear.

22 MR. PHILLIPS: Thank you, your Honor.

23 BY MR. PHILLIPS:

24 Q Make sure you say yes or no we just need that clear
25 for the court reporter.

1 A Yes, sir. Yes, sir.

2 Q Thank you. Now, again, as far as SLED agents that
3 were testifying, again, there's nothing specifically that
4 you remember that they testified differently from the
5 first trial to the second?

6 A No, sir, it was this guy name Christopher Reynolds.
7 Chris Reynolds and he just kept like trying to go around
8 everything my lawyer was saying was like how I don't
9 remember. I can't recall and the first trial he was
10 answering questions verbatim and he was being specific.
11 The second one he just wasn't -- he was trying to beat
12 around the bush with certain questions.

13 Q Okay. Was there any discussion about having a
14 private investigator try to find out about Stevie Breland?

15 A I don't think he ever discuss the private
16 investigator or talking to him or finding out more
17 evidence or anything, but we did have one.

18 Q And who was that?

19 A I don't remember his name.

20 Q Did you meet with him?

21 A No, sir, I never met with him.

22 Q Do you have any idea what work he completed?

23 A I knew that he had found something about an extra
24 bullet casing on Vans Drive. I knew about that because
25 Mr. Frick had told me about it, but other than anything

1 else, I really didn't know everything until I read over my
2 paperwork when they gave it to me.

3 Q But you never met with the private investigator?

4 A No, I never met him never.

5 Q Okay. You ever receive any reports from a private
6 investigator?

7 A Yes, sir.

8 Q All right. And that was after the trial or before?

9 A That was during when I was in the county jail after
10 my first trial.

11 MR. PHILLIPS: One moment, Your Honor.

12 (WHEREUPON, a pause in the proceedings.)

13 BY MR. PHILLIPS:

14 Q Now, as far as what took place with the
15 representation, was there anything that stood out to you
16 that you felt like your lawyer should have done for you
17 during that trial or in preparation for the trial?

18 A It was a lot things I felt like he could have did,
19 but being that I think that he was a public defender, it
20 only but so much he could have did. I actually believe he
21 did fight. He did try, but end of the day it was like --
22 it was certain case laws that I got in prison and I start
23 reading over and learning myself and I found out myself.
24 And there was no way like he couldn't find such mutual
25 combat, victimless crime, certain cases. I'm like there's

1 a lot of case laws that he could have did a better job,
2 but being he was probably a public defender, I don't feel
3 like he fought as hard as he should, but he did try I can
4 say that.

5 Q Well, look you definitely want to be candid and be
6 truthful with your testimony. So with that being said,
7 you said at least based on what you reviewed you think
8 there were arguments, legal arguments that should have
9 been made that weren't made at trial?

10 A Yes, sir.

11 Q Is that a fair way to summarize what you said?

12 A Yes, sir.

13 Q All right. And as far as different
14 cross-examination, objection same thing, that's -- you're
15 saying things he should have done that you now learned
16 reviewing the law that should have happened at the trial?

17 A Yes, sir.

18 Q All right. Now, and those are the allegations that's
19 been presented in the PCR application?

20 A Yes, sir.

21 Q Now, is there anything else regarding your trial
22 counsel that we haven't presented to the Court any
23 testimony about his representation or what occurred at
24 trial that you haven't testified about at this point?

25 A I feel as if the trial wasn't fair enough doing -- my

1 case always on the news. It was always on the news. The
2 Sheriff Alexander Wood he stayed mentioning gangs gangs
3 gangs. And it was on the news all the time. Like in the
4 circumstance of the weapon, it's an SK and it's an assault
5 riffle and things like that. Now, Alexander Wood he's
6 actually doing time in the federal correction somewhere.
7 He got arrested and this same guy was the man that was on
8 the face of my case. And he was always drilling and
9 drilling and gangs this, gangs that. So I just feel as if
10 that was a big issue within my case, like him and his guys
11 are narcotic agents Agent Neil. They were constantly the
12 face of my case always talking about gangs, gangs, gangs.

13 Q Well, I guess specifically did you have any
14 discussions with your lawyer about that?

15 A No, sir.

16 Q Okay. And you and your lawyer never discussed it?

17 A No, sir.

18 Q Nothing about it?

19 A No, sir.

20 Q Okay. Now, as far as your appellate lawyer,
21 Ms. Hackett, was there any issues you wanted her to raise
22 on appeal?

23 A I never even seen her. The only time I got a letter
24 from her is when they was denying me or something. I
25 never seen her, talk to her. Only thing I knew, she just

1 kept denying everything. The judge is denying everything.

2 Q Okay. So you never spoke with her?

3 A No, sir, I never spoke with her.

4 Q Y'all never discussed -- there was no back and forth,
5 no letters, communication about what issues would be
6 raised?

7 A No, sir. No, sir.

8 Q So you didn't have any input on that part?

9 A Only letter I got was that I was getting an Anders
10 pro se brief and then I got another letter saying they
11 denied it.

12 Q And you since come to learn that an Anders brief is
13 where an appellate lawyer is telling the Court that they
14 didn't find any meritorious issues that were preserved for
15 appellate review?

16 A Yes, sir.

17 Q And ultimately your direct appeal was dismissed?

18 A Yes, sir.

19 Q And that's when you now pursued this post-conviction
20 relief action?

21 A Yes, sir.

22 Q Okay. Now, with the specific issues that we raised
23 with appellate counsel certainly your belief now like you
24 said that you had sometime to look at the law and have a
25 lawyer assist you in this process, that your appellate

1 lawyer should have raise an issue on appeal?

2 A Yes, sir.

3 Q All right. And that specific issue was related to, I
4 guess, I don't want to bog you down you're not a lawyer,
5 but essentially the prior bad act in other words character
6 evidence that was admitted at trial against you?

7 A Yes, sir.

8 Q Okay. And it's your belief if that issue was raised
9 on appeal the outcome would have been different?

10 A Yes, sir.

11 Q And so with that, I understand that the other parts
12 of the allegations -- is the issues that the appellate
13 lawyer deemed unpreserved and couldn't raise. That if
14 these other issues have been raised in this allegation
15 against trial counsel, had some of those been preserved
16 for appellate review, those could have been raised on
17 appeal?

18 A Yes, sir.

19 Q And had they been raised on appeal because they been
20 preserved for appellate review the outcome of the appeal
21 would have been different?

22 A Yes, sir.

23 Q Is there anything else that you would want to testify
24 to here this is your day in court for post-conviction
25 relief remember look under the lens of ineffective

1 assistance of counsel. So none of the things related
2 outside anything except the representation of your trial
3 counsel and your appellate counsel, so anything else you
4 want to testify to today while you're on the witness
5 stand?

6 A I just feel as if they both could have did a better
7 job, could have fought harder because at the end of the
8 day I don't feel as if this is murder. I feel -- I'm not
9 a judge or a lawyer, but I feel as if mutual combat could
10 have been tried to the judge or either victimless crime
11 could have been tried to the judge because I was chased
12 and shot at for over 3.5 miles around town. And they
13 found a gun in the man car, gun residue on his hand. They
14 show that he did shoot at us, but end of the day, I feel
15 as if mutual combat and victimless crime could have been
16 tried for to the judge and that's about it.

17 Q As far as other the allegations that you raised
18 nothing else?

19 A I feel as if that's it, yes, sir.

20 MR. PHILLIPS: No further questions, your Honor.

21 CROSS-EXAMINATION

22 BY MS. DIXON:

23 Q Hello, Mr. Moore. How are you?

24 A Hey, how you doing?

25 Q Good. Can you tell us -- I remember you doing an

1 immunity hearing pretrial, correct?

2 A Yes, ma'am.

3 Q And what was your primary strategy during this trial?
4 What was your main defense?

5 A Really stand your ground.

6 Q Stand your ground. And as part of that trial is it
7 self-defense?

8 A Yes, ma'am.

9 Q And you did testify at trial, right?

10 A Yes, ma'am.

11 Q So you admitted to being in the car with the other
12 guys?

13 A Yes, ma'am.

14 Q You admitted to -- and tell us what happened that
15 night?

16 A The murder?

17 Q The night of the shooting what were y'all doing?
18 What happened? What precipitated everything?

19 A Well, we first we were all at this place called
20 Chester Homes. And we then we left Chester Homes to go
21 initiate in a robbery, which I had got indicted on also.
22 We went to go rob some guys. When we went to go rob those
23 guys, one of my co-defendants said that they seen a car.
24 And that's why we left, which wasn't a thing. It wasn't
25 nobody home and that's why we didn't do what we was going

1 to do and we was getting ready to leave. As we proceeded
2 to leave, it was a car at the end of the stop sign. And
3 as we got ready to leave off the road, Mr. Williams -- at
4 the time I didn't know who he was, Mr. Williams. He was
5 coming on to the road. When he got ready to come on to
6 the road, we went around the lady car because they start
7 pointing at the truck. Once they start pointing at the
8 truck, we went around their car back toward the stop sign.
9 We went around and went ahead back toward Chester Homes.
10 And we noticed that he was following us because he was
11 flickering his lights. As we were passing, it's a
12 railroad -- it's a railroad track as you coming Round Tree
13 Circle and then you passing the store. As you get past
14 that, you come up to Chester Homes. He constantly
15 flickering his lights, so we didn't go to Chester Homes
16 because we know everybody in the car had a gun, so we like
17 somebody following us. And as we kept going, we went
18 over -- took a left onto Brawley Street. When we got onto
19 Brawley Street, he's constantly flickering his lights
20 trying to make us stop. So we turned onto Saluda, went
21 over some more train tracks, got over the train tracks.
22 We pulled into a barbershop to actually see what he
23 wanted. The driver was like let's see what he want. And
24 then when we parked, he got out of his car -- but I don't
25 think he got out. He attempted to get out. And then

1 that's when the guy in the passenger seat, Terrence
2 McKiney, he was like, oh, that's Mr. Williams, that's
3 Odell Williams, man, that's the police, that's the police.
4 So that's when the driver took off and he start driving.
5 He was like I don't deal with no police, oh, no. And then
6 that's when all of us took off. And we turned left onto
7 -- I don't remember the road, but we turned left onto
8 another road. And then that's when we heard two gunshots.
9 Once we heard the gunshot shot, we was like this mug
10 shooting at us. He shooting at us. So one of the guys
11 attempted to shoot back, but his gun jammed. And then
12 that's when we turned left onto First Street. When we
13 turned left onto First Street, then we was going fast now.
14 Then we turned right onto back onto Saluda, went over some
15 train tracks. And then we turned left onto Park Way. And
16 then as we was going, we heard more shots. It was
17 probably like another two or three shots. And then we
18 came up past some train tracks, pass Van Drive, I was
19 like, man, let me throw this gun out, let me through this
20 gun out. I had the biggest gun in the car, so I knew if
21 we threw it away in the neighborhood where we was from, we
22 be able to get it back because that's where we went back
23 to. So once we turned left onto Round Tree Circle, that's
24 when I opened the door. He slowed up for me to open the
25 door. And when I open the door, he hit the gas because he

1 was kind of behind us and I fell out the truck. Once I
2 fell out of the truck, I burst my elbow up, my hand up and
3 the gun went off. Once the gun went off, I was in the
4 middle of the road. Mr. Williams was coming with his car
5 like I thought he was gone hit me, so that's when I jumped
6 up and start running. I heard another shot. And by that
7 time, I just turned around and start shooting.

8 Q So you maintain -- and you actually testified to this
9 at trial that this was self defense?

10 A Yes, ma'am.

11 Q And you recall there was evidence that the victim was
12 shooting at y'all?

13 A Yes, ma'am.

14 Q And you were acting in self defense?

15 A Yes, ma'am.

16 Q And you told the jury that, right?

17 A Yes, ma'am.

18 Q And it was ultimately up to the jury to decide which
19 version of facts to believe?

20 A Yes, ma'am.

21 Q Now, tell me you mention that you had the biggest gun
22 in the car. Can you describe this gun for us?

23 A It was a SK-47.

24 Q And what does that look like?

25 A It's big.

1 Q How big show me? This big? This big?

2 A It's -- I got shackles.

3 Q This big?

4 A No, ma'am.

5 Q Bigger?

6 A A little bit bigger.

7 Q Bigger?

8 A About that size.

9 Q About that size. A pretty big gun. And how many
10 clips did you have for it?

11 A Two.

12 Q Two clips. And how many cartridges did they carry?

13 A Each one held 30.

14 Q Thirty each, so you had a total of 60?

15 A One of them wasn't filled all the way up to the top.

16 Q Got you. But the capacity to carry up to 60 with
17 those two magazines. Got you.

18 A Yes, ma'am, could hold 60.

19 Q Okay. And so this big gun did the State enter it
20 into evidence at your trial?

21 A Yes, ma'am.

22 Q And was the State showing it to the jury?

23 A Yes, ma'am.

24 Q So in light of all that now, I guess, there was a
25 reference to someone calling it an assault weapon at one

1 point during the trial. And I do believe your lawyer do
2 you recall he did get the Court to agree to not allow the
3 State to refer to that too, is that correct?

4 A Yes, ma'am.

5 Q But you do recall that this big giant weapon was
6 actually in court?

7 A Yes, ma'am.

8 Q And in fact did the Solicitor during closing argument
9 pick up this big giant gun and hold it up to the jury and
10 show them what it look like?

11 A Yes, ma'am.

12 Q So the jury saw the gun?

13 THE COURT: So let the record reflect the length
14 of the gun you're -- the State's hands were about two and
15 a half feet.

16 MS. DIXON: Three -- two and a half to three. I
17 don't know.

18 THE COURT: Is that how many feet? Is about
19 three-feet long?

20 THE WITNESS: About two and a half, three, yes,
21 sir.

22 THE COURT: Just for the record.

23 BY MS. DIXON:

24 Q So it's not a little gun?

25 A No, ma'am, not a little gun.

1 Q Did it look like a hunting? Did it look like
2 something you gun take out? Do you ever hunt?

3 A No, ma'am, I never hunted.

4 Q Okay. Are you familiar with riffles that people
5 would take out to go shoot a deer for example?

6 A No, ma'am, but I know what you're talking about. I
7 watch movies and shows and stuff.

8 Q Did it look like that?

9 A Yes, ma'am, it's a big gun.

10 Q Okay. So the jury saw this big giant gun, I guess,
11 during the trial. And you talked about there was some
12 evidence that came up at trial that you had never seen
13 before?

14 A Yes, ma'am.

15 Q What was that?

16 A It was the -- to be -- I don't remember exactly every
17 single one, but I know it was the one with Mr. Breland,
18 the Stevie Breland guy. It was evidence with him, but as
19 far as like evidence new new evidence wasn't no new
20 evidence.

21 Q So most of what the State submitted you had already
22 seen?

23 A Yes, ma'am, on my second trial.

24 Q With the exception of you weren't -- you didn't
25 necessarily know what Breland would say?

1 A Yes, ma'am.

2 Q Is that a fair and accurate assessment?

3 A Yes, ma'am, that's fair.

4 Q And do you recall that the State found the gun
5 stashed in someones back yard?

6 A Yes, ma'am.

7 Q And do you recall that they found blood on a fence
8 nearby that matched your DNA?

9 A Yes, ma'am.

10 Q And do you recall there was a mixture of DNA on the
11 gun that you could not be excluded from?

12 A Yes, ma'am.

13 Q And do you recall picking -- calling someone to pick
14 you up that night?

15 A I never called her. It was another one of my
16 co-defendants that actually called, but they was already
17 working for the State at that time. And they had
18 already -- he was already in jail for over a month or two,
19 three months and got out and got more charges and came
20 back to jail and then he gave a statement. So I never
21 ever was the one that called the lady.

22 Q But somebody contacted her?

23 A Yes, ma'am.

24 Q And she came and picked you up?

25 A Yes, ma'am.

1 Q And she testified to that at trial, right?

2 A Yes, ma'am.

3 Q And they found your blood in the backseat of her car,
4 correct?

5 A Yes, ma'am.

6 Q And there was another guy that knew you, you knew
7 him. He testified that he was in the area that night and
8 you ask him for ride. Do you recall that?

9 A Yes, ma'am.

10 Q So would you agree that the State had a lot of
11 evidence that put you at the scene of this crime?

12 A Yes, ma'am.

13 Q And would you agree that the State had a good bit of
14 evidence connecting you to this gun?

15 A Yes, ma'am.

16 Q Okay. So in light of that, you went with self
17 defense, correct?

18 A At that time I didn't know everything that they had,
19 so I went and testifying or talking to them. I didn't
20 never share my side of the story until I actually got on
21 the stand.

22 Q You didn't share it with your lawyer?

23 A Yeah, I talk to Mr. Frick, yes, ma'am.

24 Q Okay, okay. And then the last thing maybe the last
25 thing you mentioned there was some legal arguments that

1 you found out about after your trial that you wished your
2 lawyer had raised?

3 A Yes, ma'am.

4 Q What are those?

5 A The mutual combat and victimless crime.

6 Q So the primary things you're concerned about today
7 are the mutual combat ---

8 A --- and victimless crime.

9 Q Victimless crime. And tell us about the mutual
10 combat charge?

11 A I feel as if I'm not sitting up here on this stand
12 saying that I deserve not be here because at the end of
13 the day I made the choice to get in that car. I made the
14 choice to do what I did. At the end of the day I'm a man
15 and I learnt over the years that in life you got to be
16 able to take -- you got to be able to take what comes with
17 it. And you got to be able to be man enough to say I did
18 this like and I got to be punished for it what I done. A
19 life was taken and I can understand that. And I'm man
20 enough to say, I learn my lesson to this, but at the end
21 of the day, I feel as if murder -- hey, where is his fault
22 in it, where did he go wrong, what did he do wrong. This
23 man was a police officer. A future police officer and had
24 a phone in his car, and a gun in his car and he chose the
25 gun. He didn't never chose to pick up his phone and call

1 the police officer. He never once tried to call no one.
2 He felt as taking the law into his own hand. At the end
3 of the day, I'm wrong and I can say I'm wrong for what I
4 done because I chose to be in that car. And at the end of
5 the day God is punishing me severe enough. I've been
6 locked up over now nine years. And at the end of day I
7 learned, I been here. Like, I understand that -- I don't
8 deserve to just be able to walk scott free, but the rest
9 of my life in prison, to spend the rest of life here and
10 say, hey, you deserve to rot in prison because at the end
11 of the day a man chase me, shot at me for over 3.5 miles
12 around town like we were in a western, that's not fair at
13 the end of the day. I deserve to be in prison at this
14 moment. I deserve to do time, but end of for the rest of
15 my life, spend the rest of my life here. I don't feel as
16 if that's fair because at the end of the day in life you
17 got to be able to make your choices. At the end of the
18 day I made the choices to be in that car. He made the
19 choice to chase us. So you not going to hold him
20 accountable for what he did, but I'm going to be held
21 accountable for what I did even though he's here, but long
22 story short, he had a record also.

23 Q So is your primary concern with all this the life
24 sentence?

25 A Most definitely the life sentence. Like spend the

1 rest of my life in prison, that's not fair.

2 MS. DIXON: One moment, Your Honor.

3 (WHEREUPON, a pause in the proceedings.)

4 MS. DIXON: Nothing further.

5 REDIRECT EXAMINATION

6 BY MR. PHILLIPS:

7 Q Mr. Moore, to be specific, you said this individual
8 shot at you?

9 A Mr. Williams.

10 Q Right.

11 A Yes, sir.

12 Q The deceased?

13 A Yes, sir.

14 Q So he was shooting at you?

15 A Yes, sir.

16 Q All right. Were you shooting at him first?

17 A No, sir.

18 Q All right. He shot at you first?

19 A Yes, sir.

20 Q All right. And the only reason that occurred was
21 because he was trying to kill you?

22 A Yes, sir.

23 Q And the argument that you were making based on the
24 law and what you discussed with your lawyer was self
25 defense specifically stand your ground?

1 A Yes, sir.

2 Q That was the argument that was presented?

3 A Yes, sir.

4 Q And you testified at trial?

5 A Yes, sir.

6 Q Everything you testified to at trial that was under
7 oath?

8 A Yes, sir.

9 Q Did you lie at trial?

10 A No, sir.

11 Q Are lying now?

12 A No, sir.

13 Q You're under oath now?

14 A Yes, sir, I'm under oath.

15 Q You're being completely truthful about everything you
16 testified to at trial and today?

17 A Yes, sir.

18 Q And your position was he was shooting at you trying
19 to kill you?

20 A Yes, sir.

21 Q And the only reason what took place as far as legal
22 arguments that you raised was based off a claim of self
23 defense?

24 A Yes, sir.

25 Q And specifically the Protection of Persons Property

1 Act on the stand your ground issue?

2 A Yes, sir.

3 MR. PHILLIPS: No further questions, your Honor.

4 MS. DIXON: Nothing further from the State.

5 THE COURT: All right, thank you, sir. You can
6 go back and sit with your attorney.

7 MR. PHILLIPS: Your Honor, we were just saying
8 as far as time efficiency, Susan Hackett is suppose to be
9 here at 11. Her testimony is fairly limited. When we
10 start with trial counsel, it's going to be for quite some
11 time. The problem is we're about 30 minutes out from 11
12 o'clock. I think we need to just go ahead and get started
13 with the other witness instead of waiting. I think
14 that -- we certainly want to bring that to your Honor's
15 attention. As far as would your Honor rather cover the
16 shorter witness first? I would just hate to have that
17 down time.

18 THE COURT: Is Mr. Frick present?

19 MR. PHILLIPS: He is, sir.

20 THE COURT: Okay, let's go ahead with Mr. Frick
21 and Ms. Hackett when she gets here we'll -- she'll have to
22 do work on her laptop or something. So we'll just go
23 ahead and get started. And Ms. Hackett we'll get to her
24 soon as we can.

25 MR. PHILLIPS: Understood, your Honor. The

1 applicant would call William Frick.

2 THE CLERK: Raise your right hand please. Do
3 you solemnly swear or affirm the testimony you're about to
4 give will be the truth, the whole truth, and nothing but
5 the truth so help you God?

6 THE DEFENDANT: I do.

7 THE CLERK: Please be seated on the witness.
8 WHEREUPON,

9 William Frick,
10 after first having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. PHILLIPS:

13 Q Good morning.

14 A Good morning.

15 Q Did you introduce yourself to the Court?

16 A William Frick.

17 Q All right. And could you explain how you kind of got
18 involved in this case?

19 A Sure. At the time I was deputy public defender the
20 Sixth Circuit mainly Fairfield and Chester counties. This
21 was a case that came to our office and I was assign to it.

22 Q All right. So have you had an opportunity to look
23 over the amended PCR application?

24 A It was explain to me. I'm aware of what the
25 allegations are.

1 Q As far as the allegations. And so unfortunately I
2 don't have them as perfectly in line as far as the
3 chronology of a trial, but we're going to just take them
4 one at a time?

5 A Sounds good.

6 Q So specifically when you had the immunity hearing,
7 the Protection of Persons and Property Act hearing, when
8 the trial court issued it's ruling was there any specific
9 reason or strategy that you didn't object to the findings
10 not being complete? In other words, as far as the
11 findings itself, the judge outlining or was it your
12 opinion, you can be candid with me here, did you believe
13 that the judge had made a complete findings of facts or
14 findings of fact in conclusions of law in regards to that
15 immunity issue?

16 A To be honest, I didn't expect to win the immunity
17 hearing what I was essentially trying to do is set up for
18 self defense, that was kind of my strategy in this. I
19 just figured given the circumstances of the case the
20 likelihood of us getting the judge to grant immunity --
21 quite frankly in any of those cases very slim. But in
22 this case, I didn't see that happening. But I did want to
23 go ahead and start laying the ground work for the
24 self-defense argument.

25 Q Well, and so, I guess, as far as strategy wise talk

1 to me for a second. So you wanted to preview your
2 evidence prior to trial with the State?

3 A I think that's what many defense attorneys do with a
4 stand your ground hearing, yes.

5 Q Right. So I'm just trying to figure out -- so what's
6 the strategic move -- how is it better for the defense if
7 the State knows exactly what they're going to present at
8 trial?

9 A That's better for me. It's not better for the State.
10 I've got locked in testimony from law enforcement and
11 whoever -- and it's kind of a mini trial. So I have a
12 pretty good idea of what they're going to do.

13 Q So your argument was always self defense and your
14 basis for having the immunity hearing was simply to
15 preview the State's testimony?

16 A I mean, I certainly wanted to win the immunity
17 hearing, but I don't think I made any bones to Chris or
18 anybody that I didn't expect to win that.

19 Q Well, with an immunity hearing, the law is that the
20 judge has to provide specific findings of fact and
21 conclusions of law for each element. When the judge
22 provided their findings, was there any strategic reason
23 you didn't object and say your Honor I need specific
24 rulings, specific findings of facts and conclusions of law
25 on each issue?

1 A I mean, I never had a judge do that quite frankly to
2 just rule against me and then we go on.

3 Q But you understand what the law is, right?

4 A I was the defense attorney in the Curry case, so,
5 yes, I'm quite familiar with stand-your-ground law.

6 Q Very familiar then. And so also with I guess
7 Servontis Allen (sic) I probably butchered the
8 pronunciation, but anybody tried this case ---

9 A I am familiar with that, yeah.

10 Q And that case specific highlights that you got to
11 have specific findings of fact and conclusions of law?

12 A I can't recall when that case came out. I'm sure you
13 got it in front of you though.

14 Q 2019.

15 A Okay.

16 Q Right, so ---

17 A That would have been after we had this trial, so that
18 wasn't the law at the time.

19 Q Well, I mean, that's just clarifying that that's what
20 the law is that they need to have those findings of fact?

21 A Yeah, but much like when I asked for a directed
22 verdict in Curry because they given us no direction on how
23 to do a stand-your-ground hearing, there was no law that
24 said I should ask for specific findings of fact.

25 Q All right. So your position is that that wasn't the

1 law at the time?

2 A Correct.

3 Q Okay. And your position is given the nature
4 obviously you said you're the one that argued Curry. I
5 didn't realize that, so that certainly -- you understand
6 well aware of how that ---

7 A That's my footnote every time they talked about it.

8 Q Understood. And so with that being said given that,
9 I mean, in short I'm not trying to beat the dead horse
10 here, you didn't have any strategic reason for not
11 objecting and asking for a specific findings of fact and
12 conclusions of law once the judge ruled against you?

13 A I didn't have a specific strategic reason, but there
14 was no requirement for me to do that at the time that I
15 was aware of.

16 Q Now, during jury selection ultimately you had --
17 where the State had utilized all five of their strikes,
18 and there was an issue essentially where the State had
19 even move for a Batson. Was there any reason you didn't
20 move for a Batson in that -- during that point?

21 A I like the jury.

22 Q You like the jury?

23 A I like the way they look.

24 Q All right. So there was just no -- in your mind,
25 there was no reason to move Batson despite having any

1 potential Batson issue available?

2 A I believe -- I was recalling this yesterday. I mean,
3 I believe there were Batson reason available on the last
4 couple of jurors that the State struck, but in the overall
5 circumstances, I like the jury panel that I had or the
6 petit jury I had.

7 Q And why specifically?

8 A I mean, it's always good to have a Fairfield County
9 jury. And I had what I wanted out of a Fairfield County
10 jury.

11 Q When you said it's always good, I mean, ultimately
12 the defense convicted, right?

13 A They did. And that's happened many times to me as
14 well.

15 Q All right. So it's not always good for a defendant
16 to have a Fairfield County jury that be fair to say?

17 A I'll take it over York on any day though.

18 Q That's also fair to say. Now, specifically as to
19 Stevie Breland, I know that was a big turning point
20 between the first trial and the second trial. Could you
21 kind of go into that. I'll have some specific questions
22 here in a second.

23 A How much detail do you want?

24 Q I guess, specifically as to his prior record, you
25 know, he ultimately had convictions. You have this

1 jailhouse witness and ultimately with impeachment he had
2 these three prior convictions for check fraud, that
3 arguably would be admissible under Rule 609 to impeach the
4 witnesses credibility of crimes of dishonesty. Was there
5 any specific reason ---

6 A I think they were remote. I did not believe that the
7 judge would have allowed them in.

8 Q And as to crimes of dishonesty not having that time
9 limit?

10 A I believe it still falls under 609(b), which requires
11 the ten-year time limit. They were remote I do recall
12 that.

13 Q All right. So it's your position that the reason you
14 didn't do it is you believe as far as crimes of dishonesty
15 that they're too remote, that was your position for not
16 doing it?

17 A Yes.

18 Q Okay.

19 A And I wanted to attach the fact that he had a pending
20 charge.

21 Q And that's a separate matter ---

22 A Yes, of course.

23 Q --- right the pending charge itself. But your
24 strategic reason for not making that argument was because
25 you believe for crimes of dishonesty under that

1 evidentiary rule it was too remote?

2 A It's my understanding, yes.

3 Q Okay. Now, as far as the judge's opening comments to
4 the jury, ultimately he -- the judge says during his
5 opening comments quote the end result of any case is to
6 reach a verdict, it's Latin derivative word which means
7 search for the truth or true saying. And I know the bench
8 book has and I think still not Judge Coble could probably
9 interject I don't believe they've updated the bench book
10 yet, but even though we've gotten several cases to say the
11 language needs to be removed. Was there any strategic
12 reason why you haven't objected or why you didn't object?

13 A Those cases came out after this trial.

14 Q What about State vs. Daniels was there any
15 specific -- were you aware as far as that case?

16 A I don't remember that case specifically if you can
17 enlighten me a little bit.

18 Q Yes, State v. Daniels is -- and, again, I can kind of
19 ---

20 A Can you tell me when that one came out?

21 Q Yes. State v. Daniels was a 2012 case.

22 A Okay.

23 Q And essentially, you know, in the conclusion, it goes
24 through that. We'll save, I guess, the arguments later,
25 but that's one of the issues addressed in State v. Daniels

1 in 2012. Were you aware of State v. Daniels?

2 A I can't say that I was.

3 Q All right. Were you aware of State vs. Galleski?

4 A I mean, if you're going to just throw case names at
5 me. I have to tell you no.

6 Q On the issue of improper burden shifting basically
7 that search for the truth language, it's addressed in
8 Daniels. You're not aware of that?

9 A I didn't review it for this case. I mean, I can say
10 that.

11 Q Okay. Bottom line you didn't object to it because
12 you didn't know to object to it is that fair to say?

13 A I mean, I didn't object to it because I didn't find
14 it objectionable.

15 Q Okay. I guess, but you weren't aware of Daniels as
16 well. You can admit to that?

17 A I mean, I wasn't aware for this case.

18 Q That's a no. All right. Now, as far as ultimately
19 during the State's opening statement, they make an
20 argument or they make a statement quote this is a very
21 very important trial for the victim's family who are in
22 the courtroom today some of you will hear from them. So
23 was there any strategic reason why you didn't object to
24 that?

25 A I didn't see any reason to.

1 Q As far as case law are you aware that it is
2 objectionable if the prosecutor makes a plea to the
3 community as far as those kinds of things?

4 A I mean, we were in their community, so I wasn't too
5 worried about it in Fairfield. Remember, we had the case
6 removed from Chester because of all the publicity and
7 everything that Chris had talked about that had been going
8 on there, so we moved it down to Fairfield.

9 Q I'm talking about the law not this case. The law
10 says if they make those type of arguments, it's
11 objectionable.

12 A I didn't think it reached that.

13 Q Okay. But no strategic reason?

14 A Yeah, I didn't think it reached that. I mean, I'm
15 not going to stand up in opening statement and start
16 objecting if I don't think it's objectionable.

17 Q Now, Lieutenant Kyle Cummings during his direct
18 examination did you have any strategic reason for not
19 objecting and moving to strike when he started essentially
20 reading from the incident report?

21 A I don't remember specifically what he did. What did
22 he do?

23 Q Ultimately, the prosecutor was in the process -- I
24 will -- you wouldn't have to have a -- you got the record?

25 A I got nothing.

1 THE COURT: Which record?

2 MR. PHILLIPS: This would be volume three, your
3 Honor.

4 BY MR. PHILLIPS:

5 Q So in the record on appeal, we be looking at page
6 1127, that be 76 and 77?

7 THE COURT: Would your first line number one to
8 make sure I have the right one?

9 MR. PHILLIPS: The -- it's the top of page 76 as
10 Kyle Cummings direct starts with an answer police fire
11 EMS.

12 BY MR. PHILLIPS:

13 Q Take a moment to look at page 76 and page 77. Record
14 on appeal page 1127, 1128?

15 A How far are we going on this?

16 Q You can pretty much start at the bottom of 76.

17 A Okay.

18 Q The prosecutor says he's going to show him the
19 incident report.

20 A Right. Okay.

21 Q Okay. So now having the opportunity to kind of look
22 through it, do you -- is it your position -- was there any
23 strategic reason why you didn't object to him going
24 through that incident report?

25 MS. DIXON: Your Honor, briefly, I am going to

1 ask for clarity for everyone here. Can we have him read
2 into -- the transcript's part of the record? Can we have
3 him just read in what he's referring to?

4 A I'm a little confused as to what you're asking me.

5 Q Sure. So on page 76 of the trial transcript
6 ultimately it says -- it starts with ---

7 A I'm going to show you this document?

8 Q That's right line 22 and it goes through where the
9 prosecutor hands over the incident report and says, you
10 know, exactly looking at that can you tell exactly what
11 time and he essentially starts reading from the incident
12 report at that point. Was there any specific reason
13 why -- and as the testimony goes through for the rest of
14 the page essentially. Was there any specific reason why
15 you didn't object to any of that testimony?

16 A I didn't see any need to.

17 Q All right. Now, when Louise Williams was on direct
18 examination -- again, sorry for the jumping around just
19 the way that the allegations are. So Louise Williams you
20 remember that witness?

21 A You got to give me a little basis. I'm horrible with
22 names for one.

23 Q Understood. So if you could go -- if you have the
24 record to page 1143, that be page 92 in the transcript.

25 A I got it.

1 Q Okay. And so specifically you had the moment to read
2 that way you can have some context.

3 A What do you want me to read?

4 Q Okay. So specifically if you look at lines 14 or you
5 can start at basically ten to 22. It's her basically --
6 her answering those questions.

7 MS. DIXON: Can you give the transcript page
8 please?

9 MR. PHILLIPS: 92.

10 MS. DIXON: Thank you.

11 THE COURT: Well, give the witness a minute to
12 refresh his memory lines ten through 22.

13 A All right, it's clear. You said page 92.

14 Q Yes, sir.

15 A Okay. Thank you. Sorry about that. I was on the
16 other page. Okay 10 through 22.

17 Q Okay. So specifically she's having answering these
18 questions regarding her granddaughter Ashley was the one
19 who called the decedent and specifically said that her
20 daughter Ashley or granddaughter Ashley had passed her the
21 phone at that point. Was there anything specific reason
22 you didn't move to object or strike basically the hearsay
23 statements regarding what. Lana Aiken had said on the
24 phone conversation with the decedent the night of the
25 accident or incident?

1 A You mean in part where she -- she tells him that
2 there was a car parked over there or...

3 Q Right. So I know it's confusing, but so essentially
4 Elaina they go and discuss essentially what was said
5 through ---

6 A Can you just kind of show me what you want me to look
7 at.

8 Q All right. So specifically here on line ten said
9 someone called my granddaughter Ashley on her phone and I
10 told her that they heard Odell got shot?

11 A Okay.

12 Q Right. And says what do you do. Well, I had to
13 console my granddaughter and it goes through basically the
14 conversation when we came in and they had gotten shot,
15 that she said he was in Rock Hill. I'm not thinking then.
16 Then my granddaughter said she knew he hadn't gotten to
17 Rock Hill that quick. Basically talking about the phone
18 call that she had with the person on the other end. Was
19 there any reason why you didn't object to her going into
20 what would have been Ashley's testimony specifically
21 because she didn't have any knowledge what was said on the
22 phone between Ashley and Elaina?

23 A I mean, I didn't ---

24 Q You didn't find it objectionable?

25 A I mean, it's hearsay, but what am I gaining by making

1 that objection. It's not what convicted Chris.

2 Q Okay. All right. Now, again, going to the very
3 beginning of the trial, I know you had the first trial and
4 this issue comes up sometimes when there's a second trial
5 about motion for sequestration. Was there any strategic
6 reason why you didn't make that motion?

7 A Yeah, one there is no place to put anybody in
8 Fairfield County courthouse. It's very small. We have
9 one courtroom. There's a back hallway. Two, it is always
10 my belief that with sequestration unless you can separate
11 the witnesses which we are unable to do, all they going to
12 do is sit in the same room and talk about the case amongst
13 themselves. What I much rather do is just have them sit
14 out there in the audience, listen to the testimony. And
15 if they say something that I feel that I can use go, well,
16 you been sitting out here the whole time listening to
17 this haven't you. So that is my strategy on that. I
18 generally -- it's my practice not to request sequestration
19 because I don't see where it benefits me in any way.

20 Q Okay. Now, I guess, have you ever felt like you
21 could have made the argument or at least ask that the
22 judge and the witnesses not discuss the case together in a
23 room?

24 A Oh, sure I could, but, I mean, yeah, I can ask for
25 it.

1 Q Right. But your position is you'd rather them hear
2 the testimony?

3 A Yes, that's my practice and that's my strategy in
4 just about every trial. I mean, I can't think of one
5 where I have -- I've had them sequestered, but it's not in
6 at my call.

7 Q Okay. Okay. Fair enough. Now, if you could go
8 to -- again, staying on record on appeal volume three.
9 This would be page 103 and go to lines basically 13 to 17.

10 A Okay. This is the one where they're talking about
11 ---

12 Q Yes.

13 A --- she called when there was a car there.

14 Q Got it. And so is there any strategic reason why you
15 didn't object and move to strike to that hearsay
16 statement?

17 A Absolutely. This was starting to set up my self
18 defense if Odell was the one causing the problem.

19 Q And could you elaborate on that?

20 A Sure. Just like Mr. Moore had testified to, it's my
21 understanding that they had gone over to see another
22 person. They had some difficulties with him. They parked
23 on this road. They were going to go through the woods and
24 go do what they were gone do at Tim Tim's house. Tim Tim
25 wasn't home, so they came back. Unfortunately, they had

1 parked on Mr. Williams' property and his wife and daughter
2 had driven by and had said, oh, you know, they call up
3 Odell and say, oh, there's this car. They were leaving
4 that was my point in that they were leaving. They had
5 done nothing on the property. Nobody had seen them do
6 anything on the property. They're going down the road
7 leaving when she calls and that's when Odell comes around
8 and starts chasing them.

9 Q All right. So, I guess, in context the response the
10 statement is he's always told us to call him. It's also
11 his property, so he like to know that things are going on
12 on his property. He's an ex-police officer, so he like to
13 know whether he needed to call the police or not?

14 A Yeap. I like that too because he didn't.

15 Q And so that was your strategic reason was to
16 basically set up your self-defense argument?

17 A Yes, this is the beginning of essentially pointing
18 the finger at Odell as being the reason why the shooting
19 happened.

20 Q Okay. Now, as far as State's Exhibit Number 3A
21 video recording of the car chase that was on a home
22 security camera, was there any reason why you didn't
23 object to its admission as far as laying a proper
24 foundation of the witness and kind of go through a few
25 things. I'm sure you need to be -- kind of remember. I

1 know it's been ---

2 A No, I remember that one.

3 Q Okay.

4 A Yes, I like the video. I mean, the video showed them
5 being chased by Odell. And if I recall, I think it kind
6 of -- it showed that it was -- nobody was driving slow.
7 They were trying to get away from him and he was trying to
8 chase them. So I didn't have a problem with that video
9 coming in.

10 Q All right. So despite the foundational issues, you
11 thought it supported your theory of self defense?

12 A Absolutely.

13 Q Okay. Now, as far as the direct examination of
14 Cornell Johnson specifically Cornell -- and this is on
15 page 1213. Record on appeal is 162 of the trial
16 transcript. I'll give you a second.

17 A The whole page?

18 Q No, I'm sorry specifically lines ten to 15. You
19 heard it ultimately is referring to Rakel Jackson's
20 testimony just now right and you were in the car with him.
21 You heard his testimony just now, right. Was there any
22 specific reason why -- again, I think based on your prior
23 answers, this is just more of you going through and
24 setting up the reason why you wouldn't have moved for
25 sequestration?

1 A Yeah, exactly.

2 Q Now, that you've answered that, I understand that
3 part, that would be your position because you want them to
4 know what the other person's testified because that would
5 be part of your reasoning for not moving for
6 sequestration?

7 A Essentially. I mean, you know, it's as you well know
8 trial practice in the trenches is a lot of let's see what
9 they say. And depending on what they say, I can go this
10 way or this way. If I like what they said, I can go this
11 way. If I don't like what they say, then I can go, well,
12 I mean, you just been sitting here. And you're just
13 saying what everybody else has already said.

14 Q All right. But, I mean, I guess in the same vain
15 just in the moment of when they're going through it,
16 that's part of your rationale, your reasoning. You're
17 not going to try and stop that testimony because you don't
18 feel it's detrimental to the case?

19 A I mean, if I do think it's detrimental to the case, I
20 would. In this particular circumstance, I did not.

21 Q Okay.

22 A I don't mind objecting, I'm just not going to stand
23 up at probably at every single moment.

24 Q Understood. Now, as far as State's Exhibit Number 4,
25 the map of the actual route that was basically the car

1 chase. And, again, I think this might play into what your
2 answer was just a second ago. The prosecutor in my
3 opinion failed to lay the proper foundation. Based on
4 your prior answer, I assume that's going to be yours now?

5 A It's the same thing. And I'm not disagreeing it
6 didn't lay the foundation. The issue that I have is I
7 wanted that map in. I wanted those jurors to see how far
8 they had gone. For two reasons, one it's only a map. And
9 it shows this extensive and circuitous route quite
10 frankly. I mean, they made several turns with Odell
11 chasing behind them. The other part is I'm in
12 Williamsburg and the people in Fairfield don't go up 321
13 for whatever reason, and I live there I can say that. So
14 they're not familiar with Chester. And I need them to see
15 the map, but I did like the representation of how far this
16 chase went. And like I said, I would call the circuitous
17 route that they took.

18 Q And so your prior testimony -- and I don't want to
19 kind of color it over for you, but your prior testimony
20 essentially because that was going to your theory?

21 A Yeah, the theory of the self defense and Odell being
22 the one bringing on the problem.

23 Q All right. So do you remember this note that was
24 allegedly from Stevie Breland? Basically, Randy Sinclair
25 the investigator?

1 A I heard about it, but, yeah, I don't remember
2 anything specifically about it.

3 Q Well, so basically they give you some background to
4 try to kind of help you. So there was a note that was
5 allegedly from Stevie Breland, the jailhouse witness,
6 where Investigator Randy Sinclair he didn't receive the
7 note directly from Breland allegedly received it from
8 Captain Odom at the jail with the assumption essentially
9 that Odom had received it from Breland, but that was a
10 disconnect there. There's no proof of that. He didn't
11 receive it directly and essentially that the State -- the
12 State, the prosecutors referred directly to it to the note
13 during it's questioning. And essentially the witness in
14 that said quote advise the Solicitor's office that inmate
15 Breland wishing to speak with someone concerning the case
16 of Christopher Moore. And ultimately there was a -- you
17 had specifically I think told the Court I don't think I
18 have any standing to object to Mr. Breland's note. I
19 object to Mr. Breland, but we'll do that at the
20 appropriate time. And so as far as the testimony
21 regarding that note, again, just the same thing we been
22 talking about as far as foundation, authentication. Was
23 there any reason why you wouldn't object to try to just
24 keep that out?

25 A I mean, it's ---

1 MS. DIXON: I would like to ask for the
2 transcript page number so we all clear?

3 MR. PHILLIPS: Sorry about that, so still record
4 of on appeal volume three 1261. I think it is also
5 reference to 1262 and then 1266. That is page 210, 211
6 and 215 of the trial transcript.

7 MS. DIXON: Thank you.

8 MR. PHILLIPS: I apologize.

9 A I mean, as far as I recall, it's just a simple inmate
10 request. I mean, he didn't give any testimony in this
11 thing. It's just a note that says Breland wants to talk
12 to the Solicitor about this case. Ultimately, he did talk
13 with the solicitor and he gave statement and he testified.
14 So I don't think that this note had any consequence on
15 what the end result was. And I mean my objection is
16 clearly to their snitch not to this note.

17 Q Well, and I guess as far as the note itself, do you
18 remember anything about the note?

19 A No, I don't, but it wouldn't have kept Stevie Breland
20 out. I mean, I could have objected to it. They could
21 have sustained that objection. Stevie Breland still going
22 to testify.

23 Q Now, as far as the DNA and people say it different
24 ways buccal swab, buccal swab, however you want to say it.
25 Essentially, there was the State's question -- this is

1 record on appeal say volume three page 1272 lines one to
2 15 and then 1273, 15 to 18. Phillip Perry's direct
3 examination trial transcript pages 221 and 222
4 specifically where there was basically the State saying
5 that this DNA buccal swab was taken quote was taken
6 pursuant to a court order where such testimony
7 regarding -- basically saying where there's a prior order
8 of rulings from the Court. Was there any reason why you
9 wouldn't have objected to that specific of them trying to
10 say there was a court order -- a prior court order to take
11 his DNA. In other records, the jury doesn't understand
12 the background of that and all they hear is there's a
13 prior court order to take his DNA?

14 A Yeah, I think that's a whole lot better than
15 explaining what a Schmerber hearing is. I mean, the
16 testimony is going to come in, but the State is going to
17 be allowed to testify how they got the DNA swab. They're
18 going to be allowed to explain that in some way. And so
19 versus going well, you know, he fought -- and I honestly I
20 can't remember this one. We consented whether there was a
21 Schmerber on it, but I think it's preferable just to say
22 there was a court order that allowed him to take the DNA
23 versus trying to get into the weeds about how we got to
24 that point. Certainly, if we fought it, I don't want the
25 jury hearing that we fought it and I like to fight those

1 things.

2 Q Understood. Just make sure we had your opinion on
3 it. Now, as far as the SLED Agent Melinda Warley, you
4 remember that specific witness in this case?

5 A Not specifically in this case.

6 Q I'm sure you've cross-examined her.

7 A I've had her in trials, yes, subsequent to this, so,
8 yes, sir.

9 Q And so in this case if you look at page I believe
10 it's -- I believe there's a pretrial motion on page 43 of
11 the trial transcript, which is 1094 the record on appeal.
12 And then page 44 of the trial transcript 1095 of the
13 record on appeal. And then have you jump over in a second
14 when she actually testifies, which is page 247 of the
15 trial transcript 1298 of the record on appeal.

16 Essentially, she testifies regarding the -- she describes
17 finding an assault riffle type cartridges. And there is
18 that prior ruling about prohibiting the mentioning of an
19 assault riffle. Was there any specific reason why you
20 didn't object to that testimony move to strike when you
21 had this prior ruling to keeping out the assault riffle
22 language, but she's testifying assault riffle cartridges?

23 A Yeah, I wanted to move on. I mean, I didn't really
24 want to draw attention to that mention and it was assault
25 riffle type riffle cartridges. I mean, you know, it's

1 getting to splitting hairs and drawing attention to that
2 and possibly getting a ruling against me. I think it's
3 better just to let that go and paddle another part.

4 Q Okay. Staying with Ms. Warley with her actual trial
5 testimony kind of bouncing around here with some of the
6 pages, but on 1308 -- and I'll probably just end up
7 walking and showing you to help you here. There is
8 testimony where I will ---

9 MR. PHILLIPS: Your Honor, I think probably just
10 the ease of everybody, I'll keep making sure the State
11 knows what pages, so we don't have to get an objection
12 trying to figure out where we're at.

13 BY MR. PHILLIPS:

14 Q Now, specifically as far as Agent Melinda Warley's
15 testimony regarding tools, dowel rods where the statements
16 essentially goes to the crime scene reconstruction. Was
17 there any reason you didn't object and move to strike the
18 testimony that she wasn't qualified as an expert in a
19 crime scene reconstruction? Basically, she provided
20 beyond the scope of lay-opinion testimony into expert
21 testimony?

22 A Because I think they would have simply qualified her
23 as an expert right then.

24 Q But that didn't happen?

25 A It didn't.

1 Q So, I guess, is there any strategic reason why you
2 didn't object and make them -- if they're going to provide
3 expert testimony make them actually have her qualified?

4 A I mean, one I'm not entirely sure that that is
5 necessarily expert testimony. They are trained CSI
6 agents. I've had them qualified before as experts. So I
7 knew that she would likely be qualified as an expert. So
8 I just didn't see strategically where that gained me
9 anything by stopping her testimony so we can have an
10 in-camera hearing and doing all that.

11 Q You would agree that's beyond the scope of layperson
12 -- that would fall under 702 as far as -- I mean, the
13 average person, the average juror would know anything
14 about dowel rods and certain tools of how they provided
15 crime scene reconstruction?

16 A All they're doing is sticking a stick in a hole and
17 seeing what direction it comes out. I don't know if you
18 got to be an expert to do that.

19 Q Now, there's specific training she had, correct?

20 A Yeah, I think she testified about training.

21 Q Right.

22 A They always do that.

23 Q When someone has specific training and experience and
24 skills, that would then go into a qualification of expert
25 testimony?

1 A It can.

2 Q Right, because the jury doesn't know anything about
3 that kind of stuff. They don't have that training and
4 they don't have that experience?

5 A Right.

6 Q And so you didn't have a strategic reason for not
7 objecting and at least seeing whether the State would try
8 to qualify this witness.

9 A Yes, because she was going to get qualified as an
10 expert. There was no reason to stop the trial to have a
11 hearing where I knew the result of the hearing was going
12 to be.

13 Q I mean, that's your opinion?

14 A That was my strategy.

15 Q Again, staying with Melinda Warley as far as again
16 the same thing she testifies as far as bullet trajectory,
17 direction of travel, the shots. Any specific reason why
18 you elicited that on cross-examination? And, again, in
19 the context of previous question.

20 A I elicited?

21 Q Yes, give me one second. So on cross-examination you
22 said so what does putting the dowel in there tell you.
23 And she says the direction, the path of the bullet
24 basically where it came from, where it's going. You're
25 essentially going through her own testimony ---

1 A Okay.

2 Q --- on that specific issue, right? Was there any
3 reason why you wanted to bring all that up on
4 cross-examination?

5 A I believe the State had already talked about it.

6 Q All right. And you didn't object to it?

7 A Right.

8 Q And so, again, looking here you cross-examined what
9 makes you think it's a suspected bullet defect, and she
10 says, well, it's kind of the direction of the bullet
11 striking a flat surface. And then you ask what direction
12 was the bullet traveling. She said towards the rear of
13 the vehicle. And so, I guess, in context of the previous
14 question, your position is it's just better to highlight
15 again that testimony. I'm just trying to wrap my mind why
16 you would have highlight that on cross-examination?

17 A Well, I mean, we're just talking about the direction
18 of the bullet. I don't know what prejudice I've invoked
19 with that.

20 Q Well, no, as far as if it's not something that should
21 have even been before the jury if you would have objected
22 to it as far as her, you know, not being qualified?

23 A But it was going in front of the jury. There was no
24 way to keep that out, that was what her testimony was
25 going to be. I could object to it all day long. The

1 judge is going to let that in. I could object to her not
2 being an expert. The judge is going to qualify her as an
3 expert.

4 Q Okay. I mean strategically, you know, I mean,
5 there's no way to know for a fact that's what exactly
6 happened, that's fair to say, right, that's why we have
7 rules of evidence?

8 A I can say with a reasonable degree of certainty in
9 practicing 22 years and having tried several trials in
10 front of Paul Burch, I was pretty sure what he was going
11 to rule.

12 Q Okay. Again, staying with Agent Warley, again
13 ballistics expertise testimony. I think a lot of the
14 questions we're about to go through here is one that it's
15 all based on if you believe she would have been qualified
16 as an expert witness and you decided not to object to
17 that. Is that fair to say?

18 A Yes.

19 Q All right. So any of the testimony regarding
20 ballistics and everything related to that, it's all
21 encompassed under -- I'll just kind of keep walking
22 through these specific allegations again citing record on
23 appeal volume three page 1335 and 1336, that's page 284,
24 285 of the trial transcript. Redirect goes through
25 essentially the full testimony of the projectile being a

1 bullet. All this testimony that normally is expert
2 witness testimony, again, we kind of asked and answered.
3 Your prior answers to these other questions is all
4 encompass under -- you just believe it was going to come
5 in any way and you didn't want to object to it?

6 A I believe it would come in any way and it would not
7 have changed the outcome of the case.

8 Q Okay. And the same as far as any testimony regarding
9 firearms record on appeal page 1336, 37, 1337. Again,
10 basically, it's the same exact testimony we just reviewed.
11 So any testimony regarding bullet trajectory, ballistics,
12 background, firearms specifically all of that under the
13 same umbrella, that's your position that there's no need
14 to object to have him qualified as an expert because in
15 your opinion ---

16 A Would not change the outcome. She would have been
17 qualified. It would have come in.

18 Q Now, this is a different witness different SLED Agent
19 Brittany Burk. She testified to ballistics evidence as
20 well. And, again, and that's record on appeal volume
21 three page 1343, that's record on appeal or excuse me
22 trial transcript 292 through 319. She basically goes
23 through also very similar as far as projectiles, firearms,
24 ballistics all that testimony that comes through the
25 forensics department essentially ballistics evidence.

1 Your answer regarding the Melinda Warley testimony is
2 going to be the same for Agent Burk?

3 A Yes, their training is the exact same. They would
4 proffer her expertise and credentials. She would have
5 been admitted. I mean, as we're all aware of the bar on
6 702 and 703 is very very low.

7 Q Now, as far as State's Exhibit Number 68, the latent
8 print report where examiner is it Tiffany Hazel testified
9 to its contents when the document itself was reported from
10 law enforcement agent had that opinion material. I'll
11 show you the page number. It's record on appeal 1390
12 trial transcript 339. Was there any specific reason why
13 you didn't object to the admission of that report when it
14 contained specific opinion material?

15 A The opinion was they couldn't find any fingerprints,
16 is that right?

17 Q What it also has contained in the report itself. I
18 understand your position.

19 A I mean, I like what the report said.

20 Q Okay. So, again, your position is it supported your
21 strategy?

22 A Yeah, I'm not going to fight against a piece of
23 evidence that I like.

24 Q Now, State's Exhibit Number 69 supplemental report
25 from SLED agent who didn't testify at the trial

1 specifically agent -- special Agent Meeres basically
2 covers processing the result of the evidence again for
3 latent evidence. Your testimony is the same. You're
4 saying it doesn't affect the outcome of the trial and
5 there's no need to object to it?

6 A This is on the fingerprints, right, the latent print
7 evidence?

8 Q Yes, the additional part of that?

9 A Right.

10 Q The other report when somebody doesn't come to
11 testify.

12 A So ultimately the report said they couldn't find any
13 fingerprints.

14 Q Right.

15 A I'm one hundred percent cool with that.

16 Q Understood. But what I'm saying is as far as them
17 putting that in there when they don't have an agent to be
18 there. Was there's no reason for you -- you don't have
19 any other reason why you just allow them to come in other
20 than you just said it's not detrimental to your case?

21 A I think it's helpful for the case, that's why I
22 wanted it to come in, so I'm not going to argue against it
23 to keep it out if I want it to come in.

24 Q Understood. But at that point -- I guess, I'm not
25 trying to put the cart before the horse. Had y'all

1 already discussed whether he was going to testify?

2 A I can't remember. What I usually do on that
3 situation is I tell them to start thinking about it at
4 some point during the trial. And then just see how the
5 testimony goes and then we have the final conversation.
6 Of course, ultimately it's the client's decision
7 regardless of what I say.

8 Q Right. And strategically you said your main issue,
9 your main defense is self defense?

10 A Yes.

11 Q Okay. Just within that lens as far as you're not
12 disputing that he wasn't present?

13 A There was no way to dispute he wasn't present. I
14 mean, we had enough evidence to do that in his statements,
15 so, I mean, it was a self-defense case. I mean, this is
16 not some legal trickery. That's what this was.

17 THE COURT: All right. We're going to take a
18 five minute recess. If Mr. Moore needs to use the
19 restroom or he can stay whatever is appropriate. And,
20 Mr. Frick, you're still under oath. Do not discuss your
21 testimony with anybody just take a five minute short
22 break.

23 (WHEREUPON, a break was taken.)

24 THE COURT: State ready to proceed?

25 MS. DIXON: We are, your Honor.

1 THE COURT: Mr. Phillips, whenever you're ready.

2 MR. PHILLIPS: Thank you, your Honor.

3 THE COURT: Is that Mr. Moore's family who is
4 present?

5 MR. PHILLIPS: Yes, your Honor.

6 THE COURT: Are they coming back in in a minute?

7 MR. PHILLIPS: They are. I think they all
8 probably did the bathroom run. I'll go out there.

9 THE COURT: Well, you can let them in as they
10 come in through testimony. We don't have to keep them
11 locked out. So you can start your questioning now of
12 witnesses and we'll let them come into court.

13 MR. PHILLIPS: Thank you, your Honor.

14 BY MR. PHILLIPS:

15 Q Okay. All right. So co-defendant Terrance Buchannon
16 when he indicated that he had the assault riffle, we had
17 this prior ruling prohibiting the referencing of an
18 assault riffle. Was there any specific reason why you
19 didn't fail to object to same as before?

20 A Same as before. You know, I think he went further
21 into some more stuff after that and I then objected. That
22 is something that I will do is if I just don't -- I don't
23 want to draw attention to it is what I'm trying to do. I
24 mean, in fairness, I mean, I filed the motion because I
25 didn't want it to be referenced as an assault riffle, but

1 when you see the gun, that's the first thing that pops in
2 your head.

3 Q Okay. Right, but with that specific term your main
4 issue in your response is essentially you can tell me if
5 I'm wrong you just don't want to draw attention to it by
6 highlighting it through an objection?

7 A Yes, I mean, I don't want -- if somebody was asleep
8 on the jury and they didn't hear it, I don't want to wake
9 them up and let them hear it figuratively speaking
10 obviously.

11 Q Now, with the co-defendant Terrance Buchannon during
12 his testimony when he indicated that the applicant and his
13 other co-defendants were going to a rival gang members
14 house the night of the incident, and, again, the trial
15 court had previously ruled to keep that prejudicial
16 language out of the trial and had sustained, you know,
17 essentially that objection before. Was there any
18 reason -- and actually sustain that objection. Was there
19 any reason you didn't move to strike and ask for a
20 curative instruction regarding that?

21 A I'll be honest I'm kind of confused on when we're
22 suppose to get a curative instruction when we're not.

23 Q It can't be a shell game.

24 A And, I mean, I don't want to give up the objection.
25 Again, I don't like drawing the attention to it, but it is

1 also been my understanding that there are cases where you
2 ask for the curative instructions, so you haven't preserve
3 the objection. So I just -- I didn't ask for it. And
4 basically because one I didn't want to draw the attention
5 I was in my mind trying to keep the objection.

6 Q Right. So you win the objection and your position is
7 you just felt like that was enough. There wasn't any
8 reason to move to strike or curative?

9 A Correct.

10 Q All right. In hindsight, you know, as far as -- I
11 mean, we know even recently gang language cases. In
12 hindsight, would you move to have a curative instruction?

13 A Probably not.

14 Q Okay. Now, where the co-defendant Buchannon had the
15 statements to police during redirect examination, the
16 prosecutor essentially had him read verbatim on previous
17 statements to police that was not in evidence and there
18 was no foundation for it. Was there any reason you didn't
19 move to or object to move to strike that? And I'll hand
20 it up to you.

21 A Have you got the statement there?

22 Q I'm going to have to pull it up here.

23 A In general here's what I recall about all the
24 co-defendants' statement.

25 Q Yes.

1 A I kind of liked them. Because they said what I was
2 going for is that they didn't fire until fired upon, that
3 Odell kept chasing them. That I thought that was part of
4 my strategy in the self defense was to continue to prove
5 that they were attempting to get away from Odell. And no
6 one tried to shoot a gun at him until they heard shots
7 fired at them.

8 Q All right. And so -- and I know that's kind of been
9 the theme so far what we had as far as the answers. Now,
10 going specifically to again testimony as far as statements
11 made by other co-defendants that were in Derrick Dixon's
12 written statement to police, which the prosecutor
13 essentially read verbatim during direct examination of
14 Dixon. That's on record on appeal volume four page 1607,
15 that's 556 of the trial transcript line six to 17. And so
16 they go back to that statement. Was there any reason why
17 you didn't object on confrontation of hearsay move to
18 strike?

19 A Yeah, because it talks about him stopping the car,
20 possibly getting out and then they leave again. And then
21 once again Odell starts pursuing them. He had an
22 opportunity to abandon the chase at that point. They all
23 stopped. He was getting out of the car. They drive off
24 again. So I have no problem with that statement
25 regardless of its issues because that still going to my --

1 I mean, it could have ended right then.

2 Q And, I mean, you acknowledge that what we have in
3 that statement there is a hearsay confrontation issue
4 there. You agree with that?

5 A There is, yeah.

6 Q All right. But your issue was that you thought it
7 furthered the self-defense theory?

8 A I thought furthered the self defense, that's correct.

9 Q All right. And so, again, where it says about did
10 Buchannon tell you that he was on police stuff. I mean,
11 you admit there are some things that are not perfect for
12 you?

13 A No, I disagree on that. If he's on that police
14 stuff, why is he pulling out his gun and shooting at
15 people instead of as a -- at the time sitting city council
16 member and calling somebody up, perhaps could not have
17 been the chief of police since there was a pending warrant
18 against him for threatening him, but he could have called
19 somebody.

20 Q Fair enough. Now, as far as the jailhouse witness
21 Stevie Breland when he testified specifically -- and I'll
22 get all -- basically, he goes into his own testimony.

23 MR. PHILLIPS: I'll help you out here, I'll give
24 you the pages.

25 THE COURT: What page is that?

1 MR. PHILLIPS: Record on appeal volume four 1636
2 through 1656 and that's transcript page 585 to 605. And
3 then I think there's some argument pages, which is 1804
4 and 1818 been reference back.

5 BY MR. PHILLIPS:

6 Q And so essentially you have this jailhouse witness
7 testifying going through essentially almost the crime
8 scene reconstruction testimony. And I know earlier when
9 you said you didn't object to having the SLED agents
10 provide, you know, why you didn't object to have them
11 qualified as expert witnesses to their testimony and to
12 ballistics and firearms and everything under that
13 umbrella. Was there any specific reason why you didn't
14 move to try to strike his testimony? He's not a SLED
15 agent. He's not a trained law enforcement officer?

16 A What specific are we trying to talk about?

17 Q All right. So let's walk through kind of try to help
18 you through this thing. All right. So we'll start at
19 585. So he's basically -- he goes into line 12 at the
20 time when I said quote, well, Chris, I'm about 5'10 and a
21 half. You're about 6'3, 6'4, and he goes through as far
22 as the quote on the shooting. And then you go to the next
23 page 586, that he fired 17 times stating he's running
24 shooting over his shoulder basically lines -- you can
25 start at four to 16. And, again, it's pretty much

1 littered throughout these pages. We'll kind of keep kind
2 of going through. And he goes through all this ballistics
3 testimony and certain firearm testimony. Was there any
4 specific reason why you didn't object to that?

5 A I mean, I don't know Jeff being an expert to say that
6 that story didn't make any sense. If what he is relating
7 is that Chris told him that he was running holding this
8 large riffle and shooting it backwards, you don't have to
9 be an expert to say that that story doesn't make sense.

10 Q Right. But in context of who he is, he's this
11 jailhouse snitch witness. He's coming in. He's now
12 pivotal to the case. He didn't testify at that first
13 trial. He's here in the second trial and obviously the
14 cross-examination is a very critical point. As far as
15 anything as far as allowing him to go through that and I
16 understand your position is that it's not -- I guess, your
17 position and I don't want to speak for you, that it's not
18 expert testimony. He's not going into that. Is that what
19 your testimony is?

20 A Yeah, I understand it's not expert testimony. You're
21 correct.

22 Q That he never went past that threshold of lay opinion
23 testimony?

24 A It's just a personal opinion, yeah, and I believe
25 sitting here he was a marine, so, I mean, obviously, he

1 had some firearms training.

2 Q But you would agree if his testimony is considered of
3 going past somebody that has certain skills and training
4 and resources and experience, that that does bleed over
5 into 702 expert testimony?

6 A If that's what his testimony is.

7 Q Okay. But your position is that he never crossed
8 that line. He was just providing his opinion about what
9 happened in the case?

10 A His personal opinion.

11 Q All right.

12 A I wasn't as concerned about that with Mr. Breland as
13 other issues about Mr. Breland.

14 Q Well, talk to me specifically what issues were you
15 concerned about?

16 A So Chester is a small courthouse. And I was present
17 when Mr. Breland had had his bond hearing about his hit
18 and death result bond gets denied. He was being housed in
19 Chester County at that time. Subsequent to that bond
20 hearing, which he even speaks to here after he gets back,
21 that's when all of sudden Chris spills his guts to him
22 which I one hundred percent do not believe in all my
23 dealings with Christopher Moore. I do not believe he
24 would have talked to that man about anything, but
25 nonetheless, Mr. Breland says that he befriended him and

1 give these statements. Reaches out to the Solicitor's
2 office and then magically gets moved to be housed down in
3 Charleston County where he is from. I attempted to get
4 that information in and I was not allowed to explore it.

5 Q Understood. And, again, kind of taking a step back
6 when -- and, again, just to help you out page 587 if you
7 go down to line 21. Stevie Breland says, well, I ask
8 Chris I said did the investigators get any shells out of
9 the councilman's car. And then he goes into pontificate
10 this is the kind of the whole reason for this line of
11 questioning that I have with you here. That he says,
12 well, since, because if he fired six times kind of
13 impossible for him to reload trying to drive and chase
14 someone because you normally drive at a speed maybe 45,
15 50, 55, 60 miles per hour and you got to the wheel with
16 one hand, pop the revolver, load with the other. So he's
17 going through all of these things when the whole purpose
18 of his testimony is to say that the defendant provided
19 essentially information to him, confess to him, you know,
20 very limited scope as far as his true purpose. But now
21 he's going into what he speculates as to what potentially
22 could happen, what did happen nothing that he had personal
23 knowledge of. I mean, allowing him to go through all that
24 with the jury. Was there any specific reason you didn't
25 want to object and move to strike that?

1 A Again, I mean, I think it's just his personal
2 opinion. He's adding some conjecture to it. I just -- I
3 don't know that I gain anything by that. His personal
4 opinion wasn't the issue here. So I could object to that
5 all day long even. Even if it gets stricken, it doesn't
6 change his story. And what I was trying to attack is
7 you're a snitch. You're trying to get a benefit and you
8 got a benefit. And, I mean, I just wasn't allowed to get
9 into some of that.

10 Q What do you believe the basis for why you weren't
11 able to get into it in your opinion?

12 A We had conversations. There were bench
13 conversations. There were in-chambers conversations. And
14 I believe I attempted to preserve some of that on the
15 record. I'm not going to say that I got all of it on the
16 record, but there had been concern expressed about gang
17 retaliation against Mr. Breland. They didn't want me to
18 mention that he had been moved to Charleston and for me
19 that was benefit he received. He's not from Chester. No
20 connection to Chester. And when he agrees to testify
21 under the standard, oh, we've made no promises, he's just
22 going to testify because it's the right thing to do. He
23 gets moved back home to Charleston where his family could
24 see him. And the judge if I recall, there was concern
25 about just knowing where he was. And he wouldn't let me

1 get into it.

2 Q And just to touch on the point, there was some bench
3 conferences. There were some other conferences back in
4 judge's chamber. What specific was -- I mean, I know you
5 said you tried to preserve for appellate review. What
6 specifically was said that you think was possibly
7 necessary as far as preserve those arguments?

8 A To say that I believe that he was receiving a benefit
9 by being move down to Charleston, which I think is in the
10 transcript. I'm trying to recall. I think that got in
11 there, but that was the main thrust of my argument was
12 that he's receiving a benefit by being moved from the jail
13 that he wouldn't normally be housed into a jail that he --
14 that's in his community.

15 Q Understood. Okay. And so going to Stevie Breland's
16 cross page 597, there was an issue where the prosecutor
17 objects to your cross-examination of Breland regarding
18 this very testimony that we been talking about go to line
19 seven where the objection comes in. Actually, start at
20 the top of line one. His response to you I never said I
21 was an expert in ballistics. You know, he said I compared
22 to the type of weapon that I shot in the Marine Corp
23 right. And then you ask him and you talked about where
24 the shell casings should have landed if someone standing
25 in one direction. Wouldn't be your opinion? And so you

1 acknowledge -- well, what he acknowledges that he was not
2 an expert witness. And then you ask him like for
3 specifically his opinion about what he's testified to.
4 And that's when the State objects, right, and says your
5 Honor Mr. Frick should have if he wanted Breland not to
6 testify that he should have objected when I was directed,
7 there was no objection made to that. He's not qualified
8 as an expert. And this is line seven to 12. Just trying
9 to highlight where what we were just discussing. I mean,
10 there's essentially a show down about the very issue
11 questions were happening. I mean, even the State objects
12 to it at one point?

13 A And it was sustained.

14 Q Right. So what I'm saying is with that being said
15 with you looking at that?

16 A The objection was overruled I'm sorry.

17 Q Because you didn't object to it before. I mean ---

18 A No, they overruled the State's objection, so the
19 State -- the judge said -- he just told us to move on
20 basically. He didn't want to linger on it any more.

21 Q No, understood, but what I'm saying is, I mean, it's
22 laid out on this page that he admits obviously he's not an
23 expert. And then you're asking for his opinion. Again,
24 I'm just trying to make sure to figure out what your
25 strategy was for allowing all that to take place?

1 A Well, that is part of my strategy. I mean, I'm going
2 at his credibility. First of all, he's talking about, oh,
3 I know these angles and all these things. This doesn't
4 make sense. This is how this worked. And then when I
5 started asking questions, well, then all of a sudden,
6 well, gee, I don't know how it works. And so that's my
7 strategy of attacking his credibility and attacking his
8 statement that he was there to testify about is to say,
9 okay, what part can you believe of what he tells you. I
10 means, it's the trick that we get where magically you can
11 answer whatever the State ask you, but when defense starts
12 asking questions all of a sudden your memory ain't good.

13 Q Okay. Now, as far as kind of the same instance of
14 what we been kind of discussing, do you have any issue as
15 far as, again, the State repeatedly elicited this opinion
16 testimony and I know you've testified that it's your
17 strategy to allow him to do that so you can attack his
18 credibility, but where goes into the section, you don't
19 believe at any point he's provided any type of improper
20 opinion testimony. I'm just trying to figure out from a
21 legal standpoint are you just saying I let that go because
22 I think it's better to cross-examine him on it? I'm just
23 trying ---

24 A That's essentially -- yeah, that's essentially what
25 I'm saying is I thought that was better fouter for

1 cross-examination than a legal argument. I mean, I got a
2 guy that's trying to say that my client has gone back to
3 the jail and just bared his soul to him and told him all
4 this stuff. And, I mean, he's trying to make it out like
5 he became his father figure while he's in the Chester
6 County jail when I personally believe all he did was watch
7 the six o'clock news that shown the trial, but then
8 magically he becomes this big witness for the State. And
9 so I'm just -- I'm trying to show that he is fabricating.

10 Q Okay. And so if we go to record on appeal volume
11 four page 1654 and 1655, that's 603 and 604 of the trial
12 transcript. You go down to essentially -- testimony
13 regarding essentially the -- injuries talking about
14 bruising you can start at line 24 going on to the next
15 page on 604. You ultimately object and say he's not been
16 qualified -- and this is the redirect of Mr. Breland, that
17 he hasn't been qualified as an expert in bruising. And so
18 I guess, you know, he testifies Chris -- he said I said
19 Chris you should have had some bruises or something on
20 your arm. So, again, just going through this part as far
21 as the credibility, again, I can kind of go through. I
22 understand you ultimately objected. Was there any reason
23 at that point you don't ask then to strike move to have a
24 curative instruction? I know we've had this come up
25 already as far as -- just so the jury understand that this

1 witness can't just -- randomly speculate about all these
2 different things and testify to all these things that are
3 clearly well beyond the scope of what his actual testimony
4 should have been?

5 A What my strategy is to point that out so he can -- so
6 the jury can consider all that, then I very well can't ask
7 him to strike it because they're going to be told not to
8 consider it.

9 Q If that's your strategy?

10 A But my strategy essentially was I started hearing him
11 talk and I just want to shut him up for a second, so I
12 stood up and objected.

13 Q Okay. All right.

14 MR. PHILLIPS: One moment, your Honor.

15 (WHEREUPON, a pause in the proceedings.)

16 BY MR. PHILLIPS:

17 Q Now, where, again, going to record on appeal volume
18 four page 1641 to 1643, that's 590 to 592 in the trial
19 transcript. Stevie Breland testifies that applicant did
20 not change his ways for God and that he fought smaller
21 inmates in the jail to move to another cell block with a
22 co-defendant. Could have killed a man and picked him up
23 and slammed him on the face? Do you remember that
24 exchange of testimony?

25 A I see it in the transcript. I don't necessarily

1 remember.

2 Q Is there any reason why you didn't object to that
3 argument 404(b), 403 even 401 as far as ---

4 A I think he's just -- going too far and a jury looks
5 at that and goes this guy is just making up stuff. I
6 mean, he's ---

7 Q I guess, you didn't have a strategic plan other than
8 your whole opinion is that he's just not credible?

9 A I mean, that would be the strategy. I'm just trying
10 to make him not credible. And by letting him say what he
11 wanted to say until I got tired of hearing him talk and
12 just want him to shut up for a second strategy is to let
13 him run his mouth, beat him up on cross-examination. And
14 then let the jury decide his credibility. I didn't think
15 his statement was very credibility as a whole, which is
16 part of the reason why if you want to tell this story go
17 ahead and tell it.

18 Q Well, but you do admit that you could have objected
19 and argued 403, 404(b) all the different reasons of things
20 he shouldn't ---

21 A I mean, that's like holding in a football game it
22 happens on every play. I mean, yeah, I could have object,
23 but my strategy is not to do that at that point. My
24 strategy is to let him put it all out there. And then let
25 the jury decide what they think is credible because as I

1 said I think if you -- his whole statement as a whole it's
2 not credible.

3 Q I mean, you would admit, I mean, that's a pretty
4 prejudicial, some compelling things of saying that
5 applicant hasn't changed his ways for God fighting other
6 inmates to be moved so he could be with a co-defendant.
7 That he could have killed another man. I mean, that's
8 some highly inflammatory. I mean, some would say it was a
9 probative value would mean substantially outweighed by the
10 prejudicial effect.

11 MS. DIXON: Object to leading.

12 THE COURT: Let me finish the statement. All
13 right, sustained. Will you rephrase your question.

14 BY MR. PHILLIPS:

15 Q You know Rule 403 of the rules of evidence?

16 A Yes, sir.

17 Q And so the probative of evidence is substantially
18 outweighed by its prejudicial effect and then would be
19 inadmissible?

20 A It would be.

21 Q And you understand 404(b) as far as other bad acts or
22 propensity evidence and how all that goes. And so with
23 that and even again relevance to the case at hand, the
24 self-defense case a shooting having this jailhouse
25 testimony, jailhouse snitch testimony come in and him

1 saying that the applicant had not changed his ways for
2 God, had fought smaller inmates to be move closer to his
3 co-defendant, that he could have killed another man while
4 he was in there. I mean, you would admit that's highly
5 inflammatory?

6 MS. DIXON: Object to leading. Object to
7 leading.

8 THE COURT: Overruled. Thank you. You can
9 answer the question.

10 A I mean, if they believe it. I didn't think they
11 believe it. I mean, again, essentially that's my strategy
12 where Mr. Breland is. He's going too far. He's saying
13 too much that when you put it together, I think the common
14 person goes he's making this up.

15 Q I mean -- and I'm not going to belabor the point your
16 Honor, I'm just going to kind of get to it. So, again,
17 we've already hashed out that specific issue, but even if
18 you look even closer to the -- hadn't changed his ways for
19 God. If there individuals on the jury who were highly
20 religious, do you think that could have had them make a
21 decision on an improper basis or really any of the
22 improper character propensity evidence that they would
23 make a decision not based on the evidence itself, but
24 based on this improper evidence. In other words, it's so
25 inflammatory they're so focused on he's a bad guy, he

1 hasn't changed his ways with God and that he's out there
2 beating people up trying to kill people in the jail, that
3 that could sway their decision. That they're ultimately
4 -- they make their decision not based on the evidence, but
5 based on that inflammatory testimony?

6 A Based on that singular statement, no, I do not
7 believe that change their opinion.

8 Q Okay. But you didn't object to it?

9 A I didn't object to it.

10 Q Now, when Stevie Breland was moved to the other
11 facility, I know you said you had some bench conferences
12 and different things that you were trying to cross-examine
13 on that issue as far as that was a benefit to him, right?

14 A Yes.

15 Q I'm just making sure I got this.

16 A Yes.

17 Q All right. And so when the prosecutor sought that,
18 they only ensure that the actual location was not
19 revealed. You said that was because the State was trying
20 to say there was some type of gang retaliation?

21 A That was what I was -- yes, that's what was said is
22 they didn't want -- that they were concerned about issues
23 with some kind of retaliation.

24 Q Now, with that back and forth, I'm just trying to
25 make sure as far as on page 608 of the trial transcript

1 lines 13 to 19, you tell the judge your Honor yesterday
2 when Mr. Breland was testifying I inquired as to something
3 and we had a side bar on the matter I was trying to get
4 into whether he received a benefit whatsoever and I think
5 we discussed that in chambers. I ask you to allow me to
6 delve into that. Now, specifically is there any reason
7 you wouldn't have asked the trial court to instruct the
8 jury that he was move to another facility? I mean,
9 obviously, I guess, the whole issue the trial court said
10 he wasn't going to let you get into it, correct?

11 A The judge ruled that we couldn't talk about where he
12 had been moved.

13 Q Now, and that's a specific location. I'm talking
14 about to have just in general the benefit itself?

15 A The benefit is specifically being moved to
16 Charleston. If I can't get that he's specifically been
17 moved to Charleston, I mean, he could have been moved to
18 Fairfield. He could have been moved to Union. I mean,
19 that's not a benefit. The benefit in my mind was
20 specifically him being moved back to his home county from
21 a county that he had no connection other than that's where
22 his charge was.

23 Q And why would that be different then if he moves to
24 another location -- any other location? I'm just trying
25 to make sure I understand.

1 A Because I then can't look at him and say, well,
2 you're from Charleston, aren't you. I mean, that's what
3 I'm trying to lead up to in my cross-examination is where
4 you're being housed right now in Charleston County
5 detention center. And that's where you from, isn't it?
6 You don't have any relatives in Chester, do you? I mean,
7 that's where I'm trying to get to. I can't do that.

8 Q I mean, that's what ---

9 A I can't do that if I can't talk about Charleston.

10 Q That was your basis for your argument?

11 A Yes.

12 Q Now, as far as Investigator Christopher Reynolds, was
13 there any reason as far as the testimony the applicant was
14 charged where he goes through and says the applicant was
15 charged with murder, that murder requires the intentional
16 killing of someone with malice aforethought. Then a
17 magistrate had to agree to the police had probable cause
18 where he goes through that whole process, that's 1682 page
19 631 lines eight to 15 and I can show you. I know we're
20 jumping around. So essentially we've got the
21 cross-examination of Christopher Reynolds. And your
22 question is that the warrant charges Christopher Moore
23 with murder and he says that's correct. And you say
24 murder requires intentional killing of someone with malice
25 aforethought. He says that's correct. Again, a warrant

1 you go to a magistrate with probable cause. What was the
2 strategy behind walking through that?

3 A The strategy is we're not saying it didn't happen.
4 We're just trying to explain why it happened.

5 Q Okay.

6 A I mean, I'm not denying that he shot and the shot
7 that he fired killed Odell Williams, that's not the
8 question in this case. The ultimate question in the case
9 is how did we -- I mean, why did that happen.

10 Q Right. I'm just trying to wrap my mind around how on
11 cross -- I guess, what the strategy is to have the
12 investigator testify that a magistrate made a probable
13 cause determination that he committed murder?

14 A Because look at line 16 when I say, well, Chris told
15 him in the interview or he told him we know y'all didn't
16 mean to do this. What I'm trying to do again in this area
17 is get Chris to admit that he's lied to him. And then I'm
18 trying to just establish that they were trying to get him
19 to say whatever their intent was. And they were doing
20 that by subterfuge, that's where I'm getting at. I'm
21 leading him through that process to get to that point.

22 Q Just to show that they weren't straight with him
23 during the interview?

24 A Yeah.

25 Q Okay. But, again, as far as the basis itself of

1 having a magistrate make a determination that there was
2 probable cause that he committed murder, you're just
3 literally trying to show the procedural process?

4 A Right. But I always point out to a jury that for a
5 conviction you've got to get beyond a reasonable doubt.
6 So, I mean, even if we could disagree whether or not I
7 should have mentioned probable cause or not, the jury is
8 instructed by me and the judge that they have to have
9 beyond a reasonable doubt to get the conviction
10 ultimately.

11 MR. PHILLIPS: One moment, your Honor.

12 (WHEREUPON, a pause in the proceedings.)

13 BY MR. PHILLIPS:

14 Q All right. So page 1697, that's volume four of the
15 record on appeal, 646 the trial transcript. Looks like
16 the testimony of Lee Blackmon on direct. You got it?

17 A I got it.

18 Q Okay, good. So in questions that all those phones
19 were submitted to the fusion center, which I find anywhere
20 that anybody made an attempt to call 9-1-1-. He answers
21 that he kind of goes through. Was there any specific
22 reason you didn't object and move to strike that testimony
23 where he essentially have contents of cell phone data
24 where the agent was not the expert who collected or
25 interpreted the information from the cell phones?

1 A Yeah, I was trying to establish that 9-1-1 didn't get
2 called, that's it. I mean, you don't have to be an expert
3 determine whether or not 9-1-1 got called.

4 Q I mean, again, your strategy just in general for
5 everyone. I guess, I want to be specific. Your strategy
6 for that?

7 A I'm not following your question.

8 Q So you don't object. You want that coming out. What
9 is your soul purpose for that?

10 A That no one called 9-1-1.

11 Q I'm asking you?

12 A My objection is that Odell Williams, a police
13 officer, city councilman, could have called somebody.
14 Certainly knew how to call 9-1-1. Certainly know how to
15 use his phone because that's how this all started because
16 he got a phone call, did not dial 9-1-1.

17 Q Right. But that also goes the other way too, right?

18 A Well, yeah, when I do that, the State certainly going
19 to stand up on redirect and go, well, they didn't call him
20 either, did they. Right, so go ahead and deal with that.

21 Q But, again, you could have objected none of that
22 would have ever came in?

23 A I want the fact that Odell didn't call 9-1-1. If I
24 play the card game of I object, they didn't do it. I
25 object, get my objection sustained. Then I stand up and

1 say, well, Odell didn't call 9-1-1. Then the State's just
2 going to come back up and say, nobody in the truck called
3 9-1-1 either. So it gets me nothing when I'm simply
4 trying to get to the point that Odell Williams, former
5 police officer, city councilman who had his phone clearly
6 didn't call 9-1-1 and decided to chase people through town
7 shooting at them.

8 Q So going to closing argument page 744 and 745 trial
9 transcript, I think that's 1795 and 1796 of the record on
10 appeal. When you have -- I think you're quoted as saying
11 during the closing argument these bad guys out to do bad
12 things were scared. What was the strategic reason for
13 referencing your client as a bad guy out to do bad things?

14 A I'm presenting what the State was trying to say.

15 Q Okay. So you're saying that the way the context of
16 it ---

17 A The context of it is the State is trying to say this
18 is some bad guys who are out there doing bad things.

19 Q Okay.

20 A It's not me calling them bad guys doing things. I'm
21 portraying is that what the State -- and simply because we
22 want to paint them as these bad guys you should convict
23 him of murder.

24 Q And, I guess, going back to what we said before,
25 that's the State's theory, right, that's your belief as

1 far as the State's theory, right, just bad guys? And so
2 when we had prior questions regarding propensity evidence
3 and other -- what we're saying unduly prejudicial that
4 goes to the heart of the State's theory in this case as
5 you highlighted is that fair so say?

6 A I guess, you could say that, yeah, but, I mean,
7 you're talking about three instances where I strategically
8 decided not to object because I didn't want to draw
9 attention to a few comments. And then I'm summing up in
10 closing by saying the State just want you to say these are
11 bad guys doing bad things. The problem I've got is like
12 it or not when they look at my client, when they look at
13 the dudes that are testifying, when they look at the dudes
14 who are in the car, when they look at that gun, I know
15 that people are going to say, oh, these are gang bangers
16 how do I overcome that. Because I'm trying to save my
17 client who you probably not going to like because you
18 don't like what he does still is entitled to the law. And
19 the law is if I'm getting shot at, I can shoot them,
20 that's what I'm trying to get across.

21 Q We didn't have testimony regarding gang evidence, did
22 we?

23 A No, but it's an escapable part of the case. I mean,
24 you can strike the juror how you want, they're going to
25 make their own inferences.

1 Q And, I guess, I mean, why would you say they would
2 automatically assume they're gang bangers. It's just an
3 legitimate question I'm just asking?

4 A I think when they see the demeanor of the witnesses,
5 when they hear that they're all hanging out when they all
6 have guns, when one of them got an assault riffle, that's
7 the inference they're going to jump to.

8 Q Right. And the judge properly ruled to keep out the
9 references of the assault riffle?

10 A That's why I made the motions to do that.

11 Q Right. I mean, again, just trying to -- you're just
12 saying they would just locally say that they're gang
13 bangers?

14 A I think, that would make that inference.

15 Q Okay. Now, I guess, going to the State's closing
16 argument looking at page 748, and, again, 750 of the trial
17 transcript. 1799 and 1801 of the record on appeal volume
18 four. We have the prosecutor stating quote for all -- in
19 referencing -- all of his possessions or most of them or
20 some of them or whatever valuable things that he had work
21 for his whole life to get -- were in the back of that
22 truck and they were leaving. And he was tired of being
23 violated, so he went to see what was going on. Now, none
24 of that's technically in the evidence record, right? I
25 mean, that's the prosecutor just trying to put his own

1 speculation as to what ---

2 A You mean, in closing argument putting your own spin
3 on what the evidence is, that's the purpose of closing
4 argument.

5 Q But you would agree that you can't argue something
6 when facts aren't in evidence, you agree to that?

7 A You can speculate to it.

8 Q It's facts not in evidence. You can make it an
9 inference. Law allows for inferences all day based on
10 evidence that's been presented, but when facts not in
11 evidence, you can't speculate. You agree to that?

12 A I agree what's the law is, yeah.

13 Q All right. And so when the prosecutors saying about
14 valuable things. He worked his whole for in the back of
15 the truck and all that. Honestly, we don't know any of
16 that in the sense that Odell is deceased, correct? So
17 when she's trying to make this compelling thing of facts
18 not in the record was there any reason you didn't want to
19 object to the facts not in evidence?

20 A I just didn't see at that point that it would be
21 worthy of that. I mean, the point ---

22 Q I mean, he's tired of being violated. I mean, he
23 didn't testify?

24 A Again, this is a lawyer in closing argument making
25 their summation of what they believe of what the facts

1 present. So the fact that they were over there on his
2 property is clearly in evidence because that's what led to
3 the whole situation. Did he have stuff in the back of the
4 car I don't know, but I think that's fair for the
5 Solicitor to make their summary of what they believe the
6 evidence showed just like I did.

7 Q So, I guess, the other part of that where we were
8 going is the prosecutor says quote I submit to you what
9 happened is he, referring to Odell, fires two shots out
10 the window of his car warning shots to get them to stop.
11 I mean, there's no testimony that these are warning shots?

12 A Again, that's a lawyer making a summation and saying
13 this is what I believe the facts show you.

14 Q And what facts were in evidence to show they were
15 warning shots?

16 A Well, there was no evidence that they were warning
17 shots, that was their theory.

18 Q Yeah, but I guess ---

19 A But who would have testified to it Odell. I mean,
20 that's the only person who could have testified to it.

21 Q I guess, that's my point.

22 A So the summary is, you know, well shots had been
23 fired, okay. That is clearly in evidence. When they get
24 the revolver, I think there is two spint cartridge cases
25 in there, which is why they kept saying there were only

1 two shots fired because we're trying to establish that
2 more shots were fired because that's what the statements
3 of Chris and all the co-defendants were. And then there
4 was a whole fun exchange with Lee Blackman in looking for
5 shell casings on the side of the road, that he didn't put
6 in the SLED report. So they got to explain why there two
7 spint shell casings and that's what her summation of the
8 facts are.

9 Q All right. Going to page 754 still in closing
10 argument. The prosecutor this is lines one through 12.
11 Prosecutor kind of goes through its own speculative
12 conversation of what happened with the applicant and his
13 co-defendants back and forth. I think the prosecutor says
14 Quinton McClinton you get in the truck. Truck is parked
15 so he can hide from the detection. You get in the truck
16 with his big gun. You put it in the backseat basically
17 armed said quote, yeah, Chris here's your big gun end
18 quote. And Chris is like quote, well, that's cool because
19 I got this big gun. And I'm going to give Terrance
20 Buchannon my little gun end quote. So now I've got this
21 big gun. And Quinton says quote when we get around this
22 corner, Chris, you get out and take care of this guy. You
23 get out and shoot this man, stop him because we don't want
24 to get caught. We don't want to get caught with all these
25 guns in the car end quote. I mean, there's no -- that's

1 not the testimony that we have in the case, right. We
2 don't have specifically that exact testimony?

3 A That's correct.

4 Q So was there any reason not to object -- any
5 strategic reason not to object as far as facts in the
6 evidence that the prosecutor making this conversation of?

7 A Again, we've got the truck in evidence. We got the
8 guns in evidence. We got the riffle in evidence. We got
9 the statements in evidence. I think, again, this is the
10 Solicitor making their summation of what they believe the
11 facts present.

12 Q Okay. You're saying ---

13 A That's what the judge tells the jury. It's not
14 evidence. This is their assessment of what the facts are.
15 We all do this in closing argument is to say this is what
16 I think this fact tells you.

17 Q All right. So you don't think that's objectionable?

18 A No.

19 Q Okay. Now, again staying with closing argument, the
20 prosecutors says -- and this is on page 770 give you a
21 second. Quote, the defenses job is to confuse you to
22 believe the defendant's lies don't fall for it. We come
23 seeking the truth. And we're here seeking justice for
24 Odell Williams, but we're here seeking justice for his
25 family. But we also come seeking justice for his family.

1 You don't have -- I mean, was there any strategic reason
2 why you wouldn't have objected, moved for a mistrial or at
3 least strike or have some curative instruction provided
4 given that argument?

5 A I think the case law changed after this trial on
6 that.

7 Q I guess, could you expound on that?

8 A Well, at the time there was no case law that said the
9 Solicitor couldn't say those things. It's my
10 understanding and recall that it's changed. We now can't
11 call it a search for the truth or verdict means to speak
12 the truth or seeking justice. I mean, these things
13 changed in case law in South Carolina after this trial.

14 Q And we discuss State vs. Daniels that occurred in
15 2012 and I know you said you weren't familiar with that
16 case. But I'm also referring to -- I mean, it is multiple
17 layers to it, that the defenses job is to confuse you and
18 to believe the defendant's lies don't fall for it. You
19 don't find that objectionable as far as your role in to
20 confuse the jury and to believe the defendant's lies?

21 A I'm not gone say it's not sometimes. I mean, every
22 case has a different strategy. So, you know, I don't --
23 do I like language, no, but I had nothing that I could
24 point to to say she can't say that at that time. The laws
25 has changed now, and now you can say, Judge, I can't say

1 that. And it will get sustained.

2 Q Well, even if you didn't know a case, I mean, I know
3 you're -- you're a well-experienced lawyer. You
4 understand due process and fundamental fairness. When a
5 prosecutor essentially denigrates your role as defense
6 counsel that you're there to confuse the jury ---

7 A They been doing that my whole career though. I mean,
8 that's just what I'm use to hearing, but now there's case
9 law that I can actually stand up and say you can't say
10 that any more.

11 Q And even backside -- let's per se that there is other
12 case law, but you don't know about it and that's fine.
13 You're unaware of it, but you did know that you could
14 argue basically a fair trial, right, that that would
15 invade his ability or violate his right to a fair trial at
16 a minimum. You were aware that you could argue at least
17 that?

18 A Yes, I'm aware I can make an objection in the
19 Solicitor's closing argument.

20 Q Right.

21 A I will tell you typically my practice not to do that,
22 unless I think it is so objectionable that it can only be
23 dealt with the objection.

24 Q And I guess where I'm going and I know it's a quick
25 statement, but you would say that the publics perception

1 of criminal defense lawyers is not great. You agree with
2 that?

3 A I mean, public defenders too. I mean, we had that
4 testimony earlier this morning.

5 Q And so when you have that public perception that's
6 out there and the prosecutor says that their job is -- his
7 job is to confuse you and to try to convince them to
8 believe things that aren't true and then to follow that up
9 to search the truth, you know, essentially you got a
10 burden shifting argument and with that, again, in
11 hindsight?

12 A I just didn't feel that it went to that level. I
13 mean, that's what I expect the prosecutor to say.

14 Q And in hindsight you don't think you should have
15 objected to it?

16 A Given the case that I got now absolutely I could
17 have.

18 Q Even let's just say if you're not aware of another
19 case on the right to a fair trial when a prosecutor makes
20 that statement. You think that goes to the heart of
21 fairness?

22 A I don't think that one statement change the outcome
23 of this case.

24 Q But you could have objected to it you agree with
25 that?

1 A Again, you can object any time you want to. I mean,
2 if I got a reason to object, I object. And I don't have
3 to make the objection if I don't think strategically it
4 work for me.

5 Q So what's the strategic reason for not doing it?

6 A I just didn't think it rose to the level for
7 necessity for making that objection at that particularly
8 not in this trial. I mean, I'm not going to get a
9 mistrial out of that statement I don't believe.

10 Q Right, but you could preserve it for appellate review
11 at least, correct?

12 A Could.

13 Q But that didn't happen?

14 A No, and they're going to come back with whatever.

15 Q Okay. All right. So when we have the jury
16 instruction on the theory of self defense, that person has
17 no duty to retreat if doing so would increase the danger
18 to himself. Was there any reason why you wouldn't have
19 asked for that jury instruction?

20 A I was just looking for general self defense.

21 Q Okay.

22 A I mean, I can't remember if there was a charge
23 conference. I don't know that we had one. I know it's
24 Judge Burch's practice not to print out the charge and
25 hand it to you. So I mean it's just one of those he reads

1 it and you got to follow along.

2 Q You didn't have a copy of the charge?

3 A No.

4 Q And so, but, I mean, there's no strategic reason why
5 you wouldn't have asked to have that jury instruction or
6 jury charge on self defense to say that the person doesn't
7 have a duty to retreat when it would increase their
8 danger?

9 A I mean, I'm afraid that it gets closer to what I ask
10 for in the Curry case where I got the judge to formulate a
11 charge that the Supreme Court said you can't get that
12 charge. So having had that experience, no, I would not
13 have asked for that specific charge.

14 Q Okay.

15 A Right or wrong, I mean, that's why I would not have
16 asked for that specific charge because I've got what the
17 Supreme Court told me in Curry.

18 Q So your belief at that point based on your experience
19 of being the trial lawyer in Curry, you felt like that was
20 a bridge too far? You're asking for too much?

21 A That's nice.

22 Q That's your position?

23 A It is. I mean, I don't think it's correct. I mean,
24 legally correct I think I should be able to get that
25 charge.

1 Q And since it wasn't asked again in hindsight we have
2 the benefit of doing that here in a PCR. In hindsight,
3 should you have asked for it? I mean, you just said ---

4 A Also knowing that now judges will do it if you ask
5 for it, but at the time you just couldn't get it. I've
6 heard of judges that when you ask to charge the language
7 from that act, that they will do it, but that's been far
8 subsequent to this trial.

9 Q All right. I'm not trying to dilute it because we
10 going a little bit in circles. And you're saying at the
11 time you didn't do it because one you didn't think the
12 judge would have given it to you?

13 A Yes, and two I was intimately aware of what the Curry
14 case said that said you couldn't get that charge.

15 Q Now, as far as the jury instruction where the trial
16 court read a list of items that are considered deadly
17 weapons firearms, automatic riffles, deadly weapon
18 utilized and where they had the weapon in this case being
19 firearm specifically a semiautomatic riffle. Was there
20 any specific reason you didn't want to object regarding a
21 comment on the facts?

22 A I mean, I know that's an older form of that charge,
23 but that's just typical of what I'm getting from this
24 particular judge having tried cases with him before. I've
25 seen where there was no issue with that charge before, so

1 I didn't see that it was objectionable.

2 Q So no strategic reason?

3 A Yeah, I didn't see that it was objectionable.

4 Q Now, I know you're familiar with because you've tried
5 plenty of murder cases and self-defense cases. As far as
6 the law on acting on appearances not waiting to have the
7 draw point, was there any reason you didn't ask for that
8 jury instruction?

9 A Honestly, no, I don't have a specific reason on that
10 one perhaps if I had the printed charge I would have had a
11 little more time to review it and could have done it.
12 Again, I don't know that it applies in this case because,
13 I mean, Odell is not laying in wait, he's chasing them.
14 So, I mean, the person that they would accuse of laying in
15 wait would have been Chris Moore because he's the one
16 who's on the side of the road that shoots. So I don't
17 think it necessarily applied in this case because it's not
18 a laying in wait kind of thing.

19 Q And I guess on the flip side of that you have your
20 argument that Odell's chasing them, that they're trying to
21 get away. And that he's actively trying to kill them, so
22 there's no reason to retreat. There's no reason to wait
23 to obviously to not try to defend yourself, so I think
24 gave me what I needed. You didn't have a strategic
25 reason. You didn't have the charges itself. In

1 hindsight, you think that that would have been a good
2 charge to have of course, correct?

3 A I mean, it could have. I just was trying to get to
4 self defense. I got to self defense and self defense was
5 charged. So whether I got the additional minutia that we
6 charge that -- I don't know whether the jury's actually
7 pay attention to it or not, but, I mean, I got the charge
8 I was seeking.

9 Q And respectfully, I mean, you use the word minutia,
10 but the jury being instructed by the trial court saying
11 that, you know, a defendant can act on appearances in self
12 defense. I mean, that could have potential powerful sway
13 with the jury. I mean, it's the law being instructed to
14 them to follow?

15 A It didn't get charged, I didn't ask for it.

16 Q Now, as far as the Logan charge, I know you're
17 familiar with that because it's been a pretty pivotal case
18 since it came out in 2013. Was there any reason where you
19 didn't try to seek a Logan charge specifically because
20 essentially what we have -- majority of the evidence
21 presented by the State was attempting to disprove your
22 theory of self defense to show malice and circumstantial
23 evidence in nature or was circumstantial evidence in
24 nature? Was there any specific reason you didn't want to
25 have the Logan charge presented?

1 A I mean, I don't know how circumstantial evidence
2 their case was. We had direct evidence of what occurred.
3 So, I mean, I just don't know that it was the most -- it
4 was a very circumstantial evidence case. Again, we're not
5 disputing the fact that Odell Williams got shot. We're
6 trying to say this is why it happened, and when you had
7 witnesses in the car who said this is what happened. So
8 it's not really one where I'm as concerned about the
9 circumstantial case. It is my general practice to ask for
10 the Logan charge. But in this one I did not and I don't
11 know that it would have had a different affect because,
12 again, I think it's not necessarily a circumstantial case
13 that the State's trying to present.

14 Q Now, as far as, again, I understand we didn't have
15 the objections. We've belabored that point earlier in our
16 questioning as far as what would constitute expert
17 testimony. Was there any specific reason why you didn't
18 want to try to have the judge at least instruct along what
19 actually constitutes expert testimony?

20 A I don't recall that. Did I do that after the
21 witnesses testified?

22 Q I have to check. I don't want to say wrong thing,
23 but, I mean, that didn't cross your mind as far as trying
24 to -- you weren't -- I mean, you didn't object when you
25 had individuals in my opinion providing expert testimony,

1 so it wasn't something that you felt was needed to have
2 that jury instruction?

3 A And I'll be honest, I mean, we do it all the time,
4 but it's not a favor charge. I really, again, I don't
5 like pointing out and saying, oh, you know, that person we
6 said was really really smart. You just give them the
7 regular treatment. I don't like pointing out extra
8 witnesses or pointing at a specific witness. It's the
9 charge we asked for. Again, I would have appreciated the
10 benefit of having the charge.

11 Q So, I guess -- I mean with not having the instruction
12 have you ever -- like was there any reason you don't ask
13 to be provided a copy of the instruction so you can ---

14 A He don't print them up. He's got his book and he
15 reads them out of the book, that's what Judge Burch does.
16 He does not have them printed up.

17 Q Have you thought about ever asking him to be provided
18 it, so you can properly review them?

19 A Meaning he -- it's ---

20 Q No, I mean, I understand he's got that?

21 A Literally pieces of paper in a notebook.

22 Q Sure.

23 A That's where his charge book is.

24 Q Right. But what I'm saying is had you ever thought
25 saying your Honor I understand you're reading these out

1 loud I'm trying to make sure I have these properly
2 reviewed the specific languages there can I be provided a
3 copy?

4 A I didn't ask.

5 Q Had you ever thought that about something you would
6 have done?

7 A I've done it. I just didn't do it in this particular
8 case.

9 Q Okay. Now, with the reconsideration issue, was there
10 any reason -- ultimately, and, I guess, try to provide
11 some context for you so my question makes sense sorry.
12 Page 799 trial transcript it's 1850 volume four of the
13 record on appeal. Lines two through nine is there --
14 start with the common sense tells me?

15 A I got you.

16 Q Is there any reason you didn't want to object to kind
17 of make a motion for reconsideration or have some issue as
18 far as potentially a recusal of when the trial court says
19 common sense also tells me that the victim being a former
20 police officer who retired in '97 fired two shots try to
21 get y'all's attention to stop, that's just the way old
22 police officers handled it, not that it was right or
23 wrong, but he was old school common sense tells me he
24 fired two shots out that window trying to get y'all to
25 stop?

1 A I'm not clear of what you're suggesting I should have
2 done.

3 Q As far as once he -- the judge puts in his personal
4 opinion about what he has as far as what he believed
5 occurred in that and him being a former police officer.
6 Was there any specific reason you didn't want to make a
7 motion as far as reconsideration as far as having another
8 judge essentially take that part as far as imposing a
9 sentence? I mean, he's certainly saying ---

10 A Let me make clear what you're asking me to ask the
11 trial judge to do is let another judge be the sentencing
12 judge?

13 Q I didn't say it was an easy question to be done that
14 you had to do. I'm just saying did it ever -- that
15 thought ever cross your mind?

16 A It's not going to happen. Nobody is going to do
17 that.

18 Q I didn't say whether they would do it. Have you ever
19 -- I mean, when he provides his personal opinion as far as
20 him being a prior police officer, what he thinks happened
21 when it's purely speculative, just asking as far as what
22 your opinion is of that?

23 A No, it did not cross my mind to make an objection to
24 something that I did not think would occur. I cannot
25 conceive of any possible way that, one, I would get my

1 motion granted. Two, I would get a judge to sentence
2 after another trial judge.

3 Q What I'm saying is ---

4 A I get what you're saying.

5 Q -- as far as an opportunity to preserve something
6 regarding the sentence hearing?

7 A Right.

8 Q I didn't say it was an easy thing to do. A lot of
9 our job is not easy.

10 A And I didn't think the appellate courts are going to
11 give you that either.

12 Q Maybe not. But you ultimately didn't think -- it's
13 your opinion is that it didn't rise to the level of ---

14 A It's also my job to strategically make the objection
15 that I think are appropriate.

16 Q Understood.

17 A It didn't cross my mind because I don't think it's
18 appropriate.

19 Q What sentence did he get?

20 A He got life.

21 MR. PHILLIPS: No further questions, your Honor.

22 THE COURT: All right. It is 12:30, so we're
23 going to break for lunch. We will be back take an hour
24 15, so we'll start back at 1:45.

25 Mr. Frick, you're still under oath and still

1 don't discuss your testimony. We'll start back and then
2 we have Ms. Hackett. So thank you for patiently waiting
3 and being here. We'll get to you as soon as we can.

4 (WHEREUPON, a lunch break was taken.)

5 THE COURT: We're back on the record on Mr.
6 Moore's PCR. We're beginning the cross-examination of Mr.
7 Frick. And you have not discussed your testimony, is that
8 correct?

9 THE WITNESS: No, sir.

10 THE COURT: You're still under oath. Yes,
11 ma'am.

12 MS. DIXON: May it please the Court.

13 CROSS-EXAMINATION

14 BY MS. DIXON:

15 Q Mr. Frick, how are you today?

16 A I'm all right. How about you?

17 Q Good. And we've talked a lot about your
18 representation of Mr. Moore all ready. I'm not going to
19 rehash all that, but can you just kind of just lay out for
20 us briefly the State's evidence going into this trial?

21 A Sure. They initially come to a call of a wreck car
22 somewhere on Round Tree Circle. I think Odell Williams
23 was still alive when the first responders got there, but
24 had a wound couldn't really communicate. Then they just
25 collected evidence in the case. Eventually, it turned up

1 there were 17 or so shell casings in the yard to the road
2 of apart of Round Tree Circle. They started developing
3 suspects in the case. The suspects gave statements. One
4 initially said that Quinton was not driving the car and
5 then changed his statement to say, oh, no, I was the one
6 driving the car. Then they got more statements along and
7 along. I think eventually they interviewed Mr. Moore and
8 he gave a statement. And the whole time it was the
9 shooting did occur, it was just that Odell had been the
10 one who started the chase and started the shooting and
11 that's why Chris ended up shooting at Odell because they
12 were shot upon first. It's kind of a nutshell version, I
13 guess.

14 Q Got you. Do you recall testimony that investigators
15 found this gun stashed in someone's backyard?

16 A Yeah, and once they left the scene, I think it was
17 stash somewhere on Round Tree Circle. Then they found on
18 a fence between some yards, some blood that did come back
19 with DNA testing as Christopher Moore's blood.

20 Q Do you recall if they did any DNA testing on the gun
21 itself?

22 A That is what I recall. I don't think they could say
23 who exactly it was. It was a mixture if I recall
24 correctly, but they exclude Chris as a contributor to
25 that.

1 Q So they could not exclude him from handling this gun
2 and then they found his blood nearby in the area where the
3 gun was?

4 A That's correct.

5 Q And do you recall a couple of witnesses testifying at
6 trial. One guy saying that he was in the area. He knew
7 Mr. Moore. Mr. Moore came running up, ask for a ride. He
8 said, no, kind of left. Do you recall that?

9 A As you ask me that question, I do recollect that,
10 yeah, he was getting out of the area and ran across
11 somebody and somebody came by and picked him up.

12 Q So with that evidence and your experience, would you
13 be have been able to establish that he just wasn't there?

14 A That was never what we were exploring in this case
15 based on what I had seen in the discovery. It was clear
16 that we were looking -- this was not going to be an alibi
17 case.

18 Q Not going to be an alibi case. Okay. And what was
19 your primary strategy?

20 A Self defense.

21 Q Self defense. In terms of the victim, did you have
22 any kind of strategy related to that?

23 A Yes, I knew that he had been in a police officer. I
24 know that he was currently serving on city council. I got
25 the SLED file from the investigation on him where as a

1 city councilman he had been charged with threatening the
2 chief of police. They had some argument in the bathroom
3 after a city council meeting and he threatened to use his
4 gun on him. So I was attempting to use that to show the
5 demeanor of Mr. Williams. Ultimately, I was not able to
6 get that in as evidence. It was not allowed. Self
7 defense we had -- I mean, there was a gun found in Odell's
8 car that had to -- it was a revolver. It had two spint
9 shell casings in the revolver, so clearly the gun had been
10 fired. I think he had GSR on him too, but I maybe
11 misremembering that, but there was -- it was clear
12 evidence that Odell had fired that gun. And so in just
13 reviewing the case talking to my client, it was our
14 understanding that Odell Williams had fired at them as
15 they were trying to get away from him. And ultimately,
16 they decided we're just going to shoot back and more than
17 one person shot. But it was pretty clear whoever had that
18 riffle was the one who had fired the fatale shot.

19 Q And let's see -- well, moving so as part of that, I
20 guess, you did move pretrial for an immunity hearing,
21 correct?

22 A We did.

23 Q And would you agree that at this time the law related
24 to Protection of Persons and Property Act was kind of
25 evolving?

1 A Yes, as a participant in that evolution, yes. It is
2 and continues to be.

3 Q Continues to be. And so in terms of having the Court
4 put findings on the record was that required at that time?

5 A Not my knowledge. And never had -- and I done
6 several of these hearings and I've never had a judge do
7 that. They just rule.

8 Q And then, of course, you did raise this issue, again,
9 at the start of his trial, correct?

10 A Yes. It's one of those situations immunity hearing
11 was basically was at the beginning of the trial, which is
12 just kind of the practice that it falls into.

13 Q And then you raised it again at the end of the
14 State's evidence?

15 A Yes, I'm sure I did.

16 Q Okay. Then going on to the Batson issue. You agree
17 that you liked your jury?

18 A I did. I mean, I'll be honest I think I had a
19 legitimate Batson issue. I just didn't want to exercise
20 it because I had the jury that I believed I wanted.

21 Q And do you recall the composition of that jury at
22 all?

23 A Predominately African American predominately female
24 if I recall. I cannot remember how many white folks were
25 on that jury.

1 Q Got you, okay. And then let's see going on issue
2 number three. You're familiar with the rules of evidence,
3 correct?

4 A Yes.

5 Q All right. Are you familiar with the Rule 609(b)?

6 A I am.

7 Q And can you tell me as a matter course do you
8 automatically always get in every crime of dishonesty?

9 A You do not. Particularly, if it's over ten years
10 old, you have to write a motion requesting that be
11 admitted. And then the judge still has to do a 403
12 balancing test to determine whether it comes in. The
13 judge can say, no, that's too remote or it's not going to
14 make a difference and rule against you.

15 Q Okay. So it's not an automatic?

16 A It is not.

17 Q Okay. And in terms of the alleged improper comments
18 by the Court, the end result of any case is to reach a
19 verdict. It's a Latin derivative word that means search
20 for the truth or true saying. Are you familiar with
21 Beaty?

22 A Yeah, somewhat, yeah.

23 Q Do you recall when that came out that case?

24 A I don't specifically, but I know it dealt with that
25 language. But I do believe it was after this case had

1 come out.

2 Q After this case. And you would agree this case was
3 2016?

4 A Yes.

5 Q And so I represent that Beaty came out in 2018, that
6 would have been after this?

7 A That would have been well after we had tried this
8 case, yes.

9 Q Going on. Let's see -- we talked about your strategy
10 of self-defense. In light of that, whenever the State had
11 started reading from Lieutenant Kyle Cummings incident
12 report and I believe the testimony on that earlier was
13 that's on page 1127 of the record. And basically, he was
14 being asked what time did you arrive. Do you recall that
15 from earlier?

16 A That's what I recall reading earlier today, yeah.

17 Q You've already said you weren't pursuing an alibi,
18 correct?

19 A That's right.

20 Q So how critical or damaging was that testimony to
21 your overall strategy?

22 A I didn't think it made a bit of difference.

23 Q And in terms of that, do you always object every time
24 you hear something objectionable?

25 A No, I mean, it's a balancing act. Sometimes you got

1 to decide at least this is my practice. You got to decide
2 whether it's really worth it. I mean, how many times
3 you're going to aggravate the jury because, you know,
4 sometimes you got to send them out of the room.

5 Generally, that's a bigger issue than just standing up,
6 but it's just something in the art of the trial practice
7 that you got to make a call on of when you're going to do
8 it. Obviously, if it is a glaring example that you think
9 I need to do this, you do it, but not all the time.

10 Q And do you recall the testimony of Louise Williams,
11 who is the wife of the victim or the estranged wife?

12 A I recall she testified, yes.

13 Q And how damaging was her testimony to your strategy
14 of self-defense?

15 A I don't think it was damaging at all. In fact, I
16 think that whole thing set up our whole idea that they
17 were leaving Chris and his folks was leaving, had done
18 nothing while they were there. Nobody saw them do
19 anything. Nobody knew they had guns. I mean, it was
20 nothing that would draw your attention other than they
21 parked on Odell's property. And then Odell comes flying
22 around in his Cadillac and then starts chasing them. So I
23 thought it was critical to the beginning of our
24 self-defense theory.

25 Q And then in terms of Landa Aiken who was either the

1 daughter or granddaughter of the victim. Do you recall
2 her testifying?

3 A I recall reading about it this morning.

4 Q And was her testimony harmful to your strategy of
5 self-defense?

6 A No, again, it went into the whole setting up of, I
7 mean, just the idea that if Odell doesn't start chasing
8 them or stops at some point, then we're not here today.

9 Q And then moving on the video of the car chase was
10 that damaging to your strategy of self-defense?

11 A No, absolutely not. In fact, I think it bolstered
12 our argument that they were trying to get away from him
13 and he continued to chase because this was some side
14 street. I mean, I think this is after we made a couple
15 turns on this chase. I mean, it come down initially down
16 Saluda, which is a pretty major road in Chester, turn left
17 through some neighborhoods cutting around. And I think
18 this is on one of those cuts that they made getting back
19 to Saluda, so they can get back over to the ballpark and
20 Round Tree. So, no, I thought it was perfectly acceptable
21 and whether or not a foundation got laid on it, I did not
22 care. I wanted that video in.

23 Q You wanted the video in. And in terms of the map of
24 the route was that damaging to your self-defense strategy?

25 A Same thing I wanted a visual representation of this

1 route that they took. I think I called it circuitous
2 before and I think that's a fair statement. As I said,
3 they drive -- one, they're heading one direction. They
4 turn around, they come back. And they're going back in
5 the opposite direction in an effort to get away from
6 Odell. So I think having that map and because we weren't
7 in Chester County nobody knows these roads I'm talking
8 about. So I need the map so it'll show what is being
9 testified to.

10 Q Got you. And then number 12 is fail to object to
11 pitting or leading during Cornell Johnson's direct exam.
12 Cornell Johnson just -- do you recall his testimony?

13 A I recall reading about it. I can't remember right
14 now what it was.

15 Q So he was one of the guys -- this is in the record,
16 but he was one of the guys that testified he was in the
17 car with the guy that the defendant stopped to ask for a
18 ride?

19 A Okay.

20 Q Do you recall that?

21 A Yeah.

22 Q How damaging was that line of evidence and testimony
23 to your strategy of self defense?

24 A I mean, again, we were not saying that he wasn't
25 there.

1 Q And then the note by Stevie Breland I believe you
2 testified on direct that the substance of the note was
3 effectively that Breland wanted to talk to the Solicitor,
4 correct?

5 A That was my understanding. I don't remember the note
6 specifically, but, I mean, we get inmate request all the
7 time. I want to see my lawyer. I want to fire my lawyer
8 get the ones that I get quite frequently now as the
9 circuit defender. I mean, it's just requests about
10 specific this is what I want to talk to somebody about and
11 there's no substance to it, so that, no, I didn't.

12 Q So it didn't have any details?

13 A No.

14 Q Okay. And then let's see just a moment. In terms of
15 allegation 15, you fail to argue about testimony
16 indicating a buccal swab was taken pursuant to a court
17 order. You failed to argue that lower burden of proof.
18 Do you recall the judge charging the jury on burden of
19 proof?

20 A He did. And I'm just, you know, as I testified
21 earlier, I think it's better to just leave it at -- there
22 was a court order that got this swab versus going through
23 the procedure of how we get buccal swabs particularly if
24 we were arguing against it which I frequently do.

25 Q Do you think by hearing that the jury thought that

1 they no longer had to prove him guilty beyond a reasonable
2 doubt?

3 A No, and, I mean, what we have as far as DNA. You got
4 DNA on a fence Round Tree Circle that we said we were
5 already at and own a gun that we said that we had. And
6 they couldn't prove necessarily it was his DNA. They
7 didn't disprove it, but the DNA that this was -- DNA did
8 not control this case.

9 Q And then in terms of Agent Warley there was a lot of
10 questions asked about her. And in your experience had she
11 been qualified as an expert in other trials you been
12 involved in?

13 A Yes, and she was in the most recent one I had with
14 her.

15 Q And then in terms of her testimony as a whole how
16 damaging was it to your strategy of self defense?

17 A I didn't think it was very damaging because we had
18 obviously said, yeah, again. This is not the who done it,
19 it's the why done it of we shot at Odell, but this is why
20 it happened. So, I mean, there were a bunch of shell
21 casings. I couldn't keep them out. I wish there were
22 less than we had in this case. I think that would have
23 been helpful. I think it would have been helpful to have
24 a smaller gun, but I only get to play the cards that get
25 dealt to me in these cases and this is what I had to play.

1 And, no, I didn't think what she said was damaging at all.

2 Q And then Brittany Burk, who was also a SLED agent or
3 expert. Well, she was not qualified as an expert to be
4 clear. Do you recall her testimony was it damaging to
5 your strategy of self defense?

6 A Same as Melinda's. I mean, they just had two crime
7 scene people. I can't remember specific. I think it was
8 kind of a large area, so I think they had the two that
9 collected stuff from different areas. But, I mean, it's
10 a crime scene. They don't -- they just collected stuff
11 and said this is what we found. And this is what we -- a
12 lot of times they said this is what we think happened.

13 Q And then in terms of exhibit 68 and 69, which I
14 believe had to do with latent prints how damaging were
15 those reports to your strategy self defense?

16 A They didn't tell us a thing. I mean, no prints were
17 able to be determined.

18 Q Okay. Do you recall they did find one of his
19 fingerprints on the pick-up truck that the guys were all
20 driving?

21 A I mean, yeah, they had his fingerprint on the pick-up
22 truck that we know that was involved and no ---

23 Q Was that damaging to your strategy of self defense?

24 A No.

25 Q And how about the DNA report was that damaging to

1 your strategy of self defense?

2 A I can't conceive how it would have been.

3 Q How about the autopsy report was that damaging to
4 your strategy of self defense?

5 A I mean, other than the fatal bullet was the one that
6 was fired by my client, but, I mean, again, no, our
7 argument is self defense that is what it is.

8 Q How about the SLED firearms report was that damaging
9 to your strategy of self defense?

10 A Same thing. I mean, we admitted that we fired the
11 gun.

12 Q So all these things you said aren't really damaging
13 to your strategy not necessarily material to the defense
14 you're presenting. Would you object to technical things
15 coming up throughout that?

16 A It is typically not my practice that if I see a piece
17 of evidence that I'm okay with coming in, I'm not gone
18 argue against it. I mean, if I'm fine with the lack of
19 fingerprints coming in, I would think it's kind of not a
20 good practice to argue to keep it out same with the DNA.
21 I mean, other than having the DNA at the scene which,
22 yeah, we say he was there the DNA didn't do anything. So
23 I just -- no, it's not my practice to object to things
24 when I think they're favorable to my case and I'm okay
25 with them coming in.

1 Q And then in terms of there was a reference to an
2 assault riffle made by Terrance Buchannon and following --
3 you didn't object right away. I think you had made a
4 pretrial motion to exclude that. Tell us again this gun
5 was in evidence?

6 A It was.

7 Q The jury saw the gun?

8 A I think I put my client on the stand and he held it.

9 Q And what did the Solicitor do?

10 A In her closing argument, she stood in front of the
11 jury box and I think she's all about five four holding
12 this riffle and clicked it 17 times.

13 Q And in light of all that, do you think that passing
14 reference to assault riffle made material difference in
15 the outcome?

16 A I didn't. Obviously, I didn't want him to go any
17 further then that, that's why I objected when he started
18 going further, but just the initial statement of it, you
19 know, just felt like you're making bigger deal out of it
20 if you start jumping up and pointing it out.

21 Q Okay. And then going onto some of the things related
22 to the co-defendants Buchannon and Dixon. Was there
23 testimony damaging to your strategy of self defense?

24 A It wasn't damaging to the strategy of self defense.
25 I think it was integral to our strategy of self defense

1 because, I mean, all the co-defendants' statements were
2 that exactly what we were saying that we leave. This car
3 starts following us at first. We don't know who it is.
4 When they stop and one of them recognizes who it is, they
5 drive off again and then he continued to follow them. And
6 then we hear shots and then they hear more shots. And so
7 they decide we just going to have to shoot back.

8 Q Then moving on there's several allegations related to
9 the State's witness Breland. Tell us again kind of your
10 strategy with dealing with him as a witness?

11 A Well, I didn't get to do the strategy that I wanted
12 to do. I wanted to discredit him about his pending charge
13 because he had a homicide -- leaving the scene of an
14 accident death resulting from side swiping a van on I-77
15 as his 18-wheeler was coming through Chester County. And
16 then fleeing the scene and then repainting it as he tried
17 to cover up his case. Also, as I said, I was in the
18 courtroom when his initial bond hearing happened and it
19 got denied. So I knew he's from Charleston. I knew he
20 had no connection to Chester. And then when he gave this
21 miraculous statement that he says my client told him, he
22 gets moved to Charleston. And I thought that that was
23 definitely a benefit because I ain't got any other clients
24 in the Chester County to get move to a jail closer to
25 their family. So he got treated differently because he

1 was a witness for the State. And whether or not I could
2 say that he just got moved, I didn't think was very
3 material certainly not as material as saying he got to
4 move back home. I mean, he's in jail, but he's in
5 Charleston where they can come see him a whole lot easier
6 rather than getting to Chester. So not getting to that, I
7 think was hurtful, probably the most hurtful thing. And
8 there a couple other things that I recall trying to ask
9 him about. I think I was asking him about his DL and his
10 CDL. And I think I got shut down asking about that. I
11 certainly couldn't talk about him being move to
12 Charleston. And, of course, the standard -- no offense
13 you're the State, but your PCRs not prosecution the
14 standard statement I didn't make him any promises for him
15 to testify. As far as his prior record, I just -- I
16 didn't feel it was going to come in. I just didn't feel
17 -- and I thought with all the other stuff that would be
18 more damaging.

19 Q Did you try to attack his credibility on
20 cross-examination?

21 A I believe I did.

22 Q Regarding their allegation number 39, they're
23 alleging that you should have objected when Investigator
24 Christopher Reynolds testified applicant was charged with
25 murder. Do you recall the trial court we already went

1 over this instructing the jury on the State's burden of
2 proof?

3 A Yes.

4 Q And the jury was told that the burden of proof is
5 beyond a reasonable doubt?

6 A The judge says and obviously that's the controlling
7 thing, but I have my own spew that I go into an example of
8 reasonable doubt covering -- it's not probably. It's not
9 might be. It's not could be. It's not I just don't like
10 the way he looks. They got to prove beyond a reasonable
11 doubt.

12 Q And do you recall the judge also charge the jury that
13 the State had the burden to disprove self defense beyond a
14 reasonable doubt?

15 A Yes, that's the charge, yes.

16 Q Okay. And then moving on number 40 there's an
17 allegation that you did not object to expert testimony
18 related to an automobile. I believe what they were
19 referring to is there was testimony by a witness that
20 there was antifreeze in the roadway. Do think that was
21 damaging to your strategy of self-defense?

22 A If I recall, I think it was -- they asked whoever it
23 was what did you see. I think they testified, gee, it
24 look like antifreeze to me. I don't think an expert needs
25 to say whether or not that is antifreeze. I think they

1 can do on their own observation and lay opinion.

2 Q And, of course, would that be even damaging to your
3 strategy of self defense?

4 A No, I mean, I think they were doing it to prove that
5 the radiator had gotten shot. Well, I mean, yeah, we
6 admit that we shot the car.

7 Q And then in terms of the cell phone data testimony,
8 do you think someone needs to be qualified as an expert to
9 look at the call log and know whether someone's placed an
10 outgoing call, whether a phone placed an outgoing call?

11 A No, I think if you can open it up, you can look at it
12 and make that determination in the course of your
13 investigation. Particularly, in this particular situation
14 where I wanted the fact that 9-1-1 had not been called
15 into evidence, I'm not gone make them jump through the
16 hoops.

17 Q All right. I'm going to read a few quick statements
18 from closing argument from the State that they pointed to.
19 And I want you to just tell me if you think that these are
20 fair inferences based on the facts presented at trial.

21 For all decedent knew of his possessions or most of them
22 or some of them or whatever valuable things he had worked
23 his whole life to get were in the back of that truck and
24 they were leaving and he was tired of being violated, so
25 he went to see what was going on. Do you believe that's a

1 fair inference from the facts presented?

2 A I mean, again, it's what we do as lawyers in the
3 closing summation is to stand up in front of a jury and
4 try to tell them this is what we think this day -- this
5 evidence shows you. So, I mean, he had instructed his
6 family if you see anything going on at the property give
7 me a call because I think -- I can't remember his
8 testimony, but I was aware that there had been problems
9 with his property. And he didn't want people going over
10 there and plundering on his property. So I think that is
11 a fair depiction of what the State alleges the facts
12 depict.

13 Q You think that's a fair inference?

14 A Yes.

15 Q Okay. And then I would submit to you that what
16 happened is he fires two shots out the window, warning
17 shots to get them to stop. Do you think that's a fair
18 inference based on the facts?

19 A It's clear that two shots were fired from that gun.
20 I think there were more, but the only thing we had to
21 prove.

22 Q And then in terms of this statement the defense's job
23 is to confuse you and believe the defendant's lies don't
24 fall for it. We come seeking the truth. We come seeking
25 justice for Odell Williams, but we also come seeking

1 justice for his family. If you heard that today, would
2 you object?

3 A Probably, maybe, possibly. I mean, obviously case
4 law has evolved since that time, that is clearly
5 objectionable material at this time.

6 Q But at the time of this trial, was it clear ---

7 A To my recollection, there was no case law that said
8 that wasn't okay at the time.

9 Q Let's see and then in terms of allegation 47, the
10 jury instruction that comments on the facts where the
11 Court read a list of items considered a deadly weapon. Do
12 you recall whether that part of the possession of a weapon
13 during a violent crime charge or the murder charge or
14 something else?

15 A I think, it was just a general definition what deadly
16 weapon was.

17 Q Okay. That's 779 of the transcript of the court.

18 A I mean, he didn't say -- well, maybe he -- no, this
19 was after Belcher, so he didn't say the inference since we
20 were doing self defense.

21 Q Okay. And then quickly what is the Logan charge
22 specifically?

23 A So there's this long-form charge that we as defense
24 attorneys get if we ask for it, but all it does it goes
25 into a very lengthy explanation of what circumstantial

1 evidence is and to the extent the State relies on it, how
2 they have to prove it. And you got to prove each part of
3 it by reasonable doubt and take it all together if the
4 defendant's actions are merely suspicious, then you must
5 find him not guilty. You know, it hammers home reasonable
6 doubt. As I said, I typically ask for that because, I
7 mean, that's what -- at our conferences we're told that's
8 what you need to ask for. In this particular case, Logan
9 was out there. Again, I'm not trying to bash here, but I
10 didn't have the benefit of a printed out charge. And it
11 wasn't circumstantial evidence case really.

12 MS. DIXON: One moment, your Honor.

13 (WHEREUPON, a pause in the proceedings.)

14 MS. DIXON: Nothing further.

15 MR. PHILLIPS: I'll be brief, your Honor.

16 REDIRECT EXAMINATION

17 BY MR. PHILLIPS:

18 Q With Rule 609 in your reference subsection B and
19 that's completely within the judge's discretion, correct?

20 A Well, 609(b) if it's outside the ten-year window, the
21 person who wants to move that in has to file a written
22 motion.

23 Q But it's completely within the judge's discretion?

24 A Then once you have the hearing, yeah. It's the
25 judge's discretion whether it comes in or not.

1 Q Cause even the comment section of the Rule says ten
2 years just a guideline it's not an actual bar?

3 A Right, but that is the bright line thing that it says
4 in the rule if it exceeds that you got to file a motion.

5 Q Fair enough. But you didn't do that?

6 A I didn't file a motion.

7 Q Right. And you said the key point of this case is
8 credibility, right?

9 A Yes.

10 Q And the credibility now that we have this jailhouse
11 witness is Stevie Breland. The fact that he has these
12 prior convictions of crimes of dishonesty and the key --
13 the lynch man of the case is credibility, he's the big
14 difference between the first trial and the second trial.
15 You didn't want to file the motion to attack his
16 credibility?

17 A I believe it's check fraud, wasn't it?

18 Q That he doesn't tell the truth?

19 A Bad checks.

20 Q Well, I'll get them. We will read them out.

21 A I mean, I just can't remember what it is right now.
22 I thought we said earlier today it was ---

23 Q So it looks like he had -- yeah, they're all check
24 fraud. I mean, you're saying credibility is a lynch pin.
25 I mean, it's somebody certainly is willing to lie when

1 it's good for himself, right?

2 A Well, he wrote bad checks.

3 Q Well, with that being said, you understand that you
4 obviously could have done it?

5 A Absolutely.

6 Q It's not a bar?

7 A I know, yes.

8 Q And his credibility is essential?

9 A It was, but then, again, see I still in my role as
10 the attorney get to decide what is the thing to argue and
11 what's the thing not to argue. And that just wasn't the
12 thing that I thought would win the day.

13 Q But you said your other strategy was to attack his
14 credibility?

15 A Yeah, I want to attack his credibility, but I want to
16 attack his motives for why he was getting up and saying
17 what he said.

18 Q Because it was benefiting him, right?

19 A It did benefit him. And if I recall correctly, he
20 got a general sentencing in the end too.

21 Q Now, as far as State vs. Daniels, you had not -- you
22 said you weren't aware of that -- I know the State asked
23 you about State vs. Beaty, but State vs. Daniels came out
24 in 2012. If in that case the Court says they had admonish
25 this type of jury instruction with the search for the

1 truth, that it's improper burden shifting. The fact that
2 you don't know about it had you known about it like you
3 know about Beaty now would have objected to those
4 statements?

5 A I just don't recall. I mean, one, I don't remember
6 what Daniel says, but, two, I just don't recall any case
7 that was as strong as the language that we have now that
8 says they can't say those things.

9 Q Well, let me hand that up to you here.

10 A Right, and they say no constitutional error occurred
11 and they affirm the case.

12 Q In that case?

13 A Well, that's the case you keep telling me that I
14 should know about, but it didn't do ---

15 Q I'll read it for you how about that.

16 A Yeah.

17 Q Okay. All right. The trial court's inappropriate
18 statements in this case came close to jeopardizing the
19 legitimacy of this trial. That's what comes right after
20 what you just said. Judges and juries are critical actors
21 in this judicial system. Jurors are sworn to declare the
22 facts in the case. They are prove from the evidence place
23 before them. It goes through the whole role and
24 definition of jury, which you understand. I'm not going
25 to waste your time with that. Judicial instructions to

1 the jury in a criminal case whatever the verdict you reach
2 will represent the truth and justice for all parties that
3 we must see it to the trial is fair and verdict is just,
4 that you and I are quote unquote in it together may seem
5 as first blush simply harmless phrases and tended to put
6 the jury at ease and portray the judge as just a regular
7 guy. However, the constitutional frame work governing
8 criminal trials is a highly technical body of law
9 developed by the United States Supreme Court and by courts
10 operating under the Supreme Court's guidance. It is
11 inappropriate to jeopardize the constitutionality of a
12 trial by instructing the jury this way. It is critical
13 that jurors understand the proper application of the
14 reasonable doubt standard. That standard does not charge
15 the jury with ensuring justice for all parties (inaudible)
16 correctly notes that this language could result in jurors
17 substituting the concepts of justice or fairness for the
18 State's constitutional duty to prove the guilt beyond a
19 reasonable doubt. And so it goes directly to essentially
20 ---

21 A I can see that please? I'm not arguing that's what
22 he said don't get me wrong. What I'm saying is -- yeah, I
23 got you. I know. I know.

24 Q That's 2012, that's before this trial.

25 A But it also says came close to jeopardizing and the

1 word at the very end is affirmed.

2 Q Understood, but that's for the facts of that case?

3 A This was the law that was in application when we
4 tried this one.

5 Q I think maybe there's a disconnect and I don't know
6 if it's because I've done appeals, but you understand each
7 facts of the case changes how the law is applied?

8 A Yeah, clearly because it got change because the Beaty
9 case we talked about I believe that one was sent back.
10 That one was not sent back. I mean, they said, gee, you
11 shouldn't really do this, but they didn't say
12 affirmatively like they did in the subsequent case as it
13 says don't do this. So I could object but...

14 Q I think what they say in Beaty is they reference this
15 case and say we're admonishing you again because you
16 continue to do something we've told you to stop doing?

17 A Right. And they sent that one back, did they not?

18 Q Right, because based on the facts of that case, they
19 felt like it was enough. What I'm saying is when a case
20 is affirmed on its self, it's depending on the facts of
21 the case?

22 A Yeah.

23 Q Right, I'm sure the State will probably argue that
24 the prejudice is not enough in this case?

25 A Just like my objections are based on the situation in

1 that case.

2 Q Right. Now, and, I guess, we certainly covered as
3 far as the closing arguments section where you admitted
4 probably as far as referencing, again, defense counsel
5 that that would have been particularly objectionable at
6 that time. You could have argued you understood as far as
7 just basic fundamental fairness you agree with that?

8 A If you're questioning am I aware that I can make an
9 objection, the answer is yes. Outside of that, I mean,
10 that's what I been hearing for years from Solicitor's.
11 There was no case law at that time just like in this one.
12 And I know you gone tell me what Daniel says I get it.
13 But what I'm telling you is in 2016 when we tried this
14 case, I didn't have case law that I could say you can't do
15 that. It says you shouldn't do it. And then I make a
16 judgment call which I am allowed to do as the trial
17 counsel to go I don't think this objection is worth it in
18 this particular circumstance.

19 Q All right. And in this one, this actually came not
20 as a Daniel as a jury instruction at the end after when
21 they give the reasonable doubt instructions which softens
22 the blow here. This one actually came during the opening
23 statements. You're aware of primacy and recency, right?
24 It's like the first thing you hear is more memorable. The
25 last thing you hear is also more memorable?

1 A I mean, I graduated from Fairfield public schools, I
2 really don't know what that means.

3 Q Well, I will just be clear. The opening statements
4 that the judge gives to the jury, that's the very first
5 thing they hear, right?

6 A Right.

7 Q And so when they first hear the search for the truth
8 language in that -- that's in their mind from the
9 beginning?

10 MS. DIXON: I'm going to object to leading.

11 THE WITNESS: Do you mind if I answer?

12 THE COURT: You can answer and then let's move
13 on.

14 MR. PHILLIPS: That's it. We're done.

15 THE COURT: I'll let you answer that question.

16 A That's the language that they used at the time. We
17 don't do it any more.

18 MR. PHILLIPS: Thank you, your Honor.

19 THE COURT: All right.

20 MS. DIXON: Nothing further from the State.

21 THE COURT: All right. Thank you, Mr. Frick.

22 You may step down.

23 (WHEREUPON, the witness leaves the witness
24 stand.)

25 THE WITNESS: Can I be excused?

1 THE COURT: May the witness be excused?

2 MR. PHILLIPS: Absolutely.

3 MS. DIXON: I have him under subpoena not you.

4 Can you wait?

5 THE WITNESS: I'll wait.

6 MR. PHILLIPS: I don't have any problem with it.

7 The applicant will call Susan Hackett.

8 THE COURT: All right, Ms. Hackett.

9 BAILIFF: Would you raise your right hand
10 please. Do you solemnly swear or affirm the testimony
11 you're about to give will be the truth, the whole truth,
12 and nothing but the truth so help you God?

13 THE WITNESS: I do.

14 THE CLERK: Please be seated on the witness
15 stand.

16 WHEREUPON,

17 Susan Hackett,

18 after first having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. PHILLIPS:

21 Q Good afternoon, Ms. Hackett.

22 A Good afternoon.

23 Q You briefed this case?

24 A I did.

25 Q And you ultimately filed an Anders brief?

1 A That's right.

2 Q And not to put words in your mouth since I just went
3 ahead and called you as a witness instead of the State.
4 Ultimately, a Anders brief is when you say there's no
5 merit ---

6 MS. DIXON: Object to leading.

7 THE COURT: Overruled. These are introductory
8 foundational questions.

9 BY MR. PHILLIPS:

10 Q Essentially, an -- you tell me what an Anders brief
11 is?

12 A Sure. Anders vs. California was a decision from the
13 United States Supreme Court in the 1970s. It said that
14 appellate counsel is required to review the entire record
15 and decide whether a case is wholly frivolous. If counsel
16 determines that it is wholly frivolous, appellate counsel
17 must file a brief called an Anders brief just like this
18 one in which they argue an arguable issue sorry for double
19 there, but that's the way the case is written. And, of
20 course, the appellate court then is required to review the
21 record as well looking for a meritorious issue that
22 appellate counsel missed.

23 Q And in this case ultimately the appellate court
24 granted the Anders and relieved you as counsel and
25 dismissed the appeal?

1 A That's exactly right.

2 Q And so now you had the opportunity to review the
3 amended PCR application?

4 A I have.

5 Q And as far as ineffective assistance of appellate
6 counsel issue that's been raised specifically as far as
7 the failure to raise and argue preserved issue for
8 appellate review of excluding applicant's prior bad act
9 under Rule 404 -- Rule 403 and 401 allegedly attempting to
10 rob a different person on the night of the present
11 incident where the attempted armed robbery was abandoned
12 and all actors were on the way home when the present
13 incident occurred at a different location. Having time to
14 see that issue and going back and review what is your
15 opinion of that?

16 A I should have filed a merits brief on that issue.
17 Mr. Frick preserved it. He made the motion pretrial. And
18 then when the witnesses testified later on he made the
19 contemporaneous objection, which is necessary, so Mr.
20 Frick had preserved that objection. So it was definitely
21 ripe for appellate review and I failed to see it as a
22 meritorious issue at the time. Looking back, I would have
23 filed a merits brief raising that issue as oppose to an
24 Anders brief.

25 Q And, again, I know you ultimately can't say what the

1 Court of Appeals would have done, that's a preserved
2 issue. Do you have any opinion on the strength of that
3 issue?

4 A I think it's a very strong issue because of the
5 nature of the prejudice that comes from knowing that these
6 gentlemen were in a truck, had gone out to a particular
7 location armed and intended to commit an arm robbery
8 according to the testimony that came out. That's pretty
9 damaging testimony considering that subsequent to that
10 somebody gets shot and killed. So I think that's
11 extremely prejudicial, so I think it was a strong issue
12 for appeal.

13 Q And, again, how the Court would have had, you know,
14 as far as ruling on the 404(b) and then you got the 403
15 kind of the analysis that's done. Do you feel its solely
16 related to 404(b) as far as what's listed there or you
17 think it's stronger than a 403?

18 A I think it's stronger in the 403. I think that is
19 probably where you would have your best argument, but, of
20 course, 404 has within it a balancing 403 test as well.
21 So my initial reaction is that it's a stronger Rule 403
22 case, but certainly within 404 you would be able to raise
23 a balancing test as well.

24 Q And, again, not to belabor what you've already said,
25 but in hindsight, you would have raised that issue?

1 A I would have in a merits brief not an Anders brief.

2 Q Now, again having that opportunity to review the
3 amended application the issues that have been raised.
4 Again, you're not able to raise unpreserved issues that's
5 just not what the rules allow, which is why there's the
6 Anders procedure. And so with unpreserved issues, there's
7 a couple of issues I'd like to discuss with you. One
8 would be regard issue one that's in the amended
9 application regarding the allegation of trial counsel
10 failing to object to the trial court not providing
11 complete findings of fact in conclusions of law for the
12 elements of self defense as applied under a claim under of
13 under the Protection of Persons Property Act. If that was
14 preserved, would you have raised that issue?

15 A Absolutely, that's an issue that I have been
16 extremely successful with lately. The State vs.
17 Cervantes-Pavon C-E-R-V-A-N-T-E-S-P-A-V-O-N was a case
18 from South Carolina Supreme Court which laid out that
19 judges are in deed factual finders in these immunity
20 hearings which was clear for many years going back to
21 Duncan. And they were very specific in that case and said
22 we told you you're fact finders. And just like every
23 other case in which you're a fact finder, you need to lay
24 out your findings of fact and conclusions of law. I hate
25 to say it because it was my case, but there's nothing

1 novel about that requiring a judge to state on the record
2 their findings of fact and conclusions of law is
3 boilerplate judging, that's just the way that you judge.
4 So there wasn't anything novel about that. And then the
5 Supreme Court reaffirmed that in State vs. McCarty
6 M-C-C-A-R-T-Y. And then recently the Court of Appeals in
7 State vs. Gray G-R-A-Y. Also said that Mr. Gray was
8 entitled to a remand for findings of fact and conclusions
9 of law. And the State has basically conceded that now and
10 they have not filed a petition for rehearing in that case.

11 Q Thank you. Now, as to allegation number three that
12 trial counsel failed to argue that the State jailhouse
13 witness Stevie Breland had three prior convictions for
14 check fraud that were potentially admissible under Rule
15 609 to impeach the credibility as crimes of dishonesty.
16 Would you have been able to raise that or would you -- I
17 guess, what's your opinion on that if it was preserved?

18 A My recollection in review of the transcript was I
19 believe Mr. Frick did attempt to get into those prior
20 convictions. The argument that was presented he noted
21 that they were old and I don't believe that there was much
22 argument explained as to why under the balancing test he
23 should be allowed to get into it. So once I read the
24 transcript, I didn't think there was anything there that I
25 could present to the Court to say this is the argument

1 that was presented to the trial judge and rejected as to
2 why these prior convictions would have been important for
3 impeaching the credibility of the witness. Had that been
4 there, I would have likely raised it.

5 Q I guess, and then to kind of take that one step
6 further to clarify had a motion been raised had specific
7 arguments a foundation been layed as to the credibility
8 being essential fact for the jurors to determine of this
9 witness that was solely based on his credibility as far as
10 or as a key witness. Your opinion if that ground work was
11 laid been raised would that have been an issue that you
12 would have raised?

13 A Right had I had the argument presented as to why the
14 probative value was so important here and why there was
15 really no danger of unfair prejudice, then I think it
16 would have been a lot better for an appellate issue and I
17 likely would have raised it.

18 Q Now, on allegation regarding trial counsel failing to
19 object to Stevie Breland testifying as a lay witness where
20 he went into his own speculative opinion regarding what
21 occurred. The events themselves really kind of going to
22 his own version of what he believed was credible as far as
23 what happened. If the -- there would have been objections
24 to that testimony and I know that's kind of a very broad
25 question that's a stroke of how much testimony there is

1 and back and forth. Had there been an objection
2 challenging the improper nature of that one under say
3 speculation and, I guess, that would be the main thing and
4 403 as far as the probative value being substantially
5 outweighed. Would that have been an issue you would have
6 considered?

7 A I certainly would have considered it. I can't tell
8 you on that one that I would have raised it. I know that
9 Mr. Breland's testimony was pretty important to the State
10 in this case particularly when you juxtapose the first
11 trial that ended in a mistrial against a second trial, but
12 I'm not sure that I would have raised it there. I hear
13 your question regarding speculation. To me, I was
14 thinking improper lay opinion for that testimony. And I
15 do like that as an objection, but I'm not sure that I
16 would have raised it in that case. I can't answer that
17 one completely. I haven't thought through that one
18 enough.

19 Q Well, another issue one specifically that trial
20 counsel failed to object pursuant to 404(b), 403 and 401
21 move to strike Stevie Breland's testimony where he said
22 that applicant did not change his ways for God, fought
23 smaller inmates in jail so he could get move to be with a
24 co-defendant and that could have killed a man by picking
25 him up and slamming him and hitting his face. All this

1 testimony had that been objected to and preserved for
2 appellate review would that have been an issue you would
3 have raised?

4 A I definitely like that issue a lot better
5 particularly as it's getting to Moore's character, and it
6 suggest propensity evidence, which is the improper reason
7 to allow character evidence in. When you getting into
8 the religious aspect of it, that's particularly
9 problematic. And then talking about he picked him up and
10 slammed by the face and killing him. When you had a
11 murder case any suggestion of a person's dangerousness,
12 future dangerousness, which is what we call it in the
13 death penalty world. That's pretty damaging testimony for
14 an individual, so I think that is an issue that I would
15 have raised.

16 Q Now, going to closing argument, the State argued that
17 the defenses job is to confuse you to believe the
18 defendant's lies don't fall for it. We come seeking the
19 truth. We come seeking justice for Odell Williams. We
20 also come seeking justice for his family. Now, there's
21 several different objections that come to mind when I'm
22 thinking of this, but had there been an objection to 403
23 inflaming the passions of the jury, make a decision on
24 improper basis, the acting for the community language, all
25 the different objections that come with potentially during

1 closing argument. Had those been reserved for appellate
2 review would that have been an issue that you would have
3 raised on appeal?

4 A It's likely. I see three issues there the one
5 denigrating defense counsel first of all. And that one is
6 certainly something that our case law has dealt with for
7 many years decades in fact. I'm not sure that I would
8 consider it very strong on denigrating defense counsel
9 when you have just this kind of one sentence, but it's
10 certainly an issue that I would think long and hard about
11 and do the research on. The seeking the truth language
12 and seeking justice for Odell and his family. Again,
13 going to the death penalty world, we have some case law
14 talking about that when they're telling the jury about
15 speaking for community and things of that nature. So I
16 would have done additional research on that to determine
17 whether to raise it, but it's not something that I would
18 get rid of out of hand. I think there is potential for
19 that issue on appeal.

20 Q Okay. And as far as jury instructions whether
21 someone can seek one and make that request as if there's
22 any evidence to support the instruction, is that fair to
23 say?

24 A Right, that's a legal standard in the evidence.

25 Q And so where trial counsel fail to seek a jury

1 instruction under theory of self defense where a person
2 has no duty to retreat if doing so would increase the
3 danger to himself if that was preserved and requested
4 would you raised that issue?

5 A Absolutely. Those self-defense charges are some of
6 my favorite to raise on appeal starting with State vs.
7 Davis moving to State vs. Fuller F-U-L-L-E-R and
8 continuing through the State vs. Hendrix H-E-N-D-R-I-X and
9 Harvey as well. I would definitely consider those issues
10 and very likely would raise them because there's black
11 letter law regarding entitlement to instructions as to
12 that particular self-defense instruction.

13 Q And in the same vein where the trial counsel failed
14 to seek the jury instruction of self-defense regarding
15 acting on appearances not waiting to get the drop when
16 essentially the strategy of the defense was that they were
17 being -- he was being chased that he was actively going to
18 be killed?

19 A Right. So for don't have to wait to get the drop, I
20 believe that's State vs. Hendrix and State vs. Harvey. So
21 I think that's pretty clear in the law that he should have
22 gotten that instruction and that you don't have excuse
23 me -- that the defendant has the right to act on
24 appearances, that's straight out of State vs. Starnes
25 S-T-A-R-N-E-S. And so I think the law is pretty clear

1 that he would have been entitled to both of those
2 instructions because State vs. Fuller is a wonderful case.
3 It's one of my favorites, but it mandates that circuit
4 court judges tailor self-defense instructions to the
5 evidence as it's presented. They can't just use the
6 four-prong test from State vs. Davis under Fuller. They
7 have to give a tailored instruction.

8 Q And because you have that tailored instruction as
9 Fuller sets forth just jury instructions in general when
10 there's any evidence to support it and a trial judge
11 refuses to raise that issue, that's reversible error?

12 A Yes, we're not always one hundred percent successful
13 on that, but we love a jury instruction error on the
14 appellate level because that's typically where you're
15 going to get a nice reversal.

16 Q Now, as far as trial counsel's failure to seek a jury
17 instruction under Logan the one that comes up so often, in
18 your review if that would have been requested and denied,
19 would that have been an issue you would have considered as
20 well?

21 A I would have love to consider that issue absolutely.
22 There has been State vs. Herndon H-E-R-N-D-O-N decided
23 since Logan, which is where the Court said that the
24 defendant had requested the Logan instruction. The judge
25 denied it and the appellate court said that it was error

1 and that it was reversible error. So I would have loved
2 the opportunity to consider it here and determine what
3 impact the lengthy circumstantial evidence instruction
4 would have had on this case.

5 MR. PHILLIPS: No further questions, your Honor.

6 CROSS-EXAMINATION

7 BY MS. DIXON:

8 Q Good afternoon.

9 A Good afternoon.

10 Q How was your lunch?

11 A It was great. Thank you.

12 Q Good. Who did you eat with?

13 A I ate with Mr. Phillips.

14 Q Mr. Phillips. So y'all talked about this a good bit,
15 right?

16 A Yes, Mr. Phillips took my invitation that I sent in
17 January to both of you to schedule a phone call with me so
18 that we could discuss my proposed testimony.

19 Q Got you. So you called him to discuss your proposed
20 testimony?

21 A No, I sent both you and Mr. Phillips an e-mail back
22 in January saying if I'm going to be a witness I like to
23 discuss my testimony.

24 Q Did you reach out to him?

25 A I don't like being called as a witness blind, so

1 Mr. Phillips in response to the e-mail that I sent to both
2 of you, he called me and he said here's the issue that we
3 have presented, which, of course, I'd already had the
4 amended application at that point. And he said what are
5 you going to say on the stand when asked about it and I
6 told him what I would say.

7 Q All right, and let's see. You're familiar with the
8 Anders procedure?

9 A Yes.

10 Q Have you ever had the Court of Appeals send you an
11 order requiring you to brief an issue?

12 A I have.

13 Q Have you ever had them order you to brief an issue
14 that you didn't raise?

15 A I have.

16 Q So you have in fact had the court review Anders
17 briefs you submitted and send it back to you and say brief
18 this?

19 A Yes.

20 Q And that didn't happen here?

21 A It did not.

22 Q Did not happen here. And in hindsight, in hindsight
23 today as you sit here five years later after the law has
24 evolved for five, six or seven years in hindsight you wish
25 you had raised this?

1 A My hindsight's not based on the evolution of the law.
2 My hindsight is based upon looking at that issue in the
3 law as it stood then and what I should have done then.
4 It's not based on evolution of law.

5 Q So you would not ---

6 THE COURT: Hold on. We're going to let the
7 witness finish her questions. And then you can answer
8 your question -- ask your question, okay. We just want a
9 clear record.

10 A I'm sorry, your Honor. I don't know what I was
11 saying at that point. I'm sorry that I don't recall. I
12 think I was close to being finished. Thank you.

13 Q So you would not agree that the law has evolved since
14 2016?

15 A Oh, the law has evolved absolutely. I misunderstood
16 your question then. I thought you were asking if my
17 opinion today on my error was based on an evolution of the
18 law and it's not -- the law absolutely has evolved thank
19 goodness, but my decision now and my testimony now saying
20 that I should have filed a merits is not based upon the
21 evolution of the law. Mr. Frick had preserved that error
22 and I should have raised it.

23 Q Okay. And in terms of Beaty, tell us about Beaty?

24 A So State vs. Beaty is an interesting case. I believe
25 that one is out of the eighth circuit if I remember

1 correctly. And we actually have two Beaty opinions. We
2 have when one where Chief Justice Pleicones was still on
3 the bench. And then the petition for a hearing gets
4 filed, he's no longer on the bench. They withdrew the
5 prior opinion and substitute an issue a new one. There
6 kind of two issues in Beaty. One of the issues in Beaty
7 is the one that's been discussed here today about the seek
8 the truth language in jury instructions. And the other
9 one is the order of closing arguments in dealing with when
10 the defense puts up evidence and when the defense doesn't.

11 Q And in terms of what we're talking about here today
12 the seek the truth language, why do you think it was
13 important for the Supreme Court in 2018 to suddenly come
14 out and say this was wrong?

15 A So I don't think the Court suddenly came out and said
16 it was wrong in 2018. I think the Court used stronger
17 language than they had previously, but they had declared
18 that it was wrong going back as far as State vs. Daniels
19 and just had not used the strongest language as they did
20 in Beaty. In fact, we had been raising it at appellate
21 defense since Daniels trying to get an opinion out to stop
22 it and completely eliminate it, but what the Court said in
23 Daniels is this is improper. Unfortunately, when the
24 appellate court say it's improper and they don't reverse
25 it, we have a problem where the improper instruction

1 continues until there's a reversal. So I don't think it
2 was a sudden action.

3 Q So you would agree that as of the time of this trial
4 no appellate court in this state had reversed a conviction
5 because of that language?

6 A No, they had not reversed.

7 Q And tell us about Alexi (sic)?

8 A Ban -- the capital ---

9 Q Alexi (sic) ---

10 A The capital case?

11 Q Uh-huh.

12 A I might need a little more guidance if you don't
13 mind, that's a pretty big case. I can talk about it, but
14 if you want to tell me more specifically what you want to
15 know?

16 Q I have a copy of the opinion and I'm specifically
17 looking for stuff related to seek the language, seek the
18 truth language, so you don't need to dive into everything.

19 A Thank you. Is there a specific question about Alexi
20 (sic) that you want me to answer?

21 Q Yes, there is I was going to give you a chance to
22 review it first.

23 A Do you want me to read the whole opinion or is there
24 a particular portion you'd like for me to look at?

25 Q I like for you to look at the portion related to the

1 seek the truth language?

2 A All right, I'll take a moment.

3 Q What did the Court do?

4 A So in that case they reiterated how the jury
5 instructions on reasonable doubt which charge the jury to
6 seek the truth are disfavored because they run the risk of
7 unconstitutionally shifting the burden of proof to a
8 defendant. They ultimately affirmed in his case as we
9 discussed before they hadn't reversed yet.

10 Q Why did they decide it was not reversible error?

11 A So they were looking at the instructions as a whole
12 and they particularly noted that the instructions on
13 reasonable doubt and circumstantial evidence are complete
14 and proper.

15 Q Did they also note that seek the truth language did
16 not occur near the reasonable doubt charge?

17 A The seek the truth language did not appear in either
18 the reasonable doubt or circumstantial evidence charges,
19 but appeared in the instructions on credibility.

20 Q And based on your recollection of this case, did the
21 seek the truth language stuff appear in the charge on
22 reasonable doubt or circumstantial evidence?

23 A When you said this case ---

24 Q In this case that we're here for today?

25 A Mr. Moore's case?

1 Q Uh-huh.

2 A Would you allow me to review the jury instruction?

3 Q Absolutely.

4 A Can you tell me what ---

5 Q Do you have a transcript?

6 A I'm sorry.

7 Q I said do you have a transcript?

8 A I have the record on appeal is that sufficient?

9 Q Uh-huh.

10 A Can you tell me the page that the jury instructions
11 begin on?

12 Q 770. It's going to be on the fourth volume and it's
13 going to be 1818.

14 A Did you say 1818?

15 Q Is where it begins. That's the record on appeal page
16 number.

17 A What I have on 1818 is Ms. Hall stating if you look
18 at those dowel rods. Perhaps, I'm looking at the wrong
19 thing. And we maybe looking at two different things
20 because there were two trials here and then there's the
21 record on appeal.

22 Q Look at 1821.

23 A All right. Thank you. Okay, I skimmed the jury
24 instructions. What was your question again?

25 Q My question is did the seek the truth language that

1 the applicant is complaining about today appear in the
2 jury instruction as part of the reasonable doubt charge?

3 A I don't see it as part of the reasonable doubt
4 instruction.

5 Q One last question you care about your clients, right?

6 A Oh, absolutely.

7 Q Absolutely. And you love for him to get a new trial?

8 A If he's entitled to a new trial, I would be happy for
9 him to get a new trial.

10 MS. DIXON: Nothing further.

11 REDIRECT EXAMINATION

12 BY MR. PHILLIPS:

13 Q Ms. Hackett, who subpoenaed you to be in court?

14 A The attorney general's office.

15 Q So the attorney general's office ask you to be here
16 today?

17 A Yes, sir.

18 Q Did I subpoena you?

19 A No, sir.

20 Q Now, when you came here had you talk to the attorney
21 general's office before coming here this morning?

22 A No, I had not.

23 Q Right. So they subpoenaed you to never call you to
24 get you to find out what your testimony would be?

25 A That's right.

1 Q And then when you got here, they asked you what your
2 testimony would be?

3 A That's right when we took a break earlier.

4 Q And then they told you they would release you from
5 the subpoena. They didn't want you anymore?

6 A That's exactly right.

7 Q Okay. But you stayed any way?

8 A Yes, sir.

9 Q And does that have anything to do with the fact that
10 I'm a lawyer in this case?

11 A No.

12 Q And we known each other for sometime?

13 A Yes, sir.

14 Q And the fact that we went to lunch together is that
15 influenced your testimony today?

16 A No, sir, you could not influence my testimony with a
17 ten dollar chicken sandwich, no.

18 Q And for the record, I did not buy your lunch?

19 A Absolutely not. My testimony couldn't be influenced
20 with anything.

21 Q Right. So, again, your testimony the fact that we
22 known each other, use to work together has no bearing on
23 this?

24 A No, Mr. Phillips. I think that you know me well
25 enough and wouldn't call me as a witness because you know

1 that I'm going to tell the truth. I take the oath very
2 seriously. I take my credibility extremely seriously.
3 And I'm not going to be influence by friendships,
4 political aspirations or anything else.

5 Q In fact, your prior employment was office of
6 disciplinary counsel?

7 A That's right. I use to work in the office of
8 disciplinary counsel where I prosecuted lawyers and judges
9 for violations of the rules of professional conduct.

10 Q Okay. What we do know is that you were subpoenaed by
11 the State. They never called you once they found out our
12 testimony if they brought you here didn't want you to
13 testify anymore?

14 A That's right.

15 Q I just want to get that out of the way.

16 A Yes, sir.

17 Q Now, as far as the discussion regarding what we call
18 in the appellate world a buck when you file an Anders and
19 they buck it back to you because they want you to brief an
20 issue whether it be a separate issue at least what we
21 terminology of appellate defense. The appellate court
22 does not buck back unpreserved -- I probably think of one
23 specific one that's a thorn in criminal defense attorneys
24 side, but generally there is not a case where the
25 appellate courts buck a case back on an unpreserved issue

1 for appellate review?

2 A Almost never.

3 Q I mean, I can think of one about solicitor control
4 the docket, but outside of that. Now, with that being
5 said, if an issue is not preserved for appellate review,
6 that would support an Anders finding?

7 A That's right.

8 Q Okay. Now, with that being said as far as State v.
9 Daniels, that was in 2012?

10 A I'm not sure of the date, but it sounds about right,
11 yes, sir.

12 Q Okay. So same presumable that that's correct, your
13 knowledge of State v. Daniels would anybody review that
14 case and believe it's proper to have search for truth
15 language given as an opening comment to the jury -- would
16 you think a criminal defense attorney after reading that
17 case would think they had a duty to object when during
18 opening comment to a jury tells them essentially search
19 for the truth. Their duty is a search for the truth?

20 A Yeah, I think that Daniels needs Alexi as the
21 attorney general's office brought up. Those all show that
22 the Court disfavors that instruction and that counsel
23 should object to it because in the right case, that right
24 facts is going to be reversed.

25 Q And even if you don't have a reversal, the next part

1 could have been a curative instruction to go ahead and try
2 to pull the sting of prejudice out of something that just
3 occurred at the very beginning of the trial?

4 A Could be, yes.

5 MR. PHILLIPS: No further questions.

6 RECROSS-EXAMINATION

7 BY MS. DIXON:

8 Q Susan, you just testified that -- I'm sorry, Ms.
9 Hackett. You just testified that I never called you?

10 A That's right.

11 Q You recall e-mailing me or me reaching out to you and
12 you telling me you were unavailable last week?

13 A Well, I like if you don't mind to go through the
14 entire correspondence and to do that I'm going to get my
15 e-mail.

16 MS. DIXON: Your Honor, I'm going to object as
17 to relevance unless you want to hear it.

18 THE COURT: Before we go any further with these
19 side issues, which have been brought up since the
20 beginning of this witness. Are these relevant? Is this
21 relevant? The issues we're here today for are about the
22 jury trial that he had and the appellate issues that did
23 or did not happen. We're going off on to a tangent, a
24 red-herring expedition that is not helping me figure out
25 what is going on. There's not a jury here. We don't need

1 to have these side shows. These issues when it comes to
2 y'all's personal correspondence if it's relevant, I'm more
3 than happy to hear it.

4 MS. DIXON: Your Honor, I agree. It's not
5 relevant. I only ask because I did reach out to her.

6 THE COURT: If there's something y'all want to
7 discuss ---

8 MS. DIXON: Beyond that I don't think so.

9 THE COURT: If there's something y'all want to
10 discuss with me afterwards there's an issue with the
11 attorneys, I'm more than happy to talk with you about it
12 in chambers, but for this case, I'm concerned about that
13 client.

14 MS. DIXON: I agree. I agree, your Honor.

15 THE COURT: Are there any other follow-up
16 questions for Ms. Hackett?

17 MS. DIXON: No, sir.

18 MR. PHILLIPS: Only thing I want to put on the
19 record, I thought it was wholly improper from the
20 beginning.

21 THE COURT: We'll save that for another day.
22 All right. Ms. Hackett, you may step down. You're still
23 under subpoena, so if you will hang tight.

24 THE WITNESS: Yes, sir.

25 (WHEREUPON, the witness leaves the witness

1 stand.)

2 MR. PHILLIPS: And technically she's not. She
3 was released from the subpoena.

4 THE COURT: You're under a court order to hang
5 tight.

6 THE WITNESS: I will hang tight, your Honor.

7 THE COURT: All right, Mr. Phillips, anything
8 further?

9 MR. PHILLIPS: Nothing further, your Honor.
10 Thank you.

11 THE COURT: Ms. Dixon.

12 MS. DIXON: I don't have any other witnesses.

13 THE COURT: All right, if both parties will
14 approach.

15 MR. PHILLIPS: Yes, your Honor.

16 (WHEREUPON, a bench conference was held.)

17 THE COURT: All right, Ms. Dixon, you may make
18 your motion.

19 MS. DIXON: Your Honor, the State just wants to
20 put on the record we have a motion for summary judgment as
21 to issues four and five. Issue four is related to the
22 trial court's improper comments at the beginning of the
23 trial, and we just want to note for the record this case
24 was tried in 2016 prior to State v. Beaty. State v. Beaty
25 is when the Supreme Court finally came out and just -- I

1 realize prior to that time it said it's improper, but at
2 that time they finally came out and were just like no
3 more. But prior to that time, courts were allowing it.
4 Courts were saying it. You know, it was happening. And
5 at that time State v. Alexi was the controlling law that
6 is 348 S.C. 20. Alexi was a capital case. And in Alexi,
7 the Supreme Court determine that the instruction to the
8 jury that it's one -- this is quote one single objective
9 is to seek the truth did not violate due process by
10 shifting the burden of proof and diluting the reasonable
11 doubt standard because the instruction did not appear in
12 either the reasonable doubt or circumstantial evidence
13 charges, but, again, instruction on juror credibility.

14 So in Alexi it actually was said during the jury
15 trial charge and the Court was like still found that it
16 did not violate due process. It did not shift the burden
17 of proof because it was not the mere reasonable doubt,
18 that is the standard that was the controlling standard at
19 the time of this trial. I will also submit and this is
20 pretty clear law trial counsel is not required to
21 anticipate changes in the law. They are judge by what is
22 the prevailing reasonable professional standard. It is
23 not every argument that could be made it is not being
24 perfect. It is not anticipating what may happen in two or
25 three years.

1 And in that same vein, the other important thing
2 about a PCR is that we cannot judge it in hindsight. And
3 this comes from Strickland v. Washington, which was the
4 seminal case that on post-conviction relief, that's 466
5 U.S. 688. Judicial scrutiny of counsel's performance must
6 be highly differential. And a fair assessment of attorney
7 performance requires that every effort be made to
8 eliminate the distorting effects of hindsight to
9 reconstruct the circumstances of counsel's challenge
10 conduct and to evaluate the conduct from counsel's
11 perspective at the time. It is not about going through a
12 record looking for every little tiny thing that might have
13 been done different and bringing it up. It is about what
14 was in that lawyer's mind at the time of that hearing, at
15 the time that trial in the heat of the moment.

16 THE COURT: And as for number four?

17 MS. DIXON: As to number four ---

18 THE COURT: You said you had summary judgment
19 number five too. Is that the same?

20 MS. DIXON: So that one I think go into -- this
21 is the State's opening argument. This is a very very
22 important trial for the victim's family who are here in
23 the courtroom. So as we know everything has to be viewed
24 in context. And right before the State said that, they
25 said this is a very important trial for the defendant.

1 This is a very important trial for the State. This is a
2 very important trial for the victim's family. This did
3 not rise to the level, you know, improper golden rule
4 arguments are a thing we hear about. They never asked the
5 jury to put themselves in the shoes of the victim. This
6 just doesn't rise to that level, wasn't as egregious as
7 the statement in State v. White where the jury was invited
8 to imagine if rape occurred to their wife, mother or
9 daughter. This just simply does not rise to the level of
10 the things that courts have found to be reversible error.
11 And I also submit we have to be within the context of the
12 entire opening statement. And, again, right before they
13 talked about the victim they said this is important for
14 the defendant. This is important for the State. This is
15 important for the victim. I think that's a fair
16 assessment of what a trial is.

17 THE COURT: All right, thank you. As to your
18 motion for summary judgment four and five, I'm going to
19 deny the motion for summary because there is -- the
20 standard is so low that it's just as there a factual
21 issue, so it doesn't mean they win on that issue, but I am
22 going to consider it based on the testimony from Ms.
23 Hackett and from Mr. Frick about what Daniels meant, the
24 State vs. Daniels. So it doesn't mean they win on that
25 issue by any means, but they can't argue it just because

1 summary judgment is such a low low standard. It's hard to
2 win that one. So I'm going to deny the motion for summary
3 judgment four and five. And just for the record, both
4 parties agree to number -- issue number 52. The State is
5 conceding that about the five-year consecutive to the life
6 sentence. So you may give a very brief summation of facts
7 if you like or you can just stand on a proposed order you
8 can send me in the future. I know the State indicated
9 they would like to give a very brief summation.

10 MR. PHILLIPS: Your Honor, again, our position
11 is citing the basic standard. I don't want to rehash
12 something that your Honor already knows, but, of course,
13 what we are alleging is that trial counsel's unreasonably
14 deficient performance failed below an objective standard
15 of reasonableness under prevailing professional norms and
16 prejudice the applicant because there's a reasonable
17 probability that but for trial counsel's errors, the
18 result of the proceeding would have been different under
19 the Strickland standard. That counsel's conduct so
20 undermine the proper functioning of the adversarial
21 process, that the trial cannot be relied upon as having
22 produced a just result.

23 As far as appellate counsel, again, citing under
24 the same things specifically that the unreasonable
25 deficient performance prejudice applicant because there's

1 a reasonable probability that but for appellate counsel's
2 errors result in the proceeding would have been different.
3 Now, again, I think we'll rest obviously and send in a
4 proposed order. I'm not going to rehash each individual
5 issue. I do think we have credible testimony that
6 supports that if there would have been issues that were
7 preserved for appellate review, that these were strong and
8 persuasive issues that could have been raised on direct
9 appeal that ultimately could have resulted in a reversal
10 and a new trial. And, again, specifically we've outline
11 that through the testimony. Testimony is credible. And
12 with that your Honor, we would rest on the propose order.

13 MS. DIXON: We would just say your Honor counsel
14 today articulated a very reasonable trial strategy. It
15 was self defense. A lot of these little objections
16 they're talking about are things that weren't even really
17 materially damaging to his self-defense strategy.

18 Frankly, the defendant had already testified two
19 prior times under oath that he was at the scene. The
20 State had all this evidence putting him there and he had
21 already admitted to being there. So we would submit that
22 all of these little things that they're doing now to try
23 to attack what counsel did or didn't object to to this
24 evidence that wasn't materially and damage to the
25 self-defense strategy is just not the standard. We would

1 also just note that this all about what is reasonable in
2 that moment for that lawyer. It is not about hindsight.
3 It is not about combing the record to find every little
4 mistake and adding them up. It is about what is
5 reasonable under prevailing professional norms in that
6 moment at that trial.

7 MR. PHILLIPS: And completely agree that the
8 touching on his reasonableness that simply testimony about
9 I had a strategic reason for doing X, Y and Z, that
10 testimony from trial counsel is not enough to survive if
11 it's not reasonable. So I do agree on that statement of
12 law that it's got to be a reasonable strategy, but pure
13 testimony alone about something being a strategic reason,
14 that is not enough in and of itself to carry.

15 MS. DIXON: And we would submit this was the
16 most reasonable strategy given the evidence the State had
17 was to go for self defense.

18 THE COURT: Very well. Thank you all very much.
19 Obviously, I'm going to take this under advisement. My
20 law clerk will reach out to you about a time frame for any
21 proposed order or anything that works for your schedule.
22 I always have a lot to read through with these
23 transcripts, the record, everything I been provided. So I
24 do appreciate your time and y'all's arguments today. Very
25 well done and I look forward to reaching out to you very

1 soon.

2 MR. PHILLIPS: Thank you, your Honor. It's good
3 to see you.

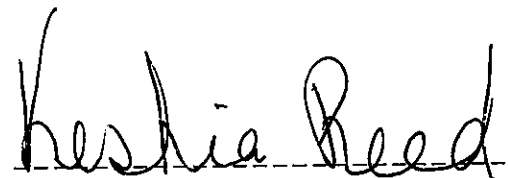
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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

I, Keshia Reed, Court Reporter and Notary Public
in and for the State of South Carolina At Large, do hereby
certify that the above-entitled cause was heard as
hereinafter set out; that I was authorized to and did
transcribe the said proceedings; and that the foregoing
and annexed paged, numbered 1 through 180, inclusive,
constitute a true and accurate transcription of my
stenographic report of the said cause taken during the
said hearing. In the Court of Common Pleas for Chester
County, South Carolina, on the 16th day of February, 2023.

I do further certify that I am neither of kin,
counsel nor interest to any party hereto. In witness
whereof, I have hereunto affixed my signature this 9th day
of January 2024.


Keshia Reed, Court Reporter