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**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

Appeal from Charleston County

Honorable Deadra L. Jefferson, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

MARVIN DONTE BRYAN,

APPELLANT

APPELLATE CASE NO. 2017-001468

---

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
 )  
 COUNTY OF CHARLESTON ) CASE NO.: 2017-GS-10-4160, 4161,  
 4162, 4163 (Wilson);  
 2017-GS-10-4161, 4165,  
 4166, 4167 (Bryan)

STATE OF SOUTH CAROLINA )  
 )  
 v. ) TRANSCRIPT OF RECORD  
 )  
 JUSTIN MARTEL WILSON AND )  
 MARVIN DONTÉ BRYAN )  
 \_\_\_\_\_ )

**ORIGINAL**

Monday, June 19 , 2017 - Friday, June 23, 2017

COMMENCING AT:  
 Charleston County Courthouse  
 Charleston, South Carolina  
 Before The Honorable Deadra L. Jefferson, Judge

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1 (The proceeding began at 11:21 a.m.)

2 VOIR DIRE

3 THE COURT: Ladies and gentlemen, we're going to select  
4 a jury for the cases of the State of South Carolina versus  
5 Marvin Donte Bryan and Justin Martel Wilson. We're going to  
6 go through a process that is called voir dire which is  
7 simply a legal term meaning that I am going to ask you some  
8 questions so that the attorneys can more effectively  
9 exercise their peremptory challenges in jury selection. If  
10 a question applies to you, I would ask that you stand, and  
11 in a loud and clear voice, give us your name, your juror  
12 number, and answer to the question if applicable, and remain  
13 standing until the Court has completed questioning you.  
14 Take a few moments, and again, review your summonses to make  
15 sure you're familiar with your juror number in the event  
16 that a question applies to you. And the cases to be tried  
17 are as follows: Indictment 2017-GS-10-4160, the State  
18 versus Justin Martel Wilson. It is an indictment for  
19 murder. And that indictment alleges as follows: That in  
20 Charleston County, South Carolina, on or about November 22,  
21 2015, the defendant Justin Martel Wilson while acting alone  
22 or in concert with others feloniously, willfully, and with  
23 malice aforethought did kill and murder Franklin Arthel (ph)  
24 Williams by means of gunshot. And Franklin Arthel Williams  
25 did die in Charleston as approximate result thereof on or

1 about November 22, 2015, alleging a violation of code  
2 section 16-3-10 of the Code of Laws as amended.

3 Indictment 2017-GS-10-4161, the State versus Justin  
4 Martel Wilson, an indictment for attempted murder. And that  
5 indictment alleges that in Charleston County, South  
6 Carolina, on or about November 22, 2015, the defendant  
7 Justin Martel Wilson while acting alone or in concert with  
8 others did with intent to kill and malice aforethought  
9 attempt to kill Quran Keith Allen, alleging a violation of  
10 code section 16-3-29 of the Code of Laws as amended; and  
11 indictment 2017-GS-10-4162, the State versus Justin Martel  
12 Wilson, an indictment for attempted murder. And that  
13 indictment alleges that in Charleston County, South  
14 Carolina, on or about November 22, 2015, the defendant  
15 Justin Martel Wilson while acting alone or in concert with  
16 others did with intent to kill and malice aforethought  
17 attempt to kill Montez Capers alleging a violation of code  
18 section 16-3-29 of the Code of Laws as amended; and  
19 indictment 2017-GS-10-4163, the State versus Justin Martel  
20 Wilson, an indictment for attempted murder. And that  
21 indictment alleges that in Charleston County, South  
22 Carolina, on or about November 22, 2015, the defendant  
23 Justin Martel Wilson while acting alone or in concert with  
24 others did with intent to kill and malice aforethought  
25 attempt to kill Adrian Isaac Williams alleging a violation



1 of code section 16-3-29 of the Code of Laws as amended.

2 And indictment 2017-GS-10-4164, the State versus Marvin  
3 Donte Bryan and indictment for murder, and that indictment  
4 alleges as follows: That in Charleston County, South  
5 Carolina, on or about November 22, 2015, the defendant  
6 Marvin Donte Bryan while acting alone or in concert with  
7 others feloniously, willfully, and with malice aforethought  
8 did kill and murder Franklin Arthel Williams by means of  
9 gunshot. And Franklin Arthel Williams did die in Charleston  
10 as approximate result thereof on about November 22, 2015,  
11 alleging a violation of code section 16-3-10 of the Code of  
12 Laws as amended; and indictment 2017-GS-10-4165, the State  
13 versus Marvin Donte Bryan, an indictment for attempted  
14 murder. And that indictment alleges as follows: That in  
15 Charleston County, South Carolina, on or about November 22,  
16 2015, the defendant Marvin Donte Bryan while acting alone or  
17 in concert with others did with intent to kill and malice  
18 aforethought attempt to kill Adrian Isaac Williams alleging  
19 a violation of code section 16-3-29 of the Code of Laws as  
20 amended. Indictment 2017-GS-10-4166, the State versus  
21 Marvin Donte Bryan and indictment for attempted murder. And  
22 that indictment alleges that in Charleston County, South  
23 Carolina, on or about November 22, 2015, the defendant  
24 Marvin Donte Bryan while acting alone or in concert with  
25 others did with intent to kill and malice aforethought

1 attempt to kill Montez Capers alleging a violation of code  
2 section 16-3-29 of the Code of Laws as amended; and  
3 indictment 2017-GS-10-4167, the State versus Marvin Donte  
4 Bryan, indictment for attempted murder. And that indictment  
5 alleges that in Charleston County, South Carolina, on or  
6 about November 22, 2015, the defendant Marvin Donte Bryan  
7 while acting alone or in concert with others did with intent  
8 to kill and malice aforethought attempt to kill Quran  
9 Kaleith Allen (ph) alleging a violation of code section  
10 16-3-29 of the Code of Laws as amended, and alleging all of  
11 these actions to be against the peace and dignity of the  
12 State of South Carolina.

13 Before we begin the voir dire process, I'm going to  
14 have counsel for the State to stand, introduce himself,  
15 anyone else who will be assisting him in the trial of this  
16 case, and tell us the names of the lawyers in his office.  
17 And I'm also going to have counsel for Mr. Bryan to stand,  
18 have his client face the panel and provide us with the same  
19 information. And counsel for Mr. Wilson to likewise provide  
20 the same information. You may proceed, Mr. Kidd.

21 AST. SOL. KIDD: Thank you, Your Honor.

22 THE COURT: Your welcome.

23 AST. SOL. KIDD: Good morning, ladies and gentlemen of  
24 the jury. My name is Culver Kidd. I'm an assistant  
25 solicitor with the Ninth Circuit Solicitor's Office. I work

1 under the direction of Scarlet Wilson who is your elected  
2 solicitor and the Deputy Chief Solicitor, Bruce DuRant.  
3 Trying the case with me is Assistant Solicitor Charles  
4 Patrick and Detective Judy Butler of the North Charleston  
5 Police Department. The attorneys in my office -- and I have  
6 to read a list. We've got a lot of them -- are Assistant  
7 Solicitor Alex Ginsburg, Alex Ziggler, Amy Harrell, Anna  
8 Richter. I already told you Bruce DuRant. Assistant  
9 Solicitor Burns Wetmore, Chad Simpson, Charles Condon.  
10 Mr. Patrick is here with us today. Assistant Solicitor  
11 Chris Lietzow, Daniel Cooper, Daniel Poulos, David Osborne,  
12 Debbie Herring-Lash, Denton Matthews, Drew Evans, Jenna  
13 Newman, Jennifer Shealy, Jessica Baldwin, Lauren Frierson,  
14 Marion Askins, Mark Vordon(ph), Matthew McClellan, Nick  
15 Lewis, Nina Savas, Richard Waring, Scott Maynor, Shannon  
16 Elliott, Stephanie Linder, Ted Corby, Todd Williams, Truc  
17 Tran, Tyler Whitaker, and Whit Sowards. Additionally,  
18 investigator with our office, Josh Cheney who is seated in  
19 the courtroom as we go through these trials.

20 THE COURT: Mr. Price?

21 MR. PRICE: Thank you, Your Honor.

22 THE COURT: Your welcome.

23 MR. PRICE: Good morning. My name is Bentley Price and  
24 I represent Marvin Bryan. I have a practice here in  
25 Charleston, Bentley Price Law Firm. I practice primarily in

1 criminal defense. I do everything from federal, state, to  
2 local defense. I also do civil plaintiff's work, personal  
3 injury style cases. And I'm also the Chief Judge for the  
4 City of Folly Beach. Thank you.

5 THE COURT: Mr. Peper?

6 MR. PEPER: May it please the Court?

7 THE COURT: Yes, sir.

8 MR. PEPER: Good morning, ladies and gentlemen.  
9 Standing before you is Justin Wilson, and this is Brynn  
10 Hunter, my legal assistant. She'll be joining us in the  
11 courtroom today. My name is Mark Pepper. I've got my own  
12 law practice, Peper Law Firm. Just started in 2005 here in  
13 Charleston. I do mostly criminal defense work, and then we  
14 do plaintiff work with some other attorneys in our office.  
15 Thank you very much. I appreciate it.

16 THE COURT: Are there any other lawyers in your office,  
17 Mr. Pepper?

18 MR. PEPER: Not -- well, not currently, Judge.

19 THE COURT: Would you say -- well, go ahead and  
20 anticipate.

21 MR. PEPER: There was one last week, and there will be  
22 another one next week, but not this week.

23 THE COURT: Okay. Tell us those names, if you would.

24 MR. PEPER: Okay. Trey Harrell (ph) formerly of my  
25 office as of last week, and Julian Ferguson who will be

1 joining us next week.

2 THE COURT: Thank you, sir. Ladies and gentlemen,  
3 again, if a question applies to you, please stand and in a  
4 loud and clear voice give us your name, your juror number,  
5 and an answer to the question if applicable, and remain  
6 standing until I've completed questioning you.

7 Is there any member of the panel related by blood or  
8 marriage to Justin Martel Wilson, Marvin Donte Bryan, Adrian  
9 Isaac Williams, Montez Capers, Quran Kaleith Allen, or any  
10 of the descendents of Franklin Arthel Williams? If so,  
11 please stand at this time.

12 (No response.)

13 THE COURT: Does any member of the panel have a close,  
14 personal, or social relationship with Marvin Donte Bryan,  
15 Justin Martel Wilson, Adrian Isaac Williams, Montez Capers,  
16 Quran Kaleith Allen, or anyone who is related to Franklin  
17 Arthel Williams? If so, please stand at this time.

18 (No response.)

19 THE COURT: The following are a list of potential  
20 witnesses in this case. Please listen carefully: Quran  
21 Allen; Montez Capers; Adrian Williams; Domonique Edwards;  
22 Keith Evans; Daquan Gilliard; Edmond Franklin, Jr.; PFC  
23 Charles Champion; Lieutenant Victor Buskirk; Detective  
24 Jennifer Butler; Sergeant Al Kuechler; Detective Jerry  
25 Jellico; CST Tiffany Adams; Detective Jason Phillip Monroe;

1 Sergeant Joseph Niemiec; Detective Charlie Benton; Sergeant  
2 Robert Bailey; Tonia Mallette; Detective Sam Riedel;  
3 Detective Jermoe Desheers; PFC Charles Martin; Patrolman  
4 Justin Fogle; Detective Alan Kaufman; MPO Michael Cook;  
5 Officer Matthew Jahngen, J-a-h-n-g-e-n; CS -- all of the  
6 north -- well, let me see -- Shaunta Middleton; Alex Gray;  
7 Lisa Kubicsko; Jonathan Madrid; Justin Ledford; Sergeant  
8 Andrew Coker; all of the North Charleston Police Department;  
9 Danielle Ravenell; Tammy Greene; Marcus Greene; Investigator  
10 Sherry Niblock with the Solicitor's Office; Art Salimia,  
11 S-a-l-i-m-i-a; Cheap Way Gas Station; Officer Matthew -- and  
12 I apologize -- Officer Matthew Jahngen is of the Charleston  
13 Police Department not the North Charleston Police  
14 Department -- CST Sarah Gladwell; Investigator Richard  
15 Gerten; SPO Jason Shepherd; Detective Craig Kosarko; Leslie  
16 Ambrose; Alana Keith; Tom Cokins, K-o-k-i-n-s --  
17 C-o-k-i-n-s; all of the Charleston Police Department;  
18 Catherine Leisy; Verona Herrera of the South Carolina Law  
19 Enforcement Division; Leroy Manigault; Jeremy Blake; Cynthia  
20 Schandl of the Medical University of South Carolina; Michele  
21 Reid; Emergency Medical Systems, EMS; Josh Cheney,  
22 Solicitor's Office; Thailando King; and Brian Ancrum.

23 Is there any member of the panel related by blood or  
24 marriage to any of the people that I've just listed, or does  
25 anyone have a close, personal, or social relationship with

1 any of these individuals? If so, please stand at this time.

2 Yes, ma'am, tell me your name and your jury number.

3 JUROR: Noreen Stackhouse, jury number 352.

4 THE COURT: Yes, ma'am.

5 JUROR: I know Detective Charlie Benton.

6 THE COURT: And when you say you know him, tell me is  
7 he an acquaintance? A good friend? How often do you see  
8 him on a monthly basis?

9 JUROR: Not on a monthly basis. My husband teaches  
10 with his wife.

11 THE COURT: So would you consider him a close friend or  
12 an acquaintance?

13 JUROR: Acquaintance.

14 THE COURT: Okay. If you would remain standing for me.  
15 Yes, ma'am?

16 JUROR: Sara Newer, juror 266. I know a few members of  
17 the North Charleston Police Department.

18 THE COURT: If you would tell me who those are, please.

19 JUROR: Tiffany Crider (ph), and Officer -- they are  
20 the SROs at my school.

21 THE COURT: I need you to speak up just a little. I'm  
22 having difficulty hearing you so I know the court reporter  
23 is as well. Could you repeat that for me. I know this is a  
24 big room.

25 JUROR: Tiffany Crider, she was an SRO at my school.

1 And Officer Vanez (ph). I don't remember his first name.  
2 He was also an SRO at my school.

3 THE COURT: And how would you -- I assume that was an  
4 in passing relationship. You would consider them coworkers  
5 or acquaintances?

6 JUROR: I'm friends with Tiffany Crider.

7 THE COURT: Okay. And how often would you say you see  
8 her?

9 JUROR: A couple of times every other month, maybe.

10 THE COURT: Okay. If you would remain standing. Yes,  
11 ma'am?

12 JUROR: Sierra Young; my juror number is 195. I am  
13 acquaintances with Detective Butler. I taught a family  
14 member. Her family member attended my class while I was a  
15 teacher.

16 THE COURT: Say that one more time. Her family member?

17 JUROR: I was her nephew's teacher.

18 THE COURT: Okay. That was elementary school?

19 JUROR: Yes.

20 THE COURT: Okay. And how long ago was that?

21 JUROR: Last year.

22 THE COURT: What grade do you teach?

23 JUROR: Fourth grade.

24 THE COURT: But you had no direct -- have you had  
25 direct contact with her?



1 JUROR: I met her on two different occasions.

2 THE COURT: Okay. If you would remain standing. Yes,  
3 ma'am?

4 JUROR: June Hirschmann, 168.

5 THE COURT: Yes, ma'am.

6 JUROR: I know Tess Johnson (ph) with the North  
7 Charleston Police Department through my husband Archie who  
8 worked with her husband Mike Johnson with EMS.

9 THE COURT: And would you consider them friends or  
10 acquaintances?

11 JUROR: More friends with my husband.

12 THE COURT: And how often would you say you come in  
13 contact with them?

14 JUROR: Every couple months.

15 THE COURT: As a result of these experiences, do you  
16 all feel that you can remain fair and impartial, and render  
17 a fair and impartial decision in this case based solely on  
18 the evidence as it will be presented and on the law as the  
19 Court will instruct? If your answer is yes, please take  
20 your seat.

21 (All standing jurors take their seat.)

22 THE COURT: Let the record reflect that all answered  
23 yes.

24 Has any member of the panel ever been represented by  
25 any of the attorneys involved in this case or any of the

1 attorneys in their offices? If so, please stand at this  
2 time.

3 (No response.)

4 THE COURT: Is there any member of the panel related by  
5 blood or marriage to or have a close personal or social  
6 relationship with any of the attorneys involved in this  
7 case, any of the lawyers with whom they practice law, or any  
8 person employed in any capacity whatsoever in their offices?  
9 Is so, please stand at this time.

10 Yes, ma'am, tell me your name and your jury number.

11 JUROR: Jury number 25, Dana Beltz. Mr. Wetmore's  
12 daughter was in my second grade class.

13 THE COURT: How long ago was that?

14 JUROR: Two years ago. And then Tyler -- well, her  
15 maiden name is Shalkadavie (ph). We went to high school  
16 together.

17 THE COURT: Have you seen her since high school?

18 JUROR: Just in the grocery store.

19 THE COURT: Okay.

20 JUROR: And then Mr. Wetmore I just see on occasions at  
21 festivals.

22 THE COURT: Okay. If you would remain standing. Yes,  
23 ma'am?

24 JUROR: My name is Chantille Finely, juror number 121.  
25 I know Richard Waring.

1 THE COURT: I'm sorry, I didn't hear you.

2 JUROR: Richard Waring, one of the lawyers that was  
3 listed.

4 THE COURT: And how would you characterize that  
5 relationship?

6 JUROR: We went to high school. I see him in passing.

7 THE COURT: Okay. Remain standing. Yes, ma'am?

8 JUROR: My jury number is 75. I am married to an  
9 assistant solicitor.

10 THE COURT: And what is his name?

11 JUROR: Christopher Lietzow.

12 THE COURT: As a result of these experiences, do you  
13 all feel that you can remain fair and impartial, and render  
14 a fair and impartial decision in this case based solely on  
15 the evidence as it will be presented on the law as the Court  
16 will instruct? If your answer is yes, please take your  
17 seat.

18 (Standing jurors take their seat.)

19 THE COURT: Let the record reflect that all answered  
20 yes.

21 Has any member of the panel formed or expressed an  
22 opinion about any issue or matter involved in this case? If  
23 so, please stand at this time.

24 (No response.)

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

1 any bias or prejudice toward either the State or the defense  
2 in this case? If so, please stand at this time.

3 (No response.)

4 THE COURT: Is there any member of the panel who is a  
5 member of the grand jury which issued the indictments in  
6 this case? If so, please stand at this time.

7 (No response.)

8 THE COURT: Has any member of the panel read, watched,  
9 or listened to any media accounts about this case? That  
10 includes anything that could have been in the newspaper,  
11 radio, television, or Internet. If so, please stand at this  
12 time.

13 (No response.)

14 (Brief pause.)

15 THE COURT: Is there any member of the panel who lives  
16 in the area of East Montague near Park Circle? If so,  
17 please stand at this time.

18 (No response.)

19 THE COURT: Is there any member of the panel who is a  
20 member of or a contributor to any group which has as its  
21 primary concern the promotion of law enforcement or  
22 victims's rights? These groups would include, but are not  
23 limited to: Mothers Against Drunk Driving, Students Against  
24 Drunk Driving, Citizens Against Violent Crimes, People  
25 Against Rape, Citizens Advocating a Return To Decency and

1 Ethics, Parents Empowered to Save Teens, or any other type  
2 community watch group. If so, please stand at this time.

3 (No response.)

4 THE COURT: Is there any member of the panel who has a  
5 moral, philosophical, or religious opposition to sitting in  
6 judgment of a fellow human being? If so, please stand at  
7 this time.

8 (No response.)

9 THE COURT: Is there any member the panel who has been  
10 the victim of a violent crime? If so, please stand at this  
11 time.

12 (No response.)

13 THE COURT: Is there any member of the panel who has  
14 had what they would characterize as an unpleasant experience  
15 with law enforcement, the legal or penial system, such that  
16 it would impact your ability to be fair and impartial? If  
17 so, please stand at this time. Yes, sir, tell me your name  
18 and your juror number.

19 JUROR: Jury number 141, John Glenn Cam, Jr.

20 THE COURT: And, sir, are you telling me that you  
21 cannot be fair and impartial?

22 JUROR: Probably not, Your Honor.

23 THE COURT: Okay. Sir, you would be good excused from  
24 the trial of this case only. You may take your seat.

25 Is there any member of the panel who believes in the

1 legalization of any illegal substance or drugs such that you  
2 believe or advocate that certain substance should become  
3 legalized? If so, please stand at this time.

4 (No response.)

5 THE COURT: Does any member of the panel know of any  
6 reason whatsoever why he or she should not serve as juror in  
7 this case with particular emphasis being placed on your  
8 ability to be fair and impartial to both the State and the  
9 defense? If so, please stand.

10 (No response.)

11 THE COURT: Any additional questions from the State?

12 AST. SOL. KIDD: No, ma'am.

13 THE COURT: Any additional questions from the defense,  
14 Mr. Price?

15 MR. PRICE: No, ma'am.

16 THE COURT: Mr. Peper?

17 MR. PEPER: No, Your Honor.

18 THE COURT: Okay. The strikes will be 10, 10, and 10.  
19 And we'll go in the order of the State, Mr. Price, and then  
20 Mr. Peper.

21 Ladies and gentlemen, if you would just bear with us.  
22 We need to prepare what are called strike sheets, and that  
23 may take a moment. We're having some printer issues. So we  
24 appreciate your patience. However, do I have bailiff that  
25 can demonstrate for me, please? Thank you, sir.

1 Ladies and gentlemen, if your name is called during the  
2 jury selection process, if you would come forward with all  
3 of your personal belongings. And come and stand where the  
4 -- actually, pull that -- straighten that up. Thank you.  
5 And have them stand directly in front of it. And if you  
6 would stand directly in front of -- actually, probably a  
7 little more comfortable. I'm sorry. Typical woman, right?  
8 Stand in front of the podium until we either excuse or seat  
9 you as a juror. Again, we appreciate your patience. If you  
10 would, go through this door on this side.

11 (Brief pause.)

12 THE COURT: And we're going to do two alternates. Is  
13 that acceptable to the State?

14 AST. SOL. KIDD: Sorry?

15 THE COURT: Two alternates? Is that acceptable to the  
16 State?

17 AST. SOL. KIDD: Yes, ma'am.

18 THE COURT: You, too?

19 MR. PRICE: Yes, Your Honor.

20 MR. PEPER: Yes, ma'am.

21 THE COURT: And it's my understanding that while you do  
22 not plan -- that this case will be concluded by Friday?

23 MR. PEPER: Absolutely.

24 AST. SOL. KIDD: Yes, ma'am. We believe, I think,  
25 Thursday.

1 MR. PRICE: That's correct, Your Honor. We believe the  
2 same.

3 THE COURT: Okay. All right. But let me just ask out  
4 of an abundance of caution because, you know, Murphy's Rule,  
5 if it can, it will. Is there any member of the panel that  
6 has any conflict with next week in the event that this case  
7 should run over? Although, I anticipate that it will not.  
8 If so, please stand at this time. And all you have to do is  
9 give me your juror number. Yes, ma'am?

10 JUROR: Ninety-eight, Maemee Devos.

11 JUROR: 200.

12 THE COURT: Tell me your name?

13 JUROR: Lindsey Keziah.

14 THE COURT: Y'all can sit down as you tell me. Yes,  
15 ma'am.

16 JUROR: 200, Lindsey Keziah.

17 THE COURT: Yes, ma'am.

18 JUROR: 82, Barbara Corbin.

19 THE COURT: Yes, ma'am.

20 JUROR: 266, Sarah Newer.

21 THE COURT: Yes, ma'am.

22 JUROR: 315, Elisa Ruopoli.

23 THE COURT: Yes, ma'am. Blue shirt?

24 JUROR: 121, Chantille Finley.

25 THE COURT: Other blue shirt?



1 JUROR: 244 Janice McCloud.

2 THE COURT: Tell me your number again.

3 JUROR: 244.

4 THE COURT: Okay.

5 JUROR: 207, Summer Landrith.

6 THE COURT: Okay.

7 JUROR: 254, Judy Montgomery.

8 THE COURT: Thank you.

9 (Brief pause.)

10 THE COURT: All right. If you would give the clerk  
11 your attention, please.

12 THE CLERK: Juror number 333, Doris Silverman. What  
13 say you for the State?

14 AST. SOL. KIDD: Please present the juror.

15 THE CLERK: What say you for Defendant Bryan?

16 MR. PRICE: Seat the juror.

17 THE CLERK: What say you for Defendant Wilson?

18 MR. PEPPER: Please seat the juror.

19 THE CLERK: Ms. Silverman, please have a seat in the  
20 jury box. You've been selected as a juror in the trial of  
21 this case. Juror number 137, Laurie Gerding. What say you  
22 for the State?

23 AST. SOL. KIDD: Court's indulgence. (Brief pause.)  
24 Please excuse the juror.

25 THE CLERK: You've been excused from the trial of this

1 case. You can have a seat back in the audience. If can go  
2 the same way you came in. Thank you. Juror number 25, Dana  
3 Beltz. What say you for the State?

4 AST. SOL. KIDD: Please present the juror.

5 THE CLERK: What say you for Defendant Bryan?

6 MR. PRICE: Please strike the juror.

7 THE CLERK: Madam Juror, please have a seat back in the  
8 audience. You've been excused from the trial of this case.  
9 Juror 352, Noreen Stackhouse.

10 AST. SOL. KIDD: You said 3-5-2?

11 THE CLERK: 3-5-2, yes, sir. What say you for the  
12 State?

13 AST. SOL. KIDD: Please present the juror.

14 THE CLERK: What say you for Defendant Bryan?

15 MR. PRICE: Please strike the juror.

16 THE CLERK: Madam Juror, please have a seat back in the  
17 audience. You've been excused from the trial of this case.  
18 Juror 191, Jira Jones. What say you the State?

19 AST. SOL. KIDD: Court's indulgence. (Brief pause.)  
20 Please present the juror.

21 THE CLERK: What say you for Defendant Bryan?

22 MR. PRICE: Please seat the juror.

23 THE CLERK: What say you for Defendant Wilson?

24 MR. PEPPER: Please seat the juror.

25 THE CLERK: Ms. Jones, please have a seat in the jury

1 box. You have been selected as a juror in the trial of this  
2 case. Juror number 69, Patricia Clark. What say you for  
3 the State?

4 AST. SOL. KIDD: Court's indulgence. (Brief pause.)  
5 Please present the juror.

6 THE CLERK: What say you for Defendant Bryan?

7 MR. PRICE: Please strike the juror.

8 THE CLERK: Madam Juror, please have a seat back in the  
9 audience. You've been excused from the trial of this case.  
10 Juror number 114, Cynthia Easterlin.

11 AST. SOL. KIDD: I'm sorry, what number is she?

12 THE CLERK: 1-1-4.

13 AST. SOL. KIDD: Thank you.

14 THE CLERK: Cynthia Easterlin. What say you for the  
15 State?

16 AST. SOL. KIDD: Court's indulgence. (Brief pause.)  
17 Please present the juror.

18 THE CLERK: What say you for Defendant Bryan?

19 MR. PRICE: Please excuse the juror.

20 THE CLERK: Madam Easterlin, please have a seat back in  
21 the audience. You've been excused from the trial of this  
22 case. Juror 388, Bvanricco Williams; 388.

23 THE COURT: Oh, you know what? He's exempt. And I  
24 apologize. Sir, I meant to tell you earlier, you're exempt  
25 and you may leave if you would like.

1 MR. PRICE: What was his juror number just so we can  
2 keep track?

3 THE COURT: 3-8-8.

4 MR. PRICE: Thank you very much.

5 THE COURT: You're welcome. And I apologize. That was  
6 my oversight.

7 THE CLERK: Juror 355, Phillip Stender. What say you  
8 for the State?

9 AST. SOL. KIDD: Court's indulgence. (Brief pause.)  
10 Please excuse the juror.

11 THE CLERK: Mr. Stender, please have a seat back in the  
12 audience. You've been excused from the trial of this case.  
13 Juror 50, Sarah Bryant. What say you for the State?

14 AST. SOL. KIDD: Please present the juror.

15 THE CLERK: What say you for Defendant Bryan?

16 MR. PRICE: Please present the juror.

17 THE CLERK: What say you for Defendant Wilson?

18 MR. PEPPER: Please present the juror.

19 THE CLERK: Ms. Bryant, please have a seat in the jury  
20 box. You've been selected as a juror in the trial of this  
21 case. Juror 272, Caroline Nyquistwalsh. What say you for  
22 the State?

23 AST. SOL. KIDD: Court's indulgence. (Brief pause.)  
24 Please excuse the juror.

25 THE CLERK: Ms. Nyquistwalsh, please have a seat back

1 in the audience. You've been excused from the trial of this  
2 case. Juror number 6, David Allison. What say you for the  
3 State?

4 AST. SOL. KIDD: Please present the juror.

5 THE CLERK: What say you for Defendant Bryan?

6 MR. PRICE: Please present the juror.

7 THE CLERK: What say you for Defendant Wilson?

8 MR. PEPER: Please present the juror.

9 THE CLERK: Mr. Allison, please have a seat in the jury  
10 box. You've been selected as a juror in the trial of this  
11 case. Juror number 400, Nissa Zimmerman. What say you for  
12 the State?

13 AST. SOL. KIDD: Please present the juror.

14 THE CLERK: What say you for Defendant Bryan?

15 MR. PRICE: Court's indulgence, please. (Brief pause.)  
16 Please seat the juror.

17 THE CLERK: What say you for Defendant Wilson?

18 MR. PEPER: Please excuse the juror.

19 THE CLERK: Mr. Zimmerman, please have a seat back in  
20 the audience. You've been excused from the trial of this  
21 case. Juror number 74, Ellen Colehower. What say you for  
22 the State?

23 AST. SOL. KIDD: Please present the juror.

24 THE CLERK: What say you for Defendant Bryan?

25 MR. PRICE: Please present the juror.

1 THE CLERK: What say you for Defendant Wilson?

2 MR. PEPER: Please present this juror.

3 THE CLERK: Ms. Colehower, please have a seat in the  
4 jury box. You've been selected as a juror in the trial of  
5 this case. Juror number 372, Joseph Vick; 3-7-2. What say  
6 you for the State?

7 AST. SOL. KIDD: Please present the juror.

8 THE CLERK: What say you for Defendant Bryan?

9 MR. PRICE: Please excuse this juror.

10 THE CLERK: Mr. Vick, please have a seat back in the  
11 audience. You've been excused from the trial of this case.  
12 Defendant Bryan has exhausted five strikes. Juror 269,  
13 Susan Norfleet. What say you for the State?

14 AST. SOL. KIDD: Please present the juror.

15 THE CLERK: What say you for Defendant Bryan?

16 MR. PRICE: Please present the juror.

17 THE CLERK: What say you for Defendant Wilson?

18 MR. PEPER: Please present the juror.

19 THE CLERK: Ms. Norfleet, please have a seat in the  
20 jury box. You've been selected as a juror in the trial of  
21 this case. Juror 317, Ashley Sabo; 3-1-7. What say you for  
22 the State?

23 AST. SOL. KIDD: Please present the juror.

24 THE CLERK: What say you for Defendant Bryan?

25 MR. PRICE: Court's indulgence, please. (Brief pause.)

1 Please present the juror.

2 THE CLERK: What say you for Defendant Wilson?

3 MR. PEPER: Please excuse this juror.

4 THE CLERK: Ms. Sabo, please have a seat back in the  
5 audience. You've been excused from the trial of this case.  
6 Juror number 155, Jerry Harrison; 1-5-5. What say you for  
7 the State?

8 AST. SOL. KIDD: Court's indulgence. (Brief pause.)  
9 Please present this juror.

10 THE CLERK: What say you for Defendant Bryan?

11 MR. PRICE: Please present the juror.

12 THE CLERK: What say you for Defendant Wilson?

13 MR. PEPER: Please present this juror.

14 THE CLERK: Mr. Harrison, please have a seat in the  
15 jury box. You've been selected as a juror in the trial of  
16 this case. Juror 116, Lula Edmonds; 1-1-6. What say you  
17 for the State?

18 AST. SOL. KIDD: Court's indulgence. (Brief pause.)  
19 Please present this juror.

20 THE CLERK: What say you for Defendant Bryan?

21 MR. PRICE: Please present the juror.

22 THE CLERK: What say you for Defendant Wilson?

23 MR. PEPER: Please present this juror.

24 THE CLERK: Ms. Edmonds, please have a seat in the jury  
25 box. You have been selected as a juror in the trial of this

1 case. Juror 73, Christian Cochrane; 7-3. What say you for  
2 the State?

3 AST. SOL. KIDD: Court's indulgence. (Brief pause.)  
4 What was his number again?

5 THE CLERK: 7-3..

6 AST. SOL. KIDD: 7-3. Please present the juror.

7 THE CLERK: What say you for Defendant Bryan?

8 MR. PRICE: Please present the juror.

9 THE CLERK: What say you for Defendant Wilson?

10 MR. PEPER: Please present this juror.

11 THE CLERK: Mr. Cochrane, please have a seat in the  
12 jury box. You have been selected in the trial of this case.  
13 Juror number 3, Samuel Ague. What say you for the State?

14 AST. SOL. KIDD: Please present the juror.

15 THE CLERK: What say you for Defendant Bryan?

16 MR. PRICE: Court's indulgence. (Brief pause.) Please  
17 excuse this juror.

18 THE CLERK: Mr. Ague, please have a seat back in the  
19 audience. You've been excused from the trial of this case.  
20 Juror 67, Timothy Chester.

21 AST. SOL. KIDD: I apologize. Can you ---

22 THE CLERK: 6-7.

23 AST. SOL. KIDD: 6-7.

24 THE CLERK: What say you from the State?

25 AST. SOL. KIDD: Court's indulgence. (Brief pause.)



1 Please present the juror.

2 THE CLERK: What say you for Defendant Bryan?

3 MR. PRICE: Please present the juror.

4 THE CLERK: What say you for Defendant Wilson?

5 MR. PEPER: Please excuse this juror.

6 THE CLERK: Mr. Chesser, please have a seat back in the

7 audience. You've been excused from the trial of this case.

8 Juror number 68, Michael Christopher; 6-8, Michael

9 Christopher. What say you for the State?

10 AST. SOL. KIDD: Please present the juror.

11 THE CLERK: What say you for Defendant Bryan?

12 MR. PRICE: Please present the juror.

13 THE CLERK: What say you for Defendant Wilson?

14 MR. PEPER: Please present this juror.

15 THE CLERK: Mr. Christopher, please have a seat in the

16 jury boxy. You have been selected as a juror in the trial

17 of this case. Juror number 308, Sharon Riggon; 3-0-8. What

18 say you for the State?

19 AST. SOL. KIDD: Court's indulgence. (Brief pause.)

20 Please excuse the juror.

21 THE CLERK: Ms. Riggon, please have a seat back in the

22 audience. You've been excused from the trial of this case.

23 Juror number 342, Caroline Smith. What say you for the

24 State?

25 AST. SOL. KIDD: Court's indulgence. (Brief pause.)

1 Please present the juror.

2 THE CLERK: What say you for Defendant Bryan?

3 MR. PRICE: Please present the juror.

4 THE CLERK: What say you for Defendant Wilson?

5 MR. PEPER: Please present this juror.

6 THE CLERK: Ms. Smith, please have a seat in the jury  
7 box. You have been selected as a juror in the trial of this  
8 case. Juror number 124, Laura Fletcher. What say you for  
9 the State?

10 AST. SOL. KIDD: Court's indulgence. (Brief pause.)  
11 Please present the juror.

12 THE CLERK: What say your for the Defendant Bryan?

13 MR. PRICE: Please present the juror.

14 THE CLERK: What say you for Defendant Wilson?

15 MR. PEPER: Please excuse this juror.

16 THE CLERK: Ms. Fletcher, please have a seat back in  
17 the audience. You've been excused from the trial of this  
18 case. Juror number 156, Amie Hart. What say you for the  
19 State?

20 AST. SOL. KIDD: Please present the juror.

21 THE CLERK: What say you for Defendant Bryan?

22 MR. PRICE: Please present the juror.

23 THE CLERK: What say you for Defendant Wilson?

24 MR. PEPER: Please excuse this juror.

25 THE CLERK: Ms. Hart, please have a seat back in the

1 audience. You've been excused from the trial of this case.  
2 Defendant Wilson has exhausted five strikes. Juror 184,  
3 Tikeyah Jenkins. What say you for the State?

4 AST. SOL. KIDD: Court's indulgence (Brief pause.)  
5 Please present the juror.

6 THE CLERK: What say you for Defendant Bryan?

7 MR. PRICE: Please present the juror.

8 THE CLERK: What say you for Defendant Wilson?

9 MR. PEPER: Please present this juror.

10 THE CLERK: Ms. Jenkins, please have a seat in the jury  
11 box. You've been selected as a juror in the trial of this  
12 case. All right. Select our first alternate. Strikes are  
13 one and two. Juror number 290, Michael Porter; 2-9-0.

14 AST. SOL. KIDD: I'm sorry. Again?

15 THE CLERK: 2-9-0.

16 AST. SOL. KIDD: 2-9-0.

17 THE CLERK: What say you for the State?

18 AST. SOL. KIDD: Please present the juror.

19 THE CLERK: What say you for Defendant Bryan?

20 MR. PRICE: Court' indulgence. (Brief pause.) Please  
21 present the juror.

22 THE CLERK: What say you for Defendant Wilson?

23 MR. PEPER: Please present the juror.

24 THE CLERK: Mr. Porter, please have a seat in the jury  
25 box. You've been selected as our first alternate in the

1 trial of this case. Selecting the second alternate now.

2 Juror 34, Matt Bonnie. What say you for the State?

3 AST. SOL. KIDD: Please present the juror.

4 THE CLERK: What say you for Defendant Bryan?

5 MR. PRICE: Please seat the juror.

6 THE CLERK: What say your for Defendant Wilson?

7 MR. PEPER: Please present the juror.

8 THE CLERK: Mr. Bonnie, please have a seat in the jury  
9 box. You've been selected for juror alternate number two in  
10 the trial of this case. The jury is selected, Your Honor.

11 THE COURT: Any motions regarding the selection of the  
12 jury from the State?

13 AST. SOL. KIDD: Court's indulgence. (Brief pause)

14 No, ma'am.

15 THE COURT: Give me one second. From the defense,  
16 Mr. Bryan?

17 MR. PRICE: No, Your Honor.

18 THE COURT: From the defense, Mr. Wilson?

19 MR. PEPER: No, ma'am.

20 (Brief pause.)

21 (The jury is impaneled at 12:19 p.m.)

22 THE COURT: Ladies and gentlemen, in the interest of  
23 time, we're going to take a lunch recess while the other  
24 judges are also hearing matters of law in their cases. We  
25 don't want you to have to wait while they're going through

1 that process. We'll resume jury selection at two o'clock.  
2 If you would return to the assembly room at that time, the  
3 panel will be split in two, and a panel will be sent to  
4 Judge Newman, and a panel will be sent to Judge Couch. And  
5 as I stated at jury qualification, today will be your  
6 longest day here. We try not to bring you back every day to  
7 conduct the Court's business. So we try to get as much done  
8 today as possible so that once we select our panels, you  
9 just have to call back after six each evening for further  
10 instructions. Again, we appreciate your patience. Have a  
11 good lunch. Return to the assembly room promptly at  
12 two o'clock. Thank you. Except those who have been  
13 protected for today.

14 (The unselected members of the jury panel exits the  
15 courtroom at 12:20 p.m. for a lunch recess.)

16 THE COURT: Is there a problem? Stand before me.

17 (Juror number 184 stands.)

18 THE COURT: You can stand right there. Tell me what  
19 your situation is.

20 JUROR: My family meeting is coming up Thursday, Friday  
21 and Saturday.

22 THE COURT: Yeah, I wish you had told me that earlier.

23 JUROR: We just got the information today.

24 THE COURT: When does this -- I would imagine your  
25 events are in the evening?

1 JUROR: Well, I don't know. They haven't told us, but  
2 we're supposed to be in Myrtle Beach.

3 THE COURT: Tell me your name and your juror number.

4 JUROR: 184, Tikeyah Jenkins.

5 THE COURT: Okay. Is there a reason you did not tell  
6 me that during jury qualifications?

7 JUROR: Well, I just found out when we took our break.  
8 I checked my phone.

9 THE COURT: If you would take a seat for me, please.  
10 Would counsel approach.

11 (A bench conference was held off the record and out of  
12 the hearing of the jury panel.)

13 THE COURT: Okay. Ma'am, I'm going to have to ask you  
14 to hang in there with us due to your late -- I understand  
15 that your family just let you know, and I want to be as  
16 accommodating as possible, but I think we may finish this  
17 case by Thursday. So I'm going to have to ask you to hang  
18 in there with us. I'm not going to be able to excuse you  
19 under those circumstances. If you had let me know earlier,  
20 I could have made other accommodations. Okay. If you all  
21 would stand, please, to be sworn, and give the clerk your  
22 attention.

23 (The jury panel is sworn at 12:23 p.m.)

24 THE COURT: Ladies and gentlemen, I'm going to send you  
25 to your jury room for a few moments while I discuss

1 scheduling with counsel. During this break, please do not  
2 discuss the case. Please do not speculate about what you  
3 think it may or could be about. Also, during this process  
4 the bailiffs are going to get your cell phone numbers so  
5 that we can have direct communication with you in the event  
6 that something comes up during the trial of the case. We  
7 appreciate your indulgence. If you would go with the  
8 bailiffs, please.

9 (The jury exits the courtroom at 12:24 p.m.)

10 THE COURT: All right. You may be seated, but wait  
11 until that door is closed for me before we start talking.  
12 Okay. Now, tell what you you were saying again, Mr. Kidd.

13 AST. SOL. KIDD: Your Honor, so as we briefly discussed  
14 in the pretrial phone conference, the defense is objecting  
15 to a pretty decent size of my case in chief, which, in my  
16 opinion, is the motive for the murder that occurred on  
17 November 22, 2015. There is a number of events that  
18 occurred in the months, and really that year, leading up to  
19 that event, which I believe are the motives for the shooting  
20 that had occurred. This is sort of a back-and-forth between  
21 these sort of a West Ashley group and a North Charleston  
22 group. There's a number of events that will be testified  
23 about by codefendants as well as documented by the  
24 Charleston Police Department. Because it's the motive, the  
25 first witnesses in my case were ---

1 THE COURT: How many witnessed are there that you're  
2 talking about?

3 AST. SOL. KIDD: So there are five, really six  
4 witnesses, that I would be calling in reference to the  
5 motive, Your Honor.

6 THE COURT: Who are those witnesses?

7 AST. SOL. KIDD: Craig Kosarko of the Charleston Police  
8 Department.

9 THE COURT: Let me ask another question. You listed 51  
10 witnesses. Can you tell me of those witnesses who you are  
11 not calling?

12 AST. SOL. KIDD: Who I am not calling?

13 THE COURT: And go by the numbers that you provided for  
14 me. You don't have to tell me names. Numbers would be more  
15 efficient for me. I have a State's witness list that you  
16 sent to my office that is 1 through 51.

17 AST. SOL. KIDD: Yes, ma'am. Obviously, we're not  
18 calling 51 witnesses, Your Honor.

19 THE COURT: Yeah, you told me you were more about 20 I  
20 think is what you said; 27.

21 AST. SOL. KIDD: That's correct.

22 THE COURT: Just give me the numbers of who you are not  
23 calling.

24 AST. SOL. KIDD: And don't hold me strictly to it.

25 THE COURT: I understand.



1           AST. SOL. KIDD: I do not plan on calling number 7,  
2 Champion.

3           THE COURT: I don't need the names, just the numbers.

4           AST. SOL. KIDD: I do not plan on calling 10, 11, 14,  
5 16, 17; we've consented to 21.

6           THE COURT: What do you mean you've consented? You  
7 mean you've consented to the evidence coming in without  
8 foundation?

9           AST. SOL. KIDD: Yes, ma'am.

10          THE COURT: Okay. Is that correct?

11          MR. PRICE: That's correct, Your Honor.

12          THE COURT: That's the 911 call I assume?

13          AST. SOL. KIDD: Yes, ma'am.

14          MR. PEPER: Yes, ma'am.

15          AST. SOL. KIDD: Twenty-five; consented to 26.

16          THE COURT: I don't know what 26 is. I just need to  
17 know if you're calling a witness or not. We'll deal with  
18 all the rest of that later.

19          AST. SOL. KIDD: Yes, ma'am. We're not calling 26.  
20 We're not calling 27, 28 or 29, 30, 33, 36, 40, 44, 45, 48,  
21 51. And I might be able to narrow it a little further down  
22 as we go through the trial, but that's my best guess.

23          MR. PRICE: Your Honor, I would like to address  
24 something about that at the appropriate time.

25          THE COURT: And who of those witnesses are your

1 witnesses on your Lisle?

2 AST. SOL. KIDD: Number four -- excuse me, I apologize.  
3 Number five and number six; number 37, 31, 38, 47 and 46.

4 THE COURT: Now, what did you want to tell me, Mr --  
5 and we can hear pretrial, but I can tell you in advance I'm  
6 not going to rule in that way because I have to hear it in  
7 its context. When y'all do things pretrial, you present it  
8 one way then it develops a different way. It's not final in  
9 it's nature and I don't see that as an efficient use of  
10 time. I prefer to do it in-camera as you call the witness  
11 and then I can make a contemporaneous ruling.

12 AST. SOL. KIDD: And that was the only reason I wanted  
13 to at least posture to the Court to potentially do it this  
14 way is because the very first witness I'm going to call,  
15 they have nothing to testify to but the stuff that's  
16 objected to.

17 THE COURT: Then we'll have to deal with it that way.  
18 Because it's been my experience of what you say pretrial, it  
19 doesn't ever turn out that way. And I don't like ruling  
20 that way because I don't know the context of the case; I  
21 haven't heard your opening arguments; I haven't heard any of  
22 it. And so what ends up happening is I rule in a vacuum,  
23 and that's not fair to me; it's not fair to y'all. Because  
24 then I can change my mind.

25 AST. SOL. KIDD: Yes, ma'am.

1 THE COURT: And then that changes the whole course of  
2 the way you try your case strategically. I prefer to do it  
3 as you call the witnesses and then that way I can hear it in  
4 its context, and then that way it also -- the case builds as  
5 it builds and strategically you all can make the decisions  
6 you need to make. And I can either admit the testimony or  
7 exclude it. And that gives me a better opportunity to make  
8 a more effective ruling. I just don't like doing it twice  
9 because people never say things the same way twice either.

10 AST. SOL. KIDD: Yes, ma'am. And I don't mind opening  
11 first. I guess my only thing is ---

12 THE COURT: You just have to stay away from everything  
13 that's challenged.

14 AST. SOL. KIDD: And that's fine. The only issue is  
15 ---

16 THE COURT: And then also it protects you too because  
17 if I exclude it, and you said that, then you've got to  
18 unring a bell and deal with that.

19 AST. SOL. KIDD: Sure.

20 THE COURT: And I just don't find that efficient  
21 either.

22 AST. SOL. KIDD: And I don't mind that. I was just  
23 thinking about for efficiency. But because my very first  
24 witness is gonna be objected to, so the very first witness  
25 we're going to have to proffer their testimony.

1 THE COURT: How long is that?

2 AST. SOL. KIDD: Well, it's going to be the first,  
3 really four, witnesses.

4 THE COURT: Yeah. But how long is each of their  
5 testimony? Because I would assume they have other things to  
6 testify about other than the Lisle stuff.

7 AST. SOL. KIDD: Not the CPD officers.

8 THE COURT: Yeah. But your fact witnesses would I  
9 would assume.

10 AST. SOL. KIDD: My fact witnesses would, Your Honor,  
11 but ---

12 THE COURT: Because they're victims, so they should  
13 have something else to testify to other than what you ---

14 AST. SOL. KIDD: Well, the victims I don't think are  
15 going to testify much as the cooperating codefendant's.

16 THE COURT: Okay.

17 AST. SOL. KIDD: They are going to mainly put that into  
18 perspective.

19 THE COURT: And who are they?

20 AST. SOL. KIDD: Keith Evans and Daquan Gilliard.

21 THE COURT: Those are the cooperating codefendants?

22 AST. SOL. KIDD: Yes, ma'am.

23 THE COURT: So you're saying the victims didn't see who  
24 were shooting at them?

25 AST. SOL. KIDD: Correct. This is cars shooting from

1 the vehicle ---

2 THE COURT: They're not going to be able to identify a  
3 vehicle?

4 AST. SOL. KIDD: They can identify a vehicle, both  
5 cars. To give you just a little bit of context, Judge, this  
6 is -- there's a red Dodge Charger and a white Ford Edge.  
7 And the Ford Edge, or silver Ford Edge, the Ford Edge has  
8 four occupants. Those are my defendants. The red Charger  
9 has four occupants; those are my victims. The Ford Edge  
10 pulls up next to the Charger at the Mall Drive traffic light  
11 on East Montague right across from the police department.  
12 They roll down the back window and shoot an assault riffle  
13 into the Dodge Charger. There's sort of a running gun  
14 battle down East Montague. Both cars ---

15 THE COURT: And they didn't have any involvement with  
16 one another before they started?

17 AST. SOL. KIDD: Yes, ma'am. And that's the -- well,  
18 not ---

19 THE COURT: No. I'm talking about that day.

20 AST. SOL. KIDD: Not that day, no, ma'am.

21 THE COURT: Okay.

22 AST. SOL. KIDD: And so that's -- the motive,  
23 obviously, is the back story which is what is objected to.  
24 But both cars crashed into Park Circle, actually into the  
25 circle, and are disabled. Defendants and half of the

1 victims run. Obviously, the deceased didn't. And the case  
2 sort of develops from that point forward. So the victims  
3 aren't ID witnesses. It's mainly the physical evidence on  
4 scene and the cooperating codefendants and circumstantial  
5 evidence such as that that build my case against these  
6 defendants, Your Honor.

7 THE COURT: But I wouldn't want to suspend that time  
8 hearing it pretrial and you being under the misapprehension  
9 that I'm going to rule right then.

10 AST. SOL. KIDD: I don't mind staying away from it from  
11 my opening. My only concern is I just didn't want us to go  
12 through three hours of proffered testimony while the jury is  
13 waiting outside.

14 THE COURT: I can't imagine it should take three hours,  
15 will it? As you call your witness, I'll hear the proffer,  
16 and then I'm going to rule. And then we go -- and the jury  
17 would hear it if I let it in. If not, they leave.

18 AST. SOL. KIDD: So my ---

19 THE COURT: For you here or if they have other stuff to  
20 talk about other than that.

21 AST. SOL. KIDD: So my concern is, Judge, so what we  
22 have is -- for instance, we have an assault happens at a  
23 club. And then later that same night there's a shooting in  
24 Ashleyville. And so I have police officers that respond to  
25 that shooting because I believe I have to prove it by clear

1 and convincing evidence. My codefendants who are going to  
2 testify about being assaulted at the club. And then there's  
3 another assault at another club, and then there's another  
4 shooting. And I believe I have to call witnesses as to each  
5 of those events to establish a motive properly.

6 THE COURT: You would have to lay your foundation with  
7 your first witnesses who are eye witnesses to those events  
8 before you could call corroborating witnesses. So I don't  
9 really -- those witnesses would come later in your  
10 continuum, wouldn't they?

11 AST. SOL. KIDD: [1:13:39] Well, and that was -- and  
12 that was why I thought that proffering the testimony made  
13 the most sense because I thought I could call the  
14 codefendant, the cooperating codefendants, have them lay  
15 that foundation outside the presence of the jury; you could  
16 hear the police officers' testimony about what they know  
17 about the initial events.

18 THE COURT: I'm not going to rule in a vacuum. Opening  
19 arguments tell me a lot. They tell me about theories of  
20 cases and which direction you're going in. And I'm not  
21 going to hear testimony in a vacuum and rule.

22 AST. SOL. KIDD: Yes, ma'am.

23 THE COURT: Because it's in limine. It's temporary;  
24 it's not permanent. And then I change my mind and you  
25 change the theory of your case and you've got a problem.

1 Yes, sir?

2 MR. PRICE: Your Honor, just as a housekeeping issue,  
3 all of these witnesses are obviously under subpoena?

4 THE COURT: Uh-huh.

5 MR. PRICE: And I'm not sure, again, the progression of  
6 the trial may change. But I would ask that the State just  
7 be instructed not to release anybody from their subpoena  
8 because I may call somebody that they don't unless they --  
9 with us.

10 THE COURT: Well, I would suggest y'all work that out  
11 because they aren't bound to keep people under subpoena for  
12 your benefit. So you may need to issue your own subpoenas.

13 MR. PRICE: Not a problem.

14 THE COURT: So can y'all work that out?

15 MR. PRICE: Sure.

16 AST. SOL. KIDD: Judge --

17 THE COURT: Are there any exhibits -- oh, I'm sorry Mr.  
18 Kidd.

19 AST. SOL. KIDD: I haven't subpoenaed everyone on my  
20 witness list.

21 THE COURT: So maybe you need to find out who is under  
22 subpoena and who is not.

23 MR. PRICE: Yes, ma'am.

24 AST. SOL. KIDD: I often don't subpoena my police  
25 officers because I've talked to them.



1 THE COURT: So that y'all can issue subpoenas if you  
2 need to. Yes, sir?

3 MR. PEPER: Thank you, Your Honor. Please the Court?

4 THE COURT: Yes, sir.

5 MR. PEPER: To echo Mr. Kidd's argument in what I  
6 believe I heard him say was that he'd stay away from it  
7 being the motive issue in ---

8 THE COURT: I've already instructed that anything that  
9 is subject to a motion is not going to be mentioned in  
10 opening.

11 MR. PEPER: Thank you, Your Honor.

12 THE COURT: That eliminates the issue. All right.  
13 Now, my next question is do y'all have any exhibits that can  
14 be premarked that you've agreed upon? Makes my court  
15 reporter's life a whole lot easier.

16 AST. SOL. KIDD: I believe we do, Judge.

17 THE COURT: Can y'all work on that and maybe -- how  
18 long do you think you'll need -- how many -- well, let me  
19 backtrack. How many exhibits do you have that you think  
20 you'll can agree on or that y'all have already agreed on?

21 AST. SOL. KIDD: So, and once again, this is probably  
22 more of my problem than anyone else's. I have approximately  
23 188 exhibits, most of which are photographs.

24 THE COURT: Okay.

25 AST. SOL. KIDD: However, that number will probably be

1 cut in half depending on the Court's ruling.

2 THE COURT: Well, you can premark them. I'm only  
3 asking you to mark what you agree on. So that really isn't  
4 a problem. Because they wouldn't be agreeing on the Lisle  
5 exhibits anyways. So you need to premark what you've agreed  
6 on so I can mark them and admit them. That saves us a lot  
7 of time in the trial process.

8 AST. SOL. KIDD: Sure.

9 THE COURT: What you've objected to we'll deal with  
10 in-camera because you'll be trying to introduce those to the  
11 witnesses that we're hearing in-camera. So we can deal with  
12 those contemporaneously. So if there's a list -- have y'all  
13 agreed on some of his exhibits?

14 MR. PRICE: We have not.

15 THE COURT: And do y'all have any exhibits he needs to  
16 look at?

17 MR. PRICE: There's only one or two that we weren't  
18 able to agree on.

19 THE COURT: Okay. So what I need you all to do is I  
20 need you to premark the exhibits you've agreed on; premark  
21 the ones you haven't agreed on because those will be marked  
22 for ID only at this time. But by premarking what you've  
23 agreed upon, I can have a list that we can go ahead and  
24 admit, and it just makes the court reporter's life a whole  
25 lot easier, it makes your life easier, instead of us having

1 to go through all the foundation for each of those exhibits  
2 when you've agreed on them. Okay? Can y'all work on that,  
3 or have y'all worked on that in advance?

4 AST. SOL. PATRICK: Yes, Your Honor.

5 THE COURT: Okay. All right. Is there anything else  
6 other than the fact that I don't take speaking objections?  
7 So if you have an objection, you should be able to tell me  
8 succinctly what that objection is, whether it's leading,  
9 pitting, relevance, you know the plethora of objections,  
10 foundation. And if I need argument, I'll have it at the  
11 bench. I always have my bench conferences recorded. And if  
12 I need to excuse the jury, I will hear additional argument,  
13 but I will rule contemporaneously. All right. Yes, sir?

14 MR. PEPER: Thank you, Judge. May it please the Court?  
15 You asked us earlier last week for Mr. Price and I maybe get  
16 together and offer you some guidance as to the order. We've  
17 done so if you want to take note of that.

18 THE COURT: Perfect. Yes. I assumed by the way y'all  
19 were sitting ---

20 MR. PEPER: Right.

21 THE COURT: --- that Mr. Price was going to go first  
22 and you were going to go second.

23 MR. PEPER: That's correct.

24 THE COURT: If y'all switch up, it doesn't matter.  
25 I'll just say counsel proceed. And whichever one of y'all

1 wants to go first can go first.

2 MR. PEPER: We will switch up on six or seven.

3 THE COURT: That's fine. But the court reporter has  
4 your names and she'll know by virtue of that who is going  
5 first.

6 MR. PEPER: Thank you, Your Honor.

7 MR. PRICE: Thank you, Your Honor.

8 THE COURT: All right. Is there anything else we need  
9 to take up before I send the jury to lunch and we resume?

10 AST. SOL. KIDD: So we'll do them after lunch?

11 THE COURT: Yeah. Aren't y'all hungry?

12 AST. SOL. KIDD: Yes, ma'am.

13 THE COURT: It's been a long morning. It's been a long  
14 morning for them. If it's been long for us, I know it's  
15 been long for the jury. Because we're used to this and  
16 they're not. So it's -- what time you got? 12:40? Okay.  
17 Why don't we send them to lunch until, let's see, two  
18 o'clock. That gives y'all a 20-minute window to work on  
19 your exhibits and go to lunch at one. That sound feasible?

20 MR. PRICE: Yes, ma'am.

21 THE COURT: We'll break until two. And I'm going to  
22 appoint -- bear with me one moment. I just had my list here  
23 -- 342 is the foreperson.

24 (Brief pause.)

25 (The jury enters the courtroom at 12:42 p.m.)

1           THE COURT: Ladies and gentlemen, you've been selected  
2 for the cases of the State of South Carolina versus Bryan  
3 and Wilson. I'm going to give you a lunch break. We have  
4 some brief matters of law, some things we need to work  
5 through before we go to lunch, and I don't want you all  
6 sitting while we go through that process. During the break,  
7 please do not discuss the case among yourselves or with  
8 anyone else. Again, please don't have any contact with  
9 anyone in or about the courthouse as you go to lunch and  
10 return from lunch. There are a lot of witnesses in this case  
11 as well as the parties, and people look very different  
12 outside of a courtroom in this context versus outside of a  
13 courtroom. And I would not want an innocent conversation to  
14 be observed and misinterpreted.

15           Also, if you would indulge me and not make any comments  
16 regarding your jury service on any social networking sites  
17 that includes Facebook, Instagram, Twitter, there's so many,  
18 Snapchat. I've lost track. I don't know how to use any of  
19 them. My niece looks at me like I'm just in a whole nother  
20 century. I wouldn't even know how to upload a picture if  
21 they tried to show me. But if you would refrain from doing  
22 that. Believe it or not, there are people that troll these  
23 sites who are not on jury service who will call us and let  
24 us know that you've made a comment. And I would, again, not  
25 want an innocent comment to be misinterpreted during this

1 process. We'll resume at two o'clock. The bailiffs are  
2 going to show you how to leave the courthouse and return  
3 directly to your jury room. I hope you all have a great  
4 lunch. I hope it's not too hot outside. We'll see you at  
5 two o'clock. Have a good lunch. As soon as everyone  
6 returns, we'll begin with opening argument and opening  
7 instruction.

8 (The jury exits the courtroom at 12:44 p.m.)

9 THE COURT: You may take your seats. Is there anything  
10 before we adjourn for lunch from the State?

11 AST. SOL. KIDD: No, ma'am.

12 THE COURT: From the defense?

13 MR. PEPER: Your Honor, we were just discussing  
14 possibly consenting to his sequestering witnesses. I don't  
15 think anybody has a problem with that. Obviously, Detective  
16 Butler would be allowed to remain here.

17 THE COURT: And any victims.

18 MR. PEPER: Correct.

19 AST. SOL. KIDD: The only other thing I had, Your  
20 Honor, was just my investigator, Investigator Cheney. He is  
21 on my witness list solely for some investigation I had to do  
22 pulling some Facebook information. I would ask that ---

23 THE COURT: Is there any question about the  
24 authenticity of the Facebook stuff if it were to come in?

25 MR. PEPER: I think there is, Judge.

1 THE COURT: I mean in terms of questioning him about  
2 it.

3 MR. PEPER: Right.

4 THE COURT: He'd only be a foundation or a chain  
5 witness so to speak.

6 MR. PEPER: That's fine.

7 AST. SOL. KIDD: And the only reason I need him is so  
8 he can get my next witnesses ---

9 THE COURT: That would be helpful.

10 AST. SOL. KIDD: --- so we can flow the case.

11 THE COURT: And actually what I would suggest you all  
12 do -- and I don't have a problem with sequestering the  
13 witnesses. That's a typical motion that is made. I don't  
14 want to have to hunt for witnesses, though. So we have  
15 rooms. And if they could just sit in those rooms and be  
16 instructed not to talk about their testimony, I don't have a  
17 problem with that. But we should be able to reach out and  
18 touch them right there.

19 AST. SOL. KIDD: Yes, ma'am.

20 THE COURT: Or either -- is there another room  
21 somewhere? I never go on the side of the courthouse.

22 THE CLERK: There's another conference room that -- 4B.  
23 It's outside of 4B's area, though. So it's not a secured  
24 area.

25 THE COURT: So is it, like, hard to get to?

1 THE CLERK: Oh, no, no. The door is just . . .

2 THE COURT: So either one of those rooms. Have your  
3 witnesses in those rooms so that we don't have to go like  
4 hunting everyone.

5 MR. PEPER: Or in the hallway.

6 THE COURT: Yeah. As long as we can find them.  
7 Sometimes people get bored and they, like, wonder. We have  
8 to go looking for them. Okay. All right. Anything else  
9 before we break for lunch? From the State?

10 AST. SOL. KIDD: No, ma'am.

11 THE COURT: Mr. Price?

12 MR. PRICE: No, ma'am.

13 THE COURT: Mr. Peper.

14 MR. PEPER: No, ma'am.

15 THE COURT: Have a good lunch. But before y'all leave,  
16 see what you can premark with the court reporter at least  
17 until one o'clock and then I'll see y'all at two.

18 (The proceeding recessed for lunch at 12:47 p.m. The  
19 proceedings resumed at 2:05 p.m.)

20 THE COURT: Is State ready to proceed?

21 AST. SOL. KIDD: Yes, Your Honor. (Brief pause.)

22 Question, and just so I don't run afoul---

23 THE COURT: One second because my court reporter -- I  
24 mean my law clerk is talking to the court reporter. (Brief  
25 pause.) On the exhibits, the court reporter has State's 1



1 through 65 marked. Are all of those agreed to or what -- I  
2 need to know what numbers are agreed to and so does the  
3 court reporter.

4 AST. SOL. KIDD: There are -- I know they do not agree  
5 to number 8.

6 THE COURT: I just need to know the numbers you've  
7 agreed to.

8 (Brief pause.)

9 AST. SOL. KIDD: My understanding is everything but 8  
10 and 9. Probably want to check with counsel.

11 MR. PRICE: Let me just check what 8 and 9 is because I  
12 know which two ---

13 AST. SOL. KIDD: I know you took 8 and 9 when I  
14 questioned you . . . (Brief pause.) So it would be -- they  
15 consent to everything except 8, 9, 11 and 17.

16 THE COURT: Is that correct?

17 MR. PEPPER: Yes, ma'am.

18 MR. PRICE: That is correct, Your Honor.

19 THE COURT: So then States 1 through 7 come in without  
20 objection; 10 comes in without objection. Well, actually,  
21 10 through 16 would come in without objection; and then 18  
22 through 65 come in without objection if my math is accurate.  
23 Do you want me to do it again? Because ---

24 MR. PRICE: I think you're correct. He has the four  
25 set aside.

1 THE COURT: Okay. Yeah, I have -- so that would be 1  
2 through 7, 10, 12 through 16, and then 18 through 65 come in  
3 without objection.

4 MR. PRICE: That's perfect.

5 MR. PEPER: Yes, Judge.

6 MR. PRICE: That's perfect; yes ma'am.

7 THE COURT: Okay. Don't ask me to do it again.

8 AST. SOL. KIDD: I couldn't tell you whether your right  
9 or ---

10 THE COURT: I'm challenged with math, so I think that's  
11 correct, though. Okay. Because then that would exclude 8,  
12 9, and 11 and 17, which are ID only. Okay, Madam Court  
13 Reporter, you good?

14 COURT REPORTER: Yes, ma'am.

15 THE COURT: Okay. Those come in -- those which the  
16 Court has indicated come in without objection. Is that  
17 correct from the State?

18 AST. SOL. KIDD: Yes, Your Honor.

19 THE COURT: Is that correct from the defense, Mr.  
20 Price?

21 MR. PRICE: Yes, Your Honor.

22 THE COURT: And Mr. Pepper?

23 MR. PEPER: Yes, ma'am.

24 (State's Exhibit Numbers 1-7, 10, 12-16, and 18-65 were  
25 received into evidence.)

1 (State's Exhibit Numbers 8, 9, 11 and 17 were marked  
2 for identification.)

3 (Court's Exhibit No. 1, Stipulations, was marked for  
4 identification.)

5 THE COURT: Okay. Are we ready to begin with opening  
6 instruction and opening argument? State?

7 AST. SOL. KIDD: Yes, ma'am.

8 THE COURT: And defense?

9 MR. PRICE: Yes, ma'am.

10 MR. PEPER: Yes, Your Honor.

11 THE COURT: Okay. And you wanted for clarification,  
12 Mr. Kidd?

13 AST. SOL. KIDD: Well, I just wanted to -- I understand  
14 the Court's instruction and it obviously puts me in a little  
15 bit of a box only in that ---

16 THE COURT: Well, it actually saves you from your self  
17 because if I exclude anything then you don't have to try to  
18 clean it up, and I don't have to give a curative instruction  
19 to disregard something that shouldn't have come in.

20 AST. SOL. KIDD: That's true. And I'm going to,  
21 obviously, adhere to that, and I'm not going to mention any  
22 of the specific events that transpired. However, you know,  
23 because there obviously has to be a motive ---

24 THE COURT: No there doesn't. State law doesn't ---

25 AST. SOL. KIDD: I think I would be remiss to say that

1 there's not at least a few ---

2 THE COURT: Well, you can articulate a motive based on  
3 anything the Court has said is admissible. But until it's  
4 admissible you're not to make any reference to it.

5 AST. SOL. KIDD: So I guess my concern is ---

6 THE COURT: I have to determine by clear and convincing  
7 evidence, and I have to determine if it's more relevant, if  
8 it's more probative than prejudicial, and then I have to  
9 still then look at the Lisle line of cases and determine if  
10 it fits within the ambit of motive.

11 AST. SOL. KIDD: And I don't plan on touching any prior  
12 bad acts. But, you know, the codefendant testimony is going  
13 to be that there was a feud brewing between the victims and  
14 the defendants.

15 THE COURT: Well, if there was a feud that was brewing  
16 that the underlying action -- the underlying basis of the  
17 feud does not rely on a prior bad act then you can mention  
18 it. Otherwise, how are you going to explain a feud that  
19 never come into evidence?

20 AST. SOL. KIDD: Well, how do I explain a shooting  
21 without a reason to do it?

22 THE COURT: I think the evidence -- the purpose of  
23 opening argument is to say what the evidence will show. And  
24 right now that's what the evidence is going to show at the  
25 end of the argue -- end of the case when you argue what you

1 believe the evidence has shown and what it has proven and  
2 what the motive is. You don't argue the end of the case at  
3 the beginning. And right now that's what the evidence will  
4 show.

5 AST. SOL. KIDD: Yes, ma'am.

6 THE COURT: The evidence will show that there was a  
7 shooting.

8 AST. SOL. KIDD: Well, I think ---

9 THE COURT: And as you present your case, then your  
10 case based on your burden of proof under your articulation  
11 of your theory will show why you believe it happened. But  
12 until it comes in, there is to be no reference of it.

13 AST. SOL. KIDD: But, so I have ---

14 THE COURT: If there was a feud that was not based or  
15 premised on these other acts, you can mention it. But if  
16 the sole purpose of this feud was these prior bad acts, stay  
17 away from it. Because if you say to this jury there was a  
18 feud going on and then no evidence comes in for the feud,  
19 what are you going to do? And I don't know if it's going to  
20 come in because I haven't heard it.

21 AST. SOL. KIDD: Right. So I think that when a  
22 codefendant is going to say there is -- it will go much  
23 deeper into specific acts, which I'm not going to obviously  
24 address. But they're going to say that there is bad blood  
25 between us and the defendants and that's why this happened.

1           THE COURT: If there was evidence of bad blood other  
2 than these prior bad acts you want to rely on, yeah, you can  
3 mention it. But if the sole basis of the prior bad acts was  
4 a feud based on some gang activity as you allege it and some  
5 prior activity which involved -- I don't even know what it  
6 was. A shooting or whatever you all claim happened, or bad  
7 blood or bad words.

8           AST. SOL. KIDD: I guess the problem that I have is  
9 that, like, for instance, Justin Wilson was shot in July. I  
10 think it can almost be common sense that that is a potential  
11 motive for this shooting.

12          THE COURT: I don't know that.

13          AST. SOL. KIDD: In addition, Mr. Bryan's house was  
14 shot up dive days before this shooting.

15          THE COURT: Still doesn't eliminate you from having to  
16 meet your burden of proof as it regards Lisle. These are  
17 prior bad acts that are not the subject of a conviction.

18          AST. SOL. KIDD: Right. Which is -- well, while I  
19 might disagree that they're prior bad acts and that ---

20          THE COURT: They're prior bad acts. They're illegal  
21 activity. Shooting up somebody's house is not illegal under  
22 any theory.

23          AST. SOL. KIDD: But they didn't do it.

24          THE COURT: I don't -- you know, you want me to put the  
25 cart before the horse because the way you've decided to

1 present your case. I've been very clear that it's not going  
2 to happen that way. So I just need you to stay away from  
3 everything that involved Lisle. And you run the risk of  
4 mentioning something that may not come in, and then I have  
5 to give a curative instruction. And if it goes too far, I'm  
6 going to declare a mistrial. I'm just telling you in  
7 advance. I like a clean record. And I need you to do it  
8 the way we know the rules require it to be done. That  
9 protects everybody.

10 AST. SOL. KIDD: Yes, ma'am.

11 THE COURT: All right. Is the defense ready to  
12 proceed?

13 MR. PEPER: Yes, ma'am.

14 MR. PRICE: Yes, ma'am.

15 THE COURT: All righty. Who is going to go first in  
16 opening instruction? Mr. Price I assume?

17 MR. PRICE: Yes ma'am.

18 THE COURT: And then followed by Mr. Peper?

19 MR. PEPER: Yes ma'am.

20 THE COURT: Please bring in the jury. (Brief pause.)  
21 Now, if there is some other bad acts -- well, some other  
22 motive that's not attached to these bad acts, I want to be  
23 clear, you can mention that. They have, you know, argument  
24 or something that wasn't attached to these other acts that  
25 doesn't preclude you from mentioning it. But anything that

1 I have to rule on regarding admissibility based on Lisle,  
2 you need to stay away from.

3 AST. SOL. KIDD: I guess my problem is from a bad act  
4 standpoint, I look at it this way. Like, say I killed my  
5 wife, right, because she cheated on me. Okay.

6 THE COURT: Probably not the best example.

7 AST. SOL. KIDD: So my wife is unfaithful and then I  
8 kill her. Okay? She's the bad -- the bad act is her  
9 cheating on me and I kill her for it; right?

10 THE COURT: No, it's not.

11 AST. SOL. KIDD: That's my motive.

12 THE COURT: Adultery might be morally wrong and wrong  
13 under the code for distribution purposes. But it ain't  
14 illegal in South Carolina anymore. That law has been  
15 repealed.

16 AST. SOL. KIDD: Well, maybe that's a bad example. But  
17 my point is that ---

18 THE COURT: I think it's been repealed.

19 AST. SOL. KIDD: --- the bad act -- the bad act of the  
20 victim ---

21 THE COURT: There might still be a law against that.  
22 I'm not sure.

23 AST. SOL. KIDD: --- the only bad acts I would be  
24 relating to would be things that the victim did to provoke  
25 the defendant.



1 THE COURT: Well, that's a matter of theory whether  
2 somebody provoked you into shooting them because they were  
3 cheating. I mean, I don't know.

4 AST. SOL. KIDD: Well, once again, maybe my ---

5 THE COURT: Not the best analogy.

6 AST. SOL. KIDD: May it's not the best analogy. Let's  
7 put it this way: So I'm -- I get into a fight with my  
8 cocounsel today. He punches me in the face. Next week I go  
9 kill him.

10 THE COURT: That's a prior bad act because that's  
11 assault and battery, and you're going to have to prove by  
12 clear and convincing evidence that he did it.

13 AST. SOL. KIDD: That he -- you're saying that me the  
14 defendant on trial for murder, it's a prior bad act?

15 THE COURT: It is. It's an assault and battery if he  
16 punched you.

17 AST. SOL. KIDD: If he assaulted me?

18 THE COURT: Yeah. If he punched you, you're going to  
19 have to prove it. That's just not going to come in ---

20 AST. SOL. KIDD: Why is that a prior bad act against  
21 me?

22 THE COURT: This is a little different than what you're  
23 talking about. That's, again, not the best analogy.

24 AST. SOL. KIDD: Well, but I think that's right on  
25 point.

1 THE COURT: You're talking about folks shooting at each  
2 other?

3 AST. SOL. KIDD: No. I'm talking about folks shooting  
4 at these guys. They're not doing anything wrong ---

5 THE COURT: I don't know. I haven't heard the whole --  
6 I have no clue what happened. I wasn't -- I don't know what  
7 you're going to say happened.

8 AST. SOL. KIDD: Well, and ---

9 THE COURT: That's why it's best to stay away from it  
10 until I can hear exactly what you're alleging happened.  
11 Clean record.

12 (The jury enters the courtroom at 2:16 p.m.)

13 THE COURT: Ladies and gentlemen, as I've instructed,  
14 you've been selected for the cases of the State of South  
15 Carolina versus Marvin Donte Bryan and Justin Martel  
16 Williams [sic]. I'm going to give you some preliminary  
17 instructions so that you will know how we will be proceeding  
18 in this case, and they will serve as an introduction to the  
19 trial of these cases. These remarks are not a charge on the  
20 law in this case. I will instruct you on the law applicable  
21 to this case at the end of the trial before you retire to  
22 consider your verdict. Each of you has been given a  
23 notebook. There is a sticker on the front of that notebook  
24 if you write your juror number on that sticker so that you  
25 will be able to identify which notepad belongs to. You will

1 be given the opportunity to take notes during the course of  
2 this trial, and I will give you some preliminary  
3 instructions regarding note taking near the conclusion of  
4 these instructions. Also, when you hear the Court use the  
5 term charge, that's a legal term of art that simply means  
6 instructions. So when you hear charge and instructions,  
7 those terms are interchangeable.

8 As I've explained, this is merely an explanation of the  
9 procedure that we will follow in the trial of this case so  
10 that you may better understand what is happening. The  
11 indictments in this case charge each defendant with  
12 different crimes. The elements of which I will explain to  
13 you at the conclusion of the case. The indictments, ladies  
14 and gentleman, are simply the charge or charges by which the  
15 case is brought into court. And they are not in any sense  
16 evidence of any of the allegations they contain. The  
17 defendants have pled not guilty to the indictments. The  
18 State therefore has the burden of proving each of the  
19 elements of each indictment beyond a reasonable doubt. And  
20 it will be your duty, ladies and gentlemen, to decide  
21 whether the State has met that burden or not.

22 Your purpose as jurors is to find and determine the  
23 facts. You are the sole judges of the facts in this case.  
24 If at anytime I make any comment regarding the facts, you  
25 must disregard it. You are to determine the facts from the

1 testimony you hear and the other evidence introduced in  
2 court. It will then be for you to determine the inferences  
3 which you feel may be properly drawn from the evidence. It  
4 is especially important that you perform your duty of  
5 determining the facts diligently and conscientiously because  
6 ordinarily there is no way to correct an erroneous  
7 determination of facts made by a trial jury. On the other  
8 hand and with equal emphasis, the same law that makes you  
9 the judges of the facts, makes me the judge of the law. The  
10 law as given by the Court is the only law you may consider.  
11 You must accept and follow it even though you may disagree  
12 with it. The Court cannot disagree with you about what the  
13 facts are, and you cannot disagree with the Court about what  
14 the law is or what the law should be. Your responsibility,  
15 ladies and gentlemen, is to take the law as I instruct it,  
16 and apply it to the facts as you find them from the  
17 testimony of the sworn witnesses and any other evidence that  
18 is introduced during the course of this trial. After doing  
19 that, you will render your verdict, a true and just verdict,  
20 under the solemn oath that you have taken as jurors in this  
21 case.

22       Until I advise you to begin your deliberations, you  
23 must not discuss this case with anyone that includes your  
24 fellow jurors, your friends, your family members, or anyone  
25 involved in the case. After the case is submitted to you,

1 you must discuss it only in the jury room with your fellow  
2 jurors. The attorneys and the parties have been advised  
3 that they should not speak with you at all, so if you should  
4 run into them, just say for instance, in the elevators or in  
5 the garage or during the lunch recess, and they don't speak  
6 with you, please don't think they're being unfriendly or  
7 untoward. They're simply following the Court's  
8 instructions. Again, we would not want an innocent  
9 conversation to be observed and misinterpreted.

10 During the trial of this case you're instructed not to  
11 read, listen to, or watch any media accounts about this case.  
12 That includes anything that may be in the newspaper, on the  
13 Internet, radio, or television. And, likewise, you're  
14 strictly instructed not to do any independent research of  
15 any type on any sites on the Internet. You must not  
16 consider anything that you may have read or heard about this  
17 case outside of the courtroom whether before or during the  
18 trial. It is essential that you maintain an open mind and  
19 not decide any issue in this case until all of the evidence  
20 has been presented, the parties have made their closing  
21 arguments, and I've instructed you on the law applicable to  
22 this case. It is your solemn responsibility to render a  
23 verdict in this case, and your verdict must be based solely  
24 on the evidence as it is presented to you during this trial  
25 and on the law as I will instruct you during and at the

1 close of this trial.

2 In just a moment, the solicitor will make what is  
3 called an opening statement in which he will explain to you  
4 what he believes the issues to be in this case. The  
5 attorneys for the defendants may also make opening  
6 statements, although they are not required to do so. Keep  
7 in mind, ladies and gentlemen, that what the attorneys tell  
8 you during their opening statements is not evidence. It is  
9 only their contention as to what they believe the evidence  
10 will show in this case. The evidence in this case will be  
11 presented to you by sworn testimony from the witness stand  
12 and/or by exhibits that may be introduced into evidence.  
13 From time to time during the trial you will hear the  
14 attorneys say, Your Honor, I object. Just as in sports,  
15 business, or any other structured activity, there are  
16 certain rules that we must obey in the presentation of  
17 evidence. These rules have a definite purpose. They ensure  
18 that you receive the most trustworthy and reliable evidence  
19 available. An objection is the procedure that an attorney  
20 uses to call a possible violation of these rules to my  
21 attention as the judge of the Court. And for this reason,  
22 you should never hold an attorney's objection against them  
23 nor conclude from the Court overruling or sustaining an  
24 objection that I favor one side or the other. Also, during  
25 the course of the trial, you may hear the attorneys say we

1 have a question of law or a matter of law to discuss; or  
2 they may ask to approach the bench, or I may even ask them  
3 to approach the bench. The reason we do this is because you  
4 are the finders of the facts, and sometimes when I'm  
5 discussing matters of law with the attorneys it might be  
6 necessary for me to make some comment about the facts in  
7 connection with the ruling. And for this reason, we exclude  
8 you from the courtroom or from those discussions so that in  
9 no way will you be influenced by anything that the Court may  
10 say or do in connection with the facts of this case.

11 In determining the true facts in this case, you must  
12 decide whether or not a witness or witnesses is believable.  
13 It is my responsibility to rule as a matter of law as to  
14 whether certain testimony is admissible at all or not. But  
15 once it is admitted, ladies and gentlemen, whether or not  
16 you believe it is solely a matter for you to determine. In  
17 deciding whether to believe a witness you have the right to  
18 consider the interest of any witness, the bias of any  
19 witness, the prejudice of any witness, the opportunity for  
20 the witness to have seen the matters and things about which  
21 the witness may testify, and the way the witness acts on the  
22 witness stand, what we commonly refer to as their demeanor.  
23 You have the right, ladies and gentlemen, to consider  
24 anything that is in the record that will help you evaluate  
25 the testimony of the witnesses. That means that it is your

1 duty to pay close attention to the witnesses, to observe  
2 them, to listen to them, and to pay close attention to the  
3 attorneys and the Court. Although I know it is very  
4 difficult, please do not allow your thoughts to wonder. But  
5 give strict attention to the testimony so that at the end of  
6 the testimony, after the arguments of the lawyers and the  
7 charge on the law given by the Court, you will then be in a  
8 position to determine what the true facts are, apply the law  
9 to those facts, and thus render a true and just verdict in  
10 this case.

11 I have selected your foreperson. The foreperson is  
12 purely an administrative function. That person does not  
13 have any greater vote or voice than you do. It is simply  
14 that we need someone to fill out the verdict form and to  
15 write out any questions that you may have during  
16 deliberations. It's purely a random process. I wish it was  
17 something more scientific, but it's not. But we just  
18 randomly select a foreperson so that a cross-section of the  
19 community is represented in that capacity. But, again, I  
20 emphasize that that person does not have any greater vote or  
21 voice than you do. And Madam Forelady, I will give you  
22 further instructions regarding filling out the verdict and  
23 likewise at the conclusion of the case.

24 Also during the course of this case, you will be given  
25 the opportunity to take notes. Note taking is a privilege



1 that you may choose to exercise or choose not to exercise.  
2 Please don't feel you're required to take notes. Not  
3 everyone finds note taking helpful to them. If you should  
4 decide to take notes, please don't try to record everything  
5 that is said. It's physically impossible. Even the average  
6 speaker talks at over 200 words a minute. So as you can  
7 well imagine, it would be impossible for you to take down  
8 verbatim what is being said. So please don't allow note  
9 taking to become a distraction to you. Because as I've  
10 explained, as the finders of the facts, it is essential that  
11 you observe the witnesses so that you can determine their  
12 credibility regarding their testimony. You may want to keep  
13 an outline of the main points and arguments that are being  
14 made. So that when you retire to deliberate you can review  
15 your notes to refresh your own memory. Please be reminded  
16 that your notes are for your individual purposes. They're  
17 not be shared with anyone else. And also be reminded that a  
18 fellow juror's memory should be considered just as reliable  
19 as notes that may have been taken by fellow juror. During  
20 breaks and recesses, you're notes will be left in your  
21 seats, and we will secure them during the recesses so that  
22 there's no premature temptation to deliberate regarding any  
23 matter that you may have heard again prior to any breaks or  
24 recesses.

25 Ladies and gentlemen, you're participating in a

1 time-tested system. And I believe each of you will meet  
2 your duties accordingly. In order preserve everyone's  
3 rights, I'll give the parties an opportunity to take  
4 exception to anything that the Court has said by way of  
5 opening instruction. Any exceptions from the State?

6 AST. SOL. KIDD: No, your Honor.

7 THE COURT: Any exceptions from the defense, Mr. Price?

8 MR. PRICE: No, Your Honor.

9 THE COURT: Mr. Peper?

10 MR. PEPER: No, Judge. Thank you.

11 THE COURT: Ladies and gentlemen, I would ask that you  
12 give counsel your undivided attention. You may proceed.

13 AST. SOL. KIDD: Thank you, Your Honor. May it please  
14 the Court?

15 THE COURT: You're welcome. Yes, sir, you may proceed.

16 AST. SOL. KIDD: Mr. Peper, Mr. Price.

17 OPENING STATEMENTS

18 AST. SOL. KIDD: Good afternoon, ladies and gentlemen  
19 of the jury. I want to start out by thanking y'all for  
20 being here. I know Mr. Peper, Mr. Price, join me in that.  
21 We cannot do what we do without you being here, and I know  
22 you put your own personal lives on hold. It's a great  
23 sacrifice and I deeply appreciate it.

24 As qualified jurors, you all are from Charleston  
25 County. One of the best places on earth. Think about

1 Charleston you think about our tourism, our beaches, our  
2 restaurants, our scenic waterways. But there is an  
3 underbelly to our city that we often don't like to think  
4 about or talk about. And it is the type of headline that  
5 flashes across the screen that we kind of say, oh, who  
6 awful, and then just move on and talk about how bad traffic  
7 is or talk about that next apartment building that's going  
8 to go up that's going to drive us all crazy. We don't think  
9 about it because it wasn't our loved one that was lost. It  
10 wasn't the person that we're associated with that was the  
11 victim of a violent crime. So it's just rolls off our  
12 shoulders. But the case you're going to hear about this  
13 week is real. These are real people's lives that are  
14 affected. This is something that happens in our  
15 neighborhoods, in our city. And what I'm going to ask you  
16 to do is just follow the law that the judge charges you,  
17 uphold your duty and your oath that you took as a juror, and  
18 hold those responsible accountable for it.

19 The facts are going to show you that there's two groups  
20 of individuals. You're going to have a lot of names and  
21 things like that thrown at you this week. I'm going to do  
22 my best to present them in a way that you get to know  
23 everybody involved in this case. But you're going to learn  
24 about these four individuals first from West Ashley, and how  
25 on November 22, 2015, they were in a Ford Edge rental car.

1 A rental car that was rented by Justin Wilson's girlfriend  
2 or the mother of his child. And you're going to hear about  
3 how this Ford Edge with these occupants were looking for  
4 their adversaries. They were looking for this other group  
5 of individuals. And they went out to a club off Dorchester  
6 Road called Pete and Rita's, and they were waiting and  
7 looking. And then they went to a gas station down the road  
8 on Dorchester Road just off of I-26, a Cheap Way gas  
9 station, looking. And they saw the car that they were  
10 looking for. It was a red Dodge Charger in the gas station  
11 parking lot. So they went across the street -- and you'll  
12 see video from the gas station -- they went across the  
13 street to the hotel parking lot across the street and backed  
14 into a parking spot and waited. And they waited for that  
15 red Dodge Charger to leave. And they followed behind that  
16 red Dodge Charger. They got on the Interstate 26 heading  
17 west, and they got off at the East Montague Mall Drive exit.  
18 And believe it or not, at the red light of Mall Drive and  
19 East Montague, within eyesight of the North Charleston  
20 Police Department, Justin Wilson rolls down the back window  
21 of that Ford Edge and with an assault rifle, fires a volume  
22 of shots into this red Dodge Charger. Now, a gun battle  
23 ensues and a chase down East Montague as the cars peel out.  
24 Shots continued to be fired. And the cars go all the way  
25 down East Montague until both of them crash into Park

1 Circle; into the actual -- the circle, the park circle where  
2 the baseball fields are and everything. And both cars are  
3 disabled. And when the dust settles, Franklin Williams is  
4 dead. Quran Allen suffers a gunshot wound to the arm.  
5 Adrian Williams has four gunshot wounds to his leg. And  
6 Montez Capers has a gunshot wound to his arm.

7 Now, you probably ask yourself why do we have two  
8 people on trial right now. That's because during this trial  
9 you're going to hear from both Keith Evans and Daquan  
10 Gilliard. They're going to testify for the State in this  
11 case. Now, I want to be perfectly clear about something:  
12 Everyone in this car is guilty of murder. Everyone in this  
13 car is guilty of attempted murder. Them included. See, the  
14 law in South Carolina is the hand of one, hand of all. And  
15 it's our accomplice liability theory of law. And when you  
16 set out to accomplish a criminal act with someone else, the  
17 hand of one is the hand of all. It doesn't matter who  
18 pulled the trigger. It does not matter. You know, the sort  
19 of analogy is if me and my cocounsel go and we're going to  
20 rob a gas station, right. And I'm the driver and is the  
21 robber. And I drive up there and he goes and robs the gas  
22 station. If he kills the clerk, me as the getaway driver,  
23 I'm guilty of murder even though we just set out to rob the  
24 gas station. Now, in this case, we have people who armed  
25 themselves with an assault rifle and a 40 caliber pistol and

1 lying in wait for these individuals, stalked them, pulled up  
2 next to them, and unload into their car. They are all  
3 guilty.

4 And I'm going to ask you after you hear a lot of the  
5 evidence, because this is a very condensed version. This  
6 is, you know, the nickel tour of the case. I'm going to ask  
7 you when this is all over and when you've seen everything,  
8 the DNA, the cell phone evidence, everything that we're  
9 going to present, I'm going to ask you to come back with a  
10 verdict. And I'm going to ask you to hold those two  
11 individuals accountable for what they did; for turning our  
12 streets into a running gun battle and taking people's lives.  
13 And I'm going to ask you to return a verdict to find them  
14 guilty of murder and three counts of attempted murder.  
15 Thank you.

16 THE COURT: Mr. Price?

17 MR. PRICE: Thank you, Your Honor. May it please the  
18 Court?

19 THE COURT: Yes, sir.

20 MR. PRICE: Mr. Kidd. Good afternoon. Again, I'll --  
21 much like everybody is going to, appreciate your attention  
22 to this matter. This is not going to be the longest case,  
23 and we just appreciate your attention. And, again, as you  
24 will see throughout this trial, I will usually be brief, but  
25 to the point just like I believe Mr. Peper will as well.

1           Just to follow along with what's going on in this case,  
2 we talked about the two cooperating witnesses, Mr. Evans and  
3 Mr. Gilliard. I want to talk about that just real quickly.  
4 About 13 years ago I sat at this table. I was a prosecutor  
5 for Charleston County. I was a solicitor for about two and  
6 a half years. And began trying a fair amount of cases. I  
7 was on what is called the C-Star Task Force which we  
8 prosecuted guns and drugs; we were the liaison with the  
9 federal government. And so I prosecuted some pretty big  
10 cases. But I finally got my first chance in my first murder  
11 trial. And I got a chance to try it with my, at that time,  
12 my mentor, now one of my best friends. Probably one of the  
13 better trial lawyers in the State of South Caroline. His  
14 name is Shaun Kent (ph). We were prosecuting a guy by the  
15 name of Antoine Goodwin (ph), all right, for murder. And I  
16 had my battery of witnesses. I was trying it with him. And,  
17 of course, I wanted to impress him, and I wanted to do a  
18 good job.

19           And so I go the case file out and I started kind of  
20 peeling kind of through everything that was going on. I  
21 independently decided to go and take my investigator who  
22 went with me and we went and interviewed a bunch of  
23 witnesses. And so I reported back to Shaun and I said,  
24 well, I went and talked to the witnesses today. And he said  
25 what did you think. I said, well, I said I don't know. I

1 said I'm not real happy with it. I'm not real impressed  
2 with it. He said, well, what do you mean. I said, well,  
3 some of the stuff they had to say doesn't jive. It doesn't  
4 match up. And he said well give me some specifics. So I  
5 did. Maybe some accountability -- or accounting of what  
6 transpired, story had seemed to change a little bit. They  
7 weren't so sure or accurate as they previously were. And I  
8 said so I think what we should do is we just won't call  
9 them, all right. And he says I'm sorry. I said, yeah, we  
10 just won't call them. He said what do you mean you won't  
11 call them. I said we just -- we'll just go on to the next  
12 witnesses. He said that's not for you to decide. He said  
13 their testimony and what they remembered and the facts of  
14 the case is for the jury to decide. That's called justice.  
15 And that's what you need to be seeking in this case:  
16 justice.

17 When you're listening to people from the witness stand  
18 you have one sole issue in my opinion that you need to be  
19 studying: credibility. What do I mean by credibility? Why  
20 are they testifying? Are they testifying because they have  
21 to? Are they testifying because the State's making them?  
22 Are they getting some type of deal? Are they testifying to  
23 save their own selves? What is their motive for being here?  
24 Why are they coming forward and testifying to y'all? And  
25 what you need to always have in the back of your mind,



1 anytime someone testifies from that witness stand is are  
2 they credible? That's what you need to think about.

3 The other thing I want you to kind of pay attention to  
4 as this trial unfolds is that you got read a witness list  
5 and it's got 51 witnesses on it. The State doesn't have to  
6 call them all. That's just the people that are involved and  
7 the State believes they are involved in this case. It's 51  
8 people that have had some involvement in this trial. Okay.  
9 Whether they be, as Mr. Kidd said, a participant, whether  
10 they be with the North Charleston Police Department, whether  
11 they be with the solicitor's office. That's 51 people.  
12 Okay. At the close of this trial, they are going to have to  
13 prove to you beyond a reasonable doubt that these two  
14 gentlemen committed murder, okay. And this is what I want  
15 you to pay attention to. Mr. Kidd says he's going to come  
16 back at the end of the trial, after seeing this DNA evidence  
17 cell, the cell phone evidence, all of the pictures that will  
18 be produced, I want you to think about what was it brought  
19 to that witness stand. Who was not brought to that witness  
20 stand, and where are they, and why they didn't come here.  
21 And at the close of this case, I believe you'll find and  
22 you'll know the reason. And at that time I will ask you for  
23 a verdict of not guilty. Thank you for your time.

24 THE COURT: Mr. Peper?

25 MR. PEPER: Thank you, Your Honor. May it please the

1 Court?

2 THE COURT: Yes, sir.

3 MR. PEPER: Mr. Kidd. Ladies and gentlemen, I'm Mark  
4 Peper, and this is Justin Wilson. Justin and I are  
5 extremely appreciative of the effort that you're going to  
6 show throughout this week. One thing we're not is envious  
7 of you. You see you've been tasked with almost an  
8 impossible question: Tell us what you know happened. No  
9 one in this room can do it but you. And that ain't right.  
10 That's not what the law says. The law says, the City of  
11 North Charleston and the State of South Carolina, have to  
12 tell you what they know happened, not what they think. Not  
13 what they think. For each witness that gets on that stand,  
14 for each document that gets published to you, and everything  
15 that you get to take back there, is there a doubt in your  
16 mind as to what you know happened. And if there is, it's  
17 quite simple. You have to return verdict of not guilty.  
18 We're going to hear, and the evidence it going to show this,  
19 the evidence is going to show that. And this evidence judge  
20 is going come in, where's it at. It's what the evidence  
21 doesn't show. It's what the evidence doesn't show. How  
22 will they think -- you're going to know that the evidence  
23 doesn't show. No fingerprints on any guns of Justin's. No  
24 DNA in the car of Justin's. No DNA on the triggers of any  
25 guns. Nothing. That's what the evidence is not going to

1 show you. Which means we know that to be true. I think I  
2 know what happened. In North Charleston, thinks -- what  
3 happened. They want you to tell them what happened. And if  
4 you can't beyond a reasonable doubt tell them that you know  
5 what happened then hold him accountable to it. Get this out  
6 of here. And bring it back when you can tell us you know  
7 what happened. Hold him accountable. It's not about the  
8 defendants because accountable. The defense don't have to  
9 do a dadgum thing this week. It's on them. Hold them  
10 accountable. Thank you.

11 THE COURT: The State may proceed.

12 AST. SOL. KIDD: The State calls Daquan Gilliard.  
13 (Brief pause.) I apologize, Judge. They're going to have  
14 to bring him up.

15 THE COURT: That's -- he's downstairs?

16 AST. SOL. KIDD: It's my fault.

17 THE COURT: Is your next witness downstairs as well?

18 AST. SOL. KIDD: I believe I can start based on your  
19 pretrial ruling . . .

20 THE COURT: Bear with us, ladies and gentlemen. We  
21 have to bring a witness from the bottom of the building and  
22 it takes a little minute. We appreciate your patience.

23 (Brief pause.)

24 (DAQUAN HENRY GILLIARD, was duly sworn and provided the  
25 following testimony.)

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 THE COURT: Could you spell your first name as well and  
2 your last your middle name.

3 THE WITNESS: D-a-q-u-a-n, H-e-n-r-y.

4 THE COURT: You may proceeded.

5 AST. SOL. KIDD: Thank you, Your Honor.

6 THE COURT: You're welcome.

7 AST. SOL. KIDD: And I apologize. May I approach your  
8 reporter? I have one more item.

9 THE COURT: Uh-huh. Did you show it to counsel?

10 AST. SOL. KIDD: I did, Your Honor. I believe it's  
11 without objection.

12 THE COURT: Is it without objection Mr. Price and Mr.  
13 Peper?

14 MR. PEPER: No objection from Mr. Wilson.

15 THE COURT: Any objection, Mr. Price?

16 MR. PRICE: No objection, Your Honor.

17 THE COURT: Admitted without objection.

18 (State's Exhibit No. 66, Google Map, was received into  
19 evidence.)

20 DIRECT EXAMINATION

21 BY AST. SOL. KIDD:

22 Q. Good afternoon, Mr. Gilliard.

23 A. Good afternoon.

24 Q. Start off by telling the jury a little bit about  
25 yourself. Where you're from?

1 A. Charleston.

2 THE COURT: Sir, I need you to lean forward and speak  
3 directly into the microphone.

4 A. Charleston.

5 THE COURT: Thank you.

6 Q. Where in Charleston are you from?

7 A. Downtown.

8 Q. From downtown?

9 THE COURT: Can that mic be moved? Can you move it  
10 closer to him?

11 AST. SOL. KIDD: I can. I'm going to slide a little  
12 closer to you, all right?

13 THE COURT: Thank you very much.

14 Q. All right. Do you know Keith Evans?

15 A. Yes, sir.

16 Q. How do you know Keith Evans?

17 A. Uh, midnight basketball at the ball park.

18 Q. Where did you go to high school?

19 A. I went West Ashley and Burke.

20 Q. You went West Ashley and Burke. Is that where you got  
21 to know Keith Evans, West Ashley?

22 A. No. I just know him from playing basketball.

23 Q. You just know him from playing basketball.

24 A. Yes, sir.

25 Q. Do you know Marvin Bryan?

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 A. Yes, sir.

2 Q. How do you know Marvin Bryan?

3 A. Through a mutual friend.

4 Q. Who is that?

5 A. Collin Bishop.

6 Q. Collin Bishop. And do you know Justin Wilson?

7 A. Yes, sir.

8 Q. How do you know Justin Wilson?

9 A. Same way I met Marvin Bryan.

10 Q. Same way you met Marvin Bryan?

11 A. Yes, sir.

12 Q. Okay. And where were you when you first met them?

13 A. West Ashley.

14 Q. In West Ashley. Where? Do you know specifically  
15 where?

16 A. Ashleyville.

17 Q. In Ashleyville?

18 A. Yes, sir.

19 Q. Okay. And jus so we're clear, does Justin Wilson go by  
20 any other name other than Justin Wilson?

21 A. Call him Bubby (ph).

22 Q. Call him Bubby. What about Marvin Bryan?

23 A. Tater.

24 Q. Call him Tater (ph). Do you have another name?

25 A. They call me DQ.

1 Q. DQ. What about Keith Evans?

2 A. I don't know. BG.

3 Q. BG. Okay. Do you know where Marvin Bryan was living  
4 back in November of 2015?

5 A. West Ashley.

6 Q. In West Ashley. What about Justin Wilson?

7 A. West Ashley.

8 Q. West Ashley. Do you know any specifics? Maryville  
9 Ashleyville, Ardmore?

10 A. I don't remember. Justin lives in Ashleyville. Marvin  
11 lives in Mary.

12 Q. In Maryville?

13 A. (Nonverbal response.)

14 Q. Okay. Are you familiar with an individual by the name  
15 of Quran Allen?

16 A. I just find his --

17 Q. Well, are you familiar with a guy named Creep?

18 A. Yes, sir.

19 Q. Okay. And how do you know Creep?

20 A. I really don't know. Just heard about him out on the  
21 streets.

22 Q. Just kind of heard about him on the streets. Is he  
23 from a particular area?

24 A. I don't know where he's from.

25 Q. Does he -- are you familiar with any bad blood between

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 the individuals that we just talked about and Creep?

2 A. Not specifically those guys, but the neighborhood is.

3 Q. So in generally with the neighborhood?

4 A. Yes, sir.

5 Q. Which neighborhood would that be?

6 A. Ashleyville.

7 Q. With Ashleyville. Do the guys from Ashleyville, do  
8 they sort of operate under a name?

9 A. No, not really.

10 Q. Is there a loose affiliation with anything?

11 A. Like West Cash you mean? West Cash.

12 Q. So -- and that's not like -- and everyone is not a  
13 member of West Cash; right? This is just a ---

14 A. Yes, sir.

15 Q. Do you know are any of the individuals that -- and  
16 let's just be clear for the jury, on November 22nd, you were  
17 in this Ford Edge; right?

18 A. Yes, sir.

19 Q. And you were there for the shooting that had happened  
20 in Park Circle?

21 A. Yes, sir.

22 Q. Okay. Now, were any of the individuals in this vehicle  
23 associated with West Cash?

24 A. Like, not everyone.

25 Q. Not everyone. Well, you know, who?



1 A. I'm not really sure whether or not if Mr. Marvin Bryan  
2 is part of West Cash.

3 Q. Okay. But no one else that you know of?

4 A. No, sir.

5 Q. Okay. And do the guys in these neighborhoods sort of  
6 stick together?

7 A. Yes, sir.

8 Q. Are you familiar with any of the events that created  
9 this bad blood between Creep and Ashleyville?

10 A. Yes, sir.

11 THE COURT: Sir, I couldn't hear your answer.

12 THE WITNESS: Yes, sir.

13 Q. What were they?

14 MR. PEPER: Objection, Your Honor.

15 THE COURT: Approach, please.

16 (A bench conference was held off the record and out of  
17 the hearing of the jury panel.)

18 THE COURT: Madam Forelady, ladies and gentlemen, I  
19 have a brief matter of law to take up with counsel. During  
20 the break please do not discuss the case, and please leave  
21 your notepads in your seats. We appreciate your patience.

22 (The jury exits the courtroom at 2:52 p.m.)

23 THE COURT: You may be seated. You may proceed with  
24 your questions.

25 (Direct examination continues out of the presence of

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 the jury.)

2 Q. Mr. Gilliard, what events are you familiar with  
3 regarding Creep and Ashleyville?

4 A. At a nightclub, he hit another individual over the head  
5 with a bottle.

6 THE COURT: Who is he and who are you referring to,  
7 sir.

8 THE WITNESS: Quran Allen hit a guy named, we call him  
9 CB, over the head with a ---

10 THE COURT: I can't understand a word you're saying.  
11 I'm going to need you to slow down and speak directly into  
12 the microphone and speak slowly enough so the court reporter  
13 can take down the names of what you're saying. Okay. Could  
14 you repeat your answer for me.

15 THE WITNESS: Quran Allen hit another individual over  
16 the head, we call him CB, with a bottle.

17 Q. Do you know what club that was in?

18 A. I think it was, probably, Club Vegas.

19 Q. Are you familiar with any, any other events -- and  
20 before we get there, who is CB?

21 A. Tony Ankrum (ph).

22 Q. And is he from Ashleyville?

23 A. Yes, sir.

24 Q. So a guy from -- so Quran Allen, Creep, hit a guy from  
25 Ashleyville over the head with a bottle at Club Vegas?

1 A. Yes, sir.

2 Q. Are you familiar with any other events between Creep  
3 and Ashleyville?

4 A. I heard that there was a shoot out, I don't know about  
5 a shoot out, but a shooting.

6 Q. And where was this shooting?

7 A. Ashleyville.

8 Q. In Ashleyville. And so you don't know -- you don't  
9 have any hard evidence about who did it, you just, I guess,  
10 people in Ashleyville believed it was Creep?

11 A. Yes, sir.

12 Q. Are you familiar with Marvin Bryan's house being shot  
13 up?

14 A. Yes, sir.

15 Q. Is that what you're referring to, or are you're  
16 referring to a different?

17 A. Something different.

18 Q. You're referring to a different shooting?

19 A. Yes, sir.

20 Q. All right. So there was another shooting in which  
21 Creep was suspected of shooting up Ashleyville?

22 A. Yeah.

23 Q. And you're familiar with Marvin Bryan's house being  
24 shot up?

25 A. Yes, sir.

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 Q. And that was, what? Just days before this, what we're  
2 here for today?

3 A. Yes, sir.

4 Q. Did you have any conversations with Marvin Bryan about  
5 that?

6 A. Not specifically within him; but with other guys, yes.

7 Q. Do you know who was suspected of being involved in that  
8 shooting?

9 A. I don't really know any specific names, but Creep  
10 wasn't a suspect.

11 Q. So Creep was not?

12 A. No, sir.

13 Q. Are you familiar with Runway (ph)?

14 A. On Facebook, yes, sir.

15 Q. Facebook. And that's sort of a, I guess, almost kind  
16 of like what West Cash is -- you know, it's hard to call it  
17 a gang, but like an association of friends, I guess?

18 A. Uh-huh. Yes, sir.

19 Q. In the North Charleston area?

20 A. Yes, sir.

21 Q. Do you know Creep to be associated with Runway?

22 A. No, sir.

23 Q. Are you familiar with Creep's Facebook page?

24 A. We were friends.

25 Q. You were friends on Facebook?

1 A. Yes, sir.

2 Q. What was his Facebook name? Do you remember?

3 A. I don't remember.

4 Q. I know I've never asked you that before. So if you  
5 don't remember it's fine, but . . .

6 A. I believe it was Runway Jeremy.

7 Q. Runway Jeremy. Okay. Are you familiar with a guy  
8 named Tylando (ph) King? Tookie (ph)?

9 A. I heard of him.

10 Q. You've heard of Tookie. Is he a part of Runway?

11 A. I believe so.

12 Q. Are you familiar with the altercation at Honeybees with  
13 Tookie?

14 A. I can't really say, sir.

15 Q. All right. So, let me get this straight. So the guys  
16 in the Ford Edge with you, Keith Evans is from where?

17 A. West Ashley.

18 Q. West Ashley. I think you said Marvin Bryan is from  
19 Maryville which is also West Ashley, right?

20 A. Yes, sir.

21 Q. And Justin Wilson is from Ashleyville which is also  
22 West Ashley; right?

23 A. Yes, sir.

24 Q. And through your sort of relationships or friendships  
25 with them, you became aware of an incident at Club Vegas

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 where Creep hit CB, another guy from West Ashley, over the  
2 head a bottle of Hennessy?

3 A. Yes, sir.

4 Q. And also that people of West Ashley suspected Creep of  
5 doing a shooting in West Ashley?

6 A. Yes, sir.

7 Q. And so those are the only events that you are aware of?

8 A. (No response.)

9 Q. I'm just trying to recap what we've talked about. I  
10 just want to make sure we're on the same page. Is there  
11 anything else that you're aware? I mean, now is the time to  
12 talk it.

13 A. At this time, that's all I can thin of, sir.

14 Q. That's all you got? Do you know Bryan Bolger (ph)?

15 A. Do you got another name for him?

16 Q. I don't know his street name.

17 A. I'm not sure I know him, sir.

18 Q. Okay. Now, have you had any discussions with either  
19 Marvin or Justin Wilson about some of those events that we  
20 just talked about, about CB -- I mean, about Creep hitting  
21 CB with a bottle?

22 A. Not with those guys.

23 Q. Not specifically with those guys, just with other  
24 people in Ashleyville?

25 A. Yes, sir.

1 Q. What about the shooting of Ashleyville? The suspected  
2 shooting in Ashleyville by Creep?

3 A. With other guys.

4 Q. Other guys from Ashleyville?

5 A. Yes, sir.

6 Q. Are you familiar with who Brian Ankrum is, Little B?

7 A. Yes, sir.

8 Q. Is he considered West Cash?

9 A. Yes, sir.

10 Q. What bout, you know Domonique Edwards?

11 A. Yes, sir.

12 Q. D-Nice (ph). Did you know any of the other people in  
13 the Dodge Charger, Adrian Williams or Montez Capers? Any of  
14 them?

15 A. No.

16 Q. Do you know a time frame about when these events  
17 happened?

18 A. It was late.

19 Q. It was what?

20 A. Late.

21 Q. No. I mean like in relation to -- the shooting at Park  
22 Circle was on November 22nd; right?

23 A. Yeah.

24 Q. How far before it was when Quran Allen hit CB on the  
25 head with a bottle? How far before was the shooting in West

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1 Ashley?

2 A. Like, A few months.

3 Q. A few months. On November 22nd who were y'all -- well,  
4 let's get to when you first came into contact with everyone  
5 in the Ford Edge, what did you meet?

6 A. Ashleyville.

7 THE COURT: Well, do we need to heard that in-camera?  
8 That's his eye witness account, isn't it?

9 AST. SOL. KIDD: It is, Judge. But they talk about --  
10 I mean, they arm themselves and they go looking for . . .

11 THE COURT: Then you need to cut to that part of it.  
12 I don't need to hear anything that's not objected to.

13 Q. You met up behind where? In Creep's in Ashleyville;  
14 right?

15 A. Yes, sir.

16 Q. I believe it was the four people in the car here as  
17 well as Domonique Edwards. Is that right?

18 A. Yes, sir.

19 Q. And do you recall Justin Wilson getting a phone call?

20 A. Yes, sir.

21 Q. What was the context of that phone call?

22 A. That guy who shot at him was at a nightclub.

23 Q. Okay. So that brings me to another point. So do you  
24 recall when Justin Wilson was shot?

25 A. Yes, sir.



1 Q. And when was that? Approximately.

2 A. A few months before, essentially.

3 Q. Okay. Tell me about that real quick. Who got shot  
4 that night and where?

5 A. A guy we called Jerm (ph), who Justin calls.

6 Q. Jerm; is that Jeremy Blake?

7 A. Yes, sir.

8 Q. And so do you know where they were when they got shot?

9 A. Ashleyville.

10 Q. In Ashleyville. All right. So Justin Wilson and a guy  
11 named Jeremy Blake are in Ashleyville a few months before  
12 this, and they get shot. That's what, on Tripe Street?

13 A. Yes, sir.

14 Q. Okay. So let's fast forward to November 22nd. So you  
15 are in the back of the car with these individuals, Domonique  
16 Edwards. Justin Wilson gets a phone call; right?

17 A. Yes, sir.

18 Q. And what is the context of that phone call?

19 A. That the guy who shot was at a nightclub.

20 Q. So the guy who got shot Justin Wilson is at the  
21 nightclub?

22 A. Yes, sir.

23 Q. And so, what are y'all going to do?

24 A. Go looking for that guy.

25 Q. You're going to look for that guy. Did you go

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 somewhere first?

2 A. Yes, sir.

3 Q. Where did you go?

4 A. We stopped at Justin Wilson's cousin's house.

5 THE COURT: I can't hear you, sir. I need you to  
6 repeat your answer.

7 THE WITNESS: We stopped at Justin Wilson's cousin's  
8 house.

9 Q. All right. So you go to Justin Wilson's cousin's  
10 house. What for?

11 A. Pick up a gun.

12 Q. Okay. And you go there and you pick up a gun. Assault  
13 rifle?

14 A. Yes, sir.

15 Q. Okay. And then you go to -- I believe there is another  
16 phone call; right?

17 A. Yes, sir.

18 Q. And where do y'all go from there?

19 A. We go to a club called Pete and Rita's.

20 Q. All right. So you go to Pete and Rita's. And what are  
21 y'all looking for?

22 A. A black Lincoln.

23 Q. Looking for a black Lincoln. And you're looking for a  
24 black Lincoln because Justin Wilson just got information  
25 that this is the guy who shot him back in July; right?

1 A. Yes.

2 Q. Okay. Can't find the black Lincoln; right?

3 A. Correct.

4 Q. But you see a red Charger at the Cheap Way. Is that  
5 right?

6 A. Yes, sir.

7 Q. Okay. Now, is the red Charger who is responsible for  
8 shooting Justin back in July?

9 A. Yes, sir.

10 Q. Okay. So the question is now why, why then have this  
11 case escalate to we're shooting the red Charger?

12 A. I guess for revenge, sir.

13 Q. For revenge. Well, tell me what was said when you saw  
14 the red Charger.

15 A. That's that boy.

16 Q. That's that -- that's that boy or that's that boy right  
17 there. Something like that?

18 A. Yes, sir.

19 Q. And who said that?

20 A. Justin Wilson.

21 Q. Justin Wilson said that. And is that red Charger a  
22 vehicle that you know to be Creep's?

23 A. Yes, sir.

24 Q. And is that red Charger the vehicle that, you know,  
25 everyone knew to be Creep's?

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1 A. Yes, sir.

2 Q. Okay. So when y'all are at the Cheap Way parking lot,  
3 you see the red Charger. Justin Wilson says that's that boy  
4 right there. Did you know what they were talking about, or  
5 why there was animosity with Creep?

6 A. Yes, sir.

7 Q. And is that what we kind of struggled through a minute  
8 ago? The events that we were talking about.

9 A. Yes, sir.

10 Q. So Justin Wilson says, that's that boy right there,  
11 that's because that's the boy that hit CB with a bottle over  
12 the head and that's the boy they think shot up Ashleyville?

13 A. Yes, sir.

14 Q. And so as a result of that, what did y'all do?

15 A. Followed him, sir.

16 Q. Followed him to? Off East Montague, Mall Drive,  
17 starting shooting, et cetera, et cetera, crash into Park  
18 Circle; right?

19 A. Yes, sir.

20 Q. Okay.

21 AST. SOL. KIDD: Court's indulgence. (Brief pause.)  
22 Judge, I think that's the extent of his knowledge. I think  
23 that ---

24 THE COURT: I didn't ask for argument. Any  
25 cross-examination, Mr. Price? Or is it going to be Mr.

1 Peper?

2 MR. PEPER: It's going to be -- on behalf of Mr.  
3 Wilson, Judge, I'll handle it.

4 THE COURT: You may proceed.

5 MR. PEPER: May it please the Court?

6 THE COURT: Yes, sir. Well, let me ask a question  
7 first. Do you all have any exception to the line of  
8 questioning that Mr. Kidd has elicited from the witness?

9 MR. PEPER: Well, Judge, that's kind of what I was  
10 going to get into. The answer is yes, ma'am. Everything  
11 was already familiar with, what have you heard.

12 THE COURT: What's the basis of the objection?

13 MR. PEPER: Hearsay. Hearsay, Judge. No direct  
14 knowledge. No personal knowledge.

15 THE COURT: Okay. What's your response, Mr. Kidd?

16 AST. SOL. KIDD: Judge, it's not offered for the truth.  
17 It's offered for ---

18 THE COURT: Well, why else would you offer it?

19 AST. SOL. KIDD: Because it doesn't matter whether or  
20 not Quran Allen did these things are not. It matters  
21 whether or not people in Ashleyville believe he did it.

22 THE COURT: But how are you able to establish this  
23 through this witness when he says he has no personal  
24 knowledge of what was said: He thinks he said, somebody  
25 told him.

1           AST. SOL. KIDD: Right. And that's why -- and that's  
2 why, Judge, I was pushing to do this pretrial because it's a  
3 combination of witnesses that get us there. It's a witness  
4 like this, it's the other witness, it's corroborated by the  
5 police who responded to the ---

6           THE COURT: Can't be corroborated if they don't have  
7 any personal knowledge.

8           AST. SOL. KIDD: But when he describes the shooting,  
9 describes an altercation in the club, and then you have  
10 police that respond to a scene.

11          THE COURT: A bunch of different separate things he  
12 says. You can't lump them altogether. You are only  
13 allowed -- the purpose of the exception, the Lisle  
14 exception, is to prove basically a present sense impression  
15 of a witness or what is in their mind as to what motivated  
16 them to do something. And the reason what you articulated  
17 earlier was, as I said, a bad analogy is because those were  
18 more res gestae than Lisle. You're talking about separate  
19 events that he can't articulate when they happened, where  
20 they happened, whether he was present when they happened.  
21 He can only articulate what someone told him. But you sort  
22 of lumped it all together with some other stuff that he may  
23 well have some personal knowledge of, such as what happened  
24 in the vehicle. The conversations in the vehicle, those are  
25 admissions against interest. And if he was present for

1     them, and you can really articulate a foundation for him to  
2     testify about them without leading him, they're admissible.  
3     The rest of the stuff is rife hearsay. It's prejudicial.  
4     Of course, you want the jury to rely on it. You want them  
5     to believe it happened, and that's what motivated them to be  
6     angry and then precipitated this crime. Otherwise, you  
7     wouldn't be offering it. It would make no sense. You  
8     always want the jury to rely on it. You want them to  
9     believe it happened, and, therefore, that motivated.  
10    Because if a person didn't really believe it happened, they  
11    would have to have something missing to go after somebody  
12    with a gun unless they had some level of paranoia something  
13    going on with them, had some mental issue. But that's not  
14    what is being argued here.

15           So you have several things that have been testified to.  
16    One is that, and he was very vague about it, about something  
17    that happen in a nightclub, which he has absolutely no  
18    personal knowledge of. You haven't established he was  
19    there, that he saw it, or that immediately after it, the  
20    person who was hit or the person that did the hitting,  
21    reported it to him. That's hearsay, which can't be  
22    cross-examined, and it's a problem. And it is offered for  
23    its truth.

24           Then there's another set or events where he says, and  
25    you had to sort of lead him through it because he really

1 didn't have any recollection of it, some shooting that took  
2 place at some unspecified time. Later on, you're able to  
3 get him, well, you said a few months prior. And he  
4 acknowledged that it could've been a few months prior. But  
5 he, likewise, has absolutely no personal knowledge of that.  
6 And it isn't even clear who reported it to him or how he  
7 came to rely on it.

8       The next is that Marvin Bryan's House was shot up. He,  
9 again, says he heard about it. He says Creep was not a  
10 suspect. But he, again, has no personal knowledge of it.  
11 So all of it's hearsay. All that's offered for it's truth,  
12 and all of it is inadmissible. However, what was said in  
13 that vehicle is admissible. It's an admission against  
14 interest. He was there. He heard it. He can't say what he  
15 thinks what was said on that phone call. You need to be  
16 able to elicit from him what he actually heard come out of  
17 somebody's mouth during that phone call. And that's what  
18 makes it admissible. Otherwise, it's speculative as to what  
19 he thought. We're not interested in what he thought. We're  
20 interested in what he actually heard being said. So you  
21 need to be able to articulate from him or get him to  
22 articulate what was actually said during the phone call:  
23 Who said what. That's relevant. That's motive. That  
24 motivate -- that is clearly within the Lisle criteria, State  
25 versus Sweatman (ph), it's all entire prodigy as to what



1 motivated somebody to do something. So of there was a phone  
2 call, the phone call, the fact that they stopped at  
3 somebody's house to get a gun, and what was said in that  
4 vehicle, all that's fair game. Those are admissions against  
5 interest. And they clearly go to motive. And they are  
6 probative because it makes more likely than not some issue  
7 of consequence. But all that other stuff is hearsay. Now  
8 if you have some other witnesses who have personal knowledge  
9 of it, I'll cross that bridge when I come to it. But I --  
10 it doesn't even pass the scintilla test. All righty. Are  
11 we ready to proceed?

12 AST. SOL. KIDD: Well, Judge, my only -- and I agree  
13 with you in large part. You know, my only concern is that  
14 none of it can I really prove by any one single witness.  
15 It's the combination of witnesses that ---

16 THE COURT: I understand what you're saying. But I'm  
17 going to have to take each witness as they testify, and I'm  
18 going to have to determine if they have personal knowledge.  
19 You can't under any circumstances, civil or criminal, let  
20 somebody come in and say, well, you know, I think I heard.  
21 it has to be based on their rational perception of what they  
22 saw or what they heard. And he didn't hear any of this  
23 stuff personally. We wasn't -- it would be different if he  
24 was at the club and he saw it. Or he had some conversation  
25 with them, which he did apparently in the car, about it.

1 But you sort of roaming through the neighborhood and  
2 somebody says, you know, by the way, the other night at the  
3 club so and so hit so and so. That's hearsay. There's no  
4 reliability in that. We don't know if it happened or not.  
5 It doesn't pass the clear and convincing test. All right.  
6 Are we ready to proceed? State ready to proceed?

7 AST. SOL. KIDD: Yes, ma'am.

8 THE COURT: Defense ready to proceed?

9 MR. PRICE: Yes, ma'am.

10 MR. PEPER: Yes, Your Honor.

11 THE COURT: Please bring in the jury.

12 (The jury enters the courtroom at 3:16 p.m.)

13 THE COURT: Ladies and gentlemen, we appreciate your  
14 patience. We're now going to resume testimony.

15 AST. SOL. KIDD: Thank you, Your Honor. May it please  
16 the Court?

17 THE COURT: You're welcome. You may proceed.

18 (Direct examination resumes in the presence of the  
19 jury.)

20 BY AST. SOL. KIDD:

21 Q. Mr. Gilliard, I want to start over a little bit, kind  
22 of get back on track. How long have you known Justin  
23 Wilson?

24 A. Not long, sir.

25 Q. Not long. Try to work with me. Months? Years? What?

1 A. I say about two years.

2 Q. About two years. And you just knew him from -- I  
3 believe you testified earlier you knew him through a guy  
4 named Bishop?

5 A. Yes, sir.

6 Q. And in what sort of scenarios would you see Justin?  
7 And where would you, you know . . .

8 A. Just being around in the neighborhood.

9 Q. Just being around in the neighborhood?

10 A. Yes, sir. And walking around, we see each other.

11 Q. Where? Downtown? West Ashley? North Charleston?

12 A. West Ashley.

13 Q. Just in West Ashley?

14 A. Yeah.

15 Q. So when you would go to West Ashley, you would see  
16 Justin Wilson ---

17 A. Yes, sir.

18 Q. Would you consider yourself friends?

19 A. No.

20 Q. Not now. I'm talking about in November of 2015?

21 A. We see each other -- but not really close friends.

22 Q. Would you -- you ever call him or text him? You have  
23 his number?

24 A. No.

25 Q. So it would always just be if you're hanging out with

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1 someone else, sometimes he'd be there?

2 A. Yes, sir.

3 Q. Okay. And you knew him, if I got your testimony right,  
4 approximately two years you'd see him around West Ashley  
5 from time to time?

6 A. Yes, sir.

7 Q. Okay. Now what about Keith Evans?

8 A. I knew him since like 2009.

9 Q. 2009. So this happened in 2015. So you've known him  
10 for about six years?

11 A. Yes, sir.

12 Q. And I believe you testified earlier, from playing  
13 basketball?

14 A. Yes, sir.

15 Q. And would you see him in West Ashley some as well?

16 A. Yes, sir.

17 Q. Did he have family that lived in Ashleyville?

18 A. I believe so.

19 Q. How often would you see Keith Evans?

20 A. Just but every time I got o West Ashley.

21 Q. About every time you'd to to West Ashley. How often do  
22 you go to West Ashley?

23 A. Probably about twice a week.

24 Q. About twice a week. So Keith Evans is a friend of  
25 yours? You got his phone number?

1 A. I don't have his phone number.

2 Q. Okay. So, same thing. He's kind of an acquaintance.  
3 An acquaintance you run into when you go to West Ashley a  
4 couple of times a week?

5 A. Yes, sir.

6 Q. And what about Marvin Bryan?

7 A. I rarely see him.

8 Q. Rarely see him?

9 A. Yes, sir.

10 Q. Okay. What does rarely mean to you? Once a month?  
11 Once a year?

12 A. About once a month.

13 Q. About once a month. In what circumstances would you  
14 say Marvin Bryan?

15 A. Might see him inside a nightclub or might see him  
16 around the neighborhood.

17 Q. In what kind of neighborhood?

18 A. In Ashleyville.

19 Q. In Ashleyville. All right. So I want to go to  
20 November 22, 2015, okay? And before I do that, is it easy  
21 for you to be here to testify today?

22 A. No, it's not. No, sir.

23 Q. How are you feeling right now?

24 A. I'm okay.

25 Q. All right. So let's go to November 22, 2015. Where do

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 you first run into the individuals in this vehicle?

2 A. After I leave Domonique's house.

3 Q. All right. So let's talk about Domonique. Who is  
4 Domonique?

5 A. Cousin of Justin Wilson.

6 Q. Justin Wilson's cousin, goes by the name Domonique.  
7 Does he have a street name?

8 A. D-Nice (ph).

9 Q. D-Nice. Are you -- what's your relationship like with  
10 D-Nice?

11 A. Same thing. When I go around the others, I see him.  
12 He lives around there. He lives in Ashleyville.

13 Q. So he's another guy, lives in Ashleyville. You run  
14 into him often? Not Often? What?

15 A. I say often.

16 Q. Often. So weekly?

17 A. Yes, sir.

18 Q. Okay. And don't let me put words in your mouth. You  
19 got to tell the jury, okay?

20 A. Just weekly.

21 Q. Weekly. Okay. So you run into D-Nice. Where do you  
22 run into D-Nice?

23 A. After everyone goes out to the club, I go over back to  
24 his house.

25 Q. So who is everyone?

1 A. Guys from the neighborhood I see.

2 Q. Not these guys, though; right?

3 A. No, sir.

4 Q. Okay. So other guys from the neighborhood go out to  
5 the club, and you are with D-Nice?

6 A. Yes, sir.

7 Q. And what are y'all doing?

8 A. Eating chips, smoking.

9 Q. Smoking marijuana?

10 A. Yes, sir.

11 Q. Okay. Where are you at?

12 A. At his house.

13 Q. At D-Nice's house?

14 A. In Ashleyville.

15 Q. In Ashleyville. Do you know what street it's on?

16 A. Sycamore.

17 Q. On Sycamore. Okay. So you're at D-Nice's house on  
18 Sycamore in Ashleyville. What time of day is this?

19 A. I don't know. It's like ten o'clock, eleven o'clock at  
20 night.

21 Q. Ten o'clock at night?

22 A. Yes, sir.

23 Q. All right. So what happens next? You're hanging out  
24 with D-Nice on Sycamore, ten o'clock at night, smoking weed.  
25 What happens next?

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 A. He gets a phone call, he's like, come out. We go  
2 outside, walk around the corner on Tripe Street. And then  
3 we run into, you know, three guys, Marvin, Justin and Keith.

4 Q. All right.

5 A. He's sitting inside the car.

6 Q. Sitting inside the car. Where are they sitting inside  
7 the car?

8 A. At a guy named Creep's house.

9 Q. All right. And this is on Tripe Street? Is that what  
10 you said?

11 A. Yeah.

12 Q. All right. So you and D-Nice leave his house, walk  
13 around the corner to Tripe Street, run into who?

14 A. Marvin, Keith, and Justin.

15 Q. Marvin, Keith, and Justin. Sitting in a car at Creep's  
16 house.

17 A. Yes, sir.

18 Q. On Tripe Street. Okay. What happens when you get into  
19 the car at Creep's house?

20 A. We laughing. We drinking.

21 Q. Do you get in the car or do you ---

22 A. Yes, sir. We get in hatchback.

23 Q. You get in the, you said the hatchback, like -- and is  
24 this an SUV? Is it a sedan? What?

25 A. SUV.



1 Q. It's an SUV. So when you say you get in the hatchback,  
2 you get like in back here?

3 A. Yes, sir.

4 Q. Where is everyone else seated in the vehicle at Creep's  
5 house on Tripe Street?

6 A. Keith in the driver seat. Justin is in the passenger.

7 Q. So Justin is in the front passenger seat when you are  
8 at Creep's house?

9 A. Yes, sir.

10 Q. Who is in the back seat?

11 A. Marvin is behind Justin. And D-Nice gets in behind  
12 Keith.

13 Q. Okay. And what are y'all doing?

14 A. Drinking, laughing, talking.

15 Q. So you're just hanging out?

16 A. Yes, sir.

17 Q. Anything -- any drama going on at that moment?

18 A. No, sir.

19 Q. Okay. So you're just hanging out, drinking. Y'all  
20 listening to music? Maybe not. I'm just asking you.

21 A. I can't remember.

22 Q. Okay. So you're hanging out at Creep's house in the  
23 car, or in the car at Creep's house. And what happens next?

24 A. Justin gets a phone call.

25 Q. All right. And are you able to hear the phone call?

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 What about the phone call can you actually hear?

2 A. That the guy that shot Justin, Jeremy, was at a  
3 nightclub.

4 Q. Okay. So you find out that someone who had shot Justin  
5 was at a nightclub?

6 A. Yes, sir.

7 Q. And what did y'all do after that?

8 A. We go to his cousin's house.

9 Q. You know his cousin's name?

10 A. We call him DP.

11 Q. Call him what now? You got speak up a little bit.

12 A. DB.

13 Q. DB?

14 A. Yes, sir.

15 Q. Okay. So you go to Justin's cousin's house named DB.

16 Where does Justin's cousin DB live?

17 A. I believe it was Admiral (ph) Street.

18 Q. And is that West Ashley? North Charleston? What?

19 A. North Charleston.

20 Q. North charleston?

21 A. Yes, sir.

22 Q. All right. Now does D-Nice go with y'all?

23 A. No, sir.

24 Q. Okay. All right. So we're at Creep's house. There's  
25 five of y'all in the car. Everyone is in this photograph

1 here. Do you see it on the screen in front of you; right?

2 A. No, sir.

3 Q. It's not?

4 AST. SOL. KIDD: Is that screen not on?

5 Q. All right. Now you see it; right?

6 A. (Nonverbal response.)

7 Q. All right. So based on what you just said before,  
8 there was five of y'all in the car at this point at Creep's  
9 house. D-Nice was there also. Got a phone call, the guy who  
10 shot Justin is at the club.

11 MR. PEPER: Objection, Judge.

12 THE COURT: Basis?

13 MR. PEPER: What's the question?

14 THE COURT: I don't know. Is there an objection?

15 MR. PEPER: Objection. Asked and answered.

16 THE COURT: Overruled. Rephrase the question, please,  
17 so that's it's clear what you're asking.

18 Q. When does D-Nice get out of the car?

19 A. As soon as Justin gets the phone call.

20 Q. So when Justin gets the phone call, D-Nice exits the  
21 vehicle?

22 A. Yes, sir.

23 Q. And you just testified earlier, you were in the hatch  
24 at that point?

25 A. Yes, sir.

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 Q. Did you get out of the hatch of the car?

2 A. Yes, sir.

3 Q. Where did you then get in the car?

4 A. Before we left Ashleyville.

5 Q. Right. I'm talking about, you know, you're about --

6 right. But when you leave Creeps house, where in the car  
7 are you seated?

8 A. Behind the driver.

9 Q. Behind the driver. So on this picture where it says  
10 Justin Wilson, that's where you were sitting when you left  
11 Creeps house?

12 A. Yes, sir.

13 Q. Okay. And testified a minute ago you were at Justin  
14 Wilson's house. Justin Wilson's cousin's house named DB --  
15 North Charleston; right?

16 A. Yes, sir.

17 Q. All right. Sorry. Trying to get us there. What  
18 happens when you're at DB's house on Admiral?

19 A. We go inside the house. Come out with ---

20 Q. Do you go inside the house?

21 A. No, sir. Justin went inside the house.

22 Q. Okay. So Justin gets out of the car?

23 A. Yes, sir.

24 Q. Goes inside the house?

25 A. Yes, sir.

1 Q. Do you know why you're there at that point?

2 A. No, sir.

3 Q. How long is Justin inside the house?

4 A. I say two minutes.

5 Q. Two minutes. Does he come out with something?

6 A. Yes, sir.

7 Q. What does he come out with?

8 A. Come out with something wrapped in a white T-shirt or a  
9 sheet?

10 Q. So he comes out with something wrapped in a white  
11 T-shirt or a sheet?

12 A. Yes, sir.

13 Q. At some point, do you find out what that is?

14 A. Yes, sir.

15 Q. What is it?

16 A. A gun.

17 Q. A big gun?

18 A. Big; yes, sir.

19 Q. Where was everyone sitting when you leave DB's house on  
20 Admiral?

21 A. Like in the picture, yeah.

22 Q. So just like -- just like it is on the screen?

23 A. Yes, sir.

24 Q. All right. At some point y'all switch seats?

25 A. Yes, sir.

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 Q. Why?

2 A. I was behind Keith when we still at DB's house until he  
3 came out with the gun, so we switched seats with him.  
4 That's when I get into the front passenger seat.

5 Q. All right. So Justin comes out with a gun. You then  
6 get in the front passenger seat, and gets -- is replaces  
7 where are in the back seat behind Keith?

8 A. Yes, sir.

9 Q. Okay. Do you know why?

10 A. No, sir. He told us to switch seats with him.

11 Q. He told you to switch seats with him?

12 A. Yes, sir.

13 Q. Okay. Where are y'all going when you leaves DB's house  
14 on Admiral?

15 A. To look for the black Lincoln for the guy who shot  
16 Justin.

17 Q. So to look for the black Lincoln. How do you know  
18 you're looking for a black Lincoln?

19 A. Because when we was inside Ashleyville, a guy told  
20 Justin that ---

21 MR. PRICE: Hold on. Objection, Your Honor.

22 THE COURT: Sustained. Hearsay. He can only say what  
23 Justin said. Hearsay.

24 Q. Did Justin tell you were looking for a black Lincoln?

25 A. No. The guy on the phone told ---

1 MR. PEPER: Objection.

2 MR. PRICE: Objection.

3 THE COURT: Sustained. He cannot say what someone said  
4 on the phone. He can only say what Justin said and anyone  
5 else in the vehicle.

6 Q. All right. So y'all are leaving. You leave Admiral  
7 Street and where are you headed to?

8 A. Pete and Rita's.

9 Q. Headed to Pete and Rita's. Do you know where Pete and  
10 Rita's is located?

11 A. North Charleston.

12 Q. Do you know what road it's on?

13 A. Dorchester, Dorchester Road.

14 Q. On Dorchester Road. Does anyone in the car say what  
15 y'all are looking for?

16 A. Yes, sir.

17 Q. And that is?

18 A. Justin tells Keith that we're looking for a black  
19 Lincoln.

20 Q. All right. So when you get to Pete and Rita's, do  
21 y'all find a black Lincoln?

22 A. We see a black car but not sure it's a Lincoln so we  
23 follow it. And we lose it so we circle around the area  
24 still looking for a black Lincoln.

25 Q. Does anyone come up to the vehicle while you're outside

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 of Pete and Rita's?

2 A. Yes, sir.

3 Q. Who is that?

4 A. We call him Stewy.

5 Q. Stewy. Is he -- how do you know Stewy?

6 A. I just -- I knew since from shooting dice with him in  
7 Ashleyville.

8 Q. So he's an Ashleyville guy?

9 A. Yes, sir.

10 Q. And you know him from, you said shooting dice?

11 A. Yes, sir.

12 Q. Okay. How long have you known him?

13 A. Not long. I say about a few months.

14 Q. A few months. Do you know whether this is the guy that  
15 made the phone call earlier?

16 A. Yes, sir.

17 Q. Okay. And what is he -- what's that conversation when  
18 he comes up to the car?

19 A. Well, not really ---

20 MR. PRICE: I'm going to object.

21 THE COURT: Basis?

22 MR. PRICE: Hearsay if he's going to say what the guy  
23 said.

24 THE COURT: No speaking objections.

25 MR. PRICE: Yes, Your Honor.



1 THE COURT: He can only say what he heard not what  
2 someone -- well, a defendant said, not anyone else. So  
3 sustained to the extent that it's hearsay. Do you need the  
4 question repeated, sir?

5 AST. SOL. KIDD: Judge, may we approach?

6 THE COURT: Yes.

7 (A bench conference was held off the record and out of  
8 the hearing of the jury panel.)

9 THE COURT: You may proceed.

10 AST. SOL. KIDD: Thank you, Your Honor.

11 THE COURT: You're welcome.

12 Q. So the individual that you know named Stewy comes up to  
13 the car; right? Is that correct?

14 A. Yes, sir.

15 Q. Okay. What do y'all do after that?

16 A. You mean after we -- after Stewy leaves the car?

17 Q. Correct.

18 A. We go to Cheap Way gas station.

19 Q. Where's that Cheap Way gas station located?

20 A. A block or two from Pete and Rita's.

21 Q. So it's also on Dorchester Road right there?

22 A. Yes, sir.

23 Q. Okay. Tell the jury what happens at the Cheap Way gas  
24 station.

25 A. Well, we pull in but we can't really go all the way

1 through so we back up.

2 Q. All right. So you pull in. Is it crowded?

3 A. Yes, sir.

4 Q. So there's a lot of people there. What time of night  
5 is it now?

6 A. I say after one o'clock.

7 Q. After one o'clock. So you're at the Cheap Way gas  
8 station after one o'clock in the morning. You say y'all  
9 pull in, it's crowded, you can't pull through. What you do?

10 A. Back up.

11 Q. Back up. Where do you go?

12 A. Justin tells Keith to go across the street to the  
13 hotel, park at a hotel.

14 Q. Have you seen the red Charger yet?

15 A. Yes, sir.

16 Q. When is the first time y'all see the red Charger?

17 A. As we were backing up.

18 Q. So y'all pull in, can't pull through because it's too  
19 crowded, start to back up, and that's the first time y'all  
20 see the red Charger?

21 A. Yeah.

22 Q. Who sees it first? Do you know?

23 A. I'm not sure.

24 Q. Well, who acknowledges it first? He says something  
25 about the red Charger?

1 A. Justin.

2 Q. What's he say?

3 A. That's that boy right there.

4 Q. He says that's that boy right there?

5 A. Yes, sir.

6 Q. And then what do y'all do?

7 A. Go across the street.

8 Q. To where?

9 A. Hotel.

10 Q. And what do you do at the hotel?

11 A. Park.

12 Q. Pull straight in? Back up? What?

13 A. We back in a parking space.

14 Q. Where -- you know, what's being said? What are y'all  
15 looking at? What are y'all doing?

16 A. Just sitting there.

17 Q. Just sitting for a long time? Short time? What?

18 A. Short period of time.

19 Q. And then what?

20 A. As the red Charger was pulling out of the gas station,  
21 Justin says follow that boy.

22 Q. And Keith's driving; right?

23 A. Yes, sir.

24 Q. And still everyone is seated in the car like it is on  
25 the diagram?

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 A. Yes, sir.

2 Q. And so the Charger pulls out of the gas station and  
3 y'all pull out behind it?

4 A. Yes, sir.

5 Q. I'm going to show you what's been marked and admitted  
6 as State's Exhibit 66. It's kind of the bottom of that map.  
7 Are you sort of familiar with -- is that where we're talking  
8 about, Dorchester and 26 right there?

9 A. Yes, sir.

10 Q. Right here?

11 A. Yes, sir.

12 Q. All right. So y'all -- the Charger pulls out of the  
13 gas station. Y'all pull out behind it. Did you get on the  
14 interstate?

15 A. Yes, sir.

16 Q. Which direction?

17 A. It was to the right of us.

18 Q. To the right, so away from downtown?

19 A. Yes, sir.

20 Q. So you're going this direction here; right?

21 A. Yes, sir.

22 Q. Does the Charger know you're behind him at this point?

23 A. He doesn't show any awareness.

24 Q. Okay. Have y'all done anything to tip him off?

25 A. No, sir.

1 Q. Are you right behind him? Are you a couple of cars  
2 back? Where are y'all at?

3 A. Well, we go the interstate so we a ways behind.

4 Q. All right. So you were a decent distance behind?

5 A. Yes, sir.

6 Q. All right. What exit did y'all get off?

7 A. Montague, Montague Drive.

8 Q. So you get off at the Montague exit? This being 26  
9 here, this being the Mall Drive, Montague exit here. Is  
10 that right?

11 A. Yes, sir.

12 Q. Okay. So you get off at the Montague exit. What  
13 happens next?

14 A. We at the red light. And Justin down the window and  
15 Marvin tells him hold out, let's see who that car is. And  
16 there was a car approaching making a turn on the exit ramp.

17 Q. All right. So let me slow down just a minute. Okay.  
18 So when we're looking at the Mall Drive exit, there is I  
19 think, what is it? Maybe two lights from the exit or one  
20 light and then the Mall Drive light. Is that right?

21 A. Yes, sir.

22 Q. What light are you at where you're talking about right  
23 now?

24 A. We at the Mall Drive light.

25 Q. At the Mall Drive light. So it's like you get off the

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 ramp, there's one light and then there is the Mall Drive  
2 light?

3 A. Yes, sir.

4 Q. Is the Charger stopped at that light?

5 A. Yes, sir. Stopped.

6 Q. They're stopped at that light. And where are y'all at?

7 A. We're to the right of it.

8 Q. To the right?

9 A. To our left.

10 Q. So their car is to your left?

11 A. Yes, sir.

12 Q. So if you were to pull up next to them, the driver side  
13 -- the driver side of your vehicle would be the side that  
14 they're on?

15 A. Yes, sir.

16 Q. Is that right?

17 A. Yes, sir.

18 Q. Okay. And you said Marvin said something about another  
19 car. What was that?

20 A. He said see what that car is. The car was making a  
21 right on the exit ramp, but he -- the exit ramp.

22 Q. Coming towards you or away from you?

23 A. Towards us.

24 Q. Coming towards you. So the Charger is at the Mall  
25 Drive light. Y'all are pulling up beside them, and there's

1 another car coming towards y'all getting on the ramp?

2 A. Yes, sir.

3 Q. And Marvin says let's wait and see where that car is  
4 going first?

5 A. Yes, sir.

6 Q. Something like that. I'm paraphrasing. What does that  
7 car do?

8 A. Which one?

9 Q. The one that's coming toward y'all.

10 A. He goes on the exit ramp.

11 Q. So he goes on the exit ramp and keeps going?

12 A. Yes, sir.

13 Q. What do y'all do next?

14 A. Bubby started shooting at the red Charger. I mean,  
15 Justin started shooting at the red Charger.

16 Q. Does he wait until y'all pull up beside it? How does  
17 that work?

18 A. He waits until he comes to a complete stop and then he  
19 started shooting at the red Charger.

20 Q. When did he roll the window down? Did he wait until  
21 y'all got next to it? Did he roll it down fist? What did  
22 he do?

23 A. Roll it down first.

24 Q. Okay. So he rolls down the window. What kind of gun  
25 is he using?

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 A. Big gun.

2 Q. The one he picked up from DB's house?

3 A. Yes, sir.

4 Q. So he started shooting. What happens?

5 A. Gun stop working. Then ---

6 Q. How many shots go off before the gun stops working?

7 A. I say about ten.

8 Q. So he gets about ten shots off and the gun stops  
9 working. What's the Charger doing once y'all start shooting  
10 at it?

11 A. Speed off. Goes into the oncoming traffic.

12 Q. So the Charger goes into oncoming traffic. What do  
13 y'all do?

14 A. Follow it down Montague.

15 Q. Are y'all still in your lane or you go in oncoming  
16 traffic too?

17 A. Still in our lane.

18 Q. Still in your lane. You mentioned the gun stopped  
19 working?

20 A. Yes, sir.

21 Q. What happened there?

22 A. You mean to the gun?

23 Q. I mean, what happened and what did Justin do about it  
24 when the gun stopped working?

25 MR. PEPER: Objection. Leading.



1 THE COURT: Sustained. Leading. Rephrase.

2 Q. What happened when the gun stopped working?

3 THE COURT: You just asked the same question. What  
4 happens next?

5 Q. What happens next?

6 A. He asked Marvin for the other gun.

7 Q. What other gun was in the car?

8 A. A 40 caliber.

9 Q. And who had that gun?

10 A. Marvin Wilson -- Marvin Bryan.

11 Q. And what did he do with it?

12 A. Gives it to Justin.

13 Q. What does Justin do?

14 A. He started shooting at the red Charger as they are  
15 driving down oncoming traffic.

16 Q. And we're still on Montague at this point?

17 A. Yes, sir.

18 Q. So if I'm right on your testimony, this is the light at  
19 Mall Drive here. Is that right?

20 A. Yes, sir.

21 Q. So that's where y'all first started shooting?

22 A. Yes, sir.

23 Q. Started shooting, red Charger takes off, y'all are both  
24 driving down East Montague; right?

25 A. Yes, sir.

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 Q. Continuing to shoot. Tell the jury, tell them what  
2 happens next.

3 A. The red Charger returns fire, three shots.

4 Q. Where are they when they returned fire?

5 A. Still driving down on oncoming traffic.

6 Q. Still on East Montague?

7 A. Yes, sir.

8 Q. Okay.

9 A. And then he comes across back over, gets behind us,  
10 coming up to ---

11 Q. All right. So if I'm hearing you right, at this point,  
12 y'all get ahead of the Charger; the Charger gets behind you?

13 A. Yes, sir.

14 Q. All right. And still going down East Montague towards  
15 Park Circle?

16 A. Yes, sir.

17 Q. And are we still shooting? What's going on?

18 A. Yes. As we were coming approaching, going really fast,  
19 there's a turn, a sharp turn. We can't make the turn, so we  
20 crash to this ballpark on Park Circle.

21 Q. All right. So you're going down East Montague, go into  
22 Park Circle, can't make the corner fast enough, crash into  
23 Park Circle?

24 A. Yes, sir.

25 Q. When you entered Park Circle, are y'all in front of or

1 behind of the red Charger?

2 A. In front.

3 Q. I'm going to show you what's been marked and entered as  
4 State's Exhibit 37. Do you recognize that vehicle?

5 A. Yes, sir.

6 Q. Is that the Ford Edge y'all were in?

7 A. Yes, sir.

8 Q. State's Exhibit 36. Same vehicle?

9 A. Yes, sir.

10 Q. State's Exhibit 47. Same vehicle?

11 A. Yes, sir.

12 Q. Okay. So y'all crash and the -- y'all crash into Park  
13 Circle. What do you do when the car comes to a stop?

14 A. Get out of the car, jump a few fences.

15 Q. All right. So you get out of the car. You get out the  
16 front passenger door?

17 A. Yes, sir.

18 Q. And what?

19 A. Jump a few fences.

20 Q. Do you know which direction you're running?

21 A. Towards Durant Avenue.

22 Q. Towards Durant. Now Durant crosses both sides of the  
23 circle; right?

24 A. Yes, sir.

25 Q. I'm going to show you what's been marked as State's

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 Exhibit 67. I think we probably entered it without  
2 objection, but . . .

3 THE COURT: What number is that?

4 AST. SOL. KIDD: State's 67.

5 MR. PRICE: Are you gong to enter it evidence or ---

6 THE COURT: You need to show it to them.

7 MR. PRICE: You need to show it to us. I have no  
8 objection.

9 MR. PEPER: I think we've already agreed.

10 THE COURT: What number is that again?

11 AST. SOL. KIDD: Sixty-seven.

12 THE COURT: Marked and admitted without objection.

13 (State's Exhibit No. 67, Photograph, was received into  
14 evidence.)

15 Q. State's Exhibit Number 67. Do you recognize that?

16 A. Yes, sir.

17 Q. All right. So that's Park Circle; right?

18 A. It is.

19 Q. All right. So this is East Montague, the direction  
20 y'all would have been coming in?

21 A. Yes, sir.

22 Q. I believe you testified y'all attempted to take a right  
23 but crashed into the circle?

24 A. Yes, sir.

25 Q. Now, that screen in front of you, probably better than

1 me doing it, it's like a touchscreen.

2 THE COURT: He's not going to be able to move his hands  
3 I don't think. He's restrained. You might have to assist  
4 him.

5 Q. All right. Can you indicate to me, and I'll mark on  
6 the map where the car approximately came to rest?

7 A. By the second tree right there by where it says Fly Dog  
8 (ph).

9 Q. Right here?

10 A. Yes, sir.

11 Q. Is that where you're talking about?

12 A. Yes, sir.

13 Q. Okay. So where that I guess yellow X is. So that's  
14 about where the car came to rest.

15 A. Yes, sir.

16 Q. Which direction did you run after the car crashed?

17 A. Towards the community center.

18 Q. All right. And just so the jury is aware, this is the  
19 community center here?

20 A. Yes, sir.

21 Q. So you ran towards that community you center. Did you  
22 -- the top or bottom side of the community center?

23 A. The bottom side.

24 Q. All right. So you ran this direction here?

25 A. Yes, sir.

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 Q. Okay. All right. And you had to jump a few fences?

2 A. Yes, sir.

3 Q. Who are you running with at this point?

4 A. I meet up with Keith on the back side of the community  
5 center.

6 Q. All right. So is that the first time you see any other  
7 people in the car?

8 A. As we was exiting the car, Justin was still shooting at  
9 the red Charger.

10 Q. Okay. All right. Well, let's take a step back. So  
11 you get out of the car, shots are still being fired?

12 A. Yes, sir.

13 Q. And is it after both cars have come to a rest?

14 A. Yes, sir.

15 Q. What do you see when you get out of the car?

16 A. I see -- I look back and see who was shooting. It was  
17 Justin shooting at the red Charger.

18 Q. All right. So you look back, you see Justin shooting  
19 back towards where the red Charger is; right?

20 A. (Nonverbal response.)

21 Q. And I'm going to who you what's been and entered into  
22 evidence as State's 3, 4, and 5. They're just kind of as

23 we're getting closer. But -- let me clear that. Sorry.

24 State's Exhibit 3, State's Exhibit 4, and then, finally,

25 State's Exhibit 5. And that's the red Charger there; right?

1 A. Yes, sir.

2 Q. And if we were to go back to State's Exhibit 67 do you  
3 know approximately where on this photograph the Charger was  
4 located when it crashed?

5 A. Along those bushes by the turn.

6 Q. Right here?

7 A. Yes, sir.

8 Q. Okay. All right. So just to put my markings back up  
9 to space. Red Charger is there; y'all are about there; you  
10 run this direction; right?

11 A. Yes, sir.

12 Q. So when you get out of the car, you look back and see  
13 what?

14 A. Justin shooting at the red Charger.

15 Q. What gun is he using?

16 A. The 40 caliber.

17 Q. So he's using the pistol at this point?

18 A. Yes, sir.

19 Q. All right. Do you see the rifle as well?

20 A. I see he has it in his hands.

21 Q. So he's got both guns in his hands at that point?

22 A. Yes, sir.

23 Q. Okay. And you take off running towards the community  
24 center, and I believe you testified you meet up with Keith.  
25 Where do you meet up with Keith at?

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 A. On the edge of the back side of the community center.

2 Q. On the back side of the community center. In the  
3 baseball fields or after the baseball field?

4 A. After the baseball.

5 Q. After the baseball fields. And where do y'all go from  
6 there?

7 A. Walking down Durant Avenue.

8 Q. Walking down Durant Avenue. And so -- so I believe  
9 this is Durant here and here; right? Durant goes ---

10 A. Yes, sir.

11 Q. --- out both sides of the Park Circle; right?

12 A. Yes, sir.

13 Q. Which direction did y'all walk down on Durant?

14 A. The front side.

15 Q. This way here?

16 A. Yes, sir.

17 Q. Is that right?

18 A. Yes, sir.

19 Q. Okay. So y'all starting walking down Durant. Is it  
20 just you and Keith at this point?

21 A. We meet up with Marvin a minute or two afterwards.

22 Q. You meet up with who?

23 A. Marvin.

24 Q. You meet up with Marvin. Where do you meet up with  
25 Marvin Bryan?



1 A. After we cross the street.

2 Q. After you cross which street? At the circle?

3 A. After we cross the circle, go to the right.

4 Q. So about where I have that sort of direction arrow?

5 A. Yes, sir.

6 Q. Where is Marvin coming from when you meet up with him?

7 A. I guess from around the baseball field.

8 Q. From around the baseball fields?

9 A. Yes, sir.

10 Q. So he's kind of running in a similar direction as y'all  
11 were running?

12 A. Yes, sir.

13 Q. As you and Keith ran, I guess?

14 A. Yes, sir.

15 Q. Now, did you run the whole way? Did you get down for a  
16 minute? Who did that go?

17 A. Me and Keith were walking, Marvin yells at Keith we  
18 gotta go back and get our phones. As we were doing that,  
19 we heard sound of police cars, so we turned back around.

20 Q. All right. So were -- are you on Durant at this point?

21 A. Yes, sir.

22 Q. Or you on the circle? Where are you at?

23 A. On Durant.

24 Q. So you're on Durant near where my arrow is right there?

25 A. Yes, sir.

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 Q. Further down Durant or further back?

2 A. Just like a couple steps ahead.

3 Q. A couple of steps further down Durant?

4 A. Yes, sir.

5 Q. And I think you said Marvin yells at you?

6 A. He yells at Keith.

7 Q. He yells at Keith. Tell me exactly what he says.

8 A. He says BG, we gotta go back and get our phones.

9 Q. He says BG, we gotta go back and get our phones. And  
10 did you have your phone on you?

11 A. Yes, sir.

12 Q. Was it in your pocket?

13 A. Yes, sir.

14 Q. And when he yells at Keith or BG, what do y'all do? Do  
15 y'all stop and wait for him to catch up or what?

16 A. Yes. We stopped. We turned back around, go back  
17 towards the Park Circle area.

18 Q. All right. So Marvin tells BG, we need to go back and  
19 get our phones. Y'all turn around. You walking or running?

20 A. We walking.

21 Q. You're walking. So then you start heading back towards  
22 the circle?

23 A. Yes, sir.

24 Q. Do you make it into the circle?

25 A. No, sir.

1 Q. All right. So, I guess, I'm a little bit wrong there.

2 So you -- how far did you make it? About to the circle?

3 A. We don't made it to the circle. We make it like about

4 20 feet almost from the block.

5 Q. Back?

6 A. Towards the circle.

7 Q. Toward the circle. And they why do you stop?

8 A. Because we see police cars coming around the area ---

9 Q. All right. So you hear sirens and stuff start coming  
10 in the area?

11 A. Yes, sir.

12 Q. So then what do y'all do?

13 A. Turn back around, start walking back towards Durant.

14 Q. So you start going in the direction -- y'all started  
15 going down Durant where that original arrow was pointing?

16 A. Yes, sir.

17 Q. You running? Walking? What?

18 A. Yeah, at this point we walking.

19 Q. You're walking at this point. Now, I want to show you  
20 what's been marked and admitted into evidence as State's  
21 Exhibit 39. You recognize that? Do you recognize that?

22 A. Yes, sir.

23 Q. What's that?

24 A. Looks like the front passenger seat.

25 Q. So that's where you were sitting; right?

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 A. Yes, sir.

2 Q. And there's liquid still in the seat. Is that right?

3 A. Yes, sir.

4 Q. During the crash, did you get wet?

5 A. Yeah, the back of my pants.

6 Q. So your back got wet?

7 A. Back of my pants; yes, sir.

8 Q. Okay. So you're walking down Durant. You, Keith,

9 Marvin, where are y'all headed?

10 A. We headed to my cousin's house.

11 Q. Who is your cousin?

12 A. Marcus; Marcus Green.

13 Q. Marcus Green. Does he have another name he goes by?

14 A. Mega.

15 Q. Mega. Is that right? Is that what you said?

16 A. Yes, sir.

17 Q. Where does he live?

18 A. On Durant.

19 Q. Do you remember the address?

20 A. [REDACTED] Durant.

21 Q. [REDACTED] Durant. Did you call him or anything?

22 A. Yes, sir.

23 Q. To let him know you were coming?

24 A. Yes, sir.

25 Q. Does he answer?

1 A. Yes, sir.

2 Q. Does anything happen to y'all before you get to his  
3 house on that [REDACTED] Durant?

4 A. We stopped by the police. He asked if we heard any  
5 shooting.

6 Q. So a police officer stops you walking down Durant?

7 A. Yes, sir.

8 Q. And he stops you, Keith, and Marvin?

9 A. Yes, sir.

10 Q. And how does that interaction go?

11 A. They asked us if we heard any shootings, maybe seen  
12 anything.

13 Q. And what did you tell them?

14 A. We told them that we heard somebody shooting, but we  
15 didn't see anything, that we were just walking around in,  
16 you know, the area.

17 Q. Did they ask about why your clothes were wet?

18 A. Yes, sir.

19 Q. And did they arrest you?

20 A. No, sir.

21 Q. They let y'all go?

22 A. Yes, sir.

23 Q. And how long after the shooting is this?

24 A. I say about five minutes.

25 Q. All right. So when y'all are walking down Durant,

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 within five minutes of the shooting a police officer gets  
2 out with y'all. Ask you a few questions and let you go?

3 A. Yes, sir.

4 Q. What do y'all go after that?

5 A. My cousin Marcus house.

6 Q. Your cousin Marcus's house?

7 A. Yes, sir.

8 Q. And did you say there for the rest of the night?

9 A. I did; yes, sir.

10 Q. What about Marvin and Keith?

11 A. Someone come to pick them up.

12 Q. Say that again.

13 A. Someone come to pick them up.

14 Q. Do you know who?

15 A. No, sir.

16 Q. Okay. The following day, do you have anymore -- or I  
17 guess it's not even the following day. I guess later that  
18 day do you meet back up with the other occupants of the  
19 vehicle?

20 A. Yes, sir.

21 Q. Who do you meet up with?

22 A. Meet up with in Little West Ashley. I see Keith around  
23 in the area, around the Ashleyville area. And I got a call  
24 from Marvin indicating that someone died and we need to chop  
25 it up.

1 Q. And what does "chop it up" mean to you?

2 A. Talk.

3 Q. Talk about what?

4 A. About Bubby, about the situation.

5 Q. And what did y'all decided to do?

6 A. I was at my cousin's house that whole night. That  
7 Marvin and Keith, they come to Marcus's house after leaving  
8 the nightclub.

9 Q. What about Justin?

10 A. That he was with Domonique.

11 Q. All right. So basically y'all came up with a story  
12 y'all were gonna say if anyone asked?

13 A. Yes, sir.

14 Q. And from understanding of what you just said, that  
15 story was going to be that you were at Marcus's house all  
16 night.

17 A. Yes, sir.

18 Q. Is that right?

19 A. Yes, sir.

20 Q. That Keith and Marvin were together at the club and  
21 ended up walking to Marcus's house later that night?

22 A. Yes, sir.

23 Q. And that Justin was with Domonique who we learned  
24 earlier was D-Nice?

25 A. Yes, sir.

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 Q. Okay. And so that was going to be y'all's story if  
2 anyone asked?

3 A. Yes, sir.

4 Q. Now, you've met with me how many times?

5 A. Twice.

6 Q. Twice. Do you remember when the first time we met was?

7 A. Back in February I think.

8 Q. February. Sounds about right. So that was the first  
9 time you met with me. And when did we meet again?

10 A. Last week.

11 Q. Just last week. And you've been charged with murder;  
12 right?

13 A. Yes, sir.

14 Q. And you've been charged with three counts of attempted  
15 murder; right?

16 A. Yes, sir.

17 Q. And, you know, those carry some pretty hefty sentences;  
18 right?

19 A. Yes, sir.

20 Q. Have I promised you anything in exchange for your  
21 testimony here today?

22 A. No, sir.

23 Q. What do you hope to get out of it by justifying here  
24 today?

25 A. Hopefully some leniency, sir.



1 Q. Is everything you've told this jury today is the truth?

2 A. Yes, sir.

3 Q. It's pretty hard to see in see this picture. I can  
4 maybe find another one. I'll show you this one. It's hard  
5 to see, so I'm going to show it to you in person first.

6 Okay? I'm going to show you what's been marked and entered  
7 as State's Exhibit 38. You've got to kind of look close.  
8 But do you recognize that right there?

9 A. Yes, sir.

10 Q. What is it?

11 A. Black hat.

12 Q. A black hat?

13 A. Yeah.

14 Q. Whose hat is that?

15 A. Mine.

16 Q. And that's in the front seat of that Ford Edge; right?

17 A. Yes, sir.

18 Q. It's kind of hard -- it's really hard to see here. But  
19 based on what I just showed you, sitting right in that seat  
20 right there. Is that right?

21 A. Yes, sir.

22 Q. Whose car was it? The Ford Edge.

23 A. Justin Wilson's rental.

24 Q. Justin Wilson's rental?

25 A. Yes, sir.

Direct Examination of Mr. Gilliard by Ast. Sol. Kidd

1 Q. Do you know how long he had it?

2 A. Not exactly.

3 Q. Do you know who all cell phones were located in the  
4 car?

5 A. The other three occupants.

6 Q. What's that?

7 A. The other three occupants.

8 Q. The other three occupants. Would you recognize them if  
9 I showed them to you?

10 A. Yes, sir.

11 AST. SOL. KIDD: Court's indulgence.

12 THE COURT: Uh-huh.

13 (Brief pause.)

14 AST. SOL. KIDD: It's always going to be the last one.

15 Q. First I'll show you what's been marked as State's  
16 Exhibit 50, State's Exhibit 50. Do you recognize that item?

17 A. Yes, sir.

18 Q. Do you know whose cell phone that is?

19 A. Looks like Keith's.

20 Q. And if you ever can't -- if you don't know, just say  
21 you don't know. It's hard to see in this picture. Do you  
22 recognize that item?

23 A. Yeah. That has to be Marvin's cell phone.

24 THE COURT: I can't hear you, sir.

25 THE WITNESS: That has to be Marvin's cell phone.

1 Q. And that one there?

2 A. Justin's.

3 THE COURT: Did you say what number the exhibits were?

4 AST. SOL. KIDD: The last one was State's Exhibit 42.

5 The one before that was State's Exhibit 48. The first one

6 State's Exhibit 50. Court's indulgence.

7 Q. Did you know Rich Porter (ph)? Does that name mean  
8 anything to you?

9 A. That was once Marvin's Facebook name.

10 Q. So at some point Marvin Facebook name was called Rich  
11 Porter?

12 A. Yes, sir.

13 AST. SOL. KIDD: All right. No further questions.

14 THE COURT: Madam Forelady, ladies and gentlemen, you  
15 all have been sitting over an hour. I'm going to give you a  
16 brief restroom break. During the break, please do not  
17 discuss the case, and please leave your notepads in your  
18 seats. We'll be out about ten minutes.

19 (The jury exits the courtroom at 4:12 p.m.)

20 THE COURT: You may be seated. And I neglected to ask  
21 this question: Mr. Gilliard, who represents you? Who is  
22 your lawyer?

23 THE WITNESS: Tamara Van Pala.

24 THE COURT: Okay. And, Ms. Van Pala, you're here. Are  
25 you comfortable where you're sitting? Or do you feel you

1 need to be closer to your client?

2 MS. VAN PALA: I'm fine. Thank you.

3 THE COURT: Okay. All right. We'll be at ease for  
4 about ten minutes. And who is going to question the witness  
5 first on cross-examination?

6 MR. PRICE: I am, Your Honor.

7 THE COURT: Okay. All right. We'll be at ease for ten  
8 minutes.

9 (A brief recess was taken at 4:14 p.m. The proceedings  
10 resumed at 4:26 p.m)

11 AST. SOL. KIDD: Judge, it might be worth taking up an  
12 issue real quick.

13 THE COURT: What's that?

14 AST. SOL. KIDD: The witness currently on the stand has  
15 a conviction with possession with intent from -- Court's  
16 indulgence.

17 THE COURT: Possession with intent to distribute what?

18 AST. SOL. KIDD: Okay. I believe . . .

19 THE COURT: Is that a felony?

20 AST. SOL. KIDD: Yes, ma'am. Looks like in 2013  
21 arrest; 2014 plea, YOA.

22 THE COURT: I assume then he's still on probation?

23 AST. SOL. KIDD: The YOA suspended on probation for one  
24 year.

25 THE COURT: Oh, did he finish it? Didn't this happen

1 in '15?

2 AST. SOL. KIDD: Yes, ma'am.

3 THE COURT: So he was still on probation, wasn't he?

4 AST. SOL. KIDD: He may have finished up. It looks  
5 like he was convicted in June of '14.

6 THE COURT: So he might have finished it. Okay.

7 AST. SOL. KIDD: He might have finished it. Judge, I  
8 mean, I realize it's a felony. I realize it's not too far  
9 in time. I would just argue that there's really not much  
10 probative value to it. And I think no matter what it is, it  
11 has to go in that balancing test. I don't think it's  
12 probative value.

13 THE COURT: Yet, the Supreme Court has said that drug  
14 offenses are not probative in truthfulness.

15 MR. PRICE: I'm okay with not even talking about it  
16 being a drug offense. Just talk to him about the fact that  
17 he's actually been involved and had been arrested and  
18 convicted before. I don't have to say it's a drug offense.

19 THE COURT: Arrest is not probative for truthfulness.

20 MR. PRICE: I meant -- I'm sorry -- convicted.

21 AST. SOL. KIDD: Well, I think convicted is worse than  
22 the drug offense. I mean, if we're going to let that in  
23 then they are going to speculate and . . .

24 THE COURT: Yeah. I can't let them speculate about  
25 what it was.

1 MR. PRICE: Well, Your Honor, then . . .

2 MR. PEPER: You can ask him if he was on probation.

3 THE COURT: I don't think -- I don't think he was on  
4 probation when this happened. If he was placed on probation  
5 in June for a year, he would've completed his probation  
6 before this arrest.

7 MR. PRICE: Your Honor, I'm not really utilizing it to  
8 impeach him on -- I'm utilizing it as a probative issue that  
9 he has been in a courtroom before. This isn't his first  
10 time. He's been convicted before.

11 THE COURT: That's character. And why would it be  
12 relevant to anything? It's not come up that he's a stranger  
13 to the courtroom. That's character. That's no different  
14 than if somebody comes and is arrested and had pre-detention  
15 for some period of time.

16 The rules are clear that evidence of a witness,  
17 evidence that any witness has been convicted of a crime,  
18 shall be admitted if it involved dishonesty or false  
19 statement regardless of punishment. However, the Supreme  
20 Court has clarified that they do not find drug offenses to  
21 be dispositive of truthfulness or dishonesty.

22 (Brief pause.)

23 THE COURT: And even now we've gone further. Even if  
24 it involved a burglary or otherwise, some other theft, some  
25 other in that realm, you still have to prove it involved an

1 actual theft. You just can't say it was a burglary because  
2 you know lots of burglaries start as domestic incidents or  
3 get charged even though they are part of the domestic  
4 incident. And while technically they are burglary, they  
5 don't involve a theft.

6 (Brief pause.)

7 THE COURT: Yeah, I can't find anything that would  
8 support you being able -- the whole purpose of using a prior  
9 crime to impeach somebody's credibility is it involved false  
10 statement or dishonesty. A crime in and of itself does not  
11 impeach a person's credibility. It more tends to involve  
12 their character. In other words, saying because they were  
13 convicted of something that they are a bad person and you  
14 shouldn't believe them. The only exception to that rule is  
15 609(b) which deals with crimes of dishonesty or involving  
16 moral turpitude. Because then that implicates the person's  
17 veracity.

18 The Supreme Court has then further interpreted that  
19 rule because the rule is mandatory in its nature. It says  
20 that crimes of dishonesty -- let me read exactly what the  
21 rule says. 609(a)(2) says evidence that any witness has  
22 been convicted of a crime shall be admitted if it involved  
23 dishonesty or false statement regardless of punishment. For  
24 the purposes of this rule, a conviction includes a  
25 conviction resulting from a trial or any type of plea,

1 including a plea of nolo contendere, or a plea pursuant to  
2 North Carolina versus Alford. However, our Supreme Court  
3 has gone on to interpret that provision of the rule, and it  
4 is articulated that only offenses involving dishonesty or  
5 false statement come in. And they further articulated that  
6 a firearms violation is not probative of truthfulness;  
7 narcotics are not probative; and those are all State versus  
8 Bryant, State versus Johnson, State versus -- State versus  
9 Bryant again, State versus Cheeseboro (ph), and Green versus  
10 State.

11 Now, if they impersonated a police officer, of course,  
12 that involved dishonesty. Shoplifting involves dishonesty  
13 as long as it was a theft. Burglary is dishonesty as long  
14 as it involved a theft. And even if it involved all those  
15 things, I would still would have to engage in the balancing  
16 test that it's more probative than prejudicial, which  
17 means -- and of course in this case I think it would meet  
18 that standard because credibility is an issue. But I think  
19 when you start talking about drug offenses, it's more of a  
20 character issue than a truthfulness issue. Because you're  
21 saying by virtue of the fact that they've been convicted of  
22 a drug offense, they shouldn't be believed because they're  
23 dishonest.

24 MR. PEPER: Your Honor, may it please the Court?

25 THE COURT: Uh-huh.



1 MR. PEPER: I'm with you on that issue. One issue we  
2 do have is the rap sheet that we're working with provided by  
3 the State is dated December of 2015.

4 THE COURT: Did you not request one yourself? You  
5 could have.

6 MR. PEPER: We didn't run one, no. My question is can  
7 we just do a quick in-camera and just ask him? Because, I  
8 mean, the charge ---

9 THE COURT: Ask him what?

10 MR. PEPER: About what are his pending charges? What  
11 are his convictions? Those types of things because the rap  
12 sheet that we've been given by the State doesn't even have  
13 the murder and three attempted ---

14 THE COURT: What's his record?

15 AST. SOL. KIDD: He's been incarcerated since the rap  
16 sheet, Your Honor. So he hasn't gotten any new charges.

17 MR. PEPER: Well, why isn't the murder and the  
18 attempted murder on there? The arrest?

19 THE COURT: He's conceded in direct that he has those  
20 charges pending. For some reason we can't pull them up in  
21 the system either because I was trying to figure out, well,  
22 who his lawyer was.

23 MR. PEPER: Right ---

24 THE COURT: I don't know why that is. I would assume  
25 that's probably more of a bookkeeping error on somebody

1 else's watch not the State's because they don't input that  
2 information into our public system.

3 MR. PEPER: The last thing on the current rap sheet is  
4 an October arrest.

5 THE COURT: Arrests aren't probative. He hasn't ---

6 MR. PEPER: I understand. But, you know, we were  
7 talking November when he was probably on probation by the  
8 end of, you know ---

9 THE COURT: Well, on the offense you all were talking  
10 about.

11 MR. PEPER: Right.

12 THE COURT: Which is the narcotics offense. And I  
13 don't know what happened with that arrest. Was it nolle  
14 prossed? I have no idea.

15 MR. PEPER: We would like ---

16 THE COURT: Was it Magistrate's Court? Was it Circuit  
17 Court? I have no idea.

18 MR. PEPER: It was Circuit Court along with the gun --  
19 a gun charge in Circuit Court.

20 THE COURT: Are those charges pending?

21 MR. PRICE: I'm going to ask him.

22 THE COURT: Not unless I know it actually is pending.

23 AST. SOL. KIDD: I don't have the knowledge that they  
24 are.

25 THE COURT: Ms. Van Pala, what's your client's record?

1 Do you know?

2 MS. VAN PALA: Judge, he does have a pending charge out  
3 of Orangeburg.

4 THE COURT: For what?

5 MS. VAN PALA: For a firearms charge. I believe it's  
6 carrying a handgun on school premises.

7 THE COURT: At the state? Or a classroom?

8 OTHER: At state.

9 AST. SOL. KIDD: That's right. I remember this now.  
10 We put this up at the bond hearing. It's, you know,  
11 carrying a firearm on school property at South Carolina  
12 State, Orangeburg County; charge is still pending.

13 THE COURT: Why would that be relevant?

14 MR. PRICE: I'm just going to ask him what his pending  
15 charges are.

16 THE COURT: The only thing that's relevant is what's  
17 pending in Charleston, and if he thinks he's going to get a  
18 deal as a result of that. Charleston has no -- Orangeburg  
19 has no obligation of cooperating with Charleston.

20 MR. PRICE: No problem.

21 THE COURT: And they can prosecute his charge unless  
22 you have some indication that Charleston prosecutor and  
23 Orangeburg prosecutor have worked out some deal.

24 MR. PRICE: I think it just goes to, again, he has  
25 indicated on direct that he is here today to get leniency.

1 And I, of course, was going to ask him on all of his  
2 charges.

3 THE COURT: You're going to have to connect the dots.  
4 You're going to have to prove that Orangeburg -- if he  
5 expects to get some leniency from Orangeburg. They have no  
6 obligation. I've been in this system way too long where  
7 they don't. Otherwise, it's speculative.

8 MR. PRICE: Okay, Your Honor. We're ready to go.

9 THE COURT: So as I understand it, the only record you  
10 would seek to use to impeach him would be the PWID cocaine  
11 from June of 2014?

12 MR. PRICE: That's correct, Your Honor.

13 THE COURT: I would rule that's inadmissible. It is  
14 not probative because the Supreme Court has ruled that when  
15 interpreting Rules of Evidence, 609(b), that convictions  
16 involving dishonesty or false statement come in regardless  
17 of punishment. However, our Supreme Court has clarified  
18 that drug offenses are generally not probative of  
19 truthfulness.

20 MR. PRICE: Thank you, Your Honor.

21 THE COURT: And it would be elicited to impeach his  
22 character not probative on his truthfulness or his veracity  
23 under these circumstances. But, however, if he had some  
24 offenses that involved dishonesty or false statement, they  
25 would come in regardless of punishment.

1 All right. Are we ready to proceed? From the State?

2 AST. SOL. KIDD: Yes, Your Honor.

3 THE COURT: Defense, Mr. Price?

4 MR. PRICE: Yes, ma'am.

5 THE COURT: Mr. Peper?

6 MR. PEPER: Yes, ma'am.

7 THE COURT: And also I would say to the gallery, and I  
8 would caution the victims' assistance personnel, that in a  
9 trial of this nature, the testimonies are going to be  
10 emotional. And if anyone feels that they cannot bear the  
11 brunt of it, I need you to excuse yourself from the  
12 courtroom. I cannot run the risk of the jury be distracted  
13 or for any of their emotions otherwise to be -- juries have  
14 to have to make decisions that are not actuated by  
15 prejudice, passion, sympathy, otherwise. They have to very  
16 objectively look at the facts and make a decision.  
17 Otherwise, everyone would lose confidence in the system  
18 working as it should. And I understand it's emotional.  
19 I've never walked in anybody in this courtroom shoe's, so I  
20 wouldn't pretend that I know how it feels. But I would  
21 imagine it would be very difficult to hear some of this  
22 especially as we get toward other eye witness's testimony as  
23 well as the medical examiner. So if you feel you cannot  
24 handle it, please excuse yourself from the courtroom. Okay?  
25 Thank you. And everybody needs to turn their phone off. I

1 don't want anybody losing their phones because you're not  
2 going to get them back. If the deputy or bailiff takes  
3 them, that's going to be that. You're going to have to buy  
4 a new one. So make sure they are off. Not vibrator silent;  
5 off.

6 (The jury enters the courtroom at 4:40 p.m.)

7 THE COURT: Ladies and gentlemen, we appreciate your  
8 patience. We'll now resume testimony. Mr. Price, you may  
9 proceed.

10 MR. PRICE: Thank you, Your Honor. May it please the  
11 Court?

12 THE COURT: You're welcome. Yes, sir.

13 CROSS-EXAMINATION

14 BY MR. PRICE:

15 Q. All right. Daquan, do you mind if I call you Daquan?  
16 You okay with that?

17 A. I'm okay with that.

18 Q. Speak up. I have a hard time hearing you.

19 A. I'm okay with that.

20 Q. Okay. Get the microphone a little closer. Daquan, my  
21 name is Bentley Price. I represent Marvin Bryan. Just want  
22 to talk to you a little bit first about you being here  
23 today. What are your current pending charges?

24 A. I have PWID in a school zone; and unlawful carrying in  
25 a school zone.

1 Q. I'm talking about as of here today. What are you  
2 charges here today?

3 A. Oh, murder, and three counts of attempted murder.

4 Q. Okay. And when were you charged with those?

5 A. December of 2015.

6 Q. When did you have your first bond hearing?

7 A. April of 2016.

8 Q. And what happened at that bond hearing?

9 A. I was denied bond.

10 Q. When did you have your reconsideration? When did you  
11 have your second bond hearing?

12 A. October of 2016.

13 Q. All right. And what happened at that?

14 A. I was denied bond.

15 Q. All right. And so from about October 2016, did you  
16 lawyer indicate you could have another bite at the apple and  
17 have another bond?

18 A. No. He never spoke of another bond.

19 Q. Okay. So you knew you were incarcerated and you were  
20 going to stay incarcerated. Is that correct? As of April  
21 -- or October of 2016?

22 A. Yes, sir.

23 Q. All right. And you and the prosecutor talked about --  
24 y'all talked. Do you remember when you went and first  
25 talked to the prosecutor concerning this case?

Cross-Examination of Mr. Gilliard by Mr. Price

1 A. Yes, sir.

2 Q. When was it?

3 A. In February.

4 Q. So about three months after you were denied bond?

5 A. This is February 2017.

6 Q. Correct. So November, December, January, February; so  
7 four months. Because you said you were denied bond in  
8 October of 2016.

9 A. Yes, sir.

10 Q. So four months later. So you sat there for four months  
11 and then decided to go talk to the prosecutor. How did you  
12 -- did you tell your lawyer that you wanted to go talk to  
13 the prosecutor?

14 A. Yes, sir.

15 Q. And I meant to ask you: Are you housed with Keith?

16 A. Yes.

17 Q. So y'all talk daily?

18 A. No, we don't talk.

19 Q. Can y'all talk?

20 A. Yes, we can talk.

21 Q. Did y'all talk?

22 A. No. Might say hi or bye, that's it.

23 Q. That's it. So two codefendants who are somewhat  
24 friends, who are both working for the government, just say  
25 hi and bye. Y'all never talk?



1 A. No, sir.

2 Q. Okay. Why don't y'all talk?

3 A. I don't know, sir.

4 Q. Well, you're the only one that knows. I'm asking you.  
5 Why don't y'all talk?

6 A. We don't talk, sir.

7 Q. Okay. Keith ever try to talk to you?

8 A. We don't go out of each other's way to talk.

9 Q. Well, I didn't ask if you went out of the way. I said  
10 has Keith tried to talk to you?

11 A. No, sir.

12 Q. So how long have y'all been housed in the same unit?

13 A. Since March.

14 Q. Of?

15 A. 2017.

16 Q. So March, April, May; so for four months y'all been  
17 housed and all y'all say is hi and bye?

18 A. Yes, sir.

19 Q. Okay. Did y'all ride over here together?

20 A. No, sir.

21 Q. All right. Let's back up a little bit to the proffer  
22 when you decided when you wanted to talk to the government.  
23 Do you remember that the solicitor indicated to you that  
24 that was gonna be videoed -- or audio recorded?

25 A. Yes, sir.

Cross-Examination of Mr. Gilliard by Mr. Price

1 Q. And did he indicate to you it was going to be videoed?

2 Or recorded audio, I mean, so we would be able to see it?

3 A. I never seen anything on video.

4 Q. Okay. But you knew you were being recorded; correct?

5 A. Yeah.

6 Q. And did the prosecutor tell you he was going to have to  
7 give your statement over to us?

8 A. Yes, sir.

9 Q. And did you indicate that that made you nervous?

10 A. Yes, sir.

11 Q. Okay. So you know by now that we've listened to that  
12 audio; correct?

13 A. Yes, sir.

14 Q. And do you remember in the beginning of the proffer  
15 when the solicitor stated to you that he could help you out  
16 on the back end. Do you remember him saying that?

17 A. I don't remember that, sir.

18 Q. Okay. Do you remember him saying you're either going  
19 to be a witness for me or against me; you got to look out  
20 for you and your family. Do you remember that one?

21 A. No, sir.

22 Q. Okay. Do you remember when he said -- when he stated  
23 to you I can't tell you what you're gonna get, but if you  
24 cooperate, I'll take care of you on the back end?

25 AST. SOL. KIDD: Objection.

1 THE COURT: Basis. Be very careful not to make the  
2 solicitor a witness. I think you've proven your point. Move  
3 on.

4 AST. SOL. KIDD: It's hearsay. He's asking him what I  
5 said as opposed to what his response was.

6 THE COURT: I've covered it.

7 Q. Would it refresh your recollection if I played you the  
8 audio?

9 THE COURT: You can't play him somebody else's  
10 statement to refresh his memory.

11 MR. PRICE: Yes, ma'am.

12 THE COURT: Do not make the solicitor a witness.  
13 Rephrase the question.

14 Q. So, Mr. Gilliard, Daquan, let me get this straight.  
15 You were in here confessing to a murder case and you have no  
16 -- no one has indicated anything to you. Did your lawyer  
17 come and talk to you?

18 A. About?

19 Q. About this case?

20 A. Yes, she has.

21 Q. How many times did your lawyer come and talk to you?

22 AST. SOL. KIDD: Objection.

23 THE COURT: Be careful. Privilege.

24 MR. PRICE: I'm not -- I'm just ---

25 THE COURT: Yes, you are. You're implicating what has

Cross-Examination of Mr. Gilliard by Mr. Price

1     been said between a lawyer and a client.

2           MR. PRICE:   I just asked how many times she came and  
3     talked to him.

4           THE COURT:   Doesn't matter.   It is all privileged.  
5     Move on.   Move on.   It's privileged.   I'm not going to  
6     debate it, Mr. Price.

7           MR. PRICE:   May we approach?

8           THE COURT:   Yeah.   But I'm not going to debate it.   You  
9     have already crossed the line and they didn't say anything.

10          (A bench conference was held off the record and out of  
11          the hearing of the jury panel.)

12          THE COURT:   Proceed.   Rephrase.

13     Q.   Isn't true that when you proffered, your attorney was  
14     in the room; correct?

15     A.   Yes, sir.

16     Q.   And it was you, and you were in the room?

17     A.   Yes, sir.

18     Q.   And the solicitor was in the room?

19     A.   Yes, sir.

20     Q.   Was the solicitor and the investigator in the room?

21     A.   Yes, sir.

22     Q.   Okay.   And you were proffering on that day to tell the  
23     truth, and you wanted to sell them your story.   Is that  
24     correct?

25     A.   Yes, sir.

1 Q. And your attorney, she advised you about what you were  
2 doing. Is that correct?

3 A. Yes, sir.

4 Q. Okay. And during that conversation or during that  
5 proffer, did she indicate to you that you would be  
6 benefiting yourself by testifying?

7 A. She didn't say specifically what was going to happen.

8 Q. Correct. But she said it would be a benefit to you for  
9 coming in and testifying.

10 AST. SOL. KIDD: Objection, Judge.

11 THE COURT: Basis. Please approach.

12 (A bench conference was held off the record and out of  
13 the hearing of the jury panel.)

14 THE COURT: Rephrase.

15 MR. PRICE: Court's indulgence just one second, Your  
16 Honor.

17 THE COURT: Uh-huh.

18 (Brief pause.)

19 MR. PRICE: Thank you, Your Honor.

20 THE COURT: Uh-huh. You may proceed. Rephrase.

21 Q. Mr. Gilliard, I'll just get straight to the point. You  
22 expect to get some type of deal out of this, don't you?

23 A. Hope for some leniency, yes.

24 Q. What do you consider leniency?

25 A. Less time.

## Cross-Examination of Mr. Gilliard by Mr. Price

1 Q. Less time or less charge?

2 A. Less time.

3 Q. Okay. And so you're expecting a benefit, a deal;  
4 correct?

5 A. Of some kind; yes, sir.

6 Q. Okay. And when you first met with the prosecutor on  
7 this case, you didn't tell him the truth, did you?

8 A. I did.

9 Q. You did. And what about in your proffer? You told  
10 nothing but the truth?

11 A. Yes, sir.

12 Q. Was there a time when y'all actually stopped the  
13 proffer because there was a situation whereby maybe they  
14 didn't believe you?

15 A. Yes, sir.

16 Q. And then you decided to begin your story again. Is  
17 that correct?

18 A. Yes, sir.

19 Q. And then your story here today is a little different  
20 than what it was during your proffer. Is that correct?

21 A. No.

22 Q. So you told the truth. Everything that you said in the  
23 proffer was the truth. Is that correct?

24 A. Once we restarted it, yes.

25 Q. Once you restarted. But you lied in the beginning;

1 correct?

2 A. Yes, sir.

3 Q. Okay. So when they told you what a proffer was, you  
4 still lied; correct? Correct?

5 A. What is your question?

6 THE COURT: Do you understand the question?

7 Q. Do you understand the question?

8 A. What's your question?

9 Q. Even though they told you what a proffer does for you,  
10 you still lied to them; correct?

11 A. Yes, sir.

12 Q. And you understand today that your testimony is far  
13 more extensive than your proffer. Is that correct?

14 A. Yes, sir.

15 Q. And when did you last meet with the prosecutor?

16 A. Last week, Wednesday.

17 Q. Did y'all go over all of these questions?

18 A. All of what questions?

19 Q. The questions that the solicitor asked you here today.

20 A. Yes, sir.

21 Q. Okay. So you got your testimony straight. When was  
22 that?

23 A. Last week, Wednesday.

24 Q. Sorry. I didn't hear you say Wednesday. So last week  
25 on Wednesday; correct?

Cross-Examination of Mr. Gilliard by Mr. Price

1 A. Yes, sir.

2 Q. Okay. Anybody else there?

3 A. My attorney.

4 Q. Okay. Let's talk a little bit about what you've  
5 testified here today that was not anywhere in your proffer.  
6 You said that you were able to hear the phone call when you  
7 were inside the car. Why did Justin have his cell phone on  
8 speaker?

9 A. I don't know, sir.

10 Q. But it was on speaker; correct?

11 A. Yes, sir.

12 Q. And you heard it verbatim?

13 A. Yes, sir.

14 Q. And you knew -- and whose voice was that on the phone?

15 A. A guy named Stewy (ph).

16 Q. And how long have you known Stewy?

17 A. Not long. A few months.

18 Q. And so you've known Stewy for a couple of months. How  
19 did you know that to be his voice?

20 A. I know his voice from being around him.

21 Q. Okay. So y'all are drinking?

22 A. Yes, sir.

23 Q. Smoking weed?

24 A. Yes, sir.

25 Q. Listening to music. And Justin who's in the front



1 seat, you're in the hatchback, pulls out a cell phone?

2 A. I was in the passenger seat.

3 Q. Passenger seat. So he puts it on speaker phone. And  
4 what does he say? Listen to this? He doesn't know what  
5 Stewy is going to say. Why did he put it on speaker phone?

6 A. I don't know, sir.

7 Q. And you heard Stewy -- what did you hear Stewy say?

8 THE COURT: You've objected to that and I ruled it was  
9 inadmissible.

10 MR. PRICE: Oh, sorry.

11 THE COURT: You need to move on.

12 Q. So from that point forward, you later see who you know  
13 to be Stewy. Is that correct?

14 A. Yes, sir.

15 Q. Okay. And when you -- when you know this to be Stewy,  
16 why didn't you tell any of this in your previous proffer or  
17 say anything to the solicitor at that time? Why are we just  
18 hearing about it today for the first time?

19 A. (No response.)

20 Q. You didn't find it to be relevant?

21 A. I'm pretty sure I did.

22 Q. You're pretty sure you told them in proffer?

23 A. Yes, sir.

24 Q. What question did Mr. Kidd ask you in the proffer that  
25 you indicated that you knew who was on the phone? You heard

Cross-Examination of Mr. Gilliard by Mr. Price

1 the person on the phone, and then later met up with that  
2 person.

3 A. Justin said Stewy on the phone; got the phone up.

4 Q. Okay. So know Justin stated that. It wasn't on  
5 speaker.

6 A. Before he put it on speaker, he said that was Stewy.

7 Q. So you didn't know it was Stewy's voice. Justin told  
8 you who it was.

9 A. I know his voice too.

10 Q. Okay. But why didn't you tell the solicitor about this  
11 any of the other times that you met with him? Why are we  
12 just hearing about it for the first time here today? I've  
13 got the proffer. Why didn't you talk to the solicitor about  
14 it before? Is that something he came and talked to you  
15 about last week?

16 A. He asked me whose voice it was. Who was on -- who  
17 called Justin.

18 Q. And had you never told him about that before?

19 A. I'm not sure.

20 Q. Okay. Do you find that to be relevant information? If  
21 you were to tell the truth the whole truth about everything  
22 that transpired, and you had several bites to do it, and now  
23 all of sudden you're doing it here today, allegedly.

24 THE COURT: You need to ask that in the form of a  
25 question, Mr. Price.

1 Q. So were you -- why did you leave it out every other  
2 time before today?

3 A. I can't answer that, sir.

4 Q. Okay. They showed you some pictures a second ago. And  
5 they showed you some cell phones. And you indicated that  
6 must be Marvin's. How do you know that to be Marvin's  
7 phone?

8 A. I knew he had a iPhone.

9 Q. Okay. But you don't know if that's Marvin's phone?  
10 They haven't shown you any pictures or anything along those  
11 lines. You just know it to be an iPhone; correct?

12 A. Yes.

13 Q. So have you talked to Keith about your testimony coming  
14 in here today since the prosecutor came in here and met with  
15 you last week?

16 A. No, sir.

17 Q. So you haven't even spoken to him at all?

18 A. No, sir.

19 Q. I've got a couple more questions. But you're allowed  
20 to communicate with other people in the jail, though;  
21 correct? You can write letters?

22 A. Yes, sir.

23 Q. Okay. Do you remember writing Marvin a letter?

24 A. Yeah, we wrote it from there.

25 Q. Okay. Do you remember in the letter that you wrote to

Cross-Examination of Mr. Gilliard by Mr. Price

1 Marvin you indicated to him that Keith needed to tell them  
2 who had really been with him? Don't want some real shit.  
3 Pardon my language, but that was your words. Do you  
4 remember writing that?

5 A. Yes, sir.

6 Q. What did you mean by that?

7 A. If I proffered, me and him agree that he -- Keith was  
8 lying.

9 Q. Okay. That Keith is lying?

10 A. Yes, sir.

11 Q. Okay.

12 MR. PRICE: Court's indulgence for one moment.

13 THE COURT: Uh-huh.

14 (Brief pause.)

15 MR. PRICE: Court's indulgence, Your Honor.

16 THE COURT: Uh-huh.

17 (Brief pause.)

18 MR. PRICE: No further questions at this time, Your  
19 Honor.

20 THE COURT: Any questions, Mr. Peper?

21 MR. PEPER: Yes, ma'am.

22 THE COURT: You may proceed.

23 MR. PEPER: Thank you, Your Honor. May it please the  
24 Court?

25 THE COURT: You're welcome. Yes, sir.

1 CROSS-EXAMINATION

2 BY MR. PEPER:

3 Q. DQ, may name is Mark Peper. I represent Mr. Wilson.

4 Okay. A few questions for you. All right. It's tough  
5 being up there?

6 A. Yes, sir.

7 Q. It's tough because the State has asked you to rat on  
8 two cats; right?

9 A. Yes, sir.

10 THE COURT: Sir, I can't hear your answer. Please  
11 speak up.

12 THE WITNESS: Yes, Your Honor.

13 Q. And that's not something you were taught in downtown  
14 Charleston, is it?

15 A. No, sir.

16 Q. You keep what happens on the streets to yourself and  
17 yourself alone; right?

18 A. Yes, sir.

19 Q. The only way to deviate from that is a charge for  
20 murder; right?

21 A. Yes, sir.

22 Q. Which is why you went and met with Mr. Kidd back in  
23 February; right?

24 A. Yes, sir.

25 Q. Help yourself out; right?

1 A. Yes, sir. Charges around that, I would have nothing in  
2 addition to.

3 Q. You're talking about this murder?

4 A. Yes, sir.

5 Q. I want to make sure I understand. You had nothing to  
6 do with the murder of Franklin Williams and the attempted  
7 murder of the other three people in the Dodge Charger. Is  
8 that your testimony?

9 A. I was in that car because I asked for a ride home from  
10 Justin, before he got the phone call and after he got the  
11 phone call from Stewy.

12 Q. Okay. Do you think you should go to trial for this  
13 charge?

14 A. No, sir.

15 Q. You've know Justin for, I believe you said, last couple  
16 of years; right?

17 A. Yes, sir.

18 Q. You don't have his cell number; right?

19 A. Well, the week before or couple days before, I was  
20 calling him for a ride.

21 Q. So you did have his cell phone number?

22 A. A week before; yes, sir.

23 Q. And that's fine. I'm not trying to trick you. I just  
24 want to understand your testimony today. Okay. If your  
25 testimony, now that we're talking, right, is that you had

1 his cell number because you called him a week prior; right?  
2 You would agree with me, would you not, that that's  
3 different than your testimony when Mr. Kidd was asking you;  
4 right?

5 A. I don't know.

6 THE COURT: Sir, do you understand the question?

7 MR. PEPER: Let me see if I can rephrase it.

8 THE COURT: Do you need to repeat it?

9 MR. PEPER: Yeah. I'll rephrase.

10 THE COURT: If you could rephrase it for us.

11 Q. When Mr. Kidd asked you if you had Justin Wilson's  
12 phone number, you said no; correct?

13 A. I'm not sure, sir.

14 Q. Okay. But in any event, your position with me now is  
15 that yes because you had called him a week prior to this  
16 incident; correct?

17 A. Yeah.

18 Q. Okay. So regardless of what you said earlier, your  
19 position is that you had his number?

20 A. Yes, sir.

21 Q. I gotcha. Okay. I believe your position now with  
22 Mr. Kidd today also is that y'all were chilling on Tripe  
23 Street and that's when Justin's phone rang; correct?

24 A. Correct.

25 Q. All right. Now as of today, June 19, 2017, your

1 testimony is that not only did you hear the phone call, but  
2 you know for a fact who was on the other line. Is that your  
3 testimony?

4 A. Yes, sir.

5 Q. All right. And you met with Mr. Kidd last week;  
6 correct?

7 A. Correct.

8 Q. And he told you that he thinks it was Stewy on the  
9 line; right?

10 A. He didn't say that. I told him that.

11 Q. Okay. Let me take you back to February when you did  
12 your proffer. Do you remember telling him that you had no  
13 idea who called Justin that day?

14 A. I don't.

15 Q. Do you remember that the State told you that they  
16 didn't either?

17 A. No, sir.

18 Q. Do you remember them telling you that they think they  
19 know, but you weren't able to confirm who it was; right? I  
20 know you can now. I'm talking about back in February.

21 A. I don't remember.

22 Q. Okay. I believe you testified earlier that you now  
23 know why you went to North Charleston; right?

24 A. Yes, sir.

25 Q. Okay. And you met with the solicitor last week and



1 discussed why y'all went to North Charleston; right?

2 A. Yes, sir.

3 Q. In February, it's fair to say you didn't know why you  
4 went to North Charleston, did you?

5 A. I stated my belief.

6 Q. Okay. You stated your belief. And your belief was I  
7 guess because of the phone call I don't know who they were  
8 looking for; right?

9 A. Was this before or after we took a break?

10 Q. This would've been after you took a second break.  
11 Brings up a good point. Your proffered testimony when you  
12 went and cut the deal in February was kind of broken down  
13 into three parts? Two parts? What do you think? Two  
14 parts, three parts, four parts? What do you think?

15 A. I'm not sure.

16 Q. Okay. You would agree with me that for about the first  
17 16 minutes or so you were never asked a question nor  
18 answered a question; correct?

19 A. I'm not sure about that.

20 Q. All right. You would agree with me regardless of  
21 whether it's ten or 16 or whatever, that a majority of the  
22 time spent in let's call part one was just Mr. Kidd doing  
23 all the talking to you; correct? Help me help you. I can't  
24 help you if you help me. I promise I'll take care of you on  
25 the back end. Those kinds of things; right?

Cross-Examination of Mr. Gilliard by Mr. Peper

1           AST. SOL. KIDD:  Objection.

2           THE COURT:  I'm sorry.  I didn't hear you.

3           AST. SOL. KIDD:  Objection.

4           THE COURT:  Basis?

5           AST. SOL. KIDD:  It's not a question and it's . . .

6           THE COURT:  I need you to ask questions.

7           MR. PEPER:  Yes, ma'am.

8           THE COURT:  Sustained.

9   Q.    The first part is what we're trying to figure out of  
10 the three parts, right?  The first part is when he was  
11 telling you that he would help you if you helped him; right?

12 A.    He told me, yes.

13 Q.    Okay.  And that's also -- you weren't saying anything  
14 at that time; right?

15 A.    (Nonverbal response.)

16 Q.    And then we'll call it the part two is when you start  
17 talking.  Right before you start talking, about the  
18 16-minute mark, his last question to you wasn't a question,  
19 was it?

20 A.    I don't know what you're talking about.

21 Q.    Okay.  Right before you started talking, he said, you  
22 know ---

23           AST. SOL. KIDD:  Objection.

24           THE COURT:  Is there another way to phrase it?

25           MR. PEPER:  Yeah, there is.  I apologize.

1 THE COURT: Rephrase.

2 Q. He wanted you to tell them -- tell him the you were in  
3 the car; right? Just start by telling us that you were in  
4 the car; right?

5 A. Yes, sir.

6 Q. Okay. That you witnessed a murder; right?

7 A. Yes, sir.

8 Q. Okay. And that's where we start; right? That's what  
9 he said.

10 A. (Nonverbal response.)

11 Q. Okay. And then you started talking; right?

12 A. Yes, sir.

13 Q. All right. So we got part one which is Mr. Kidd  
14 telling you what to say because what he thinks happened.  
15 Then we got part two and that's when you start answering the  
16 questions; right?

17 A. Yes, sir.

18 Q. All right. You really weren't sure, though, which way  
19 to answer, were you?

20 A. I wasn't sure what the answer was. He asked -- and  
21 family.

22 Q. Right. You were gonna answer which ever way he wanted  
23 you to answer; right? I mean, that's what they're there  
24 for; right? Cut a deal.

25 A. Yes, sir.

Cross-Examination of Mr. Gilliard by Mr. Peper

1 Q. And we jump back to part one, he says I can't hook you  
2 up unless you tell me what I want to hear; right?

3 AST. SOL. KIDD: Objection. Mischaracterization.

4 THE COURT: Sustained. Mischaracterization. And  
5 please approach for me for a moment, please.

6 (A bench conference was held off the record and out of  
7 the hearing of the jury panel.)

8 THE COURT: You may proceed.

9 MR. PEPER: Thank you, Judge. May it please the Court?

10 THE COURT: You're welcome. Not a worry. Proceed.

11 Q. Jump back to part two, which where we were. I  
12 apologize earlier. He has asked you where did y'all go;  
13 correct?

14 A. Correct.

15 Q. And you said we leave and start riding around, but I  
16 don't know where we're going; right?

17 A. I don't remember word for word.

18 Q. Okay. Then at that point he says I think we ought to  
19 to stop; right? And then I'm not going to ask you what you  
20 and your attorney talked about, that's when you were given  
21 the opportunity to meet with your attorney again; right?

22 A. Correct.

23 Q. Okay. Now we start part three. You go back on the  
24 record and he says for you to tell him what happened; right?

25 A. Right.

1 Q. And you say he got a phone call; right? That him being  
2 Justin got a phone call; right?

3 A. Correct.

4 Q. And you say in hindsight the call had to have been  
5 about where someone was; right?

6 A. Correct.

7 Q. In hindsight meaning now that I know what y'all think  
8 happened, that's what the phone call must have been about;  
9 right? That's what you meant by in hindsight?

10 A. I'm not sure if I said that specific word.

11 Q. Well, wouldn't that had been a good opportunity for you  
12 to tell Mr. Kidd in February what you told the jury just now  
13 that it was Stubby -- Stewy and that's how you know his  
14 voice and it was on speakerphone; correct? Wouldn't that  
15 have been a good opportunity to tell him that then?

16 A. Yes, sir.

17 Q. But you didn't; right?

18 A. Right.

19 Q. Do you recall actually telling him all you did was hear  
20 the phone ring, but you couldn't hear who it was?

21 A. I don't recall that, sir.

22 Q. Okay. Had you been asked that, that would've been a  
23 good opportunity to talk about Stewy; right? I mean, that's  
24 what the phone call that y'all are talking about today. The  
25 same phone call; right?

1 A. Yes, sir.

2 Q. Right. Okay. Now, I believe you testified earlier  
3 that after you get to El Cheapo or something that y'all went  
4 across the street and backed up into a parking spot. Is  
5 that right?

6 A. Yes, sir.

7 Q. Back in February, still on part three, do you remember  
8 telling Mr. Kidd I'm telling you the truth, no one saying  
9 nothing in the car; right?

10 A. Yes, sir.

11 Q. But now today after meeting with Mr. Kidd last week,  
12 you're saying that Justin was then saying go charger and go  
13 follow -- right. Is that your testimony today?

14 A. Yes, sir.

15 Q. That's different from what it was from the first time  
16 you talked with the State; right?

17 A. Yes, sir.

18 Q. Okay. Still in part three, you told him, ain't none of  
19 my DNA is gonna be in that car, didn't you?

20 A. Yes, sir.

21 Q. You told him I never touched the guns; right?

22 A. Yes, sir.

23 Q. Is that true?

24 A. I didn't touch anything inside the car.

25 Q. You touched it earlier, though; right?

1 A. Yes, sir.

2 Q. In February, part three of your proffer, you were asked  
3 did you ever see or look for a black Lincoln. Is that  
4 correct?

5 A. Yes, sir.

6 Q. You were asked did you ever talk to someone that came  
7 over to y'all's car. Is that correct?

8 A. Yes, sir.

9 Q. Both times you said no and no; right?

10 A. Yes, sir.

11 Q. After meeting with the State last week, your testimony  
12 is different today, though; right?

13 A. Yes, sir.

14 Q. Are you scared that if you had stuck to what you told  
15 him in February, today, that you might not get this deal?

16 A. Yes, sir.

17 Q. All right.

18 MR. PEPER: Court's indulgence. One second, Judge.  
19 Thank you.

20 (Brief pause.)

21 MR. PEPER: All right. DQ, I'm good to go. Okay.  
22 Thank you, Judge.

23 THE COURT: Any redirect with the witness?

24 AST. SOL. KIDD: Yes, Your Honor.

25 THE COURT: You may proceed.

1 REDIRECT EXAMINATION

2 BY AST. SOL. KIDD:

3 Q. Mr. Gilliard, I think part one Mr. Peper was talking  
4 about when I was explaining what the nature of a proffered  
5 agreement was. Is that fair to say?

6 A. Yeah.

7 Q. And what is the one thing you can do that blows your  
8 proffer agreement with me?

9 A. Not tell you exactly what happened.

10 THE COURT: Could you repeat your answer, please, sir.

11 THE WITNESS: Not tell exactly what happened.

12 Q. Not telling the truth; right?

13 A. Yes, sir.

14 Q. So the only thing that you can do to blow this proffer  
15 agreement with me is to lie; right?

16 A. Yes, sir.

17 Q. All right. Mr. Peper at least tried to make it look  
18 like how I tried to tell you how to testify. Is that true?

19 A. Yes, sir.

20 Q. It is? I've tried to tell you what to say?

21 A. No. You never told me what to say but that way they  
22 made it seem.

23 Q. That's the way he made it seem?

24 A. Yes, sir.

25 Q. Have I ever asked you to say anything but the truth?



1 A. No, sir.

2 Q. Now, it's -- when we first met in February, that was a  
3 hard moment, wasn't it?

4 A. Yes, sir.

5 Q. It was hard for you to admit that you were in that car,  
6 wasn't it?

7 A. Yes, sir.

8 Q. Because you knew that admitting you were in that car  
9 ---

10 MR. PRICE: Objection, Your Honor. He's testifying for  
11 the witness.

12 THE COURT: I haven't heard the whole question.

13 MR. PRICE: Okay.

14 THE COURT: I want to hear the whole question. Maybe a  
15 proper follow-up. Can you repeat the question, please.

16 Q. Why was it hard for you to admit that you were in that  
17 car?

18 AST. SOL. KIDD: I'll rephrase.

19 THE COURT: Thank you.

20 A. What was your question?

21 Q. Why was it difficult when we first met for you to admit  
22 you were in that car?

23 A. I was putting myself at the scene of a crime scene.

24 Q. You were putting yourself at risk, weren't you?

25 A. Yes, sir.

Redirect Examination of Mr. Gilliard by Ast. Sol. Kidd

1 Q. And we met in February; right? Of 2016. Is that  
2 right? The first time. No, excuse me, excuse me. October  
3 of 2016; right? Is that right?

4 A. October?

5 Q. When was it? When did we first meet? I've got it  
6 right here. Hold on. (Brief pause.) Yeah. February of  
7 2017, first time we met; right?

8 A. Yes, sir.

9 Q. I don't know why -- I think I was confused with his  
10 bond hearing. So we met in February of 2017. Had you had a  
11 chance to look at your discovery and stuff at that point?

12 A. Yeah, but I never looked at it.

13 Q. Had any of the forensic evidence come back yet?

14 A. No, sir.

15 Q. Now, we met last week; right?

16 A. Yes, sir.

17 Q. Did I ever show you the questions I was going to ask  
18 you?

19 A. No, sir.

20 Q. Did I ever write out these are the questions I'm going  
21 to ask you and this is how I want you to answer them?

22 A. No, sir.

23 Q. So I've never given you the questions that I was going  
24 to ask in court today before?

25 A. No, sir.

1 Q. Now, we talked a little bit about how you were housed  
2 at -- you're at the Charleston County Detention Center;  
3 right?

4 A. Yes, sir.

5 Q. How long have you been there?

6 A. About 18 months.

7 Q. Since November or ---

8 A. December 2015.

9 Q. December of 2015?

10 A. Yes, sir.

11 Q. And I believe Mr. Peper said it's pretty tough to be  
12 labeled a rat. Is that true?

13 A. Yes, sir.

14 Q. Were you come from, is that something hard to get over?

15 A. Yes, sir.

16 Q. And you've only been housed in the same unit as  
17 Mr. Evans after you proffered; right?

18 A. Yeah.

19 Q. And what unit is that?

20 A. SMU.

21 Q. What does that stand for?

22 A. Special Management Unit.

23 Q. It's like protective custody?

24 A. I mean -- housing.

25 Q. Say it that -- I'm sorry. You've got to speak up a

1 little bit.

2 A. That's not all of us housing.

3 Q. That's not all of who is housed there?

4 A. No.

5 Q. But that's part of it?

6 A. Yes, sir.

7 Q. And they asked is because of safety concerns; right?

8 A. Yes, sir.

9 Q. Has any of your testimony today that you gave this jury  
10 not the truth?

11 A. Everything I told the jury is true, sir.

12 Q. Mr. Price mentioned maybe a letter that you had written  
13 to Mr. Bryan.

14 A. Yes, sir.

15 Q. And that was before you admitted that you were in the  
16 car. Is that correct?

17 A. Yes, sir.

18 Q. What was y'all's agreement at that point? Before you  
19 started cooperating.

20 A. That Keith was a liar.

21 Q. Because y'all knew that Keith was already cooperating?

22 A. Yes, sir.

23 Q. And so you and Mr. Bryan agreed that Keith was a liar  
24 because that was the only way to beat the charge?

25 A. Yes, sir. It was a way.

1 Q. And has anyone, myself or from my office, ever asked  
2 you to say anything that was not truthful?

3 A. No, sir.

4 AST. SOL. KIDD: No further questions, Judge.

5 THE COURT: Madam Forelady, ladies and gentlemen, we're  
6 going to take advantage of this break and testimony to take  
7 our evening recess. We appreciate your indulgence to finish  
8 this witness. During the break, please do not discuss the  
9 case in any manner whatsoever. Please do not read, watch,  
10 or listen to any media account if there may be any. You're  
11 strictly instructed not to do any independent research of  
12 any type on the Internet. You are bound by your oath to  
13 decide this case according to the sworn testimony and the  
14 other exhibits that may be introduced during the course of  
15 trial. And, also, please don't have any contact with anyone  
16 in or about the courthouse as you return in the morning, and  
17 don't make any comments on any social networking sites  
18 regarding your jury service. We'll resume in the morning at  
19 9:30. If you would stack your notebooks up on that ledge as  
20 you leave, we'll secure them during the break. Hope y'all  
21 have a great evening. We'll see you in the morning at 9:30.

22 (The jury exits the courtroom at 5:24 p.m.)

23 THE COURT: You may be seated. All right. Is there  
24 anything else we need to take up -- you can go and take him  
25 back if you need to.

1 (The witness exits the stand at 5:25 p.m.)

2 THE COURT: Is there anything else we need to take up  
3 before we adjourn for the evening? From the State?

4 AST. SOL. KIDD: Your Honor, only maybe for the benefit  
5 of me calling my next witness. The next witness I hope to  
6 call was Craig Kosarko with the City Police Department.

7 THE COURT: Uh-huh.

8 AST. SOL. KIDD: He was the lead investigator of the  
9 shooting in which Justin Wilson was shot July 25, 2015.  
10 That is one incident that was ---

11 THE COURT: Tell me again -- what's his last name  
12 again? He's with the City Police Department?

13 AST. SOL. KIDD: Kosarko. Yes, Your Honor.

14 THE COURT: And what is he going to testify to?

15 AST. SOL. KIDD: He's the lead investigator of the  
16 shooting that occurred on Tripe Street in West Ashley.

17 THE COURT: And what is he going to be able to say of  
18 his own personal knowledge?

19 AST. SOL. KIDD: On July 25, 2015, he responds,  
20 investigates the subject and ---

21 THE COURT: You said July what now?

22 AST. SOL. KIDD: 25th of 2015.

23 THE COURT: Uh-huh.

24 AST. SOL. KIDD: He responds to the scene, to the  
25 shooting in which Justin Wilson had suffered a gunshot wound

1 to the neck. And the individual named Jeremy Blake suffered  
2 a gunshot wound to the abdomen. He investigated that case  
3 against the subject named Leroy Manigault (ph). Ultimately  
4 made an arrest in that case. That case ultimately pled to  
5 assault and battery in the first degree largely due to the  
6 victim's lack of cooperation. But that's neither here nor  
7 there. This is the individual who according to Mr. Gilliard  
8 and according to our future witnesses who they were  
9 originally out looking for.

10 THE COURT: Don't you need to connect the dots before  
11 you call somebody to corroborate?

12 AST. SOL. KIDD: Well, I think that's largely what  
13 Mr. Gilliard said, we're out looking for the guy who shot  
14 Justin.

15 THE COURT: Yeah. But he didn't identify him. Said he  
16 didn't know who it was.

17 AST. SOL. KIDD: Said all it is is a black Lincoln;  
18 right. So this is my way of saying here's the police  
19 investigation when Justin was shot and he ---

20 THE COURT: Is their other witness going to be able to  
21 corroborate any of that? You need somebody to connect the  
22 dots to say that's who they were looking for to make that  
23 germane and make it probative. And you're also are going to  
24 have to establish by clear and convincing evidence that --  
25 well, I think you can probably do that since he was arrested

1 and he was ---

2 AST. SOL. KIDD: Charged and pled guilty.

3 THE COURT: --- charged and pled. But you're going to  
4 have to connect the dots between those two incidents  
5 somehow. I mean, somehow that was their frame of reference  
6 and that's who they were looking for.

7 AST. SOL. KIDD: Well, and that's what Mr. Gilliard  
8 just testified to. He ---

9 THE COURT: He said they were looking for somebody in a  
10 black Lincoln. That person's name was never uttered on the  
11 ---

12 AST. SOL. KIDD: He said we were looking for the person  
13 who shot Justin, and those are his exact words.

14 THE COURT: Yeah. But he needs to be able to say that  
15 that's who he knew him to be. How do I know he wasn't  
16 subject to some other shootings some other time?

17 AST. SOL. KIDD: Well ---

18 THE COURT: I'm the gatekeeper. You got to connect the  
19 dots. You may know this case, and in your mind, that's way  
20 it computes. But I have to -- I'm objective. I don't have  
21 anybody to award or punish. The only thing I'm bound by are  
22 the rules of evidence.

23 AST. SOL. KIDD: He did indicate, the person who shot  
24 Justin, he did indicate Justin was shot back in July.

25 THE COURT: Is there any real contention that he was



1 shot in July?

2 AST. SOL. KIDD: I mean, we've got pictures of them in  
3 the hospital.

4 THE COURT: That's not my question. Are they  
5 contesting that he was not shot in July?

6 MR. PEPER: Justin was absolutely shot in July, Judge;  
7 yes.

8 THE COURT: And is there any contention that Mr.  
9 Manigault is not the person that shot him?

10 MR. PEPER: Justin has never been told who shot him.  
11 He doesn't know who shot him. No witness that ---

12 THE COURT: But aren't you judicially estopped from  
13 taking an opposite position once somebody pleads guilty to a  
14 crime.

15 MR. PEPER: I didn't know he pled guilty. That's the  
16 first I heard of it.

17 THE COURT: When did Mr. Manigault plead guilty to this  
18 offense? Your client would've been notified, wouldn't he?  
19 To be present. He's the victim. He's entitled to be heard  
20 whether he's in jail or not.

21 MR. PEPER: I certainly wasn't his lawyer. He was  
22 sitting in county.

23 THE COURT: Well, you're his criminal lawyer. I don't  
24 know if he had a civil lawyer. I don't know if they had ---

25 MR. PEPER: I recovered the insurance policy on ---

1 THE COURT: Okay.

2 MR. PEPER: --- the girlfriend's car ---

3 THE COURT: Okay. Then they should have notified you  
4 that he was pleading guilty because you're a victim and you  
5 should have been heard.

6 MR. PEPER: Yeah, that's a pretty good deal for  
7 attempted murder down to ---

8 THE COURT: Well, I don't know. Did he go to jail for  
9 the maximum? I have no idea.

10 AST. SOL. KIDD: No, he did not. That's part of what  
11 is relevant, Judge, is him being released around this time.

12 THE COURT: I don't know. You know, when did he plead  
13 guilty?

14 AST. SOL. KIDD: I can get that information for you,  
15 Judge. I don't have it ---

16 THE COURT: Yeah. I need to know when he plead guilty.  
17 I need to know what his sentence was. I need to know more  
18 than that. And you're going to have to connect the dots  
19 better than that for it to be admissible. Does this other  
20 witness have any knowledge of this shooting and them  
21 pursuing this car and all this other stuff?

22 AST. SOL. KIDD: No, ma'am.

23 THE COURT: Mr. Evans has no knowledge of what was said  
24 in the car?

25 AST. SOL. KIDD: Oh, Mr. Evans does, yes.

1 THE COURT: I assume that was your other codefendant.

2 AST. SOL. KIDD: I thought you were talking about Mr.  
3 Kosarko, Detective Kosarko.

4 THE COURT: Yeah, before you can call in somebody to  
5 corroborate something, you got to establish it first. You  
6 got to establish that that was the mindset in that vehicle.  
7 Because then after that, I would imagine they would  
8 stipulate to being shot in the neck and that this person  
9 pled guilty. They are judicially estopped from taking  
10 another position.

11 AST. SOL. KIDD: Well, and my understanding of the  
12 testimony that we just heard was Mr. Gilliard said Justin  
13 gets a call, we're looking for the guy who shot Justin.

14 THE COURT: Yeah. But the problem is you have a very  
15 inarticulate witness who you had to lead, who really could  
16 not say articulately that I was in a car and this is what I  
17 heard. And that's not his fault. I mean, that's just is  
18 what it is.

19 AST. SOL. KIDD: Well, his -- I mean, I agree, he's not  
20 the most articulate ---

21 THE COURT: And I never knew the phone was on speaker  
22 until cross-examination because I was sort of, really?  
23 That's a whole different set of facts that would have  
24 changed a lot of stuff.

25 AST. SOL. KIDD: Be that as it may, he testified that

1 he overheard a conversation, that the understanding was  
2 they're going to find the guy who shot Justin. Justin was  
3 shot four months prior.

4 THE COURT: Yeah, I was here. I heard it. But you  
5 still got to connect the dots.

6 AST. SOL. KIDD: So what do I need ---

7 THE COURT: And as articulately as you want to make his  
8 testimony. His testimony was not that clear.

9 AST. SOL. KIDD: So what do I need ---

10 THE COURT: It was more of you leading him and him  
11 saying, uh-huh, uh-huh.

12 AST. SOL. KIDD: Well, and I guess my point is ---

13 THE COURT: And he needs to be -- you need to connect  
14 the dots that somebody else can establish what the state of  
15 mind was in that vehicle when they were pursuing it, and  
16 that it was Mr. Manigault that they were after, and that he  
17 was in fact in that vehicle, and that's why they went to  
18 pursue the vehicle to shoot him.

19 AST. SOL. KIDD: Right. So ---

20 THE COURT: And then you can all your other witnesses  
21 to corroborate what happened. But it really becomes a moot  
22 issue at that point because I would imagine they would  
23 stipulate that he was shot. And, again, as I've indicated,  
24 they're judicially estopped from saying Mr. Manigault didn't  
25 do it because he pled guilty. It's a matter of law that he

1 did.

2 AST. SOL. KIDD: So that's part of the run on why this  
3 case is so complex, Judge.

4 THE COURT: It's not particularly complicated.

5 AST. SOL. KIDD: So they go -- well, I'm saying they go  
6 looking for Mr. Manigault. They don't find Mr. Manigault.  
7 They find Quran Allen who they have another unrelated beef  
8 with, unrelated to when Justin Wilson got shot. So we're  
9 looking for the black Lincoln with Mr. Manigault. We don't  
10 find him. We come across ---

11 THE COURT: Well, so far the only thing in the record  
12 is we're looking for a black Lincoln, was somebody who shot  
13 at him; was somebody who wasn't present when he was shot at  
14 that can corroborate the identity of the person who shot at  
15 him.

16 AST. SOL. KIDD: And I'm not going to have any ---

17 THE COURT: Can you elicit any of that from Mr. Evans?

18 AST. SOL. KIDD: He's not -- I mean, he doesn't know  
19 Mr. Manigault by name.

20 THE COURT: But did he -- if the phone was on speaker,  
21 did everybody not hear the conversation?

22 AST. SOL. KIDD: He will know we were going looking for  
23 the guy who shot Justin just like Mr. Gilliard testified.

24 THE COURT: Well, I have to hear that testimony and  
25 make a decision based on that. But when you start talking

1 about bringing in police officers to corroborate something  
2 that happened, you need to establish the fact at hand to  
3 have corroboration. Now, it might be germane as motive, but  
4 you're still going to have -- I don't have a problem -- I  
5 believe it could be; it would fit within the ambit of  
6 motive, but you're going to have to connect the dots to get  
7 there. You just don't get to lead them and say, you know,  
8 we got a police report that he was shot especially when you  
9 can't even put Mr. Manigault in the Charger, at least not at  
10 this point.

11 AST. SOL. KIDD: But he's never in the Charger. That's  
12 my point. He's in a black Lincoln that they never find.  
13 I'm just not sure what dots I'm suppose ---

14 THE COURT: I can't tell you how to try your case. I  
15 mean, we all read from the same Bible. It's called Rules of  
16 Evidence. Yes, sir?

17 MR. PEPER: Thank you, Judge. May it please the Court?  
18 I'm with you. But let's just cut to the chase. I mean,  
19 what I heard was State just say what their position has been  
20 all along is that they went looking for somebody.

21 THE COURT: It was a revenge shooting.

22 MR. PEPER: They didn't find the person they were  
23 looking for. And then another series of events started  
24 where someone said, hey, Club Vegas and Tookie (ph) and beer  
25 bottle and -- let's just hypothetically say they were

1 looking for Leroy Manigault, which we would never concede  
2 that and that can't be connected. But let's just  
3 hypothetically, what does that have to do with motive or --  
4 certainly, they're trying to get you a prior bad act by it.  
5 It's a prior bad act not of these defendants. Getting shot  
6 is not a prior bad act that they ---

7 THE COURT: No. But Mr. Manigault shot your client.  
8 And they can establish that that was the motivation in this  
9 whole chase starting. It's relevant, and it's probative.  
10 But they just got to get to that -- they got to connect  
11 those dots.

12 MR. PEPER: Well, yeah. It would be relevant to what?  
13 Motive.

14 THE COURT: Yeah. Absolutely.

15 MR. PEPER: I mean, but while the jury ---

16 THE COURT: You're beginning motivation doesn't have to  
17 be your end motivation. That's like when you go to rob a  
18 house ---

19 MR. PEPER: I understand.

20 THE COURT: You can form the intent once you get -- you  
21 can abandon your attempt once you're -- you're motivation  
22 once you're in there. But it's still a burglary.

23 MR. PEPER: No. I gotcha.

24 THE COURT: If your intent at the beginning of this  
25 continuum is to pursue a black Lincoln, and if that's your

1 whole motivation and why it explains from a res gestae  
2 perspective of why you had the gun, why you had the weapon,  
3 the fact that you changed motivation midstream and saw  
4 somebody else that you decided to get into another set of  
5 circumstances with. I don't think that the two have to be  
6 connected. But the State has to -- their version of events  
7 has to make sense. And if it is their contention that this  
8 whole continuum started because a phone call came that said,  
9 listen, the guy that shot you, he's in a black Lincoln and  
10 he's leaving such and such, and then they go to somebody's  
11 house and get weapons; and then in the process of looking  
12 for this person and leaving the club, something else  
13 happens. I don't have a problem with that with establishing  
14 motive. But they have to establish it.

15 MR. PEPER: Yes, ma'am.

16 THE COURT: And they have to establish it by clear and  
17 convincing evidence. And you don't call a corroborating  
18 witness before you've established the main fact.

19 MR. PEPER: Yes, ma'am. Thank you.

20 AST. SOL. KIDD: And I call Mr. Manigault. I just  
21 found out he's in jail. So I can call him if we need to.

22 THE COURT: It's up to. I'm not gonna tell you how to  
23 try your case.

24 AST. SOL. KIDD: But, you know, my argument would be  
25 that, you know, as inarticulate as he is, he indicated



1 that's why they left to find the guy shot him.

2 THE COURT: And, again, I don't mean that in any  
3 pejorative sense. He is endemic of that whole generation.  
4 They mumble. And unless you really -- you have to pull  
5 information out of them because they're not going to tell  
6 you. And just like he was articulate at the end about what  
7 he meant, about what he said, it just makes really summary  
8 conclusionary statements that you have to pick through to  
9 get the whole meaning of what they're saying. I mean, he's  
10 not by himself. I mean, they all basically speak that way.  
11 But I just don't know that you were able to -- and I may go  
12 back and listen to the testimony. I may. We'll see.

13 AST. SOL. KIDD: And just for the Court's edification,  
14 Mr. Manigault pled guilty on November 18, 2016.

15 THE COURT: Okay. And what did he plead guilty to?

16 AST. SOL. KIDD: He pled guilty to assault and battery  
17 in the first degree. He got a five-year sentence suspended  
18 on four years of probation. He was released, however, after  
19 the shooting. The shooting occurred on July 25th; he was  
20 released on July 28th. He posted out on bond.

21 THE COURT: July of '16?

22 AST. SOL. KIDD: Fifteen.

23 THE COURT: Fifteen. But why is he in jail now?

24 AST. SOL. KIDD: Federal drug charge.

25 THE COURT: So he's in the federal custody?

1           AST. SOL. KIDD: I think he's in the detention center.

2           THE COURT: Well, yeah. We have an agreement with  
3 them. We hold their prisoners. So is he -- has charges,  
4 federal charges, pending? Is that what it is?

5           AST. SOL. KIDD: Looks like he has a federal drug  
6 charge and a federal weapons charge.

7           THE COURT: Federal weapons charge?

8           AST. SOL. KIDD: And a federal drug charge.

9           MR. PRICE: Your Honor, on a sidenote, I don't -- this  
10 may have nothing to do with it. I may be stepping out --  
11 but sometimes when the feds have them like that, they  
12 consider them theirs, and only the Marshalls are allowed to  
13 move them.

14          THE COURT: Yeah, I don't know. We'll have to find  
15 out.

16          MR. PRICE: I was just giving that as -- you may want  
17 to talk to the Marshalls if you're going to plan to do  
18 something like that. It becomes a mess.

19          THE COURT: And we need to know who his lawyer is  
20 because they need to be notified. Because I have to advise  
21 him of his right against self-incrimination. Yes, sir?  
22 Although he's pled guilty.

23          MR. PEPPER: That's what I'm saying. I mean, I don't  
24 think anybody has an issue -- we wouldn't -- certainly don't  
25 need to call him to the stand to ask him if he pled guilty

1 to shooting my client.

2 THE COURT: Yeah, but he might have more information.  
3 I don't know. Pandora's box, you know. In for a pound, in  
4 for a penny; I don't know. I don't know what he's going to  
5 say.

6 MR. PEPER: But, I guess, how does it help them connect  
7 the dots of whether ---

8 THE COURT: I don't know. I don't know of what  
9 Mr. Manigault knows.

10 MR. PEPER: All right.

11 AST. SOL. KIDD: Mr. Stavrinakis represents him.

12 THE COURT: Okay. Y'all might want to give him a call  
13 and let him know so he can make himself available. I don't  
14 know if they're still in session. I know they've been  
15 called back to Columbia a couple of times to deal with  
16 issues, but I don't know if they're in session this week.  
17 So y'all might want to give him a call before he heads up  
18 the road tomorrow if they're in session.

19 All righty. Anything else before we adjourn for the  
20 evening? From the State?

21 AST. SOL. KIDD: No, ma'am.

22 THE COURT: From the defense, Mr. ---

23 MR. PRICE: No, ma'am. I'm sorry.

24 THE COURT: That's okay. Mr. Price and Mr. Peper?

25 MR. PEPER: No, Judge. Thank you.

1 THE COURT: Y'all have a good evening. You can leave  
2 all your stuff here. The courtroom will be locked when we  
3 leave. Make sure the court reporter has all of the  
4 exhibits.

5 (The proceeding adjourned for the evening at 5:39 p.m.)

6 - - - - -

7 (The proceedings resumed on Tuesday, June 20, 2017, at  
8 9:43 a.m.)

9 THE COURT: Good morning. Do we have any other  
10 exhibits marked?

11 COURT REPORTER: We marked three this morning from the  
12 State.

13 THE COURT: Tell me the numbers.

14 COURT REPORTER: 68 through 70.

15 THE COURT: 68 through 70. Are those agreed upon?

16 AST SOL KIDD: I believe 68 through 70 are agreed upon.

17 THE COURT: Are 68 through 70 without objection?

18 MR. PEPER: Yes, ma'am.

19 THE COURT: Mr. Price, are those without objection?

20 MR. PRICE: Without objection, Your Honor.

21 THE COURT: Okay.

22 (State's Exhibit No. 68 through 70 were received into  
23 evidence.)

24 (Off the record discussion.)

25 THE COURT: All right. Is there anything we need to

1 take up before we resume testimony?

2 AST SOL KIDD: Nothing from the State, Judge.

3 THE COURT: Anything from the defense, Mr. Price?

4 MR. PRICE: No, ma'am.

5 THE COURT: Anything from the defense, Mr. Peper?

6 MR. PEPER: No, Your Honor. Thank you.

7 THE COURT: You're welcome. Who is your next witness,  
8 Mr. . . .

9 AST SOL KIDD: The State would call Montez Capers.

10 THE COURT: Is Mr. Capers present? Do we need to get  
11 him? Is he in custody?

12 AST SOL KIDD: He is right out in the hall.

13 THE COURT: Go ahead and get him, please, and go ahead  
14 and get the jury.

15 COURT REPORTER: There is also exhibit 71 marked which  
16 is a CD.

17 THE COURT: Seventy-one.

18 COURT REPORTER: Yes, ma'am.

19 THE COURT: What is exhibit 71?

20 AST SOL KIDD: I just premarked it in advance. It is a  
21 cruiser video and a body cam of an officer who is going to  
22 testify later.

23 THE COURT: So that's for ID only right now?

24 AST SOL KIDD: I don't think they object to it.

25 THE COURT: Do y'all object to number 71? You can

1 stand right there.

2 MR. PRICE: Oh, we don't object.

3 MR. PEPER: What is it of?

4 THE COURT: The body cam and the video ---

5 AST SOL KIDD: Cruiser video of Officer Martin.

6 MR. PEPER: No objection, Judge.

7 THE COURT: Marked and admitted without objection,  
8 State's 71.

9 (State's Exhibit No. 71, Video, was received into  
10 evidence.)

11 THE COURT: No, he can stay right where he is until  
12 they call him, yes.

13 (Brief pause.)

14 (The jury enters the courtroom at 9:46 a.m.)

15 THE COURT: Good morning, ladies and gentlemen. I hope  
16 everybody had a pleasant evening. I'm just glad everyone  
17 arrived safely. I know there were some traffic challenges  
18 this morning. I suffered at the hand of then myself, so  
19 I understand. So I understand how frustrating it must have  
20 been, but I'm just glad that everyone arrived safe without  
21 incident. We're now going to resume testimony. I would ask  
22 that you give counsel your undivided attention. Mr. Kidd,  
23 you may proceed.

24 AST SOL KIDD: Thank you, Your Honor. The State calls  
25 Montez Capers.

1 THE COURT: Mr. Capers, if you would come forward to be  
2 sworn.

3 (MONTEZ CAPERS, was duly sworn and provided the  
4 following testimony.)

5 THE WITNESS: Say may name?

6 THE COURT: Say your name, sir, and spell your last  
7 name for us.

8 THE WITNESS: Montez Capers, C-a-p-e-r-s.

9 THE COURT: Okay. And, Mr. Capers, can you bend that  
10 microphone down a little bit toward you. Perfect. And  
11 speak directly into it for us. Thank you. You may proceed.

12 DIRECT EXAMINATION

13 BY AST SOL KIDD:

14 Q. We just got to speak loud because the court reporter  
15 has got to hear you and the jury has got to hear you too,  
16 all right?

17 A. Yes, sir.

18 Q. Mr. Capers, can you tell the jury a little bit about  
19 yourself. Where are you from originally?

20 A. Charleston.

21 Q. Charleston. North Charleston? Downtown? Where are  
22 you from?

23 A. Downtown.

24 Q. Downtown. Where do you live now?

25 A. North Charleston.

Direct Examination of Mr. Capers by Ast. Sol. Kidd

1 Q. North Charleston. How long have you lived in North  
2 Charleston?

3 A. About five years.

4 Q. About five years?

5 A. (Affirmative head nod.)

6 Q. So in 2015, you lived in North Charleston?

7 A. Uh-huh.

8 THE COURT: Sir, if you could say yes or no.

9 THE WITNESS: Yeah.

10 THE COURT: Thank you.

11 Q. I'm going to put this diagram up here. All right. So  
12 let's get right to why we're here today. Do you recall  
13 November 22, 2015?

14 A. Uh-huh.

15 Q. You've got to say yes or no and I got to get you to  
16 speak up.

17 A. Yeah.

18 Q. Okay?

19 A. Yeah.

20 Q. Do you recall being in a red Charger that night?

21 A. Yeah.

22 Q. Who was driving that red Charger?

23 A. The same you got in this picture.

24 Q. Who is that?

25 A. Quran.



1 Q. Quran. Does he go by anything other than Quran?

2 A. That's the only thing I know him by.

3 Q. That's the only think you know him as. Have you ever  
4 referred to him as Ron before?

5 A. Yeah.

6 Q. Okay. You ever heard him referred to as Creep?

7 A. No, not that one.

8 Q. Okay. Who is Adrian Williams -- or, while we're  
9 talking about Quran, how long have you known Quran?

10 A. Probably for like four or five years.

11 Q. So four or five years. Where did you first meet him?

12 A. When I moved in to North Charleston.

13 Q. When you moved to North Charleston. Did you meet him  
14 just out on the streets? Did you meet him . . .

15 A. Just being around.

16 Q. Just being around?

17 A. Being around.

18 Q. What about Franklin Williams?

19 A. Same thing.

20 Q. Same thing. Same amount of time?

21 A. Yes, sir.

22 Q. What about Adrian Williams?

23 A. Same thing.

24 Q. Same thing. So when you moved from downtown to North  
25 Charleston, you met the other three individuals that were in

Direct Examination of Mr. Capers by Ast. Sol. Kidd

1 this red Charger that night?

2 A. Yes, sir.

3 Q. And so you've known them all for, you said what? About  
4 five years.

5 A. Yes, sir.

6 Q. And you just kind of met them out?

7 A. Yes, sir.

8 Q. In the neighborhood.

9 A. Just seeing the around.

10 Q. Did you go to school with them?

11 A. No.

12 Q. Okay. What were y'all doing that day, or the day of  
13 November 22nd? The day of the shooting, what were y'all up  
14 to that night?

15 A. That night?

16 Q. When did you first come in contact with the red Charger  
17 and the three individuals?

18 A. Before we went to the club, I saw them a little earlier  
19 then I met them at the club.

20 Q. All right. You saw them -- you met them at the club or  
21 did you ride with them to the club?

22 A. Ride with them from the club.

23 Q. You ride with them out from where?

24 A. From the club. I didn't ride with the to the club.

25 Q. You didn't go to the club?

1 A. No.

2 Q. Okay. What club are we talking about?

3 A. Honeybees.

4 Q. Honeybees?

5 A. Yeah.

6 Q. All right. And do you know where Honeybees is?

7 A. Rivers in North Charleston.

8 Q. All right. And Honeybees is a? Just like a bar or a  
9 nightclub?

10 A. Nightclub.

11 Q. Nightclub?

12 A. Yeah.

13 Q. All right. And was Honeybees crowded that night?

14 A. Yeah, pretty much.

15 Q. Okay. So who did you get to Honeybees with?

16 A. My cousin.

17 Q. With your cousin?

18 A. Yeah.

19 Q. What's your cousin's name?

20 A. John.

21 Q. John?

22 A. Yeah. But he left so I catch a ride with them  
23 afterwards.

24 Q. All right. Just so -- and it doesn't really matter,  
25 just so the jury knows. What's your cousin's last name?

Direct Examination of Mr. Capers by Ast. Sol. Kidd

1 John what?

2 A. Brown.

3 Q. John Brown?

4 A. Yes, sir.

5 Q. All right. So you go to Honeybees with John Brown.

6 You remember about what time?

7 A. Like 10:30, eleven o'clock.

8 Q. 10:30, eleven o'clock at night?

9 A. Yes, sir.

10 Q. All right. So you go to Honeybees with your cousin

11 John Brown, 10:30, eleven o'clock at night. And is that

12 were you run into these three gentlemen?

13 A. Yes, sir.

14 Q. All right. So you run into the guys you know from

15 North Charleston?

16 A. Yes, sir.

17 Q. Being Quran, Adrian, and Franklin; right?

18 A. Yes, sir.

19 Q. And I believe you just said John left the club before

20 you?

21 A. Yeah.

22 Q. Huh?

23 A. Yes, sir.

24 Q. He left before you?

25 A. Yes, sir. He linked up with them inside there.

1 Q. So you linked up with these guys inside the club?

2 A. Yes, sir.

3 Q. And did they live near where you live?

4 A. I think Franklin has like a spot around there, but I  
5 don't think none of them live close by me.

6 Q. But they were going to give you a ride home?

7 A. Yes, sir.

8 Q. All right. What time did y'all leave Honeybees?

9 A. I'm gonna say, like, probably like, 1:30?

10 Q. Okay. So 1:30 in the morning?

11 A. Yes, sir.

12 Q. What, did the club close down or did y'all leave before  
13 the club closed or what?

14 A. No, the club was closing. Everybody was leaving.

15 Q. The club was closing. They were like everybody's got  
16 to go?

17 A. Yes, sir.

18 Q. And so y'all left Honeybees?

19 A. Yes, sir.

20 Q. All right. Where did y'all go from Honeybees?

21 A. Going to Pete and Rita's. Try, you know, mess with  
22 some females after the club.

23 Q. All right. So ---

24 A. Then we went to El Cheapo.

25 Q. All right. So after Honeybees, y'all headed to Pete

1 and Rita's?

2 A. Yes, sir.

3 Q. Did y'all go inside that club?

4 A. No. Parking lot.

5 Q. Just in the parking lot?

6 A. Yeah.

7 Q. You said something about girls. What were y'all doing?

8 A. I 'm trying to find me a girl, like, I didn't get one  
9 at Honeybee, you know.

10 Q. So y'all are just -- people go to the bar just trying  
11 to meet people, get numbers, whatever; right?

12 A. Yeah.

13 Q. So y'all went to Pete and Rita's as -- I guess Pete and  
14 Rita's was probably closing down at that time to?

15 A. Uh-huh.

16 Q. And just trying to ---

17 A. Try to catch a girl in the parking lot.

18 Q. On the way out?

19 A. Right.

20 Q. Al right. Any luck there?

21 A. No.

22 Q. Okay. So after striking out at Pete and Rita's, what  
23 did y'all do next?

24 A. I went to El Cheapo gas ---

25 Q. El Cheapo, the gas station?

1 A. Yes, sir.

2 Q. Where is that gas station at?

3 A. On, around Dorchester Road.

4 Q. On Dorchester Road. All right. And you're riding in  
5 the red Charger?

6 A. (Nonverbal response.)

7 Q. Whose car is that?

8 A. Quran.

9 Q. Quran Allen's car?

10 A. Yes, sir.

11 Q. Do I have the seating arrangement right here? Is that  
12 where you all were sitting in different seats?

13 A. Yes, sir. That's it. Uh-huh.

14 Q. So Quran was driving Franklin, the front passenger  
15 seat, Adrian behind Quran and you behind Franklin?

16 A. Yes, sir.

17 Q. And that's the way it was going to the El Cheapo?

18 A. (Affirmative head nod.)

19 Q. All right. I'm going to play a segment of State's  
20 Exhibit 65 for you, all right?

21 A. Uh-huh.

22 Q. Just watch along with me.

23 (Video played at 9:45 a.m.)

24 Q. Do you recognize that car right there?

25 A. What car?

Direct Examination of Mr. Capers by Ast. Sol. Kidd

1 Q. The one with the brake lights on.

2 A. Yeah. Charger, ain't it?

3 Q. Yeah. That the Charger you were in?

4 A. Uh-huh. Look like it. That's me right there.

5 Q. You recognize that person?

6 A. Yeah. That's me.

7 Q. All right. So when do you go into the El Cheapo for?

8 A. Pack of cigarettes and a beer.

9 Q. What now?

10 A. Pack of cigarettes and a beer.

11 Q. Pack of cigarettes and a what?

12 A. And A beer.

13 Q. And a beer?

14 A. Yes, sir.

15 Q. All right. Did you buy a whole pack of cigarettes or

16 ---

17 A. No. A couple of Lucy's.

18 Q. What now?

19 A. A couple of Lucy's.

20 Q. A couple of Lucy's?

21 A. Uh-huh.

22 Q. Is that like single cigarettes?

23 A. Single cigarette, yeah.

24 Q. Oh, okay. So you go in and you buy beer, and how many  
25 single cigarettes do you have?



1 A. I have three.

2 Q. Three?

3 A. Uh-huh.

4 Q. All right. So you buy one beer, pack -- case of beer  
5 or what?

6 A. No, just one beer.

7 Q. So you buy one beer, three single cigarettes?

8 A. Uh-huh.

9 Q. And you come back out?

10 A. Uh-huh.

11 Q. All right.

12 (Video resumes play at 9:55 a.m.)

13 Q. That you again there?

14 A. Yes, sir.

15 Q. All right. Can you tell what car you're getting into  
16 there?

17 A. Uh-huh.

18 Q. Which car is that?

19 A. The Charger.

20 Q. All right.

21 (Video resumes play at 9:58 a.m.)

22 Q. All right. When y'all leave the -- when you leave the  
23 El Cheapo, the Cheap Way gas station, where do y'all go from  
24 there?

25 A. When back to go drop BJ off.

Direct Examination of Mr. Capers by Ast. Sol. Kidd

1 Q. When to drop BJ off. And who's BJ again?

2 A. Franklin.

3 Q. Franklin. Where are y'all gonna drop him off at?

4 A. On Montague.

5 Q. On Montague.

6 A. (Affirmative head nod.)

7 Q. Okay. I'm going to show you what's been marked and  
8 admitted into evidence as State's Exhibit 68. When y'all  
9 left the El Cheapo, what route did you take? Did you get on  
10 the I?

11 A. Yeah. Yes, sir.

12 Q. And did you get on the interstate right there by El  
13 Cheapo?

14 A. Yes, sir.

15 Q. All right. So when you come out of El Cheapo, how do  
16 you get to the interstate?

17 A. Just go across the intersection, I guess you call it,  
18 and get in the far right lane and make the right right there  
19 at the light.

20 Q. There's kind of like a median there?

21 A. Yes, sir.

22 Q. You kind of got to go around?

23 A. Yes, sir.

24 Q. Is that right?

25 A. Yeah. That's what you call it.

1 Q. So you kind of have to go around the median and get on  
2 the on-ramp to 26 right there?

3 A. Uh-huh.

4 Q. Okay. And then y'all get on 26 West?

5 A. Yeah.

6 Q. All right. Does this map kind of indicate the route  
7 you took?

8 A. Yes, sir.

9 Q. Okay. So you get on 26 West up towards North  
10 Charleston, get off at the East Montague, Mall Drive exit?

11 A. Yeah. Like going to the movies.

12 Q. Okay. Like you're going to movies? Is that what you  
13 said?

14 A. Uh-huh.

15 Q. All right. When you -- tell the jury what happens when  
16 you exit the interstate.

17 A. All I heard was shots calling out.

18 Q. What's that?

19 A. All I heard was shots going off, like ---

20 Q. Where were y'all when you first heard shots going off?  
21 Where were you when you first realized something was going  
22 on?

23 A. Going to like the last light. Like, if you make a left  
24 onto to the mall -- I mean, not the mall but to the movies.

25 Q. Kind of like where City Hall is?

Direct Examination of Mr. Capers by Ast. Sol. Kidd

1 A. Yeah. The last light right there.

2 Q. So did you see a car or anything before the shots got  
3 off or . . .

4 A. All I see is BJ, he shoot in his neck. I had to stop,  
5 turn around, put my arm on the headrest; bang, bang.

6 Q. And I imagine that was pretty intense and all. Fair to  
7 say?

8 A. Right.

9 Q. I'm going to show you what's been marked and admitted  
10 as State's Exhibit 14. That's where you were sitting;  
11 right?

12 A. Yes, sir.

13 Q. And did you get hit?

14 A. Yes, sir.

15 Q. Where did you get shot?

16 A. In my arm.

17 Q. Which arm?

18 A. Left.

19 Q. In your left arm?

20 A. (Affirmative head nod.)

21 Q. All right. So you get off of I-26, you're at the  
22 light at Mall Drive. You say you hear gunshots going off.  
23 What do you do? Do you see anything? Tell the jury -- I  
24 mean, you got to tell the jury what you see, what you hear,  
25 what's going on?

1 A. After when we were going through the light, I was like  
2 on my phone scrolling on Facebook. All I hear is one shot,  
3 and I see BJ get shoot in his neck. All I did was turn  
4 around, put my arm on the head rest, and aim down and start  
5 praying. I ain't never looked back up until the car  
6 stopped.

7 Q. All right. So you hear shots go off. You say you see  
8 BJ. You see Franklin get shot in the neck.

9 A. Yes, sir.

10 Q. Is that pretty graphic?

11 A. Yes, sir.

12 Q. And you got your left arm ---

13 A. Yeah. I got ---

14 Q. --- on the headrest? That's the arm where it was when  
15 it got shot?

16 A. Yes, sir.

17 Q. And you're ducking down behind the seat?

18 A. (Affirmative head nod.)

19 Q. How long -- how long are shots going off? How long  
20 does that last?

21 A. Yeah, seem like a minute, but you can't really, like, a  
22 real time, time period.

23 Q. Time kind of stops in those moments; right?

24 A. Yes, sir.

25 Q. Well, when do you next look up?

Direct Examination of Mr. Capers by Ast. Sol. Kidd

1 A. When the car stopped.

2 Q. When the car stopped?

3 A. Uh-huh.

4 Q. Do you know how many gunshots you heard?

5 A. I can't even tell you an exact amount.

6 Q. I mean, right. But is it one or two?

7 A. I know ---

8 Q. Fifteen or 20?

9 A. --- more than ten. I think more than ten.

10 Q. More than ten? All right. Where are you when the car  
11 stops?

12 A. Still in the back seat.

13 Q. Right. But I mean where is the car, I guess?

14 A. Park Circle, I guess. We ended up in Park Circle.

15 Q. In Park Circle?

16 A. Yes, sir.

17 Q. Okay. Showing you what's been marked and entered into  
18 evidence as State's Exhibit 67. Park Circle there; right?

19 A. Uh-huh.

20 Q. Do you know about where the car -- the car was when it  
21 stopped?

22 A. I can't exactly tell you. I know in that area.

23 Q. Show you State's exhibit Number 4. I don't know which  
24 way is better. Does that look like where the Charger  
25 stopped there?

1 A. Yes, sir.

2 Q. And the road we see on the right-hand side of this  
3 picture, that's Park Circle; right?

4 A. Uh-huh.

5 Q. The circle part?

6 A. Uh-huh.

7 Q. Okay. What did you see and hear when you got out of  
8 that vehicle?

9 A. All I see is three white shirts, and I just get out of  
10 the car and start running.

11 Q. You see three white shirts?

12 A. Uh-huh.

13 Q. And you get out of the car and start running?

14 A. (Affirmative head nod.)

15 Q. Do you hear any gunshots?

16 A. Yes, sir.

17 Q. After you get out of the car?

18 A. (Affirmative head nod.)

19 Q. Which way do you run?

20 A. To the right.

21 Q. To the right? So I'm going to show you what's been  
22 marked and entered into evidence as State's Exhibit 69. And  
23 that's the bottom half of Park Circle; right?

24 A. Uh-huh.

25 Q. So when you said you ran to the right, is that

1 direction on that screen?

2 A. Yes, sir.

3 Q. All right. So that screen in front of you is a  
4 touchscreen. Can you indicate to the jury -- can you like  
5 draw an arrow with your finger on that screen in front of  
6 you which direction you ran?

7 A. I can't pull the picture down?

8 Q. What's that?

9 A. I can't pull the picture down? Like, this is the only  
10 picture you got right here?

11 Q. It's just one -- it's just one picture. I can -- would  
12 you like a different map?

13 A. I can look onto -- and street name.

14 Q. Well, I don't need the exact streets you took. But --  
15 so if the car crashes right here, that yellow X, do you run  
16 down from that -- which direction do you run from that X?

17 A. (Witness complies.)

18 Q. That way?

19 A. Yeah, by Hursey. I see a landmark.

20 Q. So you're running this direction?

21 A. Yes, sir.

22 Q. Okay. What landmark do you see?

23 A. Hursey Elementary School by that store, corner store.

24 Q. Okay.

25 A. And I think Maxine Apartments.



1 Q. Do you just stay on down that road or do you move  
2 around?

3 A. I'm going around.

4 Q. You kind of winding through the neighborhood a little  
5 bit?

6 A. Yes, sir.

7 Q. Do you recall a Fern Street?

8 A. Fern?

9 Q. Which I believe is right by where you drew that ---

10 A. Yeah, right here.

11 Q. Right here; right?

12 A. (Nonverbal response.)

13 Q. Do you recall seeing the sign for Fern Street as you  
14 ran?

15 A. I didn't look at no sign.

16 Q. What's that?

17 A. I didn't look at no street sign.

18 Q. And you've got a pole in your arm while you're running;  
19 right?

20 A. Yes, sir.

21 Q. Where do you run to?

22 A. All the way back home.

23 Q. All the way home. Where's home?

24 A. On Azalea.

25 Q. On Azalea?

Direct Examination of Mr. Capers by Ast. Sol. Kidd

1 A. Yes, sir.

2 Q. I don't know why I thought it was on -- but that's ---

3 A. That's on Azalea.

4 Q. Adrian and Azalea are right there; right?

5 A. (Nonverbal response.)

6 Q. I'll show you State's Exhibit Number 70. So you're on  
7 foot all the way home; right?

8 A. Uh-huh. Yes, sir.

9 Q. Take you a long time?

10 A. Not that long.

11 Q. Were you running the whole way? Walking? Running and  
12 walking?

13 A. I was running.

14 Q. Running the whole way?

15 A. The whole way.

16 Q. Do you remember which way you went?

17 A. I know I came by, what is that? Meeting Street. Like  
18 right there by junk yard, I go to that street.

19 Q. Uh-huh.

20 A. By -- motor, that street right there.

21 Q. Were there police cars zooming by or ---

22 A. Yeah ---

23 Q. Did you see sirens?

24 A. They were coming on main road. I see them going down  
25 -- like they were going headed to Park Circle.

1 Q. So you were running away, police cars are coming in.

2 A. (Affirmative head nod.)

3 Q. Do you try to kind of duck down when they come by or  
4 they just don't get out ---

5 A. They ain't see me.

6 Q. They don't see you?

7 A. Not even try to stop.

8 Q. Did any of them come right by you? No?

9 A. (Nonverbal response.)

10 Q. Okay. And what do you do when you get home?

11 A. Try to put a plan together. Try to see, like, try to  
12 calm myself down, see what really going on.

13 Q. Before you started running, did you see Adrian?

14 A. I seen him get out of the car.

15 Q. Did you see if he was shot?

16 A. (Negative head nod.)

17 Q. Didn't know at that point?

18 A. (Negative head nod.)

19 Q. What about Quran?

20 A. No, sir.

21 Q. You didn't know if he had been shot at that point?

22 A. (Negative head nod.)

23 Q. Did you talk to either one of them later in that night?

24 A. No.

25 Q. Okay. When did you go -- did you go to the hospital?

Direct Examination of Mr. Capers by Ast. Sol. Kidd

1 A. Yes, sir.

2 Q. When did you go to the hospital?

3 A. Monday night, an hour after I got home or -- not an  
4 hour, but, like I don't know. But probably like 30 minutes,  
5 45 minutes, after I got like in the area by my house before  
6 I got to my house to see my mom.

7 Q. Did you wake your parents up?

8 A. Yes, sir.

9 Q. And the tell them what happened?

10 A. Yes, sir.

11 Q. And y'all went to the hospital?

12 A. Yes, sir.

13 Q. What did they do to you at the hospital? Did they  
14 stitch you up? What happened?

15 A. Yeah. Take the bullet out.

16 Q. Took the bullet out of your arm?

17 A. Yes, sir.

18 Q. Are you familiar with Runway?

19 A. Where's that?

20 Q. The group of individuals in North Charleston?

21 A. No, sir.

22 Q. Are you friends with Quran Allen on Facebook?

23 A. Yes, sir.

24 Q. What's his Facebook name?

25 A. I can't tell you. I think he changed it. I don't

1 know.

2 Q. Okay. Did you know who shot him?

3 A. (Negative head nod.)

4 Q. Do you know why?

5 A. (Negative head nod.)

6 THE COURT: Sir, I need you to answer.

7 A. No, sir. And still don't know why.

8 Q. Who was shooting from inside your car?

9 A. I can't tell you that. I don't know.

10 Q. You can't tell me or you don't know?

11 A. I don't know.

12 Q. Would you agree someone from inside your car was  
13 shooting?

14 A. I can't -- I don't know. I don't know. I had my head  
15 down. After I saw BJ got shot, I had put my head down and  
16 never got back up until the car stopped.

17 Q. Did you hear anything that would be like a gunshot  
18 coming from in the same car you were in?

19 A. My ears were ringing after the first couple of shots.

20 Q. Did you hear a gunshot significantly louder than the  
21 others?

22 A. Yeah, the first one.

23 Q. What about after the first one?

24 A. All of them the same now.

25 Q. All right. Were you shooting?

Cross-Examination of Mr. Capers by Mr. Peper

1 A. No.

2 Q. Did you know anyone else having a gun in your car -- in  
3 the Charger that night?

4 A. No, sir.

5 Q. Did you have a gun in the Charger that night?

6 A. No, sir.

7 Q. And I want to make sure that we're right on point. So  
8 when you got out of the car to run, all you saw was three  
9 individuals in white shirts?

10 A. (Affirmative head nod.)

11 AST SOL KIDD: No further questions, Judge.

12 THE COURT: Mr. Peper, you may proceed.

13 MR. PEPER: Thank you, Your Honor. May it please the  
14 Court?

15 THE COURT: Yes, sir.

16 CROSS-EXAMINATION

17 BY MR. PEPER:

18 Q. Mr. Capers, I'm Mark Peper. I represent Mr. Wilson. I  
19 have questions for you. Make sure I understand your  
20 testimony correctly, the first gunshot was the loudest one  
21 you heard; right?

22 A. Yes, sir.

23 Q. Okay. Because that's the one that was closest to you;  
24 right?

25 A. Yeah.

1 Q. Right?

2 A. (Affirmative head nod.)

3 Q. Okay. So first shot comes from y'all's car. You don't  
4 know whose it was, but first shot comes from y'all's car?

5 A. No. I'm talking about, like, the shot that came into  
6 the car.

7 Q. Was louder than the shots that came from within your  
8 car?

9 A. I don't know if no shots came from out the car. I just  
10 know about the shots coming into the car.

11 Q. Okay. Well, I want to make sure I understood your  
12 testimony to the jury earlier.

13 A. Yes, sir.

14 Q. Your testimony was that the first shot was the loudest  
15 shot.

16 A. Right.

17 Q. Okay. And then you also stated that gunshots were  
18 coming from within your car.

19 A. No, I did not say.

20 Q. Are you trying to tell the jury that no gunshots came  
21 from within your car?

22 A. I can't -- I didn't say that. I said I can't tell you  
23 any gunshots came out the car. If I got my head behind the  
24 headrest and I'm looking down, and I just hear four  
25 gunshots.

1 Q. Right.

2 A. Then it's a whole another five going, while my car -- I  
3 can't tell you that.

4 Q. You can't tell me. I'll ask you in a different way.  
5 Did you see any shots coming ---

6 A. No.

7 Q. Okay. Gotcha. Did you hear any shots coming from  
8 within your car?

9 A. No.

10 Q. Okay. So if you didn't see them, and you didn't hear  
11 them, your testimony is that no shots came from the car you  
12 were in?

13 A. Right.

14 Q. All right. And let me ask you this: Why did you go  
15 wash your hands off when you hopped out of the car?

16 A. Why did I go wash my hands?

17 Q. Yeah.

18 A. I was trying to clean the blood up.

19 Q. Clean the blood up?

20 A. Right.

21 Q. Okay. Is that why Detective Benton didn't do any  
22 gunshot residue on your hands?

23 A. I guess. I don't know . .

24 Q. Well, you remember talking to the detective; right?

25 A. Yeah.



1 Q. At MUSC?

2 A. Right.

3 Q. Right. You remember telling him that y'all were at  
4 Honeybees earlier in the night; right?

5 A. Right.

6 Q. Okay. You remember telling him that you're not sure if  
7 the Ford Edge, the silver Ford Edge, was at Honeybees or  
8 not; right?

9 A. Right.

10 Q. You remember telling him that; right?

11 A. Right.

12 Q. All right. You also remember telling him that as soon  
13 as you heard shots, you ducked down; right?

14 A. Right.

15 Q. And that you don't know who was in the other car;  
16 right?

17 A. Right.

18 Q. Still don't know?

19 A. Still don't know.

20 Q. Right. Okay. Then you remember telling him the next  
21 time you looked up was after the crash; right?

22 A. Yes, sir.

23 Q. Okay. And you remember telling him that -- I want to  
24 make sure I get this right now -- you saw three subjects get  
25 out of the Ford Edge when it crashed; right?

1 A. Yes, sir.

2 Q. And you're not able to identify any of the three  
3 subjects; right?

4 A. No. I said three white shirts.

5 Q. Gotcha. Okay. Now, you then remember telling them  
6 that you went to a house on Fern Place to wash off?

7 A. Where?

8 Q. Okay. So you didn't go straight home?

9 A. I didn't go straight home. I don't know about some  
10 Fern Place.

11 Q. All right. Well, let me make sure I understand what  
12 straight home means.

13 A. Okay.

14 Q. You and I are in a straight line; right?

15 A. Yeah.

16 Q. Okay. So if I'm your home, and you're at Park Circle,  
17 did you come straight to me?

18 A. No.

19 Q. Okay.

20 A. I was in the area, like ---

21 Q. Zigzag?

22 A. Probably down the street from my house.

23 Q. Right. You were zigzag ---

24 A. --- beside the house; right.

25 Q. Because cops coming by. You didn't try to deal with

1 all that.

2 A. Right.

3 Q. You zigzagged?

4 A. Right.

5 Q. Okay. Right. So three miles; you say three and a  
6 half, three miles, is me to you; right?

7 A. Right.

8 Q. Okay. So it took you probably close to two to three  
9 hours to get home; right?

10 A. No.

11 Q. No?

12 A. It didn't take that long.

13 Q. Okay.

14 A. It only feels that long.

15 Q. All right. But you do admit you were zigzagging;  
16 right?

17 A. Uh-huh.

18 Q. Side streets?

19 A. Uh-huh.

20 Q. All right. You admit you go to Fern, wash your hands  
21 off; right?

22 A. No.

23 Q. Well, didn't you tell Detective Benton that? You don't  
24 remember telling him that?

25 A. Wash my hands off on Fern? I don't know no house on

1 Fern.

2 Q. All right. Let me just make sure I'm reading it  
3 correctly. Give me one second.

4 A. That the right statement you got?

5 (Brief pause.)

6 Q. Do you remember telling Detective Benton that you used  
7 the hose on the side of a house on Fern to wash off?

8 A. I don't remember.

9 Q. Okay. All right. Now -- and actually, I grew up in  
10 Park Circle first seven to eight years. So I know Fern.  
11 That's at Holmes; right? Kind of around that Holmes area?

12 A. Uh-huh.

13 Q. Well, I mean, do you remember telling him that you used  
14 a hose referring to Fern Place off of Holmes Avenue?

15 A. I don't remember that.

16 Q. You don't remember that. Okay. All right. But if he  
17 put that in his report, I mean, he's saying you said that.  
18 And you're just saying you don't remember saying that?

19 AST SOL KIDD: Objection.

20 THE COURT: Basis?

21 A. I don't know. I probably did.

22 THE COURT: Basis of the objection? There's an  
23 objection.

24 AST SOL KIDD: Hearsay and speculation.

25 THE COURT: Sustained. Hearsay and found -- and lack

1 of foundation.

2 MR. PEPER: Yes, ma'am.

3 THE COURT: Proceed.

4 MR. PEPER: Thank you.

5 Q. Now, if I'm your house, right? Aintree, we call that  
6 Azalea. And it's right on off Aintree; right? Bennett.

7 A. Yeah.

8 Q. You agree, that's a long way; right?

9 A. Not really. Not if you're scared. See your homeboy  
10 get killed. Scared for your life, I'm running home.

11 Q. No. I'm with you. I don't doubt, I know you're  
12 scared. But what I'm saying is whether you're scared or  
13 not, the distance is the same?

14 A. Not really.

15 Q. Okay. So ---

16 A. I mean, like when you say two hours, it seem like five  
17 minutes to me.

18 Q. I'm with you. But you would agree with me that from  
19 where I am right now, okay, if you're scared and you run to  
20 me, you might be here quicker than if you're not scared  
21 walking; right?

22 A. Right.

23 Q. Okay. But it's still the same distance. It's not like  
24 when you're scared, your house moves closer to you; right?

25 A. Right.

## Cross-Examination of Mr. Capers by Mr. Peper

1 Q. Okay. Okay. Because I just want to make sure I  
2 understood your testimony which was that within 30 or 45  
3 minutes from getting to your house, you hit up MUSC?

4 A. Right.

5 Q. Right. Okay. Correct?

6 A. Say that again.

7 Q. Within 30 to 45 minutes, he asked you first, on direct  
8 he asked you when did you go to MUSC. And you said it had  
9 been about an hour; right?

10 A. Right.

11 Q. Then you corrected yourself and said not an hour then  
12 like ---

13 A. 30 to 45 minutes.

14 Q. 30, 45 minutes, right. Okay. So do you recall getting  
15 to MUSC at approximately 7:30 a.m.?

16 A. Right.

17 Q. All right. Which means you're at Aintree back to your  
18 house at 6:45 a.m.?

19 A. Right.

20 Q. Right. Okay. Now, what time did you get shot? Do you  
21 remember that?

22 A. What time?

23 Q. Yeah.

24 A. Probably 2:30.

25 Q. Right, about 2:30. Okay. So 2:30 to 6:45, same

1 distance. Okay. So I don't doubt you were scared, but you  
2 agree with me it took you over four hours to get home?

3 A. Right.

4 Q. Gotcha. Okay. All right. Now, while at MUSC, you  
5 meet with Detective Benton; right?

6 A. Yeah.

7 Q. Okay. You told him you were the fourth cat in the  
8 Dodge Charger; right?

9 A. (Affirmative head nod.)

10 Q. He didn't know that at the time, did he?

11 A. No.

12 Q. Right. Okay. And you told him you were sitting in the  
13 back seat; right? That you and the three other occupants  
14 had been at Honeybees together; right?

15 A. (Affirmative head nod.)

16 Q. Okay. And then you went through basically the same  
17 testimony you gave here today on direct; right?

18 A. Right.

19 Q. All right. And that finally that you were not sure if  
20 the gray SUV you referring to the Ford Edge was at Honeybees  
21 or not; right?

22 A. Right.

23 Q. Okay. And then that's when he just let you go. He  
24 didn't do any GSR. He let you go and said we'll be in  
25 touch.

## Cross-Examination of Mr. Capers by Mr. Peper

1 A. Uh-huh.

2 Q. Okay. All right. So you head back to the house?

3 A. (Affirmative head nod.)

4 Q. All right. Now, later that afternoon, you go down to  
5 North Charleston Police Department again; right?

6 A. Right.

7 Q. Right?

8 A. Right.

9 Q. Okay. So about three o'clock that afternoon, you go do  
10 an interview with Detective Desheers. Do you remember that?

11 A. Yes, sir.

12 Q. Okay. And essentially you tell the same story; right?

13 A. (Nonverbal response.)

14 Q. Okay. But this time, you say you saw two people  
15 standing outside of the car?

16 A. I don't remember that.

17 Q. You don't remember that. Okay. Well, let's back up a  
18 little bit. Do you remember telling Detective Desheers  
19 later that afternoon that you went to Honeybees. Do you  
20 remember saying that?

21 A. (Affirmative head nod.)

22 Q. Do you remember telling Detective Desheers that you  
23 weren't sure if the silver Ford Edge was at Honeybees or  
24 not; right?

25 A. Yeah.



1 Q. Do you remember telling him you went to El Cheapos?

2 A. Right.

3 Q. Right. Do you remember telling him that as soon as you  
4 turn, a silver SUV pulled up beside you and started open  
5 fire; right?

6 A. No, I ain't say -- I never told him the color of the  
7 car or anything.

8 Q. Okay. All right. Do you remember telling him that you  
9 looked up -- let me back up -- that you ducked down; right?  
10 You looked up and the car crashed?

11 A. Yes, sir.

12 Q. You got out of the car; right?

13 A. Yeah.

14 Q. And noticed that the vehicle also wrecked; right?

15 A. Yeah.

16 Q. And that you saw two people standing outside the car  
17 wearing all black.

18 A. I remember saying three people, three white shirts.

19 Q. Okay. I know that's what you said at MUSC. I'm  
20 talking about later that afternoon ---

21 A. Can't recall that conversation.

22 Q. Okay.

23 A. I don't remember.

24 Q. All right. Okay. The one thing that did stay constant  
25 was the fact that that you weren't able to see who, like

## Cross-Examination of Mr. Capers by Mr. Price

1 identify, who was in the other car; right?

2 A. Right.

3 Q. You said that at MUSC?

4 A. Yes, sir.

5 Q. And you said that at three o'clock?

6 A. Right.

7 Q. Gotcha. Okay.

8 MR. PEPER: Court's indulgence, Judge.

9 THE COURT: Yes, sir.

10 MR. PEPER: Judge, on behalf of Mr. Wilson, we don't  
11 have anything more.

12 THE COURT: Anything, Mr. Price?

13 MR. PRICE: Yes, Your Honor. Briefly.

14 THE COURT: You may proceed.

15 CROSS-EXAMINATION

16 BY MR. PRICE:

17 Q. Good morning, Mr. Capers. My name is Bentley Price. I  
18 represent Marvin Bryan. Do you know Marvin Bryan?

19 A. No.

20 Q. Do you know who this man is sitting right here?

21 A. No.

22 Q. Right here?

23 A. Who?

24 Q. Do you know who that is?

25 A. No.

1 Q. You got any beef with Marvin Bryan?

2 A. No. I ain't never seen him.

3 Q. You don't know who he is. You never heard his name?

4 A. No.

5 Q. He ever bother you?

6 A. No.

7 Q. Ever been around you?

8 A. I don't know.

9 Q. Ever done anything to make you mad? Have any reason to  
10 shoot you?

11 A. (No response.)

12 Q. You don't know him, do you?

13 A. Right.

14 MR. PRICE: I have no further questions, Your Honor.

15 THE COURT: Any redirect?

16 AST SOL KIDD: Briefly.

17 THE COURT: You may proceed.

18 REDIRECT EXAMINATION

19 BY AST SOL KIDD:

20 Q. I'm going to show you State's Exhibit Number 29. And,  
21 once again -- about how far is the Dodge Charger from the  
22 other vehicle when it crashes?

23 A. Probably a little distance.

24 Q. Is this the view that you would have had of the other  
25 car?

Redirect Examination of Mr. Capers by Ast. Sol. Kidd

1 A. Yeah. That's where the lights at; right?

2 Q. Yeah.

3 A. Yes, sir.

4 Q. So those tail lights right there are of the silver car;  
5 right?

6 A. Yeah.

7 Q. And where the picture is taken, is that about from  
8 where the Charger was?

9 A. Yeah. About that distance right there. I see that on  
10 -- how I could have seen three white shirts. That's all I  
11 could see is three white shirts.

12 Q. And pretty dark out there?

13 A. Uh-huh.

14 Q. I mean, we've got a flash obviously from this camera.  
15 But are there any lights in the middle of Park Circle right  
16 there?

17 A. There ain't no lights around it.

18 Q. There are lights around there, but where that silver  
19 car was ---

20 A. No, none around the field area, but . . .

21 Q. I guess was it dark where the silver car was?

22 A. Yes, sir.

23 Q. Okay. And I know you didn't get out there and measure  
24 it, but how far would you say? A football field? Closer?  
25 Further?

1 A. No, not a football. Probably, let's see, probably like  
2 20 feet, 30 feet. Something like that. It's a distance,  
3 though I really can't give you an exact.

4 Q. I mean, is it closer than you and I are right now?

5 A. No. Further than that.

6 Q. Further. All right. I'll tell you, this is about  
7 20 feet.

8 A. Oh. No, it ain't 20 then.

9 Q. Okay. Back of the courtroom? That back wall?

10 A. Further than that.

11 Q. Further than that. So that's -- you know, I would say  
12 that's maybe 60 feet to the back of the courtroom.

13 A. Maybe. Probably so.

14 Q. So further than that?

15 A. Further than that.

16 Q. Okay. So it's pretty far?

17 A. Yes, sir.

18 Q. All right. And it was dark?

19 A. (Affirmative head nod.)

20 Q. Did you stand out there to watch the car?

21 A. No. Got out and somebody -- I started running.

22 Q. And there were gun shots going off?

23 A. Yes, sir.

24 Q. All right. So you got out of there pretty quick?

25 A. Yes, sir.

Direct Examination of Ms. Reid by Ast. Sol. Patrick

1 Q. Okay. Do you see anyone wearing a black shirt?

2 A. (Negative head nod.)

3 Q. Okay.

4 AST SOL KIDD: No further questions, Judge.

5 THE COURT: Any objection to the witness being excused?

6 From the State?

7 AST SOL KIDD: No, ma'am.

8 THE COURT: From the defense, Mr. Price?

9 MR. PRICE: No, ma'am.

10 THE COURT: From the defense, Mr, Peper?

11 MR. PEPER: No, Your Honor.

12 THE COURT: Sir, you're excused. Our next witness ---

13 THE WITNESS: Does that mean I got let go?

14 THE COURT: No, sir. Call your next witness.

15 AST SOL PATRICK: The State calls Michele Reid.

16 (MICHELE REID, was duly sworn and provided the  
17 following testimony.)

18 THE COURT: You may proceed.

19 DIRECT EXAMINATION

20 BY AST SOL PATRICK:

21 Q. How are you doing, Ms. Reid?

22 A. Find, thank you.

23 Q. Ms. Reid, where do you work?

24 A. Charleston County EMS.

25 Q. EMS, what does that stand for?

1 A. Emergency Medical Services.

2 Q. How long have you been doing that?

3 A. Since -- with the County since 2006.

4 Q. What were you doing before that?

5 A. EMS for two years with a private service.

6 Q. Okay. So you were working for them November 22, 2015;  
7 correct?

8 A. Yes.

9 Q. How did you get involved with this specific case?

10 A. I was called to a shooting in Park Circle.

11 Q. Do you know about what time that would've been?

12 A. It was sometime after 2:00 a.m. I believe. It was late  
13 at night.

14 Q. Can you describe kind of what you saw when you first  
15 got there.

16 A. When we pulled up, there was multiple police cars.  
17 There was a car up on the curb in the grass of the inside of  
18 Park Circle.

19 Q. What kind of car was it?

20 A. A black four-door.

21 Q. Was it black or -- if I showed you a picture would that  
22 ---

23 A. It was dark like a Charger.

24 Q. It was a Charger?

25 A. (Nonverbal response.)

Direct Examination of Ms. Reid by Ast. Sol. Patrick

1 Q. Showing you State's 6. This is the vehicle you saw?

2 Do you recall?

3 A. Oh, maybe.

4 Q. So it could have been red?

5 A. It was dark.

6 Q. Okay.

7 A. It was dark outside. And then there was a man in the  
8 middle of the street.

9 Q. There is a man in the middle of the street. Was there  
10 also a man in the car ---

11 A. There was a man in the passenger side, passenger --  
12 front passenger seat of the car and then a man in the middle  
13 of the street.

14 Q. So when you got there, who did you go to first?

15 A. I went to the victim in the vehicle first.

16 Q. What happened?

17 A. He was beyond any help, dead. So I went to the next.  
18 My partner was at that person in the street. I called the  
19 one in the car that he was dead and went to the next victim.

20 Q. So where in the street was the other victim?

21 A. Kind of -- I can't remember if it's two or three lanes  
22 right there, but he was like in the middle. It was like he  
23 -- like from the car, if you ran straight out, right in the  
24 middle of the street.

25 Q. Have you subsequently learned this man's name? Was it



1 -- did you learn it later on?

2 A. Yes.

3 Q. If I showed you a report, that would recall your  
4 recollection of what his name was?

5 A. Yes.

6 AST SOL PATRICK: May I approach?

7 THE COURT: You may.

8 A. Adrian Williams.

9 Q. Can you repeat that.

10 A. Adrian Williams.

11 Q. Did you speak to Mr. Williams?

12 A. I did.

13 Q. Did he describe his injuries to you, or did you just  
14 got to seen them?

15 A. I just saw them. He told me that he think he was shot  
16 at while driving in the car, and he tried to run and ran  
17 until he couldn't run anymore.

18 Q. So he didn't make it very far?

19 A. He did not make it very far.

20 Q. How far would you say he was from the car itself?

21 A. Maybe 50 feet; 50 to 100 feet maybe.

22 Q. And what were the nature of his injuries?

23 A. He had multiple gunshot wounds to his right leg.

24 Q. Do you know how many exactly?

25 A. There were -- I believe there were about six holes.

Direct Examination of Ms. Reid by Ast. Sol. Patrick

1 I'm not sure if they were through-and-through holes. So if  
2 it would have been three shots or -- but he had multiple  
3 holes on each side of the leg.

4 Q. And what did you do to him on the scene?

5 A. We placed him on a stretcher. His leg was bandaged,  
6 but we took the bandaging off to so we could make sure of  
7 his injuries, and then rebandaged it and took him to the  
8 hospital.

9 Q. Do you know who would have done those bandages?

10 A. The first ones ---

11 Q. Yes.

12 A. --- was done by police officers.

13 Q. Okay. Did he tell you what happened?

14 A. He just said they were driving and got shot at.  
15 Somebody started shooting at them.

16 Q. Did he tell you anything else?

17 A. No.

18 Q. Was he corporative with you?

19 A. Yes, to an extent. He -- as far as, you know, he was  
20 not going against us. But, I mean, he wasn't ---

21 Q. Was he in pretty bad shape?

22 A. He was in a lot of pain, yes.

23 Q. Was there like a trail of blood from the car? Could  
24 you tell he had gone that far?

25 A. Yeah, there was blood. There was a lot of blood.

1 Q. And the deceased victim, were you able to see what his  
2 injuries were at all?

3 A. He had multiple -- I saw holes through his neck, head  
4 -- he had multiple holes through him. He was sitting in the  
5 car with his head back, mouth full of blood.

6 AST SOL PATRICK: Court's indulgence. No further  
7 questions for this witness, Your Honor.

8 THE COURT: Any questions for the witness?

9 MR. PRICE: No, Your Honor.

10 THE COURT: Any questions for the witness?

11 MR. PEPER: No, ma'am.

12 THE COURT: Any exception to the witness being excused?  
13 From the State?

14 AST SOL PATRICK: No, Your Honor.

15 THE COURT: Mr. Price?

16 MR. PRICE: No, ma'am.

17 THE COURT: Mr. Peper?

18 MR. PEPER: No, ma'am.

19 THE COURT: Ma'am, you're excused. Call your next  
20 witness.

21 AST SOL KIDD: The State calls Officer Charles Martin.

22 THE COURT: I'm sorry, I can't hear you.

23 AST SOL KIDD: Officer Charles Martin.

24 MR. PEPER: Your Honor, may we approach?

25 THE COURT: Yes. Sir, I need you to stay right there

1 for me. Thank you.

2 (A bench conference was held off the record and out of  
3 the hearing of the jury panel.)

4 THE COURT: All right. Sir, if you would come to the  
5 stand and be sworn.

6 (CHARLES MARTIN, was duly sworn and provided the  
7 following testimony.)

8 THE COURT: You may proceed.

9 AST SOL KIDD: Thank you, Your Honor.

10 THE COURT: You're welcome.

11 AST SOL KIDD: Court's indulgence. I know I had the  
12 disc marked and entered -- oh, here it is.

13 DIRECT EXAMINATION

14 BY AST SOL KIDD:

15 Q. Good morning, Officer Martin.

16 A. Good morning.

17 Q. Is it officer?

18 A. Yes, sir.

19 Q. Okay. Sorry. I just wanted to make sure I get the  
20 rank right. Sometimes butcher that a little bit. Can you  
21 tell the jury where you're employed, please.

22 A. I'm employed with the City of North Charleston, South  
23 Carolina.

24 Q. With the police department I presume?

25 A. Yes, sir.

1 Q. And how long have you been employed with the North  
2 Charleston Police Department?

3 A. I've been employed there for seven and a half years  
4 with a six-month break. So seven years total time.

5 Q. So seven years you've been employed with the City of  
6 North Charleston. What are your current duties with the  
7 City?

8 A. I'm a patrol officer on the south night shift down  
9 south, in the south zone of the City, which is south of  
10 Durant to the city limits of the City of Charleston.

11 Q. Okay. And so do you ride around in car with lights on  
12 the top and respond to calls of service?

13 A. Correct, sir.

14 Q. So, you know, what type of normal calls do you get on  
15 an average shift?

16 A. Well, we start at ten o'clock in the nighttime. So we  
17 normally have anything from my kids won't go to bed to  
18 murders.

19 Q. Okay. So you work ---

20 A. And everything in between.

21 Q. So you work the night shift. Did you work last night?

22 A. No, sir.

23 Q. All right. Good. Go get to why we are here.

24 November 22, 2015, do you remember that date?

25 A. Oh, yeah.

Direct Examination of Mr. Martin by Ast. Sol. Kidd

1 Q. What were you doing when you first got a call to the  
2 shooting in Park Circle?

3 A. I wasn't actually called to the call. At the time, I  
4 was a field training officer, FTO. And I had a trainee with  
5 me. We were patrolling down south in the area of Pittsburgh  
6 Avenue, Meeting Street Road, in that area. I heard -- I  
7 always listen to the central channel in my car radio, which  
8 is where the call initially went out. So we heard that  
9 there was a shooting taking place traveling down Montague  
10 Avenue. And for training purposes, we started from the area  
11 where we were to go to try to head off the shooters. By the  
12 time we got to where the scene was, the shooting had already  
13 happened and basically everything was already over.

14 Q. Okay. And is your car equipped with video  
15 surveillance?

16 A. Yes, sir.

17 Q. And do you wear body cameras?

18 A. Yes, sir.

19 Q. And in November of 2015 did you have both of those  
20 devices on your car and on your person?

21 A. Yes, sir.

22 Q. Okay. And have you had an opportunity to review your  
23 cruiser video and your body camera from that evening?

24 A. Yes, sir.

25 Q. Okay. Can you tell the jury what happened when you

1 entered the Park Circle area?

2 A. When I entered the Park circle area, we heard on the  
3 radio that there was a witness had described three black  
4 males running from the scene from the center of Park Circle  
5 in a direction towards what we call the Old Village area of  
6 Park Circle. If you're familiar with Park Circle, one side  
7 of Park Circle on Durant would be towards the city, and the  
8 other side would be towards what we call the Old Village, or  
9 it's mostly residential area. The witness had described,  
10 and we heard on the radio, the witness had described three  
11 black ---

12 Q. Well, don't -- you can't really say what was described.  
13 Just tell me what you saw when you got there.

14 A. Okay. What we saw when we got there was three black  
15 males running down Durant -- well, three black males. One  
16 of them was running, the other two were not running, down  
17 Durant towards the Old Village area of Park Circle.

18 Q. Okay.

19 AST SOL KIDD: May I approach your reporter?

20 THE COURT: Uh-huh.

21 AST SOL KIDD: Your Honor, at this time, the State  
22 would offer 72 into evidence.

23 THE COURT: Any objection?

24 MR. PRICE: No objection, Your Honor.

25 MR. PEPER: No, ma'am.

Direct Examination of Mr. Martin by Ast. Sol. Kidd

1           THE COURT: State's 72 marked and admitted without  
2 objection.

3           (State's Exhibit No. 72, Google Map, was received into  
4 evidence.)

5 Q. Officer Martin, I'm going to show you what's been  
6 marked as State's Exhibit Number 72. Do you recognize that  
7 map?

8 A. Yes, sir.

9 Q. Can you show the jury where you came across those three  
10 male individuals?

11 A. Right here at just to the east of the North Charleston  
12 Elementary School on Durant Avenue.

13 Q. All right. So where that sort of blue number three is.  
14 I think you just put a red dot with your finger; right?

15 A. Yes, sir.

16 Q. All right. So that's where you got out with three  
17 individuals. Can you describe that interaction to the jury  
18 for me.

19 A. We had -- we were down closer to the Park Circle area  
20 and we spotted -- we saw three males, what appeared to be  
21 three males that we couldn't tell what they were from that  
22 distance when we first saw them. And, again, one of them  
23 had appeared to be running. So from the radio transmissions  
24 that we had heard from dispatch about the three males  
25 running from Park Circle. We got out with those three



1 individuals. Hailed them. They came back to my car. We  
2 put them with their hands on my car. We did what is called  
3 a Terry Frisk. We searched for weapons.

4 Q. Did you find any weapons?

5 A. We did not find any weapons. And we got the names. We  
6 had IDs on two of them. One of them gave us name and date  
7 of birth, which was confirmed by a South Carolina DMV check  
8 which we all have apps on our phones where we check DMV.  
9 And all three were confirmed with what we had. Information  
10 that we had at the time was two driver's licenses or IDs and  
11 one confirmation through SCDMV.

12 Q. When you do a confirmation through SCDMV, is there a  
13 photo comparison done on that too?

14 A. Yes, sir. Yes, sir.

15 Q. And that matched up?

16 A. Correct.

17 Q. So you were able to confirm the identities of those  
18 three individuals.

19 A. Yes, sir.

20 Q. Okay.

21 AST SOL KIDD: Your Honor, at this time -- I don't  
22 remember what exhibit number it is.

23 COURT REPORTER: Seventy-one I think it is.

24 AST SOL KIDD: Seventy-one.

25 COURT REPORTER: It's in the computer so I can't see.

Direct Examination of Mr. Martin by Ast. Sol. Kidd

1 Q. And this is your cruiser video. Is that correct?

2 A. That's correct.

3 (Video begins play at 10:43 a.m.)

4 Q. I'm going to pause it and backup. A few things that I  
5 want to talk about, and then we'll play it the rest of the  
6 way through. Okay?

7 A. Yes, sir.

8 Q. First, being -- if we go way back to the beginning --  
9 when does your cruiser camera first initiate? What causes  
10 it to start recording?

11 A. It cuts on 30 seconds after -- well, it cuts on when  
12 the blue lights are activated.

13 Q. So it actually starts recording 30 seconds before?

14 A. But it starts recording without audio, only video, 30  
15 seconds prior to the lights being activated.

16 Q. So I guess the best way to describe it is it's  
17 constantly recording in like a 30-second loop without audio.  
18 So when you hit the lights, the lights on top of your car,  
19 it starts recording?

20 A. That's correct.

21 Q. And when the audio kicks on is actually when the lights  
22 are activated.

23 A. That's correct.

24 Q. Is that fair to say?

25 A. That is.

1 Q. Where are you in this section of the very beginning of  
2 the video?

3 A. We were approaching the Meeting Street road overpass  
4 that connects to Rivers Avenue on the other side of that --  
5 on the other side of that bridge, that viaduct right there,  
6 it turns into Rivers Avenue.

7 Q. Okay. How far would you say this is from Park Circle?

8 A. Well, I don't know; three miles.

9 Q. Okay.

10 A. Two and a half, three miles.

11 Q. And when you heard the call go out on the radio, did  
12 you immediately start heading in that direction?

13 A. Yes, sir.

14 Q. And that would be when you first activated the camera;  
15 right?

16 A. That's correct.

17 Q. All right. And we won't watch the whole drive. But,  
18 you know, it takes a couple of minutes to get to Park  
19 Circle?

20 A. Yes, sir.

21 Q. Okay.

22 (Video resumes play.)

23 Q. Did you know what road you're turning on right there?

24 A. Boost Avenue.

25 Q. On Boost. Okay.

Direct Examination of Mr. Martin by Ast. Sol. Kidd

1 (Video resumes play.)

2 Q. So where are we now?

3 A. Entering into Park Circle.

4 Q. Entering into Park Circle. Okay. Off of Boost?

5 A. Yes, sir.

6 Q. Okay. Just so that -- can you tell which one is Boost  
7 Avenue there?

8 A. I believe -- well, Spruill -- if I can find Spruill, I  
9 could tell you.

10 Q. This is one side of Boost right here; right?

11 A. Yes, sir.

12 Q. Does it run all the way across the circle?

13 A. Yes, sir.

14 Q. So this would also be Boost here?

15 A. That's correct.

16 Q. Okay. Which side did you come up on?

17 A. The second one that you drew.

18 Q. The second one. Can you mark it for me just so the  
19 jury will see.

20 A. Sure. (Witness complies.)

21 Q. So you were coming to the circle on Boost, that  
22 direction?

23 A. That is correct.

24 Q. Okay.

25 (Video resumes play.)

1 Q. All right. Can we flip back to that map real quick.

2 All right. So if I got this right, come down Boost, you  
3 enter Park Circle, and then you take a right right there?

4 A. Yes, sir.

5 Q. Now you're on Durant heading in that direction?

6 A. Yes, sir.

7 (Video resumes play.)

8 Q. Can't seem to quite catch it. But did you notice  
9 anything significant about the individual wearing the black  
10 sweatshirt right there?

11 A. Right at this moment?

12 Q. Well, not necessarily at that specific moment. I was  
13 just trying to catch that moment because I believe you can  
14 secondly see it. (Video plays.) You definitely can't see  
15 it on the big screen right now. Anyway ---

16 A. You can see it up here on this one.

17 Q. What did you notice about individual in black?

18 A. A shirt was wet.

19 Q. His shirt was wet?

20 A. Yes, sir.

21 Q. We were able to ultimately identify which individual  
22 that was in the black sweatshirt there?

23 A. Yes, sir. Mr. Gilliard.

24 Q. Daquan Gilliard?

25 A. That's correct.

Direct Examination of Mr. Martin by Ast. Sol. Kidd

1 Q. Who were the other two individuals out there on the  
2 street with him?

3 A. Marvin Donte Bryan and Keith Lamont Evans.

4 Q. Are you able to tell what time this was?

5 A. Yes, sir. It was zero, two, 19 and 27 seconds.

6 Q. So at 2:19 in the morning you had responded to the Park  
7 Circle area. Sends you in to Park Circle. You turn right  
8 on Durant. You see at least one individual running. You  
9 pull over and stop; right?

10 A. That's correct.

11 Q. And I believe you testified earlier that you ID'd them?

12 A. Yes, sir.

13 (Video resumes playing.)

14 Q. Where are you at?

15 A. I think the time is wrong. I think the actual time is  
16 2:24.

17 Q. Correct. The 2:19 was your ---

18 A. I'm reading the start time not the current time.

19 Q. Correct. Thank you for clarifying that.

20 (Video resumes play.)

21 Q. And that individual that is kind of most centered on  
22 the screen, that's Daquan Gilliard who you mentioned with  
23 the liquid on his back?

24 A. That is correct, sir.

25 Q. Okay. And he only stays on the screen for a second,

1 but can you see that? The head of that individual.

2 A. Yes, sir.

3 Q. And if you don't recall, you don't recall. Do you know  
4 which one that is?

5 A. No, sir.

6 Q. Okay. But the other two were Keith Evans and Marvin  
7 Bryan?

8 A. Correct.

9 (Video resumes play.)

10 Q. Was your body mic not working? And I'm just asking --  
11 this is probably the first time I've asked you that, but I  
12 just noticed there's no body audio?

13 A. I don't recall. I may not even have had it on me. I  
14 don't know that.

15 Q. Okay. Because the audio we're listening to right now,  
16 is your in-car audio; right?

17 A. Yes, sir.

18 Q. So we're getting a lot of radio chatter, and you can  
19 hear a little bit. But, typically, officers have a body mic  
20 as well?

21 A. Yes, sir.

22 Q. So that you can hear your interactions with individuals  
23 outside the car a little bit better?

24 A. Correct.

25 Q. But we don't have that available; right?

Direct Examination of Mr. Martin by Ast. Sol. Kidd

1 A. Correct.

2 Q. Okay.

3 (Video resumes play.)

4 Q. That's probably better than the first image. Is that  
5 the liquid that we're talking about?

6 A. Yes, sir.

7 Q. And any liquid on any of the other two subjects?

8 A. No, sir.

9 (Video resumes play.)

10 Q. All right. They're walking away. So you let them go;  
11 correct?

12 A. Yes, sir.

13 Q. Okay. I want to talk a little bit about your  
14 interaction with them for a minute. Okay?

15 A. Yes, sir.

16 Q. So what sort of things are you looking for when you  
17 respond to a shooting and working a perimeter like that?

18 A. Any kind of body language, any kind of -- are you  
19 talking about interacting with those three, or are you  
20 talking about any scene that we go to like that?

21 Q. Well, I mean, let's talk about those three. I mean,  
22 that's really why we're here.

23 A. Those three, because I heard on the radio there were  
24 three black males running from the scene, my first, my first  
25 inclination was that these three might have been involved



1 with the shooting. So at that moment when we got out with  
2 them, I was looking for, and one of the things that I felt  
3 for on Mr. Bryan -- well, actually probably all three of  
4 them we felt for was any kind of accelerated heart rate  
5 and/or excessive breathing like they had been running from  
6 an area. In my experience, if someone has committed -- has  
7 recently or freshly committed a crime, they're going to be  
8 -- they're going to have telltale signs that they just  
9 committed a crime. Heart rate is gonna be accelerated.  
10 Breathing is going to be heavy. And those things I didn't  
11 -- I did not find in those three individuals ---

12 Q. And we kind of went over this a little bit a second  
13 ago. But about how much time had elapsed from when the call  
14 came out to when you arrived?

15 A. Well, I activated by blue lights at 19, 2:19. And I  
16 believe I was out with them at 2:24 and 2:25. So  
17 approximately six minutes; five or six minutes.

18 Q. Okay. So about five or six minutes had elapsed from  
19 when the call came out on the radio. Granted, there could  
20 have been a little bit of a delay there too before --  
21 between when the shooting happens and when the call actually  
22 comes out on the police radio. You agree with that?

23 A. Absolutely.

24 Q. So it's safe to say more than five minutes had elapsed  
25 from the shooting to when you had gotten out?

Direct Examination of Mr. Martin by Ast. Sol. Kidd

1 A. That's correct.

2 Q. Okay. And so you said you checked for an elevated  
3 heart rate. How do you do that?

4 A. Put you hand on the chest of the individual to see if  
5 their heart is beating faster than a normal heartbeat would  
6 be.

7 Q. And what did you observe when you did that?

8 A. I observed that on Mr. Bryan, I know I remember a  
9 little bit of an accelerated but nothing that would make me  
10 think that he was involved in this crime.

11 Q. Now, and all three of these guys are standing right  
12 next to each other?

13 A. Yes, sir.

14 Q. So they could hear what one another are talking, saying  
15 to officers?

16 A. Yes, sir.

17 Q. Is that standard?

18 A. No, sir.

19 Q. What's the ideal thing to do?

20 A. Ideal is to get them away from each other and ask them  
21 questions. At that moment, I only had me and a trainee with  
22 me out with those three. And our protocol is not to -- not  
23 to leave your trainee in any kind of situation, especially a  
24 situation like that. We need a veteran officer ---

25 Q. More people out there?

1 A. More people out there.

2 Q. To separate them?

3 A. Correct.

4 Q. I guess you could have put them in two of your  
5 cruisers, something like that?

6 A. And that.

7 Q. There other things you could have done ---

8 A. Correct.

9 Q. --- that you didn't.

10 A. Correct.

11 Q. And that's fine. And then the idea behind that is so  
12 that, you know, you separate them, you question them, and  
13 then find the differences in their story?

14 A. Correct. And then you get into -- you get into  
15 unreasonable detention and all that kind of stuff, so . . .

16 Q. Right. Absolutely. And I get that as well. But you  
17 asked them questions?

18 A. Yes, sir.

19 Q. What sort of questions were you asking?

20 A. Where have you been? What are you doing? What are you  
21 doing out here in Park Circle at 2:30 in the morning? Where  
22 are you coming from? Where are you going? Why is your back  
23 wet? How is your back wet? We asked several times.

24 Q. Did they give you -- how did they answer the questions?

25 A. Just hanging out. Just hanging out in Park Circle

Direct Examination of Mr. Martin by Ast. Sol. Kidd

1 walking around.

2 MR. PRICE: Your Honor, I'm going to object to hearsay.  
3 I'm not sure who he's talking about or ---

4 THE COURT: It's not offered for it's truth. It's part  
5 of an investigative stop. It's admissible. Overruled.

6 A. Why is your back wet? He -- it had been raining at  
7 some point that day, so, you know, he offers up an  
8 explanation that he was running through the bushes to get  
9 away from the gunshots that they had just heard. Where are  
10 you coming from? Just hanging out in Park Circle and  
11 walking around Park Circle. I mean, people do that all the  
12 time.

13 Q. And you checked their licenses; correct?

14 A. Yes, sir.

15 Q. And they were West Ashley addresses?

16 A. Yes, sir. Well, one of them was a downtown address, I  
17 believe.

18 Q. Correct. I apologize.

19 A. Yeah, St. Philip Street.

20 Q. And I know we probably already went through this, can  
21 you identify who the three subjects were again?

22 A. Marvin Donte Bryan, Keith Lamont Evans, and Daquan  
23 Henry Gilliard.

24 Q. And do you know which two of those had their licenses  
25 and which one you had to do off of a DMV check?

1 A. I know Gilliard had a license. The other two -- I  
2 don't remember which one gave us the name and date of birth.

3 (Video resumes play.)

4 Q. All right. So the body cam kind of kicks on, I guess,  
5 into the interview to some extent. Is that fair to say?

6 A. Yes, sir.

7 Q. How does the body cam activate?

8 A. Has a button on it we move to the left and it turns on.

9 Q. Okay. Does it have the sort of delay issue like the  
10 cruiser video does?

11 A. No, sir.

12 Q. It can't ---

13 A. It cannot.

14 Q. So when do you decide to hit the body cam?

15 A. When I remembered to turn it on.

16 Q. They were pretty new to y'all at this point?

17 A. They were very new at that point.

18 Q. November 2015, so y'all had probably just been issued  
19 them really?

20 A. Yes, sir.

21 Q. So you're out there with them and it just occurs to  
22 you, crap, I got to turn my body video on?

23 A. Somebody may have -- my trainee may have reminded me to  
24 turn it on, but I don't remember.

25 Q. Okay. So you hit the button and it starts recording in

Cross-Examination of Mr. Martin by Mr. Price

1 the middle ---

2 MR. PRICE: Your Honor, I'm going to object to leading.

3 THE COURT: Sustained. Leading.

4 (Video resumes play.)

5 AST SOL KIDD: Court's indulgence.

6 THE COURT: Uh-huh.

7 (Brief pause.)

8 Q. Do you believe you had a reason to arrest them at that  
9 point?

10 A. No, sir.

11 Q. Anybody give you a hard time for letting them go?

12 A. Yes, sir.

13 AST SOL KIDD: No further questions.

14 THE COURT: Any questions for the witness?

15 MR. PRICE: Your Honor, can we approach real quick?

16 THE COURT: Uh-huh.

17 (A bench conference was held off the record and out of  
18 the hearing of the jury panel.)

19 THE COURT: Any cross-examination of the witness?

20 MR. PRICE: Yes, Your Honor. May it please the Court?

21 THE COURT: Yes, sir. You may proceed.

22 MR. PRICE: Thank you.

23 CROSS-EXAMINATION

24 BY MR. PRICE:

25 Q. Good afternoon, Officer Martin. My name is Bentley

1 Price. How are you?

2 A. I'm fantastic.

3 Q. Good. All right. I just wan to clear up a couple of  
4 things with you. How far would you say it is -- from Park  
5 Circle and what would that be? The corner of Durant Avenue  
6 and North Boulevard?

7 A. North Boulevard.

8 Q. How far would you say that is?

9 A. Probably ---

10 Q. I mean either yards ---

11 A. Two hundred yards, 150 yards.

12 Q. A hundred and fifty yards. Okay. And how far -- that  
13 was from the middle of Park Circle; correct?

14 A. Yes, sir.

15 Q. Okay. And you said that you got the call at around  
16 2:19 when you heard it?

17 A. That's when I activated my blue lights.

18 Q. So we assume that the call came in, you said a couple  
19 of minutes, probably earlier.

20 A. Probably.

21 Q. And so we assume that the crime happened a couple of  
22 minutes earlier than that?

23 A. That's correct.

24 Q. So let's just say 2:19, 2:17, 2:15. I mean, we're  
25 just-- rough guesstimate. We're not sure exactly the time.

1 A. Correct.

2 Q. But that's about right. And you indicated that you  
3 came up on the subjects at 2:24; correct?

4 A. Yes, sir.

5 Q. So based on that math from 2:10 to 2:24 was 14 minutes?

6 A. Yes, sir.

7 Q. Okay. And from the video, do you see anyone running?

8 A. The only one I saw running was the individual in the  
9 rear and he was only running, or I would say fast jogging,  
10 for a very short time. But I did see that because on the  
11 video I say to the trainee who is driving ---

12 Q. I hear you say it, but we can't see it. We can't see  
13 it on the video.

14 A. Correct.

15 Q. Okay. And if I took off running right now for a medium  
16 to let's say a fast-paced jog, how far do you -- I'm in  
17 shape. I play college soccer. I run every day. How far do  
18 you think I can get in 14 minutes?

19 A. I have no idea.

20 Q. Six-minute mile? Seven-minute mile?

21 A. I have no idea.

22 Q. How fast can you run? About.

23 A. Probably an hour.

24 Q. You're not in as good of shape as I am. Well, average  
25 man runs it in about seven minutes. So they could have got



1 about 2 miles away if they did sprint.

2 A. Okay.

3 Q. And you have indicated they didn't have an accelerated  
4 heart rates.

5 A. Correct.

6 Q. That they weren't heavily breathing.

7 A. Correct.

8 Q. And that they had only gotten about a hundred and fifty  
9 yards away.

10 A. Correct.

11 Q. And you understand what reasonable articulable  
12 suspicion is?

13 A. Yes, sir.

14 Q. And you went through that, so you came up on them. You  
15 had the right to do it.

16 A. Yes, sir.

17 Q. You did a Terry Frisk to make sure there was no  
18 weapons?

19 A. Yes, sir.

20 Q. Were there any weapons?

21 A. No, sir.

22 Q. And you did a field interview; correct?

23 A. Yes, sir.

24 Q. And they all gave you very accurate statements?

25 A. Yes, sir.

Cross-Examination of Mr. Martin by Mr. Price

1 Q. And based on that, you didn't think they had any  
2 involvement whatsoever in the crime?

3 A. Correct.

4 Q. And so you let them go?

5 A. That's correct.

6 Q. And once you had their information, you went back to  
7 the crime scene and you spoke to another officer. Is that  
8 correct?

9 A. I spoke to several other officers.

10 Q. And one asked you -- or you indicated to one officer  
11 that you got out with three male subjects on Durant, but  
12 that they were all good. Is that correct?

13 A. Yes, sir.

14 Q. Okay. And that's what you stated to the officer?

15 A. Yes, sir. Sergeant Evans, I believe.

16 Q. I believe you're correct. Now, I want to talk about  
17 the clothing. What was the gentleman in the back of the  
18 video wearing? We can play it back.

19 A. I don't recall.

20 Q. Do you recall it being all black?

21 A. I don't recall.

22 MR. PRICE: Can we just play it back to the . . .

23 (Video is played back at 11:17 a.m.)

24 MR. PRICE: Go back just a hair.

25 (Video resumes.)

1 A. I believe that one that ---

2 MR. PRICE: Right there is good.

3 A. The one in the back is wearing all gray.

4 Q. Okay.

5 A. And the one in the middle is wearing all black. And  
6 the one in the front, the third that I would be approaching,  
7 has a a white-ish shirt and dark pants. I don't know if  
8 they're camouflage pants, but they look darkish to me.

9 Q. Okay. And you actually placed in your report that you  
10 specifically felt Marvin Bryan's chest. Is that correct?

11 A. Yes, sir.

12 Q. And that it was no beating any faster than if he would  
13 have been leaving from some gunshots that he may have heard.  
14 Was Mr. Bryan sweating?

15 A. I don't believe so.

16 Q. And he wasn't breathing hard?

17 A. Correct.

18 Q. And you indicated that through your professional  
19 investigation, professional training, professional opinion,  
20 that in most situations when someone is involved in criminal  
21 activity and they are running from a murder scene that  
22 they're going to have an accelerated heart rate. Correct?

23 A. Yes, sir.

24 Q. And that they are going to be running all out?

25 A. Yes, sir.

Cross-Examination of Mr. Martin by Mr. Price

1 Q. And they are going to be heavily breathing?

2 A. Yes, sir.

3 Q. Panting I think you said. Sweating. And none of that  
4 existed in any of these three individuals; correct?

5 A. I don't remember saying panting, but yeah.

6 Q. Breathing heavily?

7 A. Yes, sir.

8 Q. And none of that happened in any of these individuals?

9 A. That is correct.

10 Q. And that's why you let them go?

11 A. That is correct.

12 Q. You have that right to do that?

13 A. Yes, sir.

14 MR. PRICE: Court's indulgence.

15 Q. Do you know who the middle subject was? The one that  
16 you indicated had the -- what he indicated to you was some  
17 rain or dew on his back?

18 A. At the time, or do I know who it is now?

19 Q. Do you know who it is now?

20 A. I know it's Gilliard now.

21 Q. Okay. But at the time?

22 A. At the time, I didn't know.

23 Q. Okay. And one last question: When you asked the three  
24 defendants for their information, did they readily give it  
25 to you?

1 A. Yes, sir.

2 Q. Did they give you a problem about it?

3 A. No, sir.

4 Q. Did they give you false permission?

5 A. No, sir.

6 Q. Did they lie to you?

7 A. No, sir.

8 Q. Did they take off running from you at any point in  
9 time?

10 A. No, sir.

11 MR. PRICE: No further questions.

12 THE COURT: Any questions, Mr. Pepper?

13 MR. PEPER: Thank you, Your Honor. May it please the  
14 Court?

15 THE COURT: Uh-huh.

16 CROSS-EXAMINATION

17 BY MR. PEPER:

18 Q. Officer Martin, Mark Peper. I represent Mr. Wilson  
19 here. I want to clarify a couple of things. We got three  
20 individuals one of which you see appears to be jogging?

21 A. Yes, sir.

22 Q. Okay. And I just want to clarify. I'm going to ask  
23 you what I think it is. If it's wrong, just tell me. Okay?  
24 The third person who appeared to be jogging, so it would've  
25 been the first person that you saw. But it would've been

Cross-Examination of Mr. Martin by Mr. Peper

1 the third in the line of three. Is that correct?

2 A. It would have been the first -- if you're going that  
3 way ---

4 Q. Right.

5 A. --- towards where they were running, number one, number  
6 two in the middle, and number three is closest to me.

7 Q. Gotcha. Okay. So you're calling the back person  
8 number three?

9 A. Yes, sir.

10 Q. That's my mistake.

11 A. Yes, sir.

12 Q. So number three was jogging?

13 A. Yes, sir.

14 Q. All right. What clothing was number three wearing?

15 A. All gray.

16 Q. All gray?

17 A. Yes, sir.

18 Q. Okay. All right. Now, number two, wearing all black?

19 A. Yes, sir.

20 Q. All right. And then number one, dark pants but a  
21 whitish shirt?

22 A. Yes, sir.

23 Q. Okay. All right. And you recall doing a report on  
24 11/30; correct?

25 A. Yes, sir.

1 Q. All right. And you're familiar with that report?

2 A. Yes, sir.

3 Q. Okay. Now, contrary to your earlier testimony, is it  
4 my understanding that the gentleman that had water on his  
5 back was wearing all gray?

6 A. No. The one who had water on his back -- it looks in  
7 the video like he's wearing all black. But I believe his  
8 warm up suit or whatever he had on was a really dark gray  
9 color. I don't think it was black.

10 Q. Okay. And that was a bad question. I'm sorry. Number  
11 three?

12 A. Number three has on a light gray pants and a light gray  
13 shirt.

14 Q. Okay. Is he the one that had water on his back?

15 A. No. Number ---

16 Q. Number two?

17 A. In the middle, number two would be the one with the  
18 water on his back.

19 Q. Okay. Not number one?

20 A. Not number one.

21 Q. Okay. Do you have your report with you? Did you bring  
22 it to court?

23 A. Yes, sir.

24 Q. All right. If I can point you to -- if you look at it  
25 in order -- I'm sorry.

Cross-Examination of Mr. Martin by Mr. Peper

1 MR. PEPER: May I approach the witness?

2 THE COURT: (Affirms.)

3 Q. If you look at your report, I'm going to refer to it as  
4 paragraph three.

5 A. Okay.

6 Q. Can you read that paragraph to me.

7 A. The one starts at this time?

8 MR. PEPER: I apologize.

9 THE COURT: Basis. You can only refresh his memory for  
10 him.

11 MR. PEPER: I apologize. Let me rephrase.

12 Q. Do you recall writing in your report that one of the  
13 subjects, parenthesis, one in the gray shirt.

14 A. Yes, sir.

15 Q. Appeared to have water on his back?

16 A. Yes, sir.

17 Q. All right. Is that your testimony today?

18 A. Yes, sir. That's why I say that the middle guy, I  
19 refer to it, call it black. But I don't think what he had  
20 on was black.

21 Q. Okay.

22 A. And I might be color blind.

23 Q. All right.

24 A. But I believe he -- what he had on was dark, very dark,  
25 gray compared to the light gray that number three had on.



1 Q. All right. One thing we can agree on is that you  
2 stopped three people; right?

3 A. Yes, sir.

4 Q. Now, you would agree with me that had you had the  
5 body-worn camera on, that it may have helped us with this  
6 line of questioning; right?

7 A. Yes, sir.

8 Q. Okay. And I think you testified earlier you just  
9 forgot to turn it on; right?

10 A. Yes, sir.

11 Q. And that you're trainee himself may have reminded you  
12 to turn it on; right?

13 A. Yes, sir.

14 Q. Now, this was November of 2015; correct?

15 A. Yes, sir.

16 Q. You testified that at the time you were on south  
17 patrol; correct.

18 A. That's correct.

19 Q. Were you on south patrol in April of 2015 as well?

20 A. I don't know. I don't ---

21 Q. Okay.

22 A. I think I was a neighborhood resource officer at the  
23 time which would have put me in the south zone because my  
24 zone as a neighborhood resource officer was Chicora. Which  
25 is in the south zone. But typically as a NRO, I worked day

Cross-Examination of Mr. Martin by Mr. Peper

1 shift.

2 Q. All right. I believe you testified earlier that the  
3 body-worn cams that we call BWCs; correct?

4 A. Yes.

5 Q. Okay. Those are relatively new to you; right?

6 A. Yes, sir.

7 Q. And you know why y'all were all issued those types of  
8 cameras; right?

9 AST SOL KIDD: Objection.

10 THE COURT: Basis?

11 AST SOL KIDD: May we approach?

12 THE COURT: You may.

13 (A bench conference was held off the record and out of  
14 the hearing of the jury panel.)

15 THE COURT: Sustained. Speculation. Lack of  
16 foundation.

17 Q. Officer Martin?

18 A. Yes, sir.

19 Q. Your body-worn camera picked up some audio; correct?

20 A. Yes, sir.

21 Q. All right. And the audio was essentially one of the  
22 three kind of telling you his version of events; right?

23 A. Yes, sir.

24 Q. Do you recall which one that was that was giving you  
25 that information?

1 A. Well, during the time I was out with them, they all  
2 gave basically the same information.

3 Q. Okay. And that's because they all three were standing  
4 together; right?

5 A. Yes, sir.

6 Q. Okay. So if -- I'm gonna use my -- if number three was  
7 giving you a story, number two and number one would have  
8 heard that story; right?

9 A. Yes, sir.

10 Q. And vice versa?

11 A. Yes, sir.

12 Q. They all could hear?

13 A. Absolutely.

14 Q. Right. Gotcha. Which would explain why it stayed the  
15 same; right?

16 A. Yes, sir.

17 Q. All right. Now, these body-worn cams that were  
18 relatively new to you, were you trained on those?

19 A. Yes, sir.

20 Q. All right. And, I'm not gonna beat you up, but you  
21 violated the training procedure there by not turning it on;  
22 right?

23 A. Yes, sir.

24 Q. Okay. All right. Even though you were actually  
25 training a trainee at the time; right?

Cross-Examination of Mr. Martin by Mr. Peper

1 A. Yes, sir.

2 Q. Okay. Now, I need some clarification on this heartbeat  
3 issue. Again, your reasoning is that you believe that you  
4 can put your hand on somebody's heart and tell, A, if they  
5 had been running, and B, how long they had been running?

6 A. I probably couldn't tell how long they had been  
7 running. But I can tell if the heartbeat is accelerated,  
8 certainly.

9 Q. Okay. And if I understand -- if I understand it  
10 correctly, you confirmed that Marvin Bryan's heart had an  
11 increase in it; correct?

12 A. Yes, sir.

13 Q. Okay. And you attribute that to having run from Park  
14 Circle; correct?

15 A. I wouldn't say he ran all the way from Park Circle.  
16 But I wouldn't -- I would detect it if he had run all the  
17 way from Park Circle. His heart rate would be a lot more  
18 than what I felt it to be.

19 Q. All right. If I can refresh your recollection. Do you  
20 mind looking at your report again.

21 MR. PEPPER: May I approach the witness, Your Honor?

22 THE COURT: Yes, sir.

23 MR. PEPPER: Thank you.

24 Q. If you look at paragraph two, the penultimate sentence.  
25 So can I ask you just to read paragraph two. You don't have

1 to read it out loud.

2 THE COURT: To himself.

3 Q. Just refresh your memory by it.

4 A. Got it.

5 Q. Okay. Do you recall that it appeared -- it did not  
6 appear to be beating faster than had he run a short distance  
7 from Park Circle?

8 A. Yes, sir.

9 Q. Okay. All right. So you now got three guys in  
10 custody, for lack of a better word. You have detained three  
11 individuals.

12 A. I detained three individuals.

13 Q. You detained three individuals because a call came out  
14 on the radio that a shooting had just occurred at Park  
15 Circle; right?

16 A. Yes, sir.

17 Q. And a call came out on the radio that three individuals  
18 were seen running from the car; correct?

19 A. That's correct.

20 Q. From the shooting?

21 A. Yes, sir.

22 Q. All right. You now have three individuals matching the  
23 description and at least being detained; correct?

24 A. Yes, sir.

25 Q. All right. And because their stories matched up that

Cross-Examination of Mr. Martin by Mr. Peper

1 they could hear each other giving, and one person's  
2 heartbeat you felt okay with, you cut them loose?

3 A. That's correct.

4 Q. All right. You didn't do any GSR?

5 A. No, sir.

6 Q. All right. Gun shot residue. Didn't ask for a buccal  
7 swap?

8 A. No, sir.

9 Q. DNA. Didn't take fingerprints?

10 A. No, sir.

11 Q. Did you call on the radio that you had detained three  
12 matching the same description?

13 A. Yes, sir.

14 Q. All right. And Officer Fogle showed up; right? To  
15 assist.

16 A. Correct.

17 Q. All right. So he was there. Did he also hear their  
18 story?

19 A. I don't know.

20 Q. All right.

21 A. I would assume he did, but I don't remember.

22 Q. Okay. But nonetheless, had he disagreed with your  
23 assessment that cut them loose, he could have then detained  
24 them and asked further questions; right?

25 A. Sure.

1 Q. All right. Now, the trainee, though, he's got to just  
2 follow your lead or Officer Fogle's lead; right?

3 A. Correct.

4 Q. Okay. All right. And so you cut the following three  
5 individuals loose: Daquan Gilliard.

6 A. Yes, sir.

7 Q. Right?

8 A. Yes, sir.

9 Q. Keith Evans?

10 A. Yes, sir.

11 Q. And Marvin Bryan?

12 A. Correct.

13 Q. All right. Have you ever seen this individual before?

14 A. I don't remember ever seeing him.

15 Q. You certainly didn't see him the night of the shooting,  
16 did you?

17 A. That's correct.

18 MR. PEPER: Thank you, Judge.

19 THE COURT: Any redirect?

20 AST SOL KIDD: Briefly, Your Honor.

21 THE COURT: You may proceed.

22 REDIRECT EXAMINATION

23 BY AST SOL KIDD:

24 Q. First to Mr. Peper's point, when a call came out on the  
25 radio about three individuals, it wasn't three individuals

Redirect Examination of Mr. Martin by Ast. Sol. Kidd

1 running from the scene; it was three individuals running in  
2 the back of Park Circle; right?

3 A. I believe it was three individuals have been seen  
4 leaving Park Circle.

5 Q. Okay.

6 A. I don't know if the call knew that they were running,  
7 walking. I don't know.

8 Q. Okay. I'm going to show you ---

9 THE COURT: What number is that?

10 AST SOL KIDD: State's Exhibit 73.

11 THE COURT: Any objection?

12 MR. PRICE: No objection, Your Honor.

13 MR. PEPPER: No, ma'am.

14 THE COURT: Marked and admitted without objection.

15 (State's Exhibit No. 73, Video Still, was received  
16 into evidence.)

17 Q. Show you State's Exhibit 73 which is just a still from  
18 your cruiser video. Clarity is not great, but that's the --  
19 that's the liquid we're talking about?

20 A. Yes, sir.

21 Q. Okay. And so when we watch the video, we can know who  
22 that individual is; right?

23 A. Yes, sir.

24 Q. Okay. And this is November 22nd. It is in Charleston,  
25 but it's November. So hot, cold outside?



1 A. Cool.

2 Q. Cool. So not too -- I mean, I sweat in this courtroom.  
3 But not too hot that people aren't sweating outside?

4 A. Correct.

5 Q. Have you ever run a seven-minute mile?

6 A. No, sir.

7 Q. I don't think I have either.

8 A. Never.

9 Q. Would you consider yourself average?

10 A. I would consider myself slow.

11 Q. Okay.

12 AST SOL KIDD: I don't have any further questions.

13 THE COURT: Any objection to the witness being excused?  
14 From the State?

15 AST SOL KIDD: No, ma'am.

16 THE COURT: From the defense?

17 MR. PEPER: None from Mr. Wilson, Your Honor.

18 THE COURT: Any objection?

19 MR. PRICE: No, Your Honor.

20 THE COURT: Officer, you're excused.

21 THE WITNESS: Thank you, Your Honor.

22 THE COURT: You're welcome.

23 Madam Forelady, ladies and gentlemen, we're going to  
24 take advantage of this break from testimony to take a  
25 morning recess. During the break, please do not discuss the

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1 case and please leave your notepads in your seats. We'll be  
2 out for about ten minutes.

3 (The jury exits the courtroom at 11:33 a.m.)

4 THE COURT: We'll be ease for ten minutes.

5 MR. PEPER: Thank you, Judge.

6 THE COURT: You're welcome. Oh, before we do that,  
7 let's take care of this. Mr. Peper, do you need to put  
8 something on the record?

9 MR. PEPER: Your Honor, it came to my attention this  
10 morning in the restroom, actually, that this last witness,  
11 Officer Martin, I represented his son at a school board  
12 disciplinary hearing a couple of years ago. I have spoken  
13 to Mr. Wilson, my client, about that. Obviously, we  
14 discussed, and I'll put on the record, that my  
15 representation was limited to a school board disciplinary  
16 counsel. I represented his son for all about three hours.  
17 He does not believe that is in conflict at all to the extent  
18 it would be. He has waived that and allowed me to do what I  
19 just did which was cross-examine the witness. And I want to  
20 place that on the record, Judge.

21 THE COURT: Sir, raise your right hand to be sworn.

22 (The defendant, Justin Wilson, is duly sworn.)

23 THE COURT: Sir, state your full name for the record.

24 DEFENDANT WILSON: Justin Wilson.

25 THE COURT: Mr. Wilson, is that correct? What your

1 lawyer has just placed on the record.

2 DEFENDANT WILSON: Yes, ma'am.

3 THE COURT: And is it correct that you're waiving any  
4 actual or perceived conflict with his previous  
5 representation of the witness's son?

6 DEFENDANT WILSON: Yes, ma'am.

7 THE COURT: Is there anything further you feel needs to  
8 be stated for the record?

9 DEFENDANT WILSON: No, Your Honor.

10 THE COURT: Okay.

11 MR. PEPPER: Thank you, Judge.

12 THE COURT: Not a worry. Now, my other question, and I  
13 meant to do this on Monday, it's my understanding that there  
14 are no offers extended by the State, therefore there is no  
15 need for me to place any PCR questions on the record. Is  
16 that also correct?

17 AST SOL KIDD: That's correct.

18 THE COURT: Is that correct, Mr. Pepper?

19 MR. PEPPER: Yes, ma'am.

20 THE COURT: Mr. Price?

21 MR. PRICE: Yes, ma'am.

22 THE COURT: Okay. Have a good break. See you in ten  
23 minutes.

24 (A brief recess was taken at 11:35 a.m. The proceeding  
25 resumed at 11:53 a.m.)

1 THE COURT: State ready to proceed?

2 AST SOL KIDD: We are, Judge.

3 THE COURT: Is the defense ready to proceed?

4 MR. PRICE: Yes, Your Honor.

5 MR. PEPER: Yes, ma'am.

6 THE COURT: Who is your next witness, Mr. Kidd?

7 AST SOL KIDD: Walking in.

8 THE COURT: And who is that?

9 AST SOL KIDD: Officer Buskirk.

10 (The jury enters the courtroom at 11:54 a.m.)

11 THE COURT: We'll now resume testimony. Please call  
12 your next witness.

13 AST SOL KIDD: State calls Officer Buskirk.

14 (VICTOR BUSKIRK, was duly sworn and provided the  
15 following testimony.)

16 THE COURT: You may proceed.

17 AST SOL KIDD: Thank you, Your Honor. May it please the  
18 Court?

19 THE COURT: Yes, sir.

20 AST SOL KIDD: Before I get started, State would offer  
21 State's Exhibit Number 74 through 86 into evidence, and I  
22 believe without objection.

23 THE COURT: Any objection?

24 MR. PRICE: No objection, Your Honor.

25 MR. PEPER: No, ma'am.

1 THE COURT: Marked and admitted without objection.

2 (State's Exhibit Numbers 74 through 86 were received  
3 into evidence.)

4 AST SOL KIDD: Thank you.

5 THE COURT: You're welcome.

6 DIRECT EXAMINATION

7 BY AST SOL KIDD:

8 Q. All right. Good morning -- or, I think we're still in  
9 the morning. Good morning, Officer Buskirk.

10 A. Good morning. How are you?

11 Q. Doing well. Thank you. If you would please tell the  
12 jury where you're employed.

13 A. I'm employed with the City of North Charleston Police  
14 Department.

15 Q. And how long have you been with the North Charleston  
16 Police Department?

17 A. Going on 17 years.

18 Q. And what is your current rank?

19 A. I'm a lieutenant.

20 Q. A Lieutenant. And as a lieutenant with the police  
21 department, your sort of current duties.

22 A. Currently, I'm over six different units. But how I  
23 kind of fall into this realm is that I'm on an on-call basis  
24 once about every month, month and a half, I'm on-call status  
25 to respond to after-hours incidents where detectives would

Direct Examination of Mr. Buskirk by Ast. Sol. Kidd

1 be called out.

2 Q. So were you also a lieutenant in November of 2015?

3 A. I was.

4 Q. Okay. And so you were on that on-call status at that  
5 point in time?

6 A. Yes, sir; I was.

7 Q. And is that how you got involved in this case?

8 A. It is.

9 Q. And just tell the jury how you first came to the scene  
10 and came to be involved in this shooting at Park Circle.

11 A. Sure. I got a phone call letting me know that we had a  
12 shooting at Park Circle. I responded. Once I got on scene,  
13 I met up with Sergeant -- Detective Kuechler. He was in  
14 charge. I take a kind of a unique role because I'm kind of  
15 a hands-off. As long as Sergeant Kuechler is assigning his  
16 personnel where they need to be, he is taking lead on the  
17 investigation. I'm there to kind of provide support for him  
18 if he needs it.

19 Q. So even though you're ranked higher than Sergeant  
20 Kuechler, you kind of let him run the show?

21 A. Correct.

22 Q. Okay. And what did you -- did you search the area the  
23 following or later that morning?

24 A. I did. The sun was starting to come up, so in my mind,  
25 you know, we believed that there might have been a rifle

Direct Examination of Mr. Buskirk by Ast. Sol. Kidd

1 involved. So I was thinking I'm probably not going to be  
2 running too far with a rifle, so I'm probably going to stash  
3 it somewhere. So I starting thinking there's gonna be  
4 citizens getting up, walking Park Circle area, kids. So we  
5 came out and started doing a canvas of the area. And during  
6 that canvas, came across three weapons.

7 Q. All right. When you say "we came out", who all -- were  
8 there a lot of people searching at this point in time?

9 A. I had patrol. I requested the patrol units come out  
10 and start conducting a search of the area. But  
11 particularly, myself and another officer, Champion, was with  
12 me at the time whenever we started checking the outer circle  
13 of Park Circle which is Park Place. And that's where we  
14 located the three guns.

15 Q. All right. And I'm first going to show you what's been  
16 marked and admitted into evidence as State's Exhibit Number  
17 60 -- excuse me -- 86. Do you recognize that photograph?

18 A. I do.

19 Q. Does that indicate where you found the weapons?

20 A. Right. So the tab that is marked number two, that is  
21 in front of [REDACTED] Park Place South. And that's where we  
22 located the TABCO rifle and also a Smith & Wesson 40 caliber  
23 handgun. And then tab number one, that's marked one, that  
24 was actually somewhat in the backyard of the first location.  
25 But it was in a flower bed area and that was by [REDACTED] South

Direct Examination of Mr. Buskirk by Ast. Sol. Kidd

1 Rhett and that was glock handgun that we located there.

2 Q. And I'm gonna flip through a number of photographs with  
3 you of those areas. Okay?

4 A. Okay.

5 Q. First I'm going to show you State's Exhibit Number 74.  
6 Do you recognize that?

7 A. Correct. That appears to be the residence that's on  
8 Park Place South.

9 Q. Okay. And State's Exhibit Number 75?

10 A. Correct. The power pole on the right-hand side, that  
11 is the general area of where the rifle and the Smith &  
12 Wesson were located.

13 Q. All right. This picture is pretty dark. State's  
14 Exhibit Number 76?

15 A. Yeah, it is.

16 Q. Tell me what you see there.

17 A. It is dark.

18 Q. Can you see what we're looking at there?

19 A. Yeah. That appears to be the handgun. Like I said,  
20 the angle is a little bit . . .

21 Q. So I'll show you State's Exhibit 77.

22 A. Okay.

23 Q. Is that what we're looking at there?

24 A. Yes. Yes. That's the Smith & Wesson.

25 Q. State's Number 781; same thing?



Direct Examination of Mr. Buskirk by Ast. Sol. Kidd

1 A. Correct.

2 Q. State's Exhibit Number 79?

3 A. That's the power pole that it was beside.

4 Q. State's Exhibit Number 80?

5 A. And that's the rifle that we located.

6 Q. State's Exhibit 81?

7 A. Another picture of that rifle.

8 Q. Now, when you came across these -- did you find these  
9 firearms first?

10 A. Correct. So what we did is once we found those two  
11 firearms there, we had crime scene respond that way they  
12 could come collect it, and they're the ones manipulating it.  
13 And then once crime scene photographed and took custody of  
14 those, then we continued the search. And that's when we  
15 found the third handgun.

16 Q. Okay. So did you ever touch the firearms?

17 A. I did not.

18 Q. Okay. So you just -- you found them, made sure no one  
19 else touched them until crime scene got there?

20 A. Correct.

21 Q. Okay. And State's Exhibit Number 82?

22 A. So that's the residence that the glock was found on; on  
23 South Rhett Avenue.

24 Q. Okay. State's Exhibit Number 83?

25 A. And that is the flower bed.

Direct Examination of Mr. Buskirk by Ast. Sol. Kidd

1 Q. State's Exhibit Number 84?

2 A. And that would be the glock that was found in that  
3 flower bed.

4 Q. And, finally, State's Exhibit Number 85?

5 A. That's a picture of it.

6 Q. Same thing with that firearm, did you ever touch that  
7 firearm?

8 A. No, sir.

9 Q. Okay. Just one more thing. I'm going to show you  
10 State's Exhibit Number 63. And just make sure we're looking  
11 at all of this in relationship to one another. So those  
12 two, number one and number two flags, those are the same  
13 ones you just described?

14 A. Yes, sir.

15 Q. And I guess that would be the -- is that the south side  
16 of the circle? Or maybe it could be ---

17 A. Well, here we're not seeing the street names. We're  
18 just seeing the state numbers for the streets. But, yes,  
19 this is the -- this would be South Rhett along the  
20 right-hand side of one and two.

21 Q. Okay. And let me try to get one more picture that --  
22 so I'm going to show you State's Exhibit Number 72. It's  
23 probably a little bit better. And do you know where in  
24 relationship to where you found those weapons the vehicles  
25 were disabled?

Direct Examination of Mr. Buskirk by Ast. Sol. Kidd

1 A. Right. So north of the picture is where one of the  
2 vehicles was. That was the silver Edge. And then to the  
3 left up by Park Circle where it actually says Park Circle to  
4 the left, that's where the red Dodge Charger was located.

5 Q. So just to make sure -- and you got a touchscreen in  
6 front of you. But I think what you're saying is have, what?  
7 The Charger right there?

8 A. No. The Charger would've been, from my recollection,  
9 closer to here.

10 Q. Okay.

11 A. In this area. And then ---

12 Q. Let me clear mine.

13 A. Yeah, clear those.

14 Q. So I don't know what -- hold on a second. All right.  
15 Let's try that. And now you can -- I'll just let you do it.

16 A. Okay. So from my recollection, the Charger would've  
17 been there. And then the Edge would've been, generally,  
18 about right there. If this is Montague; S-10-39, if that's  
19 Montague. Is that Montague?

20 Q. No.

21 A. No. Okay.

22 Q. Montague is the S-10-60.

23 A. All right. So erase that.

24 Q. All right.

25 A. Okay. So Montague would be here then. So this line

Direct Examination of Mr. Buskirk by Ast. Sol. Kidd

1 here is Montague. So the first vehicle, or the Charger, it  
2 would have been here, and then the other vehicle was further  
3 up by the ball fields within there.

4 Q. Okay.

5 A. I stand corrected.

6 Q. And so from a distance perspective from where the  
7 vehicles were to the guns, block, block and a half?

8 A. Yeah, around there. Across a field and into the  
9 adjacent homes.

10 Q. And that's residential neighborhoods right there;  
11 correct?

12 A. Correct. That area is.

13 Q. Did you run checks on the firearms?

14 A. I personally did not. I do have in my notes that two  
15 of them came back stolen. Either Champion would have  
16 obtained the serial number from crime scene and ran it at  
17 crime scene. I believe Champion, it would've been more  
18 appropriate for him to run those weapons.

19 Q. Okay. What kind of distance are we talking between  
20 where the -- oh, well, I guess first, what kind of distance  
21 are we talking about between where the silver and black  
22 Smith & Wesson was covered and the rifle?

23 A. So the silver Smith & Wesson, those two were literally  
24 within the same -- I mean within 2 or 3 feet of each other.

25 Q. Okay.

1 A. The glock itself was located on the other street behind  
2 that residence that we found the other ones in the yard of  
3 another. So, I mean, the distance there is probably, you  
4 know, 30, 40, 50 yards.

5 Q. Okay. So the rifle and the silver and black Smith &  
6 Wesson were only a couple of feet apart from each other?

7 A. Correct. Those were together by that park?

8 Q. So basically the same place?

9 A. Correct.

10 Q. And then the black glock was maybe 50 yards away?

11 A. Right. It was in a completely another yard on the  
12 other side of the street.

13 Q. And that would be where the number two is?

14 A. No. Number two is where the Smith & Wesson and the  
15 rifle were located.

16 Q. Okay.

17 A. Number one is where the glock was located.

18 Q. Gotcha.

19 AST SOL KIDD: I have no further questions for this  
20 witness, Judge.

21 THE COURT: Any questions of the witness?

22 MR. PRICE: Court's indulgence for one moment, please.

23 THE COURT: Yes, sir.

24 (Brief pause.)

25 CROSS-EXAMINATION

1 BY MR. PRICE:

2 Q. Good afternoon, Officer Buskirk. I'm Bentley Price. I  
3 represent Marvin Bryan. How are you doing today?

4 A. Good. How are you?

5 Q. Good. I don't have very many questions for you. But I  
6 just want to make sure that I have something clear. What is  
7 the distance from Park Circle, which is obviously a  
8 roundabout, to the number two?

9 A. You know, as far as where the vehicles were located or  
10 Park Circle itself?

11 Q. My question is is that where you know you go around  
12 Park Circle.

13 A. Uh-huh.

14 Q. And how far are the guns located away from the road  
15 itself? So if Park Circle is at my back and I'm standing in  
16 the middle of it, how far down do I have to go to be able to  
17 get to where the first set of guns are?

18 A. I would have to guess. But I'm saying maybe a hundred  
19 yards at the most, I'm thinking.

20 Q. Okay.

21 A. But that's Park Circle.

22 Q. That's completely fine. A hundred yards is fine. And  
23 then the other single gun is found another 50 yards?

24 A. Right.

25 Q. And, again, you indicated that the two cars where here

1 and here?

2 A. No, sir. No, sir.

3 Q. Say it again then.

4 A. Right. Do I have control of this?

5 Q. You do.

6 A. Okay. So the red car, somewhere right there.

7 Q. Okay.

8 A. The silver car is somewhere over here.

9 Q. Okay.

10 A. There's a ball field. If there was -- if that was a  
11 satellite image I'd probably be able to help you out a  
12 little bit better.

13 Q. No, that's fine. I'm trying to do it with my finger as  
14 well. I'm not doing -- I was trying to go. But if you were  
15 going here traveling here, you would have to go a hundred  
16 yards there to drop off the guns; correct?

17 A. Well, you can go straight because I want -- if I recall  
18 kind of line of sight, you don't have to do that big swoop  
19 that you just did because you could just come straight down.

20 Q. Okay.

21 A. You can cross the field because they play frisbee and  
22 stuff out there. So you can cross that field. As soon as  
23 you cross the road, you're right in their front yard.

24 Q. Okay. It's about a hundred yards away?

25 A. Again, I'm guesstimating.

Cross-Examination of Mr. Buskirk by Mr. Peper

1 Q. I'm okay with that.

2 A. Okay.

3 Q. I just want to make sure that we have the distance  
4 somewhat that we can all reflect on. Because, obviously,  
5 like you say, this isn't a satellite map. Okay. And when  
6 the call came out to you, do you recall what the call came  
7 out as?

8 A. Probably a homicide. Because I got a phone call.

9 Q. Oh, you got a phone call?

10 A. Right.

11 Q. Okay. So throughout your investigation, did you have  
12 any other involvement in this than just finding the guns and  
13 reporting them back to Champion?

14 A. No. Other than just being the on-call that gets called  
15 out there to make sure that, you know, that Detective  
16 Sergeant Kuechler has all the resources he needs. Other  
17 than investigating anything beyond that, no, sir.

18 MR. PRICE: Okay. Thank you very much.

19 THE COURT: Any questions for the witness?

20 MR. PEPER: Thank you, Your Honor. May it please the  
21 Court?

22 CROSS-EXAMINATION

23 BY MR. PEPER:

24 Q. Lieutenant Buskirk, Mark Peper. How are you?

25 A. Good. How are you?



1 Q. Good. I'm not going to mess with this thing, but if I  
2 -- is this south -- I'm sorry. Is that Durant Avenue?

3 A. I believe that's Durant Avenue.

4 Q. Well, I tell you what, if you look here.

5 A. Okay. So the opposite side would be yes.

6 Q. Okay. Right. Gotcha. So where you found the three  
7 weapons would be South Rhett?

8 A. South Rhett would be the closest cross street, correct.

9 Q. Okay. All right. Yeah, and thank you. Bad question  
10 I'm sorry. You didn't find the guns on South Rhett, did  
11 you?

12 A. No.

13 Q. Right. You kind of found them in between South Rhett  
14 and Durant. If you're talking about the two -- the guns  
15 were found in between Durant and South Rhett; right?

16 A. Yes.

17 Q. Okay.

18 A. Yes.

19 Q. Okay. Right. And I just wanted to clarify. Because  
20 you got the cars kind of being, you know, here and here  
21 approximately.

22 A. Well, again, I think that the yellow, the second one,  
23 ---

24 Q. Yeah.

25 A. --- that might be a little bit closer to the red.

1 Again, there's ball fields there, and so there's a reference  
2 that I could utilize a little bit better. But I think  
3 initially what I'm saying is the red car was over -- the red  
4 car was closer to Montague as they came off and hit the  
5 pilings there. And then the other car was further over into  
6 that general area.

7 Q. Okay. Okay. I gotcha. Because what I'm trying to  
8 figure out is -- I just want to make sure I understand your  
9 testimony. I'm going to use your dots. You would agree  
10 with me that those red dots aren't exact nor those yellow  
11 dots exact; right?

12 A. Correct.

13 Q. And we're just gong to have to ask ---

14 A. I would agree with that.

15 Q. Yeah. If the jury will forgive us a little bit. But  
16 you don't have -- to get out of Park Circle, right, you  
17 don't have to go directly down a street or directly down a  
18 street; right?

19 A. If you're on foot, no.

20 Q. Right. You're drawing. Thank you. If you're on foot.  
21 Right. I mean, you could run here. You could run here.  
22 You could run there. You could run there and then there and  
23 there and then there; right?

24 A. Sure.

25 Q. Right. Okay. Just like you can come this way, you can

1 go that way, you can go that way, and you can go that way;  
2 right? I mean, you're on foot.

3 A. Right.

4 Q. There's nothing obstructing you from running around the  
5 entire circle and through everything that separates each  
6 respective street off of them?

7 A. Sure.

8 Q. Right. Okay. I just want to make sure we're good on  
9 that. Now -- I'm sorry. This looks really bad, so let me  
10 just clear it out. There you go. All right. We won't  
11 embarrass ourselves anymore.

12 A. All right.

13 Q. When you found the three weapons, you ran two of them  
14 and two of them came back stolen; right?

15 A. I didn't run them.

16 Q. Well, I'm sorry ---

17 A. But I know that two were ran.

18 Q. Right. You know that one of the pistols came back  
19 stolen out of Goose Creek?

20 A. Correct. That was the silver Smith & Wesson.

21 Q. Right. You know that one came back stolen out of your  
22 agency, North Charleston?

23 A. Correct. That was the glock.

24 Q. Right. And then you know the rifle did not come back  
25 stolen?

1 A. Right.

2 Q. Okay. Do you know -- you don't know who owned the  
3 rifle?

4 A. I do not.

5 Q. Okay. All right. And I want to make sure I understand  
6 this. You did not touch any of those three weapons?

7 A. No, sir.

8 Q. Officer Champion did not touch any of those three  
9 weapons?

10 A. I don't -- not that I can recall.

11 Q. Okay.

12 A. Because, like I said, we called crime scene to let them  
13 handle that. So I would feel comfortable saying he  
14 shouldn't have.

15 Q. Right.

16 A. Unless it needed to be cleared for them and then, you  
17 know, that would ---

18 Q. It would --agree with me, would you not, it would  
19 100 percent violate all policies and procedures if you and  
20 Champion were to just reach out and touch them before  
21 calling ---

22 A. No, not necessarily. I mean, you know, that wouldn't  
23 have violated all policies and procedures as long as it's  
24 documented.

25 Q. Okay. But it wasn't documented because ---

1 A. Not on my end.

2 Q. Right. Because you didn't touch them?

3 A. Correct.

4 Q. Okay. Yeah. Okay. Thank you very much.

5 A. Okay.

6 THE COURT: Any redirect?

7 AST SOL KIDD: Briefly.

8 THE COURT: You may proceed.

9 REDIRECT EXAMINATION

10 BY AST SOL KIDD:

11 Q. And one of the reasons it wouldn't violate is because  
12 before crime scene will handle a weapon, they usually ask  
13 y'all to make them safe.

14 A. Correct.

15 Q. Is that right?

16 A. Correct.

17 Q. What is the process of making a weapon safe?

18 A. You remove the magazine, you pull the slide back just  
19 to ensure that there is no round in the slot or in the  
20 chamber that way you don't have an accident of it gets  
21 discharged and then getting hurt.

22 Q. And is that because crime scene personnel is not really  
23 trained in firearms?

24 A. A lot -- well, there's a few of ours that are  
25 civilians. So we have some other the law enforcement that

Redirect Examination of Mr. Buskirk by Ast. Sol. Kidd

1 can do it themselves; others, no.

2 Q. Just trying to find the satellite image for you. I  
3 apologize. (Brief pause.) One other thing, was it raining?

4 A. It had been, yes, sir.

5 Q. It had been raining. Because I believe on State's  
6 Exhibit 77 -- kind of self-explanatory -- moisture.

7 A. Correct.

8 Q. Do you remember when it was raining that day?

9 A. I do not. I'd be guessing.

10 AST SOL KIDD: Court's indulgence for just one more  
11 moment. One last chance to locate my satellite image.  
12 There it is.

13 Q. All right. I'm gonna show you what's been marked as  
14 State's 67. And you can't -- can you see where the guns  
15 were located in that photograph?

16 A. Not -- not really. I mean, a part of it looks like  
17 it's cut off. Because if I'm not mistaken, this is  
18 Montague, correct?

19 Q. Correct.

20 A. Yeah. So this would be South Rhett over on this side.  
21 So again a part of South Rhett is cut off and the foliage  
22 and everything. Because it's further back. Because you got  
23 this Park Place that you don't show there.

24 Q. Right.

25 A. So, yeah, you're not going to be able to see where the

1 guns were located.

2 Q. Correct. And I only offer this just because you  
3 mentioned the baseball fields might help you ---

4 A. Correct.

5 Q. --- from a spatial standpoint to know where the  
6 vehicles were.

7 A. Right. So, yeah, the first vehicle then would have  
8 been closer to this area. That would be the red Dodge  
9 Charger. And then the silver vehicle, I recall it was much  
10 closer to the ball fields over here.

11 Q. And Mr. Peper talked about pretty easy to run around.  
12 But there are sort of -- there's fences around the fields;  
13 right?

14 A. Correct.

15 Q. And then these are kind of open fields here?

16 A. They are.

17 Q. And then outside the box, so, you know the circle, Park  
18 Circle, and then sort of a square around the circle?

19 A. That's Park Place.

20 Q. Is kind of a park. Is that right?

21 A. Correct. Between Park Place and between Park Circle,  
22 if that's what you're talking about, where these fields are  
23 at, then that is open field area for people to congregate,  
24 play frisbee, things like that. And then within Park Circle  
25 itself, you do have the fenced off areas for the fields.

Redirect Examination of Mr. Buskirk by Ast. Sol. Kidd

1 Q. And then so when you go outside of the field areas into  
2 sort of, I guess, these areas, that's when it begins to get  
3 residential?

4 A. Correct.

5 Q. Is that right?

6 A. Correct. Yes, sir.

7 Q. And it's the residential area where you found the  
8 weapons?

9 A. Yes, sir.

10 Q. Were there fences around where the weapons were  
11 recovered?

12 A. No, sir. No, sir.

13 Q. So they were recovered in front yards?

14 A. Correct; front yards.

15 AST SOL KIDD: No further questions, Judge.

16 THE COURT: Any objection to the officer being excused?  
17 From the State?

18 AST SOL KIDD: No, ma'am.

19 THE COURT: From the defense? I'm sorry.

20 MR. PRICE: No, ma'am.

21 MR. PEPER: No, ma'am.

22 THE COURT: Officer, you're excused.

23 THE WITNESS: Thank you.

24 THE COURT: You're welcome. Would counsel approach for  
25 me, please.



1 (A bench conference was held off the record and out of  
2 the hearing of the jury panel.)

3 THE COURT: Madam Forelady, ladies and gentleman, we're  
4 going to take advantage of this break in testimony to take  
5 our lunch recess. We'll resume at a quarter of two. During  
6 the break, please do not discuss the case; please do not  
7 watch, read or listen to any media accounts about this case  
8 or do any independent research on the Internet; and please  
9 don't have any contact with anyone in or about the  
10 courthouse. That gives you about an hour and 15 minutes for  
11 lunch by the time you get out of the building. (Brief  
12 pause.) I had to check my math with my law clerk. One time  
13 I sent a jury to lunch for two hours because I can't count.  
14 And I was like where is the jury. And she was like you said  
15 like an hour from now. I was like why didn't you say  
16 something. That was a few years ago, though. I've gotten a  
17 little better since then. Please leave your notepads in  
18 your seats and we'll see you at a quarter of two.

19 (The jury exits the courtroom at 12:22 p.m.)

20 THE COURT: Anything we need to take up before up  
21 before lunch? From the State?

22 AST SOL KIDD: No, ma'am.

23 THE COURT: From the defense?

24 MR. PRICE: No, ma'am.

25 THE COURT: All right. Y'all have a good lunch. I'll

1 see you at a quarter til two.

2 (A lunch recess was taken at 12:23 p.m. The  
3 proceedings resumed at 1:47 p.m.)

4 THE COURT: State ready to proceed? Is the State ready  
5 to proceed?

6 AST. SOL. KIDD: We are. Yes, Your Honor.

7 THE COURT: Is the defense ready to proceed?

8 MR. PEPER: Yes, ma'am.

9 MR. PRICE: Yes, ma'am.

10 THE COURT: We want you to get your clients, of course.  
11 All right. The jury is right behind me. But wait until  
12 they're brought in before.

13 Who is the State's next witness?

14 AST. SOL. PATRICK: Dr. Cynthia Schandl.

15 THE COURT: Is Dr. Schandl here?

16 AST. SOL. KIDD: She is.

17 THE COURT: You need to go ahead and get her.

18 (Brief pause.)

19 THE COURT: All right. Do we have Dr. Schandl?

20 (State affirms.)

21 THE COURT: Okay. Perfect. Now, I say this in a  
22 cautionary manner, I assume this testimony will be graphic.  
23 And so if anybody is going to be upset by it, you need to go  
24 ahead and excuse yourself from the courtroom and during the  
25 testimony. So if you think you're not going to be able to

1 tolerate, there's no shame in that. I would just ask that  
2 there be no audible reactions to the testimony.

3 Are there going to be any pictures?

4 AST. SOL. PATRICK: No, Your Honor. There are pictures  
5 of bullet fragments; nothing of the victim, Your Honor.

6 THE COURT: Perfect.

7 AST. SOL. PATRICK: It will be descriptive.

8 THE COURT: Yeah, I would imagine so. All right. You  
9 can bring in the jury.

10 COURT REPORTER: So you've got 87 through 92.

11 THE COURT: Are those without objection?

12 AST. SOL. PATRICK: Yes, Your Honor.

13 MR. PEPER: Yes, ma'am.

14 THE COURT: Are 87 through 92 without objection?

15 MR. PEPER: Yes, ma'am.

16 THE COURT: Mr. Price, are 87 through 92 without  
17 objection?

18 MR. PRICE: I'm sorry. I apologize.

19 THE COURT: 87 through 92, are those without objection?

20 MR. PRICE: They are without objection. We've seen  
21 them.

22 THE COURT: Okay. Without objection, marked and  
23 admitted.

24 (State's Exhibit Numbers 87 through 92 were received  
25 into evidence.)

1 THE COURT: And after Dr. Schandl, who is your next  
2 witness gonna be?

3 AST. SOL. KIDD: At that point, Judge, we would publish  
4 the 911 calls, not sure, probably 28 to 25 minutes.

5 THE COURT: Then who is your next witness?

6 AST. SOL. KIDD: Then I would do crime scene Detective  
7 Tiffany Adams.

8 THE COURT: Okay. So we got ---

9 AST. SOL. KIDD: I think she'll probably need the rest  
10 of the afternoon.

11 THE COURT: Okay.

12 (The jury enters the courtroom at 1:51 p.m.)

13 THE COURT: Ladies and gentlemen, I hope y'all had a  
14 pleasant lunch recess. Looks like you got back just in time  
15 before the rain started. We'll resume testimony. The State  
16 may call its next witness.

17 AST. SOL. PATRICK: The State calls Dr. Cynthia  
18 Schandl.

19 (CYNTHIA SCHANDL, was duly sworn and provided the  
20 following testimony.)

21 THE COURT: You may proceed.

22 DIRECT EXAMINATION

23 BY AST. SOL. PATRICK:

24 Q. Dr. Schandl, what is your occupation?

25 A. I'm a pathologist, which is a medical doctor who

1 practices the study of disease.

2 Q. Where do you work?

3 A. I work at the Medical University of South Carolina in  
4 the Department of Pathology and Laboratory medicine.

5 Q. How long have you been working there?

6 A. I've been employed as faculty since 2004. I began my  
7 journey there in 1991.

8 Q. Talking about the training, can you describe to us  
9 where your training is?

10 A. Sure. So I received a bachelor's degree in biology at  
11 California State University in San Bernardino in California.  
12 And after that, I went to the combined M.D. and a Ph.D.  
13 program here at the Medical University of South Carolina.  
14 That was an eight-year program through medical school and  
15 graduate school. I received my M.D. and Ph.D. in 1999 and  
16 then proceeded to receive post-graduate training in the  
17 field of pathology and laboratory medicine as well as a  
18 specialized year in the field of forensic pathology. And  
19 follow all of that training, I became board-certified in  
20 anatomic pathology, clinical pathology, and forensic  
21 pathology with the American Board of Pathology.

22 Q. How many autopsies would you say you have performed  
23 over the course of your career?

24 A. More than 2000.

25 Q. Have you ever been qualified as an expert in forensic

1 pathology before?

2 A. Yes.

3 Q. How many times would you say?

4 A. I don't know, hundreds.

5 AST. SOL. PATRICK: Your Honor, at this time we would  
6 tender Dr. Schandl as an expert in the field of forensic  
7 pathology.

8 THE COURT: Any exceptions or questions?

9 MR. PRICE: None from Mr. Price, Your Honor.

10 MR. PEPPER: No, ma'am.

11 THE COURT: So admitted without objection. You may  
12 proceed.

13 AST. SOL. PATRICK: Thank you, Your Honor.

14 THE COURT: You're welcome.

15 Q. Did you have the occasion to complete the autopsy of  
16 Franklin Williams, Jr.?

17 A. Yes, sir.

18 Q. I'm showing you this diagram. Do you recognize this?

19 A. Yes. That is similar or the same as the diagram that  
20 we use when we're looking at a body for autopsy. We use  
21 that to diagram things: possibly injuries, maybe scars, or  
22 whatever it is that we need to diagram on a body.

23 AST. SOL. PATRICK: Your Honor, this is State's 92.  
24 May I publish it for the jury?

25 THE COURT: You may proceed.

1 Q. All right. Now using that little touchscreen diagram  
2 in front of you, can you walk us through your findings for  
3 the autopsy of Mr. Williams?

4 A. Sure. I can certainly walk you through the major  
5 findings. So for Mr. Williams's autopsy his case was about  
6 multiple gunshot wounds. And so it was interesting in that  
7 most cases of multiple gunshot wounds it will be, you know,  
8 a single entrance, then maybe an exit wound if it happens to  
9 go all the way through. Whereas in Mr. Williams's case he  
10 had a bunch of little entrance wounds that suggested that  
11 something had broken up before it got to him. So it's  
12 shrapnel, pieces, little pieces, of projectile injuries or  
13 things that came to hit him. So he appeared like he was  
14 essentially bombarded with little bits of things with a few  
15 larger things from the right to the left. And so I'll try  
16 to diagram that as best I can with the ones that are more  
17 major standing out.

18 So there was a gunshot wound to the right elbow. So  
19 right about here. And that gunshot wound went sort of in an  
20 upward direction and landed somewhere also in the arm. And,  
21 essentially, fractured the bones around the elbow. So  
22 there's three bones that join up there. The humerus is the  
23 long bone. And then there is the radius and all that that  
24 make up the forearm bones. So all about that elbow joint  
25 there were fractures of those bones from that projectile.

1 So there was a single hole. I only did retrieve a bullet  
2 separate by a piece of metal from the bullet and a jacket  
3 from the bullet that seemed to be an association of a --  
4 wound tract.

5 There were in addition -- and I don't want to muddy  
6 this up too much -- but a number of little, dip, dip, dip  
7 from that shrapnel, the little bits of things flying through  
8 the air towards him. Also on that side and a couple on the  
9 back which didn't yield any retrievable fragments. So the  
10 way that we know where we have to look to get bullets for  
11 evidence from a body is by using X-rays. Bullets are metal,  
12 generally speaking, and so they're radiopaque. They're  
13 bright white on an x-ray so we can see what they look like  
14 and where they are by using two sets of x-rays one from  
15 front to back and one from side to side. So we can localize  
16 it in three-dimensional space. So those X-rays show the  
17 bullet that was in there in the arm. And then they showed  
18 one more bullet over here in the shoulder. And I'm gonna  
19 try to show you how that one got there.

20 So the second what looked like major gunshot wound  
21 pathway and the one that caused his death was entering here  
22 at the right side of the neck. Again, it was similar to the  
23 arm in that there was a central rather large gaping wound  
24 that I believe that the main bullet went through. But then  
25 there are also a number of little tiny shrapnel injuries;



1 either scrapes or little punctures, those sorts of things  
2 also on the face.

3       The main projectile went this way as you might imagine  
4 because that's the way his body is. And it goes essentially  
5 through his neck, that way. And on its pathway it  
6 transected, broke apart the right carotid artery. So that's  
7 the main artery that goes up to the head. It broke through  
8 one of the tonsils, the epiglottis, which is that little  
9 flappy thing way in the back of your throat that they look  
10 at when they're trying to intubate people. Doesn't matter  
11 what it is, but at the back of the throat. And then it came  
12 through and also took out the left carotid artery on its  
13 way. And then it also fractured the left mandible -- so the  
14 jaw as well -- before exiting here at the left side of the  
15 neck. There is a wound here, sort of there, a little bit  
16 further medial. A little bit further towards his middle of  
17 his body. I don't want to, you know, mess this all up. But  
18 it's hard to point exactly where I want it. And it is  
19 possible, maybe probable. I thought it was probable that  
20 this bullet then continued through the air into that hole.  
21 And was the one that we recovered here in the arm. So then  
22 there was a bullet that we recovered in the arm. And the  
23 injuries to the carotid arteries were certainly sufficient  
24 to cause death.

25 Q. I mean, you can't say with any specific -- can't

1 guarantee that's the same exit -- or that's the same wound  
2 path, though; right?

3 A. No. Absolutely not. Since it -- you know, we know  
4 that it went out. It's certainly possible that that round  
5 kept going somewhere, and then another round hit him in the  
6 shoulder. And that's the bullet that we found. But you  
7 can, you know -- when I was performing the case, I could  
8 easily sort of connect the dots from here to here to here.  
9 So I thought it was possible or probable that that was --  
10 that those are connected, but not 100 percent.

11 Q. Can you explain to us someone taking a neck injury like  
12 that, how long would it take for them to be deceased from  
13 there?

14 A. Well, deceased is a hard thing to quantify. But once  
15 -- essentially, when we take out the carotid arteries, you  
16 lose all blood pressure to your head and the major blood  
17 flow to your head. You still have some blood flow from the  
18 basilar arteries in the back. But presumably he would have  
19 become unconscious fairly rapidly if not immediately. And  
20 then as his brain started -- over time, some say five  
21 minutes, some say ten minutes, brain death would've  
22 occurred. So in a fairly finite small time period events.

23 Q. What about, like, blood loss in their surrounding area?  
24 Would that have, you know, created kind of quite the scene,  
25 I guess?

1 A. Well, it's interesting about gunshot wounds and blood  
2 at the scene. From looking at the body, you don't -- you  
3 can't necessarily tell just what would've happened at the  
4 scene. Certainly, with too high pressure, arteries severed,  
5 you would expect there to have been quite a bit of bleeding.  
6 But whether that bleeding came out of his neck or stayed  
7 inside his body is not something that I can tell looking at  
8 the body after the fact. So it may have been very bloody  
9 because of the high-pressure severed arteries, or may most  
10 have been inside of his body. But should have bled quite  
11 frantically in one way or the other.

12 Q. Let me bring you back to -- you said you extracted a  
13 couple of bullets from the body.

14 A. Yes.

15 Q. Did you label those bullets? Do you recall?

16 A. No. They are not labeled. I took photographs of them.

17 Q. You took photographs.

18 A. I labeled them with -- to designate one from the other,  
19 one and two. But I didn't label the bullets themselves.

20 Q. That's what I meant, those one and two.

21 AST. SOL. PATRICK: Your Honor, this is State's 87, 88,  
22 and 89, bullet label number one.

23 Q. Can you describe to us where you pulled that bullet  
24 from.

25 A. Let me make sure that I don't have them mixed up. I'm

1 going to look at my autopsy report and make sure that I have  
2 one and two corresponding with the right pathway. I'm  
3 pretty sure I know, but, you know, I hate to make a mistake.  
4 All right. So the pathway that went through his neck is the  
5 one that I think that then went through his shoulder is what  
6 this bullet is from. So to be specific, this is connected  
7 with the gunshot wound to his shoulder, possibly also  
8 connected to the one to his neck.

9 Q. Showing you State's 88. Is that the same bullet?

10 A. Yes.

11 Q. And State's 89. Same thing?

12 A. Yes. So I'm just taking pictures of the different  
13 sides to give an idea of the different measurements  
14 depending on however you're looking at it.

15 Q. And, finally, I'm showing you two pictures, State's  
16 two; State's Exhibit 90. Where did you extract this bullet  
17 from?

18 A. This was the one that went into his elbow and into his  
19 arm. And I mentioned that it had separated into two pieces.  
20 You can see on top there's something that's kind of coppery  
21 colored, and that's the jacket. And then there's a gray  
22 metal thing beneath that and that's the core of the bullet.  
23 So those were the main fragments that I was able to get out  
24 of the arm.

25 Q. Finally, showing you State's 91. Is that the same

1 bullet you just described?

2 A. Yes. Just a different view if it.

3 Q. So that top copper piece, that's the jacket?

4 A. That's correct.

5 Q. And, again, where did you pull that one from?

6 A. That was from his right arm.

7 AST. SOL. PATRICK: Your Honor, I have no further  
8 questions for this witness.

9 THE COURT: And questions for the witness?

10 MR. PRICE: No, ma'am. Nothing from us.

11 THE COURT: Mr. Peper?

12 MR. PEPER: No, ma'am.

13 THE COURT: Any objections to Dr. Schandl being  
14 excused?

15 AST. SOL. KIDD: No, Your Honor.

16 THE COURT: Doctor, you're excused. Call your next  
17 witness.

18 AST. SOL. KIDD: Your Honor, at this time we would like  
19 to publish the 911 recordings which I believe have been  
20 admitted without objection.

21 THE COURT: You may proceed. Make sure you identify  
22 the exhibit number for the court reporter.

23 AST. SOL. KIDD: State's Exhibit Number 64.

24 (The 911 call starts play at 2:04 p.m. and ends at 2:37  
25 p.m.)

1           AST. SOL. KIDD:   Your Honor, may we approach?

2           THE COURT:   Uh-huh.

3           (A bench conference was held off the record and out of  
4           the hearing of the jury panel.)

5           THE COURT:   Madam Forelady, ladies and gentlemen, we  
6           need to take a quick technical break.   During the break,  
7           please do not discuss the case and please leave your  
8           notepads in your seats.   We appreciate your patience.

9           (The jury exits the courtroom at 2:38 p.m.)

10          AST. SOL. KIDD:   Thank you, Your Honor.

11          THE COURT:   You're welcome.   We'll be at ease for a few  
12          moments.

13          (A brief recess was taken at 2:38 p.m.   The proceedings  
14          resumed at 3:06 p.m.)

15          THE COURT:   State ready to proceed?

16          AST. SOL. KIDD:   We are, Judge.

17          THE COURT:   Defense ready --- defense ready to proceed?  
18          I guess once you get your folks in here.

19          MR. PEPER:   Yes, ma'am.

20          (Brief pause.)

21          AST. SOL. KIDD:   And I'll wait until Mr. Price gets  
22          back, Your Honor, but while the jury is out there is a  
23          couple of photos that they have objections to.   It might be  
24          good to hear it before ----

25          THE COURT:   I'll deal with it when them when he gets

1 back.

2 AST. SOL. KIDD: And I think Mr. Price is back.

3 (Brief pause.)

4 THE COURT: I've ordered lunch for the jury tomorrow.  
5 So you all should plan accordingly. I've asked that it be  
6 delivered by 12:30, and we're going to take probably some of  
7 what of an abbreviated break. It's suppose to be storming  
8 tomorrow. It's storming. It's already started to rain and  
9 I'm gauging how heavily it rains and when it's going to be  
10 high tide. So we'll see how long we go today.

11 Now, what were you saying?

12 AST. SOL. KIDD: Judge, when we marked all the exhibits  
13 pretrial, the defense objected to State's Number 17 -- I  
14 apologize. I'm going in backwards order -- 11, 9, and 8.  
15 So 8, 9, 11, and 17.

16 THE COURT: Uh-huh.

17 AST. SOL. KIDD: And this would be the witness I would  
18 ---

19 THE COURT: I need to see what they are before I can  
20 make any decisions about them.

21 AST. SOL. KIDD: Yes, ma'am. May I approach?

22 THE COURT: Uh-huh.

23 AST. SOL. KIDD: And they are crime scene photos.

24 THE COURT: Let me look at them first, please.

25 (Brief pause.)

1 THE COURT: Okay. What is the Number 8 suppose to  
2 show?

3 AST. SOL. KIDD: And if I could -- I think all of them  
4 are generally the same ---

5 THE COURT: I need you to answer my specific question.  
6 What is Number 8? What would you be seeking to show through  
7 Number 8?

8 AST. SOL. KIDD: So in the photographs of the vehicle,  
9 it was taking during the search warrants. It was starting  
10 to rain. So they rolled up the driver side -- or the front  
11 passenger window. And there are bullet holes in the window.  
12 I think there is an issue ---

13 THE COURT: I need you to address Number 8  
14 specifically.

15 AST. SOL. KIDD: Right.

16 THE COURT: What is it that you're seeking to show in  
17 Number 8?

18 AST. SOL. KIDD: So I believe there is an issue as to  
19 whether that window was up or down during the ---

20 THE COURT: Is that an issue?

21 MR. PEPER: It hasn't been through testimony yet. So I  
22 don't have an answer to that, Judge.

23 THE COURT: Well, if it's going to become an issue, he  
24 has the right to anticipate it. So the question is a little  
25 more direct than that. Is it an issue whether the window



1 was up or down?

2 MR. PEPER: The passenger window of the Charger?

3 THE COURT: I guess this is the passenger window.

4 MR. PEPER: Is that the red ---

5 THE COURT: Yes. Uh-huh.

6 MR. PEPER: I don't think that's an issue.

7 THE COURT: So what are you seeking to show with it?

8 AST. SOL. KIDD: Mr. Peper already alleged when Mr.  
9 Capers was on the stand that the first loudest shots came  
10 from the Charger. I think whether or not the window was up  
11 or down is very important.

12 THE COURT: So why do you need to show the victim to  
13 show if the window was up or down?

14 AST. SOL. KIDD: Because that is the only photo -- I  
15 mean ---

16 THE COURT: You can redact this.

17 AST. SOL. KIDD: --- from the photograph of the scene.

18 THE COURT: You can redact it. They have all kinds of  
19 Photoshop, all kinds of things. People make themselves look  
20 more beautiful online all the time. They got all those  
21 tools to do all these things. Or you can just use a little  
22 slip of paper and cover it. It's not -- the only reason you  
23 would show that would be to inflame the passions of the  
24 jury. It's a very graphic photo. And if your only purpose  
25 is to show that the window as down during the search, you

1 can accomplish that without showing the victim. I would  
2 imagine the bullet entry into the car is relevant and would  
3 be germane. And that is shown in the photo. But I don't  
4 see any evidentiary purpose in showing him.

5 AST. SOL. KIDD: I also believe, you know, obviously in  
6 a murder case, malice is a large part of my ---

7 THE COURT: It is. But you should have shown that  
8 through your medical examiner, and you chose not to. But  
9 I'm going to deal with each photo one at a time. There's a  
10 method to every thing I do.

11 AST. SOL. KIDD: Yes, ma'am.

12 THE COURT: That's why I ask questions very  
13 specifically.

14 AST. SOL. KIDD: Yes, ma'am.

15 THE COURT: So if the purpose is to show that the  
16 window was down, then why does he need to be shown? That  
17 doesn't show malice.

18 AST. SOL. KIDD: Because the only contemporaneous photo  
19 of that window has the victim in it.

20 THE COURT: Then you need to redact him from that  
21 photo, and that's Number 8. Is there any exception to the  
22 victims being redacted from that photo?

23 MR. PEPPER: Well, I would just say that it's cumulative  
24 -- if the point of it is to show the bullet hole, it's  
25 cumulative to other photos ---

1 THE COURT: He said it's being shown to show that the  
2 window was down and that it was not up. And its' introduced  
3 to refute any indication that somehow the individuals in the  
4 red Charger precipitated the shooting.

5 MR. PEPER: We believe it's cumulative to other photos  
6 for that purpose.

7 THE COURT: Okay. Mr. Price, you have any objections?

8 MR. PRICE: Your Honor, there are other photos that we  
9 could actually show that show that the window was down  
10 without the victim being in it. So, obviously ---

11 THE COURT: If I redact them from the photo, what  
12 difference does it make?

13 MR. PRICE: It doesn't. I guess my argument would  
14 simply be just redact one and exclude the other tree.

15 THE COURT: Well, I'm going t deal with each photo one  
16 at a time.

17 MR. PRICE: Redacting is not a problem.

18 THE COURT: Do you have any objection to Number 8?

19 MR. PRICE: Not if it's redacted.

20 MR. PEPER: No, Your Honor.

21 THE COURT: So with the redaction, it will be marked  
22 and admitted. Have the original marked as a Court's  
23 exhibit. So that will be Court's next in line, whatever  
24 number that is.

25 (State's Exhibit No. 8, Redacted Photograph, was

1 received into evidence.)

2 (Court's Exhibit No. 2, Unredacted State's 8

3 Photograph , was marked for identification.)

4 THE COURT: What purpose would you be seeking to  
5 introduce Number 9?

6 AST. SOL. KIDD: So Number 9 is a directionality. Once  
7 again, I think it's two things. It's malice. I think it's  
8 directionality of the gunshots largely in part from after  
9 the cars were disabled. And that I believe what you're  
10 seeing there is additional gunshots from the direction of  
11 the Ford Edge back towards to vehicle. And I think it's  
12 important because it shows the vehicles in the place where  
13 they were with those bullet holes, at least according to the  
14 State's theory ---

15 THE COURT: Why do you need then -- if that's the case,  
16 why do you need 17 and 9? Because they show the same thing.  
17 One is just far away and one is close up.

18 AST. SOL. KIDD: Can I see 17. I apologize. Well, and  
19 my only position would be, would be malice. You know, I  
20 don't think any photograph has one single purpose. You  
21 know, I think there's obviously much more graphic photos  
22 than those that I ---

23 THE COURT: No. I've been doing this a long time. It  
24 was pretty graphic. I've seen them all.

25 AST. SOL. KIDD: There is much more ---

1 THE COURT: No.

2 AST. SOL. KIDD: --- that I've chosen not to try to  
3 enter.

4 THE COURT: Oh, you mean in this case?

5 AST. SOL. KIDD: Yes, ma'am. And, you know, I've tried  
6 pare it down. I've chosen not to put autopsy photos in for  
7 that reason because I think ---

8 THE COURT: Well, that was wise not to put autopsy  
9 photos in because they really don't serve a purpose. When  
10 you have as descriptive -- a recitation from a medical  
11 examiner and diagrams, Supreme Court says that's all you  
12 need. You don't anything more than that. And that other  
13 than that, the purpose of photos is really to arouse the  
14 passions of the jury. You have to be very careful with  
15 photographs.

16 The other thing that concerns me is the cumulative  
17 nature. If you want to show the directionality of the  
18 bullets, which I think is relevant, it's germane, it would  
19 go to refute certain positions that the defense may well  
20 take. And it also proves the elements of your case in chief  
21 which is that the direction of these bullets were fired and  
22 the way in which they fired into the vehicle, I don't have a  
23 problem with that. But you need to pick one of them because  
24 one is close up and one is far away. You don't need both of  
25 them.

1           AST. SOL. KIDD: And the only other explanation I would  
2 offer, Judge, is that we heard from a witness inside this  
3 car. I believe that the -- a picture is worth a thousand  
4 words. And when he described the scene that he lived  
5 through, and how that will impact his testimony ---

6           THE COURT: I don't think you need a picture to draw a  
7 picture when somebody describes it: the way his head was  
8 laid back and what was full of -- I don't think it takes  
9 much imagination to figure that out.

10          AST. SOL. KIDD: Well, it's not about imagination.  
11 It's being able to understand what that witness lived  
12 through impacted him.

13          THE COURT: That's not an element of -- his feelings  
14 are not an element in this case.

15          AST. SOL. KIDD: But not his feelings, but his  
16 testimony is. And how living through something like that  
17 would impact his testimony and his willingness to be  
18 forthright in his testimony.

19          THE COURT: I don't know that you need a picture for  
20 that. I don't have a problem with Number 17 as long as it's  
21 in black and white. Because it really doesn't show anything  
22 but the T-shirt of the victim and where his body is  
23 positioned after the car came to rest. Is there any  
24 exception to Number 17 in black and white?

25          MR. PEPER: If I understand your ruling, that means

1 Number 9 would not come in?

2 THE COURT: Haven't talked about Number 9 yet.

3 MR. PEPER: Okay. I thought I heard you say 17 or 9,  
4 and so . . .

5 THE COURT: Well, they're cumulative. But he does have  
6 a point. He can show malice, he just can't show it in  
7 color. But I got to study this picture a little bit.

8 MR. PEPER: Could I see it?

9 THE COURT: Uh-huh. And then why -- for what purpose  
10 would you be offering Number 11?

11 AST. SOL. KIDD: Number 11 is?

12 THE COURT: This is Number 11.

13 AST. SOL. KIDD: Just the opposite side of the car.  
14 The damage to the vehicle. I don't believe that one is  
15 graphic.

16 THE COURT: Is there any exception to Number 11?

17 MR. PEPER: Judge, we have no exception to 17 in a  
18 black and white form.

19 THE COURT: Okay.

20 MR. PEPER: Thank you.

21 THE COURT: You're welcome.

22 MR. PEPER: This is just cumulative to 17. I mean,  
23 it's just a different angle.

24 THE COURT: Well, it's showing the opposite side of the  
25 car and how it came to rest. I think in black and white, I

1 don't have problem with that.

2 MR. PEPER: I would agree. Thank you.

3 THE COURT: You're welcome. Any exception, Mr. Price?

4 MR. PRICE: No, ma'am.

5 THE COURT: Okay. Number 11 will come in black and  
6 white. The color photo will be marked as a Court's exhibit.  
7 Number 17 will likewise come in as black and white. The  
8 color photo will be marked as a Court's exhibit. And I need  
9 to think a little bit about Court's Number 9. And 17 and 11  
10 are coming up in without objection in black and white.

11 MR. PEPER: Yes, ma'am.

12 (State's Exhibit Numbers 11 and 17, Black and White  
13 Photographs, was received into evidence.)

14 (Court's Exhibit Number 3, Color Photograph of State's  
15 11, and Court's Exhibit Number 4, Color Photograph of  
16 State's 17, were marked for identification.)

17 THE COURT: What would be the basis of the objection to  
18 Number 9?

19 MR. PEPER: 403, Judge. It's just extremely  
20 prejudicial. And, again . . .

21 THE COURT: I'm listing.

22 MR. PEPER: What little probative it has certainly does  
23 not outweigh the prejudicial effect, the goriness, et  
24 cetera. Especially given the cumulative nature of the  
25 evidence that has been concealed.



1 THE COURT: I'll take Number 9 under advisement. I  
2 need to study that a little bit. You need to have those  
3 marked as Court's exhibits.

4 AST. SOL. PATRICK: Your Honor, may I approach?

5 THE COURT: Yes, sir.

6 AST. SOL. PATRICK: I just want to show these photos to  
7 my investigators so he can redact them, black and white.

8 THE COURT: That's fine. We just need to print those  
9 in black and white, and then they need to be marked as  
10 Court's exhibits.

11 AST. SOL. PATRICK: Do you have Court's 8? Sorry,  
12 Court's 2. I'm sorry.

13 COURT REPORTER: So Court's 3 is going to be Number 11.

14 THE COURT: She should have Court's 8 -- I mean,  
15 State's 8.

16 AST. SOL. PATRICK: State's 8. I've got it in my hand.

17 THE COURT: That will be a Court's exhibit. Let me see  
18 Court's -- let me see Number 8 again.

19 (Brief pause.)

20 THE COURT: All right. Are we ready to proceed?

21 AST. SOL. KIDD: We are, Your Honor. However, could  
22 give me, my investigator, just one minute to make these  
23 black and white copies.

24 THE COURT: Are those the first questions you're going  
25 to be asking the witness?

1           AST. SOL. KIDD: They're not the first questions, but  
2 I'm not sure how the court reporter feels about me removing  
3 exhibits from the ---

4           THE COURT: You're not going to be able to take them  
5 out of the courtroom once they've been marked. You don't  
6 have those on your computer?

7           AST. SOL. KIDD: I mean, we do.

8           (Brief pause.)

9           THE COURT: All right. Are we ready to proceed?

10          AST. SOL. KIDD: Yes, ma'am.

11          THE COURT: Madam Court Reporter, do you have the  
12 exhibits back?

13          COURT REPORTER: I do. The only one is 9. Do you have  
14 9 up there?

15          THE COURT: I have 9.

16          COURT REPORTER: Okay. I do have them.

17          THE COURT: All right. Where is your witness?

18          AST. SOL. KIDD: She's right here.

19          THE COURT: Okay. Go ahead and bring the jury. And  
20 who is your next witness?

21          AST. SOL. KIDD: Crime scene tech, Tiffany Adams.

22          (The jury enters the courtroom at 3:24 p.m.)

23          THE COURT: Ladies and gentlemen, we appreciate your --  
24 you may be seated. We appreciate your patience. We are now  
25 going to resume testimony. You may call your next

1 witnesses.

2 AST. SOL. KIDD: Thank you, Your Honor.

3 THE COURT: You're welcome.

4 AST. SOL. KIDD: The State calls Tiffany Adams.

5 THE COURT: Ma'am, if you would come forward to be  
6 sworn.

7 (TIFFANY ADAMS, was duly sworn and provided the  
8 following testimony.)

9 THE COURT: You may proceed.

10 AST. SOL. KIDD: Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY AST. SOL. KIDD:

13 Q. Good afternoon, Ms. Adams?

14 A. Good afternoon.

15 Q. So before we dig into this, I like for you to just tell  
16 the jury a little bit about yourself. Where you're from?  
17 Where do you work? What you do?

18 A. I was born and raised here in Charleston, South  
19 Carolina. I'm a crime scene technician for the City of  
20 North Charleston. I've been with the agency for four years.

21 Q. All right. So you worked for North Charleston as a  
22 crime scene tech the whole time?

23 A. Yes.

24 Q. For four years. Tell a little bit about what a crime  
25 scene take does.

Direct Examination of Ms. Adams by Ast. Sol. Kidd

1 A. A crime scene technician will respond out to anything  
2 that is deemed a crime such as burglaries. It could be  
3 breaking and entering into cars, breaking and entering into  
4 the residents. We go out; we process the scene. We collect  
5 evidence if there's any evidence on the scene. If there is  
6 a shooting, we go out and collect evidence, processes the  
7 scene as well. So anything that's deemed a crime that  
8 requires crime scene to come out and process, photograph the  
9 scene.

10 Q. And so one of the things you do is take photographs?

11 A. Yes.

12 Q. And do you recall getting involved in the shooting that  
13 occurred in Park Circle on November 22, 2015?

14 A. Yes. I responded out to Park Circle by via call out.  
15 We have call out once out of the month where we work 24  
16 hours but not on the weekend. So we have a call out  
17 weekend. So I responded via call out.

18 Q. All right. So you were the lucky one?

19 A. Yeah.

20 Q. Okay. So when you first arrived on the scene, what's  
21 going on? What time is it? What do you -- how do you  
22 approach a crime scene?

23 A. I received a call. When we're on call out, we receive  
24 a call via phone call where we respond out and we meet with  
25 the responding officer. It was out at Park Circle. It was

1 dark. The weather was dreary. We were expecting rain.  
2 When I got out, the first thing we do grab our cameras, put  
3 our gloves on, meet with the responding officer to get a  
4 rundown of the events of the incident that took place.  
5 Started photographing. If there is evidence that could be  
6 marked, go ahead and mark the evidence and collect. And we  
7 wait for the arrival of the coroner who takes precedence of  
8 the decedent.

9 Q. Okay. I'm going to start going through some of the  
10 photographs you took that night. With each one I put up, if  
11 you could just tell the jury what we're looking at, why it's  
12 relevant, things of that nature. All right?

13 A. Okay.

14 Q. I'm going to start what has been marked and admitted  
15 into evidence -- I think it's pretty self-explanatory --  
16 State's Exhibit Number 1.

17 A. So what you're looking at as soon as we come on we try  
18 to find and identify for documentation purposes, we're at  
19 Park Circle and East Montague Avenue.

20 Q. Might be common sense. Is this in Charleston County?

21 A. This is in the city of North Charleston.

22 Q. Which is in Charleston County?

23 A. Charleston County.

24 Q. Show you State's Exhibit Number 2. Do you see what --  
25 and that's dark. I apologize. That might make it darker.

Direct Examination of Ms. Adams by Ast. Sol. Kidd

1 State's Exhibit 2. And I go ahead and move a little bit  
2 more forward, State's Exhibit Number 3?

3 A. So after taking photographs of the identifier of where  
4 we are, I'm now taking photographs of the overall scene.  
5 This is the red Charger that's on the sidewalk of the inner  
6 circle of Park Circle.

7 Q. And I might have jumped ahead a little bit in time:  
8 State's Exhibit Number 4 and State's Exhibit Number 5. Same  
9 thing?

10 A. So what I'm doing is I'm taking far photographs,  
11 medium, and then you'll see close-ups of the vehicle.

12 Q. So are you taking photographs kind of as you approach  
13 the vehicle? Is that ---

14 A. Yes.

15 Q. So I really didn't put them in the order that you took  
16 them. But you're first one would have been furthest away,  
17 and as you walk closer to the vehicle, you continued taking  
18 photographs?

19 A. Yes.

20 Q. Okay. State's Exhibit Number 6: Can you just describe  
21 what we're looking at there.

22 A. So this is still the Dodge Charger. We go around the  
23 vehicle and photograph all views of the vehicle. And this  
24 is the right side of the Charger.

25 Q. State's Exhibit Number 7: And before we go to 7, see

1 any bullet holes in Number 6?

2 A. On the back rear, above the handle, there is a little.

3 Q. To you see any in the, kind of, the trunk area of the  
4 vehicle? They're kind of hard to see.

5 A. There should be two. There's one on the left side and  
6 then also around the right side of the spoiler of the trunk.

7 Q. And as you just put a dot on that screen, there's like  
8 a clear button. Do you see it?

9 A. (No response.)

10 Q. No. I mean like -- so feel free whenever I put a photo  
11 up to write. And then when you want to erase it and clear  
12 the screen, just do that.

13 A. Okay.

14 Q. Okay?

15 A. All right.

16 Q. So State's Exhibit Number 7.

17 A. So this is still the right side of the Charger.  
18 Getting photographs of the decedent and the location of  
19 where he is in the vehicle and still getting damages that  
20 may be captured in this frame.

21 Q. State's Exhibit 10?

22 A. This is showing the car. It is still the red Charger  
23 at rest. This is now looking at the left front of the  
24 vehicle. And you're seeing where the tire is missing and  
25 where the car is at rest.

Direct Examination of Ms. Adams by Ast. Sol. Kidd

1 Q. State's Exhibit Number 12?

2 A. As we made reference earlier to the bullet holes: here,  
3 there, and here.

4 Q. Okay. State's Exhibit 13? Jus the same?

5 A. And this is just showing a close-up of what was just  
6 pointed out of A and B.

7 Q. State's Exhibit 14?

8 A. And once again, just showing more damages to the  
9 vehicle with the bullet holes and the shattered glass.

10 Q. Clear that for me?

11 A. (Witness complies.)

12 Q. Thank you. State's Exhibit 15?

13 A. We're looking on the interior damages of the right  
14 front passenger door. There's a bullet hole marked E. And  
15 then also you have some bloodstains.

16 Q. Clear that for me?

17 A. (Witness complies.)

18 Q. State's Exhibit 16?

19 A. And this is showing more of damages due to the shots  
20 fired.

21 Q. State's Exhibit 18?

22 A. And this is showing the close-up. And we're still  
23 looking at the right front passenger side.

24 Q. And what are those rods that we're looking at there?

25 A. Those rods that you're looking at is what we call



1 trajectory. Whenever we have gunshot -- I'm sorry.

2 Whenever we have a call in reference to shots fired, we do  
3 trajectory to show direction of the bullets.

4 Q. So just kind of the general direction that the bullet  
5 would have traveled?

6 A. Yes.

7 Q. I'm going to show you what's been marked as State's  
8 Exhibit Number 19. Obviously, this isn't on the scene  
9 anymore. Where were you?

10 A. We're now about to conduct a search warrant, and we're  
11 at 2556 5th Street. This is out in our North Charleston  
12 Police Department warehouse where we executed our search  
13 warrant. And you're still looking at the red Dodge Charger.

14 Q. State's Exhibit 20?

15 A. This is showing photographic documentation of the  
16 getting into the trajectory.

17 Q. State's Exhibit 21?

18 A. Once again, still looking at trajectory, more damages,  
19 the same damages, the shattered window, and trajectory.

20 Q. So I want to draw your attention to the bullet holes I  
21 and E in that photograph. The window appears to be up at  
22 this point, the front passenger window. On the scene, do  
23 you know what the position of that window was?

24 A. When I arrived on the scene, the window was down due to  
25 the inclement weather. To preserve the evidence, the window

Direct Examination of Ms. Adams by Ast. Sol. Kidd

1 was raised on scene and until the tow truck tows the car to  
2 the warehouse.

3 Q. Okay. So we, North Charleston, rolled the window up at  
4 the scene?

5 A. Yes.

6 Q. Now, we have -- I'm going to show you State's Exhibit  
7 Number 22. So we have -- well, what are we looking at here?

8 A. With the right passenger window rolled up, you're now  
9 looking at I, which you would not have seen on scene because  
10 the window was down. Now that the window is raised,  
11 trajectory going through I.

12 Q. So when you arrived on scene, the window is down;  
13 right?

14 A. Yes.

15 Q. So -- now if we're looking at -- what are we looking at  
16 here that I just circled?

17 A. Another bullet hole. If the window was down, you  
18 wouldn't have seen it. It's now raised with trajectory.

19 Q. You wouldn't have seen it. Is there a corresponding  
20 bullet hole through the door to J?

21 A. That would be more higher from the door.

22 Q. Well, I guess what I mean is if the window was down?

23 A. Oh, it was not there.

24 MR. PEPER: Objection. Speculation.

25 THE COURT: I think it's within the ambit of her

1 performing the crime scene evaluation.

2 MR. PEPER: Okay.

3 THE COURT: Overruled. Goes with weight.

4 Q. Can you clear that for me?

5 A. (Witness complies.)

6 Q. Thank you. Show you State's Exhibit 23. And that's  
7 just what we were looking at before, I guess?

8 A. Yes.

9 Q. All right. And State's Exhibit Number 24?

10 A. Now we're looking at still trajectory positioning of F,  
11 G, and H with the trajectory in place.

12 Q. And it's kind of hard to -- do you know how many total  
13 entrance holes there were in the Dodge Charger?

14 A. I would have to count them, but not . . .

15 Q. Did you put one for each letter?

16 A. Yes. Yes. So we're now at H.

17 Q. Which is, A, B, C, D, E, F, G, H; eight?

18 A. Yes.

19 Q. We have an I there; right?

20 A. Yeah, H, I.

21 Q. And is that a J?

22 A. Yes.

23 Q. So that would get us to ten?

24 A. Uh-huh.

25 Q. I'm going to show you what has been marked as State's

Direct Examination of Ms. Adams by Ast. Sol. Kidd

1 Exhibit Number 25. Tell me what we're looking at a here?

2 A. We're looking at a shell casing, a spent shell casing.

3 Q. And where is this picture -- what's this picture of?

4 Like, where is it?

5 A. This is still in the red Dodge Charger.

6 Q. Do you know where in the red Dodge Charger we're  
7 looking at?

8 A. We're looking at the floorboard of the right front  
9 passenger.

10 Q. State's 26?

11 A. This is just showing the head stamp. It's a Winchester  
12 45 model of the spent shell casing.

13 Q. State's Exhibit Number 27?

14 A. This is the front right passenger where the decedent  
15 was, and this is a spent shell casing.

16 Q. What's the pickle jar?

17 A. The pickle jar contained G -- sorry -- GPM, green plant  
18 like material, and it was in a baggie inside the pickle jar.

19 Q. So marijuana?

20 A. Yes.

21 Q. State's Exhibit 28?

22 A. It's showing two shell casings and the same pickle jar  
23 that we were looking at. Still on the front passenger seat.

24 Q. Right. I'm going to show you -- I'm sorry. We're  
25 going to go back to crime scene now. I'm gonna show you

1 State's Exhibit Number 29. I know it's dark. I apologize.

2 Can you tell what that is?

3 A. Uh-huh. This is showing where the second vehicle was.

4 This would be a far picture of where the second vehicle.

5 Q. And what kind of vehicle was that? Do you recall?

6 A. It was the Edge.

7 Q. Okay. And where in proximity to the Charger are you  
8 standing when you take this photograph?

9 A. Not quite behind it, but off to the side.

10 Q. Just like on the -- towards the inside of the circle?

11 A. So we're inside the circle.

12 Q. So the Charger would be to your right kind of back ---

13 A. Yes, to my right. Yes.

14 Q. Behind or in front of you?

15 A. I believe a little behind.

16 Q. A little behind. So a little bit behind you and to  
17 your right from the Charger. And so I guess what I'm trying  
18 to get at is this kind of what somebody standing by the  
19 Charger would see?

20 A. Yes.

21 Q. Okay. State's Exhibit 30: Can you kind of tell me  
22 what we're looking at.

23 A. I'm just now making movements to get closer to the Edge  
24 and just showing damages that were done as we get to the  
25 vehicle.

Direct Examination of Ms. Adams by Ast. Sol. Kidd

1 Q. Okay. State's Exhibit 31?

2 A. Still walking towards the vehicle.

3 Q. And we have tracks here?

4 A. And just showing -- yes.

5 Q. State's 32?

6 A. Showing the tracks to the vehicle and getting closer.

7 Q. State's 33?

8 A. Just showing more damages and then the vehicle.

9 Q. State's 34?

10 A. More damages.

11 Q. State's 35?

12 A. Car parts.

13 Q. And is there damage to that tree?

14 A. Yes.

15 Q. State's 36?

16 A. And this would be a close view of the Edge and getting  
17 the license plate and what the vehicle is.

18 Q. State's 37?

19 A. Just showing the vehicle at rest.

20 Q. Can you tell me which doors of the vehicle were open at  
21 this juncture?

22 A. When I arrived on scene, we photographed as is. So  
23 that is the left rear passenger.

24 Q. Now, have law enforcement been inside this car by the  
25 time you had gotten there?

1 A. Like I said, when I arrived on scene, I photographed  
2 the vehicle as is. So the front door was open. So it could  
3 be that law enforcement did arrive to possibly get the  
4 registration out of the compartment because the tow truck  
5 was about to arrive on scene due to the weather.

6 Q. So you just document, obviously, the car at the scene  
7 as you find it?

8 A. Yes.

9 Q. But it's hard to see in that picture, so I'm going to  
10 hand it to you in person. This is State's Exhibit 37. And  
11 there appears to be -- what do you see inside the apex of  
12 the front passenger door?

13 A. It appears to be an officer.

14 Q. An officer. Okay. So as you approached the vehicle,  
15 there was an officer doing something inside the front  
16 passenger seat area?

17 A. Yes.

18 Q. Okay. And I'm sorry, you might have already said this.  
19 Which doors to the car were open when you first got there?

20 A. I saw the left rear and the front and right rear.

21 Q. I'm going to show you State's Exhibit 38.

22 A. The front rear with airbag deployment.

23 Q. I think you said the front rear.

24 A. I meant -- I'm sorry -- the front passenger.

25 Q. Thank you. It's all right.

Direct Examination of Ms. Adams by Ast. Sol. Kidd

1 A. I'm sorry. The front passenger with airbag deployment.

2 Q. Okay. And I'm going to show you State's 39. Can you  
3 tell me what we're looking at there?

4 A. This is the front passenger with the documentation of a  
5 straw on the seat.

6 Q. Did you see some spilled liquid in ---

7 A. And some spilled liquid on the seat as well.

8 Q. Was anywhere else in the car that there were spilled  
9 liquid?

10 A. Just the middle console here. Just in this area here.  
11 And then you have it all there.

12 Q. And he spilled liquid in the back seat of the vehicle?

13 A. I would have to look at the picture.

14 Q. Look at your photographs. We'll get there. I'm going  
15 to show you State's Exhibit 40 first. Tell me what we're  
16 looking at.

17 A. We're looking at two McDonald's cup in the console  
18 here, airbag deployment.

19 Q. State's 41?

20 A. Now, this is closer showing the airbag deployment.

21 Q. State's 42?

22 A. And this is the back seat showing a cell phone on the  
23 left rear behind the driver seat.

24 Q. See any liquids spilled in that photograph?

25 A. No.



1 Q. And this was taken on scene?

2 A. Yes.

3 Q. State's Number 43?

4 A. We have rounds and a magazine. And then it's  
5 still showing the same cell phone.

6 Q. Any liquid spilled in that photograph?

7 A. No.

8 Q. This might be -- but State's Exhibit 44?

9 A. The rounds that I circled previously and then the cell  
10 phone.

11 Q. State's Exhibit 45?

12 A. Same rounds and a closer -- it's just a close up of the  
13 magazine.

14 Q. State's 46?

15 A. It's showing damage to the left front tire and the Edge  
16 at rest.

17 AST. SOL. KIDD: My I approach your court reporter?

18 THE COURT: Uh-huh.

19 COURT REPORTER: Are we marking these the same as 8?

20 THE COURT: They take the place of the Court's exhibit.

21 COURT REPORTER: Right. But keep the same ---

22 THE COURT: But they maintain the same numbers. But  
23 we'll deal with that.

24 Q. State's Exhibit 47?

25 A. It's taken pictures of the front-end damages.

1 Q. State's Exhibit 48? And I apologize, it's dark. If  
2 you want me to hand it to you personally, I can.

3 A. There's a cell phone on the right side rear passenger  
4 behind the right seat.

5 Q. So can you tell what kind of phone that is?

6 A. An iPhone.

7 Q. And this is on the -- where is this again?

8 A. The right.

9 Q. The right. The passenger side?

10 A. Passenger floorboard.

11 Q. Front or back?

12 A. Back.

13 Q. Rear. So rear passenger floorboard?

14 A. Behind the -- uh-huh -- the front passenger side.

15 Q. And State's 49: Is that that phone there?

16 A. Yes. We just moved it -- I just moved it from the  
17 floor and then put it there.

18 Q. Moved it to the floor to the seat to ---

19 A. Yes.

20 Q. --- to document. State's Exhibit 50?

21 A. This is a third cell phone. And it's under the -- on  
22 the right side under the passenger seat, the front passenger  
23 seat.

24 Q. Is it -- I'm trying to figure out how to say this. Is  
25 it more towards the front or the rear of the vehicle?

1 A. The rear.

2 Q. More towards the rear of the vehicle?

3 A. Under -- I mean, yeah. Under the -- this is the --

4 we're looking under the right, the front passenger seat.

5 And this is on the floorboard under the seat.

6 Q. On the floor but under the front passenger seat?

7 A. Yes. Yes.

8 AST. SOL. KIDD: Court's indulgence.

9 THE COURT: Yes, sir.

10 Q. Did you -- when you conducted the search of the Ford

11 Edge, did you find any paperwork in that vehicle?

12 A. The rental agreement.

13 Q. Do you recall who had rented that rental vehicle?

14 A. I would have to look at the name on the photograph.

15 Q. I'm going to show you what's been marked as State's

16 Exhibit Number 54. Do you recognize that photograph?

17 A. Yes. That's the rental agreement.

18 Q. Can tell me who is on that rental agreement for that

19 Ford Edge?

20 A. Here is says Danielle Ravenel.

21 Q. And sorry, I cropped it out of the photograph. Let me

22 get another one. Can you ---

23 A. And the first name of Justin.

24 Q. Show you State's Exhibit Number 53. Is that just more

25 of that same rental agreement?

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1 A. Yes. This was of the rental agreement.

2 Q. And State's Exhibit Number 52?

3 A. Still the rental agreement.

4 Q. Okay.

5 AST. SOL. KIDD: Court's indulgence.

6 THE COURT: Yes, sir.

7 Q. All right. State's Exhibit Number 55?

8 A. Showing a round.

9 Q. Do you recall what caliber that is?

10 A. May I refer to my notes?

11 Q. Yes ma'am.

12 A. .762.

13 Q. State's Exhibit Number 56: Can you just tell me what  
14 we're looking at.

15 A. Okay. It's looking at a round.

16 Q. What is that of?

17 A. Shell casing.

18 Q. Thank you. And where are we looking right there?

19 A. This is in the Edge on the rear floorboard.

20 Q. And State's Number 57?

21 A. This is still in the Edge on the driver side  
22 floorboard.

23 Q. Another shell casing?

24 A. Yes.

25 Q. State's 58?

1 A. This is a driver side. There is a Hennessy bottle.

2 Q. All right. Do you recall going to, I think it was,  
3 2200 Rich Street?

4 A. Yes.

5 Q. And for what purpose?

6 A. I was advised by the detectives that they received a  
7 phone call that there was a projectile that was located in  
8 front of the break room. I think it's the Norfolk Railroad  
9 office. And when he arrived to work, he saw a projectile.  
10 He collected it and then I came and I collected it via  
11 chain of custody.

12 Q. I'm going to show you what's been marked and entered  
13 into evidence as State's 63. Do you recognize that map?

14 A. Yes.

15 Q. Do you see the Rich Street location? It's probably not  
16 zoomed in close enough to where you'll actually see the name  
17 of the street. Zoomed in more for you?

18 A. It would be in this area right here.

19 Q. Okay. So where the ---

20 A. Where the marking is.

21 Q. Where that number four bubble is?

22 A. Yes.

23 Q. Okay. I'm showing you what's been marked as State's  
24 Exhibit Number 59. Do you recognize that photograph?

25 A. Yes. This is the building capturing it the best I can

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1 because it was higher up of where the damage of where the  
2 bullet hit the building.

3 Q. And this is at that 2200 Rich Street?

4 A. Yes. Yes.

5 Q. And State's Exhibit 60?

6 A. And it's here.

7 Q. While I'm thinking about it. I'm going to show you  
8 what's been marked for identification as State's Exhibit  
9 108. Do recognize that object?

10 A. Yes. This is spent projectile that was outside of the  
11 break room door. It has my name, the date, says spent  
12 projectile outside of break room door. Has my initials and  
13 the date.

14 Q. So when you responded to that Rich Street address we  
15 were just talking, is that where you collected that?

16 A. Yes.

17 AST. SOL. KIDD: Your Honor, at this time, the State  
18 would offer State's 108 into evidence.

19 THE COURT: Any objection?

20 MR. PEPER: No, Your Honor.

21 MR. PRICE: No ma'am.

22 THE COURT: State's Number 108 marked and admitted  
23 without objection.

24 AST. SOL. KIDD: Thank you, Your Honor.

25 THE COURT: You're welcome. Does the court reporter

1 have that one?

2 COURT REPORTER: Yes, ma'am.

3 (State's Exhibit No. 108, Photograph, was received  
4 into evidence.)

5 Q. Do you recall responding to the Medical University of  
6 South Carolina?

7 A. Yes. I was advised also by detectives that the driver  
8 and the rear passenger were transported. I went there and  
9 photographed Quran Allen. He was the driver of the Dodge  
10 Charger.

11 Q. I'm going to show you what's been marked and admitted  
12 as State's Exhibit Number 61. Is that who you are referring  
13 to?

14 A. Yes.

15 Q. And State's Exhibit 62?

16 A. And this is showing his injury.

17 Q. Later that morning, did you return back to the scene to  
18 document and collect some weapons that were found?

19 A. Yes. I was advised after responding to the MUSC that  
20 the firearms -- that there were firearms that were located.

21 Q. And we'll go through these kind of quickly too. I'm  
22 going to show you what's been marked and entered into  
23 evidence as State's Exhibit Number 74. You took these  
24 photographs. Is that correct?

25 A. Yes, that's correct. It's just showing overall of the

Direct Examination of Ms. Adams by Ast. Sol. Kidd

1 house and the front yard.

2 Q. State's Exhibit Number 75.

3 A. Showing the mid-range of where the firearms were  
4 located.

5 Q. And I apologize it being dark. State's Exhibit Number  
6 76?

7 A. And showing a close-up of where one of the firearms  
8 were located.

9 Q. State's Exhibit Number 78?

10 A. And that's a close-up of the firearm.

11 Q. State's Exhibit Number 77?

12 A. And capturing the label on the firearm.

13 Q. And what kind of firearm is this?

14 A. That's a Smith & Wesson 40.

15 Q. Forty; 40 caliber?

16 A. 40 caliber.

17 Q. I'm going to show you what's been marked for ID as  
18 State's Exhibit 100. See if you recognize that.

19 A. This would be the gun box that the firearm was packaged  
20 in. The red taping would be me with my and initial and date  
21 open -- date that I packaged it. Sorry. And it has a label  
22 with my name on it, the recovery date, and a black and  
23 silver in color 40 caliber, Park Place and South Rhett.

24 Q. So this is -- what's contained in the box is this  
25 firearm ---



1 A. Yes.

2 Q. --- that's in the photograph. Is that right?

3 A. Yes.

4 AST. SOL. KIDD: Your Honor, at this time the State  
5 would offer State's Exhibit 100 into evidence.

6 THE COURT: Any objection?

7 MR. PRICE: No objection, Your Honor.

8 MR. PEPPER: No, ma'am.

9 THE COURT: Marked and admitted without objection.

10 (State's Exhibit No. 100, Smith & Wesson Firearm, was  
11 received into evidence.)

12 Q. Now, when you collect this firearm, are you alone? Do  
13 you have officers with you? How does that work?

14 A. Officers are there.

15 Q. Do you unload the firearm yourself or does someone else  
16 do that?

17 A. No. I asked them if they would make it clear.

18 Q. If they would clear the firearm for you?

19 A. Yes.

20 Q. So they would take any live -- that means like taking  
21 any live rounds of ammunition out of it?

22 A. Yes. And they would use gloves.

23 Q. Do you recall how many live rounds of ammunition were  
24 in that firearm?

25 A. May I see the box again? I think I ---

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1 Q. Yeah. And I took -- for safety purposes, I took them  
2 out, but that might help you.

3 A. One in chamber and seven in the magazine; total of  
4 eight.

5 Q. So the firearm is found, you come and document it,  
6 another officer then unloads it and you take possession of  
7 it at that point?

8 A. Yes. I secure it in the gun box and secure it in my  
9 vehicle.

10 Q. All right. So you then put it in that box right there?

11 A. Yes.

12 Q. Okay. State's Exhibit 79?

13 A. We're looking at a far range of the picture. There is  
14 a like a pole and it's just showing for an identifier where  
15 we are.

16 Q. Sorry to switch those out mid answer. But looking at  
17 State's Exhibit 75 there and then 79. Is that that?

18 A. Yes. And it's just showing for reconstruction purposes  
19 if say the house was torn down for any purposes, the light  
20 pole was there with the number.

21 Q. Just to give you bearings?

22 A. Yeah. Just to give bearings.

23 Q. All right. state's Exhibit 80?

24 A. And this is still the light pole and showing the SK --  
25 S-style rifle.

1 Q. So this right here is the light pole?

2 A. Yes.

3 Q. And then State's Exhibit 81?

4 A. And it's just showing a close-up of the rifle.

5 Q. I'm going to show you what's been marked for ID,  
6 State's Exhibit Number 93. Do you recognize that?

7 A. Yes. It has, once again, my name on it, the date that  
8 it was recovered, tan in color, SKS style rifle that was  
9 submitted into evidence by myself.

10 Q. When this rifle would have been collected, would you  
11 follow, like, the same procedure as the pistol that we just  
12 discussed?

13 A. Yes.

14 Q. So another officer would have made it safe?

15 A. With gloves on.

16 Q. And then you would've taken custody of it?

17 A. And secured in my vehicle.

18 Q. And, obviously, we can't put that in a nice little box.

19 A. In a gun box, no.

20 Q. Is a put in anything else or just in the trunk as is or  
21 . . .

22 A. Well, I have brown paper bag to preserve for processing  
23 any DNA and fingerprints for transport purposes.

24 Q. So you would then put it inside a maybe one or two?

25 A. Yeah, one or two. It's just to hold it.

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1 Q. And locked it in your vehicle?

2 A. Yes.

3 AST. SOL. KIDD: Your Honor, at this time the State  
4 would offer State's Exhibit Number 93 into evidence.

5 THE COURT: Any objection?

6 MR. PRICE: No objections, Your Honor.

7 MR. PEPPER: No, ma'am.

8 THE COURT: Marked and admitted without objection, 93.

9 (State's Exhibit No. 93, Rifle, was received into  
10 evidence.)

11 Q. Show you State's Exhibit 82?

12 A. This is right around the corner from where we found the  
13 first two firearms. And I was advised that this location  
14 that there was another firearm that was located.

15 Q. State's 83?

16 A. This is just showing a midrange photograph of where the  
17 firearm was located.

18 Q. State's 84?

19 A. And it's showing that the firearm is right there.

20 Q. State's 85?

21 A. And a close-up of the firearm.

22 Q. I'm going to show you what has been marked for ID as  
23 State's Exhibit 99. See if you recognize that.

24 A. Here, once again, is the gun box that I would have  
25 transported the firearm in. The red taping after processing

1 to seal the gun box. There's a label that's placed with my  
2 name on it, Tiffany Adams, the recovery date, a 45 auto with  
3 the magazine and 2 45 auto rounds. And I would've initialed  
4 the tape and date it.

5 Q. And is that the firearm that's documented in State's  
6 Exhibit 85?

7 A. Yes.

8 Q. And you said how many rounds were in it?

9 A. Two.

10 Q. Can you tell where they both in the magazine? Was one  
11 in the chamber?

12 A. One in the chamber and one in the magazine.

13 AST. SOL. KIDD: Your Honor, at this time the State  
14 would offer State's Exhibit 9 into evidence.

15 THE COURT: Any objection?

16 MR. PRICE: No objection, Your Honor.

17 MR. PEPER: No, ma'am.

18 THE COURT: Admitted without objection, State's 99.

19 (State's Exhibit No. 99, 45 Glock, was received into  
20 evidence.)

21 Q. All right. I'm going to show you three items: State's  
22 Exhibit 96, State's Exhibit 95, and State's 94. So 94 and  
23 95 and 96 for ID purposes. Can you take a look at those,  
24 please.

25 A. The cell phones that we pointed out earlier from the

Direct Examination of Ms. Adams by Ast. Sol. Kidd

1 search warrant. This is the iPhone, the LG, and another  
2 phone. So the one that was under the right passenger front  
3 seat. The LG that was on the left rear backseat behind the  
4 driver. And the second iPhone that was on the floorboard  
5 behind the right passenger seat.

6 Q. Let me just get my numbers straight. All right. We'll  
7 start with State's Exhibit for ID 94. First I'm going to  
8 show you State's Exhibit Number 50 that we already went  
9 over. Is that the same phone as State's Exhibit 94?

10 A. Yes, it is.

11 AST. SOL. KIDD: Your Honor, at this time we'd offer  
12 State's Exhibit 94 into evidence.

13 THE COURT: Any objection?

14 MR. PRICE: No objection, Your Honor.

15 MR. PEPPER: No, ma'am.

16 THE COURT: Marked and admitted without objection,  
17 State's 94.

18 (State's Exhibit No. 94, iPhone, was received into  
19 evidence.)

20 Q. I'm sorry, which was is 95?

21 A. The LG.

22 Q. It's the LG. Thank you. All right. I'm going to show  
23 you State's Exhibit 51. Is that the same phone that's  
24 marked for ID State's Exhibit 95?

25 A. Yes.

1           AST. SOL. KIDD: Your Honor, at this time we would  
2 offer State's Exhibit 95 into evidence.

3           MR. PRICE: No objection, Your Honor.

4           MR. PEPER: No, ma'am.

5           THE COURT: Ninety-five without objection.

6           (State's Exhibit No. 95, LG Phone, was received into  
7 evidence.)

8 Q. And I'm going to show you State's Exhibit 48?

9 A. Yes, the iPhone.

10 Q. And State's Exhibit 49?

11 A. It's the same phone from floorboard to the back.

12 Q. As State's Exhibit Number 96?

13 A. Yes.

14           AST. SOL. KIDD: So, Your Honor, at this time we'd  
15 offer State's Exhibit 96 into evidence.

16           MR. PRICE: No objection, Your Honor.

17           MR. PEPER: None, Your Honor.

18           THE COURT: Without objection, marked and admitted.

19           (State's Exhibit No. 96, iPhone, was received into  
20 evidence.)

21 Q. I'm going to show you what's been marked for  
22 identification State's Exhibit Number 98. If you can look  
23 at that, please.

24 A. This is from the search warrant and has the address as  
25 stated previously where our warehouse is located, 2556 5th

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1 Street, my name, Tiffany Adams, the recovery date. This is  
2 the magazine with the rounds from the Ford Edge. And has my  
3 initials and the date.

4 AST. SOL. KIDD: Court's indulgence. (Brief pause.)  
5 I'm sorry. I got distracted there a second.

6 Q. So I believe you just testified that's the magazine  
7 recovered from the ---

8 A. Ford Edge.

9 Q. From the ford Edge. And how many live rounds are  
10 associated with that?

11 A. Nine.

12 Q. Nine. And can you remind me of the State's exhibit  
13 number on that, please.

14 A. Ninety-eight.

15 Q. Ninety-eight.

16 AST. SOL. KIDD: Your Honor, at this time the State  
17 would offer State's Exhibit 98 into evidence.

18 THE COURT: Any objection?

19 MR. PRICE: No objection, Your Honor.

20 MR. PEPER: No, ma'am.

21 THE COURT: Marked and admitted without objection.

22 (State's Exhibit No. 98, Magazine and Rounds, was  
23 received into evidence.)

24 Q. I'm showing you State's Exhibit 105 for ID. Do you  
25 recognize that?



1 A. Yes. Once again, it's a label. It's from the search  
2 warrant 2556 5th Street, my name, Tiffany Adams, recovery  
3 date. At this is a round 762 left rear passenger seat of  
4 the Ford Edge.

5 AST. SOL. KIDD: Your Honor, at this time we'd offer  
6 State's Exhibit 105 into evidence.

7 THE COURT: Any objection?

8 MR. PRICE: No objection, Your Honor.

9 MR. PEPER: No, ma'am.

10 THE COURT: Admitted without objection.

11 (State's Exhibit No. 105, 762 Round, was received into  
12 evidence.)

13 Q. Show you what's been marked for identification as  
14 State's 115.

15 A. This is from the search warrant 2556 5th Street, may  
16 name, Tiffany Adams, and the two McDonald's cups that were  
17 in the center console of the Ford Edge that was shown  
18 earlier.

19 AST. SOL. KIDD: At this time, State would offer  
20 State's Exhibit 115 into evidence.

21 THE COURT: Any objection?

22 MR. PRICE: No objection.

23 MR. PEPER: No, ma'am.

24 THE COURT: Without objection.

25 (State's Exhibit No. 115, McDonald Cups, was received

Direct Examination of Ms. Adams by Ast. Sol. Kidd

1           into evidence.)

2       Q.    I'm going to show you what's been marked for  
3       identification as State's 112. Do you recognize that item?

4       A.    Yes. This the straw from the McDonald cup and then the  
5       straw that was on the front seat that was shown earlier in  
6       the picture.

7       Q.    So those are the two straws associated with a the  
8       McDonald's cups from the center console?

9       A.    Yes.

10       AST. SOL. KIDD: Judge, at this time the State would  
11       offer State's Exhibit 112 into evidence.

12       THE COURT: Any objection?

13       MR. PRICE: No objection.

14       MR. PEPER: No, ma'am.

15       THE COURT: Admitted without objection.

16       (State's Exhibit No. 112, Straws, was received into  
17       evidence.)

18       Q.    State's Exhibit 107.

19       A.    When the SKS was recovered and in the officer made it  
20       safe, this is a 762 round from the chamber of that SKS style  
21       rifle.

22       AST. SOL. KIDD: Offer State's 107 into evidence.

23       THE COURT: Any objection?

24       MR. PRICE: No objection, Your Honor.

25       MR. PEPER: No, ma'am.

1 THE COURT: Without objection.

2 (State's Exhibit No. 107, 762 Round, was received into  
3 evidence.)

4 Q. Showing you what's been marked as State's Exhibit 109.

5 A. This is from the search warrant, my name on it,  
6 recovery date, and it's the bottom of Hennessy that was  
7 shown in the picture earlier in the Ford Edge.

8 Q. All right. When you collected that -- well, first --

9 AST. SOL. KIDD: State would offer State's Exhibit 109  
10 into evidence.

11 MR. PRICE: No objection.

12 MR. PEPER: No, ma'am.

13 THE COURT: Marked and admitted.

14 (State's Exhibit No. 109, Hennessy Bottle, was  
15 received into evidence.)

16 Q. When you collected that Hennessy bottle, did you do any  
17 further processing of it?

18 A. Once collected, I go back to the office and process  
19 items that could be processed. The Hennessy bottle was  
20 processed by using black fingerprint powder to recover any  
21 latent fingerprints, and swab the rim of the bottle, the  
22 mouthpiece of the bottle.

23 Q. I'm going to show you what's been marked as State's  
24 Exhibit 116.

25 A. And this is a swab from the rim of the Hennessy bottle.

1 Q. So can you kind of describe the swabbing process.

2 A. Okay. So any bottles, cups, cans that are collected,  
3 one would think when you're drinking it would leave DNA  
4 behind. So that's a part of the processing process. And we  
5 use a sterile cotton-tip applicator. Looks almost like a  
6 Q-tip but it's called a sterile cotton-tip applicator. And  
7 is moistened with a couple drops of distilled water. So if  
8 this is the rim of the Hennessy bottle, you would pull out  
9 the sterile applicator, of course you have gloves on, and  
10 you have a bottle of distilled water, couple of drops and  
11 swabbed. And then inside this envelope there's a a swab box  
12 for drying purposes, placed in an envelope. And this would  
13 be sent off to SLED.

14 Q. Okay. And I know we already talked about it. Did you  
15 do that with the straws, or did you just -- did they just go  
16 to SLED as they were?

17 A. Any items like with the straws I placed it in the swab  
18 box because it could fit in the swab box, in this envelope,  
19 and then it would be sent off to SLED for SLED to do the  
20 processing on it.

21 Q. Okay. So the straws from the McDonald's cup are going  
22 to SLED.

23 A. And swabs.

24 Q. And -- excuse me. I apologize. Yeah, straws from  
25 McDonald's cups are going to SLED. The swabs from the

1     Hennessey bottle are going to SLED.

2     A.     Yes.

3     Q.     I'm going to show you what's been marked as State's  
4     Exhibit 120. And if you need to open that bag to see the  
5     other items in there, I can . . .

6     A.     Yeah. This package that I'm cutting through would be  
7     packaged by SLED. But what I sent is the envelope and has  
8     my initials and the tape and the labels that I placed on  
9     there. And this is one of the swabs of the grip and trigger  
10    area of the SKS style rifle. And this is a swab from the  
11    charging handle of the SKS rifle.

12    Q.     This little packet in there, this would have been SLED  
13    created. Is that correct?

14    A.     Yes. That's from SLED.

15    Q.     So that's nothing to do with you.

16    A.     No.

17           AST. SOL. KIDD: Your Honor, at this time we'd offer  
18    State's Exhibit 120 into evidence.

19           THE COURT: Any objection?

20           MR. PRICE: No objection, Your Honor.

21           MR. PEPER: No, ma'am.

22           THE COURT: Marked and admitted.

23           (State's Exhibit No. 120, SKS Swabs, was received into  
24    evidence.)

25    Q.     And just for sort of edification, what is a charging

Direct Examination of Ms. Adams by Ast. Sol. Kidd

1 handle, just so we know.

2 A. It would be this right here.

3 Q. Okay. And, obviously, trigger.

4 A. Here and then right here.

5 Q. Okay. Did you swab the foregrip?

6 A. No, just the trigger and the charger.

7 Q. Show you what's been marked as State's Exhibit 114.

8 See if you recognize those items.

9 A. Swab from the trigger and grip area of the Smith &  
10 Wesson, the 40 caliber. Swab from the slide area of the  
11 glock, the 45 model. And a swab from the grip into the area  
12 of the glock, the 45 auto. And the swab from the barrel  
13 area of the glock, the 45 auto.

14 Q. All right.

15 A. So, once again, the little package that's in here was  
16 created by SLED not from us.

17 AST. SOL. KIDD: At this time the State would offer  
18 State's 114 into evidence.

19 THE COURT: Any objection?

20 MR. PEPER: No, Your Honor.

21 MR. PRICE: No, Your Honor.

22 THE COURT: Marked and admitted.

23 (State's Exhibit No. 114, Gun Swabs, was received into  
24 evidence.)

25 Q. All right. So we have a -- and these swabs would've

1    been taken by you.  Is that correct?

2    A.    Yes.

3    Q.    So the same process we kind of talked about with the  
4    Hennessy bottle?

5    A.    Yes.  So with a firearm before fuming, what we call  
6    fuming the firearm to recover any latent fingerprints, DNA  
7    would be used by the same process of the Hennessy bottle by  
8    using a sterile cotton-tip applicator moistened with  
9    distilled water.  And get it from the areas that I just  
10   called . . .

11   Q.    So, for example, on the Smith & Wesson you have, I  
12   believe, a swab from the trigger and grip area of the Smith  
13   & Wesson?

14   A.    Yes.

15   Q.    And I believe you said it would've been fumed.  But  
16   before they would've been fumed, you would've taken the swab  
17   -- did you do the whole grip?  Just how does that process  
18   work?

19   A.    So if I have this swab, swab for the trigger area.  I  
20   would go around the whole trigger area.  And a different  
21   swab would be used for the grip area.

22   Q.    Would you go around the whole grip or . . .

23   A.    All around.

24   Q.    Okay.  And then on the glock you have three separate  
25   packets of swabs:  One from the slide, one from the grip and

Direct Examination of Ms. Adams by Ast. Sol. Kidd

1 trigger, and one from the barrel. Is that correct?

2 A. Yes.

3 Q. And that the process would have worked similarly?

4 A. Yes.

5 Q. Do you recall there being any blood on that firearm?

6 A. That's why the glock has three. There was some --  
7 that's why we went into the barrel -- to the barrel of the  
8 glock because there was some blood there. So we swabbed  
9 that and send off to SLED for further testing for DNA and  
10 confirmation.

11 Q. All right. I'm going to show you what's been marked  
12 for ID as State's 103, 104, and 106.

13 A. This is packaged by myself, initials and date. This  
14 was recovered from the search warrant. One spent shell  
15 casing, 762, from the rear passenger floorboard of the Ford  
16 Edge. This is also from the search warrant, my initials and  
17 date, recovery date, two spent shell casings, the 762, from  
18 the rear driver floorboard. I'm sorry, from the driver  
19 floorboard. This was recovered from the search warrant, one  
20 spent shell casing also from the driver floorboard, Ford  
21 Edge.

22 Q. Can you remind me of the State's numbers of what those  
23 are.

24 A. 104, 103, and 106.

25 AST. SOL. KIDD: Your Honor, we offer 104, 103, and 106



1 into evidence?

2 MR. PRICE: No objection, Your Honor.

3 MR. PEPER: No, ma'am.

4 THE COURT: That was 103, 104, and 106. Is that  
5 correct?

6 THE WITNESS: Yes, ma'am.

7 THE COURT: Marked and admitted without objection.

8 (State's Exhibit Numbers 103, 104 and 106, Shell  
9 Casings, were received into evidence.)

10 AST. SOL. KIDD: I believe your reporter has indicated  
11 that I failed to enter 116, which is the swab from the  
12 Hennessy Bottle, into evidence.

13 MR. PRICE: No objection.

14 MR. PEPER: No Objection, Your Honor.

15 THE COURT: Admitted without objection.

16 (State's Exhibit No. 116, Swab of Hennessy Bottle, was  
17 received into evidence.)

18 AST. SOL. KIDD: State would offer State's 121 into  
19 evidence.

20 MR. PRICE: No objection.

21 MR. PEPER: Court's indulgence.

22 THE COURT: Let me see what it is, please.

23 (Brief pause.)

24 MR. PEPER: We have no objection, Judge.

25 THE COURT: Marked and admitted without objection.

Direct Examination of Ms. Adams by Ast. Sol. Kidd

1 That's 21; correct?

2 AST. SOL. KIDD: Correct.

3 (State's Exhibit No. 121, Photograph, was received  
4 into evidence.)

5 Q. I'm going to show you 121. It's a little better  
6 photograph than the one I tried to show you a moment ago.  
7 Can you tell the jury what we're looking at here.

8 A. We're looking at the rental agreement earlier with  
9 Danielle Ravenel. And then we only saw Justin's first name,  
10 but now you see Justin Wilson.

11 Q. And where was this recovered?

12 A. From the search warrant of the Edge.

13 Q. Of the Ford Edge?

14 A. Of the Ford Edge.

15 Q. And then you took a photograph of that?

16 A. Yes.

17 Q. Okay. All right. I'm going to show you what's been  
18 marked for IDs State's Exhibits 101 and 102. Recognize what  
19 that is?

20 A. This is a Winchester 45 auto shell casing that was  
21 recovered by Mike Cook. This is two 45 federal spent shell  
22 casings recovered by myself.

23 Q. And those would be the shell casings from the?

24 A. The red Dodge Charger.

25 Q. Can you remind me of those State's exhibit numbers

1 again, please.

2 A. 102 and 101.

3 AST. SOL. KIDD: At this time we would offer 101 and  
4 102 into evidence.

5 THE COURT: Any objection?

6 MR. PRICE: No objection, Your Honor.

7 MR. PEPER: No, ma'am.

8 THE COURT: Marked and admitted.

9 (State's Exhibit Numbers 101 and 102, Shell Casings,  
10 were received into evidence.)

11 AST. SOL. KIDD: Court's indulgence.

12 THE COURT: Uh-huh.

13 Q. I'm showing you what's been marked as Exhibit 117. Do  
14 you recognize that item?

15 A. The driver of the red Charger stated earlier that I  
16 went to photograph was released in the hospital, brought to  
17 the detective area. And I was asked to obtain a buccal  
18 swap. So this is a sealed buccal swab from Quran Allen. We  
19 used the sterile tip applicator, and it's not moistened with  
20 the distilled water. We just go in and swab the left side  
21 of the cheek and then swab the right side of the cheek.  
22 It's sealed in a swab container and then packaged into the  
23 envelope, sealed by myself and the date.

24 Q. Okay. So, basically, you just rub a Q-tip inside  
25 someone's cheek and seal it in a package?

Direct Examination of Ms. Adams by Ast. Sol. Kidd

1 A. So the applicator, it would go straight in to the left  
2 side and then go over and do the right side.

3 Q. And does it have a casing or something that it gets  
4 sealed in?

5 A. Into the swab box.

6 Q. Swab box.

7 A. There's a swab box ---

8 Q. Right. That's what I mean.

9 A. --- in here. Uh-huh. Then goes into the envelope.

10 Q. All right. And then we ship it to SLED?

11 A. And it's sent off to SLED.

12 Q. Who you State's Exhibit 113?

13 A. So an autopsy. We have the autopsy, is performed on  
14 the decedent. We go and collect evidence. This is the  
15 blood spot from Franklin Williams. We use the blood spot as  
16 the known standard from the decedent. And this is what this  
17 is what this is, and it's sealed. MUSC places it in their  
18 envelope and I place it in this envelope. And it's sealed  
19 by myself with the date.

20 Q. And what's the number on that one again?

21 A. 113.

22 (Brief pause.)

23 AST. SOL. KIDD: At this time we offer 113 into  
24 evidence.

25 THE COURT: Any objection?

1 MR. PRICE: No objection, Your Honor.

2 MR. PEPER: No, ma'am.

3 THE COURT: Without objection.

4 (State's Exhibit No. 113, Victim's Blood Spot, was  
5 received into evidence.)

6 Q. Do you recall collecting a black hat?

7 A. Yes. That was from ---

8 Q. It would be ---

9 A. Yeah. I labeled it as a black beanie.

10 Q. See if I can find a photograph of it. Do you recall  
11 where it was located?

12 A. In the Edge.

13 Q. Do you recall where inside the Edge?

14 A. Photographed it on the front passenger seat.

15 Q. Trying to see if it's State's Exhibit 39. How about  
16 State's Exhibit 38. If you need me to hand you the  
17 photograph, you can't really see on the screen, can you?  
18 I'm going to hand you the photograph and then I'm going to  
19 put it back on the screen so you can indicate where it is.  
20 Show you State's Exhibit 38. That's a different photo that  
21 what we have there.

22 A. State ---

23 Q. So I'm going to put this back on the screen and then  
24 you can indicate where it is. So back on State's 38.

25 A. Right there.

Direct Examination of Ms. Adams by Ast. Sol. Kidd

1 Q. Okay. And then did you package that item?

2 A. Yes.

3 Q. And did you swab it or anything like that, or did you  
4 send it straight to SLED?

5 A. No. Clothing, because it's a large -- we send the  
6 whole thing off to SLED, and SLED does all of the  
7 processing.

8 Q. What about the airbags?

9 A. Took a -- cut a sample of it and sent it off to SLED.

10 Q. So ---

11 A. No, I'm sorry. We collected the whole thing and sent  
12 it off.

13 Q. So how does that happen? Y'all just take a knife and  
14 cut it out of the car?

15 A. We just take a knife and cut it out. It would be  
16 packaged in a brown paper bag to preserve DNA and send it  
17 off to SLED.

18 Q. Do you recall collecting a Nike Air shoe?

19 A. Yes. The officer that was out patrolling, there was a  
20 -- it was just one Nike Air that was near the stop sign. I  
21 would have to refer to my notes to get the exact location of  
22 where it was.

23 Q. Do you have your notes with you?

24 A. Uh-huh. (Brief pause.) It was Durant Avenue and Park  
25 Place North. And it was located near the stop sign.

1 AST. SOL. KIDD: Court's indulgence.

2 Q. Well, and did you -- and you collected that shoe?

3 A. Collected it and secured it in my department issued  
4 vehicle, and it was packaged.

5 Q. And sent to SLED?

6 A. And send to SLED.

7 (Brief pause.)

8 AST. SOL. KIDD: Your Honor, may we approach?

9 THE COURT: You may.

10 (A bench conference was held off the record and out of  
11 the hearing of the jury panel.)

12 THE COURT: Bear with us just a moment, ladies and  
13 gentlemen.

14 (Brief pause.)

15 THE COURT: Mr. Peper, are you ready?

16 MR. PEPER: Yes, ma'am. May it please the Court?

17 THE COURT: Yes, sir. You may proceed.

18 CROSS-EXAMINATION

19 BY MR. PEPER:

20 Q. Officer Adams, Mark Peper. How are you?

21 A. Good.

22 Q. Represent Wilson here. It's good to finally put a face  
23 with the name. You've been at the department for quite some  
24 time; correct?

25 A. Four years.

Cross-Examination of Ms. Adams by Mr. Peper

1 Q. Four years. And in those four years you've been in the  
2 capacity -- same capacity as with what you testified today;  
3 correct?

4 A. Say one more time.

5 Q. Have you been a crime scene tech the entire time you've  
6 been there?

7 A. Oh, yes, sir.

8 Q. Right. Okay. So what you've testified today as to  
9 what your job is, that has been your job for the last four  
10 years; right?

11 A. Yes.

12 Q. Okay. And a majority of that job is going to the crime  
13 scene, being one of the first few there; correct?

14 A. Yes.

15 Q. And making sure that you document or memorialize, if  
16 you will, exactly, close viewing, how the crime scene looked  
17 when you got there and certainly when the crime went down.  
18 Is that fair to say?

19 A. Yes.

20 Q. Okay. And until you document that you try not to move  
21 anything, mess with anything, et cetera.

22 A. No. Photographs are done first.

23 Q. Right. But I believed you testified to the first thing  
24 you do is you put gloves on; right?

25 A. Yes.



1 Q. Then you start photographing?

2 A. Yes.

3 Q. Then you mark evidence?

4 A. Yes.

5 Q. Then you collect evidence?

6 A. Yes.

7 Q. Right. Okay. So, clearly, the first -- excuse me --  
8 first and most important things to put the gloves on; right?

9 A. Yes.

10 Q. Okay. So that anything that you do end up marking and  
11 that you do collect and that you do package up and that you  
12 do send to SLED has not touched anybody else's hands within  
13 your department, certainly; right?

14 A. Or I can attest for me when I touch it, I'm putting on  
15 gloves.

16 Q. Right. But I mean that's why ---

17 A. Yes.

18 Q. --- the procedure is there?

19 A. Oh, yes.

20 Q. Yeah. I gotcha. So that when the results come back  
21 from SLED, you know that they're true and accurate?

22 A. Yes.

23 Q. There's not any question as to well, maybe, somebody's  
24 DNA or fingerprints on this issue but they just accidentally  
25 touched it; right? That can't happen as long as you follow

1 procedure?

2 A. As long as I follow procedure.

3 Q. Okay. And you did in this case?

4 A. Gloved, yes.

5 Q. Okay. So when you sent all of this evidence that you  
6 swabbed and that you fingerprinted, when you sent all that  
7 up to SLED, the results took what? A year? A year and a  
8 half almost?

9 A. Oh, I'm not sure because that's through SLED, their  
10 turnaround time. And the rush, that would be through the  
11 detectives if they call and ask for a rush for results.

12 Q. I understand.

13 A. So once I collect it, I preserve it and I package it,  
14 and it's sent off to SLED. Anything with turnaround,  
15 anything after that is not ---

16 Q. Out of your control?

17 A. Yes.

18 Q. That's right.

19 A. Out of my control.

20 Q. Okay. All right. But is it -- am I correct in  
21 assuming that since you're the one that sends it up to SLED  
22 that the results are sent back to you?

23 A. No, sir. Well, it goes through -- it comes back to the  
24 department. So it will come back to the detectives as well.

25 Q. All right. The reporter itself, is that addressed to

1 you typically?

2 A. Yes, because I sent it. Because my name is on the  
3 evidence.

4 Q. Right. Okay. But you're saying that you don't  
5 actually get the report back?

6 A. I'm sorry. Now I understand your question.

7 Q. And that's my fault.

8 A. So we -- I package it. It goes into the property room.  
9 Evidence does a SLED run. However long it takes for the  
10 turnaround time, a report is e-mailed. And then I'll send  
11 it off to the detective. Well, I print it off and give it  
12 to the detectives.

13 Q. Okay. So when you print it off, you review it, and  
14 then send it off to a detective, which in this case would be  
15 Detective Butler. Is that right?

16 A. Yes. So I'll get the e-mail. It's called the SLED  
17 beast is how they name it. And it's an iLAB report.  
18 However long it takes for it to come back, I'll get an  
19 e-mail and I'll see that, oh, it's from the Park Circle  
20 homicide. And I'll give it to the case agent.

21 Q. Gotcha. In this case would be Butler?

22 A. Yes.

23 Q. Okay. And so that is the standard procedure; right?

24 A. Yes.

25 Q. Okay. Do you have that document? The report that you

1 referred to, do you have that with you today?

2 A. No. I don't have any reports.

3 Q. Okay. Are you familiar with the report?

4 A. Yeah. It should be addressed to me and it has like our  
5 address. And then it's like DNA analysis, all depending on  
6 what the items were sent out for, all of that would be on  
7 that report.

8 Q. So when it says serology analysis, what does that mean?

9 A. Just from -- terminology from having a biology  
10 background, but I'm a SLED agent, nor could dictate the  
11 results. But serology is blood.

12 Q. Okay. So that's blood analysis. So the blood analysis  
13 comes back to you and then you forward it on to Detective  
14 Butler in this case; right?

15 A. Yes.

16 Q. And then, obviously, the DNA analysis is the DNA;  
17 right?

18 A. Yes.

19 Q. So the DNA analysis comes back to you and then you  
20 would have forwarded on to Butler in this instance?

21 A. Yes.

22 Q. Okay. And do you know what those results were?

23 A. I didn't sit down and discuss it with her. Once we get  
24 it in, we forward it to the case agent. If she has any  
25 further indication of the interpretation then that detective

1 would call SLED.

2 Q. Okay. So let me make sure -- and that answers a  
3 majority of my questions. So maybe we can get out of here  
4 early. You don't know that the results of the DNA analysis  
5 and the blood analysis that came back from SLED are? As you  
6 sit here today, you don't know what they were?

7 A. I mean, I can read it. But as far as interpretation  
8 ---

9 Q. No, no, no. Well, do you have it with you?

10 A. No. I just have my notes from my report.

11 Q. Okay. And your report indicates what the results were;  
12 correct?

13 A. No, not in my report. It doesn't say what came back  
14 to. It just says that a buccal swab was obtained from Quran  
15 Allen or buccal swab -- or a swab was done on the Hennessy  
16 bottle.

17 Q. I gotcha. And I'm doing a bad job at asking questions,  
18 and I apologize. But I'm assuming that once it gets sent  
19 off to SLED, your job is like 99 percent done; right?

20 A. Yeah. Because it's now at SLED. And the investigation  
21 continues with the case agent. Because by the time the  
22 results come back, I probably already worked, like, three or  
23 four other homicides in between B&Es to the residents or car  
24 accidents. So after we do the investigation on the scene,  
25 we package, log the evidence into evidence and it's sent off

1 to SLED. The investigation continues with the case agent.

2 Q. Gotcha. Gotcha. And so that one percent that I was  
3 referring to that hasn't been done yet, that's just simply  
4 getting forward -- you know, when the results come back from  
5 SLED, you just hit forward to Butler and then?

6 A. And then she continues her investigation.

7 Q. Right. So nothing regarding what swab matched with who  
8 or -- none of that would be in your report?

9 A. Oh, no. It's -- I'm sure you have a copy of it.

10 Q. Yeah. I gotcha. I gotcha. Okay. You're pretty happy  
11 with the job you did that night?

12 A. Oh, I did it to my, you know -- I did, accountability,  
13 what was required of me to preserve evidence, to preserve  
14 DNA, secure all evidence. It stayed with me until it was  
15 time for it to be packaged and logged. Gloves were on. Put  
16 it into evidence, filled out the SLED iLAB so that evidence  
17 can take it to SLED.

18 Q. No mistakes?

19 A. Not on my part.

20 Q. Ten out of ten?

21 A. Everything was sealed and initialed.

22 Q. Got it. Thank you very much.

23 A. You're welcome.

24 AST. SOL. KIDD: Extremely briefly.

25 THE COURT: You may proceed.

1 REDIRECT EXAMINATION

2 BY AST. SOL. KIDD:

3 Q. Appreciate the leeway look at two more things. (Brief  
4 pause.) All right. Pretty quickly, Ms. Adams, show you  
5 what's been marked as State's Exhibit 22. Do you recognize  
6 that? I don't think that's your packaging, but maybe it is.

7 A. The box is not my packaging. But on the inside that  
8 shows the location of the Durant Avenue and the North Park  
9 Place, my name, the date of the recovery, red black in color  
10 Nike Air sneakers. It's the left foot. I would've packaged  
11 it in a brown paper bag. And all of this other packaging is  
12 SLED. SLED also has in here the black in color beanie from  
13 the Ford Edge. But I would not a package the beanie and the  
14 Nike shoe in the same packaging. That was done by SLED  
15 after their testing.

16 Q. Let's go ahead and open it up just so we know that  
17 that's what is in there and that's the items that you  
18 collected.

19 A. The brown bag that I was referring to, this is the red  
20 black in color Nike Air sneaker, the left foot; and it has  
21 my initials and the date on it. The black beanie, it has my  
22 initial and the date on it and the brown paper bag.

23 Q. So that would've been the shoe you collected on the  
24 street and the black hat you collected in the front  
25 passenger seat of the Ford Edge?

Redirect Examination of Ms. Adams by Ast. Sol. Kidd

1 A. That's correct.

2 AST. SOL. KIDD: At this time, State would offer Sate's  
3 Exhibit 122 into evidence.

4 THE COURT: Counsel, you need to mark them separately.

5 AST. SOL. KIDD: You would like me to mark them  
6 separately.

7 THE COURT: I think you need to if you going to make  
8 reference to it. You can mark them as A and B. Give them  
9 to Madam Court Reporter.

10 (Brief pause.)

11 AST. SOL. KIDD: So we're marking ---

12 THE COURT: Shoe is A and the beanie is B.

13 AST. SOL. KIDD: Correct.

14 THE COURT: Any exceptions from the Defense?

15 MR. PRICE: No, ma'am.

16 MR. PEPER: No, ma'am.

17 THE COURT: Marked and admitted 122 A and B without  
18 objection.

19 (State's Exhibit Numbers 122-A, Nike Shoe, and 122-B,  
20 Beanie, were received into evidence.)

21 Q. All right. Ms. Adams, I'll show you what's been and  
22 marked for ID is 123, 123-A and 123-B.

23 A. Okay. Again, the box would have been done by SLED.  
24 The airbag from the driver side of the car that we removed  
25 during the search warrant, and the airbag from the passenger



1 rear left side of the car. It would've been packaged in a  
2 brown paper bag, my initials and date, and the same brown  
3 paper bag with a label and my initials and date.

4 Q. And just for purposes of the record, 123 A is the rear  
5 left side airbag, and 123 B is the driver side airbag?

6 A. Yes.

7 AST. SOL. KIDD: We offer exhibits 123, 123-A, 123-B,  
8 into evidence.

9 THE COURT: Any objections?

10 MR. PRICE: No objections.

11 MR. PEPER: No, ma'am.

12 THE COURT: The box really doesn't need to be an  
13 exhibit. It should be -- you marked the box.

14 COURT REPORTER: Initially I did. But I was ---

15 THE COURT: Yeah. It just needs to 123 A and B.

16 AST. SOL. KIDD: Just A and B.

17 THE COURT: Uh-huh.

18 AST. SOL. KIDD: I'm assuming it's the same as 122 --  
19 and just have 122 A and B.

20 THE COURT: Any objection?

21 MR. PRICE: No, ma'am.

22 MR. PEPER: No, ma'am.

23 THE COURT: Without objection.

24 (State's Exhibit Numbers 123 A and B, Airbags, were  
25 received into evidence.)

Redirect Examination of Ms. Adams by Ast. Sol. Kidd

1 Q. All right. Last thing, I know it's five o'clock, so  
2 I'm going to ask you about two questions. Big crime scene?

3 A. Yes.

4 Q. Took us a couple of hours to go through all of this.  
5 Is that the biggest crime scene you've ever worked?

6 A. One of the biggest. If I can recall, it was a total of  
7 16 hours for myself.

8 Q. And it spanned, what? A few blocks.

9 A. So I have Park Circle and Eat Montague; MUSC ER; City  
10 Hall; 2200 Rich Street; back to Durant Avenue and Park Place  
11 North; [REDACTED] Park Place; [REDACTED] South Rhett back to  
12 headquarters and did the search warrant.

13 Q. Okay. And we can't swab every single surface, can we?

14 A. No.

15 Q. Why is that?

16 A. For example, for the hours that I've been sitting here,  
17 it would be safe to say that I didn't leave any DNA. So  
18 everything that is touched is not said that DNA is left  
19 behind. So as far as like with clothing, we send the whole  
20 thing off because I can't swab. I may miss that small area  
21 in that one pattern of say a pants leg. So we send that to  
22 SLED who is equipped to have the equipment to do all of  
23 that. So anything that may be pertinent to the case, if  
24 you're drinking out of something, safe to say backwash  
25 you're leaving DNA to send that off to SLED. As far as with

1 the bottle, I can go ahead and process using that with a  
2 black fingerprint powder to try to recover latent  
3 fingerprints.

4 Q. I guess I just mean we do the best we can swabbing  
5 placed we think DNA might be.

6 A. Oh, yes.

7 Q. You know, obviously, you could have swabbed the  
8 steering wheel and you didn't; right?

9 A. Yes.

10 Q. And the door handles?

11 A. Yes.

12 Q. And the seats. We can come up with a million different  
13 places you could have swabbed but we didn't because we have  
14 to pick and choose. Is that fair to say?

15 A. Yes.

16 AST. SOL. KIDD: No further questions.

17 THE COURT: Any objection to the witness being excused?  
18 From the State?

19 AST. SOL. KIDD: No, ma'am.

20 THE COURT: From the defense?

21 MR. PRICE: No, ma'am.

22 MR. PEPER: No, ma'am.

23 THE COURT: Ma'am, you're excused.

24 THE WITNESS: Thank you.

25 THE COURT: You're welcome.

1           Madam Forelady, ladies and gentlemen, we're going to  
2 take advantage of this break in testimony to take our  
3 evening recess. During the break, please do not discuss  
4 this case with in any manner whatsoever. Please do not  
5 watch any media accounts about this case or do any  
6 independent research on the Internet. I know it's tempting  
7 because we would like to believe everything we read on the  
8 Internet as accurate, but it is not. And in addition to  
9 that as the finders of the facts in this case you are sworn  
10 to decide this case according to the testimony that you hear  
11 and the other evidences that has been introduced. So I  
12 would ask that you strictly follow those instructions as  
13 well as not making any comments regarding your status on any  
14 social networking sites.

15           We'll resume in the morning at 9:30. You might want to  
16 give yourselves a little extra time. It's suppose to be  
17 raining in the morning. Actually, it's suppose to be  
18 raining for the next two days. And we've arranged to have  
19 your lunch brought in tomorrow. So you can plan  
20 accordingly. I hope y'all have a great evening. Just leave  
21 your notepads stacked on the banister, and we'll secure them  
22 during the evening recess. Have a good evening.

23           (The jury exits the courtroom at 5:02 p.m.)

24           THE COURT: You may be seated. Okay. Now, does the  
25 defensive have any objection to State's Exhibit Number 9,

1 which is the photo.

2 MR. PEPER: Yes, ma'am. Your Honor, we believe it's  
3 extremely prejudicial, not to mention the fact that  
4 especially given everything that's already been admitted,  
5 that it would be cumulative at this point. We just see no  
6 reason what little probative value it has is certainly  
7 outweighed by prejudice against, certainly, my client. And  
8 I assume Mr. Price joins in this as well.

9 MR. PRICE: I join in that as well, Your Honor.

10 THE COURT: Okay. And what is the State's response?

11 AST. SOL. KIDD: And I'm sorry. Little spinning. Can  
12 I just see 9 again so I recall exactly what photograph it  
13 is. Judge, I think it goes -- I think it goes to malice, it  
14 goes to the window. I think it goes to the directionality  
15 of the gunshots and to the testimony of Mr. Capers. I think  
16 it's probative on all those points. I don't believe it's  
17 overly graphic.

18 THE COURT: You said Mr. Capers?

19 AST. SOL. KIDD: Yes, ma'am.

20 THE COURT: Even when the State seeks to introduce  
21 evidence based on particular grounds, the Court must still  
22 engage in a balancing pursuant to Rule 403. It must make  
23 the determination that the evidence is more probative than  
24 prejudicial. It also has to determine whether the evidence  
25 will appeal to the biases and sympathies, passions or just

1 base reaction, such that it would imply that a jury would  
2 make a decision based on some factors outside the evidence.  
3 In other words, if they are relying on emotions instead of  
4 facts of the case in rendering a decision.

5 Generally, photographs of this type are not favored in  
6 our case law. And, generally, photos of this type are only  
7 admitted in capital cases, and in that regard, they are only  
8 admitted in the penalty phase to show and to establish the  
9 element of aggravation when you're talking about malice.

10 Generally, when malice is established through the  
11 introduction of photographs, it is generally admitted  
12 through the testimony of the medical examiner. And,  
13 generally, it is admitted for that purpose, one, to  
14 corroborate the mode and manner of death, and usually it is  
15 admitted when the mode and manner of death is challenged.

16 In other words, usually in circumstances where someone says  
17 I didn't do a particular thing or it didn't amount to that,  
18 it didn't cause that amount of force to kill someone, or I  
19 did not engage in that level of force. That's just one  
20 example. And, generally, the photographs are admitted to  
21 assist the medical examiner in describing the mode and  
22 manner of death. And in that event, the photos, the body is  
23 cleaned and the wounds are shown but not in such a graphic  
24 nature. And even then, generally, it is favored that the  
25 photos be shown in black in white.

1 I find for the record that the photo is more  
2 prejudicial than probative. It shows the aftermath of the  
3 injury. It does not in any way seek to describe the mode  
4 and manner of death in the manner which it would have  
5 normally have been presented, that being though the autopsy  
6 photos of the medical examiner who is equipped through her  
7 expertise or his expertise to describe and articulate malice  
8 and to establish that element thereby not leaving it to lay  
9 opinion which would be emotional in its nature. Because when  
10 you take it in that vein, it is in a clinical way that it is  
11 to described, and not in such a visceral way as a way this  
12 photo is presented. Our case law is very clear that the  
13 State cannot establish an element of an offense when the  
14 proof that is required leaves the jury to speculate or guess  
15 about it. And I this instance, while it would not  
16 necessarily speculative, they're being asked to rely on  
17 their emotions in making that decision.

18 Again, what troubles me about this photograph is it's  
19 not used -- not being used to describe or to facilitate the  
20 explanation of the mode and manner of death. But it simply  
21 depicts the body in the aftermath of the shooting. And  
22 while the witness has described it, he described it in great  
23 detail. I didn't need a photo to assist me in visualizing  
24 what he articulated. And in addition to that, it is not  
25 contested that that's how the body was found or that is how

1 the deceased came to succumb to his injuries. And Dr.  
2 Schandl has already discussed the mode and manner of death.  
3 In addition, if it is introduced to show the trajectory of  
4 the bullets or how the bullets entered the vehicle, it's  
5 cumulative. Because number 17 and number 8 already show  
6 that. And one of those photos I've ordered redacted. The  
7 other I've ordered in black and white which partially show  
8 the victim's body. Therefore, the motion or the objection  
9 to the photograph is sustained. It will be marked as a  
10 Court's exhibit for purposes of appellate review. Now,  
11 where are the other photos that I ordered redacted so I can  
12 look at them so we can enter those into the record.

13 (Court's Exhibit No. 5, State's 9 Photograph, was  
14 marked for identification.)

15 (Brief pause.)

16 THE COURT: State's original number 8 has been marked  
17 as a Court's exhibit. The redacted version of the photo has  
18 been admitted as the original number 8. Number 9 has been  
19 omitted based on the Court's ruling and has been marked as a  
20 Court's exhibit. Number 17 has been admitted without  
21 objection. It is a black and white. And number 11 in black  
22 and white, likewise, has been admitted without objection.

23 Is there anything else we need to take up before we  
24 adjourn for the evening?

25 MR. PRICE: Your Honor, just for the record, I think it



1 would still be with an objection.

2 THE COURT: No. You said you did not have an objection  
3 in black and white.

4 MR. PEPER: That's correct.

5 MR. PRICE: Oh, you're talking about -- yes. You're  
6 correct. I see what you're saying.

7 THE COURT: Yes. Uh-huh. Is there anything else we  
8 need to take up before we adjourn for the evening. From the  
9 State?

10 AST. SOL. KIDD: No, ma'am.

11 THE COURT: From the defense?

12 MR. PRICE: No, ma'am.

13 MR. PEPER: Judge ---

14 THE COURT: Yes, sir.

15 MR. PEPER: And this may be a little premature, like  
16 for scheduling purposes, I've got a probate court hearing at  
17 noon Thursday. If I need to find someone to cover, I can.  
18 I didn't know . . .

19 THE COURT: You might want to just in case. But I  
20 don't know how the testimony is going to fall. I mean, if I can  
21 accommodate you, you go to lunch, then I will. But if we're  
22 in the middle of a witness. So you might want to just try to  
23 see where we are.

24 MR. PEPER: Yes, ma'am. Thank you, Judge.

25 THE COURT: You're welcome. Anything else before we

1 adjourn?

2 (No response.)

3 THE COURT: All right. Have a good evening. 9:30 and  
4 prepare for an abbreviated lunch tomorrow.

5 (The proceedings concluded for the evening at 5:15  
6 p.m.)

7 - - - - -

8 (The proceedings resumed on Wednesday, June 21, 2017,  
9 at 9:45 a.m.)

10 THE COURT: Okay. We have a note from a juror. But we  
11 need the defendant. (Brief pause.) We have a note from a  
12 juror, and its' juror number 73. And it reads as follows:  
13 Good morning, Judge Jefferson. My name is Christian  
14 Cochrane. I am juror number 73. Yesterday, I recognized an  
15 expert witness that I know. The expert witness was Dr.  
16 Schandl. I do not have a personal relationship with Dr.  
17 Schandl, but I volunteer in the forensic pathology  
18 department occasionally during breaks from school. I have  
19 not worked with Dr. Schandl in about a year at MUSC. I do  
20 not know of anything about the current case except from in  
21 the courtroom because I was away at school at Clemson during  
22 the investigation. I apologize if I misinterpreted any  
23 question -- questions or did not hear her name if called.  
24 Sorry for the inconvenience. And it's signed by the juror.  
25 I think the remedy is to voir dire her to see if she is

1 fair and impartial, and then proceed. Any exceptions from  
2 the State?

3 AST. SOL. KIDD: No, ma'am.

4 THE COURT: From the defense?

5 MR. PRICE: No, ma'am.

6 MR. PEPPER: I think it's a guy. Is it a guy?

7 THE COURT: Oh, I'm sorry. Is it? You know it would  
8 help if I looked at all that on my sheet. I just looked at  
9 the name. It is a male. I apologize. Please bring him in  
10 for me.

11 (Juror number 73 enters the courtroom at 9:47 a.m.)

12 THE COURT: Mr. Cochrane, how are you this morning?

13 JUROR: I'm well. How are you?

14 THE COURT: I'm doing fine. I got your note. And I  
15 just need to ask you a few questions as a result of that  
16 note. Do you have any personal knowledge -- and I need you  
17 to stand up while I'm talking to you. Do you have any  
18 personal knowledge of the facts and circumstances of this  
19 case?

20 JUROR: No, ma'am.

21 THE COURT: Do you have any personal knowledge of the  
22 facts and circumstances of the autopsy that Dr. Schandl  
23 completed or performed on the victim in this case?

24 JUROR: No, ma'am.

25 THE COURT: And your note indicates that you were away

1 at school while all this was going on. Is that accurate?

2 JUROR: Yes, ma'am.

3 THE COURT: Okay. You just wanted to bring to my  
4 attention that you recognized Dr. Schandl once she started  
5 testifying?

6 JUROR: Yes, ma'am.

7 THE COURT: Okay. Do you still feel that you can  
8 remain fair and impartial?

9 JUROR: Yes, ma'am.

10 THE COURT: Do you feel you can render a fair and  
11 impartial decision in this case?

12 JUROR: Yes, ma'am.

13 THE COURT: Do you feel you can render a decision based  
14 solely on the evidence as it will presented and on the law  
15 as the Court will instruct?

16 JUROR: Yes, ma'am.

17 THE COURT: Okay. If you will stand out in the hallway  
18 for me with the bailiff. Please don't discuss our colloquy  
19 with your fellow jurors.

20 JUROR: Thank you.

21 THE COURT: Thank you.

22 (Juror number 73 exits the courtroom at 9:48 a.m.)

23 THE COURT: He's indicated he can remain fair and  
24 impartial. Any exception from the State?

25 AST. SOL. KIDD: No, ma'am.

1 THE COURT: From the defense, Mr. Price?

2 MR. PRICE: No, ma'am.

3 THE COURT: Mr. Peper?

4 MR. PEPER: No, ma'am.

5 THE COURT: All right. We'll have the note marked as a  
6 Court's exhibit.

7 (Court's Exhibit No. 6, Juror Note, was marked for  
8 identification.)

9 THE COURT: State ready to proceed?

10 AST. SOL. KIDD: We are, Your Honor.

11 THE COURT: Defense ready to proceed?

12 MR. PRICE: Yes, Your Honor.

13 THE COURT: Okay. Who is the State's next witness?

14 AST. SOL. KIDD: Judge, first we would like to enter a  
15 brief stipulation, enter a few items, and then we would call  
16 Ms. Danielle Ravenel.

17 THE COURT: And then who is after that?

18 AST. SOL. KIDD: Sam -- Detective Riedel.

19 THE COURT: You said Danielle Ravenel. That's number  
20 12.

21 AST. SOL. KIDD: Danielle.

22 THE COURT: And who would be next?

23 AST. SOL. KIDD: Detective Riedel.

24 THE COURT: Is it Riedel or Riedel?

25 AST. SOL. KIDD: It's Riedel.

1 THE COURT: Riedel. And then who would be after that?

2 AST. SOL. KIDD: Judge, that's a little bit depending  
3 on how long Detective Riedel takes.

4 THE COURT: Okay.

5 AST. SOL. KIDD: I could potentially call Ms. Butler or  
6 I could potentially call ---

7 THE COURT: Oh, that's Detective Butler?

8 AST. SOL. KIDD: Yes, ma'am. Could potentially call  
9 Keith Evans as well.

10 THE COURT: Okay. And Mr. Evans is represented by  
11 whom?

12 AST. SOL. KIDD: Frank Cornely.

13 THE COURT: Have you notified Mr. Cornely?

14 AST. SOL. KIDD: I have. He's planning on being down  
15 here this afternoon.

16 THE COURT: Okay. You might want to give him a heads  
17 up if things go more quickly ---

18 AST. SOL. KIDD: I'll send him an e-mail him right now.

19 THE COURT: --- than anticipated so that he can make  
20 sure he's in the area in case he has to come down the  
21 street. You can go ahead and get the jury for me.

22 (Brief pause.)

23 THE COURT: Is the witness in the courtroom?

24 AST. SOL. KIDD: I was going to do the stipulation  
25 first.

1 THE COURT: You need to have the witness in here as  
2 well so you don't have to go looking for him.

3 (The jury enters the courtroom at 9:52 a.m.)

4 THE COURT: Good morning, ladies -- you may be seated.  
5 Good morning, ladies and gentlemen. I hope everybody had a  
6 pleasant evening. We'll now resume testimony. You may  
7 proceed.

8 AST. SOL. KIDD: Thank you, Your Honor. At this point,  
9 the State would like to enter a stipulation.

10 THE COURT: You may proceed.

11 AST. SOL. KIDD: The State and defense stipulate that  
12 all the items collected and sent to SLED were properly  
13 maintained, the chain of custody properly documented up to  
14 testing by SLED. Additional items to be entered as exhibits  
15 in this case would be State's Exhibit 110, a buccal swab  
16 from Marvin Bryan; State's Exhibit 125, a buccal from Justin  
17 Wilson; State's Exhibit 124, which is a buccal swab from  
18 Daquan Gilliard; State's Exhibit 117, which is buccal swab  
19 from Quran Allen; State's Exhibit 118, which is a buccal  
20 swab from Keith Evans; and State's Exhibit 111, which is a  
21 McDonald's cup on the floorboard of the Ford Edge. The  
22 State would offer those items into evidence.

23 THE COURT: They've already been admitted by  
24 stipulation; correct?

25 AST. SOL. KIDD: Pursuant to this stipulation, yes,

1 Your Honor.

2 (State's Exhibit Numbers 110, 111, 117, 118, 124, and  
3 125 were received into evidence.)

4 THE COURT: Call your witness.

5 AST. SOL. KIDD: State calls Danielle Ravenel.

6 (DANIELLE RAVENEL, was duly sworn and provided the  
7 following testimony.)

8 THE COURT: Ma'am, if you could speak directly into the  
9 microphone for us, please.

10 THE WITNESS: Danielle Ravenel, R-a-v-e-n-e-l.

11 THE COURT: Thank you.

12 DIRECT EXAMINATION

13 BY AST. SOL. KIDD:

14 Q. Good morning, Ms. Ravenel.

15 A. Good morning.

16 Q. Appreciate you being here. Can you tell the jury where  
17 you from?

18 A. West Ashley.

19 Q. And how old are you?

20 A. 23.

21 Q. Where did you go to high school?

22 A. Burke.

23 Q. Burke?

24 A. Burke High School.

25 Q. Do you know Justin Wilson?



1 A. Uh-huh.

2 Q. How do you know Justin Wilson?

3 A. That's my child's father.

4 Q. How long have you known Justin Wilson?

5 A. Since two thousand, I say maybe, '13.

6 Q. Since 2013?

7 A. Uh-huh.

8 THE COURT: Ma'am, if you could say yes or no, that  
9 would be helpful.

10 Q. Do you still have a relationship with Mr. Wilson?

11 A. Yes, sir.

12 Q. Is it safe to say it's hard to be here today?

13 A. It is.

14 Q. Okay. Do you recall in November of 2015 renting a  
15 silver Ford Edge?

16 A. Yes, sir.

17 Q. Who rented that vehicle?

18 A. I did.

19 Q. Who paid for that vehicle?

20 A. He did.

21 Q. Who is he?

22 A. Justin Wilson.

23 Q. Do you recall when it was rented?

24 A. I don't remember.

25 Q. I'm going to show you what's been marked and entered

Direct Examination of Ms. Ravenel by Ast. Sol. Kidd

1 into evidence as State's Exhibit Number 52. Take a look at  
2 that for me. Do you recognize that?

3 A. Yes, sir.

4 Q. And what is that document?

5 A. A receipt.

6 Q. From what?

7 A. I was renting a vehicle.

8 Q. Okay. Does it have -- can you tell by looking at that  
9 document when y'all rented that silver Ford Edge?

10 A. On November 19th. That's what it says.

11 Q. November 19th?

12 A. -- 15.

13 Q. I'm sorry. What was the last thing you said?

14 A. November 19, 2015.

15 Q. Okay. Thank you. Do you remember being interviewed by  
16 North Charleston Police Department on November 22nd?

17 A. The first time?

18 Q. Yes, ma'am?

19 A. Uh-huh. Yes, sir.

20 Q. And did you recall that was a recorded interview?

21 A. Yes, sir.

22 Q. Do you recall giving North Charleston Police Department  
23 Justin Wilson's phone number?

24 A. Yes, sir.

25 Q. Do you recall what that phone number was?

1 A. No, sir. I don't remember.

2 Q. But when you gave it to them, were you being honest  
3 with them at that point?

4 A. Oh, yeah. Yes, sir.

5 Q. So you gave them his real number?

6 A. Uh-huh.

7 Q. Now do you know an individual named Zaquan Jones (ph)?

8 A. Yes.

9 Q. Who is that?

10 A. Friend of the family.

11 Q. Friend of the family. Is he related to Justin Wilson?

12 A. No, not really. Friend of his family.

13 Q. What do you mean not really? Did they refer to each  
14 other as cousins?

15 A. Yeah. Yeah.

16 Q. Where does Zaquan Jones live?

17 A. I don't know that.

18 Q. Does he live in North Charleston?

19 A. Last time I talked to him he was living in North  
20 Charleston.

21 Q. Did he live on Admiral Street?

22 MR. PEPER: Objection.

23 THE COURT: Basis?

24 MR. PEPER: Lack of personal knowledge.

25 THE COURT: It's more leading. You need to lay the

1 foundation of her knowledge.

2 Q. Do you remember meeting with me in this case?

3 A. Meeting who?

4 Q. With me and my investigator, Cheney?

5 A. What? Last week.

6 Q. Yes, ma'am.

7 A. Yes, sir.

8 Q. And do you remember discussing Mr. Jones at that point?

9 A. Mister what?

10 Q. Do you remember talking to me about Zaquan Jones?

11 A. Yes, I do.

12 Q. Do you remember indicating that he lived on Admiral  
13 Street in North Charleston?

14 A. Yeah, at the time, yeah. But not recently.

15 Q. Okay. I see the confusion.

16 A. Yeah.

17 Q. I apologize. I mean ---

18 A. Not recently.

19 Q. --- do you know where he lived in November of 2015?

20 A. Oh, yeah. That's -- yeah, I thought you were saying  
21 recently.

22 Q. I apologize then. Where did he live in November of  
23 2015?

24 A. On Admiral.

25 Q. Admiral Street. All right. Thank you. I'm going to

1 show you what's been marked for identification as State's  
2 Exhibit 129. Do you recognize that photograph?

3 A. Yes, sir.

4 Q. Who is in that photograph?

5 A. Me and my unborn child and Justin.

6 Q. You, Justin, and your child?

7 A. Unborn child, yes.

8 Q. Unborn child.

9 A. At the time.

10 Q. So you were pregnant in that photo?

11 A. Uh-huh.

12 Q. Okay. Do you know where that photograph came from? I  
13 mean, do you recognize sort of the . . .

14 A. It looks like a phone.

15 Q. Okay. Does that look like Justin's phone?

16 A. Yeah.

17 Q. Thank you.

18 AST. SOL. KIDD: State would offer State's 129 into  
19 evidence.

20 THE COURT: Any objection?

21 MR. PEPER: No, Your Honor.

22 THE COURT: Marked and admitted, State's 129.

23 (State's Exhibit No. 129, Photograph, was received  
24 into evidence.)

25 Q. Do you recall the evening of November 21st and the

Direct Examination of Ms. Ravenel by Ast. Sol. Kidd

1 morning of November 22, 2015?

2 A. Do I remember? No, not really.

3 Q. Well, you remember November 22nd being interviewed by  
4 the North Charleston Police Department?

5 MR. PEPER: Objection. Leading.

6 THE COURT: Sustained. Leading. Rephrase.

7 Q. Do you remember speaking with North Charleston Police  
8 Department?

9 A. I do.

10 Q. Do you remember what day that was?

11 A. I don't.

12 Q. Do you remember what day the -- well, you don't  
13 remember the specific date. Is that what you're saying?

14 A. Yeah. I don't remember the specific day.

15 Q. But you remember sort of the contact -- context of the  
16 things that were going on or ---

17 MR. PEPER: Objection. Leading.

18 THE COURT: Why don't you just -- approach.

19 (A bench conference was held off the record and out of  
20 the hearing of the jury panel.)

21 THE COURT: You may proceed. The objection is  
22 overruled.

23 Q. And, Ms. Ravenel, I just -- without remembering the  
24 specific dates, do you remember the evening before you spoke  
25 to the police department?

1 A. You mean like that day? Do I remember that day?

2 Q. Yes, ma'am.

3 A. Not really.

4 Q. Do you remember were you with Justin Wilson that night?

5 A. I wasn't.

6 Q. You were not?

7 A. No.

8 Q. Okay. And that's all I was trying to get at ---

9 A. Okay.

10 Q. --- is the night before you spoke to the police  
11 department, were you with Justin Wilson?

12 A. Huh-uh.

13 Q. Okay. Thank you.

14 AST. SOL. KIDD: I have no further questions.

15 THE COURT: Any cross of the witness?

16 MR. PEPER: Thank you, Your Honor. May it please the  
17 Court?

18 THE COURT: Yes, sir.

19 CROSS-EXAMINATION

20 BY MR. PEPER:

21 Q. Good morning. How are you?

22 A. Good morning.

23 Q. Ms. Ravenel, we've met before; correct?

24 A. Yes.

25 Q. My client, Justin, is the father of your child;

Cross-Examination of Ms. Ravenel by Mr. Peper

1 correct?

2 A. Yes, sir.

3 Q. Y'all have been dating for -- your child is probably  
4 what? Two now? Two and a half? Two?

5 A. Since 2013.

6 Q. You're child four already?

7 A. No. She's two.

8 Q. Two. Yeah, that's what I'm saying. Okay. All right.  
9 But y'all have been together since 2014. Is that what  
10 you're saying?

11 A. Thirteen.

12 Q. Thirteen. I gotcha. Okay. All right. Let's get  
13 right to the point here. If I heard you correctly, you do  
14 remember talking to the City of North Charleston Police  
15 Department on November 23rd, that morning; correct?

16 A. Right.

17 Q. The morning after the car was stolen; right?

18 AST. SOL. KIDD: Objection, Judge.

19 THE COURT: Basis?

20 AST. SOL. KIDD: Speculation and hearsay.

21 THE COURT: Please rephrase the question.

22 Q. All right. do you remember talking -- do you remember  
23 talking to North Charleston?

24 A. Right.

25 Q. Okay. Was that before or after you spoke to Justin?



1 A. I spoke to him that morning and after.

2 Q. Okay. You first, as I understand your interview with  
3 North Charleston, you first spoke with Justin around 5:30 in  
4 the morning. Is that right?

5 A. Right.

6 Q. All right. And that's when you learned that ---

7 AST. SOL. KIDD: Objection, Judge. May we approach?

8 THE COURT: Uh-huh.

9 (A bench conference was held off the record and out of  
10 the hearing of the jury panel.)

11 Q. I'm going to ask you some better questions. Okay. All  
12 right. The last time you spoke to Justin was at 11:15 p.m.;  
13 correct?

14 A. Right.

15 Q. And that's when you gave him permission to take the  
16 rental car; correct?

17 A. Right.

18 Q. And he left your house. Baby is already asleep.  
19 You're going to bed. And he leaves and goes out to the club  
20 by himself?

21 A. Right.

22 Q. Well, at least in the car, in your car, by himself. He  
23 didn't have anybody else in this car; right?

24 A. No.

25 Q. Okay. The next time you spoke to him was when?

Cross-Examination of Ms. Ravenel by Mr. Peper

1 A. That morning.

2 Q. Right. About 5:30 that morning?

3 A. Right.

4 Q. You don't know where he was in that six-and-a-half-hour  
5 time period, do you?

6 A. No.

7 Q. No personal knowledge as to where he went?

8 A. No.

9 Q. Okay. All right. And the next time you saw him was  
10 around eight o'clock or so that morning?

11 A. Yes. Right before the police came to my house.

12 Q. Right. And why did they come to your house?

13 AST. SOL. KIDD: Objection, Judge. Speculation.

14 THE COURT: You can say what she did as a result. She  
15 can't repeat what somebody said to her. It's hearsay.

16 MR. PEPER: Yes, ma'am. Yes, ma'am.

17 Q. As a result of the -- I assume when the police came to  
18 your house, you went back and spoke to them; correct?

19 A. Yes.

20 Q. Okay. And then from that point on, you then went to  
21 the police station with them; correct?

22 A. Yes.

23 Q. Okay. And that's when you told them exactly what you  
24 just told me?

25 A. Right.

1 Q. You don't know where he was?

2 A. Right.

3 Q. You didn't know where the car was?

4 A. No.

5 Q. And that's that?

6 A. Right.

7 Q. Okay.

8 MR. PEPER: Court's indulgence. One second, Your  
9 Honor.

10 THE COURT: Uh-huh.

11 (Brief pause.)

12 MR. PEPER: Ms. Ravenel, I don't have anymore  
13 questions. Thank you, Judge.

14 MR. PRICE: I have no questions for this witness, Your  
15 Honor.

16 THE COURT: Any objection to the witness being excused?  
17 From the State?

18 AST. SOL. KIDD: Judge, can I ---

19 THE COURT: Oh, I'm sorry. I apologize. Is there any  
20 redirect? I'm sorry.

21 AST. SOL. KIDD: No problem, Judge. Very briefly.

22 THE COURT: I apologize.

23 REDIRECT EXAMINATION

24 BY AST. SOL. KIDD:

25 Q. You just told Mr. Mr. Peper that you gave him

Redirect Examination of Ms. Ravenel by Ast. Sol. Kidd

1 permission to drive the car?

2 A. Yes.

3 Q. He is listed on the rental agreement that I showed you  
4 as a permissible driver. Is that correct?

5 A. Yes.

6 Q. Did you ever drive that car?

7 A. No.

8 Q. So you never drove the silver Ford Edge?

9 A. Huh-uh.

10 Q. Only Justin?

11 A. Uh-huh.

12 Q. So it's a little weird that you would have to give him  
13 permission to drive it that night when you ---

14 MR. PEPER: Objection.

15 THE COURT: Sustained. Leading. And, ma'am, if you  
16 could answer the question yes or no.

17 THE WITNESS: Yes, ma'am.

18 THE COURT: Thank you.

19 Q. So rented it on November 19th?

20 A. Yes.

21 MR. PEPER: Objection. Asked and answered.

22 THE COURT: I'm going to give him a little latitude.

23 The question -- the answer will stand.

24 Q. And between November 19th and when you talked with  
25 police you never drove that vehicle. Is that what you're

1 saying?

2 A. Yes, sir. That's what I'm saying.

3 Q. And the number you gave the police department for his  
4 cell phone was [REDACTED]-5777?

5 A. I can't remember.

6 Q. Thank you.

7 AST. SOL. KIDD: No further questions, Judge.

8 THE COURT: Any objections to the witness being  
9 excused?

10 MR. PEPER: No, ma'am.

11 MR. PRICE: No, ma'am.

12 THE COURT: Mr. Price? I mean, Mr. Kidd?

13 AST. SOL. KIDD: No, ma'am.

14 THE COURT: Ma'am, you're excused. Call your next  
15 witness.

16 AST. SOL. KIDD: The State calls Detective Riedel.

17 (SAM RIEDEL, was duly sworn and provided the following  
18 testimony.)

19 THE COURT: You may proceed.

20 AST. SOL. KIDD: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY AST. SOL. KIDD:

23 Q. Good afternoon, Detective Riedel. Can you -- or good  
24 morning. Sorry. Can you tell the jury where you're  
25 employed, what your current duties are, and that sort of

1 thing.

2 A. I'm currently employed by the North Charleston Police  
3 Department. I'm assigned to the investigation bureau in the  
4 white collar unit with a dual assignment to the South  
5 Carolina Secret Service Electronic Crimes Task Force. So my  
6 duties in addition to our normal fraud investigations are  
7 assistance in other investigations for our department. I  
8 also do forensic data recovery and examinations as well as  
9 federal investigations of a white collar nature.

10 Q. So as a part of that job description, did you receive  
11 or do you go through training as far as forensic testing of  
12 electronic devices, computer, media, things of that nature?

13 A. I have. I extensive training for both computer and  
14 cellular devices.

15 Q. Can you just kind of lay out some of that for the jury,  
16 please.

17 A. As far as my training or . . .

18 Q. Sure.

19 A. I've been to classes sponsored by the National White  
20 Collar Crime Center, which is a nonprofit organization  
21 funded by the government to assist law enforcement agencies  
22 with learning, in addition to white color crimes, digital  
23 forensic investigative techniques and skills. These classes  
24 pertain to both computers and cellular devices. I have  
25 attended training through the Cellebrite company for

1 certification in acquisition and analysis of cellular device  
2 data. And I have attended other trainings from various  
3 other companies . . .

4 Q. And Cellebrite is, I guess, what I want to focus on.  
5 Can you tell the jury what Cellebrite is and why it's  
6 important.

7 A. Cellebrite is an international company with a primary  
8 focus on cellular device data recovery. It actually began  
9 -- I can't remember the exact year -- but was based on  
10 transferring data from phone to phone when at your telephone  
11 provider, when you upgrading phones. They pioneered the  
12 technology to transfer your data from your old phone to your  
13 new phone. They use that and saw a market for forensic or  
14 corporate use in investigative nature. So they have a  
15 branch that focuses specifically on the forensic aspect of  
16 recovering and analyzing data. They provide not only the  
17 program or capability to acquire the data, but in addition  
18 an analytical program that decodes and puts the data in a  
19 format that normal people can read.

20 Q. So if we're just going to simplify it all the way down  
21 to the bottom, is it basically software that helps you look  
22 inside cell phones?

23 A. Correct.

24 Q. And that's sort of the layman explanation. Is that  
25 fair to say?

Direct Examination of Det. Riedel by Ast. Sol. Kidd

1 A. Very.

2 Q. And you've been trained in this software through  
3 Cellebrite Company?

4 A. I have.

5 Q. Okay. And as a part of your duties at North  
6 Charleston, do you recall analyzing some sell phones  
7 associated with this case in the shooting that occurred on  
8 November 22, 2015?

9 A. Multiple.

10 Q. Okay. I'm going to show you what's been marked and  
11 entered into evidence as State's Exhibit Number 95, 94, and  
12 96. And see if you recognize those phones.

13 A. I do, yeah.

14 Q. And did you perform a Cellebrite analysis on those  
15 devices?

16 A. I was able to perform an analysis on the data from two  
17 of the three devices here. I was able to do only a SIM card  
18 with one of them.

19 Q. Okay. Can you explain that to the jury why you were  
20 able to successfully dump the information from some of the  
21 phones and not others?

22 A. Basically, the whole processing software is -- in  
23 nature, it's complex. But to put it simply, the software  
24 relies on the ability to access the data in order for it to  
25 be pulled off. So that is controlled not only by the



1 components, the chips, the little bitty pieces inside that  
2 make it run and eventually fail and you have to buy a new  
3 phone, but there's also programming that can control what  
4 you can or can't remove from a device. It does that by  
5 blocking it off or putting it out of reach of the program.  
6 So you actually have three levels of data recovery. Your  
7 first is the logical. A logical acquisition means simply  
8 the two computers, the one that I have and the phone, they  
9 talk to each other in their language. Once says, hey, I'm  
10 so and so; the phone replies I am the LG phone. From that  
11 point, now that they have their introduction, one says, hey,  
12 I like you, nice to meet you, can I have your contacts; the  
13 LG based on its or its components says sure. That exchange  
14 goes on throughout different types and varieties of data.  
15 Unfortunately, with that logic, it's also the most basic.  
16 You only get what the two agree that they can mutually  
17 share.

18 Second, a little bit more in depth is the file system,  
19 which allows you to get pretty much equivalent if you  
20 understand when you look at your computer and you click on  
21 the side and it drops down all the folders for your disk  
22 drive, and you can go and look in each of the folders,  
23 that's the file system of a computer; the phone operates in  
24 the same exact same manner. So by pulling out the file  
25 system, it allows you to get what's stored in those files.

1 Whether or not it decrypts that information is kind of up to  
2 the programming itself. The most complete is the physical  
3 acquisition, which my machine says I don't care what you  
4 want, I'm going to take everything from your beginning to  
5 your end. It's a bit for bit. Everything on the memory  
6 chip that's on the phone.

7 Now, like I said, being as that's controlled by the  
8 hardware or the software. As everybody knows, Apple if it's  
9 password locked, you can't get in. There's no way -- well,  
10 there are ways to get past it, but their very pricey.  
11 Unfortunately, in this case one of the phones was an iPhone  
12 that was password locked. I have one iPhone here that we  
13 were able to acquire the password. So, therefore, I was  
14 able to get the data off of it. And the LG phone, there are  
15 other avenues to obtain data even if it's password locked.  
16 So I was able to retrieve the data from that.

17 Q. Thank you. As we indicated, we'll start, I guess,  
18 maybe one at a time. So start with State's Exhibit 95. And  
19 that is the LG phone?

20 A. Yes.

21 Q. Did you perform a cell phone analysis on that phone?

22 A. I did. I was able to extract that and analyze what was  
23 recovered from this exact phone. And I can compare that  
24 because the report that I prepare is provided to the  
25 investigator, gives me information that allows me to

1 indicate it's this phone and not another LG phone. And  
2 that's by the serial number or IMEI, International Mobile  
3 Equipment Identifier, which is unique to each device.

4 Q. I'm going to show you what's been marked for  
5 identification as State's Exhibit 128. Do you recognize  
6 that disc?

7 A. I do.

8 Q. And what does this disc contain?

9 A. That disc contains the report for this LG device which  
10 was generated by the analytical software.

11 Q. Okay. So what sort of information would be contained  
12 on this disc?

13 A. Pretty much any data I was able to extract and look at.  
14 So that could be contacts, calls, text messages, chats, web  
15 browsing, other application data. Anything that was able to  
16 be pulled off there would be on that disc.

17 Q. So pictures? Videos?

18 A. Picture, video.

19 Q. Anything that's on the phone pretty much? Anything  
20 that was on that LG phone is pretty much on this disc?

21 A. Pretty much.

22 Q. All right. And you had a chance to review this disc.  
23 Does this disc fairly and accurately represent the  
24 information that came off of that LG phone?

25 A. Yes.

Direct Examination of Det. Riedel by Ast. Sol. Kidd

1           AST. SOL. KIDD: Your Honor, at this time State would  
2 offer State's 128 into evidence.

3           THE COURT: Any objection?

4           MR. PRICE: No objection, Your Honor.

5           THE COURT: Mr. Peper?

6           MR. PEPER: (No verbal response.)

7           THE COURT: Could counsel approach for me, please.

8           (A bench conference was held off the record and out of  
9 the hearing of the jury panel.)

10          THE COURT: Madam Forelady, ladies and gentlemen, I  
11 have a brief matter of law to take up with counsel. During  
12 the break, please do not discuss the case, and please leave  
13 your notepads in your seats. We appreciate your patience.

14          (The jury exits the courtroom at 10:29 a.m.)

15          THE COURT: Okay. Are you going to be eliciting any  
16 opinions from this witness, Mr. Kidd?

17          AST. SOL. KIDD: Judge, I'm happy to qualify him. I  
18 don't think it's opinion testimony.

19          THE COURT: That's not my question. I need you to  
20 answer the question. Do you plan to elicit any opinions  
21 from him?

22          AST. SOL. KIDD: No opinions. No, ma'am.

23          THE COURT: So what exactly are going to elicit from  
24 him? Just if he extracted this information from the phones  
25 pursuant to a search warrant?

1           AST. SOL. KIDD:   Yes, ma'am.

2           THE COURT:   Okay.   So, basically, he's just a chain  
3 witness in essence in some ways.   He's the only that could  
4 have extracted this information other than someone else with  
5 his training.

6           AST. SOL. KIDD:   Correct.   I think anyone with his  
7 training could have removed the evidence from the cell  
8 phone.

9           THE COURT:   Okay.   Now, the next layer of this what is  
10 it that you're seeking to introduce that is on State's 128?  
11 Any why would the entire disc be admissible or relevant?

12          AST. SOL. KIDD:   I believe that we have a cell phone  
13 that is recovered from the rear driver side of the vehicle  
14 that was involved in a shooting.   That the evidence is that  
15 the shooting came for the rear driver side of that vehicle.  
16 So there's a strong correlation that this cell phone belongs  
17 to the shooter.   I think the text messages, phone calls, any  
18 information on that phone that ties that phone directly to  
19 the defendant is incredibly relevant and germane. I think  
20 all of the information, especially the call history, which  
21 shows the numbers called, calls received and the day, even  
22 the weeks leading up to this shooting because it shows a  
23 pattern with those phone numbers.

24          THE COURT:   Are you all saying this phone is not your  
25 client's?

1 MR. PEPER: We're not denying the phone is my client's.  
2 But nothing that I've heard so far proves that he was the  
3 one using the phone.

4 THE COURT: Well, then they have to prove that it was  
5 his phone in the car because it places him at the scene of  
6 the incident. Can't have it both ways.

7 MR. PEPER: Who places his phone there?

8 THE COURT: Whose phone -- people generally of this  
9 generation don't go anywhere without their phone. I think  
10 that's not a leap.

11 MR. PEPER: Unless your car was stolen, I could  
12 understand.

13 THE COURT: Yeah. They live with their phones attached  
14 to them. Yeah. Pretty much.

15 MR. PEPER: I don't deny that it's relevant as far as  
16 ownership of the phone and then ---

17 THE COURT: Well, I think he has to prove that he was  
18 using it then if you're gonna say it was just merely there.

19 MR. PEPER: That's right.

20 THE COURT: Because he has to disprove mere presence.

21 MR. PEPER: I don't know how this witness, Judge,  
22 proves that it was Justin using the phone.

23 THE COURT: I think he can prove that there is data on  
24 that phone that would tie your client to it. Because you  
25 generally -- I don't let anybody else use my phone. That's

1 a little too personal.

2 MR. PEPER: I'm with you.

3 THE COURT: Now, this generation is a little different.  
4 But then my phone is for business. It's not to play music,  
5 watch movies, and this other craziness that people do. Now,  
6 I know that this generation is a little different, but most  
7 people because of the data they keep on their phone, are  
8 very personal about their telephones. As a matter of fact,  
9 most people keep their phones locked because they don't want  
10 somebody else to have access to their phone. So I think  
11 they will have to prove -- I mean, they're gonna have -- if  
12 a part of their case is that your client was in this car,  
13 using this car, was there at the time of the incident, they  
14 have to prove that. And if data on this phone proves that,  
15 I think they're allowed to do that. However, I'm just not  
16 certain everything on that phone would be relevant.

17 AST. SOL. KIDD: And while I agree in part, I mean ---

18 THE COURT: I mean, you need to isolate a snapshot pf  
19 time. But everything that's on his phone, every text  
20 message, it just -- it's gets into character and it's  
21 problematic. Because then you leave a jury to comb through  
22 all this stuff and draw their own conclusions. And you and  
23 I both know that's not appropriate.

24 AST. SOL. KIDD: In which case, I rely on the documents  
25 that I just ---

1 THE COURT: Then you need to show Mr. Peper each one of  
2 the documents that you seek to introduce. Have you had them  
3 premarked?

4 COURT REPORTER: All of these individually?

5 THE COURT: Individually.

6 AST. SOL. KIDD: Some of them are stapled together. I  
7 think we can -- like the call log is all one call log.

8 THE COURT: Like this? Okay. So that's going to be  
9 one exhibit.

10 AST. SOL. KIDD: That can be one exhibit. Yes, ma'am.

11 (Brief pause.)

12 COURT REPORTER: Okay. Those have all been marked.

13 THE COURT: You got them all, right?

14 COURT REPORTER: Uh-huh; 131 through 137.

15 THE COURT: Say those number again.

16 COURT REPORTER: 131 through 137.

17 THE COURT: Okay. Mr. Kidd, you can come get your  
18 exhibits.

19 AST. SOL. KIDD: Thank you, Your Honor.

20 THE COURT: You're welcome.

21 AST. SOL. KIDD: And while we're taking the time to do  
22 this, can I go ahead and mark the ones for the other cell  
23 phones too so we don't go through this again.

24 THE COURT: When we take a break. I would -- oh, are  
25 you going to ask him about all of those too?



1           AST. SOL. KIDD:   Yes, ma'am.

2           THE COURT:   Okay.   Go ahead.

3           AST. SOL. KIDD:   There are not as many for the other  
4 ones.

5           THE COURT:   Yeah, go ahead.   Did you show them to Mr.  
6 Price and ---

7           AST. SOL. KIDD:   I did.   I just showed them all to --  
8 this is in lieu of entering the whole CDs on those phones as  
9 well even though Mr. Evans' phone I don't think anyone would  
10 object because it's Mr. Evans' phone.   But just for  
11 simplicity to keep the same, I isolated the documents that I  
12 need for Mr. Evans' phone and the two-page print out from  
13 Mr. Bryan's phone.

14          THE COURT:   You can go ahead and premark those.

15          (Brief pause.)

16          MR. PEPER:   Your Honor, do you want me to separate the  
17 ones that I consent and the one I have objections?

18          THE COURT:   No, I'm going to make them all -- different  
19 groups.

20          MR. PEPER:   Okay.   All right.

21          THE COURT:   I just need the court reporter to go ahead  
22 and premark them.

23          MR. PEPER:   Yes, ma'am.

24          (Brief pause.)

25          THE COURT:   I need the first set that your's are on.   I

1 don't need them. I need Mr. Kidd to tell me the numbers and  
2 what he's seeking to introduce so we can go through whether  
3 you have any objections. Starting with 131, what is that?

4 AST. SOL. KIDD: I believe we'd start with 130, which I  
5 doubt they have an objection to.

6 THE COURT: What is that?

7 AST. SOL. KIDD: A photograph of the cell phone right  
8 before it was dumped.

9 THE COURT: Any objection?

10 MR. PEPER: No, ma'am.

11 THE COURT: That will be marked and admitted, number 30  
12 -- 131 -- 130. I'm sorry. I'm having issues with numbers  
13 today.

14 (State's Exhibit No. 130, Photograph, was received  
15 into evidence.)

16 THE COURT: 131?

17 AST. SOL. KIDD: 131 is the print out of the call log.

18 THE COURT: And do you have any objection to that, Mr.  
19 Peper?

20 MR. PEPER: I do, Judge. I don't understand the  
21 relevance and it going all the way back ---

22 THE COURT: How many pages is the call log, and what  
23 dates does it start -- or is it in descending date?

24 MR. PEPER: Descending to September.

25 THE COURT: So when does it start?

1           AST. SOL. KIDD: Is starts on the day of the incident,  
2 November 22, 2015. And it runs through September 26, 2015.

3           THE COURT: Okay. So why would all of that -- well,  
4 no. Oh, backwards. It starts 9/26 ---

5           AST. SOL. KIDD: It starts 9/26 ---

6           THE COURT: --- day of the incident.

7           AST. SOL. KIDD: --- to 11/22. So just under two  
8 months.

9           THE COURT: Okay. So why would the entire call log be  
10 relevant?

11          AST. SOL. KIDD: So there is a common number called  
12 immediately preceding the murder.

13          THE COURT: Why can't you just isolate that out without  
14 having the entire log of phone calls that are not relevant?

15          AST. SOL. KIDD: So there's a pattern of calling that  
16 number.

17          THE COURT: Why can't you isolate that out?

18          AST. SOL. KIDD: I can.

19          THE COURT: Every phone call he made is not relevant to  
20 this case.

21          AST. SOL. KIDD: I would agree except that I think  
22 there's another reason why it's relevant. And this is  
23 because as in most cell phones, when you call someone that's  
24 in your contact list, on the call log, the name of the  
25 person you call will pop up; right? When you call someone

1 who is not in your contact list and you just enter the  
2 number, just the number shows up. The number that we are  
3 referencing is just the number. If we isolate that out, I  
4 believe it would -- tends to indicate this is someone that  
5 that caller does not know. However, with this specific  
6 phone and the owner of this specific phone, there is a  
7 consistent pattern of calling numbers that aren't stored in  
8 the contacts.

9 THE COURT: I think a lot of people do that. I do  
10 that.

11 AST. SOL. KIDD: Well, I don't. Everyone that I call  
12 ---

13 THE COURT: You're not relevant to my life and I call  
14 you sporadically, you are not in my phone.

15 AST. SOL. KIDD: But everyone I call ---

16 THE COURT: Because that let's me know that I don't  
17 want to talk to you.

18 AST. SOL. KIDD: Everyone I call is in my phone.

19 THE COURT: Yeah, but everybody doesn't do it that way.  
20 There are some people absent minded, they never program a  
21 phone. You all have friends that like text you and like I  
22 lost my phone again, I lost my contact list. You were never  
23 in my contact list, can you text me, please.

24 AST. SOL. KIDD: Sometimes.

25 THE COURT: I mean, not everybody follows the same

1 routine.

2 AST. SOL. KIDD: Right. Not everybody does follow the  
3 same routine. And that's why it's relevant it's because  
4 some of these jurors will follow that routine. Some won't.  
5 But I think they need to see the routine in this one.

6 THE COURT: I think you can do that without having two  
7 months of a call log. So you can pick what you want to use,  
8 and I then I'll let Mr. Peper look at it and see if he  
9 agrees to that. What's number 132?

10 AST. SOL. KIDD: 132 is the text message screen.

11 THE COURT: I'm sorry. Say that one more time.

12 AST. SOL. KIDD: The text message log.

13 THE COURT: And what date does that span?

14 AST. SOL. KIDD: It starts from -- well . . .

15 THE COURT: I thought there was only one set of text  
16 message that were germane to the issue you were trying to  
17 prove.

18 AST. SOL. KIDD: Well, I think, once again, Judge, I  
19 think the pattern is important. It starts from November  
20 19th and goes through November 22nd. So we have three days  
21 of text messages.

22 THE COURT: And what do those text messages say and who  
23 are they to?

24 AST. SOL. KIDD: I mean, a lot of them are to Mr.  
25 Ravenel who just testified.

1 THE COURT: And what are they about?

2 AST. SOL. KIDD: Really just normal communication.

3 Nothing that I see as prejudicial. You know, obviously, the  
4 main text message I want is ---

5 THE COURT: What day is that on?

6 AST. SOL. KIDD: On November 22nd, those three text  
7 messages at 1:18, 1:29, and 1:52 in the morning. Those are  
8 the most important.

9 THE COURT: You said 1:18, 1:29 and 1:52?

10 AST. SOL. KIDD: Yes, ma'am.

11 THE COURT: A.m.

12 AST. SOL. KIDD: And then also -- yes, ma'am. And then  
13 also from the 21st that same night at 10:43 p.m.

14 THE COURT: And how are those to?

15 AST. SOL. KIDD: Those are unidentified -- I mean,  
16 they're a phone number, but it's not one stored in the  
17 contacts.

18 THE COURT: Uh-huh. And what does that show?

19 AST. SOL. KIDD: It shows ownership of the phone  
20 because the text from the phone at 1:52 a.m. in response to  
21 the question who is this, it says Bubby. So that means the  
22 phone identified who it is as Bubby, which is Justin Wilson,  
23 13 minutes before the shooting.

24 THE COURT: Has anybody testified yet that's his  
25 nickname?

1           AST. SOL. KIDD:   Yes, ma'am.

2           THE COURT:   Okay.   Now, my next question becomes then  
3 why is the rest of that relevant if you can prove that with  
4 those three text messages, or those two days of text  
5 messages?

6           AST. SOL. KIDD:   Once again, Judge, I believe there is  
7 a pattern of communication that I believe is relevant.

8           THE COURT:   I mean, how?   You need to tell me that.

9           AST. SOL. KIDD:   It's similar in that it's a pattern of  
10 communication between numbers that are in the contact list  
11 and not in the contact list.

12          THE COURT:   So what does that prove?

13          AST. SOL. KIDD:   Well, you know, it's important for us  
14 because the phone calls and communications immediately  
15 preceding the murderer are to numbers that are not in the  
16 contact list.   And I think it would not be a stretch for a  
17 jury to say, oh, someone else must have gotten his phone and  
18 had been communicating with this person because it's not  
19 someone he knows in his contacts.

20          THE COURT:   Yeah.   But what do those messages say and  
21 why is that relevant?   What does that prove?

22          AST. SOL. KIDD:   Well, it's not just what they say, but  
23 it's what you can think they're talking about.

24          THE COURT:   But if it's not in this contact list, how  
25 are you connecting that then?

1           AST. SOL. KIDD: Well, because they're made from his  
2 phone. And I need the jury to know it's not out of the  
3 ordinary for him to text message and call people that aren't  
4 stored in his phone. And that's why I believe it's so  
5 irrelevant. If they look at that in isolation ---

6           THE COURT: Who's going to testify to that?

7           AST. SOL. KIDD: I don't think anyone has to testify to  
8 it. I think the document speaks for itself. And if you  
9 look at that in isolation, you're going to think, oh,  
10 someone else must have gotten his phone and been calling ---

11          THE COURT: Somebody else got his phone and used his  
12 nickname?

13          AST. SOL. KIDD: Well, I agree. But I have to prove  
14 that. And if -- say if as soon as he sent that text using  
15 his nickname, then someone took his phone. And then all of  
16 a sudden you have phone calls to numbers that aren't stored  
17 in his contacts. And they're not allowed to see that he  
18 does that all the time, then it's not a leap for a jury  
19 member to think, oh, someone else must have grabbed his  
20 phone and been typing in numbers because they weren't stored  
21 in the contacts.

22          THE COURT: Do you have any objection to this document,  
23 Mr. Peper?

24          MR. PEPPER: I do, Judge.

25          THE COURT: What's the basis of the objection?



1 MR. PEPER: Relevance. Same exact ---

2 THE COURT: But you all are saying that his -- it was  
3 his phone in the car but he wasn't using it; right?

4 MR. PEPER: That's what we're going to -- yes. Yes,  
5 ma'am.

6 THE COURT: And I think they have to refute that, don't  
7 they?

8 MR. PEPER: Well, Judge, my specific objection is  
9 regarding the length and the complete list that have no  
10 relevance to ---

11 THE COURT: It's just two days, isn't it? Is there  
12 anything in the verbiage that's inculpatory to your client  
13 or that would bring his character into play? Other than  
14 normal conversation.

15 MR. PEPER: Judge, it's three days.

16 THE COURT: I mean, normally, most people are like what  
17 ya doing, you all right, what you up to. I mean, it's not  
18 like anything of real substance. That's what I'm trying to  
19 figure out. Is there anything ---

20 MR. PEPER: It wasn't anything of relevance to this  
21 case.

22 THE COURT: Well, it goes to the usage of the phone,  
23 so. And the regularity of usage. So I'm trying to figure  
24 out is there anything in those that would be the 19th, 20th,  
25 21st, those four days of call logs that would be -- that

1 would bring your client's character into conversation;  
2 anything that would cast him in a bad light? Or is it just  
3 regular conversation between folk on text messaging?

4 MR. PEPER: One second, Your Honor.

5 (Brief pause.)

6 MR. PEPER: You know, Judge, the problem -- I would say  
7 yes if this text is to and from Justin. I don't know how to  
8 say that. You know ---

9 THE COURT: You mean the one where he uses his  
10 nickname?

11 MR. PEPER: No. There's one that says that I'm gonna  
12 roll on you, I'm not at a hotel, getting some clothes for  
13 tomorrow, I'll call you when I leave from here. I mean,  
14 that I'm gonna roll on you, okay. I don't know -- I mean,  
15 to me ---

16 THE COURT: I have no idea what these kids say anymore.

17 MR. PEPER: Right. To me that's ---

18 THE COURT: It sounds like maybe he's gonna come -- you  
19 know, like, I'm gonna come through or whatever.

20 MR. PEPER: Or I'm gonna rat on you or ---

21 THE COURT: No, no.

22 MR. PEPER: You know, I'm gonna roll over.

23 THE COURT: If somebody is going to tell something,  
24 they ain't going to tell you. They ain't going to give you  
25 the chance to do something to them. They just going to do

1 it. I've never known people to give notice when they're  
2 going to do something that's adverse to your ---

3 MR. PEPER: Again, that's ---

4 THE COURT: --- interest.

5 MR. PEPER: Yeah, I mean ---

6 THE COURT: I mean, I don't know if that means I'm  
7 going to come by, if we're going to go out, or if we going  
8 to roll out and do something. I have no idea what that  
9 means. I think you would have to ask your client what it  
10 means.

11 MR. PEPER: Nor do I.

12 THE COURT: I mean, in that verbiage of what ---

13 MR. PEPER: Right. But that's my exact objection is  
14 that ---

15 THE COURT: But, I mean, you would have to tell me  
16 that's inculpatory in some way and that implicates his  
17 character. Doesn't sound like it does. Sounds like some  
18 slang people would use.

19 MR. PEPER: Right. And I get where you're going. I  
20 mean, you know, if he agree it's relevant then the Court ---

21 THE COURT: Well, if you're saying that his phone --  
22 his phone was simply in the car, and that's mere presence,  
23 they have to refute that. They have the burden of proof.  
24 They have to prove beyond a reasonable doubt that it is his  
25 phone, that he left his phone in the car, and that

1 corroborates the testimony of the first witness who says  
2 that they said, hey, man, we've got to go back to this car  
3 and get our phones.

4 MR. PEPER: I don't understand why they can't do that  
5 with November 21st and 22nd. Why does it -- I mean, really  
6 why couldn't they do it from November 22nd? I mean, the  
7 shooting is at -- I think the testimony was 2:30-ish or  
8 something like that.

9 THE COURT: I guess, why do you need four days?

10 AST. SOL. KIDD: Well, it's three days.

11 THE COURT: Because I thought the same thing, like the  
12 day of and the day after.

13 AST. SOL. KIDD: And, once again, Judge, I think it's a  
14 pattern of usage. It's showing ---

15 THE COURT: Yeah. But if it's a pattern of usage, two  
16 days is enough to show it.

17 AST. SOL. KIDD: I mean, if we want on the text  
18 messages ---

19 THE COURT: Is that Bubby -- Is the Bubby ---

20 AST. SOL. KIDD: --- take off the last page.

21 THE COURT: Is the Bubby text in those first two days?

22 MR. PEPER: It's in the first three hours, you know.

23 THE COURT: I a window of two days is more than  
24 sufficient.

25 AST. SOL. KIDD: So I'll just take off the last page.

1 And so now we have ---

2 THE COURT: Now we're down to 133. What is ---

3 AST. SOL. KIDD: Now we're starting at November 20th at  
4 12:00 p.m. to November 22nd at 12:00 p.m. So exactly two  
5 days.

6 THE COURT: That works.

7 AST. SOL. KIDD: I probably shouldn't rip this page off  
8 a Court's exhibit, should I?

9 THE COURT: Yeah. Because I'm going to need you to  
10 substitute. That's going to become a Court's exhibit.

11 MR. PEPER: Your Honor, I would just make my objection  
12 ---

13 THE COURT: Yeah, that's going to become a Court's  
14 exhibit and then the rest -- then you're going to have to  
15 take the other one and make it an exhibit. I'm sorry?

16 MR. PEPER: I understand your ruling now. I just note  
17 my objection for the record.

18 THE COURT: Yeah. We've argued it and I've ruled.

19 MR. PEPER: Thank you.

20 THE COURT: Uh-huh. What's 133? You need to give that  
21 back to the court reporter.

22 AST. SOL. KIDD: I just need to get him so he can  
23 print out a copy pursuant to the Court's instruction.

24 MR. PEPER: If I may object, 133 ---

25 THE COURT: Wait one second while he does that. (Brief

1 pause.)

2 COURT REPORTER: So then 132 in its entirety is going  
3 to be a Court's exhibit?

4 THE COURT: Yes. And then he's going to substitute  
5 those two pages as 132.

6 (Brief pause.)

7 THE COURT: Okay. What is 133?

8 AST. SOL. KIDD: 133 is a picture of Ms. Ravenel and  
9 Mr. Wilson.

10 THE COURT: Any exception to that, Mr. Peper?

11 MR. PEPER: I don't have a problem with that picture.

12 THE COURT: That will be marked and admitted without  
13 objection.

14 (State's Exhibit No. 133, Photograph, was received  
15 into evidence.)

16 THE COURT: What's 134?

17 AST. SOL. KIDD: 134 picture of just the defendant.

18 THE COURT: Any objection?

19 MR. PEPER: Who? I don't know who that is.

20 THE COURT: Is that not your client? Looks like him to  
21 me. Looks like a selfie. Not a particularly good one, but  
22 a selfie nonetheless.

23 MR. PEPER: To me it doesn't look like him at all. I  
24 mean, what foundation? Are you going to have a witness say  
25 that's him?

1 THE COURT: I think that looks like him. People rarely  
2 take pictures of other folk that close up on their phone. I  
3 mean, I think it would go to weight. It looks like him to  
4 me. I mean, do you want to go ask him?

5 MR. PEPER: What's the relevance ---

6 THE COURT: People rarely take pictures of other folk  
7 on their phone from that angle. It's his phone; he took a  
8 picture of himself.

9 MR. PEPER: All right.

10 THE COURT: Let me see the picture again. Move out of  
11 the way, Mr. Peper, so I can look right quick.

12 MR. PEPER: Your Honor, I can have him stand up.

13 THE COURT: It's enough of a resemblance.

14 MR. PEPER: It resembles him . . .

15 THE COURT: Yeah. But, you know, people look different  
16 cameras. That's why I don't like pictures, especially not  
17 on cell phones. There are people that are masters at taking  
18 selfies. I ain't one of them.

19 MR. PEPER: May I show it to my client?

20 THE COURT: Sure. You're saying it's not him?

21 MR. PEPER: No.

22 THE COURT: Who is it?

23 MR. PEPER: John Murray.

24 THE COURT: Okay. Then that will be excluded. Who is  
25 John Murray?

1 MR. PEPER: He says a friend, Your Honor.

2 THE COURT: He just took a picture of himself on your  
3 phone? I mean, I don't want you to incriminate yourself.  
4 Tell your lawyer so he can tell me.

5 MR. PEPER: Yeah.

6 THE COURT: Okay. So it's not the defendant. So that  
7 one will be objected -- the objection will be sustained.  
8 That's not coming in.

9 (State's Exhibit No. 134, Photograph, was marked for  
10 identification.)

11 THE COURT: What's number 135?

12 AST. SOL. KIDD: 135 and 136 are the other two selfies.

13 THE COURT: Let me see. That's with the gun?

14 AST. SOL. KIDD: Yes, ma'am.

15 THE COURT: Those aren't coming in. They're too  
16 prejudicial. Unless you can prove to me this is the gun  
17 that was involved in this shooting. Otherwise, that  
18 implicates his character. That's the only reason you would  
19 want it in. You want the jury to believe poorly of him  
20 because he had a gun in a picture.

21 AST. SOL. KIDD: Well, my argument, Judge, is that  
22 under 404(b) it goes to identity. Because it ties ---

23 THE COURT: Not with a gun in the picture. If you want  
24 to redact the gun out of the picture, it goes to identity.  
25 But it doesn't go -- you have a picture of a defendant with



1 a gun unrelated to this incident. You want to argue to the  
2 jury that he as bad -- you want them to imply that he's a  
3 bad person because he took a picture of a gun, and  
4 therefore, he has the propensity to have a gun in another  
5 situation. It's off limits. And it's clear it's off  
6 limits. So if you want to redact the gun out of the  
7 picture, then you can use one of them because they are  
8 cumulative. But I'm not letting in a picture of an  
9 unrelated gun with the defendant in evidence. You know it's  
10 more prejudicial than probative. Creates a lot of problems.

11 AST. SOL. KIDD: Then I will have 135 redacted.

12 THE COURT: Do you have any problem with a redacted  
13 picture, Mr. Peper? Let him see it, please.

14 MR. PEPER: Again ---

15 THE COURT: Are you saying that's not your client in  
16 the picture?

17 MR. PEPER: I'm not saying that at all. I'm trying to  
18 figure out what relevance it is.

19 THE COURT: That he took a picture of himself on his  
20 phone, there go it's his phone. But without the gun because  
21 the gun is not relevant. Unless it's the gun that was used  
22 in this incident and puts it in proximately of this event.

23 MR. PEPER: If they're coming in for the limited  
24 purpose ---

25 THE COURT: 136 he's withdrawn. He want's to use 135

1 with the gun redacted.

2 MR. PEPER: I don't have an objection.

3 THE COURT: Okay. That will come in without objection  
4 with the gun redacted.

5 AST. SOL. KIDD: So I'll have both of these marked as  
6 Court's exhibits.

7 THE COURT: Yes.

8 AST. SOL. KIDD: And then I'll have ---

9 THE COURT: I though you withdrew 136.

10 AST. SOL. KIDD: Right.

11 THE COURT: I though you said you didn't want to use  
12 136.

13 AST. SOL. KIDD: But it's already been marked, so I  
14 think it has to stay.

15 THE COURT: Well, it will be marked for ID only.

16 AST. SOL. KIDD: Right.

17 THE COURT: But it'll be withdrawn.

18 AST. SOL. KIDD: And then 135 is a Court's exhibit, and  
19 I'll have that redacted.

20 THE COURT: Okay. Now, that takes us back to 131,  
21 which is the call log. I'll allow you five days prior to  
22 the event through the event. But the call log, everything  
23 else is redacted. It becomes cumulative and it's not  
24 relevant. That should be enough to prove what you say you  
25 need to prove.

1           AST. SOL. KIDD:   So five days would take me to  
2 November 17th?

3           THE COURT:   I guess.   I don't know.   What is five days  
4 prior to the 22nd?

5           MR. PEPER:   18 through the 22nd.

6           AST. SOL. KIDD:   So I'll just go to -- just for the  
7 record, I will start at page --

8           THE COURT:   Yeah, that will be the 17th.

9           AST. SOL. KIDD:   And I'll even start a little bit  
10 sooner than that.   I will go from November 18th of 2015 at  
11 8:58 p.m. through November 22nd of 2015.

12          THE COURT:   Okay.   Then you can give the originals to  
13 the court reporter and have your staff print what needs to  
14 be printed so we can have those substituted and marked.  
15 Now, what's the next group that we need to go over?

16          MR. PEPER:   Your Honor, before we move on, make sure --  
17 I know you've admitted them, but I don't know that I  
18 understand ---

19          THE COURT:   They're relevant to the usage of the phone.

20          MR. PEPER:   Just relevance?

21          THE COURT:   Uh-huh.   When you claim it's not his phone,  
22 they're entitled to show that it's his phone when he uses  
23 it.

24          MR. PEPER:   Well, we're not claiming it wasn't his  
25 phone.   And ---

1 THE COURT: You're saying he didn't have it at -- he's  
2 saying he's showing it to prove a pattern of behavior up to  
3 this incident, and that he did in fact have the phone in his  
4 possession during the incident, before and after. And it's  
5 relevant.

6 MR. PEPER: Thank you.

7 THE COURT: Uh-huh. What's the next set?

8 AST. SOL. KIDD: The web history.

9 THE COURT: Of who?

10 AST. SOL. KIDD: 137 of the same phone.

11 THE COURT: That's the same -- oh, yeah. I forgot. And  
12 what does that show?

13 AST. SOL. KIDD: It shows -- the importance is two  
14 things ---

15 THE COURT: I asked what it showed.

16 AST. SOL. KIDD: Oh, it shows the web searches on the  
17 phone.

18 THE COURT: And what does that show?

19 AST. SOL. KIDD: It shows that at 1:57 a.m., which is  
20 minutes before the shooting, there is a access of Facebook.

21 THE COURT: Okay. Whose Facebook page? The Facebook  
22 tied to that phone?

23 AST. SOL. KIDD: You know, I could probably dig into  
24 that code ---

25 THE COURT: Why is that relevant?

1           AST. SOL. KIDD: Because it shows that the owner of the  
2 phone minutes before the shooting is searching Facebook.

3           THE COURT: And what else does the web history show?

4           AST. SOL. KIDD: And it shows the going to the gun  
5 store. The web history search is a gun store.

6           THE COURT: When is that?

7           AST. SOL. KIDD: That occurs on November 5th and  
8 November 20th.

9           THE COURT: Why is that relevant?

10          AST. SOL. KIDD: Judge, and this will become more  
11 relevant a little bit later in the trial, but the evidence  
12 will show that the defendant was shot in July. There are a  
13 number of Facebook posts we intend to enter later that is  
14 going -- where the defendant posts that since they tried to  
15 take my life, I'm never going to leave home without my gun.  
16 Continued statements such as that. I think these posts show  
17 that since then he has maintained that sort of mentality and  
18 that he is preparing for conflict.

19          THE COURT: Unless you can show me he bought a gun at  
20 that site, and it's a gun that was used in this incident,  
21 it's innuendo and character. People search the web for lots  
22 of things. That doesn't mean they buy. That's like window  
23 shopping.

24          AST. SOL. KIDD: Well, if I redact the gun store then  
25 can I keep in the fact they're accessing Facebook at

1 1:57 a.m. from that phone?

2 THE COURT: Can you show what they were accessing on  
3 Facebook?

4 AST. SOL. KIDD: I mean, it shows the URL that it goes  
5 to. Now, if I need to go to Facebook and enter that URL,  
6 bring a print out of what that page looks like, I can do  
7 that.

8 THE COURT: I mean, I don't know. Was he accessing his  
9 Facebook page? Was he accessing -- I don't know. Do you  
10 have any objection to the Facebook information, Mr. Peper?

11 MR. PEPER: Again, his testimony is that it's relevant  
12 to show the gun thing. Now he's moved onto Facebook ---

13 THE COURT: I'm done with the gun thing. I've already  
14 ruled on that.

15 MR. PEPER: What relevance does whether or not this  
16 phone use Facebook?

17 THE COURT: You know, to me, it's not relevant unless I  
18 know what he accessed. Was he accessing his page? Was he  
19 checking his posts? Did he access one victim's pages? You  
20 know, I don't know.

21 AST. SOL. KIDD: And my counter argument is, Judge, it  
22 doesn't matter what he accessed. The point is that he's  
23 accessing something on his phone moments before the  
24 shooting. It's not that where are you going or what you're  
25 looking at. It's that it's showing the phone in his hand.

1 The same phone that is at the scene ---

2 THE COURT: Well, no. If he was accessing his Facebook  
3 page, it shows he was accessing his -- using ---

4 AST. SOL. KIDD: It shows the phone is accessing  
5 Facebook.

6 THE COURT: Yeah, but you're going to have to connect  
7 those dots for me. So why don't you find out what was being  
8 accessed and then we can continue this conversation.

9 All right. What's the next group of exhibits? Do  
10 those deal with Mr. Price's client's phone? What numbers  
11 are those? I would assume they would pick up with 138.

12 AST. SOL. KIDD: Yes, ma'am.

13 THE COURT: And whose phone is that?

14 AST. SOL. KIDD: 138 is Mr. Bryan's phone. This is the  
15 phone that was not able to be dumped.

16 THE COURT: This is an iPhone?

17 AST. SOL. KIDD: It is.

18 THE COURT: Couldn't be unlocked.

19 AST. SOL. KIDD: It couldn't be unlocked. However,  
20 when they can't unlock the phone, they do get SIM card. And  
21 the telephone number associated with the phone -- or Mr.  
22 Riedel -- Detective Riedel will testify -- telephone number  
23 associated with a phone is stored on the SIM card. And so  
24 although we can't access the phone log and all that stuff  
25 like we just talked about, we can identify the phone number

1 that's tied to that phone. And that is relevant because  
2 that phone number will then show up in the next phone we're  
3 going to discuss in the context.

4 THE COURT: Any objection, Mr. Price/

5 MR. PRICE: As long as he testifies to it, I don't have  
6 a problem with that.

7 THE COURT: Okay. So that will be -- 138 is without  
8 objection.

9 (State's Exhibit No. 138, Cell Phone Photo, was  
10 received into evidence.)

11 AST. SOL. KIDD: So if 138 is just the photograph, and  
12 139 is the -- 139 and 140 are the printout.

13 THE COURT: You have no objection to those?

14 MR. PRICE: It's just the report. If he can testify to  
15 it, no, Your Honor, I have no objection to that.

16 THE COURT: Okay.

17 MR. PRICE: If that's what it is. It's his report;  
18 correct?

19 AST. SOL. KIDD: Correct.

20 MR. PRICE: The 139 ---

21 AST. SOL. KIDD: The Cellebrite printout, yes.

22 MR. PRICE: Correct. Of Officer Riedel?

23 THE COURT: Yes. I think that's what it is.

24 MR. PRICE: Yeah. Okay.

25 (State's Exhibit Numbers 139 and 140 were received into



1 evidence.)

2 THE COURT: What number then does that -- what does  
3 that take us to?

4 AST. SOL. KIDD: 141.

5 THE COURT: What is that?

6 AST. SOL. KIDD: 141 is a photograph of Keith Evans'  
7 phone. And the ---

8 THE COURT: Any objection to the admission of that?

9 MR. PRICE: I don't object to that one.

10 THE COURT: Mr. Pepper?

11 MR. PEPER: That's for Keith?

12 AST. SOL. KIDD: This is his phone just prior to the  
13 search warrant.

14 MR. PEPER: Whose?

15 THE COURT: Evans.

16 AST. SOL. KIDD: Keith's.

17 MR. PEPER: No objection to that.

18 THE COURT: All right.

19 (State's Exhibit No. 141, Cell Phone Photo, was  
20 received into evidence.)

21 THE COURT: That takes us then to what? To 142.

22 AST. SOL. KIDD: 142 which is Keith Evans' call log.

23 THE COURT: Is any of this incriminating to Mr. Evans?

24 AST. SOL. KIDD: To Mr. Evans?

25 THE COURT: Uh-huh.

1           AST. SOL. KIDD: Well, Mr. Cornely is here who  
2 represents Mr. Evans.

3           THE COURT: I understand that, and I saw him, that's  
4 why I'm asking that question. Is any of this ---

5           AST. SOL. KIDD: He's proffered with me, Judge. So  
6 he's confessed to everything. He's incriminated himself  
7 plenty.

8           THE COURT: Okay. 143 is what?

9           AST. SOL. KIDD: So 142 is the call log.

10          THE COURT: Got that.

11          MR. PRICE: But what is the relevance to the call log?

12          THE COURT: I don't know. We're going to get to that.  
13 I just need to know where everything is.

14          MR. PRICE: Oh, I'm sorry. I apologize.

15          THE COURT: That's okay. What is 143.

16          AST. SOL. KIDD: 143 is his text messages.

17          THE COURT: For what period?

18          AST. SOL. KIDD: From November 21st at 11:33 a.m.  
19 through November 22nd at 7:25 a.m.

20          THE COURT: And what's next? 144.

21          AST. SOL. KIDD: 144 is a single page from his contact  
22 list.

23          THE COURT: What does that show?

24          AST. SOL. KIDD: It shows the phone number that is  
25 associated with the other iPhone that we were unable to . .

1 .

2 THE COURT: Okay. And what does 145 show?

3 AST. SOL. KIDD: 145 is a screenshot of a FaceTime  
4 conversation between Mr. Evans and Mr. Wilson.

5 THE COURT: And what is 146? What date is that  
6 screenshot?

7 AST. SOL. KIDD: Judge, I'd have to go back -- oh, I  
8 know when it is. It's July 25, 2015.

9 THE COURT: And what is 146?

10 AST. SOL. KIDD: 146 is a photograph from Mr. Evans'  
11 phone with Mr. Bryan and Mr. Evans.

12 THE COURT: And 147?

13 AST. SOL. KIDD: 147 is a photograph of Mr. Evans and  
14 Mr. Wilson and another individual named Damon.

15 THE COURT: And 148?

16 AST. SOL. KIDD: 148 is just another photograph of the  
17 phone powered on before the search warrant was executed.

18 THE COURT: And why do you need that?

19 AST. SOL. KIDD: Why do I need which?

20 THE COURT: 148.

21 AST. SOL. KIDD: 148? It's just an identification of  
22 the phone prior to the service of the ---

23 THE COURT: I thought you already had a photo that  
24 showed that.

25 AST. SOL. KIDD: I've got one without -- with the case

1 of it.

2 THE COURT: Why do you need both of them? Oh, because  
3 the case is in the car. Okay. I gotcha. All right.  
4 There's no objection to 141, which is the phone. Is there  
5 any objection -- what time frame does the call log cover  
6 from 142?

7 AST. SOL. KIDD: Call log covers November 20th at 5:00  
8 p.m. through November 22nd at 11 a.m.

9 THE COURT: Okay. Is there any exception to the call  
10 log?

11 (Brief pause.)

12 MR. PEPER: Your Honor, on behalf of Mr. Wilson, it's  
13 my same objection. I understand your is it's relevant ---

14 THE COURT: I haven't ruled on anything yet. I'm  
15 hearing argument. What's the objection?

16 MR. PEPER: Relevance, Judge. It goes back too far in  
17 time. Doesn't prove anything as to this matter.

18 THE COURT: It's a couple days before the shooting  
19 through the day of the shooting. Is it not? 11/20 of '15  
20 at five through 11/22/15 at 11:00 a.m.

21 MR. PEPER: I gotcha, Judge. 11/22 -- I mean 11/20,  
22 yeah.

23 THE COURT: What is the relevance of the call log, Mr.  
24 Kidd?

25 AST. SOL. KIDD: The relevance of the call log for

1 Mr. Evans is that the numbers that have a consistent pattern  
2 through Mr. Wilson's phone in the days leading up to the  
3 murder are called from Mr. Evans' phone immediately  
4 preceding the murder. It is relevant ---

5 THE COURT: Saying they called the same people?

6 AST. SOL. KIDD: They called the same. But the only  
7 time it shows up in Mr. Evans' phone is immediately prior to  
8 the murder.

9 THE COURT: Well, who is this that they called?

10 AST. SOL. KIDD: It's the individual named Stewy that  
11 Daquan Gilliard testified about.

12 THE COURT: Okay. I gotcha. All right. It's  
13 relevant. It's coming in. 142 subject to the objection.

14 (State's Exhibit No. 142, Call Log, was received into  
15 evidence.)

16 THE COURT: 143, any exception to the text messages?

17 MR. PEPER: Not on behalf of Mr. Wilson, Judge.

18 THE COURT: Mr. Bentley Price?

19 MR. PRICE: No objection, Your Honor.

20 THE COURT: Okay. 143 is without objection.

21 (State's Exhibit No. 143, Text Message Log, was  
22 received into evidence.)

23 THE COURT: 144, the contact list?

24 MR. PRICE: Your Honor, I object to this one based on  
25 the relevance of it and the age of it. It says that this is

1 -- basis for it's relevance ---

2 THE COURT: He already told me the basis of it's  
3 relevance. It has the -- guy's phone number on it as a  
4 contact.

5 MR. PRICE: That's correct. And this indicates that  
6 that name was created in 2015. That's almost ---

7 THE COURT: That's when it happened.

8 MR. PRICE: Oh, I'm sorry. I'm sorry. I was thinking  
9 about today.

10 THE COURT: No.

11 MR. PRICE: So, okay. I'm looking at it. (Brief  
12 pause.) I don't have an objection, Your Honor.

13 THE COURT: 145 comes in without -- 144 comes in  
14 without objection.

15 (State's Exhibit No. 144, Contact List, was received  
16 into evidence.)

17 THE COURT: 145 is a screenshot with FaceTime of Evans  
18 and Wilson. Any exception?

19 MR. PEPER: Judge, A, relevance; B, what relevance it  
20 may have, they're going to have to ask -- I mean, the common  
21 question is why is he in a neck brace.

22 THE COURT: Oh, I don't know. I hadn't seen it.

23 MR. PEPER: I'm sorry.

24 THE COURT: Could of had a car accident. It looks like  
25 ---

1 MR. PEPER: Could have. Or he could have been shot  
2 which is what Mr. Kidd is trying to get at the whole time.

3 THE COURT: It looks like a neck brace or from whiplash  
4 from a car accident to me.

5 AST. SOL. KIDD: Well, I think the testimony ---

6 THE COURT: Maybe I've done too may wrecks, but that's  
7 what that looks like.

8 AST. SOL. KIDD: The testimony from Mr. Evans' is going  
9 to be ---

10 THE COURT: What is it?

11 AST. SOL. KIDD: --- on July 25, 2015, Mr. Wilson was  
12 shot on Tripe Street. He knows about it. He was there.

13 THE COURT: Oh, that's the date of this. He wasn't  
14 present when he was shot?

15 AST. SOL. KIDD: He was present with Mr. Wilson  
16 immediately proceeding the shooting. And he was concerned  
17 about him. He was a friend of him. And had a FaceTime  
18 communication with him the day he got released from the  
19 hospital. I think it goes to show their relationship.

20 THE COURT: I'm going to have to hear that testimony.  
21 That one is under advisement. I'm going to have to see what  
22 he actually says to see if the dots are connected. 146  
23 photo of Bryan and Evans. Any objection?

24 MR. PRICE: Yes, Your Honor.

25 THE COURT: Basis?

1 MR. PRICE: Well, one, I have no idea who this person  
2 even is. Obviously, this is relevance. I have no idea who  
3 this person is. Maybe if we heard testimony ---

4 THE COURT: Is somebody going to testify that that's  
5 him?

6 AST. SOL. KIDD: That's Mr. Evans.

7 THE COURT: But you said it was Mr. Bryan and  
8 Mr. Evans.

9 AST. SOL. KIDD: Right.

10 MR. PRICE: What's the relevance of the picture?

11 THE COURT: Is Mr. Evans going to testify as to them?

12 AST. SOL. KIDD: Yes, ma'am.

13 THE COURT: What's the purpose of the admission of the  
14 document?

15 AST. SOL. KIDD: To show their relationship with one  
16 another.

17 THE COURT: Then when we testifies to that, we'll take  
18 it up. It's under advisement. 147?

19 MR. PEPER: 403, Judge. You got -- I don't know if  
20 you've seen it, Your Honor. It's a picture of three  
21 individuals, not only were they ---

22 THE COURT: That's what every kid does in photos, and  
23 even adults. It befuddles me.

24 MR. PEPER: With a gun in their lap?

25 THE COURT: Is a gun in their lap?



1 MR. PRICE: Yeah, there's a gun in their lap.

2 THE COURT: I can't see that far. I'm sorry. Is this  
3 the gun from the event?

4 AST. SOL. KIDD: I believe it is.

5 THE COURT: Well, that's not -- what you believe is not  
6 evidence.

7 AST. SOL. KIDD: Well, I think a jury can make that  
8 stretch quite easily.

9 THE COURT: The jury ain't going to make that stretch  
10 unless you convince first.

11 AST. SOL. KIDD: Well, the -- I think if you look ---

12 THE COURT: Who is that in the middle?

13 AST. SOL. KIDD: That's an individual by the name of  
14 Damon. I think if you look at the firearm, it's pretty  
15 distinctive, Judge.

16 THE COURT: Well, I don't know. All firearms look the  
17 same to me. Let me hold it.

18 MR. PRICE: Yes, ma'am.

19 THE COURT: Are there some identifying marks on this  
20 gun? Serial number or otherwise?

21 AST. SOL. KIDD: There is, but not that I can get from  
22 the photo.

23 THE COURT: If you had it enhanced, you could.  
24 Couldn't you? Don't y'all have that ability?

25 AST. SOL. KIDD: Not to that degree.

1 THE COURT: You should have somebody from -- a firearms  
2 person can't say they're the same or that they're similar or  
3 that . . .

4 BY AST. SOL. KIDD: They could say they're the same and that  
5 -- or they could say that they're similar. They couldn't  
6 ---

7 THE COURT: I don't know. Have you talked to somebody  
8 to ask? Do you have a firearms person from SLED coming?

9 AST. SOL. KIDD: No, Your Honor. I feel pretty  
10 confident there's not a person that could tell that's it's  
11 the -- with certainty that it's the same firearm.

12 THE COURT: So for what purpose? Because you told me  
13 before you were trying to admit to show the relationship. I  
14 didn't know there was a gun in somebody's lap.

15 AST. SOL. KIDD: Well, I think it shows the  
16 relationship between Mr. Evans and Mr. Wilson, and it also  
17 shows Mr. Wilson in the direct proximity of a gun  
18 immediately proceeding the shooting ---

19 THE COURT: What's the date of the photo?

20 AST. SOL. KIDD: --- that looks identical to ---

21 THE COURT: What is the date of the photo?

22 AST. SOL. KIDD: I've got to pull it up off this CD the  
23 date that it was created. Beg the Court's indulgence.

24 THE COURT: Uh-huh.

25 (Brief pause.)

1 MR. PEPER: Your Honor, we redacted a black and white  
2 copy of it ---

3 THE COURT: Yeah. I've got to deal with those  
4 backwards. I need to deal with this. For my court  
5 reporter, I've got to stay where I am right now.

6 MR. PEPER: Sorry.

7 THE COURT: That's okay.

8 AST. SOL. KIDD: And it's just a lot of information, so  
9 it takes the computer a minute to open it up.

10 (Brief pause.)

11 THE COURT: So we don't have a date for the photo yet?

12 AST. SOL. KIDD: It's opening up right now.

13 THE COURT: Is Mr. Evans going to be able to identify  
14 the photograph?

15 AST. SOL. KIDD: Yes, ma'am.

16 THE COURT: Is he going to be able to say who is in the  
17 photograph?

18 AST. SOL. KIDD: Yes, ma'am.

19 THE COURT: Is he going to be able to say what date the  
20 photograph was taken?

21 AST. SOL. KIDD: He will not be able to, but Detective  
22 Riedel will.

23 THE COURT: He doesn't have any idea when he took the  
24 photo on his phone?

25 AST. SOL. KIDD: I mean, he couldn't give you the

1 specific day.

2 THE COURT: Can he give you a range?

3 AST. SOL. KIDD: He could give me a range. Yes, ma'am.

4 THE COURT: And what would that range be?

5 AST. SOL. KIDD: Court's indulgence.

6 THE COURT: And is he going to be able to identify the  
7 gun in that photo? Or have any testimony about whose gun it  
8 was, where it was, where it came from, or whether it was  
9 used in this incident.

10 AST. SOL. KIDD: No, ma'am. I mean he'll be able to  
11 identify it whose lap it's in and it was, you know,  
12 obviously in his possession at the time.

13 THE COURT: Okay. That's under advisement until I cant  
14 hear something that connects the dots about the photo.  
15 Because you all are not contesting authenticity of the photo  
16 that Detective Riedel took the photo off of this phone;  
17 correct?

18 MR. PRICE: I haven't heard his testimony at this  
19 point, but I'm assuming he's going to testify to that.

20 THE COURT: Well, he'd have to testify to it in-camera  
21 because I've taken it under advisement. Talking about two  
22 separate things: authenticity versus relevance. Do you have  
23 any good-faith argument that he didn't extract this stuff  
24 off the phone?

25 MR. PRICE: I have not -- no, ma'am, not at this point.

1 I have no reason, I mean, to to believe that he's not going  
2 to testify as to that.

3 AST. SOL. KIDD: September 26th, 7:00 p.m., Judge.  
4 9/26.

5 THE COURT: Fifteen?

6 AST. SOL. KIDD: Yes, ma'am.

7 THE COURT: Okay. And number 148 comes in without  
8 objection. Is that correct? That's the photo of the phone  
9 powered on before the search warrant was executed.

10 MR. PEPER: Mr. Evans' phone?

11 THE COURT: Uh-huh.

12 MR. PEPER: Mr. Wilson has no objection. Well, I take  
13 that back.

14 THE COURT: What's it show?

15 MR. PEPER: Marijuana being smoked, fingers and . . .

16 THE COURT: Let's see here. Well, doesn't all those  
17 kids do that? I mean, how do you know that's marijuana. It  
18 looks like a cigar to me. Those are cigars. Unless my eyes  
19 are playing tricks on me. Those look like cigars. I mean,  
20 it might be -- but almost every picture on Facebook -- I saw  
21 a picture the other day of a four-year-old giving the finger  
22 to someone on Facebook.

23 AST. SOL. KIDD: Kid was on Facebook.

24 THE COURT: In a choir picture no less giving the  
25 finger. Most people don't find that offensive.

1 MR. PEPER: Smoking a blunt.

2 THE COURT: Well, it's not a blunt. It's a cigar.

3 That's a cigar. Unless, like I said, my eyes are playing  
4 tricks on me.

5 MR. PEPER: We can maybe disagree on him. But the guy  
6 in the back, it looks like a joint.

7 THE COURT: Let me see. It looks like a cigar. It's a  
8 mighty big one if it is. It looks like a cigar.

9 MR. PEPER: Right. What about the guy in the back  
10 smoking a joint.

11 THE COURT: No. That looks like a cigar. It looks  
12 like a cigar to me.

13 MR. PEPER: If the one in the front is a cigar, then  
14 the one in the back.

15 THE COURT: I think it's the lighting, but it looks  
16 like a cigar. Is that his finer in his mouth?

17 MR. PRICE: No. He's licking it. He's rolling the  
18 blunt. He's licking so ---

19 THE COURT: It's might big. That looks like a cigar  
20 too.

21 MR. PRICE: It's because he's unrolled it. It's a flat  
22 piece. And so he's done like this. And then he's got his  
23 mouth on it like this and so he's licking it from left to  
24 right.

25 THE COURT: I don't know. They all look like cigars to

1 me. I mean, if in fact -- I mean, I don't know why you need  
2 -- it doesn't have any identifying information on it. And  
3 it really -- they aren't contesting that the phones were  
4 searched pursuant to to a search warrant. And the Court's  
5 instructions, I don't instruct them about whether -- I mean,  
6 that's a matter of law for the Court in admissibility. It's  
7 not a matter for a jury to determine whether something was  
8 searched pursuant to a search warrant. They wouldn't be  
9 hearing about it if it was illegally searched.

10 I don't know. I think that the potential for prejudice  
11 is -- probative value is outweighed and it's cumulative  
12 because you already have another picture of the him. That  
13 objection will be sustained. Although, they look like  
14 cigars to me, but out of an abundance of caution.

15 AST. SOL. KIDD: So we'll move ---

16 THE COURT: 148 is a Court's exhibit. 145, -46, and  
17 -47 are under advisement. Are there any other photos or  
18 data that we need to deal with that you're going to seek to  
19 admit through this witness?

20 (State's Exhibit No. 148, Photograph, was marked for  
21 identification.)

22 AST. SOL. KIDD: Judge, the only other thing if we  
23 could go back to State's ---

24 THE COURT: Yeah. I'm going to deal with those that I  
25 have redacted. I need you to answer my question, though.

1           AST. SOL. KIDD: I'm sorry.

2           THE COURT: Which is are there any other photos, data  
3 or otherwise, that I need to deal with that have been marked  
4 that we haven not already covered?

5           AST. SOL. KIDD: No, ma'am.

6           THE COURT: So then we need to have 131, the redacted  
7 call log that was reproduced by the solicitor's office needs  
8 to be given to the court reporter to be marked as 131. As  
9 well as 132 to the extent that that was redacted. And 135  
10 that was redacted without the gun. I've taken 137 under  
11 advisement subject to connection of some relevance. I've  
12 excluded any reference to the gun store. And I think that  
13 covers everything that was suppose to be redacted and  
14 substituted.

15          All right. Is there anything else we need to take up  
16 regarding the detective's testimony and any exhibits that I  
17 haven not already covered?

18          MR. PEPER: None from Mr. Wilson, Your Honor.

19          MR. PRICE: No, ma'am.

20          THE COURT: State?

21          AST. SOL. KIDD: Yes, ma'am.

22          THE COURT: What's that? What are you looking for?

23          AST. SOL. KIDD: My redacted photo. So we printed it  
24 out in black in white at first just to see if this redaction  
25 meets the Court's approval, and then we ---



1 THE COURT: You need to show it to them.

2 AST. SOL. KIDD: I have.

3 THE COURT: Y'all okay with that?

4 MR. PRICE: I haven't seen it.

5 MR. PEPER: No. He's either holding it really a small  
6 kid's boot or a gun.

7 THE COURT: I don't know. Let me see it.

8 MR. PEPER: I mean, he's clearly holding something.

9 THE COURT: Yeah, that's not a good redaction. Why not  
10 take his whole hand out? Why not just show it? And why  
11 does it have to be this differentiation in the -- yeah, why  
12 not just show his face. It's showing that he's holding  
13 something. That leaves an inference to what's being held.  
14 That defeats the purpose of it being redacted.

15 AST. SOL. KIDD: So take out his hand to?

16 THE COURT: Yeah.

17 AST. SOL. KIDD: Something just like that?

18 THE COURT: Just show his face, yeah. His hand is not  
19 necessarily identified.

20 MR. PEPER: I would ask that you just take it all the  
21 way down too so it doesn't look -- I mean ---

22 THE COURT: They just need to use a sheet of paper  
23 instead of a magic marker then there won't be any  
24 differentiation in the color. Or you can just cut it off  
25 and just make a copy of it. And put another piece of paper

1 behind it and takes care of the void created.

2 MR. PEPER: And so how it's going to come out is  
3 cumulative to another -- at least one or two other pictures.

4 THE COURT: I've already argued it and I've already  
5 ruled.

6 AST. SOL. KIDD: So something -- if we print it out,  
7 something more like that?

8 THE COURT: No. You need to just -- what you basically  
9 need to do is cut his hand and that gun out of the picture,  
10 put another piece of paper behind it, and make a copy and it  
11 will create the void. And then you'll have to play with the  
12 coloring so it will come out like it needs to. And then  
13 show and then we'll deal with it from there.

14 Okay. We're going to take a brief restroom break and  
15 then we'll resume the officer's testimony. Sir, you can  
16 walk around if you need to. Just please don't discuss your  
17 testimony with anyone.

18 (Court's Exhibit Numbers 7, State's original 132, and  
19 8, State's original 131, were marked for  
20 identification)

21 (State's Exhibit Numbers 131 and 132 were received into  
22 evidence. State's Exhibit Numbers 134, 135, 136 were  
23 marked for identification.)

24 (A brief recess was taken at 11:30 a.m. The  
25 proceedings resumed at 12:01 p.m.)

1 THE COURT: State ready to proceed?

2 AST. SOL. KIDD: Yes, ma'am.

3 THE COURT: Defense ready to proceed? Oh, we're  
4 waiting on our defendants. And I have another note from a  
5 juror that we need to deal with. And I apologize for the  
6 delay. I had an administrative matter separate from this  
7 case that I needed to deal with, and I apologize. But it  
8 needed my attention.

9 All right. You all can be seated. The note is from  
10 number 333. Okay. Ms. Silverman and she has indicated as  
11 follows: This may or may not matter, it will not change my  
12 decision making either way, I think I may know one of the  
13 people in the crowd. It is the lady who is crying some. We  
14 may have worked for the same company, but not at the same  
15 location. Wanted to say something in case it matters.  
16 Thank you.

17 So what I will do is bring her in, do a quick voir  
18 dire. Any exception?

19 AST. SOL. KIDD: None from the State, Judge.

20 THE COURT: Any from the defense?

21 MR. PRICE: No, ma'am.

22 MR. PEPER: No, ma'am.

23 THE COURT: Please bring in Ms. Silverman. And then  
24 who would be the State's next witness after Detective Riedel  
25 -- Riedel. I'm sorry.

1           AST. SOL. KIDD: Assuming it will be after lunch, but I  
2 was planning on calling Mr. Evans.

3           THE COURT: How long is he going to be?

4           AST. SOL. KIDD: Hard to guess, but most likely ---

5           THE COURT: Because it's pouring down rain outside and  
6 I hate to send Mr. Cornely back out in that weather if I  
7 don't have to.

8           AST. SOL. KIDD: Right. And that's his client.

9           THE COURT: Yeah. That's why I asked that question.

10          AST. SOL. KIDD: But he's going to be ---

11          THE COURT: Like how long?

12          AST. SOL. KIDD: Couple of hours, maybe; hour and a  
13 half.

14          THE COURT: Y'all agree?

15          MR. PEPER: Yes, ma'am.

16          THE COURT: Okay. Then we might take a quick lunch  
17 break.

18          (Juror 333 enters the courtroom at 12:04 p.m.)

19          THE COURT: Ma'am, I got your note. You indicated that  
20 -- what company is it that you work for?

21          JUROR: I used to work for Wachovia Wells Fargo  
22 Corporation.

23          THE COURT: Okay. And which location?

24          JUROR: Different ones. I worked at Summerville Bacons  
25 Bridge Road. I worked at the Park Circle branch. And I

1 worked at the one in Mt. Pleasant on Long Point Road.

2 THE COURT: And how long ago was all of this? Just  
3 give me an estimate.

4 JUROR: Two years ago. No, longer than that. Two and  
5 a half, three years.

6 THE COURT: Okay. And as a result of what you  
7 disclosed to the Court, do you still feel you can remain  
8 fair and impartial?

9 JUROR: Yes.

10 THE COURT: Do you feel you can render a fair and  
11 impartial decision in this case?

12 JUROR: Yes.

13 THE COURT: Do you believe you can base that decision  
14 solely on the evidence as it will be presented and on the  
15 law as the Court will instruct?

16 JUROR: Yes, ma'am.

17 THE COURT: Thank you, ma'am. If you will just stand  
18 outside in the hall for me. And please do not discuss our  
19 conversation with any of your fellow jurors.

20 JUROR: Yes, ma'am.

21 (Juror number 333 exits the courtroom at 12:05 p.m.)

22 THE COURT: Okay. The juror has indicated that she can  
23 remain fair and impartial. Any exceptions from the State?

24 AST. SOL. KIDD: No, ma'am.

25 THE COURT: From the defense?

1 MR. PRICE: No, ma'am.

2 MR. PEPER: No, ma'am.

3 THE COURT: All right. Are we ready to resume  
4 testimony of the witness? From the State?

5 AST. SOL. KIDD: Yes, ma'am.

6 THE COURT: Go ahead and get the jury for me. From the  
7 defense?

8 MR. PEPER: Yes, ma'am.

9 MR. PRICE: Yes, ma'am.

10 THE COURT: All right. And we'll mark her notice as a  
11 Court's exhibit.

12 (Court's Exhibit No. 9, Juror Note, was marked for  
13 identification.)

14 AST. SOL. KIDD: Your Honor.

15 THE COURT: Yes, sir.

16 AST. SOL. KIDD: Before the jury comes in, photos that  
17 you've taken under advisement, I think the best course would  
18 be ---

19 THE COURT: If you want to lay the foundation for them  
20 without him actually identifying them, but him articulating  
21 that he extracted them from the phone, they'll be marked for  
22 ID only.

23 AST. SOL. KIDD: That's exactly what I was planning on  
24 doing. Just wanted to make sure.

25 THE COURT: That's fine. Then you don't have to call

1 him back as a witness in the event that they come in.

2 AST. SOL. KIDD: And the only other question I would  
3 have is because there's obviously a lot of information on  
4 these CDs, showing him these photos not directly from his --  
5 not directly from his download, I'm not a hundred percent  
6 sure ---

7 THE COURT: I'm trying to figure out what else you need  
8 to show him everything else has come in without objection.  
9 So the only think he'll need to identify is number 145, 146,  
10 and 147 he extracted from the phone. Nothing else needs to  
11 be said.

12 AST. SOL. KIDD: Right. So I guess what I'm saying is  
13 if I show him that photo, I'm not sure he can say for sure,  
14 oh, that's the definitely the photo I extracted from the  
15 phone. If you looked at it from the disc, he could, from  
16 the direct report. But the photo in isolation I'm not sure  
17 he could -- can do that.

18 THE COURT: And 137 is under advisement as well.

19 AST. SOL. KIDD: Maybe I can ask him right now outside  
20 the presence of the jury. I just don't want . . .

21 THE COURT: Are you all contesting the validity that he  
22 extracted this information from the phone?

23 MR. PRICE: Again, I've already stated earlier I don't  
24 have any reason to believe that he is going to get up there  
25 and lie and say I did not extract these from these discs.

1 So I would not have any objection to it.

2 THE COURT: I'm sorry.

3 MR. PRICE: I'm saying I haven't heard his testimony,  
4 but I don't have any reason to believe he's going to get up  
5 there a lie and say I did not extract these from these  
6 discs.

7 THE COURT: So you can stipulate that he extracted the  
8 information from the disc?

9 MR. PRICE: I don't have a problem with that.

10 THE COURT: Mr. Peper?

11 MR. PEPER: Yes, ma'am. That's fine.

12 THE COURT: So that eliminates that.

13 AST. SOL. KIDD: All right. So the authenticity of  
14 them is ---

15 THE COURT: They're not contesting that. Their  
16 objections are on other grounds, relevance and other stuff.

17 AST. SOL. KIDD: Great. Thank you.

18 THE COURT: Thank you, sir.

19 (The jury enters the courtroom at 12:08 p.m.)

20 THE COURT: Thank you, ladies and gentlemen. We  
21 appreciate your patience. You may be seated. We're now  
22 going to resume the testimony of the witness. You may  
23 proceed. Mr. Kidd.

24 AST. SOL. KIDD: Thank you, Your Honor.

25 THE COURT: You're welcome.



1 (Direct examination of Mr. Riedel resumes)

2 BY AST. SOL. KIDD:

3 Q. All right. Detective Riedel, just to get us caught  
4 back up to speed. I believe you have in front of you what's  
5 been marked and entered into evidence as State's Exhibit  
6 number 45 -- or 95. Is that correct?

7 A. Yes.

8 Q. And that is the black LG cell phone?

9 A. Correct.

10 Q. Okay. Is there an indication of where that black LG  
11 cell phone was recovered from?

12 A. The back seat of a car.

13 Q. On the back seat of the silver?

14 A. Indication on the back . . .

15 Q. All right. Great. And I believe we kind of went  
16 through a little bit of your training and your background  
17 earlier with Cellebrite. And did you perform a Cellebrite  
18 analysis on that phone?

19 A. I did.

20 Q. Okay. I'm going to show you what's been marked and  
21 entered into evidence as State's Exhibit 130. Do you  
22 recognize that photograph?

23 A. I do.

24 Q. And what is that?

25 A. That is the photograph that I took to document the

Direct Examination of Mr. Riedel by Ast. Sol. Kidd

1 device as well as the associated case number and the search  
2 warrant that goes with it.

3 Q. Okay. So would this be immediately prior to your  
4 extracting information from it?

5 A. Yes.

6 Q. I'm going to show you what's been marked as State's  
7 Exhibit 133. Now, you may or may not recognize that  
8 photograph. Do you?

9 A. I recall that photograph.

10 Q. Okay. And that would've been removed from the State's  
11 Exhibit what? 95 or 96. The black LG phone in front of  
12 you; correct?

13 A. Correct.

14 Q. Now, I'm also going to show you what's been marked and  
15 entered into evidence as State's Exhibit 131. Do you  
16 recognize document?

17 A. That is a page from the actual PDF report that is on  
18 the CD, yes.

19 Q. All right. I'm going to show it to you in person first  
20 because it's a number of pages. Can you take a look at  
21 that, State's exhibit Number 131 for me.

22 A. Yes. This is the call log portion of the PDF printed  
23 out, the hard copy.

24 Q. Okay. So when you run the Cellebrite program, you get  
25 all the contents on a disc. Is that right? Or how does

1 that work?

2 A. The contents are placed onto a storage device. It can  
3 either be on flash drive or a portable hard drive or  
4 directly to the computer.

5 Q. Okay.

6 A. And then it's in the analytical program that produces  
7 that report.

8 Q. Okay. And so what we have here is State's Exhibit 131.  
9 I believe is the call log associated with the black LG  
10 phone?

11 A. Yes.

12 Q. And what sort of information is contained on a call  
13 log?

14 A. Call log would give you the dates, times, duration,  
15 direction of calling, incoming, outgoing, missed, as well as  
16 the other number associated with the call. So whether it's  
17 incoming or outgoing with the number dialed or the number  
18 called. As well as date, time, and duration for that, each  
19 individual call.

20 Q. And I want to draw your attention to a couple of lines  
21 from this call log. All right?

22 A. Okay.

23 Q. Can you identify the information on lines number ten  
24 and 11?

25 A. Those are outgoing calls to 911.

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1 Q. And can you tell me what time those calls occurred?

2 A. 2:13 and 22 seconds in the morning on 11/22/2015.

3 Duration of two minutes and 50 seconds; and then again on  
4 11/22/2015 at 2:16 and 31 seconds a.m. for three minutes and  
5 36 seconds.

6 Q. You also identified the information contained on line  
7 number 17?

8 A. Seventeen?

9 Q. Yes, sir.

10 A. It was an outgoing call to a number [REDACTED]-0404 at  
11 1:40 21 seconds a.m. on 11/22/2015. There is not a noted  
12 duration on that which means it likely was an unanswered  
13 call.

14 Q. And line number 19?

15 A. That is an incoming call from a [REDACTED]-0404 at  
16 1:01:02 a.m. on 11/22/2015 and an indicated duration of 36  
17 seconds.

18 Q. And if you could also make reference to lines number 4,  
19 8, 12, 13 and 18. We'll start with number 4?

20 A. Number 4 is a missed call from a [REDACTED]-8650 at  
21 10:30:31 seconds a.m. on 11/22/2015.

22 Q. And 8?

23 A. A missed call from a [REDACTED]-865 at 2:22:14 seconds  
24 a.m. on 11/22/2015.

25 Q. And 12?

1 A. An outgoing call to a [REDACTED]-8650 at 2:05 and 8  
2 seconds a.m. on 11/22/2015.

3 Q. And 13?

4 A. An incoming call from [REDACTED]-8650 at 2:04 and 8  
5 seconds a.m. on 11/22/2015 with a duration of 19 seconds is  
6 indicated.

7 Q. And lastly, on this page, 18?

8 A. That is an incoming call from [REDACTED]-8650 at 1:07 and  
9 35 seconds a.m. on 11/22/2015 with a 27 second duration.

10 Q. If I zoom it out this far, can you still read the  
11 document?

12 A. Not quite that far. That's good.

13 Q. That's good there?

14 A. That's fine.

15 Q. And line number 21?

16 A. An incoming call from a [REDACTED]-0404 at 11:31 and 24  
17 seconds p.m. on 11/21/2015 and a 19 second duration.

18 Q. And line number 22?

19 A. Outgoing call to a [REDACTED]-0404 at 11:24 and 51 seconds  
20 p.m. on 11/21/2015 a duration of one minute, 27 seconds.

21 Q. And to save you from having to read the number out each  
22 time, same number on line 23 and line 24?

23 A. Correct.

24 Q. And what are those?

25 A. Both missed calls. Line 23 is at 11:09 p.m. on the

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1 21st of November of 2015. And the 24 is, again, a missed  
2 call at 11:08 and 27 seconds p.m. on the 21st of  
3 November 2015.

4 Q. And if we go down to line number 33, same number?

5 A. Same number. Outgoing call at 7:21 and 58 seconds p.m.  
6 on 11/21/2015 with a one second duration.

7 Q. And if I can draw your attention to line number 55?

8 A. That is an outgoing call to a [REDACTED]-8650 at 11:52 and  
9 26 seconds a.m. on 11/21/2015 and a two-second duration.

10 Q. And 60 through 63?

11 A. Sixty and 61 are outgoing to the number ending in 8650.  
12 Sixty is at 11:31:55 seconds on the 21st of November for  
13 seven seconds. Number 61 is outgoing to the 8650 at 11:31  
14 and 15 seconds a.m. on the 21st of November for three  
15 seconds. Sixty-two and 63 are both incoming calls from the  
16 8650 number. The first at 11:28:12 seconds a.m. on the 21st  
17 for 31 seconds. And 63 is at 9:52 and 7 seconds a.m. on  
18 11/21 for 19 seconds.

19 Q. Line number 87?

20 A. That was an outgoing call to [REDACTED]-8650 on 11/20/2015  
21 at 8:35 and 55 seconds p.m. for 27 seconds.

22 Q. And lines 113 and 114 and 117?

23 A. All three lines are regarding number [REDACTED]-0404. 113  
24 is an incoming call from that number at 6:45 p.m. on  
25 11/20/2015 for 20 seconds. Number 114 is an outgoing call

1 to that number at 6:38 and 59 seconds p.m. on 11/20/2015.

2 It lasted 15 seconds duration. And line 117 is an incoming  
3 call at 6:33 p.m. on 11/20/2015, duration of 42 seconds.

4 Q. And the last page we'll go through. Line number 184?

5 A. 184 is an incoming call from [REDACTED]-0404 at 1:59 --  
6 1:59 and 51 seconds p.m. on 11/20/2015 and a 34 second  
7 duration is indicated.

8 Q. I'm going to show you what's been marked as State's  
9 Exhibit 132. Tell the jury what that document is.

10 A. This is the SMS section of the PDF report. SMS  
11 standing for Short Messaging or Standard Messaging Service,  
12 which is your common text message between two numbers with a  
13 limited link.

14 Q. So text messages; right?

15 A. Yes.

16 Q. From the black LG phone that we've -- we're still  
17 talking about the same phone?

18 A. That includes to and from, yes.

19 Q. All right. And if we could reference line 6. So  
20 chronologically the way these are recorded is sort of almost  
21 like a reverse chronological order?

22 A. That's how it's chosen for displaying it.

23 Q. So the most recent text message sent is at the top?

24 A. At the top.

25 Q. So if we're, I guess, sort of working backwards. So if

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1 you work in chronological order, can you identify the  
2 information in line 6 and line 5 and line 4? And let me  
3 zoom in a little bit for you.

4 A. Line 6 is an indication of a sent text message to  
5 [REDACTED]-2533 on 11/22/2015 at 1:18 and 52 seconds a.m. The  
6 display text is WID, which from my knowledge of personal and  
7 other through texting stands for "What are you doing".

8 Q. Okay. And line 5?

9 A. Line 5 is a received or inbox message from the  
10 [REDACTED]-2533 number. Message indicates it was received at  
11 1:29 and 38 seconds a.m. It was indicated that the message  
12 was read by the recipient, the LG device, with a reply "Who  
13 is this? Who is this?" This being the common short  
14 vernacular used today. And line 4 is a sent message to the  
15 [REDACTED]-2533 number at 1:52 and 9 seconds a.m. on 11/22/2015  
16 with a reply of "Bubby".

17 Q. And can you identify line number 9 for me, please, sir.

18 A. Line 9 is an inbox message or received message from a  
19 [REDACTED]-8411 with the indicator Babe asterisk below that  
20 which means that that number was cross referenced by the  
21 program to a number recognized in the contact list as Babe.  
22 That message was received on 11/21/2015 at 10:43 and 24  
23 seconds p.m. It was read by the recipient and it then  
24 reads, "Bubby, I called. You was DT. You never call to see  
25 if" -- something cut off there -- "if we going." I believe



1 that's an exclamation.

2 Q. Let me show you what's been marked for identification  
3 only as State's Exhibit 137. Do you recognize that  
4 document?

5 A. I do?

6 Q. What is that?

7 A. This is a portion pertaining to web history retrieved  
8 from the device.

9 Q. And what time frame does that cover?

10 A. The chronologically most recent would be 1:57:05 a.m.  
11 on 11/22/2015. And the last indicated would be at 9:31 and  
12 23 seconds a.m. on 11/20/2015.

13 Q. All right. I'm going to show you what's been marked as  
14 State's Exhibit 96. Do you recognize that?

15 A. I do.

16 Q. And, I'm sorry. Hit rewind for one second because this  
17 has already been entered into evidence. Let me show you  
18 what's been entered into evidence as State's 129. Do you  
19 recognize that photograph?

20 A. I do.

21 Q. And I'll put it on the overhead. What is State's 129?

22 A. That's a screen capture of the device as it appears to  
23 the user. It's the background picture and whatever icons  
24 are on that screen.

25 Q. So like the home screen or . . .

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1 A. It could be either home screen or one of the screens  
2 associated with your phone as you slide across.

3 Q. All right. And that's to the black LG phone?

4 A. Yes.

5 Q. All right. Now moving on to the State's 96 which is  
6 the iPhone. Is that correct?

7 A. Correct. iPhone with a black case.

8 Q. Is there any indication of where it was recovered from?

9 A. Back rear right passenger seat in silver car.

10 Q. Okay. And did you conduct or attempt to conduct a  
11 Cellebrite analysis on that phone?

12 A. I did.

13 Q. Were you successful in doing so?

14 A. This phone, I believe, was secured by a password, which  
15 I was unable to access because of the password on it. So  
16 the only item that I was able to access regarding this  
17 device is the SIM card from within it.

18 Q. All right. I'm going to show you what's been marked as  
19 State's Exhibit 138. Is that the phone we're were talking  
20 about there?

21 A. It is.

22 Q. And so that would have been just prior to you  
23 attempting to access it via Cellebrite?

24 A. Correct. Just prior to me powering it on to attempt  
25 whatever acquisition I could.

1 Q. And I'm going to show you State's 139 and 140 which are  
2 in evidence. Take a look at that for me please, sir.

3 A. These are the pages to the PDF report regarding the SIM  
4 card from this device.

5 Q. Okay. And I'm going to show you State's Exhibit 140.  
6 Draw your attention to line number 8.

7 A. My number 8 is the indicated MSISDN, the mobile station  
8 number associated with the device telephone number that's  
9 more commonly referred to.

10 Q. So what we're looking at right here?

11 A. Yes. The [REDACTED]-6112 is the telephone number  
12 associated with the SIM card removed from this phone.

13 Q. And, finally, I'm going to show you State's Exhibit 94.  
14 Do you recognize that item?

15 A. I do.

16 Q. And I'm going to show you on the screen State's Exhibit  
17 Number 141. That's the same item you have in front of you?

18 A. It is. That it the picture that I took of this device  
19 prior to attempting to do a data extraction on it.

20 Q. Can you read the name on that credit card?

21 A. Keith Evans, Jr. Keith L. Evans, Jr.

22 Q. All right. First, I'm going to show you State's  
23 Exhibit 144. If I can draw your attention to the line 224.  
24 First of all, I guess, you want me to show you the document  
25 first or can you tell what that is?

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1 A. It appears to be the portion of the contact section,  
2 section of the PDF report.

3 Q. Okay. Can I draw your attention to line 223 and 224.

4 A. Both 223 and 224 have a name of Rich Porter. The 223  
5 appears to be the information pulled from the contact  
6 section of the device; provides the created and modified  
7 times for that contract itself as well as a mobile number of  
8 [REDACTED]-6112.

9 Q. And just for purpose of a reference, I'm going to go  
10 back to State's Exhibit 140, which you just testified about  
11 on the iPhone you were unable to access. Okay?

12 A. All right.

13 Q. Is that that same number associated with the SIM card  
14 of that cell phone?

15 A. Yes.

16 Q. I'm going to show you what's been marked and entered  
17 into evidence as State's 142. Can you identify that  
18 document?

19 A. That is a portion of the call log section associated  
20 with this device.

21 Q. If you could, indicate or describe line number 14 for  
22 the jury, please. I can zoom in a little bit more.

23 A. Line 14 shows a missed call from [REDACTED]-8650 at 2:03  
24 and 28 seconds a.m. on 11/22/2015.

25 Q. And line number 15 and 16?

1 A. Both show incoming calls from a [REDACTED]-0404.

2 Chronologically, it would be line 16 which occurred at 1:52  
3 and 25 seconds a.m. with a 56-second duration. And then  
4 line 15 at 1:58 and 14 seconds a.m. on 11/22/2015 and  
5 lasting for one minute and 59 seconds in duration.

6 Q. And then you can describe line 17 and 18 as well,  
7 please.

8 A. Seventeen is an outgoing call to a [REDACTED]-8650 at 1:41  
9 and 20 seconds a.m on 11/22/2015 lasting for 52 seconds.  
10 And 18 is an outgoing call to [REDACTED]-0404 1:40 and 43  
11 seconds a.m. on 11/22/2015 and lasting 28 seconds.

12 Q. All right. I'm going to show you this document so you  
13 can look through it in person. Obviously, we've been  
14 talking about basically two numbers for thee most part. The  
15 8650 and the 0404 number. Is that fair to say?

16 A. Fair to say; yes, sir.

17 Q. And the last contact that we just talked about would  
18 have been line 18 at 1:40 a.m. on November 22nd. Can you  
19 scan through this call log and see if there's any more  
20 contacts prior to that point in time between either the 8650  
21 number or the 0404 number.

22 A. (Witness complies.) Not in the pages here that go back  
23 to 11/20 of 2015.

24 Q. Okay. So if I'm understanding your testimony that  
25 prior to this phone call right here on line number 18, or

Direct Examination of Mr. Riedel by Ast. Sol. Kidd

1 really line number 17 and 18, those phone numbers don't  
2 appear on this call log at any time prior to that?

3 A. On the?

4 Q. On the documents ---

5 A. On the document presented, those numbers do not appear  
6 any further down the line 18.

7 Q. Thank you. I'm going to show you what's been marked  
8 and entered into evidence as State's 143.

9 A. Again, this appears to be the portion of an SMS text  
10 message section of the PDF report which is associated with  
11 this item.

12 Q. Thank you. And same thing, any contacts on the text  
13 message log between the 0404 number or the 8650 number?

14 A. In this document, no.

15 Q. All right. So just for maybe my own edification and  
16 maybe the jury's as well, I think you said it would be very  
17 expensive to get to an iPhone with a password?

18 A. Yes. It is a somewhat expensive venture to undertake.  
19 And at the time of this -- or at the time of the initial  
20 examinations here, success was not guaranteed. We would to  
21 have had to pay that price.

22 Q. What kind of price are we talking about? Hundreds?  
23 Thousands?

24 A. I believe at that time it was in excess of \$4,000 per  
25 device.

1 Q. And who would do something like that?

2 A. It would be -- the Cellebrite company would do that.

3 Q. Cellebrite would attempt to do it?

4 A. Yes.

5 Q. And you said without a guarantee of success?

6 A. Correct. At that time. Things have changed.

7 Q. In what way?

8 A. They made some advances in the last two months, month  
9 and a half maybe. It would give a higher probability of  
10 success, but the price is still quite a hefty one.

11 Q. I guess, what was the -- I mean, can you quantify the  
12 probability of success prior?

13 A. In 2015, at that time it was limited to a specific  
14 version of the operating system on a specific type of iPhone  
15 device. So it would be -- I believe at that time there were  
16 four models of that specific iPhone, and could have been any  
17 one of three versions of the operating system, give or take.

18 Q. Is it safe to say that the newer the iPhone, the harder  
19 at that time it would have been to access?

20 A. Yes.

21 Q. And if you looked at the phone that we're  
22 referencing, State's Exhibit 96 -- the photo might be easier  
23 to see it. I'm not sure if you can tell from this exactly  
24 what version of the device is. You might be able to tell  
25 from your report.

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1 A. If I looked at the -- the SIM card wouldn't contain the  
2 actual device properties as far as operating system or model  
3 number. If I can see the device, I might be able to tell  
4 you the model number.

5 Q. I'll get you some scissors if you want to open it.

6 A. Please. (Brief pause.) The model of this specific  
7 iPhone would 1524. So it would depend on that model plus a  
8 combination of the operating system that it was running at  
9 the time would be very prevalent in their rate of success.

10 Q. Are you familiar with rates of success on that model or  
11 operating system?

12 A. On this specific model, I am not sure based on this.  
13 To give you a little bit of probability, this is about the  
14 same time as the San Bernardino issues were happening. And  
15 that was one of the only models supported at that time for  
16 that phone.

17 Q. Okay. And if I remember that correctly, it was like  
18 the federal government paid someone a bunch money to be able  
19 to ---

20 MR. PRICE: Your Honor, I'm going to object. Leading.

21 THE COURT: Sustained. Leading.

22 AST. SOL. KIDD: Court's indulgence.

23 THE COURT: Yes, sir.

24 AST. SOL. KIDD: No further questions.

25 THE COURT: Any questions for the witness?



1 MR. PRICE: Very briefly, Your Honor.

2 THE COURT: You may proceed.

3 CROSS-EXAMINATION

4 BY MR. PRICE:

5 Q. Detective Riedel, so from 2015 to 2017, you've been  
6 with the North Charleston --

7 MR. PRICE: May I approach? I'm sorry.

8 THE COURT: You may.

9 Q. -- the North Charleston Police Department.

10 A. Yeah.

11 Q. And you worked in the exact same capacity; correct? In  
12 the cell phone analyst section.

13 A. Correct.

14 Q. And this has been in evidence since -- I'll just ask  
15 you. What day did you recover this?

16 A. I did not recover that.

17 Q. Or was it recovered?

18 A. It indicates it was recovered on the 22nd of  
19 November 2015.

20 Q. And when did you attempt to try to get in this phone?

21 A. Can I see my report?

22 Q. This is everything they've given to me.

23 A. Can I see the report that was regarding the SIM card  
24 from that phone?

25 Q. Sure.

1 A. I don't want to give you an inaccurate date.

2 Q. That's exactly what I want.

3 A. My attempt to get into that phone occurred at  
4 approximately 6:30 and one second p.m. on 11/22/2015.

5 Q. Okay. Back then in 2015 you just testified that it was  
6 difficult to unlock iPhones; correct?

7 A. Correct.

8 Q. Technology has changed in the past two years?

9 A. Slightly, yes.

10 Q. And has that been in evidence this entire time?  
11 Obviously, you know that no one would have it taken out.

12 A. I assume so. It was in packaging.

13 Q. And when did the State call you and ask you to retest  
14 that phone seeing how everything had gotten a little bit  
15 better and have you try to get back into that phone?

16 A. I was not asked to retest any of the 13 devices in this  
17 case.

18 Q. So for two years no one called you and said, hey, why  
19 don't you see if you can break into that phone; we need to  
20 get some accurate information now that the technology has  
21 gotten a little bit better?

22 A. To my knowledge, no further request for any of the  
23 devices in this case were received by me directly or my  
24 agency.

25 Q. Thank you very much.

1 THE COURT: Mr. Pepper?

2 MR. PEPER: Thank you, Your Honor. May it please the  
3 Court?

4 CROSS-EXAMINATION

5 BY MR. PEPER:

6 Q. Detective Riedel, Mark Peper on behalf of Justin  
7 Wilson. How are you?

8 A. I'm well. Yourself?

9 Q. Good. You're the phone guy at North Charleston; right?  
10 They find a phone, it goes to you, you break into it.

11 A. Most -- a lot of time.

12 Q. You got training on that. You know to do that; right?

13 A. I do.

14 Q. Okay. It requires extensive training, I would assume  
15 -- you correct me if I'm wrong -- to be able to figure out  
16 how to get into it if you don't know the pass code; right?

17 A. There are some quick methods that don't require much  
18 training. There are other methods that require very  
19 extensive training, yes.

20 Q. Okay. And so your goal ultimately is to hack into the  
21 phones and then report back to whoever tasked you with that;  
22 right?

23 A. Yes. My ultimate goal is to obtain the data and  
24 provide them with a comprehensive report.

25 Q. Now, if you can't with your training break into it,