

VOLUME I OF II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

G. Thomas Cooper, Jr., Circuit Court Judge

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SEP 27 2013

S.C. Supreme Court

GEORGE PORTERFIELD
a/k/a LARRY BROWN,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-000245

APPENDIX

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2 COUNTY OF RICHLAND) COURT OF GENERAL SESSIONS

3
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5) OF
6 PLAINTIFF,)
7 VS.) RECORD
8 LARRY BROWN,) 07-GS-40-11099
9) 07-GS-42-11094
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DEFENDANT.

August 24th - 28th, 2009
Columbia, South Carolina

B E F O R E:

THE HONORABLE MICHELLE J. CHILDS, Judge, and a jury.

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Transcribed by Pamela E. Green, Circuit Court Reporter

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P R O C E E D I N G S

(Whereupon, the following takes place outside the presence of the jury panel.)

THE COURT: You ready to proceed?

SOLICITOR CAMPBELL: Your Honor, I just got the jury list. If I could take five minutes to go over with it.

MR. O'NEILL: We're waiting on the defendant to be brought up.

(Pause.)

THE COURT: Just a couple of minor scheduling issues. On wednesday I had a speech thing I'm suppose to be doing that I kept canceling. So, I'll probably -- it's at 4:30. So, I'll leave here by 4:00 and then Thursday morning I'll---

SOLICITOR CAMPBELL: Your Honor, if you could read my writing, I have one that's marked up.

State would call Larry Brown. One count of armed robbery and murder in 2007-GS-40-11099 and 11094. We are proceeding on that matter, Your Honor.

THE COURT: Okay. Any general issues we need to take up before proceeding with jury selection? As the Court would note, I have a list of potential witnesses as well as requested voir dire.

SOLICITOR CAMPBELL: Yes, Your Honor. I was looking at

1 requested voir dire and I would like to go through those.

2 THE COURT: Sure.

3 SOLICITOR CAMPBELL: I don't have any problem with
4 number one. As far as number three, if we just make it to a
5 crime, Your Honor. That opens the flood gates. If we could
6 keep it to a violent crime or the one similar to the
7 allegations as far as, as far as relevant to this case. If
8 we could do that on number three and four.

9 MR. O'NEILL: Your Honor, my thought line in this, not
10 in this case, was trying to find an impartial jury panel and
11 in my mind wouldn't matter if they had been the victim of a
12 crime or violent crime, but I want to know potential jurors
13 been witness to any sort of crime, which, for me, would
14 speak to their ability to be an impartial jury no matter
15 what type of crime.

16 THE COURT: This is what I would like to do. I would
17 ask those questions, but it will be answered out of the
18 earshot of other jurors. So, I do not want them loudly
19 speaking.

20 SOLICITOR CAMPBELL: So, if they've seen a traffic
21 accident they're going to come forward because that's a
22 crime?

23 THE COURT: I don't know that I'll consider that a
24 crime. Yeah, we'll see, but I'll make sure they don't
25 answer the question in front of the fellow jurors and just

1 gives more information about the juror. Does not mean -- if
2 they can answer my questions about whether they could be
3 fair and impartial, they would be excused. Just gives more
4 information about the juror.

5 SOLICITOR CAMPBELL: Number five, has anybody ever been
6 accused of a crime and not convicted, I don't care -- if
7 they've been accused of a crime, I don't care if they've
8 been convicted or not, but can't limit it to be convicted,
9 you know, through the reciprocal is -- basically that is the
10 reciprocal if you leave off the convicted. Doesn't matter
11 if they've been convicted or not.

12 THE COURT: Hopefully we wouldn't have missed any of
13 that. Solicitor's Office wouldn't have that in the panel at
14 all.

15 MR. O'NEILL: Number five, a member of your family or
16 close friends ever been accused of a crime. Not convicted.

17 THE COURT: What would be your purpose?

18 SOLICITOR CAMPBELL: I like the question except the or
19 not convicted, convicted, or not convicted doesn't matter to
20 me because we do ask for reciprocal because they want to
21 know if anybody's been convicted of a crime. Therefore, we
22 have the right to ask if any one of their family members
23 have been accused of a crime, but doesn't matter if it's
24 convicted or not convicted.

25 THE COURT: Just accused because convicted or not

1 convicted doesn't really matter. Hopefully is convictions,
2 but---

3 MR. O'NEILL: If you have a family member that's been
4 accused of a crime, but not accused, I think that comes in a
5 different mentality than a person who---

6 SOLICITOR CAMPBELL: I think I have the right to
7 know -- you can say the words convicted or not convicted. I
8 don't have a problem with that.

9 THE COURT: I will ask whether or not they've been
10 accused of a crime, and if they come up here to the side bar
11 we will throw convicted or not convicted---

12 SOLICITOR CAMPBELL: I'll ask the questions. Six is
13 included in your general charge. Number seven is an
14 improper question, State versus Adams.

15 MR. O'NEIL: That doesn't say whether that's improper
16 voir dire question.

17 SOLICITOR CAMPBELL: Yes, it does. I'll give you the
18 case law, Your Honor. There's a case directly on point
19 saying that's an improper question as far as whether or not
20 you would believe one witness over another. It is not a
21 proper voir dire question, and there's a case on point.

22 THE COURT: We'll look that up.

23 MR. O'NEILL: If I see the case I'll stand corrected
24 and withdraw that.

25 THE COURT: Anything further?

1 SOLICITOR CAMPBELL: I think they have already answered
2 if anyone -- oh, if they've served on a jury panel before.
3 I don't have a problem with that one. Number nine is
4 included in your general thing where you talk about how an
5 indictment is just a charging paper and all that.

6 MR. O'NEILL: I think number nine is more specific.
7 General---

8 SOLICITOR CAMPBELL: That's also an improper question.
9 Have a bunch of case law on that.

10 THE COURT: My problem with number nine is when we say
11 simply because he was arrested. We're not suppose to
12 comment or anyway give any leanings that one thing is more
13 proper versus another. Whenever you use that word simply it
14 suggests---

15 MR. O'NEILL: We'll take out simply.

16 THE COURT: Does that change it for you or you still
17 think the question is improper if he takes out---

18 SOLICITOR CAMPBELL: That's fine. If you just put in
19 general.

20 THE COURT: Okay.

21 SOLICITOR CAMPBELL: Number ten, Your Honor, this case
22 involves, you know, allegations of drug use and drugs being
23 sold. I don't know if it's -- I guess I'm fine with ten.

24 THE COURT: Okay.

25 SOLICITOR CAMPBELL: Number 11 is in your general

1 charge.

2 MR. O'NEILL: Question is---

3 SOLICITOR CAMPBELL: Can't ask the same question over
4 and over in voir dire.

5 MR. O'NEIL: That's not a question in the disagreement,
6 but a statement in your overall comments that says the
7 defendant is presumed innocent, but I want to know whether
8 or not people on the front-end agree with that presumption
9 or not. Because if the person doesn't agree with that
10 presumption, that's not the type person I would want to have
11 on my jury if they don't agree with -- now have to work with
12 the conviction over that presumption.

13 SOLICITOR CAMPBELL: That's part of your jury charge.
14 You instruct them. Doesn't matter if they agree or
15 disagree.

16 MR. O'NEILL: Would like to note my position before we
17 start that a person is already presumed to say I don't --
18 that position -- I don't want that type of person on the
19 jury.

20 THE COURT: Let me think about that one.

21 SOLICITOR CAMPBELL: Is improper, Your Honor. Number
22 12, again, it's in your jury charge, Your Honor, and your
23 instructions to the jury. He's just trying to hamstring it
24 as a double -- I mean to basically reinforce it by this
25 question. Does anyone disagree, you're enforcing the law

1 by -- and that's not -- she's instructing them on the law.
2 But that's like saying you need to do this, puts emphasis on
3 that, taking it out of context, which makes them think oh,
4 my gosh, I need to vote whether to acquit.

5 MR. O'NEILL: Simply want to know whether or not
6 somebody comes in with a predisposition if they vote not
7 guilty wouldn't be -- don't want that type of person on Mr.
8 Brown's jury and -- Mr. Brown doesn't want that type of
9 person on his jury either. Just an attempt to know whether
10 or not the jurors have some predisposition before they get
11 on the jury.

12 THE COURT: My role is to make sure we have a fair and
13 impartial jury.

14 MR. O'NEILL: I think the position is the only way you
15 can find out whether you have a fair or impartial jury to
16 wait till the end with jury charges, which at that point I
17 don't know whether they're predisposed to believe or not
18 believe at that point.

19 THE COURT: Let me come back to do that, but I'm not
20 sure about that one.

21 Thirteen and fourteen?

22 SOLICITOR CAMPBELL: I objected. There is case law on
23 point. Doesn't say you try to position a certain frame of
24 mind. Forget what they say on those cases, Your Honor, but
25 I object strongly to 13 and 14 as well as 11 and 12.

1 THE COURT: Okay.

2 MR. O'NEILL: Your Honor, if the State could produce
3 such case law, we'll restrict the questions to case law
4 that's on point, and my position I'm trying to illicit to
5 the predisposition of the jury.

6 SOLICITOR CAMPBELL: If you'll give me 30 minutes, Your
7 Honor, I can get you the case law, but I just was handed
8 this document.

9 THE COURT: On these questions, the role is for me to
10 come up with a fair and impartial juror looking to their
11 relationship to the parties, interest in the call, formed
12 with biased or prejudiced. I -- with respect to specific
13 inquiries, I'm not inclined to allow questions going to
14 whether a juror would believe or not believe, but I think
15 those types of questions are more proper for actual types of
16 instructions in the case.

17 Just generally I think some of these questions are
18 speaking to almost getting the jury to form an opinion one
19 way or the other, and I need to be asking questions that are
20 more neutral and to the extent we can glean as much
21 information from them at that juncture, and that's okay.
22 But to ask questions that are framed a general way should
23 almost make it as if the Court is instructing them even
24 ahead of time before we get to that part of the case.

25 So, as to question number five, I believe we left it at

1 have either you or any member of your family been accused of
2 a crime, and then I would ask them to come back to a side
3 bar to determine if there is a conviction or not a
4 conviction because my role is to always not embarrass
5 jurors. As to going to number nine, we will take out the
6 word simply.

7 But otherwise, State has no further objection, is that
8 correct?

9 SOLICITOR CAMPBELL: I need to look at the case later,
10 but I don't think that's a proper question, and I would also
11 object to question number seven.

12 THE COURT: Okay. I am going to deny the request for
13 Number 7, Number 9, 11, 12, 13, and 14.

14 SOLICITOR CAMPBELL: Thank you, Your Honor.

15 THE COURT: I believe these will properly come out in
16 the Court's instruction, and I believe the way the Court
17 asks the questions will give enough information on these
18 jurors. Your objection is noted for the record.

19 MR. O'NEILL: I gave a copy to the court reporter, and
20 I ask that copy for requested voir dire be made a Court's
21 Exhibit.

22 THE COURT: Absolutely. This will be Court's Exhibit
23 No. 1. State's potential witness list will be Court's
24 Exhibit No. 2.

25 (Whereupon, the voir dire requested by the defense was

1 marked as Court's Exhibit No. 1. The witness list was
2 marked as State's Exhibit No. 2. Both of the documents were
3 for identification purposes only at this time.)

4 THE COURT: Anything else?

5 MR. O'NEILL: Your Honor, we have a pretrial motion,
6 but I also ask this be addressed during voir dire.
7 Mr. Brown is wearing leg shackles, and I ask those be
8 removed.

9 THE COURT: He doesn't need to, them to be removed at
10 counsel table, does he?

11 MR. O'NEILL: He's going to have to stand up and turn
12 around, but I sat in the gallery. I don't think the jury
13 could see the shackles, but I'm afraid they can hear them
14 jingle once he gets up and twists around and---

15 SOLICITOR CAMPBELL: Doesn't even have to move his
16 feet.

17 MR. O'NEILL: He can't do this. He has to -- (lawyer
18 motions).

19 SOLICITOR CAMPBELL: I'm doing it.

20 THE COURT: There's no arm restraints on him?

21 MR. O'NEILL: No arm restraints on him.

22 THE COURT: Sir, stand up please and turn around and
23 face the back.

24 (Defendant complies.)

25 SOLICITOR CAMPBELL: Your Honor, he can do it

1 intentionally. I can do that too.

2 MR. O'NEILL: My problem is -- we're going to a --
3 there's no need for the shackles here. No individualized
4 reason why Mr. Brown needs to be in shackles. He doesn't
5 pose a security risk where he needs to be shackled.

6 THE COURT: Okay.

7 SOLICITOR CAMPBELL: I can double check this, but I
8 think he has a history of nonviolence with---

9 THE COURT: I was going to ask what was his prior
10 record, and if there's any disciplinary issues within the
11 facility.

12 SOLICITOR CAMPBELL: Your Honor, I know on December 28,
13 2006, he was transferred from his housing dormitory, an
14 hotel unit, to HSU, a special handling unit where he was
15 released January 3, and that's the extent of that, and his
16 prior record, I know he does have -- he is currently on
17 probation I believe for assault with intent to kill, yes,
18 where he shot a, 138 times at someone. I can hand up that
19 history on him. In addition, he is charged with murder in
20 this case where the victim was shot some six times.

21 MR. O'NEILL: Your Honor, I've represented many clients
22 with prior records, and many murder trials where the clients
23 didn't have a, shackles on and didn't have prior records. I
24 don't think that's any---

25 THE COURT: I would indicate the murder charge alone is

1 not the reason for that, but coupled with the history
2 they're giving me---

3 MR. O'NEILL: He---

4 THE COURT: ---the concern---

5 MR. O'NEILL: One visit to -- didn't even give a reason
6 why he's in suit -- been in jail for two and a half years
7 since November the 6th, and---

8 THE COURT: What is the status of the assault with
9 intent to kill where---

10 MR. O'NEILL: He is on probation for that charge, a
11 2005 charge.

12 THE COURT: Has that been disposed of?

13 MR. O'NEILL: He is on probation for that.

14 SOLICITOR CAMPBELL: Currently has a violation of
15 probation for that, but pled guilty to assault with intent
16 to kill, and it is my understanding we've got the -- I think
17 he was shooting at people in that situation as well. He
18 does have a prior resisting arrest from Florida. So, he has
19 resisted law in the past.

20 MR. O'NEILL: Your Honor, he's no different than any
21 other client in---

22 THE COURT: Not all murder clients have a prior record.
23 So, I'm not letting the murder arrest alone be the control
24 issue because not all murder clients, as you're aware, many
25 times the murder is the first offense. So, it is coupled

1 with the other allegations that I would be making this
2 decision is my point. I'm just trying to let you know,
3 murder conviction or arrest alone doesn't end my inquiry,
4 but it is coupled with other issues, and I'm asking them to
5 tell me about those issues.

6 MR. O'NEILL: Your Honor, my position is -- what I'm
7 concerned about, at this stage, is the jingling of shackles.
8 They have the plastic straps, but they have always, always,
9 always, always used in prior cases they can use would serve
10 the same purpose, but wouldn't allow Mr. Brown to get up and
11 run out. The point is they don't want him to get up and
12 run. Have the straps that would prevent him from running
13 and whether or not shackled. That's all I ask.

14 THE COURT: Law enforcement, if you would come down.

15 SOLICITOR CAMPBELL: No objection.

16 THE COURT: We would like an opportunity for Mr. Brown
17 to have the plastic straps if that's possible. I had him
18 stand up and they jingled and there's a question as to
19 whether or not he purposely causes that or not, but my
20 concern is with his prior record and other incidents, not
21 just the murder charge, but the prior record and other
22 incidents as well as in the detention unit. I believe it is
23 appropriate for him to have the foot shackles on, but they
24 indicated there is a different device y'all might have, and
25 the state does not object to that use.

1 So, that will need to get taken care of now unless
2 y'all have any other pretrial issues because we're going to
3 go ahead and proceed where the jurors---

4 MR. O'NEILL: I have no other issues.

5 SOLICITOR CAMPBELL: Not before jury selection.

6 THE COURT: Y'all be at ease.

7 (Whereupon, a short recess was taken at this time.)

8 THE COURT: I get you updated about what you gave me
9 before so -- you can take back the indictment for the use of
10 firearms in the commission of a violent crime.

11 SOLICITOR CAMPBELL: Your Honor, the cases we relied on
12 for your rulings were State versus David. Specifically
13 addresses the part about police officers, but it also kind
14 of -- your ruling kind of follows along with, in that case.

15 MR. O'NEILL: The cite?

16 SOLICITOR CAMPBELL: 422 S.E.2d 133.

17 MR. O'NEILL: I'm sorry. 422---

18 SOLICITOR CAMPBELL: S.E.2D 133.

19 Your Honor, on the majority, other State versus
20 Bennett, which is 632 S.E.2d 281, specifically addresses
21 that issue. In another case it addresses the issue of a
22 police officer is, is also State versus Adams. I quoted 306
23 S.E.2 208, and I will continue to find those other cases.

24 THE COURT: Thank you.

25 I'm ready.

1 SOLICITOR CAMPBELL: We're ready.

2 THE COURT: We need the jurors please.

3 (Whereupon, the following takes place within the
4 presence of the jury panel.)

5 THE COURT: Good afternoon, ladies and gentlemen of the
6 jury.

7 My name is Michelle Childs, and I'm a circuit court
8 judge here in Richland County. You-all have been qualified
9 to participate in the selection process we're going to have
10 in the jury this morning.

11 This is the matter of the State versus Larry Brown.
12 This will be a criminal trial we expect to last at least
13 till Thursday. Earlier you were qualified and met certain
14 statutory requirements to actually serve on a panel. Now
15 we're going to determine your ability to serve on this
16 particular trial.

17 In this case Mr. Brown has been charged with the
18 offenses of murder and attempted armed robbery. The Court
19 has before it indictments. These are just the formal
20 instrument by which this case is brought to trial.

21 Mr. Brown has decided to exercise his Constitutional right
22 to a jury trial, and, therefore, you, as his peers, will
23 offer him that opportunity should you be selected for jury
24 duty.

25 The Court will have several questions of you to go

1 through this process, and after you're sworn in, then we
2 will receive your answers and determine your answers or
3 qualification for this particular jury.

4 Madam Clerk, swear the jurors in.

5 (whereupon, the jury was placed under oath at this
6 time.)

7 THE COURT: Ladies and gentlemen of the jury, first
8 the, the State has the burden of proving this case beyond a
9 reasonable doubt, and I'd like to introduce those attorneys
10 who are representing the Richland County Solicitor's Office,
11 Mrs. Luck-Campbell and Mr. Aaron Jophlin.

12 Do any of you know, any of you know either of those
13 persons or had any dealings with the solicitor's Office,
14 either yourselves or family members, either as victims or
15 any other association with the Richland County Solicitor's
16 Office, if so please stand and indicate your name and
17 number.

18 JUROR: Teresa Dunline, Juror Number 60. I work at the
19 National Advocacy Center and they send their people there
20 for training.

21 THE COURT: Would that, in any way, affect your ability
22 to proceed as a fair and impartial juror in this case?

23 JUROR: I don't believe so.

24 THE COURT: Thank you.

25 Anyone else?

1 (No response.)

2 THE COURT: Okay. Then representing the defense is Mr.
3 Deon O'Neill and Mr. Jay Cooper of the Richland County
4 Public Defender's Office.

5 Do any of you know these persons or have been related
6 by blood or marriage to them or had any representation by
7 yourself, family members, or know of anyone that's close or
8 immediate family that has had dealings with the Richland
9 County Public Defender's Office, if so, please stand.

10 (No response.)

11 THE COURT: Thank you.

12 Then I'd like Mr. Larry Brown to stand and face the
13 jurors.

14 (Defendant complies.)

15 THE COURT: Mr. Larry Brown is the defendant in this
16 case. Please indicate whether you know him personally,
17 socially, have any close family or personal relationship
18 with Mr. Larry Brown, if so, please stand.

19 (No response.)

20 THE COURT: Thank you. You can sit down.

21 (Defendant complies.)

22 THE COURT: There will also be a series of witnesses in
23 this case. So, listen very closely as I call their name,
24 and then you can stand up as you hear that particular name,
25 and the same question applies as to whether or not there is

1 any close personal, familial, or social relationship with
2 any of these persons who might be called by either side as
3 potential witnesses in this case.

4 Jacqueline Holly.

5 (Witness stands.)

6 THE COURT: Ms. Holly is standing.

7 (No response.)

8 THE COURT: Camillia Goodwin.

9 (No response.)

10 THE COURT: Jamilla Goodwin.

11 (No response.)

12 THE COURT: Satierra Austin.

13 (No response.)

14 THE COURT: Marilyn Senobia Thomas.

15 (No response.)

16 THE COURT: Mical Jones.

17 (No response.)

18 THE COURT: Beverly Moyd.

19 (No response.)

20 THE COURT: Edna Frost.

21 (No response.)

22 THE COURT: Lisa Lyles.

23 (No response.)

24 THE COURT: Ladvidious Antwan Frost.

25 (No response.)

1 THE COURT: Frank Livingston.

2 (No response.)

3 THE COURT: Crystal Clark.

4 (No response.)

5 THE COURT: Eugene Frost.

6 (No response.)

7 THE COURT: David Daniel, EMS.

8 (No response.)

9 THE COURT: Corporal Sanders, City of Columbia.

10 (No response.)

11 THE COURT: Doctor Clay Nichols.

12 (No response.)

13 THE COURT: Doctor Dan Gowder, Palmetto-Richland
14 Memorial Hospital.

15 (No response.)

16 THE COURT: Doctor Dan G. Louis, Palmetto-Richland
17 Memorial Hospital.

18 (No response.)

19 THE COURT: Ted Powell, Richland County Coroner's
20 Office.

21 (No response.)

22 THE COURT: Ted Godfrey, Richland County Sheriff's
23 Department.

24 (Jurors respond.)

25 THE COURT: Your name?

1 JUROR: Sharon Love, 140, and I do know Ted Powell.

2 THE COURT: Would that affect your ability to proceed
3 as a fair and impartial juror in this case?

4 JUROR: No.

5 THE COURT: How do you know Mr. Powell?

6 JUROR: Socially. He's married to a friend of mine.

7 THE COURT: Thank you. We'll allow you to remain with
8 us.

9 Yes, sir.

10 JUROR: I know Mr. Godfrey. 158, Daniel Moddoff.

11 THE COURT: How do you know Mr. Godfrey?

12 JUROR: Grew up, went to high school together.

13 THE COURT: Would that affect your ability to proceed
14 as a fair and impartial juror in this case?

15 JUROR: No.

16 THE COURT: Remain with us.

17 Sergeant Brian Gwyn, Richland County Sheriff's
18 Department.

19 (No response.)

20 THE COURT: Deputy Latavish Ulmer, Richland County
21 Sheriff's Department.

22 (No response.)

23 THE COURT: Jackie Slicer, Richland County Sheriff's
24 Department, and the remainder of those that I call are
25 Richland County Sheriff's Department.

1 Captain Stan Smith.

2 (Juror responds.)

3 THE COURT: Your name and number again?

4 JUROR: Sharon Love, 140. I used to go to church with
5 Stan Smith.

6 THE COURT: Would that affect your ability to be fair
7 and impartial?

8 JUROR: No.

9 THE COURT: Yes, sir, is---

10 JUROR: Mark Wide, 107.

11 THE COURT: Would that affect your ability to be a fair
12 and impartial juror?

13 JUROR: No, ma'am.

14 THE COURT: Lab Investigator Kristen Polis.

15 (No response.)

16 THE COURT: Lab Investigator Harold Bouknight.

17 (No response.)

18 THE COURT: Lieutenant, excuse me, Lab Investigator Ray
19 Livingston.

20 (No response.)

21 THE COURT: Lieutenant Zane Padgett.

22 (No response.)

23 THE COURT: Lab Investigator Stan Richard.

24 (No response.)

25 THE COURT: Lab Investigator R. Trisha Collins.

1 (No response.)
2 THE COURT: Lab Investigator Bill Allen.
3 (No response.)
4 THE COURT: Lab Investigator Reed-Enzor.
5 (No response.)
6 THE COURT: Sergeant Anna Elsey.
7 (No response.)
8 THE COURT: Lab Investigator Robert Oates.
9 (No response.)
10 THE COURT: DNA Analyst Grayson Amick.
11 (No response.)
12 THE COURT: Sergeant Randy Strange.
13 (No response.)
14 THE COURT: Investigator Matt Ellis.
15 (No response.)
16 THE COURT: Sergeant Walter McDaniels.
17 (No response.)
18 THE COURT: Investigator Marsden Roe.
19 (No response.)
20 THE COURT: Investigator Don McRae.
21 (No response.)
22 THE COURT: Investigator Kevin Preston.
23 (No response.)
24 THE COURT: Tena Goff.
25 (No response.)

1 THE COURT: Joy Delatorre.

2 (No response.)

3 THE COURT: David Collins.

4 (No response.)

5 THE COURT: William Cedarstaff.

6 (No response.)

7 THE COURT: Okay. Is there any member of the jury
8 panel not a citizen of the United States, if so, please
9 stand.

10 (No response.)

11 THE COURT: Is there any member of the jury panel not a
12 resident and citizen of Richland County, if so, please
13 stand.

14 (No response.)

15 THE COURT: Any juror unable to read, write, or speak
16 the English language, if so, please stand.

17 (No response.)

18 THE COURT: Some of these questions might appear
19 embarrassing, but I'll need your answers. If you do not
20 wish to answer at the time I ask the question there will be
21 an opportunity, at the end, for you to respond to any of the
22 questions and I will allow you to line up and speak with me
23 individually by the court reporter, who has to take
24 everything down.

25 Is any member of the jury panel have a sixth grade

1 education or its equivalent, less than a sixth grade
2 education or its equivalent, if so, please stand.

3 (No response.)

4 THE COURT: Is any member of the jury panel unable to,
5 because of mental or physical infirmity, to render efficient
6 jury service?

7 For example, do you have any medical condition that
8 would prevent you from rendering jury service this week?

9 (No response.)

10 THE COURT: We would allow breaks throughout the trial
11 as well as lunch periods, and then try to resume trials,
12 convening at the end of the day, by no later than 5:00 or
13 5:30 depending if we're in the middle of the, a witness.

14 Has any member of the jury panel been convicted by a
15 guilty plea or trial, in a state or federal court, of a
16 crime punishable by more than one year?

17 That means everyone, if the trial or the conviction was
18 for less than that amount of time, if the actual charge
19 carried more than that, then we'd need to know about that.

20 (No response.)

21 THE COURT: Any member of the jury panel ever served as
22 a clerk of court, deputy clerk of court, sheriff, or other
23 commissioned law enforcement officer, probate judge, county
24 commissioner, magistrate, county officer, or just served
25 within any walls of any courthouse?

1 (No response.)

2 THE COURT: Any member of the jury panel previously
3 served on jury duty in a Circuit Court, which is this level
4 of Court, state court, and not city court, magistrate court,
5 or federal court, during this calendar year, if so, please
6 stand.

7 (No response.)

8 THE COURT: Has any member of the jury panel served as
9 a Richland County grand juror during the past several years,
10 if so, please stand.

11 (No response.)

12 THE COURT: Okay. That means you all are duly
13 qualified to serve on this particular panel, and then we'll
14 now move to exemptions, and then these are allowing you to
15 exempt your service should you qualify for the exemption,
16 but, of course, we'd like everyone to participate in jury
17 service, and you would have the opportunity to not exercise
18 that particular exemption.

19 Those of you who are 65 years of age or older can be
20 exempted from jury service, but, of course, we would
21 appreciate your common sense, your talent, your employment,
22 your past education, among things of that nature that could
23 give you great wisdom for jury service.

24 Does anybody fit those qualifications?

25 (No response.)

1 THE COURT: Another exemption concerns prior jury
2 service. No person is required to serve more often than
3 every three calendar years.

4 Has anyone served within the last three calendar years?

5 (No response.)

6 THE COURT: Okay. The same thing would apply to Grand
7 Jury service. You're not required to serve more than every
8 five calendar years. If that applies to you, then let us
9 know.

10 (No response.)

11 THE COURT: The next exemption applies to you who have
12 legal custody of your child or children, but listen very
13 carefully because you have to meet all the parts. You have
14 to have the actual legal custody, care, control of your
15 child. You have to be the one who the child is seven years
16 of age or less, and you are the principal or primary
17 caretaker of that child and unable to make arrangements
18 during this week of jury service.

19 Anyone fit that exemption?

20 (No response.)

21 THE COURT: Okay. If you are the primary caretaker of
22 a person 65 years of age or older and not able to make
23 arrangements while performing your jury service, please let
24 the Court know.

25 (No response.)

1 THE COURT: If you are the primary caretaker of a
2 severely disabled person, and you're not able to let the
3 person be left unattended, and you can't make arrangements,
4 please stand.

5 (No response.)

6 THE COURT: The next exemption involves anyone that
7 might be at a school or working at a school in some
8 capacity. That means a full-time crossing guard, school
9 teacher, school bus driver, or serve any type of school
10 related function, if so, please stand.

11 (No response.)

12 THE COURT: Is there any member of the jury panel who
13 is employed within the walls of the Department of
14 Corrections or at any penitentiary, please stand.

15 (Juror responds.)

16 THE COURT: Any -- yes, sir, juror name and number?

17 JUROR: Mark Coddard, 54. Department of Juvenile
18 Justice.

19 THE COURT: Would that affect your ability to proceed
20 as a fair and impartial juror in this case?

21 JUROR: No.

22 THE COURT: We'll allow you to remain with us.

23 Any member of the jury who performs services for a
24 business, commercial, or agricultural business such that you
25 are such a key and essential employee that if you are not

1 there this week basically the place would shut down, if so,
2 please stand.

3 (No response.)

4 THE COURT: All right. That concludes the statutory
5 list of qualifications. So, you're duly qualified.

6 Now, I will go on to particular issues that are
7 relevant to the trial of this case.

8 Okay. Is there any member of the jury panel employed
9 by, related by blood or marriage to, or a friend or
10 acquaintance of anyone employed by the, any organization
11 specializing in treatment for victims, if so, please stand.

12 That could be Sister Care, you know, various outfits.

13 (No response.)

14 THE COURT: Okay. Has any member of the jury panel
15 read or heard anything about this trial today?

16 That would be through Internet, newspaper, any news
17 media outlet, friends, acquaintances, if so, please stand.

18 (No response.)

19 THE COURT: Has any member of the jury panel been a
20 witness to a crime or testified in Court regarding a crime,
21 if so, please stand.

22 (No response.)

23 THE COURT: Have you, any member of your family, or any
24 close friend ever been the victim of a crime, if so, please
25 stand.

1 (Juror responds.)

2 THE COURT: Sir, I'd like you to come around here and
3 answer these questions, and, counsel, you are welcome to
4 come up.

5 (Whereupon, the following takes place outside the
6 hearing of the jury panel.)

7 CLERK: Number 217.

8 THE COURT: Your juror number?

9 JUROR: 217. Michael Shirk, S-H-I-R-K.

10 THE COURT: Your situation?

11 JUROR: I just -- somebody busted a window in my Camaro
12 and stole a camera and a tool box.

13 THE COURT: Would that affect your ability to serve as
14 a fair and impartial juror in this case?

15 JUROR: No, ma'am, not at all.

16 THE COURT: Thank you. Stay with us.

17 CLERK: Number 60.

18 THE COURT: Your juror -- name?

19 JUROR: Teresa Dunn.

20 THE COURT: Okay.

21 JUROR: My stepson was a victim of a crime. He was
22 shot, but that was in Baltimore.

23 THE COURT: Would that affect your ability to proceed
24 as a fair and impartial juror in this case in which there
25 might be some type of---

1 JUROR: I don't think so.

2 THE COURT: Number 60 will remain with us.

3 CLERK: Number 48.

4 THE COURT: Juror -- name please?

5 JUROR: Christina Chroll.

6 THE COURT: Your situation?

7 JUROR: I have had my car stolen before, and a rental I
8 got, the door was kicked in about ten days ago.

9 THE COURT: Would that affect your ability to be a fair
10 and impartial juror in this case and listen to the evidence
11 in this case and make a decision?

12 JUROR: I am not a hundred percent sure.

13 THE COURT: Okay.

14 JUROR: Because of the resent -- I was closed in.
15 So --.

16 THE COURT: That makes you say that?

17 JUROR: Just sort of seeing what happened to them, and,
18 you know, they had to move out because everything they had
19 was stolen and---

20 THE COURT: Okay. And you understand the Court would
21 require you listen to the---

22 JUROR: Yes.

23 THE COURT: Would you have a problem doing that, being
24 fair and impartial in that experience?

25 JUROR: I probably would be okay.

1 THE COURT: Probably, unsure, or not?

2 I need to know one way or the other.

3 JUROR: I'd be all right.

4 THE COURT: Okay. You understand that what we're
5 requiring is that you listen to the facts in this case, and
6 make a judgment based on what is presented in this
7 courtroom, be fair, and listen to the State's case, be fair,
8 and listen to the defense case, and make up your mind based
9 on what you hear here.

10 Can you do that?

11 JUROR: I can.

12 THE COURT: Number 48 will remain with us.

13 CLERK: Number 258.

14 THE COURT: Your name?

15 JUROR: Henry Watson.

16 THE COURT: Okay.

17 JUROR: I had a house broke into several years ago.
18 That's pretty much the extent of it.

19 THE COURT: Are you able to be a fair and impartial
20 juror in this case?

21 JUROR: Sure I am, yes.

22 THE COURT: Number 58 will remain with us.

23 CLERK: Number 93.

24 THE COURT: Your name?

25 JUROR: Travis Hard, H-A-R-D.

1 THE COURT: Okay.

2 JUROR: My brother-in-law was murdered by his wife.

3 THE COURT: Okay. Would you be able to be a fair and
4 impartial juror in this case?

5 JUROR: Yes.

6 THE COURT: You would listen to the facts and evidence
7 by the State as well as the defense?

8 JUROR: Yes.

9 THE COURT: Okay. Thank you. Number 93 will remain
10 with us.

11 Have you or any member of your family or any close
12 friend ever been accused of a crime, if so, please stand.

13 (No response.)

14 THE COURT: Is there anything of the nature of the
15 allegations in this case that would cause you to not be able
16 to be a fair and impartial juror, and what we mean by that
17 is you would allow the State the opportunity to present
18 their case as well as the State to examine and cross-examine
19 the State's witnesses, and then allow the defense to produce
20 a case if they chose to do so?

21 Could anybody not do that and base a decision on what
22 occurs in this courtroom, the facts, and evidence presented
23 in this courtroom?

24 Is there anyone that feels they can not hold themselves
25 to that task?

1 (No response.)

2 THE COURT: Okay. Have you ever served on a jury panel
3 before, if so, please stand.

4 (Jurors respond.)

5 THE COURT: I'd like you to come around. You will
6 indicate to the Court whether or not it was a criminal or
7 civil case as well as what happened with the case.

8 JUROR: On any kind of jury?

9 THE COURT: Yes.

10 JUROR: Not just here, but even local?

11 THE COURT: Right. That's fine.

12 (Whereupon, the following takes place outside the
13 hearing of the jury panel.)

14 CLERK: Number 62.

15 THE COURT: Your name?

16 JUROR: Adrian Stroman.

17 THE COURT: Adrian Stroman?

18 JUROR: Uh-huh. (Affirmative).

19 THE COURT: What kind of jury was it?

20 JUROR: Civil. In other words, motor---

21 THE COURT: What happened in the case?

22 JUROR: They had to repay the---

23 THE COURT: So, the plaintiff won?

24 JUROR: Yes, ma'am.

25 THE COURT: Is that going to affect your ability to

1 serve as a fair and impartial juror?

2 JUROR: No.

3 THE COURT: 62 will remain with us.

4 Come forward. Number 60. Yes, what kind of case?

5 JUROR: Civil.

6 THE COURT: What was the---

7 JUROR: It was like a DUI case I guess, drunk driving.

8 THE COURT: What was the outcome?

9 JUROR: Guilty.

10 THE COURT: Would that affect your ability to be fair
11 and impartial in this case?

12 JUROR: No.

13 THE COURT: Number 60 will remain with us.

14 CLERK: Number 54.

15 THE COURT: Your name?

16 JUROR: Mark Cotter, C-O-T-T-E-R.

17 THE COURT: What kind of case?

18 JUROR: A criminal, attempted rape. Found him guilty.

19 THE COURT: Would that affect your ability to proceed
20 as a fair and impartial juror in this case?

21 JUROR: No.

22 THE COURT: 54 will remain with us.

23 CLERK: 275.

24 THE COURT: Okay. Your name?

25 JUROR: Tammy Young.

1 THE COURT: Okay.

2 JUROR: It was ten years ago. It was a vending
3 machine. She was an employee of---

4 THE COURT: Would that affect your ability to proceed
5 fair and impartially?

6 JUROR: No.

7 THE COURT: What was the outcome of the case?

8 JUROR: He was found not guilty.

9 THE COURT: Thank you. Number 275 will remain with us.

10 CLERK: Number 138.

11 THE COURT: Good morning.

12 JUROR: Mine is real similar. It was a traffic
13 accident.

14 THE COURT: Your name?

15 JUROR: Essella Lasane.

16 THE COURT: What was the outcome?

17 JUROR: The person that actually had done it we found
18 guilty.

19 THE COURT: Would that affect your ability to proceed
20 in this case?

21 JUROR: No.

22 THE COURT: In a traffic accident that -- okay. Thank
23 you. 138 will remain with us.

24 CLERK: Number 135.

25 THE COURT: Yes.

1 JUROR: Traffic court and whatever it is on Assembly
2 Street.

3 THE COURT: State your name.

4 JUROR: I'm sorry. Patricia Kuna, K-U-N-A.

5 THE COURT: The outcome of the traffic court?

6 JUROR: I don't even remember.

7 THE COURT: Does that affect your ability to proceed in
8 this case?

9 JUROR: No.

10 THE COURT: 135 will remain with us.

11 JUROR: Also, besides traffic court there was --
12 whatever court is on Assembly Street, County. Anyway, it
13 was a similar type of thing.

14 THE COURT: Okay.

15 CLERK: Number 232.

16 THE COURT: Your name?

17 JUROR: Tom Stolenworth.

18 THE COURT: what type of case?

19 JUROR: Drunk driving.

20 THE COURT: The outcome?

21 JUROR: Acquittal.

22 THE COURT: would that affect your ability to proceed
23 in this case?

24 JUROR: No.

25 THE COURT: 232 will remain with us.

1 CLERK: Number 140.
2 THE COURT: Your name?
3 JUROR: Sharon Love.
4 THE COURT: What type of case?
5 JUROR: A DUI in Forest Acres.
6 THE COURT: The outcome?
7 JUROR: Not guilty.
8 THE COURT: That affect your ability to proceed in this
9 case?
10 JUROR: No, ma'am.
11 THE COURT: 140 will remain with us.
12 JUROR: Number 243.
13 THE COURT: Your name?
14 JUROR: Aricsz. A-R-I-C-S-Z.
15 THE COURT: Say it again.
16 JUROR: S-Z-E-N-D-R-E-I.
17 THE COURT: What type of case?
18 JUROR: Civil in Georgia.
19 THE COURT: What type of matter?
20 JUROR: D.O.T. versus a private individual.
21 THE COURT: What was the outcome?
22 JUROR: It was a settlement by, between---
23 THE COURT: Okay. Would that affect your ability to
24 proceed in this case?
25 JUROR: No.

1 THE COURT: 243 will remain with us.

2 CLERK: Number 257.

3 THE COURT: He---

4 JUROR: I'm Amy Watson. I served time in a civil case
5 I guess it was in 1998.

6 THE COURT: what type of case?

7 JUROR: Wrongful death.

8 THE COURT: The outcome?

9 JUROR: we found for the plaintiff.

10 THE COURT: Okay. would that affect your ability to
11 proceed in this case?

12 JUROR: No, ma'am.

13 THE COURT: 257 will remain with us.

14 CLERK: Number 81.

15 THE COURT: I'm sorry. Your number, your name?

16 JUROR: Clifford Gainey.

17 THE COURT: Type of case?

18 JUROR: Criminal case. It happened about 15, maybe 20
19 years ago.

20 THE COURT: You know what the allegations were?

21 JUROR: It was armed robbery.

22 THE COURT: What was the outcome?

23 JUROR: He got off.

24 THE COURT: Okay. How do you -- would you be able to
25 be fair and impartial in this case?

1 JUROR: Yes.
2 THE COURT: 81 will remain with us.
3 CLERK: Number 105.
4 THE COURT: okay.
5 JUROR: Mark Skim.
6 THE COURT: what type of case?
7 JUROR: Civil.
8 THE COURT: what was the allegation?
9 JUROR: Somebody suing a day care.
10 THE COURT: what was the outcome?
11 JUROR: The day care -- defendant won.
12 THE COURT: The defendant won?
13 JUROR: Yes.
14 THE COURT: would that affect your ability to be fair
15 and impartial in this case?
16 JUROR: No.
17 CLERK: Number 188.
18 JUROR: Debbie Holloman.
19 THE COURT: what type of case?
20 JUROR: Civil case.
21 THE COURT: what were the allegations?
22 JUROR: They were pursuing a private company.
23 THE COURT: what was the outcome?
24 JUROR: Not guilty.
25 THE COURT: would that affect your ability to proceed

1 in this case?

2 JUROR: No, ma'am.

3 THE COURT: 108 will remain with us.

4 CLERK: Number 174.

5 THE COURT: Your name?

6 JUROR: Linda Mosser, M-O-S-S-E-R.

7 THE COURT: Okay. What type of case?

8 JUROR: A criminal case, probably 25 years ago in
9 federal court before Judge Simmons, probation violation.

10 THE COURT: Okay. What was the outcome?

11 JUROR: She was continued on probation.

12 THE COURT: Okay. Would that affect your ability to
13 proceed here?

14 JUROR: No.

15 THE COURT: 174 will remain with us.

16 CLERK: Number 26.

17 THE COURT: Good afternoon. Your name?

18 JUROR: Larry Washington.

19 THE COURT: The type of case?

20 JUROR: Civil case.

21 THE COURT: What were the allegations?

22 JUROR: Shoplifting.

23 THE COURT: Okay. What was the outcome?

24 JUROR: Plead out.

25 THE COURT: Okay. Would that affect your ability to

1 proceed in this case?

2 JUROR: No.

3 THE COURT: 26 will remain with us.

4 CLERK: Number 37.

5 THE COURT: Your name?

6 JUROR: Olanda Brown.

7 THE COURT: Okay.

8 JUROR: Magistrate Court. Was an accident.

9 THE COURT: Okay. What was the outcome?

10 JUROR: He was guilty.

11 THE COURT: Okay. You mean somebody --

12 JUROR: Yes, ma'am.

13 THE COURT: -- paid money --

14 JUROR: Yes, ma'am.

15 THE COURT: would that affect your ability to proceed
16 in this case?

17 JUROR: No.

18 THE COURT: 37 will remain with us, counsel.

19 (whereupon, the following takes place within the
20 hearing of the jury panel.)

21 THE COURT: There may be some allegations of drug use
22 in this case.

23 would that affect your ability to be a fair and
24 impartial juror in this case, if so, please stand.

25 (Juror responds.)

1 THE COURT: If you'll step around, please.

2 (Whereupon, the following takes place outside the
3 hearing of the jury panel.)

4 THE COURT: Your juror number again?

5 JUROR: My son.

6 THE COURT: Tell me your juror number again.

7 JUROR: Patricia Cunna. My son died a year and a half
8 ago of a drug overdose.

9 THE COURT: Would that affect your ability to proceed
10 as a fair and impartial juror here?

11 JUROR: Since I don't know what the whole situation is
12 I don't---

13 THE COURT: Generally speaking.

14 JUROR: It's difficult.

15 THE COURT: Generally speaking, the State is going to
16 present their case and the allegations are murder and
17 attempted armed robbery. Throughout the trial you may hear
18 some allegations about drug use. And so, I want to know if
19 you can listen to the State present their case, and then let
20 the defense cross-examine those witnesses, and then choose
21 to decide whether they put up a case, can you listen to what
22 occurred in this courtroom and make a decision based on the
23 allegations here?

24 JUROR: Yeah. It's just going to be really emotionally
25 hard for me.

1 THE COURT: But you can be fair and impartial?

2 JUROR: Yeah.

3 THE COURT: That's all we ask of you.

4 Number 138 will remain with us.

5 (Whereupon, the following takes place within the
6 hearing of the jury panel.)

7 THE COURT: Ladies and gentlemen, this is the part of
8 the trial where I always ask you to speak now or forever
9 hold your peace because you've all been duly qualified and
10 nobody indicated they wish to exercise any exemptions for
11 the trial. So, I will ask you again, if anyone can not be
12 fair, sit or serve as a fair and impartial juror, if so,
13 please stand.

14 Think of any reason whatsoever that you could not allow
15 yourselves to make up your mind at the conclusion of the
16 case after giving the State an open opportunity to present
17 their case, and if the defendant so chooses to do so, then
18 to get them to present their case?

19 (Juror responds.)

20 THE COURT: Yes, ma'am, please stand.

21 Your name and number?

22 JUROR: Julia Oliver, 181.

23 THE COURT: Come around and indicate the reason please.

24 (Whereupon, the following takes place outside the
25 hearing of the jury panel.)

1 THE COURT: Yes, ma'am.

2 JUROR: I don't believe in capital punishment. So, if
3 it involves that, capital punishment, I would go against
4 that because we are not the creator of life.

5 THE COURT: This is not a capital punishment trial.

6 JUROR: I just wanted to make sure.

7 THE COURT: That's okay. The State would have to have
8 served notice on them to indicate this is a death penalty,
9 but this is not that case.

10 JUROR: Thank you.

11 (Whereupon, the following takes place within the
12 hearing of the jury panel.)

13 THE COURT: 181 would remain with us.

14 The other issues the Court would be concerned about, I
15 have indicated to you the general schedule of the trial. I
16 need you to indicate now whether you're going to have any
17 issues with the schedule so you can be fair to the parties.
18 For example, if somebody's got heart surgery scheduled
19 tomorrow, not trying to be funny, back surgery, or thinking
20 that is going to take your mind and attention away from the
21 factual issues and the evidence in this trial, doesn't mean
22 you're not necessarily going to get excused, but I try to
23 accommodate you as best as possible in that situation, and
24 be fair to the parties because we don't want your mind
25 rambling and roaming as well, but to actually be able to

1 give full and due attention to the parties in this case.

2 (Juror responds.)

3 THE COURT: Yes, ma'am, your name and number?

4 JUROR: 40.

5 THE COURT: Your last name?

6 JUROR: B-U-T-K-E-S, Butkes.

7 THE COURT: Your issue?

8 JUROR: I have to pick up my kids from day care by
9 5:30. I would probably need to leave at five o'clock or so.

10 THE COURT: We will do our best to accommodate that.

11 Anyone else?

12 (Juror responds.)

13 THE COURT: Yes.

14 JUROR: 156, Rebecca McFader. My mother had hip
15 surgery on Thursday, and I have family there, but should --
16 she, she's had a bad weekend and should she take a turn for
17 the worst, I'm willing to serve, but---

18 THE COURT: I appreciate that. Just keep us posted,
19 but we will select some alternate jurors that could be
20 qualified to step in. That -- thank you.

21 The parties have anything else they would like to
22 address from the jurors?

23 SOLICITOR CAMPBELL: Nothing from the State.

24 THE COURT: Defense?

25 MR. O'NEILL: Nothing.

1 THE COURT: We will proceed with those issues.

2 You ready?

3 CLERK: Ladies and gentlemen of the jury, when I call
4 your number, come down here, stand in front of the
5 microphone, bring all your belongings with you, and give me
6 your occupation.

7 (Whereupon, a jury panel was selected at this time.)

8 THE COURT: Do the parties have any issues with respect
9 to jury selection?

10 SOLICITOR CAMPBELL: Beg the Court's indulgence.

11 MR. O'NEILL: Nothing from the defense.

12 THE COURT: Ladies and gentlemen of the jury, you will
13 be serving on the jury for this week. What, what we're
14 going to do now is release you until tomorrow morning and
15 ask you to report to your jury room at 9:30. What I
16 generally do on the first day of trial is take up any
17 pretrial issues and various other matters with the attorneys
18 so we can kind of conduct our business here today, and then
19 we will try to start with you as promptly as we can at 9:30.

20 I'm going to say this throughout the trial several
21 times, but it is very important. You can not discuss the
22 case with anyone. That is including amongst yourselves, any
23 family members, and whatnot. Particularly do not discuss
24 the nature of the charges in this case. As we all know, as
25 soon as you talk about any type of matter, people just have

1 opinions, and even if you don't tell them the names of the
2 parties or what's going on, they might start interjecting
3 opinions and we don't want that to happen because I asked
4 you earlier I want you to be fair and impartial, listen to
5 the facts and evidence presented in this courtroom, and that
6 will be the basis upon which you make your decision.

7 Do not read any newspaper accounts, TV, Internet.

8 There will be no testing -- just anything about this case at
9 all. You will only listen and participate as to the
10 deliberations in this courtroom, and you must uphold that
11 oath that you will take in that regard. We will charge you
12 and swear you in in the morning and then we will proceed
13 with the trial.

14 Y'all have a safe evening and thank you so much for
15 your service.

16 (Whereupon, the following takes place outside the
17 presence of the jury panel.)

18 THE COURT: Are there any issues the parties need to
19 take up at this moment?

20 (No response.)

21 THE COURT: Okay. Let's have y'all recess until three
22 o'clock. I've got a big matter at two o'clock, and give us
23 a chance to clear out the courtroom and all, and we'll get
24 back with you at 3:00.

25 MR. O'NEILL: Thank you.

1 not been turned over or been missed. He had an opportunity
2 to review all the physical evidence.

3 In addition to that, Your Honor, we are available to go
4 through it all again if he wishes. Be glad to go through my
5 notebook with him at the close of today to make sure. We
6 have attempted to comply in every way we could.

7 THE COURT: Other than that, is the defense aware of
8 anything that might be outstanding?

9 MR. O'NEILL: No, Your Honor. I'm not aware of
10 anything like visual discovery or written materials or
11 anything, and, oh, and been through the notebook and been
12 through---

13 THE COURT: Okay. I'm going to consider that motion
14 resolved unless the Court is informed otherwise.

15 SOLICITOR CAMPBELL: As far as we know, Your Honor, I
16 did turn over a number of rap sheets, and, if possible, we
17 will get together after this to, to try to resolve any of
18 the---

19 MR. O'NEILL: To make sure -- we are missing Frank
20 Livingston's rap sheet.

21 SOLICITOR CAMPBELL: That's not a problem and I think
22 that may be the only one we don't have. We'll check on
23 that.

24 THE COURT: Motions to sequester witnesses. My
25 practice is generally -- obviously the defendant may be

1 present. The State may have the victim and then a law
2 enforcement representative, victim or victims, and a law
3 enforcement representative.

4 SOLICITOR CAMPBELL: Limited to law enforcement
5 representative?

6 THE COURT: Yes.

7 SOLICITOR CAMPBELL: I understand the witnesses and
8 everything, Your Honor, but as far as law enforcement, you
9 are sequestering everyone though they have reports and
10 everything?

11 THE COURT: Usually what the defense is asking if---

12 SOLICITOR CAMPBELL: I understand the lay witnesses.
13 We have no problem, when testimony goes up, in sequestering
14 them. At this point though I don't know why there would be
15 any reason to sequester any law enforcement.

16 THE COURT: Talk about the trial---

17 MR. O'NEILL: Motion is---

18 THE COURT: That's fine.

19 SOLICITOR CAMPBELL: Law enforcement is so much
20 smoother.

21 THE COURT: That's fine. Some things -- there's a
22 request if there's going to be crucial testimony -- all
23 right.

24 SOLICITOR CAMPBELL: We would sequester the lay
25 witnesses when testimony is going up.

1 (Whereupon, Court was in recess for the lunch hour.)

2 THE COURT: Are the parties ready to proceed with
3 pretrial motions?

4 SOLICITOR CAMPBELL: State's ready.

5 THE COURT: Defendant's ready?

6 MR. O'NEILL: Yes, sir.

7 THE COURT: Defendants have handed me a Court's Exhibit
8 motion list the, that would be Court's Exhibit 3, and also
9 motion to develop and produce/disclosure. That would be
10 Court's Exhibit 4.

11 (Whereupon, the motion list was marked as Court's
12 Exhibit No. 3 and the disclosure document was marked as
13 Court's Exhibit No. 4. Both were for identification
14 purposes only at this time.)

15 MR. O'NEILL: Your Honor, one matter we need to take up
16 here out of an abundance of precaution. I spoke with Mr.
17 Brown about this earlier this morning. I noticed Ms. Holly
18 this morning when she came in the courtroom, and I
19 recognized Ms. Jackie Holly, and I represent her son,
20 William Gilram, from November 8 of '06 to May 8th of '07,
21 and also on September of '07 to November 2 'of '07. Me and
22 Ms. Holly probably talked about ten times, at least ten
23 times on the phone, and probably spoke at least three or
24 four times in person in my office. But I always called Mr.
25 Gilram and didn't realize her name is actually Ms. Holly

1 until I saw her face-to-face and realized she was, she was
2 the person I knew.

3 Gail Lee Holly, same -- made which was in the State's
4 case. Want to make sure that's clear and on the record for
5 any future proceedings or---

6 THE COURT: Thanks for the representation.
7 State response please?

8 SOLICITOR CAMPBELL: Your Honor, the only other
9 possible conflict we can see is if his client has a problem
10 with that in any way or manner, and he has not stated so.
11 So, I'm assuming he does not have a problem.

12 THE COURT: Is that correct, Mr. O'Neill?

13 MR. O'NEILL: I addressed that with Mr. Brown and he
14 told me he didn't have a problem with that.

15 THE COURT: Is that correct?

16 DEFENDANT: Yes, ma'am.

17 SOLICITOR CAMPBELL: That could be the only possible
18 problem I could perceive.

19 THE COURT: So, we'll proceed with that understanding.

20 All right. We can take these one at a time. First,
21 the motion is to renew discovery Rule A.

22 Has the State given all evidence over to the defense?

23 SOLICITOR CAMPBELL: Your Honor, we have met on a
24 number of occasions. Mr. O'Neil has met with Mr. Jophlin in
25 our office as well. We were not aware of anything that has

1 THE COURT: No objection to sequestration of lay
2 witnesses. Motions pursuant to Riddle.

3 SOLICITOR CAMPBELL: Your Honor, if I may ask one
4 thing?

5 what is your position once they testify?

6 THE COURT: I am fine for them to remain.

7 Any reason for them not to?

8 MR. O'NEILL: No, sir.

9 SOLICITOR CAMPBELL: I anticipate, you know, you may do
10 something that -- I don't anticipate anything.

11 MR. O'NEILL: If they're going to be recalled, I would
12 ask we---

13 THE COURT: Okay. It is hard to know what that issue
14 is going to be.

15 SOLICITOR CAMPBELL: You understand their interest
16 is -- some of these people were friends with the victim and,
17 of course, they have an interest in what goes on, and it is
18 hard for me to tell them okay, once you've testified, and we
19 don't anticipate putting you back up, you can't stay in
20 here.

21 THE COURT: Are you talking about the lay witnesses?

22 SOLICITOR CAMPBELL: Lay witnesses.

23 THE COURT: Okay.

24 MR. O'NEILL: I understand that might inconvenience
25 the, a lay witness, but I have to look out for Mr. Brown's

1 rights. And if they are going to be recalled I would ask
2 they not be in the courtroom.

3 SOLICITOR CAMPBELL: If I plan on recalling them. I
4 would not keep them once they have testified.

5 THE COURT: If there is any indication, we'll take that
6 at that time..

7 MR. O'NEILL: Your Honor, kind of derivative and motion
8 in Riddle v. Odmond pursuant to a PCR, but what I am asking
9 for, specifically ask -- the Riddle case essentially there
10 was -- Riddle was a defendant, was charged with the murder
11 as well initially gave a statement to law enforcement,
12 written statement. Probably a week prior to trial Riddle's
13 brother is interviewed by law enforcement again, and there
14 are some discrepancies in the statements he gives a week
15 before trial compared to the statement he gave law
16 enforcement when it originally happened.

17 The Court, in that case, said the state had a burden to
18 disclose to defense the discrepancies in those two
19 statements. Plus the fact the state had a duty to bring to
20 the Court's attention obviously false testimony of one of
21 the witnesses made. What I'm asking from the state at this
22 point is have they talked with any of the witnesses in this
23 case specifically motion I think, both Goodwin sisters,
24 Eugene Frost, Satierra Austin, Jacqueline Holly, Crystal
25 Clark, Beverly Moyd, Debbie Fallings, and any of the other

1 lay witnesses, have either the solicitor's office, law
2 enforcement, or any of the state's agents talked with these
3 individuals since they have given a written statement, and
4 if they have, have those discussions with those witnesses
5 been different from the witness statement they gave earlier.
6 Asking for any notes from those meetings, any kind of
7 statements, any kind of observations of the scene, kind of
8 week walking suspiciously, Mr. Livingston and Mr. Lark, any
9 kind of other grievance as related to particular grievances
10 and particular false -- I'm quite sure---

11 SOLICITOR CAMPBELL: Take them one at a time, and I can
12 answer your questions.

13 THE COURT: Go ahead and name them out.

14 MR. O'NEILL: Camillia Goodwin.

15 SOLICITOR CAMPBELL: I met with Ms. Camillia Goodwin on
16 one occasion, and your testimony is the same as in your
17 statement?

18 WITNESS: Yes, ma'am.

19 THE COURT: Okay.

20 MR. O'NEILL: Jamilla Goodwin.

21 SOLICITOR CAMPBELL: She has spoken over the phone with
22 investigators from our office about four negative things.
23 However, it is my understanding her testimony, she met with
24 co-counsel today for the first time. Her testimony is the
25 same substantially as in her statement.

1 MR. O'NEILL: Substantially was not enough. Any
2 difference that could be used as impeachment or exculpatory.

3 THE COURT: Mr. Jophlin.

4 SOLICITOR JOPHLIN: Yes, ma'am, it is the same and she
5 had slightly two more details I think from wanting their
6 statement. I think this is a little over reaching. These
7 are discrepancies. But us doing the defendant's
8 investigation work for him, witnesses been known to him, and
9 now instead of pointing discrepancies, detail out,
10 everything to talk since the beginning of the case, all
11 these witnesses as opposed to going out and talking to them
12 themselves.

13 MR. O'NEILL: I would quote from Riddle itself. It
14 says PCR judge in Riddle or initial PCR judge in Riddle
15 says, Page 3, paragraph says, therefore, concluded
16 January 22 statement was available to the petitioner, and
17 thus the State failed to disclose the statement and did not
18 violate Brady. We disagree. Not only is -- the only real
19 issue to require the petitioner and its attorneys to
20 interview all officers and investigators in the days before
21 trial, but that is not what Brady requires. The burden is
22 on the solicitor to disclose material evidence, which is
23 exculpatory or impeached.

24 SOLICITOR CAMPBELL: Immaterial.

25 SOLICITOR JOPHLIN: Exculpatory and material and also

1 these two statements in Riddle differ vastly from one
2 another, and that was the ultimate issue in this case was
3 two issues or statements with very discrepant details in
4 them. Some of the details that were exculpatory.

5 I spoke to Jamilla. She is able to remember and give a
6 description of both of these individuals that came in the
7 room that night. She heard several shots that were spaced
8 out somewhat apart, were immediately one after the other.
9 She heard her sister and Jackie asking to get out of the
10 room, and heard the victim saying help me and the victim not
11 at the scene.

12 So, again, none of that is exculpatory, and none of
13 that material and we are interviewing, doing his
14 investigation.

15 MR. O'NEILL: It says immaterial evidence which is
16 exculpatory or impeaching. Can't impeach by omission if
17 there is new details given to the State that is not in the
18 original statement. That material is impeachable material,
19 and clearly has to be turned over by Riddle.

20 THE COURT: Any reason why the State would feel
21 inclined not to give the details?

22 SOLICITOR JOPHLIN: No, ma'am, just don't understand --
23 I feel this falls outside the scope of Riddle I believe. I
24 don't have any problem telling him exactly what, what we
25 talked about in all of our interviews, and probably would be

1 the same thing they told him if he would have picked up the
2 phone and called.

3 THE COURT: His issue is whether or not it could be
4 impeaching to the extent they were left out of the
5 statement, and that you have been given some other
6 additional details, and I understand the fine line about
7 defense counsel having these opportunities, but the, the,
8 the witnesses with whom we're speaking of are also in line
9 with the State. So, sometimes that makes it a little more
10 difficult.

11 SOLICITOR JOPHLIN: Yes, ma'am. Yeah, I, I don't know.
12 I think that's obvious from when they go and stand, they
13 start adding in a bunch of stuff that's not, that's an
14 obvious point, glaring point that comes out during the
15 trial. That's part of the PCR issue too is counsel was
16 ineffective of picking that up on the stand I, when it
17 happened.

18 THE COURT: Let me ask you this though. Do you -- it
19 comes down to whether it is material evidence, which is
20 exculpatory or impeaching.

21 Are you indicating to the Court you believe it does not
22 fit within those confines?

23 SOLICITOR JOPHLIN: What I told, Your Honor, or Jamilla
24 told me, no, I do not believe that's within the confines of
25 this case, but I have laid out everything she told me. I

1 think it is within the statement, but I am laying out
2 anyways stuff I wrote down in my notes and --

3 THE COURT: So, whatever you represented, that's what
4 you feel like she'll be testifying to?

5 SOLICITOR JOPHLIN: Correct, and I think we're getting
6 to a moot point here.

7 MR. O'NEILL: She told him something that is not
8 physically in her statement and that's impeachment, there is
9 no way around that.

10 THE COURT: Well---

11 SOLICITOR JOPHLIN: There's never going to be testimony
12 in which every single word that's in the statement is what's
13 on the stand or---

14 MR. O'NEILL: Your Honor---

15 THE COURT: Impeaching -- that's a wrong word and
16 that's what it requires, but if somebody said they were
17 driving 80 miles an hour, and on the stand they said 50, and
18 it's not effecting the speed limit or something, you know,
19 unusual to the, or material to the cause---

20 SOLICITOR CAMPBELL: To the case, like she says,
21 identification changes, or, of course, we would turn that
22 over or she says no, I wasn't in the room, of course, we
23 would turn that over.

24 THE COURT: But at the time, as an officer of the
25 court, he is making all decisions that it is not exculpatory

1 or impeaching, but has put out what he expects the testimony
2 to be?

3 SOLICITOR JOPHLIN: Yes, ma'am.

4 MR. O'NEILL: Frank Livingston.

5 SOLICITOR CAMPBELL: I represented to him and called
6 him as soon as I related -- gave him Mr. Livingston and gave
7 him the substance of what he was going to testify to.

8 MR. O'NEILL: Eugene Frost.

9 SOLICITOR CAMPBELL: Nothing has changed. Mr. Frost
10 decided to testify. I did not have an opportunity nor does
11 anyone in my office have an opportunity to talk to him. His
12 lawyer, Mr. Swerling, is supposed to meet with us tomorrow.
13 Mr. Frost, if anything changes, he does have his first
14 statement already.

15 MR. O'NEILL: I have his first statement.

16 SOLICITOR CAMPBELL: I haven't spoken to Mr.--

17 MR. O'NEILL: I am concerned with whether or not he has
18 been or---

19 SOLICITOR CAMPBELL: I will advise investigators to
20 talk to---

21 THE COURT: Y'all speak one at a time.

22 MR. O'NEILL: Has been or on tomorrow he makes a
23 statement, that is, one, exculpatory or, two, impeached. I
24 would not be meeting with him.

25 THE COURT: Absolutely, and, and as an officer of the

1 Court, she will indicate so, but right now she has not.

2 SOLICITOR CAMPBELL: Possible charges or any deals were
3 made, I would turn those over to---

4 MR. O'NEILL: Satierra Austin. I apologize if I
5 mispronounced that first name.

6 SOLICITOR CAMPBELL: We spoke with Ms. Austin and
7 whatever the statement, Ms. Austin, your testimony is the
8 same?

9 WITNESS: Yes.

10 MR. O'NEILL: Ms. Jacqueline Holly.

11 SOLICITOR CAMPBELL: I talked to her and her testimony
12 is the same as what was in her statement substantially.

13 MR. O'NEILL: Substantially or the same?

14 SOLICITOR CAMPBELL: The same for anything that could
15 possibly be material to the guilt---

16 MR. O'NEILL: When this, did you talk to Ms. Holly?

17 SOLICITOR CAMPBELL: Two weeks ago or three weeks ago.

18 MR. O'NEILL: Crystal Clark.

19 SOLICITOR CAMPBELL: Ms. Clark never gave the original
20 statement. There were follow-up notes in the investigator's
21 notes as far as Ms. Clark's involvement. Ms. Clark is
22 Mr. Brown's former girlfriend. She did, at the time we
23 spoke to her, she doesn't really know anything about what
24 happened that night. She did tell us, however, he had been
25 writing her letters. She turned one of those letters over

1 to us. we talked to her and immediately copied that letter
2 and turned it over to defense counsel.

3 In that, he indicates that, some information of guilt.
4 Talked to her about the prior relationship. She had broken
5 up with him prior to all this happening and didn't know
6 about the crime, it's, or anything of that nature, and we
7 would call her for that extent.

8 But I will be glad to make Ms. Clark available if he
9 wants to interview her. we spoke to her last week and over
10 her statement and it was the same.

11 MR. O'NEILL: Edna Frost.

12 SOLICITOR CAMPBELL: Spoke to her and went over her
13 statement and it is the same as far as any material--

14 THE COURT: Okay.

15 MR. O'NEILL: In general, any of the investigators
16 involved in the case, whether or not there has been any
17 material exculpatory statements or any material impeachment
18 as it relates to investigator's.

19 SOLICITOR CAMPBELL: The only thing -- I do want to put
20 on the record, I indicated to defense counsel last week one
21 of the witnesses we did provide with some money so she could
22 get contacts so she could see during the case this week, and
23 Ms. Jamilla Goodwin, who was coming from Atlanta, Your
24 Honor, did have a technical violation of probation matter
25 which was outstanding as far as she hadn't changed her

1 address, is that right?

2 We got the probation and have resolved that matter.
3 So, if he wants to try to impeach with that, we've done
4 that.

5 MR. O'NEILL: That's my inquiry.

6 SOLICITOR CAMPBELL: As far as any deals with Frank
7 Livingston, I also turned that over, you know. He hopes for
8 some reward from this, you know, that either a reduction in
9 charges or something down the road, and we have agreed not
10 to charge him with any additional charges from this
11 incident, Your Honor, this murder. He is currently charged
12 with misprision of a felony.

13 THE COURT: Okay. Motion to remove restraints at
14 trial.

15 SOLICITOR CAMPBELL: I think he's withdrawing that.

16 MR. O'NEILL: We don't need to address that at this
17 time.

18 THE COURT: You all have settled the record?

19 SOLICITOR CAMPBELL: I turned over everything. I think
20 we can come to an agreement on that if we have ten minutes.

21 MR. O'NEILL: We have not officially settled the
22 record.

23 THE COURT: We will take care of that today. I don't
24 want it to be a trial delay issue.

25 Okay. That's fine. Anything further at this time, Mr.

1 O'Neill, with respect to the motions?

2 SOLICITOR CAMPBELL: Your Honor, just like -- this is
3 just an example. Ms. Holly, on the stand, is going to be
4 asking her questions how close, did you get a good look,
5 anything obstructing your view. Those were not questions
6 because those were questions for the Court. I have gone
7 over those questions with her. I want to be perfectly
8 candid with the Court, but it is not going to be in her
9 statement because obviously that's---

10 THE COURT: Depends on what was asked.

11 SOLICITOR CAMPBELL: Yes.

12 THE COURT: Not a pending statement that the question
13 was asked.

14 SOLICITOR CAMPBELL: As far as, as Your Honor knows,
15 for purposes of getting identification admitted, those are
16 the questions I have to ask.

17 THE COURT: Right.

18 SOLICITOR CAMPBELL: Those are not the questions
19 necessarily going to be asked by investigators the day of
20 the murder.

21 THE COURT: Okay.

22 SOLICITOR CAMPBELL: Want to be perfectly clear on
23 those.

24 THE COURT: When you ask the questions, it's going to
25 be obvious Mr. O'Neill will receive this information at this

Jacqueline Holly - Direct examination
by Solicitor Campbell

1 time for purposes of knowing what she would testify to at
2 trial.

3 SOLICITOR CAMPBELL: Yes, and that would be pretrial.
4 So, he will have it.

5 THE COURT: Okay. Solicitor.

6 SOLICITOR CAMPBELL: May it please the Court.

7 State calls Jacqueline Holly.

8 JACQUELINE HOLLY, being first duly
9 sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY SOLICITOR CAMPBELL:

12 Q Jacqueline, you live in the Columbia area?

13 A Yes, ma'am.

14 Q How long have you lived in Columbia?

15 A Practically all my life.

16 Q I want to turn your attention back to November of 2006.
17 It's been almost three years ago.

18 Are you familiar with an area of town where the Grand
19 Motel is?

20 A Yes, ma'am.

21 Q Is it located over near the corner of Beltline and Two
22 Notch?

23 A Yes, ma'am.

24 Q And back in November of 2006 were you living in the
25 Grand Motel?

Jacqueline Holly - Direct examination
by Solicitor Campbell

- 1 A Yes, ma'am.
- 2 Q Who did you live in the Grand Motel with?
- 3 A With my husband.
- 4 Q And do you recall, at that time, how long you had been
- 5 living there?
- 6 A Stayed there four months.
- 7 Q What room were you staying in the Grand Motel?
- 8 A It was right there in the middle section.
- 9 Q You don't remember the number anymore?
- 10 A No.
- 11 Q When you say the middle section, there are two sections
- 12 of the Grand Motel?
- 13 A No, like four sections.
- 14 Q Are some two-story and some one-story?
- 15 A I stayed in one-story.
- 16 Q Were you familiar with where Tyrell Williams stayed?
- 17 A Yes.
- 18 Q Did he stay in the one-story or two-story part?
- 19 A Two-story.
- 20 Q Was his motel room kind of on the top down at the end?
- 21 A It was on the top. The second door on the top.
- 22 Q Okay. And how did you know Mr. Williams?
- 23 A I didn't.
- 24 Q Okay. I want to turn your attention to November 21 of
- 25 2006.

Jacqueline Holly - Direct examination
by Solicitor Campbell

1 Do you remember two men coming to your room that day?

2 A Yes, ma'am.

3 Q And had you ever seen either of those two men before?

4 A No. One of them I seen. I didn't recognize him until

5 after the fact that everything had done happened, and then

6 after I noticed it, and looked at his face, I said I

7 remember this man from back when I was a teen-ager, and then

8 I -- after it happened I'm like I know this man from the

9 village.

10 Q Okay.

11 A That's after the skull had fell, fell off of his face.

12 Q Two men came to your room that day.

13 Do you know if it was daylight or---

14 A It was about halfway dark. It was raining that day.

15 Q It was raining that day. That's what I wanted to---

16 A It was raining that day, and I had just left from CFC

17 and went to the corner store to get me a beer, and I went to

18 the rent office, and then I left the rent office and went to

19 my room, and that's when I opened up my curtains and I seen

20 the van sitting on the corner and then they start walking

21 towards my room and knock on the door and ask me did I know

22 where something was. They can, you know, drugs or whatever,

23 and I told them yeah, I said give me a minute, and I walk --

24 I, I go down and get someone for y'all, and they say no,

25 we'll walk with you.

Jacqueline Holly - Direct examination
by Solicitor Campbell

1 So, I put my jacket on and we walk down there, got up
2 the steps, knock on the door, the twins open the door, and
3 we walk in the room, and I went back. The man had thrown
4 his feet behind the door and I turn around and asked him
5 what he was doing. And before I noticed it, the other man
6 was walking down to the edge by the dresser and he, he was
7 like give me the money, give me the money. I'm a, like what
8 is y'all doing? Y'all came down here to buy something, and
9 after a while I seen the gun came out, and then the guy, he
10 was going to his dresser. I reckon he was trying to get the
11 product or whatever.

12 So, he must have refused and then they got to tussling
13 over the gun, and the gun went off, and I heard the gunshot,
14 and that's why I start running. But my head, head down by
15 the couch, and then I jumped up, and then when I ran towards
16 the kitchen and the young guy, the young one that got shot
17 was chasing me and holding on to me, and I fell on the
18 kitchen floor, and I got up to try to reach for the door and
19 kept pulling on the door, and the guy told me to, to get
20 back, get back, ma'am, you better get back, and I ran, I ran
21 in the closet, and one of the other twins ran in the closet
22 with me.

23 And then all of a sudden I kept just running around
24 screaming and hollering, and then the man took the chair and
25 throwed it at the window and he jumped out the window as

Jacqueline Holly - Direct examination
by Solicitor Campbell

1 Mike -- the rent man trying to get the door open. The other
2 guy ran out the front door, and I'm like Mike, you just let
3 one of them get away, and he told me to go on downstairs,
4 and the police come and I didn't even know the guy got -- I
5 know he got shot because he was wrestling over the gun.

6 And after that they told me the guy had died, and that
7 was it, and then they took me down to the police station and
8 I gave them my report.

9 Q And did you tell them pretty much what you said here
10 today?

11 A Yes, ma'am.

12 Q When all this was happening, was it happening pretty
13 fast?

14 A Yes, ma'am, like this right here. I kept asking this
15 man let me out, what is y'all doing, let me out, and he
16 wasn't doing nothing.

17 Q You said you heard gunshots?

18 A Yes, ma'am.

19 Q You didn't even realize until later he had gotten shot?

20 A He got shot. They was wrestling over the gun and I
21 kept, kept shooting. Like shot like four or five times and
22 I got scared and covered my head up, and I'm like please
23 don't kill me. I mean I was hysterical and I was like --
24 then the rent man finally get us out of there.

25 Q You were scared is my point?

Jacqueline Holly - Direct examination
by Solicitor Campbell

- 1 A Yes, ma'am.
- 2 Q You didn't see him shoot him every time?
- 3 A No, I---
- 4 Q You could hear?
- 5 A Yeah, but you could see when they wrestle with the gun
- 6 and that's when the gun went off.
- 7 Q One time?
- 8 A Yeah.
- 9 Q One time after two?
- 10 A Yeah, cover my head and my ears.
- 11 Q You covered your head up so you weren't seeing what was
- 12 going on at that point?
- 13 A No, kept hearing gunshots and stuff.
- 14 Q And do you know exactly how many gunshots there were?
- 15 A I heard about five.
- 16 Q And you mentioned that you were in what part when you
- 17 first saw the drug---
- 18 A I was standing in the hallway, and when I turned around
- 19 he had the gun, and he ask him give me the money. So, when
- 20 he, when he took the first shot, I kneeled beside the couch
- 21 on the floor with my head covered up.
- 22 Q And then you went back in to another part of the house?
- 23 A Yes, ma'am, I kept hearing the gunshot, running, trying
- 24 to get out of there, but he wouldn't let me out.
- 25 Q That was the other man at the door?

Jacqueline Holly - Direct examination
by Solicitor Campbell

1 A Yeah, had his foot behind the door.

2 Q Two different men.

3 How do you describe them to the police?

4 You remember?

5 A One of them was tall, skinny, had dreadlocks, and a
6 hood over his head. And then when they started wrestling,
7 kept doing I know this man for some reason, and the other is
8 kind of stout like kind of bright skin and chubby. Had a
9 wide hood over his head or something he had over his head.

10 Q Is he the one that stayed by the door?

11 A Yes, ma'am.

12 Q The one that you referred to, is that he---

13 A The fat one wouldn't let us out the door.

14 Q Tall thin one was doing what?

15 A He's the one that did the shooting.

16 Q You said you went down to the police station afterwards
17 and you gave them an account of what happened?

18 A Yes, ma'am, and then they asked me, asked me how did I
19 get the blood on my clothes because the victim fell on the
20 kitchen floor because he was holding on to me. We was
21 trying to get to the door. And when he hold on to me I slip
22 on the kitchen floor, and that's how I get all the blood on
23 my clothes.

24 Q Okay.

25 A when I -- when they let us out, I got up there by my

Jacqueline Holly - Direct examination
by Solicitor Campbell

1 room and ask me to take my clothes out and went down to the
2 police station with them.

3 Q At that point they advised you of your rights?

4 A Yes, ma'am.

5 Q You told them you would talk to them?

6 A Yes, ma'am.

7 Q At that point you gave them this statement?

8 A Yes, ma'am.

9 Q You had an opportunity to go over the statement?

10 A Yes, ma'am, I just remembered -- all in my head.
11 wouldn't go nowhere. So --.

12 Q You -- did you also ask some questions, specifics about
13 the description of the two men?

14 A Yes, ma'am.

15 Q Do -- show you this robbery questionnaire.

16 You recognize that?

17 A Yes, ma'am.

18 Q Is that the description you gave of the two men?

19 A Yes, ma'am.

20 Q The description of suspect one was a black man, tall,
21 skinny?

22 A Yes, ma'am.

23 Q Weighed around 160.

24 A Yes, ma'am.

25 Q You said facial hair not known or not really?

Jacqueline Holly - Direct examination
by Solicitor Campbell

- 1 A Yes, ma'am.
- 2 Q Age was around 50?
- 3 A Looked older.
- 4 Q Hair color, black?
- 5 A Dreadlocks.
- 6 Q Dreadlocks, long and shaggy?
- 7 A Yes, ma'am.
- 8 Q You said unique features was he had a thin face with
- 9 some sores?
- 10 A He had a thin face that had bumps or lumps or something
- 11 on his face.
- 12 Q And then you said he had on a black hat, but it fell
- 13 off during the fight?
- 14 A Yes, ma'am.
- 15 Q And you put type of weapon unknown.
- 16 what did you mean by that?
- 17 A He had a gun.
- 18 Q You don't know what---
- 19 A I don't know what kind of gun it was.
- 20 Q .38 or .40 or whatever?
- 21 A No, ma'am, I didn't know what type of gun.
- 22 Q You also describe the vehicle, which was the van?
- 23 A Yes, ma'am.
- 24 Q And you also describe the second person?
- 25 A Yes, ma'am.

Jacqueline Holly - Direct examination
by Solicitor Campbell

- 1 Q You put him as a black male, light brown skin?
- 2 A Yes, ma'am.
- 3 Q Height, short?
- 4 A Yes, ma'am.
- 5 Q Put him as -- his build was fat, thick, or gut?
- 6 A Yeah.
- 7 Q His wife was heavy?
- 8 A Yes, ma'am.
- 9 Q His thirties and you went on and gave a description of
- 10 him?
- 11 A Yes, ma'am.
- 12 Q And you even, on the second person, the shorter heavier
- 13 guy---
- 14 A Heavier guy.
- 15 Q ---you said you had seen him before?
- 16 A Yeah, earlier part that day I think I seen him upstairs
- 17 in the housekeeping room, and that's how I realized who he
- 18 was after the fact. Everything had done happened.
- 19 SOLICITOR CAMPBELL: I apologize, Your Honor. I'm
- 20 having my witnesses removed. I'm sorry.
- 21 Q Ms. Holly?
- 22 A Yes, ma'am.
- 23 Q That day, did you get a good look at both of the men?
- 24 A Yes, ma'am.
- 25 Q You give the police a detailed description?

Jacqueline Holly - Direct examination
by Solicitor Campbell

- 1 A Yes, ma'am.
- 2 Q When you saw -- I want to focus on the man with the
3 gun.
- 4 How many people did you see with the gun that day?
- 5 A That one.
- 6 Q How many people did you see shooting a gun that day?
- 7 A That one.
- 8 Q That day, did you get a good look at that man's face?
- 9 A Yes, ma'am.
- 10 Q How close did you get to be able to see him?
- 11 A He came to my room. Of course, I look him in his face
12 and we got to the motel room and that's when the hat fell
13 off and when the dreadlocks dropped down. I say I remember
14 this man and I kept -- I remember this man from the village.
- 15 Q Let me back up.
- 16 You said when he first came he had on a hat?
- 17 A He had on a hat.
- 18 Q Could you still see his---
- 19 A His---
- 20 Q You walked him down to the other part of the motel?
- 21 A Yes, ma'am.
- 22 Q And when you walked down you got to see him then?
- 23 A Yes, ma'am.
- 24 Q When he walked in and his hood and dreads came off, you
25 got to see him then?

Jacqueline Holly - Direct examination
by Solicitor Campbell

1 A Yes, ma'am.

2 Q During that time period, was it light enough for you to
3 be able to see him?

4 A Yes, ma'am.

5 Q Did you get close to him?

6 A Yes, ma'am.

7 Q Did you see what he looked like?

8 A No, ma'am.

9 Q Anything obstructing his face?

10 A No, ma'am.

11 Q You remembered later you had seen him years before?

12 A Years before I was growing up and that's how it dawned
13 on me. I remembered seeing this man's face when he was
14 growing up and that was in Roosevelt Village.

15 Q That same day you went down to the police department
16 and gave the statement and filled out the questionnaire and
17 cooperated with the police fully?

18 A Yes, ma'am.

19 Q The next day you remember investigating with
20 Investigator Godfrey?

21 A Yes, ma'am.

22 Q The first time, did you recognize one of those
23 photographs?

24 A Yes, ma'am, a couple of photos people got dreadlocks
25 and all this and I kept looking. Said ain't no doubt. Kept

Jacqueline Holly - Direct examination
by Solicitor Campbell

1 pointing at the same one. Every year was a different. Kept

2 pointing at the same one.

3 Q He showed you two photo lineups that day?

4 A Yes.

5 Q The first one you remember the shorter guy, the fatter
6 guy?

7 A Yes.

8 Q Did he show you a series of photographs with that man's
9 picture---

10 A Yes, ma'am.

11 Q ---that you recognized?

12 A Yes, ma'am.

13 Q That was the first photo lineup he showed you?

14 A Yes, ma'am.

15 Q When you were shown that lineup did he tell you to
16 pick?

17 A No, ma'am.

18 Q Did you recognize one of the six photos you looked at
19 that day?

20 A Yes, ma'am.

21 Q You recognized that as the guy next to the door?

22 A Yes, ma'am.

23 Q Later that day did he come back that early evening?

24 A Actually---

25 Q Next day after the thing he came and saw you on two

Jacqueline Holly - Direct examination
by Solicitor Campbell

1 occasions with different photo lineups?

2 A Yes.

3 Q The second time he came to see you -- I want to show
4 you what hasn't been marked yet, but will be marked as
5 State's Exhibit 1.

6 Did he show you this series of photographs?

7 A Yes.

8 Q When he showed you, did he, in anyway, influence you or
9 tell you what to, who to pick?

10 A No.

11 Q You remember what he said about the photo?

12 A He asked me anybody in this photo you recognize that
13 was involved with the shooting and I point him out.

14 Q Which one was that?

15 A That one on the end.

16 Q When he showed you this photo spread, it didn't have
17 any of the writing on it?

18 A No, ma'am.

19 Q Not the handwriting on it anyway?

20 A Didn't have no writing.

21 Q When you saw those six photographs, did you recognize
22 somebody?

23 A Yes.

24 Q That's number four?

25 A Yes, ma'am.

Jacqueline Holly - Direct examination
by Solicitor Campbell

1 Q What did you tell Investigator Godfrey when you saw
2 those pictures?

3 A I said yeah, I remember that face. I'll never forget
4 that face.

5 Q You remember that person because that's the person you
6 saw before and up to the point he pulled out the gun---

7 A Yes, ma'am.

8 Q ---for the shooting?

9 A He can either show me a photo where he had no hair or
10 whatever. I always pick that same one, was younger,
11 whatever, I still remember that face.

12 Q That was the first time you seen a picture of him after
13 it happened?

14 A Yes, ma'am.

15 Q That's when he showed you this picture and you
16 recognized him?

17 A Yes, ma'am.

18 Q And he had you go through and circle it and he put you
19 were a hundred percent sure as to the shooter?

20 A Yes, ma'am.

21 Q And your name is over here?

22 A Yes, ma'am.

23 Q And who actually wrote this on here, you or him?

24 A I did.

25 Q You did?

Jacqueline Holly - Direct examination
by Solicitor Campbell

1 A Uh-huh. (Affirmative).

2 SOLICITOR CAMPBELL: Your Honor, I'll mark it at this
3 time.

4 (Whereupon, the photographic lineup was marked as
5 State's Exhibit No. 1 for identification purposes only at
6 this time.)

7 Q Jackie, the person you saw that took out the gun and
8 was doing the shooting, do you see him in the courtroom?

9 A Yes, ma'am.

10 Q Do you see him and point him out for the judge?

11 A He's right there.

12 Q Seated at the table?

13 A Yes.

14 Q Seated between the two lawyers?

15 A Yes, ma'am.

16 SOLICITOR CAMPBELL: Let the record reflect she
17 identified the defendant as---

18 THE COURT: Yes, is---

19 Q Has his appearance changed since the first time you saw
20 him?

21 A He done gained some weight. He looked like---

22 Q Has his hair changed?

23 A His hair, face, everything.

24 Q Any doubt that's the guy?

25 A That's him. That's him.

Jacqueline Holly - Direct examination
by Solicitor Campbell

1 Q Jackie, that night you said you had been to the store
2 and you got the beer.

3 A Yes, ma'am.

4 Q Were you drunk?

5 A No, ma'am.

6 Q Had you even drunk the beer yet?

7 A No, it was still sitting in the room.

8 Q Jackie, is there any doubt that's the man you saw with
9 the gun?

10 A That's him.

11 Q That's him?

12 A That's him.

13 SOLICITOR CAMPBELL: That's all I have.

14 CROSS-EXAMINATION

15 BY MR. COOPER:

16 Q Afternoon, Ms. Holly.

17 A Hi.

18 Q I want to talk to you about what you just testified to
19 a second ago. Moving kind of fast there. I kind of want to
20 slow it down piece-by-piece.

21 Okay?

22 A Okay.

23 Q Now, let's talk about where you were in that room.

24 Did you go into the room first?

25 A Yes, ma'am. Yes, sir.

Jacqueline Holly - Cross-examination
by Mr. Cooper

- 1 Q So, you were the first one who entered the room?
- 2 A Yes.
- 3 Q Ahead of everyone else?
- 4 A No, they was the first one to enter the room, and I was
- 5 the last one because the man put his foot behind the door
- 6 and I turned around and watched him put his foot behind the
- 7 door, and I asked him why are you putting his feet behind
- 8 the door.
- 9 Q Were you the first one to go in or the last one?
- 10 A Last one.
- 11 Q Last one to go in the room?
- 12 A Yes.
- 13 Q Sure about that?
- 14 A Uh-huh. (Affirmative).
- 15 Q And when you went into the room where is the first
- 16 place you went in the room?
- 17 A I walked toward the hallway. The hallway section.
- 18 Q The hallway.
- 19 You mean the little area going back towards the living
- 20 room?
- 21 A Got a hallway in the middle right---
- 22 Q You walked straight back?
- 23 A Yes.
- 24 Q Did you turn around?
- 25 A Yeah, I turned around. He had his feet at the door.

Jacqueline Holly - Cross-examination
by Mr. Cooper

1 Q How many other people are in the room now?

2 A The two twins, a young lady, her baby, and me, the
3 young guy that got killed, and the guy that had his foot
4 behind the door.

5 Q And you said it was about half dark, right?

6 A Yeah, outside it was because it was raining.

7 Q Wasn't like a brightly lit room?

8 A No.

9 Q Half dark outside?

10 A Yeah, because it was raining that day.

11 Q Now, when you came in -- you ended up in a lot of
12 places in this room?

13 A Yes, I was scared.

14 Q After you went back down the hallway, where is the
15 second place?

16 A Right there by the couch.

17 Q You were behind the couch with your head pulled over.
18 How long were you like that?

19 A For a minute I kept hearing gunshots. Ran in the
20 kitchen and---

21 Q This time you were hearing gunshots, right?

22 A Yeah.

23 Q Okay. Let's talk about what you told Ms. Campbell.

24 You told her you saw one of the, them with the gun,
25 right?

Jacqueline Holly - Cross-examination
by Mr. Cooper

1 A Yeah.

2 Q Did you tell her you saw one of the men pull out a gun?

3 A Yeah, he pulled the gun out.

4 Q Ms. Holly, did you talk about, either with Ms. Campbell
5 or Mr. Jophlin, about your testimony before they came here
6 today?

7 A They come and got me and asked me the same thing the
8 police took of my statement. I said yes, ma'am.

9 Q Did you tell them you saw men pull out a gun?

10 A Yes, sir.

11 Q You tell him you saw one of the men with a gun?

12 A Yes.

13 Q All right. Let's go to -- you remember meeting with
14 the investigator seated over there?

15 A Yes.

16 Q He's the one who showed you the photo, the lineups, the
17 pictures?

18 A Yes.

19 Q He didn't try to tell you to pick out any one of them,
20 did he?

21 A No, sir.

22 Q How long after this happened was that?

23 A What you mean?

24 Q How long after this happened did he show you the
25 pictures.

Jacqueline Holly - Cross-examination
by Mr. Cooper

1 A I went -- it was the next day he showed me the things.

2 Q Okay. You were sober at that time?

3 A Yes, sir.

4 MR. O'NEILL: Beg the Court's indulgence.

5 (Pause.)

6 Q Ms. Holly, a couple more questions and my co-counsel
7 reminded me about.

8 Exactly when did you tell Ms. Campbell that you saw the
9 man pull out the gun?

10 A It was the same night after -- when -- when I was in
11 the room he pulled out the gun.

12 Q I mean when did you tell, when did you tell
13 Ms. Campbell earlier you saw that?

14 A Who is Ms. Campbell?

15 Q The solicitor.

16 A I told her the same day she interviewed me. She asked
17 me about what happened, did I see a gun, I said yes.

18 Q All right. Let me ask you this.

19 Did you tell Ms. Campbell, before you came here today,
20 did you tell her that you heard one of the men shout out get
21 the money?

22 A Yeah.

23 Q You did tell her that?

24 A They didn't ask for money. They asked for the product.

25 They was---

Jacqueline Holly - Cross-examination
by Mr. Cooper

1 Q A second ago---

2 A They was -- I didn't know if they wanted the money or
3 the drug, but they ask give me the product, give me this,
4 give me that, and the boy refused, and that's when they got
5 to tussling.

6 Q Your testimony is now that you heard one of them say
7 give me the money?

8 A Give me the money, give me the drug.

9 Q And that's what you told the solicitor, Ms. Campbell?

10 A Yeah, they was coming to rob him I reckon.

11 Q You told her you heard that?

12 A Yeah.

13 MR. COOPER: One second, Your Honor.

14 Q Ms. Holly, clear up one more thing for me please.

15 Going back to that statement, you heard give me the
16 money, was it the guy by the door that said that or was it
17 the guy --

18 A It was the guy with the gun said it.

19 Q And that's what you told Ms. Campbell with---

20 A Yeah, it was the guy with the gun said it.

21 Q Okay. I wanted to clear that up.

22 Your Honor, at this time that's all I have for
23 Ms. Holly.

24 THE COURT: Thank you.

25 SOLICITOR CAMPBELL: A couple of things.

Jacqueline Holly - Redirect examination
by Solicitor Campbell

1 REDIRECT EXAMINATION

2 BY SOLICITOR CAMPBELL:

3 Q Jacqueline, when you and I met, do you remember how we
4 talked?

5 A Yes, ma'am.

6 Q Do you remember when we went through your statement?

7 A Uh-huh. (Affirmative).

8 Q And I read through it?

9 A Uh-huh. (Affirmative).

10 Q And I asked you if that was correct?

11 A Uh-huh. (Affirmative).

12 Q You told me that was correct, right?

13 A Yes, ma'am.

14 Q We read through your statement and everything and
15 that's what you said was correct?

16 A Yes, ma'am.

17 Q In that statement you even say -- they asked you to
18 describe the man that shot the victim, and you described him
19 as the tall skinny one, is that right?

20 A Yes, ma'am.

21 Q And you basically agreed with everything that was in
22 your statement?

23 A Yes, ma'am.

24 Q Okay. That's what we talked about?

25 A Yes, ma'am.

1 SOLICITOR CAMPBELL: That's all I have, Your Honor.

2 THE COURT: Any recross?

3 MR. COOPER: No, Your Honor.

4 THE COURT: Ma'am, you can step down.

5 MR. O'NEILL: Your Honor, one thing further. I want to
6 reissue the Riddle motion based on what Ms. Holly testified
7 to just now.

8 THE COURT: Okay.

9 MR. O'NEILL: I think clearly what she just said is she
10 told Ms. Campbell she saw the guy with the gun say give me
11 the money or give me the product. I would ask that her
12 statement be made a Court Exhibit if I could and approach,
13 Your Honor.

14 Clearly on the last page of Ms. Holly's statement the
15 witness asks precisely -- the fourth person of that page
16 says when the incident occurred did you hear them say
17 anything? Ms. Holly's answer, the one that was standing by
18 the door was asking where the money was at. Last sentence,
19 I didn't hear the guy with the gun say anything. They were
20 too busy fighting.

21 Okay. That is -- if her -- if what she told
22 Ms. Campbell weeks ago was that she heard Mr. Brown, which
23 would have been the guy with the gun, say give me the money,
24 I think that's clearly impeachable evidence and clearly
25 material. I've been preparing this case for almost a year

1 now under impression, under the impression that Ms. Holly's
2 rendition of what happened that night was she did not hear
3 Mr. Brown say anything about giving her any money, seeing
4 him with a gun, or seeing him fire a gun.

5 She clearly understands today that she's -- she says
6 she saw Mr. Brown fire a gun and heard Mr. Brown say give me
7 the money or the product. None of which is in her statement
8 which she testified she told Ms. Campbell two weeks ago.

9 THE COURT: State.

10 SOLICITOR CAMPBELL: Your Honor, clearly in her
11 statement she talks about hearing the gunshots and
12 everything. They even asked her to describe the male that
13 shot the victim. She describes the defendant in that case.
14 So, clearly it is in her statement that she saw the man with
15 the gun.

16 THE COURT: Okay. I think the issue is whether or not
17 she said anything in as far as statements by---

18 MR. O'NEILL: That's one issue, and another issue is
19 not whether or not she saw the man shoot the victim, of
20 course, because whether or not she, she testified to just
21 now she saw Mr. Brown come in there with the gun out, walk
22 in the room, after, came in the room, pull the gun out, and
23 say where's the money, where's the pot, that's clearly not
24 what her statement is. That's -- first part of her
25 statement -- first big paragraph of her statement is the

1 middle of that paragraph it says I---

2 THE COURT: What statement are you referring to?

3 MR. O'NEILL: The fourth page of what I'm giving you,
4 Your Honor, the last paragraph of that says, in the middle
5 of that paragraph, I, it says I walked around the corner and
6 he and the guy were making a transaction around and walking
7 back toward the door to go out and the other guy asked him
8 to get out and he wouldn't let me out. I asked what was
9 going on and that's when I heard a tussle and a gunshot, and
10 that's when he went around the corner, but there's no
11 mention in her statement about seeing Mr. Brown or the guy
12 with the gun pull out the gun and say where is the money.

13 I have a problem with, one, her not testifying and her
14 saying she told Ms. Campbell saw, pull out a gun, and, two,
15 especially her saying she heard Mr. Brown saying where is
16 the money, kind of precise question with what her statement
17 said. I want to make it clear to Your Honor I have been
18 preparing this case over a year under the impression that
19 Ms. Holly---

20 THE COURT: You're requesting Ms. Holly's statement
21 into evidence?

22 MR. O'NEILL: No, I want that statement marked as a
23 Court Exhibit, but my ultimate request is to suppress two
24 portions of Ms. Holly's statement, statement as a violation
25 of Brady, a violation of Brady.

1 SOLICITOR CAMPBELL: Your Honor, if I may, part of this
2 is referred to in her statement clearly when she is asked to
3 describe the man that did the shooting. That infers she saw
4 the guy with the gun. Clearly, her verbiage is not exactly
5 the same as it was. I've never had a witness testify, Your
6 Honor, as an officer of the Court, to the exact same
7 verbiages they used in the original statement, and, in
8 addition, I went back through it with her because when I
9 interviewed her and went through that statement and asked
10 her if she agreed with everything, and she did, including
11 the robbery question, and that includes the parts about what
12 he said or didn't say.

13 But, you know, Your Honor, it happens where they get on
14 the stand sometimes witnesses may remember something they
15 haven't remembered something earlier, and, of course, he has
16 her prior statement, and that's the purpose of the prior
17 statements saying, is saying she didn't say this before.
18 That's the prior inconsistent statement. Specifically she
19 said other than that she didn't agree with me. She will
20 tell you this, when we went through the part at the end
21 about did you hear them say anything, I didn't hear the guy
22 with the gun is what she agreed with me when we went over
23 for, you know -- I mean no witness is perfect, but I mean,
24 you know, but that's the substance of what she told me.

25 Even if you were to assume she did not tell me at that

1 time, Your Honor, it is not substantial. She still
2 identified -- she's got the information when she gives the
3 description, when she describes the guy that shot the
4 victim. That's in this statement. I think we're almost, I
5 guess I could make her behave you, on the stand. So, I
6 don't know how to limit her testimony, limit and right to
7 cross-examine, and he's got the right to cross-examine on
8 that.

9 MR. O'NEILL: I'm not asking her to testify precisely
10 what her statement said. What I'm asking is the witness
11 stated she told Ms. Campbell his rendition. Mr. Cooper
12 asked whether or not she told Ms. Campbell that specific
13 line, and she said she did almost two weeks ago. Not asking
14 her to testify directly to what her statement says. I'm
15 saying Riddle requires me be given notice of any witness,
16 prior to trial, should not have to be given notice of -- I
17 plan my case based on the evidence I have, the discovery
18 materials I was provided and this is new.

19 Strictly, Your Honor, this is very important, and the
20 State's whole case is one of the, one of the theories or
21 matters in this case could be felony murder and that
22 Mr. Brown went in there with the attempt to commit an armed
23 robbery. Any kind of position would have -- he went there
24 to the intention to rob. No defense to charge at that
25 point, and Ms. Holly now says she heard Mr. Brown say, come

1 in there with the gun, say give me the money. I don't -- I
2 can't imagine something that could be more substantial to
3 this case than another witness saying she has permission --
4 Mr. Brown came in with the intention to rob the victim.

5 SOLICITOR JOPHLIN: Your Honor, this is -- he would
6 have videotape of everything we did from every officer. We
7 turned that over to him along with every conference with
8 every single witness. Cross-examination he did today---

9 THE COURT: To -- what I'm hearing is we do not have to
10 anticipate and the issue is not going to be, preside the
11 issue because whether it's material, impeaching, or
12 exculpatory, since that it should be turned over if, in
13 fact, it was said at that time.

14 SOLICITOR JOPHLIN: Your Honor, if Ms. Holly says on
15 the stand today they have a right to talk to her on the
16 stand. Can not produce something that in our recollection
17 has never happened.

18 MR. O'NEILL: Your Honor, we have the right to know, as
19 Ms. Holly said to Ms. Campbell, two weeks ago. We have the
20 duty, the right to know two weeks ago.

21 THE COURT: Absolutely. But I think the distinction is
22 whether or not the solicitor, as an officer of the court,
23 is, is recross or redirect, that they went over the
24 statement and what was in the statement.

25 MR. O'NEILL: Mr. Cooper asked her precisely---

Satierra Austin - Direct examination
by Solicitor Campbell

1 THE COURT: I understand, but---

2 MR. O'NEILL: Precisely---

3 THE COURT: Victim -- Ms. Holly recalls something
4 different. So, I will have to consider that, but I
5 understand your arguments fully. Let me look at the Riddle
6 case, and the statement and we will come back to this.
7 Okay.

8 SOLICITOR CAMPBELL: Satierra Austin.

9 SATIERRA AUSTIN, being first duly
10 sworn, testified as follows:

11 CLERK: Give the court reporter your name.

12 WITNESS: Satierra Austin.

13 DIRECT EXAMINATION

14 BY SOLICITOR CAMPBELL:

15 Q Satierra, you live in the Columbia area?

16 A Yes, ma'am.

17 Q How long you been living in Columbia?

18 A All my life.

19 Q Do you know the twins named Camillia and Jamilla?

20 A Yes, ma'am.

21 Q How -- how do you know Camillia and Jamilla?

22 A They're my friends.

23 Q Turn your attention to November of 2006. Been almost
24 three years.

25 Do you recall being at the Grand Motel on November 21?

Satierra Austin - Direct examination
by Solicitor Campbell

- 1 A Yes, ma'am.
- 2 Q What were you doing there that day?
- 3 A Just sitting there hanging out with them.
- 4 Q With whom?
- 5 A With Jamilla and Camillia.
- 6 Q Whose room were y'all in?
- 7 A Rem's I guess.
- 8 Q Rem's room?
- 9 A Uh-huh. (Affirmative).
- 10 Q Why were y'all there that day?
- 11 A I was there because I just left the adult education
- 12 school to take my pre-GED test, and it was raining that day.
- 13 So, I went there to wait until the rain calmed down so I
- 14 could catch a bus and go back home. But it was still
- 15 pouring down rain and even harder. So, I stayed into it
- 16 until I had to calm down. So, we were sitting there playing
- 17 cards.
- 18 Q Sitting at the table playing cards?
- 19 A Yes, ma'am.
- 20 Q You have somebody in your lap?
- 21 A I had Jamilla's son, Zane.
- 22 Q How old was Zane at the time?
- 23 Do you know?
- 24 A Two, one or two.
- 25 Q At some point while you were there -- was this during

Satierra Austin - Direct examination
by Solicitor Campbell

1 the daytime or the nighttime?

2 A It was -- when I got there -- it was in the daytime
3 when I got there.

4 Q And at some point did somebody else come in the room?

5 A Later on -- like later on in the evening Jackie had
6 came by one time by herself.

7 Q Okay.

8 A She had left. She had came back with two guys.

9 Q With two guys?

10 A Yes, ma'am.

11 Q And had you ever seen the guys before?

12 A No.

13 Q Did the two guys come in the room with Jackie that day?

14 A The second time she came.

15 Q Did they come in the room?

16 A Uh-huh. (Affirmative).

17 Q When they came in the room, what happened?

18 A When they came in the room, they, she, they wanted a
19 30. I didn't know what it was at first. But I didn't know
20 he sell drugs or whatever. So, she wants a 30. And then
21 so, Real had got up, ask to go get it, and about the time he
22 got to the dresser to get it or whatever the dude had pulled
23 out a gun -- first dude pulled out a gun.

24 Q Do you remember what the first dude, what he looked
25 like, who pulled out the gun?

Satierra Austin - Direct examination
by Solicitor Campbell

- 1 A Dark skin, tall, with dreads.
- 2 Q Where was the second guy at that point?
- 3 A Behind her by the door.
- 4 Q By the door?
- 5 A Yes, ma'am.
- 6 Q And when you saw him pull out the gun, what did you do?
- 7 A I -- well, he had a gun and he ran to, ran -- Real ran
- 8 up to him and try to fight, get the gun out his hand, and
- 9 that's when they started fighting over the gun to get the
- 10 gun out his hands or whatever.
- 11 Q What did you do?
- 12 A I grabbed Zane and I ran in the bathroom.
- 13 Q Did you ever hear any gunshots that day?
- 14 A Before I ran in the bathroom we hear, I heard one shot
- 15 go off where they were fighting by the dresser.
- 16 Q You hear any more once you were in the bathroom?
- 17 A Yeah, a couple more.
- 18 Q At least a couple more?
- 19 A Uh-huh. (Affirmative).
- 20 Q You know how many more you heard?
- 21 A No, I just heard -- me and Zane laid in the tub.
- 22 Q Did anyone else end up in the bathroom with y'all?
- 23 A Jamilla.
- 24 Q Jamilla?
- 25 A Zane's mother.

Satierra Austin - Direct examination
by Solicitor Campbell

1 Q The guy that came in that pulled out the gun, did you
2 get a look at his face that day?

3 A Yes.

4 Q How close did he get to you?

5 A I was sitting at the table. He was like -- I'd say
6 about right there. He was -- because when he came in I was
7 like this, and he was right there behind me.

8 Q About an arm's length away?

9 A Yes, I looked back and seen them.

10 Q Did you get a good look at his face?

11 A Yes, ma'am.

12 Q You pay attention to what he looked like?

13 A Yeah.

14 Q What was the lighting like in that room?

15 Could you see?

16 A A little darker than -- soon as you come in the door,
17 but I can see his face because of the light where I sit.

18 Q It was light enough.

19 Was anything obstructing your view of his face in any
20 way?

21 A No.

22 Q You got a good look at his face?

23 A Uh-huh. (Affirmative).

24 Q But you -- and probably how long did you get to look at
25 his face?

Satierra Austin - Direct examination
by Solicitor Campbell

1 Do you know?

2 Seconds, minutes?

3 A No, I seen---

4 Q You saw him good?

5 A Yeah.

6 Q And when the police came, did they make contact with
7 you a couple of days later?

8 A Uh-huh. (Affirmative).

9 Q Did they take a written statement from you?

10 A Yes, ma'am.

11 Q And I'm going to show you this four-page statement.

12 Is that a copy of it?

13 A Uh-huh. (Affirmative).

14 Q Is that the statement you gave?

15 A Yes, ma'am.

16 Q Did they also show you some photographs?

17 A Yes, ma'am.

18 Q How many sets of photographs did they show you?

19 Remember?

20 A Six pictures.

21 Q Six pictures.

22 (Whereupon, the photographic lineup was marked as
23 State's Exhibit No. 2 for identification purposes only at
24 this time.)

25 Q I show you what's been marked as State's Exhibit 2.

Satierra Austin - Direct examination
by Solicitor Campbell

- 1 Are these the photographs they showed you?
- 2 A Yes, ma'am.
- 3 Q Did you get a better look at the guy when he came by
- 4 the door?
- 5 A Yes, ma'am.
- 6 Q When they showed you these photographs, did anybody
- 7 tell you who to pick?
- 8 A No, ma'am.
- 9 Q What, if anything, did the investigator say to you when
- 10 they showed you the photographs?
- 11 A Only thing they said was he might look different from
- 12 back then than now.
- 13 Q Did they ask you to see if you recognized anyone?
- 14 A Yes, ma'am.
- 15 Q When you looked at those six photographs, did you
- 16 recognize anyone?
- 17 A Yes, ma'am.
- 18 Q Who did you recognize?
- 19 A Number three.
- 20 Q Number three?
- 21 A Yes, ma'am.
- 22 Q Where did you recognize him from?
- 23 A The hotel.
- 24 Q Is that the man that came in the hotel that had the
- 25 gun?

Satierra Austin - Direct examination
by Solicitor Campbell

1 A Yes, ma'am.

2 Q And I note down here it says these are your initials
3 and the date on it.

4 A Yes, ma'am.

5 Q That's when you dated it, 11/24/06?

6 A Yes, ma'am.

7 Q Those are your initials?

8 A Yes, ma'am.

9 Q You make some notes as far as how his appearance might
10 be a little bit different and what did you note?

11 Thinks hair is longer now---

12 A Yeah, it's shorter.

13 Q ---is that right?

14 Facial features?

15 A Yes, but it was longer when he was in the room.

16 Q And then I think he asked you one to ten how sure you
17 were and you said about an eight?

18 A Uh-huh. (Affirmative).

19 Q And they even asked you a couple of questions in your,
20 your statement about whether or not you got a good look at
21 the shooter.

22 A Yes, ma'am.

23 Q And you said, yes, he was wearing a black jacket, and
24 you even mentioned he did not have a mask?

25 A No, ma'am.

Satierra Austin - Direct examination
by Solicitor Campbell

1 Q They asked you if you were positive, did you feel
2 confident the person you picked in the photo lineup was the
3 shooter and you said yes?

4 A Yes.

5 Q They asked if you were persuaded or forced in any way
6 to pick him and you said no?

7 A No.

8 Q I haven't gone through all the details in the
9 statement, but that's the gist of what you had to see him,
10 is that correct?

11 A Yes, ma'am.

12 Q I met with you Thursday or Friday?

13 A Thursday.

14 Q And we went through your statement?

15 A Yes, ma'am.

16 Q And I read through it and that's mainly what we talked
17 about?

18 A Uh-huh. (Affirmative).

19 Q And I told you about some questions about lighting and
20 things like that?

21 A Yes, ma'am.

22 Q Other than that, that's what we talked about?

23 A Uh-huh. (Affirmative).

24 Q Other than that, what's in your statement was correct?

25 A Yes, ma'am.

Satierra Austin - Direct examination
by Solicitor Campbell

1 Q And that's what we went over.

2 The person that you saw coming to the room that day,
3 you got a good look at his face, do you see him in the
4 courtroom?

5 A Yes, ma'am.

6 Q Can you point him out for the judge?

7 A Yes, ma'am.

8 Q Sitting where at the table?

9 A In the middle.

10 SOLICITOR CAMPBELL: May the record reflect she
11 identified the defendant?

12 THE COURT: Yes, it may.

13 SOLICITOR CAMPBELL: That's all I have.

14 MR. COOPER: Please the Court, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. COOPER:

17 Q Ms. Austin, I'll keep this pretty short. Talk to you
18 about where you were in the hotel room.

19 when you testified the guys first came in, tell me
20 exactly where you were in that room when, when the people
21 came in the room.

22 A Sitting at the table.

23 Q You say seated at the table.

24 where is the table?

25 If you're coming in the door and looking straight

Satierra Austin - Cross-examination
by Mr. Cooper

- 1 ahead, where is that card table?
- 2 A This is the -- that's the doorway right here, and the
3 table is right here, and this door is right there.
- 4 Q All right. So, the table is on your right as you come
5 in the door?
- 6 A Yes, sir.
- 7 Q All right. That's where you were --
- 8 A Uh-huh. (Affirmative).
- 9 Q -- when the first person that came in the door?
- 10 A Yes, sir.
- 11 Q You testified you actually ended up in the bathtub,
12 right?
- 13 A Yes, sir.
- 14 Q How much time passed from the time you were sitting at
15 that table to the time you were in the bathtub?
- 16 A Not that long after the first, the shot because I
17 couldn't go, go to the bathroom back then because they was
18 right behind us fighting.
- 19 Q You say less than ten seconds?
- 20 A Yes.
- 21 Q All right. Now, you testified that it was somewhat
22 dark in that little hallway, right?
- 23 A Uh-huh. (Affirmative).
- 24 Q And the hallway is where you first saw everybody, is
25 that right?

Satierra Austin - Cross-examination
by Mr. Cooper

1 A Uh-huh. (Affirmative).

2 Q And you were the one that ended up holding the baby, is
3 that right?

4 A Yes, sir.

5 Q Now, did you go anywhere else in that room between the
6 time you were at the card table and in the bathtub?

7 Did you go -- in other words, did you go straight from
8 that card table to the bathroom?

9 A Yes, sir.

10 MR. COOPER: All right. Well, beg the Court's
11 indulgence.

12 (Pause.)

13 Q Ms. Austin, when you were sitting at the table, it's
14 like it's a square table, is that right?

15 A Yeah.

16 Q Which seat were you in?

17 A Well, the table was against the wall. So, we were in
18 three chairs and I was sitting in this one -- the twins
19 sitting in the two chairs right here and I was in this one.

20 Q When you say this one, do you mean the chair that was,
21 is facing, if you're sitting in the chair would be looking
22 out the window?

23 A No, would be facing the wall.

24 Q Facing the wall?

25 A Uh-huh. (Affirmative).

Satierra Austin - Cross-examination
by Mr. Cooper

1 Q Towards the dresser?

2 A No, the table, the -- when you come in the door, the
3 table is on your right-hand side and the table is pushed
4 against the wall right in front of the kitchen, and the twin
5 was sitting in front of the kitchen in that chair, and the
6 other twin was sitting in this chair by, by, in front of --
7 I don't know what was right there, another chair or
8 something, I don't know what was right there, but I was
9 sitting in this one, and only thing I could see -- if I was
10 facing forward, the only thing I could see is the wall.

11 Q If you're facing forward in that chair from that
12 vantage point, all you can see is the wall?

13 A Uh-huh. (Affirmative).

14 Q You've got to turn to look at that door, turn to look
15 at the hallway, right?

16 A Yeah.

17 MR. COOPER: That's all I have.

18 THE COURT: Thank you.

19 Any redirect?

20 SOLICITOR CAMPBELL: No, ma'am.

21 THE COURT: Ma'am, you can step down.

22 SOLICITOR CAMPBELL: State would call Bryan Godfrey.

23 BRYAN GODFREY, being first duly
24 sworn, testified as follows:

25 DIRECT EXAMINATION

Bryan Godfrey - Direct examination
by Solicitor Campbell

1 BY SOLICITOR CAMPBELL:

2 Q Where are you employed?

3 A Richland County Sheriff's Department.

4 Q What do you do?

5 A I'm an investigator in the criminal investigative
6 division.

7 Q I turn your attention back to November 21 of 2006.

8 Did you get assigned to a murder that occurred at the
9 Grand Motel?

10 A I did.

11 Q Once that murder was assigned to you, did you make
12 contact with a witness Jacqueline Holly?

13 A I did.

14 Q When did you initially make contact with her?

15 A That night.

16 Q That night.

17 Did you take a statement from her?

18 A I did.

19 Q What was Ms. Holly's condition when you were taking the
20 statement?

21 A She was visibly upset.

22 Q The next day, did you develop some suspects in the
23 case?

24 A I did.

25 Q Did that include a man named Eugene Frost as well as a

Bryan Godfrey - Direct examination
by Solicitor Campbell

1 man named Larry Brown?

2 A Yes, ma'am.

3 Q Based on the information you were able to gather during
4 the course of your investigation, did you then develop
5 lineups including Eugene Frost and Larry Brown?

6 A That's correct.

7 Q That afternoon, on the 22nd, did you have occasion to
8 go and meet Jacqueline Holly back at the Grand Hotel?

9 A I did.

10 Q When you went there the first time, what was the
11 purpose of you going there?

12 A The first time was to -- I showed her a photo lineup of
13 Eugene Frost.

14 Q When you showed her that photo lineup, was Ms. Holly
15 able to identify anyone?

16 A Yes, she was.

17 Q Who was she able to identify?

18 A Eugene Frost.

19 Q Later that evening were you also able to develop a
20 lineup including Larry Brown?

21 A That's correct.

22 Q Did you also make contact with Ms. Holly again?

23 A Yes, ma'am.

24 Q What was the purpose of you going to see Ms. Holly that
25 evening?

Bryan Godfrey - Direct examination
by Solicitor Campbell

1 A To show up on a lineup of Larry Brown.

2 Q I want to show you what's been marked as State's
3 Exhibit 1 for identification. You don't need to see it.

4 Did that lineup you showed Ms. Holly include Mr. Brown
5 in the position I believe number four?

6 A I believe so, yes.

7 Q And when you showed her that lineup, tell the judge
8 what, if anything, you said to her that, about what she
9 needed to do when she looked at the photos.

10 A I asked her to look at the photos and see if she
11 recognized anybody that, persons involved may or may not be
12 in that photo lineup, but if she recognized anybody that was
13 in that incident.

14 Q What was her reaction when you showed her those photos?

15 A She was a hundred percent positive, very emotional, and
16 visibly upset during her identification.

17 Q And -- I'm sorry.

18 A Said she was a hundred percent sure that Larry Brown
19 was the shooter.

20 Q And she referred to him as the shooter?

21 A That's correct.

22 Q Had she given you information which may or may not have
23 made it down to paper she had seen the person doing the
24 shooting?

25 A Absolutely.

Bryan Godfrey - Direct examination
by Solicitor Campbell

1 Q That's actually included in her statement, is it not?

2 A Yes, ma'am.

3 Q On the night before, and I left this out, when you
4 talked to Ms. Holly and she indicated whether or not to you
5 she had gotten a good look at the actual shooter?

6 A She did.

7 Q Whether or not she thought she could identify them?

8 A She did.

9 Q The person she described in the physical description,
10 did that match Larry Brown?

11 A It did.

12 Q In fact, she picked Larry Brown in the lineup?

13 A That's correct.

14 Q No one influenced or anything with her?

15 A Absolutely not.

16 Q Anyone else present when you showed her the lineup?

17 A Investigator Gwyn was with me.

18 Q Anyone else?

19 A No, ma'am.

20 Q Did you or Mr., Investigator Gwyn or anyone else do
21 anything to affect identification?

22 A No.

23 Q Two days later did you make contact with Satierra
24 Austin?

25 A I did.

Bryan Godfrey - Direct examination
by Solicitor Campbell

1 Q Did you take a statement when you made contact?

2 A I did.

3 Q When taking that statement or at some point did you
4 also show her a photo lineup?

5 A I did.

6 Q I show you what's been marked for identification as
7 State's 2.

8 Is the, this the lineup you showed her?

9 A That's correct.

10 Q When you showed her State's Exhibit 1 or 2, it didn't
11 have any handwriting on it there, did it?

12 A That's correct.

13 Q When you showed her that, what did you say to her?

14 A The same thing I told Ms.---

15 Q When she looked at the six photos, did she indicate she
16 recognized anyone?

17 A She did.

18 Q Who did she indicate she recognized?

19 A Number three.

20 Q Is that the same one you showed Ms. Holly?

21 A It is.

22 Q It's in a different position?

23 A That's correct.

24 Q You actually created separate lineups?

25 A That's correct.

Bryan Godfrey - Direct examination
by Solicitor Campbell

1 Q At this point when either of these lineups were shown,
2 was the defendant in custody that day?

3 A Was not.

4 Q When you asked Ms. Austin, in follow-up, whether or not
5 she was sure of her pick, did she indicate to you whether or
6 not she was sure?

7 A She said she was.

8 Q And, in fact, on a level -- I think you asked her on a
9 level of one to ten how sure she was?

10 A That's correct.

11 Q What did she indicate to you?

12 A She responded an eight.

13 Q Did you follow-up I believe actually in her actual
14 statement on that?

15 A I'd have to review that.

16 Q I'll show you on the third page of her statement
17 starting on the second line because the statement was taken
18 after you showed the photo lineup?

19 A Yes, ma'am.

20 Q Did you get a good look at the shooter, what did she
21 indicate?

22 A Yes, he was wearing a black leather jacket with hood.
23 He didn't have a mask on his face.

24 Q What did she say?

25 A You feel confident the person you picked up in the

Bryan Godfrey - Direct examination
by Solicitor Campbell

1 photo lineup is the shooter and she responded yes.

2 Q In the note section on State's Exhibit 2 you have her
3 write in some notes about some differences there may have
4 been about the hair.

5 A I wrote the notes. The only thing she wrote was the
6 initials where she initialed it.

7 Q But it says thinks hair is longer now?

8 A That's correct.

9 Q But the right facial features?

10 A That's correct.

11 Q On a scale of one to eight?

12 A That's correct.

13 Q You followed up, further indicating that was the
14 person?

15 A Yes, ma'am.

16 SOLICITOR CAMPBELL: That's all I have.

17 CROSS-EXAMINATION

18 BY MR. COOPER:

19 Q Investigator, have you -- when is the last time that
20 you met with Ms. Holly or Ms. Austin about this case?

21 A I believe I talked to them since the investigation. I
22 haven't talked to them since 2006.

23 Q You have not spoken with them about this case since
24 2006?

25 A I don't believe so, no.

1 MR. COOPER: All right. Your Honor, that's all I have.

2 THE COURT: Okay. Sir, you can step down.

3 SOLICITOR CAMPBELL: That's all we have on this issue,
4 Your Honor.

5 THE COURT: Okay. Once some mention on this issue --
6 go ahead.

7 SOLICITOR CAMPBELL: Your Honor, I think the testimony
8 is pretty clear in this case that both of the witnesses
9 testified that they got a good look at the face, that they
10 were paying attention, that the lighting was sufficient,
11 that they could see, that nothing obstructed their view, and
12 the totality of the circumstance I think, with these two
13 identifications, which was, you know, very confident or sure
14 of their pick.

15 Investigator Godfrey, when he initially asked her was
16 she sure, indicated, mentioned the differences in the hair,
17 was a little shorter, but right facial features. On a scale
18 of one to ten she was eight and even went further in the
19 statement and said "do you feel confident the person you
20 picked in the photo lineup was the shooter?"

21 "Yes."

22 "Were you persuaded or coerced in any way to pick him?"

23 "No."

24 "You picked him because he is the one that shot Real?"

25 "Yes."

1 That's an indication -- he even followed up further to
2 make sure he felt confident and was confident about her
3 pick. Both were able to ID him in Court today, and we would
4 specifically say the totality of these circumstances in
5 these two identifications would be admissible.

6 MR. COOPER: Your Honor, based on the testimony, I've
7 got---

8 THE COURT: Will allow those admissions with the ID.

9 SOLICITOR CAMPBELL: Do we want to move on with the
10 statement?

11 THE COURT: Yes.

12 SOLICITOR CAMPBELL: State calls Captain Stan Smith.

13 STAN SMITH, being first duly
14 sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY SOLICITOR CAMPBELL:

17 Q Captain Smith, are -- where are you employed?

18 A Richland County Sheriff's Department.

19 Q What do you do there, sir?

20 A I'm captain in the criminal investigative division. My
21 primary responsibility is the major responsibility of major
22 crime unit. Handle violent crimes and robberies.

23 Q And your attention to Monday, the 27th, was that your
24 first active involvement in this case?

25 A The 21st. Actually the, the 21st I was initially

Stan Smith - Direct examination
by Solicitor Campbell

1 notified and active on the 22nd, yes.

2 Q I'm sorry. The 22nd. I want to turn your attention to
3 Monday, the 27th.

4 Were you helping in the service of some warrants at

5 [REDACTED] [REDACTED]?

6 A I was.

7 Q Tell the judge what basically y'all were doing that
8 morning.

9 A Investigator Godfrey and Gwyn had developed probable
10 cause to charge two individuals with this crime based on
11 identification and we were in the process of executing
12 warrants at that location, which was Eugene Frost's
13 residence.

14 Q And once you went to the street address, did you make
15 contact with Larry Brown?

16 A Yes, I happened to be the first one to Mr. Brown who
17 was inside the residence. He was in the front room. I
18 actually handcuffed him. There was no sort of altercation
19 or anything. He complied with the handcuffing. I actually
20 took him into custody at that point in time.

21 Q At that point did you advise him he was under arrest?

22 A Yes.

23 Q What was his response when you advised him he was under
24 arrest?

25 A He reacted in no significant matter. He didn't show

Stan Smith - Direct examination
by Solicitor Campbell

1 any sort of shock or display being arrested, protest.

2 Q Once you were able to handcuff him and place him under
3 arrest, did you then place him into your automobile?

4 A Yes, I actually took him to my automobile and actually
5 asked Investigator Preston to accompany me. He had come to
6 the search warrant location with Investigator Gwyn and I
7 asked Preston to accompany me at that point in time.

8 Q Did he, in fact, get in the car with you and Mr. Brown?

9 A Yes.

10 Q Once you were inside the car, where were you going to
11 transport him to?

12 A Richland County Sheriff's Department criminal
13 investigator division for further processing.

14 Q Once in the car, did you advise him of anything?

15 A At that point in time I intended to initiate some
16 questioning and did advise him of his Miranda rights.

17 Q Specifically what did you tell him?

18 A Advised him he had the right to remain silent.
19 Anything he said could be used against him in Court. Had a
20 right to talk to a lawyer for advice and ask any question
21 and have a lawyer appointed for him before answering any
22 questions. A lawyer could be appointed to him if he wished.
23 If he decided, at that point in time, with a lawyer present,
24 would have the right to stop answering at anytime until he
25 actually spoke with an attorney.

Stan Smith - Direct examination
by Solicitor Campbell

- 1 Q Did he seem to understand what his rights were?
- 2 A Yes.
- 3 Q That day or morning when you picked him up, did he
- 4 appear coherent?
- 5 A He did.
- 6 Q Appear to be under the influence of any drugs or
- 7 alcohol?
- 8 A He did not. In my notes I indicated he appeared sober,
- 9 was not excited or upset.
- 10 Q And at any point after you advised him of his rights
- 11 did you do anything to pressure him to talk to you?
- 12 A No, ma'am.
- 13 Q Did you promise him anything in exchange for talking to
- 14 you?
- 15 A No, our exchange was, at that point, pretty brief.
- 16 Q Did you do anything to coerce him to make him talk?
- 17 A I did.
- 18 Q The few statements you did make, were those, in your
- 19 opinion, voluntary?
- 20 A Yes.
- 21 Q That was after he was advised of his rights and
- 22 indicated he understood?
- 23 A Yes.
- 24 Q Once you advised, what happened?
- 25 A I advised him this was indeed about the shooting

Stan Smith - Direct examination
by Solicitor Campbell

1 incident in the motel that happened that previous Tuesday
2 night. He indicated he didn't know anything about that. He
3 said he was home all night that night. I did ask -- one
4 question I asked him, when he had cut his dreadlocks off,
5 and the indication we had from the witness description is
6 the shooter actually had long dreadlocks. That was one of
7 the first things I learned in consulting with the detectives
8 that night. He said he cut them off about one month prior.

9 Q After he relayed that information he cut his hair one
10 month prior, did you make contact with Investigator Ellis at
11 Harper Street?

12 A We all are issued Nextels, and I made Nextel
13 communication, two-way communication, if you will, with
14 Investigator Ellis to ask him to ask some of the family
15 members who are present who would have access to that
16 particular information to either refute or verify his
17 contention, Mr. Brown's contention that he had changed his
18 dreadlocks or cut his dreadlocks off a month prior. I
19 received an immediate response that he had cut the dreads
20 off the week prior. Not a month prior.

21 Q And that would have been the week of the---

22 A That would be consistent with the time frame of the
23 murder.

24 Q Did you actually allow him to hear this exchange?

25 A Yes, with our Nextels, you can put it in a speaker

Stan Smith - Direct examination
by Solicitor Campbell

1 mode, and it was audible for Mr. Brown to hear that response
2 at that time.

3 Q Did he say anything in response to the information that
4 was being relayed to you?

5 A He didn't react. He didn't deny that that was false or
6 think that was false, anything like that.

7 Q At that point as you were driving down towards
8 headquarters from Harper Street, were you approaching the
9 Grand Motel?

10 A Yes, coincidentally as we come from Harper Street to
11 3003 Two Notch Road you have to pass by the Grand Motel.
12 And as things worked out during this sequence of events, we
13 happened to be approaching the intersection of Beltline and
14 Two Notch at that point in time, which is where the Grand
15 Motel is situated.

16 Q Did you ask him anything about the Grand Motel?

17 A I asked him if he needed to see the location. Hence
18 the location in order to refresh his memory as to the
19 sequence of events we were talking about, and he indicated
20 that he didn't care either way was his basic response. As I
21 rode to the back, I went actually into the complex, and I
22 asked him if anything looked familiar, and at that point he
23 asked why he was taken there and if he was going to jail or
24 not.

25 Q At that point did the conference in the car terminate?

Stan Smith - Direct examination
by Solicitor Campbell

1 A That was pretty much the gist of the conference. Short
2 period of time we were at -- the sheriff's department was a
3 short trip from the Grand Motel. Once we got to the
4 criminal investigative division I asked when he had
5 interviewed because when he was one of the primary
6 detectives in the case he had driven separately because it
7 was his vehicle. At that point in time I advised Larry I
8 wanted to hear his side of the story, that he had been
9 identified as the shooter in the case. Again, any sort of
10 reaction on his part, denial or anything like that, he
11 simply began to remain somber, kept his head down.

12 I then talked about the fact that we would be
13 conducting several, you know, forensic procedures like
14 collecting case prints and that kind of thing for DNA, and I
15 explained to him what a Buccal swab was, the term that we
16 use for obtaining a saliva swab. He said he didn't mind,
17 would go along with that. I pulled out a consent form from
18 the Buccal swab, and he said he wasn't going to sign
19 anything until he spoke to an attorney. I further clarified
20 that with asking him whether his intent was not to speak to
21 me any further, and he indicated he wasn't going to make any
22 other comments without talking to a lawyer.

23 Q That would be the gist of his comment to you that day?

24 A That was the end of the questioning. At that point in
25 time he was taken, he was removed to a holding cell and we

Stan Smith - Cross-examination
by Mr. O'Neill

1 actually had obtained a search warrant for the DNA swab at
2 that point because we did not have consent.

3 CROSS-EXAMINATION

4 BY MR. O'NEILL:

5 Q You put the cuffs on him?

6 A Yes, he was in a front bedroom area.

7 Q At what point did you read these?

8 A Once we were situated in the car.

9 Q Where were you at?

10 A I'm sure the, the driver's seat or I possibly could
11 have been standing in the doorway. He was in the car.

12 Q He would have been in the back seat of that car?

13 A That's correct.

14 Q Cruiser or SUV?

15 A SUV.

16 Q Wasn't a police car or anything?

17 A It was a black Ford Explorer with no screen in it.

18 Q Was there any other officers in the car with you and
19 Larry?

20 A Investigator Preston was there. I don't recall if he
21 was actually in the car with the defendant or standing next
22 to me. But he witnessed that exchange.

23 Q Investigator Preston would have heard you give Larry's
24 Miranda rights?

25 A Yes.

Stan Smith - Cross-examination
by Mr. O'Neill

1 Q Let's back up.

2 waiver of rights forms and consent forms---

3 A Yes.

4 Q ---you didn't have Larry fill out one of those waiver
5 of rights or consent forms?

6 A No.

7 Q You read his rights?

8 A Yes.

9 Q He would have been in custody?

10 A He was handcuffed in the residence. So, often times
11 there's a -- about a case -- that's been my experience from
12 the point of arrest to the office. That's not uncommon.
13 That's my typical habit. Certainly if I intended to engage
14 in any kind of discussion about the case---

15 Q He would have read that from one of your cards?

16 A I have one available I have referenced.

17 Q You remember where you got that card from?

18 A Is the Joint Terrorism Task Force.

19 Q I apologize.

20 Did you pull it out of your pocket or---

21 A I keep it in a card holder that I keep in my pocket.

22 Q When you actually got to headquarters, for lack of a
23 better word, Mr. Brown, at that point, was informed of his
24 right to an attorney?

25 A Once we started talking about some of these other

Stan Smith - Cross-examination
by Mr. O'Neill

1 procedures and I pulled out a consent form, that would
2 require the signature for the DNA swab, that's when he
3 indicated he wouldn't cooperate without an attorney.

4 MR. O'NEILL: Court's indulgence.

5 (Pause.)

6 MR. O'NEILL: Nothing further.

7 REDIRECT EXAMINATION

8 BY SOLICITOR CAMPBELL:

9 Q He asked you about how you read his rights and was it
10 written or anything, but he obviously understood his rights
11 because it wasn't written, did he not?

12 A Yes, ma'am.

13 THE COURT: You can step down.

14 Anything further on this issue?

15 Okay.

16 MR. O'NEILL: No argument.

17 THE COURT: No argument.

18 Okay. The Court would find the statements appropriate.
19 So, we'll allow them in.

20 SOLICITOR CAMPBELL: We won't mention the fact he
21 invoked his rights, and that was just for purposes of this
22 hearing. We will stop so there won't be any issues.

23 THE COURT: Okay. Anything further by the State?

24 SOLICITOR CAMPBELL: Not from the State as far as
25 proof.

1 THE COURT: Defense?

2 MR. O'NEILL: No, Your Honor.

3 THE COURT: I will need to look at that issue.

4 Is that everything that you have for today?

5 SOLICITOR CAMPBELL: Yes, Your Honor. We'll get
6 together and try to settle the records. I think that will
7 be fairly quick between Mr. O'Neill and ourselves. I know
8 you have a plea at 9:30 in the morning.

9 THE COURT: We will begin very shortly after that, and
10 I'll try to get them to, started at 9:15. So, you be set up
11 and ready and we will give you our answer no later than
12 that. I just need a chance to look at these cases.

13

14 (Whereupon, Court was in recess for the evening.)

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Tuesday, August 25th, 2009

THE COURT: Is it okay to proceed, Mr. O'Neill?

MR. O'NEILL: Yes, Your Honor.

SOLICITOR CAMPBELL: Would note Investigator Bill Allen was present when I interviewed Jackie Holly, who testified yesterday. If you want to hear from him about what we did as far as going over the statement or agreeing with it, I can put that on the record. In addition, Your Honor, part of the issue yesterday was they were caught by surprise with this information. I would make part of the record the Court's Exhibit, the incident report taken by Deputy Ulmer in which she initially talked to him first prior to, this is important, to her giving the statement that I went over to, with her to Investigator Godfrey.

She has not changed her testimony or had not with me until yesterday on the stand when I interviewed her. However, with Deputy Ulmer, this isn't a surprise to him because she told the first officer on the subject, the subjects walked in the room, grabbed the victim, and asked where is the money, which I believe was their big bone of contention that this was a big surprise, and they have never heard of it before, and I would note they did have this information and it was turned over to---

THE COURT: That is in the incident report---

1 MR. O'NEILL: Your Honor, that's in the incident
2 report, but it's not clear where that information came from.
3 Deputies spoke with Jackie Holly---

4 THE COURT: Not clear where the information came from,
5 is the incident report of her---

6 MR. O'NEILL: No, it is an incident report with---

7 THE COURT: Speak at one, one at a time.

8 MR. O'NEILL: Combination of Deputy Ulmer talking to
9 one of the Goodwin twins and Jackie doesn't denote---

10 THE COURT: You're -- okay. Let me ask you this. Even
11 if you -- if I go with your statement you are aware of the
12 statement that's -- the issue to me yesterday was you are
13 never aware somebody speaks of it. I am not aware Jackie
14 Holly said that. That's -- but the statement came from
15 somebody in the room?

16 MR. O'NEILL: That is still not the same. My issue is
17 Jackie Holly's version of events that day was totally
18 different from the Goodwin twins and Ms. Austin that was in
19 the room, and that is still not changed by Deputy Ulmer's
20 statement.

21 THE COURT: Let's start here, were you given that
22 incident report?

23 MR. O'NEILL: I want to flip through the incident
24 report and hear what it says. Says officer was dispatched
25 to the above location in reference to the above incident

1 type. Reference number one, which is---

2 SOLICITOR CAMPBELL: Which is Jackie Holly.

3 MR. O'NEILL: Jackie Holly is the first witness on
4 here. So, I can---

5 SOLICITOR CAMPBELL: She is the only witness that came
6 from Room 110.

7 MR. O'NEILL: Stated the subject came to her room is
8 ten -- asked where they could get some drugs from them. All
9 it says is witness took the subjects to the room where it
10 was located and subject one walked in the door, grabbed the
11 victim, and asked where is the money. Witness number one
12 then states -- witness number one said the victim walked off
13 and turned around, started shooting. Stated victim number
14 one then started to tussle in the room. If you look at
15 Jackie Holly's statement, that's not in her statement.

16 THE COURT: Hold a second. You may have more than one
17 statement. So---

18 MR. O'NEILL: Only one statement from Jackie Holly.

19 SOLICITOR CAMPBELL: Right. More than one report that
20 indicates statements. Probably a better way to say that.

21 MR. O'NEILL: If you look at that, put that together on
22 Ms. Goodwin's statement, that's the information about
23 somebody saying they came, Ms. Camilla Goodwin's statement.

24 THE COURT: Who is victim number one insofar as the---

25 SOLICITOR CAMPBELL: Witness number one is Jackie

1 Holly.

2 MR. O'NEILL: In -- you've got to realize that there
3 are -- there are one, two, three sentences in this report
4 that says witness number one stated that such and such.

5 THE COURT: Is it clear in the report who witness
6 number one is?

7 MR. O'NEILL: That's clear.

8 THE COURT: Who is that?

9 MR. O'NEILL: Jackie Holly. What is not clear is there
10 are -- once again --

11 THE COURT: What are they attributing as statements to
12 witness number one?

13 MR. O'NEILL: That's what's not clear. The
14 statement -- this incident begins as subject one walked into
15 the room, grabbed a victim, and asked for the money. That's
16 not attributed to witness number one.

17 SOLICITOR CAMPBELL: That is untrue.

18 MR. O'NEILL: Your Honor, I can read this again to you.

19 SOLICITOR CAMPBELL: May I approach?

20 I think this would be easier.

21 THE COURT: The incident report -- I apologize. The
22 portion that I'm reading, which is on the first page, about
23 them giving an incident report that consisted of three
24 pages, would you not agree this keeps referring to witness
25 number one?

1 MR. O'NEILL: I would agree every sentence that --
2 there's a -- witness number one begins witness number one
3 stated the only sentence -- doesn't say witness number one
4 stated. Says I, a subject, walked through the door. He
5 grabbed the victim and asked where's the money, and that's
6 the only thing that doesn't say witness number one stated---

7 THE COURT: Is there anybody else referenced in the
8 report as to who this report is taken from?

9 MR. O'NEILL: There's other witnesses in here. This
10 officer gets -- Ms. Holly's not -- the Goodwin twins are
11 there. Ms. Austin is there. Could have come from any one
12 of those persons.

13 THE COURT: Any other incident reports or statements
14 taken separately from the Goodwin twins?

15 MR. O'NEILL: Statement from Goodwin twins, yes.

16 THE COURT: Any incident report referencing---

17 MR. O'NEILL: Referencing what they say?

18 THE COURT: Goodwin twins, separate incident report
19 from the Goodwin twins?

20 MR. O'NEILL: There is.

21 THE COURT: State is indicating that's not---

22 MR. O'NEILL: Incident report that referenced what the
23 Goodwin twins say.

24 SOLICITOR CAMPBELL: That's a statement.

25 MR. O'NEILL: It is an incident report.

1 SOLICITOR CAMPBELL: That is the---

2 MR. O'NEILL: It says I made contact with Jamilla
3 Goodwin, bla, bla, bla. She said this -- and I'll pass it
4 up to Your Honor.

5 SOLICITOR CAMPBELL: Your Honor, this is in the
6 investigative follow-up. I think we're talking about two
7 different things. Not an incident report per se. It is a
8 follow-up and we agree this is a follow-up.

9 MR. O'NEILL: We agree it clearly says he's talking to
10 both the twins on that particular night, and they said those
11 kinds of statements were attributed to them, not Ms. Holly,
12 not anybody else.

13 THE COURT: It says witness number 18 stated and then
14 it carries on and then there's a period and then -- then
15 there's another section and a period, and it says as
16 subjects walked in, in other words, there's periods, but
17 there's three sentences, and then it goes on to witness
18 number one stated. So, it -- in my opinion, it is a
19 combination of---

20 MR. O'NEILL: Your Honor, if you look at what happens
21 when an investigator gets there, everything that's, that --
22 in my reading of that statement, everything that witness
23 number one directly stated is attributed to them by
24 prefacing the sentence with witness number one stated this.
25 There are other sorts of information that could be included

1 in that report, and it come from witness number one.

2 SOLICITOR CAMPBELL: If I may, Your Honor, if there had
3 been something attributed to another witness they would have
4 said witness number two or three said, but it all said---

5 MR. O'NEILL: But this other sentence started witness
6 number one stated. That essentially started witness number
7 one stated. Not like the other sentences. Don't see
8 witness number one stated.

9 The other three sentences that said witness number one
10 stated, there's no reason, in my reading of that, to
11 interpret witness number one stated that if it didn't, if it
12 didn't start with witness number one said it. The other
13 sentence, witness number one said, starts with witness
14 stated---

15 THE COURT: But it is a continuation. In other words,
16 he's putting a period after the conclusion of a thought
17 and---

18 MR. O'NEILL: If you look at---

19 THE COURT: I understand what you're saying, but you
20 say after witness number one stated there's a couple of
21 sentences in there, and then you pick back up with witness
22 number one stated.

23 MR. O'NEILL: The last two sentences are witness number
24 one stated the victim walked off and suggests -- and when he
25 turned -- when he turned around, subject one started

Bill Allen - Direct examination
by Solicitor Campbell

1 shooting and starts again witness number one stated is those
2 are consecutive sentences. But prefaced by witness number
3 one stated.

4 THE COURT: Let's do this. The State, go ahead and put
5 up your witness with subject to anything further, and then
6 we'll come back to this matter and let me see if this is
7 going to further clarify anything.

8 SOLICITOR CAMPBELL: State calls Investigator Bill
9 O'Neil.

10 BILL O'NEIL, being first duly
11 sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY SOLICITOR CAMPBELL:

14 Q Investigator O'Neil, where are you employed?

15 A Richland County Sheriff's Office.

16 Q What do you do there?

17 A I'm the chief investigator.

18 Q I want to turn your attention to several weeks ago.

19 Did you have contact with Jackie Holly?

20 A I did.

21 Q Did you bring her up to the court house?

22 A I did. I transported her.

23 Q Were you aware she had given a statement in this case?

24 A That's correct.

25 Q Were you there when I was there and went through the

Bill Allen - Direct examination
by Solicitor Campbell

1 statement with her?

2 A That's correct.

3 Q Did she initially agree with everything in the
4 statement as I read it to her?

5 A Correct.

6 Q Specifically it talked on the last page about what she
7 heard people say?

8 A That's correct. The last page of her statement.

9 Q And I went over that part with her?

10 A That's correct.

11 Q And in that part, what, what does it say in the
12 statement?

13 A It said, when the incident occurred, did you hear them
14 say anything, and her answer was the one that was standing
15 by the door was asking where the money was at. I didn't
16 hear the guy with the gun say anything. They were too busy
17 fighting.

18 Q And when I went over that with her, did she agree
19 that's happened?

20 A She did.

21 Q Did she indicate anything else about what was said to
22 us?

23 A No.

24 SOLICITOR CAMPBELL: Thank you.

25 THE COURT: Want to question this gentleman?

Bill Allen - Cross-examination
by Mr. O'Neill

1 CROSS-EXAMINATION

2 BY MR. O'NEILL:

3 Q Investigator O'Neil, how many other witness' statements
4 did you sit in there on this case?

5 A Just about all of them.

6 Q How many would that be?

7 A I think five.

8 Q Who -- what witnesses would those five---

9 A Jamilla Goodwin, Satierra -- you know, I -- her last
10 name evades me, but -- and Jacqueline.

11 Q That's three?

12 A That would be four. Four total with Jacqueline.

13 Q So, the two Goodwin's --

14 A Yes.

15 Q -- Ms. Austin and Jackie?

16 A Yes.

17 Q How long did Jackie's interview last?

18 A Fifteen minutes.

19 Q Where was that, she after that?

20 A Ms. Campbell's office.

21 Q Did you take any notes of this interview?

22 A No.

23 Q Did you videotape the interview?

24 A No.

25 Q Audio record it?

Bill Allen - Cross-examination
by Mr. O'Neill

1 A No.

2 Q Who else was present besides you, Ms. Campbell, and
3 Ms. Holly?

4 A That's it.

5 Q Where was the interview done?

6 A Specific day I can't remember. Was a week before last.

7 Q Two weeks ago?

8 A Yes, I went and got her and brought her up to the
9 office and we were there 15, 20 minutes.

10 Q How many interviews have you done since well, Ms. Holly
11 on any case?

12 A None.

13 Q Haven't done any interviews of any witnesses on any
14 case since Ms. Holly's?

15 A No.

16 Q That was the last interview you did in this case?

17 A Several afterwards.

18 Q How many after Ms. Holly?

19 A Perhaps four.

20 MR O'NEILL: Beg the Court's indulgence.

21 (Pause.)

22 MR. O'NEILL: Nothing further.

23 THE COURT: Anything further?

24 REDIRECT EXAMINATION

25 BY SOLICITOR CAMPBELL:

Bill Allen - Redirect examination
by Solicitor Campbell

1 Q To clarify, he asked you about eye witnesses and you
2 named them?

3 A Yes.

4 Q Did you also interview some witnesses that weren't eye
5 witnesses?

6 A Yes.

7 Q Ms. Frost?

8 A Yes.

9 Q Ms. Floyd?

10 A Yes.

11 Q And I believe Ms. Clark?

12 A Yes.

13 SOLICITOR CAMPBELL: That's all I have, Your Honor.

14 THE COURT: All right. Anything further?

15 You can step down.

16 Anything further from the State?

17 SOLICITOR CAMPBELL: No, ma'am, I would just note her
18 statement when we talked to her was in agreement with her
19 latest statement because the first statement she gave to the
20 officers at the scene was the shooter, was the one that said
21 give me the money, and later that evening she was
22 interviewed by Investigator Godfrey and her first statement
23 was what was put on the record from Investigator Allen, and
24 it was still consistent with her latest statement. So, this
25 was no change I was aware of at that time.

1 MR. O'NEILL: That reason is not -- a statement just in
2 the -- Ms. Holly changed her statement to Investigator
3 Godfrey on the night that this happened, is that the State's
4 position?

5 SOLICITOR CAMPBELL: State's position is what we gave
6 you is what it is. It's what she said to the first officer
7 and Investigator Godfrey. We aren't trying to make up
8 anything or make anything but what it is.

9 THE COURT: Here is the ruling. Brady requires the
10 evidence be both favorable to the accused, all material to
11 the guilt and punishment. There is no doubt both of her
12 statements are something that should be turned over to the
13 defense. What I heard yesterday was she, in the actual
14 statement she rendered, she indicated the defense did not
15 say anything, and, of course, that's important to y'all if
16 that was her testimony.

17 Today I have been provided an incident report
18 indicating witness number one, which seems to attribute
19 statements to her. Defense's not, disagrees that it didn't
20 get those statements. The witness recalls a certain set or
21 versions of the events and Ms. Campbell and Investigator
22 Allen recalls a separate version of events. I don't know I
23 would perceive as any prosecutorial misconduct or
24 suppression of the statements because they weren't turned
25 over in some form or fashion.

1 while the defense might quibble, generally speaking, in
2 this incident report witness number one stated and then
3 there's a statement by the witness. My reading of this
4 report indicates it is dealing with one witness and that
5 there were periods between conclusions of a thought and then
6 going on to the next thing. So, it might be just in how the
7 report was written, but I don't see anything else that
8 suggests to me another person was spoken to that added into
9 the events on this particular report because we keep
10 referring to witness number one.

11 So, my ruling is it is definitely material, should be
12 disclosed, that it was disclosed, no prosecutorial
13 misconduct, or suppression, and at this juncture I am not
14 going to suppress the statement.

15 SOLICITOR CAMPBELL: Thank you.

16 MR. O'NEILL: I ask this be made a Court's Exhibit.

17 THE COURT: This is.

18 (Whereupon, the incident report was marked as Court's
19 Exhibit No. 5 for identification purposes only at this
20 time.)

21 THE COURT: Anything else?

22 SOLICITOR CAMPBELL: Your Honor, Frank Livingston, I
23 provided to the defense his prior record, and I want to put
24 those on the record on settling the records as far as
25 anyone's prior records. The only three lay witnesses that

1 have anything would be Ms. Camillia Goodwin, a 2006
2 conviction for forgery and PWID marijuana, which we will
3 bring out, and I think we all agree on that, is that
4 correct?

5 MR. O'NEILL: That's correct.

6 SOLICITOR CAMPBELL: As far as Ms. Beverly Moyd, they
7 want to get into the fact that she has a 1999 possession of
8 cocaine first offense, which we have no problem, and then
9 with Jamilla Goodwin, I believe she has, from 2006, a
10 forgery conviction. Everybody else has nothing that's
11 impeachable.

12 I want to address the codefendant's and at this point,
13 Your Honor, to make the Court aware, Mr. Swerling is coming
14 over around 11:00 or 11:30 today to speak to his defendant,
15 who is here in the court house, and we will make the Court
16 aware, as soon as we speak to him, and finalize any kind of
17 deals if he is to testify, and bring that to the Court's
18 attention at that time if that's okay with---

19 THE COURT: That's still an if on the testimony?

20 Not sure yet?

21 SOLICITOR CAMPBELL: We haven't interviewed him.

22 THE COURT: Not sure if he's going to, to testify or
23 not at this point?

24 SOLICITOR CAMPBELL: We anticipate---

25 THE COURT: But you will relate whatever information is

1 relevant at that time?

2 SOLICITOR CAMPBELL: I already informed you about Mr.
3 Livingston's charged with misprison of a felony. The
4 agreement we made with him, if he testifies truthfully, and
5 I turned over, in the presence of his attorney, and called
6 Mr. O'Neill last week while she was still in the office, and
7 make sure I turned over everything he was going to say
8 because that was the first time we interviewed him. And if
9 he testifies truthfully as to what his knowledge of these
10 events and that we would not charge him with any additional
11 charges in this case.

12 He also has pending in our office, in addition to the
13 misprison, a failure to stop for a blue light, a trafficking
14 in cocaine third offense, which carries 25 to 30 years, a
15 PWID crack third offense, which carries 15 to 30 years, and
16 a pistol during a crime of violence, which carries up to
17 five years, and misprison. Those are the charges currently
18 that I'm aware of unless Mr. O'Neill testified to something
19 different.

20 I tried to make sure I included all the pending
21 charges. He has not been given any deal on those. However,
22 he hopes for some reduction down the road of consideration
23 by the judge or a dismissal of the charge. You know, he
24 freely hopes for all that.

25 THE COURT: All right.

1 MR. O'NEILL: One addition, Your Honor, as in the
2 interest of Jamilla Goodwin, she was on probation for the
3 forgery charge and I think---

4 SOLICITOR CAMPBELL: I apologize.

5 MR. O'NEILL: She was in violation of that probation.
6 The Solicitor's Office made some effort to clear that up.

7 SOLICITOR CAMPBELL: We did and I turned that over last
8 week too, and in addition to that, Camillia, her contacts
9 were destroyed, and we provided her with \$35 to have
10 contacts so she could see in Court, and I turned that all
11 over last week.

12 THE COURT: Anything else?

13 MR. O'NEILL: Nothing as it relates to any prior
14 witness or---

15 SOLICITOR CAMPBELL: The other thing I have turned over
16 to the defense is last night Ms. Holly got arrested and
17 currently at the detention center. So---

18 THE COURT: Ms. Holly?

19 SOLICITOR CAMPBELL: Got her distribution -- disorderly
20 conduct.

21 THE COURT: It is only Tuesday.

22 MR. O'NEILL: She must have been---

23 SOLICITOR CAMPBELL: Mr. Cooper obviously drove her
24 too. So, we are transporting her. We are transporting her
25 as we speak, but we may have to take her a little out of

1 order.

2 THE COURT: That's fine. I did get one juror note, and
3 I will explain that to him, some child care issues so we'll
4 try to stop at 5:00 if y'all could kind of think about that.

5 Anything further?

6 MR. O'NEILL: We have an issue I think, me and
7 Ms. Campbell addressed, and there was talk yesterday about
8 Ms. Jamilla Goodwin do the in-Court ID and we talked about
9 the proper word wasn't appropriate to---

10 SOLICITOR CAMPBELL: She is not going to make an
11 in-Court ID.

12 THE COURT: Okay.

13 SOLICITOR CAMPBELL: Even though she has recognized the
14 defendant, I don't think that's fair.

15 THE COURT: why?

16 SOLICITOR CAMPBELL: Because she wasn't even shown any
17 out-of-court ID's at the time, and I think he has an
18 argument it was suggestive since she walked in the court and
19 saw him.

20 THE COURT: Got you. Okay.

21 SOLICITOR CAMPBELL: We will make sure -- and she has
22 been instructed to stay away from that. And so, we don't
23 need to have a hearing on that.

24 MR. O'NEILL: I request, especially with Ms. Holly's
25 testimony yesterday, she kept using the phrase they said and

1 they did referring to Larry Brown and the codefendant, Gene
2 Frost. So, it would be our contention that---

3 THE COURT: She needs to separate it, it out.

4 MR. O'NEILL: That should only be what Larry said.

5 SOLICITOR CAMPBELL: Tried to clarify -- as you know,
6 it's emotional for her, and she starts talking and can't
7 stop. But I will try to back up on that and clarify who
8 said what.

9 MR. O'NEILL: As it relates to Captain Smith's
10 testimony, I think his particular testimony would have
11 issued a Doyle violation with respect to them. We have
12 spoken to Mr. Brown. I think, in reading these reports and
13 this yesterday, kind of similar to a gratuity report when he
14 removed Larry from the residence. Larry never once asked
15 why he was under arrest or acted as if he was surprised in
16 any way. The testimony says Larry -- especially if he says
17 Larry never once asked while he was -- I think that's a
18 clear Doyle violation. It would be a comment on
19 Mr. Brown's---

20 SOLICITOR CAMPBELL: I can instruct him to say he had
21 no response.

22 MR. O'NEILL: No response is still pretrial silence.

23 SOLICITOR CAMPBELL: That's just saying he took him
24 under arrest and said nothing. We have a right to describe.
25 That's not a Doyle violation. It is---

1 MR. O'NEILL: He commented on his silence. He has a
2 right not to say anything.

3 SOLICITOR CAMPBELL: He hadn't even been advised of his
4 rights at that home. Merely didn't say anything to talk
5 about that. It's not he invoked his right to silence. Once
6 he invokes his right of silence we can't comment on the
7 fact. That's the point of violation ford---

8 MR. O'NEILL: My position would be what would be any
9 relevance of them saying he didn't say anything when he got
10 arrested, but to imply that there's some sort of pre-arrest
11 violence indicating he's guilty and didn't want to say
12 anything.

13 THE COURT: We might be able to take this up when we --
14 let's do that. Y'all ready to proceed with opening?

15 Jurors please.

16 (whereupon, the following takes place within the
17 presence of the jury.)

18 THE COURT: Thank you, ladies and gentlemen.

19 As I indicated to you earlier, I certainly apologize
20 for the delay this morning. We will try to anticipate
21 certain things, but sometimes you just can't, and as I
22 indicated when I spoke with you earlier in your jury
23 selection, please do not hold it against any of those
24 attorneys. In fact, they were not involved in the matters I
25 had to hear, and they know my strict rules about making sure

1 we accommodate y'all.

2 I want to thank you so much in advance, and I've said
3 it several times about your public service, and this is one
4 of the great things about our democratic society is we have
5 the ability of one's peers to sit in judgment of them.

6 I'm going to give you some introductory comments about
7 the trial before we proceed so you will understand the
8 nature of these proceedings, and we'll do so. But I'll have
9 you sworn in for purposes of this trial first.

10 (Whereupon, the jury panel was placed under oath at
11 this time.)

12 THE COURT: Ladies and gentlemen, we are about to
13 proceed with the matter of the State versus Larry Brown.
14 The State being represented by Mrs. Luck-Campbell and Aaron
15 Jophlin, and Larry Brown being represented by Deon O'Neill
16 and Jay Cooper.

17 As I indicated to you earlier, these are true billed
18 indictments for murder and attempted armed robbery. These,
19 these are indictments and are only the formal instrument by
20 which a case is brought to trial. The defendant has pled
21 not guilty. So, it is the state's burden of proving this
22 case beyond a reasonable doubt to you to indicate his guilt,
23 and it is up to you to make that determination as to the
24 ultimate determination as to guilt or innocence.

25 He has exercised his Constitutional right to a jury

1 trial. So, we thank you for your service in allowing him to
2 have a jury of his peers.

3 The way we will proceed is before we begin the trial --
4 I want you to know that every day I sit here and I have to
5 make serious decisions. You're going to be asked to do the
6 same. This is not like TV, which is a quick trial and you
7 are expecting a lot of tricks and things of that nature.

8 This is a serious matter with real people, real issues,
9 and real jurors. In that regards, we want you to make sure
10 that you're listening very carefully to the testimony and
11 evidence presented by both parties in this case, and then,
12 at the conclusion of all of that, we'll ask you to
13 deliberate and then you make the determinations.

14 You are the most important people in the room because
15 you are the sole finders of the fact. It will be up to you
16 to determine credibility of witnesses and to determine which
17 witnesses you choose to believe or not believe and which
18 facts you choose to believe or not believe. These lawyers
19 will have questioning of the various witnesses, but they --
20 anything they state is not evidence. The evidence is what
21 you will hear from the witness stand and the documents that
22 will actually be presented to you for purposes of your
23 deliberation.

24 The way we proceed with the trial is that the State is
25 entitled to give an opening statement as well as the

1 defense. Opening statements are not evidence or are
2 documents. They are simply giving you some introductory
3 information about the case and giving you an idea as to what
4 you will hear through the witnesses. Then the State,
5 because it has the burden of proof, will go first with
6 respect to questioning witnesses, presenting evidence.
7 Defense has an opportunity to cross-examine those witnesses.
8 At the conclusion of the State's case, whenever that will
9 be, the Court will have to take up certain legal matters,
10 and I will instruct you along the way as we go through these
11 parts of the trial.

12 Then the defense makes the decision as to whether or
13 not it intends to put up a case, and then we will go through
14 legal matters at the conclusion of the defense's case if
15 they choose to put up one. Only at the conclusion of both
16 party's cases then the case is handed to you.

17 Now, during a trial you might hear certain objections
18 sometimes. What I try to do is sometimes bring the lawyer's
19 towards me if the objection is not immediately apparent
20 because they know their rules require they comment on the
21 facts along the way. Sometimes I have to hear those out of
22 the ear shot of the jury. We're not trying to keep things
23 from you, but required to abide by professional things,
24 courtroom decorum, and rules of courtroom procedure. So,
25 sometimes I may be able to do it at a side bar or have to

1 send you out.

2 Any records -- I will say it several times and have to
3 keep reiterating, do not discuss the case among yourselves
4 in any shape, form, or fashion with any persons. If you see
5 these lawyers at lunch or in the halls, they're not being
6 rude to you, but may not speak with you because they want to
7 make sure no one suggests they have given you eye contact,
8 tried to befriend you, just did anything improper, and the
9 plaintiffs and deputies and everyone in the court house is
10 aware of that. So, continue to wear your tags so everybody
11 can identify themselves, and know that if they just happen
12 to be at the same restaurants or something at lunch, they
13 will not try to speak with you and potentially not make any
14 eye contact with you.

15 Those remarks in mind, we're ready to proceed with the
16 trial and I ask you to direct your attention to both
17 parties.

18 State.

19 SOLICITOR JOPHLIN: Thank you, Your Honor.

20 May it please the Court.

21 This is a case about the defendants, Larry Brown,
22 attempting to rob Tyrell Williams of his drugs and money.
23 Tyrell Williams fought back. The defendant didn't like
24 that. So, the defendant pulled out his gun in Tyrell's
25 hotel room and shot him not once, not twice. The defendant

1 shot Tyrell six times in order to get what he wanted. And
2 because Tyrell fought back, but after he shot him, he
3 couldn't fight back any more. He finally shot him until he
4 was overcome and dead.

5 My name is Aaron Jophlin. I am the assistant solicitor
6 here in Richland County for the Fifth Judicial Circuit.
7 Along with my co-counsel, Mrs. Luke-Campbell, and it is our
8 job to prosecute the crime that occurred in Richland County,
9 and I want to take a minute to explain the events that
10 occurred and unfolded on November 21, 2006, in Richland
11 County.

12 On that evening, it happened on Two Notch Road, the
13 defendant, Larry Brown, and his codefendant or not his
14 codefendant, but an acquaintance of his, Eugene Frost and
15 Frank Livingston went to the hotel. They went to Room 110
16 where Ms. Jacqueline Holly stayed, and asked where to get a
17 30 or a piece of crack cocaine. She says well, I know a
18 fellow down in Room 162. I know he can get some for you,
19 and they said no, we want you to come with us, you take us
20 with you, and she said okay.

21 So, she escorted Larry Brown and Eugene Frost down to
22 that room. Once inside, the defendant -- the door was shut.
23 The defendant went out, asked for the 30 piece, and Tyrell
24 got up to go get it. While he's going to get it the
25 defendant came out with his gun and said give me all you

1 have, give me your money, give me your drugs, and Tyrell
2 yelled back I'm not going down like that. Unfortunately,
3 the defendant decided yes, he was going down like that.

4 Tyrell fought. So, the defendant got off one shot. As
5 Tyrell was screaming in pain and continuing to fight, the
6 defendant got off the second shot. Tyrell continued to
7 fight. He continued to yell in pain. The defendant got off
8 a third shot, a quick fourth shot. As he's still crying in
9 pain, running around the hotel room, trying to escape, this
10 man, who comes in with a gun and started shooting at him,
11 the defendant decides I'm not done yet.

12 So, he gets off a sixth shot, a sixth shot until
13 finally Tyrell can't move any more. Tyrell can't fight any
14 more. He's left on the floor where he bleeds to death.
15 After that, the defendant takes a lamp, throws it through
16 the window, jumps out, and leaves Tyrell laying on the floor
17 bleeding to death. He also leaves something else behind.

18 The defendant wore a black skull cap when he came in
19 the room that night, and he left that behind at the scene.
20 He also left a drop of blood on that window sill when he
21 jumped out.

22 What happened to that second person that came in with
23 him, Eugene Frost?

24 Eugene Frost was standing by the door not letting
25 anybody out because there were four or five, actually five

1 other people in that room, four women and a two year old
2 that the defendant had no concern for when he started
3 shooting his gun. But they survived and they were able to
4 tell -- he left them behind too so he could tell the
5 Richland County Sheriff's deputies what happened that night.

6 As a result of his actions that evening, the defendant
7 is charged with two crimes, attempted armed robbery,
8 basically he used a weapon to get somebody else's stuff, and
9 murder. He killed somebody with malice.

10 The State is going to prove to you over the next few
11 days that he committed those crimes beyond a reasonable
12 doubt, but he is guilty beyond a reasonable doubt and that
13 is proof that will leave the jury firmly convinced that he
14 committed those crimes and attempted to rob Tyrell of his
15 money and drugs and that he killed and murdered Tyrell
16 Williams.

17 We're not going to prove it to you beyond all
18 certainty. It is not absolute certainty if someone's
19 guilty. Nothing in this world is absolute, but it is proof
20 that will leave you firmly convinced he committed those
21 crimes.

22 How are you going to make that determination?

23 How are you going to know if he's guilty beyond a
24 reasonable doubt?

25 You will know from the evidence that we present to you

1 throughout the course of this trial. We'll have numerous
2 pictures of the crime scene and tangible pieces of evidence
3 you can look at, see, feel, turn around and look at. We
4 will have sworn testimony on the stand. We will have the
5 four women that were in that room, Jamilla Goodwin, Camillia
6 Goodwin, Satierra Austin, Jacqueline Holly. They will be
7 here to tell you what they saw that evening, when they heard
8 Tyrell screaming, what they observed when they saw his blood
9 all over that room, observed when the defendant shot him six
10 times.

11 You will hear from the forensics team of the Richland
12 County Sheriff's Department. They will be here to show you
13 the pictures that they took of the crime scene, of the
14 bullet holes they found in the walls, other items, the black
15 skull cap. They will show that to you and tell you they
16 found his DNA on there. They know that's his and they will
17 talk about that little drop of blood they found that placed
18 him in that hotel room. You will also hear from
19 investigators who were at the scene that night and that
20 officers continued to investigate the crime until they found
21 the person they believed committed the crime.

22 While you're listening to these witnesses, pay
23 attention to what they say. Use your common sense and your
24 every day impressions in life. Bring them with you to this
25 box and listen to what these witnesses say.

1 Is their testimony corroborated by each other?

2 Is anybody holding back any information or do they seem
3 forthcoming on the stand about what they saw and observed
4 that night?

5 You also hear every day people up on this stand, every
6 day people who have a past just like most everybody does in
7 this world. Some of them have committed crimes, but they're
8 not up here to talk about their crimes. They're here to
9 talk about what happened on November 21, 2006. They want to
10 let you know from this stand what they saw and let you know
11 the truth of what they saw and heard that day.

12 After listening to all that evidence and testimony, the
13 State will ask you to return a verdict of guilty against
14 Larry Brown for attempting to rob Tyrell Williams and will
15 ask you to return a verdict or guilty of murder of Tyrell
16 Williams.

17 Thank you.

18 MR. COOPER: May it please the Court, Your Honor.

19 Ladies and gentlemen, over the next couple of days
20 y'all are going to hear about a totally different and
21 foreign world than the one y'all are used to and the unique
22 thing is that this different world exists right here in the
23 community that y'all live in, and as I and my colleague, Mr.
24 O'Neill, were thinking about this case, I realized I needed
25 a way to introduce you to this world, and I just happened to

1 have visited my grandmother in the nursing home, and I was
2 thinking about a story she told me right before I started
3 college, and it was a story from a real long time ago when
4 she was a little girl.

5 And it was about her grandfather's brother, and her
6 grandfather's brother was known to be on the wrong side of
7 the law pretty much all his life. He made moonshine, ran
8 it, sold it, gambled, didn't go to church, just led one of
9 those kind of lives. Even in the community, you know, they
10 knew that about him.

11 She was young. So, she didn't really understand, but
12 the rest of the community did, and then she remembers the
13 day when somebody came to their house and they told her
14 father that he had been killed in an illegal card game.
15 Now, at that time, it was hard for her to understand. She
16 was young. But as she grew older, she realized that in her
17 own community of good church going righteous people there
18 existed another world and that her relative had been part of
19 that.

20 And the reason I told y'all this story is because
21 another world exists in your community, and that's the world
22 that you are going to hear about over the next couple of
23 days because, as Mr. Jophlin just told you, this case
24 involves a drug deal. Neither side is really going to
25 dispute that. This case is about crack cocaine.

1 Mr. Larry Brown used crack cocaine. We're not going to
2 dispute that. That evening he went to the Grand Motel
3 because he used crack cocaine and he knew that Tyrell
4 Williams was somebody who could sell it to him and he wanted
5 to go get some. He wanted his next fix. It's part of the
6 dirty side of our community unfortunately, but that's what
7 happened and we're not going to dispute that he was in that
8 room. He was. He went there to get his crack.

9 I want you to remember that this case is about a drug
10 deal. When you listen to the people who take the stand --
11 because when you listen to that hotel room, you're going to,
12 the people in that hotel room, you're going to realize that
13 what was going on in that room was part of the unfortunately
14 dirtier side of our community.

15 There was Tyrell Livingston there selling crack. Other
16 people in there with him. There was a baby in the room when
17 all this was going on. Uncomfortable to think about, but
18 there was and you will hear the testimony.

19 So, I want y'all to realize, as you listen to the
20 testimony, what we are dealing with here, and listen, when
21 you listen to the witnesses, I want you to think about where
22 they're coming from, what they have to gain by what they're
23 saying, and what they have to lose by what they're saying
24 because the State is going to put a lot of witnesses up here
25 in the next couple of days, but I think, as y'all will

1 figure out, a lot of these witnesses we don't really dispute
2 what they have to say.

3 Okay. But what you really need to pay attention to is
4 the testimony of the people who were in that room because
5 the real crux of this case is what happened right after
6 Mr. Brown went into the room and right before he struggled
7 with Mr. Williams. Listen for that. Because I submit to
8 you now that, when these people take the stand and tell you
9 their stories, they're going to be different stories and
10 they're going to differ on what they say happened up in
11 those moments, and I want you to listen for those defenses
12 and I want you to think, well, why are their stories
13 different?

14 Why is that?

15 Think about that.

16 You know, the State may tell you, well, these are minor
17 differences and they don't really matter and, you know, of
18 course, they're going to be differences and they may even
19 say, well, the fact that people's stories are different, I
20 mean they're telling the truth. That doesn't make any
21 sense. If they're telling the truth, the story should be
22 the same.

23 You're going to hear from Ms. Camillia Goodwin. She
24 gave the first written account of what happened in that
25 room.

1 You know what?

2 The evidence will show you three days later she gave
3 another written account different.

4 Why is that?

5 That doesn't make any sense.

6 So, I ask you to use your judgment, to evaluate these
7 witnesses, and ask yourselves, if their stories are
8 different, why is that and I also ask you to pay close
9 attention to testimony and actually look at people who sit
10 in that chair and ask yourselves what do they have to gain
11 by saying this?

12 What is this person trying to do here today?

13 What is he or she have to lose?

14 That's your job as jurors, too.

15 Now, I also want to tell you that the State, as
16 Mr. Jophlin told you, they have what's called the burden of
17 proof in this case. Now, often times I have wished that the
18 burden were something visible, tangible. It's not.

19 One way I like to think of it is if you had a giant
20 bowling ball and we could just plop it down right on top of
21 their table because it's not called a burden for nothing.
22 It's called a burden because it's he I have, because it's
23 important, because there, there is a weight and it means
24 that through their case they must prove their case to you
25 beyond a reasonable doubt. So, when you evaluate these

1 witnesses, think about that. It's their job to prove this
2 case to you. Look at these people up here and see if you
3 think they do that.

4 Now, I know that y'all are nervous being here and
5 you're missing work or missing school and we appreciate that
6 because your job is really important and maybe this
7 courtroom is even a little bit intimidating to you or maybe
8 you're a little bit uncomfortable in here. But I want to
9 allay your fears because I want you to know that this room
10 belongs to y'all. Doesn't belong to me or Mr. O'Neill.
11 Doesn't belong to Ms. Campbell. Doesn't belong to
12 Mr. Jophlin. Your Honor controls the courtroom, but this is
13 the people's courtroom.

14 So, y'all should feel comfortable because y'all's job
15 is important, and all I can ask of you is to listen to the
16 evidence, use your judgment, use your experience to evaluate
17 these witnesses in this case, and I just ask you to listen
18 to Mr. O'Neill when he addresses you at the end of this
19 trial and render a verdict that tells the truth about what
20 happened in that hotel room.

21 Thank you very much.

22 THE COURT: State, you may proceed with your first
23 witness.

24 SOLICITOR CAMPBELL: Thank you, Your Honor.

25 The State calls Deputy Latavish Ulmer.

3 DIRECT EXAMINATION

4 BY SOLICITOR JOPLIN:

5 Q Deputy Ulmer, where are you employed?

6 A Richland County Sheriff's Department.

7 Q How long you been employed with the Richland County
8 Sheriff's Department?

9 | A Since November 2004.

10 Q what is your experience before you got to the Sheriff's
11 Department in Richland County?

12 A I was at work in law enforcement in Williamsburg County
13 for five years.

14 Q What are your job duties as being a deputy with the
15 sheriff's department?

16 A To answer emergency calls, to assist citizens with any
17 problems.

18 Q Is it fair to say you assist with whatever calls you
19 receive and are dispatched to take care of?

20 | A Yes.

21 Q Did you have an occasion to respond on November the
22 21st, 2006, to the Grand Motel on Two Notch Road?

23 | A Yes.

24 Q Is that in Richland County?

25 A Yes, it is.

Latavish Ulmer - Direct examination
by Solicitor Jophlin

- 1 Q What time did you arrive at the Grand Motel?
- 2 A I arrived around 7:25.
- 3 Q Okay. And what type -- who notified you to respond?
- 4 A Dispatch.
- 5 Q And do they tell you why you're being sent to a certain
- 6 area?
- 7 A It's given out as a shots fired call.
- 8 Q And that means gunshots or gunfire?
- 9 A Yes.
- 10 Q When you got to the Grand Motel, did you make contact
- 11 with anyone?
- 12 A Yes, I made contact with the first witness, Ms. Holly.
- 13 Q Okay. Is her first name Jacqueline?
- 14 A Jacqueline Holly.
- 15 Q Jacqueline Holly?
- 16 A Yes.
- 17 Q When you made contact with her, what was her demeanor
- 18 when you made contact with her?
- 19 A Distraught. She was crying, screaming.
- 20 Q Upset?
- 21 A Yeah, upset.
- 22 Q Okay. And did she appear intoxicated in any way?
- 23 A No.
- 24 Q Under the influence of anything?
- 25 A No.

Latavis Ulmer - Direct examination
by Solicitor Jophlin

1 Q And what was she upset about when you made contact with
2 her?

3 A She was upset about the -- at the time a young man
4 being in the room, 162, and being shot. He was shot and
5 several other people---

6 MR. COOPER: Objection. This gets into hearsay, Your
7 Honor.

8 SOLICITOR JOPHLIN: Your Honor, it is an excited
9 utterance.

10 THE COURT: Okay. I'm going to overrule that.

11 Q You can continue.

12 A All right. As I said, she was distraught about the
13 shooting that happened in 162.

14 Q I'll move this a little closer to you.

15 A She was distraught about a shooting that happened in
16 162 at the Grand Motel.

17 Q Did she witness that shooting?

18 A Yes, she did.

19 Q Was she able to give you any information as it
20 pertained to what happened in Room 162?

21 A Yes, she did.

22 MR. COOPER: Objection. Calls for hearsay.

23 SOLICITOR JOPHLIN: Excited utterance, Your Honor.

24 THE COURT: Lay a little more foundation.

25 Sustained.

Latavish Ulmer - Direct examination
by Solicitor Jophlin

1 Q As part of your duties, is it customary for you to
2 gather information as a responding officer to a crime?

3 A Yes.

4 Q And does that detail talking to whomever is at the
5 scene who can give you that information?

6 A Yes.

7 Q And do you memorialize that information in any sort of
8 way?

9 A Excuse me?

10 Q Do you memorialize that information you receive in any
11 sort of way?

12 A Yes.

13 Q How do you memorialize that?

14 A I write it down on a pad and transfer it to the
15 incident report.

16 Q You have already testified Ms. Holly was quite upset or
17 upset during this time?

18 A Yes.

19 Q She was crying?

20 A Yes.

21 Q Do you know approximately what time -- what time did
22 dispatch contact you or did dispatch receive the call?

23 A Dispatch received the call around 7:20, 7:20 p.m.

24 Q When I say that when someone calls 9-1-1, where is that
25 information -- when they're talking to the 9-1-1 operator,

Latavis Ulmer - Direct examination
by Solicitor Jophlin

- 1 where does that information go to?
- 2 where does that 9-1-1 operator give that information?
- 3 A First goes to the call, to the dispatcher of that area.
- 4 Q And the dispatch will contact a deputy such as
- 5 yourself?
- 6 A Yes, with that type of call they will tone it out and
- 7 all responding deputies will respond and I was the first one
- 8 on the scene.
- 9 Q Okay. You say dispatch was contacted around 7:25?
- 10 A Right 7:20, 7:25.
- 11 Q What did -- did you arrive on the scene?
- 12 A I arrived -- I was in the area.
- 13 Q Within---
- 14 A Within three or four minutes. I was in the area.
- 15 Q Within three to four minutes after someone called 9-1-1
- 16 you were there?
- 17 A Yes.
- 18 Q Jacqueline Holly was the first person you talked to
- 19 when you got there?
- 20 A Yes.
- 21 Q Would that be fair to say that was probably another
- 22 two, three minutes after you got there?
- 23 A Yes.
- 24 Q Approximately -- talking approximately ten minutes
- 25 after the crime occurred---

Latavish Ulmer - Direct examination
by Solicitor Jophlin

1 A Yes.

2 Q ---you were talking to Ms. Holly?

3 A Yes.

4 Q She described to you what was happening inside that,
5 what happened inside Room 162?

6 A Yes, she described everything.

7 Q And was she -- what did she describe to you?

8 MR. COOPER: Objection.

9 SOLICITOR CAMPBELL: Excited utterance, Your Honor.

10 THE COURT: Approach.

11 (Whereupon, a bench conference was held outside the
12 hearing of the jury at this time.)

13 THE COURT: All right. I have sustained the objection.
14 But I have allowed counsel to continue along with his
15 questioning as long as he can set up the foundation for this
16 particular issue.

17 SOLICITOR JOPHLIN: Your Honor---

18 SOLICITOR CAMPBELL: We have a matter of law.

19 SOLICITOR JOPHLIN: We have a matter of law to discuss
20 about this.

21 THE COURT: Fellow jurors, I'm going to ask you step
22 out of the room so we can discuss this matter. I remind you
23 not to discuss the case.

24 (Whereupon, the following takes place outside the
25 presence of the jury panel.)

Latavish Ulmer - Direct examination
by Solicitor Jophlin

1 THE COURT: The issue is that the defense has indicated
2 their objection is based on -- well, the State -- hearsay
3 and then the State is responding with an excited utterance.
4 I had the State lay the foundation so we could make sure she
5 was responding to a startling event. I'm comfortable the
6 foundation essentially has been related. The issue being
7 how far we go into the statement because of an excited
8 utterance. That's in response to this condition.

9 I don't know how far he's going, but it is not intended
10 to be interrogation, so to speak, of whatever she said. But
11 intended to be those initial comments she stated to him.

12 SOLICITOR JOPHLIN: Your Honor, this isn't an
13 interrogation. This is him asking what happened here.
14 Okay. Witness one told me she, witness told me when she got
15 in there -- I'm sorry -- subject number one approached.
16 Said where is the money and started shooting.

17 THE COURT: Okay.

18 SOLICITOR JOPHLIN: Was she still under duress when
19 she's talking about this?

20 Yes.

21 What else was she trying to tell you so you could
22 determine what was going on in the area and correctly send
23 for the investigators and dispatch what you needed at the
24 crime scene that night?

25 MR. COOPER: Your Honor?

Latavish Ulmer - Direct examination
by Solicitor Jophlin

1 SOLICITOR JOPHLIN: I don't -- you know I saw -- I
2 heard five shots, laying the foundation for him to even get
3 somebody out there for a crime investigation.

4 MR. COOPER: I'm sure she was traumatized for the rest
5 of the night. But my position is a, that's not the design
6 and the rule is not to allow them to get into the entire
7 story. Excited utterance is like okay what if. Anybody
8 blurted it out and it's not a tool to allow them to illicit
9 someone's entire story. And, Your Honor, I also think I
10 need to raise -- another problem is I think, at this point,
11 we have a confrontation problem as well, you know, going,
12 officer is going into what somebody else has said. So---

13 THE COURT: You're talking about what this particular,
14 Ms. Holly said?

15 That's all we're talking about right now.

16 MR. COOPER: I assume he's going to go into what
17 another witness said as well.

18 SOLICITOR JOPHLIN: That is an assumption of yours.
19 Do you see anything in this report laying a foundation
20 getting into anything anybody else said?

21 THE COURT: We're talking about Ms. Holly. Let's deal
22 with that. Basically he set up the startling event, the
23 utterance in that she's relaying her initial accounts to him
24 about something she's just witnessed. I don't know what
25 that testimony is going to be, but I have ruled that it does

Latavish Ulmer - Direct examination
by Solicitor Jophlin

1 follow and meet the criteria of excited utterance. But what
2 I don't want to get to is that you pretty much believe it
3 will be related to that incident report, the same things
4 that are on there.

5 SOLICITOR JOPHLIN: Yes, ma'am, limited to this
6 incident report so they can lay a foundation for him to
7 contact and get investigators, forensics out there. He has
8 to be able to lay a foundation to be able to establish a
9 crime scene, to rope everything off, to start a crime log.
10 He has to have some type of information to start this
11 process.

12 THE COURT: And this information is occurring right
13 there as he arrives on the scene, and there is even law that
14 says when there's a lapse in time that somebody could be
15 under stress and this could occur an hour later, and that
16 allows you to still be perceived as an excited utterance.
17 But---

18 SOLICITOR CAMPBELL: Your Honor, State versus Mandel
19 Sims, that case was actually a 12-hour difference between
20 the time of the event and the time the police made contact
21 with the child who had witnessed his mother being stabbed to
22 death with a knife. In that case the Court did allow them
23 to go into what the child related to them about what he knew
24 about the events, and they still felt like, even after
25 12-hours, it was an excited utterance because the child was

Latavish Ulmer - Direct examination
by Solicitor Jophlin

1 still traumatized.

2 There were other cases in the past that limited the
3 time period to an hour. I believe that's State versus
4 Lacost, and some of the older cases talk about how there
5 shouldn't be even one more than an hour time period. Here
6 we're talking about ten minutes.

7 THE COURT: The issue really is there's no time for
8 reflection.

9 SOLICITOR CAMPBELL: I don't mean to presume what the
10 officer is going to testify to. I think he says what
11 happens. This is what she relates. It's not that there was
12 an extensive, which was done later that night by
13 Investigator Godfrey, and I believe there is a recent case
14 out that specifically addresses any confrontation issues and
15 the exception of excited utterance. Confrontation issues do
16 not preclude the utterance of an exception, hearsay
17 exception. But I'm getting that case law.

18 MR. COOPER: The reason I would distinguish this
19 situation is we're not just talking about an excited
20 utterance, but a narrative that goes back and forth between
21 this officer and Ms. Holly at the scene, and I still think
22 that's not what the rule was designed for, and that's why I
23 think this situation is different from what Ms. Campbell
24 just mentioned, and I also think the confrontation problem
25 still exists. I think we reach that before we even reach

Latavish Ulmer - Direct examination
by Solicitor Jophlin

1 the question of hearsay.

2 THE COURT: well, she gets to relay the, what happened
3 to him under---

4 SOLICITOR CAMPBELL: That's the extent of what we're
5 doing. It's not what happened next, okay, did he have a
6 gun. I would agree goes beyond. This is information.
7 Could make a proffer here in Court that he wasn't
8 questioning her, but she volunteered this is information she
9 gave him. When he said what happened, this is the response
10 and---

11 THE COURT: Also how he reacts and---

12 SOLICITOR CAMPBELL: Also a public safety issue
13 exemption, but---

14 THE COURT: Go with the proffer right now.

15 CONTINUED DIRECT EXAMINATION

16 BY SOLICITOR JOPHLIN:

17 Q Deputy Ulmer, when you arrived on the scene, did you
18 ask Ms. Holly what happened?

19 A Yes, I did.

20 Q Did you have a prolonged interview with her?

21 A No, I didn't.

22 Q Approximately how long was your conference with
23 Ms. Holly to establish what happened that evening?

24 A No longer than probably less than five minutes.

25 Q And during that time, were you constantly asking her

Latavis Ulmer - Direct examination
by Solicitor Jophlin

1 questions or letting her talk freely?

2 A She was talking freely.

3 Q And were you taking notes at that time to determine --
4 and jotting down what she was saying to determine what
5 happened at that scene that evening?

6 A Yes.

7 Q And in order to -- do all investigators, all forensics
8 units, does everybody come to every crime scene that's
9 called in through dispatch?

10 A No, only ones -- the arriving officer -- they respond
11 and you call.

12 Q Oh, being necessary for the arriving officer to
13 determine what went on and talk to people to determine what
14 went on so they can make further requests of investigators
15 and further personnel from the Sheriff's Department?

16 A Yes.

17 Q The information you received, it was just blurted out
18 to you -- you didn't ask her continuous questions?

19 She blurted out this information to you when you asked
20 what was going on?

21 A When I asked her what was going on she just gave,
22 blurted out what happened.

23 Q There were no further questions?

24 She told you what happened within a few minutes and you
25 jotted down that information and---

Latavisch Ulmer - Direct examination
by Solicitor Jophlin

1 A Yes, I---

2 Q ---requested further assistance?

3 A I didn't ask any more questions after she told me what
4 happened.

5 SOLICITOR JOPHLIN: Nothing further.

6 THE COURT: Anything by the defense?

7 MR. COOPER: Your Honor, I think that testimony that
8 Mr. Jophlin just elicited from the officer said her, you
9 know, supposed excited utterance went on for five minutes.
10 I would still characterize it as an exchange designed to,
11 you know, illicit information much like one does an
12 interrogation from a witness. It also appears to me that
13 Mr. Jophlin's been trying to lay two different types of
14 foundation.

15 I mean, on the one hand he's trying to say well, you
16 needed to do this to get other people out there. If that's
17 the purpose of the testimony, then we certainly don't need
18 to go into details of what she said. It is enough for him
19 to just say based on what I heard, I called other units, you
20 know, based on the contact I had with her, other people
21 came, came out. If that's the purpose this testimony is
22 being offered for, he doesn't need to go into all of this.

23 THE COURT: But the way this has been set up,
24 respectfully that objection is overruled. If this is the
25 way the testimony will meet with respect to how the proffer

Latavish Ulmer - Direct examination
by Solicitor Jophlin

1 is, then you can continue on in that regard. I do believe
2 it has been set up, the foundation has to stress the events,
3 and it is not allowing for reflection or any significant
4 lapses of time, but just coming onto the scene and receiving
5 this information upon which offers we at---

6 SOLICITOR JOPHLIN: Thank you, Your Honor.

7 THE COURT: Anything further at this time?

8 SOLICITOR JOPHLIN: Nothing else.

9 THE COURT: Jurors please.

10 (Whereupon, the following takes place within the
11 presence of the jury panel.)

12 THE COURT: Deputy Ulmer, I remind you you're under
13 oath.

14 State may continue.

15 CONTINUED DIRECT EXAMINATION

16 BY SOLICITOR JOPHLIN:

17 Q Deputy Ulmer, to go back briefly, you say you arrived
18 at the Grand Motel within a few minutes of receiving the
19 dispatch?

20 A Yes, I did.

21 Q Your first contact on the scene at the Grand Motel was
22 with whom?

23 A Jacqueline Holly.

24 Q And you testified earlier Ms. Holly was upset when you
25 made contact with her?

Latavis Ulmer - Direct examination
by Solicitor Jophlin

1 A Yes.

2 Q what did you ask Ms. Holly when you first started
3 talking with her?

4 A what happened.

5 Q And did you ask her any further questions during that,
6 after that initial question?

7 A Only if she could describe the subjects.

8 Q Okay. When you asked her---

9 MR. COOPER: I must object again. That was not part of
10 the proffer.

11 SOLICITOR JOPHLIN: I'm not going into---

12 THE COURT: He asked him what -- he asked him what he
13 asked her. He didn't get a response from her. He just
14 asked him whether or not he asked anything further.

15 MR. COOPER: My objection is I think it calls for
16 hearsay. The question calls for it. He's going to get into
17 what the description was.

18 THE COURT: Going to limit you to---

19 SOLICITOR JOPHLIN: I'm not asking---

20 THE COURT: Thank you. Okay.

21 Q what was Ms. Holly's response when you asked her what
22 happened?

23 A She stated that it was two subjects came to her
24 apartment, to her room, 110, asked her what, where you can
25 get some drugs. So, she told them where, where they could

Latavish Ulmer - Direct examination
by Solicitor Jophlin

1 get some, Room 162. So, all parties went to Room 162,
2 entered the room. One subject stood at the door. The first
3 subject asked the guy where is the money. When he asked him
4 for the money, the victim walked away, turned around, and
5 that's when subject number one shot him, shot him, shot him,
6 and she heard five shots.

7 Q And were you able to speak with anyone else while you
8 were at the scene?

9 A No.

10 Q Were you able to take down the information of the other
11 bystanders at the scene?

12 A Yes.

13 Q And who were other witnesses that were at the scene
14 that night?

15 A Another witness was Ms. Camillia Goodwin, Jamilla
16 Goodwin, and Satierra Austin.

17 Q And after you got this initial information, you know
18 when you respond to a crime scene, you're responding because
19 dispatch says something's happening, correct?

20 A Yes.

21 Q Does the whole sheriff's department all the time go to
22 the incident location or do they have to be prompted somehow
23 for investigators to come out, for forensics to come out?

24 A Everybody in that region responds.

25 Q Automatically?

Latavish Ulmer - Direct examination
by Solicitor Jophlin

1 A Yes, they respond automatically until they're advised
2 and the scene is secure.

3 Q And do you make a request for investigators---

4 A Yes.

5 Q ---and forensic teams to come to a certain crime scene?

6 A Yes, I will.

7 Q And as a result of your initial notes and your incident
8 report, were you able to develop any descriptions of the two
9 individuals that Ms. Holly saw?

10 A Yes, a brief description.

11 Q What was the description for the first subjects?

12 MR. COOPER: Objection.

13 THE COURT: Okay.

14 MR. COOPER: Calls for hearsay.

15 THE COURT: And approach one more time, please.

16 (Whereupon, a bench conference was held outside the
17 hearing of the jury.)

18 THE COURT: Objection sustained.

19 Q Deputy Ulmer, were you able to, without going into the
20 description, were you able to develop a description of the
21 individual that went into that room?

22 A Yes.

23 Q Room 162?

24 A Yes.

25 Q And what -- were you able to get a description of the

Latavish Ulmer - Direct examination
by Solicitor Jophlin

1 vehicle that was at the scene that the subjects arrived in?

2 A Yes.

3 Q What did you do with the description of the vehicle and
4 the subjects?

5 A I radioed out to the other units in the area.

6 Q What is a BOLO?

7 What does that mean?

8 A Be on the look out for whatever description was given.

9 Q And after you did that, is it -- did you determine that
10 Room 162 -- did you determine it was a crime scene?

11 A Yes.

12 Q And what did you do with that area while you were
13 there?

14 A Take it off and start it off with a crime scene log.

15 Q And tape it off I guess with that yellow tape?

16 A Yes, yellow tape and blocking off the entrance into the
17 room and---

18 Q To make sure everything is like it was when you got
19 there?

20 A Yes.

21 Q And a crime scene log, what is that?

22 A It is a log of even, anyone that goes beyond the table
23 within the crime scene.

24 Q And you used that to have that from when you arrived
25 on---

Latavis Ulmer - Direct examination
by Solicitor Jophlin

1 A Yes.

2 Q After that you take notes of what went in, who went
3 out---

4 A The time.

5 Q ---and the times and who they were?

6 A Yes.

7 SOLICITOR JOPHLIN: Beg the Court's indulgence.

8 (Pause.)

9 Q was anyone apprehended at the scene that evening?

10 A Not to my knowledge, no.

11 Q And are you aware -- what was the victim's name?

12 A Tyrell Williams.

13 Q And what was his condition when he arrived?

14 A Mr. Williams was -- he was dead.

15 Q Okay. Could you tell how he had died?

16 A At that time I couldn't.

17 Q What did you do seeing how you have a dead person at
18 the scene?

19 What did you do?

20 Did you contact EMS?

21 A EMS was already contacted and the typical investigator
22 and the forensic investigator also was contacted.

23 Q Did EMS -- did they transport Mr. Williams off the
24 scene?

25 A Yes..

Latavis Ulmer - Direct examination
by Solicitor Jophlin

1 Q When you say the investigators came on the scene, the
2 forensics investigators, did you come to control the area
3 once they arrived or do they then take over the scene and---

4 A They would take over the scene.

5 Q And you sort of step aside at that point?

6 A Yes.

7 Q And that was -- was that the end of your involvement
8 with this particular case?

9 A Yes.

10 SOLICITOR JOPHLIN: Nothing further, Your Honor. Thank
11 you, Deputy Ulmer.

12 MR. COOPER: May it please the Court, Your Honor?

13 THE COURT: Excuse me?

14 MR. COOPER: May it please the Court?

15 THE COURT: Yes.

16 CROSS-EXAMINATION

17 BY MR. COOPER:

18 Q Good morning, deputy.

19 A Good morning.

20 Q You have been trained by the sheriff's department,
21 probably other places, in how to secure a crime scene,
22 right?

23 A Yes.

24 Q That's something you have done many times I suspect?

25 A Yes.

Latavish Ulmer - Cross-examination
by Mr. Cooper

1 Q And so, you used that training on this particular
2 evening, correct?

3 A Yes.

4 Q When you went into the room, you found a handgun in the
5 room, right?

6 A No.

7 Q You did?

8 Okay. When you went into the room, what was the -- was
9 there blood on the wall?

10 A Yes.

11 Q Was it on more than one wall?

12 A From where I was standing, yes.

13 Q All right. Now, you talked about EMS to Mr. Jophlin.
14 You watched EMS transport the body, right?

15 A Yes.

16 Q And you watched EMS make their first contact with the
17 body, right?

18 A Yes.

19 Q Did you see EMS bag Mr. Brown's hands at that time?

20 A No.

21 Q You didn't see EMS do anything to take the body,
22 transport it out, right?

23 A Yes.

24 Q And basically from what you observed, EMS left
25 everything else in the room intact the way it was?

Latavis Ulmer - Cross-examination
by Mr. Cooper

1 A Yes, they didn't disturb anything.

2 Q And that was part of your duty to make sure they did
3 that, right?

4 A Yes.

5 Q And you stayed there until the investigators arrived?

6 A Yes.

7 Q And as far as you know, nothing changed about the
8 condition of that room while you were there?

9 A Yes.

10 Q Except for Mr. Williams being --

11 A That's right, yes.

12 Q And you testified a minute ago that Mr. Williams was
13 dead when you arrived?

14 A To me, yes.

15 Q Is that just from looking at him?

16 A Just looking at him.

17 MR. COOPER: Okay. All right. Beg the Court's
18 indulgence for one second.

19 (Pause.)

20 Q Deputy, Mr. Jophlin discussed with you an incident
21 report you prepared in the case.

22 Do you recall noting in that report it was a rainy
23 evening?

24 A No, I don't. No, I didn't put that in there.

25 Q Do you disagree with me it was a rainy evening that

Latavish Ulmer - Cross-examination
by Mr. Cooper

1 night?

2 A No, I don't. I agree.

3 Q And let me go back to this report.

4 Your incident report indicates that a handgun was found
5 in the room and it came back stolen, doesn't it?

6 A No, sir, that's possibly on the investigative
7 follow-up. That's not in my report.

8 Q The investigative follow-up?

9 A Yes.

10 MR. COOPER: Okay. I have nothing further, Your Honor.

11 THE COURT: Anything further?

12 SOLICITOR JOPHLIN: Nothing, Your Honor.

13 THE COURT: Sir, thank you. You may step down.

14 SOLICITOR CAMPBELL: Your Honor, may he be excused?

15 THE COURT: He may be excused. Thank you.

16 SOLICITOR CAMPBELL: May it please the Court.

17 State calls Satierra Austin.

18 Beg the Court's indulgence a moment, Your Honor,
19 because it takes us a minute to get them.

20 SATIERRA AUSTIN, being first duly
21 sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY SOLICITOR CAMPBELL:

24 Q Ms. Austin, how old are you?

25 A Twenty-five.

Satierra Austin - Direct examination
by Solicitor Campbell

- 1 Q You live in the Columbia area?
- 2 A Yes, ma'am.
- 3 Q How long had you lived in Columbia?
- 4 A All my life.
- 5 Q Where did you go to high school?
- 6 A Eau Clair and Swansee High.
- 7 Q Are you currently employed?
- 8 A No, ma'am.
- 9 Q Back in November of 2006 were you working back then---
- 10 A No, I don't think so.
- 11 Q ---when this happened, what we're here for?
- 12 A No.
- 13 Q In fact, on November 21st of 2006, that day, what were
- 14 you trying to do that day, that afternoon?
- 15 A To get my GED.
- 16 Q And what were you -- where did you have to go to try
- 17 and get your GED?
- 18 A The adult education.
- 19 Q Where is the adult education located?
- 20 A Two Notch Road in the Covington area.
- 21 Q Do you know a young woman named Camillia Goodwin?
- 22 A Yes, ma'am.
- 23 Q How do you know Camillia Goodwin?
- 24 A She's my friend.
- 25 Q You know her sister, Jamilla?

Satierra Austin - Direct examination
by Solicitor Campbell

- 1 A Yes, ma'am.
- 2 Q Is she your friend also?
- 3 A Yes, ma'am.
- 4 Q Are Camillia and Jamilla twins?
- 5 A Yes.
- 6 Q Back in November of 2006 did Jamilla have a little boy?
- 7 A Yes, ma'am.
- 8 Q What was his name?
- 9 A Lazane Day.
- 10 Q Back in November of 2006 about how old would we have
- 11 been?
- 12 A Two.
- 13 Q That afternoon after you tried to get your, the stuff
- 14 done for your GED, where did you go?
- 15 A To the room with them.
- 16 Q Okay. When you say the room, tell the jury what you're
- 17 talking about.
- 18 A The Grand Hotel.
- 19 Q Tell the jury who was living there.
- 20 A Rell and Camillia.
- 21 Q When you say Rell, was that short for Tyrell?
- 22 A Yes, ma'am.
- 23 Q And what was his relationship with Camillia?
- 24 A Boyfriend and girlfriend.
- 25 Q Do you know, remember which room they were living in in

Satierra Austin - Direct examination
by Solicitor Campbell

1 the Grand Motel room at that time?

2 A I don't know the number. But it was at the back and at
3 the end at the top.

4 Q Those are actually two story, aren't they?

5 A Yes, ma'am.

6 Q Was his room on the top floor or the bottom floor?

7 A Top.

8 Q That afternoon do you remember about what time it was
9 when you got there?

10 A It was 3:00, 4:00 maybe.

11 Q You don't know exactly?

12 If you don't know, tell me you don't know.

13 A I don't know.

14 Q It was in, in the afternoon though?

15 A It was in the afternoon.

16 Q Why did you go to the Grand Motel to visit with
17 Camillia and Tyrell?

18 A Because it was raining that day and I didn't want to
19 stay to the bus stop, wanted to get this to the room, call
20 down---

21 Q When you got to the room that afternoon, was Camillia
22 there?

23 A Yes, ma'am.

24 Q Tyrelle there?

25 A Yes, ma'am.

Satierra Austin - Direct examination
by Solicitor Campbell

1 Q Anybody else in the room?

2 A Jamilla and her son.

3 Q And her son.

4 Once you got to the room, what did y'all do?

5 A We talked and I hadn't seen them in a while. So, we
6 talked and caught up and after a while they wanted to play
7 cards. So, we played cards and played cards and laughed and
8 talked.

9 Q The room of the Grand Motel, explain to the jury, was
10 this just like a single room in a typical motel room or
11 bigger than that?

12 A It was -- it was a big room.

13 Q Okay. Did it actually have a kitchen area?

14 A Yes, ma'am.

15 Q And a bathroom?

16 A Yes, ma'am.

17 Q And an area where the bed was?

18 A Yes, ma'am.

19 Q And an area where the table was with the couch?

20 A Yes, ma'am.

21 Q So, it's more kind of a suite type?

22 A Yes, ma'am.

23 Q That day you mentioned that y'all were at the table
24 playing cards?

25 A Yes, ma'am.

Satierra Austin - Direct examination
by Solicitor Campbell

1 Q And I wanted to turn your attention to when things got
2 bad, okay, that evening.

3 A Uh-huh. (Affirmative).

4 Q Some time after seven o'clock, is -- does that sound
5 about right?

6 A I'm not sure.

7 Q You don't understand.

8 But it's later in the evening, you had been there
9 several hours?

10 A Yeah.

11 Q What happened when you heard the knock on the door?

12 A Camillia got up and answered the door.

13 Q And what happened once Camillia -- did she open the
14 door?

15 A Yes, ma'am.

16 Q What happened next?

17 A Jackie, Jackie and the two dudes that came in.

18 Q Okay. Let me back up.

19 Jackie and two, the two dudes came in?

20 A Yes, ma'am.

21 Q So, it was Jackie and two guys?

22 A Yes, ma'am.

23 Q Had you ever seen -- did you know who Jackie was?

24 A No.

25 Q Okay. The female Jackie came in and then the two guys

Satierra Austin - Direct examination
by Solicitor Campbell

1 came in?

2 A Yes, ma'am.

3 Q Had you ever seen the two guys before?

4 A No, never.

5 Q When the two guys came in, who came in first?

6 A Jackie and -- Jackie came in, then the dude with the
7 dreads, and then the little short dude came in.

8 Q So, Jackie came in, then the dude with the dreads, and
9 then the shorter guy came in?

10 A Yes, ma'am.

11 Q In that order?

12 A Yes, ma'am.

13 Q You remember what the guy with the dreads was wearing?

14 A A black hoodie and I don't know what kind of pants. He
15 had a black hoodie on.

16 Q At first you couldn't see his dreads?

17 A I could see it because they was hanging out his face.

18 Q The second guy, the shorter guy, what was he wearing?

19 A I don't know. I didn't pay attention to him.

20 Q When you come into the doorway in the room, and this is
21 room, what, 162, is there kind of a hallway area?

22 A Yes, ma'am.

23 Q Is that the part where you saw Jackie and the taller
24 guy with the dreads?

25 A Yes, ma'am.

Satierra Austin - Direct examination
by Solicitor Campbell

- 1 Q Then the shorter guy behind him?
- 2 A Yes, ma'am.
- 3 Q And what happened next?
- 4 A They asked can they, can they get a 30.
- 5 Q They asked -- you remember who asked specifically or
- 6 can you remember that?
- 7 A I don't remember.
- 8 Q You remember hearing someone ask for a 30.
- 9 what is a 30?
- 10 A I guess they was asking for drugs.
- 11 Q For drugs?
- 12 A Yes, ma'am.
- 13 Q Do you know who they were asking about the drugs?
- 14 A To Tyrell.
- 15 Q Tyrell?
- 16 what happened next?
- 17 A He got up from the table and walked over to the, get
- 18 ready to walk over to the dresser, and the dude -- I'm still
- 19 looking at the dudes when they came in, and the dude with
- 20 the dreads put out, pulled out a gun.
- 21 Q At this point when they walked in with -- were you
- 22 sitting down or standing up?
- 23 A Sitting down.
- 24 Q Where were you sitting in the room?
- 25 A At the table. Kind of in the hallway near the table.

Satierra Austin - Direct examination
by Solicitor Campbell

- 1 Q Who was sitting with you at the table?
2 A Jamilla, Camillia. We still sit at the table and Rell
3 got up.
4 Q Where was the child?
5 A On my lap..
6 Q You said the dude with the dreads---
7 A Yes, ma'am.
8 Q ---is that right?
9 What happened as he approached you?
10 A He didn't approach me.
11 Q Okay.
12 A He just walked past.
13 Q Tyrell was going over towards a dresser and what
14 happened next?
15 A He pulled out a gun and he was walking past.
16 Q Who pulled out the gun?
17 A The dude with the dreads.
18 Q The guy with the dreads?
19 A Yes, ma'am.
20 Q And at that point did anyone else have a gun in that
21 room that you could see?
22 A No.
23 Q At that point, did anything else been said than what
24 you remember about a 30?
25 A No, just after the -- after that he told them -- they

Satierra Austin - Direct examination
by Solicitor Campbell

1 was tussling. He told me give me what you got and that---

2 Q Let me back up a second, and I want to take this
3 step-by-step, okay?

4 Basically the guy with the dreads pulled out the gun?

5 A Uh-huh. (Affirmative).

6 Q Then what happened?

7 A When he pull out the gun he walked behind me and I
8 yell -- when he first pulled out the gun, I yelled, said he
9 got a gun, and that's when Terrell turned around to tussle
10 with him with the gun.

11 Q Did they actually get into a physical altercation?

12 A Yes.

13 Q Fight?

14 A Yes, ma'am.

15 Q And it was Terrell -- and did Terrell have a gun at
16 that point?

17 A No.

18 Q Did the guy with the dreads still have the gun?

19 A Yes, ma'am.

20 Q And they were actually physically fighting, is that
21 correct?

22 A Uh-huh. (Affirmative).

23 Q You were still sitting at the table?

24 A Yes, ma'am.

25 Q With the two year old in your lap?

Satierra Austin - Direct examination
by Solicitor Campbell

1 A Yes, ma'am.

2 Q What happened next?

3 A They was tussling kind of behind me, and then the gun
4 went off one time, then they tussled. They was -- they had
5 fell. They went over there by the bed, fell on the bed
6 tussling. That's when I got up and I had the baby, got the
7 baby, and ran in the bathroom.

8 Q And you went and got in the tub in the bathroom?

9 A Yes, ma'am.

10 Q Why did you go in the bathroom?

11 A Because I was just trying to get away from the fighting
12 because he had the gun there.

13 Q At that point you had heard how many shots?

14 A One so far.

15 Q You and the child go into the bathroom and you actually
16 get into the bathtub?

17 A Yes, ma'am.

18 Q At that point could you actually see what was going on
19 out in the middle area?

20 A No.

21 Q Could you hear what was going on?

22 A Yes, ma'am.

23 Q What did you hear?

24 A A bunch of people like they was sitting against a wall
25 and I hear a gunfire.

Satierra Austin - Direct examination
by Solicitor Campbell

1 Q You know how many times you heard the gunfire that
2 evening?

3 A No, I just heard them. I didn't count. I just heard
4 them.

5 Q Over and over?

6 A Yes, ma'am.

7 Q It was more than just a few?

8 A Yes, ma'am.

9 Q At some point did somebody else come in the bathroom
10 with you?

11 A Jamilla.

12 Q Once she was in the bathroom, where did she go?

13 A She came and got in the tub with us.

14 Q What were y'all doing as you and the two year old and
15 Jamilla sat in the tub?

16 A We put our hands over Zane and put our head down in the
17 tub.

18 Q What happened next?

19 A We was just still in the bathroom. We was just staying
20 in the tub until we stop, heard, until we ain't hear no more
21 gunshots. Then that's when we got up.

22 Q Could you hear anybody in the other part of the room?

23 A All we hear is Camillia crying when she was out there.

24 Q Did y'all end up getting out of the tub?

25 A Yes, ma'am.

Satierra Austin - Direct examination
by Solicitor Campbell

1 Q And do you know how long you were actually in the
2 bathroom in the tub hiding?

3 A No.

4 Q Once you came out, what happened?

5 A We came out, we seen Rell in the doorway laying in the
6 doorway.

7 Q And what was he doing laying in the doorway?

8 A He was shot.

9 Q Was there blood everywhere?

10 A All over the wall and on the floor.

11 Q Did y'all get out of the room?

12 A When the police came we had to step over the body to
13 get out.

14 Q While you were in the bathtub, did you actually hear
15 the banging on the door or did you hear that?

16 A No, I couldn't hear.

17 Q And you were covering up your heads?

18 A (Witness nods affirmatively.)

19 Q But you could hear the shots clearly?

20 A Uh-huh. (Affirmative).

21 Q Did you ever hear the window being broken that you
22 recall?

23 A No.

24 Q The two men that came in the room, you mentioned you
25 didn't get a real good look at the one, did both of them

Satierra Austin - Direct examination
by Solicitor Campbell

1 come all the way in the room?

2 A No, just one with the dreads did.

3 Q The shorter guy you described, where did he stay?

4 A He stayed by the door.

5 Q By the door.

6 In this room, there's only one that comes out, is that
7 correct?

8 A Yes, ma'am.

9 Q In the back of this room, are there a series of big
10 windows?

11 A Yes, ma'am.

12 Q That afternoon before the dreads came, all those
13 windows were in tact?

14 They weren't broken?

15 A Right.

16 Q After you came out of the bathroom, did you notice one
17 of the windows had been broken out?

18 A The bottom one.

19 Q The gun that you saw the man with the dreads pull out,
20 can you describe it, what it looked like?

21 A It was a big gun, big and black.

22 Q Big and black?

23 A Uh-huh. (Affirmative).

24 Q Handgun or a rifle?

25 A A handgun.

Satierra Austin - Direct examination
by Solicitor Campbell

- 1 Q The guy with the dreads that pulled out the gun---
- 2 A Yes, ma'am.
- 3 Q ---you actually saw him shoot the first time?
- 4 A Yes, ma'am.
- 5 Q That's while he was struggling with Rell?
- 6 A Yes, ma'am.
- 7 Q Did you get a good look at him that day?
- 8 A Yes, ma'am.
- 9 Q And the room that day -- it was raining outside I
- 10 believe you said?
- 11 A Yes.
- 12 Q Were you able to see though when you were inside the
- 13 room?
- 14 A Yes, ma'am.
- 15 Q And about how far away from you was he when you got a
- 16 good look at him?
- 17 A About here to, right to that corner to that table right
- 18 there.
- 19 Q Within a few feet?
- 20 A Yes, ma'am.
- 21 Q Were you paying attention to what he looked like?
- 22 A Yes, ma'am.
- 23 Q Did you get a good look at his face?
- 24 A Yes, ma'am.
- 25 Q Later that evening, after all this happened, did the

Satierra Austin - Direct examination
by Solicitor Campbell

1 police actually make contact with you and spoke to you
2 briefly at the scene, didn't they?

3 A Yes, ma'am.

4 Q You told investigators briefly what had happened?

5 A Yes, ma'am.

6 Q And then later on, I believe about three days later,
7 they came and you met I believe with Investigator Godfrey?

8 A Yes, ma'am.

9 Q And he actually took down a written statement for you,
10 is that correct?

11 A Yes, ma'am.

12 Q And you told him basically what you're telling this
13 jury today?

14 A Yes, ma'am.

15 Q About what you knew?

16 A Yes, ma'am.

17 Q When he came and talked to you on the 24th, about three
18 days after this occurred, do you remember him showing you
19 some photographs?

20 A Yes, ma'am.

21 Q And I want to show you what's been marked already in
22 another hearing State's Exhibit No. 2.

23 Do you recognize that?

24 A Yes, ma'am.

25 Q And are those the photographs that Investigator Godfrey

Satierra Austin - Direct examination
by Solicitor Campbell

1 showed you on November 24th when he took a formal written
2 statement from you?

3 A Yes, ma'am.

4 Q And when he showed you those photographs, did he, in
5 any way, suggest who you should recognize?

6 A No, ma'am.

7 Q Did he tell you who to pick?

8 A No, ma'am.

9 Q And what, if anything, did he say to you when he showed
10 you these photographs?

11 A The only thing he said was they might look different,
12 thanked me, and then took it down at that time to make it
13 look different.

14 Q Did he influence your recognition of anybody in any
15 way?

16 A No.

17 Q Did he tell you who to pick?

18 A No, ma'am.

19 Q And when you looked at State's Exhibit No. 2, it didn't
20 have all this handwriting on it, did it?

21 A No.

22 Q That's what you put on it later after you looked at the
23 six pictures, is that correct?

24 A Yes, ma'am.

25 Q When you looked at State's Exhibit No. 2 and looked at

Satierra Austin - Direct examination
by Solicitor Campbell

1 those six photographs, did you recognize anyone in those
2 photographs?

3 A Yes, ma'am.

4 Q Which one did you recognize?

5 A Number three.

6 Q Why did you recognize number three of those photos?

7 A Because---

8 Q Who was it?

9 A His face, the dreads.

10 Q Was that the man that pulled out the gun?

11 A Yes, ma'am.

12 Q And you recognized him based on what you saw happened
13 in that motel room that day?

14 A Yes, ma'am.

15 Q Once you indicated -- did you tell Investigator Godfrey
16 you recognized him?

17 A Yes, ma'am.

18 Q At that point did he ask you to initial by the picture
19 you recognized?

20 A Yes, ma'am.

21 Q I think this notes even some comments you made about
22 how his hair might be longer?

23 A Yes, ma'am.

24 Q But it is the right facial features?

25 A Yes, ma'am.

Satierra Austin - Direct examination
by Solicitor Campbell

1 Q And even asked you on a scale of one to ten how sure
2 you were that was the person and you said it would be like
3 an eight?

4 A Yes, ma'am.

5 Q And later on in your statement he even asked you some
6 questions about were you confident that was the person and
7 you told him yes?

8 A Yes, ma'am.

9 Q And when you identified the person in State's Exhibit
10 2, that is the person you saw pull out the gun and actually
11 fire the first shot?

12 A Yes, ma'am.

13 SOLICITOR CAMPBELL: At this time I offer State's 2 in
14 evidence.

15 THE COURT: Any objection?

16 MR. COOPER: No objection.

17 THE COURT: No objection.

18 (Whereupon, State's Exhibit No. 2 was received into
19 evidence at this time.)

20 SOLICITOR CAMPBELL: Beg the Court's indulgence.

21 Q Satierra, the person you saw come in with a black
22 hoodie and the dreads pull out the big black gun, do you see
23 him in the courtroom?

24 A Yes, ma'am.

25 Q Can you point him out for the jury?

Satierra Austin - Direct examination
by Solicitor Campbell

1 A Right there.

2 Q Is he seated at the table?

3 A Right there in the middle.

4 Q In the middle?

5 A Yes, ma'am.

6 SOLICITOR CAMPBELL: Let the record reflect she
7 identified the defendant.

8 THE COURT: So noted.

9 Q Has his appearance changed since you saw him then?

10 A His hair.

11 Q What's different about his hair?

12 A He don't have the dreads.

13 Q Is it the same, ma'am?

14 A Yes, ma'am.

15 SOLICITOR CAMPBELL: Thank you, Ms. Austin. Please
16 answer any questions the defense may have.

17 THE COURT: Okay.

18 CROSS-EXAMINATION

19 BY MR. COOPER:

20 Q Good morning, Ms. Austin.

21 A Good morning.

22 Q You told Ms. Campbell that you went up to room, to the
23 Grand Motel because you were waiting on a bus, right?

24 A Yes, sir.

25 Q And you didn't want to wait in the rain?

Satierra Austin - Cross-examination
by Mr. Cooper

- 1 A Yes, sir.
- 2 Q And that was about three o'clock, four o'clock,
3 somewhere around there?
- 4 A Yes, sir.
- 5 Q And you were still in that room at ten o'clock that
6 night, right?
- 7 A Yes, sir.
- 8 Q You were waiting on that bus for four hours?
- 9 A It never stopped raining.
- 10 Q You were in the room for four hours?
- 11 You were in the room for a good long while is all I'm
12 saying, right?
- 13 A Yeah.
- 14 Q And y'all were talking and watching TV, right?
- 15 A Yeah.
- 16 Q Playing cards?
- 17 A Yeah.
- 18 Q Drink some beers?
- 19 A No, I don't drink.
- 20 Q You didn't drink any beers?
- 21 A No.
- 22 Q Other people in the room drinking beers?
- 23 A Not that I remember, no.
- 24 Q All right. So, watch a good four hours of TV, watch a
25 good, play some cards for a few hours, right?

Satierra Austin - Cross-examination
by Mr. Cooper

1 A Yes, sir.

2 Q And there's a -- I guess what you could call a card
3 table in that room, right, a little square table?

4 A Yes, sir.

5 Q And Ms. Campbell talked to you about a little hallway
6 when you come into the room.

7 That table is to your right after you come through that
8 hallway, right?

9 A Yes, sir.

10 Q All right. You were sitting at that table, right?

11 A Yes, sir.

12 Q And you were holding the baby on your lap, right?

13 A Yes, sir.

14 Q All right. And you were sitting in the seat facing the
15 wall, right?

16 A Yes, sir.

17 Q Okay. So, when these people came into the room that
18 evening, you kind of had to turn around to look at them,
19 right?

20 A I could just turn my head. I ain't got to turn my
21 body.

22 Q Turn your head. That's fine.

23 You had to turn your head, right?

24 A Yes, sir.

25 Q Now, eventually you ended up in the bathtub---

Satierra Austin - Cross-examination
by Mr. Cooper

1 A Yes, sir.

2 Q ---in the room, right?

3 A Yes, sir.

4 Q And only a few seconds passed between the time you were
5 at that table, people came in, and you ended up in the
6 bathtub, right?

7 A Yes, sir.

8 Q All right. Ms. Campbell talked to, to you about
9 talking to Investigator Godfrey.

10 You remember that, right?

11 A Yes, sir.

12 Q And you -- at that time you told him everything you
13 knew?

14 A Yes, sir.

15 Q And that was three years ago?

16 A Yes, sir.

17 Q A few days after it happened, right?

18 A Yes, sir.

19 Q Three days after it happened, something like that?

20 A Yeah.

21 Q And you filled him in on everything that you remember
22 from that evening, right?

23 A Yes.

24 Q But you didn't tell him anything about hearing a guy
25 with a gun say give me the money, did you?

Satierra Austin - Cross-examination
by Mr. Cooper

1 A Yeah.

2 Q Well, was he writing down everything that you said when
3 you had your talk with him?

4 A Yeah.

5 Q He was?

6 A Yeah.

7 Q Well, do you remember, after he talked with you, him
8 showing you a written statement?

9 A Yeah, because I signed it.

10 Q You signed it, right?

11 You remember that?

12 A (Witness nods affirmatively.)

13 Q Okay. Let me show you the statement and see if you
14 recognize it.

15 Does this appear to be the statement that you gave?

16 A Yes, sir.

17 Q Now, I want to show you everything to be clear about
18 it.

19 Your signature is on each page, right?

20 A Uh-huh. (Affirmative).

21 Q You recognize that?

22 A Yes, sir.

23 Q This is the statement that you gave to Investigator
24 Godfrey, correct?

25 A Yes, sir.

Satierra Austin - Cross-examination
by Mr. Cooper

1 Q Well, I want you to point out to me where you tell him
2 that you heard the guy with the gun say give me the money.

3 Can you do that for me?

4 A Yes, sir.

5 Q All right.

6 A It's not in here.

7 Q It's not in there. Okay. That's all right.

8 So, you didn't tell him that?

9 A I thought I did.

10 Q You thought you did?

11 A Yeah.

12 Q I want to talk about -- Ms. Campbell addressed the
13 window with you.

14 You didn't see anybody break the window, is that right,
15 because you were in the bathtub, right?

16 A Uh-huh. (Affirmative).

17 Q You just testified a second ago to Ms. Campbell that
18 you, that you saw Rell struggling with the guy that came in
19 the room, right?

20 A Yes, sir.

21 Q And that's when you heard the shot, right?

22 A Yes. Yes, sir.

23 MR. COOPER: Okay. That's all I have, Your Honor.

24 SOLICITOR CAMPBELL: Just a few questions, Your Honor.

25 REDIRECT EXAMINATION

Satierra Austin - Redirect examination
By Solicitor Campbell

1 BY SOLICITOR CAMPBELL:

2 Q After that you heard more shots and more shots and more
3 shots?

4 A Yes, ma'am.

5 Q And that's when you were hiding in the bathtub
6 protecting you and the two year old?

7 A Yes, ma'am.

8 Q He said about, to you that you were still there at ten
9 o'clock that night.

10 If I were to tell you that this all happened around
11 seven o'clock, you wouldn't disagree with that, would you?

12 A No.

13 Q So, you weren't there at ten o'clock?

14 You aren't sure about times?

15 A No, I'm not sure about the times. It's just---

16 Q Police officers would be sure about the times?

17 A It was just late.

18 Q You also -- he gave you that to read through.

19 Are you a little bit nervous today?

20 A Yes, ma'am.

21 Q And he asked you to read through and specifically about
22 saying what the shooter said. If I help you a little bit
23 and direct you to your statement, three-fourths down the
24 second page, do you talk about what the shooter said?

25 A This right here?

Satierra Austin - Redirect examination
By Solicitor Campbell

1 Q Right. I heard the shooter say I -- right after that.

2 A I heard the shooter say give it up.

3 Q And that was the money that you inferred?

4 A (Witness nods affirmatively.)

5 Q So, you did put that in your statement?

6 A (Witness nods affirmatively.)

7 Q Are you okay?

8 A (Witness nods affirmatively.)

9 THE COURT: Anything further?

10 RE CROSS EXAMINATION

11 BY MR. COOPER:

12 Q Ms. Austin, you, you told Investigator Godfrey that you
13 heard Jackie say something about---

14 SOLICITOR CAMPBELL: Objection, Your Honor. Outside
15 the scope of redirect.

16 MR. COOPER: It's cross-examination, Your Honor. She
17 went into what Ms. Austin heard.

18 THE COURT: Just needs to be related to redirect.

19 MR. COOPER: Your Honor, if you give me one moment.

20 THE COURT: Okay.

21 MR. COOPER: Sorry, Your Honor. I'm trying to keep it
22 within your direction.

23 THE COURT: Okay.

24 Q Okay. Ms. Austin, I know Mrs. Campbell was just
25 talking to you about what you heard said in the room.

Satierra Austin - Recross examination
By Mr. Cooper

1 A Yes, sir.

2 Q And what you did hear say in the room was---

3 SOLICITOR CAMPBELL: Your Honor, may we approach?

4 THE COURT: Yes.

5 (Whereupon, a bench conference was held outside the
6 hearing of the jury at this time.)

7 MR. COOPER: Your Honor, I have nothing further.

8 THE COURT: You may step down and be excused.

9 SOLICITOR CAMPBELL: Thank you, Your Honor.

10 THE COURT: Y'all wish to proceed with some other
11 witnesses at this time?

12 We need to give you-all a break.

13 I'm going to ask you to step to your jury room.

14 Remember not to discuss the case in any form or fashion.

15 Then we'll be with you shortly.

16 (Whereupon, the following takes place outside the
17 presence of the jury panel.)

18 THE COURT: Anything the Court needs to discuss?

19 MR. O'NEILL: Your Honor, for the record, basically
20 ruling on Ms. Austin's subpoena, we would have an objection
21 to her being released for a subpoena because we may call her
22 later in the case in chief.

23 THE COURT: Okay. If the State would just make her
24 aware of that.

25 SOLICITOR CAMPBELL: We will keep her available, Your

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by Solicitor Campbell

1 Honor. If they'd let us know just ahead of time.

2 THE COURT: Exactly. That's fine. But she is to be
3 excused from the proceedings until such time.

4 Anything further?

5 Y'all be at ease about ten minutes or so.

6 (Whereupon, a short recess was taken at this time.

7 State's Exhibits Nos. 3 through 133 were marked for
8 identification purposes only at this time.)

9 THE COURT: We can probably deal with one short witness
10 and then take lunch.

11 SOLICITOR CAMPBELL: Your Honor, with the Court's
12 permission, we'd like to put up Ms. Holly next because she
13 has transportation issues.

14 THE COURT: That's fine.

15 (Whereupon, the following takes place within the
16 presence of the jury panel.)

17 THE COURT: As an aside, I got a note from one of the
18 jurors about some child care issues, and I am aware of that
19 to try to conclude by 5:00 today unless we're in the middle
20 of a witness, but for the most part, we're going to try to
21 get out on time.

22 Thank you-all.

23 SOLICITOR CAMPBELL: May it please the Court.

24 State calls Jackie Holly.

25 JACKIE HOLLY, being first duly

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1 sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY SOLICITOR CAMPBELL:

4 Q Ms. Holly, how old are you?

5 A I'm 40 years old.

6 Q Are you from Columbia?

7 A Yes, ma'am.

8 Q You lived here all your life?

9 A I was raised in North Carolina. But I was raised up in
10 Columbia.

11 Q Did you go to high school here?

12 A Yes, ma'am.

13 Q What high school did you go to?

14 A I went to Columbia High School.

15 Q Are you married?

16 A Yes, ma'am.

17 Q How long you been married?

18 A Me and my husband been together for 23 years. I been
19 married for like 16 years.

20 Q Jackie, I want to turn your attention back to November
21 of 2006.

22 where were you living back then?

23 A At the Grand Motel.

24 Q Were you working?

25 A No, ma'am.

Jackie Holly - Direct examination
by Solicitor Campbell

- 1 Q Did your husband work?
- 2 A Yes, ma'am.
- 3 Q Specifically, the day of November 21st of 2006, that
- 4 evening, do you remember what the weather was like that day?
- 5 A It was raining.
- 6 Q Did you have occasion to leave your room and go to the
- 7 store?
- 8 A Yes, ma'am.
- 9 Q What were you going to the store to get?
- 10 A I went to the store -- went to KFC to get me something
- 11 to eat, and then I went to a little gas station, which the
- 12 welfare office---
- 13 Q And what did you get at the gas station by the welfare
- 14 office?
- 15 A I went and got me a beer.
- 16 Q After you got the KFC and the beer, where did you go?
- 17 A I walked to the rent office, let the rent man know I
- 18 was back, and I went straight to my room.
- 19 Q In this motel -- y'all were living there?
- 20 A Yes, ma'am.
- 21 Q And paying on a weekly basis?
- 22 A Yes, ma'am.
- 23 Q And you have to check in and out with the guy at the
- 24 front desk?
- 25 A Not really. I just let him know that I'm back so that

Jackie Holly - Direct examination
by Solicitor Campbell

1 way he could keep an eye on me before it get let---

2 Q That evening after you checked in with the guy at the
3 rent office, did you go back to your room?

4 A Yes, ma'am.

5 Q What room did you live in?

6 A 110.

7 Q Are there kind of two or three different parts of this
8 motel?

9 A It's like four rooms, apartments, like a room.

10 Q Some has two levels and some has one level?

11 A Yes, ma'am.

12 Q The one you were staying in, was it one room or two
13 rooms?

14 A I was on the ground.

15 Q I show you what's been marked as State's Exhibit 82 for
16 identification.

17 Do you recognize that?

18 A Yes, ma'am, that's where I stayed at.

19 Q These were taken on a different day, but do they fairly
20 and accurately depict where they were staying at the front
21 of the hotel?

22 A Yes, ma'am.

23 Q What street is the hotel located on?

24 A Two Notch Road.

25 Q Does that show the sign where it's located?

Jackie Holly - Direct examination
by Solicitor Campbell

1 A Yes, ma'am.

2 Q What intersection is it near on Two Notch Road?

3 A Beltline and Two Notch Road.

4 Q Near Beltline and Two Notch?

5 A Yes.

6 Q Room 110 in State's Exhibit 82---

7 A That's my room.

8 Q In order to get in after you checked with the manager
9 or rent guy, did you have to walk through the parking lot to
10 get to your room?

11 A Yes, ma'am.

12 Q Tell the jury what happened after you left there.

13 A After I left my rent office, I left my room and opened
14 up my door and opened up my curtains and get ready to open
15 my beer so I can drink it. And when I open my curtains up I
16 notice the van sitting right across the parking lot, and I
17 seen the two guys walking to my room, and I knock on the
18 door, they knock on the door and I opened the door and let
19 them in, and they ask me where can I---

20 MR. O'NEILL: Objection.

21 May we approach?

22 THE COURT: Sure.

23 (Whereupon, a bench conference was held out of the
24 hearing of the jury at this time.)

25 THE COURT: Sustained as to a prior ruling by the

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1 Court.

2 Q Jackie, you said you saw two men coming towards you?

3 A Yes, ma'am.

4 Q And did they come in?

5 A Yes, ma'am.

6 Q Did both ask you about scoring or one of them asked
7 you?

8 A One of them asked me.

9 Q Do you remember which one asked you?

10 A No, ma'am, I can't remember which one.

11 Q Did the two guys look kind of different?

12 A Yeah, they're different now.

13 Q Were they different back then?

14 A Yes.

15 Q Was one taller than the other?

16 A Yes, ma'am.

17 Q Was there any other distinctive things about the taller
18 one?

19 A The taller one had a hood over his plats.

20 Q Plats?

21 A On his head, yeah.

22 Q When you say plats --?

23 A Dreadlocks.

24 Q That kind of thing?

25 A Yeah.

Jackie Holly - Direct examination
by Solicitor Campbell

1 Q And the shorter one, what did he look like?

2 A He was stout with a hoodie over his head.

3 Q So, the two of them walked in and one of them said what
4 to you?

5 A That asked me where I could get some from. I told them
6 yeah. They give me money, I walk out in front of him, and
7 get it, and they told me no, they was going to walk with me.
8 So, I grabbed my jacket and put my jacket on and we walked
9 down there.

10 Q Let me slow you down for one second.

11 Are you a little nervous, Jackie?

12 A Yes, ma'am.

13 Q Let me ask you this.

14 why would they know to come to you?

15 A I guess because I'm not the, standing outside no more
16 when it was walking, raining.

17 Q Is it uncommon for people to come to the Grand Motel to
18 get drugs?

19 A Not really. Anybody can walk up to you and ask you
20 where they could get something from or whatever.

21 Q These two guys, when you first saw them that evening,
22 did you ever really see them before?

23 A Not really.

24 Q The stout one, had you seen him at the motel before?

25 A Yeah, I seen him at the motel one time before.

Jackie Holly - Direct examination
by Solicitor Campbell

1 Q And then later when you, when you look at the taller
2 one, had you actually seen him before?

3 A I seen him out the, the -- the crime hadn't happened.
4 Remember his face from years ago.

5 Q From years ago?

6 A Yes, ma'am.

7 Q Neither one of them did you really know?

8 A No, not personally.

9 Q What did they ask you for?
10 One of them asked you for?

11 A One of them asked me would I walk them to get
12 something.

13 Q To get something?

14 A (Witness nods affirmatively.)

15 Q What did something mean?

16 A Drugs, crack.

17 Q And did you agree to do that?

18 A Yes, ma'am.

19 Q Where did you walk them to?

20 A I walked them upstairs to the young fellow's room, the
21 one who got shot.

22 Q You were taking them there because they wanted some
23 crack and you were helping them?

24 A Yes, ma'am.

25 Q I want to show you State's Exhibit 77.

Jackie Holly - Direct examination
by Solicitor Campbell

1 Do you recognize that?

2 A Yes, ma'am.

3 Q Is that towards the back of the motel?

4 A That's the back of the motel.

5 Q Does that actually show the room where you took them to
6 that day?

7 A Yes, ma'am.

8 Q And which one is it?

9 A It's the second one from the end back there.

10 Q Right below where my finger is?

11 A Yes, ma'am.

12 SOLICITOR CAMPBELL: At this time we offer 77 without
13 objection.

14 MR. O'NEILL: No objection.

15 (Whereupon, State's Exhibit No. 77 was received into
16 evidence at this time.)

17 Q It's the second one from the end on the upper or lower
18 level?

19 A On the top stair.

20 Q That's where you walked them that day.

21 Again, what was the weather like?

22 A It was raining.

23 Q Once you got to the room, did y'all -- what happened
24 when you got to the door?

25 A When we got to the door we knocked on the door.

Jackie Holly - Direct examination
by Solicitor Campbell

1 Q Who knocked?

2 A I knocked on the door.

3 Q Okay.

4 A The young lady opened the door and I walked in behind
5 them, and as we walked in, I noticed the guy closed the door
6 and put his foot behind the door.

7 Q Which guy?

8 A The stout one.

9 Q The stout guy?

10 A Yeah.

11 Q Once y'all got inside, is that kind of a hallway you
12 walk into?

13 A It's a hallway you walk into. So, when I turned
14 around, when we kept walking, I turned around so I could go
15 back out, and that's when I noticed the foot was at the
16 door, and he wouldn't let us out, and he told me, ma'am, you
17 better, you better backup, and I'm like what is y'all doing,
18 and the man come, came there. They pull out the gun and
19 said---

20 MR. O'NEILL: Objection, Your Honor.

21 THE COURT: Sustained.

22 Q Let me slow you a little down. You mentioned one was
23 at the doorway.

24 A Yes, ma'am.

25 Q He had a foot against the door?

Jackie Holly - Direct examination
by Solicitor Campbell

1 A Yes, ma'am.

2 Q The second one, the tall guy, where was he in the room?

3 A He walked down the hall by the dresser.

4 Q Near the dresser?

5 A Yes, ma'am.

6 Q You mentioned something about a gun.

7 who pulled out a gun?

8 A The guy with the dreadlocks pulled out a gun.

9 Q At that point, what happened?

10 A He pointed the gun at the young fellow and asked him---

11 MR. O'NEILL: Objection, Your Honor. Renew my previous

12 Riddle and Brady objection to this testimony.

13 THE COURT: The Court will abide by its prior rulings.

14 Q You can say what he---

15 A I -- can I finish?

16 Q Yes, ma'am.

17 A Then he point the gun at the guy and told him give him
18 his products, and I guess the guy must have realized, and he
19 went to reach for the gun, and he got to tussling on the
20 gun, and the gun went off. And when I heard the gunshot I
21 ran and I hid by the chair with my head covered up, and I
22 jumped up and get shooting. So, I kept running around the
23 room trying to find me a safe place and I ended up in the
24 kitchen, and the guy was -- the young guy that got shot ran
25 behind me and grabbed me and both of us fell to the floor,

Jackie Holly - Direct examination
by Solicitor Campbell

1 and then he finally let me go and I ran toward the closet,
2 the closet by the door, and one of the twins ran in the
3 closet with me, and that's when I heard the rent man trying
4 to beat on the door.

5 And then when, when the rent man was beating on the
6 door, the guy had done took the chair and throwed the chair
7 out the window to get out. And when the rent man opened the
8 door, the other guy ran right past him, and that's how he
9 got away. I didn't---

10 Q Let me back---

11 A That's how I get the blood all over my clothes.

12 Q Where were you when you -- when you saw the two of them
13 start tussling over the gun---

14 A I ran by this chair to duck my head down.

15 Q Chair or a couch?

16 A Couch right there.

17 Q And that's kind of over in the area near the table?

18 A Yes, ma'am.

19 Q Okay. And you were ducking down at that point?

20 A Yes, ma'am.

21 Q What were you doing with your face?

22 A I had my head covered up.

23 Q Like this?

24 A Yeah, after I heard the first gunshot I covered my head
25 up.

Jackie Holly - Direct examination
by Solicitor Campbell

- 1 Q Where were the two tussling?
- 2 A They was tussling and that's how he got shot when I
- 3 first shot---
- 4 Q First shot---
- 5 A ---went---
- 6 Q Who had the gun when it went off?
- 7 A The one with the hood.
- 8 Q Anybody else have a gun in the room that day?
- 9 A No, ma'am.
- 10 Q You ran over by the couch and were you able to see
- 11 what's going on?
- 12 A I covered my head up and I thought, thought he was
- 13 shot, and that's when I got up and went running around the
- 14 room.
- 15 Q You didn't actually, after the first shot, the shots go
- 16 off?
- 17 A No, I have a panic attack and start running all around
- 18 the room.
- 19 Q And the only person you saw with the gun that day was
- 20 the guy with the dreads?
- 21 A Yes, ma'am.
- 22 Q What kind of gun was it, a handgun, right?
- 23 A I didn't know what kind of gun it was. All I know it
- 24 was a gun and it went off, and I don't know what kind it was
- 25 or nothing.

Jackie Holly - Direct examination
by Solicitor Campbell

1 Q You went by the couch first and you ran down the
2 hallway?

3 A Yeah.

4 Q Into the kitchen area?

5 A I ran around the table towards the kitchen and the
6 young guy that got shot, who was running behind me too,
7 grabbed me and both fell to the kitchen floor.

8 Q At any point when the young man grabbed you did he have
9 the gun?

10 A No, ma'am.

11 Q Could you tell where the guy with the gun was at that
12 point?

13 A He was throwing the chair out the, out the---

14 Q What you thought was a chair out the window?

15 A Yeah.

16 Q Do you know how many shots you heard that day?

17 A I heard about five.

18 Q Could it have been more?

19 A It could have been more, but I heard five because I was
20 so scared I just -- I was out of it.

21 Q You mentioned that the guy that got shot came and
22 actually grabbed you?

23 A Yeah.

24 Q Where were you when he grabbed you?

25 A Around -- I was running -- I ran around the kitchen

Jackie Holly - Direct examination
by Solicitor Campbell

1 table and ran in the kitchen, and that's when he grabbed me
2 and both of us fell on the kitchen floor.

3 Q Right next to the front door?

4 A Which end -- it's in the hallway, but you've got to
5 turn to go into the kitchen.

6 Q Where did he end up?

7 Do you know?

8 A No, ma'am.

9 Q You said you heard -- the next thing you heard before
10 you even heard the breaking glass was the banging at the
11 door?

12 A Yeah, that's what -- I think that's what made the guy
13 panic and he grabbed the chair and threw it out the back
14 window and jumped across the window.

15 Q And you ended up in the closet on the hallway?

16 A I was in the closet.

17 Q Did anybody else end up in the closet with you?

18 A Yes, ma'am, one of the twins was in the closet with me.

19 Q One of the twins?

20 A Yes, ma'am.

21 Q Who else was in that apartment that day?

22 You remember?

23 A When we first walked in it was a baby walking across a
24 table, and it was two twins, and a young lady I worked with
25 from McDonald's, the guy, the young fellow that rented the

Jackie Holly - Direct examination
by Solicitor Campbell

1 room, and me, and those -- the two robbers.

2 Q You mentioned the one guy threw something through the
3 window.

4 A Yes, ma'am.

5 Q The other guy, how did he get out?

6 A After the rent man opened the door he ran right past me
7 and I kept telling Mike, I said you just let one of them get
8 away, one of them went right out the front door.

9 Q After Mike opened the front door, did you see where the
10 victim ended up?

11 A No, ma'am, because Mike told me to go ahead out the
12 room. He told me go on up to my room. I didn't know he was
13 there or anything. They came and told me he was there.

14 Q And did you wait for the police in your room?

15 A Yes, ma'am.

16 Q And did they come around shortly after?

17 One of the officers came up and talked to you?

18 A Yes, ma'am.

19 Q And did you tell them what had happened?

20 A I told them what happened, yes, ma'am.

21 Q Later that evening did you then make contact or
22 Investigator Godfrey find you?

23 A Yes, ma'am.

24 Q You were still waiting in your room?

25 A Yes, ma'am.

Jackie Holly - Direct examination
by Solicitor Campbell

- 1 Q And did you go down to the police headquarters?
- 2 A I went to the police station.
- 3 Q Did they want to get anything from you that day?
- 4 A My report, what happened.
- 5 Q Okay. What about your clothes?
- 6 A They took my clothes.
- 7 Q Why---
- 8 A They took my clothes before I left the motel. They
- 9 made me change my clothes while I was there.
- 10 Q They took your clothes?
- 11 A Yes, ma'am.
- 12 Q Why was that?
- 13 A Because I had blood all over my clothes.
- 14 Q Whose blood was it?
- 15 A The young fellow's.
- 16 Q Once there, did you give him a statement?
- 17 A Yes, ma'am.
- 18 Q Were you a little upset that evening?
- 19 A Yeah, I was. I was. I---
- 20 Q Okay. Were you able to give them a description of the
- 21 two guys?
- 22 A Yes, ma'am.
- 23 Q Do you remember the description you gave them?
- 24 A Yes, ma'am.
- 25 Q And the guy that stayed by the door that had his foot

Jackie Holly - Direct examination
by Solicitor Campbell

1 against the door and wouldn't let you out---

2 A Yes, ma'am.

3 Q ---what did he look like?

4 A He was fat, chubby, had a hood over his head, bright
5 skin, I mean light skin, brown skin, or---

6 Q Okay. Do you remember what he was wearing?

7 A No, ma'am, it -- I was so scared I didn't notice his
8 clothes.

9 Q Did he ever have a gun you saw?

10 A No, ma'am, he didn't have a gun.

11 Q The guy with the dreads, the guy that pulled out the
12 gun, what did he look like?

13 A Tall and skinny and he was rough looking with face sunk
14 in like bumps, holes, or something. I mean he looked bad.
15 He had dreadlocks and looked -- he was off the chain. I
16 mean he looked rough.

17 Q You also mentioned they came -- you saw them through
18 the window in your room.

19 When you first saw them, there was a van out there?

20 A Yes, ma'am.

21 Q What did the van look like?

22 A A brown tan van just marked on the corner.

23 Q Could you actually see who was in the van?

24 A No, ma'am.

25 Q Was the van gone after all this happened?

Jackie Holly - Direct examination
by Solicitor Campbell

1 A After all that happened, yeah, when the guy ran out the
2 door by the time I got -- by the time Mike told me to go
3 back to my room the van had done pulled out.

4 Q After you gave the police that statement that night did
5 you go back to the Grand Motel?

6 A Yes, ma'am.

7 Q Why did you go back there?

8 A Because that's where I stayed at.

9 Q After the next day, did Investigator Godfrey make
10 contact with you again?

11 A Yes, ma'am.

12 Q Did he show you some photographs?

13 A He showed me some photos.

14 Q The first time he came he showed you some photographs,
15 and when you looked at those photographs did you recognize
16 one of the men, the men at the door?

17 A Yes, ma'am.

18 Q And did you point him out for the investigator?

19 A Yes, ma'am.

20 Q Later that evening did Investigator Godfrey come back
21 and show you some more photographs?

22 A Yes, ma'am.

23 Q I want to show you what's been marked as State's
24 Exhibit No. 1.

25 Do you recognize those?

Jackie Holly - Direct examination
by Solicitor Campbell

1 A Yes, ma'am.

2 Q And were those the photographs that he showed you later
3 that evening?

4 A Yes, ma'am.

5 Q And these photographs was different from the first set
6 of photographs he showed you, is that correct?

7 A Yes, ma'am.

8 Q And when you looked at these photographs, do you
9 remember what, if anything, he said to you?

10 A He asked me which one was on the picture and I pointed
11 him out.

12 Q Did you recognize someone on that?

13 A Yes, ma'am.

14 Q Which one did you recognize?

15 A The one on the end.

16 Q After you pointed that out to Investigator Godfrey, did
17 he have you initial that?

18 A Yes, ma'am.

19 Q And circled the number four?

20 A Yes, ma'am.

21 Q And I believe the note says you said that you're a
22 hundred percent sure that's the shooter?

23 A Yeah.

24 SOLICITOR CAMPBELL: At this time we offer State's 1
25 for evidence.

Jackie Holly - Direct examination
by Solicitor Campbell

1 MR. O'NEILL: No objection.

2 THE COURT: Okay. It is admitted.

3 (Whereupon, State's Exhibit No. 1 was received into
4 evidence at this time.)

5 Q In State's Exhibit 1, you recognize that photograph and
6 that's the man you saw do the shooting?

7 A Yes, ma'am.

8 Q While the shots were going on and all that was going
9 on, the shooter, shooter guy, did he stay back by the door?

10 A Yeah, he stayed by the door because we refused to let
11 anybody walk out that door. I kept grabbing for the door
12 and he kept telling me to get back.

13 Q And the only person you saw with the gun that day
14 was---

15 A The one with the dreadlocks.

16 Q ---with the dreads?

17 A Yes, ma'am.

18 Q The taller guy?

19 A Yes, ma'am.

20 Q That day you mentioned you went and got a beer.

21 Did you have an opportunity to drink it before the guys
22 came?

23 A No, I didn't even drink beer.

24 Q Earlier that day had you done some drugs?

25 A Yes, ma'am, earlier that morning.

Jackie Holly - Direct examination
by Solicitor Campbell

- 1 Q That drug, what drug had you done?
2 A Crack.
3 Q This happened around seven o'clock.
4 Had you done anything right before that?
5 A No, ma'am, I hadn't did anything.
6 Q The two guys you were able to identify, the short stout
7 one and the tall one, you got a good look at them that day?
8 A Yes, ma'am.
9 Q You saw them when you were in Room 110?
10 A Yes, ma'am.
11 Q You saw them walk over?
12 A Yes, ma'am.
13 Q And you saw them come in?
14 A Yes, ma'am.
15 Q These are stupid questions maybe, but was it light
16 enough to see?
17 A Yes, ma'am.
18 Q Was anything obstructing your view?
19 A No, ma'am.
20 Q Did you get close enough to see?
21 A Yes, ma'am.
22 Q Ms. Holly, the person that you saw pull out the gun
23 that you saw shooting that day, do you see him here in the
24 courtroom?
25 A Yes, ma'am.

Jackie Holly - Direct examination
by Solicitor Campbell

1 Q Can you point him out for the jury?

2 A Right there.

3 Q Where at the table?

4 A In the middle with a light shirt on.

5 SOLICITOR CAMPBELL: May the record reflect she
6 identified the defendant?

7 THE COURT: The record will so reflect.

8 Q Is there any doubt in your mind that's the person?

9 A That's him.

10 Q He's the one that went out the window?

11 A Yeah.

12 Q Has his appearance changed any?

13 A Yeah, he's changed a lot.

14 Q How has his appearance changed?

15 A He's done gained weight. He's gotten fatter. His
16 dreadlocks are gone.

17 Q But is that the same person?

18 A Yeah.

19 SOLICITOR CAMPBELL: I don't have anything further.

20 THE COURT: Cross-examination.

21 MR. O'NEILL: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. O'NEILL:

24 Q Jackie, Larry came by your room that night,
25 November 21st, 2006, correct?

Jackie Holly - Cross-examination
by Mr. O'Neill

- 1 A Yes.
- 2 Q And he asked you a question?
- 3 A Uh-huh. (Affirmative).
- 4 Q He asked you where he could get some drugs
- 5 specifically?
- 6 A Yes.
- 7 Q Specifically where he could get some crack cocaine?
- 8 A Yes.
- 9 Q And you knew where he could get some crack cocaine?
- 10 A Yes.
- 11 Q You knew he could get some crack cocaine from Room 162?
- 12 A Uh-huh. (Affirmative).
- 13 Q And you knew that because Tyrell and his girl had
- 14 stopped by your room earlier?
- 15 A Uh-huh. (Affirmative).
- 16 Q And Tyrell told you he was selling drugs out of Room
- 17 162?
- 18 A Yeah.
- 19 Q And he told you if anybody wanted some drugs to bring
- 20 them up to Room 162?
- 21 A Yes, sir.
- 22 Q So they could get some drugs?
- 23 A Uh-huh. (Affirmative).
- 24 Q So, when Larry stopped by that night asking for drugs
- 25 you took them to Room 162?

Jackie Holly - Cross-examination
by Mr. O'Neill

1 A Yes, sir.

2 Q And I believe you knew that Tyrell stayed in that room,
3 Tyrell stayed in the room with his girlfriend?

4 A I didn't know who stayed there, but it was there when I
5 got there.

6 Q And Larry -- when Larry came to your room that night,
7 he never said anything about he was going to rob anybody,
8 did he?

9 A No, sir.

10 Q Never told you that?

11 A Never told me nothing.

12 Q He told you he was there to buy some drugs?

13 A Yes.

14 Q Now, I think your testimony today is you knocked on the
15 door first on Room 162?

16 A Yes.

17 Q You said you were the last person in?

18 A Uh-huh. (Affirmative).

19 Q Let me show you a diagram. You can look at it one
20 second here. Show you what's been marked as State's Exhibit
21 72 for ID purpose.

22 Okay. Let's talk about this room a little bit, all
23 right?

24 A Okay.

25 Q Before we talk about that room, you gave a statement in

Jackie Holly - Cross-examination
by Mr. O'Neill

- 1 this case, correct?
- 2 You gave a written statement?
- 3 A Yes.
- 4 Q You gave it to Investigator Godfrey?
- 5 A Uh-huh. (Affirmative).
- 6 Q That statement was given on the night this happened?
- 7 A Uh-huh. (Affirmative).
- 8 Q It was probably given I guess a couple of hours after
- 9 this happened?
- 10 A (Witness nods affirmatively.)
- 11 Q Investigator Godfrey took you down to headquarters?
- 12 A Yes.
- 13 Q He asked you some questions?
- 14 A Yes.
- 15 Q He told you it was important to be truthful in that
- 16 statement?
- 17 A Yes.
- 18 Q He told you it was important to be accurate in the
- 19 information you gave?
- 20 A Yes.
- 21 Q You wanted to be as detailed as you possibly could be?
- 22 A Yes.
- 23 Q Because you knew he was asking you a question about
- 24 something that was important?
- 25 A Uh-huh. (Affirmative).

Jackie Holly - Cross-examination
by Mr. O'Neill

1 Q Somebody had just got shot?

2 A Yeah.

3 Q You knew it was important to include all the details
4 you could possibly think of?

5 A (Witness nods affirmatively.)

6 Q And you did that and he asked you in that statement was
7 there anything else you wanted to add to that statement?

8 A Yes.

9 Q Did he show you a copy of that statement after he
10 talked it out?

11 A Yes.

12 Q Did you look at it?

13 A Uh-huh. (Affirmative).

14 Q Did you go over it and make sure everything was right?

15 A Yes.

16 Q I'll give you a copy of that statement. I'm going to
17 give you a copy and keep a copy for myself.

18 Okay. He also had you fill out a questionnaire as
19 well, didn't he?

20 A Uh-huh. (Affirmative).

21 Q I'm going to give you a copy of that questionnaire so
22 you can look at that too, as well, right?

23 A Okay.

24 Q Now, you knew that the police were investigating a
25 robbery in this case, a suspected robbery?

Jackie Holly - Cross-examination
by Mr. O'Neill

1 You knew that?

2 A No, I didn't know no one was investigating no robbery.

3 Q Did they ask you whether or not you knew about a
4 robbery?

5 A No.

6 Q Let's take a look at your statement. Look at the last
7 page of your statement.

8 A You say the last page?

9 Q Second to the last page. Fourth page of the statement.
10 Let me help you out a little bit. This page right here.

11 Now, in the second page, question on the page they said
12 do you know -- you knew they were asking you about a
13 robbery. Not that you had anything to do with a robbery,
14 but they were asking you questions about a robbery?

15 A Who was asking me questions about a robbery?

16 Q Investigator Godfrey. He asked you that question about
17 did you know they were going to rob somebody.

18 A I didn't know they was going to rob nobody.

19 Q I know that.

20 But what I'm asking you is did Investigator Godfrey ask
21 you whether or not you knew about the robbery?

22 A No.

23 Q He didn't?

24 He asked me did I know about the robbery, but I didn't
25 know they was going to rob nobody.

Jackie Holly - Cross-examination
by Mr. O'Neill

1 Q But he asked you about it?

2 A Yeah.

3 Q And since he was asking you about a robbery, you knew
4 it would have been important to tell them whether or not you
5 saw somebody pull out a gun in that room, didn't you?

6 A Of course, if somebody is going to rob somebody they
7 got a gun.

8 Q Been important to put in that statement you saw
9 somebody pull out a gun?

10 A Yeah.

11 Q In your statement you gave always after this incident
12 that was fresh in your mind, you wanted to be truthful and
13 accurate, you never said you saw Larry pull out a gun, did
14 you?

15 A Yes, he did pull out a gun.

16 Q You never put that in your statement?

17 A Because they didn't ask me did he pull out a gun.

18 Q Didn't ask you about him pulling out a gun at all?

19 A No.

20 Q You talked to him about what you saw in that room,
21 didn't you?

22 A Yeah.

23 Q Let's look at your statement about what you say you saw
24 in that room. You said -- go to the second page of your
25 statement, Jackie. I'll help you out a little bit. Right

Jackie Holly - Cross-examination
by Mr. O'Neill

1 here where that---

2 THE COURT: One minute.

3 (Pause.)

4 Q This is what you tell Investigator Godfrey. You said I
5 walked around the corner and he and the guy that got shot
6 were making a transaction.

7 when you said the other dude, you're referring to
8 Larry?

9 A The one with the dreadlocks.

10 Q Guy with the dreads. You said you walked him around
11 this corner right here, this corner in the room.

12 A I walked him where he by the dresser. I walked down
13 the hallway right here by the dresser.

14 Q Your words were I walked the other dude around the
15 corner and he and the guy that got shot were making a
16 transaction and you walked around this corner.

17 A No, I walked around the hallway. Stop right here.

18 Q Around the corner?

19 A Okay. But around the corner right here. Around the
20 corner.

21 Q Around the corner.

22 You say you turned around and was walking back?

23 A walking back.

24 Q Towards the door to go out?

25 A Yeah.

Jackie Holly - Cross-examination
by Mr. O'Neill

1 Q And you said the other guy wouldn't let you out?

2 A Yeah.

3 Q You said I asked him to get out of the way. He
4 wouldn't let me out.

5 A Yeah.

6 Q I asked him what was going on and that's when I heard
7 tussling.

8 A Yeah.

9 Q And a gunshot.

10 A Yeah.

11 Q And then you said you ran around a corner by the window
12 and towards the couch.

13 A No, after I turned around they was tussling.

14 Q Uh-huh. (Affirmative).

15 A The man with the -- he pull out the gun and, to give
16 the money and the drugs, and that's when the guy, the young,
17 the young guy that stayed there, he reaching for the gun
18 because he wasn't giving up his stuff, and they got to
19 tussling, and that's how the gun went off.

20 Q You never said that Larry said anything about giving
21 him the money, did you, in his statement?

22 A Because they didn't ask me that. They didn't ask me
23 that.

24 Q Didn't they ask you specifically -- go to the last page
25 of your statement.

Jackie Holly - Cross-examination
by Mr. O'Neill

1 They asked you specifically whether or not you heard
2 the guy with the gun say anything, didn't you?

3 A On the last page?

4 Q The very last page of your statement, the fourth --
5 we -- this statement that was made the day of the incident.
6 I was out there. A lot of things were expressed in your
7 mind. They asked you when the incident occurred did you
8 hear them say anything.

9 Do you see that question?

10 A Yeah.

11 Q Let me read what your response was. Your answer was
12 the one that was standing by the door was asking where the
13 money was at. I didn't hear the guy with the gun say
14 anything. They were too busy fighting.

15 A No, I told him the one that had the dreadlocks was
16 asking for the money, and the one that was holding the door,
17 I was asking him to let me out and he wouldn't let us out.

18 Q But you do agree this is what your statement says?

19 A That's what they got on this.

20 Q You agree Investigator Godfrey gave you a chance to
21 read over this statement?

22 A I was telling him at that time -- it was -- helping
23 like that, but then I thought he realized when we first got
24 in the room, in order for the guy to get shot, that's the
25 only way he got shot when he asked the guy give me the

Jackie Holly - Cross-examination
by Mr. O'Neill

1 money, give me the money. So, when I went back to turn
2 around, the guy wouldn't let us out the door and that's what
3 I'm saying.

4 Q I understand that, Jackie, but what I'm asking you is
5 this is what your statement says, correct?

6 A To the best of my knowledge at that time.

7 Q This is what your statement says?

8 A Yes.

9 Q You had a chance to read over your statement?

10 A Yes.

11 Q Had a chance to correct anything that was wrong with
12 your statement?

13 A Yes.

14 Q You didn't correct what was wrong, did you?

15 A I said---

16 Q But you didn't correct it on that day?

17 A No, sir.

18 Q Now, it's almost three years later?

19 A Just came to memory.

20 Q Just came to your memory now three years later?

21 A What happened.

22 Q You didn't remember back then.

23 A Because I was scared. I was nervous. I was scared and
24 nervous trying to let him know what happened.

25 Q You didn't say that back then you agree?

Jackie Holly - Cross-examination
by Mr. O'Neill

1 You didn't say that back then?

2 A I didn't say that back then, but I was very scared at
3 that time.

4 Q In fact, you said the officer gave you this robbery
5 questionnaire. I think it is the second page of what I gave
6 you, okay?

7 Back then I think you remember a lot of details. You
8 said that the suspect number one was tall, skinny, weight
9 and everything -- second page of what I gave you. The
10 robbery questionnaire.

11 A Yeah.

12 Q They asked you a lot of details about people that was
13 in the room and things that happened in the room.

14 A Uh-huh. (Affirmative).

15 Q They asked you a couple questions about the weapon that
16 was involved in this case, didn't they?

17 A Yes.

18 Q They asked you whether you knew what type of weapon it
19 was and you said unknown, and you asked what hand the weapon
20 was held in, and you didn't know that either?

21 A I didn't know that either.

22 Q You couldn't tell what kind of weapon it was or what
23 specifically they had?

24 A That's right.

25 Q You said that the guy with the dreads threw a chair out

Jackie Holly - Cross-examination
by Mr. O'Neill

1 the window?

2 A Yeah, that same guy.

3 Q You is, said it was one of those chairs sitting around
4 the card table or---

5 A No, it was the whole chair. They got chairs you can
6 pick up.

7 Q Was it the chair like that you're currently sitting in?

8 A Yeah, it's like a room chair.

9 Q He threw it through one of these windows up here?

10 A He threw it out the back window.

11 Q Small window or---

12 A It was a big window.

13 Q He threw the hotel chair out one of them big windows?

14 A Yeah.

15 Q You saw that?

16 A Yeah.

17 Q Ms. Jackie, you kind of feel bad about what happened
18 that night, don't you?

19 A No, I don't feel bad about what happened because I
20 walked him down there and whatever happened I had nothing to
21 do with that.

22 Q I'm not saying you had anything to do with it, but you
23 feel bad Tyrell got shot that night, don't you?

24 A Yeah, I sure do.

25 Q You wish you could do something to make it better?

Jackie Holly - Cross-examination
by Mr. O'Neill

1 A Yeah, I wish I never walked him down there.

2 MR. O'NEILL: Beg the Court's indulgence, Your Honor.

3 (Pause.)

4 MR. O'NEILL: Nothing further, Your Honor.

5 THE COURT: Okay.

6 SOLICITOR CAMPBELL: Just a couple questions.

7 THE COURT: Certainly.

8 REDIRECT EXAMINATION

9 BY SOLICITOR CAMPBELL:

10 Q Jackie, I asked you about the gun and the
11 questionnaire. When I asked you today you don't know what
12 type of gun it was---

13 A No, I don't.

14 Q That's fine.

15 Okay. That's why you put unknown?

16 A Unknown.

17 Q And you didn't know what hand he had it in because
18 you're trying to be truthful?

19 A Yes, ma'am.

20 Q And that's all when you're talking about the tall
21 skinny guy with the dreads, right?

22 A Yes, ma'am.

23 Q Down here specifically where they're talking about the
24 shorter guy or stout guy, when you said type of weapon, you
25 didn't know if it was unknown or anything because he didn't

Jackie Holly - Redirect examinatio
by Solicitor Campbell

1 have a weapon?

2 A Didn't have a weapon.

3 Q That's why it's plainly---

4 A Yes, ma'am.

5 Q You just didn't want to mislead any. He asked you
6 about why you never said you saw anybody with a gun --

7 A Yeah.

8 Q -- but you said here in your statement I walked the
9 other dude around the corner, and he and the guy that got
10 shot were making a transaction.

11 A Yeah.

12 Q And in order to get shot, does someone have to have a
13 gun?

14 MR. O'NEILL: Objection, Your Honor. Calls for
15 speculation.

16 THE COURT: Your question. You said in order to get
17 shot---

18 SOLICITOR CAMPBELL: In order for someone to have a
19 gunshot wound there has to be a gun.

20 THE COURT: Overruled.

21 Q Isn't that right?

22 A Yes, ma'am.

23 Q And which is the guy that had the gun that night?

24 A The one with the dreadlocks.

25 Q Then you talk about when I heard the tussling and a

Jackie Holly - Redirect examinatio
by Solicitor Campbell

1 gunshot.

2 A Yes, ma'am.

3 Q And who were the two people tussling?

4 A The young guy that stayed there and the one with the
5 dreadlocks.

6 Q And who had the gun?

7 A The one with the dreadlocks had the gun.

8 Q When the gun shot went off?

9 A Yes, ma'am.

10 Q And then you ducked in and were---

11 A And running scared.

12 Q And you told them all about that before he asked you
13 some questions about did you know they were going to rob
14 that guy?

15 A I didn't know nothing.

16 Q And when he asked you whether or not he knew anything
17 about a robbery, this was actually about a murder.

18 A Yeah.

19 Q That's why you were confused about that?

20 A That's when I turned around and said what are y'all
21 doing, y'all told me y'all was coming down here to buy
22 something. I didn't know they was coming down there to do
23 that.

24 Q And the only person you saw with the gun---

25 A Is the one with the dreadlocks.

Jackie Holly - Redirect examinatio
by Solicitor Campbell

1 SOLICITOR CAMPBELL: Thank you, Jackie.

2 MR. O'NEILL: Nothing further.

3 THE COURT: You can step down and be excused.

4 WITNESS: Yes, ma'am.

5 THE COURT: will that conclude this morning's
6 testimony?

7 Okay. Ladies and gentlemen of the jury, we apologize
8 again for this morning's delays. I'm sure y'all are hungry.
9 I'm going to have you come back to your jury room at 2:00.
10 I remind you not to discuss the case in any shape, form, or
11 fashion.

12 (Whereupon, the following takes place outside the
13 presence of the jury panel.)

14 THE COURT: Anything that needs to be taken up at this
15 time?

16 MR. O'NEILL: No, Your Honor.

17 THE COURT: Okay. When is Captain Smith going to be
18 testifying?

19 Is that -- don't worry about it.

20 Okay. All right. Don't worry about the issue as well
21 or---

22 SOLICITOR CAMPBELL: No, we can worry about it later,
23 but he's on the way down the line. We've got the entire --
24 thing to do first.

25 THE COURT: Y'all are at recess. See you back at 2:00.

1 Let us know if there's anything to be taken care of.

2 (Whereupon, Court was in recess for the evening.)

3 THE COURT: Ready to proceed?

4 SOLICITOR CAMPBELL: State's ready.

5 MR. O'NEILL: Yes, Your Honor.

6 THE COURT: Jurors please.

7 SOLICITOR CAMPBELL: Your Honor, for scheduling
8 purposes, we need to take a couple of witnesses out of order
9 a little bit this afternoon. Just wanted to let you know.

10 THE COURT: That's fine.

11 (Whereupon, the following takes place within the
12 presence of the jury panel.)

13 THE COURT: You may continue with your case. State is.

14 SOLICITOR JOPHLIN: State calls Jamilla Goodwin.

15 JAMILLA GOODWIN, being first duly
16 sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY SOLICITOR JOPHLIN:

19 Q Ms. Goodwin, how old are you?

20 A Twenty-four.

21 Q Twenty-four.

22 where are you currently living?

23 A I stay in Atlanta, Georgia.

24 Q Is that right outside Atlanta?

25 A Yeah.

Jamilla Goodwin - Direct examination
by Solicitor Jophlin

- 1 Q What are you doing over in Georgia?
- 2 A I'm in school right now.
- 3 Q What are you in school for?
- 4 A Medical insurance or encoding.
- 5 Q How long have you been in school?
- 6 A About eight months now.
- 7 Q How long you been over in Georgia?
- 8 A Nine months maybe.
- 9 Q Before that did you live in Columbia?
- 10 A Yes.
- 11 Q How long have you lived in Columbia or did you live in
- 12 Columbia?
- 13 A Twenty-three years.
- 14 Q So---
- 15 A Probably.
- 16 Q Born here---
- 17 A Yes.
- 18 Q ---raised here?
- 19 And did you have an occasion to be at the Grand Motel
- 20 back on November 21 of 2006?
- 21 A Yes.
- 22 Q And what -- on that afternoon, what were y'all doing
- 23 over -- what were you doing over at the Grand Motel?
- 24 A I was visiting my sister. I had got the room for her,
- 25 but I was also visiting her because I don't see her very

Jamilla Goodwin - Direct examination
by Solicitor Jophlin

1 often.

2 Q Where was she living?

3 A She was staying at the room because she don't stay
4 alone. So, she was staying at the room with her boyfriend.

5 Q Who is her boyfriend?

6 A Terrell. Tyrell.

7 Q Tyrell Williams?

8 A Yes.

9 Q Do you remember about what time you got there that
10 afternoon?

11 A It was like, what, I think, two or three maybe.

12 Q And while you were over visiting with your sister, was
13 anybody else over there with you?

14 A My two year old son and my home girl.

15 Q And --

16 A Satierra.

17 Q Satierra?

18 A Yes.

19 Q Friend of yours?

20 A Yes.

21 Q And while y'all were visiting with each other, what
22 were y'all doing that afternoon?

23 A We were just hanging around and playing cards.

24 Q Later on that evening or early evening was there a
25 knock at the door?

Jamilla Goodwin - Direct examination
by Solicitor Jophlin

- 1 A Yes.
- 2 Q Y'all were in the room.
- 3 Do you remember what room number you were in?
- 4 A One--
- 5 Q 162?
- 6 A 162, yeah.
- 7 Q And do you remember there being a knock on the door
- 8 that evening?
- 9 A Yes, it was a rushed knock.
- 10 Q A rushed knock?
- 11 A Yes.
- 12 Q Who answered the door?
- 13 A My sister.
- 14 Q Camillia?
- 15 A Yes.
- 16 Q And where were y'all sitting when you heard that door
- 17 knock?
- 18 A We was sitting at the table playing cards.
- 19 Q And I'm going to refer you to State's ID Exhibit 72.
- 20 Let me get this little rod.
- 21 where on that diagram---
- 22 A where I was sitting?
- 23 Q Yes, ma'am.
- 24 A This is the table. I was sitting right here with my
- 25 back against the wall.

Jamilla Goodwin - Direct examination
by Solicitor Jophlin

1 Q where is the door, the door into the room?

2 A Right here.

3 Q when your sister answered the door, who came in?

4 A Jackie and two other men.

5 Q Do you know what they were there for?

6 A Yes. well, when she, they opened the door I heard --
7 well, like when my sister opened the door, she was like,
8 well, damn, and then they want a 30 or whatever like that so
9 that's drugs or whatnot so -- and then that's when they -- I
10 guess that's when they forced entry or whatever it was,
11 tried to -- were struggling or wrestling.

12 Q Before we get to that, Camillia went to answer the door
13 and is Jackie, that's Jacqueline Holly?

14 A Yes.

15 Q She and two men entered the room asking for a 30?

16 A Yes.

17 Q Where did Camillia go after that?

18 A She came back and sit down beside us or whatever.

19 Q At the table?

20 A Yeah.

21 Q And do you remember where Jackie went?

22 A She was standing at the -- I guess -- I don't remember
23 seeing---

24 Q Okay.

25 A ---seeing her standing. But I think she was standing

Jamilla Goodwin - Direct examination
by Solicitor Jophlin

1 right there in the hallway by the door.

2 Q Somewhere by the hallway, you're talking about this
3 area right there?

4 A I guess she was still standing right there.

5 Q Were you able to see the two men as they entered the
6 door, as they entered into the hotel room?

7 Were you able to see them?

8 A I didn't remember seeing them clearly, but I remember
9 seeing the -- like the description and stuff glance at their
10 face. I don't remember seeing their faces clearly.

11 Q Can you describe the two men that came into the room?

12 A The first one came in with dark skin with a lot of
13 facial hair and dreads and he had a skull cap on and a big
14 black coat.

15 Q When you say skull cap, do you mean like a cap with a
16 skull on it or---

17 A Little winter caps.

18 Q Okay.

19 A Yeah, and his was kind of he -- second one, I didn't
20 get a glimpse of his. He was kind of heavy set, brown skin,
21 and a fat face. That's all I could really see.

22 Q The first person you described with dark skin and
23 dreadlocks, where did that person go inside that hotel room?

24 A He went like behind Tyrell.

25 Q Where was Tyrell going?

Jamilla Goodwin - Direct examination
by Solicitor Jophlin

- 1 A Tyrell was going -- he was like -- I guess he was going
2 to -- he was going like right over here going to the drawer
3 or whatnot.
- 4 Q Like a dresser type of table?
- 5 A Yes.
- 6 Q He was heading over that way.
7 where was the---
- 8 A He was like---
- 9 Q ---person with the dreads?
- 10 A He was right behind him.
- 11 Q And where was the heavy set person you described?
- 12 A He was standing like somewhere in here maybe.
- 13 Q Okay. Approximately -- if you remember, how long is
14 that hall?
- 15 Five feet?
- 16 Seven feet?
- 17 Ten feet?
- 18 A Yeah. Probably so. About five feet maybe.
- 19 Q okay.
- 20 A I don't know. That was a really big room. So, I don't
21 know.
- 22 Q Okay. When Tyrell and the person with the dreads went
23 over to this area, what happened next?
- 24 A I heard my---
- 25 Q Make sure you speak into that.

Jamilla Goodwin - Direct examination
by Solicitor Jophlin

1 A I heard my friend say, oh, shit, he got the gun like
2 that and that's the first -- he was like oh, it's not going
3 down like that or something.

4 Q Who said that?

5 A Tyrell said and these -- we seen -- I heard the shots
6 and I seen the gun powder, but I didn't know if he was hit
7 or not, and that's when I ran to the kitchen behind my
8 sister, try to run behind the chair. That's when we
9 scattered and my home girl ran to the bathroom.

10 Q Who would that be?

11 A Satierra ran to the bathroom with my two year old.

12 Q And you say you went in the kitchen. You went -- you
13 were sitting---

14 A We was sitting---

15 Q The table---

16 A The table wasn't really that far or pushed back, you
17 know what I'm saying. It was like right there. Wasn't
18 pushed all the way back. So, I ran in the kitchen behind my
19 sister.

20 Q From the kitchen you ran into the---

21 A And the bathroom, yes, because I was looking for my
22 son. I was panicking and I believe looking for my son.

23 Q Who did you see -- who had the gun that you heard go
24 off?

25 A The dark skinned -- the one with the dreads.

Jamilla Goodwin - Direct examination
by Solicitor Jophlin

1 Q Did you see Tyrell with the gun?

2 A No.

3 Q Did you actually see the person with the dreads shoot
4 the gun at Tyrell or just more hear it and---

5 A I heard it more.

6 Q Do you know what those two men -- no, never mind that.

7 You ran into the bathroom and where was Satierra with
8 your son?

9 A She was already in the bathtub laying down with my son
10 or whatever trying to cover him and then that's when I, I
11 asked if she with my baby, and my baby -- she came to the
12 bathroom door and say come on, come on. So, we just lay
13 down.

14 Q You remember approximately how many gunshots you heard
15 fired that evening?

16 A Probably about six or seven maybe. Wasn't a lot. It
17 was a lot. I really wasn't counting.

18 Q If you recall Tyrell and the person with the
19 dreadlocks, where did they start fighting?

20 A Right here. They start fighting around this area right
21 here, step like -- they started tussling over the gun right
22 here.

23 Q And by the time you ran in the bathroom, do you recall
24 where they were when you ran in the bathroom?

25 A They were still like fighting back and forth or

Jamilla Goodwin - Direct examination
by Solicitor Jophlin

1 whatever. I'm not sure if -- I just been trying to calm
2 them down. So, I really wasn't sure. They were fighting
3 all over the room. Like after I came out the bathroom I
4 seen a lot of blood all over the place.

5 Q And do you recall where the heavy set person you saw,
6 the second guy, come in?

7 Do you remember where he was during all this?

8 A No.

9 Q You didn't see him?

10 A He was still standing right there in the hallway by the
11 door when I was going to the bathroom.

12 Q While the gunshots were being fired, did you hear
13 anything being said by the person with dreads or -- let me
14 answer that.

15 Did you hear anything from the guy with dreads?

16 A No.

17 Q Did you hear Tyrell saying anything?

18 A No.

19 Q And approximately how long was it when you got in the
20 bathtub until you came out?

21 A It happened so fast. So, it's probably been like a
22 week. Good ten, fifteen minutes maybe.

23 Q And what did you observe when you came out of the
24 bathroom?

25 A I seen my -- I seen Tyrell like on the floor. I seen

Jamilla Goodwin - Direct examination
by Solicitor Jophlin

1 like a lot of blood everywhere, and it was like messy, is
2 like everything was scattered all over the place.

3 Q Did Tyrell say anything when you got out of the
4 bathroom?

5 A No, he was just like laying there.

6 Q Okay. And can you point out on the diagram where he
7 was lying?

8 A He was right here.

9 Q Okay. In the hallway?

10 A Yeah, more close to the door, but it was like somewhere
11 right in here.

12 Q Let me get that out of your way.

13 Beg the Court's indulgence.

14 (Pause.)

15 Q After -- when you got out of the bathtub, who called
16 9-1-1?

17 A Me.

18 Q What did you tell the 9-1-1 operator on the other end
19 of the phone?

20 A I said---

21 MR. O'NEILL: Objection, Your Honor.

22 SOLICITOR JOPHLIN: I asked what did she say.

23 MR. O'NEILL: It's for the truth of the matter
24 asserted. Hearsay.

25 THE COURT: Y'all approach.

Jamilla Goodwin - Direct examination
by Solicitor Jophlin

1 (Whereupon, a bench conference was held out of the
2 hearing of the jury at this time.)

3 THE COURT: The State is going to withdraw that
4 question.

5 Q Jamilla, you called 9-1-1?

6 A Yes, I did.

7 Q You called just to report what would happen in the
8 hotel room?

9 A Yes.

10 Q Did you stay on the line with the 9-1-1 operator until
11 officers arrived?

12 A Yes.

13 Q Jamilla, sitting up there today, back in July 2006, you
14 got in a little bit of trouble?

15 A Yes.

16 Q Maybe about back in March of 2006---

17 A Yes.

18 Q ---you were arrested for a forgery charge?

19 A Yes.

20 Q You pled guilty to that charge?

21 A Yes.

22 Q You got, accepting responsibility for what you did?

23 A Yes.

24 Q And what happened as a result of that charge?

25 A A year of probation.

Jamilla Goodwin - Direct examination
by Solicitor Jophlin

1 Q And during that probationary period you moved to
2 Atlanta?

3 A Yes.

4 Q Or moved to Georgia. I'm sorry.

5 A Yes.

6 Q And you didn't change your -- technically you didn't
7 change your address with the probation office?

8 A Yes.

9 SOLICITOR JOPHLIN: Beg the Court's indulgence.

10 (Pause.)

11 Q Jamilla, back about three days after this incident
12 occurred you gave a statement to some investigators with the
13 sheriff's department?

14 A Yes.

15 Q I believe it was Investigator Godfrey here.

16 A Yes.

17 Q Is everything you testified to about today pretty much
18 what you told him as well in that written statement?

19 A Yes.

20 Q And probation -- when you came in for the State to
21 testify today, that's, the probation matter has been
22 resolved --

23 A Yes.

24 Q -- to the best of your knowledge?

25 A Yes.

Jamilla Goodwin - Cross-examination
by Mr. O'Neill

1 SOLICITOR JOPHLIN: Nothing further. Thank you.

2 THE COURT: Cross.

3 CROSS-EXAMINATION

4 BY MR. O'NEILL:

5 Q Everything happened pretty fast that night?

6 A Yes.

7 Q And you were obviously nervous?

8 A Yes.

9 Q Now, had you been drinking anything that night?

10 A No.

11 Q Had you been using any kind of drugs that night?

12 A No.

13 Q But you were obviously scared when everything started
14 going down?

15 A Yes.

16 Q And when the shooting started -- let me back up.

17 Your son was in the room?

18 A Yes.

19 Q Your two year old son?

20 A Yes.

21 Q And I guess it is safe to assume, when the shooting
22 started, your focus was on your son?

23 A Basically, yes.

24 Q The safety of your son.

25 A Yes.

Jamilla Goodwin - Cross-examination
by Mr. O'Neill

1 Q You weren't concerned about looking at anybody's faces
2 or a description of anybody, but concerned about getting
3 your son out of trouble?

4 A No, not really.

5 Q You weren't---

6 A I was trying to get him out of trouble. I really
7 wasn't paying attention, but I had glanced at him.

8 Q You did say that Jackie came in first?

9 A Yes.

10 Q Did you actually see her come through the door?

11 A Yes, all three of them came to the door.

12 Q Did you see where they actually walked through the
13 door?

14 A Yes.

15 Q Camillia, you're sitting you say right -- let me make
16 sure I get this right.

17 You say you're sitting right here?

18 A Yes, I was right there.

19 Q This is a wall right there, would you agree with that?

20 A The table wasn't pushed that far back.

21 Q Where was the table at?

22 A The table was like right here, right in the center.

23 Q The table was closer up this way?

24 A It was not even that way. It was like right here in
25 the same angle, right here in the center, a little from the

Jamilla Goodwin - Cross-examination
by Mr. O'Neill

1 kitchen, but right here.

2 Q So, the table was a little bit further to the left?

3 A Yes.

4 Q But you were still sitting on---

5 A This side.

6 Q So, you would have been sitting right here?

7 A No, Satierra was sitting right here and I was sitting
8 across from her here.

9 Q If you push the table this way, you will be sitting
10 right here and Satierra will be sitting right here?

11 A Yes.

12 Q Where would she be sitting?

13 A Here.

14 Q And where was he sitting at?

15 A Tyrell?

16 Q He got up when your sister got up?

17 A She got up to answer the door.

18 Q She got up behind you?

19 A Yes, and he walked towards the table and went over
20 there.

21 Q There's a small TV right here and a bigger dresser
22 right here, correct?

23 Which one did he go to, the smaller one that had the TV
24 on it or the bigger one?

25 A I think he went to the smaller one or maybe to the big

Jamilla Goodwin - Cross-examination
by Mr. O'Neill

- 1 one. I'm not sure.
- 2 Q You're not sure which one he went to?
- 3 A Yeah.
- 4 Q Now, I think you told the police you thought the gun in
5 the room belonged to Tyrell.
- 6 A Yes, I believe so.
- 7 Q It didn't belong to you?
- 8 A No.
- 9 Q It didn't belong to your sister?
- 10 A No.
- 11 Q You thought it belonged to Tyrell.
- 12 Did you and your sister, Camillia, did y'all live
13 together during this period of time or---
- 14 A No, I stayed with my mother.
- 15 Q She stayed in the hotel?
- 16 A In the hotel.
- 17 Q Did y'all see each other regularly?
- 18 A No, not very often.
- 19 Q You would describe your relationship as being kind of
20 close to each other?
- 21 A Yes.
- 22 Q After the shooting in the hotel, did you and Camillia
23 talk any about what happened that night?
- 24 A Yes.
- 25 Q Did you talk with Ms. Austin about what happened that

Jamilla Goodwin - Cross-examination
by Mr. O'Neill

1 night?

2 A Yes.

3 Q Did you talk to anybody else about what happened that
4 night?

5 A My parents and my best friend.

6 Q And was Ms. Austin and Camillia telling you what they
7 saw happen that night as well?

8 A Yes.

9 Q And you gave a written statement in this case, correct?

10 A Yes.

11 Q You gave it to Mr. Godfrey?

12 A Yes.

13 Q But this was three days after the shooting happened?

14 A Yes.

15 Q This was the same day that Camillia gave her statement?

16 A Yes.

17 Q In fact, I think Mr. Godfrey came out to -- would that
18 be your house or your parent's house?

19 A My parent's house.

20 Q Came out there and gave a statement together?

21 A Yes.

22 Q Did they have y'all in your room or separate rooms or
23 where did they have you at?

24 Do you remember?

25 A I'm not for sure. I -- we were together I believe.

Jamilla Goodwin - Cross-examination
by Mr. O'Neill

1 Q You were together when you were making your statements?

2 A Yes.

3 Q And Mr. Jophlin said -- you talked to him about the
4 forgery in 2006?

5 A Yes.

6 Q You got on probation?

7 A Yes.

8 Q When you actually pled guilty, the judge gave you a
9 sentence, correct?

10 A Yes.

11 Q He gave you a sentence of one year suspended on
12 probation?

13 A Yes.

14 Q Meaning you had a probation for a year, but if you
15 messed up on probation you go to prison for a year, correct?

16 A Yes.

17 Q When on probation, you had to follow certain guidelines
18 and things you had to do while on probation?

19 A Yes.

20 Q You couldn't get in trouble?

21 A Yes.

22 Q Like pick up another charge.

23 You had to report to your probation officer?

24 A Yes.

25 Q Once a month?

Jamilla Goodwin - Cross-examination
by Mr. O'Neill

- 1 A (Witness nods affirmatively.)
2 Q Pay some fines and fees?
3 A Yes..
4 Q One of the things you couldn't do was move out-of-state
5 without their permission?
6 A Yes.
7 Q But you did move out-of-state without their permission?
8 A Yes.
9 Q You could have got in trouble for that?
10 A Yes.
11 Q You could have got sent to prison for a year?
12 A Yes.
13 Q And I'm assuming you don't -- your son, at this time,
14 is what, four, maybe five years old?
15 A Five.
16 Q You would have been away from him for a year in prison
17 if you would have got in trouble with your probation?
18 A Yes.
19 Q Did somebody from the solicitor's Office help you out
20 with your probation, help resolve that for you?
21 A Yes.
22 Q Who helped resolve that for you?
23 A I don't know their name.
24 Q You don't know their names?
25 A No.

Jamilla Goodwin - Cross-examination
by Mr. O'Neill

1 Q Somebody from their office --

2 A Yes.

3 Q -- helped y'all with probation?

4 A Yes.

5 Q Make sure you didn't get violated on that?

6 A Yes.

7 Q Make sure you don't have to be away from your son for a
8 year?

9 A Yes.

10 MR. O'NEILL: Beg the Court's indulgence, Your Honor.

11 (Pause.)

12 MR. O'NEILL: Nothing further.

13 THE COURT: Any redirect?

14 SOLICITOR JOPHLIN: Briefly.

15 REDIRECT EXAMINATION

16 BY SOLICITOR JOPHLIN:

17 Q You moved out-of-state to go to school, correct?

18 A Yes.

19 Q That was about nine months ago?

20 A Yeah, in the middle of December.

21 Q And this happened -- that would be around December of
22 2008?

23 A Yes.

24 Q And this happened probably two years before then?

25 A Yes.

Jamilla Goodwin - Redirect examination
by Solicitor Jophlin

1 Q And so, probably two years before you moved
2 out-of-state, probably two years before you violated your
3 probation, and probably three years before today you had
4 already given your statement as to what you saw to the
5 investigators?

6 A Yes.

7 Q Now, Mr. O'Neill asked you about a gun in the room,
8 that was found in the room. You assumed it was Tyrell's.

9 A Yes.

10 Q Did Tyrell grab that gun?

11 A I don't remember seeing anything. I don't remember
12 seeing him at all with the gun.

13 Q You don't remember seeing Tyrell at all with the gun?

14 A No.

15 Q Who did you see with a gun in that room?

16 A The dark-skinned one with the dreads and the facial
17 hair.

18 Q Was he the only person with the gun in that room that
19 you saw?

20 A Yes, from -- yes, from my knowledge, yes.

21 Q And you're here to testify today about what you saw,
22 correct?

23 A Yes.

24 Q And what you heard?

25 A Yes.

Jamilla Goodwin - Redirect examination
by Solicitor Jophlin

1 Q And the same thing when you were giving your statement
2 to the police, you're here -- you gave them statements as to
3 what you saw?

4 A Yes.

5 Q And what you heard?

6 A Yes.

7 Q Not what Camillia heard or Satierra heard, but what you
8 heard and saw?

9 A Yes.

10 Q And also, in addition to giving a statement to Mr.
11 Godfrey, weren't there some investigators on the scene that
12 night---

13 A Yes.

14 Q ---that you talked to?

15 A Yes.

16 Q You gave a statement to them as well saying what you
17 saw and heard?

18 A Yes.

19 SOLICITOR JOPHLIN: That's all.

20 Thank you, Jamilla.

21 MR. O'NEILL: Nothing further.

22 THE COURT: Ma'am, you may step down and be excused.

23 SOLICITOR CAMPBELL: May it please the Court?

24 THE COURT: Yes, you may.

25 SOLICITOR CAMPBELL: Your Honor, the next witness would

1 be Frank Livingston, and we also have a matter of law we
2 need to take up at some point.

3 THE COURT: Thank you.

4 Can we proceed on with this witness though?

5 SOLICITOR CAMPBELL: Yes, ma'am, but it may take a few
6 minutes to get him up here.

7 THE COURT: I'm asking do you want to excuse the jury
8 now or---

9 SOLICITOR CAMPBELL: This would be a good time because
10 we have to get that witness here.

11 THE COURT: All right. Ladies and gentlemen of the
12 jury, we'll be back with you shortly. Remind you not to
13 discuss the case.

14 (Whereupon, the following takes place outside the
15 presence of the jury panel.)

16 THE COURT: All right. State.

17 SOLICITOR CAMPBELL: May it please the Court, Your
18 Honor.

19 There was an objection to the last witness when
20 Camillia was getting ready to say what she said to the
21 police and the basis of the objection is hearsay. My
22 understanding, Your Honor, and I'm not -- for future
23 witnesses, the definition of hearsay is a statement other
24 than the one made by the declarant while testifying at trial
25 offered to prove the truth of a matter asserted. So,

1 anything a witness says would be admissible. However,
2 anything she hears another witness say would not be
3 admissible or hearsay.

4 She is going to testify to what she told 9-1-1 and that
5 would be admissible, and I'm not sure what your ruling was
6 because he withdrew the question, but for future
7 clarification he can't object to what the witnesses
8 saying -- I mean what she says under her own personal
9 knowledge. That is not objection under hearsay. In any
10 case, Your Honor, if she is going to testify as to what
11 another person says, then it would fall under THE possible
12 hearsay objection.

13 THE COURT: Okay.

14 SOLICITOR CAMPBELL: wanted to clarify that:

15 MR. O'NEILL: I'm thinking Ms. Campbell is reading the
16 rule. You go to the Rule 801 says a, hearsay is a statement
17 other than one made by the declarant while testifying at
18 trial or a hearing offering testimony and evidence to prove
19 the matter asserted. She can't say what he said
20 out-of-Court. That is still hearsay. It's not evidence if
21 she's saying it right then and there, but that's still
22 different. That's the defense in hearsay.

23 801(d) -- I'm sorry 801(c), hearsay is a statement
24 other than one made by declarant while testifying at trial.
25 That's textbook black letter law hearsay definition lays.

1 SOLICITOR CAMPBELL: Made by the declarant.

2 MR. O'NEILL: While testifying at trial.

3 SOLICITOR CAMPBELL: Hearsay is when you're quoting a
4 third party. The reason it can then be excluded is because
5 they aren't subject to cross. The statements made such as
6 when they all walk in the room and they say I want a 30,
7 that's admissible because she says it just as to the same
8 matter as to what she says to 9-1-1 is not admissible. He
9 can twist this rule like anything else, but hearsay is to
10 protect the rights of the accused so he can cross-examine
11 the witness, and, of course, if they are quoting other
12 people then it's hearsay.

13 THE COURT: Anything further?

14 MR. O'NEILL: I understand Ms. Campbell's spin on the
15 law, but I think the black letter law is clear on what
16 hearsay is. 801(c) is clear as day. A statement other than
17 one made by a declarant while testifying at a trial or a
18 hearing. Anything said out-of-Court is hearsay.

19 SOLICITOR CAMPBELL: That is his definition.

20 MR. O'NEILL: That is not my definition, but the rules
21 of evidence definition in 801(c).

22 SOLICITOR CAMPBELL: After his definition -- anything
23 that is said in privacy would never be admissible.

24 MR. O'NEILL: It's always things said out-of-Court by
25 exception that make it admissible.

1 THE COURT: Anything further on the issue?

2 Is this going to -- I just wanted to -- sure. One of
3 the issues that came up with that too was about how she was
4 going to go into some things as whether -- an operator was
5 going to say some things and---

6 SOLICITOR CAMPBELL: Yes, and I understand anything she
7 said, the operator said, is going to quote, would be
8 hearsay. Classic hearsay.

9 THE COURT: We're ready.

10 SOLICITOR CAMPBELL: I need five minutes to talk with
11 the defense counsel for my next witness. May be a little
12 glitch.

13 Your Honor, may we approach with an issue?

14 THE COURT: Sure.

15 (Whereupon, a bench conference was held at this time.)

16 MR. O'NEILL: I was going to say, out of an abundance
17 of caution, I would renew my Riddle motion if Mr. Livingston
18 is saying something contradictory to what he said on last
19 week if---

20 SOLICITOR CAMPBELL: I will get a full briefing from
21 his lawyer and turn it over.

22 THE COURT: She will be directed to do so.

23 SOLICITOR CAMPBELL: That's why I approached the bench
24 and told you that.

25 THE COURT: Okay. Anything else?

Beverly Moyd - Direct examination
by Solicitor Campbell

1 Are we ready to proceed?

2 SOLICITOR CAMPBELL: Yes, I can do a couple witnesses
3 out of order.

4 (Whereupon, the following takes place within the
5 presence of the jury.)

6 THE COURT: You may proceed with the State.

7 SOLICITOR CAMPBELL: May it please the Court, Your
8 Honor.

9 As a technical problem, we need to call Beverly Moyd.

10 BEVERLY MOYD, being first duly
11 sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY SOLICITOR CAMPBELL:

14 Q Ms. Moyd, you live in Columbia?

15 A Yes.

16 Q How long you been living here?

17 A All my life.

18 Q What part of town do you currently live in?

19 A Harper Street.

20 Q Harper Street?

21 A Yes, ma'am.

22 Q I want to turn your attention back to November of 2006.
23 Were you living on Harper Street?

24 A Yes, ma'am.

25 Q Who all was living with you on Harper Street at that

Beverly Moyd - Direct examination
by Solicitor Campbell

- 1 time?
- 2 A Edna Foster, Mary Brown, June Elroy Foster.
- 3 Q Is her last name Foster or Frost?
- 4 A I'm nervous.
- 5 Q You nervous?
- 6 A Yes, ma'am.
- 7 Q Take your time.
- 8 okay?
- 9 A Okay.
- 10 Q You lived over there with Ms. Edna Frost?
- 11 A Yes, ma'am.
- 12 Q And her son, Elroy Eugene Frost?
- 13 A Yes, ma'am.
- 14 Q And Larry Brown?
- 15 A Yes, ma'am.
- 16 Q Edna Frost and Elroy or Eugene Frost, how are they
- 17 related?
- 18 A Mother and son.
- 19 Q As far as Larry Brown, who was also living there at the
- 20 time, how is he related to the Frost's?
- 21 A Those are -- Edna is his aunt and Eugene is his cousin.
- 22 Q Were you related to anybody back then?
- 23 A No, ma'am.
- 24 Q why were you staying over at Harper Street at that
- 25 point?

Beverly Moyd - Direct examination
by Solicitor Campbell

1 A I didn't have a place to stay and I hadn't been there
2 for a very long time and I knew a little bit of people in
3 our family. So, she gave me a place to stay and I was
4 homeless.

5 Q As far as Larry and Elroy or Eugene Frost, who was the
6 older person?

7 A Larry.

8 Q Was he a good deal older than Eugene?

9 A I think so. I don't know exactly.

10 Q Would Larry Brown and Eugene Frost do things together?

11 A They was cousins. So, they'd go out every now and then
12 as I see -- what I seen, they would go out together.

13 Q All of y'all were living together at the time?

14 A Yes, ma'am.

15 Q Turn your attention to November 21st.

16 A Yes, ma'am.

17 Q That was a couple of days before Thanksgiving?

18 A Yes, ma'am.

19 Q That was on a Tuesday night?

20 A Yes, ma'am.

21 Q Did you and your boyfriend happen to be over there on
22 Harper Street?

23 A Yes, I just came from my girlfriend house and he met me
24 there. So, we walked to Harper Street.

25 Q About what time of night was that?

Beverly Moyd - Direct examination
by Solicitor Campbell

- 1 Do you remember?
- 2 A About ten o'clock.
- 3 Q When you first got there, who all was there?
- 4 A Just Edna by herself.
- 5 Q What was Ms. Frost doing?
- 6 You can't say what she said to you, but what was she
- 7 doing?
- 8 A She was just there sitting around crying.
- 9 Q Did she then tell you what she was upset about?
- 10 Can't say what she said, but did she relate something
- 11 to you?
- 12 A Yes, ma'am.
- 13 Q That same night after you got home somewhere around ten
- 14 o'clock, did you see either Larry or Elroy or Eugene that
- 15 night?
- 16 A No, ma'am.
- 17 Q Some time after midnight, though it was technically
- 18 still the same night, did you see Larry and Elroy come home?
- 19 A It was---
- 20 Q Their cousins?
- 21 A Yes, ma'am.
- 22 Q And what time of day, night was that?
- 23 A About two o'clock in the morning.
- 24 Q What were you doing when they came home?
- 25 A Laying down asleep.

Beverly Moyd - Direct examination
by Solicitor Campbell.

- 1 Q Where were you in the house?
- 2 A In the living room.
- 3 Q Did you see Larry?
- 4 A Yes, ma'am.
- 5 Q See what he was wearing?
- 6 A He had on dark clothes, jeans, shirt, and a dark hat
- 7 on.
- 8 Q Do you remember what kind of jacket he was wearing?
- 9 A A dark jacket.
- 10 Q Do you remember what Elroy was wearing?
- 11 A He had on a dark jacket and blue jeans.
- 12 Q That night or the next morning did you have an
- 13 opportunity to see Larry's hands?
- 14 A It was later on because they were sleep when I left. I
- 15 left early, but it was later on that Wednesday afternoon
- 16 when I seen Larry.
- 17 Q When you saw Larry's hand, did you notice anything
- 18 about them?
- 19 A He had a bandage on his hand.
- 20 Q Back then on Tuesday night when you saw them, do you
- 21 recall what they looked like?
- 22 A No, I didn't see his hair because it was dark, and a
- 23 little light from the kitchen, but I didn't see his head
- 24 then.
- 25 Q That day or the day before or two before that, how did

Beverly Moyd - Direct examination
by Solicitor Campbell

1 he wear his hair?

2 A He had dreadlocks.

3 Q Dreadlocks?

4 A Yes, ma'am.

5 Q They were fairly long?

6 A Yes, ma'am.

7 Q That's how he appeared up till that Wednesday?

8 A That Wednesday afternoon that's when I seen his hair
9 was cut.

10 Q That Wednesday afternoon after that Tuesday night is
11 when you noticed his hair was cut?

12 A Yes, ma'am.

13 Q What happened to the dreadlocks?

14 A I didn't ask them. I just said you cut your hair, and
15 that's -- just took it from there.

16 Q That's the same time you saw he had a bandage on his
17 hand?

18 A Yes, ma'am.

19 Q Had you ever seen Larry or Elroy with the gun?

20 A I seen Elroy with a gun. He is a big child. He loves
21 to play with a gun. The time I seen him it was like a gun
22 pulled back to -- it was dark and you could pull it back and
23 he would, played with it a couple of times, and I believe I
24 just left because I don't like guns much.

25 Q You don't know what really happened that Tuesday night

Beverly Moyd - Cross-examination
by Mr. Cooper

1 before you got home?

2 A No, ma'am.

3 SOLICITOR CAMPBELL: That's all I have.

4 MR. COOPER: May it please the Court, Your Honor?

5 THE COURT: Yes.

6 CROSS-EXAMINATION

7 BY MR. COOPER:

8 Q Good afternoon, Ms. Moyd.

9 A Hi.

10 How you doing, sir?

11 Q I noticed, when you were speaking with Ms. Campbell a
12 moment ago, were you referring to notes?

13 Have something down there you were looking at?

14 A Yes, sir, I just glanced at them.

15 Q What is that you were looking at?

16 A Here.

17 Q Okay.

18 A It's a statement I gave to the officer.

19 Q A statement you gave?

20 A Yes, sir.

21 Q You were looking at that when you were talking with
22 Ms. Campbell, right?

23 A Because it was so long ago.

24 Q Yes, ma'am.

25 A Okay.

Beverly Moyd - Cross-examination
by Mr. Cooper

1 Q All right. So, what you were telling her isn't based
2 just purely on your memory because it was so long ago,
3 right?

4 A Yes.

5 Q Now, you didn't see Larry exactly when he got home on
6 Tuesday night, right?

7 A I woke up and I looked right at him because they
8 knocked on the door and opened the door. I---

9 Q So, you did see him?

10 A See him, yeah.

11 Q And that was Tuesday night?

12 A Uh-huh. (Affirmative).

13 Q Okay. How long had you been -- at that point, how long
14 had you been living there?

15 A I had been staying with Edna about three to four
16 months.

17 Q Okay.

18 A Uh-huh. (Affirmative).

19 MR. COOPER: All right. Court's indulgence.

20 (Pause.)

21 MR. COOPER: Thank you, ma'am. Got nothing else for
22 you.

23 REDIRECT EXAMINATION

24 BY SOLICITOR CAMPBELL:

25 Q Ma'am, when you saw them when they came in, that was

Camillia Goodwin - Direct examination
by Solicitor Campbell

1 actually that Wednesday morning after midnight?

2 A Yes, ma'am.

3 Q Thank you.

4 THE COURT: Any recross?

5 MR. COOPER: No, Your Honor.

6 THE COURT: You can step down and be excused.

7 SOLICITOR CAMPBELL: State calls Camillia Goodwin.

8 CAMILLIA GOODWIN, being first duly
9 sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY SOLICITOR CAMPBELL:

12 Q Ms. Goodwin, how old are you?

13 A Twenty-four.

14 Q You live here in the Columbia area?

15 A Yes.

16 Q Have you lived here all your life?

17 A Just about.

18 Q Where did you go to high school?

19 A C.A. Johnson.

20 Q Did you graduate?

21 A Yes.

22 Q And are you currently employed?

23 A No, I'm unemployed.

24 Q Back in November of 2006 when all this happened, were
25 you working somewhere?

Camillia Goodwin - Direct examination
by Solicitor Campbell

- 1 A Yes.
- 2 Q Where were you working?
- 3 A The KFC on Two Notch.
- 4 Q And in November of 2006 who were you living with?
- 5 A It was me, and my boyfriend, Rell.
- 6 Q Rell?
- 7 A Tyrell.
- 8 Q Tyrell Williams?
- 9 A Yes, ma'am.
- 10 Q And how long had y'all been living together?
- 11 A I'd say about two months. We was staying there about
- 12 four months.
- 13 Q And when you say you were staying there, where were
- 14 y'all staying at the time?
- 15 A At the Grand Motel.
- 16 Q Where is that located?
- 17 A Off Two Notch Road.
- 18 Q And what kind of room were y'all renting at the Grand
- 19 Motel?
- 20 A Oh, like---
- 21 Q Did it have like a kitchen and stuff?
- 22 A Yes, ma'am.
- 23 Q In fact, when you walked in the door, describe to the
- 24 jury what was over to the left.
- 25 A When you walked through the door?

Camillia Goodwin - Direct examination
by Solicitor Campbell

- 1 Q Through the front door.
- 2 A The closet.
- 3 Q Closet?
- 4 A Yes, ma'am.
- 5 Q Was there also a bathroom?
- 6 A Yes, ma'am.
- 7 Q And a kitchen area?
- 8 A The kitchen was like when you walk -- it's like on the
9 right-hand side.
- 10 Q Uh-huh. (Affirmative).
- 11 Back as you walk -- you kind of walk into a little
12 hallway, is that correct?
- 13 A Yes, ma'am.
- 14 Q There's like a table area and a couch in the back?
- 15 A Yes, a table on the right-hand side.
- 16 Q There was also an area on, for the bed?
- 17 A Yes, on the right-hand---
- 18 Q Describe for the jury -- there are some big windows in
19 the room?
- 20 A Yes.
- 21 Q The afternoon of November 21st, were you and Tyrell in
22 the room?
- 23 A Yes, ma'am.
- 24 Q And did y'all have some visitors?
- 25 A Yes, ma'am.

Camillia Goodwin - Direct examination
by Solicitor Campbell

- 1 Q And who all came over to see you that afternoon?
- 2 A It was me, my sister, my friend, and my little nephew.
- 3 Q That's your sister, Jamilla?
- 4 A Yes, ma'am.
- 5 Q Is she your twin sister?
- 6 A Yes, ma'am.
- 7 Q Your nephew?
- 8 A My nephew, LaZane, yes, ma'am.
- 9 Q How old was LaZane?
- 10 A He was two at the time.
- 11 Q Also your other friend?
- 12 A My home girl, Tara.
- 13 Q Tara?
- 14 A Yes, ma'am.
- 15 Q What were y'all doing that afternoon?
- 16 A Well, we was playing cards at the moment. Playing a
- 17 game of spades.
- 18 Q Who all was seated around the table?
- 19 A It was me, my sister, my home girl. Tara was holding
- 20 my nephew, and Raya.
- 21 Q That evening around 7:00, 7:00 something in the
- 22 evening, was there a knock on the door?
- 23 A Yes, ma'am.
- 24 Q Did you get up and go answer the door?
- 25 A Yes.

Camillia Goodwin - Direct examination
by Solicitor Campbell

1 Q And when you answered the door, tell this jury who you
2 saw.

3 A The lady, Jackie, was at the door, Jacqueline. I don't
4 know her last name. But she was at the door and then
5 there's two other fellows behind her.

6 Q Two other fellows behind her?

7 A Yes.

8 Q Had you ever seen them before?

9 A No, ma'am, I saw one of them earlier that week, but I
10 didn't know him.

11 Q Describe the two guys with her.

12 A I didn't see the first one. I just seen the big heavy
13 set one.

14 Q Saw the big heavy set one better?

15 A Yes, ma'am.

16 Q The other just stayed by the door?

17 A Yes, ma'am.

18 Q The other -- did you notice anything about his hair or
19 get a good look at his face?

20 A I just saw the back of his head had dreads. I seen a
21 black leather jacket.

22 Q Was he taller than the bigger one?

23 A Yes, ma'am.

24 Q And he's kind of tall and thin with the dreads?

25 A Yes, ma'am.

Camillia Goodwin - Direct examination
by Solicitor Campbell

- 1 Q And the other guy is kind of short and stocky?
- 2 A Yes, ma'am.
- 3 Q And when you walked into the room, the guy you saw, you
- 4 saw the dreads, you didn't get a good look at his face?
- 5 A No, ma'am.
- 6 Q Which part of the room did he go to?
- 7 A He went to the area by the bed.
- 8 Q And where did the shorter stocky guy stay?
- 9 A He stayed by the door blocking me and Jackie from
- 10 getting out the door.
- 11 Q I'll get back to that in a minute.
- 12 when they first walked in the door, did you walk back
- 13 with you or back with the guy with the dreads?
- 14 A No, they pushed the door open on me.
- 15 Q Who all came in?
- 16 A It was just the, the two dude and lady, Jackie.
- 17 Q Once they came inside, did the lady Jackie stay closer
- 18 or in the hallway in the door area?
- 19 A Yes, ma'am.
- 20 Q But the guy with the dreadlocks, did he go back further
- 21 into the room?
- 22 A Yes, ma'am.
- 23 Q And then the short stockier stayed in that hallway near
- 24 the door?
- 25 A Near the door, yes, ma'am.

Camillia Goodwin - Direct examination
by Solicitor Campbell

1 Q Were you able to see kind of what was going on in the
2 back of the place?

3 A No, I just seen it was like gunshots firing in the air,
4 and then when I heard them I hit the floor.

5 Q So, when the guy walked past you, did you hear anyone
6 say anything?

7 A I heard Re'll say it's not about to go down like that.

8 Q At that point had you seen the gun?

9 A I seen it firing in the air.

10 Q Could you tell who had the gun?

11 A The one with the dreads.

12 Q Did you ever see anyone else in the room with the gun
13 that day?

14 A No, ma'am.

15 Q But you were able to see the guy with the dreads?

16 A I just saw the back of his head, yes, ma'am.

17 Q And when you saw him firing the gun, could you tell
18 whether he and Tyrell were already into it?

19 A Yeah, it's like he was trying to wrestle the gun out of
20 the other man's hands.

21 Q Who was trying to wrestle the gun out of the guy's
22 hand?

23 A Tyrell.

24 Q Trying to wrestle the gun out of which guy's hands?

25 A The one with the dreads.

Camillia Goodwin - Direct examination
by Solicitor Campbell

1 Q Did you ever hear anyone there talk about money,
2 getting money?

3 A The one that was blocking the door -- me getting out
4 the door.

5 Q And who was he talking to?

6 A He was talking to the one with the dreads.

7 Q And do you remember what he said?

8 MR. O'NEILL: Objection, Your Honor. Hearsay.

9 SOLICITOR CAMPBELL: This is res gestae.

10 THE COURT: This is a statement not by the defendant?

11 SOLICITOR CAMPBELL: Not by the defendant, but it is
12 during the course of the crime. Clearly this is an
13 exemption.

14 THE COURT: Go forward.

15 SOLICITOR CAMPBELL: Thank you.

16 Q Go ahead.

17 A He was telling the other dude get the money, get the
18 money because when I was trying to get out the door he just
19 kept saying tell the dude get the money and saying hold up.

20 Q And the only person you heard anybody else saying was
21 Tyrell saying it's not going to go down like this?

22 A That's all I---

23 Q And could you tell exactly where he was shooting?

24 A No, I saw him just firing in the ground and I hit the
25 ground.

Camillia Goodwin - Direct examination
by Solicitor Campbell

- 1 Q When you hit the ground, where were you?
- 2 A In the kitchen.
- 3 Q You ducked into the kitchen?
- 4 A Yeah, because it was a chair that fell on the ground.
- 5 Q Once you were in the kitchen, where did you go?
- 6 A I had got up and tried to get out the door, but the
- 7 other dude was holding the door for me to, to get out.
- 8 Q When you say the other dude, which one?
- 9 Give a description.
- 10 A The stocky one.
- 11 Q He wouldn't let you out?
- 12 A No, ma'am.
- 13 Q Were the gunshots going on?
- 14 A Yes, ma'am.
- 15 Q Do you know where everybody else was at that point?
- 16 A I know my twin sister and nephew ran in the bathroom.
- 17 Q You know where Tyrell was at that point?
- 18 A He was still trying to argue with -- well, fight and
- 19 wrestle with them and get the gun out his hands.
- 20 Q At some point -- where did you end up in the kitchen?
- 21 A Where?
- 22 Q Yeah.
- 23 A I was on the floor behind one of the chairs that had
- 24 been knocked down on the floor.
- 25 Q I show you what's been marked as State's Exhibit 72.

Camillia Goodwin - Direct examination
by Solicitor Campbell

- 1 This is the front door.
- 2 A Uh-huh. (Affirmative).
- 3 Q would this be the kitchen area?
- 4 A Yes, ma'am.
- 5 Q Right here?
- 6 A Uh-huh. (Affirmative).
- 7 Q where in the kitchen would you have been?
- 8 A I was like right there by the door.
- 9 Q Near here?
- 10 A Yes, ma'am.
- 11 Q And were you standing up or sitting down?
- 12 A I was like ducking down behind the chair.
- 13 Q Behind the chair?
- 14 A It was a chair like -- something like this like on the
- 15 floor or something.
- 16 Q why were you ducking under the chair?
- 17 A Because I didn't want to get hit.
- 18 Q So, you were trying to get out of the line of fire?
- 19 A I was trying to get out the way.
- 20 Q Do you know how many bullets you heard fired that day?
- 21 A I'd say probably about five or six maybe.
- 22 Q You don't know exactly how many?
- 23 A No, ma'am.
- 24 Q And once there were no more shots being fired did you
- 25 stay in the kitchen?

Camillia Goodwin - Direct examination
by Solicitor Campbell

- 1 A No, I had got up and tried to get out the door.
- 2 Q And the guy wouldn't let you out the door?
- 3 A No, ma'am.
- 4 Q At some point did you hear someone banging on the door?
- 5 A Yes.
- 6 Q Did you later find out who that was?
- 7 A Yes.
- 8 Q Who was that?
- 9 A The man Mike from up front at the office.
- 10 Q The man that runs the office?
- 11 A Yes, ma'am.
- 12 Q And at some point did the door come open?
- 13 A Yes.
- 14 Q And was Mike standing on the other side of the door?
- 15 A Yes.
- 16 Q Do you remember what he had in his hand?
- 17 A He had some kind of stick or something, a golf club,
- 18 shaft. That's what it was.
- 19 Q He had been banging on the door?
- 20 A Yes, ma'am.
- 21 Q Did you actually see where the two guys went after they
- 22 got out of the room?
- 23 A No, I just remember the one -- when he, when he opened
- 24 the door, he like I ain't got nothing to do with it, and he
- 25 just walked off and then that was that. I didn't see where

Camillia Goodwin - Direct examination
by Solicitor Campbell

1 they went out, how they left or nothing.

2 Q You can't say what they heard, but did you hear
3 something about how they got out?

4 A No, ma'am.

5 Q After all this happened, did you see where Tyrell ended
6 up?

7 A Yeah, he was walking towards me and fell on the ground.

8 Q And did he ever get up after that?

9 A No, ma'am.

10 Q Were you able to get out of the room after that?

11 A Yes, ma'am.

12 Q Did the police come?

13 A Uh-huh. (Affirmative).

14 Q And when the police came, did you speak to them about
15 what had happened?

16 A Yes, ma'am.

17 Q And then a couple of days later did you give
18 Investigator Godfrey a statement?

19 A Yes, ma'am.

20 Q When you spoke to Investigator Godfrey, did you tell
21 him you got a good look at the man at the door--

22 A Yes, ma'am.

23 Q But, but that you just really saw the back of the head
24 of the other guy?

25 A Yes, ma'am.

Camillia Goodwin - Direct examination
by Solicitor Campbell

1 Q Then which one was the man with the gun?

2 A The one with the dreads.

3 Q Did you ever see anybody else in the room with a gun,
4 your sister, your home girl, anybody else in the room with a
5 gun?

6 A No, ma'am, just him.

7 Q That's what you told the police that night?

8 A Yes, ma'am.

9 Q When Investigator Godfrey met up with you about three
10 days later on the 24th, was he able to show you some
11 photographs?

12 A Yes, ma'am.

13 Q Were you able to recognize some of those photographs?

14 A Yes.

15 Q Who did you recognize?

16 A The stocky guy.

17 Q Did you tell him who it was?

18 A Yes, ma'am.

19 Q You were -- never got a good look at the other guy?

20 A No, ma'am.

21 Q Camillia, in 2006 you were convicted of forgery?

22 A Yes, ma'am.

23 Q And possession with intent to distribute marijuana?

24 A Yes, ma'am.

25 SOLICITOR CAMPBELL: Please answer any questions

Camillia Goodwin - Cross-examination
by Mr. O'Neill

1 defense counsel may have.

2 CROSS-EXAMINATION

3 BY MR. O'NEILL:

4 Q Camillia, you answered the door that night?

5 A Yes, sir.

6 Q The lady named Jackie, she's the one that knocked on
7 the door?

8 A Yes.

9 Q Jackie came in first?

10 A Yes.

11 Q So, she came in first. Then two other individuals came
12 in.

13 A uh-huh. (Affirmative).

14 Q And when they came in, Jackie said they wanted a 30?

15 A Yes, sir.

16 Q Did you know what that meant at that time?

17 A Yes, sir.

18 Q You knew they were there to get some drugs?

19 A Yes, sir.

20 Q Did Tyrell go in the room to get the drugs when they
21 said they needed the 30?

22 A Yes, sir.

23 Q where did he go get the drugs from?

24 A He was going back towards the dresser.

25 Q where were, would the drugs have been at?

Camillia Goodwin - Cross-examination
by Mr. O'Neill

1 A It was on top of the dresser near the little tall chest
2 and everything.

3 Q And this is a tall chest here I guess the DVD belongs
4 in, but the TV wasn't on that dresser. It was on---

5 A Yeah.

6 Q ---was on the smaller night stand?

7 A Uh-huh. (Affirmative).

8 Q The drugs were in the---

9 A On top of the dresser.

10 Q On top of the, the tall armoire, the dresser, the TV
11 was supposed to be in?

12 A Yes.

13 Q The gun in the room belonged to Tyrell as well,
14 correct?

15 A Yes, sir.

16 Q Where was the gun at in that room?

17 A Inside the drawer, one of the drawers.

18 Q The gun was in the same drawer as the drugs was?

19 A Uh-huh. (Affirmative).

20 Q And he was going in that drawer to get the drugs?

21 A No, it was in the drawer on top of the chest/dresser.

22 Q The drug or the gun?

23 A The drug was on top, but the gun was inside.

24 Q The drug was on top of the dresser and the gun inside
25 the dresser?

Camillia Goodwin - Cross-examination
by Mr. O'Neill

- 1 A Yes, sir.
- 2 Q And he had that gun a couple of weeks you said?
- 3 A Yes, sir.
- 4 Q Where -- you were sitting I think at this table here?
- 5 A Yes, sir.
- 6 Q And what position of this table would you have been at?
- 7 A My back towards the kitchen.
- 8 Q So, you would have been here?
- 9 A Uh-huh. (Affirmative).
- 10 Q And if you were here, you can't see what's going on
- 11 back here, correct?
- 12 A No.
- 13 Q You can't tell what's going on back here by the
- 14 dresser?
- 15 A Uh-huh. (Affirmative).
- 16 Q The dresser that had the gun and the dresser that had
- 17 the drugs in it?
- 18 A No.
- 19 Q You gave a statement I think to Investigator Strange on
- 20 the day this all happened?
- 21 A Uh-huh. (Affirmative).
- 22 Q This was I think Investigator Strange had you handwrite
- 23 what you said?
- 24 He didn't type it out, but wrote it down himself?
- 25 A Uh-huh. (Affirmative).

Camillia Goodwin - Cross-examination
by Mr. O'Neill

1 Q And I reckon in that statement you said two dudes
2 had -- you opened the door and two dudes pushed their way
3 in?

4 A Yes, sir.

5 Q You said those two dudes came in and grabbed Tyrell?

6 A One of them grabbed him. Not both of them. Just one.

7 Q And in that first statement you didn't mention anything
8 about the -- they being there to buy drugs. You didn't put
9 that in your first statement, did you?

10 A I don't know.

11 Q Let me let you look at this because it's been almost
12 three years ago now.

13 A Yeah.

14 Q Take your time. Look it over. This is Investigator
15 Strange writing down what you said.

16 A Yes.

17 Q When you talked to Investigator Strange, you wanted to
18 be as accurate as you possibly can, correct?

19 A Uh-huh. (Affirmative).

20 Q You wanted to be detailed?

21 A Yeah.

22 Q And you know -- you, of course, know this statement is
23 important?

24 A Yes, sir.

25 Q You want to try to provide Investigator Strange with

Camillia Goodwin - Cross-examination
by Mr. O'Neill

- 1 all the details you can provide to him?
- 2 A Uh-huh. (Affirmative).
- 3 Q You didn't say anything in that first statement about
- 4 them coming to buy drugs?
- 5 A No.
- 6 Q You didn't let the cops know he was there to buy drugs?
- 7 A I mean by them telling eventually.
- 8 Q Eventually?
- 9 A Yeah.
- 10 Q In that first statement you didn't mention anything
- 11 about Tyrell saying anything in that first statement, did
- 12 you?
- 13 A No, sir.
- 14 Q You gave a second statement in that case, correct?
- 15 A Uh-huh. (Affirmative).
- 16 Q That was three days later?
- 17 A Yes, sir.
- 18 Q You probably did that at your parent's house?
- 19 A Yes, sir.
- 20 Q You and your sister talked in-between you giving that
- 21 first statement and the second statement, correct?
- 22 A Yes.
- 23 Q You had talked to Ms. Austin as well?
- 24 A Did I talk to her?
- 25 Q Yeah.

Camillia Goodwin - Cross-examination
by Mr. O'Neill

1 A Yeah.

2 Q Okay. You -- y'all gave that second statement to
3 Investigator Godfrey, that individual right there?

4 A Yes, sir.

5 Q He came to your house, your parent's house?

6 I'm sorry?

7 A Yes, sir.

8 Q And he had you and your sister in the room and he gave,
9 and wrote down what y'all would tell him?

10 A Yes, sir.

11 Q In the second statement that you gave, that's where he
12 told him they were there to buy the \$30 worth of crack?

13 A Yes, sir.

14 Q In that second statement, that's when you said the
15 first thing about Tyrell saying something in the room that
16 day?

17 A Uh-huh. (Affirmative).

18 Q And that second statement you said that Tyrell said it
19 wasn't going down like that?

20 A Yes.

21 Q Were you aware your sister Jamilla had put that in her
22 statement as well?

23 Did you know that?

24 A No, sir.

25 Q But y'all were sitting in the same room then?

Camillia Goodwin - Cross-examination
by Mr. O'Neill

- 1 A Yeah.
- 2 Q Now, Camillia, I guess you'd agree with me on that
3 night everything happened kind of fast?
- 4 A Yes, sir.
- 5 Q And one of the reasons why you didn't get a good look
6 at the guy with the dreads is you only saw the back of his
7 head?
- 8 Couldn't see his face?
- 9 A No, I didn't see his face or features.
- 10 Q He had his back to you?
- 11 A Yeah, I seen a black coat and a dread. That's all.
- 12 Q Had you been drinking anything that night?
- 13 A No, sir.
- 14 Q Been doing any kind of drugs that night?
- 15 A No, sir.
- 16 Q You had a forgery charge against you that particular
17 year as well?
- 18 A Yes, sir.
- 19 Q You did have possession with intent to distribute
20 marijuana. That would have been August, 2006.
- 21 A Actually it was in March 2006 and May 2006.
- 22 Q You went to Court for that in May 2006?
- 23 A Yes, I did.
- 24 Q That would have been about three months before this
25 happened?

Camillia Goodwin - Redirect examination
by Solicitor Campbell

1 A Uh-huh. (Affirmative).

2 MR. O'NEILL: Beg the Court's indulgence, Your Honor.

3 (Pause.)

4 REDIRECT EXAMINATION

5 BY SOLICITOR CAMPBELL:

6 Q Ms. Goodwin, he asked you about the first statement you
7 gave. Basically -- can I show you a copy of it -- this is
8 what -- yeah.

9 This statement was actually taken there at the motel
10 room that night?

11 A Uh-huh. (Affirmative).

12 Q Were you fairly upset that night?

13 A Yes, ma'am.

14 Q And he just asked you generally what happened?

15 A Yes, ma'am.

16 Q And in this statement you told him generally what
17 happened including the part about you saw Tyrell fighting
18 with the dude with the gun?

19 A Yes, ma'am.

20 Q And then later, on the 24th, Investigator Godfrey came
21 and he took a five-page statement with you?

22 A Yes, ma'am.

23 Q So, he asked you a lot more questions?

24 A Uh-huh. (Affirmative).

25 Q And got a lot more details?

Camillia Goodwin - Redirect examination
by Solicitor Campbell

1 A Yes, ma'am.

2 Q But as far as what happened, you were truthful in both?

3 A Yes, ma'am.

4 SOLICITOR CAMPBELL: Thank you. I have nothing
5 further.

6 THE COURT: You can step down or be excused.

7 SOLICITOR CAMPBELL: Thank you, Your Honor.

8 State would call EMT David Daniel.

9 DAVID DANIEL, being first duly
10 sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY SOLICITOR JOPHLIN:

13 Q Mr. Daniel, where are you currently employed?

14 A Richland County EMS.

15 Q As being part of Richland County EMS, what is that --
16 what are your duties with that position?

17 A I'm a paramedic crew leader. The paramedic on the
18 ambulance in charge of everything that goes on on that
19 ambulance.

20 Q Is that the position you held back in November of 2006?

21 A Yes.

22 Q Did you have occasion to arrive at 3003 Two Notch Road,
23 the Grand Motel?

24 A Yes.

25 Q What kind of call was dispatched to that address?

David Daniel - Direct examination
by Solicitor Jophlin

1 A I believe it was a gunshot wound is what we were
2 dispatched out on because our supervisor came along with us.

3 Q In fact, on y'all's care forms that you issue, you have
4 to issue a care form for every run you make on the
5 ambulance?

6 A That is correct.

7 Q And y'all have certain notations you put on that care
8 form?

9 A Yes.

10 Q On here, your preliminary impressions, you have marked
11 015.

12 what does that stand for?

13 A We have a whole list of signals, what they call, and
14 015 is for gunshot wound.

15 Q And Number 112 is right next to it as one of your
16 preliminary impressions.

17 what is that?

18 A That means it's an advanced call. We either have that
19 or 113, which would be your basic call, a call that would
20 not require advanced care.

21 Q That's, when you first arrive on the scene, what the
22 impressions are when you first arrive?

23 A Yes.

24 Q Pretty much.

25 Later on you develop a primary impression after some

David Daniel - Direct examination
by Solicitor Jophlin

1 inspection of the injured patients?

2 A Yeah. Excuse me. They have preliminary impressions
3 and primary. Preliminary isn't necessarily anything you see
4 when you first get there. It's sort of all in one, but the
5 primary one is what is the main reason for your being there.

6 Q What was your primary impression for this patient?

7 A They were in cardiac arrest. They have no pulse, no
8 breathing.

9 Q Did you get the name and information, identification
10 information for this patient?

11 A No.

12 Q I see you're looking at a form.

13 Is that the DHEC care form you have sitting up there
14 with you?

15 A Yes, that's a copy.

16 Q Would that help refresh your memory to refer to that
17 from time to time with this testimony?

18 A Yes.

19 Q But the gentleman you have down here, he's a black
20 male, probably 25 years of age?

21 A From what we could tell at the time, yes.

22 Q And you observed gunshot wounds to the patient?

23 A Yes, apparently he had one in the center of the chest,
24 the right upper chest, and one in the abdomen that we could
25 obviously tell initially.

David Daniel - Direct examination
by Solicitor Jophlin

1 Q And what was the patient's condition upon your arrival?

2 A Well, we found him laying on the floor. Like I said,
3 he had no pulse and no respiration.

4 Q And what did you, procedures did you perform once you
5 got there or resuscitation attempts?

6 A We -- because we were told he apparently had just
7 recently stopped breathing, that's what we went by and then.
8 So, we started CPR and ventilated the patient with oxygen
9 with a bag valve mask that you see, and which put him on a
10 backboard and carried him down to the ambulance, and at that
11 point we placed him on the cardiac monitor and he was in
12 asystolia, which means it's just a flat line and no
13 electrical activity.

14 Q Y'all attempted to resuscitate him at the scene?

15 A Yes.

16 Q Y'all were unsuccessful?

17 A In a trauma situation like that you want to get him to
18 the hospital because there's really nothing we can do that's
19 going to immediately help other than to, you know, hopefully
20 supply his vital organs with oxygen and get him to the
21 hospital. I mean in this case it was -- you know, survival
22 from a traumatic arrest meaning if you have no pulse any
23 maybe from like a gunshot wound, stabbing, or car wreck is
24 pretty minimal.

25 Q And y'all transported him to Richland Memorial?

David Daniel - Direct examination
by Solicitor Jophlin

1 A Yes.

2 Q Emergency room?

3 A Yes, that's the trauma center. Any type of gunshot
4 wound or traumatic arrest has to go there.

5 Q Once y'all arrived there, he transferred the care of a
6 patient to the ER?

7 A Yes.

8 SOLICITOR JOPHLIN: That's all. Thank you, sir.

9 MR. COOPER: May it please the Court, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. COOPER:

12 Q Good afternoon. Thank you for coming today, sir.

13 Mr. Jophlin was just going over this with you. You're
14 referring to some of those forms you got because this was a
15 long time ago and you go on a lot of calls, right?

16 A Yes.

17 Q Some---

18 A Like I remember when they told me. I can remember the
19 generalities of the call basically because, you know, you
20 don't get gunshot wounds every day.

21 Q Yes, sir.

22 And that night when you reported, there was not anybody
23 there from crime scene investigation or Richland County
24 Sheriff's Department at the scene?

25 Do you remember?

David Daniel - Cross-examination
by Mr. Cooper

1 A If they were from crime scene investigation I don't
2 remember because we're not focused in on who the other
3 people are there. Just the patient at that point.

4 Q You were one of the first responders on the scene?

5 A Yes, the police were there on the scene before us. But
6 we were there before the -- I mean as medical care goes, we
7 were the only people there.

8 Q You don't recall ever bagging Mr. Williams' hands?

9 A No.

10 Q All right. Did you notice blood on the walls in the
11 room?

12 A Honestly at this point in time I did, I do not recall.

13 MR. COOPER: Beg the Court's indulgence one second.

14 (Pause.)

15 MR. COOPER: Your Honor, that's all I have. Thank you,
16 sir.

17 THE COURT: Thank you.

18 SOLICITOR JOPHLIN: You can step down.

19 THE COURT: You can be excused, sir.

20 SOLICITOR JOPHLIN: State would call Mical Jones.

21 MICAL JONES, being first duly
22 sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY SOLICITOR JOPHLIN:

25 Q Mr. Jones, where do you live?

Mical Jones - Direct examination
by Solicitor Jophlin

- 1 A I live at [REDACTED].
- 2 Q Where are you currently employed?
- 3 A At the Thai Kingdom on 378.
- 4 Q How long have you been employed there?
- 5 A Just started about a week or so ago.
- 6 Q Prior to that, back in 2006, were you employed at the
- 7 Grand Motel?
- 8 A Yes.
- 9 Q That's on Two Notch?
- 10 A Two Notch Road, yes. 3003 if I remember correctly.
- 11 Q What was your position at the Grand Motel?
- 12 A Officially manager, but it entailed lots of other
- 13 things.
- 14 Q And were you working the evening of November 21, 2006?
- 15 A Yes.
- 16 Q Were you notified of some type of incident or some type
- 17 of fighting going on in one of the rooms?
- 18 A Yes, some time in the afternoon.
- 19 Q I'm sorry?
- 20 A Some time in the afternoon. I think it was in the
- 21 afternoon if I recall.
- 22 Q Do you recall what room number that was?
- 23 A Yes, 161.
- 24 Q 161 or 162?
- 25 A One---

Mical Jones - Direct examination
by Solicitor Jophlin

1 Q Was it upstairs or downstairs?

2 A Excuse me. 162. It was upstairs, yes.

3 Q And if you could, tell us what was going on in that
4 room.

5 A Actually, as far as what was going on in the room, the
6 call I got was from the maid. She said there was a fight
7 going on. I assumed immediately it was a domestic of some
8 sort. So, I grabbed a bag, bat, headed down to 162, and
9 there was a fight. I could hear it by the time I got to the
10 stairwell.

11 Q What could you hear?

12 Could you hear voices or---

13 A Nothing distinctive. It was crying primarily,
14 hysterical, and female. That's -- that was about all I got
15 outside the door.

16 Q You hear any gunshots or any of that type---

17 A No, sir, there was---

18 Q Glass breaking or --

19 A No breaking. No sound. The predominate sound was the
20 screaming.

21 Q Was there anyone outside the room when you got there?

22 A Outside the room exactly, no. There were two or three
23 people standing on that balcony starting, you know, from my
24 far left, which would have been 152, and then there was two
25 or three people that came up because they had heard the

Mical Jones - Direct examination
by Solicitor Jophlin

1 noise also.

2 Q I'm going to show you State's Exhibit No. 78.

3 Does that fairly and accurately depict the area and the
4 room that---

5 A That's exactly 260 right there, yes. Room closest to
6 the stairwell.

7 SOLICITOR JOPHLIN: Your Honor, we ask to submit 78
8 into evidence.

9 THE COURT: Any objection?

10 MR. COOPER: No objection.

11 THE COURT: Admitted.

12 (Whereupon, State's Exhibit No. 78 was received into
13 evidence at this time.)

14 Q This was the upstairs where this occurred?

15 A Yes, sir.

16 Q There were people hanging out on the upward area or
17 bottom area?---

18 A There were people walking around on the ground on the
19 floor. This is -- if you're facing your left -- there's
20 another building over here. There were two or three people
21 outside on the bottom, a couple on the top on this other
22 building, but there were three distinctly that I remember
23 coming, and one of them had already called the police if I'm
24 not mistaken.

25 Q And I'll show you an aerial photo.

Mical Jones - Direct examination
by Solicitor Jophlin

1 Does this picture fairly and accurately depict the
2 Grand Motel, the parking lot, and buildings?

3 A That's it.

4 SOLICITOR JOPHLIN: This is State's Exhibit 71. Ask to
5 put into evidence, Your Honor.

6 THE COURT: Any objection?

7 MR. COOPER: No objection.

8 THE COURT: Admitted.

9 (Whereupon, State's Exhibit No. 71 was received into
10 evidence at this time.)

11 SOLICITOR JOPHLIN: May the witness stand up?

12 THE COURT: Yes, sir.

13 Q If you could, this is Two Notch Road and Beltline?

14 A Yes.

15 Q And where are the buildings of the Grand Motel?

16 A This is the office area here. This is the two
17 entrances and that's -- the old sign is right here. So, you
18 either come in this way or come in this way. Primarily we
19 want to come in and go out this way, two entries, office
20 here. Room 101 starts to come around. This is the original
21 one. These are the two two-story units built later on. The
22 office is exactly right here. Room 162, 161 are located at
23 this end of this building.

24 Q Okay. And you were in the office when you received
25 this call about---

Mical Jones - Direct examination
by Solicitor Jophlin

1 A Yes, sir.

2 Q ---the disturbance in 162?

3 A Yes, sir.

4 Q That room is at the far end of the property?

5 A Yes.

6 Q Does noise or sounds travel well around this area?

7 A Some particular ones do because it creates a corridor
8 as far as the sound. But inside the rooms they have
9 separate walls. They're built fairly sturdy and the older
10 one -- the older buildings are concrete and the new ones
11 have what they call party wall. So---

12 Q So, they're very solid walls?

13 A Yes.

14 Q And sort of prohibit noise from going room to room?

15 A Yes.

16 Q Once you got to the room you saw a couple of people,
17 two or three people milling around the area.

18 Did you make contact with any individuals inside Room
19 162?

20 A Yes. When I got to the top of the stairs I used the
21 bat to thump on the door a couple of times, and the door was
22 opened at that time. And when they opened it, a black
23 gentleman, black male was in back of two girls. The two
24 girls were closest to me and he opened the door about
25 halfway, had his left-hand on it, opened it up, kept his

Mical Jones - Direct examination
by Solicitor Jophlin

1 hand on it, had his hand on the girl on the right.

2 Q His right-hand?

3 A Yeah, his right-hand was on the shoulder. Two girls
4 were more or less in front of him. One girl sort of turned
5 with her back to the door, door at about a 45-degree angle,
6 and like I said, this hand, he kept his hand on it, had his
7 hand on the shoulder of the one girl like he was trying to
8 control the situation.

9 Q Do you remember what two females those were?

10 A Yes, Camilla and her sister. I forgot the name of the
11 other girl.

12 Q Okay.

13 A Twins. We always called them twins.

14 Q Camillia and Jamilla?

15 Are you---

16 A If you say so. I'm sorry. The number of people that
17 came through that place, I don't---

18 Q But his left-hand was on the door, right-hand---

19 A On the shoulder.

20 Q ---on the two females and at that time -- what happened
21 after that?

22 A The minute he opened the door I asked what's going on,
23 and he said he didn't know what's going on. He wasn't apart
24 of anything. So, you know, I, I did not know of anything
25 about shots. The door was blocking the view of the room.

Mical Jones - Direct examination
by Solicitor Jophlin

1 couldn't see anything, kept just that angle of sight where,
2 from where I was and I was just to the -- I was closest to
3 the hinges on the door. This particular door opens this way
4 in towards the door. So, as he opened it up, all I could
5 see was that.

6 My primarily -- the girls were crying. So, I wanted
7 them out of the room. I didn't know what was going on. I
8 didn't see any marks, any blood. He didn't seem to be
9 belligerent. So, I wanted the girls out of the room. So,
10 as soon as I said that, I took a little step forward. He
11 didn't do anything to stop me or do anything. So, I got the
12 girls outside the room.

13 Q Were you able to give a description of who that looked
14 like who was holding the door?

15 A Yes.

16 Q And what did he look like?

17 A Probably my height, good size shoulders. Oval face,
18 closest -- the ears were very close to the head, short
19 haircut, sort of a high forehead. Recessed eyes. Somewhat,
20 you know, good looking guy. Just, you know, football type
21 of---

22 Q Stocky---

23 A Good---

24 Q ---built?

25 A Good built on him.

Mical Jones - Direct examination
by Solicitor Jophlin

1 Q If you'll look at State's Exhibit 72. This would be a
2 depiction of that room.

3 This would be the front door area?

4 A (Witness points.)

5 Q This would be where they were standing?

6 A Yes, the girl would be---

7 Q Here you go.

8 A Okay. This door opened in. The man I identified was
9 standing approximately right there. The door would have
10 blocked this much. All I could have seen was there's a,
11 there's a---

12 Q A closet?

13 A There's -- yes, sort of a closet so this door blocked
14 everything. He was standing there where there was a gap and
15 he filled the gap. He was big. One girl was here and one
16 girl was right there next to the door, and he was right in
17 back of her right there.

18 Q Thank you.

19 And that evening you were able to talk with
20 investigators.

21 I believe you gave a statement to Investigator Don
22 Gower that evening?

23 A Yes.

24 Q Let him know what you saw?

25 A Yes.

Mical Jones - Direct examination
by Solicitor Jophlin

1 Q And you saw -- when you got the two females out of the
2 room, what happened then?

3 A He closed the door.

4 Q What did you do?

5 A I -- as I said, someone had to let me know when I was
6 going up there that they had already phoned for the police.
7 So, the girls were out. They took off down towards 152,
8 which was this -- this would be the end, 152, of the
9 stairwell here.

10 Q Sort of to the left?

11 A Yes, they took off this way on the crosswalk or the
12 walkway there.

13 Q Did you see anyone come out of that room?

14 A No.

15 Q Your attention was focused on securing the safety of
16 the two females and safety of everybody else standing around
17 the room where this is going on?

18 A Yes, I was.

19 Q You had also seen a van that day right around the time
20 of this incident?

21 A Yes, twice actually. It come in before approximately
22 20 to 25 minutes before this happened. It had come in, gone
23 to a certain room, is ten, or was parked out of the room
24 outside 110 I should say, and, you know, early in the day.
25 When it is daylight people come and go. I don't put any

Mical Jones - Direct examination
by Solicitor Jophlin

1 restrictions on people having visitors there. It went over
2 there, I came out, saw it go in, looked where it was going,
3 knew the people in that particular room, never saw any
4 problems. So, I didn't put any emphasis on it. I went back
5 to the office.

6 Q You recall whose room it was?

7 A Yes, 110. I do not recall the name of the fellow
8 staying there, but her name was Jackie. That was how I knew
9 her.

10 Q Jacqueline Holly?

11 A If you say so. The Holly I do not know. Jackie
12 actually, yes, knew her well by sight.

13 Q Describe that van.

14 A Older vehicle. Early 80's I'm thinking. Looks like a
15 Dodge Caravan. Not very well taken care of. Oxidized
16 paint, you know, enough to see the brown, see what it once
17 was.

18 Q Is it two tone?

19 A There was a striped -- there was a white stripe or a
20 lighter tone stripe on it, but it was mostly brown.

21 Q Did you meet with Investigator Godfrey the next day?

22 A Yes.

23 Q Did he show you some photos of an individual to look
24 at?

25 A Yes.

Mical Jones - Direct examination
by Solicitor Jophlin

1 Q Were you able to pick out an individual from those
2 photos?

3 A I was.

4 Q Is that the individual who was holding the door that
5 day?

6 A Yes.

7 Q Once the door was shut, do you know how a person could
8 have not -- did you see anybody come out of that room?

9 A No one came out of the room while I was in there, and I
10 stayed until the police showed up.

11 Q Look at this map again real quick. The room is -- the
12 room is right here?

13 A Yes, sir.

14 Q And that's where that balcony is from that picture?

15 A Right.

16 Q The stairwell for this building, is it right here on
17 the end of the building?

18 A It is connected to that wall, exterior wall.

19 Q That stairwell faces the back of this building?

20 A Yes, goes down almost to the fence line.

21 Q Once you shut the door, like you said, you were more
22 concerned with safety and wanted to---

23 A It got them separated and, you know, if there was going
24 to be any further discussion, it would have to be with the
25 police since they were on the way.

1 SOLICITOR JOPHLIN: Nothing further. Thank you.

2 THE COURT: Okay.

3 MR. COOPER: No questions at this time.

4 THE COURT: You can step down, sir.

5 SOLICITOR CAMPBELL: May we approach?

6 THE COURT: Yes, you may.

7 (Whereupon, a bench conference was held out of the
8 hearing of the jury at this time.)

9 THE COURT: We're going to take a very short break.
10 Remind you not to discuss the case. Report to your jury
11 room please.

12 (Whereupon, the following takes place outside the
13 hearing of the jury panel.)

14 THE COURT: With -- do we have information on the next
15 witness?

16 MR. O'NEILL: One more thing we need to do.

17 SOLICITOR CAMPBELL: May it please the Court, Your
18 Honor.

19 The next witness is Frank Livingston. He is not
20 exactly a codefendant in the case and has not been charged
21 with murder, but is charged with misprision of a felony in
22 relation to this case. We did meet with him last Wednesday
23 I believe with his lawyer. I then called Mr. O'Neill
24 immediately with his lawyer present and with Aaron Jophlin
25 there, and related to him the gist of what he told me, which

1 was that before they were riding around they stopped at the
2 Grand Motel to buy drugs, that it was raining. She saw --
3 he saw Mr. Livingston staying in the van -- he saw -- Mr.
4 Livingston was staying in the van. He saw the defendant,
5 Eugene and Larry, Defendant Larry walked by. He heard
6 gunshots from the back area.

7 He then pulled off, went to Eugene's house over on
8 Harper Street. He went in there. They weren't there and
9 took the van back to its owner. Two or three days later he
10 went back to Harper Street where Eugene and Larry lived. He
11 asked what happened. He talked to Larry and Eugene. They
12 went into a room. They said that -- Larry said he asked the
13 dude for drugs. The dude came out with the drugs. At that
14 point Larry came out with a gun. The dude grabbed it. He
15 had his hand on, I don't know if it says trigger or what,
16 started shooting. While wrestling with the gun, he shot
17 him. The manager came. They ran through the back of the
18 woods.

19 He told them this in the, the room. Something on the
20 news a couple of days later. He saw where Eugene Frost ran
21 through the school, and I believe he came by his mother's
22 house.

23 THE COURT: Anything changed since then?

24 SOLICITOR CAMPBELL: My information is now he went
25 there to buy drugs from a girl, but she wasn't there, and

1 that's when the plan changed, and his lawyer is present and
2 she thinks of anything different.

3 ATTORNEY: That's accurate, Your Honor.

4 MR. O'NEILL: Nothing further, Your Honor. Just note
5 he was telling me -- in 15 minutes or---

6 THE COURT: Well, the note that I got, person needed to
7 pick up their child by 6:00. So, that will give us 30
8 minutes.

9 SOLICITOR CAMPBELL: Your Honor, we've already settled
10 his records and pending charges and the deal.

11 MR. O'NEILL: Nothing different with the deal?
12 Deal is the same?

13 SOLICITOR CAMPBELL: He hopes for dismissal, reduction,
14 no time.

15 THE COURT: Jurors please.

16 (Whereupon, the following takes place within the
17 presence of the jury panel.)

18 THE COURT: All right.

19 SOLICITOR CAMPBELL: Your Honor, he is on the stand for
20 safety reasons. So, he needs to be sworn.

21 THE COURT: Okay. Please do so.

22 FRANK LIVINGSTON, being first duly
23 sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY SOLICITOR CAMPBELL:

Frank Livingston - Direct examination
by Solicitor Campbell

- 1 Q Mr. Livingston, where are you from?
2 A Columbia.
3 Q How long have you lived in the Columbia area?
4 A Thirty-nine years.
5 Q Is that how old you are?
6 A Yes, ma'am.
7 Q Do you know a man named Larry Brown?
8 A Yes, ma'am.
9 Q How do you know Larry Brown?
10 A We used to hang together a little bit.
11 Q Do you know his cousin, Eugene or Elroy?
12 A Yes, ma'am.
13 Q Is this -- his last name Frost?
14 A Yes, ma'am.
15 Q How did you know Eugene Frost?
16 BAILIFF: The jury can't hear.
17 SOLICITOR CAMPBELL: I apologize, Your Honor.
18 WITNESS: Yeah.
19 Q How do you know Gene Frost?
20 A From around Columbia.
21 Q I want to turn your attention back to November of 2006.
22 specifically November 21 of 2006.
23 were y'all riding around in a van that day?
24 A Yes, ma'am.
25 Q who was driving the van?

Frank Livingston - Direct examination
by Solicitor Campbell

- 1 A Me.
- 2 Q And who all was in the van with you?
- 3 A Me, Larry, Eugene.
- 4 Q Where were y'all going that day when you were driving
- 5 down Two Notch Road?
- 6 A I was about to take them home, but we stopped by the
- 7 Grand Motel.
- 8 Q Why did y'all stop by the Grand Motel?
- 9 A They wanted to buy some drugs.
- 10 Q When you say they wanted to buy some drugs, who wanted
- 11 to buy the drugs?
- 12 A Larry, Eugene.
- 13 Q At that point did you know Larry had a gun?
- 14 A No, ma'am.
- 15 Q When you went into the, pulled into the Grand Motel
- 16 parking lot, where did you park?
- 17 A At the top when we came in.
- 18 Q The Grand Motel, when you first come in, there's some
- 19 one-story motel rooms?
- 20 A Yes, ma'am.
- 21 Q If you go all the way around in the back down a little,
- 22 there are some two-story motel rooms?
- 23 A Yes, ma'am.
- 24 Q Did you park in front of the one-story motel rooms?
- 25 A Yes, ma'am.

Frank Livingston - Direct examination
by Solicitor Campbell

1 Q what was the plan?

2 who were they suppose to buy the drugs from that day?

3 A Some girl. They didn't tell me who, but some girl.

4 Q Did you see them actually go into a motel room that
5 day?

6 A I seen them go into the first one.

7 Q The first one.

8 After -- what was the weather like that day?

9 A It was raining.

10 Q After they then went into the first motel room, did you
11 see them walk by in the parking lot?

12 A (Witness nods affirmatively.)

13 Q Did you see exactly where they went?

14 A No, ma'am.

15 Q would you agree with me it was toward the back area
16 where the two-story ones are?

17 A Yes, ma'am.

18 Q Were you just waiting in the van?

19 A Yes, ma'am.

20 Q was the plan suppose to be they were supposed to get
21 the drugs and come back and --

22 A I was going to take them home.

23 Q which home?

24 where was their home?

25 A Harper Street.

Frank Livingston - Direct examination
by Solicitor Campbell

- 1 Q who do they live with?
- 2 A Their mother.
- 3 Q With Eugene's mother?
- 4 A (Witness nods affirmatively.)
- 5 Q That would be Larry's aunt?
- 6 A Yes, ma'am.
- 7 Q How long did you wait in the van?
- 8 A About ten minutes.
- 9 Q And then what caught your attention?
- 10 A I heard some gunshots.
- 11 Q When you heard the gunshots what did you do?
- 12 A I seen a lot of people screaming and yelling. So, I
- 13 pulled off.
- 14 Q Where did you pull off to?
- 15 A I went to Harper Street.
- 16 Q When you were pulling out the parking lot did you see
- 17 where Eugene or Larry were at that point?
- 18 A No, ma'am.
- 19 Q When you went back to Harper Street, when you got
- 20 there, you drove directly to Harper Street?
- 21 A Yes, ma'am.
- 22 Q Were Larry and Eugene there yet?
- 23 A No.
- 24 Q Did you stay and wait for them?
- 25 A No, ma'am.

Frank Livingston - Direct examination
by Solicitor Campbell

- 1 Q what did you do?
- 2 A I gave the dude his van back and I left.
- 3 Q what dude?
- 4 A The man that, that van we had. He was at Eugene's
- 5 house. So, I gave him the van and I left.
- 6 Q How did you leave, on foot?
- 7 A No, somebody came and picked me up.
- 8 Q Did you see Larry or Eugene any more that day?
- 9 A No, ma'am.
- 10 Q Did you have any more contact with Larry or Eugene
- 11 later that week?
- 12 A About three days later.
- 13 Q And let me ask you this, on the night in question, do
- 14 you remember how Larry was, how his hair was?
- 15 A How his hair was?
- 16 Q Uh-huh. (Affirmative).
- 17 When he went in to buy the drugs, how did he wear his
- 18 hair that night?
- 19 A He had dreads.
- 20 Q As far as Larry versus Eugene, do they differ a good
- 21 bit in how they appear?
- 22 A Yes, ma'am.
- 23 Q Physically?
- 24 A Yes, ma'am.
- 25 Q How would you describe Larry with the dreads?

Frank Livingston - Direct examination
by Solicitor Campbell

- 1 A He was slim.
- 2 Q How would you describe his cousin Eugene?
- 3 A He's big.
- 4 Q He's big?
- 5 A (Witness nods affirmatively.)
- 6 Q When you saw them about three days after this happened,
- 7 where did you go to see them?
- 8 A Harper Street.
- 9 Q Was this the first time you'd seen them since that
- 10 night at the motel?
- 11 A Yes, ma'am.
- 12 Q When you went over to the house, had Larry's appearance
- 13 changed?
- 14 A Yes, ma'am.
- 15 Q What had changed?
- 16 A He had the dreads cut off.
- 17 Q Did y'all have a conversation or specifically did you
- 18 have a conversation with Larry or Eugene when you went over
- 19 there two or three days later?
- 20 A Had a conversation with Larry.
- 21 Q Where did that take place?
- 22 A On -- it was on the side of their house, back of their
- 23 house.
- 24 Q In the back of their house.
- 25 Who all was present when you were talking to Larry?

Frank Livingston - Direct examination
by Solicitor Campbell

- 1 A Just me, Larry, Eugene.
- 2 Q Did you ask Larry something?
- 3 A I asked him what happened, what happened in the room.
- 4 Q What did he tell you?
- 5 A He told me he went to -- looked like the girl wasn't
- 6 there. So, they went to another room, and there was a dude
- 7 in the room that asked if they had any drugs. And when he
- 8 came back with the drugs Larry drew the gun on them, but he
- 9 wouldn't give it up. He charged at Larry. So, when he,
- 10 when he charged at Larry, they started wrestling with the
- 11 gun. So, it was like -- it was do or die. So, he had to
- 12 shoot him.
- 13 Q So, he said he was wrestling with him and had to shoot
- 14 him?
- 15 A Yes, ma'am.
- 16 Q And he didn't say how many times he shot him, did he?
- 17 A No.
- 18 Q Did he give you any other details?
- 19 A No.
- 20 Q But he did say he was the one that pulled the gun?
- 21 A Yes, ma'am.
- 22 Q Did he ever say anybody else pulled the gun?
- 23 A No.
- 24 Q And he said he had to shoot him?
- 25 A Yes, ma'am.

Frank Livingston - Direct examination
by Solicitor Campbell

- 1 Q Is that all he told you about what happened?
- 2 A Yes, ma'am.
- 3 Q And once you got that information did you stay with
- 4 them there on Harper Street?
- 5 A No, I left.
- 6 Q And did you have anything more to do with them?
- 7 A They got arrested the next day. Larry did.
- 8 Q You ultimately got charged in this case?
- 9 A Yes, ma'am.
- 10 Q With misprision of a felony?
- 11 A Yes.
- 12 Q You never went to the police and told them what you
- 13 knew?
- 14 A No.
- 15 Q In fact, the first time you told anybody this was --
- 16 you got a lawyer in this case, right?
- 17 A Yes, ma'am.
- 18 Q She's sitting in the courtroom?
- 19 A Yes.
- 20 Q She's sitting over there?
- 21 A Yes.
- 22 Q First time you told any law enforcement or prosecutor
- 23 or anyone about this is last when she was present?
- 24 A Yes, ma'am.
- 25 Q And pending in our office, you have a misprision of a

Frank Livingston - Direct examination
by Solicitor Campbell

1 felony charge, don't you?

2 A Yes, ma'am.

3 Q Failure to stop for a blue light?

4 A Yes, ma'am.

5 Q I believe trafficking in crack cocaine, cocaine?

6 A Cocaine.

7 Q Ten to twenty-eight?

8 A Yes, ma'am.

9 Q That's a third offense for you, right?

10 A Yes, ma'am.

11 Q And you also have a PWID crack, third offense, and
12 possession with a pistol during a crime of violence, and the
13 drug charges alone can carry up to 30 years?

14 A Yes, ma'am.

15 Q As far as your prior record, you have, from 1999, a
16 pointing or presenting a firearm conviction?

17 A Yes, ma'am.

18 Q And a strong armed robbery?

19 A Yes, ma'am.

20 Q And then in 2001 you have a trafficking in crack
21 conviction?

22 A Yes, ma'am.

23 Q Ten to twenty-eight?

24 A Yes, ma'am.

25 Q And you're uncomfortable here today?

Frank Livingston - Direct examination
by Solicitor Campbell

1 A Yes, ma'am.

2 Q You're testifying -- as far as any deals the State has
3 offered you to testify, we have agreed not to -- if you
4 testify truthfully, any -- charge you with anything else
5 concerning this murder?

6 A Yes, ma'am.

7 Q And you never got out of the van?

8 A No, ma'am.

9 Q And in addition to that, you're hoping, because you
10 don't have any promises, that you'll get either a dismissal
11 or reduction or time served or probation or some favorable
12 sentence either from the State or from a judge?

13 A Yes, ma'am, I just want to plead guilty to my charge.

14 Q You testified to what you know about what happened that
15 day?

16 A Yes, ma'am.

17 Q And other than that, nobody has promised you anything
18 to make you testify?

19 A No, ma'am.

20 Q The person -- Larry Brown, the one that told you he
21 pulled the gun and had to shoot the guy, do you see him here
22 in the courtroom?

23 A Yes, ma'am.

24 Q Can you point him out for the jury?

25 A (Witness points.)

Frank Livingston - Direct examination
by Solicitor Campbell

1 Q Seated at the table in the middle?

2 A Yes, ma'am.

3 SOLICITOR CAMPBELL: May the record reflect he
4 identified the defendant?

5 THE COURT: So reflected.

6 SOLICITOR CAMPBELL: Thank you.

7 MR. COOPER: May it please the Court, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. COOPER:

10 Q Mr. Livingston, you just testified that for three years
11 you never talked to anybody about this, did you?

12 A No, ma'am. I'm sorry.

13 Q 2006 to 2009?

14 A No, sir.

15 Q You didn't call the Richland County Sheriff's
16 Department and tell them what you knew, did you?

17 A No, sir.

18 Q You didn't call anybody and tell them what you knew?

19 A No, sir.

20 Q Did you?

21 All right. Okay. Let's talk about what might have
22 changed your mind today. You -- Ms. Campbell was just
23 talking to you about your pending criminal charges here in
24 Richland County, right?

25 A Yes, sir.

Frank Livingston - Cross-examination
by Mr. Cooper

- 1 Q And she said that the drug charges alone, which are
2 possession with intent to distribute crack cocaine and
3 trafficking in cocaine, each carry 30 years, isn't that
4 right?
- 5 A Yes, sir.
- 6 Q So, 30 plus 30, that's 60.
- 7 So, with those two charges, you're facing 60 years,
8 right?
- 9 A Yes, sir.
- 10 Q Okay. wait. That's not all you're facing.
11 You're also facing misprision of a felony charge, which
12 carries ten years, right?
- 13 A Yes, sir.
- 14 Q All right. So now we're up to 70 years.
15 You are also facing failure to stop for a blue light
16 charge, right?
- 17 A Yes, sir.
- 18 Q And that carries three years, right?
- 19 A Yes, sir.
- 20 Q Seventy-three years.
- 21 Ms. Campbell talked to you about the fact that you had
22 a trafficking in cocaine charge back from 2001, right?
- 23 A Yes, sir.
- 24 Q You agree with that?
- 25 A Yes, sir.

Frank Livingston - Cross-examination
by Mr. Cooper

1 Q And she talked to you about the fact that you had a
2 pointing and presenting charge from 1999, right?

3 A Yes, sir.

4 Q You agree with that?

5 A Yes, sir.

6 Q Pointing and presenting means pointing a gun at
7 somebody?

8 A Yes, sir.

9 Q And you told the jury you'd want to plead guilty to the
10 charge, right?

11 A Yes, sir.

12 Q And you just told Ms. Campbell that -- I mean sure they
13 haven't promised you anything, but you're hoping to get a
14 deal, right?

15 A I want -- I was wanting to plead guilty to my misprison
16 of a felony. I'm taking a trial on other charges, drug
17 charges. When it's time for me to come to Court I just want
18 to plead guilty.

19 Q Are you telling them you're facing 73 years and not
20 hoping for them to help you out?

21 A I ain't saying I ain't hoping for them to help me out,
22 but this charge here is different from the drug charge. I
23 just talked to them last month.

24 Q Didn't Ms. Campbell just ask you about your hopes for
25 them helping you a second ago when you just told her you

Frank Livingston - Cross-examination
by Mr. Cooper

1 were hoping for a deal?

2 A On the misprison of a felony, yeah. That's why I want
3 to plead, so I don't have to take a trial.

4 Q Those other charges which you have pending now in the
5 year that you've come forward about this case, 73 years,
6 not, are really looking for a deal on that because of this
7 testimony?

8 A I'm taking a trial on the drug charges.

9 Q Okay. All right, Mr. Livingston.

10 Beg the Court's indulgence.

11 (Pause.)

12 MR. COOPER: That's all I have for him, Your Honor.

13 THE COURT: Okay.

14 SOLICITOR CAMPBELL: Nothing.

15 THE COURT: You can step down. Excuse this witness
16 please.

17 That would be all of the trial for the jury today,
18 right?

19 SOLICITOR CAMPBELL: Yes, ma'am.

20 THE COURT: To make sure I don't have to delay you in
21 the morning, I'm going to have you report at 10:00 because I
22 know -- let me make sure. I want to make sure the Court
23 didn't schedule something for me in the morning.

24 Let's see. Do the parties anticipate anything?

25 I had something not tomorrow morning, but the next

1 morning. We'll start promptly at 9:30.

2 Thank you-all and you're reminded not to discuss the
3 case.

4 (Whereupon, the following takes place outside the
5 presence of the jury.)

6 THE COURT: Anything further at this time?

7 MR. O'NEILL: No, Your Honor.

8 THE COURT: Other parties?

9 Thank you-all. You're excused until tomorrow.

10 MR. COOPER: 9:30?

11 THE COURT: If anything comes up, let me know because
12 I'd like to start with the jury at 9:30.

13

14 (Whereupon, Court was in recess for the evening.)

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1 Wednesday, August 26th, 2009

2
3 (Whereupon, the following takes place within the
4 presence of the jury panel.)

5 THE COURT: We all appreciate your patience this
6 morning. We did have a couple of legal issues to deal with.

7 One of the notes that has come from y'all about whether
8 or not you can take notes or have pen and paper in the
9 courtroom. Generally we would allow that if you had it at
10 the beginning of the case. So, we don't want you to have
11 missed out on any particular testimony. So, I'm going to
12 ask y'all rely on your collective memories for purposes of
13 the trial. We won't allow you to do it now you're in the
14 middle of the case, but thank you-all.

15 State, you may proceed with your case.

16 SOLICITOR CAMPBELL: May it please the Court.

17 The State calls Edna Frost Brown.

18 EDNA FROST BROWN, being first duly
19 sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY SOLICITOR CAMPBELL:

22 Q Ms. Frost, you can sit down for me, and if you see that
23 little microphone in front of you, talk so everyone can hear
24 you.

25 A I never did this before.

Edna Brown - Direct examination
by Solicitor Campbell

1 Q I understand.

2 You're a little nervous today?

3 A So, so, but, you know, it's nothing but tell the truth.

4 That's all.

5 Q Yes, ma'am. That's all we need.

6 Ms. Frost, where do you live?

7 A Now I live on [REDACTED], Gable Oaks. Used to
8 be the Old Ashley Apartment.

9 Q The Old Ashley Apartment is now Gable Oaks?

10 A Yes.

11 Q How long you been living there?

12 A About three years now.

13 Q Do you work outside the home?

14 What you do on a daily basis?

15 A On a daily basis I be home cleaning, keeping my great
16 grandchild.

17 Q You keep your great grandchild?

18 A Yes.

19 Q That, that's what you do on a daily basis?

20 A Yes.

21 Q How old is your great grandchild?

22 A He'll be two the 24th of this month. It's gone -- but
23 he going to have a late birthday.

24 Q A late birthday?

25 A Uh-huh. (Affirmative).

Edna Brown - Direct examination
by Solicitor Campbell

- 1 Q Ms. Frost, do you know Larry Brown?
- 2 A Yes.
- 3 Q Can you tell this jury how you know Larry Brown?
- 4 A He is my nephew, my oldest sister child, and I raised
- 5 him at our home in, in Arthur Town.
- 6 Q So, he's your oldest sister's child, and you raised him
- 7 in Arthur Town?
- 8 A Yes, while she works in Arthur Town.
- 9 Q You remember how old Larry is?
- 10 A About 50 I guess.
- 11 Q About 50 years old?
- 12 A 50 or so.
- 13 Q Do you have a son?
- 14 A Yes.
- 15 Q Is your son's name Eugene?
- 16 A Eugene Frost, Junior.
- 17 Q Does Eugene have another name that y'all call him?
- 18 A L-Dog. That's his street name.
- 19 Q L-Dog is his street name?
- 20 A But his nickname is Elroy.
- 21 Q Elroy.
- 22 How old is your son Elroy?
- 23 A Elroy is about 35 now.
- 24 Q I want to turn your attention back to November of 2006
- 25 when all this happened.

Edna Brown - Direct examination
by Solicitor Campbell

- 1 where were you living at that time on November 21?
- 2 A On Harper Street, [REDACTED]
- 3 Q [REDACTED]
- 4 A Uh-huh. (Affirmative).
- 5 Q who all was living there with you at the time?
- 6 That was your residence, right?
- 7 A Yes, my son came from Lugoff, but he didn't state he
- 8 was coming to visit me, but my oldest son visit me is my
- 9 nephew Larry Brown.
- 10 Q That's your son Elroy?
- 11 A No, he just come to visit at that time.
- 12 Q He would come to visit?
- 13 A Uh-huh. (Affirmative).
- 14 Q Sometimes would he stay overnight?
- 15 A Yeah, he spend the night.
- 16 Q Your nephew, Larry, was he living with you?
- 17 A Yes.
- 18 Q How long had Larry been living with you on Harper
- 19 Street?
- 20 A It was about, about one year.
- 21 Q One year?
- 22 A Uh-huh. (Affirmative).
- 23 Q was he working at the time?
- 24 A Yeah, he had a job working with the plastic, whatever
- 25 company, but he---

Edna Brown - Direct examination
by Solicitor Campbell

- 1 Q He'd had a job?
- 2 A He had one.
- 3 Q He'd had one?
- 4 A Uh-huh. (Affirmative).
- 5 Q On November 21 of 2006, that was a Tuesday, right?
- 6 A Yes.
- 7 Q And do you remember Larry and Eugene being at your
- 8 house that afternoon?
- 9 A Yes.
- 10 Q And who else also came?
- 11 A well, ain't nobody else came. They was there.
- 12 Q All right.
- 13 A Yeah, Puff came that late afternoon.
- 14 Q Late afternoon.
- 15 okay. I missed one thing. Let me back up for a
- 16 second.
- 17 Also, Ms. Frost, at the time do you know Ms. Beverly
- 18 Moyd?
- 19 A Beverly was staying with me. I tell her she can stay
- 20 for a little while because I really don't supposed to have
- 21 nobody staying with me, but I was looking out for my nephew
- 22 because I wanted him to raise up, and, you know, I mean, be
- 23 somebody, you know, without getting into things.
- 24 Q Just focusing on this, the day, okay, Ms. Moyd has been
- 25 staying with you a little while?

Edna Brown - Direct examination
by Solicitor Campbell

- 1 A Yes.
- 2 Q So, the people that were staying at your house at the
3 time were Ms. Moyd and your nephew, Larry, and---
- 4 A Eugene.
- 5 Q ---Eugene would stay with you some and then you?
- 6 A Uh-huh. (Affirmative).
- 7 Q You see Larry here in the courtroom?
- 8 A Yes.
- 9 Q Can you point him out for the jury?
- 10 A Over there.
- 11 Q Sitting in the middle?
- 12 A Yes.
- 13 Q Thank you.
- 14 On that late afternoon you said that Eugene was at your
15 house, is that correct?
- 16 A Uh-huh. (Affirmative).
- 17 Q And Larry was at your house?
- 18 A Yes.
- 19 Q And then Puff came over?
- 20 A Yeah, Puff came over.
- 21 Q Did you see what kind of car they had that day?
- 22 A No. well, I be in the house doing my chores. My son
23 have his friends. I don't try to be around, but they was
24 just out talking, and Puff drinking on some gin, and my son
25 drinking a Budweiser or whatever. They just be talking.

Edna Brown - Direct examination
by Solicitor Campbell

1 I'm in the house.

2 Q You're in the house?

3 A Yes.

4 Q And at some point did they leave the house?

5 A well, they roll out, they rolled out. I, I ask him
6 where you going Elroy. He said ma, I'll be right back
7 because---

8 Q who all left together?

9 A Just Elroy and Puff and maybe another boy. I can't
10 call the other name because---

11 Q Do you remember talking to the police back on
12 November 27 of 2006 right after this happened?

13 A Yes.

14 Q And do you remember telling them that on Tuesday your
15 son, Larry, and Puff left in the evening around first dark
16 in a van?

17 A Uh-huh. (Affirmative).

18 Q Is that right?

19 A Yes, that's right.

20 Q So, it was the three of them that left in a van?

21 A Yes.

22 Q Do you remember what the van looked like?

23 A I can't recall. It's like a blue or some kind of van.
24 I don't know. It's all mixed up colors, you know, like
25 faded out or something, old van.

Edna Brown - Direct examination
by Solicitor Campbell

- 1 Q It was an old van?
- 2 A Uh-huh. (Affirmative).
- 3 Q And do you remember telling the police it was rusty
- 4 looking?
- 5 A Yes.
- 6 Q Do you remember what your son was wearing?
- 7 A Elroy had on his gray hoodie at the time and a pair of
- 8 jeans.
- 9 Q Do you remember what Larry was wearing?
- 10 A Larry had on some jeans. I think he wear his black
- 11 leather jacket.
- 12 Q His black leather jacket.
- 13 How was he wearing his hair that Tuesday?
- 14 A He had grown some dreads.
- 15 Q Grown some dreads?
- 16 A Uh-huh. (Affirmative).
- 17 Q Did he have anything over his dreads?
- 18 A No, he just woke up.
- 19 Q Do you remember, when you talked to the police, telling
- 20 them he had a black stocking cap?
- 21 A No, I ain't told them about the black stocking. He
- 22 just walk. He didn't put that on as he was walking out the
- 23 door.
- 24 Q Did he have one though?
- 25 A Yeah.

Edna Brown - Direct examination
by Solicitor Campbell

1 Q They left out of the house and they left in the van, is
2 that right?

3 A Uh-huh. (Affirmative).

4 Q And at some point did Larry come back first that you
5 saw?

6 A Yes, Larry came back first.

7 Q Describe how Larry looked when he came back.

8 A His knuckles was bloody and sand was in his hair, and
9 he went to the room to get a face rag and blood was on the
10 door knob, blood was on the bathroom switch, and I asked him
11 what's wrong, where is Elroy. I said y'all, y'all are --
12 where Elroy. I got all upset, where Elroy, and he said he
13 coming. So, he walked in the bathroom, wash your hair, and
14 I say what happened, man, why are you washing your hair, and
15 your dreads falling out and stuff. Said what's wrong.

16 He said auntie, I was over in the buy shop and this boy
17 jumped me and I beat him. This ex-girlfriend boyfriend
18 jumped him and he said he was beating her. I said oh, my
19 God. I said well, go ahead and wash your hair and his dread
20 was falling out his hair, and sand coming out his hair, and
21 I said, Lord, have mercy, I just walked away and looking out
22 the door for my son.

23 Q So, he came in and you said his knuckles were bloody?

24 A Uh-huh. (Affirmative).

25 Q And he had blood on him?

Edna Brown - Direct examination
by Solicitor Campbell

1 A I didn't see no blood on him, but he just -- his
2 knuckles was all bloody.

3 Q Okay. You said he actually got it on the door knob?

4 A Uh-huh. (Affirmative).

5 Put some on the door knob.

6 Q Then he went in the bathroom?

7 A Yeah, and he had some on the switch.

8 Q That's when he was washing up?

9 A Yeah, washing his head up.

10 Q You said even like one of his dreads was coming out?

11 A Yeah, one fell out and I said oh, Lord. I said Larry,
12 your dreads coming out, you know, kind of funny. I walked
13 away. I was worried about Elroy.

14 Q Okay. He told you that the reason that he was bloody
15 and had his hair messed up is because he got in a fight with
16 whom?

17 A His girlfriend ex-boyfriend. He was fighting her
18 boyfriend.

19 Q A girl's boyfriend?

20 A Uh-huh. (Affirmative).

21 In the colony.

22 Q In the colony.

23 Did he tell you anything else?

24 A No, that was all.

25 Q Shortly after that did Elroy come home or Eugene?

Edna Brown - Direct examination
by Solicitor Campbell

1 A Well, Elroy -- no. He -- Elroy -- I made a mistake.

2 Elroy didn't come home at all because I had to get on the TV
3 to tell him to surrender, please surrender, Elroy.

4 Q We'll get to that in a minute.

5 That night before you knew anything was going on, that
6 Tuesday night Elroy came home -- do you want to see your
7 statement?

8 Would that help?

9 A Yeah.

10 Q Okay. You recognize that you were talking about how he
11 told you about the fight in the colony over a girl, and then
12 you said shortly after that my son came home, came in the
13 house?

14 A Oh, yeah, he did come. He did come home and I called
15 him in the bedroom. I was talking to him, yeah, asked him
16 what room. He said he don't know.

17 Q He didn't tell you anything?

18 A Uh-huh. (Affirmative).

19 Didn't tell anything.

20 Q After that did Larry and Eugene go outside and talk?

21 A Yeah, they went outside.

22 Q Do you remember, over the next day or two, Larry
23 changed his hair?

24 A Yeah, and I asked him. I said Larry, you done cut all
25 your hair off, where you cut your hair off of. He said

Edna Brown - Direct examination
by Solicitor Campbell

1 auntie, they was coming out anyway. So---

2 Q And that was a day or so after that night?

3 A Yeah. After that, yeah.

4 Q And you mentioned that Larry, when he came in, there
5 was blood on the handle and on the switch.

6 Did you clean that up?

7 A Yeah, I cleaned it off. I thought I clean it off good,
8 but it was still around the switch.

9 Q Okay. But you cleaned it as best that you could?

10 A Yeah.

11 Q Ms. Frost, were you home that Friday when the police
12 came and arrested Larry?

13 A Yes, I was home.

14 Q And do you remember the police talking to you and you
15 were telling them what little you knew?

16 A Yeah, they was talking to me about they need to look
17 around to see if Eugene had a gun in the house, and so, I
18 told them go ahead and look because Eugene don't have no
19 gun. You not supposed to carry no gun, no weapon. And so,
20 we didn't find nothing in that -- told Eugene not to have no
21 gun in there.

22 But I think that night Eugene took a gun, a little
23 sawed-off gun, and I asked him where he was going. Yeah, I
24 remember now he said -- I asked him where he going with that
25 gun, open up, going out the door. He said, mama, I'm coming

Edna Brown - Direct examination
by Solicitor Campbell

1 back. I said where you going with that gun. I said Elroy,
2 you know, you going to get in trouble, Elroy, and he said
3 mama, I'll be back. I said where you going. I said you
4 don't need no money or nothing. I give you money and he say
5 I'm going, mama. So, he left with the crowd.

6 Q okay.

7 A He just left.

8 Q Do you remember when the police came that Friday and
9 you told them, you signed a consent so they could search for
10 anything they wanted including---

11 A Yeah.

12 Q Any guns?

13 A Yeah.

14 Q Thank you.

15 MR. COOPER: No questions.

16 THE COURT: Ma'am, you can step down and be excused.

17 ANNA ELSEY, being first duly sworn,
18 testified as follows:

19 DIRECT EXAMINATION

20 BY SOLICITOR CAMPBELL:

21 Q where are you employed?

22 A Richland County Sheriff's Department.

23 Q what do you do there?

24 A I supervise the crime scene, latent print sections.

25 Q Tell us, as the supervisor there, what your duties

Anna Elsey - Direct examination
by Solicitor Campbell

1 include.

2 A My main duties are in employment and writing policies
3 and procedures, administrative duties such as scheduling,
4 ordering supplies, and also to be available for any major
5 scenes, to respond, to assist, or if we have a backup cause
6 to assist with answering calls.

7 Q Back in November of 2006 did you actively participate
8 in processing major crime scenes?

9 A I did. I was a sergeant at the time.

10 Q Can you tell this jury a little bit about your
11 education and training as a crime scene investigator?

12 A I graduated from the College of Charleston with a
13 degree in biology and psychology and concluded my Master's
14 at the University of Florida in forensic serology. I
15 attended the South Carolina Criminal Justice Academy and
16 that was in 1996, and in 1998 I was promoted to the
17 laboratory. I completed the in-house program there and
18 since then have completed numerous courses relating to crime
19 scene such as blood pattern analysis, emergency crime scene
20 responder, crime scene recreation, ID tech, palm printing,
21 advanced palm printing, tracks at crime scenes, crime scene
22 investigation, basic fingerprint, footwear and tire track,
23 chemical development of latent prints, gunshot wounds, basic
24 arson investigation, advanced blood pattern analysis,
25 forensic aspects of investigation, forensic serology,

Anna Elsey - Direct examination
by Solicitor Campbell

1 advanced blood pattern analysis, complex latent print
2 examination, the detection, recovery, and examination of
3 footwear impression evidence, and I am also certified
4 through the International Association for Identification in
5 Crime Scene Investigations.

6 Q And you have been qualified before on how many
7 occasions as a crime scene investigator?

8 A Several. I don't know. About ten or so.

9 SOLICITOR CAMPBELL: Your Honor, I would offer her as
10 an expert in crime scene investigation.

11 THE COURT: Any objection?

12 MR. COOPER: No objection.

13 THE COURT: She is so qualified.

14 Q As part of when you respond to a scene, tell the jury
15 eventually what you first do at a crime scene and what you
16 follow-up on, how it goes.

17 A As a crime scene investigator our job is to respond to
18 a scene and that can range anywhere from a vandalism, a
19 burglary, to sexual assault or homicide. And on arrival of
20 a scene we are there to identify, count, collect, preserve,
21 and process any physical evidence related to that crime.

22 Q Does that include such things as an attempt to get
23 fingerprints?

24 A It does.

25 Q DNA collection?

Anna Elsey - Direct examination
by Solicitor Campbell

1 A Yes.

2 Q You photograph a crime scene?

3 A Yes. Correct.

4 Q And collect evidence that may or may not be pertinent
5 to the crime itself?

6 A Correct.

7 Q I want to turn your attention to, back to November 21,
8 2006.

9 Did you respond to a crime scene on Two Notch Road,
10 which is the Grand Motel?

11 A I did. I was contacted by Investigator Allen at the
12 time, who was the crime scene investigator responding to
13 calls. He related to me a little bit about the scene and
14 requested that we come out there. I did respond and made
15 contact with he and Investigator Oates who were already on
16 the scene processing.

17 Q So, they were actually three crime scene people out
18 there that night processing this crime scene?

19 A At that time, yes, ma'am.

20 Q Is that unusual?

21 A No.

22 Q And especially in a crime scene such as this?

23 A Correct.

24 Q Just for the record too, the Grand Motel, is that here
25 in Richland County?

Anna Elsey - Direct examination
by Solicitor Campbell

1 A It is.

2 Q When you responded that night, what was the weather
3 like?

4 A It was raining and cold.

5 Q And probably what time was it when you got there?

6 A I was notified about 8:15 and I got there about an hour
7 later at 9:20.

8 Q And when you got there, Investigator Allen and
9 Investigator Oates were already there processing things?

10 A Yes.

11 Q And by the time you got there, had certain things been
12 marked?

13 A They had.

14 Q But the crime scene, nothing had been collected or
15 anything like that?

16 A They had not started collection. They -- again,
17 photographing, documentation of how they found the scene,
18 when they first got there is, would be their first job and
19 then they would go and start documenting specific items of
20 evidence, labeling them, and photo, packing.

21 Q When you got there at the crime scene, and they put out
22 some markers, the crime scene was still pretty much in that
23 condition as when they got there?

24 A To the best of my knowledge.

25 Q And Investigator Allen I believe is one of the

Anna Elsey - Direct examination
by Solicitor Campbell

1 investigators that responded that night?

2 A Correct.

3 Q Where is he now?

4 A He is in Iraq last I heard.

5 Q The other investigator that assisted in the processing
6 of the crime scene that night was whom?

7 A Investigator Oates.

8 Q You mentioned, when you first get to a crime scene,
9 initially what you want to do is photographing everything as
10 it appears?

11 A Correct.

12 Q You mentioned you also put out markers.

13 why do you do that?

14 A It helps to identify, for several reasons, a specific
15 item of evidence that may or may not be important at the
16 time. But we want to give that specific item a number or a
17 letter to be able to relate it to that item, and to be able
18 to take over all photographs with a marker so that we can
19 relate that item to where it was located in the actual
20 scene.

21 Q And that was done in this case?

22 A It was.

23 Q Turn your attention to the diagrams on the wall,
24 State's Exhibit 72.

25 Although not to scale, is this a diagram produced in

Anna Elsey - Direct examination
by Solicitor Campbell

1 reference to the crime scene?

2 A It was Investigator Allen that did the diagram.

3 Q Other than the fact it is not to scale and the items
4 may not be in the exact position as reflected in the
5 photographs, does it fairly and accurately depict where many
6 things were located when y'all got there that night?

7 A As best as it can, yes, ma'am. A diagram request, as I
8 think would be a list of each item, and how it relates to
9 that item, how it was related on the scene.

10 SOLICITOR CAMPBELL: Your Honor, at this time we would
11 offer State's Exhibit 72 into evidence.

12 THE COURT: Any objection?

13 MR. COOPER: No objection.

14 THE COURT: Admitted.

15 (Whereupon, State's Exhibit No. 72 was received into
16 evidence at this time.)

17 Q Describe this crime scene when you entered, how it
18 appeared.

19 A It was messy. The room, it was in disarray, not very
20 clean, a good deal of blood especially initially when you
21 walked in, and items disturbed throughout.

22 Q In this, this case, this was a homicide where the
23 victim was shot?

24 A Yes.

25 Q So, as part of your investigation, you're also looking

Anna Elsey - Direct examination
by Solicitor Campbell

1 to evidence that may relate to the shooting in the room?

2 A Yes.

3 Q You're looking for things like shell casings?

4 A Correct.

5 Q Projectiles?

6 A Correct.

7 Q And what's the difference, if you aren't familiar as a
8 shell casing versus projectile, those are originally all one
9 bullet?

10 A They are.

11 Q How is the shell casing typically at a crime scene?

12 A When you're dealing with a semiautomatic weapon, the
13 shell casing will be ejected from the weapon when it's
14 fired, and the bullet separates what we call as a projectile
15 separates and move forward.

16 Q And the projectile, it's the lead part that's in the
17 bullet?

18 A Yes.

19 Q In this case, when y'all processed this crime scene,
20 how many shell casings -- and that's what would be expended
21 once a bullet's shot?

22 A What's expended once a bullet's shot.

23 Q How many were y'all able to collect?

24 A There were eight shell casings.

25 Q As far as any projectiles, how many projectiles did

Anna Elsey - Direct examination
by Solicitor Campbell

1 y'all collect at the scene?

2 A There were three projectiles along with several
3 fragments.

4 Q Several fragments?

5 A Yes.

6 Q Is it unusual for you not to be able to recover each
7 projectile that would belong to each shell casing?

8 A No, it's not.

9 Q Explain to the jury why that is.

10 A The path of the bullet is not predictable. So, we
11 don't know, in this particular case. Just, for instance,
12 one may have gone out of the, through the rearview window.
13 we were able to locate it in an area in the window at the
14 top that could possibly be an impact point, but we don't
15 know that for sure. Obviously if that happened it went
16 outside and would be very, very difficult to try to locate
17 that.

18 In addition to that, there was a lot of movement around
19 and inside the scene prior to us getting there with the, the
20 people that were in the room, EMS personnel that ran out.
21 It is possible that something was carried out of the victim
22 when he was taken out. So, it's not unusual. So, it's not
23 for us not to find every particular projectile and then
24 relate it back to a specific shot.

25 Q And with a projectile, when it hits something, it may

Anna Elsey - Direct examination
by Solicitor Campbell

1 do what we call splinter or fragment?

2 A It could.

3 Q To such, such a degree, you can't even identify the
4 fragments?

5 A It could.

6 Q In this case you found eight shell casings and three
7 projectiles and some fragments?

8 A Yes.

9 Q In addition to that, are you also looking for any
10 evidence of where the projectile, I call it a bullet,
11 projectile may have gone through anything in the room?

12 A Yes, we're going to look for impact points, specific
13 areas in the room that could be consistent with a projectile
14 either entering in and then exiting out a particular item
15 like a wall or maybe ricocheting off of a wall or item in
16 the room.

17 Q And that relates as to the ballistics that you may or
18 may not find at the crime scene.

19 what about DNA evidence?

20 what, in this case, with this type of crime, what was
21 significant to y'all as far as collecting for DNA?

22 A We located several blood stains in the room. We
23 identified those and swabs were collected from those, and we
24 were also to look for any of those particular blood stains
25 that may appear not consistent with the other ones. Just

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1 any of them that seemed to be out of place.

2 In addition to that, other DNA we would look for on
3 items maybe that had been possibly touched by other people
4 in the room, suspects, witnesses, or left behind and at the
5 scene.

6 Q Okay. Of course, at any crime you also look for any
7 weapons that may have been left behind?

8 A Yes.

9 Q In this case, when you did your assessment, you
10 mentioned there's blood in many different areas, and we'll
11 go through that in a minute, but on your initial assessment
12 where you searched further, were there any weapons that were
13 left out anywhere in the room?

14 A Initially we did not locate one, but once we started a
15 more thorough search, not just the items in obvious view, we
16 did find a weapon in a drawer.

17 Q In a drawer?

18 A Yes.

19 Q Was that drawer open or closed when you first got to
20 the crime scene?

21 A When I arrived it was closed.

22 Q It was not ready apparently until y'all started
23 searching through items in the room?

24 A Correct.

25 Q For the record, the gun y'all found in the drawer that

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by Solicitor Campbell

- 1 was closed, what type of weapon was that?
- 2 Do you recall?
- 3 A It was a High Point .45 caliber.
- 4 Q And the shell casings that you found in the room, what
- 5 type of shell casings were those?
- 6 A They were Smith and Wesson .40 caliber.
- 7 Q .40 caliber?
- 8 A Correct.
- 9 Q The gun you found was a .45 caliber?
- 10 A That's correct.
- 11 Q Were there any attempts made to be found in the
- 12 fingerprint at the sign?
- 13 A They actually were several investigators got to a
- 14 point, after working several hours and maintained crime
- 15 scene security on the hotel room, and had some investigators
- 16 continue processing the next day.
- 17 Q That was done the next day?
- 18 A Yes.
- 19 Q You didn't do that that evening?
- 20 A No.
- 21 Q Or Investigator Allen?
- 22 A No.
- 23 Q Or Investigator Oates?
- 24 I'm going to show you a series of photographs, State's
- 25 Exhibit 1, 2, 3, and 4. First ask if you recognize those.

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by Solicitor Campbell

1 A I do.

2 Q What areas of the room do those depict?

3 A This is if you walk in the front door and look straight
4 back, this is towards the back, what we refer to as the back
5 wall of the hotel room. The bed here would be to the left
6 as you walked in, and to the right over here on the sofa.
7 Again, that's a closer-up view of this window.

8 Q Let me put it into evidence.

9 Your Honor, at this time we offer into evidence---

10 THE COURT: Any objection?

11 MR. COOPER: No objection.

12 THE COURT: Those would be admitted.

13 (Whereupon, State's Exhibit Nos. 3 and 4 were received
14 into evidence at this time.)

15 Q I'm going to show you what's been marked as State's
16 Exhibit No. 58. Let's put them in all at once. I want you
17 to look through these photographs.

18 Do those all fairly and accurately depict areas of the
19 room as they appear as you were there that night?

20 A They do.

21 SOLICITOR CAMPBELL: Your Honor, for the record, at
22 this time we would offer into evidence items -- State's
23 Exhibit 58, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18,
24 19, 20, 21, 80, 22, 23, 81, 24, 25, 79, 26, 65, 66, and 68.

25 (Whereupon, State's Exhibit Nos. 6 through 26, 58, 65

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1 through 68, and 79 through 81 were received into evidence at
2 this time.)

3 Your Honor, may the witness step down?

4 THE COURT: Yes, she may.

5 Q Come sit on this side so the court reporter can hear
6 you, and I want to correlate to this area of the room.

7 Where is the front door in this picture on State's
8 Exhibit 17?

9 A It's right here.

10 Q Is this a hallway right here?

11 A It is.

12 Q This area over here to the right as you walk in, is
13 that the kitchen area?

14 A That's the kitchen.

15 Q To enter that you have to go around and enter the more
16 general area?

17 A Yes.

18 Q Over to the left when you first walk in it's a
19 bathroom?

20 A There's a little closet here, and you walk in here and
21 the bathroom is here.

22 Q There's a closet right here?

23 A Yes.

24 Q And then this general area down here shows a table
25 here?

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by Solicitor Campbell

- 1 A Yes.
- 2 Q And couch?
- 3 A Yes.
- 4 Q And a chair?
- 5 A Yes.
- 6 Q And there's a wall of windows in this -- where is that?
- 7 A Back here.
- 8 Q Back there?
- 9 A Uh-huh. (Affirmative).
- 10 Q And the bed is here?
- 11 A Correct.
- 12 Q And there are two dressers right there?
- 13 A There's like an armoire type thing and a small table
- 14 that the TV was sitting on here.
- 15 Q And the area with the windows -- I want to show you
- 16 what's been marked as State's Exhibit No. 1.
- 17 Do you recognize that?
- 18 A I do.
- 19 Q What area of the room does that show?
- 20 A This correlates here again if you, if you're looking
- 21 straight back or walk straight back into the room, the
- 22 window would be back here to the left by the chair.
- 23 Q I know this is a chair in front of the window. This
- 24 picture here is actually shown---
- 25 A Yes.

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1 Q You all denote the bigger items of furniture in this,
2 but not everything?

3 A Not everything, no.

4 Q That would correlate with this right next to the H?

5 A Yes.

6 Q This area right here where I've got my hand?

7 A Yes.

8 Q The window, when y'all got in that night, was it broken
9 or intact?

10 A It was broken when I got there.

11 Q That's depicted in this photograph?

12 A It is.

13 Q You also have photographs of the window area where it
14 was broken, bottom of the window area?

15 A Yes.

16 Q Specifically I'm showing you State's Exhibit No. 38.

17 Is that significant to you that night?

18 A It is. We located this one what we thought could
19 possibly be blood here on this window sill. Again, that was
20 away from the majority of the stains that we could find, and
21 it was one that's probably a 90-degree drop so that was one
22 we wanted to make sure we documented it.

23 Q Why was that significant to you?

24 A It appeared to be a little out of place and I wanted to
25 be sure at the time.

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by Solicitor Campbell

- 1 Q with a broken window and a drop of blood next to the
2 broken window, did y'all do anything to make sure it was
3 collected for any DNA processing?
- 4 A we did.
- 5 Q who actually did that?
- 6 A Investigator Oates.
- 7 Q I show you State's Exhibit No. 4.
8 where was that located?
- 9 A That was also on the window sill near the broken
10 window.
- 11 Q Again, that has a reddish substance on it?
- 12 A It does.
- 13 Q That appears to be blood?
- 14 A It was.
- 15 Q I show you what's been marked as State's Exhibit 58.
16 what area is that?
- 17 A That is this chair here.
- 18 Q The chair that's next to the window?
- 19 A Correct.
- 20 Q Again, that was, photographing appears to be---
21 A Possible blood.
- 22 Q State's Exhibit No. 67, and that's actually got a mark
23 on it--
- 24 A Yes, that's another stain we identify as possible blood
25 on the arm of the chair.

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by Solicitor Campbell

- 1 Q State's Exhibit 7.
- 2 A That's on the wall below the window.
- 3 Q Below the window?
- 4 A Yes.
- 5 Q State's Exhibit No. 8, what does that show?
- 6 A That's a coffee table that was located in front of the
- 7 sofa.
- 8 Q Where is that on State's Exhibit No. 17?
- 9 A Here.
- 10 Q Again, that was photographed because it had -- and
- 11 State's Exhibit 9?
- 12 A Yes, a, again, a reddish substance we thought was
- 13 blood. One of those is on the coffee table. Another one is
- 14 on this table.
- 15 Q One was on this table and one was on the coffee table?
- 16 A Yes.
- 17 Q State's Exhibit No. 10, what does that show?
- 18 A Again, this is a blood stain that we located on the
- 19 wall that has, shows some type of movement, and we felt like
- 20 that should be documented.
- 21 Q What area of the room was this in?
- 22 A That was on the wall here we labeled as is number one.
- 23 Q This wall right here, that's going into the hallway?
- 24 A Yes, near the bathroom.
- 25 Q Near the bathroom?

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by Solicitor Campbell

- 1 A Uh-huh. (Affirmative).
- 2 Q You mentioned it looked like it had been smeared?
- 3 A Actually called a swipe in the blood, and then it has a
- 4 flow pattern that goes downwards.
- 5 Q Were you aware where the victim's body was found in
- 6 this case?
- 7 A I was advised when I arrived that he was here when
- 8 EMS---
- 9 Q In this hall area?
- 10 A Yes.
- 11 Q Were your findings consistent with him having fallen
- 12 there?
- 13 A There was a great deal of blood in this area and a good
- 14 deal of movement in the blood.
- 15 Q I'm going to show you another wall, a door in the back
- 16 ground, State's Exhibit 11.
- 17 what area does that show?
- 18 A That's this wall here to the right.
- 19 Q Again, in the hall area?
- 20 A Yes.
- 21 Q And, again, what type of blood stain or what appears to
- 22 be blood?
- 23 You do further testing to make sure?
- 24 A Yes, it's a swipe or a transfer stain.
- 25 Q State's Exhibit No. 12, excuse me, what area does that

Anna Elsey - Direct examination
by Solicitor Campbell

1 show?

2 A That's at the bathroom door right as you're walking in
3 on this wall here.

4 Q And, again, what type of stain is this?

5 A Possible blood.

6 Q State's Exhibit No. 13---

7 A That's on the bathroom door. Again, possible blood.

8 Q State's Exhibit No. 14.

9 A That was located on the linoleum floor, and we
10 documented it, appeared to be a shoe impression, consistent
11 with a shoe impression in that, 16 and 17.

12 Q That wasn't collected by you that night, but was it
13 collected, the actual linoleum floor, for possible
14 comparisons?

15 A Yes.

16 Q State's Exhibit No. 15.

17 A Same thing.

18 Q where is the linoleum located?

19 A I believe it was right here as you're walking in.

20 Q State's Exhibit No. 16, what was, does that show?

21 A That's a blood stain on the wall above the sofa.

22 Q Above the sofa?

23 A Yes.

24 Q That would be in this area?

25 A Yes.

Anna Elsey - Direct examination
by Solicitor Campbell

1 Q What kind of blood -- that's not a smear?

2 A No, it's not. There's no real pattern to that. It is
3 a grassy type pattern.

4 Q State's Exhibit No. 17 shows a carpeted area towards
5 the back?

6 A Yes, that's right when you, the hallway kind of stops
7 here and the kitchen is to the right and this is the open
8 area, den.

9 Q I know there are a lot of markers in here, E, F, G, K,
10 we'll get to those in a minute, but those are significant
11 enough to mark?

12 A Yes.

13 Q In a crime scene, it is important for you to collect
14 more not less?

15 In other words, you don't know exactly at that point
16 what investigation is ongoing and what may not be
17 significant?

18 A Correct.

19 Q State's Exhibit 18 again.

20 A That's just another view looking in the front door.

21 Q State's Exhibit No. 19, that's -- where was that
22 located?

23 A That was in the hallway area.

24 Q State's Exhibit No. 20 shows a black bag.

25 A That was located in the den area.

Anna Elsey - Direct examination
by Solicitor Campbell

1 Q Again, when you're photographing these things and
2 collecting this evidence, you don't know exactly if it may
3 or not be significant?

4 A Right.

5 Q Other than obviously the shell casings?

6 A Right.

7 Q State's Exhibit No. 21.

8 A That was a knit black type cap that we located on the
9 back of the sofa.

10 Q State's Exhibit No. 22 and 80, is that how -- tell the
11 jury what this represents.

12 A In this kitchen here the refrigerator was here, and we
13 located what we thought might be an impact point on that
14 refrigerator, and other possible bullet had gone through.
15 So, we pulled the refrigerator out and this is actually, if
16 you can see here, at what we located as a possible impact
17 point near the bread bag. So --

18 Q I show you State's Exhibit 22.

19 Does that show better in that picture once the bread
20 bag has been removed?

21 That was consistent with what made it be an impact
22 point from a projectile?

23 A Yes.

24 Q This is how it appeared when y'all first pulled the
25 refrigerator out?

Anna Elsey - Direct examination
by Solicitor Campbell

- 1 A Yes.
- 2 Q This was on the back of the refrigerator?
- 3 A Correct.
- 4 Q I notice in here, on State's Exhibit 23, this is after
5 you've done further processing?
- 6 A Investigator Allen actually located, pulled the bread
7 bag out and located the projectile, which is actually within
8 the bag.
- 9 Q State's Exhibit 23 and 21.
- 10 A That's -- was pulled out so we could see what it was.
- 11 Q Is that one of the projectiles y'all were able to
12 locate that night?
- 13 A It is.
- 14 Q Again, it wasn't readily visible when you first
15 assessed it?
- 16 A No.
- 17 Q State's Exhibit 28, what does that show?
- 18 A That was a fragment that we got from inside the
19 television set.
- 20 Q And, again, that was not readily seen when you first,
21 after y'all did further investigation?
- 22 A Correct.
- 23 Q That was actually located inside the television set?
- 24 A Yes, table to the left.
- 25 Q Those letters correspond to markers, significant

Anna Elsey - Direct examination
by Solicitor Campbell

1 physical evidence, y'all marked that night?

2 A They do.

3 Q This pattern doesn't necessarily show all the blood
4 that's noted in the picture?

5 State's Exhibit 25, Marker R, which is also---

6 A That was a red -- a piece of fabric we located also on
7 the TV area.

8 Q Again, you don't know what may or may not be
9 significant at the time.

10 State's Exhibit 79, what does that show?

11 A That's the TV and stand area here to the left.

12 Q When y'all walked in and took this photograph, was that
13 initially how the room appeared?

14 A Yes.

15 Q I noticed the drawer is shut.

16 was that how it was when y'all got there?

17 A Yes.

18 Q Later upon searching through things, did y'all open the
19 drawer?

20 A We did.

21 Q State's Exhibit 26, is that---

22 A Yes.

23 Q Is that what you found?

24 A That's the .45.

25 Q And located it in that drawer?

Anna Elsey - Direct examination
by Solicitor Campbell

1 A Yes.

2 Q That was closed when you walked in the room?

3 A Correct.

4 Q As part of your job, were there also certain bullet
5 holes that you wanted to memorialize kind of the direction
6 the bullet may have gone?

7 A One of the impact points we located was on this wall
8 here. We found---

9 Q State's Exhibit 65.

10 A We found an impact point on either side of the wall,
11 and we used what we called a trajectory rod to show a
12 possible direction or bullet path the projectile may have,
13 and also on the other side of this we found a projectile on
14 the other side of this wall, which indicated to us an entry
15 here, exit here, along with some other features on the wall.
16 So, that is to illustrate a possible path for that bullet.

17 Q I show you State's Exhibit 66 and 67.

18 A Again, this is that same one on that wall here, and
19 illustrating to another one on the refrigerator.

20 Q Finally, the other side of the wall, when you say
21 impact point, the whole -- is it a hole in the wall?

22 A Yes.

23 Q Consistent with where a bullet may have gone through?

24 A Correct.

25 Q Again, that's State's Exhibit 68.

Anna Elsey - Direct examination
by Solicitor Campbell

- 1 A Yes.
- 2 Q The other side---
- 3 A Showing both of them.
- 4 Q This is from what area?
- 5 A This is looking from the den area into the kitchen, and
- 6 you can see both the one in the wall and the one in the
- 7 refrigerator.
- 8 Q There was a corresponding hole on the other side of
- 9 that wall?
- 10 A Yes.
- 11 Q You also mentioned there may have been a hole in one of
- 12 the top of one of these windows, but you couldn't see
- 13 whether it was a hole?
- 14 A We could tell that was a bullet hole. It was possible
- 15 the way those holes go to the top right of it.
- 16 Q The gun that was recovered in the drawer, did it have
- 17 any bullets with it?
- 18 A I believe there was one in the chamber and I believe
- 19 the magazine was empty.
- 20 Q So, there's one round in the chamber, but the magazine
- 21 was empty?
- 22 A Correct.
- 23 Q And at the scene, when y'all did your search, you found
- 24 eight shell casings, a, a .40 caliber?
- 25 A That's correct.

Anna Elsey - Direct examination
by Solicitor Campbell

- 1 Q And some projectiles?
- 2 A Yes.
- 3 Q And those were all forwarded to ballistics for testing?
- 4 A Yes.
- 5 Q Did you find any shell casings that were .45 caliber?
- 6 A No.
- 7 Q The items that were noted in the photographs we marked
- 8 with the markers such as the bag and all the pieces of cloth
- 9 and the projectiles, were those all collected that night?
- 10 A They were collected by Investigator Oates or Allen.
- 11 Q would those have been forwarded to ballistics for
- 12 further testing?
- 13 A Yes.
- 14 Q In addition to that, were certain areas of the room
- 15 swabbed that night?
- 16 A Investigator has selected some swabs from several of
- 17 the stains we had identified.
- 18 Q And then once he collected those -- y'all are trained
- 19 in how to collect DNA evidence?
- 20 A Yes.
- 21 Q Once he collected those, those would have been
- 22 forwarded for DNA testing?
- 23 A Yes.
- 24 Q That night did you also make contact with investigators
- 25 that were at the hospital?

Anna Elsey - Direct examination
by Solicitor Campbell

1 A I did.

2 Q what was the purpose in that?

3 A Generally we like to, as soon as possible, if we do
4 have a victim that is deceased, try to get their hands
5 bagged for any possible evidence that might be on their
6 hands. So, I contacted the investigator that was at the
7 hospital and inquired about that, and he told me and advised
8 me within three minutes of the victim arriving there that
9 his hands were bagged for further processing.

10 Q Typically the hands weren't bagged at the scene.

11 Is the primary objective, when EMS comes, to save the
12 person's life?

13 A Yes.

14 Q So, it wasn't until he was actually pronounced dead
15 that they would have bagged his hands?

16 A Correct.

17 Q And qualified personnel would have to make that
18 assessment?

19 A Correct.

20 Q You mentioned there was some possible shoe prints that
21 y'all were looking at, and you actually photographed that
22 night and I believe collected.

23 A They were later collected, yes.

24 Q And did you do anything -- you were aware that, prior
25 to your getting there, EMS had come in?

Anna Elsey - Direct examination
by Solicitor Campbell

1 A Yes.

2 Q And, in fact, there had been some city officers that
3 had come in?

4 A Yes.

5 Q Did you do anything to see whether or not they could
6 have been attributed to the---

7 A I did. I requested for the personnel that had
8 responded earlier to respond back to the scene so that we
9 could look at what type of shoes that they were wearing to
10 see if they were all consistent with the impressions we
11 found on the scene. I actually made contact with the EMS
12 that came back to the scene and all of them had a boot type
13 impression, which was not consistent with the one that we
14 had.

15 SOLICITOR CAMPBELL: Beg the Court's indulgence.

16 THE COURT: Certainly.

17 (Pause.)

18 SOLICITOR CAMPBELL: Beg the Court's indulgence.

19 THE COURT: Certainly.

20 (Pause.)

21 Q You mentioned that night y'all were there several
22 hours.

23 Did y'all also locate anything outside the crime scene?

24 A Investigator Allen actually located a lamp that was
25 outside on the ground, and this was actually on the second

Anna Elsey - Direct examination
by Solicitor Campbell

1 story, on the ground near that area and he collected that.

2 Q That would have been below the window that was broken
3 in State's Exhibit 1?

4 A Correct.

5 Q State's Exhibit 40 and 44, do you recognize those?

6 A Yes, this is Marker J. Again, this -- that was the
7 projectile that we located on the other side of the wall
8 that we used the trajectory rod on.

9 Q That was a projectile that was also recovered?

10 A Yes, and F is another fragment we located.

11 Q That would be it right there?

12 A Okay.

13 SOLICITOR CAMPBELL: Any objection?

14 MR. COOPER: No objection.

15 THE COURT: Those would be admitted.

16 (Whereupon, State's Exhibit Nos. 40 and 44 were
17 received into evidence at this time.)

18 Q State's Exhibit 44, is that the actual -- what do you
19 call that?

20 A The projectile.

21 Q The projectile, that was located in what room?

22 A That was actually in the kitchen just at the door or
23 entryway into the den area.

24 Q We've gone through the other projectile.

25 So, that would be the third projectile actually

Anna Elsey - Direct examination
by Solicitor Campbell

1 located, is that correct?

2 A One behind the refrigerator, one in the den, the front
3 hall area, which was actually L.

4 Q And then the one we just went over?

5 A Yes.

6 Q There was also a cooper fragment recovered in State's
7 Exhibit 40.

8 A Yes.

9 Q And is that actually right here?

10 This is small.

11 A It is.

12 Q Is that consistent with coming from a projectile?

13 A Appears to be a metal jacket on the outside of the
14 bullet.

15 Q You mentioned that you collected a number of shell
16 casings. I'll show you what's been marked as State's
17 Exhibits No. 35 through 45.

18 First ask if you recognize those.

19 A I do.

20 Q Do those fairly and accurately depict the crime scene
21 and actual projectiles you found?

22 A They did.

23 SOLICITOR CAMPBELL: At this time we would offer them
24 into evidence.

25 MR. COOPER: No objection.

Anna Elsey - Direct examination
by Solicitor Campbell

1 THE COURT: Those will be admitted.

2 (Whereupon, State's Exhibit Nos. 40 through 45 were
3 received into evidence at this time.)

4 SOLICITOR CAMPBELL: Your Honor, may she step down one
5 more time?

6 I apologize.

7 (Witness comes down from the stand.)

8 Q State's Exhibit 72 is a reference and the first one I
9 show you marked as A, is that depicted on the diagram?

10 A It is. It's here. It is a shell casing.

11 Q Located right there beyond the hallway area and the den
12 area?

13 A Yes, sir.

14 Q Is that how it appeared when y'all processed the scene
15 that night?

16 A Yes.

17 Q Is that you right there in the corner of A on the
18 carpet?

19 A Yes.

20 Q Next case is State's Exhibit 36 that's shown.

21 A Again, that's another shell casing that was in that
22 same general vicinity and in the den area of the hall.

23 Q That is denoted on State's Exhibit 7, the---

24 A Yes.

25 Q ---as enumerated B?

Anna Elsey - Direct examination
by Solicitor Campbell

1 A Correct.

2 Q I show you State's Exhibit 37 that's been marked as
3 Item Number C.

4 A That was also in the den area near the table.

5 Q Near the table?

6 A Right here.

7 Q By the corner?

8 That's how you found it that night?

9 A Yes.

10 Q State's Exhibit No. 38 actually denotes L, N, G, what
11 are those two items?

12 A D is a shell casing and L is a projectile.

13 Q State's Exhibit No. 39 marked as Item Number E, another
14 shell casing.

15 A That's, again, in the den area closer to the bed.

16 Q State's Exhibit No. 41, which is denoted Marker Number
17 G.

18 A Another shell casing located between the armoire area
19 and the bed.

20 Q State's Exhibit No. 42, which is denoted as Marker H.

21 A Another shell casing here. That's the, to the right of
22 the chair.

23 Q State's Exhibit 43, which denotes I.

24 A Another shell casing in front of the sofa.

25 Q In front of the sofa area?

Anna Elsey - Direct examination
by Solicitor Campbell

- 1 A Yes.
- 2 Q Finally, State's Exhibit 45, which denotes K.
- 3 A And Q was another fragment.
- 4 Q And you mentioned there were several fragments.
- 5 That last one of the projectiles was found in the
- 6 kitchen area, but there was a hole in the kitchen wall, is
- 7 that correct?
- 8 A There was a hole in the kitchen wall that connected
- 9 from the kitchen to the hallway or the den area. Excuse me.
- 10 Q As far as the shell casings that would have been
- 11 expelled when the gun was fired, what area was that found
- 12 in?
- 13 A They were predominately in that den area.
- 14 Q As denoted on the diagram?
- 15 A Yes.
- 16 Q There were no shell casings found in the kitchen or the
- 17 bathroom?
- 18 A No.
- 19 Q Or the hallway?
- 20 A No.
- 21 Q The crime scene was secured that night?
- 22 A Yes.
- 23 Q And how is that done, ma'am?
- 24 A We have an officer that actually stays on the scene and
- 25 does security until we respond back.

Anna Elsey - Direct examination
by Solicitor Campbell

1 Q And I believe it was the three of you working together
2 that night that actually processed this crime scene?

3 A Yes.

4 Q That night?

5 A That night, correct.

6 Q And further processing done by other investigators the
7 next day?

8 A That's correct.

9 SOLICITOR CAMPBELL: Thank you. I don't have anything
10 further.

11 THE COURT: Okay.

12 MR. COOPER: May it please the Court, Your Honor?

13 THE COURT: Sure.

14 CROSS-EXAMINATION

15 BY MR. COOPER:

16 Q Good morning.

17 A Good morning.

18 Q You testified you found eight shell casings, right?

19 A There were eight shell casings located.

20 Q And you were telling the jury that you found at least
21 one of those over by the area of the room where the chair
22 was, is that right?

23 A Yes.

24 Q Okay. You found another one over by the bed, is that
25 right?

Anna Elsey - Cross-examination
by Mr. Cooper

1 A There was one between the bed and the armoire area.

2 Q You also told the jury about impact points in the room.

3 A Yes.

4 Q One of those you found behind the refrigerator in the
5 kitchen, is that correct?

6 A It appears to have traveled through the refrigerator
7 and projectile behind the refrigerator.

8 Q It impacted the refrigerator and y'all found it behind
9 the refrigerator?

10 A Correct.

11 Q And you talked about the armoire with the television on
12 it?

13 A Actually the armoire I was referring to is a separate
14 piece of furniture. That was what we typically refer to as
15 armoire, a larger chest with drawers, and then a smaller
16 table with the TV on it beside it.

17 Q Right. You're exactly right. I didn't even remember
18 exactly what an armoire was, but that's my problem.

19 Okay. Let's look at this. This is State's 72.

20 All right. This is what you were referring to as the
21 armoire, correct?

22 A Correct.

23 Q And this is the chest of drawers that---

24 A That's the small -- looks like an edged table type
25 table with a TV on it.

Anna Elsey - Cross-examination
by Mr. Cooper

1 Q Little end table with drawers in it and that's where
2 the TV was?

3 A Yes.

4 Q Okay. Y'all found a projectile basically in the TV,
5 right?

6 A We found a fragment.

7 Q Fragment---

8 A That night we found a fragment. They also looked at it
9 further the following day, but inside the TV, yes.

10 Q Okay. Now, you and Ms. Campbell went over multiple
11 pictures, and I won't make you do that again. I just want
12 to point out a couple of things. You refer to several of
13 the blood stains as transfer stains.

14 A The swipe areas, yes.

15 Q And what is -- explain to the jury what is -- what do
16 you mean by swipe?

17 A That's when someone has blood on their hands and they
18 actually move across a non-bloody surface.

19 Q And you found one of those in this area?

20 A I believe there was one in the hallway.

21 Q Well, the hallway area going into the den?

22 A Yes. Yes.

23 Q Is that right?

24 A That's right.

25 Q You also told the jury a second ago that you found

Anna Elsey - Cross-examination
by Mr. Cooper

1 blood on the chair in the room.

2 Okay. Is that right?

3 A That's correct.

4 Q Were you referring to this chair over here?

5 A The chair in the window.

6 Q There's a smear in the hallway, right?

7 A Yes.

8 Q And there is also blood over here on this chair,
9 correct?

10 A That's correct.

11 Q Okay. At the beginning of your direct testimony you
12 were telling Ms. Campbell there's blood on -- these are on
13 where the windows are, right?

14 A That's correct.

15 Q There's blood on the back window sill, right?

16 A Correct.

17 Q You testified about y'all put, I think you call it,
18 projectile rods in the hole so you can see where the bullets
19 might have come from.

20 A The trajectory rods, yes.

21 Q Okay. Did you find -- in addition to the projectile,
22 you found that went through the refrigerator.

23 Did you find any other impact points in the kitchen
24 area?

25 A No.

Anna Elsey -- Cross-examination
by Mr. Cooper

1 Q No. Okay.

2 A Not in the chair, but the one that went from where J is
3 marked from that wall in the den that leads into the kitchen
4 area.

5 Q All right. So, there was another, there was another
6 one that led into the kitchen area?

7 A Yes.

8 Q Okay. The table in front of the sofa right next to the
9 letter K right there you testified you found blood there as
10 well, correct?

11 A Yes.

12 Q We just talked about this, but when you referred to the
13 blood smear, you testified that that, that stain shows
14 movement.

15 That indicates movement?

16 A Yes.

17 Q Ms. Campbell also talked to you about the gun that was
18 found in the little table with the two drawers in it.

19 You testified---

20 A Was actually one drawer. That particular---

21 Q One drawer.

22 That's where the gun was found, correct?

23 A Yes.

24 Q When you got there, that drawer was closed, right?

25 A Yes.

Anna Elsey - Cross-examination
by Mr. Cooper

1 Q You don't know whether or not the drawer was open or
2 closed during the incident?

3 A No, I know when I got there it was closed.

4 Q Okay. I also want to talk to you about the lamp that I
5 guess would have been found right here.

6 Do you recall that, right?

7 A On the exterior of the window.

8 Q And that's basically what broke the window?

9 A I don't know that.

10 Q Okay. I mean as an expert in crime scene
11 investigation, the window was busted out, there's a lamp on
12 the ground outside the window, right?

13 A It could happen. Would also use something else and
14 they have used a lamp. I don't know. The lamp was on the
15 other side of the window, and it could have been used, but I
16 don't know for sure it was used.

17 Q Was it a very large hole in the window?

18 A I didn't get the size of the window. The whole window
19 was not broken out, no.

20 Q This chair was there when you first went on the scene,
21 right?

22 A Yes.

23 Q Would---

24 A There were also other pictures located near that window
25 that was turned over. Actually it's in the photographs, but

Anna Elsey - Cross-examination
by Mr. Cooper

1 it is not in this particular diagram.

2 Q So, there's more chairs in this, in the room.

3 A Yes.

4 Q You also found -- you also found blood over here near
5 the door, right?

6 A Yes.

7 Q So, it is a fair characterization to say that there
8 were, there was blood in every area of this room with the,
9 with the exception of the kitchen and bathroom and the
10 closet?

11 A We located I think 18 different stains throughout the
12 hallway and the bedroom, den area, and---

13 Q And some of those were -- some of those were what
14 you've characterized as transfer stains?

15 A I actually think I identified three of them, swipe type
16 stains.

17 Q Three swipes.

18 Okay. Beg the Court's indulgence one moment.

19 (Pause.)

20 MR. COOPER: Your Honor, that's all I have. Thank you.

21 THE COURT: Redirect?

22 REDIRECT EXAMINATION

23 BY SOLICITOR CAMPBELL:

24 Q You mention there is blood in the different areas and
25 everything and even with your expertise you can't go in

Anna Elsey - Redirect examination
by Solicitor Campbell

1 there and say exactly what the significance of the blood is
2 you were just describing to the jury?

3 A Correct. I can only say where it was located and there
4 was possibly some movement.

5 Q And there were blood---

6 A In the blood area---

7 Q ---stains on the tables I believe on the chair near the
8 window?

9 A Yes.

10 Q And then there was that drop of blood on the window
11 sill?

12 A Correct.

13 Q But you can just describe those for the jury, but you
14 can't tell them exactly what happened based on what you saw
15 at the crime scene?

16 A No.

17 Q But you can say that at the point in the hallway where
18 y'all found 18 different stains, including the swipe, that
19 would be transfer?

20 A There were some areas, once blood got started, and the
21 blood was left or out those particular areas, you could
22 identify several areas in there where there was movement
23 either through the blood itself or with an object with blood
24 on it and that object with blood on it moving across that
25 particular surface.

Anna Elsey - Redirect examination
by Solicitor Campbell

1 Q Would that be consistent with someone who has been shot
2 or touched someone who has been shot going down that
3 hallway?

4 A It could be.

5 SOLICITOR CAMPBELL: That's all.

6 THE COURT: Thank you. You can step down.

7 Ladies and gentlemen of the jury, we're going to go
8 ahead and take a break at this point. I'm going to remind
9 you to not discuss the case in any shape, form, or fashion.
10 We'll be with you shortly.

11 (Whereupon, the following takes place outside the
12 presence of the jury panel.)

13 THE COURT: Any matters you need to take up?

14 SOLICITOR JOPHLIN: Yes, ma'am, the State would need to
15 amend its witness list to add four witnesses from the State
16 Law Enforcement Division, SLED, Angela Simmons, Lisa
17 McReynolds, Amy Stevens, and Tammy Bannister. Merely a
18 scribner's error on our part not putting them on before
19 this.

20 THE COURT: You discussed that issue with the defense?

21 SOLICITOR JOPHLIN: No, ma'am, I just realized they
22 weren't on there.

23 THE COURT: What was Lisa's name?

24 SOLICITOR JOPHLIN: McReynolds.

25 THE COURT: Defense, any response?

1 MR. O'NEILL: Ask the jurors. wait at least four weeks
2 before we---

3 THE COURT: Okay. we'll take care of that.

4 SOLICITOR JOPHLIN: Thank you, Your Honor.

5 THE COURT: These are just people -- part of the
6 investigation?

7 SOLICITOR JOPHLIN: Yes, ma'am.

8 THE COURT: No real surprises as far as we know?

9 SOLICITOR JOPHLIN: No.

10 THE COURT: Thank you. we'll take care of that.
11 Y'all be at ease for about 15 minutes.

12 (Whereupon, a short recess was taken at this time.)

13 SOLICITOR JOPHLIN: Your Honor, we had a matter we need
14 to take up. Somehow in our requests to make things better
15 we marked two, State's Exhibit 1 and 2, the photographs. we
16 will renumber and put it on the jury. So, State's Exhibit 1
17 and 2, the photos have been renumbered to whatever numbers
18 they're going to be. We have already remarked these. So,
19 it's going to have to be our number.

20 SOLICITOR CAMPBELL: 95 and 96, Your Honor.

21 THE COURT: which will -- have you published?

22 (Whereupon, the following takes place within the
23 presence of the jury panel.)

24 THE COURT: Fellow Jurors, we have learned there are a
25 couple more witnesses in the case. So, I'm going to ask you

1 the same questions at the beginning of the trial with
2 respect to you having any knowledge of these persons having
3 a close personal or social relationship or in any way know
4 these persons. It is Lisa Simmons with the South Carolina
5 Law Enforcement Division or what we refer to as SLED.

6 McReynolds, also as SLED.

7 Amy Stevens also with SLED.

8 Tammy Bannister also with SLED.

9 Do any of you know any of those persons, if so, please
10 stand.

11 (No response.)

12 THE COURT: Jurors have indicated in the negative. We
13 will proceed.

14 Defense counsel are okay?

15 SOLICITOR JOPHLIN: Yes, Your Honor.

16 THE COURT: And then we had some information from the
17 State. A couple of exhibits were numbered twice and I'd
18 like one representative to indicate how we're going to
19 change that and publish it to the jury.

20 SOLICITOR CAMPBELL: Your Honor, there's been a
21 mistake, State's Exhibit 1 and 2, photo lineups already in
22 evidence. In addition to that, I referenced two
23 photographs, State's Exhibit 1 and 2, the first photographs
24 I referenced will now be State's Exhibit 95 and 96.

25 THE COURT: Yes, sir, we've covered up the old one and

Robert Oates - Direct examination
by Solicitor Jophlin

1 two on those particular exhibits. So, they will be 95 and
2 96. So, remember that if there's any reference needed for
3 it later.

4 (Whereupon, State's Exhibit Nos. 1 and 2 were changed
5 to State's Exhibits 95 and 96 and received into evidence at
6 this time.)

7 THE COURT: Okay. State, you may continue.

8 SOLICITOR JOPHLIN: State calls Investigator Oats.

9 ROBERT OATES, being first duly
10 sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY SOLICITOR JOPHLIN:

13 Q Investigator Oates, where are you currently employed?

14 A Richland County Sheriff's Department.

15 Q How long you been employed there?

16 A Eleven and a half years.

17 Q What are your current duties with the Sheriff's
18 Department?

19 A I'm assigned to the crime scene division.

20 Q And what are your duties as they entail with the crime
21 scene division?

22 A I respond to crime scenes in Richland County, identify,
23 collect, and document crime scenes.

24 Q And are you called out to every crime scene that occurs
25 in Richland County?

Robert Oates - Direct examination
by Solicitor Jophlin

1 A Yes.

2 Q And do you collect evidence at every crime scene or
3 just go there to evaluate on what, what happened at the
4 scene?

5 A If there is evidence to collect, physical evidence, we
6 collect it.

7 Q And did you have a chance to respond to a crime scene
8 on November 21, 2006, at the Grand Motel on Two Notch Road?

9 A Yes, I did.

10 Q And was it Room 162?

11 A Yes, it was.

12 Q And when you arrived at the Grand Motel, were you the
13 first officer on the scene?

14 A No, I wasn't.

15 Q Was there already someone with the crime scene division
16 at the scene?

17 A Yes, Investigator Allen was the original responder.

18 Q I'm sorry.

19 What training did -- did y'all go through any kind of
20 special training or class to become part of this crime scene
21 division---

22 A Yes.

23 Q ---at the sheriff's department?

24 A I have training and certification.

25 Q And what kind of classes and training do you have?

Robert Oates - Direct examination
by Solicitor Jophlin

1 A Okay. Starting out with fingerprint identification and
2 development, palm print identification and development,
3 blood pattern analysis, advanced blood pattern analysis,
4 crime scene reconstruction, forensic photography, and
5 advanced forensic photography, and also evidence
6 preservation and collection.

7 Q And how long have you been in this division?

8 A Five years.

9 Q And now getting back to the Grand Motel, you responded
10 on November 21?

11 A Yes, I did.

12 Q Was there somebody else responding on the scene from
13 y'all's division?

14 A Yes, Investigator Allen.

15 Q I think we already said Investigator Allen is currently
16 in Iraq?

17 A Yes.

18 Q When you had gotten there, what was the state of the
19 crime scene when you arrived on the scene?

20 A When I arrived, the crime scene was already secured
21 with security tape, and a police officer or deputy was
22 already guarding the scene. Investigator Allen had already
23 entered the scene, already started processing it. He
24 already had some evidence already marked when I got there
25 and arrived.

Robert Oates - Direct examination
by Solicitor Jophlin

1 Q And do you recall -- and when you arrived, did you
2 continue to assist him?

3 A Yes, I did.

4 Q And how did you assist Investigator Allen once you
5 arrived on the scene?

6 A I took photographs, more photographs of evidence than
7 Investigator Allen had, had already been marked, and what we
8 do is initial photographs are taken with visual photography,
9 and we back those photographs up with 35-millimeter. So,
10 what I was doing was going behind Investigator Allen with
11 the 35-millimeter camera taking photographs also.

12 Q I have some photos here, Mr. Oates, and I believe you
13 took these with that 35-millimeter camera. I hand you
14 State's Exhibit 27 through 34 and ask if these photos
15 accurately depict the crime scene as you arrived that night?

16 A Yes, sir.

17 SOLICITOR CAMPBELL: Your Honor, the State would move
18 to introduce 27, 28, 29, 30, 31, 32, 33, and 34 in evidence.

19 MR. COOPER: No objection.

20 THE COURT: Those would be admitted.

21 (Whereupon, State's Exhibit Nos. 27 through 34 were
22 received into evidence at this time.)

23 Q The first photo, State's Exhibit 27, that's the actual
24 room door when you walked in---

25 A Yes.

Robert Oates - Direct examination
by Solicitor Jophlin

1 Q ---that evening?

2 Your Honor, permission to publish these to the jury as
3 he explains them?

4 THE COURT: Sure.

5 Q The room door shows 162?

6 A That's the exterior side of the hotel room door.

7 Q And this next photo is State's Exhibit No. 28.

8 What is that depicting?

9 A Those are blood stains through the front entrance door
10 as opened, front entrance way door going into the Apartment
11 162.

12 Q That's how when you arrived at -- that was the
13 condition of the doorway when you arrived?

14 A Yes.

15 Q And do you recall what time you arrived on the scene?

16 A I arrived at 21:01 hours or 9:18 p.m.

17 Q State's Exhibit 29, what is that depicting?

18 A That's an interior left side wall, front entrance
19 hallway into the apartment, excuse me, hotel room.

20 Q And that's depicting what appears to be blood?

21 A Yes.

22 Q And that's -- when you walk in the door, that's on the
23 left as you're facing the side of the hotel room?

24 A Yes, it is.

25 Q I show you what's marked as State's Exhibit No 30.

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by Solicitor Jophlin

1 What is this depicting?

2 A That's another stain. There's -- as you walk in on the
3 left hallway, there's a closet area and that's a frame
4 outside, frame on the wall around the door of the closet.

5 Q That's the closet immediately when you walk into your
6 left?

7 A Yes.

8 Q Is that, again, what, showing what appears to be a
9 blood stain on that door frame?

10 A Yes.

11 Q And I show you what's already been brought in as No.
12 72, State's Exhibit, is that the area we're talking about
13 right there, the closet?

14 A Yes, it is.

15 Q I'm going to show you State's Exhibit No. 31.

16 I believe that's also the entryway, isn't it?

17 A Yes, that's the entrance way left side hallway. I
18 don't know if that's past the closet, but it is still on the
19 left side wall in that area.

20 Q And these are photos -- Investigator Allen is still
21 marking things when you arrive?

22 A Yes, he is.

23 Q And so, some of the pictures you're already actually
24 taking before any kind of evidence or marker gets attached
25 to it?

Robert Oates - Direct examination
by Solicitor Jophlin

1 A That's correct. I'm starting from the outside doorway
2 working my way inside.

3 Q Does this appear to be blood on that wall?

4 A Yes, it appears to.

5 Q I'm going to show you what's been marked as No. 32.

6 Describe where that is.

7 A That's the -- that's an interior photograph from the
8 inside sheeting towards the door from the inside, the front
9 hallway, the floor, and the wall area.

10 Q There is a rather large amount of what appears to be
11 blood in this photograph.

12 Is that how you found it when y'all came in?

13 A Yes.

14 Q Or when you came in. I'm sorry.

15 A Yes.

16 Q And is that -- if you're standing right around where
17 this D is, you're taking that picture looking towards that
18 door?

19 A Yes.

20 Q And State's Exhibit No. 33, is that going in towards
21 the bathroom?

22 A Yes, the bathroom area, the left side.

23 Q Does that photograph show any kinds of signs of a
24 struggle, let me show it to you again, or chaos at some
25 point?

Robert Oates - Direct examination
by Solicitor Jophlin

1 A I wouldn't say showing signs of a struggle, but it does
2 indicate that some person was in that area and was bleeding.

3 Q And that is what appears to be blood in that room?

4 A Yes.

5 Q And State's Exhibit No. 34, that's a close-up---

6 A Yes.

7 Q ---of that trash can in the bathroom?

8 A Yes, in the bathroom close-up of blood stains on the
9 trash can in that area near the sink.

10 Q State's Exhibit 28 is in this area?

11 A Yes.

12 Q Let me show you State's Exhibit 46, 47, 48, 49, 50, and
13 ask if those fairly and accurately depict the room that
14 night as you and Investigator Allen---

15 A Yes, sir, they do.

16 SOLICITOR JOPHLIN: Your Honor, we seek to introduce
17 46, 47, 48, 49, 50.

18 MR. COOPER: No objection.

19 THE COURT: Those would be admitted.

20 (Whereupon, State's Exhibit Nos. 46 through 50 were
21 received into evidence at this time.)

22 Q Exhibit 46, what is that depicting?

23 A This is the interior living room kitchen area. That's
24 as soon as you walk into the hotel room, carpet area.

25 Q And I see several letters, little tabs down there on

Robert Oates - Direct examination
by Solicitor Jophlin

1 the floor.

2 Are those different markers where y'all found different
3 pieces of possible evidence that was collected?

4 A Yes, those are the particular areas. Any evidence that
5 we do identify has a marker placed next to it.

6 Q And the markers that are in this photo, say, for
7 example, the A, B, C, and D, they correspond to the A, B, C,
8 and D on that diagram right there?

9 A Yes. Let me see that again. Yes.

10 Q State's Exhibit No. 47 has an evidence marker number
11 five on that photo.

12 A Yes.

13 Q Do you know what this photo is depicting?

14 A That is -- there's a window as you walk straight in the
15 hotel room straight across, and that is a piece of the wall
16 up under the window.

17 Q Is there anything on that wall that y'all are marking
18 with that marker number five?

19 A Yes, appears to be blood stains.

20 Q That wall of windows you're speaking of, is that back
21 here where that U is?

22 A Yes.

23 Q Show you what's been marked as Exhibit No. 48 with a
24 number nine on it.

25 A Has a blood stain, yes.

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by Solicitor Jophlin

1 Q Blood stain?

2 A Yes, on the wall.

3 Q What appears to be blood, is it -- no, this isn't a
4 blood drop or anything. This is more of a smear.

5 A Yes.

6 Q Is that a technical term or swipe?

7 A Right, swipe, yes.

8 Q Okay. And what does that indicate to you as a crime
9 scene investigator?

10 A Basically a bloody object has touched a non-bloody
11 surface and has left a mark.

12 Q State's Exhibit No. 49 I think is a Marker 12.

13 A Yes.

14 Q And, again, is that on an interior wall in the hotel
15 room?

16 A Yes, it is.

17 Q What appears to be blood?

18 A Blood, yes.

19 Q Do you know where in the room this would be?

20 A It appears to be in that front hallway as you walk in
21 on the left.

22 Q And finally, Exhibit No. 50 --

23 A Yes.

24 Q -- evidence marker Number 15.

25 A That's going to be a close-up of the blood stains,

Robert Oates - Direct examination
by Solicitor Jophlin

1 front closet, the molding.

2 Q And, again, this appears to be, what appears to be
3 blood?

4 A Yes.

5 Q When y'all arrived, that back wall, you said it was a
6 large window?

7 A Yes.

8 Q And was that window in tact when you arrived.

9 A The most, majority of the window was, but it was a
10 section that was smashed out.

11 Q State's Exhibits 85, 88, and 97, ask if they fairly and
12 accurately depict what you saw that night.

13 A Yes, sir.

14 SOLICITOR JOPHLIN: Okay. Your Honor, I ask to submit
15 85, 88, 97 into evidence.

16 MR. COOPER: No objection.

17 THE COURT: Okay. Will be admitted.

18 (Whereupon, State's Exhibit Nos. 85, 88, and 97 were
19 received into evidence at this time.)

20 Q If you could, on State's Exhibit 85, can you tell from
21 that photo which window was broken out or do you recall from
22 that window which was broken out?

23 A It does appear -- it's hard to see from that angle
24 here, but, or this, this distance. This window right here,
25 section.

Robert Oates - Direct examination
by Solicitor Jophlin

1 Q Okay. I believe in -- lieutenant also was talking
2 about earlier Exhibit 88 shows the top of that, the large
3 pane.

4 A Yes.

5 Q Seen broken?

6 A There's also a section of that that's been broken out,
7 yes.

8 Q And this area right here, is that consistent with the
9 bullet hole?

10 A Yes, sir, an impact point, yes, sir, sure is.

11 Q Impact -- an impact point showing the bullet hole --
12 bullet, I'm sorry, went through that top pane of glass?

13 A Yes, there is a fracture or a section out there of that
14 window glass that indicates came from a projectile.

15 Q You recall what -- that would have been this larger
16 pane?

17 A Yes, top corner.

18 Q There's this bottom pane that was broken out as well?

19 A Right, yes, sir.

20 Q That evening, did you tell what had been used to break
21 out that bottom pane?

22 A No, sir.

23 Q Unlike a top pane where you could see the, pinpoint---

24 A That's correct, yes.

25 Q Also, too, in No. 85 there appears to be a larger

Robert Oates - Direct examination
by Solicitor Jophlin

1 lounge chair under the window.

2 A Yes, sir.

3 Q But then beside it there is a smaller chair?

4 A Right, the armchair.

5 Q An armchair which could be considerably lighter than
6 the lounge chair that's seated directly in front?

7 A It appears -- don't know the exact weight. But yes,
8 sir.

9 Q And this lighter armchair doesn't appear on the
10 diagram, correct?

11 Just the larger---

12 A Yes.

13 Q And No. 97, that's just another view of that window I
14 think just showing the shards of glass and broken window a
15 little more clear?

16 A Yes.

17 Q Hard to see, but---

18 A Right in, in the mid-range photograph.

19 Q Speaking of that window, y'all found that night
20 there's, as we've already shown with the photographs,
21 there's a good amount of what appeared to be blood in the
22 hotel room.

23 A Yes, sir.

24 Q Did y'all find anything significant on the window sill
25 of this window?

Robert Oates - Direct examination
by Solicitor Jophlin

1 A Yes. During the search of the crime scene, two stains,
2 blood stains were located and we -- I have -- we have it
3 marked as wall number seven, the glass window sill. So, so,
4 the wood window sill up under the broken window pane, the
5 bottom broken window pane, that window sill right there is
6 where we found these things.

7 Q You're talking about this window sill?

8 A Yes, the window sill right here. It's actually a
9 broken piece of glass sitting on the top right here, and
10 that's where the blood stains were located.

11 Q And that is Exhibit No. 96. That's already been
12 introduced.

13 I believe this is a close-up of that window sill?

14 A Yes, that is a close-up of that window sill.

15 Q And it is showing the blood drop you're speaking of?
16 Does it show it?

17 A Yes, it does. Yes, sir. This is before we put a
18 marker, an evidence marker on the stain.

19 Q What was the significance of finding blood over on the
20 window sill as compared to near the front entrance doorway
21 where the majority of the other blood was found?

22 A Since we have broken glass, this could indicate the
23 suspect possibly was injured. So, that would be very
24 important. We would identify that.

25 Q And is there any way for crime scene investigators such

Robert Oates - Direct examination
by Solicitor Jophlin

1 as yourselves to collect evidence such as blood left on a
2 window sill?

3 A Yes.

4 Q Can you describe how you go about collecting such
5 evidence as that drop of blood you found?

6 A After photography is completed, we simply -- we use a
7 sterile cotton swab, which is sealed, use distilled water,
8 which is in our kits. Of course, we put on rubber gloves
9 and we apply the distilled water to the cotton swab tip. We
10 collect the blood and then we also use little paper board, a
11 cardboard box but for swabs is what we use and we identify
12 on the front of the box where we got the swab from and date
13 and our signature on that cotton swab box.

14 Q Earlier when Lieutenant Elsey was testifying there were
15 several numbered evidence markers within that hotel room.
16 Everywhere from Marker 1 through 15 and jumps to evidence
17 Marker 18.

18 A Yes, sir.

19 Q Did you collect swabs of all the different areas of
20 blood or those areas of blood that you marked with those
21 evidence numbers?

22 A Yes, the evidence numbers that were marked for the
23 blood stains, I did swab those, yes, sir.

24 Q And say such as Evidence Marker Number 1, that's a
25 handwritten one right underneath that blood spot?

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by Solicitor Jophlin

1 A Yes, sir.

2 Q Where was that located, the window sill?

3 A The window sill.

4 Q Where that broken glass was, that broken window?

5 A Yes.

6 Q Then evidence marker number two, do you recall where
7 that was located?

8 A That's on the same window sill. That's the same area
9 where the broken glass was sitting on the top of the window
10 sill where that second stain is located. So, they are
11 generally close to each other. Not side-by-side.

12 Q This photo, No. 4, actually shows that broken glass you
13 are talking about?

14 A Yes, sir.

15 Q Closer up version of it?

16 A Yes, sir.

17 Q State's Exhibit No. 5 showing Marker Number 3, do you
18 recall where that was located?

19 A It appears---

20 Q Looks like maybe a pillow.

21 A It's hard for me to tell without seeing a long range
22 shot---

23 Q Okay.

24 A ---photograph.

25 Q Do you have any notation that reflects where these may

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1 have been taken from?

2 I believe in your report you say it is a swab off a
3 white pillow case sitting on top of a den chair.

4 A Yes, cotton swab blood stain wall number six, couch.

5 Q I'm sorry. Couch?

6 A That's what I have in my evidence label.

7 Q State's Exhibit No. 6, evidence marker number 4, did
8 you take a swab with number 4 as well?

9 A Yes.

10 Q Exhibit No. 7 is evidence marker number 5.

11 Did you take a swab of evidence marker number 5?

12 A Blood stain wall number one or marked as number seven
13 wall where that window is, yes, is located.

14 Q Did you take a swab of number six as well?

15 A Coffee table.

16 Q You said that's from the coffee table in the room?

17 A Yes, sir.

18 Q On the diagram, is that -- what is that right there?

19 A That was marked Number K, yes, sir.

20 Q No. 8, you also pled to the swab from number eight,
21 evidence marker number 18. I'm sorry.

22 A Yes.

23 Q Do you recall where that was up, an interior wall?

24 A That was the interior left side wall into the living
25 room area on the left side corner before you enter the

Robert Oates - Direct examination
by Solicitor Jophlin.

1 bedroom area of the hotel room basically.

2 Q You took several more swabs as well. Without going
3 through every single---

4 A Yes.

5 Q ---picture, I think this one is also from 18?

6 A Yes, we generally collect stains from the different
7 areas in order to analyze the stains.

8 Q Also a swab sample from Evidence Number, Evidence
9 Number 6 from an interior wall. Evidence eight again from
10 the wall.

11 A Yes, sir.

12 Q And nine?

13 A Yes, sir.

14 Q Evidence number ten from a wall.

15 A Yes, sir.

16 Q Number 11 from a wall?

17 A Yes, sir.

18 Q Twelve from a wall?

19 A Yes, sir.

20 Q Evidence number 13, I believe you showed that earlier,
21 from the door jam to the lavatory?

22 A Yes, sir.

23 Q Number 14 from that lavatory door?

24 A Yes, sir.

25 Q Number 15, I think we showed that earlier, the closet

Robert Oates - Direct examination
by Solicitor Jophlin

1 molding frame?

2 A Yes, sir.

3 Q And finally a swab from Number 18, not the wall, but
4 that couch.

5 A Yes, sir.

6 Q When you collected these swabs, what do you do with
7 them once you collect them?

8 A They were placed in a yellow envelope and are sealed
9 and transported back to the crime lab, crime scene latent
10 print section in order to be entered into evidence.

11 Q That's a yellow envelope such as this?

12 A Yes, sir.

13 Q And tape you're talking about is this tape?

14 A Yes, it's sealed with our evidence tape and the date
15 and my initials. I make my mark on the actual package to
16 seal it.

17 Q I show you what's been marked as State's Exhibit No. 97
18 and ask if that's the yellow envelope you used to put the
19 cotton swabs in, detain the cotton swabs we just went
20 through?

21 A Yes, sir.

22 Q And how do you know that that is the envelope?

23 A Okay. It has my initials, my mark, and the date.

24 Q And that's---

25 A I use---

Robert Oates - Direct examination
by Solicitor Jophlin

1 Q You handwrote that?

2 A Yes.

3 Q And you handwrote that on that red tape?

4 A That's right. That is my initials.

5 Q And there's a little white sticker on the front of that
6 and on the back and that list of contents inside that
7 envelope.

8 A Yes. When I presented it into evidence technicians,
9 that type thing, each item that's on the evidence label and
10 it prints out, computer prints out the receipt or just
11 little placards for each individual item.

12 Q But this area you actually wrote that?

13 A Yes.

14 Q And signed it?

15 A That is my writing at the bottom.

16 SOLICITOR JOPHLIN: Your Honor, at this time we'll
17 leave this for ID No. 97.

18 Q When you turned this in, you say there's a central
19 evidence room?

20 A Yes.

21 Q At the sheriff's department?

22 A Yes.

23 Q When you turned evidence such as this -- when you
24 turned this in, was it in a safe, and secure, sealed
25 condition?

Robert Oates - Direct examination
by Solicitor Jophlin

1 A Yes. Yes, it was.

2 Q Do they accept evidence if it's not secure or---

3 A They do not.

4 Q ---sealed up?

5 A They do not. We reject it and we have to correct it
6 before it can be entered or accepted.

7 Q And you can tell by your markings on what date you
8 turned that in?

9 A I submitted the evidence on November 22 of '06 at
10 10:39 a.m.

11 Q Okay. And you said you also took pictures of the crime
12 scene in general to preserve the scene for posterity, for
13 later, to just preserve it as you found it once you walked
14 in.

15 A Yes.

16 Q I'm going to show you what's been marked as Exhibits 83
17 and 84, and ask you if those fairly and accurately depict
18 the room as you walked in that night.

19 A Yes, sir.

20 Q Also going to show you 89, 90, 91, and 92, and ask if
21 they fairly and accurately depict the room as you found it
22 that night?

23 A Yes, sir.

24 MR. COOPER: No objection.

25 SOLICITOR JOPHLIN: Seek to introduce 83, 84, 89, 90,

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by Solicitor Jophlin

1 91, and 92 in evidence.

2 THE COURT: Those will be admitted.

3 (Whereupon, State's Exhibit Nos. 83, 84, 89, 90, 91,
4 and 92 were received into evidence at this time.)

5 Q Is that another photograph showing the apartment?

6 A Yes, it is, as you walk through the hotel room, the
7 hallway.

8 Q What is the significance of this little white and
9 black---

10 A It is a 90-degree scale. We use that to photograph
11 beside the possible shoe impression.

12 Q Is that what you found in that area right there?

13 A Yes.

14 Q And that's right near that closet area when you walk in
15 the door?

16 A Yes, it is.

17 Q State's Exhibit 91, showing the front entrance door and
18 what appears to be blood.

19 A It is, as you enter the hotel room, doorway.

20 Q State's Exhibit 83, does that appear -- where is that
21 in the room?

22 A That is in a bedroom area. That's where the TV stand
23 and an entertainment center or cabinet is located.

24 Q And on this diagram, is that -- these two items right
25 here?

Robert Oates - Direct examination
by Solicitor Jophlin

1 A Yes, it is.

2 Q And in this picture, the drawers of these two pieces of
3 furniture appear to be closed?

4 A Yes, they were closed.

5 Q Is that how you found it when you walked into that
6 room?

7 A Yes, sir, they were closed.

8 Q Investigator Allen showed up before you, correct?

9 A Yes.

10 Q Was he trained to leave the scene as is until it is
11 completely photographed?

12 A Yes, sir.

13 Q And per his frame, would he have entered any of the
14 furniture before they were photographed?

15 A No, sir.

16 Q State's Exhibit No. 84, that is just a closer up
17 picture of that entertainment bureau you're talking about?

18 A Yes, sir.

19 Q And those two big cabinet drawers were open, but those
20 big doors down below were shut?

21 A Yes, sir.

22 Q I'm going to show you No. 90. It appears to be a
23 picture of the kitchen area.

24 A Yes, sir.

25 Q What is the significance of that photo?

Robert Oates - Direct examination
by Solicitor Jophlin

1 A It's to -- it's a mid range photograph showing the
2 interior of the kitchen as is when we arrived, and also
3 there are some scales, markers, indicating or showing impact
4 points---

5 Q Those two right there?

6 A Yes, into -- on the photographs and the left side of
7 the wall area and also the refrigerator, front door surface.

8 Q They're showing -- these pictures show, on that wall
9 and the front of the refrigerator, what appear to be did you
10 say impact points?

11 A Yes.

12 Q Is that where bullets would have hit?

13 A Yes, sir.

14 Q And Exhibit No. 89, is that just a close-up shot of a
15 refrigerator impact point?

16 A Yes, it is.

17 Q In-between -- I'm not sure if we covered this or not,
18 but I want to make sure we're talking about the posterity of
19 a crime scene and the collection of blood evidence.

20 Investigator Oates, when you get one cotton swab say
21 from that window sill, are you wearing any kind of gloves
22 or---

23 A Yes.

24 Q ---protection to try to keep your body fluids or
25 anything from getting on that surface or on that blood swab?

Robert Oates - Direct examination
by Solicitor Jophlin

1 A Yes.

2 Q And here you collected several cotton swabs.

3 How do you -- how do crime scene investigators do their
4 best to prevent a sample from say the window sill getting
5 into the sample from behind the couch?

6 A We change -- we change out our gloves in-between
7 collections in order to keep the contamination down or to
8 eliminate the contamination. So, we do change, we change
9 our -- we only use the same glove beginning with the first
10 blood stain.

11 Q When you're in the hotel room that night when you first
12 got on to the scene, do you recall seeing any evidence of
13 any drinking in that room?

14 A I don't recollect, no, sir. I don't remember seeing
15 any.

16 Q Any signs of any active drug use in that room?

17 A No, sir.

18 SOLICITOR JOPHLIN: Beg the Court's indulgence.

19 THE COURT: Certainly.

20 (Pause.)

21 Q Investigator Oates, did you see any large sums of money
22 in that room?

23 A Not that I can remember, no, sir.

24 Q When y'all go through a crime scene such as this, do
25 you leave all those drawers and dressers shut the entire

Robert Oates - Direct examination
by Solicitor Jophlin

1 time when you're processing the scene or do you have to go
2 through and see what's in that room while you're processing?

3 A We go through the room, the area, searching the area.
4 We make search -- we search the whole crime scene before we
5 leave, yes, sir.

6 Q And surely if anything such as that large and bloody
7 were found you would make a note of it?

8 A Yes, sir.

9 Q Did you find any drugs in the hotel room?

10 A Not to my knowledge, no, sir, I did not.

11 Q I show you what's, State's Exhibit 101, 102, 103, and
12 104, and ask if those photos fairly and accurately depict
13 the scene as you saw it that night?

14 A Yes, sir.

15 SOLICITOR JOPHLIN: The State seeks to introduce 101,
16 102, 103 and 104.

17 MR. COOPER: No objection, Your Honor.

18 THE COURT: Those will be admitted as well.

19 (Whereupon, State's Exhibit Nos. 101 through 104 were
20 received into evidence at this time.)

21 Q State's Exhibit 101, is that the end of that coffee
22 table here at the end of the couch?

23 A Yes, it is.

24 Q Right around in that area?

25 A Yes, sir.

Robert Oates - Direct examination
by Solicitor Jophlin

- 1 Q There is showing some dishevelment?
- 2 A Yes, ashtrays.
- 3 Q Ashtrays and cigarettes on the ground?
- 4 A Yes.
- 5 Q Exhibit No. 102 is the couch I believe in the room?
- 6 A Yes, sir.
- 7 Q A black purse that was later identified, later taken
8 into evidence?
- 9 A Yes, sir.
- 10 Q Exhibit No. 104 is showing -- Evidence Marker C.
- 11 A Yes, sir.
- 12 Q And grab the pointer. Stand up.
13 (Witness complies.)
- 14 Q Show in that diagram where is the Evidence Marker C on
15 that diagram.
- 16 A Right here.
- 17 Q So, it is beside that metal card table?
- 18 A Yes.
- 19 Q I believe it appears to be a jacket?
- 20 A A shell casing.
- 21 Q A shell casing. I'm sorry.
22 Finally, Exhibit No. 103.
- 23 A This is a mid-range photograph of that table area and
24 also into the kitchen area.
- 25 Q That, again, just shows some dishevelment within that

Robert Oates - Direct examination
by Solicitor Jophlin

1 hotel room?

2 A Yes, sir.

3 Q And, once again, I think you have already testified, on
4 that table do you see any drugs or alcohol on the table or
5 anywhere around the table?

6 A No, sir, I do not.

7 Q Nothing further, Investigator Oates. Thank you very
8 much.

9 THE COURT: Cross-examination.

10 MR. COOPER: May it please the Court, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. COOPER:

13 Q Good afternoon.

14 A Hello.

15 Q Thank you for coming. You went over a lot with
16 Mr. Jophlin. I want to re, hit I guess on a couple of
17 things. Your job -- and I'm going to approach this exhibit
18 to help us out.

19 Your job, when you got there, was primarily to follow
20 Investigator Allen so that you could photograph pieces of
21 potential evidence that he pointed out.

22 Is that fair to say?

23 A That he had -- yes, sir, that he had identified, yes,
24 sir.

25 Q And he was already there when you got there?

Robert Oates - Direct examination
by Mr. Cooper

1 A Oh, yes. He was already there.

2 Q And another part of your job that you went over with
3 Mr. Jophlin was to collect cotton swabs of blood.

4 A That's correct.

5 Q And is it fair to say that you did so, you collected
6 those types of swabs all over the room, is that right?

7 A Yes, they were marked, yes, sir.

8 Q All right.

9 A With evidence numbers, yes, sir.

10 Q And that would include blood stains off the dinner
11 table over here by the Letter K, isn't that right?

12 A The -- that's the coffee table.

13 Q Yes, sir.

14 A Yes, sir.

15 Q And that would include blood up here near Marker U by
16 the broken window, right?

17 A Yes, sir, that was Number 5 I believe.

18 Q Okay. That would include blood over here by the door
19 jam right in the doorway, right?

20 A I know that I collected Number 15, which was the frame
21 piece for the frame.

22 Q Okay. The door frame?

23 A The door frame of the closet, yes, sir.

24 Q So, we've got blood back here, blood at the window,
25 blood on the door frame, and you collected both of those,

Robert Oates - Direct examination
by Mr. Cooper

1 right?

2 A Right, right there at the door entrance on the wall
3 near the closet, yes.

4 Q What you collected would include blood swabs from the
5 hallway closet area, right?

6 A Right, the frame piece, yes.

7 Q Okay. Now, you characterized some of these blood
8 stains as smears or transfer stains, right?

9 A I think Number 9, if I recall, was a swipe stain. I
10 identified that was a swipe stain. That's the only one I
11 can recall identifying.

12 Q All right. You talked with Mr. Jophlin about the fact
13 that -- and I think it was a reference to you being back
14 here by the window because you had blood by the window and
15 you were wearing gloves at the time you collected it, right?

16 A Yes, sir.

17 Q Tell the jury -- I'm sorry.

18 As you went over this, I just wanted to be clear with
19 it, tell the jury why you cover your hands with gloves while
20 you're back there.

21 A For contamination purposes to keep us from
22 contaminating with the blood. I don't want my DNA to get
23 crossed into the blood stains DNA.

24 Q You don't want something from your hands to get into
25 the evidence?

Robert Oates - Direct examination
by Mr. Cooper

1 A Right, I want to minimize that as much as possible,
2 yes, sir.

3 Q So, you keep your hands covered?

4 A Yes, sir.

5 Q That's why you're at the crime scene?

6 A Right, to document and collect evidence, yes, sir.

7 Q I think Mr. Jophlin referred to this as dishevelment,
8 but one of the photographs that he showed you and the jury
9 there was an ashtray knocked over here and some, I'll just
10 use his word dishevelment, over by the coffee table, right?

11 A Yes, sir.

12 MR. COOPER: Okay. Beg the Court's indulgence one
13 second, Your Honor.

14 (Pause.)

15 MR. COOPER: That's all I have.

16 THE COURT: Any redirect?

17 SOLICITOR JOPHLIN: Nothing further.

18 THE COURT: You can step down and be excused.

19 SOLICITOR CAMPBELL: State would call Kristen Polis.

20 KRISTEN POLIS, being first duly
21 sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY SOLICITOR CAMPBELL:

24 Q Investigator, where are you employed?

25 A Richland County Sheriff's Department. I'm an

Kristen Polis - Direct examination
by Solicitor Campbell

1 investigator with the crime scene.

2 Q Tell us a little bit about your education.

3 A I graduated from Charleston Southern University in 2000
4 with a degree in criminal justice and psychology. In 2002 I
5 got a Master's Degree from USC in social work and shortly
6 after being employed with Richland County Sheriff's
7 Department and been there a little over six years. Sorry.
8 Since 2002. I worked four about four years on the road and
9 as an investigator before I moved up to our lab.

10 At that time I started an in-house training program,
11 which is, involved reading a variety of forensic literature,
12 taken written tests and completing practicals on every area
13 of processing we have to complete. We all have to show
14 we're competent in each area and those areas include basic
15 crime scene investigations, and physical evidence, latent
16 fingerprint development, footwear and tire track
17 documentation and development, blood stain pattern analysis,
18 and trajectory analysis.

19 That entire training took me 20 months to complete.
20 During that time I was also attending a number of
21 conferences and extra trainings where we would attend
22 outside of our department taught by professionals in our
23 field, and just a couple of those are fundamentals of crime
24 scene investigation, crime scene investigation, and evidence
25 collection, advanced crime scene photography techniques,

Kristen Polis - Direct examination
by Solicitor Campbell

1 forensic photography, and forensic art, blood pattern
2 analysis, advanced blood pattern analysis, and latent
3 fingerprint analysis.

4 Q Talking faster than I do.

5 A I'm sorry.

6 Q You ever been qualified as an expert in crime scene
7 investigation?

8 A I have.

9 Q Including comparison of latent prints?

10 A Collection of latent prints.

11 SOLICITOR CAMPBELL: Your Honor, at this time we offer
12 her as an expert in crime scene investigation.

13 THE COURT: So qualified.

14 Q Investigator Polis, you are involved in this case, but
15 not until the day after it occurred?

16 A That's correct.

17 Q Is that unusual in the crime scene for some of the
18 investigation to begin the next day?

19 A Not at all. The crime scene would be -- I'm sure it's
20 been in, covered in other testimony, but everything would be
21 photographed and preserved initially as it was when everyone
22 arrived on the scene, and the original officers who
23 responded, investigators who responded would work on that
24 scene for a period of time, but their shift will end. They
25 will be tired and there will be new investigators who come

Kristen Polis - Direct examination
by Solicitor Campbell

1 on duty that will come in and complete anything that was
2 left and particularly with a homicide there will be several
3 investigators working in one crime scene.

4 Q And in this case, actually the scene was secured
5 overnight until you actually went there the next day?

6 A I believe so, yes, ma'am.

7 Q And that would have been on the 22nd I believe?

8 A Yes, ma'am.

9 Q At that point on the 22nd around 9:30 in the morning
10 you arrived at the Grand Motel?

11 A That's correct.

12 Q Room 162 is where you went?

13 A That's correct.

14 Q Again, it was secured and un, until, while you were
15 there?

16 A It was. I was with Investigator Bouknight and Oates.

17 Q What were you in to do that day?

18 What were you there to do?

19 A I was going to assist in looking at that scene. I was
20 still a very new investigator at that time. So, there were
21 several things we were going to finish and complete there at
22 the crime scene.

23 Q Specifically were you processing separate items for
24 fingerprints?

25 A I do, yes, ma'am.

Kristen Polis - Direct examination
by Solicitor Campbell

1 Q Is that typical in every case especially when the
2 identity of the murderer is unknown at that point?

3 A Yes.

4 Q When you said you were there to process several items,
5 tell this jury basically how you can process an item for
6 fingerprints and develop what's known as a latent print.

7 A Okay. Latent means invisible or not seen. So,
8 basically what we're doing, we're processing for
9 fingerprints is we're taking a fingerprint you can not see
10 with your eye and making it so that it is visible, and so
11 that we can use it. And what happens if you look at your
12 fingers, you will actually see the pattern that is on your
13 fingerprint, and there are pores that are also within the
14 patterns there on your fingertips.

15 As we're living and as our bodies are functioning, they
16 are constantly compounds and perspiration that are being
17 excreted through those pores and of our hands. The way a
18 fingerprint is left behind, as you touch items, some of that
19 is deposited on the surface that is touched. Doesn't always
20 mean every item you touch you're going to leave a
21 fingerprint behind. Some of us have more perspiration in
22 our hands than others. Some of us have more defined ridges
23 than others.

24 So, where I may touch something and leave a fingerprint
25 behind, you may come behind me in the exact same item and

Kristen Polis - Direct examination
by Solicitor Campbell

1 not leave one. The way we make that fingerprint visible is
2 we use a variety of chemical processes and powders to
3 formerly adhere to the compounds our bodies leave behind,
4 and those adhere to the ridges and the furrows which are the
5 patterns you see when you look at your finger. It's the
6 same pattern that would be there on the item if we're able
7 to lift one.

8 Q And fingerprints are unique to each person?

9 A Yes, they develop as we are in our mother -- when our
10 mothers are pregnant with us our fingerprints are developed.
11 They don't change during our lifetime and each have our own.
12 They're all different.

13 Q You touched on something I want to talk about.

14 If someone comes along and I walk up and touch this
15 surface right there, am I going to leave a fingerprint?

16 A Not always. There are a variety of factors about us.
17 You may not have very distinct ridges where I do. Your
18 hands may not sweat very much. They may be very clean.
19 They may be very dirty. And if they're very dirty, that may
20 distort any fingerprint that might be left behind. They're
21 also characteristics about the surface.

22 You know, a smooth glossy surface is going to be easier
23 to lift a fingerprint from than something that has a texture
24 to it. Would be easier to see and to lift.

25 Q You're familiar with the term smudge?

Kristen Polis - Direct examination.
by Solicitor Campbell

1 A Yes.

2 Q What does that mean if I touch this and leave a smudge?

3 A It could just be something that is not usable, the
4 detail could be distorted. It could be where an item is
5 touched and there's move -- if you, you know, slide your
6 hand, that may leave something behind where I can see
7 ridges, but it may not be sufficient for us to take that and
8 use it to identify and we usually call those smudges.

9 Q Can you date how long a fingerprint has been there
10 somewhere?

11 A No.

12 Q Does rain and things such of that nature damage
13 fingerprints?

14 A They do. It is possible different changes in the
15 environment can affect that fingerprint remaining on a
16 surface.

17 Q Even if I were to say grab an object and move it from
18 one area to another, again, I may not leave any
19 fingerprints?

20 A That's correct.

21 Q In fact, finding fingerprints that are usable or
22 identifiable is not the most common occurrence?

23 A Not always. There's always a chance and that's why we
24 process things for fingerprints. But it is difficult to
25 find a recent fingerprint.

Kristen Polis - Direct examination
by Solicitor Campbell

1 Q And in recent years, the introduction of DNA has also
2 become very important for identification in the same manner
3 as fingerprints?

4 A That's correct.

5 Q This is going to, to sound really stupid, but if I
6 found, touch something necessarily or leave behind an item I
7 have touched, there's not going to be any fingerprint
8 evidence?

9 A Say it again.

10 Q If I go to a place, and if I don't touch anything with
11 my fingertip, we're talking fingertips here -- even if I
12 were to grab around and touch with my hand, you can get a
13 palm print, but I'm not going to leave anything behind?

14 A There would have to be some friction range skin which
15 covered the palms which in order to us to get the kind of
16 detail we need.

17 Q When you went to the crime scene at 9:30, you had a
18 basic understanding of what occurred the night before?

19 A That's correct. We could have gotten a briefing
20 about---

21 Q The general events?

22 A Right.

23 Q At that point you don't know what items the defendant
24 may or may not have touched?

25 A No.

Kristen Polis - Direct examination
by Solicitor Campbell

1 Q You find items that may have a suitable surface that he
2 may have touched and process those items?

3 A That's correct.

4 Q If a person is living there, they may have touched
5 those items too, which may be who leaves a fingerprint?

6 A Particularly with a hotel room, there could be any
7 number of people who could exhibit to a fingerprint in a
8 crime scene.

9 Q If -- in order to type -- high traffic area such as a
10 hotel room, who fingerprint constantly in the same place,
11 that is touched over and over with different fingerprints,
12 does that inhibit your ability to get a fingerprint that is
13 useful?

14 A You may see there are multiple prints. One on top of
15 another or ridge details that is smudged from using those
16 items and surfaces.

17 Q When you got to the scene, what items did you actually
18 process for fingerprints you thought were suitable?

19 A I processed a table top and there was a telephone base
20 and handset in the room that were processed. There was a
21 stereo and various CD's.

22 Q Let me show you what's already been marked into
23 evidence as State's Exhibit 103.

24 Do you recognize that?

25 A I do.

Kristen Polis - Direct examination
by Solicitor Campbell

1 Q Is that the table top you actually processed?

2 A It is.

3 Q Were you able to get any usable fingerprints when you
4 processed that table top?

5 A I did not.

6 Q In fact, at that point did you have any direct
7 knowledge whether or not the defendant had even touched
8 that?

9 A No, I did not.

10 Q You also mentioned that you processed various CD's and
11 those CD covers.

12 A Yes.

13 Q Again, that's a suitable area to process?

14 A It is.

15 Q Were you able to get any usable fingerprints from the
16 CD's that were in the room?

17 A Not from the CD's.

18 Q And, again, you were processing those because you
19 didn't know whether or not those were significant or not?

20 A Right.

21 Q You also mentioned that you processed a stereo at the
22 scene. Again, I show you State's Number 103.

23 What item are you referring to?

24 A A small stereo, a little radio with the CD players
25 there on the corner of the table.

Kristen Polis - Direct examination
by Solicitor Campbell

1 Q When you processed a stereo, were you able to get any
2 prints?

3 A No.

4 Q Is that unusual?

5 A No. As I said, there are so many factors that go into
6 whether or not a print would be left behind. In this
7 particular room the window was broken. It was rainy and
8 cold and there was a lot of moisture in the air and in that
9 room. So, all of those things would impact our ability to
10 process the prints as well.

11 Q I'm going to show you what's been marked -- final thing
12 you processed I think you said was a telephone base and a
13 hand set?

14 A Yes.

15 Q I show you two exhibits, State's Exhibit 99 and 100,
16 and ask if you recognize those.

17 A Yes, I do.

18 Q Are those photographs of the telephone and the base you
19 took that day?

20 A I did not take the photographs, but this is how the
21 scene was at that time.

22 Q And that's how it appeared when you, before you
23 processed them?

24 A Right.

25 SOLICITOR CAMPBELL: Your Honor, at this time we'd

Kristen Polis - Direct examination
by Solicitor Campbell

1 offer State's Exhibit 99 and 100.

2 MR. O'NEILL: No objection.

3 THE COURT: Those are admitted.

4 (Whereupon, State's Exhibit Nos. 99 and 100 were
5 received into evidence at this time.)

6 Q For clarification, you didn't take these photographs,
7 and, in fact, they have the markers. So, this would have
8 been Allen and Elsey that would have taken those?

9 A It's very possible. It was one of those two.

10 Q Photographs are always taken before they plunder
11 through anything?

12 A Correct.

13 Q And this would be -- the drawer is closed below the TV?

14 A Yes, it is.

15 Q When you processed the -- excuse me.

16 When you processed this area and the phone that was
17 found there, were you able to get any usable prints?

18 A I lifted one fingerprint from the base of the
19 telephone.

20 Q From the actual base of the telephone?

21 A Yes.

22 Q And that's located in State's Exhibit 100 on top of the
23 TV?

24 A Correct.

25 Q And, again, you were there the next day after the crime

Kristen Polis - Direct examination
by Solicitor Campbell

1 scene had been completely done the night before. So, things
2 may have been a little different.

3 A Right.

4 Q And when you processed that, you were able to get one
5 usable print?

6 A One print that I felt was of sufficient quality to
7 submit and then what would hand is -- I would turn that
8 fingerprint in, and then we have a latent examiner who would
9 look at it and---

10 Q That would be Investigator Odom?

11 A Yes.

12 Q That was done in this case.

13 You selected it and turned it in?

14 A I did.

15 Q You didn't know, at the time, whether or not the
16 defendant had touched the phone or not. You were just --
17 more is good?

18 A Right.

19 Q You'd rather do it than not do it?

20 A Exactly.

21 SOLICITOR CAMPBELL: That's all I have.

22 MR. O'NEILL: No questions.

23 THE COURT: Step down. Be excused.

24 We will take our lunch break at this time. I will have
25 you report back to the jury room at 2:15. I remind you not

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1 to discuss the case.

2 (Whereupon, the following takes place outside the
3 presence of the jury panel.)

4 THE COURT: Is there anything we need to take up?

5 MR. O'NEILL: No, Your Honor.

6 THE COURT: Remind you I need to leave at 4:00, 3:45 at
7 the latest.

8 Okay. Thank you.

9 (Whereupon, Court was in recess for the lunch hour and
10 the following takes place within the presence of the jury
11 panel.)

12 SOLICITOR CAMPBELL: State calls Lieutenant Padgett.

13 ZANE PADGETT, being first duly
14 sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY SOLICITOR CAMPBELL:

17 Q Where are you employed?

18 A Richland County Sheriff's Department.

19 Q What do you do?

20 A Presently I'm in internal affairs.

21 Q December of 2006, what were your duties at that time?

22 A At that time I was the lieutenant in charge of the
23 forensic lab.

24 Q On the evening of November 21 did you become aware that
25 a murder occurred at the Grand Motel in Richland County?

Zane Padgett - Direct examination
by Solicitor Campbell

1 A Yes, I was working, have -- and I believe I got a call
2 from Lieutenant Clemmons there had been a murder, and I
3 believe the crime scene was already started when I was on my
4 way home.

5 Q And there were several---

6 A Several lieutenant investigators there.

7 Q Anna Elsey?

8 A Yes.

9 Q And Investigator Allen?

10 A He was also there as I recall.

11 Q And Investigator Oates?

12 A Yes, ma'am.

13 Q At that point was everything being done that was needed
14 to be done?

15 A It appeared to be that way. At that point they had it
16 under control.

17 Q Investigator Allen was under your chain of command at
18 that point?

19 A Yes, ma'am, he was.

20 Q He had been trained as far as processing crime scenes?

21 A Yes, ma'am, processing, collecting.

22 Q You had personally worked with him on a number of
23 occasions?

24 A Absolutely.

25 Q He is unavailable over in Iraq?

Zane Padgett - Direct examination
by Solicitor Campbell

1 A I believe he is.

2 Q Did you become aware, as supervisor over the entire
3 unit, you're aware of some of what's going on?

4 A I am.

5 Q Were you aware of whether or not he had collected
6 certain shell casings, actually a gun, and some different
7 ballistics material from the crime scene?

8 A Yes, ma'am, I knew he had collected several shell
9 casings and several projectiles or fragments of projectiles.
10 Also, a automatic, semiautomatic pistol with a magazine live
11 round in it.

12 Q During the course of that evening, in the next
13 morning -- in fact, the next morning did you become aware of
14 where the, all the items he collected as far as ballistics
15 go, the gun, the magazine, any ammunition, any projectiles,
16 and the shell casings where those had been stored overnight
17 after he had processed the crime scene?

18 A These particular items he had stored in his secure
19 personal locker each of the investigators have at the
20 laboratory.

21 Q Is that the protocol for how that evidence should be
22 handled that night?

23 A That is correct. If a forensic investigator is
24 finished processing or has additional processing to do, it
25 either needs to be somewhere else, he will take that

Zane Padgett - Direct examination
by Solicitor Campbell

1 evidence and actually store it in a permanent secure locker.
2 Each of the forensic investigators have one. There's only
3 two keys for that locker. The forensic investigators have
4 the key and, as supervisor, have access to additional keys.

5 Q That morning did you find it necessary for you to go
6 retrieve that evidence and transfer it in the evidence room?

7 A Yes, ma'am, the next morning at ten o'clock in the
8 morning, David Collins, our ballistics expert, needed the
9 shell casings/projectiles and gun to do some additional
10 processing on them as far as ballistics is concerned, and I
11 transferred those items from Investigator Allen's secured
12 locker directly to David Collins.

13 Q When you retrieved those items, were they put up in a
14 proper manner in the locker, in fact, when you retrieved it?

15 A The locker was secured and items were in the locker.
16 Each item was in a separate envelope and the envelopes were
17 labeled by Investigator Allen.

18 Q Did you make sure those -- any items specifically in
19 this case, the shell casings, had been processed?

20 A We wanted to make sure the items of, processed latents
21 prints, DNA, prior to giving them to the expert so he can do
22 his job, and this needs to be done, handling these items, I
23 made sure Investigator Allen processed the items that needed
24 to be latent prints for DNA evidence before I transferred
25 them to conduct ballistics.

Zane Padgett - Direct examination
by Solicitor Campbell

1 Q The swabs going to DNA would be housed separately,
2 right?

3 A Yes, ma'am.

4 Q In this case, was he able to get any results when he
5 processed for fingerprints?

6 A No, ma'am, he processed the shell casings for latent
7 prints and did not obtain any identifiable latent prints on
8 the shell casings.

9 Q These are shell cases that have been fired and up
10 fronted from the gun?

11 A That is correct. They have been exposed to heat and
12 other elements.

13 Q And in your experience -- how long have you been in law
14 enforcement?

15 A I have been in law enforcement 28 years and about 25 of
16 those years in forensics.

17 Q . In crime scene investigation?

18 A Yes, ma'am.

19 Q In your experience, is it -- do you get fingerprints
20 off shell casings?

21 A The best way to describe that is almost the
22 nonexistence to get a good latent print off of a fired shell
23 casing.

24 Q In this case, none were retrieved?

25 A That is correct and that's not unusual.

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by Solicitor Campbell

1 Q What is the reason for that?

2 A Many different elements. Depending on the time we
3 handled and put in the gun, when they were in the magazine,
4 had to the elements, would it be heated, would it be cold.
5 Of course, then, again, you're looking at a time factor and
6 when they're fired, exposed to a lot of heat. So,
7 therefore, you have heat exposure too. There are too many
8 bad factors to try to get a latent print off a shell casing.

9 Q I show you a number of items, and State's Exhibit 113,
10 114, 115, 116, 117 through 120, are those the shell casings
11 you retrieved?

12 A These are the exact shell casings I transferred over to
13 David Collins.

14 Q During the time period Investigator Allen would have
15 had, did anyone tamper or alter with them in any way?

16 A No, ma'am, they were secured in this locker.

17 Q Those were turned -- I believe it's documented they
18 were turned over to David Collins around 10:00 the next
19 morning?

20 A That is correct. It is done on a chain of custody form
21 which is a written form where the items were listed on the
22 form and David Collins signs for the items and I sign as
23 giving them to him.

24 Q Is that the form?

25 A That's the essential chain of custody.

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by Solicitor Campbell

1 SOLICITOR CAMPBELL: At this time we offer these into
2 evidence.

3 MR. COOPER: Your Honor?

4 THE COURT: Restate all those numbers please.

5 SOLICITOR CAMPBELL: Going to be items 113 through 120.

6 THE COURT: Thank you.

7 (Whereupon, State's Exhibit Nos. 113 through 120 were
8 received into evidence at this time.)

9 Q Also as noted, as documented on your form, some other
10 items you retrieved in this locker, including some spent
11 shell casings and some fragments?

12 A Yes, ma'am.

13 Q I'm showing you what's been marked as 107 through 112
14 for ID purposes at this point.

15 Were those also items you collected from Investigator
16 Allen's locker and that you placed into evidence or turned
17 over to Investigator Collins?

18 Excuse me.

19 A Yes, ma'am, these are the six projectiles and/or
20 fragments that were transferred over to David Collins
21 meaning these are the end of the actual bullet -- the
22 projectile that's actually fired out of the gun.

23 Q During the time period they would have been overnight
24 in Investigator Allen's -- I believe you would have checked
25 them that evening and they would have stayed in there

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1 until---

2 A That's correct. They were all secured in his locker.

3 Q During the time period you had them before you
4 transferred them to Investigator Collins, did anyone tamper
5 with them in any way?

6 A No, ma'am.

7 SOLICITOR CAMPBELL: At this time we offer 107 through
8 112 into evidence.

9 MR. COOPER: No objection.

10 THE COURT: Thank you. Those will be admitted.

11 (Whereupon, State's Exhibit Nos. 107 through 112 were
12 received into evidence at this time.)

13 Q The additional items collected at the scene that's
14 chronicled on your form was a .45 caliber High Point.

15 Is that a gun?

16 A That's a semiautomatic pistol.

17 Q Thank you. Empty magazine, that was a .45 caliber, and
18 one bullet, is that correct?

19 A That is correct.

20 Q Show you what's been marked as State's Exhibit 106.

21 Are those, those three items you retrieved or all in
22 the same order?

23 A Yes, ma'am, the pistol, the magazine, and one unfired
24 round were also in Investigator Allen's locker secured over
25 the evening. I retrieved these and also made---

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by Solicitor Campbell

1 Q During the time period -- from the time you selected
2 them the night before until you would have transferred them
3 to Investigator Collins and the time period you had them,
4 did anyone alter them or tamper with them in any way?

5 A No, ma'am.

6 SOLICITOR CAMPBELL: At this time we offer State's
7 Exhibit 106.

8 MR. COOPER: No objection.

9 THE COURT: Those are admitted.

10 (Whereupon, State's Exhibit No. 106 was received into
11 evidence at this time.)

12 Q Investigator Collins works for your department also?

13 A Yes, ma'am.

14 Q What does he do?

15 A A ballistics expert. Does shell casings and also
16 projectile comparisons to handguns.

17 Q That's the reason it was necessary for him to look at
18 them and make comparisons?

19 A That's correct.

20 Q You did that, and other than what you testified to, you
21 didn't have any involvement in the case?

22 A That was the only involvement I had in the case.

23 SOLICITOR CAMPBELL: Thank you, sir.

24 MR. COOPER: Your Honor, I have no questions for this
25 witness.

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1 THE COURT: Sir, you may step down and be excused.

2 SOLICITOR JOPHLIN: Thank you.

3 Your Honor, State calls Investigator Harold Bouknight.
4 Harold Bouknight.

5 HAROLD BOUKNIGHT, being first duly
6 sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY SOLICITOR JOPHLIN:

9 Q Investigator Bouknight, are you employed?

10 A Richland County Sheriff's Department crime scene unit.

11 Q As part of your crime scene unit, what are your duties?

12 A Most of my duties are responding to crime scenes for
13 processing, documentation, and collection of evidence. I
14 also do latent fingerprint comparisons, footwear, and tire
15 wear comparisons, blood stain analysis, and shooting
16 incident reconstruction.

17 Q And what is your educational background?

18 A I have graduated from high school in 1998 and I have an
19 associates degree in criminal justice from Midlands
20 Technical College.

21 Q Have you had any specialized training as it relates to
22 your position in the crime scene unit?

23 A Yes, sir. Upon being promoted to crime scene
24 investigator, I completed an in-house training program,
25 which takes approximately 18 months, which required a lot of

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1 reading, written tests on the reading, and practical
2 exercises involving blood type analysis and footwear and
3 tire wear comparisons. I have also been through a 24-hour
4 course in crime scene reconstruction, 40-hours in blood
5 stain analysis, 40-hour course of fundamentals in crime
6 scene investigation and evidence collection, 40-hour course
7 in crime scene reconstruction, 24-hour course in examination
8 and comparison of footwear evidence, and a 40-hour course in
9 advanced blood stain analysis.

10 SOLICITOR JOPHLIN: Your Honor, at this time we offer
11 Investigator Bouknight as an expert in footwear comparison
12 and blood stain pattern analysis.

13 MR. COOPER: Footwear comparison?

14 SOLICITOR JOPHLIN: Yes, sir, and blood stain pattern
15 analysis.

16 MR. COOPER: Your Honor, I don't object to that.

17 THE COURT: So qualified in this Court, sir.

18 SOLICITOR JOPHLIN: Thank you, Your Honor.

19 Q Investigator Bouknight, did you have occasion to --
20 were you called to a crime scene at 3003 Two Notch Road at
21 the Grand Motel on November 22, 2006?

22 A Yes, I was.

23 Q When you got to that hotel room, what did you do upon
24 arrival?

25 A Whenever I got there I observed what appears to be

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1 blood on the floor and walls right there at the front door
2 of the motel room, and what appeared to be shoe impressions.
3 And at that time I used LCV, which is liquid crystal violet,
4 a chemical that reacts with blood, and it enhances pattern
5 impressions like footwear and what may be, you know, a
6 latent impression in blood. It enhances it so you can see
7 greater detail. I used the liquid crystal violet to enhance
8 what appeared to be footwear impressions and later found out
9 they were footwear impressions and also on the wall and I
10 photographed those.

11 Q I show you what's been marked as State's Exhibit 93,
12 94, and 105.

13 Are these photographs you took on the 22nd when you
14 went into the hotel room, those footwear impressions?

15 A Yes, sir.

16 Q Do they fairly and accurately depict what you saw that
17 day?

18 A Yes, sir.

19 SOLICITOR JOPHLIN: Your Honor, we would offer Exhibits
20 93, 94, and 105 in evidence.

21 MR. COOPER: No objection.

22 THE COURT: Those will be admitted.

23 SOLICITOR JOPHLIN: Thank you, Your Honor.

24 (Whereupon, State's Exhibit Nos. 93, 94, and 105 were
25 received into evidence at this time.)

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1 Q This first exhibit, 105, it's got an Evidence Marker 16
2 next to it.

3 A Yes, sir.

4 Q And what is in that -- depicted in that photo?

5 A It's right in here, a partial shoe impression. You can
6 tell because of the circular lines, the concentrated circles
7 moving out in that photo.

8 Q I know we saw some pictures earlier where the
9 investigators, the crime scene investigators described the
10 footprint, but it is red at that time.

11 why is it purple in this picture?

12 A That's from the liquid crystal violet I used for the
13 enhancement. That's the reaction it causes when it reacts
14 with blood. It turns it a purple to sometimes -- a light to
15 dark purple color.

16 Q And State's Exhibits No. 94 and 93, I think 94, is that
17 the same footprint, just a midrange shot?

18 A Yes, sir, it is.

19 Q And No. 93 is that -- Evidence Marker Number 17, is
20 that a second impression?

21 A Yes, sir, that's a second footwear impression.

22 Q And, again, both of these appear purple in these photos
23 and that's when you used the LCV?

24 A Yes, sir, the treatment with the liquid crystal violet.

25 Q And as a result of finding these two footwear

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1 impressions, did you do anything besides take a picture of
2 them?

3 A I collected -- No. 17 had the best detail and the least
4 amount of contamination from the water puddle that had -- as
5 you can see from the photographs had gone in to the
6 Impression Number 16. I cut up and scraped up the linoleum
7 that had Impression Number 17 on it.

8 Q Okay.

9 A Then later compared those impressions.

10 Q You say you compared those impressions?

11 A Impression Number 17.

12 Q Number 17?

13 A Yes, sir.

14 Q And what date -- this was later on that you compared
15 these data impressions?

16 A Yes, sir, it was.

17 Q What did you compare that impression to?

18 A There were compared of shoes collected by other
19 investigators from people involved in the case from the
20 victim themselves and other, you know, actors in this case
21 and there were eight pairs of shoes, and I compared -- I
22 made known impressions and photographed all of the known
23 shoes and made known impressions of those and compared them
24 to the unknown impression that we got from the scene.

25 Q And, excuse me, some of those pairs of shoes you

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1 collected, one was a pair of white Nike tennis shoes?

2 A Yes, sir.

3 Q There's a second pair of white Reebok tennis shoes that
4 have been collected from Camillia Goodwin?

5 A Yes, sir.

6 Q A pair of black Nike tennis shoes collected from
7 Jamilla Goodwin?

8 A Yes, sir.

9 Q One pair of black C.A. Collection boots?

10 A Yes, sir.

11 Q One pair or black Nike Max Air tennis shoes?

12 A Yes, sir.

13 Q One pair of white Reebok tennis shoes?

14 A Yes, sir.

15 Q One pair of red and white Starter tennis shoes?

16 A Yes, sir.

17 Q One pair of white Nike Air Force One shoes?

18 A Yes, sir.

19 Q How do you go about comparing a shoe to this impression
20 you have?

21 Do you just hold it up and look at it or---

22 A Some people do side-by-side comparisons. The best way
23 I've found to do it is by using Speed Ball brand printers
24 ink, and I roll it out on a surface, and then I roll it on
25 the bottom of a shoe, and then I roll the shoe onto like a

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1 transparency film with overhead projectors, and that way I
2 lay it right over my unknown impression, and I can see it
3 right then if it lines up or not, takes all the guesswork of
4 looking back and forth. I can lay it right out and see.

5 Q This number -- the piece of linoleum you picked up and
6 took, Number 17---

7 A Yes, sir.

8 Q Can, can you point out -- do you recall where it was
9 within that hotel room?

10 A It was right here at the front hallway.

11 Q Right here?

12 A Yes, sir, right in that area.

13 Q And after you compared these eight pairs of shoes to
14 the print you had, were you able to make any conclusive
15 determination as to, if any, of those pairs of shoes made
16 that print?

17 A I was not able to say that any pair of shoe absolutely
18 made that print. There was only one pair that were
19 consistent in size, shape, and tread pattern. But it lacked
20 individual characteristics to make an identification to the
21 exclusion of all the other shoes.

22 Q Do you recall which pair of shoes that was?

23 A It was the pair of black Nike shoes that were U.S. size
24 seven and a half, mid light, from Jamilla Goodwin.

25 Q And also going back now, back to the 22, when your

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1 initial entrance into the room, you notice we've already
2 seen lots of pictures showing what appeared to be blood
3 throughout the room.

4 A Yes, sir.

5 Q I think you notated in the report you generated that
6 there were several blood swipes on the floor and impact
7 spatter.

8 would you expect that in a scene where there are
9 multiple gunshot wounds?

10 A Yes, sir. Anytime there is any blood hitting there is
11 typically going to be swipes and wipes. Swipes being when a
12 bloody object comes in contact with a non-bloody surface and
13 leaves blood there, and you can tell direction by the
14 feathering of the edges and a wipe is just the opposite.
15 It's whenever a non-bloody object comes in contact with a
16 bloody surface and smears the blood across that surface, and
17 then impact spatter is just that, from some type of impact.
18 It can cause a spatter to land on the walls and the other
19 objects at the scene.

20 Q Now, I believe we saw some pictures on the wall, little
21 looks like dots of blood on the wall.

22 would that be what you would call spatter?

23 A Yes, sir, it is typical impact spatter and you go by
24 period of stain size. The stain size being able to
25 determine the velocity of the impact that caused it. If it

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1 is 4-millimeters or greater, it is low velocity, which is
2 typically just a gravitational drop like if you cut your
3 finger and it's dropping on the floor.

4 One millimeter to 4-millimeters tends to be medium
5 velocity, which is more like blunt force. Like if somebody
6 was struck or something like that, and then less --
7 one-millimeter or less goes for high velocity, which would
8 be impressions, high speed machinery or gunshot wounds.

9 Q And going forward now to November 27 of 2006, did you
10 have a reason to work on this case, this particular case
11 again?

12 A Yes, sir, on that day I -- Captain Stan Smith with
13 Richland County Sheriff's Department brought me a search
14 warrant, and at that time I executed the search warrant on a
15 Larry Brown and the search warrant was for major case
16 prints, which include all ten fingers and the palm prints
17 and -- writer's palm of -- and all Buccal swab, which is an
18 oral swab and those were -- I collected those items from
19 Larry Brown.

20 Q And I think you said a Buccal swab?

21 A Buccal swab, yes, sir.

22 Q Buccal---

23 A An oral swab.

24 Q Describe what that -- how you get that, what that is
25 and how you---

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1 A Well, what---

2 Q ---use it.

3 A It is basically just a sterile cotton swab that is
4 taken and you brush your teeth with it and it picks up the
5 cheek cells on that swab, and it is used as a known standard
6 whenever DNA comparison is done, but usually I'll fold the
7 box up with -- I have rubber gloves on. I'll fold the box
8 up and write down what it's going to be, and I have the
9 person that's given me the sample do it their self and drop
10 it straight in there so I don't even touch the swab.

11 Q That's the inside of the cheek that---

12 A Yes, sir, the inside.

13 Q Going to show you State's Exhibit No. 121 for
14 identification.

15 What is inside that package?

16 A According to the label it's a Buccal swab from Larry
17 Brown.

18 Q Did you write that label?

19 A I did.

20 Q And package that?

21 A I did and my initials and date are on the tape across
22 the back.

23 Q And the Buccal swabs inside this package, once you let
24 the suspect put it into the little box inside of here, and
25 then you take that box and put it into this package?

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- 1 A Yes, sir.
- 2 Q And you put the red tape on it?
- 3 A Yes, sir.
- 4 Q And you put this label on there?
- 5 A Yes, sir.
- 6 Q With your signature and you dropped it off, submitted
- 7 it into evidence, on what date?
- 8 A The 27th of November, 2006, at 11:41.
- 9 Q And was it properly sealed and secured when you
- 10 submitted it into the evidence---
- 11 A Yes, sir.
- 12 Q ---department?
- 13 Going back real quick to shoe impressions -- I'm sorry.
- 14 I was being caught real quick.
- 15 You had eight pairs of shoes you were looking at.
- 16 A Yes, sir.
- 17 Q Seven of those pairs you're able to discard---
- 18 A Yes, sir.
- 19 Q ---as being related to that sample.
- 20 A Yes, sir.
- 21 Q But you were able to determine that the pair of shoes
- 22 that were recovered, received from Jamilla Goodwin were
- 23 consistent with that shoe print?
- 24 A I can not say they are 100 percent to the exclusion of
- 25 all others, but---

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1 Q Not---

2 A They -- those are the only pair of shoes I have that
3 they were consistent with that, that impression was
4 consistent with.

5 Q I'm sorry. I may have missed it.

6 When you were getting these Buccal swabs, you received
7 a search warrant to get---

8 A Yes, sir, Kevin Smith brought me the search warrant and
9 I executed it.

10 Q You filled it out, returned saying you recovered those
11 two Buccal swabs?

12 A Yes, sir.

13 Q I'm going to show you what's been marked as Exhibit 60
14 and 61.

15 Do those fairly and accurately depict the subjects that
16 you took photographs of that day?

17 A Yes, sir.

18 SOLICITOR JOPHLIN: Your Honor, we ask to move 60 and
19 61 into evidence.

20 MR. COOPER: Your Honor, I do object to these.

21 SOLICITOR JOPHLIN: May we approach?

22 THE COURT: Yes, you may.

23 (Whereupon, a bench conference was held out of the
24 hearing of the jury at this time.)

25 THE COURT: Ladies and gentlemen, I'm going to ask you

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1 to excuse yourselves. while you do that -- hold on. I'm
2 going to give you an assignment and ask, at this time, you
3 take the time to select a foreperson and then that person
4 gets no greater vote during the trial, but basically is the
5 one who would actually guide the deliberations, just kind of
6 organize you-all, and at the conclusion of the trial will be
7 the person responsible for signing the verdict form.

8 It can be any of the original jurors. It can not be
9 the alternates. So, anyone else would have the ability to
10 have that responsibility. Let the bailiff know, sign that
11 person's name and juror number on a piece of paper. We'll
12 be with you in a moment. Thank you.

13 I remind you, do not discuss the case.

14 (Whereupon, the following takes place outside the
15 hearing of the jury panel.)

16 MR. O'NEILL: To put our formal objection on the
17 record, I don't know what the numbers are, but---

18 THE COURT: These are Exhibits 60 and 61.

19 MR. O'NEILL: We formally object to 60 and 61 because
20 they show Mr. Brown in handcuffs, and I think that's
21 tantamount to him showing the jury he's shackled is
22 tantamount to commenting on pretrial intent. I think those
23 things worry -- those things worry associated with those two
24 things would be or worry in this case.

25 I think, from discovery we were provided, I can't

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1 tell -- I think there are other pictures that show Mr.
2 Brown's cut that don't include handcuffs. I really can't
3 tell because of the bad quality of these pictures, but I
4 think there may be other pictures that show the cuffs that
5 don't show the handcuffs.

6 THE COURT: Let's answer that question.

7 Are there handcuffs the person of the picture was to
8 show the relevance that he did have cuts, and we did have
9 testimony about cuts. But they want to show actual
10 pictures. So, I can understand why they want them in, but
11 to the extent we have some other pictures, could we at least
12 consider that?

13 SOLICITOR JOPHLIN: No, ma'am, Your Honor, these were
14 all the pictures we have from that day. They all have
15 handcuffs. The only ones that are probative to this issue
16 is showing cuffs on his hand or showing the handcuffs. I
17 don't understand if it's a pre-arrest detainment argument. I
18 mean this is post, or pretrial detainment -- I mean this is
19 post-arrest. He had just gotten arrested by Stan Smith.
20 Just finished talking with Stan Smith. He came in, had a
21 search warrant to get the Buccal swabs, case prints, and the
22 photos of the cuts on his hands that link him -- we have to
23 be able to explain to the jury -- we have the burden of
24 proof to explain to them as to how his drop of blood got on
25 the window sill, which would happen if he would crawl out of

Harold Bouknight - Direct examination
by Solicitor Jophlin

1 a window with broken shards of glass, and we have testimony
2 from one witness saying his hand was cut.

3 But we have the burden of proof, which would be a
4 definitive photo saying yes, there was a cut on his hand. I
5 don't think there's any kind of over weighing prejudice to
6 this when they already know -- he's been arrested. Stan
7 Smith is going to go there and say he's been arrested.
8 After that we took these photos.

9 There is a common sense inference when you're arrested
10 you're placed in handcuffs. This isn't some rare wacky
11 thing that somebody's placed in handcuffs after they're
12 arrested.

13 THE COURT: You verify you have no other pictures with
14 only cuts?

15 SOLICITOR JOPHLIN: No, ma'am, only those two and --
16 I'll be happy to hand these four up as well. We looked long
17 and hard at -- you notice this one photo shows both hands --
18 sorry. Let me get the number. No. 61 shows both hands, the
19 outside or top of both hands as opposed to this on the
20 extraneous ones I handed up to you where you may have one
21 hand, not the other, or the inner palms of the hand.

22 THE COURT: No. 60 doesn't show cuts. I mean it's just
23 him in handcuffs, but---

24 SOLICITOR JOPHLIN: On -- another argument in his
25 addition to handcuffs, we've also had proof -- we have heard

Harold Bouknight - Direct examination
by Solicitor Jophlin

1 testimony of him shaving his dreads immediately after this
2 incident. Once again, they have been attacking the
3 credibility of every single witness we have had on the
4 stand. We have the burden of proof to show immediately
5 after this his head was shaved. It is closely shaved, clean
6 shaved, and I think that's very probative to the jury to see
7 that, yes, he did have a very closely shaved head
8 immediately after this.

9 THE COURT: You've got the witness who would verify
10 these pictures in terms of who they saw like this is the
11 gentleman presented to them at that time?

12 SOLICITOR JOPHLIN: Investigator Bouknight on the stand
13 took those pictures following the taking of the Buccal
14 swabs. He took those pictures of Larry Brown.

15 THE COURT: Okay. For the argument by defense?

16 MR. O'NEILL: Your Honor, first of all, those pictures
17 are more prejudicial than they are probative. They are
18 already cumulative of evidence we already have in evidence,
19 things we already have in evidence. It's already been --
20 Ms. Frost testified Mr. Brown had a cut on his hand. We
21 don't intend to contest that Mr. Brown had a cut on his
22 hand, and then, secondly, as it relates to him having his
23 head shaved, there's been more testimony that he had his
24 hair shaven. We don't plan on contesting the fact he had
25 his head shaved days after this incident, Your Honor.

Harold Bouknight - Direct examination
by Solicitor Jophlin

1 At this point I think, at this point I think those
2 pictures don't have any probative value. Any probative
3 value they have at this point is outweighed by the
4 prejudicial effect of showing him in handcuffs. I mean
5 there's case law, law that says you can't show mug shots.
6 There's case law that says you can't comment on pretrial
7 detainment, and there's case law that says you can't be in
8 court with shackles on.

9 Those all three have the same rational that you don't
10 want a jury to have the perception of someone in custody
11 while they're on trial, and those -- most pictures with him
12 in handcuffs show the same perception to the jury, that he's
13 somehow in custody and being in custody makes him guilty.

14 SOLICITOR JOPHLIN: Yes, there has been testimony on
15 the stand about a closely shown choice hand cut and a drop
16 of blood and a cut hand. However, Mr. O'Neill and Mr.
17 Cooper have attacked every one of these witnesses, and told
18 the jury that every one of them are getting a deal or a
19 bargain or a line, and they're all getting something to
20 benefit and try to discredit---

21 MR. O'NEILL: We discredit -- apologize.

22 SOLICITOR JOPHLIN: To prove that, you know, these
23 cases as part of that proof as showing yes, he had a cut on
24 his hands right after this incident, he shaved his dreads
25 off right after this incident. Unless Mr. O'Neill can come

Harold Bouknight - Direct examination
by Solicitor Jophlin

1 up with something saying someone's prejudicial on the day of
2 arrest immediately after arrest for someone to be in
3 handcuffs, which is a common sense inference, I don't see
4 how that could be prejudicial as, you know, same reason you
5 can't just show a mug shot on somebody in Court because it's
6 prejudicial. Prior mug shot.

7 MR. O'NEILL: Doesn't matter if it's prior or --
8 regardless of that, Your Honor, we have attacked the
9 witnesses general credibility. We have not attacked their
10 credibility on either one of these two issues. Whether or
11 not he had his hair shaven after the incident, we didn't
12 cross-examine Ms. Frost on that issue at all or being
13 cross-examined on that issue of him having cuts. We have
14 not once contested the fact he had cuts on his hands or the,
15 that he had his hair shaven.

16 I -- we have not attacked any witness on that issue.
17 Therefore, cuts on his hands and that he's in handcuffs is
18 more prejudicial and cumulative than it is probative.

19 SOLICITOR JOPHLIN: We have the right to show it to
20 prove our case just as if you have a burglary first degree
21 case and you have the, the defendant has two prior
22 convictions, you have to let those two prior convictions in
23 at some point. In some instances this information has to
24 come out in order for the State to carry its burden of proof
25 in establishing our case.

Harold Bouknight - Direct examination
by Solicitor Jophlin

1 MR. O'NEILL: And Mr. Brown having cuts or shows shaven
2 hair is not an element of either one of these offenses and
3 not vital to the State's case. If they want to ask
4 Investigator Bouknight whether or not he had cuts on his
5 head or a shaven hair to ask him -- they're free to ask him
6 that. They don't need the pictures to show that. I agree
7 if we somehow contest he had cuts or hair shaved, they're
8 free to bring in the pictures to show he, he didn't testify
9 to that at all.

10 SOLICITOR JOPHLIN: Your Honor, that's, once again,
11 merely testimony we have a right to prove our case by the --
12 I'm sorry. We have a burden of reasonable doubt and I think
13 we have a right to show the jury actual proof in picture
14 form saying, yes, this happened.

15 THE COURT: What would you proffer as to why these, he
16 was there and then in this condition at that time?

17 SOLICITOR JOPHLIN: Investigator Bouknight can
18 testify---

19 THE COURT: It has to be very clear. It was a limited
20 appearance in this record.

21 SOLICITOR CAMPBELL: Your Honor, I think the testimony
22 would be he had been placed under arrest that day and
23 Captain Smith has already testified he placed him in
24 handcuffs at the scene, was then transported to the
25 sheriff's department during the course of the afternoon.

Harold Bouknight - Direct examination
by Solicitor Jophlin

1 Remember about the consent.

2 THE COURT: Right.

3 SOLICITOR CAMPBELL: Then they executed a search
4 warrant that same afternoon right after he had been
5 arrested, and on that same day they wanted to memorialize,
6 like they often do if there had been allegations of, in this
7 case, a tussle. The cuts on his hands as well as his head
8 was very important to our case because of the change in the
9 appearance.

10 SOLICITOR JOPHLIN: Investigator Bouknight can testify
11 after the arrest he executed the search warrant, obtained
12 the Buccal swabs, and took these pictures immediately---

13 THE COURT: Following---

14 SOLICITOR JOPHLIN: ---immediately following the arrest
15 and he took those photos.

16 THE COURT: In other words, they would come through
17 this gentlemen's testimony and then you wouldn't need it any
18 further?

19 Is that what you're telling me?

20 In other words, he's going to set up how he obtained
21 them along with the---

22 SOLICITOR JOPHLIN: Yes, and we don't need to use those
23 and five other witnesses saying chain of -- no, ma'am. He
24 took those photos and can testify it was immediately after
25 arrest and that while he's obtained these other---

Harold Bouknight - Direct examination
by Solicitor Jophlin

1 THE COURT: The other prints and other things and that
2 this is just all a part of that package so to speak?

3 SOLICITOR JOPHLIN: Yes, ma'am.

4 THE COURT: I'll allow them for that limited reason,
5 and respectfully overruled and make it very clean about how
6 the arrest occurred and how you take care or your
7 processing.

8 Anything further?

9 MR. O'NEILL: No, Your Honor.

10 THE COURT: Jurors please.

11 (Whereupon, the following takes place within the
12 presence of the jury panel.)

13 THE COURT: Okay. Thank you, Mr. Kevin Ditman, Juror
14 Number 64, for being elected for the responsibility of
15 foreperson.

16 We will continue on.

17 CONTINUED DIRECT EXAMINATION

18 BY SOLICITOR JOPHLIN:

19 Q Investigator Bouknight, to go back briefly, on the
20 27th -- excuse me -- Investigator, Captain Stan Smith asked
21 you to execute a search warrant for the Buccal swabs?

22 A Yes, sir.

23 Q And that was after the arrest of Larry Brown?

24 A Yes, sir.

25 Q And also, in that search warrant, you are requested to

Harold Bouknight - Direct examination
by Solicitor Jophlin

1 take case prints---

2 A Major case prints and I took photographs of his hands
3 and---

4 Q You took photographs and that's State's Exhibit 60 and
5 61, and I don't know if they're formally in evidence, Your
6 Honor. We move at this time they go in evidence.

7 THE COURT: Over defendant's objections, yes.

8 (Whereupon, State's Exhibit Nos. 60 and 61 were
9 received into evidence at this time.)

10 Q Explain the significance of that photo.

11 A He had a cut on his hand. I photographed a cut on his
12 hand there.

13 Q A cut on his right-hand?

14 A Yes, sir.

15 Q State's No. 60, can you explain the significance of
16 that photo?

17 A It is just an overall photograph of him at the time so
18 I can say this is the person whose hands those were that I
19 took the photograph of.

20 Q You took these two photos?

21 A Yes, sir.

22 Q And can you describe in this photo whether the
23 defendant has short hair, long hair, dreads?

24 A Short hair.

25 SOLICITOR JOPHLIN: Beg the Court's indulgence.

Harold Bouknight - Direct examination
by Solicitor Jophlin

1 THE COURT: Certainly.

2 (Pause.)

3 Q And two Buccal swabs, Item number 121, you put that in
4 evidence, sealed it, correct?

5 A Yes, sir.

6 Q In the central evidence room?

7 A Yes, sir.

8 Q Did you tamper with it in anyway once it was involved
9 from inside the mouth?

10 A No, sir.

11 Q Did anyone else tamper with it while it was in your
12 control and possession?

13 A No, sir.

14 SOLICITOR JOPHLIN: Nothing further. Thank you, Your
15 Honor.

16 THE COURT: All right.

17 MR. COOPER: May it please the Court.

18 CROSS-EXAMINATION

19 BY MR. COOPER:

20 Q Good afternoon. You're pretty thorough I think. I
21 just want to look at State's Exhibit 72 one more time if I
22 could refer you to this. You talked with Mr. Jophlin about
23 something you called high velocity splatter.

24 You remember that?

25 A No, sir, I just said there was impact spatter.

Harold Bouknight - Cross-examination
by Mr. Cooper

1 Q Impact?

2 A I didn't say there was high velocity. In my report
3 it's that there was impact spatter on the side wall of the
4 living room.

5 Q Do you recall discussing the different types of
6 spatter?

7 A Yes, sir.

8 Q Okay. That spatter y'all talked about, where did you
9 find it?

10 Could you indicate where you found it?

11 A I don't have a photograph of it here, but it says
12 inside wall, side wall of the living room.

13 Q That's the best estimation based on this?

14 A Over -- I believe it would probably be around where F
15 is, somewhere in that area.

16 Q Right here around F?

17 A I believe so.

18 MR. COOPER: Your Honor, that's all I have.

19 THE COURT: Any redirect?

20 SOLICITOR JOPHLIN: Nothing.

21 THE COURT: Sir, you may step down and be excused.

22 SOLICITOR JOPHLIN: State would call Investigator
23 Trisha Collins.

24 TRISHA COLLINS-ODOM, being first
25 duly sworn, testified as follows:

Trisha Odom - Direct examination
by Solicitor Jophlin

1 DIRECT EXAMINATION

2 BY SOLICITOR JOPHLIN:

3 Q Investigator Odom?

4 A Yes, sir.

5 Q Okay. where are you currently employed?

6 A At the Richland County Sheriff's Department.

7 Q How long have you been employed there?

8 A A little over ten years.

9 Q And what is your educational background?

10 A I have a degree in criminal justice from the University
11 of South Carolina. I also am a certified law enforcement
12 officer from South Carolina.

13 Q And what is your position within the sheriff's
14 department?

15 A I am the senior latent prints analyst as well as a
16 sometimes crime scene investigator.

17 Q And as a senior print analyst and crime scene
18 investigator, what kind of duties does that entail?

19 A My primary job is the comparison of any latent prints
20 that come from, from crime scene with known fingerprint
21 cards that are submitted.

22 Q And when you speak of latent prints, in layman's terms,
23 that's fingerprints or palm prints, any kind of---

24 A Right. We use the term latent not only to mean unseen
25 like Investigator Polis has told you earlier, but also sort

Trisha Odom - Direct examination
by Solicitor Jophlin

1 of an umbrella term for any kind of fingerprint evidence we
2 find at a crime scene. You have three basic kinds of
3 fingerprint evidence that you could find, the latent which
4 is the unseen, which means you have to do something to be
5 able to see it. You have a patent, which is something you
6 could see like if I left an oil print on this white board,
7 and also you have a plastic print.

8 Say if you have like silly putty or something like that
9 or the one I like to use is chocolate, you know, you have a
10 piece of chocolate and your hands get a little bit warm. If
11 you look at it you will actually see the 3D impression of a
12 fingerprint in it. So, that's another type of print we
13 have, but those fall under the term of latents.

14 Q what kind of training or experience do you have in
15 latent print analysis or examination?

16 A I started out with an in-house training program, and
17 also been to a number of courses outside of our department
18 that include basic fingerprint examination, basic palm print
19 identification, forensic ridgeology, complex latent print
20 examination, and I have been to several courses on the
21 actual development of latent fingerprints on various
22 surfaces using various techniques.

23 SOLICITOR JOPHLIN: Your Honor, at this time we would
24 offer Investigator Odom as an expert in latent print
25 comparison.

Trisha Odom - Direct examination
by Solicitor Jophlin

1 MR. COOPER: I have no objection.

2 SOLICITOR JOPHLIN: Thank you, Your Honor.

3 THE COURT: Okay.

4 Q Investigator Odom, did you have occasion to go to the
5 crime scene on November 22, 2006, at the Grand Motel?

6 A I did.

7 Q What were your dealings in going to that crime scene?

8 A I was there to assist in the processing of that scene.

9 I was there along with Investigator Hollis and Investigator
10 Bouknight.

11 Q Who we just talked with?

12 A Yes, sir.

13 Q And while there, you have processed some items for I
14 believe some latent prints?

15 A I processed several CD's that were laying around the
16 room with black powder to try to find latent fingerprints on
17 those.

18 Q Black powder, when you say that, what does that mean
19 you---

20 A That's regular normal every day fingerprint powder we
21 use.

22 Q And it was -- all the scenes were negative for my --

23 A Yes, sir.

24 Q -- any prints that were usable?

25 A No, sir.

Trisha Odom - Direct examination
by Solicitor Jophlin

1 Q And you also processed the four inch walls with liquid
2 crystal violet?

3 A Liquid crystal violet, LCV, for short.

4 Q What exactly is that?

5 I think Investigator Bouknight talked on about eight,
6 sort of that purplish color footprint we were looking at?

7 A Right. What we were trying to do was to enhance what
8 we saw and possibly develop out some things we didn't see.
9 So, we applied the LVC on the reddish stains in an attempt
10 to turn those stains purple to make them easier to see to
11 enhance him.

12 Q Did you have any results as far as that goes?

13 A There was no significant change in the appearance.

14 Q And, in addition, I think later on you were able to
15 compare some latent prints that were developed or processed
16 by Investigator Polis to some known print cards you had in
17 your possession?

18 A That's right.

19 Q What cards did you -- what known prints did you have in
20 your possession to compare it to?

21 A I was requested to compare Eugene Frost Junior and
22 Larry Brown.

23 Q Compare those to each other or compare them to the
24 latent prints received by Investigator Polis?

25 A I'm sorry. To the latent print turned in by

Trisha Odom - Direct examination
by Solicitor Jophlin

1 Investigator Polis.

2 Q Were you able to come to any conclusion when comparing
3 the latent print picked up from the scene to either one of
4 those individuals?

5 A I determined that it was not made by Eugene Frost. It
6 was inconclusive to Larry Brown.

7 Q When you say inconclusive in your report, what does
8 that mean?

9 A It just means I really can't tell. In this case it was
10 a combination of the quality of the latent print and also
11 the known standard that I had available to me. Those two
12 together made it impossible for me to make a determination.

13 Q And so, as Investigator Polis testified earlier, there
14 are a lot of reasons that come in to factor when comparing
15 latent prints to one another such as insufficient ridge
16 detail and other factors that, just insufficient print where
17 you can't be conclusive as to whether that person left that
18 print?

19 A Right. I think it all comes down to just insufficient
20 ridge detail.

21 Q Okay.

22 A Insufficient clarity of ridge detail would probably be
23 more precise.

24 SOLICITOR JOPHLIN: Beg the Court's indulgence.

25 (Pause.)

Trisha Odom - Direct examination
by Solicitor Jophlin

1 Q The latent print cards that was submitted by
2 Investigator Polis, that was the only print submitted and
3 received in this case that was of any quality to be able to
4 compare, be compared to anything else?

5 A Yes.

6 SOLICITOR JOPHLIN: Nothing further, Your Honor.

7 THE COURT: Okay.

8 MR. COOPER: No questions.

9 THE COURT: You may step down and be excused.

10 SOLICITOR CAMPBELL: State calls Investigator Patricia
11 Reed-Enzor.

12 PATRICIA REED-ENZOR, having been
13 first duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY SOLICITOR CAMPBELL:

16 Q Investigator Reed-Enzor, where are you employed?

17 A Richland County Sheriff's Department.

18 Q What do you currently do there?

19 A I'm an investigator.

20 Q Back in November of 2006 where did you work at the
21 sheriff's department?

22 A Crime scene investigator.

23 Q Tell the jury quickly about your investigation and
24 training as a crime scene investigator.

25 A I have a bachelor degree from the University of South

Patricia Reed-Enzor - Direct examination
by Solicitor Campbell

1 Carolina, and I'm also a -- have a basic law enforcement
2 academy as well. I also have an extensive in-house program
3 through crime scene investigation and went through -- in
4 addition to that, which is like a three, almost a three year
5 in-house program.

6 They also sent me to many different kind of classes
7 including crime scene reconstruction, blood pattern
8 analysis, advance photography for crime scene, blood pattern
9 analysis, crime scene processing.

10 Q And you mentioned crime scene processing.

11 As part of your duties and when you are processing a
12 crime scene, is it uncommon for you to collect DNA swabs?

13 A No, ma'am, that's not uncommon.

14 Q You never actually went to the original murder scene at
15 the Grand Motel, did you?

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

17 Q However, on November 27, some six days after this
18 occurred, did you respond to an address on Harper Street?

19 A Yes, ma'am, [REDACTED]

20 Q [REDACTED]

21 And that would be that Monday after this occurred?

22 A On the 27th.

23 Q And when you got there, were there other investigators
24 already there executing a search warrant?

25 A Yes, there was.

Patricia Reed-Enzor - Direct examination
by Solicitor Campbell

1 Q why were you called to the scene that day?

2 A I was requested to photograph and select the samples
3 for a blood stain.

4 Q And where was the blood sample located they wanted you
5 to photograph and collect?

6 A It was on a bathroom door frame near a door latch.

7 Q I'm going to show you two photographs you took that
8 day, State's Exhibit 62 and 64, and ask if those are
9 photographs you took that day in processing the framing of
10 that door?

11 A Yes, ma'am, they are.

12 Q I believe this is a Ms. Frost's house or a house they
13 were executing a search warrant that day?

14 A I don't have the resident's name, but, yes, that was
15 that address, [REDACTED]

16 Q And these photographs, do they fairly depict both the
17 door frame before you collected the swab and then the swab
18 it's, as compared to the door frame?

19 A Yes, ma'am.

20 SOLICITOR CAMPBELL: At this time we offer these into
21 evidence.

22 THE COURT: Okay.

23 MR. COOPER: No objection.

24 THE COURT: Thank you.

25 (Whereupon, State's Exhibit No. 62 and 64 were received

Patricia Reed-Enzor - Direct examination
by Solicitor Campbell

1 into evidence at this time.)

2 Q State's Exhibit 64 is looking half way into the
3 bathroom, is that correct?

4 A Yes.

5 Q And you see a reddish type stain?

6 A Yes.

7 Q Is that it by my finger right there?

8 A Yes.

9 Q Is that what you asked to ultimately photograph and
10 collect a DNA sample on that day?

11 A Yes, ma'am.

12 Q Again, when you're called, you don't have any real
13 knowledge of the case at that point?

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

15 Q Before collecting the blood swab for DNA, did you do
16 any testing to test for the presence of blood?

17 A Yes, I did, did a presumptive test using phenyl
18 thalline.

19 Q Is that the test you actually did in the 63?

20 A Yes.

21 Q In what the swab has turned pink---

22 A Kind of a pinkish purplish color.

23 Q Is that the test you did to see if this, that stain you
24 were called in to do was actually blood?

25 A Yes, ma'am.

Patricia Reed-Enzor - Direct examination
by Solicitor Campbell

- 1 Q Is that a presumptive test?
- 2 A Yes.
- 3 Q You don't do a DNA test on the scene?
- 4 A No, ma'am.
- 5 Q Did you collect a swab for DNA?
- 6 A I collected that same swab.
- 7 Q And packaged it properly?
- 8 A Yes, ma'am.
- 9 Q And then, when you got back to headquarters, did you
- 10 turn it into evidence?
- 11 A Yes, ma'am.
- 12 Q During the time period you had that swab in your
- 13 possession, did anyone alter or tamper with it in anyway?
- 14 A No, ma'am.
- 15 Q Other than that, you didn't do anything with it in this
- 16 case?
- 17 A No, ma'am.
- 18 MR. COOPER: Your Honor, no questions.
- 19 THE COURT: You can step down and be excused.
- 20 TENA GOFF, being first duly
- 21 sworn, testified as follows:
- 22 DIRECT EXAMINATION
- 23 BY SOLICITOR JOPHLIN:
- 24 Q Investigator Goff, where are you currently employed?
- 25 A Richland County Sheriff's Department.

Tena Goff - Direct examination
by Solicitor Jophlin

1 Q How long have you been employed there?

2 A Over 16 years.

3 Q What are your current duties at the sheriff's
4 department?

5 A Senior evidence technician or custodian and my job is
6 to oversee the evidence room, policies, and procedures and
7 the staffing that's in there to make sure the evidence
8 that's in there is properly handled and submitted.

9 Q As part of your duties, I sort of touched on it, do you
10 help supervise and train individuals in your department, in
11 your evidence room?

12 A Yes.

13 Q How long have you been in the evidence room or
14 supervisor of the evidence room?

15 A Over 13 years.

16 Q What is your -- I'm sorry. Not necessarily yours, but
17 an evidence technician, what is their duty today, duties
18 when investigators or other people bring their evidence into
19 the evidence room?

20 A Before we accept the evidence, if we need to look at
21 the packaging to determine whether all the evidence labels
22 have been filled out properly, whether the evidence has been
23 sealed properly, and make sure it has been sealed.

24 Q And is it your customary practice and teachings to your
25 staff of the importance of being careful and very detail

Tena Goff - Direct examination
by Solicitor Jophlin

1 oriented when receiving evidence in your room?

2 A Yes.

3 Q And some of that -- I hate to call it tedious, but just
4 the tedious nature of it would include proper labeling on
5 the front or on any package that comes into your room?

6 A Yes.

7 Q And proper packaging such as it being sealed and
8 completely sealed?

9 A Yes.

10 Q Does your -- do you or your evidence techs take
11 evidence -- is it customary for them to take in evidence
12 that's unsealed?

13 A No.

14 Q Or that's, appears to have been tampered with in any
15 way?

16 A No, it's refused.

17 Q That's my next question. If something comes to you
18 like that you refuse to take it and send it back to the
19 investigator or tell them to take it away if you aren't
20 going to receive it?

21 A If they hand it to us to process and we see that
22 there's a problem, we'll ask them to fix it right there in
23 front of us. If it's something that they have to take back
24 upstairs with them, that's fine because it's still in their
25 possession because we haven't officially received it into

Tena Goff - Direct examination
by Solicitor Jophlin

1 the evidence room. If they use one of our temporary storage
2 lockers outside, which are used for after hours on weekends,
3 it's a drop box or lockers, which are secured, we'll call
4 them the next day or now if -- practice is we have what's
5 called a glitch list or error list. The name goes up with
6 the case number and a brief description of the problem. We
7 wait till they come in to take care of it and fix it.

8 Q When you say drop boxes and lockers, that's sort of
9 like a mailbox kind of device?

10 A Yes.

11 Q And actual mail lockers like school lockers and are
12 they different sizes you have---

13 A Yes.

14 Q ---in your evidence area?

15 Investigators can drop-off things into those areas and
16 y'all are the only people that can obtain them?

17 A That is correct.

18 Q You say you had been in the evidence room, a supervisor
19 for 13 years.

20 So, you were working back in November of 2006?

21 A Yes, I was.

22 Q And I'm going to hand you State's Exhibit 121 for ID, a
23 couple of Buccal swabs, did you receive them into your
24 possession?

25 A I did.

Tena Goff - Direct examination
by Solicitor Jophlin

1 Q You received it personally?

2 A I did.

3 Q How do you know you're the one that received it?

4 A Because my signature is at the bottom from the date and
5 time I actually received it from Investigator Bouknight.

6 Q Can you tell from that label and packaging whether it
7 was handed to you or put in one of these drop boxes or
8 lockers?

9 A Yes, underneath status, there's a place called manner
10 of submission, and he has marked person to person, which
11 means he literally handed it to me.

12 Q At the time you received it it was sealed?

13 A Yes.

14 Q And did it appear it had been tampered with?

15 A No.

16 Q Did you tamper with it in any way?

17 A No.

18 Q Open it in any way?

19 A No.

20 Q What did you do with that exhibit?

21 A Once I accepted it I sat down at the computer and
22 logged it in and attached it to the property report we had,
23 and once I did that we affixed a bar code to it and put it
24 on the shelf with the rest of the evidence in the case.

25 Q The bar code is so you can keep track of it and know