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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

The Honorable Patrick Cleburne Fant III, Circuit Court Judge

Appellate Case: 2024-000474

David Stalk Petitioner,

v.

The State of South Carolina Respondent.

APPENDIX
Volume I of II

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Lancaster County
The Honorable R. Knox McMahon, Circuit Court Judge
APPELLATE CASE NO. 2014-000166

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DEC 08 2015

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DAVID STALK,

APPELLANT

AMENDED RECORD ON APPEAL

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State’s Exhibits 68-69 and Defense Exhibit 2 (CD-DVD Recordings) are omitted from this printed Record on Appeal and counsel are seeking to have it transported to the South Carolina Court of Appeals pursuant to court order.

1 THE COURT: Prior to being incarcerated what type of
2 work did you do?

3 THE DEFENDANT: Trucking.

4 THE COURT: Today are you under the influence of any
5 medication, drugs or alcohol?

6 THE DEFENDANT: No, sir.

7 THE COURT: Are you aware of any physical, emotional or
8 nervous problem that might keep you from understanding what
9 you're doing today?

10 THE DEFENDANT: No, sir.

11 THE COURT: You heard your attorney tell me that he has
12 explained to you the charges against you, the elements of
13 those charges, the possible punishments and your
14 constitutional rights and that you understand these things;
15 is that correct?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: I have been handed up three indictments.
18 The first indictment is 2013-GS-29-758, State versus David
19 D. Stalk, it also says aka David J. Stalk, which is correct?

20 THE DEFENDANT: J.

21 THE COURT: J?

22 THE DEFENDANT: Yeah.

23 THE COURT: All right. David J. Stalk. It reads that
24 you did at _____ in Lancaster County on or
25 about January 16th of 2013 feloniously, willfully and with

1 malice aforethought kill and murder Kevisis Anthony, did I
2 pronounce that correctly?

3 MR. BARFIELD: Kevisis.

4 THE COURT: Anthony by shooting him with a handgun and
5 the victim did die as a proximate cause thereof at Carolinas
6 Medical Center, Charlotte, on or about January 28th of 2013.
7 That is a charge, a true billed charge of murder. It
8 appears you're being allowed to plead to voluntary
9 manslaughter, do you understand that charge?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And you understand for that charge you can
12 receive a sentence of up to 30 years?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: The next indictment, 2013-GS-29-759, reads
15 that on that date of January 26th, 2013 while armed with a
16 deadly weapon, a handgun, you did feloniously attempt to
17 feloniously and carry away from the person or presence of
18 Mr. Anthony by means of force, threats or intimidation, the
19 money and goods of Mr. Anthony described as money with the
20 intent to deprive the owner of same in violation of
21 16-11-330B, it's a true billed indictment for attempted
22 armed robbery for which you could receive a sentence of up
23 to 20 years, do you understand?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Your Honor, if I could just a second --

1 (Break in proceedings.)

2 THE COURT: Are you ready, Mr. Grier?

3 MR. GRIER: Yes, Your Honor. Thank you, Your Honor. I
4 apologize.

5 THE COURT: Certainly, no apologies necessary.

6 2013-GS-29-760 alleged that on that date of January 26th of
7 2013 you possessed or physically displayed a firearm, a
8 knife or pistol during the commission of a violent crime, to
9 wit, murder and attempted armed robbery, it would be, to
10 wit, voluntary manslaughter and attempted armed robbery,
11 voluntary manslaughter also being a violent crime for which
12 you could receive a sentence of up to five years. Do you
13 understand that charge and that potential punishment?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you have any questions about the
16 charges, the elements of the charges of voluntary
17 manslaughter, attempted armed robbery, possession of a
18 weapon during the commission of a violent crime or the
19 potential maximum punishment on those charges?

20 THE DEFENDANT: No, sir.

21 THE COURT: Mr. Stalk, when you plead guilty you give
22 up certain very important constitutional rights. First you
23 give up your right to remain silent --

24 MR. GRIER: Your Honor, I think Mr. Stalk has indicated
25 he doesn't wish to continue with the process here. Would

1 you like me to speak with him to confirm that?

2 (Break in proceedings.)

3 MR. GRIER: Your Honor, he's indicated he wants to
4 withdraw the plea.

5 THE COURT: Is that what you want to do?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: All right, certainly.

8 (End of the plea and break in proceedings.)

9 MR. GRIER: Your Honor, I would like to make a motion
10 at this point for a continuance, Your Honor. Your Honor,
11 this was scheduled for trial for a date certain or a bond
12 would take effect of \$150,000, not upon a motion for a
13 speedy trial but by the Administrative Judge in October of
14 2013. In proximity to this case being set for trial an
15 attempted murder case was also scheduled for last week and
16 another murder trial was scheduled for February 13th, and
17 the only one that was on our motion for speedy trial was the
18 attempted murder case. Your Honor, I spent five days in
19 trial last week on an attempted murder case. As soon as I
20 learned that this -- I have a, I guess, preference of
21 investigating my own cases, but when I learned all of this
22 was coming down simultaneously I realized I needed help and
23 I procured the services of Mr. Skidmore who is here, a
24 private investigator and he commenced that investigation in
25 November and has done a good job of trying to find a lot of

PRETRIAL MOTIONS

1 and I also respect the love that the family of the defendant
2 has for their brother, friend or what have you. I would
3 advise you, would ask you to please maintain decorum and
4 respect for the Court and I will certainly maintain respect
5 for both families, both the Stalk family and the Anthony
6 family. My purpose here is to make sure the State and the
7 defendant, that the defendant receives a fair and impartial
8 trial by his peers, there's no greater right than the right
9 to a trial by jury, it's what keeps us all free. So please
10 keep that in mind.

11 (A lunch recess was taken.)

12 (Back in the courtroom.)

13 MR. BARFIELD: There is going to be a Jackson v. Denno
14 hearing at Mr. Grier's motion. It might serve the Court's
15 purposes if I kind of lay this out before I launch into it.
16 Investigator Phillip Hall with the city police department
17 will be my witness. Let me kind of explain how this all
18 came about so you'll understand, it might make it easier for
19 you, and we discussed this a little bit in a pretrial
20 conference with you in chambers this morning. But some days
21 before this homicide occurred a home invasion got reported
22 to the city police. Mr. Stalk presented himself to the
23 police department and gave a statement, a written statement
24 saying that he had committed the home invasion. Then the
25 homicide occurred and Mr. Stalk's name was immediately in

PRETRIAL MOTIONS

1 the middle of a homicide and the city police started looking
2 for him. The homicide occurred 1/26 of '13, Mr. Stalk was
3 located on 2/5 of '13. Between the homicide and Mr. Stalk's
4 arrest the city was convinced that he was not, in fact,
5 responsible for the home invasion and had obtained an arrest
6 warrant for him for accessory after the fact of the home
7 invasion for trying to cover up for somebody else, so when
8 Mr. Stalk got arrested on 2/5 he was actually in custody on
9 that accessory after the fact warrant. He was at the city
10 police department, he gave a video recorded statement on
11 that date after Miranda, and I have a video clip of that,
12 and he was questioned about the home invasion first. And
13 then they made a separate segment of videotape and they
14 questioned -- and that questioning about the home invasion
15 was about a little over 40 minutes, and I don't intend to
16 play hours worth of videotape this afternoon, I'll explain
17 that to you in a minute. After they questioned him about
18 the home invasion they took a short break, they brought him
19 back in, they questioned him again about the homicide, same
20 afternoon within minutes, and that tape was about two hours
21 long. He didn't inculcate himself at all on the homicide in
22 that two hour videotape. Then the next day, February 6th,
23 he was questioned again, and Lieutenant Hall will tell us
24 how that came about, I can't recall. But he was questioned
25 again about the home invasion -- about the homicide and

PRETRIAL MOTIONS

1 there is a videotape of that which is -- the initial portion
2 of the videotape is about a three and a half minute segment.
3 His employer comes to the station to sit with him while he
4 gives the statements at his request, and after about three
5 minutes he says, "I'll tell you all you want to know if
6 you'll let me smoke." So there is a break, then there's
7 another videotape segment minutes later which lasts about 42
8 or three minutes in which we allege that he confessed. So
9 I'm going to call Phillip Hall to lay this all out by
10 testimony and then I'm going to show you some clips of the
11 Miranda portions of these statements at least and as much of
12 the other of it as you want to hear.

13 THE COURT: Thank you, Solicitor.

14 MR. BARFIELD: I will call Phillip Hall.

15 The witness, PHILLIP HALL, was first duly sworn
16 and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. BARFIELD:

19 Q. Tell us your name, please.

20 A. Phillip Hall.

21 Q. And Lieutenant Hall, you're a police officer for the
22 City of Lancaster?

23 A. I am.

24 Q. Are you an investigator for the police department?

25 A. I am.

PRETRIAL MOTIONS

1 Q. And were you -- are you the primary investigator in the
2 case involving the homicide of Kevisis Emmanuel Anthony?

3 A. I am.

4 Q. Little bit of history. Was there a home invasion in
5 the City of Lancaster completely unrelated to this homicide
6 some time before the homicide?

7 A. There was.

8 Q. And about what date did that occur?

9 A. The home invasion actually occurred January 22nd at
10 approximately 6:30 in the morning.

11 Q. And the homicide occurred on what day?

12 A. The homicide occurred on January 26th at approximately
13 9:30 that night.

14 Q. All right. Is the home invasion a legitimate event as
15 far as the police department is concerned? Did something
16 happen at somebody's house?

17 A. It is, yes.

18 Q. Between the 22nd of the home invasion and the 26th of
19 the homicide, before David Stalk presented himself to the
20 police department, was his name on the radar about the home
21 invasion?

22 A. It was not.

23 Q. How did David Stalk's name come up in the home
24 invasion?

25 A. I was advised by Lieutenant Greenlee that Stalks had

PRETRIAL MOTIONS

1 come up to the police department and wanted to give a
2 statement admitting his part in the home invasion.

3 Q. And did he give a written statement?

4 A. He did.

5 Q. Did he get arrested at that time?

6 A. He did not.

7 Q. Did you, based on your review of the statement and your
8 discussions with then Investigator Greenlee, put any weight
9 to what Stalk had said in his written statement about him
10 being the one who committed the home invasion? Did you
11 think he had done it?

12 A. I did not think he had done it.

13 Q. Was any arrest warrant obtained for Stalk between the
14 22nd, the home invasion and the 26th, the homicide? Before
15 the murder occurred was any arrest warrant obtained for
16 Stalk concerning the home invasion?

17 A. No, sir.

18 Q. All right. How soon after 9:30 at night on the 26th of
19 January of 2013 did Stalk's name come up in that?

20 A. Just within a couple of hours of the investigation.

21 Q. All right. Did the city start looking for Stalk?

22 A. We did.

23 Q. Other agencies involved in the search?

24 A. We had SLED and the Lancaster County Sheriff's Office
25 involved in it.

PRETRIAL MOTIONS

- 1 Q. Was there some suspicion that he might have been in
2 Richland County also?
- 3 A. Yes.
- 4 Q. Was he located eventually?
- 5 A. He was eventually located.
- 6 Q. When was he located?
- 7 A. We received information that he was at Minnie Stalk's
8 house on February 6th -- excuse me, February 5th.
- 9 Q. Of 2013?
- 10 A. Of 2013.
- 11 Q. Is Minnie Stalk a relative of his?
- 12 A. I believe it's his grandmother, I believe.
- 13 Q. Was he arrested there?
- 14 A. He was.
- 15 Q. For all purposes for this hearing from the here-forward
16 chronologically from the moment he was taken away from
17 Minnie Stalk's, for all of the statements we're going to
18 talk about, was David Stalk in custody?
- 19 A. He was for the accessory.
- 20 Q. But he was in police custody.
- 21 A. Yes.
- 22 Q. From the moment you laid hands on him at 2/5 of '13 for
23 the accessory warrant --
- 24 A. Right.
- 25 Q. Well, let me back up. After the homicide occurred and

PRETRIAL MOTIONS

- 1 his name came up in it, did you do something concerning the
2 home invasion to be able to get David Stalk into custody?
- 3 A. I did. I obtained an arrest warrant for him for the
4 accessory after the fact of the home invasion.
- 5 Q. Is that what Stalk was arrested on at Minnie Stalk's
6 house on 2/5 of '13?
- 7 A. It was.
- 8 Q. Again from that point forward chronologically was Stalk
9 in the custody of Lancaster Police Department and/or folks
10 at the detention center here in Lancaster County?
- 11 A. He was.
- 12 Q. On 2/5 of '13 did you talk to Stalk?
- 13 A. I did.
- 14 Q. Where did you talk to Stalk?
- 15 A. In my office at the Lancaster Police Department.
- 16 Q. Whose idea was it to talk to -- between you and him
17 whose idea was it for you to talk to him?
- 18 A. Mine initially.
- 19 Q. And where at the police department were you talking to
20 Stalk?
- 21 A. In my office.
- 22 Q. Was Stalk in a jumpsuit at that point or was he still
23 in the clothes he had been arrested in?
- 24 A. He was still in civilian clothes.
- 25 Q. Was he handcuffed?

PRETRIAL MOTIONS

- 1 A. Not to my knowledge.
- 2 Q. Had he been handcuffed?
- 3 A. He was to transport from the jail -- I mean, from the
- 4 house to the jail, or to MJC.
- 5 Q. We're going to get into some detail in a minute, but
- 6 did you take what I'm going to call two separate statements
- 7 from Stalk on 2/5 of '13?
- 8 A. I did.
- 9 Q. And who else was involved in the taking of these two
- 10 statements from a law enforcement perspective?
- 11 A. SLED Agent Kristen Grant.
- 12 Q. And was Brian Small also present?
- 13 A. Yes, sir.
- 14 Q. The first statement related generally to what?
- 15 A. The first statement was the home invasion statement.
- 16 Q. And the second statement -- about how long was that
- 17 videotaped interview?
- 18 A. It wasn't long.
- 19 Q. And you probably don't have the time.
- 20 A. I don't have the time.
- 21 Q. We won't worry about that. What was the second part of
- 22 the statement about?
- 23 A. The second statement was the actual murder case.
- 24 Q. And is that a long videotape?
- 25 A. I think it's probably two hours.

PRETRIAL MOTIONS

1 Q. All right. Did those two -- what I'm calling two
2 statements essentially result in a written document which
3 contains question/answer format for the home invasion and
4 the homicide?

5 A. Yes, sir, it does.

6 Q. Is this a copy of that document?

7 A. Yes, sir, it is.

8 MR. BARFIELD: Let me show this to Mr. Grier real
9 quick.

10 (Break in proceedings.)

11 MR. BARFIELD: We have the original if. The Court is
12 okay and Mr. Grier is okay with copies I'm going to use
13 copies. Your Honor, I offer the statements, I guess, as a
14 Court's Exhibit at this time.

15 (The statement was received as Court's 1.)

16 Q. You do have the originals of these statements we're
17 going to be talking about this afternoon with you?

18 A. Yes, sir.

19 Q. About what time was it that you were talking to
20 Mr. Stalk on 2/5 of '13?

21 A. Around 3:15 in the afternoon.

22 Q. And how long was that after he had been taken into
23 custody probably? Minutes or hours?

24 A. Probably within minutes. We brought him straight to
25 our office after the arrest.

PRETRIAL MOTIONS

- 1 Q. Did you read him his Miranda rights?
- 2 A. We did.
- 3 Q. From what did you read him from his Miranda rights?
- 4 A. We have a standard form that we use in our police
5 department, Lancaster Police Department's suspect's rights
6 and Miranda form.
- 7 Q. Is that the first page of Courts Exhibit Number 1?
- 8 A. It is.
- 9 Q. Did you read all of that for Mr. Stalk?
- 10 A. I did.
- 11 Q. Did you ask him if he understood all of those things?
- 12 A. I did.
- 13 Q. And since the document is in evidence as a Court's
14 Exhibit I'm not going to get you to read the whole thing,
15 but did Mr. Stalk indicate to you that he understood what
16 those rights were?
- 17 A. He did.
- 18 Q. Did he do something physically to make some indication
19 that he understood what all of those rights were?
- 20 A. He initialed beside each one of his Miranda and also
21 signed at the bottom waiving his right.
- 22 Q. At what time was the Miranda form signed?
- 23 A. At 3:18.
- 24 Q. Before you got into all of that, did you determine how
25 old Mr. Stalk was?

PRETRIAL MOTIONS

- 1 A. I did.
- 2 Q. And how old was he then?
- 3 A. At the time of arrest he was 23 years old.
- 4 Q. Did you determine how far he had gone in school?
- 5 A. I did. I asked him what was the last grade he
- 6 completed in school.
- 7 Q. And do you remember what he said?
- 8 A. He advised me tenth grade.
- 9 Q. Did Mr. Stalk indicate that he understood those rights
- 10 that you read to him?
- 11 A. Yes.
- 12 Q. And did you read them all on that form?
- 13 A. I read them word for word.
- 14 Q. Did Mr. Stalk ask you any questions about any of his
- 15 constitutional rights?
- 16 A. I do not believe he did.
- 17 Q. Did you have any difficulty understanding the words and
- 18 phrases Mr. Stalk was using to communicate with you?
- 19 A. No, sir, I did not.
- 20 Q. Did he appear to have any difficulty understanding the
- 21 words and phrases you were using to communicate with him?
- 22 A. He did not.
- 23 Q. Did he ask you any questions about his rights?
- 24 A. He did not.
- 25 Q. Did he do or say anything to lead you to believe that

PRETRIAL MOTIONS

1 he did not understand his rights?

2 A. He did not.

3 Q. What was the tone and tenor of that interview? Was it
4 heated?

5 A. No, sir. It was just like me and you are talking right
6 now.

7 Q. Who all was -- well, let's go ahead and let me jump to
8 some other things. Did he make actually two statements?

9 A. He did.

10 Q. Is all of that video recorded?

11 A. It is.

12 Q. Is it safe to call statement one the home invasion
13 statement?

14 A. It is.

15 Q. Is it safe to call the second part of the statement the
16 homicide statement?

17 A. It is.

18 Q. About how long was the total period of questioning on
19 2/5 of '13?

20 A. I would probably say about maybe two and a half hours.

21 Q. Did all of this occur in your office?

22 A. It did.

23 Q. And the tape will show us, but do you recall whether
24 Stalk was handcuffed or not during the two and a half hours
25 or so?

PRETRIAL MOTIONS

1 A. He was not.

2 Q. Do you know -- were Kristen Grant and Brian Small
3 present for some or all of what went on that day?

4 A. I think Sergeant Small was present on the first as far
5 as the home invasion, and then Agent Grant was there the
6 whole time for both interviews, I believe.

7 Q. Were y'all wearing -- all three of y'all wearing some
8 clothing with indicia of being law enforcement officers on
9 it?

10 A. Yes, sir.

11 Q. Did y'all have guns with you?

12 A. Yes, sir.

13 Q. Did any other officers participate in the questioning
14 on 2/5 of '13?

15 A. I do not believe so.

16 Q. Did Stalk -- do you recall whether Stalk made any
17 requests of anything during the questioning on 2/5 of '13
18 like, "I've got to pee. I want to call my mama. I need a
19 Coca Cola?" Do you recall anything about that on that day?

20 A. I don't recall anything on that. We do offer people in
21 there water if they want it, if they want coffee we'll bring
22 that to them as well, but I can't recall if he asked for
23 anything.

24 Q. On some of these video clips Stalk was asking to smoke.
25 Is it your understanding that he was a smoker?

PRETRIAL MOTIONS

1 A. Yes, sir.

2 Q. Did he at times on some of these statements ask for
3 smokes and you said no?

4 A. I believe so.

5 Q. Did he at least on one occasion ask for a smoke and
6 y'all said yeah?

7 A. Yes.

8 Q. Did he ask for anything on the 2/5/13 questioning that
9 you did not give him, like "I've got to go pee and if you
10 don't let me go I'm going to wet my pants?"

11 A. No, sir.

12 Q. Did anybody promise him anything to get him to talk
13 about the home invasion or the homicide on 2/5/13?

14 A. No, sir, we did not.

15 Q. Did anybody make any threats to Mr. Stalk to get him to
16 talk about the home invasion or homicide on 2/5 of '13?

17 A. No, sir.

18 Q. Did he knowingly give up his rights and talk to y'all
19 about the home invasion and the homicide on 2/5 of '13?

20 A. He did.

21 Q. Was there anything out of the way at all about the
22 questioning on 2/5 of '13, meaning he got snippy with y'all
23 or y'all got snippy with him or anything like that?

24 A. No, sir.

25 Q. Did he admit committing any crime on 2/5 of '13?

PRETRIAL MOTIONS

- 1 A. He did not on 2/5.
- 2 MR. BARFIELD: Your Honor, at this time I think I'm
- 3 going to play you the beginning -- or let me back up.
- 4 Q. You talked to him -- you read him his Miranda rights
- 5 before talking to him about the home invasion; is that
- 6 correct?
- 7 A. Yes, sir.
- 8 Q. Did y'all take a break between home invasion
- 9 questioning and homicide questioning?
- 10 A. I think we did.
- 11 Q. Do you recall whether the break was just a pause or
- 12 whether people got up and left the room and did something
- 13 else and came back a minute or two later?
- 14 A. I think it was long enough for me to get up and change
- 15 my case files out because we were working on two different
- 16 cases, it wasn't that long at all.
- 17 Q. And when you started back on part two on 2/5 of '13 and
- 18 started to talk to Mr. Stalk about the homicide, did you and
- 19 he discuss Miranda again?
- 20 A. I did. He advised him that he was still under Miranda.
- 21 Q. Did you redo the whole Miranda thing?
- 22 A. I did not.
- 23 Q. How much time again elapsed between the end of talking
- 24 about home invasion and the beginning of homicide?
- 25 A. I would say less than two or three minutes.

PRETRIAL MOTIONS

1 MR. BARFIELD: Your Honor, if it's okay with you to do
2 this I'm going to try to play the beginning of the home
3 invasion part of this which includes the Miranda.

4 THE COURT: Yes, sir.

5 (The video was played.)

6 MR. BARFIELD: Your Honor, if I can interject, I will
7 go to the rest of it -- I will go to the very end of it so
8 we -- on the counter we can see what time it ended so we can
9 see when time the second portion begins.

10 THE COURT: All right.

11 (The video was played.)

12 MR. GRIER: And to be clear, that is the very first
13 statement when he went into custody.

14 MR. BARFIELD: That's correct.

15 (The video was played.)

16 MR. BARFIELD: I don't think I'm going to be able to do
17 it. Next, Your Honor, I'm going to offer the beginning of
18 the second --

19 MR. GRIER: Your Honor, I think we might be able to
20 address one issue at a time, it gets a little complicated if
21 we wait to the end and try to go back. If my recollection
22 serves me correctly there's a statement in there by
23 Detective Grant that indicates she has known Mr. Stalk, am I
24 correct, since forever, since I've been doing this. I think
25 that should be struck from that because it does indicate an

PRETRIAL MOTIONS

1 association with law enforcement that could be interpreted
2 negatively towards the defense and I don't think it's
3 relevant to the voluntariness of the statement.

4 MR. BARFIELD: I agree. There are some things in these
5 video clips that I know and Mr. Grier I'm sure doesn't want
6 me to show and I don't intend to show.

7 THE COURT: All right. And of, course, I'll leave that
8 to y'all to get it in a redacted version.

9 MR. BARFIELD: Yes, sir.

10 THE COURT: Particular if it's not on the issue of
11 voluntariness as far as the in-camera hearing is concerned,
12 correct? In other words you're saying there's substantive
13 issues in there separate and distinct that aren't relevant
14 and may, in fact, be prejudicial to Mr. Stalk, unduly
15 prejudicial and talking about it might not be good for a
16 policeman to know you all of your life.

17 MR. GRIER: Yes, sir, that's my concern.

18 THE COURT: What I'm saying is I will leave that to
19 y'all to try to work that out and if there's things that you
20 and Mr. Barfield can't work out and I --

21 MR. GRIER: We'll come back to you. Thank you, Your
22 Honor.

23 THE COURT: Yes, sir, you're welcome.

24 MR. BARFIELD: What I am fixin' to show now, Your
25 Honor, is the very beginning of part two of that statement

PRETRIAL MOTIONS

1 which is when they start talking about the homicide just to
2 be able to show that Lieutenant Hall talked to him about
3 Miranda again before they started talking about that issue.

4 THE COURT: All right.

5 (The video was played.)

6 MR. BARFIELD: For my purposes I'm going to stop it
7 right there because I'm just wanting to cover the Miranda
8 issues.

9 THE COURT: All right.

10 Q. Lieutenant Hall, the two clips we've just watched, are
11 they both the beginnings of the two periods of questioning
12 of Mr. Stalk on 2/5 of '13?

13 A. Yes, sir.

14 Q. And again during those two segments of questioning, two
15 periods of questioning, first of all did anybody make any
16 promises to Mr. Stalk to get him to tell you anything?

17 A. No, sir.

18 Q. Did anybody make any threats to Mr. Stalk, toward
19 Mr. Stalk to get him to tell you anything?

20 A. No, sir.

21 Q. Did anybody use any coercion on Mr. Stalk to get him to
22 tell you anything?

23 A. No, sir.

24 Q. And again, did he incriminate himself during either one
25 of those statements other than perhaps the standpoint of

PRETRIAL MOTIONS

1 admitting that he lied about the home invasion?

2 A. Right. No, sir.

3 Q. Do you recall after the questioning on 2/5 of '13 was
4 some decision made about charging Mr. Stalk in the homicide?

5 A. Not to my knowledge, I think we were still
6 investigating that.

7 Q. Do you recall when he actually got charged with the
8 homicide from the standpoint of when the city, you or
9 someone else, got warrants on the homicide and --

10 A. I think that occurred on the 6th.

11 Q. Did that occur before he was questioned on the 6th?

12 A. No, sir, it was after the fact.

13 Q. Where was David Stalk between 2/5 of '13 when this
14 questioning concluded that we have just seen parts of and
15 when you next saw him? Where was he?

16 A. He was at the Lancaster County Detention Center.

17 Q. How did he end up in your -- did he end up in your
18 presence on 2/6 of '13?

19 A. He did. He had to come back for a bond hearing on the
20 accessory charge.

21 Q. All right. How did you end up being in his presence
22 when he came back for a bond hearing on the accessory
23 charge?

24 A. Sergeant Small had came back and said that -- excuse
25 me, he sent word back to our division that he wanted to talk

PRETRIAL MOTIONS

- 1 to us about his case while he was at the MJC for the bond
2 hearing.
- 3 Q. And who conveyed that to you?
- 4 A. You talking about who hold me that?
- 5 Q. Yes.
- 6 A. I think it was Sergeant Small, I believe.
- 7 Q. Did David Stalk come back to the investigation section
8 of the police department on 2/6 of '13?
- 9 A. He was -- he did, excuse me.
- 10 Q. Was he addressed out on in an orange jump suit then?
- 11 A. He was.
- 12 Q. Was he still in custody?
- 13 A. He was.
- 14 Q. Was he questioned again on 2/6 of '13?
- 15 A. He was.
- 16 Q. And let's get to a little bit more detail on that for a
17 minute. Did some civilian get involved in that process?
- 18 A. They did.
- 19 Q. Who was the civilian?
- 20 A. Lynn Tucker.
- 21 Q. Who is Lynn Tucker?
- 22 A. David's boss.
- 23 Q. And what does Lynn Tucker do, general nature of his
24 business?
- 25 A. He owns Tucker's Trucking on Arch Street.

PRETRIAL MOTIONS

- 1 Q. Do you know what David Stalk did for Lynn Tucker?
- 2 A. I think he was like a helper or a mechanic or whatever.
- 3 Q. Do you know how long David Stalk had been working for
- 4 Lynn Tucker?
- 5 A. He'd been there for awhile.
- 6 Q. Awhile meaning?
- 7 A. Several years.
- 8 Q. How did Lynn Tucker's name come up on this thing on 2/6
- 9 of '13?
- 10 A. When David came back to my office he asked could Lynn
- 11 sit in -- or could he talk with Lynn at our office and we
- 12 made that happen.
- 13 Q. How did y'all make that happen?
- 14 A. I called Lynn and asked him to come up here to the
- 15 police department, that David wanted to talk to him.
- 16 Q. Did you personally know Lynn Tucker before that day?
- 17 A. I did.
- 18 Q. And did Lynn Tucker show up?
- 19 A. He did.
- 20 Q. Was David Stalk questioned again on 2/6 of '13 about
- 21 the homicide?
- 22 A. He was.
- 23 Q. I'm going to show you another piece of paper which
- 24 appears to be three pages --
- 25 MR. BARFIELD: I'll show it to Mr. Grier first.

PRETRIAL MOTIONS

1 (Break in proceedings.)

2 Q. Again, let me go over it real quick again. How did you
3 end up questioning David Stalk again on 2/6 of '13?

4 A. He'd sent word back that he wanted to talk to me about
5 this.

6 Q. When you got David Stalk in your presence on 2/6 of
7 '13, did you generate another Miranda warning document?

8 A. I did.

9 Q. And I'm going to show you a three page document stapled
10 together. Can you identify what that is?

11 A. This is a Lancaster County Police Department's suspect
12 rights and Miranda warnings with the information as far as
13 where we were at, the date, the time, what the case number
14 reflects back to.

15 Q. And does it also include as the second two pages the
16 actual written statement?

17 A. Yes.

18 Q. And again, I'm jumping around a little bit and I
19 apologize. I'm going back to Court's Exhibit Number 1. In
20 relation to the two videotapes that we saw parts of a minute
21 ago, what is Court's Exhibit Number 1?

22 A. That is the question and answer statement that we used
23 while making the video to ask the questions and get the
24 answers from David.

25 Q. You can hear clicking on the video, is that you typing

PRETRIAL MOTIONS

1 questions and answers on these written statements?

2 A. Yes, sir, that's my pecking.

3 MR. GRIER: Mr. Barfield, I'm sorry, I didn't hear that
4 question.

5 MR. BARFIELD: He said, "That's me pecking."

6 Q. Is that the same procedure that was followed on 2/6 of
7 '13?

8 A. Yes, sir.

9 Q. Is this a copy of the Miranda warning and the two page
10 written statement that was produced during the videotaped
11 interview on 2/6 of '13?

12 A. Yes, sir.

13 MR. BARFIELD: Your Honor, at this time I would offer
14 this statement as Court's Exhibit 2.

15 MR. GRIER: No objection.

16 (The statement was received as Court's 2.)

17 Q. Now, Lieutenant Hall, same kind of questions about 2/6
18 of '13 as I asked you about 2/5 of '13. Where did the
19 questioning occur?

20 A. At the Lancaster Police Department in my office.

21 Q. Who was present on 2/6 of '13?

22 A. Myself and I believe SLED Agent Grant.

23 Q. Check it.

24 A. It might be Captain Grant, I can't read the signature.

25 Q. If I tell you it's Captain Grant --

PRETRIAL MOTIONS

- 1 A. Captain Grant, that's it, Captain Grant and myself.
- 2 Q. Do you know if Brian Small was around for any part of
- 3 that?
- 4 A. I don't think he was on that one.
- 5 Q. Did you read David Stalk his Miranda warnings on 2/6 of
- 6 '13?
- 7 A. I did.
- 8 Q. Did you read them all that are listed on Court's
- 9 Exhibit Number 2?
- 10 A. Yes, word for word.
- 11 Q. Did you again before doing that determine how old Stalk
- 12 was?
- 13 A. I did.
- 14 Q. And was he -- this is a stupid question -- the same
- 15 age?
- 16 A. Yes.
- 17 Q. Did you determine how far he had gone in school again?
- 18 A. Yes, sir.
- 19 Q. Did you make a record of that?
- 20 A. I did.
- 21 Q. Did you indicate what time you started the Miranda
- 22 warnings on 2/6 of '13?
- 23 A. I did.
- 24 Q. What time?
- 25 A. It was 11:54 a.m.

PRETRIAL MOTIONS

1 Q. All right. Did you ask Mr. Stalk after reading him
2 each one of his rights, or after reading them altogether
3 whether he understood these rights?

4 A. I did.

5 Q. Do he indicate whether he did or did not?

6 A. He stated he did.

7 Q. Did he do something physically to acknowledge that he
8 understood those rights?

9 A. He initialed beside each right, again, Miranda, and
10 then at the bottom signed his signature on the waiver of
11 rights.

12 Q. And what time did he waive his rights?

13 A. 11:58.

14 Q. Okay. Now, again, did he ask you any questions about
15 his rights that day?

16 A. He did not.

17 Q. Did he say or do anything in your presence that led you
18 to believe he didn't understand his rights on 2/6 of '13?

19 A. He did not.

20 Q. Did he have any problems -- appear to have any problems
21 understanding the words and phrases that you and the others
22 in the room were using to communicate with him?

23 A. He did not.

24 Q. How about vice versa, did you have any trouble
25 understanding what he was saying?

PRETRIAL MOTIONS

1 A. We did not.

2 Q. Did he do anything to tell you -- indicate to you he
3 didn't understand what his rights were?

4 A. No, sir.

5 Q. Did he give up his rights and talk to y'all again on
6 2/6 of '13?

7 A. Yes, sir.

8 Q. Again, same questions about how long was he with y'all
9 on 2/6 of '13?

10 A. I want to say about an hour or so.

11 Q. Is that statement also sort of in two parts video clip
12 wise any way?

13 A. Yes.

14 Q. Is Mr. Tucker present when the video starts?

15 A. Yes, he is.

16 Q. Was -- do you recall whether Stalk was handcuffed the
17 first time?

18 A. Oh yeah, I saw that.

19 Q. Do you recall whether he was handcuffed the second time
20 around?

21 A. I'm pretty sure he was if he was in orange.

22 Q. That's fine. Let me go back to the first questioning
23 on 2/5 of '13. Did Mr. Stalk have any injuries or physical
24 ailments that were visible to you when he was questioned on
25 2/5 of '13?

PRETRIAL MOTIONS

- 1 A. No, sir.
- 2 Q. Did he appear to be sick or complain of any physical
3 maladies or physical discomfort?
- 4 A. He was not.
- 5 Q. Same questions on 2/6 of '13, was he injured, hurt,
6 have any bruises, marks or anything on him?
- 7 A. No, sir.
- 8 Q. Did he appear to feel bad, be uncomfortable, complain
9 of any pain or sickness or anything?
- 10 A. No, sir.
- 11 Q. How were y'all dressed on 2/6 of '13?
- 12 A. Probably polos and 511's.
- 13 Q. Okay. On both 2/5 and 2/6, did anybody pull out a gun,
14 slam the fists on the tables, do anything to suggest
15 violence was in store for Mr. Stalk if he didn't talk?
- 16 A. No, sir.
- 17 Q. Did somebody from the LPD call Lynn Tucker or did y'all
18 give David Stalk a phone for him to call Lynn Tucker for him
19 to come up there on 2/6?
- 20 A. I think we let him make that phone call.
- 21 Q. That wasn't really a trick question.
- 22 A. I don't know, I can't remember. I know I called him
23 one time and I'm not sure if I got ahold of him or not.
- 24 Q. That's fine. Did David Stalk ask to speak with anybody
25 else other than law enforcement and Lynn Tucker on 2/6 of

PRETRIAL MOTIONS

1 '13?

2 A. No, sir.

3 Q. Did he at any time say, "I want to talk to my mama, I
4 want it talk to my child's mother, I want to talk to my
5 granddaddy," or anything like that?

6 A. I don't believe so.

7 Q. Did Stalk make a request during the first part of the
8 interview on 2/6 of '13 for what I call creature comforts?

9 A. Yes, sir.

10 Q. What did he ask for?

11 A. He asked for a smoke break.

12 Q. Did y'all let him go smoke?

13 A. We did.

14 Q. Did the tape stop while he was out smoking?

15 A. I think it did.

16 Q. Was Lynn Tucker there when he asked for a smoke break?

17 A. Yes, sir.

18 Q. Did Lynn Tucker encourage y'all to let him have a
19 smoke?

20 A. Well, he was the only one that smoked so we had to let
21 him do it because nobody else had cigarettes. Lynn is the
22 only one that had cigarettes.

23 Q. From your recollection -- we'll see the tape in a
24 minute -- your recollection of Stalk's comment about smoking
25 and then what? What did Stalk say?

PRETRIAL MOTIONS

- 1 A. He told us if we let him smoke a cigarette he would
2 tell us what we wanted to know.
- 3 Q. Did y'all let him smoke a cigarette?
- 4 A. We did.
- 5 Q. Did he come back in and tell y'all some things about
6 the homicide?
- 7 A. He did.
- 8 Q. Did anybody promise Stalk anything to get him to talk
9 about the homicide?
- 10 A. No, sir.
- 11 Q. Did anybody threaten Stalk to get him to tell you about
12 the homicide on 2/6 of '13?
- 13 A. No, sir.
- 14 Q. Was any kind of coercion used on Mr. Stalk to get him
15 to talk about the homicide?
- 16 A. No, sir.
- 17 Q. Did Mr. Tucker to some degree participate in both
18 segments of the videotape?
- 19 A. He did. He was more there I reckon for David's
20 comfort, like a mediator. And sometimes Tucker would say,
21 you know, what David should be saying or something to that
22 effect.
- 23 Q. Did you know whether Tucker knew -- let me just ask you
24 this, let me ask the question this way. Do you know prior
25 to 2/6 of '13 when Mr. Tucker is there with Mr. Stalk for

PRETRIAL MOTIONS

1 the giving of the statement, do you know whether Stalk had
2 fessed up to Tucker prior to coming in there and talking to
3 y'all? Do you know that one way or the other?

4 A. Yes, we did.

5 Q. Okay. That he had told Tucker something about that?

6 A. That he had talked to Lynn Tucker about this case..

7 Q. You don't know what detail.

8 A. Don't know what he said but he had spoken to him about
9 this.

10 Q. Did it appear from what Tucker was saying during the
11 interview that Tucker knew some things about the case?

12 A. Correct.

13 Q. You don't know what, though.

14 A. Right.

15 Q. Again, was the conversation civil during the two
16 segments of interview on 2/6 of '13 or did it get heated?

17 A. No, it was calm.

18 Q. From watching the tape on 2/6 of '13 Stalk has tissues.
19 Do you know if he's got a cold or was he emotionally upset
20 and wiping his eyes?

21 A. I think he was emotionally upset.

22 Q. Were you sick during this period?

23 A. I was just like I am now, sick, yes, sir.

24 MR. BARFIELD: Your Honor, at this time I'm going to
25 play probably the entire first portion of that interview,

PRETRIAL MOTIONS

- 1 then we'll see about the second portion. I don't know if
2 you're hearing what we're playing. Are you hearing it okay.
3 THE COURT: It could be louder.
4 (The video was played.)
5 Q. Lieutenant Hall, what happened after this part of the
6 interview ended? What happened next?
7 A. We went out there for a smoke break, that's when he
8 asked for a cigarette.
9 Q. About how long were y'all outside for Stalk to smoke a
10 cigarette?
11 A. I'd probably say about ten minutes.
12 Q. Then what happened?
13 A. We came back in and that's when we began to question
14 him and I advised him that he was still under Miranda and
15 that's when he gave the statement admitting to his part.
16 Q. Let me just jump right ahead. On the second video that
17 we're about to see part of and maybe all of, did Stalk admit
18 involvement in the shooting death of Kevisis Anthony?
19 A. He did.
20 Q. Was Lynn Tucker present during that interview?
21 A. I think he was.
22 Q. Did Lynn Tucker participate to some degree on the tape
23 in the discussions with Mr. Stalk about the homicide?
24 A. Yes, sir.
25 MR. BARFIELD: Your Honor, this tape is about 42

PRETRIAL MOTIONS

1 minutes long, I don't know if you want to take it home
2 tonight and watch it instead of sitting here and watch it
3 this afternoon. I'm going to play the first of it but we'll
4 deal with you however you want to deal with it. I'm at the
5 point really where I'm just trying to establish the Miranda
6 rights and the waiver, I'll let Mr. Grier respond if he
7 wants to before we decide how much of this we want to watch.

8 MR. GRIER: I agree we're only dealing with the
9 voluntariness and to the extent that he feels he needs to
10 present something to that end, I think that's what we're all
11 about. I'm not going to tell him how to do that.

12 MR. BARFIELD: Well, let me just say this. When I
13 conclude in a minute I'm going to offer these four clips as
14 Court's Exhibits for purposes of this hearing, which means
15 everything on them is in evidence for the Court's purposes
16 for this hearing. And if you feel like you want to take
17 them home I'm fine with that, I don't think there's any need
18 for us to watch 42 minutes of tape.

19 MR. GRIER: I'm not going to ask that you do it unless
20 I change my mind, and if I have the opportunity to turn
21 around and do that here in a minute if I do.

22 MR. BARFIELD: All right, that's fine.

23 (The video was played.)

24 Q. During the second portion of what I just took out that
25 we saw the beginning of, did it get vocal, violent, rough at

PRETRIAL MOTIONS

1 any time during that interview?

2 A. No, sir.

3 Q. At any time during any of the interviews on 2/5 or 2/6
4 did Stalk say, "I've changed my mind, I want to invoke my
5 right to silence or to have a lawyer present or to talk to a
6 lawyer before I continue to talk?" Did he ever say, "I want
7 to stop talking and get a lawyer and keep my mouth shut?"

8 A. No, sir.

9 MR. BARFIELD: Your Honor, at this time I would offer
10 these four clips as Court's Exhibits, I guess, 3, 4, 5 and
11 6.

12 THE COURT: Mr. Grier?

13 MR. GRIER: Your Honor, I don't think I have a basis
14 for an objection to that. I understand that those are for
15 your consideration to determine whether or not this was a
16 voluntary statement or not.

17 THE COURT: They're admitted, 3, 4, 5 and 6.

18 (The video clips were received as Court's 3-6.)

19 Q. At anytime in the statement -- in the second part of
20 the statement on 2/6 of '13 did Stalk recant and say, "I
21 take it back?"

22 A. No, sir.

23 Q. How come it took -- we heard the first two or three
24 minutes of that, how come that tape is 42 minutes long?
25 What were y'all talking about for the other 40 minutes or

PRETRIAL MOTIONS

1 so?

2 A. Pretty much him showing his emotions. He was pretty
3 much distraught, sorry for what he did and he just --

4 Q. Was there some questioning of Stalk about whether his
5 codefendant, Ketta Evans, had some knowledge of what was
6 going on or participated in it?

7 A. Yes, sir.

8 Q. Did that take some time?

9 A. Yes, sir.

10 Q. Was there some questioning of Stalk about a 911 call?

11 A. Yes.

12 Q. And a telephone that you believe he had?

13 A. Right.

14 Q. And a gun that he used. What was that questioning all
15 about? Not the details but what were y'all trying to get at
16 with all of that.

17 A. If he would take us to where those items were.

18 Q. And did he take you to a location that he said he
19 disposed of those items?

20 A. Yes.

21 Q. Did y'all find those items?

22 A. No, sir.

23 Q. Now, I'm going to go back one more time to the 2/5 part
24 two statement, the two hour video segment concerning the
25 homicide in which he didn't incriminate himself according to

PRETRIAL MOTIONS

1 you. Did y'all push him pretty hard in that statement about
2 a 911 call?

3 A. Yes, sir.

4 Q. What was your belief about a 911 call before y'all
5 started talking to Stalk?

6 A. We knew that he had made the call from his personal
7 cellphone.

8 Q. And how did you have his personal cellphone number?

9 A. How do we have his number?

10 Q. How did you know what Stalk's number was?

11 A. Just information, we got it from Ketta, I think she
12 gave us that information as well as Tucker, those are the
13 people that knew his cellphone number.

14 Q. Did he eventually -- of course to some degree I guess
15 we could say he incriminated himself on 2/5 in the second
16 part of his statement. Did he ever admit to you the number
17 you believed was his was in fact his?

18 A. Yes.

19 MR. BARFIELD: At this time that's all of the questions
20 I have for Lieutenant Hall of the admissibility of the
21 statement.

22 THE COURT: Thank you, Solicitor. Mr. Grier?

23 MR. GRIER: Thank you, Your Honor. Court's indulgence?

24 THE COURT: Certainly.

25 CROSS EXAMINATION

PRETRIAL MOTIONS

1 BY MR. GRIER:

2 Q. Lieutenant Hall, Mr. Stalk was initially questioned
3 about that Heath Circle armed robbery, correct?

4 A. Yes, sir.

5 Q. At that time did you believe you had probable cause on
6 the case we're in court about today for an arrest on that
7 case?

8 A. I don't know.

9 Q. Okay. What did you know about this purported
10 involvement in this case at that time? Did you have his
11 cellphone records?

12 A. I think we had a return on them yet.

13 Q. I want to kind of go back and work my way to that. You
14 say that you knew the cellphone was his. Have you listened
15 to that call?

16 A. Did I listen to the 911 call? Yes.

17 Q. You think that sounds like David?

18 A. Yes.

19 Q. Okay. Where did that cellphone, where was that traced
20 back to, that cellphone, what address was the cellphone
21 traced back to?

22 A. As far as the owner of the phone.

23 Q. Yeah. Where would the bill be sent I suppose.

24 A. That I don't know.

25 Q. It wasn't his address, was it?

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1 A. Not sure.

2 Q. It wasn't David Stalk's address. The very first
3 statement that we looked at today you believed to be an
4 interview based on a false confession, correct?

5 A. Correct.

6 Q. So Mr. Stalk is capable of making false confessions,
7 right?

8 A. He is. But this one here, we pretty much knew that
9 based on what he said he wasn't even telling the right time
10 of the incident when the actual home invasion took place.

11 Q. Okay. That would suggest that he's capable of making a
12 false confession even if he didn't have all of that right,
13 right?

14 A. Yes.

15 Q. Now, when he was interviewed and you asked, "Why are
16 you being picked up?" Did I understand him to say, "Because
17 I think you've got a bench warrant on me?" Do you recall
18 that?

19 A. I don't recall that.

20 Q. Do you recall conversations with Mr. Stalk about the
21 prospects of him getting a bond? Did you tell him you would
22 help him?

23 A. I told him that we would talk with the Judge on the
24 accessory part and that's left up to the Judge. All we can
25 say is say, "Yeah, he came up here on his own free will and

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1 accord," or we had to do this, this and this to help him,
2 and all of that is presented to the Judge and it's the
3 Judge's decision at that time. We can't tell people, "Yeah,
4 I am gonna talk to a judge and get you out of here." All we
5 can say is we'll talk to the Judge for you.

6 Q. So you believe that there was never any suggestion that
7 you would talk to the Judge --

8 A. I did talk to the Judge for him.

9 Q. I didn't finish my question.

10 A. Okay.

11 Q. On this murder charge? You don't believe you ever
12 implied you would help him or talk to him on his behalf,
13 assist him with getting a bond on the murder charge?

14 A. I didn't tell him I would get him a bond, I said I will
15 talk to the Judge for you.

16 Q. On the murder charge as well.

17 A. No, on the accessory.

18 Q. So after that very first interview you never
19 suggested -- when he said am I going to get a bond you never
20 said it might help him?

21 A. No. I said it was up to the Judge as far as I can
22 remember.

23 Q. Okay. So, you know, the first day doesn't yield
24 anything as far as his statement that incriminates him,
25 correct?

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- 1 A. Correct.
- 2 Q. You feel he was properly Mirandized, there are no
3 issues without Miranda and, in fact, I'm not going to
4 challenge it on that first day because I don't think I have
5 got any issue with that. The second day. Now, it's your
6 testimony that Mr. Stalk sent word you believe that he
7 wanted to talk to you? Do you remember?
- 8 A. He sent word that he wanted to talk to somebody in
9 special operations, that's what was told to me.
- 10 Q. All right.
- 11 A. And since I had been dealing with him the whole time I
12 figured he wanted to talk to me. I'm not sure if he
13 specifically requested somebody but it's my case.
- 14 Q. Exactly. You typically you would be in on it. Now,
15 again, how did Mr. Tucker get in to play that day?
- 16 A. When I brought him back there he said that he wanted to
17 know if Lynn could come in here and be with him and so we
18 made arrangements for that to happen.
- 19 Q. And so how long was he in your office prior to that
20 commencement of that first statement on the 6th do you
21 suppose?
- 22 A. Lynn's office is right there across from the police
23 department so however long it would take for Lynn to go
24 across the street, five or ten minutes.
- 25 Q. Wasn't very long.

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1 A. No.

2 Q. And you believe that Mr. Stalk called him?

3 A. I'm not sure exactly who made the phone call but I know
4 he was gotten in touch with and he did come to the station.

5 Q. Okay. All right. So did anything of any evidentiary
6 value come out of that first conversation on the 6th with --
7 when he's clearly in custody and in an orange jump suit the
8 first segment? There's two videos, right?

9 A. Right. Well, the first one and then he wanted to take
10 a smoke break so we went out there and let them smoke a
11 cigarette.

12 Q. You did a Miranda on the first segment of that?

13 A. Yes.

14 Q. Cameras off, there's a break. How long was that break,
15 do you have any idea?

16 A. Just long enough for him to smoke a cigarette, and all
17 we done was walked out the back door behind dispatch and let
18 him smoke the cigarette, then we come right back in and
19 started back up.

20 Q. Are there time stamps on those videos?

21 A. No. Well, it's time-stamped but it's using some kind
22 of off the wall body cam system that we was trying out and
23 we never could get that time to be the correct time. But
24 it's using like some other type of time code or something
25 and we couldn't figure out why we couldn't put it to our

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- 1 eastern and standard time.
- 2 Q. Well, I've been trying to figure that out myself as to
3 why those time stamps don't match up with the Miranda forms,
4 and they just don't?
- 5 A. They just don't. The only thing on there correct is
6 the date.
- 7 Q. Okay. Now, there's a break for some length of time.
- 8 A. Uh-huh.
- 9 Q. Come back in. And what's your testimony as to why he
10 was properly Mirandized in that second statement in there?
11 There really are two statements, aren't there?
- 12 A. I don't think I ever questioned him -- never questioned
13 him in the first segment. Like I said, as soon as we got
14 through with Miranda he said he wanted to smoke a cigarette
15 so usually if that's what he wants then that's what we would
16 let him have.
- 17 Q. Okay. Well, I mean there was a break in the continuity
18 of the interview, wasn't there?
- 19 A. Long enough for him to go smoke a cigarette.
- 20 Q. Okay. And when you came back in you said, "You're
21 Mirandized, aren't you?"
- 22 A. Still under Miranda.
- 23 Q. How does he know -- do you know that he knows what
24 Miranda is?
- 25 A. He said he understood it when I read it to him the

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1 first time the day before.

2 Q. He said he understood his rights, but when you talk
3 about Miranda how do you know that he knows what Miranda is?
4 Do you? You really don't.

5 A. I don't really know, I just figured he would understand
6 that.

7 Q. All right. Now, on that second day while y'all were
8 smoking nothing came up off camera about him getting a bond?
9 He didn't ask you about getting a bond on that murder
10 charge, that never came up period? Not to your knowledge or
11 you just don't remember?

12 A. I don't believe so, I don't think so.

13 Q. Okay. Now --

14 A. And if it was it would be it's left up entirely to the
15 Judge. I can't tell him, "Yeah, the Judge is going to set
16 you a bond," that's something I can't do.

17 Q. And I can't either, I wish I could. All right.
18 Lieutenant, you said he was not hand -- I'm flipping back to
19 the first video, the first day on the 5th now, February 5th
20 your testimony was he was not handcuffed that day.

21 A. Well, I did. I've watched so much video this weekend
22 I'm trying to keep up with what's going on.

23 Q. Me too. Okay. Now, he -- what did he tell you in his
24 statement that's consistent with the facts on the scene that
25 were not the word on the street? I'm going to put it that

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- 1 way. Does that question maybe sense to you?
- 2 A. No.
- 3 Q. Did y'all withhold information -- I don't mean withhold
4 it from us or anything, I mean -- okay. It's common
5 technique, investigative technique not to release all the
6 details, right, of the crime scene, et cetera.
- 7 A. Right.
- 8 Q. So that you can test the veracity of people that are
9 talking about it. Now, what did he tell you that wasn't --
10 did y'all keep any information to test the veracity and the
11 truthfulness of Mr. Stalk that way as part of your
12 investigation of this case?
- 13 A. I don't think we did. We didn't --
- 14 Q. And what did he say that he did? He says he shot three
15 times, doesn't he?
- 16 A. Correct.
- 17 Q. Isn't that contradicted by the evidence in the case?
18 If I read it correctly there's six shots fired.
- 19 A. Correct.
- 20 Q. He told you that he had a gun and a phone and I think
21 he threw them in the creek.
- 22 A. In that general vicinity.
- 23 Q. That didn't check out either, did it?
- 24 A. Well, you put it in a high walking area -- in that area
25 there's a lot of foot traffic in that area, so I mean, as

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1 far as that --

2 Q. Ten days later.

3 A. Right.

4 Q. And the gun -- he was actually found in possession of a
5 gun when he was arrested, wasn't he? Not physically on him,
6 but --

7 A. Correct.

8 Q. You have actually a witness that says they saw him put
9 it under the mattress? This wasn't the gun used in this
10 shooting, was it?

11 A. No.

12 MR. GRIER: That's all of the questions I've got for
13 this witness, Your Honor.

14 THE COURT: Redirect, Solicitor?

15 MR. BARFIELD: Just a couple of real quick ones.

16 REDIRECT EXAMINATION

17 BY MR. BARFIELD:

18 Q. Did you ever -- did you at anytime -- well, let me back
19 up. Mr. Stalk was questioned by you on 2/6 of 2013 when he
20 was in the orange jumpsuit with Lynn Tucker present.

21 A. Correct.

22 Q. Had he been served with any warrants related to the
23 homicide before or during that questioning?

24 A. Not 100 percent sure.

25 Q. That's fine. Did you at anytime discuss with Mr. Stalk

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1 helping him with a bond for charges related to the homicide?

2 A. I don't remember discussing that with him.

3 Q. Could you have? Could your City Judge have done
4 anything about a murder bond?

5 A. They could not and that's what I told him. I said I
6 could speak to the Judge as far as the accessory part. I
7 knew our Judge wouldn't be able to do anything with the
8 murder charge.

9 MR. BARFIELD: Thank you, that's all.

10 THE COURT: Recross, Mr. Grier?

11 RECROSS EXAMINATION

12 BY MR. GRIER:

13 Q. Do you remember the bond hearing for Mr. Stalk here in
14 this courtroom?

15 A. Do I remember?

16 Q. Yeah. Do you remember coming down?

17 A. Yeah, I'm pretty sure.

18 Q. You kind of said some good things about Mr. Stalk,
19 didn't you?

20 A. I think I did. I said I knew him, he comes from a good
21 background as far as where he works and all that.

22 Q. You said he was just a good fellow, didn't you?

23 A. Yeah.

24 Q. That wasn't a result of you feeling you had committed
25 yourself to speaking on behalf of Mr. Stalk?

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1 A. I would say yes.

2 MR. GRIER: Okay. Thank you.

3 THE COURT: Thank you very much, Lieutenant, you may
4 step down. All right. Solicitor, you may call your next
5 witness?

6 MR. BARFIELD: I don't have anything else on the
7 statement matters.

8 THE COURT: Thank you. Does the defendant intend to
9 introduce any evidence and testimony in the in-camera
10 hearing, Mr. Grier?

11 MR. GRIER: Judge, just in an abundance of caution I
12 would be confident that that would not in any way prejudice
13 any of my client's rights to not testify in further
14 proceedings and I would want that on the record, that in no
15 way is what he says concerning this evidence going to be
16 considered the defense presenting evidence in this case that
17 might have some affect on whether or not the defendant
18 compromises his right not to testify in the future, and
19 whether that's going to be considered presenting evidence in
20 this case that would default or prevent me from having last
21 argument if he doesn't testify if I don't present any
22 evidence.

23 THE COURT: I've never heard that argument before,
24 that's an interesting argument, Mr. Grier. I do not think
25 that constitutes the presentation of evidence?

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1 MR. GRIER: Certainly that would be my interpretation
2 of it, Your Honor. Would that govern your future rulings
3 throughout this trial?

4 THE COURT: Yes, sir. Because the real evidence is --
5 I don't know if it governs my future rulings, I can't
6 predict the future. All I'm saying is that Battle case,
7 State versus Battle and that line of cases is about closing
8 argument, I think it has to be in the presentation of
9 evidence and testimony to the fact finder that would change
10 his right to a final argument and I don't think in-camera
11 before me just making the ruling under Jackson versus Denno
12 and State versus Parker prejudices him in any way.

13 MR. GRIER: Nor do I, Your Honor, but in an abundance
14 of caution I have some reason to believe from other
15 attorneys that suggested that it might so I wanted to cross
16 that bridge with you.

17 THE COURT: I'm going to have to research it a little
18 bit more but I've never thought through that. That would be
19 my ruling. Solicitor, do you care to add anything?

20 MR. BARFIELD: I do not, and I've never argued that
21 getting up in an in-camera hearing and offering evidence
22 gives me automatically the last argument.

23 MR. GRIER: Then I would call Mr. Stalk.

24 THE COURT: Well, let me ask you for a minute, how long
25 do you think he's going to be?

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1 MR. GRIER: Not very long, maybe ten minutes.

2 THE COURT: All right, Mr. Grier?

3 The witness, DAVID STALK, was first duly sworn
4 and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. GRIER:

7 Q. Mr. Stalk --

8 A. Yes, sir.

9 Q. -- do you remember going in the custody of the
10 Lancaster Police Department on February 5th, 2013?

11 A. Yes, sir.

12 Q. At that time what was your understanding of why you
13 were being taken in to custody?

14 A. I thought I had an old bench warrant or something.

15 Q. Okay. Do you know what that might have been about?

16 A. Not really.

17 Q. Do you recall the sequence that's presented here in the
18 courtroom, is that the way you recall the sequence of events
19 as far as the statements that you gave?

20 A. Yes, sir.

21 Q. So what was the first statement that you gave about?

22 A. The home invasion.

23 Q. Well, Mr. Stalk, did you -- that was the home invasion
24 on :?

25 A. Yes, sir.

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- 1 Q. And you were questioned as to whether or not you
2 committed that home invasion?
- 3 A. That's correct.
- 4 Q. Had you previously given a statement -- presented
5 yourself -- you had not given a statement prior to that day
6 about that, had you? You had talked to law enforcement
7 about it.
- 8 A. Yes, sir.
- 9 Q. And had you told them something about it, about your
10 participation in it?
- 11 A. Yes, sir.
- 12 Q. Okay. And so you had made some false confession to a
13 crime you didn't commit?
- 14 A. Yes, sir.
- 15 Q. Now, were you arrested as a result of making that
16 statement?
- 17 A. No, sir.
- 18 Q. The very first statement, I'm talking about the first
19 time you talked to law enforcement about the Heath Circle
20 armed robbery, you were not arrested.
- 21 A. No.
- 22 Q. So when you went into custody on February 5th, what was
23 the first thing that you were asked about, do you recall?
- 24 A. I think the home invasion.
- 25 Q. Okay. Do you recall how long that lasted?

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- 1 A. No, sir, I can't remember.
- 2 Q. Did you have any issues with talking to law enforcement
3 about that?
- 4 A. No, sir.
- 5 Q. Then there was a break as I recall after that was
6 concluded, right?
- 7 A. Yeah.
- 8 Q. And then you gave another statement about -- the
9 inquiry began about the homicide at Ketta's house, right?
- 10 A. Yeah.
- 11 Q. And you gave a statement about that in which you denied
12 any involvement, correct?
- 13 A. Yes, sir.
- 14 Q. Now, on February 6th -- now, was there any conversation
15 that you recall that day about -- excuse me, let's go back
16 to the 5th, sorry for the confusion. Do you recall any
17 conversation that day with Lieutenant Hall about a bond?
- 18 A. Not about the bond, about the -- getting a bond period?
- 19 Q. Yeah.
- 20 A. Oh, yes, sir.
- 21 Q. And what was that bond -- what was that conversation
22 about a bond about?
- 23 A. That he would see that I would get a bond.
- 24 Q. Well, did he commit to it or did he just say that he
25 would make sure that he would get a bond hearing?

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- 1 A. He said he would make sure I got a bond hearing, that
2 he would talk to the Judge.
- 3 Q. What did you take that to mean?
- 4 A. That I would get a bond hearing and he would talk to
5 the Judge and I would get a bond.
- 6 Q. Did all of that happen at Heath Circle?
- 7 A. No. This wasn't the 5th, I don't think.
- 8 Q. Okay. All right. Well, do you recall another -- so
9 let's move to the 6th. Lieutenant Hall got word that you
10 wanted to speak with him, is that accurate?
- 11 A. No, that's false.
- 12 Q. Well, what's your recollection of how that went down?
- 13 A. After I made that statement indicating that I did it --
- 14 Q. Hold on a second, let's just back up. How did you end
15 up back at the Lancaster Police Department?
- 16 A. I came back for a bond hearing.
- 17 Q. Okay.
- 18 A. And they denied my bond.
- 19 Q. So while you were there on that --
- 20 A. I told Smalls --
- 21 Q. -- what happened.
- 22 A. Before they took me back to the county I told Officer
23 Smalls that I would like to talk to Hall.
- 24 Q. So you did -- while you were there on that bond hearing
25 you got word -- you put word to Lieutenant Hall, or did ask

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1 for him specifically, or do you recall?

2 A. I can't recall -- maybe, yeah.

3 Q. And how long was it from the time of your bond hearing
4 until you ended up back in front of Lieutenant Hall, do you
5 recall?

6 A. No, sir.

7 Q. You have no idea? Was it a long time or was it a
8 pretty short time?

9 A. It was a pretty short time.

10 Q. Now, there were two interviews or two segments of
11 interviews, however you want to put it, that day as well, do
12 you recall?

13 A. Yes, sir..

14 Q. Prior to -- did you see the video? Were you watching
15 today?

16 A. Oh, yes.

17 Q. So do you remember when that very first one on the 6th
18 cranks up, and Lynn Tucker is present there, right?

19 A. Correct.

20 Q. So how long had you been sitting in that office when
21 that happened?

22 A. It wasn't long. It was a little while because we were
23 in there just talking and everything.

24 Q. You were talking with Hall?

25 A. Yeah.

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- 1 Q. What were you talking about?
- 2 A. All three of us talking, and basically we were just
- 3 talking in general, you know what I'm saying?
- 4 Q. Did the issue of a bond come up?
- 5 A. I asked him about it.
- 6 Q. When did you ask him about it? Prior to the recording
- 7 or --
- 8 A. Yeah.
- 9 Q. What do you recall about that conversation?
- 10 A. He said he would talk to the Judge about me getting a
- 11 bond.
- 12 Q. And that was prior to the recording commencing?
- 13 A. Yeah, I think so.
- 14 Q. And you -- were you having a nicotine fit?
- 15 A. Yes, sir.
- 16 Q. So what -- do you recall what you said about that,
- 17 about smoking?
- 18 A. Yeah. I asked him if I could smoke a cigarette and he
- 19 let me go outside and smoke a cigarette.
- 20 Q. Would you explain Miranda to me?
- 21 A. Not really, I can't tell you. I really don't know what
- 22 it is.
- 23 Q. Well, you just -- if somebody is talking about Miranda
- 24 you don't know what it is?
- 25 A. No, sir.

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- 1 Q. But now you have been over your rights before, hadn't
2 you?
- 3 A. Yes, sir.
- 4 Q. Now, did you understand -- or how many times were you
5 interviewed on the 6th?
- 6 A. I think twice, I think.
- 7 Q. And that was one time pre-smoke and one time post?
- 8 A. No, just once. Just once.
- 9 Q. Okay. Well, you were interviewed before smoking and
10 you were interviewed after smoking, right?
- 11 A. No. He read me my rights before we went out. And like
12 we didn't get into any conversation, and after he read me my
13 rights he talked to me a little bit more after I smoked a
14 cigarette, we walked outside and then came back in, then I
15 gave the statement.
- 16 Q. Well, were you told what your rights were the second
17 time?
- 18 A. Not that I recall.
- 19 Q. Okay. Well, you saw the video, did you see your rights
20 being read to you that second time?
- 21 A. Really I wasn't paying no attention to it that second
22 time.
- 23 Q. Well, was there anymore conversation about you getting
24 a bond?
- 25 A. Not that I can remember.

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- 1 Q. All right. Now -- and I had it out be I must have --
2 on February the 11th, some days later you asked to see Hall
3 again, didn't you?
- 4 A. Yeah.
- 5 Q. Why did you ask to see him again? Do you recall?
- 6 A. Yeah. To tell him that the statements I gave, that was
7 false statements, and the only reason I gave that statement
8 is he told me he would help me get a bond.
- 9 Q. Why would you make a false statement to get a bond?
- 10 A. Really I ain't been in no situation like that, you know
11 what I'm saying? Really I was just trying to get out of
12 jail.
- 13 Q. All right. Were you coerced or forced or pressured or
14 anything?
- 15 A. No.
- 16 Q. But were you -- okay. Answer any questions that --
17 well, I'll ask you one more question. When you came in and
18 said the reason that you gave those prior statements was
19 because you thought you were going to get a bond.
- 20 A. Yeah.
- 21 Q. That was recorded as well, wasn't it?
- 22 A. I thought it was.
- 23 Q. Okay. You didn't see that today, did you?
- 24 A. No, sir.
- 25 Q. Okay. But do you recall that meeting where you came

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1 back and made that statement to Officer Hall?

2 A. Yeah.

3 Q. Okay.

4 MR. GRIER: That's all.

5 THE COURT: Thank you, Mr. Grier. Solicitor?

6 MR. BARFIELD: Just a couple.

7 CROSS EXAMINATION

8 BY MR. BARFIELD:

9 Q. For purposes of this hearing only, before you got
10 questioned on 2/5 of '13, the day you got arrested and you
11 got questioned again on 2/6 of '13, the day after, right?

12 A. Yes, sir.

13 Q. For purposes of this hearing only, not something we'll
14 talk about tomorrow when the jury is here, but you had been
15 read your Miranda rights before that day. Some time in the
16 past had you been arrested and read your Miranda rights.

17 A. Yeah.

18 Q. You know what Miranda rights are, don't you?

19 A. Yeah.

20 Q. You know what your right to remain silent is, don't
21 you?

22 A. Yeah.

23 Q. You know what your right to have a lawyer is, don't
24 you?

25 A. Yeah.

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1 Q. You know what your right to have an appointed lawyer is
2 if you can't afford one is, don't you?

3 A. Yeah.

4 Q. You weren't confused about any of that on either
5 February 5th or 6th, were you?

6 A. No.

7 Q. When Hall was telling you what your rights were, you
8 knew what he was talking about, didn't you?

9 A. Yeah.

10 Q. And you knew that if you wanted to keep your mouth shut
11 you could have, didn't you?

12 A. Yeah.

13 Q. You and Hall and you and Small and you Kristen Grant
14 got along pretty well when y'all were doing these
15 interviews, didn't you?

16 A. Yeah.

17 Q. There was some times when you appeared to be upset but
18 there was some times when you appeared to be joking a little
19 bit, right?

20 A. Correct.

21 Q. I think I remember -- you tell me if it was true or
22 not, you and Kristen Grant apparently get along a pretty
23 good and you looked at her one time and said, "I love you."
24 Didn't you say that? Do you remember saying that on one of
25 those tapes?

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1 A. I don't recall that.

2 Q. That's fine. But y'all were laughing and joking during
3 some of this, weren't you?

4 A. Yeah.

5 Q. Nobody was twisting your arm literally or by way of
6 speaking to try to get you to talk, were they?

7 A. No, sir.

8 Q. They kind of got a little bit agitated with you about
9 the phone number thing, didn't they?

10 A. Not that I recall.

11 Q. Okay. So nobody really beat you up at all in any way
12 during these interviews, did they?

13 A. No, sir.

14 Q. And everything you told them you told them because you
15 wanted to say it, you wanted those words to come out of your
16 mouth; is that right?

17 A. Yes, sir.

18 Q. They gave you a Pepsi Cola during one of those
19 interviews, didn't they?

20 A. Yeah.

21 Q. Is the time that Lynn Tucker was there the only time
22 they let you smoke a cigarette?

23 A. Yeah, that was a long time.

24 MR. BARFIELD: That's all. Thank you, sir.

25 THE COURT: Redirect, Mr. Grier?

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1 MR. GRIER: No, Your Honor.

2 THE COURT: Thank you -- you said no?

3 MR. GRIER: No. I do not desire to redirect him.

4 THE COURT: Thank you very much, Mr. Stalk, you may
5 step down. Any other testimony of evidence offered by the
6 defense?

7 MR. GRIER: Very briefly I would call Lieutenant Hall
8 back around.

9 THE COURT: Lieutenant Hall, you're still under oath.
10 The witness, PHILLIP HALL, remained under oath
11 and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. GRIER:

14 Q. Thank you, Lieutenant Hall. I don't think anybody
15 asked you about Mr. Stalk coming back and -- but he did.

16 A. Yes, sir.

17 Q. How did that happen? How did he end up back at MJC?

18 A. I'm not exactly sure why he was there but I know he was
19 there and wanted to talk with me again, so I brought him
20 back to the office, Mirandized him and all of that.

21 Q. The video was running?

22 A. We only had one camera and it was probably being used.
23 I -- and Barfield will tell you, I'm one that videos
24 everything I do. We only had one body camera and I'm pretty
25 sure it was occupied on something else, if not it would have

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1 been there operating.

2 Q. You don't think it was videotaped.

3 A. I'm not sure if it was or not, I don't remember.

4 Q. Well, at any rate, there was -- you prepared a
5 memorandum as a result of that, didn't you?

6 A. Right.

7 MR. GRIER: Judge, for the purposes of this hearing
8 these documents would be returned back to -- do remain as
9 courts exhibits or are they returned to --

10 THE COURT: They remain courts exhibits.

11 Q. Well, at any rate, do you recognize that document?

12 A. Yes.

13 Q. Okay. And what is the essence of that document?

14 A. It's just saying that he wanted to talk to me. He came
15 in, I advised him of his Miranda and he said that the only
16 reason he gave his confessions -- let me back up. Stalks
17 then stated that he wanted to take back his confession and
18 said the only reason he gave a confession is because he
19 thought he was going to have a bond set on him.

20 Q. And what date was that on?

21 A. February 11th.

22 MR. GRIER: Your Honor, I would offer this as Court's
23 Exhibit, I guess.

24 THE COURT: You don't have any objection?

25 MR. BARFIELD: I have no objection. And there is a

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1 video of that, we'll put it in, we'll let you see it.

2 THE COURT: That will be Court's 8.

3 (The memorandum was received as Court's 8.)

4 MR. GRIER: That's all, thank you.

5 MR. BARFIELD: Your Honor, just in fullness of all the
6 information --

7 CROSS EXAMINATION

8 BY MR. BARFIELD:

9 Q. One of the clips on that multi-clip tape is the 2/11/13
10 discussion; is that correct?

11 A. Yes.

12 Q. Okay.

13 MR. BARFIELD: Can I offer it? Anybody care? Play it
14 real quick and mark it as a Court's Exhibit and you can
15 consider it, too.

16 Q. Did Stalk on 2/11 of '13 ask to talk to you again?

17 A. Yes.

18 Q. Where did y'all talk?

19 A. I believe it was my office again.

20 Q. Did you read him his Miranda rights again?

21 A. I did.

22 Q. When you got to the end of reading him his Miranda
23 rights -- of course we'll show you what happened in a
24 minute, but did he recant?

25 A. He did.

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1 (The video was played.)

2 THE COURT: Your Honor, I offer this little clip as the
3 next Court's exhibit.

4 (The video was received as Court's 7.)

5 Q. When Stalk on 2/11 of '13 invoked his rights, what did
6 you do?

7 A. I told him that he needed to stop talking and I
8 couldn't answer any questions or take anything from him.

9 Q. Did y'all get into any further discussion that ain't
10 video recorded about why he was taking it back or what he
11 had expected from all of this?

12 A. Once he said he wanted his lawyer I immediately called
13 Sergeant Small or whoever brought him to my office and told
14 him to come back and get him, that I couldn't talk to him
15 anymore.

16 Q. That's good, thank you.

17 MR. BARFIELD: Answer anything Mr. Grier might have.

18 THE COURT: Redirect?

19 MR. GRIER: No, Your Honor, thank you.

20 THE COURT: Thank you, Lieutenant, you may step down.

21 MR. GRIER: Your Honor, that's all.

22 THE COURT: Any other evidence and testimony by the
23 defense?

24 MR. GRIER: Not from the defense, no, Your Honor.

25 THE COURT: Anything additionally by the State?

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1 none. Would we be able to argue before you rule?

2 THE COURT: Certainly.

3 MR. GRIER: Or do you want us to make arguments now?

4 THE COURT: No, sir. I want to look at it and then
5 I'll be glad to hear you tomorrow. I would rather have all
6 the factual basis before I hear your argument. We'll
7 reconvene at 10:00 tomorrow.

8 (Court adjourned for the evening and resumed at
9 10:00 a.m. on January 14, 2014.)

10 THE COURT: All right. Solicitor, Mr. Grier, I will be
11 glad to hear from you concerning the admissibility of the
12 statement of Mr. Stalk.

13 MR. GRIER: Do we begin, Your Honor?

14 THE COURT: It's your motion, Mr. Grier.

15 MR. GRIER: That's right. Your Honor, I think there's
16 abundant evidence that Mr. Stalk's voluntariness was
17 overcome by the prospect of receiving a bond in which he'd
18 been presented, number one, as to the voluntariness of it.
19 And I believe that would be the principle issue, he was --
20 if you heard in the very first video he asked is he going to
21 be able to get out and the testimony from Officer Hall was
22 that he had told him that he would say good things about
23 him, not that he promised him, but I believe all in the
24 totality of the circumstances created the prospective of
25 Mr. Stalk receiving some assistance in getting a bond were

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1 he to make a statement. We know that he's -- and I think
2 the State concedes that he did make an untruthful false
3 confession previously on another matter, the matter was a
4 very serious charge, likewise we are here today about an
5 even more serious charge. And I think in the totality of
6 the circumstances that his voluntariness was overcome and
7 therefore that any Miranda statements would therefore not
8 have been voluntary and therefore should be suppressed on
9 that ground. And secondly I think you basically told me
10 what my argument was, I think, yesterday, and the real issue
11 is you had already apprehended what my argument would be and
12 would anticipate it would be, that there is a break in the
13 continuity between the first statement on February 6th and
14 the second statement on February 6th, that the Miranda
15 statement and the filling out the form and all of those
16 procedures that had been in anticipation of the statement
17 were accomplished in one phase of that sitting, and then
18 there was a break in the continuity and there would have
19 been another need for an additional Miranda warning before
20 that second statement on February 6th was made. The mere
21 saying you have been Mirandized doesn't mean that it has
22 been done, and I submit that it wasn't done and therefore
23 that second statement should be suppressed.

24 THE COURT: Thank you very much, Mr. Grier. Solicitor?

25 MR. BARFIELD: Your Honor, first of all I would argue

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1 that there was certainly no promise by Lieutenant Hall to do
2 anything for Mr. Stalk other than what he normally does for
3 a defendant on a bond matter, tell the Judge whatever he
4 knows about the case and the defendant. I would also argue
5 that the general tenor and tone of the conversations that
6 you saw on the clips that you put into evidence as Court's
7 Exhibits yesterday clearly show a willing participant in
8 Mr. Stalk to the conversations and questions and answers
9 that were engaged in between him and the law enforcement
10 officers. There's no great tension between them in anything
11 that we have put up so far. There's no argument about
12 whether he is going to talk or not going to talk. There's
13 no -- it just doesn't get heated. It's basically a normal
14 conversation although about an abnormal topic I would
15 suppose. Concerning the break in the interrogation or the
16 questioning or whatever we want to call it, I think if you
17 look at the times on the tapes the best I recall it's a ten
18 minute break from the end of the first segment on
19 February 6th to the beginning of the second segment on
20 February 6th. Also, Your Honor, the break was requested by
21 the defendant, not something suggested by law enforcement.
22 He said, "You let me have a smoke and I'll tell you
23 everything you need to know." That's exactly what they did.
24 They came back in, Lieutenant Hall or Captain Scott Grant, I
25 can't recall which, basically talked about Miranda again and

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1 asked Mr. Stalk, as best I recall, if he understood that he
2 still had those same rights and continued the questioning
3 only after he affirmed that he was good to go and was
4 willing to talk to them. I don't think there's anything on
5 the statements -- anything about the statements that suggest
6 they were involuntarily made, made on the promise, made on
7 threat, made under coercion and I think they should be
8 admitted.

9 THE COURT: Thank you. Court's Exhibit Number 1 is
10 entitled Lancaster Police Department suspect's right and
11 Miranda warning for David Stalk, this is a document dated
12 2/5/2013, time at 15:15 hours. He indicates that his last
13 grade he completed in school, Mr. Stalk's last grade he
14 completed in school was the tenth grade, he was not under
15 the influence of drugs and alcohol and he can read and write
16 the english language. Lieutenant Hall testified that he
17 advised Mr. Stalk of his rights on that date and at that
18 time. There are on the first page of this document seven
19 initials, D.S. signed and initiated by each of the rights to
20 the left by the defendant, Mr. Stalk. There was also a
21 video clip as shown to the Court concerning that procedure,
22 although the quality of the clip because of the equipment in
23 the courtroom was not as good as it was at home last night,
24 the others, it is clear, I can see that. And he did then
25 sign a waiver of his rights that was witnessed by Lieutenant

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1 Hall and I believe it appears to be Officer Grant. As you
2 go through this document, page two of this document, again
3 the first paragraph states his rights again and that page
4 has Mr. Stalk's initials on it twice. The third page is a
5 signature page and that is again witnessed by Lieutenant
6 Hall and Grant. That statement has to do with the home
7 invasion and what has been indicated to the Court to be a
8 false statement, or a false confession. And page four,
9 again, there's a statement of Mr. Stalk's rights, and it's
10 the top of the page, the first paragraph and he has
11 initialed that page twice. Page five he has also initialed
12 twice. Page six he has initialed twice. Page seven he has
13 initialed twice and signed his name, David Stalk, witnessed
14 by Lieutenant Hall and Agent Grant. Now, that statement is
15 the video of 2/5/13, Court's Exhibits 3 and 4. So he was
16 advised completely and fully of his rights on the 5th, he
17 initialed seven times on the front page and at least twice
18 every page thereafter, 14 times and 21 times and signed his
19 name at least three times on that document, once waiver and
20 once at the end of each statement, the home invasion
21 statement and the homicides statement. The testimony then
22 that -- on the 6th he was brought over for a bond hearing.
23 The officer testified, Lieutenant Hall testified clearly, "I
24 tell him I'll talk to the Judge," that's clearly not a
25 promise, probably an officer can't go to a bond hearing

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1 without talking to the Judge. It doesn't say what he's
2 going to say. But, you know, obviously you get that
3 indication from the 5th, what little bit I saw on the 5th
4 and the 6th and that there was no contention, there was no
5 animosity so to speak, there was no high pressured -- no
6 pressure between the officer and Mr. Stalk, in that regard
7 both of them on the 5th and the 6th. Now, on the 6th the
8 testimony is that I believe the officer said he -- it was
9 Officer Smalls indicated to him that Mr. Stalk wanted to see
10 the officer, wanted to speak to him, then he wanted to speak
11 to Mr. Lynn Tucker, and Mr. Tucker who he, Mr. Stalk, was
12 employed by. The testimony is not clear to the Court as
13 exactly who called Mr. Tucker, whether an officer called,
14 Mr. Stalk called or they both called at different times, but
15 at any rate Mr. Tucker is present in the interview room.
16 The first part of the interview on there we see the officer
17 readvising Mr. Stalk of his Miranda rights again, that would
18 be Court's Exhibit Number 5, and Court's Exhibit Number 2.
19 Number 2 is the written document entitled suspect's rights
20 and Miranda warnings. First page, David Stalk, school, no
21 alcohol, read and write, all the rights are initialed.
22 Again, seven initials are to the left of each right. The
23 waiver of right is signed by Mr. Stalk, signed by the
24 lieutenant in the presence of Mr. Tucker. Mr. Stalk
25 indicates I have read this statement of my rights, it was

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1 also stated to him verbally. I understand what my rights
2 are. I am willing to make a statement and answer questions.
3 I do not want a lawyer at this time. I understand and know
4 what I am doing. No promises or threats have been made to
5 me and no pressure or coercion of any kind has been used
6 against me. Thereafter follows a two page written
7 statement. First page of the written statement again has
8 the advisement of rights at the top, it's initialed twice by
9 Mr. Stalk. The third and final page of this document
10 initialed twice, signed by Mr. Stalk, witnessed by
11 Lieutenant Hall and Captain Grant, I believe it is. That
12 Court's Exhibit 5, the first part of the statement of the
13 6th is about three minutes, it's a little over three
14 minutes. Obviously it both speaks and views for itself, I
15 guess, but Mr. Tucker and Mr. Stalk are in there for a few
16 moments by themselves. The officer comes in, advises him of
17 his rights and he initials and then he says something about
18 smoking a cigarette, and the officer says, "Well, I don't
19 smoke, I don't have cigarettes." And either Mr. Stalk
20 indicates that Mr. Tucker smokes or Mr. Tucker indicated
21 that Mr. Tucker smokes and he said, "Look, let me smoke a
22 cigarette and I will tell you whatever I know," and they
23 take a break. And if you follow the counter that's 16:50 --
24 or 6:58, I believe, and then they return back on camera at
25 7:08 and he then begins talking. And I don't see that as a

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1 break. The testimony is the officer goes out with him while
2 he's smoking. I'm sure he's not allowing an individual
3 that's in a jumpsuit, that is shackled, that's clear, to go
4 out and just smoke a cigarette with a citizen non-law
5 enforcement without maintaining custody and control of him
6 that entire time, so I don't take that as a break. That's
7 no more a break than if Mr. Stalk said, "I need to use the
8 restroom," and the officer escorted him to the restroom and
9 stood outside of the stall while he used the restroom,
10 walked him back and then I don't know of any case that says
11 you would have to re-Mirandize him at that point. So that
12 is a continuation. And clearly after he gives the statement
13 and the officer goes through and says, "Look, I want to make
14 sure -- I tried to keep up with you typing, I want to go
15 back through it and ask you specific questions." And
16 Mr. Stalk answers him again. The officer presents the
17 document to him and he says, "Look, read over it before, you
18 know, make sure I got it right," and he reads over it. And
19 there's no threat, there's no promises, clearly he is given
20 Miranda. The standard that I must apply at this point --
21 and I would also address Court's Exhibit Number 7. Court's
22 Exhibit Number 7, of course, is the video tape of the 11th.
23 Again, you see the officer advising him of his rights, going
24 through his rights. And after he advises him of his rights,
25 initials it -- well, I don't see that document up here. He

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1 advised him of his rights and then the officer -- and
2 Mr. Stalk said, "Well, I don't want to sign my rights, I
3 want a lawyer." And the officer says, "Well, I can't talk
4 to you, I can't answer you." And he said, "Well, I just
5 wanted to say something about the statement that I gave
6 before." And I took that into consideration also. And I
7 also take into consideration his age, his intelligence, I
8 take into consideration that during the giving of the
9 confession that he had a supportive friend in there with
10 him. Law enforcement would not have been required to notify
11 a third party, just a third party that is not an attorney.
12 He never asked for an attorney on the 5th or on the 6th. He
13 asked on the 11th and the officer immediately shut down the
14 questioning at that time. And both the 6th and the 11th
15 were both defendant initiated contacted, they were not
16 initiated by the officer. So citing State versus Parker and
17 the fact that I'm only looking at it based on the
18 preponderance of the evidence, I think it was clear that he
19 was properly mirandized and that the statement was given
20 freely and voluntarily of his own free will and accord and
21 it is thus admissible in this case. Any other pretrial
22 matters from the defendant, Mr. Grier?

23 MR. GRIER: Your Honor, I understand your ruling, I
24 respect it, and I would ask the Court to protect me
25 through -- my objection to that throughout the proceedings

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1 for this reason without me having to do it
2 contemporaneously. It's my experience in talking with
3 jurors, and my own intuition that objecting immediately
4 prior to the entry of a confession sounds prejudicial to the
5 defense in that the jury perceives it was done in the
6 presence of a jury that the defense is trying to obstruct
7 something that's damaging to them. I would ask that the
8 Court protect me throughout these proceedings rather than
9 require that I contemporaneously object to the admission of
10 that evidence when the time comes.

11 THE COURT: I would certainly do that to the extent
12 that the appellate court, if there were an appeal, cares
13 what I do in that regard as far as the preservation of
14 error. The defense lawyer, or any lawyer, the prosecutor,
15 but mainly the defense, prosecutors are not appealing unless
16 I throw all of the evidence out up front, there's just a
17 very small focus in which a prosecutor or the State can
18 appeal. But defense lawyer I say is in a catch 18, that
19 doesn't rise to a catch 22, you don't really know what you
20 have to do. But usually when it gets to the point of the
21 offer by the State I usually say admitted subject to
22 previous objections or something like that. Now, if you
23 think that's prejudicial I won't even say that either.

24 MR. GRIER: Yes, sir. I will be attentive to that
25 issue and ask that it be done out of the presence of the

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1 I am sure Mr. Harris and Mr. Moore, either one would make a
2 fine jury foreperson, they cannot be selected at this time
3 because they are in the status as alternates. Any objection
4 to anything I have told the jury from the State, Solicitor?

5 MR. BARFIELD: No, sir.

6 THE COURT: Mr. Grier?

7 MR. GRIER: No, Your Honor.

8 THE COURT: All right. Thank you very much. We will
9 now begin the trial. Solicitor, you may address the jury.

10 MR. BARFIELD: If the Court, please? Mr. Grier? Good
11 morning, ladies and gentlemen. These are opening
12 statements. The Judge said a little bit ago what the
13 lawyers tell you is not evidence, that's the primary reason
14 that my opening statement is going to be very brief. An
15 opening statement is kind of like a preview for a movie and
16 we'll use analogies during this trial, and that doesn't mean
17 that we think that the trial is not a serious matter, but
18 when I use a movie analogy what I'm saying is this is a
19 preview for the movie that you're going to see over the next
20 couple of days. I'm not going to tell you a whole lot but I
21 want you to know what this case is in a little bit of
22 summary fashion before you get into it so that as witnesses
23 are called you can understand where we're going.
24 January 26th of 2013 some time shortly before 9:40 p.m,
25 that's when it happened. . Street in the City

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1 of Lancaster, that's where it happened. Kevisis Emmanuel
2 Anthony, that's who it happened to. David D. Stalk, that's
3 who did it. What happened? You're also going to hear the
4 name many times Ketta Evans or Ketta Evans, I'm not sure
5 which way you pronounce this first name, but this is a three
6 person triangle so to speak. Ketta Evans is a female, her
7 house was at . Street. David Stalk was an
8 acquaintance of Ketta Evans, maybe boyfriend, maybe they
9 dated, maybe they were just good friends, it doesn't really
10 matter but you will hear about that as we get into the
11 trial. Kevisis Anthony lived down in Kershaw, also a friend
12 or a boyfriend or partner of Ketta Evans. I will submit to
13 you that probably David Stalk and Kevisis Anthony didn't
14 even know each other, but on this particular night David
15 Stalk was over at Ketta Evans' house, I think you'll see
16 that it was a Saturday night. There were other people
17 there, Ketta Evans' children were there, one of them is her
18 son who is now a senior in high school who you're going to
19 hear from later today. And there was some discussion
20 between David Stalk and Ketta Evans about needing money.
21 And again, David Stalk didn't know Kevisis Anthony but Ketta
22 Evans did, and Ketta Evans, we submit, suggested that
23 Kevisis Anthony is somebody that might have some money.
24 You're going to hear evidence and testimony that Ketta
25 Evans, through children, borrowed a couple of telephones

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1 from neighbors and that phone calls were made, and as a
2 result of those phone calls Kevisis Anthony drives from
3 Kershaw to Lancaster to Ketta Evans' house. Unbeknown to
4 Kevisis Anthony, David Stalk is lurking around behind the
5 carport at Ketta Evans' house, and when Kevisis Anthony
6 pulls his car up into the carport and gets out of his car he
7 is approached by David Stalk who is armed with a handgun, a
8 .380 caliber handgun, and David Stalk commences to attempt
9 to rob Kevisis Anthony, and it's a robbery that is not
10 completed. Kevisis Anthony starts backing up and then he
11 starts running, and then David Stalk starts firing the .380
12 pistol at Kevisis Anthony who falls down on the sidewalk in
13 front of Ketta Evans' house having been shot once in the
14 back of the head. Kevisis Anthony ends up inside Ketta
15 Evans' house, he's moving and he's actually talking, and
16 he's inside her house and at some time shortly thereafter it
17 is decided that Ketta Evans and her older son, Quinshun,
18 will take Kevisis Anthony to the hospital here in Lancaster,
19 and they did in Kevisis Anthony's mama's car which he drove
20 all of the time. And he is seriously wounded and is flown
21 to Carolinas Medical Center in Charlotte, and you will hear
22 testimony that he died on the 28th of January at Carolinas
23 Medical Center in Charlotte. David Stalk did what he did in
24 Ketta Evans' yard and took off running, and as he's running,
25 and you'll see some pictures and you'll see some an aerial

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1 photograph, and during the course of the trial things will
2 be put into evidence and you'll have all of that later. But
3 as David Stalk is running a call is placed to the 911 center
4 here in Lancaster County, and that call basically reports
5 that a man has been shot and that call is placed from David
6 Stalk's cellphone. David Stalk runs through a vacant lot
7 near Ketta Evans' house where all of this happened and
8 tossed the cellphone and tossed the pistol and keeps on
9 going, and some eight or ten days later he gets arrested,
10 and you'll hear other matters about that later on. That is
11 kind of it in a nutshell. There are a whole bunch of
12 witnesses on my witness list, and y'all probably just
13 cringed when the Judge read out all of those names, don't
14 freak out about all of that, for one thing I'm not going to
15 call them all. Everybody that I think is involved in this
16 case at all ends up on my initial witness list but I pair
17 some things down so I'm not going to call them all. The
18 other thing is some witnesses are going to be real quick
19 witnesses because they know just little bits and pieces,
20 some witnesses know more about the whole scenario than
21 others and they're going to take a little longer. So what
22 I'm telling you is we're going to crank up in just a few
23 minutes and I'm going to start calling and probably call a
24 lot more witnesses this morning than you think I can get up
25 before the lunch break because some of it will go pretty

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1 fast, some of it will slow down later on. I ask two things.
2 First of all, I thank you for being here. You are not here
3 because you wanted to be, you didn't sign up, you were roped
4 into it but it's a duty and it's a very important duty.
5 It's an important duty from your perspective and from our
6 perspective and from the perspective of this table over
7 here. Nothing could be more serious than what we're here
8 about for the next two or three days, so we appreciate you
9 being here. The two things I ask you to do are number
10 one -- and I don't mean to sound lecturing, but pay
11 attention. The people involved in this case, if we have
12 done our homework, know everything there is to know about
13 this case, it's our job to know everything there is to know
14 about this case. You don't know squat about this case, and
15 that's the way the legal system is set up, too. You are not
16 supposed to know anything about a case that you are called
17 upon to make a decision about. So we have to tell you
18 everything there is to know about this case through the
19 presentation of witnesses, testimony, evidence, and it will
20 seem tedious to you maybe, but we've got to give it all to
21 you, so pay attention as this is going on. We've been
22 studying this stuff and making notes and making lists and
23 copying this and copying that, you haven't got anything.
24 Everything you get comes from in here so stay with us.
25 Second thing is be patient, because it is sort of tedious

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1 and it does take awhile to do all of this, be patient and
2 we'll move it as quick as we can go. At the end of the case
3 the lawyers get back up here and we make arguments to you.
4 We're not arguing to you, we're not arguing with you, we're
5 just stressing points that each side feels are the important
6 point that y'all need to really focus on. When I get back
7 up here to make my closing arguments I'm going to ask you to
8 find, because I submit the evidence is going to convince
9 you, I'm going to ask that you find David Stalk guilty of
10 murder and attempted armed robbery and possession of a
11 firearm during the commission of a violent crime. Thank
12 you.

13 THE COURT: . Thank you, Solicitor. Mr. Grier?

14 MR. GRIER: May it please the Court? Mr. Barfield?
15 Ladies and gentlemen of the jury, I have been introduced to
16 you, but I'm Mark Grier and I represent David Stalk. We all
17 when we get called for jury duty have some difficulties
18 looking to judge our fellow man, that's a difficult thing to
19 be asked to do. We have, of course, had the opportunity to
20 look at your data and strike people and select people. You
21 were placed on this jury because everybody believed, Mr.
22 Barfield believed and I believed, Mr. Stalk believed that
23 you were very capable jurors and you would give everybody a
24 fair shot and that's what we're asking you to do today. We
25 aren't -- it is a difficult thing to sit on a jury. It's

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1 inconvenient and other stuff is going on in your lives as it
2 is in all of ours, but we are not asked to do a lot of
3 things outside of paying taxes and, of course, those that
4 are called to serve in the military are acting as the
5 ultimate citizens and protecting our freedom. But jury duty
6 is one of those things that we get the benefits of being a
7 citizen and this is one of the things that we're asked to do
8 to pay it back, pay it forward. And I'm an advocate only
9 just like Mr. Barfield stated, he and I are -- the Judge is
10 the trier of the law, or rather the giver of the law and the
11 finder of the law and you are the finders of the facts. I'm
12 simply an advocate. I'm a guide for Mr. Stalk because he's
13 not a lawyer, he doesn't know what the procedures are. He
14 doesn't -- he's not familiar with how you handle cases in a
15 trial, and in fact, that's why we have the famous case of
16 Gideon, the importance of having legal counsel and somebody
17 that knows the system is found to be so important, because
18 our supreme court ruled that everyone is entitled to
19 representation, and so you need that. Just like if I were
20 to go into your job, I don't know what you do, but I would
21 probably not know what was going on when I stepped into your
22 job and I would be lost and I would need some guidance,
23 well, that's kind of what my job is for Mr. Stalk is to give
24 him guidance. And Carl will be your guide through this
25 courthouse today and around and kind of tell you what to do.

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1 I believe you will recall that the Judge has asked you not
2 to deliberate, and you know, that simply means do not start
3 considering guilt or innocence until all of the evidence is
4 in, and there's a very good reason for that. Of course, the
5 indictment has been read, Mr. Stalk is charged with a very
6 serious charge and it's shocking to be sitting here and to
7 hear that, that's going to be the first thing you hear out
8 of the box is something that's kind of shocking. The second
9 thing that happens is he's going to be -- well, you've
10 heard the State's theory of the case, he has been dragged --
11 Mr. Stalk has been dragged in front of you and Mr. Barfield
12 has told you the State's theory of the case and that's kind
13 of shocking and that's kind of one of the first things that
14 you heard. Of course, Mr. Barfield got to argue first and
15 so that's exactly where you heard that theory. The State
16 gets to present its evidence first and you're going to hear
17 that. If the defense does not present any evidence the
18 State is going to get the final word. So it's very likely
19 that the State will get that, it is very likely that the
20 defense is going to present some evidence, I can't say
21 whether we will or not. But the point is that first
22 impressions are lasting impressions and they tend to be
23 powerful, and we're all warned of that when we're told to
24 dress nice when you go out or whatever because your first
25 impression is the lasting impressions. Well, in this

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1 courtroom the State gets that first impression. Now, the
2 State also, you know -- and so the Court has asked you not
3 to deliberate to ask you not to allow that first impression
4 to get you jumping to conclusions before all of the evidence
5 has been presented, you know, that's to protect the defense
6 in essence from that first impression issue and that
7 difficulty. The State gets that advantage in part because,
8 well, they have the burden of proof. And the defendant,
9 just as the Judge told you, the defendant hadn't got to do
10 nothing, I don't have to be arguing and you probably wish I
11 wasn't, but the defense has to do nothing. We could sit
12 through that whole trial and not make a peep and the State
13 has to prove -- has the burden of proof. And so for all of
14 these reasons it's important that you not deliberate. And I
15 will give you an example of how jumping to conclusions can
16 be very embarrassing. I taught business law at USCL for
17 nine years. I believe the last year I was teaching I had a
18 student come up to me, he was kind of probably thirtyish
19 fellow comes up and says, "Mr. Grier, I don't have a book
20 and I want to do my assignment and do you have a book I can
21 borrow?" I said, "Yes, sir, I do." I had an extra book, I
22 give him the book. And he said, "I'm going to buy it, I'm
23 getting paid this week, I'm going to buy my book and I will
24 give it back to you." Well, low and behold the fellow never
25 showed back up for class. Well, a couple of weeks later I'm

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1 walking through the lobby and I see him sitting over there
2 flirting with this lady over there and it boiled me, it
3 angered me. Here he is, never brought me my book back and I
4 went up to him and I said, "Sir, where is my book?" And he
5 looked at me startled and he said, "What book?" And I said,
6 "The book I let you borrow." And he said, "I don't what
7 you're talking about." And I said, "I let you borrow my
8 book and you didn't bring it back, come on." I really was
9 trying to embarrass him in front of this girl. And he said,
10 "Do you want to go to my office and talk about this?" And
11 after I picked my jaw up and realized that I had mistaken
12 him for the man who had my book, this guy was an adjunct
13 professor, too, that I had just simply never met and I had
14 jumped to conclusions without properly deliberating and
15 considering anything. This isn't I don't think a case of
16 identification, but I jumped the gun and I embarrassed
17 myself and continue to be embarrassed about that. You know,
18 you hear the defendant is on trial. Well, I submit to you,
19 you've heard what the Judge said, the State is the one
20 that's on trial because they have the burden of proof. The
21 defendant doesn't have to do anything. The State is the one
22 who ultimately -- you will have to decide whether the State
23 has met their burden of proof in this case. Mr. Stalk isn't
24 in a position to prove his innocence and he doesn't have to
25 and he doesn't have to prove anything. He is cloaked, as

OPENING STATEMENTS

1 the Judge told you, in the presumption of innocence. He is
2 cloaked in innocence and you are the only ones who can
3 remove that if the State proves its case beyond a reasonable
4 doubt. And what is the reasonable doubt? I will go ahead
5 and introduce a couple of concepts to you. You've watched a
6 lot of TV and you're probably going to see things in this
7 courtroom that aren't really what you're used to seeing on
8 television, I don't know. But at any rate, proof beyond a
9 reasonable doubt, our courts have defined what that is, and
10 I believe the Judge will tell you that our courts have said
11 that a reasonable doubt is the kind of doubt that would
12 cause a reasonable person to hesitate to act. After you've
13 heard -- the State has given their theory of the case, well,
14 they've got to prove everything that Mr. Barfield said
15 beyond a reasonable doubt and they've got to prove it in a
16 way that after hearing all of the evidence you have no
17 hesitation before you would be able to reach a verdict of
18 guilty. And I believe the Judge will tell you also further
19 explaining that the burden of proof that if upon the
20 conclusion of this case when you are deliberating if you are
21 firmly convinced of the guilt of Mr. Stalk then you must
22 convict. However, if you find the real possibility that he
23 may be innocent then you must acquit. If you find that
24 there is the reality possibility that Mr. Barfield hadn't
25 demonstrated everything beyond a reasonable doubt you must

OPENING STATEMENTS

1 acquit. Now, we got into this courtroom today through some
2 other events obviously, and it's a tragedy, obviously
3 everybody's heart would go out to Mr. Anthony's family. But
4 on the day of January 26th of last year that this event
5 happened the State began to investigate it, and you'll see
6 that eventually they made an arrest of Mr. Stalk. Now, what
7 do you have to have to arrest someone? Well, you've got to
8 have probable cause. And what is probable cause? That's a
9 reasonable suspicion. So the arrest happens when a law
10 enforcement officer has a suspicion, okay, of guilt. Now,
11 you know, the next kind of proceeding is a preliminary
12 hearing and the defendant gets to go hear the evidence that
13 would -- that the State says the reason that the law officer
14 had probable cause to arrest him. Again, in a light --
15 we're talking about in a light most favorable to the State a
16 Judge hears on the State's side, doesn't hear anything from
17 the defense, and determines whether that law enforcement
18 officer was justified in arresting Mr. Stalk, and if he
19 finds that he had a suspicion and it's in the light most
20 favorable to the State, well, then we find -- the Judge
21 would find probable cause and the case would go forward to
22 the grand jury. Again, the grand jury is 18 citizens of
23 this county who hear the State's version of every case
24 that's made by law enforcement, and only law enforcement
25 attends that and the solicitor, I guess. And then if those

OPENING STATEMENTS

1 18 people, 12 of those 18 people believe there's enough
2 evidence that creates probable cause in the light most
3 favorable to the State then they bind it over and it gets up
4 into this courtroom. And so prior to this date all of the
5 question that has been permeated, the proceedings and the
6 investigation has been in the light most favorable, does the
7 evidence create a suspicion, and I can't argue that it
8 doesn't, it creates a suspicion. All right. And so now
9 it's in your hands and that -- and so the question prior to
10 this point is is it possible, realistically possible that
11 Mr. Stalk could be guilty of this crime? And that's in the
12 light most favorable to the State, and so could Mr. Stalk
13 might be, the determination is might he be guilty? That's
14 turned on its head today, and through these proceedings the
15 question now becomes might he be not guilty because the
16 burden of proof is on the State. And I submit to you that
17 after you've heard all of the evidence most certainly I
18 believe that you will find that Mr. Stalk is not guilty.
19 Thank you.

20 THE COURT: Thank you very much, Mr. Grier. Solicitor,
21 you may call your first witness.

22 MR. BARFIELD: Call Ed Stogner.

23 The witness, ED STOGNER, was first duly sworn
24 and testified as follows:

25 MR. BARFIELD: Your Honor, before I begin questioning

TESTIMONY OF ED STOGNER

1 Mr. Stogner, Mr. Grier and I have reviewed a series of
2 photographs and aerial photograph. We have both agreed that
3 they are actual depictions and representations of what is
4 shown in them. I think he has no objection to the
5 introduction of those items as State's Exhibits and they've
6 been marked as State's Exhibits 1 through 40, five by 7
7 photographs, 41 through 44, printed photographs on
8 letter-sized paper. And State's Exhibit 45, a fairly large
9 poster board sized aerial photograph. And I would at this
10 time offer all of those as State's Exhibits.

11 THE COURT: All right. State's 1-45 in evidence
12 without objection.

13 (The photographs were received as State's
14 1-45.)

15 DIRECT EXAMINATION

16 BY MR. BARFIELD:

17 Q. Tell us your name, please, sir.

18 A. Edward Stogner.

19 Q. Mr. Stogner, by whom are you employed?

20 A. Lancaster County Public Safety Communications, or 911.

21 Q. And are you a 911 -- what do they call you?

22 A. Telecommunications officer usually. I do primarily
23 police -- corrections, fire and EMS dispatch.

24 Q. What did you do in your prior life?

25 A. Fire fighter, retired from the Lancaster Fire

TESTIMONY OF ED STOGNER

1 Department.

2 Q. For the City of Lancaster?

3 A. Yes, sir.

4 Q. Were you working in the 911 call center on Saturday
5 night, January 26th of 2013?

6 A. Yes, sir.

7 Q. Did you receive a call for which a recording was made
8 that you and I have discussed?

9 A. Yes, sir, I did.

10 Q. And is this a disc contain the call that I am asking
11 you about now?

12 A. Yes, sir.

13 Q. And have you listened to this call subject to receiving
14 it at the 911 operations center on 1/26 of 2013?

15 A. Yes, sir, I did.

16 Q. Does this disc accurately reflect the recording of that
17 call?

18 A. Yes, sir, it does.

19 THE COURT: All right. Your Honor, at this time I
20 would offer the disc as State's Number 46.

21 MR. GRIER: Your Honor, may we approach?

22 THE COURT: Yes, sir.

23 (A bench conference was held.)

24 THE COURT: Thank you, Mr. Grier. Thank you, Solicitor
25 Barfield. State's Exhibit 46 in evidence subject to the

TESTIMONY OF ED STOGNER

1 objection.

2 (The disc was received as State's 46.)

3 Q. Mr. Stogner, the call that we're talking about right
4 now, what time did that call come? And do y'all record it,
5 first of all, in military time?

6 A. Yes, sir. It's recorded in military time, in came in
7 at 21:41.

8 Q. On my watch that's what time?

9 A. 9:41 p.m.

10 Q. Does the 911 operations center make a record of the
11 telephone number from which the call is placed?

12 A. Yes, sir, it does.

13 Q. What number did this call come in from?

14 A. It came in from 803-

15 THE COURT: ?

16 THE WITNESS: Yes, sir.

17 Q. Does the 911 Operations Center, is it a computerized
18 system?

19 A. It is.

20 Q. Does the 911 Operations System equipment give you any
21 geographic location to some degree of accuracy for the
22 source of the call on the ground?

23 A. Yes, sir. It will give me a latitude and longitude
24 that can vary anywhere from a few feet to 100 yards
25 depending on what tower it hits, but it gives you a general

TESTIMONY OF ED STOGNER

- 1 Q. Approximately how long did this call last?
- 2 A. It wasn't just a few seconds, maybe 15 to 20 seconds,
- 3 somewhere in that area.
- 4 (The disc was played.)
- 5 Q. Did you take that call?
- 6 A. Yes, sir.
- 7 Q. Did the caller identify himself or herself?
- 8 A. No, sir, not that I can tell.
- 9 Q. Did you make any observations yourself of the
- 10 circumstance based on what you heard in the caller's voice?
- 11 A. He sounded a little excited, a little out of breath
- 12 like maybe he had been running or something. But other than
- 13 that, no, sir.
- 14 Q. Was there any further contact with that caller that
- 15 night concerning this call?
- 16 A. No, sir, not as far as I know.
- 17 Q. With the 911 center.
- 18 A. No, sir, not that I know of.
- 19 Q. As a result of receiving that call, what did you do?
- 20 A. I called -- the city was called and advised, you know,
- 21 somebody called said somebody was shot on Pleasant Hill
- 22 Street. Normally we would dispatch an ambulance or
- 23 something if something was found to have happened there,
- 24 which I don't know if it was later on that night.
- 25 Q. Did you have any further involvement with the subject

TESTIMONY OF ED STOGNER

1 of this call that night yourself?

2 A. No, sir. I did not have any further involvement with
3 him.

4 MR. BARFIELD: Thank you. Answer anything Mr. Grier
5 has.

6 THE COURT: Thank you, Solicitor. Mr. Grier?

7 MR. GRIER: Thank you Your Honor.

8 CROSS EXAMINATION

9 BY MR. GRIER:

10 Q. You have given some description of how you characterize
11 that voice on that call. And what did you say it was,
12 perhaps out of breath?

13 A. A little excited, a little out of breath.

14 Q. Would you say frantic almost?

15 A. I don't know if I would say frantic, people show
16 emotions different ways.

17 Q. You talk to a lot of people in a lot of emotional
18 situations on 911, don't you?

19 A. Yes, sir, we've had a few.

20 Q. I don't have anything else about this. But we used to
21 work together at the fire department about 20 years, didn't
22 we?

23 A. It has been awhile, yes, sir.

24 Q. It has been a long time, hasn't it? Thank you.

25 MR. BARFIELD: That's all from this witness. Thank

TESTIMONY OF TERRY CURETON

1 you. We would ask that he be excused.

2 THE COURT: Any objection?

3 MR. GRIER: No, sir.

4 THE COURT: Thank you, you may step down and be
5 excused. Thank you for being with us this morning.

6 MR. BARFIELD: Call Terry Cureton.

7 The witness, TERRY CURETON, was first duly
8 sworn and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. BARFIELD:

11 Q. Tell us your name, please, sir.

12 A. Terry Cureton.

13 Q. Mr. Cureton, but whom are you employed?

14 A. City of Lancaster Police Department.

15 Q. And what is your job with the City of Lancaster Police
16 Department?

17 A. I'm a patrol lieutenant.

18 Q. What does that mean, being a lieutenant over a patrol
19 unit?

20 A. I supervise other officers on my shift, give out patrol
21 assignments and assist with the operations of law
22 enforcement on my shift.

23 Q. Were you working on January -- Saturday night,
24 January 26th of 2013?

25 A. I was.

TESTIMONY OF TERRY CURETON

- 1 Q. Did the city get a call concerning a shooting?
- 2 A. Yes, sir, we did.
- 3 Q. About what -- do you know what time the call was
- 4 dispatched?
- 5 A. According to our records the call came in about
- 6 9:40 p.m.
- 7 Q. All right. And what was the nature of the call?
- 8 Generally speaking what was the nature of the call?
- 9 A. It was a shots fired call.
- 10 Q. Was there any indication that there was actually a
- 11 victim at that point?
- 12 A. No, sir, there wasn't.
- 13 Q. What was the location that the dispatch directed
- 14 officers to respond to?
- 15 A. The 700 block of Saint Paul Street.
- 16 Q. Was anybody found as a victim as a result of that call
- 17 in the 700 block of Saint Paul Street or anywhere else in
- 18 the general vicinity?
- 19 A. No, sir, it wasn't.
- 20 Q. Was a specific address given with the initial call to
- 21 go to a particular address to try to find out about this
- 22 shooting?
- 23 A. No, sir, it was not.
- 24 Q. At some point thereafter was a victim located?
- 25 A. It was.

TESTIMONY OF TERRY CURETON

- 1 Q. Where was the victim located?
- 2 A. The victim was at the hospital.
- 3 Q. Did you go to the hospital?
- 4 A. No, sir, I didn't.
- 5 Q. As a result of a victim being located at the hospital,
- 6 did you go to a specific location?
- 7 A. Yes, sir. We went to ... Street.
- 8 Q. What is at ... Street? Is it a house, a
- 9 business, a parking lot, what is it?
- 10 A. It's a house.
- 11 Q. Do you know whose house it was at the time?
- 12 A. At the time, no, sir, we didn't.
- 13 Q. Now do you know whose house it was?
- 14 A. Yes, sir.
- 15 Q. Whose house was it?
- 16 A. Ms. Evans, Ketta.
- 17 Q. Ketta Evans?
- 18 A. Yes, sir.
- 19 Q. Was there a victim at Ketta Evans' house when police
- 20 got there?
- 21 A. No, sir, there was not.
- 22 Q. Were there people at Ketta Evans' house when police got
- 23 there other than police?
- 24 A. Yes, sir, there were.
- 25 Q. About how many people?

TESTIMONY OF TERRY CURETON

- 1 A. There were at least five children.
- 2 Q. What was the weather like that night?
- 3 A. It was cold.
- 4 Q. And is _____ Street in the City of Lancaster?
- 5 A. Yes, sir, it is.
- 6 Q. And is that in the County of Lancaster?
- 7 A. Yes, sir, it is.
- 8 Q. Now, generally speaking, did you make any observations
- 9 in or about the premises of _____ Street while you
- 10 were there that night?
- 11 A. While I was there once we determined it was
- 12 _____ Street there were children -- or there were people
- 13 peaking out of windows at the location. I immediately set
- 14 up a perimeter at the location because we didn't know what
- 15 the situation was, and I had officers set up a perimeter and
- 16 we actually called -- well, I actually called on the PA
- 17 system to have those children, or have the individuals in
- 18 the house come out.
- 19 Q. Did they come out?
- 20 A. Yes, sir, it was.
- 21 Q. And were those grown children, young children or some
- 22 combination?
- 23 A. It was young children.
- 24 Q. And do you recall how young the youngest was?
- 25 A. The youngest one that came out was I think

TESTIMONY OF TERRY CURETON

1 approximately nine years old.

2 Q. Was there a younger child that didn't come out
3 initially?

4 A. Yes, sir. There was an infant that I was told once
5 they came out that was still inside the house.

6 Q. Did y'all clear the house?

7 A. We did.

8 Q. Was any victim found in the house when the house was
9 cleared?

10 A. No, sir, it was not.

11 Q. Was any suspect found in the house when the house was
12 cleared?

13 A. No, it was not.

14 Q. Now, did you make any observations around the outside
15 of the house at all while you were there that would lead you
16 to believe that something bad had happened there?

17 A. No, sir. Other than the regular call, no, sir.

18 Q. Did a car become part of this investigation later on
19 that night?

20 A. It was.

21 Q. And generally speaking, what kind of car was it?

22 A. I'm not sure, Mr. Barfield.

23 Q. That's fine. Did you have any role with that car some
24 time later on that night or on into the early morning hours
25 of Sunday?

TESTIMONY OF TERRY CURETON

1 A. I did. I received a radio call to meet with the auto
2 shop wrecker service to have that vehicle secured at the
3 police department.

4 Q. And is that where you first saw that car, at the police
5 department?

6 A. Yes, sir.

7 Q. I'm going to show you briefly State's Exhibit Number
8 31. Can you identify what's shown in that picture?

9 A. Yes, sir.

10 Q. Is that the car that you're referring to?

11 A. It is.

12 Q. Thank you.

13 MR. BARFIELD: Thank you, sir, answer anything

14 Mr. Grier has.

15 THE COURT: Thank you, Solicitor. Mr. Grier?

16 MR. GRIER: Thank you.

17 CROSS EXAMINATION

18 BY MR. GRIER:

19 Q. Officer Cureton, you heard the 911 call?

20 A. I did.

21 Q. Where did it say the shooting took place? They said it
22 took place on Mount Pleasant Street, didn't it?

23 A. That's what the 911 call said.

24 Q. The location of Ketta Evans is on Saint Paul Street,
25 isn't it?

TESTIMONY OF TERRY CURETON

1 A. The location that we were called to was
2 Street, yes, sir.
3 Q. Well, did you not determine that was Ketta Evans' home?
4 A. Yes, we did.
5 Q. And the incident -- and that's the location where this
6 incident happened that we're in court about today.
7 A. It was determined, yes, sir.
8 Q. Okay. So a 911 call said Pleasant Street, this --
9 the location that -- where this incident happened was not
10 Mount Pleasant Street.
11 A. The location that we were called to was
12 Street.
13 Q. Okay. Well, the same night you get a 911 call, did you
14 look and see if there was also a shooting on
15 Street?
16 A. We didn't get any call on Pleasant Street, the
17 only call we got was the Pleasant Street area.
18 Q. The 911 call said Pleasant Street, right? So you
19 did get a call.
20 A. The 911 call came in on Pleasant Street, that's the
21 area -- we was looking at Pleasant Street.
22 Q. You're saying the 911 call was for Pleasant Street --
23 Pleasant Street or Pleasant Street.
24 A. I'm saying we got a 911 call saying there was a shots
25 fired in the area of Pleasant Street.

TESTIMONY OF JASON LEAPHART

1 Q. Were you a police officer for the City of Lancaster on
2 Saturday night, January 26th of 2013?

3 A. I was.

4 Q. Did you respond concerning the 911 call that we played
5 a few minutes ago?

6 A. I did.

7 Q. How many police officers responded as a result of that
8 approximately?

9 A. I would say six, roughly six.

10 Q. Most of you in separate cars?

11 A. Yes, sir.

12 Q. And where did you respond to?

13 A. The first area we responded to, which was in the area
14 of Street, I think it was a
15 Street.

16 Q. Okay. Well, let me just ask this, what were y'all
17 looking for when you answered this call, got dispatched to
18 go to that area? What were you looking for personally?

19 A. Any suspicious activity, anybody in distress, anything,
20 any cars moving that appeared to be suspicious.

21 Q. Did you find anything, you personally, did you find
22 anything -- before I actually get to , was
23 there anybody out and about? Anybody lying shot in the
24 street, any gun lying on top of a trash can or anything?

25 A. No, sir.

TESTIMONY OF JASON LEAPHART

- 1 Q. Was there a subsequent dispatch by the city police
2 department when more information was obtained?
- 3 A. Yes, sir.
- 4 Q. Where did you go pursuant to that subsequent dispatch?
- 5 A. I think it was Street.
- 6 Q. Well, other than that, let's get back to Saint Paul.
7 At some point did you go to Street?
- 8 A. I did.
- 9 Q. How did you get to Street?
- 10 A. It was after the victim was discovered at the hospital.
- 11 Q. Did you ever go inside l?
- 12 A. I did.
- 13 Q. Were there kids in the house?
- 14 A. Yes, sir.
- 15 Q. Were there any adults in the house when y'all got
16 there?
- 17 A. No, sir. The oldest child at the time I believe would
18 be 12.
- 19 Q. Okay. Did you look around outside the house?
- 20 A. I did.
- 21 Q. Did you seize any evidence yourself?
- 22 A. No, sir.
- 23 Q. Did you take any written statements from anybody
24 yourself?
- 25 A. No, sir.

TESTIMONY OF JASON LEAPHART

1 Do you remember?

2 A. It was Budweiser, I think it was a Straw-Ber-Rita or
3 Lime-A-Rita or one of those beverages.

4 Q. Where was that generally speaking?

5 A. It was laying about 10-foot off the driveway like it
6 had rolled.

7 Q. Okay. Did you see anything else out there in the yard?

8 A. Yes, sir. There was a toboggan in the yard.

9 Q. Was there stuff in the toboggan?

10 A. At the time I didn't know of stuff in the toboggan.

11 Q. Did you ever pick it up and handle it and look at it?

12 A. No, sir.

13 Q. Did you see anything else that seemed to be out of the
14 ordinary around that house?

15 A. Broken cellphone in the driveway. There was -- I mean,
16 it's graphic, but there was vomit in the driveway, it
17 appeared to be fresh and fresh blood in the driveway.

18 Q. Did you see any firearms evidence lying out and about
19 on those premises?

20 A. At that time I didn't. Later on into the night there
21 was spent cartridges located.

22 Q. And generally where were they?

23 A. In the garage area of the residence.

24 Q. And when you say garage, was this an enclosed garage?

25 A. It's not enclosed, no, sir.

TESTIMONY OF KEN WARLICK

- 1 Q. Tell us your name, please, sir.
- 2 A. Ken Warlick.
- 3 Q. Mr. Warlick, by whom are you employed?
- 4 A. Lancaster Police Department.
- 5 Q. Were you employed by the City of Lancaster Police
- 6 Department on Saturday, January 26th of 2013?
- 7 A. I was.
- 8 Q. You were?
- 9 A. Yes, sir, I was.
- 10 Q. Scared me, I thought you said, "I wasn't." Did you get
- 11 dispatched concerning this 911 shots fired call somewhere in
- 12 the City of Lancaster?
- 13 A. I did.
- 14 Q. Where did you get dispatched to go? Where did you go I
- 15 guess is my first question?
- 16 A. Initially we started canvassing the area of
- 17 Street and Street in the area of shots fired.
- 18 Q. How close are and 1 to each
- 19 other?
- 20 A. They intersect.
- 21 Q. Was anything found out there on the street initially?
- 22 A. No, sir.
- 23 Q. Did you end up getting redirected to somewhere else?
- 24 A. I did. During that time I started going ahead towards
- 25 the hospital just to check and make sure that there were no

TESTIMONY OF KEN WARLICK

1 victims show up there.

2 Q. Before you even know there was a victim there?

3 A. Correct.

4 Q. Did you at some point find out there was a victim at
5 the hospital?

6 A. I did. Before my arrival they had notified us that
7 there was a victim at the hospital.

8 Q. And probably how long -- you might not can answer this,
9 but from when y'all got dispatched to go to the shots fired
10 call to the time you were in route to the hospital, how long
11 had lapsed? Two hours, or minutes?

12 A. Just a few minutes.

13 Q. Okay. Did you go to the hospital?

14 A. I did.

15 Q. Did you ever see the victim at the hospital?

16 A. I did.

17 Q. You did?

18 A. I did.

19 Q. Was he being tended to when you saw him?

20 A. He was.

21 Q. Did you find out whether there were people -- well,
22 first of all, did you find out the name of the victim at the
23 hospital?

24 A. I did.

25 Q. What was his name?

TESTIMONY OF KEN WARLICK

- 1 A. It was Kevisis Anthony.
- 2 Q. Did you find out how Kevisis Anthony got to the
3 hospital?
- 4 A. I did.
- 5 Q. Did you find out -- well, how did he get to the
6 hospital? Not people, but transportation, how was he
7 transported to the hospital?
- 8 A. He was transported by a car.
- 9 Q. Did you find out whether anybody arrived at the
10 hospital with Kevisis Anthony?
- 11 A. I did.
- 12 Q. And who arrived at the hospital with Kevisis Anthony?
- 13 A. Ketta Evans, is that how you say it?
- 14 Q. All right. Did you at some point observe an automobile
15 at the hospital that is associated with this case?
- 16 A. I did.
- 17 Q. I'm going to show you State's Exhibit Number 42. Can
18 you identify what is shown as State's Exhibit Number 42?
- 19 A. That was the vehicle.
- 20 Q. And generally speaking, where was this car at the
21 hospital when you got there?
- 22 A. It was in the parking lot of the ER.
- 23 Q. Was there anybody with the car when you got there?
- 24 A. There was.
- 25 Q. Who was with them -- did you identify that person?

TESTIMONY OF KEN WARLICK

1 A. We did.

2 Q. Who was that person? Spell it if you can't pronounce
3 it.

4 A. Q-u-i-n-s-h-u-n, Evans was his last name.

5 Q. I don't want you to tell me what he said, but did you
6 have a conversation with Mr. Evans?

7 A. We did.

8 Q. Did you make observations of that car in the parking
9 lot at the hospital?

10 A. We did.

11 Q. Don't say we, say you, just tell me what you saw. I'm
12 not scolding you, but just tell me about you. What did you
13 see, if anything, about that car that was of note?

14 A. I located a metal bullet fragment commonly referred to
15 as a jacket right at the windshield wipers.

16 Q. Did you leave it there?

17 A. I did.

18 Q. Anything else about the car that appeared odd?

19 A. Also there was a marking on the hood, I believe it was,
20 from what appeared to be a bullet grazed.

21 Q. And where was that again?

22 A. I believe it was on the -- there was a bullet hole on
23 the windshield and a grazing front to the rear, one to the
24 roof.

25 Q. Did you collect any evidence there off that car?

TESTIMONY OF KEN WARLICK

1 A. I did not.

2 Q. All right.

3 MR. BARFIELD: Thank you, sir. Answer anything

4 Mr. Grier has.

5 THE COURT: Thank you, Solicitor. Mr. Grier?

6 MR. GRIER: No questions for this witness.

7 THE COURT: Thank you very much, Officer. You may step

8 down and be excused. Everybody all right? Anybody need a

9 break?

10 MR. BARFIELD: State calls Brenner Hartley.

11 The witness, BRENNER HARTLEY, was first duly

12 sworn and testified as follows:

13 DIRECT EXAMINATION

14 Q. Tell us your name, please, sir.

15 A. Brenner Hartley.

16 Q. And Detective Hartley, by whom are you employed?

17 A. City of Lancaster Police Department.

18 Q. How long have you been employed by the police
19 department?

20 A. Soon be 14 years.

21 Q. Are you a detective with the police department?

22 A. I am.

23 Q. Were you a detective with the police department on the
24 night of Saturday, January 26th of 2013?

25 A. Yes, sir.

TESTIMONY OF BRENNER HARTLEY

- 1 Q. I'm going to show you State's Exhibit Numbers 41 to 44
2 and ask you if you recognize what's shown in those
3 photographs?
- 4 A. Yes, sir.
- 5 Q. Well, I kind of got ahead of myself. Did you get
6 called out on the night of January 26th of '13?
- 7 A. No, sir, I was already out. I was assigned to patrol
8 temporarily at that point.
- 9 Q. And did you end up at a location concerning this call?
10 Did you respond to this call?
- 11 A. Yes, sir, I did.
- 12 Q. Where did you respond first?
- 13 A. We responded in the general area from where the call,
14 the shots fired call so to speak. We responded in that
15 area, looked for someone that had been shot, and we later on
16 learned that someone had been shot and that they were at the
17 Springs ER.
- 18 Q. All right. Did you go to the hospital?
- 19 A. I did.
- 20 Q. Did you find out there was a victim at the hospital?
- 21 A. I did.
- 22 Q. Let me go ahead and just ask you some things about
23 that. Who did you determine the victim was?
- 24 A. Kevisis Anthony.
- 25 Q. Did you see Kevisis Anthony?

TESTIMONY OF BRENNER HARTLEY

1 A. I did.

2 Q. Was Kevisis Anthony being treated by medical personnel
3 when you got there?

4 A. He was.

5 Q. Was he conscious?

6 A. Yes, sir.

7 Q. Was he to some degree alert?

8 A. Yes, sir.

9 Q. Was he communicating, talking?

10 A. Yes, sir.

11 Q. Did you ever talk with Kevisis Anthony yourself?

12 A. I did.

13 Q. I don't want you to tell me anything he said -- well,
14 he didn't tell you anything that happened to him I presume.

15 A. No, sir.

16 Q. Did you hear him conversing with medical personnel?

17 A. I did.

18 Q. Let me just ask you this, how many different times at
19 the hospital did you see Kevisis Anthony?

20 A. Just that initial time.

21 Q. Were you in a position to be able to try to take a
22 statement from him or get him to tell you anything that
23 initial time?

24 A. No, sir. He was being treated by the physicians and
25 the nurses at the hospital, and at the time due to the

TESTIMONY OF BRENNER HARTLEY

1 seriousness of the wound it was best to let them do what
2 they needed to do.

3 Q. You've got to speak up a little bit.

4 A. Yes, sir.

5 Q. At some point later at the hospital was it your
6 intention to try to talk to Kevisis Anthony?

7 A. Yes, sir.

8 Q. And was that possible?

9 A. No, sir.

10 Q. Why not?

11 A. He was going to be flown to CMC Main and the helicopter
12 was on route and he needed to get to the hospital.

13 Q. How close were you to Kevisis Anthony during the time
14 that you were actually in his presence?

15 A. From me to you.

16 Q. Did you find out whether anybody was at the hospital
17 with Kevisis Anthony?

18 A. Yes, sir, later on we did find out.

19 Q. Who was with him at the hospital?

20 A. Ketta Evans and a Quinshun Evans.

21 Q. Do you know, is Ketta Evans a female?

22 A. Yes, sir.

23 Q. Is Ketta Evans an adult female?

24 A. Yes, sir.

25 Q. Is Quinshun Evans a male or a female?

TESTIMONY OF BRENNER HARTLEY

- 1 A. It's a male.
- 2 Q. And was he a grown-up guy or a younger guy?
- 3 A. High school kid.
- 4 Q. Do you know if they are -- do you know the relationship
- 5 between Ketta Evans and Quinshun Evans?
- 6 A. Mother and son.
- 7 Q. Don't quote anybody, but did you talk to Ketta Evans?
- 8 A. Yes, sir.
- 9 Q. Did you talk to Quinshun Evans?
- 10 A. Yes, sir.
- 11 Q. Did you deal with a car in the parking lot at the
- 12 hospital?
- 13 A. I did.
- 14 Q. Now, the pictures, State's 41 to 44 I believe it is, is
- 15 that correct, from the numbers on the back?
- 16 A. Yes, sir.
- 17 Q. What's shown in -- did you take those pictures?
- 18 A. I did.
- 19 Q. What's shown in those pictures?
- 20 A. The vehicle that Mr. Anthony arrived at the hospital
- 21 in.
- 22 Q. All right. Where was Quinshun Evans when you talked to
- 23 him?
- 24 A. He was out of the vehicle.
- 25 Q. Did you make any observations of the car?

TESTIMONY OF BRENNER HARTLEY

- 1 A. Yes, sir, I did.
- 2 Q. Did you make some determination about what you intended
- 3 to do with the car?
- 4 A. Yes, sir, I did.
- 5 Q. What was your plan for the car?
- 6 A. After I realized exactly what was located on the
- 7 vehicle it was my intention to preserve that evidence and
- 8 have the vehicle towed to our facility on Arch Street, the
- 9 police department.
- 10 Q. Did the police department subsequently get a search
- 11 warrant to search that car?
- 12 A. Yes, sir, we did.
- 13 Q. Describe not anything you took off the car, but just
- 14 describe observations you made of the car in the parking lot
- 15 of the hospital.
- 16 A. The first thing I noticed was an apparent gunshot wound
- 17 to the top of the windshield.
- 18 Q. All right. Stop. I'm going to show you State's
- 19 Exhibit Number 42. What's shown in that picture?
- 20 A. It's the front of the vehicle and it's got a gunshot
- 21 wound to the top side of the windshield.
- 22 Q. Okay. Go ahead. What else?
- 23 A. That was the biggest thing there. And then once you
- 24 got a little closer to the car you started noticing other
- 25 little things. There was what we commonly refer to as a

TESTIMONY OF BRENNER HARTLEY

1 jacket laying on top of -- right where the window of -- the
2 bottom of the window is, where the wipers go up and down,
3 there was a jacket laying there.

4 Q. Jacket like that or jacket like something else?

5 A. No, sir. What we commonly refer to as a jacket is the
6 metal surrounding of a bullet, that comes off of a bullet.

7 Q. I'm showing you State's Exhibits 43 and 44. Can you
8 tell us what's in those pictures?

9 A. Yes, sir. These are the pictures of the jacket.

10 Q. What did you do with the bullet jacket? Did you do
11 anything with the bullet jacket? Did you do anything with
12 the bullet jacket?

13 A. I seized it as evidence.

14 Q. I'm showing you a plastic envelope with a box in it,
15 and some more plastic inside and what appears to be a piece
16 of metal. Can you identify what that is?

17 A. Yes, sir. That's the jacket that I seized that night.

18 Q. What did you do with it when you picked it up?

19 A. I seized it and preserved it on my person, and
20 eventually turned it over to Agent Hezel with SLED.

21 Q. And Agent Hezel with SLED is a crime scene agent?

22 A. She is.

23 MR. BARFIELD: Your Honor, at this time I would offer
24 this entire envelope with the box that has been described as
25 a bullet jacket as the next State's Exhibit.

TESTIMONY OF BRENNER HARTLEY

1 MR. GRIER: No objection.

2 THE COURT: State's 47 is entered without objection.

3 (The bullet jacket was received as State's 47.)

4 MR. BARFIELD: That's all I'm going to ask Investigator
5 Hartley at this time, again because of the way I'm kind of
6 trying to rearrange some things I do reserve the right to
7 recall him if that's.

8 THE COURT: Okay.

9 MR. BARFIELD: Please answer anything Mr. Grier has at
10 this point.

11 THE COURT: Mr. Grier?

12 CROSS EXAMINATION

13 BY MR. GRIER:

14 Q. Detective, you likewise were responding to the shots
15 fired call?

16 A. Sir?

17 Q. You likewise were -- like the rest of the officers,
18 pardon me --

19 A. Yes, sir.

20 Q. -- were responding to -- but did you actually -- had
21 you ever heard that call before today, listened to it?

22 A. Yes, sir, I had.

23 Q. What does that call say, what does it say? What are
24 the words?

25 A. That somebody has been shot on Pleasant Hill Street.

TESTIMONY OF BRENNER HARTLEY

1 do not discuss the case during this brief recess. Thank you
2 very much.

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

5 THE COURT: All right. Anything before we bring the
6 jury in from the State?

7 MR. BARFIELD: Not from the State.

8 THE COURT: Defense?

9 MR. GRIER: No, Your Honor.

10 THE COURT: All right.

11 (The jury returned to the courtroom.)

12 THE COURT: We had an election. Do you demand a
13 recount? Thank you. This is juror number 74, Mr. Barfield
14 and Mr. Grier. All right. We are going to try to finish
15 one more witness before we take our lunch and recess. If
16 you will please continue to give the parties and attorneys
17 your complete and undivided attention. Solicitor, you may
18 call your next witness.

19 MR. BARFIELD: Call Tiffany Hezel.

20 The witness, TIFFANY HEZEL, was first duly
21 sworn and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. BARFIELD:

24 Q. State your name, please, ma'am.

25 A. Tiffany Hezel.

TESTIMONY OF TIFFANY HEZEL

- 1 Q. Spell your last name.
- 2 A. H-e, z as in zebra, e-l.
- 3 Q. Ms. Hezel, by whom are you employed?
- 4 A. The South Carolina Law Enforcement Division commonly
- 5 referred to as SLED.
- 6 Q. How long have you been employed by SLED?
- 7 A. Two and a half years.
- 8 Q. How long have you been in law enforcement?
- 9 A. Two and a half years.
- 10 Q. What did you do before you worked for SLED?
- 11 A. I was a death investigator for the Shelby County
- 12 Medical Examiners Office in Memphis, Tennessee for four
- 13 years.
- 14 Q. Where did you go to college?
- 15 A. I have a Bachelor of Science Degree from the University
- 16 of Wisconsin at Plattville in Criminal Justice with minors
- 17 in Chemistry and Psychology. I have a Master of Forensic
- 18 Science from the University of Central Oklahoma in Forensic
- 19 Science.
- 20 Q. After you obtained your masters, is that when you went
- 21 to work doing the death investigations in Wisconsin?
- 22 A. I did death investigations in Tennessee.
- 23 Q. Tennessee, I'm sorry. Okay. And when you came to
- 24 South Carolina and became employed by SLED, what section of
- 25 SLED did you start working in?

TESTIMONY OF TIFFANY HEZEL

1 Q. How many scenes were there?

2 A. We treated it as two scenes. We responded both to the
3 single residence at . Street, upon completion
4 of documenting that residence we then went to the Lancaster
5 Police Department sally port where we processed the
6 recovered vehicle from the hospital.

7 Q. Were search warrants obtained and presented to you for
8 the house and the automobile?

9 A. Yes, they were.

10 Q. Is that something that y'all normally require?

11 A. Yes, it is.

12 Q. Talk to us about the house, . Street. Did
13 you work inside and outside that house?

14 A. Yes, I did.

15 Q. Let's talk about the outside first, and I'm going to
16 show you some pictures as we go. Did you find anything that
17 was of apparent significance that you took possession of
18 outside of that house?

19 A. Yes, there was. There were several items of potential
20 evidence that I collected. Upon standing in the street
21 looking forward to the front of the house you could see a
22 carport along the left-hand side, and it was a brick single
23 story family residence. In the middle of the front yard
24 there was an unopened can of Bud Light Lime, it was
25 unopened, however you could tell that the aluminum had been

TESTIMONY OF TIFFANY HEZEL

1 dented.

2 Q. All right. Stop. I'm going to interrupt you every now
3 and then. Can you identify what's in that ziplock package?

4 A. This is the Bud Light Lime-A-Rita can that was
5 collected from the middle of the front yard. At this time
6 it is opened.

7 Q. It wasn't when you picked it up?

8 A. It was not. The tab was closed but it was dented just
9 as it is now.

10 Q. And we're going to go ahead and talk about this beer
11 can instead of skipping all around. You picked up this beer
12 can. What did you do with it -- when you eventually picked
13 it up in the yard what did you do with it?

14 A. It was placed in a paper bag and it was secured within
15 an unsealed cardboard box to be transported back to the
16 laboratory for latent print processing.

17 Q. Did you process it for latent prints at the lab?

18 A. I did.

19 Q. Let me find a picture real quick. Let me just show you
20 a couple of pictures. Do you recognize what that is despite
21 the glare?

22 A. Yes. That's the front door of the residence at 715
23 Saint Paul Street.

24 Q. Is that where you worked?

25 A. Yes, it is.

TESTIMONY OF TIFFANY HEZEL

- 1 Q. That's State's Exhibit Number 1. I'm going to put up
2 State's Exhibit Number 6. Can you tell what that is?
3 A. It's the front yard of the residence. The item on the
4 far right --
5 Q. Circle it with your finger, I think you can annotate.
6 A. Right there. That is going to be the Bud Light Lime
7 can that I just referenced as being located in the center of
8 the front yard. Would you like me to explain the other?
9 Q. Yeah. Is there another thing or series of things
10 there?
11 A. Yes. Right here there was a pile of belongings to
12 include a black knit cap, a pack of Newport cigarettes, a
13 red lighter, two silver Cigarillo packs, a metal watch and a
14 cellphone cover.
15 Q. Okay. Now, I'm going to go ahead and talk about the
16 knit cap with all the stuff in it. Did you seize that
17 stuff?
18 A. Yes, all of it was collected.
19 Q. And did you take it to SLED or did you turn it over to
20 LPD?
21 A. It was all taken with me back to SLED.
22 Q. Did anything -- did we do anything with that stuff, the
23 knit cap and the stuff in it down at SLED, any testing or
24 anything?
25 A. I did not do any kind of latent print processing on

TESTIMONY OF TIFFANY HEZEL

1 those items. However, the cellphone cover and the metal
2 watch along with the black knit cap were submitted for DNA
3 ownership.

4 Q. Okay. That's not something you do, though.

5 A. No, that's not my department.

6 Q. Let's come back and talk about the beer can.

7 A. Okay.

8 Q. You got the beer can back to the lab, and I know I'm
9 jumping way ahead. But what did you do when you got to the
10 lab with this beer can? What was your objective with this
11 beer can when you got to the lab?

12 A. The objective with the beer can when I got back to the
13 lab after processing the initial scene was just to
14 temporarily secure the evidence until which time it could be
15 logged in and processed. When I returned back to the lab I
16 had found that the liquid within the can had leaked out
17 presumably from the dents in the aluminum. So I then took
18 the paper bag it was in, set it in a red plastic biohazard
19 bag and set that bag into another paper bag, all opened so
20 that the air could hit it so nothing could mold, and set it
21 inside a sink in our temporary secured storage area for the
22 liquid to presumably drain out past where the break in the
23 aluminum was. On the 28th I processed it for latent prints
24 and I went back and found at that time it was no longer
25 leaking, the liquid was still within the container, however

TESTIMONY OF TIFFANY HEZEL

1 it was down below where the break. Because the liquid
2 contained within the can was not in question for any type of
3 analysis, I opened it at the tab and emptied the rest of the
4 liquid out. I was cautious of where I touched it obviously
5 because we were trying to find latent print evidence on it.
6 So at that time the liquid was emptied prior to processing.
7 Q. Were you able to develop any latent -- what does latent
8 mean when you're talking about fingerprints?
9 A. May I first describe what a fingerprint is?
10 Q. Yeah.
11 A. On the palms of your hands and fingers and on the soles
12 of your feet and toes there are these tiny raised portions
13 of skin which we call ridges, these ridges make up an
14 overall pattern or flow across the surface area. So when
15 someone says fingerprint they're really referring to that
16 overall pattern or flow on those areas of the skin. So as
17 an examiner we look at that big picture of that overall
18 pattern, but also the individual characteristics of each
19 individual ridge within that pattern. So a fingerprint is
20 not just from the tip of your finger, it can also include
21 your palm, your feet, your toes, it's just a broad term for
22 that surface area of skin. Now, a latent fingerprint.
23 Latent by definition means hidden so it's not easily seen to
24 the naked eye, it means some sort of enhancement or
25 development to become seen. In this case to leave a latent

TESTIMONY OF TIFFANY HEZEL

1 fingerprint these same ridges that I just talked about that
2 make up that overall flow have sweat pores and throughout
3 the day you're going to sweat, you're going to touch your
4 face, you're going to touch your hair, you're going to touch
5 other objects and you're going to buildup a layer of
6 moisture and oils on those ridges. So there is a chance
7 that when you touch an item such as touching this wood you
8 can leave an outline of those ridges in that moisture.
9 Okay. I said chance because you don't always leave a
10 fingerprint. It's going to depend on the individual, it's
11 going to depend on the surface you're touching and it's
12 going to depend on the environment. If you're sweating
13 profusely and it's raining outside, those are not good
14 conditions, it's too much wetness, too much moisture between
15 the two items coming into contact. And the same goes for if
16 your skin is very dry, it's very cold out, there's not
17 enough moisture for a transfer. So in this particular case
18 we processed the beer can for latent fingerprints.
19 Q. Were you able to develop any latent fingerprints on
20 this beer can?
21 A. I was not.
22 Q. Is it that an unusual occurrence?
23 A. It is not. On the evening in question it was
24 31 degrees when I got there so there might have been a
25 little bit of frost already beginning on the can, it was

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1 then placed in my truck which then warmed it up, so there
2 were some temperature differences. Like I said, if it's
3 cold outside and you're touching stuff, there's not enough
4 moisture necessarily to transfer that stamped impression
5 onto the item.

6 MR. BARFIELD: Your Honor, at this time I would offer
7 the can as a State's Exhibit.

8 MR. GRIER: No objection.

9 THE COURT: State's 48 in evidence without objection.

10 (The beer can was received as State's 48.)

11 Q. Did you find outside the house any firearms evidence?

12 A. Yes, I did. On the rear side of the carport that was
13 the exposed area going into the back yard, just inside from
14 the yard on the concrete kind of parking area under the
15 carport I recovered six cartridge cases with mixed head
16 stamps, meaning they were not all the same ammunition.

17 Q. Head stamp is the brand stamp on the piece of metal?

18 A. Correct.

19 Q. I'm going to show you a picture real quick, State's
20 Exhibit 14. What is that a picture of?

21 A. That is the rear of the carport going into the back
22 yard.

23 Q. And you have -- these are your pictures -- did you take
24 all of these pictures I'm showing you now?

25 A. Yes, I did.

TESTIMONY OF TIFFANY HEZEL

1 Q. It can't be seen if you don't know where it is, but do
2 you know where on that picture, for example, a cartridge
3 case is?

4 A. I don't know from this particular picture where a
5 single one is, but they're in the vicinity of that area.

6 Q. And what is that green thing on the right-hand side of
7 the picture?

8 A. That's a trash can.

9 Q. And from your recollection is there a door that leads
10 from that carport into the house?

11 A. There is.

12 Q. Where is that door?

13 A. The door is going to be just in front of that trash can
14 on to the right where the picture cuts off.

15 Q. You can annotate with an arrow to the door if you want.

16 A. It's going to be right over in this direction.

17 Q. Were they fired cartridge cases?

18 A. There were.

19 Q. How many?

20 A. Six.

21 Q. I'm going to show you another picture real quick. I'm
22 going to show you a for example picture, State's Exhibit 15.
23 What's that a picture of?

24 A. That is a cartridge case.

25 Q. One of the six?

TESTIMONY OF TIFFANY HEZEL

1 A. Correct.

2 Q. Do you at some point during your investigation place
3 markers by pieces of evidence that you are interested in?

4 A. We do. We take overall mid-range and closeup all of
5 possible items of evidence before we put any markers down,
6 and then we'll retake those exact same pictures with markers
7 just to show that we have not really added anything to the
8 scene. We're simply just trying to mark what was already
9 there.

10 Q. All right. I'm showing you State's Exhibit Number 20,
11 what is that a picture of?

12 A. Those are the cartridge cases that I have now placed
13 markers by to make them easier to see in photographs.

14 Q. One more quick picture for right now. What is that a
15 picture of?

16 A. That's a picture from the backyard facing back towards
17 through the carport towards the street of the front of the
18 house. We like to take pictures from different angles just
19 so you see how it looks in different perspectives.

20 Q. And does that picture show the door into the kitchen
21 off the carport?

22 A. Yes, it does.

23 Q. Show us where that is with your finger.

24 A. The door was right here.

25 Q. Did you collect the fired cartridge cases?

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1 A. I did.

2 Q. I'm showing you six baggies with boxes and pieces of
3 metal in them. Can you identify what that stuff is?

4 A. These are the cartridge cases that I collected that
5 were marked with markers D through I.

6 Q. And how do you know that those are those cartridge
7 cases from that night at 715 Saint Paul Street in the City
8 of Lancaster?

9 A. They contain the description of item, the head stamp of
10 the cartridge case, the date and time they were collected as
11 well as my initials.

12 Q. And does SLED give cases lab numbers?

13 A. We do, however they are usually obtained at the time
14 the evidence is logged in. So the other writing that's on
15 here is also mine. This is when it was logged into our
16 computer system at the lab, it's given a generated lab
17 number and item number and again it's marked with my
18 initials.

19 Q. Is everything relating to this case under the same lab
20 number at SLED?

21 A. It is.

22 Q. What's the lab number for this case within SLED's
23 records?

24 A. L301239.

25 Q. Does each separate item of evidence logged in at SLED

TESTIMONY OF TIFFANY HEZEL

1 get a separate evidence item number?

2 A. Yes, it does.

3 Q. And the item numbers for the six fired cartridge cases
4 range from what to what?

5 A. It appears they range from eight to 13.

6 MR. BARFIELD: Your Honor, at this time I offer the
7 cartridge cases as separate exhibits I guess since I've got
8 them busted out.

9 THE COURT: That would be 49-54. Any objection, Mr.
10 Grier?

11 MR. GRIER: No objection.

12 (The cartridge cases were received as State's
13 49-54.)

14 Q. Agent Hezel, was it your intent to back at the lab do
15 some processing of State's Exhibits 49 to 54, the fired
16 cartridge cases?

17 A. It was. Under the direction of the lead case agent for
18 Lancaster Police Department, touch DNA was the only
19 additional analysis requested on those items. However,
20 within the latent print department we can swab evidence for
21 DNA and then simply submit the swabs to DNA, not the entire
22 item.

23 Q. And let me back up. Were all six of the fired
24 cartridge cases of the same caliber?

25 A. They were.

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1 Q. And what was the caliber?

2 A. .380.

3 Q. At the lab, did you swab the cartridge cases for touch
4 DNA?

5 A. Yes, I did. I swabbed the entire exterior surface of
6 all six items separately.

7 Q. And explain to the jury briefly how you swab an item
8 for touch DNA. Tell the jury what touch DNA is. Although
9 you're not a DNA analyst, tell them what it is.

10 A. I'm by no means a DNA analyst. However, when you touch
11 something just like you can leave a fingerprint you can
12 leave residue that contains your DNA, just like you have DNA
13 in your blood you also have DNA in finger sweat, your tears,
14 other things like that. So in this particular instance
15 there was no obvious blood on these items so touch DNA was
16 requested. The way I swab for touch DNA is we have sterile
17 swabs that are contained within a package, there is two
18 swabs per package. Those swabs are opened, one swab is
19 dampened with deionized water, the other is left dry, and we
20 take both of those swabs and swab the same item with both
21 swabs and I did the entire exterior surface to include the
22 head stamp six times, one time for each item.

23 Q. What do you do with the swabs when you get them
24 swabbed?

25 A. When the swabs are done they are placed in a small

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1 manila envelope, the part that looks like a Q-tip is going
2 to go down in there so it doesn't attract anything else.
3 They're allowed to dry in a secured kind of area, a hood or
4 something where no one is going to sneeze or cough on them
5 to kind of introduce any other kind of DNA. Once they're
6 dry the envelopes are then sealed and then they are placed
7 in a heat-sealed pouch and then sent to DNA.
8 Q. Did you seal all of that stuff up from the swabs on
9 these cartridge cases and send it to DNA?
10 A. Yes, sir.
11 Q. You're done with him at that point?
12 A. Yes.
13 Q. Did you pick up anything else at the scene to take with
14 you to SLED? You've talked about the beer can, which we've
15 got, you've talked about the cartridge cases, you talked
16 about the hat and its contents. Did you pick up anything
17 else at the scene?
18 A. I did. There were two pieces of broken -- what
19 appeared to be a broken Verizon cellphone on the driveway
20 just in front of the carport, that was collected, however it
21 was turned over to the Lancaster Police Department at that
22 time.
23 Q. Bare with me just a minute. I'm going to show you
24 about three picture, one at a time though. State's Number
25 11. Is that clear enough for you to see objects? It might

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1 not be.

2 A. Right here is where the pieces of the cellphone were
3 located.

4 Q. All right. I'm showing you State's Exhibit Number 12.
5 What's that a picture of?

6 A. These are both pieces of the cellphone.

7 Q. Did you pick them up?

8 A. I did. And they were turned over to the Lancaster
9 Police Department on the scene.

10 Q. Okay. State's 13, what's that a picture of?

11 A. That is the same two pieces with a marker, just kind of
12 showing again just when I made a sketch they're easily --
13 draw your eye to what we're talking about.

14 Q. And you say you turned these over to the police
15 department. Do you know specifically to whom you handed
16 these items?

17 A. I can reference my chain. The two pieces of black
18 Verizon phone from marker C were turned over to Detective
19 Hartley.

20 Q. Okay. Can you identify what's in that bag?

21 A. These are the two pieces that were collected from
22 marker C. And again, this is my handwriting with the date
23 and time and my initials, when I collected it and turned it
24 over to them.

25 Q. You didn't do any analysis or forensic testing of these

TESTIMONY OF TIFFANY HEZEL

1 two items in this bag; is that correct?

2 A. Correct.

3 MR. BARFIELD: I offer the contents in the bag and the
4 bag as the next State's Exhibit.

5 THE COURT: Any objection?

6 MR. GRIER: No objection.

7 (The bag and contents were received as State's
8 55.)

9 Q. Anything else that you picked up from the scene from
10 outside of the house?

11 A. There was nothing else that I picked up. I did take
12 two swabs from the pool of blood on the driveway nearest the
13 grass line and those were submitted to the lab.

14 Q. I'm going to put up State's Exhibit Number 2. Is that
15 one of your pictures?

16 A. Yes, it is.

17 Q. What is that a picture of?

18 A. This is a picture of the front of the house as I was
19 standing on the street. This is going to show your overalls
20 of most of the evidence that we just talked about. Right
21 here is the blood pool that was swabbed. This is a pile of
22 vomituous material, and the white object in the middle was a
23 plastic bag that was not collected.

24 Q. Okay. Why wasn't the plastic bag collected?

25 A. It was not collected at the direction of the Lancaster

TESTIMONY OF TIFFANY HEZEL

1 Police Department.

2 Q. Did it appear to have been there for awhile or do you
3 know?

4 A. I can't really say. There was nothing contained within
5 it at the time that I arrived, it was just simply a bag near
6 the sidewalk.

7 Q. Did you process the interior of the house?

8 A. The interior of the house was documented with pictures
9 and it was searched for any type of evidence that might be
10 related to a shooting incident that the evidence from the
11 outside of the house was letting us know occurred. There
12 was not any processing for latent prints or touch DNA within
13 the house. I did take three swabs to test for presumptive
14 blood and they all three were negative.

15 Q. Meaning what?

16 A. Meaning that it was not blood.

17 Q. And basically were those two places that you took some
18 swabs to see if they were blood?

19 A. The three places were in the kitchen behind the door
20 that entered into the carport. There was a red stain on the
21 wall, it appeared to be consistent with some type of
22 marinara sauce. But we went ahead and swabbed it with
23 phenol, it was negative. Phenol is a presumptive test,
24 phenolphthalein is its chemical name, we refer to it as
25 phenol. It's a presumptive simple tough test for blood and

TESTIMONY OF TIFFANY HEZEL

1 basically it will react with a hemoglobin that's present and
2 it is going to turn your swab a really bright pink. In this
3 case the swab did not turn a color. The next place I
4 swabbed was in the living room just inside the door in the
5 front of the love seat that was placed against a wall, this
6 red discoloration was consistent with jelly. Again, we
7 swabbed it, no color change on the swab, phenol negative.
8 And the third place that I swabbed was on the love seat
9 itself. We swabbed the back of the love seat where your
10 head would rest as well as the cushion on which you would
11 sit, and again, phenol negative, there was no change. The
12 visual examination of that love seat did not indicate any
13 blood present on it either.

14 Q. Did you see some items from inside the house?

15 A. Yes, we did.

16 Q. What did you pick up?

17 A. There were perhaps two wadded tissues on the back of
18 the commode that had some absorbed suspected blood on them.

19 Q. State's Number 23, can you tell us what that's a
20 picture of?

21 A. Those are the tissues that I just described.

22 Q. Did you collect them?

23 A. I did.

24 Q. Do any testing on them, any presumptive or anything
25 else?

TESTIMONY OF TIFFANY HEZEL

1 A. Yes. There was a cordless telephone resting on the
2 entertainment center in that same room where that love seat
3 was shown.

4 Q. I'm going to show you a handful of pictures about that
5 real quick. State's 27, what's that a picture of?

6 A. That's the entertainment center, your love seat is
7 going to be on the left-hand side of that picture and the
8 cordless telephone is resting right there.

9 Q. State's Number 30, what's that a picture of?

10 A. That's a closeup photograph of the telephone resting on
11 the entertainment center.

12 Q. What did you do with that telephone?

13 A. I personally did nothing. It was collected directly by
14 Lancaster Police Department personnel.

15 Q. In your presence?

16 A. Yes.

17 Q. Did you process the automobile?

18 A. We did.

19 Q. Did you find anything that you believed to be from
20 visual inspection or presumptive testing blood evidence on
21 the car, or in the car?

22 A. We did not. We did a visual examination of both the
23 interior and exterior of the vehicle and we did not find
24 anything that would be consistent with being blood.

25 Q. All right. Did you become aware at some point prior to

TESTIMONY OF TIFFANY HEZEL

1 you putting your hands on that car that some evidence had
2 been collected from that car?

3 A. Yes, I was.

4 Q. Tell us about that.

5 A. I was advised that a jacket or piece of a fired bullet
6 had been collected from the front of the passenger
7 windshield, kind of where the vent area is between the hood
8 and the window.

9 Q. Did you ever see it where it lay on that car?

10 A. I did not. I saw photographs after the fact but not at
11 the time.

12 Q. And was it given to you at some point?

13 A. It was.

14 Q. By whom was that piece of bullet jacket fragment given
15 to you?

16 A. That was turned over to me by Detective Hartley.

17 Q. And I'm going to show you State's Exhibit Number 47.
18 Can you identify what that is?

19 A. This is the projectile that was between the windshield
20 and the hood collected initially by Detective Hartley and
21 transferred to me at the time we were at the Lancaster
22 Police Department.

23 Q. What did you do with that when you got it in your
24 possession?

25 A. I placed it inside this box and sealed it.

TESTIMONY OF TIFFANY HEZEL

1 Q. And what did you do with it after that?

2 A. It was taken back to the lab and it was submitted for
3 firearms.

4 Q. All of the stuff that you picked up and took back to
5 Columbia with you, did you submit all of that to the lab for
6 whatever purpose might have been necessary?

7 A. I did, yes.

8 Q. Did you make any general observations about the car
9 that were of interest to you in the investigation of a
10 shooting case?

11 A. There were three defects noticed to the vehicle. The
12 first defect was a bullet hole to the top portion of the
13 windshield almost near where your rearview mirror would
14 hang.

15 Q. Time out. State's Exhibit Number -- and I don't mean
16 to be rude when I do that.

17 A. You're fine.

18 Q. State's Number 35. Are you familiar with that picture?

19 A. Yes.

20 Q. What's that a picture of?

21 A. That's the bullet hole in the front of the windshield.

22 Q. Circle it.

23 A. (Witness complies.)

24 Q. Go ahead.

25 A. The next defect that was observed was on the hood of

TESTIMONY OF TIFFANY HEZEL

- 1 the vehicle and it was consistent with a bullet skip with
2 the long axis of the skip going from the hood to the trunk,
3 meaning the longest portion of the defect was in line with
4 the longest portion of the car.
- 5 Q. You said to the hood of the vehicle?
- 6 A. I'm sorry, the roof.
- 7 Q. State's Number 36, what's that a picture of?
- 8 A. This is the roof of the vehicle and this is the defect
9 that I just described. Again, you can see the long axis of
10 the defect with this being the trunk and that being the
11 hood.
- 12 Q. And that L-shaped piece of white stuff, explain to the
13 jury what that is.
- 14 A. That's scale tape, although this is a very bad photo of
15 the scale tape. Basically that's just giving us an idea of
16 the size of this defect.
- 17 Q. I'm going to show you another picture which maybe
18 resolves the problem you just pointed out. State's 37,
19 what's that a picture of?
- 20 A. That is the scale tape showing the direction of which
21 it's placed with a closeup of the defect.
- 22 Q. Okay. Did you process the inside of the car?
- 23 A. We did a visual examination. It was not processed for
24 any type of touch DNA or latent prints, however there was
25 another defect presumably from a bullet in the rear speaker

TESTIMONY OF TIFFANY HEZEL

1 on the driver's side.

2 Q. State's Exhibit Number 38, what's that a picture of?

3 A. That is the defect in the rear speaker. This is going
4 into the back of your back window so this is ultimately your
5 trunk and then this would be your back seat.

6 Q. Now, from what vantage point -- did you take that
7 picture?

8 A. I did.

9 Q. From what vantage point did you take that picture?

10 A. I believe it was taken through the window.

11 Q. Standing over the back of the car?

12 A. Uh-huh.

13 Q. And show the jury -- when you say defect what do you
14 mean? In laymen's terms what are you talking about the
15 defect?

16 A. Something that shouldn't be there. A hole, a scraping,
17 something that has caused it to not be in its original
18 condition.

19 Q. And where is the hole? That's a stupid question, but
20 show us where the hole is.

21 A. Right there.

22 Q. Did you explore that hole any?

23 A. We did, we pried that speaker open. I say we, the
24 Lancaster Police Department assisted in that, and once it
25 was pried open we were able to recover a fired projectile

TESTIMONY OF TIFFANY HEZEL

1 from underneath.

2 Q. I'm going to show you a box and a plastic bag with a
3 bunch of writing on it and a little piece of metal. Can you
4 identify what that is?

5 A. This is what we recovered from underneath the speaker.

6 Q. And did it appear obvious to you what that was when you
7 looked at it?

8 A. Yes.

9 Q. What did it look like to you?

10 A. Part of a fired projectile.

11 Q. What did you do with that piece of stuff?

12 A. That was collected and placed immediately in that box
13 and sealed as well, and then submitted to firearms when it
14 was taken back to the lab.

15 Q. Did you do any testing of this yourself?

16 A. I did not.

17 MR. BARFIELD: Your Honor, I would offer the lead
18 fragment and the plastic bag as a State's Exhibit.

19 MR. GRIER: No objection.

20 THE COURT: State's 56 in evidence without objection.

21 (The lead fragment was received as State's 56.)

22 Q. This might not be the best thing I've ever done for a
23 witness before, but that's a stack of pictures. We haven't
24 looked at all of them here today but they're all in
25 evidence, State's Exhibits 1 through 40.

TESTIMONY OF TIFFANY HEZEL

- 1 A. Okay.
- 2 Q. Take a minute to look through them and I want to ask
- 3 you a general question or two about those pictures.
- 4 A. Yes, sir.
- 5 Q. Did you take all of those picture?
- 6 A. I did not.
- 7 Q. Who else took some of those pictures?
- 8 A. The last two pictures I'm assuming were taken by the
- 9 Lancaster Police Department. This shows the jacket on the
- 10 vehicle prior to it being removed and prior to me processing
- 11 the vehicle.
- 12 Q. So 1 through 38, did you take all of them?
- 13 A. Yes, sir.
- 14 Q. And are these all related to this case?
- 15 A. Yes, they are.
- 16 Q. Do they all depict from one vantage point or another
- 17 the items that you described in and around the outside of
- 18 the house at 715 Saint Paul, the inside of the house at 715
- 19 Saint Paul, and the automobile and the sally port at the
- 20 Lancaster Police Department?
- 21 A. Yes, they do.
- 22 Q. Generally as part of crime scene investigations, do you
- 23 make a sketch?
- 24 A. Yes, we do.
- 25 Q. Is it a measured to scale architect wall drawing?

TESTIMONY OF TIFFANY HEZEL

- 1 A. It is not.
- 2 Q. Did you make a sketch in this case?
- 3 A. I did.
- 4 MR. GRIER: No objection to that going --
- 5 THE COURT: Go ahead and mark it.
- 6 MR. BARFIELD: I offer the sketch as a States' Exhibit.
- 7 THE COURT: Without objection State's 57 in evidence.
- 8 (The sketch was received as State's 57.)
- 9 Q. I will display State's Exhibit Number 57 and let you
- 10 explain a couple of things for the jury.
- 11 A. Sure.
- 12 Q. Is this your sketch?
- 13 A. It is.
- 14 Q. Where is the street? Orient us to the street from the
- 15 perspective of the sketch.
- 16 A. That's the street.
- 17 Q. Put a red dot where the beer can was.
- 18 A. How do I make a dot?
- 19 Q. Just tap it.
- 20 A. (Witness complies.)
- 21 Q. There you go. A red dot where the hat and all of the
- 22 stuff in it was.
- 23 A. (Witness complies.)
- 24 Q. Red dot where the vomit and the blood were.
- 25 A. The vomit is not marked. This is the blood.

TESTIMONY OF TIFFANY HEZEL

- 1 Q. All right. Red dot where the cellphone pieces were.
- 2 A. (Witness complies.)
- 3 Q. Circle where all of the cartridge cases were.
- 4 A. (Witness complies.)
- 5 Q. Inside the house, the love seat with the wash cloth on
- 6 the back of it.
- 7 A. (Witness complies.)
- 8 Q. And the front door.
- 9 A. The front door is right there.
- 10 Q. Did you do a report to indicate a couple of things, one
- 11 something concerning processing the beer can for latent
- 12 fingerprints?
- 13 A. I did.
- 14 Q. And did that report also address your processing of the
- 15 fired cartridge cases for touch DNA?
- 16 A. It did.
- 17 Q. I'm going to show you another piece of paper, three
- 18 pieces of paper stapled together. Can you identify what
- 19 that is?
- 20 A. This is my processing and latent fingerprint report on
- 21 those items of evidence.
- 22 MR. BARFIELD: Your Honor, I would offer the report as
- 23 the next State's Exhibit.
- 24 THE COURT: All right. Mr. Grier?
- 25 MR. GRIER: I have no objection to that..

TESTIMONY OF TIFFANY HEZEL

1 THE COURT: All right. State's 58 is in evidence
2 without objection.

3 (The report was received as State's 58.)

4 MR. BARFIELD: Thank you, ma'am. Answer anything
5 Mr. Grier has, please.

6 THE COURT: Thank you, Solicitor. Mr. Grier?

7 CROSS EXAMINATION

8 BY MR. GRIER:

9 Q. What is the difference between a cartridge and a shell
10 casing? Are they the same thing?

11 A. I'm not a firearms expert, however a cartridge in my
12 terminology includes the fired projectile, the cartridge
13 case, it's one single unit that has not been fired. A
14 cartridge case is part of that once the ammunition was been
15 fired.

16 Q. Cartridge is the ammunition intact before it has been
17 fired.

18 A. Correct.

19 Q. I'm not an expert obviously either. The six casings,
20 these were casings that you collected?

21 A. Cartridge cases, correct.

22 Q. They were all ammunition that would have been fired
23 from a .380 caliber?

24 A. Yes.

25 Q. And there would be nothing unusual about the head

TESTIMONY OF NAOMI ANTHONY

1 of evidence and testimony by the State in its case in chief.
2 If you would please continue to give the parties your
3 complete and undivided attention. And with that being said,
4 Solicitor, you may call your next witness?

5 MR. BARFIELD: The State calls Naomi Anthony.

6 The witness, NAOMI ANTHONY, was first duly
7 sworn and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. BARFIELD:

10 Q. Tell us your name, please, ma'am.

11 A. My name is Naomi Anthony.

12 Q. Ms. Anthony, I don't want your address, but where do
13 you live?

14 A. In Kershaw.

15 Q. How long have you been living down there?

16 A. About 40 years.

17 Q. Are you -- I ask a lot of personal questions. Are you
18 married?

19 A. Yes, sir.

20 Q. What's your husband's name?

21 A. Richard Anthony.

22 Q. Was Kevisis Emmanuel Anthony your son?

23 A. Yes, sir.

24 Q. Do you have other children?

25 A. Yes, sir.

TESTIMONY OF NAOMI ANTHONY

1 A. Yes, sir.

2 Q. Okay. Did you go somewhere after you found out
3 something had happened to Kevisis?

4 A. Yes, sir.

5 Q. Who went with you?

6 A. My husband and -- my husband and mother and my
7 daughter.

8 Q. Okay. Ms. Anthony, where did y'all go?

9 A. We had to go to the Carolina Medical Hospital in
10 Charlotte.

11 Q. Was Kevisis there?

12 A. Yes, sir.

13 Q. We'll hold on for a minute and you tell me when you're
14 ready.

15 (Break in proceedings.)

16 Q. Ms. Anthony, I could let your husband finish this if
17 you would like to. Is that what you would prefer I do?

18 A. Yes, sir.

19 Q. All right. Let me let Mr. Grier ask you anything he
20 wants to ask you and then I'll call your husband up here.

21 MR. GRIER: I don't have any questions for her.

22 THE COURT: Thank you very much, you may step down.

23 MR. BARFIELD: State calls Richard Anthony.

24 The witness, RICHARD ANTHONY, was first duly
25 sworn and testified as follows:

TESTIMONY OF RICHARD ANTHONY

1 talking to that deputy what did you do?

2 A. I came -- from that point on we went to Charlotte, he
3 said we need to go to Charlotte, my son was in the process
4 of flying from Lancaster to Charlotte.

5 Q. Did y'all go to Carolinas Medical Center?

6 A. We did.

7 Q. And I think y'all told me Ms. Anthony has relatives in
8 Charlotte. Did y'all --

9 A. Well, she have a sister that lived in Charlotte, she
10 called ahead and told them to meet us over there at
11 Carolina.

12 Q. And did y'all all gather up at Carolinas Medical
13 Center?

14 A. We did, sir.

15 Q. Did you see your son at Carolinas Medical Center?

16 A. Yes.

17 Q. Was he being treated?

18 A. He was being treated at that time.

19 Q. Was he from that point ever able to communicate with
20 you?

21 A. No. He never came conscious, sir.

22 Q. Okay. And I don't want you to talk about medical
23 stuff, but did y'all stay at the hospital Saturday night
24 into Sunday morning and up in the day Sunday?

25 A. Yes, we did, sir.

TESTIMONY OF RICHARD ANTHONY

- 1 Q. How long did you stay there Sunday?
- 2 A. Approximately until probably about 9:00 when we headed
- 3 down to Kershaw to get rest.
- 4 Q. Nighttime?
- 5 A. It was early that morning, because we had been there
- 6 that night until early in the day.
- 7 Q. So tell me when it is that you headed back to Kershaw
- 8 is what I'm asking.
- 9 A. From Charlotte.
- 10 Q. Well, you went to Charlotte that Saturday night or
- 11 early Sunday morning. How long did you stay? When you
- 12 first got to Charlotte how long were y'all there?
- 13 A. It was up in the day Sunday.
- 14 Q. Did you come home some time late Sunday?
- 15 A. Yes, we did.
- 16 Q. And did you go back Monday?
- 17 A. Yes, we went back Monday. We got a call, said that he
- 18 had turned for the worse.
- 19 Q. And about what time was it that you got that call?
- 20 A. Approximately probably about between 6:00 and 7:00 that
- 21 morning.
- 22 Q. And did you go to Charlotte?
- 23 A. We did.
- 24 Q. Did you see your son when you got back to Charlotte?
- 25 A. Well, we did. And we talked to the doctors first and

TESTIMONY OF KARLA DEESE

- 1 tool for us in determining the cause and manner of death.
- 2 Q. And generally speaking in a death investigation when
- 3 the coroner is called out, who makes the call about whether
- 4 an autopsy will be performed?
- 5 A. The deputy coroner or coroner investigating.
- 6 Q. Do those things generally apply to people who die here
- 7 in Lancaster County?
- 8 A. Yes.
- 9 Q. Can the coroner get involved from time to time when
- 10 someone dies outside of Lancaster County and even outside of
- 11 the State of South Carolina?
- 12 A. Yes.
- 13 Q. Is that what the circumstances of this case involving
- 14 Kevisis Anthony are?
- 15 A. Yes.
- 16 Q. Did you as chief deputy coroner become aware that
- 17 Kevisis Anthony died in Carolinas Medical Center?
- 18 A. Yes.
- 19 Q. And the date of death and the time of death as reported
- 20 to you in your official capacity was what?
- 21 A. The time of death was 21:30, 9:30 p.m. and the date was
- 22 January 28th of 2013.
- 23 Q. And when did you become aware of the death of Mr.
- 24 Anthony?
- 25 A. I became aware on January 29th.

TESTIMONY OF KARLA DEESE

1 morgue of the Lancaster County Coroner's Office that Monday?

2 A. Yes.

3 Q. And did you as chief deputy coroner order an autopsy?

4 A. Yes. I ordered an autopsy through Newberry.

5 Q. And when did the autopsy occur?

6 A. The autopsy was on the 30th of January at 8:30 a.m.

7 Q. And who performed it?

8 A. Dr. Ross.

9 MR. BARFIELD: Thank you, ma'am, answer anything

10 Mr. Grier has.

11 THE COURT: Thank you, Solicitor. Mr. Grier?

12 MR. GRIER: I have no questions.

13 THE COURT: Thank you very much, Coroner, you may step
14 down. Thank you for being with us.

15 MR. BARFIELD: Call Dr. Janice Ross.

16 The witness, JANICE ROSS, was first duly sworn
17 and testified as follows, on:

18 DIRECT EXAMINATION

19 BY MR. BARFIELD:

20 Q. State your name, please, ma'am.

21 A. Janice Edwards Ross.

22 Q. And Dr. Ross, what do you do for a living?

23 A. I am a pathologist, a forensic pathologist. I work at
24 Newberry Memorial Hospital.

25 Q. And the name of your business is?

TESTIMONY OF JANICE ROSS

1 A. Newberry Pathology Associates.

2 Q. Are you the principle in that business?

3 A. Yes.

4 Q. Where did you get your undergraduate degree and in
5 what?

6 A. Bachelors of Science Degree from the University of
7 South Carolina in Biology.

8 Q. Medical degree was next; is that correct?

9 A. My M.D. was, I obtained from Upstate Medical Center in
10 Syracuse, New York where I did further training in
11 pathology.

12 Q. Did you do a residency somewhere?

13 A. At Upstate Medical Center.

14 Q. All right. I hesitate to ask you this but you know I'm
15 going to, how long ago did you become a doctor?

16 A. Well, I got my M.D. in 1972 and finished my residency
17 in 1976.

18 Q. And are you a licensed medical doctor in the State of
19 South Carolina?

20 A. Yes.

21 Q. Are you board certified in forensic pathology?

22 A. Yes.

23 Q. Have you been called upon from time to time to testify
24 in the courts of this state as an expert witness in the
25 field of forensic pathology?

TESTIMONY OF JANICE ROSS

1 autopsy is.

2 A. Yes. First of all a pathologist is a physician who
3 learns how to diagnose diseases by looking at tissue under
4 the microscope and by using the laboratory in the hospital.
5 We also learned how to do an autopsy to find the cause of
6 death and the manner of death. A forensic pathologist
7 further learns how to identify patterns of injury to further
8 identify cause of death and manner of death. Cause of death
9 is how a person died, and the manner of death is how that
10 cause of death came about being. Was it self inflicted,
11 meaning a suicide, was it a homicide, was it natural death,
12 was it an accidental death? And the fifth type of manner of
13 death is undetermined, sometimes we just can't determine
14 that.

15 Q. All right. Did you receive a body identified as that
16 of Kévisis Emmanuel Anthony for autopsy on or about
17 January 30th of 2013?

18 A. Yes.

19 Q. And did you perform an autopsy of that body?

20 A. Yes.

21 Q. Is it beneficial to you to have some history of the
22 case before you or during the process of the autopsy?

23 A. Yes.

24 Q. And did you have some limited history of this case?

25 A. Yes. This gentleman was a victim of a shooting which

TESTIMONY OF JANICE ROSS

1 occurred on January 26th. He was taken to the hospital and
2 died at the hospital on the 28th.

3 Q. All right. Is part of the autopsy process an external
4 examination of the body?

5 A. Yes.

6 Q. Is part of the autopsy process an internal examination
7 of the body?

8 A. Yes.

9 Q. Is part of the autopsy process to determine if there's
10 any disease process going on in the body unrelated perhaps
11 to apparent injuries to the body?

12 A. Yes.

13 Q. Let's talk about that part of it first, the latter.

14 Did you find as a result of your autopsy that Kevisis
15 Anthony had any diseases or maladies that contributed to his
16 death?

17 A. No significant natural diseases, no.

18 Q. The external examination of the body, other than a
19 gunshot wound which we'll talk about momentarily, was there
20 any evidence of injury externally on the body other than a
21 gunshot wound?

22 A. Well, there was some head injury. There was a
23 laceration of the forehead and some abrasion of right
24 frontal scalp. And there had been surgery on the right back
25 of his heart -- I'm sorry, of his head. In this kind of

TESTIMONY OF JANICE ROSS

1 case we automatically do an x-ray also.

2 Q. Okay. Well, let's talk about the abrasions and the
3 laceration. If I'm living and standing here in front of you
4 and you're describing the injuries you saw on that body,
5 would they be debilitating injuries to me as a living
6 person? Was it a bad cut that laid his head open or
7 anything like that?

8 A. Well, it just indicates there was some blunt force
9 injury or the person fell on something to the front of the
10 head. It could cause a concussion for instance.

11 Q. But that laceration, was it a big laceration or a
12 fairly minor injury?

13 A. Small, yes.

14 Q. And the same thing about the abrasions, whole side of
15 his head abraded or --

16 A. Yeah, small area.

17 Q. And you said something about evidence of surgery. Did
18 you relate that to the gunshot wound that we're going to
19 talk about in a minute?

20 A. Yes.

21 Q. Okay. Now, any other external injuries to the body
22 other than what you've described?

23 A. No, sir.

24 Q. Describe the gunshot wound. Was there a gunshot wound
25 to this body I guess is the first question?

TESTIMONY OF JANICE ROSS

- 1 A. Yes. Of course, we had the history of the gunshot
- 2 wound and we could see a bullet on the x-ray. Externally it
- 3 was difficult to see a bullet hole in the head because the
- 4 surgeon cut through the actual entrance wound, but once we
- 5 looked underneath that we could see the entrance wound into
- 6 the skull.
- 7 Q. All right. Now, let me ask you about that surgery.
- 8 Why in the world would a surgeon have cut through an
- 9 entrance gunshot wound to somebody's head?
- 10 A. In an attempt to save their life, maybe evacuate the
- 11 blood or loosen -- relieve the pressure on the brain that is
- 12 swelling because of the gunshot wound.
- 13 Q. Are you able with measurements and the shape of a head
- 14 to describe -- I know you are -- will you describe for the
- 15 jury where the gunshot wound was?
- 16 A. Yes. It was in the right back of the head.
- 17 Q. Toward the top or way down the skull, or how far?
- 18 A. Toward the top, about an inch below the top of the
- 19 head.
- 20 Q. All right. Did you internally examine that gunshot
- 21 wound?
- 22 A. Yes.
- 23 Q. And did you determine a path of the bullet from that
- 24 gunshot wound?
- 25 A. Yes.

TESTIMONY OF JANICE ROSS

1 Q. Explain for the jury the path of that bullet.

2 A. The bullet went from the back of the head towards the
3 front and stayed on the right side, so we retrieved the
4 bullet from the right side of the brain.

5 Q. Okay. I'm going to hand you an item and two or three
6 plastic envelopes and ask you if you can identify what that
7 is?

8 A. This is the bullet we took out of Kevisis Anthony at
9 the time of autopsy.

10 Q. Do you recall what you did with this bullet once you
11 removed it from Mr. Anthony's body at autopsy?

12 A. We photographed it and sealed it in the plastic there
13 and handed it to the investigator in the room, Investigator
14 Smalls.

15 Q. Do you recall that being the guy?

16 A. Yes.

17 MR. BARFIELD: Okay. Thank you. Your Honor, at this
18 time I would offer the fired bullet as a State's Exhibit.

19 MR. GRIER: I have no objection.

20 THE COURT: 59 is in evidence without objection.

21 (The bullet was received as State's 59.)

22 Q. Do you have some training in firearms evidence and
23 ballistics in conjunction with being a pathologist? I'm not
24 going to ask you a bunch of detailed questions, but is that
25 part of your job to know a little bit about ballistics?

TESTIMONY OF JANICE ROSS

1 A. Yes.

2 Q. You described the exterior portion of the gunshot wound
3 I think as a result of this autopsy. Were you able to make
4 any determination about distance of gun being fired from
5 Mr. Anthony when this event occurred?

6 A. No, the wound had been cleaned. I did not see any
7 evidence of what you call tattooing or stippling. When a
8 bullet comes out of a gun so does powder and some of it is
9 burning and some is not burning. The powder only goes a
10 certain distance depending on the caliber of the gun, the
11 length of the barrel, et cetera. So if we see the evidence
12 of powder hitting the skin then we can say it's an
13 intermediate range of the bullet, the gun was maybe a few
14 inches from the skin. I couldn't really tell in this case
15 because of the surgery. I did not see any tattooing or any
16 evidence of powder, but I don't know how thick the hair was
17 either. The hair might have picked up some of that.

18 Q. Based upon your autopsy of Mr. Anthony's body, were you
19 able to determine a cause of death?

20 A. Yes.

21 Q. What did you determine to be the cause of Mr. Anthony's
22 death?

23 A. It was anoxic encephalopathy, which means brain death
24 due to the laceration of the brain due to the gunshot wound
25 to the head.

TESTIMONY OF BRIAN SMALL

1 The witness, BRIAN SMALL, was first duly sworn
2 and testified as follows:

3 DIRECT EXAMINATION

4 BY MR. BARFIELD:

5 Q. State your name, please.

6 A. Brian Small.

7 Q. Mr. Small, by whom are you employed?

8 A. Lancaster Police Department.

9 Q. How long have you been a police officer for the City of
10 Lancaster?

11 A. Since 2005.

12 Q. Were you working on as a police officer for the City of
13 Lancaster on the night of January 26th of 2013?

14 A. I was called to the scene.

15 Q. Did you participate in the investigation of the death
16 of Kevisis Anthony?

17 A. I did.

18 Q. I'm going to ask you a couple of questions about the
19 autopsy in just a minute but I want to ask you a question
20 about the scene first. Did you participate in some degree
21 in the search -- well, let me back up. Did you go to

22 Street as part of your work on this case?

23 A. I did.

24 Q. That night?

25 A. I did.

TESTIMONY OF BRIAN SMALL

- 1 Q. Did you ever go out to the hospital here in Lancaster?
- 2 A. No, sir.
- 3 Q. At Street, did you to some degree
- 4 participate in the search of the house once the warrant was
- 5 obtained and SLED crime scene agents were present?
- 6 A. Yes, sir.
- 7 Q. Did you actually pick up anything from within the house
- 8 at 715 Saint Paul?
- 9 A. No.
- 10 Q. Did you take any -- I'm going to show you a picture,
- 11 State's Exhibit Number 27.
- 12 A. It's not on.
- 13 Q. State's Exhibit Number 27, is that photograph familiar
- 14 to you?
- 15 A. Yes, sir.
- 16 Q. And tell me what that's a picture of.
- 17 A. That's like a -- there's some entertainment center and
- 18 TV, some candles sitting in the living room of his house.
- 19 Q. Is there anything near that TV that you ever put your
- 20 hands on or took possession of?
- 21 A. There was a cordless phone.
- 22 Q. Okay. And is it shown in that picture?
- 23 A. It is.
- 24 Q. Put a red dot by that, touch the screen. There you go.
- 25 Or circle it, the red dot isn't too big.

TESTIMONY OF BRIAN SMALL

- 1 A. (Witness complies.)
- 2 Q. Did you pick up that phone?
- 3 A. I did.
- 4 Q. Let me show you another picture or two of the phone
- 5 real quick. State's Exhibit Number 29, do you recognize
- 6 that picture?
- 7 A. Yes, sir.
- 8 Q. Is that the same phone?
- 9 A. Yes, sir.
- 10 Q. What did you do with that phone when you picked it up?
- 11 A. I think in the house if I can remember I gave it to
- 12 Agent Hezel.
- 13 Q. Okay. Did it end up -- do you know what its
- 14 disposition was?
- 15 A. Lieutenant Hall kept the phone and he put it in his
- 16 office.
- 17 Q. And do you know whatever happened to it after
- 18 Lieutenant Hall last had it? If you don't, that's fine.
- 19 A. I don't.
- 20 Q. Now, did you accompany the body of Kevisis Anthony to
- 21 the autopsy by Dr. Ross in Newberry on 1/30 of 2013?
- 22 A. I did.
- 23 Q. I'm going to show you State's Exhibit Number 59, which
- 24 we put into evidence a minute ago. Do you recognize what
- 25 that is?

TESTIMONY OF ERIC HUDDLESTON

1 indulgence for a second.

2 THE COURT: Sure.

3 (Break in proceedings.)

4 MR. GRIER: No questions.

5 THE COURT: Thank you, Mr. Small, you may step down.

6 The witness, ERIC HUDDLESTON, was first duly

7 sworn and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. BARFIELD:

10 Q. Tell us your name, please, sir.

11 A. Eric Huddleston.

12 Q. Mr. Huddleston, you live here in Lancaster?

13 A. Yes, sir.

14 Q. Were you living in Lancaster on January 26th of 2013?

15 A. Yes, sir.

16 Q. Where were you living then?

17 A. On ... Street.

18 Q. Is that the same place you live now?

19 A. Yes, sir.

20 Q. Were you home on Saturday night, January 26th of 2013?

21 A. For most of the night.

22 Q. Did you have a visitor at your house, or visitors at
23 your house some time that evening?

24 A. Yes, I did.

25 Q. About what time was it that somebody came to your

TESTIMONY OF ERIC HUDDLESTON

- 1 house?
- 2 A. It was probably, I'm going to say right around 7:45.
- 3 Q. Was it one person or more than one person come to your
- 4 house?
- 5 A. It was two children.
- 6 Q. Did you know who they were?
- 7 A. I didn't know.
- 8 Q. How old or how young were these two children?
- 9 A. I would say probably between seven and ten.
- 10 Q. Don't tell me what they said to you because that would
- 11 be hearsay, but as a result of these children coming to --
- 12 did you actually converse with these children?
- 13 A. Yes.
- 14 Q. As a result of these children coming to your house, did
- 15 you do something?
- 16 A. Yes.
- 17 Q. What did you do?
- 18 A. I walked up to their house to let their mother use my
- 19 phone. It was a company phone so I couldn't just hand the
- 20 cellphone off, I had to be present with it. I don't know
- 21 these kids and I didn't want to be responsible for the
- 22 company phone being stolen.
- 23 Q. Now, you went to a house -- did you go to a house with
- 24 these kids?
- 25 A. Yes.

TESTIMONY OF ERIC HUDDLESTON

1 Q. Had you ever been to that house before?

2 A. No.

3 Q. Were you familiar with the house or where it was at
4 least?

5 A. I had driven past it a few times.

6 Q. And do you remember the address for that house?

7 A. No, to be honest.

8 Q. That's fine. I'm going to show you a picture, State's

9 Exhibit Number 2. Are you familiar with what's shown in
10 that picture?

11 A. Yes.

12 Q. What is shown in that picture?

13 A. That's the house.

14 Q. Did you -- you said you let the mother use the phone.

15 Let me ask you a couple of questions about the phone. Was
16 it a cellphone?

17 A. Yes.

18 Q. And when you got to the house, did the two kids go back

19 to the house with you?

20 A. Yes, they led me.

21 Q. Were there other kids at the house when you got to the
22 house?

23 A. Yes.

24 Q. Did you count kids?

25 A. I counted about six.

TESTIMONY OF ERIC HUDDLESTON

- 1 Q. Were there adults at the house when you got to the
- 2 house?
- 3 A. Other than the mother there was one.
- 4 Q. Did you know the mother?
- 5 A. No.
- 6 Q. Did you know her name?
- 7 A. No.
- 8 Q. Is she somebody you had ever seen before?
- 9 A. No.
- 10 Q. Did she introduce herself to you and give you her name?
- 11 A. No.
- 12 Q. All right. How about the guy? Let's just talk about
- 13 the guy. Did you know the guy?
- 14 A. No.
- 15 Q. Had you ever seen the guy before?
- 16 A. No.
- 17 Q. Did you talk to the guy?
- 18 A. No.
- 19 Q. Did the guy introduce himself to you?
- 20 A. No.
- 21 Q. Did you ever hear anybody in the house call the guy by
- 22 a name?
- 23 A. No.
- 24 Q. Have you seen the guy since then?
- 25 A. No.

TESTIMONY OF ERIC HUDDLESTON

- 1 Q. Is he here today?
- 2 A. Yes.
- 3 Q. Where is he today?
- 4 A. (Indicating.)
- 5 Q. And you're pointing to -- where is he sitting and what
- 6 is he wearing? That's the way I ask it.
- 7 A. It is the gentleman in the white sweatshirt.
- 8 Q. Sitting next to Mr. Grier?
- 9 A. Yes, sir.
- 10 Q. Any question about that?
- 11 A. No, sir.
- 12 Q. Is this the first time since then that you have seen
- 13 this guy?
- 14 A. Yes, sir.
- 15 Q. Again, did you and he have any conversation?
- 16 A. No, sir.
- 17 Q. Did the young lady use your phone?
- 18 A. Yes, sir.
- 19 Q. Did that occur in your presence or did you stay
- 20 outside?
- 21 A. I was standing in the living room, when I handed her
- 22 the phone she dialed the number and walked into the kitchen.
- 23 Q. How big a house is this?
- 24 A. Medium sized.
- 25 Q. Could you hear her part of the phone conversation?

TESTIMONY OF ERIC HUDDLESTON

- 1 A. Not all of it, I only caught a couple pieces.
- 2 Q. Did you get your phone back?
- 3 A. Yes.
- 4 Q. How long were you at the house?
- 5 A. I would say maybe two or three minutes tops.
- 6 Q. Do you know whether she made one call or more than one
- 7 call?
- 8 A. Looking at the phone she only made one call.
- 9 Q. When you got your phone back what did you do?
- 10 A. I went back to the house.
- 11 Q. Did you think anything of it at that point?
- 12 A. To be honest it was kind of I guess for lack of a
- 13 better word shady. She walked into the kitchen, had a
- 14 conversation and I had heard her say --
- 15 Q. You can't say what she said.
- 16 A. I apologize.
- 17 Q. No, that's fine. Don't say what she said, but did you
- 18 hear her having a conversation on the phone with somebody?
- 19 A. Yes.
- 20 Q. Again, not what she said, but she walked back in the
- 21 kitchen and what and what and what?
- 22 A. She walked in the kitchen, when she got off the phone
- 23 she called the gentleman --
- 24 Q. Don't quote her, you can't quote her.
- 25 A. She called the gentleman in the kitchen, they had a

TESTIMONY OF ERIC HUDDLESTON

1 brief conversation, they handed me the phone back and I
2 left.

3 Q. Where did you go after you left? Were you walking?

4 A. Yes.

5 Q. Don't let me forget that, I want you to show us on the
6 map in a little bit. But did you walk on the street or did
7 you cut through yards to get there?

8 A. On the sidewalk.

9 Q. Did you walk on the sidewalk to get home or did you cut
10 through yards?

11 A. On the sidewalk.

12 Q. When you got home what did you do?

13 A. Went back to playing my X-Box.

14 Q. Did you leave there and go somewhere else after that?

15 Let me back up. Did anybody else come to your house after
16 that that night?

17 A. Yes.

18 Q. Who came subsequently?

19 A. The same two children.

20 Q. About what time? About how long after you had gotten
21 back to your house?

22 A. It was about 20 minutes later.

23 Q. And as a result of them -- you can say what you told
24 them but you can't say what they asked you or said to you.

25 What did you tell the kids?

TESTIMONY OF ERIC HUDDLESTON

- 1 A. I told the kids I didn't have anybody to watch my
2 children, I have a two year old and a one year old and I
3 couldn't accompany them back up to the house and let their
4 mom use my phone.
- 5 Q. Did they leave?
- 6 A. Yes.
- 7 Q. Did you stay at your house the rest of the night?
- 8 A. No. My sister-in-law had asked me to take her up to
9 the hospital, she has chronic migraines and had I to pick my
10 wife up at 9:00, she was working at Waffle House at the
11 time.
- 12 Q. Did you take your sister-in-law to the hospital?
- 13 A. Yes, sir.
- 14 Q. Did you ever pay anymore attention to your phone that
15 night?
- 16 A. Yes, I did. Like I said, it's a company phone and I
17 was Internet manager so up until 11:00 at night I had to
18 answer responses to Internet adds for selling cars.
- 19 Q. Okay. What about your phone?
- 20 A. I noticed I had a missed call, I checked it probably
21 8:30 and I called it back to see if it was a customer and
22 they said, "Somebody had called me from this number. And I
23 said, "Yeah, that was my neighbor."
- 24 Q. What number was the missed call from?
- 25 A. It was , area code 803.

TESTIMONY OF ERIC HUDDLESTON

1 Q. What number -- could you tell from your phone what
2 number was called when you went to the house around the
3 corner?

4 A. That was the number.

5 Q. What time was that call made? When you went to the
6 lady's house and she used your phone, what time was that
7 call made?

8 A. 7:49.

9 Q. How long did that call last?

10 A. Looking at that phone it lasted a minute and 49
11 seconds.

12 Q. What time did you get the missed call from ?

13 A. 8:15.

14 Q. What time did you return the missed call to

15 (sic), (sic.)

16 A. It was about 8:31.

17 Q. And when you talked -- don't relate to the conversation
18 between you and this person that you called back at 8466,
19 but was it a man or a woman?

20 A. It was a man.

21 Q. Okay. Did you get your wife from the Waffle House?

22 A. I did. She had to stay late that night just because
23 the other chefs hadn't showed up yet so we didn't actually
24 get back to the house until I want to say almost 10:00.

25 Q. Was anything going on in your neighborhood when you got

TESTIMONY OF ERIC HUDDLESTON

1 back to the house?

2 A. Oh yeah. When we got back basically from my road to
3 the next intersection up, which would be near Willow Lake
4 Road, I guess, was completely blocked off, they had
5 spotlights and --

6 Q. They who?

7 A. Police officers.

8 MR. BARFIELD: Permission for the witness to step down.

9 THE COURT: Yes, sir. Just remember to have him keep
10 his voice up. You may step down.

11 Q. It worked this morning, we'll see.

12 THE COURT: Have him change sides, Solicitor, where he
13 is facing the court reporter.

14 Q. It doesn't work this afternoon. Let me ask you some
15 questions. Are you familiar with what's shown on State's
16 Exhibit 45?

17 A. Yes, sir.

18 Q. Is your house where you currently live and where you
19 lived on 1/26 of '13 visible on that picture?

20 A. Yes, sir.

21 Q. Show the jury where your house is.

22 A. My house is right here.

23 Q. What street is it on?

24 A. Street.

25 Q. Is the -- and run your finger up and down

TESTIMONY OF ERIC HUDDLESTON

1 Street on that map.

2 A. (Witness complies.)

3 Q. Is the house where you took your cellphone to be used
4 by the mother of the children shown on that map?

5 A. Yes, sir.

6 Q. What color is the roof?

7 A. Red.

8 Q. Point to the house that you went to to let somebody use
9 your phone.

10 A. (Witness complies.)

11 Q. And the street that runs perpendicular to
12 Street, are you familiar with the name of that street?

13 A. Road. I'm sorry, this one right here?

14 Q. That's fine. If you don't know that's fine, but do you
15 know the name of that street?

16 A. No.

17 Q. Okay. That's fine.

18 MR. BARFIELD: Thank you, sir, you can take your seat.

19 Thank you.

20 Q. That night when you got home from picking your wife up
21 and the police were in the neighborhood, did you talk to the
22 police that evening somewhere?

23 A. I did, yes, sir.

24 Q. Okay. Did you give them a written statement about what
25 you testified about today?

TESTIMONY OF ERIC HUDDLESTON

1 A. Not that night but later on, yes.

2 MR. BARFIELD: Okay. Thank you, sir, answer anything
3 Mr. Grier has.

4 THE COURT: Thank you, Solicitor. Mr. Grier?

5 CROSS EXAMINATION

6 BY MR. GRIER:

7 Q. Mr. Woodley (sic) the man that you saw at Ms. Evans'
8 house, did you know that her name was Ms. Evans at the time,
9 or were you ever introduced to her as Ketta Evans?

10 A. No, sir.

11 Q. Is that the -- do you believe that to be the home that
12 you went to that night, though, based on what you've learned
13 since?

14 A. Yes, sir.

15 Q. Did the man that was there leave while you were there?

16 A. Not while I was there, no.

17 Q. Do you know when he left?

18 A. No idea.

19 Q. Well, do you recall giving him a statement?

20 A. Yes, sir.

21 Q. So you didn't say that he left?

22 A. No, sir.

23 Q. Do you recall making the statement that she walked
24 backed into the living room from the kitchen and called the
25 older guy to come into the kitchen where she was, then they

TESTIMONY OF ERIC HUDDLESTON

1 were in the kitchen for a few seconds and he walked out and

2 she walked out behind him and she handed you the phone?

3 A. Yes, sir.

4 Q. What are you saying there?

5 A. I'm saying they walked out of the kitchen.

6 Q. So that's not saying that he left at that time.

7 A. No, sir.

8 Q. You were there only a few minutes?

9 A. Yes, sir.

10 Q. And after you left you had no more contact with anybody

11 with anything to do concerning this matter?

12 A. No, sir.

13 Q. Are you pretty familiar with the streets around the

14 neighborhood where you live?

15 A. I can get around but I'm not familiar with street

16 names.

17 Q. How about _____ Street, are you familiar with

18 _____ Street?

19 A. No, sir.

20 Q. Would you be familiar with it?

21 A. No, sir.

22 MR. GRIER: Could I ask the witness, please, to step

23 back up again for a second?

24 THE COURT: Certainly, yes, you can step back down.

25 Q. Now, Mr. Huddleston, you pointed out Ketta Evans'

TESTIMONY OF ERIC HUDDLESTON

1 house, correct?

2 A. Yes, sir.

3 Q. To be that home with the --

4 THE COURT: Keep your voice up for us, please.

5 Q. That's the -- out of all of the houses, there's a lot
6 of houses on there, it's the one house with a red roof,
7 right?

8 A. It's the one that stands out, yes, sir.

9 Q. And that's it, right?

10 A. Yes, sir.

11 Q. Do you see anywhere on this map,

12 1 Street?

13 A. No, sir.

14 MR. GRIER: Okay. Thank you. That's all.

15 THE COURT: Redirect, Solicitor?

16 MR. BARFIELD: I have nothing further of this witness
17 and ask that be excused if he would like to leave.

18 THE COURT: You may be excused, thank you for being
19 with us. You may call your next witness.

20 MR. BARFIELD: Call Sylvia Stover.

21 The witness, SYLVIA STOVER, was first duly
22 sworn and testified as follows, on:

23 DIRECT EXAMINATION

24 BY MR. BARFIELD:

25 Q. Tell us your name, please, ma'am.

TESTIMONY OF SYLVIA STOVER

- 1 A. Sylvia Stover.
- 2 Q. Ms. Stover, I don't -- well, I do, where do you live?
- 3 A. Road.
- 4 Q. Here in Lancaster?
- 5 A. Yes, sir.
- 6 Q. How long have you lived there?
- 7 A. Two years and a half.
- 8 Q. Were you at your house on Saturday night, January 26th
- 9 of 2013?
- 10 A. Yes, sir.
- 11 Q. Did you have company that night?
- 12 A. No, sir.
- 13 Q. Did somebody come to your house that night?
- 14 A. Yes, sir.
- 15 Q. Did you know who it was?
- 16 A. No, sir.
- 17 Q. Was it one person or more than one person?
- 18 A. More than one person.
- 19 Q. Was it grownups or children?
- 20 A. Children.
- 21 Q. How many children?
- 22 A. Three.
- 23 Q. About how old were they?
- 24 A. I would say about nine or ten.
- 25 Q. Again, you can't say what they said to you but you can

TESTIMONY OF SYLVIA STOVER

1 say what you did as a result of them -- those kids talking
2 to you, what did you do after those children came to your
3 house?
4 A. I let them use my house phone.
5 Q. When you say your house phone, what kind of phone was
6 it?
7 A. I think it was a V-Tech, I'm not sure. I know it was a
8 house phone, it's a cordless house phone.
9 Q. Cordless phone. And when you say let them use it, what
10 do you mean you let them use it? Did they stand there and
11 talk on it while you were with them?
12 A. No, sir.
13 Q. What happened with your phone?
14 A. They left with it.
15 Q. Was it okay with you for them to leave with it for a
16 little while?
17 A. Yes, sir.
18 Q. Did you that night get your phone back?
19 A. No, sir.
20 Q. Did you at some point get your phone back?
21 A. I think like two months later because it went to the
22 police department.
23 Q. Okay. I'm going to show you a picture if I can find
24 it, or two or three pictures. I'm going to show you a --
25 and you look on that computer screen. I'm going to put a

TESTIMONY OF SYLVIA STOVER

- 1 picture down there, State's Exhibit 29. Do you recognize
- 2 what's shown in that picture?
- 3 A. Yes, sir.
- 4 Q. What's that?
- 5 A. It's my house phone.
- 6 Q. I'm going to show you another picture, State's 30. Do
- 7 you recognize what is shown in that picture?
- 8 A. Yes, sir, my house phone.
- 9 Q. And who gave you your phone back?
- 10 A. The officer right there, that officer.
- 11 Q. That one right there?
- 12 A. Yes, sir.
- 13 Q. Who was that?
- 14 A. Lieutenant Hall.
- 15 Q. When your phone didn't get brought back, did you do
- 16 anything to figure out where your phone was?
- 17 A. Yes, sir. I used my cellphone to call my house phone.
- 18 Q. Did anybody answer your house phone?
- 19 A. No, sir.
- 20 Q. Do you know about what time it was when you were
- 21 calling your house phone from your cellphone?
- 22 A. I think like 9:54, and then 10:04, I don't remember the
- 23 last time. I know I called it like three times.
- 24 Q. Anybody ever answer your phone?
- 25 A. No, sir.

TESTIMONY OF SYLVIA STOVER

- 1 Q. Did you hear anything unusual while you were at your
2 house that night?
- 3 A. After I let the little boys use my phone, after about
4 five or ten minutes I heard about three gunshots.
- 5 Q. Could you tell where they were coming from?
- 6 A. No, sir.
- 7 Q. Did you hear any hollering or screaming or anything
8 when you heard the gunshots?
- 9 A. No, sir.
- 10 Q. Were you inside your house when you heard the gunshots?
- 11 A. Yes, sir.
- 12 Q. Did you do anything about the gunshots when you heard
13 them?
- 14 A. No, sir.
- 15 Q. Did you call the police?
- 16 A. No, sir.
- 17 Q. Did you go outside in the street to look and see if
18 anything was going on?
- 19 A. No, sir.
- 20 Q. Did you at any time that night find out something was
21 going on in your neighborhood?
- 22 A. Yes, sir, when my son came home.
- 23 Q. About what time was that?
- 24 A. I don't remember.
- 25 Q. And other than your son coming home -- I presume he

TESTIMONY OF SYLVIA STOVER

1 told you some stuff, don't tell me what he told you -- but
2 other than your son coming home and talking to you, was
3 there any evidence that something was going on in your
4 neighborhood?

5 A. I told him I had let some little boys borrow my phone
6 and I asked him to go down the street and check and see if
7 he seen any little kids and he didn't.

8 Q. My question I guess is did you see any police in the
9 neighborhood?

10 A. No, sir.

11 Q. Okay.

12 MR. BARFIELD: Permission for the witness to step down?

13 THE COURT: Yes, ma'am, you may step down. Just keep
14 your voice up when you're away from the microphone.

15 Q. Take a minute and look at that and if it doesn't make
16 any sense to you that's fine, but if it makes sense to you I
17 am going to ask you a couple of questions about it.

18 A. Okay.

19 Q. Does that make any sense to you?

20 A. No, sir.

21 Q. Okay. It shows that as being Road.

22 A. Yes, sir.

23 Q. Does that make any sense to you?

24 A. Yes, sir.

25 Q. And it shows that as being Street.

TESTIMONY OF QUINSHUN EVANS

1 Q. All right. Well, that's why you weren't able to pick
2 up immediately on it. Do you know where
3 Street is?

4 A. No, sir.

5 MR. GRIER: Okay. Thank you.

6 THE COURT: Redirect?

7 MR. BARFIELD: Give me just one second, Your Honor.

8 (Break in proceedings.)

9 MR. BARFIELD: I don't have any redirect.

10 THE COURT: Thank you very much, you may be excused.

11 MR. BARFIELD: I call Quinshun Evans.

12 The witness, QUINSHUN EVANS, was first duly
13 sworn and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. BARFIELD:

16 Q. Tell us your name, please, sir.

17 A. Quinshun Evans.

18 Q. I'm going to ask you this, got nothing to do with
19 anything much before we get into some detail? Do you know
20 Ms. Stover?

21 A. No, sir.

22 Q. Have you got any idea where she lives?

23 A. No, sir.

24 Q. Do you know where Road is?

25 A. No, sir.

TESTIMONY OF QUINSHUN EVANS

- 1 Q. Okay. Quinshun, have you got a nickname?
- 2 A. Bubba.
- 3 Q. How old are you?
- 4 A. Nineteen.
- 5 Q. You go to school right now?
- 6 A. Yes, sir.
- 7 Q. Where do you go to school?
- 8 A. Lancaster High School.
- 9 Q. What grade are you in at Lancaster High School?
- 10 A. Twelve.
- 11 Q. Do you play sports at Lancaster High School?
- 12 A. I do football, wrestling and track.
- 13 Q. All right. Who's your mama?
- 14 A. Ketta Evans.
- 15 Q. And is it Ketta? I've been saying Ketta, is it Ketta?
- 16 A. Yes, sir.
- 17 Q. Do you know somebody named David Stalk?
- 18 A. Yes, sir.
- 19 Q. Do you see David Stalk in the courtroom today?
- 20 A. Yes, sir.
- 21 Q. Where is David Stalk sitting and what is he wearing and
- 22 what hair style does he have?
- 23 A. He's got dreads and like a striped shirt, white and
- 24 black.
- 25 Q. Sitting where? Point to him.

TESTIMONY OF QUINSHUN EVANS

1 A. Right there.

2 Q. Raise your hand, Mr. Stalk. Is that who you know as
3 David Stalk?

4 A. Yes, sir.

5 Q. These questions I'm going to ask you relate to
6 January 26th of 2013, so when I ask you how long you had
7 known David Stalk I mean before 1/26 of '13. How long had
8 you known David Stalk before January 26th of '13
9 approximately?

10 A. Not long. I seen him every now and then with my mama.

11 Q. I might have asked you this a minute ago. On
12 January 26th of '13, where were you living?

13 A. a. Street.

14 Q. Who else lived there?

15 A. My mama and my brothers and sisters.

16 Q. And you have been here all day today, right?

17 A. Yes, sir.

18 Q. These children, are a good number of them your brothers
19 and sisters?

20 A. Yes, sir.

21 Q. Are you the oldest?

22 A. Yes, sir.

23 Q. Do you know what your mom's relationship was back in
24 January of last year?

25 A. Not really.

TESTIMONY OF QUINSHUN EVANS

- 1 Q. Had he been to your house on Saint Paul Street?
- 2 A. Yes, sir.
- 3 Q. Once or more than once?
- 4 A. More than once.
- 5 Q. Did you know where he lived?
- 6 A. No, sir.
- 7 Q. When he came to your house on Street, who
- 8 was he coming to visit?
- 9 A. My mama.
- 10 Q. Did you know a young man -- where had you lived before
- 11 you and your mom and your brothers and sisters lived on
- 12 Street, where did y'all live?
- 13 A. I can't remember the address but we lived on -- oh,
- 14 Road.
- 15 Q. All of the way on the other side of town?
- 16 A. Yes, sir.
- 17 Q. Did you know somebody named Kevisis Anthony?
- 18 A. No, sir, but I seen him.
- 19 Q. All right. Where had you seen him?
- 20 A. He used to come to the house every now and then.
- 21 Q. Which house?
- 22 A. To the trailer.
- 23 Q. And where was the trailer?
- 24 A. At .
- 25 Q. And you probably couldn't see this a minute ago but I'm

TESTIMONY OF QUINSHUN EVANS

1 going to hold State's Exhibit Number 45 up, I don't know how
2 good your eyes are. Did y'all's house on Saint Paul have a
3 red roof?

4 A. Yes, sir.

5 Q. Had you ever had conversations with Kevisis Anthony?

6 A. No, sir.

7 Q. And when he would come to your house on , how
8 many times did you see him at your house on ?

9 A. I seen him like twice.

10 Q. And when he came to your house on , who was he
11 coming to see?

12 A. My mama.

13 Q. When he came to your house on how did he get
14 there?

15 A. He drove.

16 Q. Were you familiar with what he drove?

17 A. Yes, sir.

18 Q. I'm going to show you a picture, look on your monitor
19 there. I'm going to show you State's Exhibit Number 31. Do
20 you recognize what is shown in that picture?

21 A. Yes, sir.

22 Q. What is that?

23 A. That's his car.

24 Q. His being who? Whose car is it?

25 A. Anthony.

TESTIMONY OF QUINSHUN EVANS

- 1 Q. Anthony? Okay. Was David Stalk at your house on
- 2 January 26th of 2013?
- 3 A. Yes, sir.
- 4 Q. Were you there?
- 5 A. Yes, sir.
- 6 Q. Was your mother there?
- 7 A. Yes, sir.
- 8 Q. Is it both brothers and sisters?
- 9 A. Yes, sir.
- 10 Q. Were they both there?
- 11 A. Yes, sir.
- 12 Q. Were all of your brothers and sisters there?
- 13 A. No, sir.
- 14 Q. Were there some children there who weren't your
- 15 brothers and sisters?
- 16 A. Yes, sir.
- 17 Q. Whose kids were they?
- 18 A. I know one of them was David's kid.
- 19 Q. David who?
- 20 A. Stalk.
- 21 Q. How old was that child?
- 22 A. She was like little, probably about one or two.
- 23 Q. Real small?
- 24 A. Yes, sir.
- 25 Q. What was going on at your house that night when David

TESTIMONY OF QUINSHUN EVANS

1 and your mama were there?

2 A. Well, they was talking to each other and then they had
3 started fussing like in the kitchen, and that was about it.
4 That's all I seen because I was in the living room.

5 Q. What were you in the living room doing?

6 A. I was playing a game.

7 Q. Video game?

8 A. Yes, sir.

9 Q. By yourself or with one of your brothers and sisters.

10 A. With my brothers and sisters.

11 Q. Do you know what David and your mama were arguing
12 about?

13 A. No, sir.

14 Q. Did David stay at you house the whole time?

15 MR. GRIER: Your Honor, we've got leading going on,
16 I've been letting it go but I think we're getting to the
17 point where the prosecutor is testifying and we need to hear
18 it from the witness stand.

19 MR. BARFIELD: I don't think I was leading. I was
20 asking if David Stalk stayed at his house all night. I
21 don't think the fact that it calls for a yes or no answer
22 means it's a leading question.

23 THE COURT: Rephrase the question. Thank you,
24 Mr. Grier.

25 Q. Describe the house a little bit for me, I'll come back

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1 to that question in a little bit.

2 A. In the living room we had two blue couches and a TV, in
3 the kitchen we didn't really have nothing. We didn't have
4 beds. That was about it.

5 Q. Okay. I'm going to show you State's Exhibit Number 24.
6 Do you recognize what's shown in that picture?

7 THE COURT: Excuse me. What did you say about the
8 beds?

9 THE WITNESS: We didn't have none.

10 THE COURT: Thank you.

11 Q. Let me just go ahead and ask you this. What did people
12 sleep on? Did people sleep there?

13 A. Yes, sir.

14 Q. What did you sleep on?

15 A. Like they would make pads and stuff.

16 Q. Okay. I'm showing you State's Exhibit Number 24. Yes.
17 Do you recognize what's shown in that picture?

18 A. Yes, sir.

19 Q. What's that a picture of?

20 A. My living room.

21 Q. Is there a -- what door is that?

22 A. That's the front door.

23 Q. Is there another -- are there any other doors to get
24 into or out of the house?

25 A. On the side of the house.

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1 Q. Where on the side of the house?
2 A. In the kitchen.
3 Q. And if you go out that door where do you end up?
4 A. Like under the carport.
5 Q. Is there a carport on the house?
6 A. Yes, sir.
7 Q. Did you stay at your -- well, I know -- did you spend
8 the night at that house that night? I mean, after all is
9 said and done, were you there when the sun came up the next
10 day?
11 A. No, sir.
12 Q. Was David there when the sun came up the next day?
13 MR. GRIER: Your Honor, I --
14 THE COURT: That's overruled. He just asked him if he
15 was or wasn't there.
16 MR. GRIER: It's still leading.
17 THE COURT: Well, under 611 I control the mode and the
18 presentation of the testimony. He's a good man, 19 years of
19 ages, in high school, an intelligent young man. However,
20 have you ever been a witness before?
21 THE WITNESS: No, sir.
22 THE COURT: Have you ever been in big court before?
23 THE WITNESS: No, sir.
24 THE COURT: All right. So I'll give you a little
25 leeway, I don't think that's a leading question.

TESTIMONY OF QUINSHUN EVANS

- 1 MR. BARFIELD: I don't think that's a leading question.
- 2 Q. Was David there when the sun came up the next day?
- 3 A. No, sir.
- 4 Q. Do you know when he left?
- 5 A. He left that night.
- 6 Q. Was he inside before he left?
- 7 A. Yes, sir.
- 8 Q. What door did he leave out?
- 9 A. He left out the side door of the kitchen.
- 10 Q. And where does that door dump you out into?
- 11 A. Under the carport.
- 12 Q. What happened after David left?
- 13 A. Couple of minutes later I heard three gunshots.
- 14 Q. Where were you when you heard gunshots?
- 15 A. In the living room.
- 16 Q. Could you tell where the gunshots were coming from?
- 17 A. Yes, sir. They were coming from like up under the
- 18 carport.
- 19 Q. When you heard gunshots, what did you do? You can't
- 20 quote your mama, but what happened inside that house after
- 21 you heard gunshots?
- 22 A. We got everybody -- I got everybody to the back room.
- 23 Q. Was your mama inside the house?
- 24 A. Yes, sir.
- 25 Q. Where was she when you got everybody in the back room?

TESTIMONY OF QUINSHUN EVANS

- 1 A. We was in the living room.
- 2 Q. All right. Hold on. You said you got everybody in the
- 3 back room, what do you mean by that?
- 4 A. We had -- me and her had went and got everybody to the
- 5 back room and then we went back to the living room.
- 6 Q. You're talking about everybody other than you and your
- 7 mom?
- 8 A. Yes, sir.
- 9 Q. What did you -- and what happened in the living room
- 10 when everybody else was in the back room, what did you do?
- 11 A. She told me to --
- 12 Q. Don't say what she said, that's hearsay, but just say
- 13 what you did.
- 14 A. I looked out the blinds.
- 15 Q. All right. Blinds where?
- 16 A. In the front of the living room, like behind the TV.
- 17 Q. What did you see when you looked out the blinds in the
- 18 front of the house?
- 19 A. I saw a man laying on the sidewalk.
- 20 Q. Where on the sidewalk? And that sounds like a dumb
- 21 question, but in relation to the -- is there a driveway that
- 22 leads up to the carport?
- 23 A. Yes, sir.
- 24 Q. Where was the man?
- 25 A. He was like in front of the yard.

TESTIMONY OF QUINSHUN EVANS

1 Q. Okay. When you looked out the blinds, is that the
2 first time you looked out the house after you heard
3 gunshots?

4 A. Yes, sir.

5 Q. Did you look out the house at any other point?

6 A. No, sir.

7 Q. Did you ever see any cars anywhere around?

8 A. No, sir.

9 Q. I'm going to show you again State's Number 31. Did you
10 see that car that night?

11 A. Yes, sir.

12 Q. When did you see that car that night first?

13 A. When I had went out there to help him and I seen his
14 car out there.

15 Q. And again, whose car is that?

16 A. Anthony's.

17 Q. Where was Anthony's car when you went out there? We're
18 going to get to the going out there part in a minute, but
19 where was the car when you first saw it?

20 A. Like up under the carport.

21 Q. After you looked out the blinds and saw somebody out
22 there on the sidewalk, what did you do? What did your mama
23 do? Not what she said, but what did your mama do after you
24 looked out and saw somebody on the sidewalk?

25 A. She panicked.

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- 1 Q. And then what did she do?
- 2 A. We went out there to help him.
- 3 Q. When you looked out the blinds did you know who was out
- 4 there?
- 5 A. Yes, sir.
- 6 Q. How did you know who was out there when you looked out
- 7 the blinds and saw somebody on the sidewalk?
- 8 A. Because my mama was talking about somebody was coming
- 9 out there and I had a feeling who it was.
- 10 Q. When you got out there, did you know who it was?
- 11 A. Yes, sir.
- 12 Q. And who was it?
- 13 A. It was Anthony.
- 14 Q. When you got out there, was he up or was he down?
- 15 A. He was laying down.
- 16 Q. Did he -- could you tell whether anything was wrong
- 17 with him?
- 18 A. Not at the time.
- 19 Q. Just tell us what happened from that point on, and I'll
- 20 stop you if I need to and we'll get into some detail. But
- 21 you're outside, your mama is outside, Anthony is on the
- 22 ground. What happened?
- 23 A. We ran over there and we started helping him up, and as
- 24 I was walking I seen a lot of his stuff on the ground and
- 25 spread everywhere, and I got the front door and we brought

TESTIMONY OF QUINSHUN EVANS

1 him inside. And I went back out there and like picked up
2 all of his stuff and sat it in one spot and went back in
3 there and got a towel.

4 Q. Let me show you some more pictures. Generally speaking
5 where was the stuff scattered around out there before you
6 started gathering it up?

7 A. It was like some of it was on the driveway and some of
8 it was like towards the sidewalk.

9 Q. I'm going to put another picture up, State's Exhibit
10 Number 2. Is that picture familiar to you?

11 A. Yes, sir.

12 Q. Now, you can -- you have been in here all morning, you
13 know you can write on that screen.

14 A. Yes, sir.

15 Q. Do whatever you need to do on that screen to show on
16 that picture where stuff was before you gathered it up.

17 A. It was like right --

18 Q. Talk loud and tell us what it was that you recall.

19 A. It was like a beer can, Cigarillos and a phone case.

20 Q. And is that -- what does that circle represent?

21 A. That's where most of the stuff was.

22 Q. All right. Was there other stuff somewhere else?

23 A. His hat was like in the grass over here.

24 Q. Was there other stuff?

25 A. I can't remember..

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- 1 Q. Now, what did you pick up and move and gather up and
2 put somewhere?
- 3 A. I put the hat and the beer can, I put it right there.
- 4 Q. Okay. Now, tell us why you got that picture up. Tell
5 us where -- while you've got that picture up, tell us where
6 Anthony was when you saw him lying on the ground by looking
7 out the window?
- 8 A. He was laying right here.
- 9 Q. Was he awake?
- 10 A. Yes, sir.
- 11 Q. Was he talking?
- 12 A. He was mumbling.
- 13 Q. Did he -- from that point forward in this event, did he
14 ever talk that you could understand things he was saying?
- 15 A. No, sir, until we drove him to the hospital.
- 16 Q. We'll get to that in a minute. How did he get in the
17 house?
- 18 A. Me and my mama helped him.
- 19 Q. What do you mean when you say help him? I want this
20 jury to understand exactly mechanically how that happened.
- 21 A. I helped him up and I put his -- well, my mama put his
22 arm around her shoulder and she was carrying him in the
23 house while I was holding the front door.
- 24 Q. Was he moving at all himself? Were his feet on the
25 ground?

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- 1 clean him up.
- 2 Q. Did you do that?
- 3 A. Yes, sir.
- 4 Q. What color was the rag?
- 5 A. I can't remember.
- 6 Q. Okay. What happened next?
- 7 A. We had took him to the hospital.
- 8 Q. What mode of transportation to get to the hospital?
- 9 A. We had used Anthony's car.
- 10 Q. Who drove?
- 11 A. My mama.
- 12 Q. Where did Anthony sit?
- 13 A. In the passenger's side.
- 14 Q. Front or back?
- 15 A. The front.
- 16 Q. What position was he in in the car?
- 17 A. He had the seat pulled back some and he had the window
- 18 let down.
- 19 Q. Where did you ride?
- 20 A. In the back seat.
- 21 Q. Behind your mama or behind Anthony?
- 22 A. Behind my mama.
- 23 Q. What happened when you got to the hospital?
- 24 A. She told me to go and get a woman with a wheelchair and
- 25 I went in there and got a woman with a wheelchair.

TESTIMONY OF QUINSHUN EVANS

- 1 Q. What happened with Anthony after you went and got
2 somebody with a wheelchair?
- 3 A. They helped him in the wheelchair and they took him
4 into the hospital.
- 5 Q. Did you go into the hospital other than to go in and
6 get help?
- 7 A. No, sir. I had to park the car.
- 8 Q. After you parked the car what did you do?
- 9 A. I sat in the car.
- 10 Q. Did you talk to people there in the parking lot of the
11 hospital some time after that?
- 12 A. I talked with some police officers.
- 13 Q. Where did you go from the hospital?
- 14 A. I went to the police station.
- 15 Q. How did you get to the police station, do you remember?
- 16 A. I drove in a police car. I rode in a police car.
- 17 Q. What happened with your green car?
- 18 A. I don't know.
- 19 Q. Was it there when you left the hospital with the
20 police?
- 21 A. Yes, sir.
- 22 Q. Before looking out the window through the blinds and
23 the front, did you know Anthony's car was out there?
- 24 A. No, sir.
- 25 MR. BARFIELD: Beg the Court's indulgence.

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1 witness.

2 MR. BARFIELD: I call James Green.

3 The witness, JAMES GREEN, was first duly sworn
4 and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. BARFIELD:

7 Q. States your name, please, sir.

8 A. James Green.

9 Q. Do you go by Jamie?

10 A. Yes, sir.

11 Q. Mr. Green, by whom are you employed?

12 A. I'm employed with the State Law Enforcement Division
13 commonly referred to as SLED.

14 Q. What section of SLED are you employed in?

15 A. I work in the firearms department in the forensic
16 services laboratory.

17 Q. How long have you been employed by SLED?

18 A. Since 2005.

19 Q. What is your job with SLED?

20 A. I'm a forensic firearms examiner. And what that
21 entails is we look at fired cartridge cases or fired bullets
22 in the absence of a submitted firearm to see how many
23 firearms may be represented. If we have a submitted firearm
24 we'll test-fire the firearm and then look at it
25 microscopically versus unknown evidence from crime scenes.

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1 We also do tool marks, like if somebody tries to pry the
2 door open with a screwdriver we can compare the markings
3 using the comparison microscope, which is two microscopes
4 connected by one optical bridge that lets us look at the two
5 objects simultaneously. And we can change the lighting
6 angles. What we're looking at is microscopic scratches so
7 we try to hit it with lighting at different angles to cast
8 shadows to catch ridges and details.

9 Q. How did you become qualified to be a firearms examiner?

10 A. I have a Bachelor of Arts Degree from Charleston
11 Southern in English and Biology. I also have a Masters of
12 Science Degree in Criminal Justice. After I got my Masters
13 Degree I worked for the Mount Pleasant Police Department
14 just slightly north of Charleston, just right across the
15 river.. And then I was hired at SLED, and I underwent the
16 firearms and tool mark course of instruction, which is
17 roughly three and a half years of training. After that I
18 was given several fake cases to work on my own, and once I
19 passed those I was given a comprehensive final with hundreds
20 of definitions, more cases to work.

21 Q. Have you been certified continuously by SLED as a
22 firearms examiner since initial certification?

23 A. Yes, sir. We undergo proficiency testing once a year
24 in the disciplines in which we're current in which is
25 firearms identification, tool mark identification and serial

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1 number restoration.

2 Q. Have you been called upon to testify in the courts of
3 the State of South Carolina before and offered and accepted
4 as an expert in firearms identification?

5 A. Yes, sir.

6 MR. BARFIELD: Your Honor, at this time I would offer
7 Mr. Green as an expert in firearms identification.

8 THE COURT: Mr. Grier?

9 MR. GRIER: Your Honor, I have no objection.

10 THE COURT: All right. And again, ladies and
11 gentlemen, I won't repeat again the charge of the expert
12 witness' testimony. But this officer, Agent Green, is
13 qualified to give opinion testimony in firearms
14 identification. You must -- it is up to the jury to
15 determine what weight and value, if any, you give to the
16 those opinions. Thank you, Solicitor, you may continue.
17 Q. I'm going to lay some stuff in front of you and then
18 we'll talk about it a little bit. Mr. Green, did you get
19 called upon to attempt some firearms identification in a
20 case associated with SLED lab number L1301239, and I think
21 in your report you show victim Kevisis Anthony?

22 A. Yes, sir.

23 Q. And again, I will go to the end of the story on this
24 one with you for a minute. Did you ever have a firearm
25 submitted to you to do any test firing of to do any

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- 1 comparisons with other evidence?
- 2 A. No, sir.
- 3 Q. Did you get some items from the Lancaster Police
- 4 Department to do some firearms work on?
- 5 A. Yes, sir, I did.
- 6 Q. Briefly -- well, tell us what you got to work with.
- 7 A. I had six fired .380 auto caliber cartridge cases
- 8 submitted to me.
- 9 Q. Stop right there. How do you know they were .380
- 10 cartridge cases?
- 11 A. State's Exhibit 54 for example, when cartridge cases
- 12 are manufactured by whoever is making them there is what's
- 13 called a head stamp placed on the head of the cartridge case
- 14 and it will have a manufacturer's name or a code for their
- 15 name and the caliber of the cartridge, and all of these had
- 16 .380 auto or .380 ACP, which stands for automatic colt
- 17 pistol and they're the exact same thing, it was just some of
- 18 these things are tomato, some are tomato, it's different
- 19 names for the same thing.
- 20 Q. All right. If you would, tell us what the SLED item
- 21 numbers are for the six cartridge cases.
- 22 A. I had item eight, item nine, ten, 11, 12 and 13.
- 23 Q. And you talked about the head stamp and the
- 24 manufacturer's stamping on it, are they all of the same
- 25 brand?

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- 1 A. No, sir, they were not.
- 2 Q. Are they all the same type of ammunition?
- 3 A. They're all of the same caliber, yes.
- 4 Q. And what kind of firearm does that kind of ammunition
- 5 get fired through?
- 6 A. 99.9 percent of the time .380 auto cartridges, or .380
- 7 ACP are fired out of semiautomatic pistols.
- 8 Q. Pistols?
- 9 A. Pistols. But there is some manufactures now making
- 10 revolvers, but shooting a revolver, they don't eject the
- 11 cartridge cases. So it just -- if you find cartridge cases
- 12 at a scene, either somebody shot a revolver and emptied it
- 13 before they left or there was an auto ejecting pistol.
- 14 Q. What other items did you receive to do testing on?
- 15 A. I received SLED item 17, which was a fired lead bullet.
- 16 core fragment men along with a plastic fragment. Item 18
- 17 and item 22 were both fired -- excuse me. Item 18 was a
- 18 fired bullet fragment and item 22 was a fired bullet.
- 19 Q. Are the fire cartridge cases before you up here on the
- 20 rail?
- 21 A. Ladies and gentlemen of the jury, what I'm doing right
- 22 now is when I package evidence for court or through return
- 23 attorney I will put it in a ziplock bag where I can see
- 24 through it. When items are submitted to SLED, particularly
- 25 the firearms department, if they are large enough each item

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1 will be scribed with like a little tool with a lab number
2 and item number and our initials. So when we get to court
3 or for future maybe supplemental reports or supplemental
4 examinations we can look at them and say well, if they all
5 look the same how do I know which one is which? So what I
6 am doing right now is take a second to make sure that these
7 are the items I looked at. Okay. State's Exhibits 49, 50,
8 51, 52, 53 and 54 are SLED item numbers eight through 13
9 which were submitted in this case.

10 Q. And are those items that you handled and you examined?

11 A. Yes, sir.

12 Q. Did you reach any conclusions concerning those six
13 items?

14 A. Yes, sir. When I'm working a case and I don't have a
15 firearm submitted what I'll do, like I said previously, is I
16 will sit down and see how many cartridge cases I have,
17 whether they're six or eight or seven, which is like a case
18 I have in my office now, is I'll sit down and say how many
19 guns are represented in the cartridge cases which I have.
20 Once I figure that out I will write my worksheets down, I'll
21 write my answer down and then for every case that is sent
22 out, for every case worked in the firearms department is
23 micro-verified. Which means I will come up to you and I'll
24 say, "Hey, I need a case looked at, you're a qualified
25 examiner." I'm not going to get any hint this is what my

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1 answers are, they're going to sit down and form their own
2 opinions and then they'll all say, yep, they were all fired
3 by the same gun and I will say, "Sign here." And I will
4 read the results and make sure what they saw is what is
5 reflected in my notes which is what I saw. And in this case
6 it was micro-verified that all six of the cartridge cases
7 were fired by the same firearm.

8 Q. Now, tell the jury by your examination of those six
9 cartridge cases how you can say that they were all fired by
10 the same firearm. What are you looking at that tells you
11 that?

12 A. When firearms are manufactured whether it be breach
13 face the firearm, which is what marks the cartridge case
14 predominately or the barrel with the rifling in it. Rifling
15 is -- the technical definition is a set of helical grooves
16 placed in a barrel. All that means is it gives the bullet
17 spin as it travels down the barrel and through the air to
18 its intended target. When you think of like football the
19 NFL playoffs are going on right now, you see the
20 quarterbacks, they throw and if it's a real nice spiral it
21 goes farther and it goes where they want it to. In the
22 absence of rifling a bullet would come out of the barrel and
23 just start spinning and it would not be very accurate and
24 would lose a lot of its velocity because of air resistance.
25 So the rifling serves two purpose, it makes it more

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- 1 have a complete base you can approximate or give a nominal
2 caliber based on the characteristics and the diameter of the
3 bullet at the base.
- 4 Q. Were you able to reach any conclusions about State's
5 Exhibit Number -- which number is that?
- 6 A. This is State's Exhibit 47.
- 7 Q. Which is your item number 18, the fired bullet fragment
8 from the Toyota Camry windshield area?
- 9 A. Yes, sir.
- 10 Q. What conclusions, if any, did you reach about that?
- 11 A. It was most consistent with bullets, or most consistent
12 with having been a bullet jacket from a bullet loaded into a
13 .380 auto caliber cartridge.
- 14 Q. I'm going to show you State's Exhibit Number 56. Can
15 you tell us what State's Exhibit Number 56 is by way of
16 description and SLED item number?
- 17 A. State's Exhibit Number 56 is SLED item 17, which is the
18 fired bullet core fragment, and it was a brown plastic
19 fragment of some sort.
- 20 Q. And your paperwork shows the source of that item?
- 21 A. Yes, sir, it just says marker.
- 22 Q. Are you able to tell us anything about the metal
23 fragment that's in that exhibit?
- 24 A. I could tell that it was a bullet core based on the
25 heal that's visible, but it was so damaged I couldn't give a

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1 caliber. It has no marks of value which means there's no
2 striations or nothing that would let me or any other trained
3 examiner say it was fired by this gun, or it was fired by
4 the same gun that fired this bullet or this bullet.

5 Q. And then finally if you will pick up the last one over
6 there, which State's Exhibit is that?

7 A. Fifty-nine.

8 Q. What is that? SLED item number and description and
9 location recovered from.

10 A. State's Exhibit 59, which is SLED item number 22, and
11 according to the paperwork it was removed from victim
12 Kevisis Anthony.

13 Q. And what is that?

14 A. It's a -- actually you may be able to see it, it's one
15 fired bullet.

16 Q. What condition is it in generally speaking?

17 A. Generally speaking not microscopically, just with the
18 naked eye, it was in very good condition. It's a complete
19 bullet, there's no discernable damage to it, it's not
20 deformed, it didn't hit any really hard objects like a
21 cinder block wall up the road or anything like that.

22 Q. And do this, at the risk of boring everybody to death,
23 explain the composition of an unfired cartridge. Tell the
24 jury what a cartridge is and what the parts of it are.

25 A. This is a cartridge case, this is a fired ammunition

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1. component. If it were unfired it would have a complete
2 primer which wouldn't have any defects in it. The priming
3 pellet, which serves as the ignition component and it's
4 loaded with gunpowder or nitrocellulose or however you want
5 to call it, and then the bullet is seated into the cartridge
6 case to make it a complete cartridge. A cartridge is a term
7 for a complete piece of unfired ammunition, and the
8 cartridge case is literally just the container that holds
9 everything else.

10 THE COURT: What two exhibits were you referring to?

11 THE WITNESS: I'm sorry, sir, State's 59 was the bullet
12 and State's Exhibit 50 was the cartridge case I was using
13 for explaining purposes.

14 Q. And what does the term bullet jacket mean?

15 A. There are several different compositions. Some are
16 bonded, which means the jacket material is chemically plated
17 to lead core or steel core, whatever the core material is
18 made of. A bullet jacket in this instance, like this bullet
19 right here, which is State's Exhibit 59, is what they call a
20 crimping core. You start off with a lead core which is
21 slight smaller than the diameter of the overall bullet, and
22 then the copper jacket or steel jacket or whatever the
23 jacket material is made of, is formed around the core. It's
24 not plated to it, it's not electrochemically bonded to it,
25 it's just loosely fit and it is snugged along by crimping.

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1 So if a bullet that is not bonded, which we call it a draw
2 copper jacket, or draw jacket, hits a hard object they may
3 separate, so you may have the lead core over here and a
4 jacket over here. It's not uncommon to see the two
5 separated if they hit hard intervening solid surfaces.

6 Q. Again, I don't remember the States Exhibit Number for
7 item 22, tell us what that is again.

8 A. Fifty-nine.

9 Q. Were you able to make any conclusions about State's
10 Exhibit Number 59, your item 22, what you described as the
11 bullet removed from the victim?

12 A. Yes, sir. It was also examined and found to be most
13 consistent with the bullets loaded in some .380 cartridges.

14 Q. Based on your examination of that item are you able to
15 narrow it down to a manufacturer or a list of manufacturers?

16 A. Yes, sir. Let me back up for a second. Once I
17 determined that both 18 and 22 were both consistent with
18 being a .380 auto caliber bullets or jackets, I
19 microscopically compared those two together as well.

20 THE COURT: Use the State's numbers also.

21 A. States Exhibits 47 and 59. I microscopically compared
22 those two together. Getting to what you asked, they both
23 had the similar general rifling characteristics. The
24 general rifling characteristics is just a fancy long term
25 for how many lands and grooves it has, and the direction and

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1 twist and the widths or measurements of those land and
2 grooves. When a manufacturer makes a firearm they submit
3 their specifications to the FBI and to the ATF who regulates
4 firearms. They say, "We want to make a gun that has nine
5 lands and grooves with a left-hand twist and we want our
6 lands to be this wide and our grooves to be this wide. And
7 the FBI will say, "Okay. Thanks for letting us know," and
8 they'll take that and put it in a database. So when I
9 looked at those two items, State's Exhibit 59 and 47, I
10 looked up and saw they both had nine lands and grooves, they
11 both had a left-hand twist, and even though State's Exhibit
12 47 was slightly damaged because of this being a jacket, and
13 you can see it is slightly messed up, they were the same
14 width. I was unable to say they were fired by the same gun
15 due to damage and poor rifling, but I was able to say -- to
16 put into our general rifling characteristics program which
17 is provided to us by the FBI that I was looking for a
18 nominal .38 caliber gun, which is what a .380 auto will fall
19 under, nine lands and grooves and a left-hand twist. I put
20 the measurements in and plugged it in and it searched the
21 database and it came back with only one type of firearm that
22 could have fired these two bullets. I'm not saying they
23 were fired by the same gun but there's only one type of
24 firearm that could have fired both of them and that's
25 Hi-Point firearms.

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1 Q. Although we don't have it in this case, if you had a
2 firearm and you were going to do some testing between the
3 firearm and your item 22, which was the fired bullet from
4 the autopsy, which again was State's 59, tell the jury how
5 you would have done that briefly.

6 A. If a firearm was submitted that was not a Hi-Point I
7 wouldn't have done anything to it because there's no way
8 that -- let me rephrase that. Maybe there's a manufacturer
9 out there that makes it that we don't know about but they
10 probably would have some explaining to do because they
11 didn't clear it through the feds first. But if it's like a
12 Ruger and I can look down the barrel and count the lands and
13 grooves there's nothing more that I need to do because you
14 can't get a nine left bullet out of something that is not a
15 Hi-Point. If a Hi-Point were to have been submitted I would
16 get it in from whoever worked before, like if they wanted it
17 done for touch DNA, probably done by the latent print
18 department when they do the prints they also take swabs, I
19 get the evidence and I start working it, then I test fire
20 the firearm. We have a two story vertical water tank that's
21 about three feet in diameter, we close the lid and turn on
22 the capitation. And what the water does is it slows the
23 bullet down and it doesn't add to or take away any of the
24 markings. And we pull the -- it's really fancy, I've got a
25 brown paper bag I sit on top of the actual cartridge cases

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1 and they go flying off. There's a chain with a colander
2 like a drain at the bottom and you pull the chain up and
3 your bullets are down in the bottom. Once I get those I'll
4 sit down at a microscope and look at them to make sure that
5 the gun is marking consistently, try to match my test
6 bullets and then use those to compare against the evidence
7 that was submitted.

8 Q. Okay. Didn't have a gun in this case.

9 A. No, sir.

10 Q. Did you prepare a report indicating your findings in
11 this case?

12 A. Yes, sir, I did.

13 Q. I'm showing you a document, two pages stapled together.
14 Can you identify what that is?

15 A. This is the report I issued in a case dated April 8th
16 of 2013.

17 MR. BARFIELD: Your Honor, at this time I would offer
18 the firearms as State's Number 63, I believe.

19 MR. GRIER: No objection.

20 THE COURT: State's 63 is in evidence without
21 objection.

22 (The firearms report was received as State's
23 63.)

24 MR. BARFIELD: Thank you, sir, answer anything
25 Mr. Grier has?

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1 being said you may retire to your jury room.

2 (The jury left the courtroom.)

3 THE COURT: All right. Court will be in recess for 15
4 minutes.

5 (A break was taken.)

6 THE COURT: Anything before we bring in our jury from
7 the State?

8 MR. BARFIELD: Nothing from the State.

9 THE COURT: Defense?

10 MR. GRIER: No, Your Honor.

11 (The jury returned to the courtroom.)

12 THE COURT: All right. Welcome back, ladies and
13 gentlemen of the jury. We're continuing the trial of the
14 case by the presentation of evidence and testimony by the
15 State in its case in chief. Please continue to give the
16 parties your complete and undivided attention. Solicitor,
17 you may call your next witness.

18 MR. BARFIELD: Recall Phillip Hall.

19 The witness, PHILLIP HALL, remained sworn and
20 testified as follows:

21 DIRECT EXAMINATION

22 BY MR. BARFIELD:

23 Q. Mr. Hall, how did you get involved in the investigation
24 of this case? First of all how, and then when?

25 A. Again as I said, I was lieutenant over special

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1 operations, myself and Captain Grant usually get to come out
2 to all of the major crime scenes, so that's how I got to be
3 lead investigator on this.

4 Q. Did you get called out on 1/26 of '13?

5 A. I did.

6 Q. Where did you initially go?

7 A. I responded straight to the scene on 715 Saint Paul
8 Street.

9 Q. Did you ever go to the hospital?

10 A. I did not.

11 Q. Tiffany Hezel testified I think yesterday, SLED crime
12 scene agent, how did she end up coming to Lancaster that
13 night or early the next morning?

14 A. Captain Grant made contact with our local SLED agent,
15 Michael Green, and advised him of the situation that we had
16 and requested crime scene.

17 Q. Was any paperwork necessary for Ms. Hezel and the other
18 crime scene agent who came later to do their job concerning
19 _____ Street, and concerning the Toyota Camry
20 automobile that was towed to the police department?

21 A. Yes, sir. Usually when SLED comes out they require
22 that we have a search warrant for any property or evidence
23 that we're going to handle or process. With this
24 information I was tasked to get a search warrant for the
25 address of _____ Street, and also to the Toyota

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1 Camry that was driven or owned by the victim.

2 Q. Were those search warrants issued by a municipal judge?

3 A. They were.

4 Q. All right. Did you -- what did you do at the scene?

5 What did you do at the scene? Let me back up and let me ask

6 you direct questions. Did you make observations at the

7 scene of 715 Saint Paul Street?

8 A. I did.

9 Q. Describe what you saw outside, just generally.

10 A. Like I said, once I got there the crime scene was

11 already set up, which means crime scene tape was placed

12 around on the edge, officers on each corner of the house to

13 make sure that nobody came into the crime scene. Upon my

14 arrival I did see items laying out in the front yard area,

15 the blood area of the -- the pool of blood, the pool of

16 vomit on so forth. We made sure we put somebody on the

17 front -- whoever had the front yard guarded that crime scene

18 until SLED arrived on the scene. I didn't go into the house

19 at first, I stood by until we got the situation under

20 control as far as the crime scene itself. And then Captain

21 Grant arrived, he briefed me on what had happened at the

22 hospital, and again he asked me to go get the search

23 warrants because we knew that SLED would require them.

24 Q. Did you ever see the cartridge cases?

25 A. I did.

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- 1 Q. Did you see the beer can?
- 2 A. I did.
- 3 Q. Did you see the hat and the stuff that was associated
- 4 with it there in the yard?
- 5 A. I did.
- 6 Q. Did you pick up any of that stuff yourself?
- 7 A. I did not.
- 8 Q. How soon -- well, let me jump ahead. That night or
- 9 into Sunday morning did you know where the victim, Kevisis
- 10 Anthony, was?
- 11 A. Yeah. I knew he was at CMC, he got flown to CMC.
- 12 Q. Did you become aware of any change in his status at
- 13 some point?
- 14 A. I received a call on the 29th from Lieutenant Wheeler,
- 15 the coroner for Mecklenburg County.
- 16 Q. As a result of that call did you have any understanding
- 17 of Mr. Anthony's condition or situation at that time?
- 18 A. Right. He called me at about 8:10 that morning and
- 19 advised me that Mr. Anthony had passed away that night, or
- 20 the night before.
- 21 Q. All right. Was a suspect developed in this case?
- 22 A. There was.
- 23 Q. Who was the suspect that was developed?
- 24 A. David Stalk.
- 25 Q. In relation to when you first went out on the night --

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1 did you go out on the night of the 26th or was it over into
2 Sunday morning before you got out?

3 A. No. I was there probably 15 to 20 minutes after the
4 initial call.

5 Q. How soon after you got to Street had
6 David Stalk's named come up?

7 A. Pretty much then when we knew that he was there prior
8 to, and at that time we had no known whereabouts of where he
9 was at. We were wanting to make contact with him to talk to
10 him about this.

11 Q. On -- jumping ahead again. Was David Stalk at some
12 point taken into custody?

13 A. He was.

14 Q. What date was he taken in to custody?

15 A. He was arrested on February 5th of 2013.

16 Q. Permission for the witness to step down.

17 THE COURT: Yes, sir. Remember to keep your voice up
18 while you're away from the microphone.

19 Q. Lieutenant Hall, I'm showing you -- you're standing in
20 front of State's Exhibit Number 45. Are you familiar with
21 what that is?

22 A. I am.

23 Q. What is that?

24 A. This is an aerial photograph in which the incident took
25 place. This here is East Meeting Street, this is North

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1 Willow Lake Road.

2 Q. Use the pointer until it runs out.

3 A. -- g Street, d Road, Street,

4 -- Street and n Street and s Street

5 right here at the bottom.

6 Q. Show the jury the location of Street.

7 A. It would be the house with the red tin roof on it,

8 right there.

9 Q. Show the jury Mr. Huddleston's house.

10 A. Mr. Huddleston lives at this house up on the right here

11 which would be the second house on the right on

12 Street coming from

13 Q. I'm going to show you a picture real quick, State's

14 Exhibit Number 30. Do you know what's in that picture?

15 A. This is a cordless phone.

16 Q. Whose phone is that?

17 A. It belongs to Miss -- the one on Road, I

18 think it's Ms. Stover.

19 Q. Ms. Stover?

20 A. Yes.

21 Q. The lady that testified yesterday?

22 A. Yes, sir.

23 Q. Did you and Ms. Stover -- don't tell me what she said,

24 but did you and Ms. Stover have conversations about her

25 telephone that's shown in that State's Exhibit that we just

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1 looked at?

2 A. Yes, sir, we did.

3 Q. Where did you first talk to Ms. Stover?

4 A. I went to her residence?

5 Q. What is her address?

6 A. Road.

7 Q. Show the jury where Ms. Stover's house is.

8 A. Dunlap Street is the boundary between north and south,

9 so anything south of would be considered

10 and everything north of Dunlap is North Main. This is

11 Dunlap Street here, this is the cutoff between north and

12 south, and she lived at which would be this house right

13 here.

14 Q. All right. While you're up -- this is kind of out of
15 order, but while you're up let's talk about something else.

16 At some point was a handgun ever recovered that we associate
17 with this case as the weapon that killed Mr. Anthony?

18 A. We did not.

19 Q. Was a cellphone ever recovered that we associate with
20 the 911 call?

21 A. There was not.

22 Q. Was a search made -- we're going to talk in more detail
23 about it later, but was a search made for those items?

24 A. There was.

25 Q. Don't tell me anything else other than to tell the jury

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- 1 at this point where you searched for those items.
- 2 A. In this area right in here. Notice this creek right
- 3 here, we were on the west side of this creek in this general
- 4 area right here, which is open field area with one tree.
- 5 Q. And what is the closest intersection to the open field
- 6 area where the creek where y'all searched for a gun and
- 7 cellphone? Use your finger now.
- 8 A. Street and Street would be the closest
- 9 intersection if that's what you're referring to.
- 10 Q. All right. And one more question I guess about the
- 11 aerial photo. Does David Stalk have a sister named Tawana?
- 12 A. He does.
- 13 Q. Do you know where Tawana lives?
- 14 A. She lives on .
- 15 Q. And where is ? Is it shown on that map?
- 16 A. It's not shown on the map, but this is Street
- 17 right here and I believe this is the entrance to
- 18 , you see how it starts to curve a little bit?
- 19 Correction, that might be Street. Yes, that's
- 20 Street. So one more half a block up here, is
- 21 in pretty much a horseshoe that comes out on Street.
- 22 Q. All right. So off the map about where would Heath
- 23 Circle be?
- 24 A. Probably about right here.
- 25 Q. Okay. Take the witness chair. Going back to

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1 Ms. Stover and her telephone which I showed you a picture of
2 in State's Exhibit Number 30, I believe it was -- let me
3 confirm that. What was the disposition of Ms. Stover's
4 cordless telephone? What happened to it?

5 A. The battery was dead on it.

6 Q. But physically what happened to the phone? Where did
7 it go?

8 A. Oh, it was recovered inside the residence at
9 Street.

10 Q. And after -- do you still have it? That's my question.

11 A. I don't have it now.

12 Q. What happened to it?

13 A. SLED crime scene seized it and there was no reason to
14 process it so they immediately signed it over to me. I took
15 possession of it and was going to try to get the number off
16 of it to see what number was dialed from it, and by that
17 time the battery had went dead on the cordless phone.

18 Q. What did you do with the phone? Where is the phone
19 now?

20 A. I gave it back to Ms. Stover. Once the battery went
21 dead it had sat dead for a time, went back -- go to her
22 house to get her charger so that I could charge it to turn
23 it back on to see if that number would show up, and due to
24 it being dead for so long it erased all the numbers on it so
25 I wasn't able to determine what numbers were used.

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1 Q. All right. Now, what was there any effort made to find
2 David Stalk between 1/26 of '13 and when he was taken on 2/5
3 of '13?

4 A. Yes, there was.

5 Q. Generally -- and I don't need all of the detail, but
6 generally what were you doing to try to find David Stalk?
7 And don't tell me what people told you, but just tell me
8 what you were doing to look for him.

9 A. We had an active arrest warrant on him on another case.

10 Q. Go ahead.

11 A. All right. Sorry. And we had pretty much SLED agents
12 up here, our special operation units as well as patrol units
13 physically going from house to house, family member -- any
14 information we got over the phone saying his whereabouts we
15 would go try to go locate Mr. Stalk.

16 Q. Did he have family around here?

17 A. He did.

18 Q. Did you talk to any of them?

19 A. Yes, sir, I did.

20 Q. Now, was he located on 2/5 of '13?

21 A. He was.

22 Q. Where was he located on 2/5 of '13?

23 A. At _ Street.

24 Q. Whose house was that?

25 A. It was his grandmother's house.

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- 1 Q. Do you know her name?
- 2 A. Minnie Stalk I believe it is.
- 3 Q. Was she there when Mr. Stalk was arrested?
- 4 A. She was.
- 5 Q. Was anybody else there when Mr. Stalk was arrested?
- 6 A. They were.
- 7 Q. Who else was there when Mr. Stalk was arrested?
- 8 A. Eugene Stalk.
- 9 Q. Do you know what connection he is, if any, to David
- 10 Stalk?
- 11 A. I think he's an uncle, I believe it was.
- 12 Q. Was there any -- was it an uneventful arrest?
- 13 A. Uneventful arrest?
- 14 Q. Yeah. Did Mr. Stalk give you any problems when he was
- 15 taken in to custody?
- 16 A. No, sir.
- 17 Q. Was any evidence or any items taken from the home when
- 18 Mr. Stalk was arrested on 2/5 of '13?
- 19 A. There was a .45 caliber handgun located in the bedroom
- 20 where Mr. Stalk was.
- 21 Q. Let me back up. Did David Stalk live with Minnie Stalk
- 22 on Street?
- 23 A. No, sir.
- 24 Q. Where was he in the house when you first -- were there
- 25 other officers there with you?

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- 1 A. Captain Davis was with me, we had other patrol units
2 outside on perimeter.
- 3 Q. Where in the house was Mr. Stalk when you first knew
4 that he was in the house?
- 5 A. In the back bedroom on the left side of the structure.
- 6 Q. The .45 pistol that you just talked about recovering in
7 a bedroom, which bedroom was it in?
- 8 A. The same bedroom he was in.
- 9 Q. And where was that pistol in the bedroom?
- 10 A. It was between the mattress and the box spring of that
11 bedroom.
- 12 Q. Did you seize -- did one of your officers take
13 possession of and seize that pistol?
- 14 A. We did.
- 15 Q. Have y'all still got it?
- 16 A. Yes, sir.
- 17 Q. Did you send it anywhere for any testing, any analysis,
18 any firearms examination or anything?
- 19 A. We did not.
- 20 Q. Why not?
- 21 A. The caliber, like I said, it was a .45 caliber, the
22 weapon that was used on the homicide was a .380. And we
23 knew that -- I know .45's couldn't be shot out of a .380
24 without damage to the cartridge and all of that stuff.
- 25 Q. Now, on February 5th when Mr. Stalk was taken into

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1 custody, was he questioned?

2 A. Yes, sir, he was.

3 Q. And I'm going to jump ahead just a little bit. Was he
4 questioned any after February 5th of 2013?

5 A. Was he questioned after that? Yes, he was.

6 Q. What date was -- after February 5th, when is the next
7 time you and Mr. Stalk had conversations?

8 A. February 6th, the next day.

9 Q. At all times that you had conversations with him after
10 his arrest, was he still under arrest and in custody?

11 A. He was.

12 Q. I'm going to ask you some questions about February 5th,
13 and I'm going to ask you some questions about February 6th.
14 Where was Mr. Stalk on February 5th when you questioned him?

15 A. He was in my office at the Lancaster Police Department.

16 Q. Describe what is in your office.

17 A. It's a standard ten by ten office with a desk, file
18 cabinets, chairs. My office is setup where -- I had two
19 doors at this office, my door would face both doors, I had a
20 chair to my left where I mostly done my interviews, people
21 sat, we spoke. There was a chair in front of my desk and a
22 bookcase on that wall.

23 Q. Now, on February 5th of 2013, who else, if anybody, was
24 present other than you and Mr. Stalk?

25 A. During the interview it was SLED agent Christen Grant

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1 and Sergeant Ryan Small.

2 Q. Was Mr. Stalk, when you talked to him on February 5th,
3 in street clothes or jail clothes?

4 A. He was in street clothes.

5 Q. Explain to the jury this, where do people arrested by
6 Lancaster City police officers end up spending pretrial
7 detention?

8 A. Our facility is a six hour holding facility. Once we
9 make an arrest we hold you for six hours, and after that six
10 hours is up we transport you to the Lancaster County
11 Detention Center, and once you get there they take you out
12 of civilians and put you in an orange jumpsuit and orange
13 flip flops.

14 Q. On February 5th of '13 when you're talking to Stalk,
15 had he been taken to the detention center yet?

16 A. He had not.

17 Q. All right. When Mr. Stalk was in your office on 2/5 of
18 '13, was he handcuffed?

19 A. He was.

20 Q. Was he restrained in any other fashion?

21 A. He was not.

22 Q. Do you remember whether the handcuffs were in front or
23 behind him?

24 A. He was handcuffed in front.

25 Q. All right. Were you and the others, Kay Grant and

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- 1 Brian Small, wearing regular police uniforms?
- 2 A. No, sir. We was probably wearing something like I'm
- 3 wearing now or polos.
- 4 Q. Did you have a badge visible somewhere?
- 5 A. Yes.
- 6 Q. Did y'all have guns visible somewhere?
- 7 A. Yes.
- 8 Q. Did you read Mr. Stalk his Miranda warnings?
- 9 A. Yes, sir, I did.
- 10 Q. Did you do that from memory or did you do that from a
- 11 document?
- 12 A. We use a form at our police department when we
- 13 interview people, it's the Lancaster Police Department
- 14 suspect's rights and Miranda warnings.
- 15 Q. I'm going to show you a piece of paper and ask you if
- 16 you can identify what it is?
- 17 A. This is a copy of the Lancaster Police Department's
- 18 suspect's rights and Miranda warning.
- 19 Q. Does that relate to a specific person being questioned?
- 20 A. It does.
- 21 Q. Who does it relate to?
- 22 A. David Stalk.
- 23 Q. And what date was that form completed?
- 24 A. February 5th, 2013.
- 25 Q. What time did you start?

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- 1 A. 15:15, which is 3:15 in the afternoon.
- 2 Q. Tell the jury what you told Mr. Stalk his rights were.
- 3 A. Before we read him his rights we ask him a series of
- 4 questions. Well, let me back up. Over here we had the --
- 5 where we took the statement at -- and it is usually MJC
- 6 unless we do an in-car video or somewhere else, at their
- 7 house and so forth -- but this particular statement was
- 8 taken at MJC. We ask a series of questions, "What's the
- 9 last grade you completed in school? Are you under the
- 10 influence of any drugs or alcohol?"
- 11 Q. Well, while you're reading these questions let me do
- 12 this first.
- 13 MR. BARFIELD: Your Honor, at this point I would offer
- 14 a copy of the Miranda form as the next State's Exhibit.
- 15 MR. GRIER: No objection.
- 16 THE COURT: State's 64 subject to previous motions?
- 17 MR. GRIER: Yes, sir, thank you.
- 18 (The statement was received as State's 64.)
- 19 Q. Lieutenant Hall, I'm handing you State's Exhibit Number
- 20 54 (sic) which you identified as the Miranda warnings form
- 21 for Mr. Stalk on 2/5 of '13. Since you've got it and it's
- 22 in evidence now, let's just go ahead and go through it. Did
- 23 you have a conversation with Mr. Stalk about that piece of
- 24 paper to start with?
- 25 A. Yes, I did.

TESTIMONY OF PHILLIP HALL

1 Q. What's the first thing you asked him?

2 A. What's the last grade you completed at school, and he
3 advised he completed the 10th grade.

4 Q. What's the next one?

5 A. Are you under the influence of drugs and alcohol, he
6 advised he was not. I asked him could he read and write the
7 english language and he said he could. So I indicated no
8 for the under the influence of drugs or alcohol, and yes, he
9 could read and write the english language. The next series,
10 what will do as I'll advise him of his Miranda rights. I'll
11 advise you, "You have the right to remain silent. Anything
12 you say can and will be used against you in a court of law.
13 You have the right to talk with a lawyer and have him with
14 you while you are being questioned. If you cannot afford to
15 hire a lawyer one will be appointed to represent you before
16 any questions if you wish. You can decide at any time to
17 exercise these rights and not any questions or make any
18 statements." And the last two questions is, "Do you
19 understand each of those rights that I've explained to you?"
20 And, "Having these rights in mind, are you willing to talk
21 to me at this time now?" And he will say yes or no. And at
22 the bottom I'll ask him, here at the bottom is you waive
23 every right, and I will read to him, "I have read the
24 statement of my rights and understand what my rights are.
25 I'm willing to make a statement and answer questions. I do

TESTIMONY OF PHILLIP HALL

1 not want a lawyer at this time. I understand and know what
2 I am doing. No promises or threats have been made to me and
3 no pressure or coercion of any kind has been used against
4 me." Once I complete this, I will have whoever I'm
5 interviewing, in this particular case Mr. Stalk, come up and
6 what he will do is he'll initial each side, or initial to
7 the left of each one of his Mirandas saying he understood
8 those, and here at the bottom he'll sign his waiver of
9 rights. And then I'll finish the time, what time he signed
10 it, which was 15:18, which is 3:18 that same day, and I'll
11 witness it and another officer will usually witness it if
12 there's somebody else in there.

13 Q. Did Mr. Stalk initial all of his rights?

14 A. He did.

15 Q. Did he initial the part of the form that asked if he
16 understood the rights?

17 A. He did.

18 Q. Did he initial the part of the form that asked if he
19 talked having those rights in mind?

20 A. He did.

21 Q. Did he sign the form?

22 A. He did.

23 Q. Did you sign as a witness?

24 A. I did.

25 Q. Did Kristen Grant sign as a witness?

TESTIMONY OF PHILLIP HALL

1 A. She did.

2 Q. All right. At any time during the 2/5 of '13
3 questioning, did you have any difficulty understanding words
4 or phrases Mr. Stalk was using communicating with you?

5 A. I did not.

6 Q. Did he appear to have any difficulty understanding
7 words or phrases that you and Kristen Grant and maybe Brian
8 Small were using to communicate with him?

9 A. He did not.

10 Q. Did he ask any questions about his rights?

11 A. He never did.

12 Q. Did he tell you that he did not understand any of his
13 rights?

14 A. He did not.

15 Q. Did he waive his rights and give you a statement?

16 A. He did.

17 Q. Did he at any time during this process invoke any of
18 his rights?

19 A. No, sir, he did not.

20 Q. Did he ever tell you, "I don't want to talk anymore?"

21 A. No, sir.

22 Q. Did he ever tell you, "I want a lawyer?"

23 A. No, sir, he did not.

24 Q. Did he ever tell you, "I want to talk to a lawyer then
25 I will talk to you some more?"

TESTIMONY OF PHILLIP HALL

1 A. No, sir.

2 Q. Did at any time you -- was there some discussion -- you
3 said -- you told us Mr. Stalk was under arrest. Was there
4 some discussion between you and maybe Kristen Grant and
5 maybe Brian Small with Mr. Stalk concerning a bond for his
6 charge?

7 A. I believe so.

8 Q. Did you promise him anything about a bond?

9 A. I did not.

10 Q. Did anybody in that -- when I ask you I'm talking about
11 you or anybody else participating in this questioning of Mr.
12 Stalk, did you make any promises to Mr. Stalk at all
13 concerning anything to get him to talk?

14 A. No, sir.

15 Q. Did you threaten Mr. Stalk with anything, physical
16 violence or legal troubles or anything else, were any
17 threats made to Mr. Stalk to get him to talk on 2/5 of '13?

18 A. No, sir.

19 Q. Was any coercion put on Mr. Stalk or exerted against
20 him to get him to talk?

21 A. No, sir.

22 Q. For example, "We'll call DSS about your kids," or
23 anything like that, did anything like that occur?

24 A. No, sir, it did not.

25 Q. Describe the tone and tenor of the conversation with

TESTIMONY OF PHILLIP HALL

1 Mr. Stalk on 2/5 of '13, meaning, you know, what kind of a
2 discussion is this that y'all are having. Not what it's
3 about but how were people acting.

4 A. Pretty much Stalks (sic) didn't have any kind of
5 remorse --

6 Q. No, I'm not talking about that, I'm talking about
7 attitude, behavior during the interview. Were y'all being
8 nice to each other? Were you yelling and screaming?

9 A. Yes, sir, we were nice. We got into one situation
10 about a certain item, but other than that it was --

11 Q. I guess my question was, were any of the police
12 officers yelling and screaming at Stalk?

13 A. No, sir.

14 Q. Was he yelling and screaming at all?

15 A. No, sir.

16 Q. Was anybody throwing things?

17 A. No, sir.

18 Q. Was anybody slamming doors?

19 A. No, sir.

20 Q. Was anybody pulling out guns?

21 A. No, sir.

22 Q. Was anybody pulling out asps or batons and holding them
23 over anybody's head or anything?

24 A. No, sir.

25 Q. Anything like that going on at all on 2/5 of '13?

TESTIMONY OF PHILLIP HALL

- 1 A. No, sir. It was calm and cool just like myself and you
2 are talking now.
- 3 Q. 2/5 of '13, about how long was this questioning process
4 approximately?
- 5 A. I would say 40 minutes or 42 minutes maybe.
- 6 Q. 2/5 of '13.
- 7 A. Okay. Sorry. About two hours.
- 8 Q. During that time did anything -- well, did Mr. Stalk
9 have any obvious injuries that you observed?
- 10 A. None that I saw.
- 11 Q. Did he make any complaints of physical discomfort?
- 12 A. Not that he told us.
- 13 Q. Did he ever make any requests about removing handcuffs
14 or loosening them up or anything like that?
- 15 A. No, sir.
- 16 Q. Did he ever ask for anything during this two hour
17 process?
- 18 A. We asked him if he wanted something to drink.
- 19 Q. Did he get something to drink?
- 20 A. He did.
- 21 Q. Who got it for him?
- 22 A. Sergeant Small.
- 23 Q. What did he get?
- 24 A. I think it was a Pepsi.
- 25 Q. Did he ever ask for anything else?

TESTIMONY OF PHILLIP HALL

1 A. He asked for a cigarette but I don't smoke, I didn't
2 have one.

3 Q. Did he ever get a cigarette?

4 A. He did not.

5 Q. Did he ask to reach out to anybody or make contact with
6 anybody on February 5th of 2013 during the interview
7 process?

8 A. I don't recall him asking for anybody.

9 Q. Didn't ask to call a friend, mama, relative or anybody
10 as far as you know?

11 A. As far as I know.

12 Q. Did he ask for anything that y'all didn't give him
13 other than a cigarette?

14 A. No, sir.

15 Q. Did he talk to y'all that day?

16 A. Sir?

17 Q. Did he talk to y'all that day?

18 A. Yes, he did.

19 Q. I don't want to get into any detail yet, but did he
20 talk to y'all in sort of two parts?

21 A. Yes, sir, he did.

22 Q. I'm going to jump ahead and get this routine stuff done
23 concerning the next day. Did you talk to Mr. Stalk on 2/6
24 of '13?

25 A. Yes, sir, I did.

TESTIMONY OF PHILLIP HALL

- 1 Q. Where did you talk to Mr. Stalk on 2/6 of '13?
- 2 A. My office.
- 3 Q. Had he been to the Lancaster County Detention Center by
- 4 2/6 of 13?
- 5 A. He has.
- 6 Q. Why was he back at the Municipal Justice Center on 2/6
- 7 of '13?
- 8 A. He was having a bond set.
- 9 Q. How did you come into contact with Mr. Stalk on 2/6 of
- 10 '13?
- 11 A. It had come to my attention that he wanted to talk with
- 12 officers again.
- 13 Q. Did you comply with that request?
- 14 A. I did.
- 15 Q. How was Mr. Stalk dressed on 2/6 of '13 when you saw
- 16 him?
- 17 A. He was dressed in a jumpsuit.
- 18 Q. I'm going to show you a piece of paper and ask you if
- 19 you can identify this?
- 20 A. Yes, sir, I can.
- 21 Q. What is that piece of paper?
- 22 A. This is also a copy of the Lancaster Police Department
- 23 form suspect rights and Miranda warning.
- 24 Q. Concerning what suspect or defendant or detainee?
- 25 A. David Stalk.

TESTIMONY OF PHILLIP HALL

- 1 A. They were.
- 2 Q. Who?
- 3 A. Lynn Tucker.
- 4 Q. Who is -- do you know Lynn Tucker is?
- 5 A. Yes, sir, I know Lynn Tucker.
- 6 Q. Did you know Lynn Tucker before 2/6 of '13?
- 7 A. Yes, sir, I did.
- 8 Q. Do you know if there is any relationship between David
- 9 Stalk and Lynn Tucker, not kinship, but any type of
- 10 relationship?
- 11 A. Stalks (sic) worked for Tucker.
- 12 Q. Is Tucker shown on video?
- 13 A. Yes, sir, he is.
- 14 Q. Why in the world was Tucker there?
- 15 A. Stalks (sic) requested that he be present.
- 16 Q. So how did Tucker end up getting there? Where does
- 17 Tucker work?
- 18 A. He owns Tucker's Trucking, which is located on Arch
- 19 Street, which is pretty much across from the police
- 20 department.
- 21 Q. Do you know how Tucker ended up getting there? Not
- 22 physically whether he rode or drove, but what produced his
- 23 presence?
- 24 A. I made a call to him and asked him -- I think either I
- 25 made a call or let him make a call, but he came up there

TESTIMONY OF PHILLIP HALL

- 1 once he was requested.
- 2 Q. And who requested that Tucker be there?
- 3 A. Mr. Stalk.
- 4 Q. And when you said you made the call or he made, you
- 5 mean you made the call or Stalk made the call?
- 6 A. Yes, sir.
- 7 Q. Was Tucker there pretty much from the time he got there
- 8 until it was over with on 2/6 of '13?
- 9 A. Yes, sir, he was.
- 10 Q. Where is Tucker in the room in relation to Stalk when
- 11 this process on 2/6 of '13 is going on?
- 12 A. Sitting in the chair to the right of Mr. Stalk.
- 13 Q. Is there any -- they'll probably see the video in a
- 14 little bit, but is there any -- how are Stalk and Tucker
- 15 getting along when they're sitting side by side on 2/6 of
- 16 '13?
- 17 A. They're communicating great. I believe Stalk looks at
- 18 Tucker as a mentor.
- 19 Q. Did Tucker talk on the video? Is there discussion by
- 20 Tucker?
- 21 A. Yes, sir.
- 22 Q. Is there any off the record stuff going on on 2/5 or on
- 23 2/6?
- 24 A. No, sir.
- 25 Q. Meaning you cut the tape off and have a little side

TESTIMONY OF PHILLIP HALL

1 Q. Is that Mr. Stalk's statement on 2/5 of '13?

2 A. Yes, sir, it is.

3 Q. Is that a copy of the original?

4 A. It is, yes, sir.

5 Q. City maintains the originals, you have them in your
6 possession?

7 A. Yes, sir, we do.

8 MR. BARFIELD: Your Honor, at this time I would offer
9 the statement as a State's Exhibit.

10 MR. GRIER: Subject to prior objections.

11 THE COURT: All right. Subject to prior objections and
12 rulings of the Court State's 66 is in evidence.

13 (The statement was received as State's 66.)

14 Q. I'm handing you State's Exhibit 66, I don't need you to
15 read anything about it now. Did you inquire from Mr. Stalk
16 where he was on the night of 1/26 of '13?

17 A. I did.

18 Q. Did you inquire what relationship he had with Ketta
19 Evans?

20 A. I did.

21 Q. Tell the jury what the relationship -- what Mr. Stalk
22 said his relationship was with Ketta Evans. You don't have
23 to quote it, just from memory, I don't need you to quote the
24 statement right now.

25 A. He believed for her to be his girlfriend.

TESTIMONY OF PHILLIP HALL

1 Q. Did you inquire of his whereabouts, goings and comings
2 on the night of 1/26 of '13?

3 A. Yes, sir, I did.

4 Q. And tell the jury what Mr. Stalk said were his goings
5 and comings and whereabouts on the night of 1/26 of '13.

6 A. On this particular day he stated that he had dropped
7 off his child at Street and left from
8 there --

9 Q. I'm going to interrupt you from time to time. Did he
10 give you some approximate time of when he left his child
11 over at ?

12 A. He said it was still daylight.

13 Q. Okay.

14 A. He said around 5:30 or 6:00 or so.

15 Q. Did he tell you how he was traveling?

16 A. He did. His cousin and his cousin's girlfriend dropped
17 him off at Street to carry his child in
18 there, then they waited for him while he went in the house.
19 He came back out and got a ride from that location to his
20 aunt's house on

21 Q. Did he indicate how long he was at Ketta Evans' house
22 when he dropped his child off?

23 A. He said for a short time, probably ten minutes I
24 believe it was.

25 Q. Did he indicate whether he ever went back to Ketta

TESTIMONY OF PHILLIP HALL

1 Evans' house on the night of 1/26 of '13?

2 A. He did not.

3 Q. He did not indicate that he did or he said he did not
4 go back?

5 A. He said he did not go back.

6 Q. How did he account for his whereabouts from leaving
7 Ketta Evans' house until later on some time?

8 A. Like I said, he left Ketta's house by way of his cousin
9 and his cousin's girlfriend and carried him to his aunt's
10 house. He said he was at his aunt's house, took a shower,
11 got something to eat, then rode a bicycle -- went to his
12 sister's house, got his cousin's bicycle, which is also on
13 , and rode it to Christopher Johnson's house, or
14 Quilla Johnson's.

15 Q. Do you know where he was talking about when he said
16 Quilla Johnson or Quilla Duncan's house?

17 A. He told me he didn't know the physical address but it
18 is on Barr Street, Street.

19 Q. In the city?

20 A. West Bar Street. Yes, sir, in the city.

21 Q. Did he tell you what he was doing at Quilla's house?

22 A. He said he went there to play cards and drink beer and
23 hang out.

24 Q. Did he tell you whether other people were there at
25 Quilla's house?

TESTIMONY OF PHILLIP HALL

- 1 A. He did.
- 2 Q. Did he name some people?
- 3 A. He did.
- 4 Q. Who did he say was there?
- 5 A. He named Lynn Tucker as one, Quilla Duncan, Quilla's
6 boyfriend, James. All of Quilla's children were there. His
7 aunt, Chris Nelson. I'm assuming a female by the name of
8 Bernadette or Brendetta (phonetically), and another fellow
9 that he knew as K-9.
- 10 Q. All right. Did you ask -- well, how did Stalk account
11 for his time while he was at Quilla's?
- 12 A. He said he was there from -- he said he got there
13 around 8:30 or 9:00 and stayed until after midnight.
- 14 Q. Did he ever change that on 2/5 of '13?
- 15 A. He did not.
- 16 Q. What did he say he did? Did he say what he did after
17 he left Quilla's house after midnight?
- 18 A. He said that he went back to his aunt's house on Heath
19 Circle from Quilla's.
- 20 Q. Did he say where he stayed overnight that night?
- 21 A. He said he went back to Tawana's house.
- 22 Q. That's his sister?
- 23 A. I believe so. Yes.
- 24 Q. Did he indicate any other movements that night from
25 being at Tawana's some time after midnight?

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- 1 A. No, sir. He said he stayed there that night.
- 2 Q. Did you ask Stalk anything about what went on when he
- 3 was over at Ketta Evans' house to drop the baby off?
- 4 A. Ask me that one more time, I didn't hear what you said.
- 5 Q. Okay. Did you and Stalk have any conversation about
- 6 what occurred while he was at Ketta Evans' house dropping
- 7 the baby off earlier in the afternoon?
- 8 A. Yes.
- 9 Q. What did he say was going on at Ketta Evans' house when
- 10 he dropped the baby off?
- 11 A. He said him and her got into an argument.
- 12 Q. Did he tell you what it was about?
- 13 A. Supposedly she was messing around with somebody else.
- 14 Q. Okay. Were you aware on 2/5 of '13 of a 911 call which
- 15 was placed on disc which was State's Exhibit 46 earlier this
- 16 week?
- 17 A. Yes, sir.
- 18 Q. Had you heard it?
- 19 A. Yes, sir.
- 20 Q. Were you aware of the information contained within that
- 21 call?
- 22 A. Yes, sir.
- 23 Q. Were you aware of the information Mr. Stogner related
- 24 to us yesterday I guess it was concerning where the number
- 25 to call came from and all of that stuff?

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1 A. Yes, sir.

2 Q. Did that number initially -- did the number
3 initially have any importance to you before you were
4 investigating Stalk? That was a bad question. Did you and
5 Stalk have any conversation about the 911 call on 2/5 of
6 '13?

7 A. Yes.

8 Q. What was his response to your inquiries about a 911
9 call, which is State's Exhibit number 46?

10 A. According to him he didn't have a phone, or that phone
11 number didn't belong to him that came back on the 911 screen
12 monitor.

13 Q. Did you ask him if he made a call?

14 A. I did.

15 Q. What was his response?

16 A. He says he did not.

17 Q. Was there any further discussions about that phone
18 number?

19 A. Yes.

20 Q. Describe the further discussions with Stalk on 2/5 of
21 '13 about that phone number I'm referring to,

22 A. Okay. I asked him what his cellphone number was and he
23 responded by giving me . And then I asked the next
24 question was his phone number and he said yes, but
25 this was during -- we had a discussion about that and he

TESTIMONY OF PHILLIP HALL

1 said that he had lost that phone -- or got rid of that phone
2 a month and a half ago.

3 Q. Did he tell you why he got rid of the phone a month and
4 a half prior to you being with him on 2/5 of '13?

5 A. He said he had laid it on the counter in the bathroom
6 near the sink and water supposedly got into it and messed it
7 up. Water damage is what he said.

8 Q. Did he tell you what he did with the phone after the
9 water messed it up?

10 A. He said he got rid of it, or threw it away.

11 Q. Again, did you ever -- what was the final outcome, the
12 final response from Stalk concerning the number
13 the number, not the phone but the number?

14 A. He eventually said that this was his number.

15 Q. On 2/5 of '13, did you and Stalk talk about any
16 knowledge he had of the death of Kevisis Anthony?

17 A. Yes, sir, we did.

18 Q. Did he have any knowledge of the death of Kevisis
19 Anthony?

20 A. He did not.

21 Q. Well, did he know that somebody had been shot and
22 killed?

23 A. Yes, sir, he did know that.

24 Q. Did he tell you how he found out?

25 A. His sister told him, I believe it was his sister.

TESTIMONY OF PHILLIP HALL

- 1 Q. What was the -- after the interview with Stalk on 2/5
2 of '13 where did he end up for the night on 2/5 of '13?
- 3 A. After the Judge set his bond he went to the Lancaster
4 County Detention Center.
- 5 Q. Let's move onto 2/6 of '13. About what time was it
6 when you had a conversation with Stalk on 2/6 of '13?
- 7 A. It was 11:54 that morning.
- 8 Q. Who initiated that conversation?
- 9 A. He did.
- 10 Q. Again, was there a recording made of that conversation?
- 11 A. Yes, sir, there was.
- 12 Q. Did that conversation produce a written statement?
- 13 A. Yes, sir, it did.
- 14 Q. I'm going to hand you a two page document and ask you
15 if you can identify it.
- 16 A. Yes, sir, I can.
- 17 Q. What is that?
- 18 A. This is a statement that was taken from Mr. Stalk on
19 February 6th at the police department.
- 20 Q. Relating to the death of Kevisis Anthony?
- 21 A. Yes, sir.
- 22 Q. Is that a copy of the statement?
- 23 A. Yes, sir, it is.
- 24 Q. And is the original in your possession?
- 25 A. Yes, sir, it is.

TESTIMONY OF PHILLIP HALL

1 MR. BARFIELD: Your Honor, at this time I would offer
2 the 2/6 of '13 written statement as a State's Exhibit.

3 MR. GRIER: Subject to prior motions.

4 THE COURT: All right. State's 67 is in evidence
5 subject to previous objections.

6 (The statement was received as State's 67.)

7 Q. Lieutenant Hall, I'm handing you State's Exhibit Number
8 67 now and let me ask you some questions, not necessarily
9 about the document but just about the process on 2/6 of '13.
10 Part one of 2/6 of '13, what was that all about?

11 A. That was pretty much me advising Mr. Stalk of his
12 Miranda rights and him signing a waiver of this form here.

13 Q. Was Lynn Tucker there when all of that occurred?

14 A. He was.

15 Q. Did anything unusual occur during that little piece of
16 it?

17 A. Other than him requesting a cigarette.

18 Q. Well, tell us about that.

19 A. Once I --

20 Q. Tell them about that.

21 A. Once I informed him of his rights and all of that and
22 he signed the form, he made a request could he go smoke a
23 cigarette. Again, my answer was, "I don't smoke
24 cigarettes," and he said, "Well, Lynn Tucker does." So the
25 captain and I said he could do that, and his comment was,

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1 "If you'll let me smoke a cigarette I'll tell you everything
2 I know." So we did have the recorder on, once we took that
3 smoke break we cut it off.

4 Q. Let's talk about the smoke break. Who took him to
5 smoke? Did y'all just let him go somewhere to smoke?

6 A. No, sir. Myself, Captain Grant, Lynn Tucker, Sergeant
7 Small and Mr. Stalks (sic) we all escorted him out to the
8 back covered portion of the Lancaster Police Department to
9 where then was a smoking area.

10 Q. Did he smoke?

11 A. He smoked.

12 Q. How long was this smoke break?

13 A. I'll probably say ten minutes at the most.

14 Q: What happened after the end of the smoke break?

15 A. We made our way back to my office. Again, Captain
16 Grant, myself, Lynn Tucker and Mr. Stalk, we made our way
17 back into the office and at that time I cut the recorder
18 back on advising that he was still under Miranda and pretty
19 much told him he had the floor.

20 Q. Did he talk?

21 A. He did.

22 Q. Summarize now what David Stalk told you on 2/6 of '13
23 concerning the death of Kevisis Anthony.

24 A. On this particular day Stalks wasn't like he was the
25 day before, he was very emotional, you could tell he had a

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1 lot on his mind, he had a lot on his chest, was crying, had
2 a tissue in his hand. Tucker was pretty much supporting
3 him, rubbing his back and talking to him. Once he started
4 talking he said that -- he said, "All I wanted to do was rob
5 him, I didn't" -- let me make sure. He said he tried to rob
6 him and he came to the house, came to the carport, he said
7 he was standing behind the house.

8 Q. I'm going to interrupt you.

9 A. Okay.

10 Q. Did Stalk on 2/6 of '13 tell you whether or not he knew
11 Kevisis Anthony before this night?

12 A. He said he didn't know him.

13 Q. Did he have any idea what his connection to Ketta Evans
14 was?

15 A. Friend, yes.

16 Q. Did he tell you anything about how Anthony ended up at
17 Stalk's house -- at Evans' house?

18 A. Yes.

19 Q. Explain his explanation for Anthony being there.

20 A. She had used Mr. Huddleston's phone that was here
21 yesterday to make a phone call to Mr. Anthony to have him
22 come up there, Stalk stated it was to buy some weed to get
23 high is what he said and that that's what he does. And
24 then --

25 Q. That's what Anthony does?

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1 A. Yeah.

2 Q. Okay. Go ahead.

3 A. So he knew that she was --

4 Q. Well, let me interrupt you again, I apologize. Did
5 Stalk tell you for Stalk's purposes why Anthony was coming?
6 That doesn't make any sense to you, does it? Did Stalk talk
7 to you about what his intention was with Anthony?

8 A. Yes.

9 Q. What did Stalk say his intention was with Anthony when
10 Anthony got there?

11 A. He was going to rob him.

12 Q. Did Stalk explain to you how that started?

13 A. Right.

14 Q. How did that start?

15 A. Him and Ketta had had a conversation about needing
16 money. Ms. Evans came up with the idea that she knew a guy
17 in Kershaw that usually had a lot of money on him, she would
18 make the phone call to have him come up here and bring some
19 marijuana, or she called it wood but it's marijuana. And
20 that's how Anthony was brought up to Street.

21 Q. Now, tell us what Stalk on 2/6 of '13 told you
22 mechanically was the way this thing went down, use names.

23 A. Stalks says that he was outside the back porch, the
24 back side of the house, which the porch is on, if you're
25 looking at it it's on the left-hand side. He said that he

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1 went out the kitchen door, went behind the house and stood
2 by and waited until Anthony got there. Once Anthony arrived
3 he parked up under the carport as instructed and made his
4 way to the side carport door. Once Mr. Anthony made it to
5 the door Stalk said he came around from back behind the
6 house wearing a black hood, black hoodie, black mask, black
7 pants, had a gun in his hand, looked at Mr. Anthony and
8 said, "You know what time it is." He told him not to run.
9 At that time Anthony took off running and at that time Stalk
10 said he shot him -- said he shot at him one time, then he
11 shot at him three more times and he fell to the ground.
12 Q. Did he tell you why he shot at him the first time?
13 A. He was going to try to shoot him in the leg to get him
14 to the ground so he can rob him.
15 Q. Did Stalk tell you what he did after the shooting? Did
16 Stalk admit robbing Anthony?
17 A. He did not. He didn't commit the robbery, he didn't
18 actually finish the robbery.
19 Q. To your knowledge did Stalk leave that place with any
20 of Anthony's property?
21 A. He did not.
22 Q. Did Stalk tell what he did after he fired the gun at
23 Anthony?
24 A. He said after he had fired the shot he got scared and
25 ran from behind the house back towards Street, and

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- 1 what he said, he jumped over the creek, once he jumped over
2 the creek --
- 3 Q. Stop right there. You say the creek. You were up here
4 looking at State's 45 earlier, the corner of and
5 and you talked about a vacant lot with one tree in it
6 and a creek. Is that where you're talking about?
- 7 A. Yes, sir.
- 8 Q. Go ahead.
- 9 A. He said once he jumped the creek he used his phone and
10 called 911, said there was a shooting on
11 Street, send an ambulance and hung the phone up. He said he
12 threw the phone down and he took off running again, he
13 realized he had this gun in his hand. He ran westbound
14 towards Street and Street, in that area, at
15 the edge of that field he said he tossed the gun into the
16 woods, then he went to his sister's house and sat on the
17 back porch.
- 18 Q. Now, what day did you discover -- what was the date
19 that you discovered Stalk's story about the disposition of
20 the cellphone and the gun?
- 21 A. That was on the 6th.
- 22 Q. And how many days was that from when the shooting
23 occurred? What day did the shooting occur?
- 24 A. The shooting occurred on the 26th.
- 25 Q. Are you familiar with the area of the corner of

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1 and Woodley -- was it and where the vacant

2 lot is?

3 A. Yes, sir.

4 Q. Are you familiar with that area?

5 A. Yes, sir, I am.

6 Q. Generally what is that neighborhood? What type of --

7 meaning do people live there? Is it residential?

8 A. It's a residential area, a lot of foot traffic. People

9 use that field to cut from Street to and

10 cross over. At one time there was a bridge there but it

11 kind of got washed away that people would use to cross over

12 sometimes.

13 Q. Now, on 2/6 of '13, were you physically present at that
14 field?

15 A. Yes, sir, I was.

16 Q. Was Stalk physically present at that field?

17 A. He was.

18 Q. How did that come about? Was that before or after

19 y'all were talking to him and getting a statement?

20 A. That was after the statement. While we were taking

21 this statement Captain Grant asked Stalk if he could carry

22 us to show us where he threw the phone down and the weapon

23 and he stated he would take us there.

24 Q. Did he take you and show you?

25 A. He did.

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- 1 Q. Did you search while he showed you generally where it
2 was?
- 3 A. He did.
- 4 Q. Did y'all leave him there with you while he searched?
- 5 A. He was there. He was present the whole time we
6 searched that area.
- 7 Q. Okay. Was there some -- was anything initially found?
- 8 A. There was nothing found.
- 9 Q. Was anything special done to search?
- 10 A. We did. We called agent -- SLED Agent Grant and asked
11 her if she knew if SLED owned an article scent dog, or a
12 firearm dog, she said they did not but Richland County had
13 one.
- 14 Q. Did a K-9 Unit, a dog unit come up here?
- 15 A. Yes, sir, it did.
- 16 Q. Do you remember which officer it was that brought the
17 dog up?
- 18 A. It was Deputy I want to say Oxendine I believe his name
19 is, and he brought his K-9 Bickle (phonetically) from
20 Richland County.
- 21 Q. And how long was Oxendine with his K-9 unit on the
22 ground looking?
- 23 A. They looked for 30 or 45 minutes in that area.
- 24 Q. Anything found?
- 25 A. Nothing was found.

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1 Q. Between 2/5 of '13 and 2/6 of '13, the two interviews
2 of Stalk, any difference in his demeanor?

3 A. Yes, sir. On 2/5 he didn't appear to be remorseful, he
4 was just answering questions just like that. On 2/6, like I
5 said, he was very emotional and crying, and pretty much was
6 showing remorse for what happened.

7 Q. All right.

8 MR. BARFIELD: Your Honor, my intention would be to
9 play the two clips now and I'll leave that up to y'all
10 whether Mr. Grier should -- I'm not through -- I might not
11 be through with the witness so I guess I ought to play the
12 clips before I cut the witness loose for cross examination.

13 THE COURT: All right. Have they been introduced?

14 MR. BARFIELD: They have not yet.

15 THE COURT: All right.

16 MR. BARFIELD: And I guess I need to ask probably if
17 it's okay for the witness to step down while the clips are
18 being played or do you want him to stay on the witness
19 stand? Let me ask him some questions about the clips first.

20 MR. GRIER: Well, can we approach first?

21 THE COURT: Yes, sir.

22 (A bench conference was held.)

23 MR. BARFIELD: Can I get the documents before I forget
24 when I come back after lunch? Can I do that little piece of
25 it first?

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- 1 THE COURT: Certainly.
- 2 BY MR. BARFIELD:
- 3 Q. Lieutenant Hall, I'm going to show you a disc and ask
4 you if you can tell me what that is.
- 5 A. This is a CD containing the statement, video statement
6 on 2/6 of '13.
- 7 Q. By David Stalk?
- 8 A. By David Stalk.
- 9 Q. The first one or the second one?
- 10 A. This says number one so I'm assuming the first one.
- 11 Q. Well, actually I'm showing you a Court's Exhibit right
12 now which I'll make a comment about it in a minute. I'm
13 showing you Court's Exhibit Number 6. Can you identify what
14 that is?
- 15 A. This also is a DVD containing David Stalk's statement
16 on the 6th, documented statement number two.
- 17 Q. All right.
- 18 MR. BARFIELD: Your Honor, at this time I would offer
19 these two as State's Exhibits rather than Court's Exhibits.
- 20 MR. GRIER: Subject to our motion.
- 21 THE COURT: All right. Subject to previous objection,
22 I understand that State's 68 is 2/6/13 pre-smoke break?
- 23 MR. BARFIELD: Yes.
- 24 THE COURT: And State's 69 is 2/6/13 post-smoke break?
- 25 MR. BARFIELD: Yes.

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1 THE COURT: All right.

2 (The two discs were received as State's 68-69.)

3 MR. BARFIELD: And that's all I have from this witness
4 at this time.

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

6 Mr. Foreman, ladies and gentlemen of the jury panel, the
7 length of these two tapes is about 45 minutes, one is I
8 think -- 68 is a little over three minutes and then 69 is 42
9 minutes and some seconds. So I think what I'm going to do
10 now is take a lunch recess and then when you come back we
11 will -- the Solicitor will publish the tapes -- what do you
12 call them, CD's?

13 MR. BARFIELD: Discs is all I know.

14 THE COURT: He will publish them upon the return, so we
15 have about 45 minutes to watch when we come back. But I
16 think it will be better to go on and take your lunch break
17 now. Remember, do not discuss the case with anyone, lunch
18 mates, family, friends, fellow jurors, anyone else. Do not
19 watch, listen to, read any news reports, do not do any
20 investigation on the Internet or on the ground. With that
21 being said, please remember to keep an open mind, do not
22 begin your deliberations until you're instructed to do so by
23 the Court. We'll take about an hour, if you'll be back at
24 1:30.

25 (The jury left the courtroom.)

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1 given to them?

2 THE COURT: Yes, sir. I'll give it to them -- I
3 understood we were going to bring them out and show them the
4 tape so I would give it to them now before they see the
5 tapes, and then I'll be glad to reiterate it at the end.
6 Again, Mr. Tucker is not a fact witness, he doesn't
7 determine the facts, the officer wasn't a fact witness. You
8 determine the facts as you find them to be from all the
9 evidence and all the testimony. I can do it pre-tapes and
10 post-tapes.

11 MR. GRIER: I would be satisfied with that.

12 MR. BARFIELD: I wouldn't have a problem with you going
13 so far as saying they can't contribute Mr. Tucker's words to
14 Mr. Stalk.

15 THE COURT: And I agree with that, they're said in his
16 presence. Okay. Bring them in.

17 (The jury returned to the courtroom.)

18 THE COURT: Welcome back ladies and gentlemen of the
19 jury panel, I hope y'all had a pleasant and delightful lunch
20 somewhere in town. As you recall when we broke our plan was
21 upon return, the State has offered State's Exhibit 68 and 69
22 and is going to publish those tapes of the interview,
23 alleged interview on 2/6/13 with Mr. Stalk by Lieutenant
24 Hall. Also in those tapes you will see a third -- maybe
25 more than just three, there would be some other officers you

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1 may see from time to time, but you'll see the civilian in
2 there by the name of Lynn Tucker. Lynn Tucker is not a
3 witness to any event that occurred on January 26th of 2013,
4 he is not an eye witness, an ear witness or in any way a
5 witness to any incident that occurred at 715 Saint Paul
6 Street, number one. Number two, you will hear Mr. Tucker
7 talk, make statements on this tape, his statements are his
8 statements, his statements are not Mr. Stalk's statements,
9 so Mr. Tucker's statements cannot be used against Mr. Stalk,
10 and this perhaps will become clearer to you once you see the
11 tape, I will revisit this issue. But he was not an eye
12 witness to the event alleged in the indictment, nor can his
13 statement on these tapes be attributed to anyone but he,
14 Mr. Tucker. They cannot be attributed to Mr. Stalk. All
15 right. You are the fact finders. You will determine what
16 the facts are based on all of the evidence and all of the
17 testimony in the case, and based on what weight and value
18 you want to give any particular item of evidence or any
19 particular witness' testimony whether great or small or what
20 have you. All right. Any objections to what I told the
21 jury from the State?

22 MR. BARFIELD: Nothing from the State.

23 THE COURT: From the defense?

24 MR. GRIER: Not to the instructions, no, Your Honor.

25 THE COURT: Thank you, thank you very much, Mr. Grier.

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1 Solicitor, you may publish the State's 68 I believe would be
2 the first one.

3 MR. GRIER: Judge subject to my other --

4 THE COURT: Yes, sir, subject to your previous
5 objections. Thank you, Mr. Grier.

6 MR. BARFIELD: Your Honor, at this time the State will
7 publish State's Exhibit Number 68.

8 (The disc was played for the jury.)

9 MR. BARFIELD: Your Honor, at this time I will publish
10 State's 69.

11 THE COURT: Yes, sir, subject to previous objections.

12 (Break in proceedings.)

13 (The jury left the courtroom.)

14 THE COURT: Anything before we bring the jury,
15 Solicitor?

16 MR. BARFIELD: No, sir. I think we've got a makeshift
17 system running through the radio and audience.

18 THE COURT: Anything further from the defense before we
19 bring in the jury?

20 MR. GRIER: No, Your Honor. My objections are
21 preserved.

22 (The jury returned to the courtroom.)

23 THE COURT: All right. Solicitor, are you ready to
24 crank it up?

25 MR. BARFIELD: Yes, sir.

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1 (End of the playing of the disc.)

2 THE COURT: If you would, come back around for us,
3 please, you are still under the oath. Solicitor, Captain
4 Hall is back on the stand if you would resume your
5 deliberations, please.

6 BY MR. BARFIELD:

7 Q. Probably don't need to ask you this, but what is all of
8 the clicking on the audio?

9 A. That's me typing while he's talking.

10 Q. And what's the duck?

11 A. That was my phone ringing, I thought I had it on
12 vibrate.

13 Q. What's the every now and then sort of a couple of bars
14 of music pops in? What's that all about?

15 A. That's my computer letting me know it's signing on or
16 I've got an email or something to that affect.

17 Q. What is the MJC? You mentioned that earlier.

18 A. Municipal Justice Center.

19 MR. BARFIELD: That's all I have.

20 THE COURT: Thank you very much, Solicitor. Mr. Grier?

21 MR. GRIER: Thank you, Your Honor.

22 CROSS EXAMINATION

23 BY MR. GRIER:

24 Q. Okay. Lieutenant Hall, you know Lynn Tucker?

25 A. Yes, sir.

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- 1 Q. You know Lynn Tucker? And what is the relationship
2 between Lynn Tucker and David Stalk?
- 3 A. David works for Lynn at Tucker's Trucking.
- 4 Q. Do you know how long he has worked there?
- 5 A. He has been there for awhile.
- 6 Q. Since he was kind of a kid maybe even?
- 7 A. Yes, sir.
- 8 Q. David made a false confession on February 5th of 2013
9 to an armed robbery, didn't he?
- 10 A. Yes.
- 11 Q. Okay. Immediately when he was taken into custody you
12 told him that was why he was being arrested on February 5th
13 of 2013, you or on the -- you've reviewed the tape from that
14 interview, haven't you?
- 15 A. I don't understand your question.
- 16 Q. Have you reviewed the tape from February the 5th of the
17 questioning about the armed robbery?
- 18 A. The accessory after the fact, yes, sir.
- 19 THE COURT: What was your answer again?
- 20 A. Yes, sir, the accessory after the fact.
- 21 Q. Well, that's what he was charged with.
- 22 A. Correct.
- 23 Q. But he confessed to doing it, didn't he?
- 24 A. Well, he did. But after we spoke to him and the
25 statement he give he couldn't tell me the actual time of the

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1 incident that the actual home invasion took place.

2 Q. Well, he came up to the Lancaster Police Department on
3 January -- well, examine that document if you would.

4 A. Yes, sir.

5 Q. Now, I know that you didn't take a statement that day,
6 did you?

7 A. No, sir, I didn't.

8 Q. Somebody at the Lancaster Police Department did, didn't
9 they?

10 A. Yes, sir.

11 Q. And I assume you were asking him about -- I don't
12 assume, you were asking him about the statement he made on
13 January 24th when you spoke with him on February 5th.

14 A. Correct.

15 Q. Okay. And because then in this statement he just
16 outright says he did it, doesn't he?

17 A. Yes, sir. He admits to committing a home invasion.

18 MR. GRIER: Your Honor, I would offer this as a
19 defense --

20 THE COURT: All right. That would be Defense 1?

21 MR. BARFIELD: Yes, sir. I don't have any objection to
22 that.

23 THE COURT: In evidence without objection.

24 MR. GRIER: Yeah. And just to be clear, this is the
25 January 24th statement.

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- 1 MR. BARFIELD: This is the one that Greenlee took?
- 2 MR. GRIER: Yes.
- 3 MR. BARFIELD: No objection.
- 4 THE COURT: All right. Defense 1 is in evidence
- 5 without objection.
- 6 (The statement was received as Defense 1.)
- 7 Q. Have you looked at that statement?
- 8 A. Yes, sir, I have a copy here.
- 9 Q. So he's confessing to an armed robbery on this
- 10 January 24th of 2013 statement, isn't he?
- 11 A. He is confessing to it, yes.
- 12 Q. Okay. And what was -- he did a follow-up statement --
- 13 when you arrested him after January 26th on -- I don't know
- 14 if I'm throwing too many around, but you arrested him on
- 15 February 5th, and the very first thing y'all question him
- 16 about -- this is after Mr. Anthony had been shot.
- 17 A. Yes, sir.
- 18 Q. The very first thing y'all asked him about is a
- 19 January 22, 2013 armed robbery, right?
- 20 A. Yes, sir.
- 21 Q. Okay. And yet he is a person of interest or a suspect?
- 22 What is the difference between a person of interest or
- 23 suspect?
- 24 A. A person of interest is the person that we're looking
- 25 for that may know something about the incident. A suspect

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1 is a person that we confirmed as the suspect, or the person
2 who committed the crime.

3 Q. Okay. When you did this interview of David Stalk on
4 January 24th, was he a person of interest or a suspect?

5 A. I didn't do the interview on January 24th.

6 Q. Well, when it was done?

7 A. I didn't do the interview.

8 Q. When you did the interview on February -- and I did, I
9 got the date wrong -- when you did the interview on February
10 5th, was David Stalk a person of interest or suspect?

11 A. On which case?

12 Q. Good question. On the shooting of Mr. Anthony.

13 A. On the shooting he was a person of interest.

14 Q. Okay. So he's only a person of interest on that case
15 on February 5th. Procedurally and as far as
16 investigative -- a police investigation goes, what is the
17 logic of asking him about this when he is a person of
18 interest --

19 A. Because we had an active warrant for him for the
20 accessory after the fact, and the reason I say that is
21 because the statement he gave Sergeant Greenlee says -- and
22 I read the statement that he gave Sergeant Greenlee and knew
23 that based on his statements that he did not commit this
24 crime but maybe knew something about this crime and was
25 covering up for somebody. Because he says the robbery

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1 happened around middle of the day around 10:00 or 11:00 a.m.
2 and the home invasion happened a little bit after 6:00 in
3 the morning.
4 Q. Okay.
5 A. So he's admitting to something -- he may be admitting
6 to another home invasion that wasn't reported then, but
7 based on my -- he came up there and spoke to Sergeant
8 Greenlee about that.
9 Q. I understand. And he wasn't arrested, was he, for
10 that? On January 24th when Greenlee spoke to him he was not
11 arrested that day?
12 A. He did not because Sergeant Greenlee was not the
13 primary officer. He called me and let me know that he came
14 up there and admits in the statement.
15 Q. Okay. All right. Well, I mean, in the February 5th
16 statement about the armed robbery you asked him if he's
17 willing to go to prison for something that somebody else
18 did, didn't you, you or Ms. Grant during that interrogation
19 interview, whatever we call them?
20 A. Right.
21 Q. He was asked, "Are you willing to go to prison for
22 somebody else's mistake?" Do you recall that? And maybe you
23 don't recall it. Well, let's put it this way, if you
24 confess to something, a serious crime -- armed robbery is
25 serious, correct?

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1 A. Yes, sir.

2 Q. You're putting yourself in jeopardy of going to prison,
3 aren't you?

4 A. Correct.

5 Q. David Stalk did that, didn't he?

6 A. Did what?

7 Q. He made a confession. He tried to take responsibility
8 for a crime which y'all don't think he did.

9 A. Correct.

10 MR. GRIER: Your Honor, I would offer --

11 MR. BARFIELD: No objection.

12 THE COURT: See if he --

13 Q. Do you recognize that document?

14 A. Yes, sir.

15 Q. Is that a reduction from a videotape or disc or
16 whatever way you're calling from an interview that y'all
17 conducted on David Stalk when he was arrested on February
18 5th?

19 A. Yes, sir, it is.

20 Q. And it's an interview about the armed robbery.

21 A. Yes, sir, it is.

22 Q. And it's the very first interview that was conducted
23 after his arrest on February 5th.

24 A. Yes, sir, it was.

25 Q. Okay.

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1 THE COURT: It would be Defense 2 without objection?
2 MR. BARFIELD: Yes, sir.
3 THE COURT: Defense 2 in evidence without objection.
4 (The disc was received as Defense 2.)
5 Q. Now, David Stalk made a confession in this case, in
6 this murder case.
7 A. Say that one more time.
8 Q. David Stalk made a confession in this murder case,
9 correct?
10 A. Yes, sir.
11 Q. Now, do you recognize this document?
12 A. Yes, sir. This is one of our supplements to the case.
13 Q. Now, what's that document all about?
14 A. This is a supplement stating that on February 11th --
15 do you want me to read it word for word?
16 Q. Sure.
17 A. It says, "On today's date David Stalk was transported
18 on to MJC to have a warrant served on him" --
19 THE COURT: Slow down a little bit for me.
20 THE WITNESS: I'm sorry.
21 THE COURT: I know the court reporter can get it down
22 but I can't hear it.
23 THE WITNESS: He done fussed at me.
24 MR. GRIER: Your Honor, may I move this before I trip
25 over it and embarrass myself in front of these people?

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1 THE COURT: Sure.

2 Q. I'm sorry..

3 A. It says, "On today's date David Stalk was transported
4 to the MJC," which is the Municipal Justice Center, "to have
5 the warrants served on him for this case. While Stalk was
6 in the jail area he told Sergeant Small that he wanted to
7 speak with me. Sergeant Small then called me -- or then
8 called and asked if I wanted to speak with him and I told
9 him that I would. Sergeant Small escorted Stalk to my
10 office and he stated that he wanted to talk to me more about
11 this case. I advised Stalk that I needed to mirandize him
12 before he started talking, I then read his Miranda rights
13 and he stated that he did not want to sign the form, that he
14 wanted his lawyer. Stalk then stated that he wanted to take
15 back his confession and he said the only reason he gave the
16 confession was because he thought he was going to get a bond
17 set on him. I advised Stalk that since he stated he wanted
18 his lawyer that I could not speak to him without a lawyer
19 being present, then called Sergeant Small and advised him
20 that I was done with Stalk."

21 Q. He said he wanted to take back his confession, the only
22 reason he gave a confession is because he thought he was
23 going to have a bond set on him?

24 A. That was what he said.

25 MR. GRIER: Your Honor, I would offer this -- and

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1 I'll -- do you want to approach?

2 MR. BARFIELD: It's the supplement that Lieutenant Hall
3 put together, it was marked as a Court's Exhibit earlier. I
4 think he has testified about the substance and the evidence
5 is in without the document being in, it's a police report
6 which normally is not an admissible document.

7 MR. GRIER: So you object to it?

8 MR. BARFIELD: I object to its admission based on --

9 THE COURT: I will allow it. Defense 3 is in evidence.

10 (The supplement was received as 'Defense 3.')

11 Q. In fact, there were conversations about David Stalk
12 getting out that he broached with you after he was arrested,
13 weren't there?

14 A. Not saying he would get out.

15 Q. I'm not saying that. But there were conversations
16 about -- he brought the subject up the very day that he was
17 arrested and during the interview about the armed robbery
18 case where he gave a false confession -- give me a second.
19 Do you recall David Stalk saying, "I'm going to be able to
20 get out?" And you replied, "I hope so." Do you recall
21 that?

22 A. I don't recall saying it, but --

23 Q. Well, is it likely that you did? Well, you've answered
24 the question. And again, on February 5th on the second
25 statement that he gave which was about this murder case, do

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1 you recall him saying, "Am I going to be able to get out?"

2 Do you recall it?

3 A. I don't recall. I'm pretty sure he asked it but I'm
4 not sure what my answer is.

5 Q. Well, he is -- does he seem to have some real concern
6 about being able to get a bond and get out?

7 A. When you say -- refer to the bond, what charge are you
8 referring to?

9 Q. Both of them.

10 A. He wasn't charged on the 5th.

11 Q. He was questioned about it.

12 A. He was questioned, he wasn't arrested for murder on the
13 5th.

14 Q. I understand. But he was questioned about it.

15 A. Correct, because he was a person of interest.

16 Q. All right. So he was not elevated from a person of
17 interest to a suspect as a result of the interview on
18 February 5th about the murder case.

19 A. Correct.

20 Q. So you're saying his only concern about bond was on --
21 you did charge him for an accessory for that armed robbery.

22 A. We did.

23 Q. Okay. But then when he comes back on the 11th he does
24 express that that's the reason he made that false
25 confession.

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- 1 A. Well, by that time he was charged with the murder.
- 2 Q. I understand. I understand. Were any of the details
- 3 of the police investigation of the murder kept secret for an
- 4 investigative reason?
- 5 A. I don't understand the question.
- 6 Q. Well, all right. Is it a fairly common police practice
- 7 to not give out all of the information so that you can
- 8 verify information coming in and see if it matches the facts
- 9 that y'all have already established in your investigation
- 10 and see if somebody coming in and saying something
- 11 appears -- does that make sense, that question?
- 12 A. Yeah, I understand.
- 13 Q. Do y'all do that sometimes?
- 14 A. We do sometimes.
- 15 Q. Did you do that in this case?
- 16 A. I don't think so.
- 17 Q. All right. Well, were there any facts that you're
- 18 aware of that, you know, wouldn't have been out on the
- 19 street about this case, details?
- 20 A. Not released to the press, nothing like that. Most of
- 21 that stuff we would keep in-house.
- 22 Q. Was there a press release, or do you know?
- 23 A. If it was there was simply a person shot, it was still
- 24 under investigation.
- 25 Q. Got you. Okay. In fact, everything that David

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1 confessed to on February 6th was information that was out

2 there on the street, wasn't it, quite possibly?

3 A. No, sir, it was not.

4 Q. What wasn't? What facts do you think it was that he

5 confessed to --

6 A. There shouldn't have been any facts other than we have

7 a shooting incident. As far as police wise none of the

8 important facts were out.

9 Q. All right. Was Ketta Evans charged in this case?

10 A. She was after the fact.

11 Q. Okay. But now she wasn't in custody between

12 January 26th and February 6th, was she?

13 A. Not to my knowledge.

14 Q. Do you think she wasn't talking about this?

15 A. Well, she wasn't on the scene. Like I said, based on

16 what was told to us by Mr. Stalk and Ms. Evans, or pretty

17 much Mr. Stalk, she and Quinshun, her son, they went out to

18 the front yard, picked him up, brought him in the house

19 Quinshun himself was the only one that knew where if

20 anything in the yard was at. He put several items into the

21 toboggan, put them to the left of the driveway according to

22 his statement. They went out to the carport, loaded him --

23 or Quinshun backed the car out enough to get Anthony in the

24 vehicle and then went to the hospital. So Evans never made

25 it back to the house until later that next day, and by that

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1 time all the evidence that was scattered throughout the yard
2 was already recovered.

3 Q. Okay.

4 A. Now, having asked that, based on the statement that
5 Stalks (sic) give us on video and on paper, he puts himself
6 behind the house at the carport, all the shell casings are
7 to the back of the carport so it puts him standing where he
8 says he was standing. Nobody knew about that so that kind
9 corroborated his story. He said that he called 911 from his
10 phone and he gave us the phone number. He said he called
11 for an ambulance, told them somebody had been shot, we
12 confirmed that through the 911 center, it came back to his
13 cellphone. He said he tossed the gun and the telephone in
14 that field. Like I told you earlier this morning, that is a
15 high traffic area, there's a lot of foot traffic in that
16 area, so --

17 Q. Okay. Well, no gun or cellphone was found?

18 A. Well, that's what I'm saying, if someone sees that
19 laying around they are not going to call the police, they
20 will probably pick it up and keep it for themselves.

21 Q. All right. Well, in fact, David says he ran in to
22 Ketta before either of them were arrested, doesn't he, and
23 he spoke with her?

24 A. David never said that.

25 Q. He did not say that?

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1 A. Not that I recall.

2 Q. Okay. Well, this is your signature on this statement,
3 isn't it? And this is the statement from February 5th of
4 2013, correct?

5 A. That is the first statement he gave, yes, sir.

6 Q. And in this statement he denies any culpability in
7 this, doesn't he?

8 A. Correct.

9 Q. But he does say he talked to Ketta, doesn't he? Do you
10 want to look at it? And I'll direct you to the area and
11 look at it in any way that you want to.

12 A. He did, I asked him.

13 Q. He does indicate he had had a conversation with Ketta,
14 doesn't he?

15 A. On Sunday afternoon.

16 Q. And that was the day after, after the shooting.

17 A. Yes, sir.

18 Q. And so he'd had a conversation with her the next day.

19 A. That's correct. I thought you were talking about that
20 night, I'm sorry.

21 Q. All right. I probably didn't clarify that enough. And
22 he says -- and this statement is in evidence -- Ketta said
23 she was in the house and she heard three gunshots, correct?

24 A. That's what he said.

25 Q. And how many shell casings were found?

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- 1 A. Six.
- 2 Q. Y'all believe six shots were fired out there? Is that
3 what the evidence suggests?
- 4 A. Yes, sir.
- 5 Q. How many shots did David say was fired?
- 6 A. At one time he said he shot one and he shot three more
7 times, then he said he shot three. Most times people that's
8 been involved in a shooting, they don't usually hear or
9 count all shots, you know what I'm saying, being in the
10 situation so I understand.
- 11 Q. Well, he gives inconsistent statements about how many
12 shots were fired, though, doesn't he? He does give
13 inconsistent statements about how many shots were fired.
- 14 A. Who does? David?
- 15 Q. David?
- 16 A. Yes, sir.
- 17 Q. But it's never six.
- 18 THE COURT: Say that again.
- 19 Q. But it is never six shots, correct?
- 20 A. He never says six.
- 21 Q. It says what he says Ketta told you, doesn't it?
- 22 A. Say that one more time.
- 23 Q. He says it's the number of shots -- that she heard
24 three shots, right?
- 25 A. That's what she said based on what he said.

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- 1 Q. Okay. Well, then on February 6th in his statement,
- 2 "How many times did you shoot at Kevisis? Three times," in
- 3 the written statement, correct?
- 4 A. Yes.
- 5 Q. Do you know whether Ketta was arrested?
- 6 A. Ketta was arrested on February 11th.
- 7 Q. Okay. Who got the warrant on David Stalk, do you know?
- 8 A. Who was the affiant?
- 9 Q. Yes, who was the affiant?
- 10 A. I believe it was me. Hang on and I'll tell you.
- 11 Q. Is that -- I've got it right here.
- 12 A. Yes, sir, I'm the affiant.
- 13 Q. What is an affiant?
- 14 A. The person who signs the warrant, or requests the
- 15 warrant.
- 16 Q. The person giving an affidavit?
- 17 A. Yes, sir.
- 18 Q. Which means you're swearing it to be the truth, right?
- 19 A. Yes, sir.
- 20 Q. Or that you're knowledge to be the truth about it?
- 21 A. Correct.
- 22 Q. Now, when was the warrant sought in this case?
- 23 A. This warrant was signed on Stalks (sic) on February
- 24 8th.
- 25 Q. Now, you had interviewed him on the 6th and you had

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- 1 a -- in fact, in the part department's possession you had --
2 on this murder case you had a confession.
- 3 A. Uh-huh.
- 4 Q. Why did you wait two days to get a warrant?
- 5 A. I had to make sure I could get everything completed as
6 far as the paperwork size and the affidavit.
- 7 Q. What did you have to do?
- 8 A. Well, I had to write everything down and present it to
9 the Judge for her to issue a warrant.
- 10 Q. I mean, but good grief, how long did it take to write
11 one paragraph?
- 12 A. I mean, it's a murder case, you've got to make sure
13 you've got your ducks in a row.
- 14 Q. How long does it usually take to get an affidavit done
15 to seek a murder case?
- 16 A. It just depends. This one took a couple of days.
- 17 Q. Are you sure you didn't have some doubt about whether
18 he had made a second false confession?
- 19 A. No, sir. Because based on his confession pretty much
20 laid out the format of what happened, so --
- 21 Q. Well -- okay. When you look at the city as a whole, is
22 this neighborhood where this murder happened considered a
23 high crime area?
- 24 A. I would say her neighborhood, no, but maybe one or two
25 blocks over we do have a high drug area in that area.

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- 1 Q. Okay. So a lot of dangerous people on the streets
2 within a couple of blocks?
3 A. I mean, are you saying --
4 Q. A lot of great people, good people, I'm not putting
5 anybody down, but, I mean, as far as you know the frequency
6 of crimes, is that one of the high frequency?
7 A. You've got your basic burglary suspects and like I
8 said, little drug cases that you make over there.
9 Q. Okay. And assaults?
10 A. And assaults, yes, sir.
11 Q. Robberies?
12 A. I'm not familiar with that many robberies being
13 reported over there.
14 Q. Okay. Well, getting people to come forward is kind
15 of -- to give statements about things that do happen can be
16 real difficult, can't it?
17 A. It can be depending on what kind of case it is.
18 Q. Okay. And, you know, on serious cases. I mean, people
19 are scared about giving statements a lot of times, aren't
20 they?
21 A. Again, depending on what kind of crime it is.
22 Q. What kind of crime would they be scared on?
23 A. Well, mostly if it's some type of gang situation
24 they're kind of hesitant to come forward about that.
25 Q. So, you know, if something is involving a gang people

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- 1 are reluctant to talk because they're -- why -- what's
2 your -- why are they reluctant to talk? When you are able
3 to get them to talk and they tell you they're reluctant to
4 talk, why are they reluctant to talk?
- 5 A. In fear of retaliation. They don't want to be involved
6 with it because they're scared it could come back and --
7 they think they could be harassed and made threats to and so
8 forth.
- 9 Q. Or actually have violence visited on them, right?
- 10 A. I'm sorry?
- 11 MR. BARFIELD: I'm going to object at this point, I
12 don't see the relevance in the line of questioning.
- 13 THE COURT: Sustained.
- 14 Q. Okay. The gun used at the scene was a .38 caliber?
- 15 A. It's a .380.
- 16 Q. Excuse me. Does that refer to the caliber then, a .38?
- 17 A. Yeah.
- 18 Q. The gun that was recovered from Mr. Stalk was a .45?
- 19 A. Yes, sir.
- 20 Q. And that refers to the caliber, too?
- 21 A. Yes, sir.
- 22 Q. I may have asked you about this already, I can't
23 remember. The 911 call says someone shot on
24 Street, correct?
- 25 A. Correct.

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1 Q. Is [redacted] Street anywhere on this map?

2 A. It's not in that map. But also in the video -- or on

3 the statement he refers to [redacted] as [redacted] 1

4 Street and I believe that's where he got it confused.

5 Because of the situation and him being excited I can see

6 that.

7 Q. Well, David is familiar with that area, isn't he?

8 A. Well, I'm assuming he is.

9 Q. He lives and works over in the close proximity to this
10 actually, doesn't he?

11 A. Yes, sir.

12 Q. Okay.

13 A. Well, I can understand. Like I said, he was excited,
14 he was scared. In our statement he says -- he refers to it
15 as [redacted] Street as well and that's probably how it
16 got confused.

17 Q. He refers to what as [redacted] Street?

18 A. When he described awhile ago, or in the video statement
19 of which way he ran he said, "I ran towards [redacted]
20 Street." And again --

21 Q. He ran towards [redacted] Street.

22 A. However he stated it. [redacted] Street came up
23 again and that was the only time -- other than the 911 tape
24 that is the only other time that [redacted] Street had
25 came up.

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- 1 Q. Well, David was apparently a frequent visitor to
2 and Ketta's house during this time, correct?
- 3 A. I'm not exactly sure how many times he went back and
4 forth from there.
- 5 Q. Well, based on his statement.
- 6 A. Like, I said, they used to live on as
7 well -- I mean, excuse me, so I'm not sure if
8 he went out there or not.
- 9 Q. Fair enough. Okay.
- 10 A. My understanding is they hadn't been there at that
11 place for a long time, maybe a couple of months or so.
- 12 Q. All right. When you went out looking for -- talking to
13 people or looking for David, did you talk to his sister,
14 Tawana?
- 15 A. Which one is that? He has got several, I can't tell
16 them apart.
- 17 Q. Would you raise your hand back there? Did you talk --
- 18 THE WITNESS: ?
- 19 PERSON IN AUDIENCE: Yes.
- 20 Q. Didn't you tell her you would help David get a bond?
- 21 A. I told them I would do what I can to help him for the
22 accessory.
- 23 Q. Okay. And that was only about the accessory.
- 24 A. He didn't have a warrant for him for murder at that
25 time.

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1 Q. Well, I know. But you were investigating a murder case
2 and he's a person of interest.

3 A. I can't help him if I'm not arresting him for
4 something. I don't understand what you're saying. At that
5 time the only warrant he had on him was accessory after the
6 fact of burglary.

7 Q. Having a warrant on him and being a person of interest
8 or being a suspect obviously are two different things.
9 You've already sworn an affidavit if you've got a warrant on
10 you, right?

11 A. Not on a murder.

12 Q. On the --

13 A. On the accessory after the fact. He was still a person
14 of interest on the murder.

15 Q. Okay. And so you were looking for him. You weren't
16 looking for him about this murder, you didn't even --

17 A. Yeah, I was looking for him. Like I said, I wanted to
18 speak to him because he was a person of interest on the
19 murder case. So yes, it was important that I find him and
20 talk to him about that case as well, but he also had an
21 active arrest warrant for him for accessory.

22 Q. And so what was more important as far as the
23 investigative reason you're looking for him, the fact that
24 he has got a -- given a statement about an armed robbery you
25 don't think he committed or he's a person of interest in a

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1 murder case?

2 A. Both of them are important.

3 Q. Well, relatively speaking.

4 A. Well, relatively speaking a murder would be more
5 important, but like I said, he still had an active arrest
6 warrant for his arrest.

7 Q. Okay. Who made -- based on everything you developed in
8 this case, who made all of the calls to Mr. Anthony? Who
9 made all of the telephone calls to Mr. Anthony?

10 A. Are you talking about on that day?

11 Q. Yeah.

12 A. We believe that Ketta Evans did.

13 Q. Is there any evidence that David Stalk made any calls?

14 A. No, there's none.

15 Q. I assume you went in the house, Ketta Evans' house.

16 A. Yes, sir.

17 Q. A very sparsely furnished house?

18 A. Yes, sir.

19 Q. Did it have the appearance of being somebody that's
20 almost desperate as far as financially?

21 A. I would say yes.

22 Q. Okay. She's got nine kids?

23 A. I believe so.

24 Q. Do you recall how many beds were in that house?

25 MR. BARFIELD: Your Honor, I can't hear him, I'm sorry.

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1 Q. Do you recall how many beds were in that house?

2 A. I know there was one bed, I believe, in the master
3 bedroom. I want to say there was like a blowup bed in one
4 of the other rooms, I can't recall.

5 Q. Okay. As best you recall there were two beds and
6 possibly ten people living there?

7 A. Correct.

8 Q. How about -- there was a jar of mayonnaise in the
9 refrigerator, is that all?

10 A. In the cooler. I don't think they had a refrigerator.

11 Q. Oh, in a cooler. So they didn't even have a
12 refrigerator. Okay. I understood you to say that David
13 said it was daylight when he got to Ketta's and when he left
14 Ketta's, is it your --

15 A. That was on the first statement he gave on the 5th.

16 Q. Well, can you point that out to me? Maybe I totally
17 missed it or --

18 A. I said, "Were you over at Ketta's house the night of
19 the shooting? I was there earlier that day. I dropped my
20 baby off in the afternoon, I can't remember the exact time
21 but the sun was going down."

22 Q. Okay. All right. Okay. When was the K-9 unit used?
23 After David was arrested?

24 A. Yes, sir. After he gave the statement on the 6th when
25 he took us out to the area where he showed us that he threw

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1 the items down, we searched that area for about I would say
2 about 35 or 40 minutes.

3 Q. Right.

4 A. We then called SLED Agent Grant and asked her if SLED
5 had an article search dog or a K-9 dog or explosive dog, she
6 said that they did not, they had connections with Richland
7 County. They in-turn called Richland County and Deputy
8 Oxendine and his K-9 came to the area. We stayed on that
9 scene until -- I think we stayed on that scene until he
10 arrived with the K-9.

11 Q. And did you have an article of clothing or anything
12 from David Stalk to put a scent on to see if there was
13 anything or a trail out there?

14 A. A K-9 -- this was a bomb sniffing dog I'm assuming
15 which smells burnt gunpowder and he indicates off of that.

16 Q. Okay.

17 A. So you don't have to have a scent article, he's already
18 trained for that.

19 MR. GRIER: Beg the Court's indulgence.

20 THE COURT: Yes, sir.

21 (Break in proceedings.)

22 Q. Who physically arrested Mr. Stalk, or do you know?

23 A. Captain Davis and myself.

24 Q. Wasn't a phone found in his possession when he was
25 arrested?

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1 A. I would have to look at his property, I believe so.

2 Q. Have you got something to tell you whether it was or
3 not?

4 A. I've got the booking report for 1311, this case. Let
5 me check my other material.

6 Q. You've got a booking report?

7 A. Yes, sir.

8 Q. Does it have an inventory on it?

9 A. It does.

10 Q. Did it say anything about a phone?

11 A. It says a cellphone.

12 Q. A cellphone. Doesn't have a number or anything on it?

13 A. No, sir.

14 Q. Did y'all investigate that cellphone?

15 A. We do not. It's defective, it didn't have a battery on
16 it and we don't have batteries at the station.

17 Q. You don't have it -- SLED can't find out what the
18 number for that phone is? Y'all can't find out what the
19 number for that phone is?

20 A. I'm pretty sure we could but based on his statement --

21 Q. You really didn't want to know, did you?

22 A. He said he had thrown that phone into the creek.

23 Q. Okay.

24 MR. GRIER: Beg the Court's indulgence.

25 THE COURT: Certainly.

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1 (Break in proceedings.)

2 MR. GRIER: Thank you, Lieutenant. I don't have
3 anymore questions.

4 THE COURT: Redirect?

5 MR. BARFIELD: Just a few.

6 THE COURT: All right..

7 REDIRECT EXAMINATION

8 BY MR. BARFIELD:

9 Q. Going to kind of work backwards briefly. Mr. Grier was
10 asking you about a cellphone that Stalk had in his
11 possession when he was taken into custody on 2/5 of '13, and
12 you earlier testified he was interviewed on 2/5 of '13.

13 A. Right.

14 Q. During that interview, do you recall any discussion --
15 was there any discussion in the 2/5/13 interview with Stalk
16 about his current cellphone?

17 A. Yes, sir.

18 Q. What do you recall about that discussion?

19 A. He said that his current cellphone does not have a
20 battery and he does not know the number to his new
21 cellphone, he said he had had it for two weeks.

22 Q. All right. When Stalk was arrested on 2/5 of '13 and
23 you recovered a .45 caliber semiautomatic pistol I presume
24 is what it was?

25 A. Yes, sir..

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- 1 Q. Based on Stalk's statement on 2/6 of '13, by that time
2 what did he say was the disposition of the .380 pistol?
- 3 A. He had tossed it into the woods there at the corner of
4 Dunlap and Woodley, in that area.
- 5 Q. Stalk, you said a minute ago and we heard, gave a
6 statement on 2/6 of '13 confessing, admitting this case --
- 7 A. Yes, sir.
- 8 Q. -- this incident involving Kevisis Anthony.
- 9 A. Yes, sir.
- 10 Q. And Mr. Grier asked you a minute ago when you got the
11 arrest warrant related to the murder. What date was that?
- 12 A. I think it was 2/8, I believe.
- 13 Q. Where was Stalk residing between 2/6 of '13 and 2/8 of
14 '13?
- 15 A. He was still incarcerated at the Lancaster County
16 Detention Center.
- 17 Q. Do you know whether -- we're going to talk about this
18 armed robbery thing in a minute. But do you know whether a
19 bond had been set on the charge that he was actually
20 initially taken into custody on between 2/6 and 2/8? Do you
21 know if he had a bond?
- 22 A. I think his bond was denied, I believe. I'm not
23 100 percent on that actually.
- 24 Q. Were you in any hurry between 2/6 and 2/8 to put a
25 murder paper on David Stalk?

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- 1 A. No, sir.
- 2 Q. All right. Let's talk a little bit about chronology
- 3 related to the armed robbery case. Was there, in fact -- I
- 4 hate the term home invasions, I don't know, I hate the term
- 5 person of interest, but was there a burglary in the City of
- 6 Lancaster some time that Mr. Grier was referring to as
- 7 Stalk's false confession case?
- 8 A. Yes.
- 9 Q. When did that happen?
- 10 A. That happened on January 22nd of 2013.
- 11 Q. 22nd?
- 12 A. Yes, sir.
- 13 Q. Who is the primary investigator of that case?
- 14 A. I am.
- 15 Q. Is it solved yet?
- 16 A. It is not.
- 17 Q. And I'm not going to get into all of the detail, but do
- 18 you believe that a crime occurred at some location?
- 19 A. I do.
- 20 Q. When did Stalk come to see -- who did Stalk come see to
- 21 talk about that case?
- 22 A. He spoke with Sergeant Greenlee.
- 23 Q. Craig Greenlee?
- 24 A. Yes, sir.
- 25 Q. How did -- do you know how Stalk ended up -- where did

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1 he see Craig Greenlee?

2 A. I'm assuming he came to the police department.

3 Q. Do you know how he got to the police department?

4 A. I have no idea.

5 Q. Let me back you up a minute. That was your case.

6 A. Yes, sir.

7 Q. And what date did Stalk come to the police department?

8 A. He came to the police department on the 24th of

9 January.

10 Q. All right. Between 1/22 and 1/24 did you have any

11 suspects?

12 A. I had none.

13 Q. Was David Stalk a suspect? Was David Stalk somebody

14 you thought might have committed that burglary?

15 A. He was not, he didn't even fit the description.

16 Q. To your knowledge had the police department put word

17 out there that y'all needed to see David Stalk?

18 A. No, sir.

19 Q. Do you know how David Stalk ended up coming to the

20 police department?

21 A. On his own free will and accord.

22 Q. And somewhere in here I think there's a statement where

23 he admits committing that home invasion, I don't need to

24 pull it out right now. Yeah, here it is right now,

25 Defendant's Exhibit Number 1. Who took this statement,

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- 1 Defendant's Exhibit Number 1?
- 2 A. The first one?
- 3 Q. The Greenlee statement.
- 4 A. Sergeant Greenlee himself took it.
- 5 Q. When did you become aware that this statement had been
- 6 given by David Stalk?
- 7 A. He called me later on that night and told me that he
- 8 had came up there and told me about it.
- 9 Q. Did you read the statement?
- 10 A. I read it the next morning.
- 11 Q. Did you reach any conclusions based on the facts in the
- 12 statement and the facts of your case?
- 13 A. I did.
- 14 Q. What did you think when you read this statement?
- 15 A. Well, like I said earlier, the question was --
- 16 Q. Let me ask you a couple of other questions, I might can
- 17 get you there in a minute. What time was this home invasion
- 18 or this burglary alleged to have occurred?
- 19 A. At 6:30 that morning on the 22nd, still
- 20 daylight/darkish, it was transferring over.
- 21 Q. And I don't want names, I don't want addresses or
- 22 anything else, but was there a victim?
- 23 A. There was.
- 24 Q. A male or a female?
- 25 A. Female.

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- 1 Q. At a house or at a business or what?
- 2 A. It is a residential house.
- 3 Q. Did school factor in to this in any way?
- 4 A. They did.
- 5 Q. How did school factor into this actual burglary case?
- 6 A. A school bus was having to come through picking up
- 7 children early that morning.
- 8 Q. All right. Now, was there any -- was a weapon used in
- 9 the burglary case?
- 10 A. There was.
- 11 Q. What kind of weapon did the victim indicate was used in
- 12 the burglary case?
- 13 A. A semiautomatic. Excuse me, a revolver, sorry.
- 14 Q. A handgun.
- 15 A. Yes, sorry.
- 16 Q. Did Stalk -- and I ain't going to read the whole
- 17 statement -- but did Stalk in his statement talk about
- 18 timing of when he committed this burglary?
- 19 A. He did.
- 20 Q. What did he say?
- 21 A. He said that -- on Craig's or mine?
- 22 Q. On Craig's, on Greenlee's.
- 23 A. Okay. "On 1/22 what time of day did you commit the
- 24 robbery?" He said, "The middle of the day, about 10:00 to
- 25 11:00 a.m."

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- 1 Q. Did Stalk talk to Greenlee about weapons?
- 2 A. "What type of gun did you see" -- or correction, "What
3 type of gun did you use? I didn't have one, I had my hands
4 under my shirt."
- 5 Q. Did you talk to Stalk about weapons when you
6 interviewed him about the confession to the burglary?
- 7 A. Ask me the question one more time, sorry.
- 8 Q. Did you ever talk to Stalk about whether he -- when you
9 were questioning him about his confession to the burglary
10 did you talk to him about a weapon?
- 11 A. I don't think I did.
- 12 THE COURT: That was on 2/5?
- 13 MR. BARFIELD: Yes, sir on 2/5.
- 14 THE COURT: When he talked to him on 2/5.
- 15 Q. Well, let me ask you this, on 2/5 did he, Stalk, admit
16 or deny that he had committed this burglary that occurred on
17 1/22?
- 18 A. He denied it.
- 19 Q. Did you ever believe that Stalk had committed that
20 burglary?
- 21 A. I never did.
- 22 Q. Let's clarify this a little bit, too. Stalk was taken
23 into custody on 2/5 of '13; is that correct?
- 24 A. Yes, sir.
- 25 Q. On what legal authority was he taken into custody on

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- 1 2/5 of '13?
- 2 A. The accessory after the fact.
- 3 Q. Now, explain to the jury the accessory after the fact.
- 4 What was Stalk charged with and relating to what incident
- 5 when you say accessory after the fact?
- 6 A. Of the burglary first?
- 7 Q. Well, that's what I want you to explain to me.
- 8 A. Yeah. Accessory after the fact of burglary first, he
- 9 said he had no knowledge of it and withheld any --
- 10 Q. Let me ask you another couple of direct questions. Was
- 11 another warrant obtained for Stalk's arrest?
- 12 A. Yes.
- 13 Q. Unrelated to the homicide?
- 14 A. Did he give a statement about that?
- 15 Q. No. Was a warrant obtained for Stalk's arrest
- 16 unrelated to the homicide?
- 17 A. Yes.
- 18 Q. What was that warrant for, what charge?
- 19 A. Accessory after the fact of burglary first and
- 20 attempted armed robbery.
- 21 Q. And what burglary first and attempted armed robbery
- 22 does the warrant refer to?
- 23 A. To the one on January 22nd of 2013.
- 24 Q. Okay. That warrant -- does that warrant charge him
- 25 with committing a burglary first and the armed robbery?

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- 1 A. It does not.
- 2 Q. And the warrant alleges that he committed the offense
3 of accessory by doing what?
- 4 A. By giving a false confession to this case.
- 5 Q. Now, when you talked to Stalk on 2/5 of '13 about the
6 January 22nd burglary and armed robbery --
- 7 A. Yes, sir.
- 8 Q. -- did he still -- did he then allege to have knowledge
9 of that event?
- 10 A. He did not. Let me pull the statement.
- 11 Q. That might not have been such a good question. Let me
12 ask you a different question in a different way or different
13 question. On 2/5 of '13 when you talked to Stalk about the
14 burglary armed robbery of January 22nd --
- 15 A. Yes, sir.
- 16 Q. -- did he give you any explanation for why he marched
17 into the Municipal Justice Center and confessed to that
18 event?
- 19 A. He said he was being stupid and trying to take up for
20 somebody else.
- 21 Q. Did you ever get Mr. Somebody Else from him?
- 22 A. No, sir.
- 23 Q. Did he give you a name?
- 24 A. He did not want to answer that question.
- 25 Q. Mr. Grier was asking you discussions with Stalk getting

TESTIMONY OF PHILLIP HALL

1 out on bond. What representations did you make to Stalk
2 about bond -- first of all, what bond -- did you discuss
3 bond with Stalk on anything? Did you discuss the issue of
4 bail bond with Stalk.

5 A. He asked me about the bond for the accessory charge and
6 I told him I would be able to speak with the Judge, which is
7 all I'm allowed to do.

8 Q. Did you say anything more than that?

9 A. That's it.

10 MR. BARFIELD: Beg the Court's indulgence.

11 THE COURT: Yes, sir.

12 (Break in proceedings.)

13 Q. Was there anything else about the facts of the
14 burglary -- and you think about this if you need to, are you
15 familiar with this still?

16 A. Yes.

17 Q. Is there anything else about the facts, the actual
18 facts of the burglary, armed robbery and Stalk's confession
19 to Greenlee about the burglary/armed robbery that gave you
20 any concern? We talked about time, we talked about weapon.
21 That's an open-ended question and I'm not --

22 A. Let me find his statement. I'm not exactly sure what
23 you're asking.

24 Q. Let me give it another shot. When I asked you a minute
25 ago we talked about weapon, Stalk said he didn't have one,

TESTIMONY OF PHILLIP HALL

1 victim said he did. And we talked about time, victim said
2 it happened at the crack of dawn, Stalk said it happened in
3 the middle of the morning.

4 A. Yes.

5 Q. Are there any other mismatches that you recall from
6 that at this point?

7 A. No. Other than there was a bullet hole in the wall of
8 the victim's house, we confirmed that a shot was fired. I
9 know Sergeant Greenlee asked him if he was involved in any
10 gang where he lives.

11 Q. Don't get into all of that stuff.

12 A. All right.

13 MR. GRIER: Could I have Mr. Barfield reask the
14 question? I have kind of lost track what we were asking
15 for.

16 Q. Lieutenant Hall, you tell me when you are ready to
17 conclude this answer. Let me reask the question.

18 A. Okay.

19 Q. Other than what you referred to, weapon, time of day
20 and you said bullet hole in victim's house, my question was
21 is there any other disconnects that you recall between
22 actual facts and what Stalk said he did when he gave a
23 statement to Greenlee?

24 A. I'm still not understanding the question, or I can't
25 see it.

TESTIMONY OF PHILLIP HALL

1 Q. Are there any other discrepancies to what you know to

2 be the facts of the burglary/armed robbery --

3 A. Oh, the physical description?

4 Q. Yeah. Let me ask the question again.

5 A. Sorry.

6 Q. No, you're fine, it's late, everybody is tired.

7 THE COURT: What was the answer?

8 THE WITNESS: The physical description.

9 Q. Let me ask the question again. We've talked about

10 weapon, we've talked about apparent bullet hole in the

11 house, we've talked about time the event occurred in

12 reference to the burglary/armed robbery. The question is

13 other than those three things, are there any other factual

14 discrepancies between what you know to have occurred and

15 what Stalk said to have occurred?

16 A. The victim described the suspect as a short, light

17 skinned guy but he did have a mask on his face and she was

18 able to see the eyes and knew he was a light skinned, short

19 fat headed -- that's how she described him -- suspect.

20 Q. Does that match Stalk to you?

21 A. Not to me.

22 Q. Any other factual discrepancies?

23 A. That's all I see.

24 MR. BARFIELD: Thank you. I don't have any further

25 questions of this witness.

TESTIMONY OF PHILLIP HALL

1 THE COURT: Mr. Grier?

2 REDIRECT EXAMINATION

3 BY MR. GRIER:

4 Q. All right. Lieutenant, you said that David Stalk said

5 he had had the cellphone that's in his property out here at

6 the jail for two weeks?

7 A. That's what he said.

8 Q. Well, where did he say that?

9 A. In the statement.

10 Q. What statement?

11 A. On the video statement.

12 Q. Did he make it in a written statement?

13 A. I didn't see it, but I reviewed it and that's what he

14 said.

15 Q. All right. Are you certain of that?

16 A. I'm pretty sure.

17 THE COURT: The video statement or which statement?

18 Q. I'm asking which one, which video.

19 A. It was on the 5th but we haven't watched that.

20 Q. On the 5th video.

21 A. Yes, sir.

22 Q. Do you have a copy of that statement? And you want to

23 read the exhibit there and that's the evidence. Is there

24 anything in it that says that there in the written

25 statement?

TESTIMONY OF PHILLIP HALL

- 1 A. Not in a written statement, I don't see it.
- 2 Q. But in this statement he says he had thrown it away
- 3 prior to, when, do you know? He'd thrown the phone with the
- 4 number saying the 911 call was made on it, right, away?
- 5 A. On the 6th, the statement that's what he said? Yes.
- 6 He threw it in the creek, or in or near the creek.
- 7 Q. On the 6th he says that.
- 8 A. Correct.
- 9 Q. All right. On the 6th does he even refer to a
- 10 particular phone number?
- 11 A. I don't think so but it's the -- I asked him is -- go
- 12 ahead and finish your --
- 13 Q. Well, all right. On the 5th on the statement about the
- 14 murder towards the bottom, "What is your cellphone number?"
- 15 He doesn't get it right, does he? He gets the digits --
- 16 A. He gets -- the question is, "What is your cellphone
- 17 number? It's 803- " And then later on he says it's
- 18 The question is, "Is 803- your cellphone
- 19 number?" And he responds by saying yes.
- 20 Q. Okay. "Where is that phone?" He says, "I threw it
- 21 away, it had water damage."
- 22 A. That's correct. And then on the 6th I asked him,
- 23 "Where is the phone that you called 911 at?" And he said,
- 24 "In the creek or by the creek."
- 25 Q. Do you have the warrant on the accessory to armed

TESTIMONY OF PHILLIP HALL

1 robbery charge, do you have a copy of that with you?

2 A. Yes, sir.

3 Q. Do you mind if I examine that?

4 A. Oh, I'm sorry, I thought you had one.

5 Q. No. I didn't get one for whatever reason, I didn't get
6 a copy. Okay. All right. Thank you. Would you examine
7 that document?

8 A. Uh-huh.

9 Q. What does that purport to be?

10 A. That is a Lancaster Police Department suspect's right,
11 Miranda warning.

12 Q. Did it pertain to the January 24, 2013 statement with
13 the armed robbery that Greenlee executed?

14 A. Yes, sir.

15 MR. GRIER: Your Honor, I would ask that this become a
16 part of the exhibit, it got detached somehow.

17 MR. BARFIELD: I have no objection. I think he wants
18 to make it the first page of Defendant's Exhibit 1 now, or
19 the last page.

20 MR. GRIER: I would ask that it just be made the last
21 page.

22 THE COURT: And that will be part of Defense 1?

23 MR. GRIER: Yes, sir.

24 THE COURT: The last page is not in evidence.

25 Q. All right. So his false statement -- and I say his,

TESTIMONY OF PHILLIP HALL

1 David Stalk's false statement on January 24th was -- he had
2 been through Miranda and all that good stuff that day
3 apparently with Officer Greenlee as well.

4 A. Yes, sir.

5 Q. Do you know if that was videotaped?

6 A. Again, I was at home so I don't know.

7 Q. You were where?

8 A. I was at the house.

9 Q. Oh, okay. Good for you.

10 MR. GRIER: That's all of the questions I have,
11 Lieutenant, thank you.

12 THE COURT: Thank you very much, sir, you may step
13 down. All right. Mr. Foreman, ladies and gentlemen of the
14 jury panel, if you would step to your jury room, we will
15 take a 15 minute recess and I will get an update on how many
16 witnesses we may have in the remaining afternoon.

17 (The jury left the courtroom and a break was
18 taken.)

19 THE COURT: All right, Solicitor, anything before we
20 bring in the jury?

21 MR. BARFIELD: Your Honor, my intention is not to call
22 another witness this afternoon and not to call the witness
23 that I brought up here this afternoon and that is this young
24 man back here, he is going to be released by me. If
25 Mr. Grier needs him he will deal with that.

1 you.

2 MR. GRIER: I believe that the jury could find that Mr.
3 Stalk did not participate in bringing the prey to him and
4 that there was some confrontation of a romantic nature.

5 THE COURT: There's no evidence of that in the record
6 as between Mr. Stalk and the victim in this case.

7 MR. GRIER: Thank you, Your Honor.

8 THE COURT: Yes, sir. Anything further from the
9 defense before we bring in our jury?

10 MR. GRIER: No, Your Honor, I think they've stayed out
11 long enough. We can discuss charges again and raise that
12 matter.

13 (Break in proceedings.)

14 THE COURT: Bring us our jury, please.

15 (The jury returned to the courtroom.)

16 THE COURT: Good morning ladies and gentlemen of the
17 jury panel, welcome back. I hope y'all had a pleasant
18 evening. I apologize for the delay. There were certain
19 matters I had to take care of prior to your arrival. Be
20 that as it may, please do not hold this delay against either
21 of the parties, which I know you will not, they were here on
22 time. All right. Solicitor, you may call your next
23 witness.

24 MR. BARFIELD: Your Honor, that is the case for the
25 State of South Carolina, the State rests.

1 THE COURT: Thank you, thank you very much, Solicitor.

2 Mr. Grier -- motions noted, Mr. Grier.

3 MR. GRIER: Thank you, Your Honor. Yes, I would ask
4 that they be.

5 THE COURT: And I would reaffirm my previous rulings in
6 that regard. Ladies and gentlemen of the jury panel, you've
7 now heard that the State has rested its case in chief, that
8 means you've heard all of the evidence and all of the
9 testimony you're going to hear from the State in its case in
10 chief. The defense as you know has already offered certain
11 items of evidence for your consideration before the jury, I
12 believe it is Defense 1 through 3. However, a defendant is
13 never required to prove himself or herself innocent. A
14 criminal defendant in South Carolina is always presumed to
15 be innocent regardless of the seriousness of the charge that
16 he or she may be confronted with, however a defendant may
17 present evidence and testimony, or in this case additional
18 evidence and testimony if the defendant chooses to do so.
19 Mr. Grier, does the defendant intend to present additional
20 evidence and testimony?

21 MR. GRIER: Yes, Your Honor, we do.

22 THE COURT: It's my understanding that the first items
23 of evidence and testimony that the defendant intends to
24 present is videotapes of statements made on February 5th of
25 2013 to Lieutenant Hall by Mr. Stalk; is that correct?

1 4-5.)

2 THE COURT: All right. Ladies and gentlemen, I wanted
3 you to know what was coming and you've heard it's two hours
4 and 43 minutes, if at any time you need a break, at least
5 we'll probably get through the first video and maybe into
6 the second, but anytime you need a break please raise your
7 hand and I will certainly accommodate you in that regard.

8 MR. GRIER: I'm having technical difficulties.

9 (Break in proceedings.)

10 MR. GRIER: I can call a witness and then work on this
11 during the break.

12 THE COURT: Okay. Thank you.

13 MR. GRIER: Your Honor, I would call James Johnson.

14 The witness, JAMES JOHNSON, was first duly
15 sworn and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. GRIER:

18 Q. Good morning, Mr. Johnson. Please state your name.

19 A. James Johnson, Jr.

20 Q. Mr. Johnson, are you related to David Stalk in any way?

21 A. No, sir.

22 THE COURT: Speak up for me just a little bit, please,
23 sir.

24 Q. Are you married or do you go with someone that is
25 related to David Stalk?

TESTIMONY OF JAMES JOHNSON

- 1 A. No, sir.
- 2 Q. Okay. How do you know David Stalk?
- 3 A. Friend.
- 4 Q. He's a friend? Okay. Where do you live at,
- 5 Mr. Johnson?
- 6 A. Avenue.
- 7 Q. And is that -- what part of town is that in?
- 8 A. That's in Lancaster over there by the hospital.
- 9 Q. So is that on the west side of town?
- 10 A. I think so.
- 11 Q. Over there on the side where the sun goes down?
- 12 A. Yes, sir, I'm not really sure.
- 13 Q. I understand. You've only been in Lancaster for about
- 14 three years I understand?
- 15 A. Yes, sir.
- 16 Q. All right. Mr. Johnson, do you remember the events of
- 17 January 26th of 2013 at your house?
- 18 A. Yes, sir.
- 19 Q. All right. What was going on at your house that
- 20 evening?
- 21 A. Nothing really, it was like a normal day around about
- 22 with Mr. Tucker really. Me and Mr. Tucker, I work with him
- 23 on and off.
- 24 Q. You work with him?
- 25 A. On and off. But that day I went to a birthday party

TESTIMONY OF JAMES JOHNSON

1 and then, like I told you, me and Mr. Tucker usually get
2 together and watch TV and drink at my house in my little
3 boom room, that's what I call it, it's like a little man
4 room. So I left about 6:00 or 6:30 to go to a birthday
5 party and I talked to Mr. Tucker before I left and told him
6 if he wanted to meet me just to call when he get off and
7 I'll meet him back at the house. So he approximately called
8 me, it had to have been between 8:30 or 9:00 and told me he
9 was on his way to my house. So me and my stepson and his
10 cousin had left the party, went and met Mr. Tucker at the
11 house, I would say it was probably -- I can't honestly say
12 but really in between 8:45 and 9:00 I met him at the house.

13 Q. Okay.

14 A. And then honestly approximately I would say about ten
15 or 15 minutes that's when Mr. Stalk came over there and
16 talked to Lynn. I can't say what they talked about or
17 nothing.

18 Q. They talked where at?

19 A. At the house.

20 Q. And the house is your house?

21 A. Yes, sir. Him and Mr. Tucker talked and then he left.
22 I would say approximately another ten or 15 minutes he was
23 back, he stayed for awhile, we all were sitting there
24 drinking and watching the game on TV.

25 Q. A game. Do you remember what game was on?

TESTIMONY OF JAMES JOHNSON

1 A. I can't remember what game was on TV but I know we were
2 watching a game on TV.

3 Q. What kind of game?

4 A. A basketball game.

5 Q. Were you eating anything that night?

6 A. I can't honestly say because I had left the party. I
7 probably had not because me and Mr. Tucker had just met at
8 the house so I can't really say.

9 Q. Okay. And so your recollection is that Mr. Stalk was
10 at your house at around what time?

11 A. Approximately I would say -- I know it was little
12 something after 9:00, I would say it was something after
13 9:00. Because I got to the house probably 8:45 or 9:00 to
14 meet Mr. Tucker, and like I said, approximately ten or 15
15 minutes after that the first time he came, that's when Mr.
16 Stalk had showed up at the house.

17 Q. All right. Well, prior to that night how did you
18 know -- you said y'all were friends, but you worked together
19 too some?

20 A. Some, not all of the time. He worked with Mr. Tucker
21 more than I did, I was just like if he needed extra help he
22 would call. But like I said, I knew Mr. Stalk from
23 Mr. Tucker's shop. Like I said, I'm not from Lancaster so I
24 really didn't know him, but at the time I know him he always
25 joked, laughed around and played, everybody got along.

TESTIMONY OF JAMES JOHNSON

1 Q. All right. How about on this night how did he act?

2 A. Same way. When he came in he spoke with everybody, he
3 was laughing, joking, he had left and he came back the same
4 thing, he took a shot. We were all in there laughing
5 around, joking, playing, watching the game. He didn't act
6 any way out of the ordinary or nothing.

7 Q. He didn't what?

8 A. I say he didn't act any way out of the ordinary or
9 nothing, he was the same person that he's always been.

10 Q. Well, was anybody at your house that night aware of a
11 shooting on Saint Paul Street?

12 A. No, sir. Because like I say, I was at the birthday
13 party.

14 Q. When did you learn of that, or do you recall when you
15 learned that that had happened?

16 A. Probably couple of days later I heard about it.

17 Q. Do you recall how you learned of it?

18 A. No. I just heard people talking about it.

19 MR. GRIER: Thank you, Mr. Johnson, that's all I have
20 for you.

21 THE COURT: All right. Solicitor?

22 CROSS EXAMINATION

23 BY MR. BARFIELD:

24 Q. You've been in Lancaster since about when? You've
25 lived here since about when?

TESTIMONY OF JAMES JOHNSON

1 he came the first time, like I said, he stayed approximately
2 ten or 15 minutes. Then when he came back he probably
3 stayed for about 20 or 30 minutes, then he left.

4 Q. So all total he was at your house at most 45 minutes?

5 A. Yes, sir.

6 Q. And he was not at your house continuously from 8:30 or
7 9:00 that night until after midnight; is that true?

8 A. Yeah, that's true.

9 MR. BARFIELD: Thank you, that's all.

10 THE COURT: Redirect?

11 MR. GRIER: No, Your Honor.

12 THE COURT: Thank you very much. All right, Mr. Grier,
13 you can call your next witness.

14 MR. GRIER: Your Honor, I would ask that Mr. Johnson be
15 excused if he wants to be.

16 THE COURT: Any objection?

17 MR. BARFIELD: No, sir.

18 THE COURT: He may be excused.

19 MR. BARFIELD: Can we approach the bench for a minute
20 about Mr. Johnson and his spouse?

21 THE COURT: Yes.

22 (A bench conference was held.)

23 THE COURT: All right, Mr. Grier.

24 The witness, CRYSTAL JOHNSON, was first duly
25 sworn and testified as follows:

TESTIMONY OF JAMES JOHNSON

1 DIRECT EXAMINATION

2 BY MR. GRIER:

3 Q. Ms. Johnston, you're known as Quilla?

4 A. Yes.

5 Q. Is that a nickname? All right. Where do you live?

6 You and Mr. James Johnson or --

7 A. That's my husband.

8 Q. That's your husband. Ms. Johnson, you're not related

9 to David Stalk.

10 A. No.

11 Q. Are y'all related to Lynn Tucker?

12 A. No.

13 Q. Have you and Mr. Johnson lived together -- were you
14 living together on January 26th of 203?

15 A. Yes.

16 Q. Now, what were you doing that evening?

17 A. Well, we went to a little kid's party about 6:30, James
18 left but I stayed because I had to take my radio to the
19 party. When I got back it was probably 10:00 or 11:00.

20 Q. Now, do you remember seeing Mr. Stalk at your house
21 that night?

22 A. Yes.

23 Q. Was he there when you got there?

24 A. No.

25 Q. Do you recall when he got there?

TESTIMONY OF CRYSTAL JOHNSON

- 1 A. I mean, I got there at 10:00, so it was a little bit
2 after I want to say 10:00 or 11:00, I didn't know exact.
3 Q. Now, did you -- how long had you known David?
4 A. I've been knowing David since he was a little guy.
5 Q. Well, can you describe him to us?
6 A. He was quiet to me.
7 Q. Do you recall speaking to him after you did see him on
8 January 26th?
9 A. I was the one that opened the door for him.
10 Q. Pardon me?
11 A. I opened the door for him.
12 Q. Did you have any conversation with him that evening?
13 A. He spoke and went in the man cave.
14 Q. Okay. Did you notice anything about him peculiar?
15 A. No.
16 Q. He seemed ordinary?
17 A. Yeah.
18 Q. All right. You can't remember any conversations or
19 anything?
20 A. I don't talk -- like when the guys come over they go in
21 there, I don't go in there.
22 Q. Were you the only adult female there that night?
23 A. Well, the first time I was, but the second time Nesa
24 (phonetically) came with him the second time.
25 Q. Who is that?

TESTIMONY OF CRYSTAL JOHNSON

1 A. Probably like days after.

2 Q. Anybody talking about it that night?

3 A. Nuh-uh.

4 MR. GRIER: Thank you. Answer any questions that the
5 solicitor may have for you.

6 THE COURT: All right, Solicitor?

7 CROSS EXAMINATION

8 BY MR. BARFIELD:

9 Q. David Stalk came to your house twice that night?

10 A. When I was there, yeah.

11 Q. And the first time that he came when you were there was
12 after 10:00, between 10:00 and 11:00?

13 A. I know it wasn't no eight nothing because I was still
14 at the baby thing.

15 Q. So after 10:00 or 11:00 he came to your house, and he
16 came to your house twice altogether that night; is that
17 correct?

18 A. Yes.

19 Q. And he had a private conversation with Lynn Tucker on
20 one of those occasions; is that correct?

21 A. Well, he talked to Lynn both times, I guess.

22 Q. And you didn't hear the conversation.

23 A. No.

24 Q. And the first time he came he apparently needed money;
25 is that correct?

TESTIMONY OF TAWANA STALK

1 THE COURT: Solicitor?

2 MR. BARFIELD: Nothing further.

3 THE COURT: Thank you very much, Ms. Hammond, you may
4 step down. Any objection to this young lady being excused?

5 MR. BARFIELD: None from the State.

6 MR. GRIER: None from the defense.

7 THE COURT: All right, you may be excused.

8 The witness, TAWANA STALK, was first duly sworn
9 and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. GRIER:

12 Q. Please state your name for the record.

13 A. Tawana Stalk.

14 Q. Ms. Stalk, how do you know David Stalk?

15 A. He is my little brother.

16 Q. He's your little brother.

17 A. Uh-huh, he's the baby.

18 Q. How many kids are in the family?

19 A. My mama has four, she had three girls and one boy.

20 Q. Arnesee (phonetically), do you call her Arnesee or
21 Nesee?

22 A. Nesee, she's the oldest, I'm next to the oldest and my
23 little sister, Quita (phonetically) and my baby brother,
24 David.

25 Q. Okay. Your sister, Quita?

TESTIMONY OF TAWANA STALK

- 1 A. Shaquita (phonetically.)
- 2 Q. And then David? David is younger than Shaquita. Okay.
- 3 Now, where did y'all grow up?
- 4 A. Like at [redacted] in Lancaster.
- 5 Q. Have you been in the courtroom throughout the
- 6 proceedings --
- 7 A. Uh-huh.
- 8 Q. -- most of them? Do you remember a description that
- 9 Lieutenant Hall gave of where [redacted] is?
- 10 A. Where he said it is --
- 11 Q. Is it on this map do you think? Can you orient
- 12 yourself on this map?
- 13 A. Where I stay at?
- 14 Q. Well, not now, but where [redacted] is at.
- 15 A. Right here. That's [redacted] there.
- 16 Q. Do you know where Heath Circle is on this map? Have
- 17 you ever looked at it from the air before?
- 18 A. No.
- 19 Q. Well, you know, do you know where Ketta's house is?
- 20 A. Uh-huh.
- 21 THE COURT: Can you say yes or no for me?
- 22 THE WITNESS: Oh, yes.
- 23 Q. Okay. And do you know how many blocks [redacted] is
- 24 from her house approximately? Can you count how many blocks
- 25 you have to walk to get over there?

TESTIMONY OF TAWANA STALK

- 1 A. From my house I just may walk, I make one left, one
2 right and keep on straight.
- 3 Q. And how blocks, though, how many streets?
- 4 A. How many streets over?
- 5 Q. How many streets over?
- 6 A. Two.
- 7 Q. Okay. Do you know what streets you crossed to get
8 there?
- 9 A. I just keep going by one road, I don't have to cross.
10 Well, you're talking about the intersection road?
- 11 Q. Yeah.
- 12 A. I don't know the name of it.
- 13 Q. Okay. Don't worry about that, forget that, I know
14 that's confusing. Did David grow up in that neighborhood
15 too?
- 16 A. Yes, sir.
- 17 Q. Have you lived anywhere else besides that general area?
- 18 A. No, sir.
- 19 Q. Do you know where 1 Street is?
- 20 A. Yes, sir.
- 21 Q. Would you know whether it's on this map or not?
- 22 A. No, sir.
- 23 Q. Okay. Have you -- in looking at this map can you tell
24 us whether you can put us in the direction of
25 Street?

TESTIMONY OF TAWANA STALK

- 1 A. It would be over by -- if this is the top
2 part of and. It will be over here by coming
3 off .
- 4 Q. Okay. All right. It's not on this map.
- 5 A. I don't know.
- 6 Q. You didn't see it? You described it as being off the
7 map, didn't you?
- 8 THE COURT: No, sir, she didn't describe it like that.
- 9 Q. Okay.
- 10 THE COURT: You didn't ask her how she --
- 11 Q. I'm sorry. You pointed off of the map?
- 12 A. Uh-huh.
- 13 THE COURT: Is that a yes or a no?
- 14 THE WITNESS: Yes.
- 15 Q. How many children do you have, Ms. Stalk?
- 16 A. Three.
- 17 Q. How old are they?
- 18 A. Eleven, six and one.
- 19 Q. What was going on the night of January 26, 2013?
- 20 A. I was at home doing my hair at first.
- 21 Q. You said at first?
- 22 A. Yeah. We was planning on having -- we was planning on
23 going to a party so we was going to take Ketta the kids.
- 24 Q. Well, whose party was it?
- 25 A. It was my Aunt Regina's birthday party and David was

TESTIMONY OF TAWANA STALK

1 going to a party at Quilla's.

2 Q. Was there some communication between you and David,
3 your brother, about that?

4 A. Huh?

5 Q. Was there some communication between you and with your
6 brother about that?

7 A. About the parties? Yeah. Because David was supposed
8 to go with us but he changed his mind, he said he was going
9 to go over there where Lynn and them was at.

10 Q. Okay. Where does Aunt Regina live at?

11 A. We had it at my Aunt Regina -- I mean, my Cousin
12 Dreeka's (phonetically) house behind the

13

14 Q. Where is . at?

15 A. Off

16 Q. All right. You don't walk over there from -- you
17 wouldn't ordinarily walk over there, all of the way over
18 there, would you?

19 A. No.

20 Q. So it's not in the neighborhood really, is it?

21 A. No.

22 Q. Who was keeping the children?

23 A. Ketta was. She wasn't going to go out that night, that
24 particular night she wasn't going to go out so we asked her
25 could the kids come down to her house and she was going to

TESTIMONY OF TAWANA STALK

1 drop Mahogany off and he was going to come back to Shell's
2 house to take a bath and then he came to my house. When he
3 came to my house I asked him where he was going to go and he
4 said he had to go meet Lynn.

5 MR. BARFIELD: Your Honor, I haven't yet but I'm going
6 to object to her quoting David Stalk as hearsay.

7 THE COURT: Sustained.

8 Q. Well, did you observe what David and were
9 doing with your own eyeballs?

10 A. When I got to Ketta's house or --

11 Q. That day.

12 A. That day, what David and was doing?

13 Q. Uh-huh.

14 A. He had just got finished doing her hair, he do's her
15 hair a lot.

16 Q. Okay. And where was he when you left?

17 A. When I left?

18 Q. Uh-huh.

19 A. I don't know where David was at when I left, David left
20 before me.

21 Q. Is that at your parents' house?

22 A. No, that's at my house.

23 Q. At your house.

24 A. Uh-huh.

25 Q. Okay. Well, when was the last time you saw David on

TESTIMONY OF TAWANA STALK

- 1 January 26, 2013, do you recall?
- 2 A. When he left out of my back door.
- 3 Q. And about what time do you believe that to be?
- 4 A. That was probably like 6:00.
- 5 Q. Was the sun shining, or do you recall?
- 6 A. I think it was getting dark just about.
- 7 Q. Okay. Now, did you go to your Aunt Regina's?
- 8 A. Yes, sir.
- 9 Q. Did you have any communication with David that night?
- 10 A. Yes, sir.
- 11 Q. All right. Well, as a result of that communication --
- 12 you can't say what David said -- but as a result of that
- 13 communication with David what did you do?
- 14 A. I had to go get the kids.
- 15 Q. Where were they?
- 16 A. At Ketta Evans' house.
- 17 Q. What was going on when you got there?
- 18 A. I had got a phone call from someone saying that --
- 19 MR. BARFIELD: Objection to the saying that part of it.
- 20 A. I hadn't --
- 21 THE COURT: Sustained.
- 22 Q. Don't say what somebody said, that's hearsay. Okay.
- 23 A. Okay.
- 24 Q. But as the result of, you know, communications with --
- 25 you know -- well, did you or did you not receive some

TESTIMONY OF TAWANA STALK

- 1 communication, a phone call from David?
- 2 A. Yes.
- 3 Q. Okay. As a result of that communication with him what
- 4 did you do?
- 5 A. Go get the children.
- 6 Q. And when you went to get the children what was going on
- 7 down there?
- 8 A. Saying Ketta's son and another guy had been fighting.
- 9 THE COURT: Say that again.
- 10 A. Said Ketta's son and another guy had been fighting.
- 11 Q. Well, I mean what did you observe with your eyeballs?
- 12 A. When I got there?
- 13 Q. Yeah.
- 14 A. Nothing but the police.
- 15 Q. Okay. All right. And were you able to get the kids?
- 16 A. Yes.
- 17 Q. And did you bring them back to your house?
- 18 A. Yes. I brought them to my house, then we went back to
- 19 my Aunt Regina's house.
- 20 Q. Okay. And did you see David that night?
- 21 A. When I got home.
- 22 Q. What was he doing?
- 23 A. In my bed.
- 24 Q. Where does David ordinarily sleep?
- 25 A. In my bed, because I slept on my chair.

TESTIMONY OF TAWANA STALK

- 1 Q. So when you got back from Ketta's David was home.
- 2 A. Yes.
- 3 Q. All right. About what time was that?
- 4 A. When I got back from Ketta's?
- 5 Q. Yeah.
- 6 A. No, not when I got back from Ketta's. When I got back
- 7 from my Aunt Regina's birthday party David was at home.
- 8 Q. Who all went to Aunt Regina's birthday after you picked
- 9 the kids up?
- 10 A. Me and the kids.
- 11 Q. And so what time did you get back to your house?
- 12 A. It was probably a little bit after 1:00.
- 13 Q. Okay. When did you learn that, you know, that -- about
- 14 what was going on down at Ketta's house on the night of
- 15 January 26th of 2013?
- 16 A. When Phillip Hall knocked on my door the next morning.
- 17 Q. Do you recall that conversation?
- 18 A. Uh-huh.. I opened the door, he was like, "How are you
- 19 doing? I said, "Fine.. How are you? And he said, "Fine."
- 20 He said, "Where is your brother?" And I said, "Who?" And
- 21 he said, "You know your brother, David." And I said, "I
- 22 don't know, he was gone before I got up." And he said,
- 23 "Well, I need to talk to him because -- at first he was
- 24 like, "he's a person of interest in a murder case." And I
- 25 was like, "What murder case?" And he was like a -- that's

TESTIMONY OF TAWANA STALK

1 what he said, well, a suspected murder case, that's what he
2 said, a person of interest. So then I asked him, I said, "I
3 don't know where David at." No, he didn't say murder, he
4 said shooting. So then he said, "Well, you need to tell
5 your brother that I need to talk to him because it's a part
6 that I could help him with right now and I can make sure
7 that he gets a bond."

8 Q. Was there -- did you give him any information?

9 A. I told him I didn't know where David was at.

10 Q. Did you know where David was at?

11 A. No. Because David had already left before I got up.

12 Q. Now, 1/26/2013 was a Saturday, so these events happened
13 on Sunday?

14 A. He came to my house by himself.

15 Q. Who?

16 A. Phillip Hall. Then he came back again Monday morning.

17 Q. Okay. Do you recall a conversation you had with
18 Mr. Hall then?

19 A. They searched my house.

20 Q. Did you understand what the purpose and the reason for
21 that search was?

22 A. Because he said he was looking for my brother.

23 Q. Was David there?

24 A. No. And there's another occasion they came to my house
25 without my permission.

TESTIMONY OF TAWANA STALK

1 Q. Okay.

2 A. He did, him and Tim Witherspoon and a bunch of them. I
3 was helping an older lady next door to me get her car fixed
4 and I come out of her front door, come to my back door, they
5 were going in my back door with no permission. And Phillip
6 Hall he told me, he said -- on the second occasion when he
7 came to my house he brought me in the living room by myself.

8 Q. He brought what?

9 A. He took me in the living room, he said, "Can I speak to
10 you in the living room?" I said, "Yes." Me and Mr. Hall
11 went in my living room and I was sitting on the chair, and
12 he was like, "You know where your brother is at." And I
13 said "No, I don't." He said, "Yes, you do. I know you're
14 lying. I said, "No, I'm not." He said, You know by you
15 hiding your brother and you're not telling me where your
16 brother is that you can get in trouble." I said, "I don't
17 know where David is." And that's when he say something
18 about social services would get involved with me. He said
19 something else about I can go to jail for accessory for or
20 after if they find something -- if they find out that David
21 was involved with anything. I said, "Well, I don't know
22 where David is at." And he said. "All right. Just don't
23 let me come to your house and find David in your house."

24 Q. All right. Was that the end of that?

25 A. Uh-huh. And they finish searching my house.

TESTIMONY OF TAWANA STALK

1 Q. Anymore communication with Mr. Hall since that day?

2 A. No.

3 Q. All right.

4 MR. GRIER: Answer any questions that Mr. Barfield may
5 have for you.

6 THE COURT: Thank you, Mr. Grier. Solicitor?

7 CROSS EXAMINATION

8 BY MR. BARFIELD:

9 Q. Nobody locked you up over this, did they?

10 A. Huh?

11 Q. You didn't get locked up over there, did you?

12 A. No.

13 Q. You and David are pretty tight.

14 A. Yeah.

15 Q. David stayed at your house a lot.

16 A. Yes.

17 Q. David slept in your bed and you slept in the chair most
18 of the time?

19 A. Yes, every now and then. We used to switch some times.

20 Q. Did he live with you?

21 A. You could say so.

22 Q. That's fine. And you never did tell us, but what is
23 your address? What was your address on 1/26 of '13?

24 A.

25 Q. Is that still your address?

TESTIMONY OF TAWANA STALK

1 Q. -- you picked up the kids.

2 A. Uh-huh.

3 Q. Again, say yes or no.

4 A. Yes.

5 Q. That's fine. You just can't say uh-huh or nuh-uh. How
6 many kids -- were the police in charge of stuff when you got
7 over there?

8 A. It was a couple of police cars out there.

9 Q. My question is were the police in control of things
10 when you got there? Were they saying who could come and go?

11 A. Yes. Because they took the kid's names.

12 Q. And how many kids were there when you got there?

13 A. I don't know how many were in the house, I just only
14 got the four I needed.

15 Q. All right. Were there other kids there?

16 A. Yes, they was in the house.

17 Q. And one of the kids you got was . . . right?

18 A. One of them I got was . . . ?

19 Q. Did you take Mahogany home with you?

20 A. Yeah, I took all four.

21 Q. That's what I'm asking.

22 A. Yes.

23 Q. Your three and David's child, . . . , went home with
24 you.

25 A. We didn't go home, we went to Aunt Regina's.

TESTIMONY OF TAWANA STALK

1 Q. But left Ketta's with you.

2 A. Yeah.

3 Q. And let me ask you this, you're in this big room but do
4 you know how the streets are set up outside? You know
5 that's Street right there?

6 A. I know what street that is.

7 Q. I know, but are you oriented to where Street is --

8 A. I know where Street is.

9 Q. And I know you know where it is but I mean from in this
10 courtroom do you know what direction is what?

11 A. Yeah. Street is that way, Meeting Street is down
12 this way.

13 Q. And is two or three blocks on the other
14 side of Street; isn't that right?

15 A. Yes.

16 Q. Pretty close to the courthouse, too; isn't that
17 correct?

18 A. Yes.

19 Q. It's true, is it not, that the last time you saw David
20 on that Saturday was when he left your house with ;
21 is that correct?

22 A. That's the last time I seen him until I got home that
23 night.

24 Q. And that was about 6:00 and you said it was getting
25 dark.

TESTIMONY OF TAWANA STALK

1 A. Yes.

2 Q. You've got to say yes or no.

3 A. Yes.

4 Q. And the next time you saw him -- so again, about
5 supertime Saturday he left your house, correct?

6 A. He was going to a party, I was going to one.

7 Q. And when he left your house did he have / with
8 him?

9 A. He had already took

10 Q. Okay. So he had been to Ketta's in the afternoon
11 sometime to take

12 A. I guess he had, I didn't know what he did before that.

13 Q. Okay. That's fine. But the last time you saw David
14 Stalk the night this killing happened was about
15 6:00 supertime when it was getting dark; is that correct?

16 A. Yes.

17 Q. And the next time -- and was that a Saturday? Do you
18 remember that being a Saturday?

19 A. That would have been a Saturday. I seen him about
20 Sunday morning about 1:30 when I got home.

21 Q. The next time you saw David you went back to your house
22 and it was about 1:00 in the morning and he is asleep in
23 your bed 1:00 the next morning.

24 A. Yes.

25 Q. And the next time -- and you went to bed in the chair,

TESTIMONY OF TAWANA STALK

- 1 I guess.
- 2 A. On my chair.
- 3 Q. At some point Sunday morning Phillip Hall comes
- 4 knocking on your door looking for your brother, right?
- 5 A. Yes.
- 6 Q. And that was early Sunday morning.
- 7 A. It was Sunday morning, probably 9:00 or 9:30.
- 8 Q. And David wasn't there then, was he?
- 9 A. No. David's an early bird.
- 10 Q. And was still there, correct?
- 11 A. No. I didn't tell you I brought them home that night.
- 12 Q. Okay. That's fine. That's good. Let's go ahead and
- 13 talk about that then. Where did the kids stay that night?
- 14 Did you come home by yourself?
- 15 A. Yes, I did.
- 16 Q. And where did the kids stay?
- 17 A. They stayed over at Aunt Regina's because it was too
- 18 late to bring them out.
- 19 Q. Which is over toward somewhere?
- 20 A. Yes.
- 21 Q. Did you go over to Regina's sometime Sunday to get the
- 22 kids?
- 23 A. Yes. No. We went over there, we ate that Sunday.
- 24 Q. Had Sunday dinner over at Regina's.
- 25 A. Yes.

TESTIMONY OF TAWANA STALK

1 Q. After Sunday dinner did you end up back at your house
2 with your three kids and ?

3 A. Yes.

4 Q. And Mahogany stayed with you until February 5th when
5 Bianca Hammond came and got her; is that right?

6 A. Yeah, she did. She was in my content and her dad's
7 content, she was either with us, me, my other sister or my
8 Aunt Shell. All of us had her.

9 Q. But she wasn't with David Stalk between -- wait a
10 minute -- between 9:00 or 9:30 -- well, between the time
11 that you got her back to your house Sunday afternoon.

12 A. Was she with David?

13 Q. Hold on. From the time you brought her home from
14 eating Sunday dinner at Regina's until Bianca Hammond got
15 her from you on February 5th of 2013 she wasn't with David
16 Stalk, was she?

17 A. Yeah. She probably was with her daddy when she wasn't
18 with me.

19 Q. Well, where was her daddy?

20 A. You tell me where he was at?

21 THE COURT: No, ma'am. You answer his question, you
22 don't ask him questions.

23 THE WITNESS: I'm sorry.

24 Q. Did you see David Stalk from 1:00 Sunday morning
25 January 27th of 2013, anytime from then, to February 5th of

TESTIMONY OF TAWANA STALK

- 1 '13 or thereafter?
- 2 A. No, I did not.
- 3 Q. Where was Bianca that whole time?
- 4 A. She was at home.
- 5 Q. So she wasn't with her daddy, David, was she?
- 6 A. I'm getting your dates mixed up.
- 7 THE COURT: No, not Bianca.
- 8 Q. I'm sorry. Where was Mahogany? Excuse me. Let me
- 9 start over. You didn't see David between 1:00 Sunday
- 10 morning, 1/27 of '13 until after his arrest on 2/5 of '13;
- 11 is that correct?
- 12 A. I hadn't seen David -- since when?
- 13 Q. This killing happened on Saturday night, 1/26 of '13,
- 14 correct?
- 15 A. The shooting happened?
- 16 Q. The shooting, that night, is that your understanding of
- 17 when it happened?
- 18 A. I don't know when it happened.
- 19 Q. Well, let's start over this way. David Stalk was in
- 20 your bed asleep on Sunday morning --
- 21 A. At 1:00. Like I said, I got home between 1:00 and
- 22 1:30.
- 23 Q. On January 27th of 2013; is that correct?
- 24 A. Yes.
- 25 Q. And David Stalk was not at your house that same morning

TESTIMONY OF TAWANA STALK

1 THE JUROR: I neglected to, Your Honor, sorry.

2 THE COURT: That's all right. Anybody that can't work
3 late? If anybody has got a commitment just let me know, I
4 will certainly try to accommodate you in that regard. All
5 right, thank you very much. I see no hands raised so we
6 will press on. If you will key up Defense 5 and it lasts
7 approximately 30 minutes.

8 (The disc was played.)

9 MR. GRIER: That concludes that video, Your Honor.

10 THE COURT: And you're offering Defense 5 in evidence?

11 MR. GRIER: I am.

12 THE COURT: And that's without objection, Solicitor?

13 MR. BARFIELD: That's correct, yes, sir.

14 THE COURT: All right. Thank you very much, Mr. Grier

15 and Solicitor. Mr. Grier, you may call your next witness.

16 MR. GRIER: We call Lynn Tucker.

17 The witness, LYNN TUCKER, was first duly sworn
18 and testified as follows, on:

19 DIRECT EXAMINATION

20 BY MR. GRIER:

21 Q. Please state your name.

22 A. William Lynn Tucker.

23 Q. Mr. Tucker, are you a businessman in town?

24 A. I am.

25 Q. What do you do?

TESTIMONY OF LYNN TUCKER

- 1 A. I own Tucker Truck, I own a trucking company.
- 2 Q. Where is that?
- 3 A. On Arch Street.
- 4 Q. Right down from the police station?
- 5 A. Police department, that's right.
- 6 Q. How long have you been there?
- 7 A. About three years now, but I have owned my company
- 8 since '98.
- 9 Q. Okay. Prior to that location where was -- where was
- 10 it, I'm sorry? Where was it before?
- 11 A. Where was what?
- 12 Q. Where was your business before being relocated?
- 13 A. At my place on University Drive. I have a farm off
- 14 University Drive, that's what we worked out of.
- 15 Q. Do you know David Stalk?
- 16 A. Known him all of his life pretty much.
- 17 Q. How is that? How did you come to know him so early?
- 18 A. Well, he was a little fellow, probably ten, 11, 12
- 19 years old and he saw the trucks and he was fascinated with
- 20 them and he always came around and he would help us work and
- 21 do different stuff that we were doing. He's pretty much
- 22 been around ever since.
- 23 Q. So how long had he been working for you?
- 24 A. Pretty much ever since he was old enough to work, 16 or
- 25 17 like that.

TESTIMONY OF LYNN TUCKER

1 Q. Would you describe him as a worker?

2 A. He was a good worker. He beat everybody to the job,
3 had trucks ready to go, changed tires and everything he had
4 to do. He was a good worker.

5 Q. How about his trustworthiness?

6 A. Never had a problem with him. Everybody that we dealt
7 with pretty much liked him, he was a very respectable
8 person.

9 Q. What were his responsibilities with your company?

10 A. Well, he checked trucks out, he helped me take care of
11 my animals, pretty much everything. He was right there with
12 me all the time, he was my right-hand man, exactly.

13 Q. How do you describe your relationship with David when
14 you tell somebody about your relationship with David?

15 A. He was one of my best friends.

16 Q. Did David confide in you?

17 A. Yeah, he could confide in me.

18 MR. GRIER: Your Honor, may I approach real quickly?

19 (A bench conference was held.)

20 Q. Well, you know, did he work full-time for you recently?

21 A. Yeah. He was with me everyday all day until he went
22 home the next morning.

23 Q. How about his education? Do you know how much
24 education David had? How did he do in school?

25 A. I'm not sure. I think he done well when he was there.

TESTIMONY OF LYNN TUCKER

- 1 I don't think that worked out too good for him, he was more
2 of a worker than a school body.
- 3 Q. Well, how about his daughter? What do you know with
4 his relationship with his daughter, David's relationship?
- 5 A. He loved her, used to bring her around -- well, I think
6 if I'm not mistaken they lived in Rock Hill so when he would
7 get back it would be on the weekends and would stay at
8 Luke's house, Mr. Luke, his grandfather, and he would bring
9 her around. He loved the baby. He would always do for her
10 when he could and everything he could.
- 11 Q. How old is that child now, do you know?
- 12 A. I'm not sure. Three? Something like that.
- 13 Q. All right. Did you see David on the night of
14 January 26, 2013?
- 15 A. Yeah.
- 16 Q. How do you know that you saw him that night?
- 17 A. Well, that's when all of this had happened and we had
18 been talking about it all of this time now, so yeah, I
19 remember seeing him.
- 20 Q. Now, who has been talking about it?
- 21 A. Well, all of this has been going on so, you know, quite
22 naturally everybody knows when it started.
- 23 Q. But have you been talking with David Stalk about it
24 prior to today?
- 25 A. No. I didn't see David after this now. The next time

TESTIMONY OF LYNN TUCKER

1 I saw David, Phillip -- excuse me, Officer Hall, we're on
2 first name basis around here --

3 Q. I understand.

4 A. -- called me and asked me to come up and talk with him
5 while he done an interview. So that was the next time I saw
6 him after all of this had done took place.

7 Q. Now, when Officer Hall asked you to come up there, had
8 you had any contact with Officer Hall before he called you
9 and asked you to come up with David?

10 THE COURT: I think you need to specify your question.
11 He's on a first name basis with the detective.

12 Q. But after January 26, 2013, between that time and
13 February 6th of 2013, did you have contact with Lieutenant
14 Hall?

15 A. Of course, yeah. I talked to him probably a couple of
16 times.

17 Q. Did he take possession of your phone?

18 A. He just looked at my phone, looked at it. When he
19 would come by the shop and he was looking around asking
20 everybody for the phone number to get in touch with David
21 and stuff he looked at it to see if that was the same
22 number.

23 Q. Okay. And what number did he get from the phone, did
24 you know?

25 A. I'm not sure which one it was now. It sort of sounds

TESTIMONY OF LYNN TUCKER

1 familiar, the number that y'all been talking about but I'm
2 not sure when he had it or not, because I've got a different
3 number in my phone for him and it's his new number so he
4 evidently had just got it.

5 Q. Well, did you know anything about the -- I forgot
6 now, hold on a second.

7 A. Well, you asked me that, that's a little bit far back
8 to remember the number, that's been awhile and I've got a
9 lot of phone numbers.

10 THE COURT: Is that the right number, Solicitor?

11 MR. BARFIELD:

12 Q. So did you have that number in your phone?

13 A. It's not in my phone now, no.

14 Q. Why isn't it in the phone now?

15 A. Because he got a new number.

16 Q. Was it in the phone at the time that Officer Hall --

17 A. It could have been. It would have had to been if
18 that's the one he saw.

19 Q. Well, when did you program a new number in there?

20 A. I'm not sure about all of that, I'm not sure about
21 that.

22 MR. GRIER: Your Honor, may I hand him his phone?

23 THE COURT: What phone is that?

24 THE WITNESS: That's my phone.

25 THE COURT: That's your phone? All right. Any

TESTIMONY OF LYNN TUCKER

1 he acted on February 6th of 2013?

2 A. That was when they were questioning him?

3 Q. Yeah, during the questioning.

4 A. Well, I wasn't there then, I can't answer that.

5 Q. Oh, when you were there?

6 A. Oh, you're talking about during the interview.

7 Q. Yes, sir. During the interview on February 6th of
8 2013.

9 A. Well, he was upset, I mean, he was upset. And quite
10 naturally he would be upset.

11 Q. Okay. Well, are you able to read David pretty good.

12 A. Yeah, and he reads me pretty good. So that's the thing
13 that I was trying to tell you, we could talk and we knew
14 what was happening all the time pretty much.

15 Q. Well, you saw him on the night of January 26th of 2013,
16 didn't you?

17 A. Yeah. When he came to bull's house?

18 Q. Yes, sir.

19 A. I surely did.

20 Q. Well, do you know how long he stayed that night? Tell
21 us what you recall.

22 A. If I'm not mistaken he came over there, and I thought
23 he had left in about 30 minutes or so but he came back in.

24 They could have been outside doing anything, whatever, and
25 then I think he stayed an hour, maybe a little bit after

TESTIMONY OF LYNN TUCKER

1 that.

2 Q. Okay. Do you recall what time he got there?

3 A. No, I can't answer that. I didn't get there until 8:00

4 or like that, so it wasn't much longer after I had done got

5 there.

6 Q. Who was keeping track of time that night?

7 A. I wasn't by a long shot.

8 Q. What were you doing that night?

9 A. Just enjoying myself playing cards, watching TV.

10 Q. Were you enjoying any adult beverages that night?

11 A. Of course.

12 Q. Now, you were saying David showed up one time.

13 A. Yeah, he did.

14 Q. Do you recall when that was?

15 A. He came over.

16 Q. Do you recall when that was?

17 A. Yeah, I remember it.

18 Q. Do you have any idea --

19 A. I didn't get drunk now so I remember everything that

20 happened, but I might not can throw a time frame in there to

21 you, you know.

22 Q. Okay. I understand that.

23 A. Okay.

24 Q. Okay. The first time he came, how long do you believe

25 he stayed that time?

TESTIMONY OF LYNN TUCKER

1 A. I'm thinking 30 minutes or so but I'm not sure when
2 they left. They might have went outside in the yard or
3 something, we was in where we play cards or stuff.

4 Q. Okay. Was David playing cards?

5 A. No, he didn't play cards.

6 Q. All right. Well, did y'all have a transaction that
7 night?

8 A. Yes, I gave him some money. He wanted to buy some
9 Pampers for his baby, yeah, I gave him some money that
10 night. And I also paid him Friday so he shouldn't have
11 been -- he needed the money but like I said, he worked
12 everyday, if he needed something I gave it to him, as simple
13 as that.

14 Q. Okay. All right. Well, on this particular day you say
15 he -- what did you say? I don't want to put words in your
16 mouth. What was he buying or needing money for?

17 A. Pampers for his baby.

18 Q. Okay. And when did that conversation come up that
19 night?

20 A. After he'd done got there and mingled awhile and then
21 he --

22 Q. The first time?

23 A. The first time, yes.

24 Q. Did you come to learn why he was leaving?

25 A. I'm not so sure he -- I'm not so sure he left, he might

TESTIMONY OF LYNN TUCKER

1 have just been outside.

2 Q. Okay. Did you ever see any Pampers show up?

3 A. No, I didn't see any Pampers show up. He wouldn't have
4 brought them back there.

5 Q. All right. Well, you were describing a second time
6 that you recall seeing him that night.

7 A. Yeah. He came back in and that's when I think he
8 stayed a hour, a little better than a hour or so. And we
9 was all eating, and we cooked every night, we cooked
10 different stuff and eat and whatever so he would have eaten
11 all of that stuff so he would have been there a little
12 while.

13 Q. Did you have a good opportunity to.-- did you talk to
14 him a good bit that night or not?

15 A. Oh yeah, I'm sure we talked. I ain't the only one he
16 would have talked to, he would have been mingling with
17 everybody else. There was probably eight or ten people
18 there and outside and in the yard and stuff, he wouldn't
19 have just right there with me the whole time.

20 Q. Was there anything peculiar about him that night?

21 A. No, I can't say it was.

22 Q. Well, what did you observe about him that night?

23 A. Regular David pretty much. I mean, it wasn't anything
24 wrong that I could tell.

25 Q. Okay.

TESTIMONY OF LYNN TUCKER

1 A. He didn't say anything was wrong.

2 Q. Okay. But you can read him?

3 A. Yeah. That's what I'm saying, I didn't think nothing
4 was wrong.

5 Q. Okay. All right. Anything else that you observed
6 about him as your recollection of that evening --

7 A. No.

8 Q. -- about David? You don't know -- do you know what
9 time he left?

10 A. No, I can't answer that.

11 Q. Do you know what he did after he left?

12 A. No, I can't answer that. I stayed there.

13 Q. Do you know what he did before he got there?

14 A. No. I know we worked earlier that day, we had worked
15 that Saturday probably half a day.

16 Q. Okay. And half a day is from what time to what time
17 for Tucker --

18 A. Well, he would have got there at 7:00, so we probably
19 worked from 12:00 to 1:00.

20 Q. Okay.

21 MR. GRIER: Thank you. Answer any questions that
22 Mr. Barfield might have for you.

23 THE WITNESS: Yes, sir.

24 THE COURT: Thank you, Mr. Grier. Solicitor?

25 CROSS EXAMINATION

TESTIMONY OF PHILLIP HALL

1 the burden of proving its case beyond a reasonable doubt.
2 With that being said we're continuing the trial and we will
3 look to Mr. Grier, and Mr. Grier, you may call your next
4 witness.

5 MR. GRIER: Thank you, Your Honor. Lieutenant Hall.

6 The witness, PHILLIP HALL, remained under oath
7 and testified as follows, on:

8 DIRECT EXAMINATION

9 BY MR. GRIER:

10 Q. Lieutenant, you are obviously a police interrogator at
11 times?

12 A. Yes, sir.

13 Q. Have you received training in that?

14 A. Yes, sir.

15 Q. And how much training have you received in that?

16 A. Basic detective school, which is two weeks long.

17 Q. Okay. Any other additional --

18 A. Just 17 years of law enforcement experience also.

19 Q. Do you receive any kind of certification --

20 THE COURT: Speak up just a little for me please,
21 Mr. Grier.

22 MR. GRIER: Yes, Your Honor.

23 Q. Do you have -- receive any kind of certification or did
24 you receive any kind of certification or police
25 interrogation techniques as a result of that?

TESTIMONY OF PHILLIP HALL

1 A. We get a certificate after completing that two week
2 class.

3 Q. Over the course of your career do you have any idea of
4 how many interrogations you have conducted?

5 A. Like I said, I have been in law enforcement for 17
6 years, probably -- I would say --

7 Q. Hundreds?

8 A. It's more than that, it's -- pretty much every time we
9 go to a call even as a patrol officer you're still
10 interviewing or interrogating somebody because you're asking
11 them questions.

12 MR. GRIER: Your Honor, I would ask that Lieutenant
13 Hall be qualified as an expert in police interrogation
14 technique.

15 MR. BARFIELD: I'm over here. Your Honor, I don't
16 really know how to respond to that. I don't know -- he's
17 been to a two week investigator school, I'm not sure if
18 Mr. Grier has some special area of interrogations that he's
19 going in to. I recognize experts in interrogation
20 techniques and --

21 THE COURT: Do what now, Solicitor?

22 MR. BARFIELD: I don't know, I don't guess I object.

23 THE COURT: All right. Then I don't guess I will have
24 to worry about how I rule then. He is then qualified as an
25 expert in police interrogation techniques based on his

TESTIMONY OF PHILLIP HALL

1 training and his experience as an officer, his training and
2 stuff like that, and he would be qualified again to give
3 opinion testimony in that area and the basis for those
4 opinions. And, of course, if he's asked about a particular
5 technique that he has no knowledge of --

6 MR. GRIER: I understand, Your Honor, I won't want ask
7 him a hypothetical, and that's the purpose.

8 THE COURT: You may continue, Mr. Grier.

9 Q. Lieutenant Hall, I committed a crime when I was a
10 juvenile and I was interrogated and I was told that my
11 codefendant had confessed to the crime, and I admitted the
12 crime and my codefendant had not been interviewed by law
13 enforcement. Was that proper permissible police
14 interrogation?

15 A. You're saying I haven't spoken to the other guy?

16 Q. Right. I was told a falsehood and I confessed as a
17 result of that. Would that be -- would -- is that permitted
18 police interrogation?

19 A. I don't believe so.

20 Q. So you don't believe that law enforcement can state a
21 falsehood to a person being interrogated for the purpose of
22 testing --

23 A. Oh, yeah, we can ask them questions that we know the
24 answer, is that what you're asking?

25 Q. Okay. Well, can I -- if I get to -- hypothetical then.

TESTIMONY OF PHILLIP HALL

1 Two people are in an automobile and they're stopped legally,
2 probable cause is found to search, the vehicle is searched,
3 the drugs are found, the defendants have been immediately
4 separated. Can I -- if I were the police officer
5 interrogating can I tell one of the suspects that the other
6 has implicated them as being the person -- as the owner of
7 the dope?

8 A. I'm trying to understand.

9 Q. You don't understand the question?

10 A. I'm trying. So you're saying if I go talk to one
11 defendant and I haven't spoken to the other, is it okay that
12 that guy said that it was his?

13 Q. Well, maybe you have spoken to him and they've said,
14 you know, "I don't know whose it is," can I tell the other
15 defendant that the other person has implied it's their dope,
16 you know, it's their dope and they've already --

17 A. Well, if he says it wasn't his then it has got to be
18 his.

19 Q. Okay. All right. Was a polygraph conducted on David?

20 A. No, sir.

21 Q. Did he agree to take one?

22 A. He did. He was asked about the polygraph on the 5th
23 and then the 6th --

24 MR. BARFIELD: Your Honor, I'm going to object. It's
25 kind of opening a door that I don't think we can carry on

TESTIMONY OF PHILLIP HALL

1 with.

2 MR. GRIER: Okay. Well, certainly I understand the
3 results of the polygraph are not admissible, but to the
4 extent that it does allow you to gauge --

5 MR. BARFIELD: Your Honor, that's exactly what I'm
6 talking about.

7 THE COURT: That is on the tape discussing the
8 polygraph, but the polygraph is not recognized in South
9 Carolina or the results of the polygraph as admissible
10 evidence before a jury in South Carolina. It has not risen
11 to that level in the standard of law as having scientific
12 results. It may be used as an investigative technique in
13 that regard by the police, but the results of the polygraph
14 even if one is taken is not admissible. You're the fact
15 finders. If we just hooked people up to a polygraph and
16 they pass or failed then we would say, "Well, that's the end
17 of it, you either committed the crime or you didn't." So
18 you, the jury, makes those decisions. Thank you, Mr. Grier.
19 You may ask your next question.

20 Q. And what date did that come up?

21 A. The polygraph -- he asked to take the polygraph on the
22 5th at the ladder part of that second statement, and we did
23 try to call our polygraph operator here in Lancaster, he was
24 unable to do it. SLED was unable to do it, and that next
25 day is when he came and gave me a written statement, a

TESTIMONY OF PHILLIP HALL

1 confession so we weren't able to set it up. And then based
2 on his confession we didn't feel the need to do it.

3 Q. Did I keep your warrant on that accessory charge or do
4 you still have it? Okay. What date was that served on?

5 A. It was served it looks like on February 6th, 20:15.

6 Q. Okay. Can I look at it? You had it on the 5th in your
7 hand on video, didn't you?

8 A. Yes, sir.

9 Q. While David was in there.

10 A. Correct.

11 Q. Did you not serve him that day on the --

12 A. Well, according to the booking report he was arrested
13 on February 5th, so again, I can't --

14 Q. It's not very legible, but the booking report indicates
15 he would have been served that day.

16 A. He was arrested on February 5th at 12:30.

17 Q. And you interrogated him about that because you
18 believed he had made a false confession, didn't you,
19 about --

20 A. Correct.

21 Q. And during that interrogation you added up all of the
22 years he might be going to prison, didn't you?

23 A. Correct.

24 Q. And didn't you tell him that it's going to stick?

25 A. If he confessed to the burglary first, armed robbery

TESTIMONY OF PHILLIP HALL

1 and possession of a firearm during the commission of a
2 violent crime that is what he would have been looking at,
3 but he wasn't charged with that.

4 Q. Okay. You weren't discussing the warrant for the
5 accessory when you told him how much time he was facing?

6 A. No. I was telling him for the actual charges for the
7 burglary first and the charges for that home invasion.

8 Q. All right. Well, you didn't tell him it was going to
9 stick, did you?

10 A. The burglary first and all of that? No, he wasn't
11 charged with that.

12 Q. You deny saying, "You're facing up to 50 years and it's
13 going to stick," during that interrogation on the accessory?

14 A. That was accessory after the fact.

15 Q. Pardon?

16 A. That was referring to the accessory after the fact
17 because we knew that he was withholding information for that
18 home invasion.

19 Q. Well, that's what I'm asking. You told him -- you did
20 tell him that it carried up to 50 years, didn't you?

21 A. No. I was referring to the burglary first, the other
22 charges.

23 Q. All right. Okay. Well, you told him whatever, he was
24 facing up to 50 years on something, correct?

25 A. For the home invasion, burglary first charge, yes, sir.

TESTIMONY OF PHILLIP HALL

1 Q. And you told him, "This charge is going to stick,"
2 didn't you?

3 A. The accessory after the fact.

4 Q. David asked you, "Am I going to get a bond?"

5 A. Correct.

6 Q. And you said, "I hope so."

7 A. Yeah. I mean, everybody is entitled to a bond or a
8 bond hearing. I can't tell him what the Judge is going to
9 do, that's not my field.

10 Q. And certainly if you can tell him what the Judge is
11 going to do something improper is going on.

12 A. Exactly.

13 Q. And I'm not accusing you, don't take that in any
14 respect. Well, he asked you on the 5th at least two times
15 about getting a bond, didn't he?

16 A. I believe so.

17 Q. Did you ever speak with anybody else about the
18 prospective of him getting a bond, any of his family members
19 or anything, any other person or to David after those two
20 video interrogations on the 5th?

21 A. I'm not exactly sure who -- I'm -- during this whole
22 time I'm dealing with the family so I can't tell you if I
23 had that conversation or not.

24 Q. All right, that's fair. But you did come to his bond
25 hearing, didn't you?

TESTIMONY OF PHILLIP HALL

1 A. For this charge.

2 Q. For the murder charge.

3 A. Yes.

4 Q. And you did say he was a good guy, didn't you?

5 A. Yeah, I did.

6 MR. BARFIELD: Your Honor, I'm going to object to that
7 because I don't think it's relevant, because from the
8 chronology it appears that is all after Mr. Stalk was
9 questioned by law enforcement. He's talking about a bond
10 hearing on the murder charge, he wasn't even charged with
11 the murder when he gave his statements concerning the
12 murder. I don't think that's relevant to Mr. Grier's line
13 of questions.

14 MR. GRIER: Your Honor, my line of question is my
15 client's state of mind about his prospects of getting a
16 bond, you know, and the resulting acts of law enforcement
17 that pertain to whether or not he may get a bond.

18 MR. BARFIELD: Could I inquire which bond hearing
19 Mr. Grier is referring to?

20 MR. GRIER: I'm talking about the murder case.

21 MR. BARFIELD: In circuit court or in magistrate court?

22 MR. GRIER: In circuit court right here in this
23 courtroom.

24 THE COURT: Step up here.

25 (A bench conference was held.)

TESTIMONY OF PHILLIP HALL

1 THE COURT: Thank you, Solicitor, thank you, Mr. Grier.

2 BY MR. GRIER:

3 Q. Did you agree to say something on his behalf to fulfill
4 an obligation that you had made to David to say something
5 positive about him for being forthcoming about his
6 statements?

7 A. Well, every time we come to a bond hearing on our cases
8 the lead investigator usually will have to stand up, the
9 Judge will ask us if we have anything -- or the solicitor
10 will ask us if we want to say our part. And again, I did
11 and Captain Grant both said in the video that if he was
12 forthcoming that we would tell the Judge that we believe his
13 testimony, his confession. He felt remorseful for what he
14 did at that particular time so I did what I said I was going
15 to do, I will speak to the Judge for you. Again, I can't
16 make a Judge say, you know, "turn him loose," it's not up to
17 me, it's up to the Judge. If I tell you I'm going to do
18 something for you I'll do the best I can to help you out.

19 Q. All right. Did you recover any clothing that is
20 evidence in this case?

21 A. Any what?

22 Q. Any clothing from David Stalk that is evidence in this
23 case.

24 A. I don't think so.

25 Q. He gave a description in the confession --

TESTIMONY OF PHILLIP HALL

1 A. Correct.

2 Q. -- but nothing was recovered --

3 A. No, sir.

4 Q. -- that collaborated --

5 A. Again, this was several -- well, about two weeks after,

6 or 12 days or so.

7 Q. Have you got a copy of the incident report?

8 A. This one? Yes.

9 Q. Yeah, on the murder case. I still don't understand --

10 explain what the 9:15 number means as far as in executing an

11 incident report. Why is 9:15 on that report?

12 A. When we get dispatched to a call --

13 THE COURT: Let me see that, please. You can keep

14 talking.

15 A. When we get dispatched to a call our dispatcher keeps

16 times -- we get received, dispatched, arrived and cleared,

17 okay. When we get on the scene, say we get the call at

18 21:40, which I believe what this time is, we know it didn't

19 happen at 21:40 because the incident had already occurred.

20 So what -- and it's pretty much officer's guess -- we know

21 the 911 call came in at 21:40, which is 9:40 p.m. so we knew

22 that whatever transpired happened before 9:40 p.m. So all

23 this is is officer's discretion, he can put he believes the

24 incident occurred between this time and this time and it

25 pretty much is broad in nature, it's no specific time. Say

TESTIMONY OF PHILLIP HALL

- 1 if you had a burglary and you left to go to work at
- 2 7:00 that morning and you didn't get home until 5:00 that
- 3 afternoon, you know that burglary happened between 7:00 and
- 4 5:00 but you wasn't at home so you don't know what time that
- 5 was, so that is what these times are for, the first two
- 6 times here on the incident report. It's a guess time.
- 7 Q. Okay. Officer's best -- who was the officer?
- 8 A. Sergeant -- Corporal Burlingame at that time.
- 9 Q. So based on what they see on the scene and they've
- 10 experienced from whatever they've done, the police work
- 11 they've done that night, that's what they estimate the time
- 12 of the shooting to be.
- 13 A. Correct.
- 14 Q. Okay.
- 15 A. Again, it's just a guess, nothing in stone.
- 16 Q. All right. Nothing, no piece of evidence that --
- 17 there's no clock there that went off at 9:15.
- 18 A. Right. Like I said, the only way we knew something
- 19 happened was the 911 call came in at 9:40, 21:40, and that's
- 20 why we know -- that's the only call we received, that's why
- 21 we knew -- whatever happened ended and had done happened by
- 22 21:40.
- 23 Q. Okay. Well, that 9:15 estimate is about 25 minutes
- 24 before the 911 call.
- 25 A. Again, that's just a guess from that officer.

TESTIMONY OF PHILLIP HALL

1 Q. Okay.

2 MR. GRIER: May I ask the witness to step to the map,
3 Your Honor?

4 THE COURT: You may step down, sir.

5 Q. Lieutenant, I think we can actually stipulate that --

6 MR. GRIER: Your Honor, if I can ask the Solicitor to
7 clarify this, is this going to be in evidence? I think we
8 need to clarify what this means. And may I ask the
9 Solicitor to clarify what this means before I proceed?

10 MR. BARFIELD: We're stipulating what that marker
11 means?

12 MR. GRIER: Yes.

13 MR. BARFIELD: Your Honor, there's a marker on State's
14 Exhibit 45 which says Street. The
15 Lancaster Fire Department prepared this for me, put the tags
16 on it and we stipulate that the Street
17 yellow marker refers to the
18 Street and is not intending to be pointing to a particular
19 residence or spot on the ground, it's just referring to a
20 block of the City of Lancaster.

21 THE COURT: Okay.

22 Q. Okay. Now, the ping took your colleagues over to the
23 block of Street, right, on the 911 call?

24 A. Received information from the sheriff's office, that's
25 where they said that phone was pinging in that general area.

TESTIMONY OF PHILLIP HALL

1 Q. Now, where is Street itself?

2 A. This is Street right here.

3 Q. Okay. All right. So Street is on the west

4 side of that block that your information says that phone

5 pinged on on the 911 call, does that make sense? Is

6 this the area?

7 A. This would be the , both

8 sides of the road is considered 100.

9 Q. Okay. So the arrow is pointing not really to the

10 block, is it?

11 A. Well, yes. For some reason the arrow is pointing to

12 the Street. Again, this is the

13 block of , where it's actually covered

14 starts -- this is Dunlap Street --

15 Q. So if we ignore that pointer, it's really more accurate.

16 A. Right. Thomas Lane and Rucker right here pretty much

17 here.

18 MR. GRIER: Can we stipulate that we can scratch out

19 the pointer on it?

20 MR. BARFIELD: That's fine.

21 MR. GRIER: I'm going to scratch it out. Is that

22 proper, Your Honor?

23 MR. BARFIELD: I have no objection to the alteration of

24 State's Exhibit 45 by deleting the pointer.

25 MR. GRIER: Your Honor, can the record reflect that I

TESTIMONY OF PHILLIP HALL

- 1 put scratch marks through the pointer?
- 2 Q. All right. Now, where is the spot that --
- 3 on February 6, 2013 you interviewed Mr. Stalk, right?
- 4 A. Yes, sir.
- 5 Q. Now, where is the spot that he said he threw the phone
- 6 down?
- 7 A. In this area right here.
- 8 Q. Okay. All right. Now, where is the spot that the
- 9 shooting took place?
- 10 A. Right here.
- 11 Q. Okay. Now, which of those --
- 12 and the spot that you pointed to is where Mr. Stalk stated
- 13 he threw the gun down, which is closer to the shooting area?
- 14 A. This area right here.
- 15 Q. Okay. So, you know, if the 911 call came on the block --
- 16 of it --, that would indicate that the
- 17 defendant had passed that creek and that spot where he said
- 18 he threw the phone down and proceeded, that would be the
- 19 inference there, wouldn't it?
- 20 A. Well, again, same as the Dispatcher Stogner advised the
- 21 other day, depending on how many towers it pinged off of
- 22 narrows it down, and I think he said it just pinged off of
- 23 one which is Stewman which is on : -- Street, which
- 24 is further than -- the satellite itself is down here, or
- 25 excuse me, the tower.

TESTIMONY OF PHILLIP HALL

1 Q. Okay.

2 A. So like I said, if it pinged off maybe two or three it
3 could generate closer and narrow that down to however so
4 many meters.

5 Q. Well, the officers responded to the block of
6 and actually talked to somebody there,
7 didn't they?

8 A. I don't know if they did or not. I know they said they
9 did, I was dealing with this.

10 Q. I've got you. Well, generally speaking, the point
11 where David Stalk says he threw that phone down is between
12 the point of the shooting and the point where the phone
13 pinged, correct?

14 A. Yes. He said he threw the phone down right here, in or
15 near the creek is what he said in his statement.

16 Q. That's all about this, and obviously we can leave this
17 right here. Lieutenant Hall, remember, I asked you about
18 details only the shooter would know about the incident on
19 the shooting on street? Do you recall me
20 asking that question previously?

21 A. Since I have been up here now?

22 Q. No, not today, previously in this trial.

23 A. I don't remember.

24 Q. Okay. You don't recall me asking that question and you
25 replying he knew about the 911 call and --

TESTIMONY OF PHILLIP HALL

1 A. Yes, sir.

2 Q. -- and that the shooting happened under the carport?

3 A. Correct.

4 Q. Those are the two things that you said that he should

5 know --

6 A. Correct.

7 Q. -- as the shooter that he wouldn't have known unless he

8 was -- most likely unless he was the shooter.

9 A. Yes, sir.

10 Q. During those interviews prior to -- on the first day

11 y'all tell him a 911 call was made, don't you? Somebody

12 does, Grant, I don't believe it's you. But Grant says --

13 A. She says a phone call --

14 THE COURT: I said you answered, you said yes.

15 MR. GRIER: Okay. All right.

16 Q. So David was told that a 911 call was made by law

17 enforcement prior to his confession.

18 A. Correct.

19 Q. Now, he also during that interrogation said that he had

20 discussed the shooting with Ketta, hadn't he?

21 A. Correct.

22 Q. So he had additional knowledge off the street?

23 A. Well, the -- and I made mention of this the other day,

24 once law enforcement got on the scene the scene was secured,

25 nobody enters that crime scene unless you're a law

TESTIMONY OF PHILLIP HALL

1 enforcement officer, SLED, coroner or any other specific
2 reason for you being there. Ketta was at the hospital, so
3 once she left she didn't know anything as far as I know
4 because she never came back to the scene because she was
5 taken to the police department for an interview. She never
6 came back to the scene and we had that house until the next
7 morning until daylight, by that time every piece of evidence
8 that was in the yard was already seized and taken into
9 evidence.

10 Q. You don't think if she was in that house and she heard
11 shots she would have been able to know where that --
12 approximately where those shots were taking place?

13 A. Well, according to her she was in the back bedroom.

14 Q. Okay. Well, her son Quinshun wasn't, was he?

15 A. He was in the living room. He's the one that said it
16 was up under the kitchen.

17 Q. Up under the carport?

18 A. Excuse me, the carport.

19 Q. I understand. Well, isn't there one more important
20 fact that the shooter would know that nobody else would know
21 and that the police wouldn't know and that only the shooter
22 would know? Isn't there one other important detail?

23 A. What is that?

24 Q. What gun was used.

25 A. Uh-huh.

TESTIMONY OF PHILLIP HALL

- 1 Q. Okay. Isn't that really the ultimate question that --
- 2 A. Well, that day that we was out there in the field
- 3 Captain Grant asked him what kind of gun it was.
- 4 MR. GRIER: Your Honor, that's not responsive to my
- 5 question and it's inviting hearsay.
- 6 THE COURT: I disagree. You asked the question about
- 7 the gun and I think he can give the answer.
- 8 A. And I was present there also when he gave it, so --
- 9 Captain Grant asked him the question, I was present when he
- 10 answered.
- 11 Q. Okay. Well, did you ask him the question during this
- 12 interrogation that's on this video?
- 13 A. No, because we already knew what kind of gun it was.
- 14 Q. I know you knew.
- 15 A. And we asked him what he did with the gun and he told
- 16 us he threw it in that particular area and he took us back
- 17 to where he said he threw it and he said it was a Hi-point
- 18 .380.
- 19 Q. Did he say that on the video?
- 20 A. We didn't have the video, we was in the field.
- 21 Q. Why wouldn't you ask him that question during an
- 22 interrogation where --
- 23 A. Because we already knew what caliber the weapon was.
- 24 Q. I'm not talking about -- I'm talking about testing his
- 25 knowledge of whether he knew.

TESTIMONY OF PHILLIP HALL

1 A. Well, he admitted to shooting him so we figured he knew
2 what caliber of handgun he had.

3 Q. Why wouldn't you want to document that in his statement
4 on video?

5 THE COURT: I think he just answered that question.
6 You can ask it again, Mr. Grier, but he answered it.

7 MR. GRIER: Okay, Your Honor. All right. Okay.

8 Q. Well, did -- let's see here. Yes or no, you did or
9 didn't ask him, you know, what type of gun was used during
10 the interrogations of David Stalk on either day,
11 February 5th or February the 6th?

12 A. Did I ask him the caliber or brand? No, sir, I did
13 not.

14 Q. Just to identify the gun that was used.

15 THE COURT: He said, "No, sir, I did not."

16 Q. All right. And you knew what type of gun had been
17 found -- well, attributed to David Stalk when he was
18 arrested, didn't you?

19 A. The .45 you're referring to?

20 Q. Right.

21 A. Yes.

22 Q. Well, if you would have asked him that question and he
23 had answered the .45, it would have wrecked a perfectly good
24 confession, wouldn't it?

25 A. We knew that wasn't the caliber that was used in the

TESTIMONY OF PHILLIP HALL

1 murder or the shooting.

2 Q. But you didn't ask him the question on the videotape or
3 the -- and it's not in his statement.

4 A. No, I did not.

5 Q. How come this is the first time I've heard about him
6 making a confession about what type gun was used -- him
7 making -- this is the -- is there anything in the police
8 report about him making a confession as to what type gun was
9 used?

10 A. No.

11 Q. How come this is the first time I'm hearing about it?

12 A. Nobody asked. You didn't ask.

13 Q. Okay. All right.. And you didn't ask either, did you?

14 A. I didn't ask him during the interrogation.

15 THE COURT: That's been covered several times whether
16 he did or didn't ask.

17 MR. GRIER: That's all.

18 THE COURT: All right. Solicitor?

19 MR. BARFIELD: Beg the Court's indulgence.

20 (Break in proceedings.)

21 CROSS EXAMINATION

22 BY MR. BARFIELD:

23 Q. Is there anything in this case, for example a video
24 surveillance itself for somewhere that's got a tag time on
25 it? Is there anything in this case that tells us precisely

TESTIMONY OF PHILLIP HALL

1 when Kevisis Anthony got shot?

2 A. No, sir, not that I know of. Unless him coming to the
3 hospital, coming in the door, that's the only thing that
4 would have any time stamp on it, other than the 911 call.

5 Q. Is there anything from Street that tells
6 us precisely when Kevisis Anthony got shot?

7 A. No, sir.

8 Q. Street video cameras on telephone poles or anything?

9 A. No, sir.

10 Q. When Mr. Stalk was being questioned on February 6th of
11 2013 --

12 A. Yes, sir.

13 Q. -- was there any discussion with him then about bond?
14 Did he ask anybody to help him with a bond when he was being
15 questioned and giving a statement concerning the homicide?

16 A. He did not.

17 Q. David Stalk told you he threw the -- well, let me back
18 up. Would you like to have found the telephone -- the
19 telephone?

20 A. I would have loved to have found the telephone.

21 Q. Would you like to have found the gun?

22 A. Yes, sir.

23 Q. Did you find either?

24 A. I did not find either.

25 Q. Did you have any information other than what Stalk gave

TESTIMONY OF PHILLIP HALL

1 you about what he had done with that?

2 A. No, sir. Other than him telling us that we had no idea
3 where either item was.

4 MR. BARFIELD: Nothing else from this witness.

5 THE COURT: Redirect, Mr. Grier?

6 MR. GRIER: No, Your Honor, no more questions.

7 THE COURT: Okay. Thank you very much, you may step
8 down. All right. Mr. Foreman, ladies and gentlemen of the
9 jury, we're going to take a ten minute recess. Look at the
10 clock and when you come back here it's going to be 20 'til
11 because I'm going to sit here during this entire recess. If
12 you would please step in your jury room, do not discuss the
13 case.

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

16 (The jury returned to the courtroom.)

17 THE COURT: All right. Mr. Grier, your next witness is
18 your client, Mr. Stalk?

19 MR. GRIER: Yes, Your Honor.

20 THE COURT: All right. Mr. Bailiff, will you please
21 swear Mr. Stalk?

22 The witness, DAVID STALK, was first duly sworn
23 and testified as follows:

24 DIRECT EXAMINATION

25 BY MR. GRIER:

TESTIMONY OF DAVID STALK

- 1 Q. Please state your name.
- 2 A. David Stalk.
- 3 Q. Mr. Stalk, how old are you?
- 4 A. Twenty-four.
- 5 Q. What kind of work do you do?
- 6 A. I work for Tucker Trucking, like mechanic work.
- 7 Q. How long have you worked there?
- 8 A. Since I was like 15 or 16.
- 9 Q. Who do you work for?
- 10 A. Lynn Tucker.
- 11 Q. Have you ever testified in a courtroom before?
- 12 A. No, sir.
- 13 Q. All right. Introduce your family out here if you
- 14 would:
- 15 A. My baby's mother Bianca Hammond. My grandfather,
- 16 Luther Stalk. My sister, Arnesa Stalk. My baby mama's
- 17 sister, Ebonita Stalk. My mother, Teresa. My other sister
- 18 Tawana. My cousin, Trina. My Aunt Michelle and her
- 19 husband, Mark Winfield.
- 20 Q. All right.. Mr. Stalk, do you know where Ketta Evans
- 21 lived?
- 22 A. Yes, sir.
- 23 Q. Where did she live?
- 24 A. .
- 25 Q. You don't remember the address?

TESTIMONY OF DAVID STALK

- 1 A. No, sir.
- 2 Q. All right. Do you know where Street is?
- 3 A. Yes, sir.
- 4 Q. How far is Saint Paul Street from 1?
- 5 A. Like three blocks I think it is.
- 6 Q. Where did you grow up at?
- 7 A. ,
- 8 Q. Is that in this general neighborhood?
- 9 A. Yes, sir.
- 10 Q. Off " ?
- 11 A. Yes, sir.
- 12 Q. Do you know the streets?
- 13 A. Yes, sir.
- 14 Q. Do you remember the details of what -- of the events of
- 15 January 26th of 2013?
- 16 A. Not really.
- 17 Q. Well, did you give a statement about the details of
- 18 that back about a year ago?
- 19 A. Yes, sir..
- 20 Q. At that time did you give a statement about what you
- 21 remembered about that night?
- 22 A. Yes, sir.
- 23 Q. And that was about almost two weeks after -- that was
- 24 on February 5th and February 6th?
- 25 A. Yes, that's correct.

TESTIMONY OF DAVID STALK

1 Q. So it was about two weeks after the 26th, or ten days?

2 A. Yes, sir.

3 Q. Okay. At that time and on that date was it important

4 to you to remember every detail of what happened on

5 January 26th?

6 A. No, not really.

7 Q. When did it become important that you remember what you

8 could about what happened that day?

9 A. When I got locked up and interrogated.

10 Q. David, did you have a phone on January 26, 2013?

11 A. Yeah. I had a phone in my possession, yes, sir.

12 Q. Pardon me?

13 A. Yes, sir.

14 Q. Was that number -- do you know the number on that

15 phone?

16 A.

17 Q. what?

18 A.

19 Q. Did you give that number to anybody?

20 A. Lynn had it.

21 Q. Why did you give him that phone number?

22 A. Because he had all of the numbers I had, every phone I

23 get I gave him my number.

24 Q. You said every phone you get. How many phones do you

25 go through?

TESTIMONY OF DAVID STALK

- 1 A. Really like I was thinking about my child and would I
2 be able to get out of jail or would I be able to see my
3 child again. They was telling me about all this time I was
4 facing, so --
- 5 Q. Did you know Kevisis?
- 6 A. No, sir.
- 7 Q. Okay. Did you feel anything about him -- did you know
8 that he was deceased?
- 9 A. Yes, sir, I had heard about it.
- 10 Q. Well, moving on to -- do you recall a Mr. Huddleston?
- 11 A. Say that again.
- 12 Q. Do you remember the name of Eric Huddleston?
- 13 A. Yeah, I seen him in the courtroom.
- 14 Q. Prior to seeing him in the courtroom, when had you seen
15 him?
- 16 A. I never seen him. I never seen him before.
- 17 Q. Are you certain of that?
- 18 A. I'm positive.
- 19 Q. Okay. How about Ms. Stover, had you ever seen her
20 before?
- 21 A. Yeah, I know Ms. Stover.
- 22 Q. Did you know anything about anybody using Mr.
23 Huddleston's phone on the night of January 26, 2013?
- 24 A. No, sir.
- 25 Q. Did you see anybody use any phones over at Ketta's on

TESTIMONY OF DAVID STALK

1 that night?

2 A. No, sir.

3 Q. Did you use the phone that night?

4 A. No, sir.

5 Q. Going back to , did you call 911?

6 A. No, sir.

7 Q. How did you find out that that -- nevermind, I'm going
8 to ask that later, get in my sequence here. All right.

9 Now, you gave a confession to an accessory of an armed
10 robbery or a burglary or something --

11 A. Yes, sir.

12 Q. -- on January 24th of 2013. That was two days prior to
13 the death of Mr. Anthony, wasn't it?

14 A. I think, yes, sir.

15 Q. And that was for an event that happened on January 22,
16 2013, correct?

17 A. That's correct.

18 Q. What possessed you to go to the police department and
19 confess to that armed robbery?

20 A. Really I was picking up someone else.

21 Q. Okay. Did you know what the consequence of that was
22 going to be? Do you know what might happen to you as a
23 result of making that confession?

24 A. Not really. I kind of did, but no, not really.

25 Q. Well, I know you didn't know, but what did you think

TESTIMONY OF DAVID STALK

1 about that?

2 A. What you mean?

3 Q. What did you think the consequence might be?

4 A. I knew they were probably going to lock me up or
5 something, but other than that I didn't really think about
6 the consequence.

7 Q. Do you recall telling anybody you were going to be
8 going away for awhile?

9 A. Not that I recall.

10 Q. Well, did you think that to be possible as a result of
11 that confession?

12 A. Yeah, more likely.

13 Q. Why would you do that, David? I cannot understand
14 that. Why would you do that?

15 A. Really, I couldn't --

16 Q. Okay. Well, did you find out that the police were
17 looking for you after January 26th of 2013?

18 A. Yes, sir.

19 Q. Okay. Why didn't you turn yourself in?

20 A. Really I was scared, you know what I'm saying?

21 Q. What did you believe the consequence of turning
22 yourself in would be?

23 A. That I wouldn't get back out, they wouldn't give me no
24 bond.

25 Q. And what charges were you thinking about when you were

TESTIMONY OF DAVID STALK

1 thinking that?

2 A. Really I can't say what the charges was. I just knew
3 they were looking for me or whatever, you know what I'm
4 saying?

5 Q. All right. Okay. You viewed the taped statements that
6 you made.

7 A. Yes, sir, I've seen it.

8 Q. Did you bring up a bond?

9 A. Yes, sir.

10 Q. How often did you bring it up?

11 A. A couple of times, like two or three times.

12 Q. Why was a bond important to you?

13 A. Because I wanted to get back out so I can be with my
14 family, take care of my daughter.

15 Q. What do you recall about the day that you were at the
16 city for a bond hearing, February 11, 2013, I believe -- no
17 excuse me, February 6th of 2013, how did you end up in
18 Phillip Hall's office?

19 A. I came back to the city for the bond on the accessory
20 and they denied my bond, and while I was in the holding cell
21 I guess he sent Officer Smalls out there to ask me did I
22 want to continue talking about the case or whatever, so I
23 told him yeah. And he brought me in his office and we
24 talked about the case.

25 Q. Okay. Do you recall whether -- who asked for Lynn

TESTIMONY OF DAVID STALK

- 1 Tucker to be present for that?
- 2 A. I don't recall.
- 3 Q. There's some reference to you talking to your baby --
- 4 A. Yeah.
- 5 Q. -- in there. What's that all about?
- 6 A. After I called I wanted to speak to my child because at
- 7 the time she was sick or whatever.
- 8 Q. Because what?
- 9 A. I said at the time she was sick.
- 10 Q. Okay. Try to speak into the mic, David.
- 11 A. Well, I called. I asked could I call my baby's mother
- 12 to see if she was all right, so --
- 13 Q. Did you get to talk to your child?
- 14 A. No, sir.
- 15 Q. Who did you get to talk to?
- 16 A. I talked to my baby mama's mother, I think. Yeah, it
- 17 was my baby's mama's mother, I think.
- 18 Q. Well, on February 5th of 2006 (sic) you were
- 19 interviewed two times that day, right? One time about the
- 20 armed robbery, the January 24, 2013 armed robbery which was
- 21 accessory, right?
- 22 A. Yes, that's correct.
- 23 Q. And also later about the death of Mr. Anthony.
- 24 A. That's correct.
- 25 Q. Why did you offer to give a polygraph?

TESTIMONY OF DAVID STALK

1 A. Because I wanted them to see I was telling the truth
2 about what I was saying.

3 MR. BARFIELD: Your Honor, my same objection I made in
4 the previous --

5 THE COURT: I would sustain that objection, that's not
6 relevant.

7 Q. Did you volunteer to give DNA that day?

8 A. Yes, sir.

9 Q. How did you know -- how did you learn about the 911
10 call on January 26th of 2013?

11 A. Well, when we were having the interview they told me,
12 the officers told me.

13 Q. All right. How did you learn of the number of shots
14 that were fired?

15 A. When I talked to Ketta she was telling me -- she told
16 me everything that -- from what she heard of from what her
17 son did.

18 Q. How did you learn about Kevisis coming to the house?

19 A. Ketta told me.

20 Q. Why did you say that you were standing on the side of
21 the house near the carport?

22 A. Basically that's the story she told me, you know what
23 I'm saying? I made a false confession and told him.

24 Q. At the time you were arrested you had a gun. What type
25 gun was that?

TESTIMONY OF DAVID STALK

- 1 A. A .45.
- 2 Q. How long had you had that gun, David?
- 3 A. For awhile.
- 4 Q. Why did you have a gun?
- 5 A. For my protection.
- 6 Q. Were you legally in possession of that gun?
- 7 A. No, sir.
- 8 Q. You were not? Were you charged with being illegally in
- 9 possession of that gun?
- 10 A. Not that I know of.
- 11 Q. Did you have any conversation with Lieutenant Hall or
- 12 any police officer about the type gun that was used in the
- 13 shooting?
- 14 A. No, sir.
- 15 Q. Were you asked on -- during any of your interrogations?
- 16 A. What, about the gun in the shooting?
- 17 Q. Yeah, about the gun that was used.
- 18 A. No, sir.
- 19 Q. Were you -- was there any conversations about the gun
- 20 that was used outside of the statements that you made on
- 21 videotape?
- 22 A. No, sir.
- 23 Q. When did you learn what type of gun was used?
- 24 A. Really I didn't know until I got my evidence pack.
- 25 Q. The discovery?

TESTIMONY OF DAVID STALK

1 A. Yeah.

2 Q. David, did you shoot Kevisis Anthony?

3 A. No, sir.

4 Q. Did you know anything about who shot Kevisis Anthony?

5 A. No, sir.

6 Q. On the night of January 26, 2013, is there anything
7 that you didn't state on the video about what you did that
8 night that you recall that you did? I don't know about that
9 question.

10 A. Say it again.

11 Q. You gave a statement about the events on January 26th
12 of 2013, right?

13 A. Yes, sir.

14 Q. Okay. You gave that statement, you gave that statement
15 in detail about what you were doing on February 5th of
16 2013 -- on February 5th of 2013?

17 A. Yes, sir.

18 Q. Okay. Were you asked about the details of what you did
19 after and before the shooting on February 6th of 2013 in
20 your February 6th interview?

21 A. Not that I recall.

22 MR. GRIER: That's all of the questions I have for you,
23 Mr. Stalk. Answer any questions that the solicitor may have
24 for you.

25 THE COURT: Thank you, Mr. Grier. Solicitor?

TESTIMONY OF DAVID STALK

1 CROSS EXAMINATION

2 BY MR. BARFIELD:

3 Q. Let's talk about your statement to Craig Greenlee on
4 January 22nd of 2013 concerning the burglary, attempted
5 armed robbery on . Is Heath Circle the street
6 that you had been living on?

7 A. Yeah, at the time it was.

8 Q. That's where Tawana lives?

9 A. Yeah.

10 Q. So back in January of 2013 you were living with Tawana
11 Stalk, your sister, at -- is it .e, is it?

12 A. That's correct.

13 Q. And this burglary occurred over there on your street;
14 is that right?

15 A. Yes, sir.

16 Q. Did you see police investigating that when it happened?
17 Did you see police cars come to some house up or down the
18 street from your house and Tawana's house when that
19 happened?

20 A. I don't recall.

21 Q. So somebody told you that something happened up or down
22 the street?

23 A. Yeah.

24 Q. Who told you something happened?

25 A. My aunt.

TESTIMONY OF DAVID STALK

1 Q. Which aunt?

2 A. Michelle.

3 Q. And between then -- between when it happened and when
4 you went to see Craig Greenlee on January 22nd of 2013 no
5 police had come to talk to you at all, had they?

6 A. No, sir.

7 Q. And to your knowledge no police had gone to talk to
8 anybody as a suspect in that case, had they?

9 A. No that I recall.

10 Q. You didn't have any buddies out there saying, "David,
11 the police are hot on my tail about this burglary, go up
12 there and tell them you did it." Nobody came to you and
13 said the police -- none of your buddies or acquaintances or
14 people you knew came to you and said, "The police are all
15 over my butt about this burglary," did they?

16 A. No, sir.

17 Q. You didn't have any knowledge that the police had any
18 idea who did that burglary, did you?

19 A. No, sir.

20 Q. You didn't have a buddy sitting at the police station
21 being interrogated by Greenlee or Hall or Scott Grant or
22 Kristen Grant or anybody about that burglary, did you? Did
23 you?

24 A. No, sir.

25 Q. There wasn't anybody locked up in the county for that

TESTIMONY OF DAVID STALK

1 burglary that you knew or had any connection to, was there?

2 A. No, sir.

3 Q. So you didn't go to see Craig Greenlee to help somebody
4 they were already looking at, did you?

5 A. Yeah.

6 Q. Who was looking at somebody? Tell me who in law
7 enforcement was looking at somebody in this case.

8 A. Sergeant Hall.

9 Q. How do you know -- well, you just told us the police
10 hadn't come talking about it to anybody. How do you know
11 Phillip Hall was looking at somebody in that case before you
12 went to see Craig Greenlee?

13 A. No, not before. But like when he finally did come and
14 talk to me he told me that he suspected someone had, you
15 know what I'm saying, he suspected I was taking up for one
16 of my friends or whatever.

17 Q. That's correct. And we saw that on the tape, didn't
18 we?

19 A. Yeah.

20 Q. So on January 24th of 2013 when you went to the police
21 department, the police department didn't know who did this,
22 did they?

23 A. No.

24 Q. They hadn't gone out questioning suspects thinking that
25 those people had done it, had they?

TESTIMONY OF DAVID STALK

1 A. No, sir.

2 Q. They didn't have anybody up at the police station that
3 you knew or were close to or had any connection with that
4 they were grilling about it, did they?

5 A. No, sir.

6 Q. And they hadn't locked anybody up in the county jail
7 for doing it, had they?

8 A. No, sir.

9 Q. So you just on your own said, "Let me go up there and
10 lie about something that happened that I'm going to say I
11 did when I didn't do it."

12 A. That's correct.

13 Q. That's correct. Who were you protecting?

14 A. Nobody really.

15 Q. Nobody really. Nobody really. You go subject yourself
16 to jail to protect nobody really. Where does nobody really
17 live? How tall is nobody really? Is he a man or a woman?
18 Who are you protecting? You're not gonna to tell us, are
19 you? Are you going to tell us who you went to the police
20 department on behalf of to give a bogus confession to a real
21 burglary, are you going to tell us that today? That's a yes
22 or no, that's real easy.

23 A. No.

24 Q. You ain't going to tell us.

25 THE COURT: You have got to answer questions. He has

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1 to answer questions when he takes the witness stand. He may
2 be a defendant but he is a witness and he must answer
3 questions that are put to him.

4 Q. Who are you protecting?

5 A. Nobody.

6 Q. And when you gave this -- do you agree with me that on
7 January 24th your statement to Craig Greenlee was bogus?

8 A. That's correct.

9 Q. That's correct. What you told him was BS; is that
10 true?

11 A. That's correct.

12 Q. And what you told him didn't match what really
13 happened, did it?

14 A. From what they said, no.

15 Q. At one point in your life, Mr. Stalk, you had a
16 cellphone which had the number , did you not?

17 A. That's correct.

18 Q. Now, isn't it true that today on this witness stand
19 today you're telling us that you gave a bogus confession to
20 a real burglary to help nobody in particular; is that true?
21 You're telling us you gave a bogus confession and the reason
22 you gave that bogus confession was to protect somebody that
23 you ain't going to tell us the identity of; is that true?

24 A. That's correct.

25 Q. And you're telling us today that you gave a bogus

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1 confession to a murder; is that correct? Is that what your
2 story is today, that I didn't do this murder and when I
3 confessed it on February 6th of 2013, all of it's a lie, is
4 that what you're telling us today?

5 A. That's correct.

6 Q. And you're telling us today that you did that so that
7 you could get a bond for being locked up on the bogus
8 confession to the real burglary.

9 A. That's correct.

10 Q. All right. So your story today to these 12 people is
11 that I sat down and slung snot out my nose and wiped tears
12 out of my eyes with my boss and best buddy beside me and
13 admitted to a murder because I thought if I would admit to a
14 murder they'll give me a bond on this bogus confession to
15 the real burglary. Is that your story today?

16 A. Yeah. I wouldn't call it I slung snot out of my nose,
17 but yeah, that's my story.

18 Q. So everything in my question other than you having snot
19 coming out your nose is the truth; is that correct?

20 A. Yes, that's correct.

21 Q. That's fine. Let's talk about some things you told --
22 I'm trying to remember, I guess it was Phillip Hall and
23 Kristen Grant and Brian Small was in there too on February
24 5th, I'm going to talk about February 5th. And I'm not
25 talking about February 5th concerning the home invasion

TESTIMONY OF DAVID STALK

1 case, I'm talking about February 5th concerning the killing.
2 I want to ask you some questions about what you told them on
3 February 5th about the killing. You told them that you
4 were -- do you know Quilla Duncan as Quilla Johnson and as
5 Crystal Duncan and Crystal Johnson all being the same
6 person?

7 A. Yes, sir.

8 Q. You know who that is?

9 A. Yeah.

10 Q. Her husband is James.

11 A. Yeah.

12 Q. You told them on 2/5 of '13, you told the police that
13 you were at Quilla's house from 8:30 or 9:00 until after
14 midnight; is that true?

15 A. Yeah, that's correct.

16 Q. And that's not true, is it?

17 A. Yeah, that's true.

18 Q. You still say you were there from 8:30 or 9:00 until
19 after midnight, didn't leave any time in between, is that
20 your story today?

21 A. Yeah, that's correct.

22 Q. Okay. Thank you. In that statement on 2/5 you told
23 him you got to Quilla's by walking, right?

24 A. Yeah.

25 Q. And when you say walking you mean walking from I guess

TESTIMONY OF DAVID STALK

- 1 Heath Circle, right?
- 2 A. That's correct.
- 3 Q. And that wasn't true either, was it?
- 4 A. No, I rode a bike.
- 5 Q. You rode a bike.
- 6 A. Yeah.
- 7 Q. So you lied to them about how you got to Quilla's
- 8 first, right?
- 9 A. That's correct.
- 10 Q. And then you admitted to them the truth was you rode a
- 11 bike; is that correct?
- 12 A. That's correct.
- 13 Q. You told them on February 5th that you and -- you say
- 14 Ketta or Ketta?
- 15 A. Ketta.
- 16 Q. Ketta. You told them on February 5th that you and
- 17 Ketta got into a disagreement because you heard she was
- 18 screwing around, right?
- 19 A. That's correct.
- 20 Q. And in the first part of that statement you said,
- 21 number 1, one of your homeboys told you she was screwing
- 22 around. That wasn't true, was it?
- 23 A. No.
- 24 Q. You later told them in that statement that one of your
- 25 sisters told you she was screwing around, right?

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1 A. Correct.

2 Q. You first told them in that statement that nobody had
3 told you who she was screwing around with; is that true?

4 A. That's correct.

5 Q. And you later told the truth in that statement after
6 telling a lie and said, yeah, it was Monkey Poo that you
7 were told she was screwing around with, right?

8 A. Correct.

9 Q. So you ain't telling them the truth up to that point on
10 February 5th, are you? You're telling them one thing which
11 ain't true and then coming back and finally telling them the
12 truth about some of this stuff, right?

13 A. Yes, sir.

14 Q. You're just kind of making it up as you go, is that
15 your plan on February 5th?

16 A. No, not really.

17 Q. You're telling it the way you want it to be and then
18 changing it to make it better for you, is that what your
19 plan was on February 5th?

20 A. No, not really.

21 Q. Okay. You told them on February 5th that you found out
22 about the killing when you went -- when you got back to
23 Tawana's house after being at Quilla's, right?

24 A. Yeah.

25 Q. And you told them that Tawana told you all about what

TESTIMONY OF DAVID STALK

- 1 happened up the street at Ketta's house, right?
- 2 A. Yes, sir.
- 3 Q. That ain't true either, is it?
- 4 A. No, sir.
- 5 Q. You were in the bled asleep when Tawana got home,
- 6 right?
- 7 A. I don't recall.
- 8 Q. So how do you recall that Tawana told you all about the
- 9 murder?
- 10 A. I wasn't sleeping.
- 11 Q. Well, you just said you don't recall whether you were
- 12 asleep or not. Were you asleep or were you not asleep?
- 13 A. I wasn't asleep.
- 14 Q. And you're maintaining today that Tawana told you when
- 15 you got to her house after midnight all about the killing up
- 16 at Ketta's house.
- 17 A. Yes, sir.
- 18 Q. That's what you say today is the truth.
- 19 A. Yeah.
- 20 Q. You also said in your statement to them on February 5th
- 21 that Tawana and her kids were there when you got there. Is
- 22 that your statement today?
- 23 A. Yeah.
- 24 Q. That's not true either, is it?
- 25 A. Yeah.

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- 1 Q. You got there before Tawana did and went to bed and
2 went to sleep, didn't you?
- 3 A. Like I said, I wasn't sleeping.
- 4 Q. Tawana wasn't there when you got there, was she?
- 5 A. No. She had left and went back to our Aunt Regina's
6 house.
- 7 Q. Well, let me back up. You were in the bed asleep when
8 Tawana got there, isn't that true?
- 9 A. That's what she said, but no, that's not true.
- 10 Q. It's not true.
- 11 A. No.
- 12 Q. She said it but it's not true.
- 13 A. No.
- 14 Q. And you said on February 5th that all of Tawana's kids
15 were at the house when you got there after being at
16 Quilla's, didn't you? You said that on February 5th, right?
- 17 A. Yeah, that's what I said.
- 18 Q. And that's not true either, is it?
- 19 A. They was but they went back. They left and went back
20 to our Aunt Regina's house.
- 21 Q. They weren't there when you got there, were they?
- 22 A. I can't remember, I don't recall.
- 23 Q. You can't recall, can you? The most important night of
24 your life and you can't recall, is that what you're telling
25 this jury?

TESTIMONY OF DAVID STALK

1 A. It has been a year ago, you know what I'm saying?

2 Q. That's fine. Thank you. You also told -- didn't you
3 tell the police on February 5th that you spent the night at
4 Tawana's by yourself, that Tawana wasn't even there? Didn't
5 you tell them that once during the February 5th interview,
6 that Tawana wasn't even there when you spent the night at
7 her house?

8 A. I don't recall that.

9 Q. February 5th they're asking you about this phone
10 number -- no, excuse me -- yeah, February 5th in the first
11 statement about the home invasion they asked you what your
12 phone number was, do you remember that?

13 A. Yeah, I remember.

14 Q. And do you remember telling them ., do you
15 remember telling them that in that first statement?

16 A. Yeah. When I see it on the video, yeah.

17 Q. And then do you remember telling them in the second
18 statement on February 5th your phone number was .??

19 A. Yeah.

20 Q. Neither one of those numbers were the right number,
21 were they?

22 A. No. Because I hadn't had the phone in so long, you
23 know what I'm saying? I'm just supposed to memorize that
24 number with a phone I don't got?

25 Q. You've had multiple phones before, haven't you?

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- 1 A. That's correct.
- 2 Q. You've had phones that you've carried around -- you've
3 carried around multiple phones at the same time, haven't
4 you?
- 5 A. No, I wouldn't say that.
- 6 Q. You were toting around a phone on February 5th and 6th
7 that didn't even work, weren't you?
- 8 A. Yeah, it worked, it just didn't have a battery in it.
- 9 Q. But you do admit the 1 was a phone number that
10 you had had in your history.
- 11 A. Yeah. At one time before, yeah.
- 12 Q. When you went to Quilla's some time on the night of
13 January 26th, did you get some money from Lynn Tucker?
- 14 A. That's correct.
- 15 Q. Is it true that some time during the early morning
16 hours of January 27th of 2013 you knew that the police had
17 been given your name and that they were interested in you
18 concerning the killing of Kevisis Anthony?
- 19 A. Say it again now.
- 20 Q. I'll break it down. You found out some time the late
21 night of Saturday, January 26th, or the early morning of
22 Sunday, January 27th, that there had been a shooting up at
23 Ketta's house, right?
- 24 A. Yeah.
- 25 Q. And, of course, it wasn't a killing at that point, was

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1 it?

2 A. No, not that I recall.

3 Q. And some time either late Saturday night or early
4 Sunday morning you knew from talking to Ketta or whomever
5 you talked to that the -- your name was being served up in
6 this shooting at Ketta's house, you knew that.

7 A. Yeah. It wasn't early that morning, it was later on
8 that day, that Sunday when I talked to her.

9 Q. Okay. Some time -- so is that when you first talked to
10 Ketta?

11 A. Yeah, that Sunday afternoon.

12 Q. And some time -- I'm sorry, go ahead.

13 A. That Sunday afternoon, that was the first time I talked
14 to her.

15 Q. So some time Sunday afternoon daylight January 27th you
16 knew from Ketta that your name was being stirred around in
17 this shooting investigation, you knew that then, right?

18 A. That's correct.

19 Q. Okay. But you had already been told by Tawana either
20 at her house -- didn't you actually talk to Tawana by
21 telephone and called her to say, "Go get my kids" when you
22 had heard there had been a shooting up at Ketta's house?

23 A. I can't remember.

24 Q. You can't remember, can you? So you can't remember
25 whether you found out about this initially -- the

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- 1 shooting -- you can't remember whether you found out about
2 the shooting at Ketta's house initially from calling Tawana
3 or from talking to Tawana in person at her house. You don't
4 know which way that happened; is that right?
- 5 A. Yes, that's correct.
- 6 Q. You don't remember.
- 7 A. No, sir.
- 8 Q. But you do agree that some time late Saturday night or
9 early Sunday morning when it's still dark you knew there had
10 been a shooting up at Ketta's house.
- 11 A. You said Saturday night?
- 12 Q. Hold on, I ain't -- when did you find out -- tell me
13 whether it was Saturday or Sunday first, pick Saturday or
14 Sunday if either one is true.
- 15 A. It was Sunday when I found out about the shooting,
16 Sunday after I talked to Ketta. Well, no, no, hold on. Say
17 that again.
- 18 Q. What day, Saturday or Sunday -- forget about daytime or
19 nighttime, I'm talking about Saturday at midnight, Sunday
20 starts at midnight.
- 21 A. Yeah. Like I said, I talked to my sister and I told
22 her --
- 23 Q. When -- was it Saturday?
- 24 A. Yeah, it was Saturday night.
- 25 Q. Hold on. Was it Saturday night or -- was it Saturday

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1 or Sunday? Forget about dark or light, daytime or
2 nighttime, was it Saturday or Sunday when you found out
3 about the shooting at Ketta's house?

4 A. It was Saturday night because that's when I told my
5 sister to get my child for me, and her and her boyfriend
6 went and picked up my child, and plus my nieces and nephews.

7 Q. So some time before midnight Saturday you knew there
8 had been a shooting at Ketta's house.

9 A. Yes, sir.

10 Q. All right. Let me go back a couple of days. How soon
11 before this Saturday had you had -- did you get Mahogany
12 from Bianca?

13 A. I think that Friday if I'm not mistaken.

14 Q. Friday. So you had your child from starting Friday.

15 A. Yeah.

16 Q. And where was your child Saturday night when you were
17 doing whatever you were doing including going over to
18 Quilla's house, who had your child Saturday night?

19 A. She was at Ketta's house.

20 Q. And after the shooting at Ketta's house some time
21 Saturday night you found out something had happened up
22 there, right?

23 A. That's correct.

24 Q. You had information in your head that somebody had been
25 shot at Ketta's house Saturday night.

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- 1 A. That's correct.
- 2 Q. And between Saturday night, January 26th of 2013, and
3 February 5th of 2013, you didn't come into contact with the
4 police, did you?
- 5 A. No. Not that I recall, no.
- 6 Q. Did you ever go to your sister, Tawana's, house during
7 that period of time?
- 8 A. Yeah, I was there. My Aunt Michelle and Tawana were in
9 that vicinity.
- 10 Q. After Sunday morning at 9:00 or 9:30 had you ever
11 been -- did you go back -- between Saturday night and when
12 you got arrested on February 5th, from 9:00 or 9:30 Sunday
13 morning until you got arrested on February 5th had you been
14 to Tawana's house when she was there?
- 15 A. I think -- yeah, I believe so.
- 16 Q. Really?
- 17 A. You said from Sunday?
- 18 Q. From when you got up -- did you get up at some point
19 and leave Tawana's house and leave Sunday morning?
- 20 A. Yes, sir.
- 21 Q. From the time you left Tawana's house Sunday morning
22 until you got picked up by the police on February 5th, did
23 you go back to Tawana's house?
- 24 A. Yeah, I had to.
- 25 Q. I'm not asking you if you had to, I'm asking you if you

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1 did.

2 A. Yeah.

3 Q. And you saw Tawana?

4 A. Yeah.

5 Q. You saw Michelle?

6 A. Yeah.

7 Q. You saw all of your other relatives?

8 A. Yeah.

9 Q. So between 1/26 or 1/27 of 2013 and February 5th of
10 2013 you were freely in and out of your relatives homes and
11 having conversations with them?

12 A. Yeah.

13 Q. And I guess none of them told you the police had been
14 coming by looking for you?

15 A. Yeah, they did.

16 Q. But you kept ducking and running and hiding, didn't
17 you?

18 A. No, I wasn't ducking. I seen them everyday but they
19 never seen me.

20 Q. They didn't see you?

21 A. No.

22 Q. You think -- well -- well, for once you know the police
23 are actually looking for you for something, why when they're
24 actually looking for you for something as opposed to this
25 burglary that you bogus confessed to when they're actually

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1 looking for you, why don't you just go on and talk to them
2 and get it all straightened out now? Can you explain that
3 to these people? Why when you knew the police were looking
4 for you didn't you go on up there and talk to them then
5 instead of making them come find you ten days later?

6 A. Because I knew they were going to lock me up.

7 Q. They were going to lock you up because you shot and
8 killed a man on January 26th on Street,
9 that's why they were going to lock you up, isn't it? And
10 you knew that.

11 A. No, that's incorrect.

12 Q. Getting arrested for murder is a little bit more
13 serious than getting arrested for lying about a burglary,
14 isn't it?

15 A. Yeah. But I wasn't -- they weren't looking for me for
16 murder because I hadn't shot nobody, or killed nobody.

17 Q. You knew from 1/26 of '13 to 2/5 of '13 that people
18 were saying that you had shot somebody at Ketta's house,
19 didn't you?

20 A. I found out probably 1/27, the next day, that Sunday.

21 Q. Sunday you knew that people were saying that David
22 Stalk shot somebody at Ketta's house, didn't you?

23 A. No. They weren't saying that, they weren't actually
24 saying I did it, they were saying I had something to do with
25 it.

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1 Q. Didn't you in your -- I think your February 5th
2 statement tell these -- Phillip Hall and Kristen Grant that
3 people were saying you shot him, don't you remember saying
4 that? You saw those tapes.

5 A. I don't recall.

6 Q. Okay. And you ran and hid for ten days between that
7 Saturday night and your arrest on 2/5 of '13, did you not?

8 A. No, I didn't run and hide. I was in the area, the
9 general area of my neighborhood everyday.

10 Q. Where was Mahogany during that ten days?

11 A. She was with my aunt.

12 Q. She wasn't with you, was she?

13 A. Yeah, she was with me.

14 Q. Where with you?

15 A. At my aunt's house, at my sister's house.

16 Q. Give me some names, I want the names now. I want you
17 to give me some names of these people that you're dealing
18 with during the ten days that the police are out there
19 looking for you. Give me the names of who you saw and
20 talked to in your family.

21 A. Michelle.

22 Q. Michelle Stalk, right?

23 A. Tawana.

24 Q. Tawana Stalk, right? Who else?

25 A. My grandmom, she was there.

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- 1 Q. Which grandmom?
- 2 A. Nancy.
- 3 Q. Nancy's last name, please.
- 4 A. Morris.
- 5 Q. Who else?
- 6 A. I seen my grandfather. I seen a couple of people.
- 7 Q. Luther. Your grandfather, Luther.
- 8 A. Yeah.
- 9 Q. Did these people let you know that the police were
- 10 looking for you?
- 11 A. Yeah. Like I said, they had already told me but I just
- 12 didn't go talk to the police.
- 13 Q. Thank you.
- 14 A. It wasn't their fault that I didn't go talk to the
- 15 police, you know what I'm saying? That was a decision I had
- 16 to make.
- 17 Q. When you confessed to the shooting you told the police,
- 18 Phillip Hall and Scott Grant at that point that number one,
- 19 you were watering black pants, a black hoodie and a black
- 20 bandanna on your face. Did you say that?
- 21 A. Yeah, that's correct.
- 22 Q. And you told the police that you were hiding out behind
- 23 the house near the carport, is that correct that you told
- 24 the police that?
- 25 A. Yeah, that's correct, what I told them.

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- 1 Q. And is it correct that you told the police that Kevisis
2 Anthony drove his car up onto the carport?
- 3 A. That's correct.
- 4 Q. And is it correct that you told the police that Kevisis
5 Anthony got out of his car and went up to the door that goes
6 from the carport into the kitchen, that you told them that?
- 7 A. I don't recall that.
- 8 Q. That's fine. Is it correct that you told the police
9 that you came out from where you were and said, "You know
10 what time it is, dog?"
- 11 A. Yeah, that's correct.
- 12 Q. When I say to you -- when you admit to me that you told
13 the police, "I said you know what time it is dog," what does
14 that mean? Tell these people what that means.
- 15 A. What you mean?
- 16 Q. What does the phrase or the sentence, "You know what
17 time it is dog," mean? What's that mean?
- 18 A. I don't know.
- 19 Q. You don't know?
- 20 A. No.
- 21 Q. Then why did you chose those words when you confessed
22 to this murder? What do those words mean you? You picked
23 them.
- 24 A. It was just something I came up with.
- 25 Q. Well, explain how you came up with that, what does that

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1 mean?

2 A. I just told you I don't know what it mean.

3 Q. How did you arrive at those words?

4 A. It just popped in my head.

5 Q. Have you ever heard anybody else use those words

6 before?

7 A. No.

8 Q. So when you told the police that's what you said to

9 Kevisis Anthony, did you want -- did you expect the police

10 to have any idea what Kevisis Anthony might have thought

11 about that? That wasn't a good question, forget that

12 question. So those words to you had no meaning.

13 A. No.

14 Q. When you told that to the police those words had no

15 meaning.

16 A. No.

17 Q. They just popped into your head.

18 A. Yeah.

19 Q. You never heard anybody use that phrase before.

20 A. Yeah. I heard people use it like you know what time

21 like it was on a clock or something, but other than that.

22 Q. If somebody came up -- let me ask you this: You're

23 going into Ketta's kitchen door from the carport and a guy

24 walks around the corner of the carport dressed in black

25 pants, a black hoodie and a black bandanna with a pistol in

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1 his hand and he asked you, David Stalk, or he says to you,
2 "David Stalk, you know what time it is, dog?" What do you
3 think that means?

4 A. I don't know what it means.

5 Q. Thank you. All right. You told the police that -- and
6 again, I'm asking what you told the police -- you told the
7 police that when you said that to Kevisis Anthony he started
8 backing up; is that true?

9 A. That's correct.

10 Q. And you told the police -- I think you told the police,
11 it's on the tape, if I'm wrong I'm wrong -- but I think you
12 told the police you told Kevisis Anthony not to run. Do you
13 remember telling the police that?

14 A. I don't recall.

15 Q. Okay. Do you remember telling the police that Kevisis
16 Anthony did turn around and run? Do you remember telling
17 the police that?

18 A. I don't recall that either, you know what I'm saying?

19 Q. Okay. Do you remember telling the police that you shot
20 at Kevisis Anthony hoping to hit him in the leg and put him
21 on the ground? Do you remember telling the police that?

22 A. Yes. If it's on the tape, yeah.

23 Q. And do you remember telling the police that you shot
24 some more and he did fall on the ground?

25 A. Yeah.

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1 Q. And do you remember telling the police that you took
2 off running after that happened?

3 A. Yeah.

4 Q. Do you remember telling the police that you ran to the
5 lot that has the creek running through it?

6 A. Correct.

7 Q. Do you remember telling the police that when you got to
8 that lot you jumped the creek?

9 A. Correct.

10 Q. Do you remember telling the police that after you
11 jumped the creek you called 911 on your cellphone, which was
12 577-3281?

13 A. Correct.

14 Q. Do you remember telling the police after you called 911
15 you threw the cellphone?

16 A. Yeah.

17 Q. Do you remember telling the police that it might be in
18 the creek or it might not be in the creek, but you threw it
19 back after you'd crossed the creek?

20 A. Yeah.

21 Q. Do you remember telling the police that you continued
22 to run on up through the lot toward the wooded area and you
23 threw the gun while you were running?

24 A. That's correct.

25 Q. It didn't work, did it, your confession to this murder,

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1 it didn't get you a bond, did it?

2 A. No, sir.

3 MR. BARFIELD: Thank you, that's all.

4 THE COURT: Redirect, Mr. Grier?

5 REDIRECT EXAMINATION

6 BY MR. GRIER:

7 Q. David, did you ask to see Lieutenant Hall again on
8 February 11th?

9 A. That's correct.

10 MR. BARFIELD: Objection. I don't think it's proper
11 redirect.

12 THE COURT: I'm very liberal with Rule 611.

13 MR. BARFIELD: Thank you, that's fine.

14 THE COURT: So I will allow it.

15 MR. GRIER: It's in evidence, Your Honor.

16 THE COURT: Yes, sir.

17 Q. Will you examine Defendants Exhibit 3?

18 A. I'm familiar with it.

19 Q. Okay. Have you read it before?

20 A. Yes, sir.

21 Q. Is that consistent with what happened that day?

22 A. Yes, sir.

23 MR. GRIER: That's all of the questions I have.

24 THE COURT: Recross, Solicitor?

25 RECROSS EXAMINATION

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1 BY MR. BARFIELD:

2 Q. You told Phillip Hall on February 11th of 2013 that you
3 lied on February 6th of 2013 because you still hadn't gotten
4 a bond; isn't that right.

5 A. Yeah. I told him the confession I gave, that it was a
6 false confession because I thought he wasn't granting me a
7 bond, which he stated he would talk to a Judge and
8 indicating I would get bond or whatever.

9 Q. It's kind of like -- you tell me if this is the
10 scenario -- you confessed on 2/6 of '13 thinking that some
11 time after 2/6 everybody was going to say, "You're an okay
12 guy, we're going to give you a bond and you're going to go
13 home to your daughter." That's what you wanted to happen
14 after your confession on 2/6, right?

15 A. Say that again now.

16 Q. I will. February 6th you confessed to a murder
17 according to you.

18 A. Yeah.

19 Q. Because you thought they were going to let you out; is
20 that true?

21 A. I thought they were going to grant me a bond, I didn't
22 say they were going to let me out. I knew they weren't
23 going to let me out.

24 Q. You thought you were going to get a bond so you
25 confessed to a murder because you thought you weren't going

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1 to get a bond on a case that didn't have anything to do with
2 the murder, true? Let me break it down again for you. On
3 2/5 and on 2/6 of '13 when you were first questioned -- no.
4 On 2/5 and on 2/6 of '13 you were in custody of the
5 Lancaster Police Department, right?

6 A. That's correct.

7 Q. And had been between 2/5 and 2/6 had done to the
8 detention center to spend your nights out there, right?

9 A. That's correct.

10 Q. And you were arrested and in jail on 2/5 and on 2/6 for
11 the warrant relating to your bogus confession to the real
12 burglary; is that true?

13 A. That's correct.

14 Q. On 2/5 and on 2/6 of 2013 you had not been arrested and
15 charged in the murder of Kevisis Anthony, had you?

16 A. No, sir.

17 Q. You had had no warrants served on you related to
18 Kevisis Anthony shooting -- of course, his shooting as of
19 2/5 and 2/6 you had not been charged in the shooting, had
20 you?

21 A. No, that I recall.

22 Q. So when you confessed on 2/6 of '13 to shooting Kevisis
23 Anthony you did that to get a bond relating to the charge
24 for your bogus confession to the real burglary; is that
25 true?

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1 A. To the accessory?

2 Q. Let me break it down one more time.

3 A. To the accessory, that's what I'm saying.

4 Q. To the accessory, I'm sorry, I didn't hear you. And
5 you didn't get a bond -- you didn't get out as a result
6 being arrested for either case between then and 2/11 of '13,
7 right?

8 A. No.

9 Q. So then you called Phillip Hall back in and I guess you
10 think he has reneged on his part of the deal, right?

11 A. Basically.

12 Q. He reneged, he didn't do what he said he was going to
13 do, is that your position?

14 A. Yeah.

15 Q. And since he didn't do what he said he was going to do
16 you said, "Well, I take back my confession and I'm not gonna
17 do what I told you I was going to do," and y'all were kind
18 of even then, right?

19 A. Because I knew that the confession was false, right.

20 MR. BARFIELD: Thank you, that's all.

21 THE COURT: Thank you. Mr. Foreman and ladies and
22 gentlemen of the jury, if you would step momentarily to the
23 jury room and let me get a feel of where we're at, please,
24 I'll say ten minutes, let me check on lunch and all. Step
25 to your jury room, do not discuss the case.

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1 by the attorneys. As you know the presentation will be
2 Mr. Grier first on behalf of his client, Mr. Stalk, followed
3 by the Solicitor on behalf of the State. If you need a
4 break between closing arguments just raise your hand, if you
5 need a break after the closing arguments and before my
6 instructions just please let me know. I will advise all the
7 spectators, I do not allow moving in and out of the
8 courtroom while an attorney is addressing the jury. If
9 after Mr. Grier's argument and before the Solicitor's you
10 want to leave when there's that little bit of transition you
11 may certainly do so. I also do not allow movement in and
12 out of the courtroom when I'm instructing the jury panel, so
13 if you want to leave between the end of the Solicitor's
14 closing and my instructions to the jury you may certainly do
15 so. Please -- and I know you will as you have done
16 throughout the trial of the case, give the attorneys your
17 complete and undivided attention. Thank you very much. Mr.
18 Grier?

19 MR. GRIER: May it please the Court, Mr. Barfield?
20 Ladies and gentlemen of the jury, it has been a long week, I
21 know you are tired, nobody has attempted to draw this thing
22 out but we have been working when you're in the jury room,
23 I'll assure you of that. Thank you for your patience, I can
24 tell everybody has been attentive. You have listened to a
25 lot of evidence, you have watched a lot of video, and, of

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1 course, you'll have a chance to do that again if you want
2 to, and you will have a chance to look at all of this stuff
3 that will be in the jury room. And you can -- like I said,
4 you can watch the videos in the jury room as well, those are
5 in evidence. I'm not going to argue every little nuance in
6 this case and I'm not going to take forever, but I do want
7 to make certain points that I believe you should consider
8 when you're deliberating because this is an important matter
9 and a very serious matter for the State and for the Anthony
10 family, and most certainly for my client, and I'm his
11 advocate and I would ask you to consider certain things when
12 you're deliberating today. In my opening arguments I talked
13 about the prior proceedings and all of those, how we got
14 here today and those being under a review in the light most
15 favorable to the State and merely the suspicion of guilt
16 being enough to get you in this courtroom and charged, those
17 have been all of the determinations that have been made
18 prior to us being in this courtroom today for this case.
19 Today it's a different matter. When you are considering
20 evidence today when you have any uncertainty you will be
21 instructed, the Judge will give you the law, what we call
22 the jury charges here, if you hear us talking about jury
23 charges we're talking about the Judge giving you the law.
24 And I believe he will tell you that today when you have any
25 uncertainty about any matter of fact, any material matter of

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1 fact if there is uncertainty about that then you must decide
2 that issue in the light most favorable to the defendant.
3 Our constitution was designed by the founders who had had
4 experience in the systems where justice was not favorable to
5 the individual. It was, you know, the King's justice and
6 the individuals had few protections and something novel was
7 created when our constitution was written, and in that vain
8 the individual was given a constitutional right to a trial
9 and to have an attorney to represent them, have the
10 opportunity to have an attorney represent them. And the
11 system as it is set up allows the State to have open
12 argument -- opening arguments and to present all evidence
13 before the defense has any chance to respond. The Judge
14 asked you not to deliberate prior to hearing all of the
15 evidence, and so that opportunity is quickly coming upon
16 you, and I know it's Friday afternoon but I know you will be
17 deliberate. And the reason that you are asked not to
18 deliberate again is because the State gets to present all of
19 their evidence before the defense gets any opportunity to
20 tell anything as far as their side of the story and to
21 present any evidence to you. And the State gets final
22 argument and you hear a lot of prejudicial stuff and you see
23 a lot of prejudicial stuff at the onset of that trial before
24 you get to consider the defense position. One of the things
25 that I think illustrates the prejudice -- and I should maybe

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1 prejudice it in the term -- the disadvantage that the
2 defendant has and the reason that the State has the burden
3 of proof is I think illustrated by the difficulty that
4 Kevisis Anthony's mother had when she was examined. If that
5 doesn't rip your heart out and claim your passions about
6 getting closure for her, well, nothing does. But I would
7 submit that her testimony was heart-wrenching but it had no
8 real evidentiary value in the case. Any person in her
9 situation is going to have difficulty dealing with that and
10 that goes without being said. Notwithstanding that, today
11 the burden of proof lies with the State. Now, if the
12 Anthony family were suing David Stalk today for money due to
13 their loss, or if anyone suing anyone due to their economic
14 loss or for other types of damages at all we would be in
15 civil court today. It's not -- criminal defendants are
16 subject to civil liability as well, they can be sued for the
17 damages that they inflict, and if we were in a civil matter
18 the burden of proof would be the preponderance of the
19 evidence. In other words the party suing has to prove their
20 economic loss to the satisfaction of the jury by a
21 preponderance of the evidence. And that's often illustrated
22 by you've seen the lady of justice, blind justice, the
23 scales of justice, and in a civil case what is at stake is
24 money, and in a civil case a preponderance of the evidence
25 means that the person seeking those damages would have to

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1 merely tip the scales in their favor. In other words,
2 anything over 50 percent, the slightest bit of evidence in
3 their favor over 50 percent means that the party that's
4 seeking money is supposed to recover that money and receive
5 a judgment against the party they're suing, that's where the
6 money is at stake. When your freedom is at stake there's a
7 whole different standard that jurors have to consider. The
8 burden of proof is different for the State in a criminal
9 trial than it would be for what we call the plaintiff in a
10 civil trial, and I believe the Judge will allude to this as
11 well, but that burden of proof is proof beyond a reasonable
12 doubt. Now, merely tipping the scales -- there's a vast
13 difference between merely tipping the scales and proof
14 beyond a reasonable doubt, and I want to talk about that a
15 little bit, because -- and I think the Judge will explain
16 what you are to consider as far as the State's burden of
17 proof and he will instruct you and I have already mentioned
18 it but I'm going to mention it again, proof beyond a
19 reasonable doubt is the kind of doubt that would cause a
20 reasonable person to hesitate to act. So the State's
21 evidence must be so powerful that upon contemplation of that
22 evidence you don't hesitate to find Mr. Stalk guilty, you
23 must do it without hesitating. And further I believe the
24 Judge will instruct you that if you are firmly convinced,
25 upon consideration of all of the evidence you are firmly

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1 convinced of the guilt of Mr. Stalk you must convict.
2 However, if you find that there is the real possibility of
3 innocence, in other words a real reason that you hesitate,
4 the real possibility of innocence then the State hasn't met
5 their burden of proof. And I mentioned that the State is on
6 trial today to see whether they've presented enough evidence
7 that convinces you of proof beyond a reasonable doubt. One
8 of the biggest head-scratchers in this case, and I believe
9 most likely it would be for anybody that's heard this case,
10 is how did someone make a false confession? You know,
11 you've heard evidence about -- in fact, it's uncontested
12 that Mr. Stalk made a false confession to a January 22, 2013
13 what's variously been described as a robbery, a burglary and
14 a home invasion, I believe. In fact, he was charged as an
15 accessory in that case. Well, the police did not -- the law
16 enforcement officers did not believe it and they, in fact,
17 charged him with accessory as opposed to those charges. So
18 it's apparent that Mr. Stalk is capable of making a false
19 confession. I believe that the common -- I think the
20 average person's common sense tells them that people do not
21 make false confessions and so it's perplexing how someone
22 would confess to a crime that they didn't commit. Well,
23 everybody doesn't live in David Stalk's neighborhood and
24 everybody doesn't have the same pressures of -- and the same
25 environment that Mr. Stalk does. And I would submit to you

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1 that at the bottom of that mystery is an environmental
2 factor that we're not going to get to the bottom of today
3 most certainly, but what it does demonstrate to you is that
4 people are capable of confessing to crimes that they didn't
5 commit. In fact, what we know about Mr. Stalk and that
6 confession is that he expected to go to prison for that, and
7 it's just perplexing and I think it's a struggle to wrap
8 your head around. Now, how do you make -- how would he
9 in-turn make another confession were he not guilty? How
10 in-turn would he say that he did something that he didn't
11 do? Well, I think, you know, you have got to put this into
12 the context and trying to understand the mind of David
13 Stalk. You've got to understand, number one, he believes
14 he's going to prison already at the time that this incident
15 happened, and, in fact, has told his family as much, and
16 that he's been told, or at least on the day before this --
17 the -- on February the 5th -- excuse me, on February --
18 excuse me, on February the 5th when he makes -- when there's
19 that interview -- the very first one out of the four
20 statements that are in evidence and I think you've got paper
21 copies to look at, you've got videos to look at. And the
22 very first one of those on April -- excuse me, on
23 February 5th he's asking about a bond. He expects he's
24 going to prison, and so he's told, "You're facing up to 50
25 years, you're going to get 50 years and it's going to

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1 stick." Well, what does someone who is facing 50 years in
2 prison think that their options are at that point? Well,
3 I'll tell you what they think, or what I believe they think,
4 they think that "I need to have my freedom before I go to
5 prison and I need a bond so that I can do that and I can
6 spend time with my family and my friends and with my
7 daughter." I think that's exactly what you're thinking if
8 you're getting ready to go to prison for 50 years and it's
9 going to stick and you believe that's what your destiny is.
10 What else could you think? I'm 23 or 24, however old he was
11 at this time when he was charged and you're facing the
12 prospect of being 70 when you get out of prison? Your youth
13 is gone, everything is gone. Well, I think you think, "Hey
14 I need some opportunity to spend time with family before I
15 go to jail for a long time," and so a bond and getting out
16 of jail for some time before you go to prison becomes
17 paramount to your reasoning. So the second interview on
18 February 6th he's asked -- well, first of all when they're
19 looking for David Stalk, and, you know, they're not looking
20 for him on this accessory, you know, I think the State
21 attempted to make it look like, "We wanted to get him about
22 this accessory charge," well, they've already said they
23 don't believe it. They wanted to get their hands on David
24 Stalk so they can question him about this January 26, 2013
25 murder case. So the whole pretext of bringing him in and

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1 questioning him about this accessory and all of that, that
2 is the way that you -- is the first ingredient in your
3 recipe that ultimately ends up in a false confession on a
4 murder charge. Because first of all, you scare the
5 daylights out of him by telling him he's going to prison for
6 50 years and it's going to stick, and then shortly after
7 that you start another interview about the events of
8 January 26th. And you saw it and you can see it again if
9 you want to, but in that interview Mr. Stalk denies any
10 culpability and any responsibility for the death of Kevisis
11 Anthony. But there's some things he can't deny. He
12 knows -- rather it's uncontested that he had been at Ketta's
13 house that day earlier, what happened and when he left is
14 all in dispute and unclear. But I would submit to you the
15 second -- the first interview where he denied any
16 culpability was as close as David Stalk could remember 11,
17 12 days, whatever, after he had been at Ketta's and
18 something terrible happened after he left and he's trying to
19 reconstruct what happened, there are going to be
20 inconsistencies about it when you try to look back and
21 reconstruct the day that you had no reason to believe was
22 going to be this important to your freedom. Now, what
23 suggests that that statement was between all of the
24 statements, the two statements that were made, the
25 February 5, 2013 statement and the February 6, 2013

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1 statement, what out of all of that suggests that the one he
2 made on February 5th, the first one, was as truthful as he
3 believed he could recollect? I tell you what does is they
4 asked him if he would to take a polygraph and he said, "Yes,
5 I'll take a polygraph." Well, why does a person agree to
6 take a polygraph, you know, if they believe the polygraph is
7 going to be -- is going to implicate them rather than
8 vindicate them? It doesn't make sense for someone to
9 volunteer to take a polygraph unless they think it's going
10 to help them. But did they administer a polygraph? No,
11 they didn't administer a polygraph. You heard on -- you
12 heard -- or if you didn't I heard on the 5th, both of those
13 statements on the 5th, the one about the home invasion and
14 the one about this murder case, Mr. Stalk is asking if he is
15 going to get a bond. Well, the first time he asked it, he
16 says, "Am I going to get a bond?" What does Phillip Hall
17 say? "I hope so." Okay. Then the second time he asked,
18 which is in the second time about the murder case before
19 anything is asked about the murder, Mr. Stalk says, "Am I
20 going to be able to get out?" And they, you know, there's
21 not a response to that other than we're going to take you in
22 front of a Judge and, you know, if you cooperate we are
23 going to tell him you're a good guy and we're going to say
24 good stuff about you. There's no promise you're going to
25 get a bond but we're going to help you if you cooperate.

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1 Mr. Stalk is meanwhile thinking, "I'm going to prison for 50
2 years and I need -- I want to get out and see my baby and
3 spend time with my family while this is going on," don't
4 forget that context. Well, he's got to cooperate, he's got
5 to tell them what they've got to hear for him to cooperate.
6 To raise his prospects of getting a bond they've got to hear
7 what they want to hear. Now, something else to tell you
8 that tells you what's on his mind, you got to hear Mr.
9 Stalk, he gets emotional during all of that, during this
10 confession, you know, as he's thinking about his baby and
11 about his family. Now, can he tell the story how they want
12 to hear it? Yeah, he can tell that story the way they want
13 to hear it if he gets some help. I asked Lieutenant Hall
14 about what facts would only the shooter in this case know,
15 what were those, "Well, made a 911 call and threw the gun
16 and the phone in the ditch." Well, where did he learn that
17 those were facts in this case that they wanted to hear? He
18 heard it from them, that's the first time he heard anything
19 about a 911 call. They asked him, "Did you make the 911
20 call on the night of January 26, 2013?" They're feeding him
21 what he wants to hear -- what they want to hear. What does
22 he tell him when he asks how many shots were fired? He
23 tells them there were three shots fired, you know, and there
24 were six shots fired, he can't get the number of shots
25 right. Do you believe that, that he's going to not get the

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1 number of shots right? I don't think so. But where does he
2 get the three shots from? Well, we know where he got it
3 from, he got that from Ketta. He talked to Ketta after the
4 shooting. So does he have more information about that --
5 about this murder that is what the police want to hear?
6 Yeah. He's got more information about this murder without
7 him being present that they want to hear so he can get a
8 bond. Where does he get it from? He gets it from the
9 streets, he gets it from Ketta, and Ketta would know because
10 Ketta was in the house and heard what went down, and so did
11 he talk to Ketta? He got his information from Ketta, she
12 said there were three shots. And does he know where the
13 shots were fired from? Well, it's not hard to look at the
14 layout of this home and of -- you've got a sketch, you've
15 got pictures, you've got all of that stuff to look at. And,
16 in fact, Ketta knew that this happened in the carport and
17 the only place to hide would be right around the house by
18 that side door. So does David get that information on the
19 streets? It's not hard to imagine that he most certainly
20 could have, most certainly he probably did get a lot of
21 information about what happened because people were talking
22 about it, people in his neighborhood, the neighborhood he's
23 familiar with are talking about that. Now, something that's
24 really interesting about this case and I ask you to
25 contemplate it, is -- I don't know if I'm going to be able

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1 to move this map without dropping it but you'll have it in
2 the jury room. But I think, you know, the red roof was
3 Ketta's house, right? Now, and
4 Street -- now, that's the location -- there's a little creek
5 in there that you could see when you look at this thing
6 closely, that's where David says he threw the gun in the --
7 the gun and the phone is right there. Now, if David threw
8 the gun and the phone in the ditch right here, right here,
9 that's a big lot, it stretches all the way across there.
10 Well, what's the trajectory of someone moving to the point
11 where the phone pinged to which is the block of 100 North
12 Ferguson Street? Well, approximately right in the middle of
13 those two things. So what is a mystery to me is that if
14 David threw the gun and the phone in the creek on
15 Street, how is the gun pinging over here? And actually this
16 is the area that they isolated as the ping. If the gun is
17 in the creek, how does it get over here on --
18 Street? Well, it doesn't because David -- what David said
19 was not true, about where that gun and where that phone were
20 at, but it's what they want to hear. They went and looked,
21 they believed it and that's what they wanted to hear is
22 consistent with getting a bond. It's cooperating, doesn't
23 add up but it's cooperating. Now, the one question --
24 you've got the videos, you've got the statements. I asked
25 Lieutenant Hall what would the shooter know that only the

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1 shooter would know that the police know? And the answer to
2 that question was the 911 call, and I just got confused
3 about that. There were two things that he responded to
4 that, but neither of these things were what type of gun was
5 it. What would be the most conclusive thing for law
6 enforcement to know especially for somebody that's already
7 made a false confession and you were fishing him out, what
8 would be the thing that you would want to ask them to --
9 what would be a detail that only the shooter would know that
10 they know that wouldn't be on the streets probably? That
11 would be what type of gun was used. Now, that question was
12 never asked during the interrogation on the videos. That
13 question was never asked, and why wasn't it asked? You
14 know, out of the blue I think Hall saw where I was headed
15 with that and suddenly something that I had never heard of
16 until today is, "David told us when we were out there
17 looking in the creek what kind of gun it was." Well,
18 Lieutenant Hall knows that David -- the gun that was found
19 on David Stalk was a .45, and he knows that the gun that was
20 used in the robbery was a .380, and so David Stalk is
21 telling him everything that he wants to hear. He's
22 cooperating, he's telling them -- it's going along good,
23 he's coming clean, "We're going to be able to stand up and
24 swear in front of a Judge that you were cooperating." Why
25 wouldn't you ask what type of gun was used? Well, I'll tell

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1 you the answer to that question, and the reason is because
2 in that videotape that you're going to get to listen to or
3 if any of those statements that you're going to get to read,
4 if David Stalk said a .45 it wrecks this perfectly good
5 confession. He got it on tape but if the answer to that
6 question is a .45, well, we've got a second false
7 confession, we've got another false confession from a man
8 who has already made one false confession. So the one
9 detail that could have tested for you to actually see with
10 your own eyeballs and determine whether it was said or not,
11 well, the question wasn't asked because the likelihood was
12 it was going to be a .45. The 911 call. You've got it, I
13 mean, you've got it in evidence, you can listen to it all
14 you want to. And I submit to you when you listen to it,
15 you've got to listen to a lot of David Stalk, you got to
16 hear him right there in that jury box, you got to listen to
17 him on I don't even know, three and a half hours of tape, I
18 don't believe that that 911 call sounds like David Stalk but
19 that's going to be for you to decide, and I would suggest
20 that maybe the real possibility is that maybe it wasn't
21 David Stalk. Well, you heard Lynn Tucker. He got a new
22 phone, he got the new phone prior to January 26th of 2013,
23 and David Stalk -- I mean, Lynn Tucker had it in his phone.
24 David Stalk told you on the tape that he -- he told you what
25 happened to that phone, it messed up I think he said a month

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1 to a month and a half, he didn't have the date but it messed
2 up. And where did it mess up? At Ketta's house. And he
3 tried to fix it and after, you know, seeing the -- and I
4 know nothing about this, maybe y'all do but I don't, some
5 kind of way of recognizing whether it's going to work or
6 not. He throws it away. Now, did that phone continue to
7 work? Well, apparently so because that's the number law
8 enforcement says was used on the night of January 26th of
9 2013, called 911. Who made that call? Well, you had
10 another young man, I guess. Quinshun testified in front of
11 you in this trial and he told you some things about this
12 case that are consistent with what David said, that his mom
13 and David were arguing prior to David leaving. Now, I think
14 he got his time and all messed up likely, because I don't
15 know what your experience is but playing video games is like
16 going into another dimension and keeping track of time
17 becomes very difficult, or maybe he just wasn't telling the
18 truth about what he testified to. Because it's really
19 possible that he was the person that had the -- the
20 number that called 911 -- got too many numbers in my head,
21 I'm not going to attempt to -- but the number that called
22 911. It's most certainly really possible that Quinshun was
23 the person in possession of that, or if not Quinshun he had
24 friends over there that day hanging around and he had people
25 hanging around, and we don't know whether there were other

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1 people there that he -- that came after David left that he
2 is trying to protect. Most certainly there is the real
3 possibility that there are. Because when the scrutiny comes
4 down on a serious matter people are scrambling to protect
5 themselves, and I believe that that is the real possibility
6 of what Quinshun was doing that night, and the real
7 possibility that Quinshun ended up with that telephone after
8 David threw it away at his house and that he got it to work.
9 Now, what about Mr. Huddleston? Mr. Huddleston came in this
10 courtroom, pointed to David Stalk and said he was there when
11 he brought the phone over to Ketta's house. Now, he says he
12 was there for two or three minutes. A white man identifying
13 a black man. Who do we know that was on the couch playing
14 video games and hanging out? Well, the only person that
15 we -- through his own testimony that we know was there was
16 Quinshun, and he mentions -- Huddleston says -- mentions one
17 young black male there, it's the only thing he mentions
18 about the parties, about who was there. He says that some
19 kids, young kids came and asked him to come over, but it's a
20 real possibility that David Huddleston -- he wants this case
21 solved too because he participated in it, he feels like he's
22 part of the team and it's really easy to misidentify people
23 and confuse people and jump to conclusions about who you saw
24 and what you saw, and I believe that's what happened. What
25 else about that 911 call is peculiar? Well, David Stalk has

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1 lived in this neighborhood I guess his whole life. I think
2 it's pretty safe to guess that he knows his way around that
3 neighborhood pretty good, he knows the roads in that, and we
4 know Pleasant Hill Street ain't even on this map. I'm not
5 sure where it is at and how far it is, but Saint Paul Street
6 and Pleasant Hill Street are two -- physically two different
7 locations and the caller says, "Got a man shot on
8 Street." I don't believe that David Stalk, a man who
9 lives in this neighborhood, makes the mistake between
10 Street and Street, it doesn't make
11 sense that he would. Now, somebody that kind of knew that
12 neighborhood, they might get confused and not know where
13 they are at and, you know, would -- it would suggest that
14 whoever called didn't know where the shooting really
15 happened. Now, David Stalk has been described as a good
16 father. The mom, a solid class woman, works at Black and
17 Decker, trusts David with her child, he visits on the
18 weekend and spends a lot of time with his child. Now, David
19 Stalk's nieces and nephews -- David Stalk has got four young
20 kids including his daughter and his family, I believe it's
21 four, at least three but I believe it's four, he has got
22 four of his family in that house that night. Does it make
23 sense that David Stalk would commit a robbery in the house
24 where his daughter, who he spends basically every weekend
25 with and obviously loves, does it make sense that David

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1 Stalk would commit a robbery on the premises where his
2 daughter is just a few feet away? It doesn't make sense, it
3 does not make sense. Something else doesn't make sense.
4 Lynn Tucker describes David as solid. Lynn Tucker is a
5 class guy. Now, you know, Hall or Grant, I don't know, one
6 of the interrogators says, "Lynn Tucker ain't going to lie
7 for you," and Lynn Tucker ain't going to lie for you. So I
8 think you can take it on pretty good evidence that David is
9 dependable and trustworthy because this is the words that he
10 used, and that he cared for his daughter deeply. Now, Lynn
11 Tucker also told you something that goes to motive in this
12 case. If you're committing a robbery you're probably doing
13 it for money and because you are desperate for money. But
14 David Stalk worked, had everything he needed, he worked all
15 the time, had the trucks running in the morning when he got
16 there for Lynn and everybody, had everything ready to go
17 before anybody else got to work, that's the kind of guy
18 David Stalk was. Now, David Stalk didn't need money. Now,
19 there's -- when you look at the circumstances around the
20 Evans home it's pretty apparent that there was no affluence
21 there, they were barely scratching by and that they needed
22 money, or could use it and certainly had a motive to get it.
23 Another thing Lynn Tucker wouldn't lie about is to say David
24 Stalk was at Quilla's from the -- Lynn Tucker wasn't going
25 to lie and he's not going to make up an alibi for David

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1 Stalk, even though he loves him like a father to son or a
2 brother or however you describe that relationship, you can
3 tell there is true affection there between those two people,
4 but is Lynn Tucker going to lie for David Stalk and set him
5 up for an alibi? No, he ain't going to do that. But what
6 did Lynn Tucker testify to about a couple of things about
7 that night they were at Quilla's? Lynn Tucker said he got
8 to Quilla's around 8:00, he said that he -- that David Stalk
9 got there 30 to 45 minutes after he got there. Well, if
10 David got to Quilla's within 30 to 45 minutes of Lynn Tucker
11 getting to Quilla's, that put David at Quilla's at the
12 earliest at 8:45, but that puts him there at least an hour
13 before this shooting happened. Now, did he stay there for
14 three hours? Did he go in and go out and stay in the yard?
15 Did he leave and go get Pampers? You know, those houses,
16 you know, Quilla's house is over here, a few blocks over
17 here beyond the courthouse I believe is the testimony, so
18 west of us here, street is east of us, and I
19 don't know, I think Mr. Barfield asked someone, maybe Mr.
20 Johnson how far those two locations were and it was at least
21 a mile away. So if David Stalk was at Quilla's house within
22 45 minutes of Lynn Tucker -- and let's say Lynn Tucker was
23 wrong, let's say Lynn Tucker just was mistaken about when he
24 got there, he didn't get there until 9:00, well, that puts
25 David Stalk at Quilla's house basically while that shooting

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1 was going on if we go an hour off of Lynn Tucker's
2 testimony, give another hour for error on his part. What's
3 remarkable about what Lynn Tucker and what James Johnson or
4 Crystal Johnson say is that David Stalk appeared normal.
5 They didn't notice anything untoward or any excitement, they
6 didn't notice anything about David Stalk that was different.
7 Do you really believe that someone who shoots someone, get
8 across town and act normally to the closest friend without
9 them being able to see that something was wrong? I don't
10 think that common sense tells you that that make any sense.
11 I think your common sense tells you that, it doesn't make
12 sense that someone make a desperate 911 call, and I say
13 desperate, I don't know, frantic, however you want to
14 describe it, and then is over here socializing and hanging
15 out and carrying on a normal routine. I just don't think he
16 would pull it off, and David Stalk didn't pull it off
17 because he didn't do it. He was his normal self because he
18 didn't know about this shooting at that point, and nobody in
19 that home learned about that shooting that night, nobody
20 learned about that shooting that night. Now, let's assume
21 David Stalk did it, got over there and is acting normal.
22 Well, if he's the shooter do you really believe he didn't
23 say, "Man, there was a shooting over at Ketta's and la la
24 la," with his closest confidants? It's implausible, it
25 doesn't make sense, and it tells you that David Stalk didn't

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1 know about that shooting until later that night either. I
2 ask you to do one thing, you have no -- you don't owe
3 anybody in this courtroom anything except to follow the
4 instructions of the Judge and to perform your duty according
5 to those instructions, but as you sort your way through this
6 case with each material piece of evidence that you are
7 deliberating about, I ask you to -- and I know you will be
8 thorough, but I ask you to apply the test for each material
9 fact. Is it really possible that David Stalk may not be
10 guilty? For each material fact ask yourself if there's not
11 a real possibility of innocence, and that's the test you
12 need to apply to each material fact and apply it to the
13 whole context of the whole case. Is it really possible that
14 David Stalk is innocent? Now, I'm about to shut-up here.
15 Might David Stalk be guilty? Well, obviously might be,
16 might be. They've got probable cause, they arrested him,
17 reasonable suspicion clearly established, he had been there
18 earlier in the day, it's clear. Probably is. Is David
19 Stalk probably guilty of this crime? Well, I submit to you
20 that the weight of the evidence is that he probably isn't
21 guilty. But you may -- you know, you're going to decide for
22 yourself, and if you find that he probably is guilty, well,
23 that's the test for a civil case, that's a test, more likely
24 than not, just weighing those things out. Probably -- it's
25 really the same thing, is he probably guilty? But neither

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1 of those tests reach the burden of proof that the State must
2 attain to prove the guilt of David Stalk. And so the real
3 question for you to ask today in weighing all of the
4 evidence and each of you deliberating yourself as an
5 individual and not adopting what somebody else believes
6 simply because you want to get this case over with or simply
7 because you are just going to follow somebody else, each of
8 you individually must reach your own conclusions and
9 certainly you're going to consider the weight of what
10 everybody else has to say -- and that's what deliberating is
11 all about, sharing and sorting through this stuff -- but
12 when you do that I believe that you're going to see that the
13 reality possibly -- real possibility exists that David Stalk
14 might be innocent, the real possibility. Not a whimsical
15 possibility, not a -- anything is possible, but for every
16 material fact in this case there's a real possibility of
17 David Stalk's innocence, and I think that I'm going to
18 repeat one more time, that he probably is innocent. Thank
19 you for your attention and baring with me, and when you put
20 your head on your pillow tonight if you followed the Judge's
21 instructions you've fulfilled your duty. It's a tough job,
22 but if you fulfilled your duty and your conscience then
23 nobody can argue with your verdict because you've done your
24 job and you've done it as you were asked to do and what the
25 constitution requires, and I believe after you've done that

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1 you'll find that David Stalk is not guilty, and I ask you to
2 return that verdict. Thank you.

3 THE COURT: Thank you, Mr. Grier. Solicitor?

4 MR. BARFIELD: Court please, Mr. Grier, ladies and
5 gentlemen? When we all walked in here Monday morning the
6 mission was the truth and it has been the truth all week
7 long, and it's going to be the truth until this case is over
8 with this week and everybody goes home. The mission is to
9 find the truth in the matter between the State of South
10 Carolina and David Stalk. Probably everybody who has been
11 in here in this courtroom at any time this week and has
12 heard any part of the evidence and testimony presented forms
13 some opinion about what's true and what's not true, but I'll
14 tell you right now that it doesn't matter. The only opinion
15 that -- the only opinions about the truth in this case that
16 makes any difference at this point is the collective opinion
17 of the 12 of you when you go back there in the jury room
18 after awhile. You've got to decide what the truth is, and
19 that's heavy stuff and it's hard stuff. You've got the
20 hardest job of anybody involved in this case and that is not
21 lost on any of us. Facts and law. The truth applies to the
22 facts, the Judge is going to tell you the law after awhile.
23 I'm here to tell you that the law is certainly important in
24 this case, but the law is not, I submit, really disputed in
25 this case based on what we know the facts to be. This is

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1 whether he did it or not, let's face it, it's whether David
2 Stalk did it. There's not much question about what happened
3 to Kevisis Anthony, the question is who did it. I tell you,
4 though, that what happened to Kevisis Anthony is exactly the
5 charges that have been brought against David Stalk, namely
6 murder, the killing part is murder, it's murder or it's
7 nothing. There's no lesser-included offense that the Judge
8 is going to ask you to consider. He's going to tell you
9 what murder is, I'm going to talk about it briefly for just
10 a second. The other charge is attempted armed robbery. It
11 should be clear to you that the attempt was to rob Kevisis
12 Anthony of money or dope or whatever it was that he was
13 believed to have had in his possession. And then the third
14 charge is possession of a firearm during the commission of a
15 violent crime. And it should be clear to you that Kevisis
16 Anthony died as a result of being shot in the back of the
17 head with a firearm, a .380 caliber semiautomatic pistol.
18 And I will tell you that the Judge will tell you that both
19 murder and attempted armed robbery are violent crimes, so if
20 you commit those two crimes with a handgun you're guilty of
21 the third offense, possession of a firearm during the
22 commission of a violent crime. With all that said, again,
23 there's not really a whole lot of dispute about whether the
24 facts of this case constitute the crimes, it's whether David
25 Stalk did it. I'm going to talk very briefly about murder.

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1 Unlawful killing of another person with malice aforethought
2 either expressed or inferred, that's what murder is. What
3 is malice? The Judge is going to give you a bunch of legal
4 terms telling you what malice is, but it's hatred, ill-will,
5 complete reckless disregard for the safety of others. I
6 think he's probably going to tell you that malice can be
7 inferred when you use a deadly weapon to commit the crime.
8 Look at the facts of this case and I'll tell you that
9 there's malice all over the facts of this case as I believe
10 we have proved to you they occur. Where's the malice in the
11 case? Well, the malice is that -- and again, I'm saying
12 that David Stalk did it. From the start of this case to the
13 end of this case the State says David Stalk did it and I'm
14 going to try to convince you of that in a minute, I will
15 highlight some things to convince you of that in a minute.
16 But this is what happened. Ketta Evans and David Stalk, one
17 couple; Ketta Evans, Kevisis Anthony another couple --
18 Kevisis Anthony, another couple. To what degree the
19 relationships or the strength of relationships, don't know,
20 it doesn't matter. David and Ketta, they're talking about
21 money, commiserating about money. Ketta says, "I know
22 somebody that's got money," David says, "Call him." We'll
23 talk about this in more detail in a little bit. But we know
24 that Kevisis Anthony heads to Lancaster to Ketta Evans'
25 house where David Stalk dressed in all black including

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1 having his face covered, hides around the corner from the
2 carport lying in wait for Kevisis Anthony intending to
3 commit a violent felony, a violent crime against him when he
4 gets there, the robbery. And Kevisis Anthony gets there,
5 the robbery is announced, "You know what time it is, Dog."
6 That's wild. He makes up those words in this confession and
7 doesn't attribute any meaning to them meaning. He knows
8 exactly what that means. "You know what time it is, Dog,"
9 meaning you're getting robbed right now. And then instead
10 of letting Kevisis Anthony take on off and just giving it
11 up, giving up the robbery attempt, he starts cracking off
12 shots at him as he runs away and shoots him in the back of
13 the head. There's malice, that makes it murder. That's all
14 I'm going to say about charges at this time. The idea is --
15 the defense's idea is David Stalk confessed to a murder to
16 get a bond on an accessory after the fact of a burglary in
17 an attempted armed robbery case. Now, let's -- best tool
18 you've got in your pocket or in your pocketbook or with you
19 today is your common sense, and keep your common sense about
20 you as you think about this case and y'all go back there and
21 talk about it. And as I talk and as y'all deliberate
22 remember what you saw, the videos; remember what you're
23 going to read, the statements; remember how that young man
24 appeared when he's talking to the police at various times.
25 But I'm telling you, he's not concerned about this warrant

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1 that Phillip Hall has gotten for his bogus confession to the
2 legitimate burglary that he went up to the police department
3 on 1/24 and told them all about, David Stalk ain't worried
4 about that. When David Stalk is in custody on 2/5 of '13
5 they talk to him about that. Yeah, they wanted to clear up
6 the little incidental matter. Let's talk about that a
7 little bit. Before they get into him about what they want
8 to talk to him about, which he knows is what they really
9 want to talk to him about which is the murder of Kevisis
10 Anthony, David Stalk isn't worried about this warrant that
11 Phillip Hall got for him for the bogus confession to the
12 home invasion on Heath Circle. And for him to think that he
13 can convince you that he confessed to a murder because all
14 of the sudden by confessing to the murder they think that
15 he's such a nice guy they're going to give him a bond on
16 this nickel and dime thing they first wanted him to talk
17 about, it doesn't make any sense, it doesn't make any sense.
18 And for him to think that they were going to give him a bond
19 at that point after he had been denied bond and was
20 confessing to a murder doesn't make sense either. And it's
21 interesting that although there was talk about bond when
22 they interviewed him on February 5th when he's still in his
23 street clothes, there wasn't any talk about bond when they
24 interviewed him on February 6th, he wasn't worried about
25 bond then because that's not why he was talking to them

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1 then. He was talking to them then because he was telling
2 the truth about a terrible act he had committed which we'll
3 talk about again shortly. They knew that this confession to
4 the home invasion on was bogus from the get-go
5 because none of the details matched, and there's a story
6 behind that that we'll never know. We didn't learn it today
7 when David Stalk was sitting up there, whatever that story
8 is remains untold. Why he goes to the police department on
9 January 24th when he's not being sought, when he has no
10 knowledge that the police have a name associated with the
11 burglary, when he doesn't have any buddy up in
12 jail that he's trying to go confess for to get sprung from
13 jail and he takes his place, it doesn't make any sense at
14 all. But there is some story behind that that he didn't
15 tell us, he didn't tell them on February 5th and he didn't
16 tell you when he got on that witness stand and agreed to
17 talk on January 17th. Now, is that a man, is that a man
18 that you can believe when I'm talking about David Stalk
19 sitting on that witness stand? Is there anything about what
20 he says that you can believe? We don't know about the story
21 behind the confession to the home invasion, but it's a much
22 different scenario than the confession behind the murder.
23 Think of all of the false things that you've -- you've heard
24 David Stalk for hours now, for two hours, three and a half
25 hours on videotape, plus I submit 26 seconds on a 911 call,

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1 plus whatever time he was on the witness stand today, you've
2 heard the man talking for hours now in one form or another
3 this week. And think of all of the things that he has said
4 that we know aren't true. Think about the February 5th
5 interview again when he's in street clothes and when he's
6 denying doing the murder, think about what he said that
7 wasn't true, and I'm going to talk more about alibi later.
8 But he says I'm at Quilla Duncan's or Quilla Johnson's from
9 8:30 or 9:00 until after midnight, he said that on
10 February 5th, he said that on January 17th. If you know
11 anything in this case is the truth you know that isn't the
12 truth. He wasn't there that whole time. I'm going to give
13 you this, he was at Quilla's some time that Saturday night
14 after he did this I submit, he was there but he wasn't there
15 when this killing happened. He says at Quilla's they cooked
16 a hog, he said that a couple of times. Nobody cooked a hog
17 at Quilla's that day. Cooking a hog is an all day thing.
18 They went to a birthday party. They were all gone earlier
19 in the day and gathered back up at the house later, nobody
20 cooked a hog over there. Might not be significant to you
21 but he's not telling you the truth. Told them, "I walked to
22 Quilla's." We they that's not true, he changed that later
23 and said, "No, I rode a bicycle to Quilla's." He's not
24 telling them the truth. He told you he and Ketta Evans had
25 a disagreement because she was screwing around. He lied --

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1 well, he told the police that, he told y'all through the
2 video, he lied about that. He said, "My homeboy told me she
3 was screwing around." Well, I don't know why it made any
4 difference whether he admitted his homeboy was telling him
5 that or his sister was telling it but he lied to the police
6 and then he changed it and said, "No, my sister told me
7 that." And they said, "Well, who was she screwing around
8 with? Nobody gave me a name." And then he lied about that
9 and then he changed up and said, "It was Money Poo," he
10 decided he would give a name. He's not being truthful. He
11 lied in the statement about how he found out about the
12 murder. On February 5th he says he got home to -- he says
13 that night after being at Quilla's after midnight he goes
14 back to Tawana's, his sister's house on Heath Circle. He
15 lied about a lot of things about that, but he says Tawana
16 told him that night about the shooting up there at Ketta's
17 house at 715 Saint Paul. That's not the way it happened.
18 He said he got there, Tawana was there, the kids were there
19 and you know now that's not true, it wasn't true then, it's
20 not true now. Tawana went back to her house some time that
21 night and she got kids from Ketta's and she took the kids
22 over to Regina's and the kids stayed at Regina's all night
23 long because Tawana told you they stayed there, including
24 Mahogany, his daughter, they stayed there until Sunday the
25 next day after dinner, that's when she went back and got the

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1 kids. David says he gets there that night, the kids are
2 there and Tawana is there. None of them are there when he
3 gets there that night because Tawana says, "I come in and
4 David is asleep in my bed." And she told you David got up
5 some time before she got up the next morning, 9:00 or 9:30
6 and he was gone. She never talked to him at the house I
7 submit the evidence shows you, he lied about that. What
8 else did he not tell you the truth about when he was talking
9 to the police? February 5th part one about the home
10 invasion. "What's your phone number? 1." You know,
11 this phone is pretty important. He's fixin' to confess to a
12 killing but maybe he doesn't want them to have all of the
13 tools they need to turn the screws on him so he's going to
14 fudge a little bit about his phone number. He gives them
15 the wrong number on the home invasion question, then in the
16 second part of that interview about the homicide he is
17 getting closer. "What's your number? " He
18 finally admits my number was, is, was, however y'all want to
19 take it, , and he told you that today. There is no
20 dispute from his own mouth that he had at some point a
21 cellphone with the number on it. Now, how unlucky
22 can you be to confess to a homicide that just happened to
23 have a 911 call associated with your phone number? How
24 unlucky can you be to do that? Lynn Tucker knew -- that
25 number rang bells with Lynn Tucker, that is a number

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1 associated with David Stalk. Just because he had another
2 number doesn't mean he didn't still have that phone.
3 Cellphones are like contact lenses, you take them out and
4 throw them in the trash almost. How many phones did he have
5 or have access to or tote around? How many people have you
6 seen carrying multiple phones around? The phone he had when
7 he got arrested didn't work but yet he still carried it
8 around. Let's talk about alibi. Alibi means -- I've got to
9 prove he did not have an alibi. He doesn't have to prove
10 anything, I've got to prove he doesn't have an alibi, and I
11 submit that the State has proven that he does not have an
12 alibi. An alibi means "I didn't do the crime, I couldn't
13 have done the crime because I wasn't there when the crime
14 got committed. Let's think about the alibi. Couple of
15 things are kind of -- three alibi witnesses; James Johnson,
16 Lynn Tucker and Quilla Johnson. What's consistent about the
17 evidence of alibi? They all three saw David Stalk at
18 Quilla's house twice that Saturday night, that's pretty
19 significant because it's consistent. What did James Johnson
20 say? First of all let's talk about James Johnson.
21 Credibility is one of the tools you use to decide whether
22 you believe what you hear on the witness stand. The Judge
23 is going to tell you about that, but, you know, whatever
24 your common sense and reason tells you you ought to think
25 about somebody's credibility you go with it. But one of the

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1 things you think about when you're determining credibility
2 of the witness is what the connection between the witness
3 and the accused is, how are they connected? Does the
4 witness have some reason not to tell the truth? And there's
5 another thing about witnesses, people don't always say the
6 same thing. That doesn't mean two witnesses who say
7 something different, one is lying and the other one tells
8 the truth, everybody perceives things differently from a
9 different vantage point sometimes under different personal
10 physiological circumstances sometimes. James Johnson
11 says -- of course, he's a friend of David Stalk and a
12 coworker of David Stalk and also an employee, as David Stalk
13 is, of Lynn Tucker, so he has a connection, they're
14 connected. James Johnson says Stalk was there twice, first
15 time for ten or 15 minutes, the second time for 20 or 30
16 minutes. Johnson says -- James Johnson says he certainly
17 was not there continuously from 8:30 or 9:00 until after
18 midnight. James Johnson also says -- said that Stalk was
19 there after 9:00 p.m. some time after 9:00 p.m. He couldn't
20 put a time on it. After 9:00 p.m. it was after 9:00 p.m. and
21 James Johnson was drinking Crown Royal. Does that affect
22 your ability to recall events, to note times, to document
23 things? Was there interest of James Johnson in kind of
24 taking notes like we all do while these proceedings are
25 going on so we could keep up with stuff? It didn't make any

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1 difference to him what time things were going on, and he
2 doesn't know what time thing were going on. Lynn Tucker --
3 and again, I'm not accusing James Johnson of not being
4 truthful, I'm simply saying he doesn't know. Lynn Tucker.
5 We're going to talk more about Tucker and Stalk in a little
6 bit, but you should know by now that from a male to male
7 standpoint Lynn Tucker is the closest friend that David
8 Stalk has on the face of this earth, that should be obvious
9 to you now. From looking at those tapes, from looking at
10 Lynn Tucker on the witness stand having to get up there and
11 testify in this case, they are as close father/son maybe,
12 mentor/adviser as two people could be. Lynn Tucker. David
13 Stalk was there twice, the first time for 30 minutes or so,
14 and during that first time he saw Stalk, he gave Stalk money
15 for diapers. Remember that. Second time he saw Stalk,
16 Stalk was there for an hour or more. He was also drinking.
17 He also told you freely, "I wasn't watching a watch, I don't
18 know what time any of this happened. I have no idea what
19 time I saw David Stalk over at Quilla Jones'" (sic), Quilla
20 Johnson's, whatever her name is. He doesn't know, he
21 doesn't care, he didn't care, they weren't there to keep
22 time. They were there to play cards and drink and watch
23 ballgames and just relax in the man room. What about Quilla
24 or Crystal, whichever way you want to call it? She also saw
25 David there twice that night. Twice. The first time David

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1 Stalk talks to Lynn Tucker and she observes this -- or has
2 knowledge of this change of money from Tucker to Stalk for
3 Pampers or whatever it is. So Stalk is getting money from
4 Lynn Tucker the first time he's there, the first time he's
5 there, and the second time he comes back and she says
6 there's a sister or some female with him. What's important?
7 Two things are important about Quilla's testimony. She had
8 been at the birthday party, she gets home between 10:00 and
9 11:00, there was no doubt at all in her testimony that she
10 got home between 10:00 and 11:00 p.m. and if she saw him
11 there twice, she saw him there the two times that James
12 Johnson and Lynn Tucker did, and she saw him there after
13 10:00, and she's the only one that you didn't hear anything
14 about drinking while all of that was going on. She's the
15 one that you can believe about times and alibi, and Quilla
16 Johnson puts him there after 10:00, which is well after the
17 shooting happened and which is well reachable geographically
18 from one place to the other within that time frame. What is
19 the geography of this? The Johnsons live right over yonder,
20 he says, "You can see the courthouse from my house." I
21 don't know where it is but it's right over yonder. The
22 , Street, North Ferguson is right
23 over yonder on the other side of the courthouse within just
24 a few blocks from one point to the other. And I submit to
25 you from some time before 9:40 when the shooting happened

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1 until some time after 10:00 that young man can be all over
2 this town, on foot, on a bicycle, in a car, crawling on his
3 hands and knees, he could get from one point to the other
4 easily within that time frame. He hasn't got an alibi. He
5 hasn't got an alibi. What else is significant about the
6 hole being over at Quilla Johnson's house? He formed -- he
7 told you, he told you on the screen, on the Jumbotron he
8 told you, "I was going to rob Kevisis Anthony. I planned to
9 rob him. I planned to rob him. I planned to rob him." And
10 it didn't work out so good which means he didn't get any
11 money or any dope to convert the money or whatever else he
12 might would have done. So after this terrible thing had
13 gone so terribly wrong he's still got empty pockets, and the
14 next place we know he is is over yonder with his boss. He
15 might have a job but he didn't have money in his pocket
16 before he sees Lynn Tucker at Quilla's house because he's
17 getting money for Lynn Tucker. The robbery didn't work, he
18 is still needing money, he's over yonder getting money from
19 Lynn Tucker. What happens? From January 26th of 2013 which
20 I think is ten days, he's off the radar. He's here, he's a
21 Lancaster guy, that's his neighborhood over there, he's got
22 family all over the place and he disappears. He wants to
23 get on the witness stand today and tell you he's walking up
24 and down the street carrying his baby with him and nobody
25 wants to pick him up and talk to him. He's hiding. We

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1 don't know where he went but he sure ain't walking the
2 streets out there inviting the police to make contact with
3 him. He is ducking and dodging for ten days. How do we
4 know that? He told you today that night, that Saturday
5 night he knew his name was in this thing. The police knew
6 he was a suspect within minutes or an hour or so probably of
7 when they discovered they actually had a shooting. He goes
8 to Tawana's and gets in her -- goes in her house and is
9 found by her asleep in her own bed at 1:00 in the morning,
10 and again no conversation with her based on how she
11 described things happened that night. She gets home, he's
12 in bed asleep, she didn't tell you anything about waking him
13 up and them talking about all of this. She sleeps in her
14 chair, she gets up at 9:00 or 9:30 the next morning, he's
15 vanished, he's gone. What else is significant about this?
16 Well, his child, he's got his child. I'm not suggesting at
17 all that he doesn't love his child, but he's got his child
18 since Thursday or Friday -- mama said Thursday or Friday, he
19 said probably Friday. Who's going to take care of this
20 child while he's on the run and a suspect in a murder case?
21 Not him. The child next turns up in the mother's hands on
22 February 5th when Tawana Stalk turns the child back over to
23 Bianca at Tawana's house. He's not on the radar for ten
24 days. Lynn Tucker. The police are going back and forth to
25 Lynn Tucker, his boss. He's such a good worker. Well, he

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1 apparently is not showing up for work from 1/26 of 2013 to
2 2/5 of 2013. Lynn Tucker is talked to by Phillip Hall, Lynn
3 told you that and I think Phillip told you that. He's gone.
4 Why do you run? Because you messed up, because you're in
5 trouble, because the police know it and because they're
6 looking for you. And they finally found him at Minnie
7 Stalk's house, his grandmother or something, not where he
8 lives but in somebody else's house when they got information
9 he was over there. How do the facts match up? I'm going to
10 tell you what David Stalk told you, I'm going to talk about
11 what David Stalk told you in these interviews and let's see
12 how it matches up with the truth with what really occurred.
13 He says Kevisis Anthony pulled up in the carport.. It makes
14 a difference where Kevisis Anthony was as you'll see in a
15 minute.. So Kevisis Anthony pulls up in the carport, and I'm
16 not going to pull the pictures out, y'all look at them
17 later, we can spend another two hours going through all
18 these pictures, I'm not going to do it out here. Pulls up
19 in the carport, gets out of the car, goes to the side door,
20 the door from the carport into the kitchen. Stalk says,
21 "I'm standing on the side of the house by the carport."
22 You'll see the pictures, been a couple of days since you've
23 seen the pictures. But you're looking from the front, the
24 door is here, there's a roll cart for your trash there, the
25 back end -- maybe the front end, but the nose end part of

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1 the carport where the front of the car would be if you
2 pulled all of the way in, and then the back yard. He's
3 standing around the corner of the house. Kevisis Anthony
4 goes to the door, he comes from around the house with his
5 pistol, he says, "You know what time it is, dog," which
6 again baffles me that he would make up those words for the
7 police and not have any meaning assigned to it. "You know
8 what time it is, dog," that means you're robbed, that's what
9 time it is. Kevisis Anthony backs up and then turns and
10 runs, which means he is back to David Stalk, and he is
11 running away, which means David Stalk is back here at the
12 back of the carport and here is the car, he's back here
13 behind the car and Kevisis Anthony is running away and the
14 car is between them. Now, this is what David Stalk is
15 telling the police which I submit matches up to all of the
16 evidence in this case. We got shots that struck the car, at
17 least two I submit struck the car. There was one
18 projectile, a bullet jacket fragment lying where the hood
19 and the windshield come together which had struck something
20 and bounced off and was just sitting there, you'll see a
21 picture of it, you've seen a picture of it. There was a
22 bullet hole in the top of the windshield close to the
23 driver's side, I think. There was a bullet hole in a
24 speaker in the back deck of the car in which a piece of
25 bullet was found. There is a bullet skip, a groove across

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1 the roof of that car from front to back. That is all
2 consistent with him doing exactly what he told the police he
3 did, shooting at Kevisis Anthony with the car in between
4 them as Kevisis Anthony is running away from them. He
5 couldn't have made that story up, Ketta Evans couldn't have
6 made that story up or fed him enough information for him to
7 make that story up. She's got a guy shot in the head in her
8 yard, you think she's walking around out there looking where
9 everything is and making her crime scene notes before she
10 takes Kevisis Anthony to the hospital so she can get her
11 crime scene file to David Stalk so before he goes to the
12 police and falsely confesses to the this murder he'll have
13 his ducks in a row? And he sure didn't go back over there
14 and look and see where cartridge cases were and blood pools
15 were and damage to the hood was on the car before he gave
16 his confession. He's telling you what he did and it's
17 accurate because he did it and it's true. He couldn't have
18 said, "I shot Kevisis with the .45 because he knew he
19 didn't, number one, and number two he knew he slung .380
20 cartridge cases all over the back of that carport, wouldn't
21 have expected him to tell the police he did it with a .45.
22 Number of shots. Let me talk about Quinshun Evans for just
23 a minute. It has been suggested to you -- I don't beat
24 around the bush, they want -- he wants you to think that
25 Quinshun Evans shot and killed Kevisis Anthony and Quinshun

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1 Evans called 911 and Quinshun Evans is the man that ought to
2 be sitting at that table right now. You saw Quinshun Evans,
3 you heard a little bit about Quinshun Evans, about him,
4 about his circumstances. I can't remember how old he said
5 he is, he's a senior in high school, his mama is Ketta. He
6 has got, I think, eight brothers and sisters, I think he
7 said he's the oldest. You form your own impression about
8 that young man. What else did he tell you? Well, what else
9 do you know without him telling you? That young man got
10 stuck in a horrific set of circumstances that night because
11 of non-sense that his mama and David Stalk set up. He's
12 sitting there with all of his little brothers and sisters
13 doing the right thing in a house that ain't got beds and
14 much else for people to live in, and his mama and David
15 Stalk get all this mess started and he ends up having to
16 help clean up the mess by getting Kevisis Anthony in off of
17 the sidewalk and helping his mama get him to and inside the
18 hospital. And how do you know that this is troubling to
19 him? Mr. Grier asked him, "Have you talked to your mama
20 about this?" I mean, it should be obvious, his mama is in
21 hot water over this, I guess that's obvious, "Have you
22 talked to your mama about this? No, I haven't, I try not to
23 think about it." He comes in here in a shirt and a tie, I
24 mean, shirt and a tie doesn't mean you're telling the truth,
25 but I submit to you that's a young man of all the people in

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1 this courtroom, even the police, that's a young man you can
2 believe and he told you exactly what he knows about this.
3 And he didn't shoot anybody. I submit to you that's just
4 smoke, and the State contends that is something you ought to
5 just put out of your mind quickly. Number of shots. Six
6 shots. Well, the argument is the fact that David Stalk says
7 there were three shots when we know there were six means
8 he's falsely confessing. Well, that also means that
9 Quinshun Evans lied and Ketta Evans lied if she said three,
10 and also Sylvia Stover lied if she said three. Everybody
11 said three. We know there are six. What does that mean?
12 It means everybody, not just David Stalk, everybody got it
13 wrong. Now, if you're at the range taking your concealed
14 weapons class or something you might be counting shots. But
15 number one, if you're shooting and you're kind of surprised
16 and the guy that you're trying to rob is kind of surprised
17 and things aren't going the way they're supposed to be going
18 and he turns and runs and he panics and you panic and you
19 start cracking off rounds I don't think you're going to be
20 counting. And if you're two blocks around the corner on one
21 side and you're hearing some shots from inside your house or
22 wherever, you probably aren't going to hear them accurately
23 either, and if you're somewhere else in the neighborhood and
24 you hear shots you probably aren't going to be counting them
25 accurately either, but if he's not guilty because he says

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1 three shots then everybody else is wrong, too. They just
2 misheard shots. In the excitement of the moment nobody is
3 counting shots right. We know that there were six shots
4 because there were six fired cartridge cases, all
5 .380 caliber that Jamie Green from SLED said all got shot by
6 the same gun. There are either three shots that somebody
7 shot that he shot when Kevisis Anthony got killed, and three
8 that somebody shot some other time from the same spot, or
9 they were all shot that night, and I submit the most logical
10 conclusion is that all six were shot that night. I've got
11 to hurry up. No, I don't. There's nothing that needs to be
12 hurried in this case. What else did David Stalk tell you
13 that matches the facts? And this gets a little bit
14 convoluted but think about it, let's talk about the phone
15 calls. Again, the general scenario is Evans and Stalk need
16 money, Evans says, "I know somebody that's got money. Stalk
17 says, "Call him," and then the phone calls start. It's
18 awful. First phone used is Huddleston's phone. Huddleston
19 lives -- I'm not going to pull the map out -- he lives down
20 the street and around the corner from Ketta Evans. Ketta
21 Evans sends her toddler-aged kids to Huddleston's house to
22 borrow his cellphone, and he's not going to let them walk
23 off with the phone because it's a work phone, so he walks it
24 up there. And he does in this courtroom point over yonder
25 at David Stalk and say, "That's the man that was in her

CLOSING ARGUMENT

1 house that didn't have a whole lot to say but he was there
2 when I was there and she had my phone making calls." What
3 did Huddleston say? He called -- he said, "My phone was
4 used to call at 7:59 p.m. which is the phone number
5 that Kevisis Anthony's mama says is Kevisis Anthony's phone
6 number. Ketta Evans is calling Kevisis Anthony at 8:00.
7 Huddleston gets his phone back, goes back home, take his
8 sister-in-law to the hospital, realizes he's got a missed
9 call, looks on the number and calls the number -- well,
10 first of all he looks and sees he has a missed call and then
11 he realizes by fooling around with his phone that Ketta
12 Evans had made that call to at 7:59, then he has a
13 missed call from that same number which came to his phone at
14 8:15 p.m. He returned that missed call to that number, and
15 I can't say this but the facts let you probably infer that
16 he talked to Kevisis Anthony, probably other than David
17 Stalk might be the last man on the face of this earth that
18 had a conversation with Kevisis Anthony, because he called
19 him and he said, "Did you call my number?" And they had a
20 conversation, and that was at 8:31 p.m. So we know at
21 8:31 p.m. that Kevisis Anthony was alive. Okay. Kevisis
22 Anthony had never been to Street because
23 Ketta Evans and Quinshun, her son, and the rest of them had
24 not lived there long. They used to live over yonder on the
25 other side of town. Kevisis Anthony had never been there.

CLOSING ARGUMENT

1 What's the consequence -- because Quinshun said, "When I saw
2 Kevisis Anthony and I first saw that car it was when he came
3 to see my mama over yonder, not at Street."
4 Kevisis Anthony got lost, he got lost. He's coming from
5 Kershaw down the road to Lancaster and comes to the wrong --
6 can't find the house, and there's some communication going
7 on back and forth and because he gets lost more phone calls
8 got to be made. So Ms. Evans again gets another phone, this
9 time instead of going out the house down the street and
10 around the corner, she goes out the house, up the street and
11 around the other corner, sends her kids to borrow Sylvia
12 Stover's cordless cellphone which got found by the police in
13 Ketta Evans' house and was identified to you by Ms. Stover.
14 So she sends her kids again to help lure the victim up to
15 Lancaster by borrowing the phone for her and she's making
16 more calls, and we don't have any records to tell you what
17 numbers got called on Ms. Stover's phone. But the facts
18 again can let you infer that she's trying to call Kevisis
19 Anthony to get him straightened out about where he's coming.
20 Why did she have to get Stover's phone? Because the kids
21 went back down to Huddleston's house the second time when
22 Kevisis couldn't get his way to the house correctly and
23 tried to borrow his phone again and he had enough by then,
24 he wouldn't let them borrow it a second time so Ketta sends
25 the kids around the corner to Stover's house to get Stover's

CLOSING ARGUMENT

1 phone. Ms. Stover heard shots, five to ten minutes after
2 the kids borrowed the phone. That's important. Ms. Stover
3 heard gunshots five to ten minutes after the kids borrowed
4 her telephone which is consistent with Ketta Evans being
5 able to direct Kevisis Anthony into her house and him simply
6 pulling up, getting out and getting the back of his head
7 shot. How about -- and the testimony in this case I think
8 is that Kevisis went to the wrong house and decided he was
9 going to go back to Kershaw to pick up some weed and come
10 back to Lancaster. So let's do the timeline, don't want to
11 make this too drawn out but let's do the timeline. First
12 call to Kevisis is 8:00. You know from his mama and daddy
13 he's down there at their house some time -- it doesn't
14 matter, we'll skip over that, his parents say he was there
15 some time obviously before the shooting that evening. But
16 he gets called at 8:00, he heads to Lancaster 30 minutes or
17 so to get to Lancaster? Who knows. Goes to the wrong
18 house, turns around and heads back to Kershaw, that's
19 another 30 minutes or so back to Kershaw maybe. Gets to
20 Kershaw, he is there, talks to his parents a little bit,
21 gets in the car, heads back to Lancaster because now he
22 knows exactly where he's going. That's all consistent with
23 the 8:00 initial call, getting shot some time a little
24 before 9:40 p.m. So trip to Lancaster, back to Kershaw and
25 back to Lancaster, it's all consistent with the way these

CLOSING ARGUMENT

1 phones were used that night. Let's talk a little bit about
2 the 911 call. Somebody who comes across something and calls
3 911, a witness or somebody, again, who just comes across
4 something that the police need to know about, not somebody
5 who did something bad, maybe would have been excited based
6 on what he or she was seeing maybe would have sounded a
7 little bit out of breath and excited, but I submit would
8 have said this is who I am, this is where I am, I'll stay on
9 the line, send an ambulance, send the police, I'll be here
10 when you get here and I'll tell what I know. That's not the
11 kind of call that came in at 9:41 to the sheriff's office on
12 . . . The call that came into the sheriff's office was
13 from the guy who had done it. Somebody who would not have
14 stayed on the line, somebody who would have been excited and
15 out of breath especially if he was running as David Stalk
16 said he was doing, he's running while he is making the call.
17 You hear the shortness of breath and the excitement and
18 maybe fear, whatever it is, on that tape when you go back
19 there and listen to it if you want to, you don't have to.
20 And he didn't stay on the line and he didn't tell them who
21 he was and he didn't wait there to meet somebody and give
22 them more information. He probably had some twang of guilt
23 about what he had done when things had gone so bad and he
24 probably did a good thing, he did do a good thing because he
25 got somebody on this pretty quickly, it just wasn't good

CLOSING ARGUMENT

1 enough and he probably wouldn't have been under any
2 circumstances to save Kevisis Anthony but he did a good
3 thing by calling. But it's David Stalk who made that call.
4 What happened February 5th, 2012, February 6th of 2012? You
5 have got two hours on February 5th of David Stalk telling
6 lie after lie and making denial after denial and not taking
7 any responsibility for what he had done, and when he's doing
8 that you think about that tape that you saw, he is cool as a
9 cucumber. He is not under any emotional distress or under
10 any physical distress, he isn't sweating anything, he's
11 playing tough nut, cool as a cucumber as he denies, denies,
12 denies and lies and lies. Next day he confesses to a
13 murder. Now, how do you explain that? What happened
14 overnight? Well, the truth happened to him overnight,
15 that's what happened, the truth. The truth of what he had
16 done, the realization that the police knew what he had done
17 and then his conscious kicked in and he decides -- David
18 Stalk decides, "I'm going to get this off my chest." He
19 sends word on February 6th that he wants to talk to Phillip
20 Hall again, he initiated the conversation. So they bring
21 him back, "Yeah, we'll talk to you." What else did he do?
22 He initiated arrangements, or requested arrangements be made
23 for Lynn Tucker to be there with him. Lynn Tucker, let's
24 describe Lynn Tucker's relationship with David Stalk in Lynn
25 Tucker's own words. Known him all his life. He told you he

CLOSING ARGUMENT

1 reads Stalk pretty well. Stalk has worked for him since he
2 was 16 or 17 years old. Tucker described Stalk as his
3 right-hand man. Tucker described Stalk as one of Tucker's
4 best friends, young man, much older man, one of my best
5 friends. Again, two guys couldn't be closer. He is Stalk's
6 confidant, he is Stalk's mentor. He's probably the only
7 thing that Stalk has close to a father figure on the face of
8 this earth. And Stalk says -- I'm using license here --
9 "get my daddy to come sit here with me while I tell y'all
10 this." Now, if he is going to -- again, his story is, "I'm
11 confessing because I want a bond." Is he going to get the
12 closest man on the face of this earth to come in here and
13 hold his hand while he confesses to a bond? That's not what
14 was going on on February 6th. He is overcome with the truth
15 and wants to tell it so he gets the person that will make it
16 most comfortable for him to be able to do it, his initiation
17 to sit there with him when it happens. February 5th in
18 street clothes, deny, deny, lie, lie, no sweat, he's just
19 telling a story. February 6th confessing to what he truly
20 did, it's gotten to him. He is emotional, he is upset. Big
21 Lynn Tucker is reaching up there on top of that file cabinet
22 over and over again and grabbing that box of Kleenexes down
23 and ripping them out for him and he is wiping his eyes,
24 wiping his nose and he is telling them. And you can see by
25 the time that process is over that what he wanted to do,

CLOSING ARGUMENT

1 which was truly confess to what he had truly done, what he
2 wanted to do has accomplished its purpose and he's a new man
3 after he has told it. You can see the weight lifted off him
4 by watching that tape after he has told the truth of what he
5 did that day. It's hard stuff. After he gets through
6 talking, after the Judge gets through talking it's all
7 y'all, and it's not easy. But I submit to you, you just
8 think about the young man you saw on that witness stand and
9 how he acted on that witness stand today and how he looked
10 on the February 5th tape when he denied, and how he looked
11 on the February 6th tape when he's emotional next to the
12 closest person on the face of the earth telling the truth
13 about what he'd done and you decide which one -- which
14 version is the truth, and I submit to you it's the
15 February 6th version. He did the worst thing a human could
16 do to another, he set Kevisis Anthony up, he lured him to
17 come to Lancaster to be robbed, he lay in wait for him
18 dressed in all black in the nighttime and shot the man in
19 the back of the head as the man was trying to get away and
20 to avoid having this happen to him. Just doesn't get any
21 worse than that. Ladies and gentlemen, thank you for your
22 time, your patience, we appreciate your service. But I
23 implore you when you go back there and y'all talk about
24 this, return verdicts of guilty on all three charges. Thank
25 you.

JURY VERDICT

1 out as far as the jury's verdict. The first page has been
2 initialed by the foreperson, the second page has been signed
3 by the foreperson and dated. Madam Clerk, would you publish
4 our verdicts, please?

5 THE CLERK: Yes, sir. State of South Carolina versus
6 David Stalk, indictment number 2013-GS-29-758, as to murder,
7 we, the jury, unanimously find the defendant guilty.
8 Indictment number 2013-GS-29-759, as to attempted armed
9 robbery, we, the jury, unanimously find the defendant
10 guilty. Indictment number 2013-GS-29-760, as to possession
11 of a weapon during the commission of a violent crime, we,
12 the jury, unanimously find the defendant guilty. Signed,
13 Foreperson Jeffrey Hunter, dated 1/17 of 2014. Ladies and
14 gentlemen of the jury, is this your verdict so say you all
15 by the raising of your right hand. Let the record reflect
16 all jurors raised their right hand.

17 THE COURT: Thank you, you may put your hands down.
18 Thank you, thank you very much, Madam Clerk. Mr. Stalk, you
19 may be seated.

20 MR. GRIER: Your Honor, I would like to request polling
21 of the jury.

22 THE COURT: I was going to ask if you had anything
23 further for the jury. We will poll the jury. Madam Clerk,
24 would you explain that procedure to them or would you would
25 like for me to?

SENTENCING HEARING

1 used to shoot another human being in the back of the head,
2 it's a long distance from your feet to your head, six
3 rounds. And then he disappears for two weeks and when he is
4 arrested he has got a .45 caliber. He may be a good man, he
5 may be a good worker, but it looks like he's always armed
6 and dangerous. He was armed and dangerous on that night and
7 he cost Mr. Anthony his life. Yeah, his telephone had water
8 damage, from that creek. It had water damage. 577-3281.
9 2013-GS-29-758, murder; 759, attempted armed robbery; 760
10 possession of a firearm during the commission of a violent
11 crime. As to the murder, the defendant is committed to the
12 State Department of Corrections for a determinat term of 45
13 years. As to attempted armed robbery the defendant is
14 committed to the State Department of Corrections for a
15 determinat term of 20 years. As to possession of a firearm
16 during the commission of a violent crime, the defendant is
17 committed to the State Department of Corrections for a
18 determinat term of five years. Those are concurrent. Good
19 luck to you, Mr. Stalk. And good luck to the Stalk family
20 and to the Anthony family.

21 (End of trial proceedings.)

22

23

24

25

Lancaster Police Department
Post Office Box 1008, Lancaster, South Carolina 29721
Harlean V. Howard, Chief

COPY

Suspect's Rights
Miranda Warning

For
David Stalk

Grade Last Completed in School: 10th Place: INSC
Are you under the influence of Drugs/Alcohol? Y ☒ N ☐ Date: 2-5-2013
Can you read and write the English Language? Y ☒ N ☐ Time: 1515 hrs
CRN: 213-01059
2013-01511

D.S. You have the right to remain silent.

D.S. Anything you say can and will be used against you in a court of law.

D.S. You have the right to talk to a lawyer and have him present with you while you are being questioned.

D.S. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish.

D.S. You can decide at any times to exercise these rights and not answer any questions or make any statements.

D.S. DO YOU UNDERSTAND EACH OF THESE RIGHTS I HAVE EXPLAINED TO YOU?

D.S. HAVING THESE RIGHTS IN MIND, ARE YOU WILLING TO TALK TO US AT THIS TIME?

WAIVER OF RIGHTS

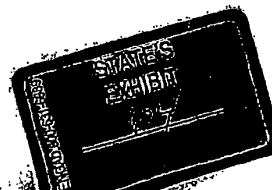
I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

Signature David Stalk

Time 1518

Witness Flora Lee

Witness Kimberly



States Exhibit #64-67

Lancaster Police Department
Post Office Box 1008, Lancaster, South Carolina 29721
Harlean V. Howard, Chief

COPY

Suspect's Rights
Miranda Warning

For

David STAR

Grade Last Completed in School 10

Place: MTC

Are you under the influence of Drugs/Alcohol? Y (N)

Date: 2-6-2018

Can you read and write the English Language? Y (N)

Time: 1157

CRN: 2013-01311

DS You have the right to remain silent.

DS Anything you say can and will be used against you in a court of law.

DS You have the right to talk to a lawyer and have him present with you while you are being questioned.

DS If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish.

DS You can decide at any time to exercise these rights and not answer any questions or make any statements.

DS DO YOU UNDERSTAND EACH OF THESE RIGHTS I HAVE EXPLAINED TO YOU?

DS HAVING THESE RIGHTS IN MIND, ARE YOU WILLING TO TALK TO US AT THIS TIME?

WAIVER OF RIGHTS

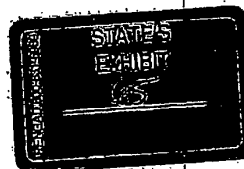
I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

Signature: [Signature]

Time: 1158

Witness: [Signature]

Witness: _____



CITY OF LANCASTER
COUNTY OF LANCASTER
STATE OF SOUTH CAROLINA

CASE#: 2013-01311
DATE: 02-05-2013

COPY

I, David Stalk DO HEREBY GIVE FREELY AND VOLUNTARILY THIS STATEMENT TO:
LA. P. L. Hall and SLED Agent K. Grant WHO HAS IDENTIFIED HIMSELF AS AN OFFICER OF THE
LANCASTER POLICE DEPARTMENT, LANCASTER, SOUTH CAROLINA. I HAVE BEEN ADVISED
THAT I DO NOT HAVE TO MAKE THIS OR ANY OTHER STATEMENT, AND THAT WHAT I SAY
MAY BE USED AGAINST ME IN A COURT OF LAW. I HAVE BEEN ADVISED THAT I HAVE THE
RIGHT TO COUNSEL WITH AN ATTORNEY OF MY CHOICE, THAT IF I AM FINANCIALLY
UNABLE TO OBTAIN AN ATTORNEY THE COURT WILL APPOINT AN ATTORNEY TO
REPRESENT ME, I HAVE NOT BEEN THREATENED OR PROMISED ANY REWARD TO MAKE THIS
STATEMENT AND DO SO VOLUNTARILY. I UNDERSTAND THAT I HAVE THE RIGHT TO STOP AT
ANYTIME, THEREBY WAIVE THESE RIGHTS.

Q. Lt. P. L. Hall
A. David Stalk Age: 23

Lancaster SC 29720
B/M DOB:
SSN#

Q. What do you know about the shooting of Kevisis Anthony?
A. Who is Kevisis

Q. What have you heard about the shooting at Ketta Evans House?
A. I heard my name was involved in it because we were dating,

Q. What have you heard about your involvement in the case?
A. I heard that I was there and that I had something to do with it and I was the one that did it

Q. How long have you and Ketta have been dating?
A. About three months, I started seeing her in November

Q. What was your relationship with Ketta?
A. might as well say we were dating

Q. When was the last time you talked to Ketta?
A. Yesterday (Monday)

Q. Where you over at Ketta house the night of the shooting?
A. I was there earlier that day, I dropped my baby off in the afternoon. I can't remember the exact time the
sun was going down

Q. What were your plans when you left Ketta's house after dropping off your kid?
A. I went to Quilla's house and played cards and drank beer just hang out

Q. What time did you get to Quilla's house?
A. about 830 or 900

Q. Who all was at Quilla's house when you were there?
A. Lynn Tretter, Quilla Putcan, James (Quilla's Boyfriend) all three of Quilla's boys were at home my Aunt
Kris Nelson and Burnette (Brendetta) a guy by the name of K-9



DS

COPY

Q. Did you stay the whole time at Quilla's?

A. I left around midnight or shortly after

Q. Did you ever leave Quilla's House anytime before you left at or around midnight?

A. No

Q. How did you get to Quilla's house?

A. I walked

Q. What time did you leave Ketta's House to go to Quilla's?

A. right after I dropped my baby off

Q. How did you get to Ketta's house?

A. Somebody dropped me off, I think it was my cousins () girlfriend in a blue Honda

Q. If I tell you that I spoke with someone that saw you in the hole on around 9 o'clock what would you say?

A. I said they would be lying; I don't hang out in the hole

Q. Were you anywhere in the area of around 9 o'clock?

A. No Sir

Q. Were you on that night after you left Ketta's house and had a conversation with Ketta on with her having a cordless phone in her hand, accompanied by her 9 year old son, what would you say about that?

A. that would be a lie

Q. How long were you in Ketta's house?

A. about five or ten minutes

Q. Did you and Ketta get into an argument while you were at the residence?

A. Yes, we had words

Q. What did you argue over?

A. She was fucking with somebody else; I heard she was fucking with somebody else

Q. Who did you hear she was messing around with?

A. I heard from my sister that she was messing around with Monkey Pooh

Q. When you left, how did you leave from Ketta's house?

A. I said what I had to say and she said what she had to say and I said fuck it and left

Q. Did you tell Ketta when you left that you intended to come back that night?

A. I told her that I would be back later on, I had to go back and get my baby she was going to spend the night with Ketta anyway

Q. When you left Ketta's house after the fussing what did you do then?

A. My cousin and his girlfriend waited on me while I was inside Ketta's house and she drove me to my sister's Tawana house on I took a shower put my clothes on and got some food out of the refrigerator and I ate something and left walking and went to Michelle Stalk () and I left there and got my cousin's (nutty buddy) bike and rode it to Quilla's house.

Q. Where did you go after you left Quilla's house?

A. I rode the bike back to Tawana house and she told me what was going on up the street. She asked me did I hear what was going on up the street she told me that there was a shooting at Ketta's house and I told her to

DS

DS

go get my baby. Tawana thought that one of Ketta's kids got shot and I told her to go get my baby and to see what was going and to make sure that everything was alright

COPY

Q. Who all was at Tawana's house?

A. her and her children

Q. Why did you send Tawana up to check on your child and you didn't go?

A. Cause I thought I had a warrant

Q. Did Tawana go get your child and did she bring the child back to you?

A. Yes, but she carried my child to Artnise Stalk, they were having at get together

Q. Why did she carry the child over to Artnise house?

A. because I wanted my sister to have her

Q. Where did you stay that night?

A. I Stayed at Tawana's house by myself

Q. At what point do you talked to Ketta?

A. I saw Ketta Sunday afternoon on we were standing on

Q. What do you all talk about?

A. Ketta said she was in the house and that she heard three gunshots and told her kids to get down and Ketta looked out the window and saw a car under the carport and she looked out the front window and saw a guy laying in the driveway and he was trying to get up so her and her son went to check on him and they brought him in the house and used a towel to wipe off the blood and she said that he needed to go to the hospital and he didn't want to go to the hospital and she and her son put him in the car and carried him to the hospital after they got to the hospital she told her son to go get a wheelchair and after that she talked to you all.

Q. Did you know of Kevisis?

A. I never saw him a day in my life

Q. What is her explanation for Kevisis being at her house?

A. she didn't say she said that they were just friends. He came over so that they could smoke some weed.

Q. Do you and Ketta argue about Kevisis?

A. No

Q. After you got dropped off at your sister's house did you walk back to Ketta's house anytime that night?

A. No

Q. Is there anything else that we need to know about that night that you have not told us?

A. No

Q. Did you Shoot Kevisis?

A. No

Q. Do you know who shot Kevisis?

A. No

Q. What is you cell phone Number?

A. I

Q. Is your cell phone number?

A. Yes

DS

Q. Where is that phone?

A. I threw it away it had water damage

Q. Did you call 911 from your cell phone which is shooting incident?

A. No sir

Q. Did you call anyone and ask for an ambulance?

A. No

Q. The gun that was found today was that your gun?

A. It was mine

Q. Why do you have a gun?

A. for protection

SLED Agent Grant stepped out of the interview and called Lynn Tucker and she came back and advised that Tucker stated that he was not at Quilla's for even an hour.

Q. After speaking with Lynn Tucker, who you say has an alibi that puts you at Quilla's house all night until midnight, Agent Grant spoke with him and he says that you were not at Quilla's house for even an hour what can you say about that?

A. I was there longer than that

Q. How long?

A. until after 12

Q. Is there anything else that you would like to add or take away from this statement?

A. No

*****End of Statement*****

David Stalk
SIGNATURE

P. J. Hall
LT. P. J. Hall

8/A. Dixon
WITNESS

CITY OF LANCASTER
COUNTY OF LANCASTER
STATE OF SOUTH CAROLINA

CASE#: 2013-01311
DATE: 02-06-2013

COPY

I, David Stalk DO HEREBY GIVE FREELY AND VOLUNTARILY THIS STATEMENT TO
Lt. R. L. Hall and Capt. S. Grant WHO HAS IDENTIFIED HIMSELF AS AN OFFICER OF THE
LANCASTER POLICE DEPARTMENT, LANCASTER, SOUTH CAROLINA. I HAVE BEEN ADVISED
THAT I DO NOT HAVE TO MAKE THIS OR ANY OTHER STATEMENT AND THAT WHAT I SAY
MAY BE USED AGAINST ME IN A COURT OF LAW. I HAVE BEEN ADVISED THAT I HAVE THE
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REPRESENT ME. I HAVE NOT BEEN THREATENED OR PROMISED ANY REWARD TO MAKE THIS
STATEMENT AND DO SO VOLUNTARILY. I UNDERSTAND THAT I HAVE THE RIGHT TO STOP AT
ANYTIME, I HEREBY WAIVE THESE RIGHTS.

Statement #2

Q. Capt. S. Grant & Lt. P. L. Hall
A. David Stalk

Q. Can you tell me what happened on the night of January 26, 2013 at Ketta Evans house?
A. She was talking about a guy that she knew that had a lot of money from Kershaw, so I told her to call him.
She called him when he first came he came to the wrong house she called him back and told him that he had
came to the wrong house, he said that he was on the way back to Kershaw that he had to go get some weed.
Then he came back, I was standing on the side of the house near the carport when he got out of the car he
went to the side door, and I came from around the house and told him you know what time it is, he started
backing up and I told him not to run he turned around and ran I tried to shoot him in the leg and I missed, I
shot two more times and he fell, I got scared and I left. I ran through the back yard towards the alley and
jumped the creek, I got to the other side and I called the ambulance. I threw my phone in the creek and I
threw the gun in the woods near the field at Dunlap St. I ran to my sister's house and sat on the back porch.

Q. Whose idea was it to do the robbery?
A. both of ours, me and Ketta, it was my idea she done the calling

Q. Why were you going to rob him?
A. I needed the money, she said that she knew a guy that sells dope so I told her to call him and she called him
and he came over. It wasn't supposed to happen like that I promise I was not trying to kill that man

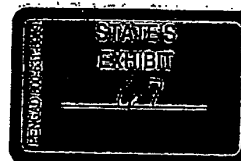
Q. Did Keviss come there earlier and go to the wrong house?
A. Yes, she said that he had to go back to Kershaw and get some weed

Q. Where is the phone that you called 911 at?
A. In the creek or by the creek

Q. Is that the street known as _____ that cuts through _____ and _____
A. Yes

Q. Where is the gun that you used to shoot Keviss?
A. It is in the woods near the corner of _____ and The field

Q. How many times did you shoot at Keviss?
A. three



DS.

COPY

Q. Was there anyone else with you outside the house when you robbed him?
A. No Sir

Q. Did you go back into Ketta's house at all after the robbery or did you leave and run to your sister's house?
A. I left and ran to my sister's house

Q. Why did you shoot at Kevisis when he ran?
A. I was just trying to stop him, I wasn't trying to hurt him the plan was to shoot him in the leg and make him fall

Q. What were you wearing when you robbed him?
A. A black hoodie, black pants, and a black bandana around my face

Q. Have you ever met this guy Kevisis before?
A. I didn't even know him

Q. Is there anything else that you can tell us about this case that we have not asked you?
A. No that's it

DS.

*****End of Statement*****

x David Stalk
SIGNATURE

P. L. Hall
LT. P. L. Hall

WITNESS

WITNESSES

Hall - LPD #13-01311

ARREST WARRANT NUMBER/DOA

2013A2920300111 (DOA-2-11-13)

ACTION OF GRAND JURY

Brenda L. Lippert
Foreperson of Grand Jury
Date: MAY 09 2013

VERDICT

TRUE BILL

Foreperson of Petit Jury
Date:

Grier

DOCKET NO. 2013-GS-29-758

The State of South Carolina
County of Lancaster

COURT OF GENERAL SESSIONS

MAY TERM 2013

THE STATE
vs.

David D. Stalk aka David J. Stalk 157-50

Ketta Evans

678-77

Indictment for

Murder

SC Code: §16-3-10
CDR Code: 0116
Class: Felony, EXM

CLERK OF COURT
LANCASTER, SC

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)

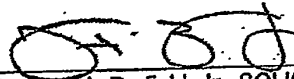
INDICTMENT

At a Court of General Sessions, convened on May 9, 2013, the Grand Jurors of Lancaster County present upon their oath:

MURDER

That David D. Stalk aka David J. Stalk did at in Lancaster County on or about January 26, 2013, feloniously, willfully, and of his malice aforethought kill and murder Kevisis Anthony by shooting him with a handgun and the victim did die as the proximate cause thereof at Carolinas Medical Center, Charlotte, North Carolina, on January 28, 2013, in violation of Section 16-3-10 of the Code of Laws of South Carolina.

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


Douglas A. Barfield, Jr., SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF LANCASTER

STATE

INDICTMENT/CASE#: 2013-GS-29 -758

VS.

AW#: 2013A2920300111

David D. Stalk

Date of Offense: 1/26/13

AKA: David J. Stalk

S.C. Code §: 16-3-10

Race: B Sex: M Age: 24

CDR Code #: 0116

DOB: SS#: 0

Address:

City, State, Zip:

DL#

SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☒ CONVICTED OF or ☐ PLEADS

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

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45 (CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

514

Soyitor: SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 45 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*, the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

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

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning

Substance Abuse Counseling ☐

*Fine:

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

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning

\$ _____ Paid to Public Defender Fund

Other: _____

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

 Clerk of Court/Deputy Clerk
 Court Reporter: *Michael J. Hammond*

Presiding Judge

Judge Code: *2445*Sentence Date: *1/27/14*

SCCA/217 (03/2011)

WITNESSES

Hall - LPD #13-01311

ARREST WARRANT NUMBER/DOA

2013A2920300113 (DOA 2-7-13)

ACTION OF GRAND JURY

Brenda L. Luper
Foreperson of Grand Jury
Date: MAY 09 2013

VERDICT

TRUE BILL

Foreperson of Petit Jury
Date:

DOCKET NO. 2013-GS-29- *754*

The State of South Carolina
County of Lancaster

COURT OF GENERAL SESSIONS
MAY TERM 2013

THE STATE
vs.

David D. Stalk aka *757-60*
David J. Stalk
KATH EVANS *698-77*

Indictment for
Attempted Armed Robbery

SC Code: § 16-11-0330(B)
CDR Code: 0026
Class: Felony, C

OFFICE OF THE CLERK
COURT OF GENERAL SESSIONS
MAY 10 2013
LANCASTER, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)

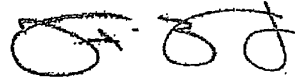
INDICTMENT

At a Court of General Sessions, convened on May 9, 2013, the Grand Jurors of Lancaster County present upon their oath:

ATTEMPTED ARMED ROBBERY

That David D. Stalk aka David J. Stalk did in Lancaster County on or about January 26, 2013, attempt, while armed with a deadly weapon, to wit: a handgun, to feloniously take and carry away from the person or presence of Kevisis Anthony by means of force, threats or intimidation goods or money of Kevisis Anthony such goods or monies being described as follows: money, with the intent to deprive the owner permanently of such property, in violation of § 16-11-0330(B) *Code of Laws of South Carolina, (1976), as amended.*

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



Douglas A. Barfield, Jr., SOLICITOR

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

IN THE COURT OF GENERAL SESSIONS

STATE

VS.

David D. Stalk

AKA: David J. Stalk

Race: B Sex: M

Age: 24

DOB:

SS#:

0

Address:

City, State, Zip:

DL#

SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

INDICTMENT/CASE#: 2013-GS-29 - 759

AW#: 2013A2920300113

Date of Offense: 1/26/13

S.C. Code #: 16-11-330(B)

CDR Code #: 0026

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

TO: Attempted Armed Robbery

In violation of \$ 16-11-330(B) of the S.C. Code of Laws, bearing CDR Code # 0026

☐ NON-VIOLENT

☒ VIOLENT

☐ SERIOUS

☒ MOST SERIOUS

☐ Mandatory GPS

☐ \$17-25-45

(CSC w/minor 1st or Lewd Act)

The charge is: ☒ As indicted, ☐ Lesser Included Offense,

☐ Defendant Waives Presentment to Grand Jury.

(Def.'s Initials)

The plea is: ☐ Without Negotiations or Recommendation,

☐ Negotiated Sentence,

☐ Recommendation by the State.

ATTEST:

514

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment of \$; plus costs and assessments as applicable*, the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

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

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$

days/hours Public Service Employment

Payment Terms:

Obtain GED ☐

☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp.

Recipient:

May serve W/E beginning

Substance Abuse Counseling ☐

*Fine:

\$14-1-208 (Assessments 107.5%)

\$14-1-211 (A)(1)(Conv. Surcharge)

\$14-1-211 (A)(2)(DUI Surcharge)

\$56-5-2995 (DUI Assessment)

\$56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

\$14-1-212 (Law Enforce. Funding)

\$14-1-213 (Drug Court Surcharge)

\$50-21-114 (BUI Breath Test Fee)

\$56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCA Surcharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter:

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning

\$ Paid to Public Defender Fund

Other:

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

Presiding Judge

Judge Code:

Sentence Date

WITNESSES

Hall - LPD #13-01311

ARREST WARRANT NUMBER/DOA

2013A2920300112 (DOA-2-11-13)

ACTION OF GRAND JURY

Brenda Redford
Foreperson of Grand Jury

Date: MAY 09 2013

VERDICT

TRUE BILL

Foreperson of Petit Jury

Date:

Grier

DOCKET NO. 2013-GS-29-760

The State of South Carolina

County of Lancaster

COURT OF GENERAL SESSIONS

MAY TERM 2013

THE STATE

vs.

David D. Stalk aka David J. Stalk 757-60

Ketta Evans

698-77

Indictment for

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

SC Code: § 16-23-490

CDR Code: 0549

Class: Felony, F

CLERK OF COURT
LANCASTER, SC

MAY 10

CLERK OF COURT
LANCASTER, SC

STATE OF SOUTH CAROLINA)

INDICTMENT

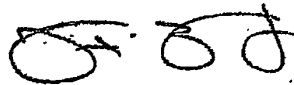
COUNTY OF LANCASTER)

At a Court of General Sessions, convened on May 9, 2013, the Grand Jurors of Lancaster County present upon their oath:

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

That David D. Stalk aka David J. Stalk did in Lancaster County on or about January 26, 2013, possess or visibly display a firearm or knife, to wit: a pistol during his/her commission of a violent crime, to wit: Murder and Attempted Armed Robbery of Kevisis Anthony, in violation of §16-23-490, *Code of Laws of South Carolina, (1976), as amended.*

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



Douglas A. Barfield, Jr.; SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

IN THE COURT OF GENERAL SESSIONS

STATE

VS.

David D. Stalk

AKA: David J. Stalk

Race: R

Sex: M

Age: 24

DOB: _____

SS#: _____

0

Address: _____

City, State, Zip: _____

DL# _____

SID# _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

INDICTMENT/CASE#: 2013-GS-29 - 760

AW#: 2013A2920300112

Date of Offense: 1/26/13

S.C. Code §: 16-23-490

CDR Code #: 0549

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Possession of Firearm During Commission of Violent Crime

In violation of § 16-23-490

of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45The charge is: ☒ As indicted, ☐ Lesser Included Offense,The plea is: ☐ Without Negotiations or Recommendation,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

514
 SC Bar # _____ Defendant _____ Attorney for Defendant _____ SC Bar # _____
 WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
 for a determinate term of _____ days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
 of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
 incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

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

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve WE beginning

Substance Abuse Counseling ☐

*Fine:

\$14-1-206 (Assessments 107.5%)

\$14-1-211 (A)(1)(Conv. Surcharge)

\$100

\$14-1-211 (A)(2)(DUI Surcharge)

\$100

\$56-5-2995 (DUI Assessment)

\$12

\$56-1-286 (DUI Breath Test)

\$25

Proviso 47.9 (Public Def/Prob)

\$500

\$14-1-212 (Law Enforce. Funding)

\$25

\$14-1-213 (Drug Court Surcharge)

\$150

\$50-21-114 (BUI Breath Test Fee)

\$50

\$56-5-2942(J) (Vehicle Assessment)

\$40/ea

Proviso 80.5 (SCCJA Surcharge)

\$5

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter: _____

Presiding Judge _____

Judge Code: _____

Sentence Date _____

SIXTH JUDICIAL CIRCUIT
PUBLIC DEFENDER'S OFFICE

104 North Main Street * Post Office Box 1809
Lancaster, South Carolina 29721
Telephone No.: (803) 285-5585
Fax No.: (803) 285-6085

January 23, 2014

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RE: State of South Carolina vs. David Stalk
2013GS2900758, 2013AGS2900760, 2013GS2900759

Dear Ms. Kitchings:

Please be advised that with this letter I am filing:

1. Notice of Appeal and two (2) copies; and
2. Proof of Service and two (2) copies

Please return clocked copies of the Notice of Appeal and Proof of Service in the envelope provided.

Yours very truly,



Mark Grier
Attorney for the Appellant

Enclosures

cc: Doug Barfield, Solicitor

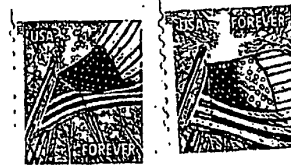
RECEIVED

JAN 27 2014

SC Court of Appeals

**Public Defender's Office
Sixth Judicial Circuit**

Post Office Box 1809
Lancaster, SC 29721



The Honorable Jenny Kitchings

P.O. Box 11629

Columbia SC 29211

RECEIVED

JAN 27 2014

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

**APPEAL FROM LANCASTER COUNTY
Court of General Sessions**

R. Knox McMahon, Circuit Court Judge

**Case No(s): 2013GS2900758, 2013GS2900760,
2013GS2900759**

The State of South Carolina,

David Stalk,

v.

Respondent.

Appellant.

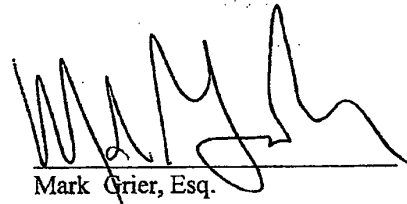
FILED
CLERK OF COURT
2014 JAN 23 AM 8:56
LANCASTER, SC

NOTICE OF APPEAL

David Stalk appeals his conviction and sentence in this case. The sentence was imposed by the Honorable R. Knox McMahon on January 17, 2014.

PLEASE TAKE FURTHER NOTICE THAT this appeal shall be upon a case and exceptions to be served upon you and filed hereafter in accordance with the rules of the court and laws in such cases made and provided.

Date: January 22, 2014



Mark Grier, Esq.
Public Defender
Post Office Box 1809
Lancaster, SC 29721

Other Counsel of Record:
Douglas Barfield, Esq.
Solicitor
Post Office Box 607
Lancaster, SC 29721

RECEIVED

JAN 27 2014

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LANCASTER COUNTY
Court of General Sessions

R. Knox McMahon, Circuit Court Judge

Case No(s): 2013GS2900758, 2013GS2900760,
2013GS2900759

The State of South Carolina,

Respondent.

v.

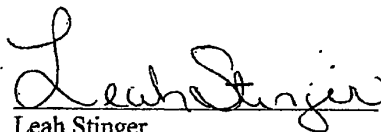
David Stalk,

Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the Respondents by depositing a copy of it in the United States Mail, postage prepaid, on January 23, 2014, addressed to Douglas Barfield, Solicitor, Post Office Box 607, Lancaster, SC 29721.

Date: January 22, 2014



Leah Stinger
Secretary for Mark Grier, Esq.
Post Office Box 1809
Lancaster, SC 29721

RECEIVED

JAN 27 2014

SC Court of Appeals

The South Carolina Court of Appeals

RECEIVED

OCT 03 2014

SC Court of Appeals

The State, Respondent,

v.

David Stalk, Appellant.

Appellate Case No. 2014-000166

MOTION TO APPOINT COUNSEL

The South Carolina Commission on Indigent Defense, Division of Appellate Defense, represents Appellant in this appeal. Pursuant to the 2014 Appellate Practice Project, conducted with the approval of the Chief Justice, the Chief Judge of the Court of Appeals, and the South Carolina Bar, the Division of Appellate Defense moves to have Raia Hirsch appointed as lead counsel for Appellant. Chief Appellate Defender Robert M. Dudek will remain as co-counsel. The terms of participation in the Appellate Practice Project require that the appointment be made under the following conditions:

- The appointed attorney will serve pro-bono. No travel, research, printing or other costs will be reimbursed by the Commission without the prior written approval of Patton Adams, Hugh Ryan, III, or Robert M. Dudek.
- The appointed attorney will be responsible for preparing the briefs and Record on Appeal and delivering them to the Appellate Division for printing and filing no later than one week before the due date. The initial brief, any initial reply brief, the Record on Appeal, and the final briefs must be "file ready" when delivered to the Appellate Division for printing (this includes a complete table of authorities, certificate of service, and designation of matter to be included in the Record on Appeal. The Record on Appeal must also be numbered and redacted. The cover page of each brief and the Record on Appeal must contain the names, addresses and phone numbers of the Chief Appellate Defender, and the appointed attorney.
- The attorney assigned will be responsible for arguing the case before the South Carolina Court of Appeals.

- The appointment will remain in effect until any petition for rehearing is ruled upon by the Court of Appeals. Any decision to seek discretionary review from the Supreme Court should be made in conjunction with the Chief Appellate Defender. However, representation will remain on a pro bono basis.
- The appointed attorney must attend and participate in "Presenting Criminal Cases to the Court of Appeals," a CLE seminar presented by the South Carolina Bar on October 30, 2014, unless excused in advance by the Division of Appellate Defense. The appointed attorney agrees to have read the transcript prior to the CLE.
- The appointed attorney will receive one Rule 608, SCACR, credit for their pro bono representation for the year beginning July 1, 2014, and ending on June 30, 2015. The appointed attorney is responsible for presenting the appointment order to the applicable clerk of court.
- In the event of a post-conviction relief case alleging ineffective assistance of appellate counsel, at the request of the State or the applicant, the appointed attorney must make their files available as required by the rules of court, and attend any hearing scheduled to resolve the claim.

Respondent consents to this motion.



ROBERT DUDEK

Columbia, South Carolina

cc:
Alan McCrory Wilson, Esquire
Kathrine Haggard Hudgins, Esquire
Donald J. Zelenka, Esquire
Raia Hirsch, Esquire

the State because the officers testified they limited their promises to help by stating that all they could do was tell the judge that the defendant cooperated. *Id.* at 368, 443. The conflicting testimony was resolved in favor of the State, as “the officers’ offer to attest to Arrowood’s cooperation did not constitute promises of leniency.” *Id.*

The Court distinguished their finding from that in *State v. Peake*, where it was found that a promise of leniency induced an involuntary confession from the defendant. 291 S.C. 138, 352 S.E.2d 487 (1987). In that case, a confession was made after officers promised not to seek the death penalty if an inculpatory statement were made. *Id.* at 138, 488. This case is factually closer to *Peake* than *Arrowood* as the officer’s testimony is not in direct conflict with that of the defendant’s, as it was in *Arrowood*’s.

The Leading Investigator concedes that he did more than promise to tell the judge that Appellant was cooperative. He actually agreed to help Stalk get a bond. (Tr. 100, lines 6-17). Specifically, Lead Investigator testified that “I knew our judge wouldn’t be able to do anything with the murder charge,” but he never says the same of the accessory charge, the offense on which he promised to help the Appellant. (Tr. 99, lines 20-24). When asked by defense counsel if he would characterize his communications as having “committed yourself to speaking on behalf of Mr. Stalk?” he answered, “I would say yes.” (Tr. 108, line 1). While this exchange on its face alone may not seem egregious enough to warrant the subsequent confession involuntary, the conversation between Appellant and Lead Investigator must be analyzed under the “totality of the circumstances.” *Peake* at 139, 488 (1987). When evaluated under this standard, it is clear that the Court could find Appellant’s confession was obtained involuntarily, and thus should have been suppressed at trial.

D. Threats or promises made to family members of a suspect are equally impermissible under Miranda, and may be considered when determining the voluntariness of a confession or statement made in the wake of learning of this threat.

There is evidence that when looking for the Appellant, the Lead Investigator threatened the Appellant's sister with arrest herself and the involvement of Social Services with her children. (Tr. 527, lines 9-23). The Court addressed this issue directly in *State v. Corns*, 310 S.C. 546, 426 S.E.2d 324 (Ct. App. 1992), where the question at bar was specifically "whether the trial judge erred in admitting oral statements...because the statements were made involuntarily...to threats regarding his family." *Id.* at 548, 325. They held that such statements should be suppressed, as threats to a family member of the interrogated were just as "coercive" as threats made directly to the defendant himself. *Id.* The similarity between the method of intimidation in *Corns* is almost identical to those alleged to have been made in this matter, specifically the threat made by the officer to the defendant that "he could take out a warrant for his wife, that his wife could be put in jail and that his children could be taken by D.S.S." *Id.* at 550, 326.

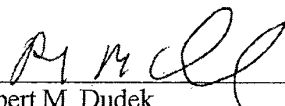
Appellant's sister contends that similar threats were made to her when the Lead Investigator visited her home, repeatedly and without warning, in search of her brother. (Tr. 527, lines 16-18). While the threat was made to her directly, rather than the Appellant, the Appellant likely was aware of these threats, as he resided with his sister and her children, and thus was a household member just as the defendant was with his wife in *Corns*. Additionally, Appellant's sister claims that the Lead Investigator told her he could help obtain a bond for the Appellant if she was able to produce him or reveal his whereabouts. (Tr. 526, line 5-7). Further, she testified, "that's when he say something about social services would get involved with me. He said something else about I can go

to jail for accessory for or after,” after repeatedly accusing her of lying about knowing where her brother was located. Thus, under *Corns*, these threats are also considered coercive in evaluating whether or not the Appellant’s confession was voluntary.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

December 8th, 2015


Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

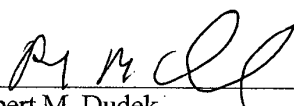
ATTORNEY FOR APPELLANT

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CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Lancaster County
The Honorable R. Knox McMahon, Circuit Court Judge
APPELLATE CASE NO. 2014-000166

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DEC 29 2015

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DAVID STALK,

APPELLANT

SUPPLEMENTAL RECORD ON APPEAL

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PRETRIAL MOTIONS

1 MR. BARFIELD: No, sir. I would -- no, sir, nothing
2 else.

3 THE COURT: Mr. Grier, as far as the defendant's
4 position, is it the defendant's position that he was advised
5 of his rights on the 6th -- just leave the 5th out there
6 kind of running wild for a minute for me.

7 MR. GRIER: 5th is irrelevant.

8 THE COURT: But on the 6th he was advised of his
9 rights, that is videoed, and then there was a break, a smoke
10 break and when he comes back he's not readvised and that's a
11 second proceeding?

12 MR. GRIER: It is, Your Honor.

13 THE COURT: All right. Well, then I would -- I do not
14 think I would have to look at the tapes from the 5th.

15 MR. GRIER: I agree. I don't think they're germane to
16 that argument, to my argument.

17 THE COURT: I mean, the Solicitor has laid the
18 foundation for the 5th and you don't disagree with the
19 foundation, that he was Mirandized properly on the 5th.

20 MR. GRIER: On the 5th, yes.

21 THE COURT: So if I look at the tape on the 6th that's
22 the 42 minute tape, correct, Solicitor?

23 MR. BARFIELD: Yes, sir.

24 THE COURT: And then look at the tape on the 11th also.

25 MR. GRIER: Yes, sir.

PRETRIAL MOTIONS

1 THE COURT: If y'all don't have any other evidence and
2 testimony I will do that tonight, the tape on the 11th, that
3 was it?

4 MR. BARFIELD: The tape on the 11th, that was just
5 about all of it. I think you can hear Lieutenant Hall
6 calling for the transport officer to come and get him. I
7 would invite the Court to do this, the tapes are Court's
8 Exhibits, Lieutenant Hall explained that the times don't
9 lineup with what's eastern standard time on our watches, but
10 the counter time I submit is accurate time, the elapsed time
11 is accurate time, so I would invite you --

12 THE COURT: The minutes are right --

13 MR. BARFIELD: The minutes are right, just not the time
14 on the clock. So I would invite you when you watch the
15 tapes from 2/6 of '13 to look at the time at the end of
16 segment one and the time at the beginning of segment two to
17 get a feel for how long elapsed during that smoke break.

18 THE COURT: Right.

19 MR. GRIER: I agree with that, Your Honor. Everything
20 I have seen suggests that that stamp is just -- forget that
21 stamp on that video.

22 THE COURT: I'll take it under advisement, I want to
23 look at that before I rule. Now, any other motions
24 in-camera?

25 MR. GRIER: No, Your Honor. At this point there are

TESTIMONY OF ED STOGNER

1 area.

2 Q. Although it won't mean anything to me, the numbers,
3 what was the longitude and latitude coordinates for the
4 source of this call?

5 A. The latitude was Longitude was negative

6

7 Q. And on the ground the general vicinity for those
8 readings, those coordinates?

9 A. It came up in the 100 block of Street.

10 Q. Is that in the City of Lancaster?

11 A. Yes, it is.

12 Q. Does the 911 operations center equipment record the
13 tower from which the signal for the call is -- through which
14 the signal for the call is transmitted?

15 A. Yes, sir, it does.

16 Q. Which tower did this call get transmitted through?

17 A. This one came in on the Stewman Lane Tower.

18 Q. Generally where is the Stewman Lane Tower -- first of
19 all, is it in the City of Lancaster?

20 A. Yes, sir, it is. It's down off of South Market Street
21 on Stewman Lane actually about four or five blocks away.

22 Q. Four to five blocks away from what?

23 A. From the area of the North Ferguson.

24 MR. BARFIELD: Permission to publish the recording?

25 THE COURT: Yes, sir.

TESTIMONY OF JASON LEAPHART

1 Q. Let's talk about people first. Were there some people
2 out and about that you and other officers talked to, adult
3 people as potential witnesses?

4 A. After a crime scene was set up, perimeter and all,
5 there were a couple of individuals from the street that --
6 one street down from where that came
7 out --

8 Q. And don't say what anybody said, but do you remember
9 who those people were by names? Do you have names?

10 A. Yes, sir.

11 Q. Who were the people that you were involved in talking
12 to, not what they said but just who they were?

13 A. It was a Huddleston individual and a Darcy.

14 Q. Do we ever know who Darcy is by last name or whether
15 that's first or a last name?

16 A. I'm assuming that's a last name.

17 Q. Okay. Did you see anything around or on the premises
18 of to suggest that something bad had happened
19 there?

20 A. Yes, sir.

21 Q. Just generally describe what you saw.

22 A. There was fresh like purchased merchandise with a
23 convenience store bag laying in front of the house with
24 unopened beverages.

25 Q. Specifically beverage, what kind of beverage was it?

TESTIMONY OF TIFFANY HEZEL

- 1 A. I did not.
- 2 Q. What else did you collect inside the house?
- 3 A. On the back of the blue love seat was a blue wash cloth
- 4 that was appeared to have absorbed suspected blood on it.
- 5 Q. I'm going to show you State's Exhibit 24. What's that
- 6 a picture of?
- 7 A. This is the front door of the residence, this is the
- 8 seat closest to the front door, and right there is blue wash
- 9 cloth that was collected.
- 10 Q. Are you calling that a couch or a love seat?
- 11 A. Love seat.
- 12 Q. I'm going to show you State's Number 25. What's that a
- 13 picture of?
- 14 A. That is the seat closest to the door of the love seat.
- 15 Q. Same seat, same picture, just a different view?
- 16 A. Yes.
- 17 Q. State's Number 26, what's that a picture of?
- 18 A. That is a closeup picture of the wash cloth that was on
- 19 the back of the headrest of that seat.
- 20 Q. Did you collect that wash cloth?
- 21 A. I did.
- 22 Q. Did you do any presumptive testing of that wash cloth?
- 23 A. I did not.
- 24 Q. Do you remember anything about a cordless telephone
- 25 inside of that house?

TESTIMONY OF NAOMI ANTHONY

1 DIRECT EXAMINATION

2 BY MR. BARFIELD:

3 Q. Tell us your name, please, sir.

4 A. My name is Richard L. Anthony.

5 Q. And Mr. Anthony, Kevisis was your son?

6 A. He was.

7 Q. Were you at your house Saturday night and was --

8 A. Yes, I was.

9 Q. And did you see Kevisis when he was there between 8:00
10 and 9:00?

11 A. Yes.

12 Q. Okay. And were you there when your family became
13 aware, or your wife became aware that something had happened
14 with Kevisis?

15 A. Yes, I was.

16 Q. Where did y'all go as a result of getting that
17 information? Well, first of all, what time do you recall it
18 was when you found out something had happened?

19 A. It was possibly between 11:00 and 11:30. We received a
20 knock at our door, as normal I was studying in my study
21 getting ready for ministry, we went to the door and there
22 was an officer from Kershaw, a city policeman, said he
23 needed to talk to us and I immediately went to the door and
24 let him in.

25 Q. Don't tell us what he said, but just as a result of

TESTIMONY OF BRIAN SMALL

1 A. Yes, sir.

2 Q. And what is that?

3 A. That is the projectile that was removed from Kevisis
4 Anthony's head.

5 Q. Were you present when that was all being done?

6 A. Yes, sir.

7 Q. Did you observe what was being done?

8 A. I did.

9 Q. And did you also receive -- did you receive anything
10 else by way of evidence at the autopsy?

11 A. They call it a standard, but it's a test tube with a
12 blood sample in it.

13 Q. And the fired bullet and the test tube with the blood
14 in it, what did you do with those items?

15 A. Took it back to the office and Sergeant Hartley entered
16 it -- pre-logged it into our lab of SLED and then I took it
17 straight to Columbia.

18 Q. Delivered it yourself?

19 A. Yes, I hand delivered it to the SLED lab.

20 Q. Both items?

21 A. Yes, sir.

22 MR. BARFIELD: That's all I have of this witness at
23 this time, please answer anything Mr. Grier may have.

24 THE COURT: Thank you, Solicitor. Mr. Grier?

25 MR. GRIER: Thank you, Your Honor. Beg the Court's