

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY

Steven H. John, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

PATRICK LOWRANCE,

APPELLANT

APPELLATE CASE NO. 2012-213300

RECORD ON APPEAL

ROBERT M. PACHAK
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorney for Appellant

ALAN WILSON
Attorney General

J. BENJAMIN APLIN
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3970

Attorneys for Respondent

RECEIVED

SEP 30 2013

SC COURT OF APPEALS

INDEX

INDEX	i, ii, iii
TRIAL TRANSCRIPT (OCTOBER 8 – 11, 2013)	1
OPENING STATEMENT BY MR. MARCHANT	2
OPENING STATEMENT BY MR. JOHNSON	5
TESTIMONY	
BRITTANY CRUELL	
Direct Examination by Mr. Marchant	7
Cross Examination by Mr. Johnson	16
Redirect Examination by Mr. Marchant	20
Recross Examination by Mr. Johnson	21
TACI COBB	
Direct Examination by Mr. Marchant	25
Cross Examination by Mr. Johnson	42
Redirect Examination by Mr. Marchant	43
CHARLES LANE	
Direct Examination by Mr. Marchant	44
Cross Examination by Mr. Johnson	56
COLLIS FLAVELL	
Direct Examination by Mr. Marchant	59
Cross Examination by Mr. Johnson	76
JONATHAN HAMILTON	
Direct Examination by Mr. Marchant	80
Cross Examination by Mr. Johnson	84
JON DERBY	
Direct Examination by Mr. Marchant	85
Cross Examination by Mr. Johnson	96
Redirect Examination by Mr. Marchant	96
DAR SHAW	
Direct Examination by Mr. Marchant	97
Cross Examination by Mr. Johnson	112

NORMAN PEARSON	
Direct Examination by Mr. Marchant	115
Cross Examination by Mr. Johnson	121
Redirect Examination by Mr. Marchant.....	123
Recross Examination by Mr. Johnson.....	124
WILLIAM BROCKMAN	
Direct Examination by Mr. Marchant	125
Cross Examination by Mr. Johnson	131
CHRIS GARY	
Direct Examination by Mr. Marchant	133
Voir Dire by Mr. Johnson.....	136
Resumption of Direct Examination by Mr. Marchant.....	137
Cross Examination by Mr. Johnson	141
JAGANNADHA KANDALA	
Direct Examination by Mr. Marchant	143
Voir Dire by Mr. Johnson.....	146
Resumption of Cross Examination by Mr. Marchant.....	146
Cross Examination by Mr. Johnson	155
JAMES ARMSTRONG	
Direct Examination by Mr. Marchant	163
Voir Dire by Mr. Johnson.....	165
Resumption of Cross Examination by Mr. Marchant.....	166
Cross Examination by Mr. Johnson	171
TIM CONROY	
Direct Examination by Mr. Marchant	172
Cross Examination by Mr. Johnson	182
MOTION FOR A DIRECTED VERDICT BY MR. JOHNSON.....	187
TESTIMONY CONTINUED	
TIM CONROY	
Direct Examination by Mr. Marchant	195
MOTION FOR A MISTRIAL BY MR. JOHNSON	199
PATRICK DEAN LOWRANCE	
Direct Examination by Mr. Johnson	205
Cross Examination by Mr. Marchant.....	224
Redirect Examination by Mr. Johnson.....	238

MOTION FOR A DIRECTED VERDICT BY MR. JOHNSON	240
CHARGE ON THE LAW	242
VERDICT	255
SENTENCING	259
INDICTMENT	260
CERTIFICATE OF COUNSEL	262

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	:	
COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT
STATE OF SOUTH CAROLINA,	)	TRANSCRIPT OF RECORD
	:	2012-GS-23-1422
PLAINTIFF,	)	2012-GS-23-1423
	:	2012-GS-23-1425
VERSUS	)	2012-GS-23-1426
	:	2012-GS-23-1427
PATRICK DEAN LOWRANCE,	)	
	:	
DEFENDANT.	)	VOLUME I
	:	OCTOBER 8, 2012
	:	GREENVILLE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE STEVEN H. JOHN, JUDGE, AND A JURY

A P P E A R A N C E S:

FOR THE STATE;
LUCAS C. MARCHANT, ESQ., ASSISTANT DEPUTY SOLICITOR

FOR THE DEFENSE:
BRIAN JOHNSON, ESQ.
JOHN CRANGLE, ESQ

PHYLLIS BARRETT
COURT REPORTER

1 you weigh it against the state's burden to prove the defendant guilty beyond a reasonable
2 doubt on each of the charges the State has brought against the defendant.

3 During the course of the trial the attorneys may raise certain motions or objections. If
4 I rule on them in your presence, and I don't send you back to the jury room so I can discuss it
5 more fully with the lawyers about their particular issue, remember you're the judges of the
6 facts. However my ruling is I am merely telling the lawyers how the case will be conducted,
7 how the trial will be conducted. I'm not telling you what's believable or credible or you
8 should believe that witness over another. That's your job and your responsibility. It's my
9 job to govern what is properly admissible as evidence, what is proper to come into evidence.
10 Then it's your job to judge that evidence.

11 With that, I will let the attorneys give you their opening statements in this matter.
12 Solicitor.

13 Mr. Marchant: If it please the court. Counselor. Imagine the day of October 28, a
14 day not like today, a little overcast, a little nip in the air. Officer Lane and Officer Cobb and
15 Officer Cruell with the city police department are out on routine patrol. At some point in time
16 that morning, Officer Cruell was checking on a suspicious vehicle at the Comfort Inn on
17 Laurens Road. She runs the tag on the vehicle. That tag does not come back to that vehicle.
18 She goes inside the Comfort Inn to investigate. She subsequently is alerted from the clerk
19 that that vehicle is leaving.

20 So, in an effort to determine whether that tag belongs to that vehicle she gets in her
21 patrol car and gets on I-85 heading towards Atlanta. She gets off on the Laurens Road exit,
22 heads up 85, catches up with the vehicle, she hits her blue lights. The vehicle doesn't stop.
23 What does it do? It speeds up, shifts lane, attempts to evade her.

24 Eventually that vehicle whips off on Mauldin Road, runs a red light. She gets up to
25 the red light and checks to determine whether or not the coast is clear for her to go through

1 and proceed through that red light. At that time she loses the vehicle. She terminates the
2 pursuit because at that point in time all she knows is that there is an improper tag.

3 Officer Cobb and Officer Lane hear the call. They're patrolling in another area of
4 town. They're over hear the Hitachi plant off 85 and Mauldin Road. Officer Cobb, with the
5 city police departments, ends up in the Berkeley Point apartment complex. She's just rolling
6 through to see if the car's pulled over there so she can determine who's in the vehicle and
7 whether or not that tag belongs to that vehicle.

8 She finds the vehicle. She finds it up near Building 1300. She gets out of her car, she
9 gets on the side radio, she talks with Officer Cruell. She determines the tag matches. She
10 then proceeds over to Building 1300. She does this so she can inform dispatch where she is
11 and where that vehicle is located.

12 She struts in her full, police department-issued attire, long sleeves. She's got her side
13 arm on, it's holstered. She's walking over to Building 1300. She gets her mike. She steps
14 into the breezeway where the stairwell is and she looks up. She says to dispatch, I'm at
15 Building 1300. And what does she hear? Boom-boom-boom. All she sees and all she hears
16 is a muzzle flash from that direction. She charges towards the defendant. She gets herself in
17 the stairwell. She's on the second floor. It's a split level. She returns fire. Somebody is
18 struck. Somebody still has a bullet in their left shoulder. That person is the defendant, sitting
19 at this table.

20 She's calling out for help but nobody can hear because of the serious exchange of
21 gunfire. Eventually Officer Lane, who was up there checking on the car as well, comes over
22 to that same building to render aid. He cannot see into the stairwell because it was so dark.
23 He's not sure where she is, whether or not she's been hit. So, he decides not to fire. He steps
24 into the stairwell. What happens? Boom-boom-boom. He's fired at as well. He steps back
25 out. He attempts to enter the building. He eventually hears her voice. He calls dispatch for

1 backup. At some point in time, Mr. Lowrance was able to get out the back and a hunt ensues
2 for him. He is subsequently located seven or eight hours later over on Mormon Avenue at a
3 friend's of his. Located in that house is the gun that was used.

4 Ladies and gentlemen, this was a traumatic day for the Greenville City Police. They
5 did not sign up to be ambushed that morning.

6 Now, you've heard a lot of words and phrases and terms from the judge about
7 reasonable doubt and standards of proof and things of that nature. What I can tell you, and I
8 stand here confidently before you, that you are not going to have any doubt, you're not going
9 to have any reservation. There will be no question in your mind once the case is closed and
10 you go back and deliberate whether or not the man sitting at this table in the white shirt and
11 the yellow tie is the one who shot at Officer Lane and Officer Cobb that day.

12 I'm going to ask you at the close of this case of those two charges, attempted murder
13 on both of them. I'm also going to ask you to find him guilty of possession of a weapon
14 during the commission of a violent crime, of which attempted murder is a violent crime. I'm
15 also going to ask you to find him guilty of failure to stop from running from Officer Cruell.
16 And I'm lastly going to ask you to find him guilty of possession of a stolen vehicle valued at
17 more than \$10,000.

18 Now, the judge is going to tell you there's certain evidence that you may hear about
19 certain testimony and it really doesn't matter what I say or the opposite says, it's just chatter
20 from us, it really doesn't make a hill of beans. But what you've got to do is consider the
21 evidence and the testimony that comes from this stand. And the evidence, the papers, the
22 documentation that goes back to the jury room.

23 Something that I want you to pay careful attention to is what does come from the
24 witness stand. There's gonna be a lot of shuffling back of papers and what you may think is
25 evidence that comes back with you. A lot of times statements and police officers' reports are

1 not evidence and they can't come back to the jury room with you. So, I would ask you to pay
2 particular attention because you're not gonna be real sure what you're gonna have back there.
3 That's why it's so important that you pay attention to the witnesses and pay attention to what
4 exactly they say. Because you may not have their report and you may not have the
5 statement. So, you're gonna have to rely on what you hear and what you remember comes
6 from the witness stand.

7 Now, Judge John indicated that obviously it's late in the day and he expects this to go
8 well into tomorrow. We've got quite a bit of evidence to cover. So, we're probably gonna
9 take another day or day and a half of you, at least in this case. But I think realistically we're
10 gonna go into Wednesday morning. I would ask for your patience. This is an important day.
11 It's an important day for the defendant. He's got the right to be here and have the state prove
12 to you beyond a reasonable doubt. But it's also an important day for these two officers.
13 They're the victims in this case, of Mr. Lowrance attempting to kill them while they were
14 performing their duties for the Greenville Police Department.

15 So, I'm gonna ask you again, when we get to the close of this case, I'm gonna come
16 back before you. I'm gonna try to tie it up and put all the puzzle pieces together. I submit to
17 you it's gonna be crystal clear. You ain't gonna have any doubt that that man is guilty of the
18 five charges that I've described to you. And I'm gonna ask that you go back there and I'm
19 gonna ask that you give him the time that you need to deliberate and I'm gonna ask that you
20 find him guilty on all five counts. Thank you.

21 The Court: Mr. Johnson.

22 Mr. Johnson: Thank you, Your Honor. May it please the court.

23 The Court: Yes sir.

24 Mr. Johnson: Solicitor. Ladies and gentlemen, as the Judge said, as I'm standing
25 here right now, what the Solicitor has just said is not evidence. You're gonna get the

1 evidence here. You're gonna get that shortly. The evidence is the meat and potatoes of
2 which you're gonna look at and decide if my client is guilty or not guilty of those charges.
3 Until that time I can only suggest things, the Solicitor can only suggest things.

4 And I'd like to suggest a small, just a couple of small items just before we get started.
5 Primarily I'm doing that, and as the State, this isn't evidence, too. The main thing that we
6 have to keep in mind here is that my client at this point is not guilty. It is up to the State to
7 prove he's guilty. He's still not guilty right now. He's innocent. He's innocent until proven
8 guilty. And the only people who can say he's guilty is you, not the Solicitor, not what he just
9 said to you. That's your decision.

10 Now, as far as the evidence is concerned, you're gonna get it, and like I told you,
11 that's the meat and potatoes. One of the things that I want you to keep in mind is when the
12 police are looking for a suspect, they are looking for a certain someone. They're looking for,
13 if they don't know who it is initially, a description. I submit to you there was a description in
14 this case. I want you to find out what that description was. I can't tell you. I can't testify.
15 Somebody will.

16 What was that description? Was there anything unique about that description? And
17 does my client fit that description? Did my client shoot a gun? Is there any sort of residue
18 test or anything to prove that he shot a gun?

19 Ladies and gentlemen, this trial, I guess, could be considered to be long, but the
20 evidence will keep us all interested, and just pay attention, pay attention to the description.
21 Does my client fit it? Does he fit the description of the person committing these crimes?

22 I get to talk to you again at the end. At that point I get to argue. That's when the
23 evidence is given to you. And I'll have a whole lot more to say. But for now, I just want
24 some things to you, and that's just to be patient with us. This could be a rather long trial,

1 maybe Wednesday, Tuesday, depends on how things go. But I just ask you to keep your
2 attention and I'll talk to you again at the end. Thank you.

3 The Court: Call your first witness, Solicitor.

4 Mr. Marchant: If it please the Court. The State calls Officer Brittany Cruell.

5 **BRITTANY CRUELL**, duly sworn, testified as
6 follows:

7 Clerk of Court: Please state your name for the record.

8 A Brittany Cruell.

9 **DIRECT EXAMINATION BY MR. MARCHANT:**

10 Q Officer Cruell, where are you employed?

11 A Greenville City Police Department.

12 Q How long have you been employed with the city police department?

13 A Five years.

14 Q And in what capacity are you employed with the department?

15 A Patrol.

16 Q What does that mean?

17 A We answer calls for service, traffic stops, warrant service.

18 Q Have you been in that capacity for the last five years?

19 A For a brief period I worked with the crime response team, but I've primarily
20 been in uniformed patrol.

21 Q Prior to joining the police department did you work for another agency?

22 A No.

23 Q What sort of training and accreditation and certification do you have to go
24 through in order to be employed with city police department?

25 A South Carolina Criminal Justice Academy.

1 Q What does that consist of?

2 A At the time I went it was nine weeks of training, firearms, criminal law,

3 driving.

4 Q Did you complete that?

5 A Yes.

6 Q Do you have continuing education or classes that you must take each year to
7 keep up with those certifications?

8 A Yes.

9 Q And you're current on all those certifications?

10 A Yes sir.

11 Q Back on October 28, 2011, were you in the patrol capacity with the city?

12 A Yes.

13 Q Were you working that day?

14 A Yes.

15 Q At some point in time that morning did you end up at the Comfort Inn?

16 A Yes.

17 Q Why were you at the Comfort Inn?

18 A I typically patrol this hotel on Laurens Road because we've had a lot of stolen
19 vehicles there in the past and drug activity. I was checking the license plates on
20 pretty much every vehicle in the parking lot there when I came across a Chevy Tahoe
21 that had a wrong tag on it. The tag came back to Honda, I believe.

22 When I looked at the vehicle identification number in the windshield it was
23 covered up by a, I believe it was a air freshener. It was completely covered. So, that
24 made suspicious that the tag was wrong and the VIN was covered. I called Officer

1 Lane to meet with me to speak with the clerk at the Comfort Inn to see if maybe they
2 knew who the vehicle was registered to or who was driving the vehicle.

3 Q Do you recall what the tag number was on the vehicle?

4 A I believe it was

5 Q I'm sorry, I didn't hear you earlier. Was it a Yukon or a Tahoe?

6 A I believe it was a Chevy Tahoe.

7 Q Following your getting in touch with Officer Lane, what did you do once
8 Officer Lane arrived?

9 A We spoke to the clerk there and she said that she did not know who was
10 driving that vehicle. Her and another lady who worked there were in the lobby area
11 with us at that time. While we were standing there talking with her, a black male
12 walked by us a few feet away. He looked to older. I thought maybe he was about
13 thirty-five to forty years of age, had a green shirt on. He walked by us briefly. And
14 as we were still talking to the employees there, one of the ladies said the vehicle
15 you're asking about, he's in the parking lot.

16 Q Let's talk about the set-up of that lobby area, if you would. How do you enter
17 the lobby? Is a double door, is it a sliding door, is the door glass, solid?

18 A It's a double glass, sliding door.

19 Q So, it's one of those automatic deals that senses your presence and opens up?

20 A Uh-huh.

21 Q And once you walked into, through this sliding door, where is the manager's
22 or reception desk located as soon as you step through?

23 A Just a few feet to your right.

24 Q And what else is located in that lobby area?

1 A To the left there's a, like, a dining room area, a ballroom. And straight ahead
2 to the right there's, like, a breakfast, continental breakfast area. And straight back is a
3 doorway that leads to rooms on the first floor and the elevator.

4 Q Roughly, how large would you say that room is?

5 A Just the main room is about as big as this courtroom.

6 Q Now, while you and Officer Lane are inside speaking with hotel staff, did
7 anybody come or go that was not either law enforcement or an employee of the hotel?

8 A The male that I mentioned that walked by.

9 Q Anyone else?

10 A No.

11 Q And how long would you said that you were inside the lobby?

12 A I can't say, maybe five minutes.

13 Q Well, when the individual, the sole individual walked by you, how close to
14 you were they, were you?

15 A A few feet.

16 Q Were you able to tell whether or not it was male or female?

17 A It was a male.

18 Q What was the determining direction?

19 A It was a black male.

20 Q Do you remember approximately how tall they were?

21 A Not sure, maybe about five-eight or six feet. I'm not that good of a judge of
22 height.

23 Q Were you able to determine what they were wearing?

24 A I remember a gray shirt.

25 Q Were you able to get a look at the face?

1 A Yes.

2 Q Do you remember whether or not they were wearing sunglasses or glasses or
3 had anything concealing the face?

4 A No.

5 Q Do you remember what sort of clothing they were wearing?

6 A Just a gray shirt. I don't remember anything else.

7 Q Once hotel management alerted you to the vehicle that was leaving, what did
8 you do?

9 A I immediately went out to my patrol vehicle in an attempt to stop the vehicle
10 for the violation and investigate further if the vehicle was in fact stolen.

11 Q At that point in time did you begin pursuit of the vehicle?

12 A I turned right out of the parking lot following the vehicle. The vehicle turned
13 right onto 85 south, heading toward Atlanta. I also turned right heading southbound
14 on 85. There were a few cars in between myself and the suspect vehicle so I had to
15 catch up to it, and initiated my blue lights.

16 At which time I did, I followed them for a little ways. They put on their left
17 turn signal, went all the way over to the far lane near the wall, speeding up some. I
18 followed them. Right before you get to the Mauldin Road exit, the vehicle abruptly
19 went across all lanes towards the exit. I believe around this time I initiated my siren
20 as well. I informed dispatch that the vehicle wasn't stopping, but that I didn't know if
21 it stolen, it was a wrong tag.

22 The vehicle on the exit began to increase speed suddenly. There was a red
23 light at the end of the exit at Mauldin Road. The suspect vehicle made a left,
24 disregarding that red light and continued to increase speed. I lost sight of the vehicle
25 when I reached Mauldin Road and Parkins Mill Road and I terminated the pursuit.

- 1 Q How fast do you recall going up 85?
- 2 A How fast I was going?
- 3 Q How fast you were going.
- 4 A Sixty-five, increasing up to about eighty miles an hour.
- 5 Q Am I clear that you activated your blue lights initially and not your siren?
- 6 A That's correct.
- 7 Q At what point in time did you activate your siren?
- 8 A When I realized the vehicle wasn't stopping.
- 9 Q Is your car equipped with audio camera, video camera?
- 10 A Yes.
- 11 Q Does it have audio?
- 12 A The audio wasn't working at the time.
- 13 Q Did you record this incident and have an opportunity to review it prior to
- 14 coming to trial today?
- 15 A Yes, I did.
- 16 Q I'll show what I've had marked previously as State's Exhibit Number One. Is
- 17 that a fair and accurate depiction of what occurred that day?
- 18 A Yes.
- 19 Mr. Marchant: I offer State's Number One in evidence and publish it to the jury,
- 20 Your Honor.
- 21 The Court: Any objection to that?
- 22 Mr. Johnson: No objection.
- 23 The Court: In evidence without objection. You may publish.
- 24 (State's Exhibit Number One was admitted into evidence without
- 25 objection.)

1 (Court Reporter's note: The following testimony is elicited during the publication of
2 State's Exhibit Number One)

3 Q Please describe to the jury where your vehicle is right now and where you're
4 traveling.

5 A I'm traveling southbound on 85. This would be me in the center lane behind
6 the truck.

7 Q Were you able to determine where that suspect vehicle is at the time?

8 A That's gonna be it, I believe, this one, right here to the right. I'm behind it
9 now.

10 Q Again, is your siren on at this point in time?

11 A No.

12 Q Why did you terminate pursuit right here?

13 A I didn't know if in fact the vehicle was stolen. And due to our departmental
14 policy I would only be pursuing for a wrong tag on the vehicle. And his speeds were
15 increasing. It was becoming dangerous to continue the pursuit.

16 (End of publishing to jury State's Exhibit Number One)

17 Q What do you do from here?

18 A At this point I discontinued the pursuit. As I headed down Mauldin Road
19 there was a trucker stopped at the Hitachi plant. He needed help. I stopped and
20 talked to him for a few minutes. And then dispatch was sending me to another car in
21 the area of Fairforest Way.

22 As I was heading in that direction, another call came out that someone had
23 seen the suspect vehicle near , which is Berkeley Point
24 Apartments. And I headed in that direction.

1 When I was on Windwood Road a security officer at Christ School stopped
2 me and said that they'd heard it go out over their scanner and they'd seen that vehicle
3 go into the apartment complex there.

4 Q So, at some point in time did you end up talking to Officer Cobb about that
5 vehicle?

6 A Yeah. Other officers responded to the area. Officer Cobb and Officer Lane
7 were also in route. Officer Cobb went up to Berkeley Point apartments and she did
8 find the suspect vehicle at that time. And she asked me to go to another channel.
9 And I went over to another channel and I radioed, and she was asking me to confirm
10 the tag on the vehicle, at which time I did. And she said she was gonna be out with
11 that vehicle. At that time Officer Lane arrived on the scene with her.

12 Q I'll jump ahead just a little bit. Were you subsequently able to determine the
13 make and model of the vehicle and whether or not it was stolen?

14 A Yes, I did.

15 Q I'll ask you to look at page one of one of the report that you wrote on 10/29
16 and ask you to confirm the make and model of the vehicle, if you would.

17 A It's a 2005 GMC Yukon, with a value of \$20,000.

18 Q This is the vehicle that you confirmed that was stolen?

19 A Yes.

20 Q Now, after you talked with Officer Cobb on the scene at the apartment
21 complex, did you eventually go over to the apartments?

22 A I did. A few seconds later after she said that she was out with that vehicle
23 Officer Lane came across the radio and said shots fired. We all went over to the area.
24 When I arrived, the two of them were on each side of the 1300 building and they
25 advised me that the suspect had fired upon both of them.

1 Q At that point in time, didn't have any idea who was shooting at you guys?

2 A I gave the description from the Comfort Inn of the male that I saw walk by us
3 in the lobby. At that time I didn't know his name or anything else.

4 Q Subsequently you were given his name the following day?

5 A He wasn't apprehended that night. A search ensued and the city discontinued
6 inside the city limits that day. We went back to the law enforcement center and
7 completed our reports. The next day on shift we were informed that he'd been
8 apprehended. I was given the name of the defendant and I looked up a recent
9 photograph and I did immediately identify as the male who I saw walk by us in the
10 Comfort Inn the day before, and subsequently signed warrants.

11 Q What were the two warrants that you signed?

12 A The failure to stop for a blue light and the possession of a stolen vehicle.

13 Q Did any supervisor or anyone ask you to take a look at that photograph or did
14 you do that of your own accord? How did that happen?

15 A No. When I was given the name, I looked that in the database, and I did that
16 on my own accord.

17 Q And you subsequently signed two warrants against him for failure to stop and
18 possession of a stolen vehicle---

19 A That's right.

20 Q ---greater than \$10,000?

21 A That's right.

22 Q And the value of that vehicle was listed in the Blue Book as what?

23 A \$20,000.

24 Q You say you pulled up a picture of him from the name you were given. The
25 name that you were given was what?

- 1 A Patrick Dean Lowrance.
- 2 Q The person that you immediately recognized in the photograph, are they here
- 3 in the courtroom today?
- 4 A Yes.
- 5 Q Please point them out to the court.
- 6 A (indicating defendant)
- 7 Q And describe what they are wearing?
- 8 A A collared shirt, yellow tie.
- 9 Q It's your testimony that the defendant is the same person that you saw at the
- 10 Comfort Inn that day?
- 11 A That's right.
- 12 Q And the Comfort Inn, what's the address of that?
- 13 A 2756 Laurens Road.
- 14 Q Is that here within the county?
- 15 A Yes.
- 16 Q Please answer any questions Mr. Johnson may have.
- 17 The Court: Cross examination.
- 18 Mr. Johnson: Thank you, Your Honor.
- 19 **CROSS EXAMINATION BY MR. JOHNSON:**
- 20 Q Ms. Cruell, the Solicitor previously approached you with one of your reports.
- 21 Isn't that true?
- 22 A Yes.
- 23 Q Do you have a copy of your reports with you?
- 24 A No.
- 25 Q Well, why do y'all do reports? What's the purpose of that?

- 1 A To document what happened and to refer to at a later time.
- 2 Q Yes. Is that-- You do that because, I guess, it's common sense that you write
3 things down so you can remember it later. Isn't that true?
- 4 A Yes.
- 5 Q So, what you wrote down at the time would be more accurate than maybe
6 what you remember?
- 7 A Yes.
- 8 Q Okay. Now you don't have those today. Right?
- 9 A No.
- 10 Q Now, you were called for this trial and you knew about it, but you didn't bring
11 your reports with you?
- 12 A No.
- 13 Q Now, you previously testified that the person you saw in the lobby of the hotel
14 was the same person whose name you were given at a later point, which happened to
15 be my client, Mr. Lowrance. Is that right?
- 16 A That's right.
- 17 Q Now, when you did a report on this thing, in that report you listed your
18 description of the person you saw in that hotel, didn't you?
- 19 A Yes.
- 20 Q Now, is this that report where you listed that?
- 21 A Yes.
- 22 Q Which paragraph is it listed in?
- 23 A The third one on the first page.
- 24 Q Can you please portray to the jury what description that you gave to describe
25 that person that you saw?

- 1 A While in the lobby a male walked by who I caught a brief look of, with longer
2 hair, looked to be about thirty-five to forty years, but could have been younger, of
3 age, wearing a gray shirt.
- 4 Q And that's the total of the description. Right?
- 5 A Yes.
- 6 Q Now, you say long hair. Is that right?
- 7 A Yes.
- 8 Q Long hair. Was it pulled back into a pony tail or how was that long hair?
- 9 A I don't recall.
- 10 Q You don't remember?
- 11 A (no verbal response)
- 12 Q You also say thirty-five, forty years old. Is that right?
- 13 A Yes.
- 14 Q Now, would you say that when you-- Well, let me go back. So, the next
15 day you looked into the computer and you tried to identify the person, the name you
16 were given was Patrick Lowrance, the person that you saw. Is that right?
- 17 A Yes.
- 18 Q Now, how'd you get that information? Who called you?
- 19 A I don't recall.
- 20 Q You don't remember who called you?
- 21 A No.
- 22 Q And gave you that information?
- 23 A No.
- 24 Q Why would they call you and give you that information?

- 1 A I believe it was, the incident was known from the day before, and on my next
2 shift I was told the name of the suspect that was apprehended.
- 3 Q They knew you were involved in the incident?
- 4 A Sir?
- 5 Q They knew you were involved in the incident?
- 6 A Yes.
- 7 Q So they called you?
- 8 A Yes.
- 9 Q And when they called you, probably you wanted to go, okay, I got a name,
10 look him up. Is that right?
- 11 A Yes.
- 12 Q So they suggested to you to look at this picture and see if it was him. Isn't
13 that true?
- 14 A Yes.
- 15 Q And then you obliged. You said, okay, that's him. Right?
- 16 A Yes.
- 17 Q Now, you signed a warrant for failure to stop for a blue light and possession of
18 a stolen vehicle. Isn't that true?
- 19 A Yes.
- 20 Q Now, did you serve those warrants personally?
- 21 A No.
- 22 Q So, you didn't actually go to where my client was located and present him
23 with those warrants?
- 24 A No.

1 Q At that point in time you didn't get a chance to take a look at him and see
2 what he really looked like, did you?

3 A No.

4 Q So, you didn't even know what he looked like or what condition he was in at
5 the point in time when he were served with the warrants, did you?

6 A No.

7 Mr. Johnson: Your Honor, I have nothing further for this witness.

8 The Court: Re-direct?

9 Mr. Marchant: Briefly, Your Honor.

10 **RE-DIRECT EXAMINATION BY MR. MARCHANT:**

11 Q I just want to be clear, Officer Cruell. The person that you saw on the
12 photograph or whatever it is that you're looking at, that's the person that's here in the
13 courtroom today?

14 A That's right.

15 Q There's not a sergeant or a lieutenant or somebody that said, Officer Cruell,
16 this is the guy that you saw at the motel.

17 A No.

18 Q You looked at the picture and determined that was the person?

19 A Yes.

20 Q Not the other way around?

21 A Yes.

22 Mr. Marchant: No further questions.

23 The Court: Anything on those questions, Mr. Johnson?

24 Mr. Johnson: Briefly, Your Honor.

25

1 **RE-DIRECT EXAMINATION BY MR. JOHNSON:**

2 Q You were called, though. Right? Somebody did call you and tell you that
3 they had a suspect?

4 A Yes.

5 Q And they told you that person's name?

6 A Yes.

7 Q And you looked that person's name up in the computer database?

8 A Yes.

9 Q And that person was in your opinion my client?

10 A Yes.

11 Q But that person did not fit the description that you gave?

12 A Not the hair.

13 Q Thank you.

14 The Court: Do you wish for the witness to be excused?

15 Mr. Marchant: Yes, Your Honor.

16 The Court: All right. You may step down and you are excused to go back to your
17 regular activities, ma'am.

18 Could y'all come over and talk to me for just a second, Solicitor and Mr. Johnson?

19 (Whereupon a bench conference occurred)

20 Ladies and gentlemen, we're going to stop for the evening. The next witness I
21 anticipate will be probably a good bit longer than this particular witness. And I know you
22 knew you were gonna be on jury duty, but I don't know that you knew you were actually
23 gonna serve on a jury. So, with that, we'll let you go home for the evening. I want you back
24 in your jury room by, let's say, 9:25, so we hope to get started tomorrow morning at 9:30,
25 right at 9:30. So, y'all be back in your jury room by 9:25.

1 Now, when you go home for the evening, you see your husband, wife, boyfriend,
2 girlfriend, person down the street, they happen to know you got summonsed for jury duty,
3 that's fine. You may not discuss this case with them. I will ask you not to discuss this cases
4 among yourselves in the jury room until I send it to you at the very end for your
5 deliberations and your unanimous decision. The reason for that is if you start discussing the
6 case after you've heard one witness or two witnesses, you may form an opinion and the very
7 next witness might change your opinion. And since you've expressed it, it might be hard to
8 go back on that. So, we're not gonna talk about this case till the very end. You're gonna
9 have all the time that you deem necessary to talk about it before you reach your unanimous
10 decision at the end. You can talk about anything else but that.

11 Now, again, you go home, obviously people at home don't have an opinion about the
12 case. So, don't talk about it. Unintentionally, they'll give you their opinion and we don't
13 need that.

14 Remember what I told you when I was talking about the cell towers. You're not
15 Investigators. You're not to go looking up anything. You're not gonna go see if I can find
16 the Comfort Inn or whatever it is. You're going to decide this case solely and completely on
17 the facts and evidence you hear in the courtroom and no other source.

18 So, with that, I'll see you back tomorrow morning 9:25. Thank you very much.
19 Everybody else remain seated while the jury retires, please.

20 (Whereupon the jury exited the courtroom)

21 Solicitor, is there anything we need to take care of before we recess for the evening?

22 Mr. Marchant: Nothing from the State, Your Honor.

23 The Court: All right. Mr. Johnson?

24 Mr. Johnson: Nothing from the defense, Your Honor.

1 The Court: All right, gentlemen. Y'all will please be back by at least 9:15 to make
2 sure if you've got any issues we can cover those before we get started at 9:30. So, let's make
3 sure we have the defendant here in plenty of time before that. Have the defendant here by
4 9:00 in case Mr. Johnson needs to speak to him ahead of time about this particular matter.
5 And then we'll get started at 9:30 on this unless y'all need to speak to me ahead of time. All
6 right?

7 Mr. Johnson: Thank you.

8 Mr. Marchant: Thank you, Your Honor.

9 (Whereupon court was in recess for the evening)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	:	
COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT
STATE OF SOUTH CAROLINA,	)	TRANSCRIPT OF RECORD
	:	2012-GS-23-1422
PLAINTIFF,	)	2012-GS-23-1423
	:	2012-GS-23-1425
VERSUS	)	2012-GS-23-1426
	:	2012-GS-23-1427
PATRICK DEAN LOWRANCE,	:	
	)	
DEFENDANT.	:	VOLUME II
	)	OCTOBER 9, 2012
		GREENVILLE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE STEVEN H. JOHN, JUDGE, AND A JURY

A P P E A R A N C E S:

FOR THE STATE;
LUCAS C. MARCHANT, ESQ., ASSISTANT DEPUTY SOLICITOR

FOR THE DEFENSE:
BRIAN JOHNSON, ESQ.
JOHN CRANGLE, ESQ

PHYLLIS BARRETT
COURT REPORTER

OCTOBER 9, 2012 - COURT IN SESSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

The Court: Solicitor, are you ready to proceed?

Mr. Marchant: Yes, Your Honor.

The Court: And the defense?

Mr. Johnson: Yes, Your Honor.

The Court: Let's bring the jury in.

(Whereupon the jury entered the courtroom)

Good morning, ladies and gentlemen. We are now ready to proceed with our next witness. Solicitor, call your next witness, please, sir.

Mr. Marchant: If it please the court. The State calls Officer Taci Cobb.

The Court: Come around and be sworn, ma'am.

TACI COBB, duly sworn, testified as follows:

Clerk of Court: Please state your name for the record.

A Taci Cobb.

The Court: Could you spell your first name, please, ma'am?

A T-a-c-i.

The Court: Very good. Go ahead, Solicitor.

DIRECT EXAMINATION BY MR. MARCHANT:

Q Officer Cobb, where are you employed?

A At Greenville City Police Department.

Q How long have you been with the city police?

A Approximately three years.

Q Where were you, what were you doing prior to being employed with the city police department?

1 A Military. I had pretty much gone off of deployment. And I did a little
2 customer service at a hotel.

3 Q Prior to joining the department, did you go through the Academy and
4 complete all the course work and requirements that Officer Cruell discussed
5 yesterday?

6 A I did.

7 Q Are you current and up to date on all your credentials?

8 A I am.

9 Q What capacity are you presently working with the city police? What are you
10 duties and responsibilities as a patrol officer?

11 A Answering calls for service, working collisions, riding, community patrol,
12 basically.

13 Q Essentially the same responsibilities that Officer Cruell talked about
14 yesterday?

15 A Yes.

16 Q Are y'all in the same platoon, or do you ride the same beat?

17 A We are in the same platoon. We are adjacent beat partners.

18 Q Were you working in the capacity that you're describing right now back on
19 October 28 of 2011?

20 A Yes.

21 Q So, essentially performing the same responsibilities with the city police?

22 A Yes.

23 Q Were you working on October 28, 2011?

24 A I was.

1 Q At some point in time did you have the opportunity to hear the call, the BOLO
2 that officer Cruell did?

3 A I did.

4 Q What did you do in response to her putting out that information?

5 A Even though it wasn't in my area I headed that way. It's just something that
6 we do. Whenever there's a call we head over toward the officer that's calling these
7 out, just for assistance if it's needed.

8 Q Specifically, what area of town did you head to, and what particular road?

9 A I work-- At the time I worked Augusta Street area. That was my adjacent
10 beat and that was Mauldin Road, Windwood Road area that I was going to.

11 Q Are you familiar with the location that Officer Cruell spoke of earlier, the
12 Comfort Inn?

13 A I am.

14 Q And had you been to that Comfort Inn before?

15 A Yes.

16 Q Looking at what's marked as State's Exhibit Number 67, this aerial map, do
17 you recognize that map and the locations that are marked on there?

18 A I don't recognize Lamar Avenue, that's in the county. But I do recognize
19 Comfort Inn and Windwood Road.

20 Q With respect to the Comfort Inn and Windwood Road, you recognize those
21 locations, you've been to those two before?

22 A Yes.

23 Mr. Marchant: The State would move 67 into evidence, Your Honor.

24 The Court: Any objection?

25 Mr. Johnson: No objection.

1 The Court: All right. State's 67 is in evidence without objection.

2 (Whereupon State's Exhibit Number 67 was admitted into evidence without
3 objection)

4 Q Officer Cobb, for the benefit of the jury, where exactly did you respond to
5 when you found the vehicle in question?

6 A Berkeley Point Apartments,

7 Q When you arrived at Berkeley Point, is there more than one entrance into that
8 apartment complex?

9 A Yes sir. I entered the very first entrance off of Mauldin Road. I was coming
10 from Mauldin Road.

11 Q Roughly, how far is that first entrance from Mauldin Road?

12 A I'm really not sure.

13 Q Half a mile, a mile?

14 A Maybe half a mile.

15 Q If you were coming down Mauldin Road, before you were to turn left on
16 Windwood, would it be a plant or industry on the left side of the road that you would
17 have to pass before you turned left onto Windwood Road?

18 A The Hitachi plant.

19 Q So, you turn into the first entrance at Berkeley Point and what do you do when
20 you enter the apartment complex?

21 A I went off to the left. It goes off to the right and off to the left. I went off to
22 the left and I went all the way to the back of the complex.

23 Q And what did you find when you reached the back of the complex?

24 A There was a roundabout there, not really a parking area. I went around the
25 roundabout and there was a vehicle parked and it was backed in and it was the only

1 vehicle parked in that immediate area. So, it looked sort of suspicious and it looked
2 like the vehicle that Officer Cruell had called out on the radio.

3 Q Upon arriving at that, where you said, circular parking area, what did you do?

4 A I got out of my vehicle. I approached the vehicle. I looked inside the vehicle.
5 There was no one inside the vehicle. I went around to the back of the vehicle. It was
6 backed in, so I went around to the back of the vehicle and I observed the tag. I
7 couldn't remember what she called out on the radio. So, I called her on the radio on
8 channel three, which is our normal operating channel and I told her that a four. I gave
9 her the tag number and it came back to a Honda when I ran it first, and she said yes,
10 that's the tag.

11 Soon after, Officer Lane arrived and I told him that that was the vehicle. And
12 I told Officer Cruell that I was gonna go back on three and call out my location.

13 Q I'm showing you what's been marked as State's 2, 3, 4, 5, 6, 7, 8, 9, and 10.
14 I'd like you to take a look at those and see if you recognize what they depict.

15 A (pause to examine exhibits) I do.

16 Q Do they fairly and accurately depict the condition of the parking lot as well as
17 the apartment building that you went into that day?

18 A Yes.

19 Mr. Marchant: The State would move 2 through 10 into evidence, Your
20 Honor, and publish them for the jury.

21 The Court: Any objection?

22 Mr. Johnson: No objection.

23 The Court: All right. State's 2 through 10 are in evidence without objection. You
24 may publish them to jury.

1 (Whereupon State's Exhibit Numbers 2 through 10 were admitted into evidence
2 without objection)

3 Q Officer Cobb, I'm going to ask you to step down so we can demonstrate.

4 (Whereupon witness exited witness stand for demonstration with exhibits)

5 I'm going to give you this pointer, and as we go through these photographs, if you
6 can describe to the jury what you saw, what you observed and where you went that
7 day. Okay? And we're gonna start with State's Number 2, if you would describe to
8 the jury what this shows..

9 A This is the roundabout I was talking about and my vehicle right here, and this
10 is the vehicle I was approaching.

11 Q And what does State's Number 3 show?

12 A This is the vehicle and the tag number that I ran that came back to the same
13 vehicle that Officer Cruell called in on the radio.

14 Q Now, at this point in time, what is y'all's sort of standard operating
15 procedure? What are thinking? What are you trying to do at this point in time now
16 that you have confirmed that it's the same vehicle?

17 A There were several officers in the area. After I verified with Officer Cruell
18 that this was the same vehicle I notified headquarters to let them know what my
19 location is and that we have the vehicle.

20 Q How was it that you're going to notify dispatch of where your location is?

21 A Our Channel 3, I called to dispatch or headquarters and let them know what
22 the address is and what building where I am.

23 Q At the time you were looking at this vehicle did you know what the exact
24 address or the building you were at?

25 A I knew the address, but I did not know what building I was at.

1 Q So, what steps did you take to determine what building you were at?

2 A The roundabout would be over here, and the vehicle would be over here. So, I
3 walked over to the building to see what building number it was.

4 Q How did you approach the building? Did you walk through the parking lot?
5 Did you take the sidewalk? Did you cut through the grass?

6 A I took the sidewalk.

7 Q And so, once you reached the front of the building, you're on the sidewalk
8 walking behind the blue car. Is that right?

9 A Yes, I am. I'm coming through here.

10 Q And it's showing State's Number 5, please show the jury and if you could
11 demonstrate for them. You were dressed the same way then as you are today?

12 A Yes.

13 Q Microphone is on the same side, sidearm is on your right side?

14 A Yes.

15 Q When you approached the breezeway to go into 1300 did you have your
16 sidearm unclashed? Was it in your hand? Was it drawn? Did you have your taser
17 out?

18 A I didn't have anything in my hand.

19 Q Why did you not have your gun out or your taser out?

20 A We didn't know why this person didn't stop. For all that we knew it was the
21 wrong tag on the vehicle. All we were trying to do is find the vehicle and find out
22 why the vehicle had a wrong tag on it. So, at the time it didn't seem like a situation
23 where I needed that.

1 Q So, you enter the breezeway here at 1300. At what point in time, and show
2 the jury, if you will, where you were standing when you were radioing to dispatch
3 the building you were in front of.

4 A I was coming around and standing about here and looking up at the building
5 number. And I'll say that right here is the threshold, right there. And I was coming
6 around the corner and had my mike up, that I was looking up and telling headquarters
7 that that building was 1300. And I started to come through the threshold.

8 Q Did you actually make your way across the threshold of that building before
9 anything else occurred?

10 A I'm really not sure.

11 Q After calling out Building 1300 to dispatch, what is the next thing you
12 remember?

13 A Well, I still had my hand on my mike when I was looking up. I came-- I
14 focused down into the right area, with the stairway going down. I was trying to-- It
15 was very dark in there, so it was really hard to see. So, I was looking in and before I
16 got my hand off my mike I saw a muzzle flash and I heard gunshots.

17 Q Do you recall how many shots?

18 A At least two.

19 Q Definitely more than one?

20 A Yes.

21 Q From what direction did the muzzle flash come?

22 A It was coming at me.

23 Q Do you recall where in the breezeway or the stairwell that it was coming
24 from?

25 A I think it's the other picture.

1 Q Okay. I'm showing you what's been marked as State's 6 here.

2 A It was-- All I could see right here is someone on the left here, and that's
3 where the muzzle flash was coming from.

4 Q Were you able to determine the height of the person that was shooting at you?

5 A I could not. He was standing on the stairwell. He wasn't all the way up the
6 stairs.

7 Q And you say it was he. How do you know, or why do you say it was a he?

8 A From the muzzle flash I could see the face, but I really couldn't tell what he
9 looked like. I knew it was a male and I knew it was a black male.

10 Q So, to give the jury a little more perspective of the stairwell, how many
11 apartments are on this floor that you entered?

12 A There are four; one here and one behind the stairs, one here and one here.

13 Q And then the stairwell that leads down, how many apartments are there on
14 what I'm going to refer to as the first floor?

15 A I'm not sure.

16 Q Is there anything above what this ground floor---

17 A There are apartments above the ground.

18 Q So, you say the person came partially up the stairs and from the muzzle flash
19 you could determine it was a black man?

20 A Correct.

21 Q Do you have any idea who the person is who was firing at you that day?

22 A I do not.

23 Q So, after the first or second shot, what did you then do, and where did you go?

24 A It was all kind of a blur. Before I knew it my gun was in my hand and I was
25 firing back. From here I ran to take cover behind the stairwell here.

1 Q I'm going show you State's 7. Do you recall how many times you discharged
2 your weapon before making your way to cover behind the stairwell?

3 A It was at least-- I knew I fired-- When I said that, I realized that my gun was
4 in my hand and I'd already fired a shot. And I know I fired at least one more on my
5 way to take cover behind the stairwell.

6 Q At this point in time do you know where Officer Lane is?

7 A I really don't. I really don't. I figured that he was still in his vehicle.

8 Q Did you attempt to radio out to him or dispatch to inform your colleagues that
9 shots had been fired?

10 A I couldn't. For some reason I really couldn't hear anything, I couldn't talk. It
11 was... I'm not sure how to explain it. I just...

12 Q What did you---

13 A I knew I was keying up. When I was behind there I was trying to key up.
14 And when we key up the radio it beeps to let you know that you're on the net, that
15 you have the net. And I kept keying up and I felt like I couldn't hear the beeping or
16 there's a rrrr sound and if you're watching, if someone's on the radio, they have the
17 net. And I couldn't hear anything. I knew my radio was on because I was talking,
18 you know. I couldn't hear the radio. I couldn't even hear myself. All I could hear
19 was gunshots and I was trying to take cover.

20 Q Prior to getting back here behind the stairwell for cover, when you called out
21 Building 1300 to dispatch, did they respond to you before those first shots came at
22 you?

23 A No.

24 Q Don't know or don't remember?

25 A I don't know. I---

1 Mr. Johnson: Your Honor, she answered the question.

2 The Court: I appreciate that. I'll allow the question and the answer.

3 Q Officer Cobb, do you recall whether or not they responded to you or do you
4 not remember whether or not they responded?

5 A I don't remember.

6 Q So, you made your way back to the stairwell here. And at this point in time,
7 what are you thinking, what are you feeling?

8 A I'm behind the stairwell. I don't know how many people are down there. I
9 don't know how many weapons they have, how much ammo they have. I don't know
10 how much I have. So, I don't know how much they basically it. It was fear,
11 basically.

12 Q From behind the stairwell, did you then at some later point in time see the
13 person that you initially saw from the muzzle flash?

14 A (inaudible)

15 The Court: I'm sorry, ma'am. I didn't hear you. You need to speak up.

16 A Can you repeat that?

17 Q You're at the stairwell for cover. At some point in time after that did you
18 reengage with the person who had fired at you?

19 A I did. I was here and I came around over here and I was looking down
20 through the bars, and you could see down through the stairs below.

21 Q Going back to State's 6.

22 A I could see the stairs below here, and when I walked up, I got fired upon
23 again, and I returned fire.

24 Q Do you recall how many times you were shot at?

25 A I do not.

1 Q Do you recall how many times you shot?

2 A I do not.

3 Q Following that exchange-- I'm going show you State's 10 here. If you could
4 show the jury on the left side there, how far did you come back towards the front of
5 the building before the second exchange of gunfire occurred?

6 A About here, I was standing about here.

7 Q When you say you were standing there, are you standing up against the rail or
8 are you standing up against the wall where the doors to the apartments are?

9 A About in the middle because I was trying to come around and look.

10 Q I'm showing you State's Number 9. Were you able to determine how far up
11 the stairwell the individual came before firing at you the second time?

12 A It would be-- I was right there; it would be right about here, firing at me.

13 Q At that point in time were you able to see his face or his clothing description,
14 what sort of shoes or jeans he was wearing?

15 A No.

16 Q The only description that you were able to say is from the initial muzzle flash
17 of a black male?

18 A Correct.

19 Q And finally, State's Number 8 is just a reverse shot of Number 9. After the
20 second exchange of gunfire what did you do?

21 A I retreated back to the, behind the stairwell and took cover.

22 Q I'm showing you State's 6.

23 A Yes. I retreated back here and I dropped my magazine. I don't know how
24 many rounds I'd fired, but I knew that I had an unloaded weapon. I knew the firing
25 had used a lot. I dropped my clip and put another clip in my weapon.

1 Q Officer Cobb, why would you exchange magazines if you had still had ammo?

2 A It's training. They taught us at the Academy in our training, as well as in the
3 military, you never go into a gunfight unless you have a loaded weapon and you want
4 to make sure it's fully loaded. And, like I said, I don't know how many shots I fired.

5 Q What sort of ammunition were you carrying that day?

6 A Nine millimeter.

7 Q Do you recall the head stamp or brand of shell?

8 A I don't. Same thing I'm carrying right now.

9 Q Department issue?

10 A Yes.

11 Q How many rounds do you carry in each magazine?

12 A Fifteen.

13 Q Can you load your sidearm and then load the magazine such that there would
14 be sixteen rounds available for you to discharge?

15 A Correct.

16 Q So you exchanged clips out and then what did you do from there? What are
17 you thinking at that point in time?

18 A I'm thinking that I probably don't have-- Like I said, I don't know how many
19 people are down there. And I'm thinking, you know, possibly the worst. There are
20 several people or he's got several rounds and I'd just dropped a clip. So, I'm down
21 now and I possibly only have about thirty left.

22 I was behind the stairwell here and right here is a wall. And I turned a little
23 bit over it to see if I could see anybody or if anyone was running or anything. After
24 the second exchange when I was looking over it was quiet here.

1 Q Did you ever call out for the suspect or individual to surrender or give up, put
2 down their weapon?

3 A After I heard Officer Lane coming through-- I heard him coming through and
4 he ran-- I was peeking around and I could see him running across here and I heard
5 more gunshots come out from down below. And at that time I knew that I had to let
6 at least him know that I was still alive because he didn't know, he couldn't see me
7 back there. So, I started calling out for the suspect to come out, you know, drop his
8 weapon, come out with his hands up.

9 Q At some point in time were you then able to communicate with Officer Lane?

10 A I was. Soon after there were other officers on the scene. I could hear them
11 downstairs coming around. I could hear them everywhere. And Officer Lane was
12 standing over here and we could see each other. And he watched down here as I
13 backed out of the breezeway.

14 Q On this third exchange of gunfire did you ever return fire after that exchange?

15 A I did not. I was going to say that if I had come out Officer Lane would have
16 seen me and saw a movement and shot at me. So, I stayed behind until he knew that I
17 was okay.

18 Q Do you know from being in the stairwell right there whether or not Officer
19 Lane discharged his weapon?

20 A I don't know.

21 Q Now, you had the initial exchange where you entered the breezeway, where
22 you discharged your weapon. And then there was a second exchange through the
23 spindles of the stairwell.

24 A Correct.

25 Q Following that, you never discharged your weapon again. Is that correct?

1 A Correct.

2 Q So, once you made your way back out to the front of the building - I'm
3 showing you State's 4 - please tell the jury what you did.

4 A I backed out and Officer Lane was still here and rechecked my position. I
5 checked him and he checked me to make sure we knew where the other was.

6 Q Where did you go? Did you go back to your car, radio dispatch?

7 A At that time when there were other officers in the area and they were asking
8 questions, like, you know, a description of them, what were they wearing, did they
9 have anything. And I gave them as much as I could. And after I took this position
10 here I walked over-- I believe Officer Lane-- Someone was over here, I'm not sure
11 who it was. There were officers covering this area. I walked to the opposite area, to
12 the right, to where the woods there. And I took cover there on the right side of the
13 building. We didn't know where the suspect was.

14 Q I'm showing you State's 2. Where did you post?

15 A Right here.

16 Q At any point in time did you see anyone come around the building, leave the
17 building that was not uniformed patrol or with law enforcement?

18 A This is a resident opening their door trying to figure out what was going on.

19 Q Do you recall any resident opening their door that was a black male?

20 A No.

21 Q Thank you. Have a seat back on the stand.

22 (Whereupon witness returned to witness stand)

23 And as you took cover on the right side of the building did other officers
24 respond?

25 A Yes.

1 Q Did you subsequently end up speaking with Detective Flavell of the city
2 police department?

3 A Yes.

4 Q And did you de-brief him?

5 A I did.

6 Q Did you turn over your service weapon and magazine to him at that time?

7 A Not immediately after. He was-- The person that shot at me, we didn't know
8 where he was. They started a dog tracking with Officer Flavell and they had to go out
9 with the tracker to try to locate him. They didn't take my service weapon because of
10 the fear that he would come out of anywhere, or that he was anywhere. He might
11 have been in the building. Until we deemed, until they deemed it, that it was, you
12 know, as safe as possible, they took my service weapon and immediately gave me
13 another weapon.,

14 Q At this time, what are you thinking, how are you feeling?

15 A Shock, basically. It was a numbing feeling. My adrenalin was still pumping.
16 So, it wasn't until probably an hour later that I adrenalin dumped.

17 Q How long did you stay out at Building 1300, Berkeley Point that morning?

18 A It was several hours that we stayed there. We still had to maintain our
19 position because we didn't know where he was.

20 Q And in your responsibilities with the city, is there any investigatory follow-up
21 that you were tapped to do, or was that passed on to another department within the
22 city police?

23 A Once any type of major crime, which this was, and especially since it involved
24 me, I would not handle the case.

25 Q And Detective Conroy was tapped to be the team leader on this case?

1 A Correct.

2 Q Did you end up going back to the law enforcement center and typing your
3 report, speaking with superiors? Is this scenario any different, handled any different
4 with you than, say, a normal traffic stop that you would have made?

5 A it was handled differently because I was under investigation. Because when a
6 police officer is involved in an investigation, the Greenville City Police Department
7 as well as SLED are to make sure all the policies are followed correctly.

8 Q What was the determination of that investigation?

9 A I was cleared through our department through IA. I was also cleared through
10 SLED.

11 Q How long did that process take before you were cleared?

12 A The department cleared me before SLED cleared me. Probably a month I
13 got a letter from the department saying I was cleared of fault in the incident.

14 Q So, during that month, three weeks to a month period, were you back out on
15 the road or were you on suspension? How does the department handle this type of
16 scenario?

17 A For three days-- It was on Friday that this happened and we worked Friday,
18 Saturday and Sunday. They gave me the weekend off with administrative pay. And
19 then for a month I was on administrative duty. I still got to carry my firearm. I could
20 not drive my patrol vehicle. And I had to-- They wouldn't let me work the front
21 desk, either. They had me upstairs helping out the detective with what they do,
22 basically.

23 Q After you were cleared you were allowed to go back to your normal duties?

24 A Yes.

25 Q Approximately after a month you hit the road?

1 A Correct.

2 Q And have been in that capacity since that month investigation period ran?

3 A Correct.

4 Q Officer Cobb, please answer any questions Mr. Johnson may have.

5 The Court: Cross examination.

6 Mr. Johnson: Thank you, Your Honor.

7 **CROSS EXAMINATION BY MR. JOHNSON:**

8 Q Officer Cobb, I'd like to talk a little bit about the shooting itself. You recently
9 just testified that when you got to the building and you were coming down the
10 breezeway that you initially saw some muzzle flash. Is that correct?

11 A Yes.

12 Q And that was someone shooting at you?

13 A Yes.

14 Q And you stated that the breezeway itself was dimly lit. Is that correct?

15 A Yes.

16 Q And you really couldn't see anything because it was very, very dark?

17 A Correct.

18 Q And for that reason the only thing you could tell from the muzzle flash that
19 the person had a black face?

20 A Yes.

21 Q But you couldn't tell if there was anyone with him or how many people there
22 were?

23 A Yes.

24 Q Were you ever given the initial of what the person who was driving the
25 vehicle was a black individual. Did you ever hear that from dispatch?

1 A I heard it on the radio, yes.

2 Q Did you ever document what that description was separate in a report?

3 A No, I did not.

4 Q Now, can you tell the court, what a incident recall? What would that be? Do
5 you know what that is?

6 A Can you rephrase the question?

7 Q The police produce a report that normally has a incident recall.

8 A I'm not sure what incident recall is.

9 Q Okay, all right. Now, Officer Cobb, what I'm pointing to there, is that the
10 vantage point from which you shot the second round of shots?

11 A Yes.

12 Q So, you came around and you shot down, down that area?

13 A I did.

14 Q Now, you really couldn't see where the bullets were going necessarily, could
15 you?

16 A I could see that they were going down into the stairwell.

17 Q But you couldn't see necessarily where they hit or where they ended up,
18 could you?

19 A No.

20 Mr. Johnson: I have nothing further of this witness, Your Honor.

21 The Court: Any re-direct?

22 Mr. Marchant: Briefly, Your Honor.

23 **RE-DIRECT EXAMINATION BY MR. MARCHANT:**

24 Q Officer Cobb, just for a point of clarification, how many people did you see
25 that day in the stairwell that were firing at you?

1 A All I saw was one.

2 Q Thank you.

3 Mr. Marchant: I have no further questions.

4 The Court: Do you wish for the witness to be excused?

5 Mr. Marchant: I do, Your Honor.

6 The Court: Any objection?

7 Mr. Johnson: No objection.

8 The Court: You are released from your subpoena, ma'am. You are free to go back to
9 your regular duties.

10 Mr. Marchant: The State would call Officer Charles Lane.

11 The Court: Please come around and be sworn, sir.

12 **CHARLES LANE**, duly sworn, testified as follows:

13 Clerk of Court: State your name for the record.

14 A My name is Charles Lane.

15 The Court: Could you spell your last name, please, sir?

16 A Yes sir. L-a-n-e.

17 The Court: Very good. All right, Solicitor.

18 **DIRECT EXAMINATION BY MR. MARCHANT:**

19 Q Officer Lane, where are you employed?

20 A Greenville City Police Department.

21 Q And in what capacity are you employed with the city police department?

22 A I work on uniformed patrol.

23 Q How long have you been with the city?

24 A I've been with the city five, going on six years.

1 Q Have you gone through the certification courses, Criminal Justice Academy,
2 just like Officers Cruell and Cobb?

3 A Yes sir.

4 Q Prior to working with the city department, what's your education experience?

5 A I have a high school diploma. I used to work in a restaurant before I came
6 with the police department.

7 Q And your duties and responsibilities today, were they the same back on
8 October 28, 2011?

9 A Yes sir.

10 Q And those duties are?

11 A I answer calls for service, work wrecks, when possible do patrol an area that
12 needs patrol.

13 Q The same sort of thing as Cobb and Cruell?

14 A Yes sir.

15 Q On October 28, of '11, were you working that day?

16 A I was.

17 Q At some point in time did you have occasion to respond to the Comforter Inn?

18 A I did.

19 Q And why did you respond got the Comfort Inn?

20 A Officer Cruell called me concerning a silver-in-color GMC Yukon that she
21 had been checking, said that the tag that was on it was coming back to a Honda. And
22 that the VIN, the vehicle identification number, covered up by a tree-shaped air
23 freshener.

24 Q Did you witness that yourself?

1 A Yes sir. She asked me to come out there and when I did I took a look around
2 the vehicle to see if there might be anything in the vehicle that might identify who the
3 owner is. I looked on the dash and saw what she was talking about. It was a black,
4 tree-shaped air freshener, covering the VIN and the dash.

5 Q Did you notice anything else inside the passenger console that you took note
6 of in your report?

7 A I did. There was also-- I forget if it was actually facing window, if it was on
8 the dash. It was what looked like a radar detector just right there in the middle that I
9 noticed.

10 Q Did you go inside the Comfort Inn with Officer Cruell?

11 A Yes sir, I did.

12 Q Were you here previously as she testified to the dimensions and the lay-out of
13 the Comfort Inn?

14 A I was.

15 Q Do you have anything that is different from what she testified to?

16 A No.

17 Q When you were inside did you witness someone other than law enforcement
18 or an employee exit the lobby area that day?

19 A I did not. When we were in the lobby area, I was looking actually out the
20 window seeing just a portion of the vehicle that we were talking about. And at some
21 point one of the, I think it was an employee, said that the person who drives that car
22 just walked out. And Officer Cruell, I guess, had actually seen him. So, she went out
23 to her car. Since she knew it was a wrong tag on the vehicle she was gonna try to
24 stop the car and I stood by the front seeing which direction it went, the vehicle went

1 out because it's a long drive to Laurens Road. And I stood there and watched until I
2 saw him turn right and told her.

3 Q Were you able to see who got in the car?

4 A I did not see anybody actually get into the car. When the car passed me I
5 noticed it was a male driver.

6 Q So what did you do after informing Officer Cruell the direction of the travel of
7 the vehicle?

8 A Could you repeat that?

9 Q What did you do after you informed Officer Cruell of the direction of travel of
10 that Tahoe, Yukon?

11 A I got in my patrol vehicle, listening to the radio. I heard that they got on 85
12 southbound, going towards Mauldin Road. And I also got on 85 south and I'm trying
13 to catch up with her. On the way there she was calling out her traffic stop and she
14 was saying the vehicle was not stopping. I don't remember her exact words, but it
15 was the vehicle wasn't stopping.

16 Q Were you able to see once you hit 85, Officer Cruell or the Yukon?

17 A It wasn't until I was approaching Mauldin Road I remember seeing that
18 vehicle come to the traffic light and then going over the bridge.

19 Q Did you ever see that Yukon running up 85?

20 A I don't remember seeing it, no sir.

21 Q At some point in time that chase was terminated?

22 A It was.

23 Q What did you do once you terminated the chase?

1 A I got off at the Mauldin Road exit and I was going over the bridge. When I
2 went over the bridge there was a truck that was topped in the road that was needing
3 assistance backing out and I helped him back out from the Hitachi plant.

4 Q Following assisting this trucker get back out on the road, did you just back out
5 to the routine patrol duties or did you---

6 A No. Right around that same time there was a call that went out over at Christ
7 Church, which is one of the exits that's off Windwood Road. The third call that
8 arrived was a similar description that was given over the radio about a suspicious
9 person walking in the area.

10 Q Are you familiar with Windwood Road, ---

11 A Right.

12 Q ---Rocky Point, Christ Church?

13 A Yes sir.

14 Q At some point in time have you been assigned to this area of town?

15 A Probably on a few occasions, but I've worked out there answering calls.

16 Q So, hearing this other information come out, what did you do?

17 A I went through the Hitachi plant. Well, I went through the Hitachi plant.
18 There's a back entrance that goes to Terry Drive, and cut over to Windwood Road.
19 And I started going up each apartment complex. There's Windwood Circle, Avalon
20 Apartments, and then the first entrance to Berkeley Point because there's a few parts
21 to it. And after going through that first one I came to the second and went towards
22 the 1300 building where I saw Officer Cobb's car, noticed that the front of the
23 Yukon, the same vehicle that I'd seen over at the Comfort Inn.

24 Q I'm showing you what's in evidence as State's 2. Is this where you found
25 Officer Cobb's vehicle parked as well as the suspect vehicle?

1 A Yes sir.

2 Q And were you parked somewhere in the vicinity of the suspect vehicle?

3 A I was.

4 Q Does this picture depict where your vehicle was parked?

5 A My vehicle's not in that picture.

6 Q Why is that?

7 A Because after the incident I was called down to another part of the apartment
8 complex and I drove my vehicle over there.

9 Q I'm showing you what's been put into evidence as State's 3. Is this the
10 suspect vehicle that you checked out at the apartment complex?

11 A Yes sir.

12 Q And what are the things that you noticed about the vehicle in the apartment
13 complex that were similar to what you observed at the Comfort Inn?

14 A Immediately, when I was walking up, I saw the same radar detector, or what I
15 thought was a radar detector. And as I went to the driver's side of the vehicle where
16 the VIN is, and the dash, I saw the same air freshener the VIN. And the tag, it was
17 the same tag.

18 Q Officer Lane, I'm going to have you step down and do the same thing Officer
19 Cobb did a minute ago.

20 (Whereupon witness exited witness stand for demonstration with exhibits)

21 Office Lane, looking at State's Number 2, when you arrived, where did you
22 park your vehicle, understanding that it's not depicted in this photograph?

23 A I parked my vehicle right about there. I had it nosed towards the, directly up
24 there towards the passenger side of the vehicle.

1 Q And were you and Officer Cobb parked such that the vehicle, if someone were
2 to get into it, could not leave?

3 A I think they could have gotten around ours.

4 Q You didn't have them pinned in?

5 A No.

6 Q So, how long did you and Officer Cobb talk up here at the vehicle before she
7 made her way over to 1300?

8 A It was a short period of time. When I walked up, she was on the radio and she
9 was talking-- She was either on the phone or the radio talking to Officer Cruell, and
10 just trying to verify the vehicle. I spoke with her for a short period of time and I
11 started looking around the car, seeing, you know, the windows are kind of tinted. So,
12 I started looking to make sure there wasn't anybody in there. Officer Cobb had
13 actually looked in there.

14 Q Where were you standing when Cobb is walking over to the breezeway at
15 1300?

16 A Until I heard shots fired I didn't know that she was walking over there. But
17 when I heard the shots fired I was right around the back side of the vehicle over there.
18 I was looking into the back of the vehicle.

19 Q Do you recall how many shots you heard?

20 A No, I just heard a gun being fired. I don't remember how many shots there
21 was.

22 Q Do you recall any radio traffic from her at that time?

23 A Not at all, no sir.

24 Q After the first couple of shots, what's the next thing you heard?

25 A The next heard after the first one?

1 Q Yes sir.

2 A I forget whether or not I heard-- I did hear a clip drop at some point. I forget
3 if it was right after the first exchange or if it was after the second exchange.

4 Q Backing up to the first exchange, what did you do and where did you go?

5 A After the first exchange, I was standing around the back of that vehicle there.
6 And when I heard it go off I started going forward.

7 Q I'm showing you State's 4.

8 A I started coming down towards the apartment building and I heard the second
9 exchange. At that point I called out to dispatch saying shots were fired. And I heard
10 it long. I drew my service weapon and I was calling for Officer Cobb and I wasn't
11 getting a response.

12 Q Are you calling for her over the radio or are you just hollering?

13 A I was hollering for her.

14 Q Did she or did she not respond?

15 A She did not respond.

16 Q What were you able to see in the breezeway once you hit that threshold?

17 A When she didn't respond I came here into the breezeway.

18 Q And is your service weapon drawn?

19 A Yes, it is.

20 Q Ready to fire?

21 A Yes sir.

22 Q Racked, all you gotta do is pull the trigger?

23 A Yes sir, it is.

24 Q It's drawn in the ready position?

25 A Yes sir.

- 1 Q And you entered that threshold as she described earlier?
- 2 A Yes sir. I entered through here. I believe I started going in the breezeway.
- 3 As I did, I saw a figure---
- 4 Q Let me show you State's 5.
- 5 A Okay. So, I'm coming in right here and I'm entering the breezeway. And
- 6 then coming up the stairs, right here, I see a figure and there's an opening. I just
- 7 remembering hearing gunshots and seeing muzzle flash.
- 8 Q Do you remember how many shots?
- 9 A I do not.
- 10 Q Can you tell from where you were standing which direction those shots were
- 11 going towards or to?
- 12 A I was standing right around here. And the first one, I could see right about
- 13 there. And the shots looked as if they were coming towards me.
- 14 Q Do you recall how many shots came your way?
- 15 A No.
- 16 Q Did you return fire?
- 17 A No, I did not.
- 18 Q Why did you not return fire?
- 19 A I didn't know if Officer Cobb, where she was. I didn't know if she was
- 20 behind the person in the stairwell. I didn't know if she was behind the stairwell at
- 21 that point. She hadn't responded to me and I didn't know where she was.
- 22 Q How long did it take for you to determine where she was?
- 23 A I'm not sure on that exact time. It wasn't long.
- 24 Q Going back to State's 4, after the shots came at you, what did you do, where
- 25 did you go?

1 A The shots came at me. I went to this wall making cover behind here. I
2 holstered my service weapon. I checked myself because I thought I might have been
3 shot. I didn't see any blood from my head or my body, so I drew my service weapon
4 back out. I was covering here seeing if anyone was there. Coming back up, I didn't
5 see anybody.

6 Q Did you ever see anyone else ever again?

7 A No, I did not; no, not anybody that wasn't law enforcement.

8 Q At what point in time did you determine or find Officer Cobb? How did y'all
9 communicate?

10 A When I was standing here, she started to call she was coming out and then I
11 knew that she was alive.

12 Q And what did you do to cover her as she made her way out of that breezeway?

13 A Well, from the stairwell here, she back out from behind the stairwell here.

14 Q I'll show you State's 6.

15 A There you go. She was behind the stairwell, coming out this way. And I was
16 covering the hallway. What I mean by that is I had my gun drawn and pointing
17 towards the stairwell.

18 Q As she's backing out did you ever see the suspect?

19 A No, I didn't.

20 Q Did you ever discharge your weapon throughout the course of this entire
21 event?

22 A No sir, I did not.

23 Q You can re-take the stand now.

24 (Whereupon witness returned to witness stand)

1 Q Once you entered that breezeway after shots were fired, were you able to
2 determine whether or not it was a male or female that had fired the shots?

3 A I wouldn't have. I just saw a dark, very dark silhouette and muzzle flash.

4 Q Were you able to determine the race of the individual?

5 A No sir. Everything appeared very dark to me. I couldn't tell whether it was--
6 I couldn't tell the race or anything else.

7 Q Any idea what sort of clothing?

8 A No sir.

9 Q Once Officer Cobb was safely out of that breezeway, what was your next
10 course of action?

11 A Well, we covered the two corners of the building that Officer Cobb was
12 describing earlier. I was actually where I had taken cover at before. I went to the far
13 corner of that building and she went to the one opposite.

14 Q Now, as a road officer, do you have any responsibilities to investigate or
15 follow-up when an incident like this occurs?

16 A Any type of incident where you're the one that's affected, you are the one to
17 do the follow-up on it.

18 Q As we heard Officer Cobb describe earlier, she was put behind the desk for a
19 few weeks. Is that the same thing that happened to you?

20 A No sir. I was given the weekend off just as she was. I returned on Monday. I
21 completed my incident report. I'm sorry. I don't remember if it was Monday. I
22 apologize. I know a few days after I did complete my incident report. And I did
23 come back to work, I think it was on Wednesday, because they were giving us the
24 choice whether, as Officer Cobb did, it was an investigation or stay on our same
25 rotation. And I decided to stay on the same rotation because I watch my son on my

1 days off because my wife works. So, I watched-- I'm sorry. I just stayed with
2 dispatch for two to three days. Then I was cleared and they wanted me back on the
3 road, or go back on the chart.

4 Q And you've been back on the road since?

5 A Yes sir.

6 Q Normal course of business?

7 A Yes sir, I have.

8 Q Going back to the stairwell. When you were fired at were you able to know
9 what sort of weapon was shooting at you? Automatic weapon, revolver, shotgun?

10 A You're asking at the time when it happened? It sounded like several shots
11 were going at once. I couldn't count them. Just by listening, I would say automatic.
12 But I didn't know for certain. It wasn't like a single shot. It was several at one time.

13 Q Does the department issue everybody who works for the city ammunition?

14 A Yes.

15 Q Were you and Officer Cobb using the same ammunition that day, or do you
16 know?

17 A I don't know for certain. But whenever they do change, I would know. They
18 buy the same brand.

19 Q Do you recall what kind of brand you were carrying back then?

20 A Yes sir. It's Speer nine millimeter.

21 Q Following the report that you generated, do you have, did you have any other
22 dealings with this case besides coming to court and preparing for this trial?

23 A No sir.

24 Q No further questions. Please answer any questions Mr. Johnson may have.

25 A Yes sir.

1 The Court: Cross examination.

2 Mr. Johnson: Thank you, Your Honor.

3 **CROSS EXAMINATION BY MR. JOHNSON:**

4 Q Officer Lane, if I recall correctly, you were at the Comfort Inn with Officer
5 Cruell?

6 A Yes sir.

7 Q Now, you say that the suspect was-- Officer Cruell stated earlier that you saw
8 someone walking through that looked like a suspicious person. Is that true?

9 A At what time, sir?

10 Q When y'all were talking to the hotel employees.

11 A She didn't say that to me.

12 Q She didn't say it to you?

13 A No. She did call in a suspicious person.

14 Q Okay. But she saw someone walking through who wasn't a hotel employee
15 and wasn't a police officer?

16 A Yes sir.

17 Q But you didn't see this person?

18 A No sir, I did not.

19 Q But the whole time you kind of kept the car in your view?

20 A I did.

21 Q Because you wanted to see if there was someone with the car?

22 A That's correct.

23 Q Now, after the fact, did y'all-- I understand Officer Cruell believed that
24 person could have been my client. Are you aware of that fact?

25 A I am.

1 Q Now, did y'all, after the fact, did y'all go and pull, see if there were hotel
2 videos or anything at the Comfort Inn?

3 A As I stated earlier, sir, I didn't have anything to do with the investigation after
4 the shooting incident.

5 Q So, that's not something you followed up on?

6 A No.

7 Q You stated when you saw the car leaving from the Comfort Inn, the only thing
8 you could see was there was a black gentleman inside?

9 A I could tell there was a male inside.

10 Q You could tell there was a male inside. And then once the chase began, at
11 some point, Officer Cruell gave out the description of the suspect?

12 A Uh-huh.

13 Q And the description she gave out was a black male, six feet, 170 pounds, with
14 his hair pulled back. Is that true?

15 A That's what I remember, yes.

16 Q You stated that once you got to the apartment building and after you saw the
17 Yukon it was hard, you had to get up on it because it was hard to see inside. Isn't that
18 true?

19 A In the rear compartment.

20 Q In the rear compartment?

21 A Like, from the rear passenger seat on back.

22 Q You couldn't see inside of it, or it was hard to see inside of it?

23 A From the vantage point of the window, yes.

24 Q Okay. So, how close did you have to get up to see inside that portion of the
25 car?

- 1 A Are you asking about the back, sir?
- 2 Q Yes sir.
- 3 A Right near the window.
- 4 Q Right near the window. So, you couldn't see from a distance; you had to get
5 up on it. Correct?
- 6 A Yes sir.
- 7 Q Okay. Now, when you got to the apartment, and after you looked in the car
8 you stated that you heard gunfire. Is that true?
- 9 A Yes sir.
- 10 Q Now, at some point you drew your weapon and then you walked up to where
11 you heard the gunfire. Correct?
- 12 A Yes sir.
- 13 Q Okay. And then at that point you, yourself, saw a muzzle flash and then
14 everything kind of went dark to you?
- 15 A That's how things looked to me.
- 16 Q That's how things looked to you. So, you couldn't tell if there was one person
17 or two people or three people that was there, could you?
- 18 A What I saw was a single silhouette of a person and I saw a muzzle flash aimed
19 towards me.
- 20 Q So, as far as you were concerned, you saw one person shooting?
- 21 A Yes sir. That's---
- 22 Q So, could you tell---
- 23 A ---what I saw.
- 24 Q Could you tell if anyone else was down there?
- 25 A No, I couldn't.

1 Mr. Johnson: I have nothing further of this witness.

2 The Court: Re-direct?

3 Mr. Marchant: No, Your Honor. We ask that this witness be released from his
4 subpoena.

5 The Court: Any objection?

6 Mr. Johnson: No objection.

7 The Court: All right, sir. You are released from your subpoena. You may go back to
8 your regular duties, sir.

9 A Thank you, Your Honor.

10 The Court: Next witness, please.

11 Mr. Marchant: The State calls Detective Collis Flavell.

12 The Court: Come around and be sworn.

13 **COLLIS FLAVELL**, duly sworn, testified as follows:

14 Clerk of Court: Please state your name for the record.

15 A Collis Flavell.

16 The Court: Could you spell your name, please, sir?

17 A First name is C-o-l-l-i-s; last name is F-l-a-v-e-l-l.

18 The Court: Thank you very much.

19 **DIRECT EXAMINATION BY MR. MARCHANT:**

20 Q Detective Flavell, where are you employed?

21 A Greenville City Police Department.

22 Q How long have you been employed with the city?

23 A A little over twenty years.

24 Q Do you have any other law enforcement experience?

25 A No.

1 Q Currently, what is your assignment with the city police?

2 A I'm assigned to the detective division and the crimes against persons unit.

3 Q Basically, what does that mean?

4 A We work all violent crimes.

5 Q And the case that we're here about today, is this a violent crime such that
6 your department in the city would handle it?

7 A Yes.

8 Q Were you the lead investigator on this particular case?

9 A I was not.

10 Q Why is it that there is more than one investigator that would typically work a
11 case like this?

12 A We have five investigators in our unit and any time we have a major incident
13 the whole unit works it. There's one investigator out of the five that will be
14 designated as the lead investigator. They're basically responsible for the case file,
15 kind of managing what's going in, the information coming in to make sure
16 everything's completed that needs to be completed.

17 Q In this particular instance, was that Detective Conroy?

18 A It was.

19 Q So, while you're assisting this case are you taking direction from him, or are
20 y'all kind of working in concert?

21 A Yes. Basically anything he needs at that point, he calls one of us and it's in
22 our unit. As far as that goes, anybody in the detective division. You know, gives us
23 direction on what he needs done, and we go follow up on it.

24 Q Do you recall back on October 28, of 2011, where you were when the call
25 came out that shots were fired?

1 A I do. I was in my office.

2 Q Where is your office?

3 A At the law enforcement center located downtown right beside 385 on McGee
4 Street.

5 Q When a call of this nature goes out, is it something you immediately respond
6 to?

7 A We do. Immediately, I notified the other investigators in the office that we
8 had an officer involved in a shooting and we all headed in that direction.

9 Q Do you recall whether or not you rode by yourself or was another---

10 A Detective Garrison rode with me.

11 Q Where exactly did y'all go initially?

12 A On our initial response we heard, as we were trying to get to them, there were
13 officers setting up a perimeter around that area. And so, we filled in the perimeter. I
14 believe it was the Perago plant off of Dairy Road, is where we actually initially set up
15 on our arrival.

16 Q What's the purpose of setting up a perimeter?

17 A To try to seal the area. Whenever we have a suspect on foot, then we just try
18 to seal off the area where that person can't get outside that perimeter where we can
19 contain that person in that area.

20 Q In this particular case was the person contained?

21 A No.

22 Q Do you recall how long you stayed at that plant prior to making your next
23 move, approximately?

24 A I'm gonna say forty-five minutes, thirty to forty-five minutes.

25 Q Where did you go after leaving that post at the Perago plant?

1 A I went to the Comfort Inn on Laurens Road.

2 Q And what was the purpose of you going to the Comfort Inn on Laurens Road?

3 A I received a telephone call from my lieutenant who was at the command
4 center and requested that I go to the Comfort inn to see what information I could
5 obtain on possible occupants of the Comfort Inn at time.

6 Q And did you obtain a list of occupants from the manager of the Comfort Inn
7 that day?

8 A Yes, I did.

9 Q What did you do with that list at that time?

10 A I held onto it.

11 Q Did you know who you were looking for at that time?

12 A I did not.

13 Q During that visit did you speak with the manager about any video equipment
14 they had in the Comfort Inn?

15 A I did.

16 Q And is the Comfort Inn equipped with video surveillance?

17 A They are.

18 Q Was the equipment operable at that time?

19 A The surveillance system was inoperable at the time of my request.

20 Q So, you get this list of registered guests at the direction of your lieutenant and
21 then you go where?

22 A I went back to Berkeley Point Apartments and I met with Detective Conroy at
23 the actual shooting incident scene.

24 Q At some point in time did y'all both speak with Officer Cobb---

25 A I did.

1 Q ---and check her service weapon?

2 A I did.

3 Q Do you recall at that point in time the ammunition she was carrying?

4 A Speer nine millimeter.

5 Q Is that department issued?

6 A It is.

7 Q And as she described earlier, she exchanged magazines. Do you recall how
8 many rounds were left in the magazine that she initially was carrying?

9 A I do not. When I collected her firearm it had fifteen, sixteen rounds; fifteen in
10 the magazine and one in the chamber, which was after we got her a replacement
11 weapon that I took her firearm.

12 Q After conducting your duties at the scene, and while you were conducting
13 your duties, did you have the opportunity to talk with forensic officer, Dar Shaw?

14 A I did.

15 Q And out at the scene, did he give you some information about a potential
16 suspect or some belongings that he found at the scene?

17 A Yes, he did.

18 Q Did you make your way down to what I consider the first floor, which is the
19 very bottom floor at the bottom of the stairwell, and observe the scene down there?

20 A I did.

21 Q And what if anything did you notice out of the apartment that's located at the
22 bottom of the stairs to the left?

23 A I actually-- I didn't go down the steps. I went around the building and came
24 in from the back. And when I came in, the forensics officers, there was actually--
25 Actually, when I entered it would have been on my right. If I had come down the

1 steps it would have been on my left. There were several suitcase, duffel bag-type
2 bags in breezeway up against the wall under that right side apartment door.

3 Q Did forensic officer Shaw provide you with some information that came out of
4 that luggage?

5 A He did.

6 Q Detective, did you physically step into the concrete area down there and walk
7 over to the bag, or did you remain outside?

8 A I was, physically stepped in and was standing there beside Sergeant Shaw.

9 Q Were you standing there as he went through---

10 A I was.

11 Q Detective Flavell, I'm going to ask you to look at State's 35, 37, 38, 39, 40,
12 and 41; 35 through 41, excluding number 36. And I'll ask you if you recognize what
13 those photographs show.

14 A (pause to review exhibits) I do.

15 Q Do they fairly and accurately depict the condition with which you observed
16 those items on October 28 of 2011?

17 A Yes, they do.

18 Mr. Marchant: The State would move 35, 37, 38, 39, 40 and 41 in evidence,

19 Your Honor.

20 The Court: Any objection?

21 Mr. Johnson: No objection.

22 Mr. Marchant: Publish to the jury, Your Honor.

23 The Court: In evidence without objection. You may publish.

24 (Whereupon State's Exhibit Number 35, 37, 38, 39, 40 and 41 were admitted into
25 evidence without objection.)

1 Q Detective, I think you'll be all right sitting right there. If you find it to be
2 more comfortable to step down here, please do so. Do you want to step down?

3 A I'm fine.

4 Q Looking at State's 35, what is the vantage point this picture is taken from?

5 A This is from the, actually would be from the rear of the breeze-, of the
6 building, which is where I entered, on the woods line, coming into the breezeway
7 here. This step actually goes up to what would be, I guess, really the first level,
8 parking level of the parking lot.

9 Q What's shown directly in your line of sight, I see a door next to the stairwell.
10 Do you know where that door goes?

11 A This was like a utility/storage-type closet.

12 Q And what is shown sitting next to that utility closet?

13 A This would be a duffle bag or a suitcase that was left there.

14 Q And State's 37 showing that same duffle bag?

15 A Yes. I don't actually see the bag. This is, like, the clothes. There were
16 clothes kind of strewn out, like somebody had actually been going through it. It
17 wasn't nice and neat. This is, like, a small bag that ha DVD's and videos in it. And
18 these were some of the clothes.

19 Q I'm showing you 37, showing you the difference between 37 and 38. What's
20 the difference between the two of those?

21 A This is just the close-up of that bag containing the DVD's and the wallet.

22 Q Were you standing with Sergeant Shaw when he was going through the bag?

23 A I was.

24 Q Did you see him pull this wallet out?

25 A I did.

- 1 Q And is what's depicted in State's 39, did that come out of that wallet?
- 2 A It did.
- 3 Q What about State's 40?
- 4 A Yes, it did.
- 5 Q And do you recall where State's 41, what did that come out of?
- 6 A Out of the wallet.
- 7 Q So, State's 41 shows, what is this exactly?
- 8 A It's a pawn ticket from, I believe it's... That's Easy Money Pawn Shop in
- 9 Spartanburg.
- 10 Q Who is the person that was pawing?
- 11 A Patrick Dean Lowrance.
- 12 Q With respect to State's Number 40, what is this?
- 13 A It's a health card for Patrick Dean Lowrance.
- 14 Q And State's 39?
- 15 A It's a Social Security card for Patrick Dean Lowrance.
- 16 Q So, at the time you saw Sergeant Shaw remove this information from that
- 17 wallet, what was the next step you took with that information? Did you then have a
- 18 suspect or somebody you were focusing in on?
- 19 A Yes, we did.
- 20 Q Did you take the information, the Social Security card, and the health card and
- 21 compare it to the list that you retrieved from the motel room?
- 22 A I did.
- 23 Q Was an individual identified by you as being registered at the motel?
- 24 A On the occupancy list from the motel located, I believe it was Room 247, the
- 25 room was registered to Dean Lowrance on the registration that I had.

1 Q Did you subsequently return back to the motel room?

2 A I did.

3 Q Do you recall what time of the day you made your way back to the motel?

4 A I want to say it was around 4:00, 4:30, 4:20, around in there.

5 Q And you spoke with the manager again at that time?

6 A I did.

7 Q Was the occupant of Room 427 still in Room 427?

8 A No.

9 Q Did the manager allow you into Room 427?

10 A I obtained a consent to search form from the manager.

11 Q I'm showing you what's been marked as 65 and 66. Are you able to know at
12 those items are? Before we get to part of you opening State's 65 and 66, it appears
13 that there's some red evidence tape as well as a signature on the packages. What's
14 the significance of that?

15 A Whenever we enter items into our property and evidence section, we seal it
16 with evidence tape for the intake to enter that piece of evidence. I initial, put the case
17 number and the initial and the date. The red tape has my initials, the date, 10/31/11,
18 that I actually put the seal on it and entered it into evidence. And any time someone
19 opens this evidence, because it's sealed, they will have to re-seal it, initial and date it.

20 Q Has that been in this case? Has the package been opened?

21 A State's Exhibit 65 has not been opened. It still has my original seal. Actually
22 it has on the side. And State's Exhibit 66 has been opened and re-sealed.

23 Q Are you able to determine who opened 65? Do you recognize the initials on
24 that package?

25 A There are no initials on 65. It's unsealed.

1 Q Sorry, 66.

2 A Actually, this was opened by our property and evidence section on September
3 20, 2012 for discovery by Tabitha Fricks

4 Q Who is Tabitha?

5 A She is one of the personnel in property and evidence.

6 Q Has it been opened or altered by anybody else that you could tell?

7 A No.

8 Q So, referring to 66, the reason you put your name – excuse me – your initials
9 and sign it is to insure the integrity of that piece of evidence?

10 A Yes.

11 Q And once you take that evidence and secure it, where does it physically go?

12 A It goes into the basement of our law enforcement center. It's what we call
13 property and evidence section. Anything, any item seized, found, recovered,
14 safekeeping, anything that I physically take from someone or somewhere I have to
15 account for. So for that item I complete a property and evidence sheet which tracks
16 the chain of custody on that item, and I place it into the property and evidence room,
17 which is a sealed, locked room that only employees in that section are allowed to go
18 in.

19 Q So, State's 66, has this been opened on any other occasion other than by
20 Tabitha Fricks?

21 A No.

22 Q Detective Flavell, would you open it and determine if what's inside is what
23 you put inside when you originally sealed it?

24 A (opening State's Exhibit 66) It appears to be.

25 Mr. Marchant: The State would move 66 in evidence.

1 Your Honor.

2 The Court: Any objection to State's 66?

3 Mr. Johnson: No objection.

4 The Court: In evidence without objection

5 (Whereupon State's Exhibit Number 66 was admitted into evidence without
6 objection.)

7 Q Detective Flavell, there are various things in here outside of that paperwork.
8 Would you describe to the jury what you found in Room 427 at the Comfort Inn on
9 October 28, 2011?

10 A This is in regards to this?

11 Q Yes sir.

12 A There was a Jan sport-type backpack in the room. When I actually, when I
13 entered the room, there were still suitcases or clothing, personal items in that room.
14 So, I asked the manager to verify that they had not re-rented that room. His checkout
15 was eleven o'clock. He went back to the desk, verified the room had not been re-
16 issued. Once he verified that, then I went in the room. And inside the Jan sport
17 backpack I located the driver's license of Patrick Dean Lowrance and miscellaneous,
18 different, like, key cards, Quality Inn. I'm not sure where this one goes, just a
19 welcome guest, motel key card.

20 Q What does the key card sleeve there, where is it from, what room?

21 A Comfort Room for Room 427.

22 Q After visiting with the motel staff at the Comfort Inn, where did you go next?

23 A I think that's when I returned back to the scene. I can't remember if I had
24 seized Officer Cobb's gun prior to me leaving or after I returned. Ultimately I

1 returned to LEC briefly and then I met with the Greenville County Sheriff's Office at
2 the Home Depot on 291.

3 Q Why is it that you met with the Sheriff's Office?

4 A We were going to Avenue located in Greenville County.

5 Q Give the jury an idea, a time frame of how long it's been from the time you
6 initially responded to the Perago plant to the Comfort Inn, back to the scene, back to
7 the Comfort Inn, to the LEC, and then back out to the Home Depot to meet with the
8 Sheriff's Office.

9 A At the time that I arrived at the Home Depot, I'm gonna say probably eleven
10 hours.

11 Q During the course of that eleven hours, you'd been conducting business and
12 investigation, some of which is discussed today, but you certainly had done some
13 other things?

14 A Yes.

15 Q What is the reason that you were going to meet with the Sheriff's Office at the
16 Home Depot?

17 A We had information that Patrick Dean Lowrance was possibly at
18 Avenue, which is located in the county, outside my jurisdiction, so that
19 the Sheriff's Office, who had been involved in this investigation from the beginning
20 assisting us. We were getting ready to go to , so I met with them
21 prior to going to the house. We met at Home Depot, discussed what was going on,
22 discussed our plan. And then we left the Home Depot and drove to Mooremont
23 Avenue.

24 Q I'm showing you State's 67. Is Avenue accurately reflected
25 on State's 67?

1 A Yes.

2 Q So, during the course of your investigation, you traveled to the apartment
3 complex, to the Comfort Inn, to Mooremont Avenue?

4 A Correct.

5 Q And all these things are located within the county of Greenville?

6 A Yes.

7 Q When you physically arrive at Mooremont Avenue, why did you go there and
8 what purpose did you have at ?

9 A We went because we had information that Patrick Dean Lowrance was in the
10 house. And I was there as an investigator for the city. The county was assisting us.

11 Q Did you speak at some point in time prior to apprehending the defendant with
12 the homeowner of ?

13 A No, not prior to.

14 Q Did you speak to him after?

15 A I did.

16 Q Did you obtain his consent to search the residence?

17 A Yes, I did.

18 Q Inside the residence were you present when evidence which is specific in this
19 case was located?

20 A I was.

21 Q Detective Flavell, I'm going to show State's 44, 45, and 46. See if you
22 recognize what those photographs depict?

23 A I do.

24 Q Were you present when-- Was it the city or the sheriff's office that actually
25 turned the bed?

1 A I was present in the room.

2 Q You were present. Did you witness everything that occurred which is
3 depicted in this room?

4 Mr. Marchant: I move State's 44, 45, and 46 into evidence.

5 The Court: Any objection?

6 Mr. Johnson: No objection as applies to the pictures, Your Honor.

7 Mr. Marchant: Publish to the jury, Your Honor.

8 The Court: All right. We'll allow State's 44, 45, and 46 into evidence without
9 objection. You may publish.

10 (Whereupon State's Exhibit Numbers 44, 45, and 46 were admitted into evidence
11 without objection.)

12 Q Detective Flavell, I'm referring to State's 44, what does this picture show?

13 A After Mr. Lowrance was taken into custody, I spoke with the homeowner and
14 he indicated-- After speaking with him, he indicated the back, right bedroom. When
15 you enter Mooremont Avenue, the door, the front door goes into, like, a living room,
16 and there's a side door that comes through a carport that goes into the kitchen, and
17 then a hallway. Down that hallway on the right, this is the back, right bedroom with
18 entry doors about right here. This is the bed. There was a window. I believe there
19 was a window there and here.

20 After I obtained consent to search for this residence we went in that back,
21 right bedroom, flipped the mattress and located a firearm between the mattress and
22 boxed springs.

23 Q What does State 45 show?

24 A That's a close-up picture of the firearm that we recovered.

25 Q State's 46?

1 A This was, like, a sweatshirt-type, overcoat that was, had suspected blood on it.

2 Q Did you take possession of these items?

3 A I did not. We called for our forensics division. After we located this, we
4 stepped out and called forensics and our forensics division actually came and
5 collected these items.

6 Q Upon locating the firearm, to the best of your knowledge, did anybody touch
7 that weapon before forensics arrived and took possession of it?

8 A I don't believe they did.

9 Q Could you explain to the jury just briefly, what is the purpose for forensics to
10 step into a scenario such as this as opposed to you taking possession of those items?

11 A There's actually several issues. It would be chain of custody. Just try to limit
12 the number of people in the chain of custody on a piece of evidence. And we're, of
13 course, going to, on an item like this, request forensic processing. Our forensics
14 division are the ones that are gonna do that processing and they'll come collect it,
15 take it back to their office, complete whatever processing is requested and then they
16 package that item and they put it into our property and evidence room. So you
17 actually have one chain of custody on that piece of evidence versus three or four.

18 Q Outside of the things that you took custody of at the Comfort Inn did you take
19 possession of any other items in this case?

20 A I did.

21 Q But nothing at the home?

22 A No, nothing at the home.

23 Q One of the other items you took possession of would be Officer Cobb's
24 service weapon?

25 A Correct.

1 Q When you arrived at the home at 105 Mooremont, what sort of efforts did it
2 take to get the defendant to come out of the residence?

3 A The Greenville County Sheriff's Office had several deputies in this team of
4 people that were going to . They basically, would basically just pull
5 up in front of the house. They got on their PA, the PA speaker and started calling into
6 the house asking him to come out. The homeowner and two other people actually
7 came out of the house and then Mr. Lowrance walked out and surrendered.

8 Q The consent to search for the home, did you also get a statement from that
9 homeowner as well?

10 A I did.

11 Q Can you explain to the jury how law enforcement takes statements and the
12 process of transcribing everything down that is relayed to law enforcement.

13 A Basically, he was, we were questioning him because he, at the time was
14 basically harboring somebody that we were looking for. So, we wanted to talk to him
15 to find out exactly what he knew, how Patrick Lowrance got to 105 Mooremont, to
16 see what he knew that transpired after the shooting earlier that day. So, we basically
17 set down at the kitchen table and I obtained a written statement from what he told me.
18 Basically, it's his words. I just asked him to tell me what he knew and he told me and
19 I wrote it down.

20 Q What was that individual's name?

21 A Herman... I'm not sure of his last name. (pause to search notes) It's Mr.
22 Brockman.

23 Q I'm going to show you what's been marked as State's Number 70. Is that the
24 statement you took from Mr. Brockman?

25 A Yes, it is.

1 Q You took that with him at his home at the kitchen table?

2 A Yes.

3 Q Did he write the statement or did you?

4 A I wrote it.

5 Q And why did you write it as opposed to him?

6 A Just it's easier. As he's telling me what he's saying I'm writing, I'm
7 transcribing it down on paper. I then re-read it. If he agrees with it or doesn't want to
8 make any changes, he signs it.

9 Q Did he do those things?

10 A He did.

11 Q He signed it?

12 A Yes.

13 Q Do you recall what date and time you took this statement?

14 A It's on October 28, 2011 at 21:30.

15 Q 21:30 is what time?

16 A 9:30.

17 Q How long did it take for you and the sheriff's office to get the defendant to
18 come out of the home?

19 A I'm gonna say less than five minutes.

20 Q When he came out what did you observe?

21 A He walked out. Of course, I was kind of in the background. I wasn't-- The
22 sheriff's office unit, the team that went to do that, approached, made contact. EMS
23 was called. He was loaded into an ambulance and taken to the hospital.

24 Q Why was EMS called?

25 A He was suffering from a gunshot wound.

1 Q Do you recall the location of that wound?

2 A I don't. I didn't see him after---

3 Q Did you speak with him?

4 A I did not.

5 Q Following him being transported to the hospital and outside of you completing
6 any other reports from this incident did you have any further investigation
7 responsibilities? Did you do any further follow-up in the case?

8 A No.

9 Q Does that typically fall on the lead investigator?

10 A Yes.

11 Q At the house where the defendant was apprehended was there any exchange or
12 gunfire between any law enforcement and anybody from inside the house?

13 A No.

14 Q Thank you. Please answer any questions Mr. Johnson may have.

15 The Court: Cross examination.

16 Mr. Johnson: Thank you, Your Honor.

17 **CROSS EXAMINATION BY MR. JOHNSON:**

18 Q All right, detective. On the items that you took from the hotel room, the first
19 thing we have here, what are these here, as far as you can tell?

20 A They are Quality Inn swipe cards, door keys.

21 Mr. Marchant: Your Honor, for the benefit of the record, can we identify the item
22 we're discussing?

23 The Court: Yes, the exhibit number, please.

24 Mr. Johnson: We're talking about State's Exhibit 66, the package with the contents
25 inside.

1 The Court: Thank you, very much.

2 Q Again, I'm sorry. Would you answer the question again?

3 A Quality Inn swipe door keys, swipe door cards.

4 Q How many of them do you have?

5 A Three.

6 Q Now, these key cards obviously belong to three different people because one
7 person wouldn't need three key cards, would they?

8 A Potentially yes, they could.

9 Q So, it's possible more than one person was staying in that room?

10 A Possible.

11 Q Another thing in here is a driver's license. Correct?

12 A That's correct.

13 Q Can you describe the picture on the license? What does the young man look
14 like in the picture? Obviously, he-- Or, what does the young man look like?

15 A Are you asking, like, race?

16 Q Is he a black male?

17 A Yes, a black male.

18 Q What's his hair like?

19 A Short.

20 Q Short haircut. What's the date of the picture?

21 A The driver's license was issued on 12/8/2008.

22 Q 8/12/2008?

23 A I'm not sure of the date of the picture.

24 Q Okay. But if this picture was taken on 8/12/2008, at that point in time my
25 client would have had short hair?

1 A Yes.

2 Q Now, you stated you went o Mooremont Avenue because you had learned that
3 Mr. Lowrance was there, my client was there?

4 A Yes.

5 Q Okay. Now, you say that there was no difficulty in getting him to come out of
6 the house.

7 A No.

8 Q He came out. Nobody came out shooting, my client or anyone came out
9 shooting out of the house, anything of that nature?

10 A No, he did not.

11 Q In fact, you had initially spoke to Mr. Brockman, and this was after, after he
12 had came out. Is that true?

13 A I spoke with Mr. Brockman after your client came out of the house. We
14 entered the house. I obtained a consent to search and then we went to the bedroom.

15 Q Now, when you got into the house and got a consent to search, Mr. Brockman
16 says okay, he took you back to where he was?

17 A No.

18 Q Or where he had been?

19 A We were sitting at the kitchen table and he told us that Patrick was in the
20 right, back bedroom. He didn't walk-- We didn't let him-- He wasn't allowed to
21 walk around the house while we were in there. He stayed at the kitchen table.

22 Q Anyhow, he told you, he said he's back there?

23 A Yes.

24 Q Obviously, in between that time you weren't in the house with Mr. Brockman
25 or Mr. Lowrance, so you don't know how his action was, do you?

1 A Prior to me entering the house?

2 Q Yes sir.

3 A No, I do not.

4 Mr. Johnson: I have nothing further, Your Honor.

5 The Court: Re-direct.

6 Mr. Marchant: No, Your Honor. I ask that this witness be excused.

7 The Court: Any objection?

8 Mr. Johnson: No objection.

9 The Court: All right, sir. You are released from your subpoena. You may go back to
10 your regular duties, sir.

11 Ladies and gentlemen, we're going to take a short break. If y'all will go back to the
12 jury room we will resume the case at that time. Everyone else remain seated while the jury
13 retires, please.

14 (Whereupon the jury exited the courtroom)

15 We'll be at ease for about ten minutes. Thank you very much.

16 (Whereupon court was in recess)

17 **COURT IN SESSION**

18 The Court: Solicitor, are you ready for the jury?

19 Mr. Marchant: Yes sir.

20 The Court: We need the defendant.

21 Mr. Johnson: Ready, Your Honor.

22 The Court: Bring the jury in.

23 (Whereupon the jury entered the courtroom)

24 Solicitor, your next witness, please.

25 Mr. Marchant: The State calls Jonathan Hamilton.

1 The Court: Come forward, please, sir.

2 **JONATHAN HAMILTON**, duly sworn, testified as
3 follows:

4 Clerk of Court: State your name for the record.

5 A Jonathan Hamilton.

6 **DIRECT EXAMINATION BY MR. MARCHANT:**

7 Q Mr. Hamilton, where are you employed?

8 A Greenville County Department of Public Safety Forensics Division?

9 Q In a nutshell, what does the forensics division do?

10 A The forensics division, we go out to process scenes. We collect evidence,
11 photographs. We try to collect and preserve any evidence of a crime.

12 Q How long have you been with the department of public safety?

13 A I've been with them for almost six years.

14 Q Generally, have your jobs and responsibilities been the same over the course
15 of those years?

16 A During the six years in law enforcement, yes sir.

17 Q Were you working October 28, October 29, 2011, and did you work on this
18 case?

19 A Yes sir.

20 Q Do you recall what involvement you had in the collection or processing of
21 any evidence in this case?

22 A Yes. We have a vehicle unit attached to our office and that happens quite
23 frequently during cases. And we process once a search warrant has been obtained for
24 that vehicle.

1 Q I'm going to show what's marked as State's Number 71. Not the location, but
2 do you recognize the vehicle in the picture?

3 A Yes sir. It appears to be the same vehicle that was in our bay.

4 Yes.

5 Mr. Marchant: I offer State's Number 71 in evidence.

6 The Court: Any objection to that?

7 Mr. Johnson: No objection.

8 The Court: In evidence without objection. You may publish.

9 (Whereupon State's Exhibit Number 71 was admitted into evidence without
10 objection.)

11 Q You said it appears to be the same vehicle that was in your bay?

12 A Yes sir.

13 Q What do you mean, bay, and where is the bay?

14 A Our forensics division is at Greenville Tech. At Greenville Tech we have the
15 actual vehicle bay that we tow vehicles that are sealed – as you can see on the doors –
16 sealed and preserved at a scene, so that when it comes to our office we know that it
17 has not been tampered and it is stored and only personnel from the forensics division
18 have access to it.

19 Q What sort of procedures or steps did you take when you received this vehicle
20 in your bay over at Greenville Tech?

21 A We had a request for processing of latent prints or any kind of DNA evidence
22 or evidence that would pertain to the crime.

23 Q So, did you print the vehicle?

24 A Yes sir, I did.

25 Q Do you recall where you attempted to retrieve prints from the vehicle?

1 A Whenever I have a search warrant on a vehicle I normally do it the same,
2 exact way every time: hood, quarter panels, doors, inside and out, rear compartment
3 door, any smooth surfaces on the interior of the vehicle that would hold a latent print.

4 Q Why would you process those particular areas as opposed to the bumper, the
5 wheel well, the tires?

6 A It's normal areas that you touch. Whenever you go to a vehicle, you know,
7 getting in and out of the vehicle, you're putting the groceries in the back. It's normal
8 areas that someone would touch.

9 Q I believe you made a comment, any smooth areas?

10 A Uh-huh.

11 Q Why would you process only smooth as opposed to rough?

12 A Well, it depends on the texture of the things being processed. You take
13 sandpaper and you put a latent print on sandpaper, you know. Can you get it off? If
14 you can I have not been able to do it yet. But anything that is smooth will hold a
15 latent print, which is an oil from your finger applied to a surface. The smoother the
16 surface, the easier and better the print looks and that we can retrieve.

17 Q Do you recall, did you retrieve any possible prints?

18 A Yes sir.

19 Q What did you do once you retrieved those prints? What's the next step of that
20 procedure?

21 A When we dust for prints we use a brush and we use a powder. Fingerprint
22 powder sticks to the oils left behind by the fingerprint. And then we use a tape to lift
23 those prints off of the surface, whatever surface it may be. Then we take the tape and
24 put it on a white piece of paper. So, that way you have the contrast. You can see the

1 oily print with the powder on it on the white surface. It's more contrast to where you
2 can see it. You can examine it.

3 Q Did you process any item from inside the vehicle for fingerprints?

4 A No sir, I don't believe I did.

5 Q Out of the items that you processed from the exterior did you present those in
6 the normal course of business to latent examiners?

7 A Yes. Latent examiners is the next step after I retrieve those prints.

8 Q How is that you end up packaging those items to be submitted to latent?

9 A When I put it on that white piece of paper, like I said earlier, we write down
10 some information. The information where we got the print, case number, what the
11 crime is, what the case code is, the address that I got. And then we take those prints
12 and we put them into a manila envelope where we seal the back of it.

13 Q Do you recall from this incident how many prints you covered?

14 A I believe I have it on my-- It's either on my report or listed on the latent
15 examiners.

16 Q So, the prints that are submitted to latent, are they submitted individually, on a
17 piece of paper, index card? How is that done?

18 A They're cards, latent cards. And they're actually entitled, I believe it's
19 Greenville County Department of Public Safety Forensics Division. It's a long name,
20 but it's us.

21 Q How many prints do you put on each card?

22 A Whatever the tape may hold. We can use one strip of tape or we can use two,
23 or sometimes even three; it depends.

24 Q Do you somehow sign or initial each item when it's submitted to latent?

1 A Yes sir. On the front, the information that I was speaking of earlier, on the
2 very bottom, it's gonna have the vehicle information of where I retrieved that print,
3 from what vehicle. And also underneath it, it's gonna have my name and it's gonna
4 have my unit number. I put my unit number on every card, so that way I know that it
5 is my latent print.

6 Q Once it goes to latent, do you have any further involvement with the
7 processing or the comparison of the prints?

8 A No sir. Once I submit them, another division takes hold of that.

9 Q In this incident, did you have any other involvement in this case except for the
10 evidence you collected?

11 A I believe I collected a tape lift from inside the vehicle, from the driver's side
12 seat.

13 Q Fingerprints on the exterior of the doors, what you discussed earlier, and the
14 tape from the inside?

15 A Yes sir.

16 Q Any other involvement in this case?

17 A No sir.

18 Q I don't have any further questions. Please answer any questions Mr. Johnson
19 may have.

20 The Court: Cross examination.

21 Mr. Johnson: Yes sir.

22 **CROSS EXAMINATION BY MR. JOHNSON:**

23 Q You only took the prints outside of the car. Is that true?

24 A I processed the outside and the inside, whatever I can on the inside, yes sir.

25 Q Okay, all right. Thank you.

1 The Court: Any re-direct?

2 Mr. Marchant: No, Your Honor.

3 The Court: Do you wish the witness to be excused?

4 Mr. Marchant: Yes, Your Honor.

5 The Court: Any objection?

6 Mr. Johnson: No objection.

7 The Court: All right, sir. You are released from your subpoena and may go back to
8 your regular duties, sir.

9 A Thank you, sir.

10 The Court: Thank you. Next witness, please.

11 Mr. Marchant: The State calls Jon Derby.

12 **JON DERBY**, duly sworn, testified as follows:

13 Clerk of Court: Please state your name for the record.

14 A Jon Derby.

15 The Court: Could you spell your name, please, sir?

16 A J-o-n D-e-r-b-y.

17 The Court: Thank you very much. You may proceed, Solicitor.

18 **DIRECT EXAMINATION BY MR. MARCHANT:**

19 Q Mr. Derby, where are you employed?

20 A Greenville County Forensics.

21 Q And what Officer Hamilton discussed earlier, you have essentially the same
22 type work with the county?

23 A Correct.

24 Q How long have you been with them?

25 A A little over four years now.

- 1 Q Going back to October of last year, did you have the occasion to respond to
2 Avenue?
- 3 A Yes, I did
- 4 Q What was the purpose of you responding to Avenue?
- 5 A This location was where the suspect was taken in custody. He was located in
6 the back bedroom, as well as a weapon that was used in the incident.
- 7 Q I'm referring you to State's 44, 45, and 46, entered into evidence. Do you
8 recognize those photos?
- 9 A Yes, I do.
- 10 Q Did you take these photos?
- 11 A Yes.
- 12 Q Now, there is a picture that depicts a firearm. Did you end up taking
13 possession of that firearm?
- 14 A Yes, I did.
- 15 Q I'm going to show you what's been marked as State's 53. Would you open
16 that up and see if you recognize it?
- 17 A (pause to open package)
- 18 Q Do you recognize that item?
- 19 A Yes.
- 20 Q Is that the same item you retrieved from Avenue---
- 21 A Yes sir.
- 22 Q ---on the twenty-eighth? And once you took possession of it, what steps did
23 you take to collect any fingerprints or DNA or any other forensic evidence along with
24 that gun?

1 A Once the item was photographed and collected, it was transported back to our
2 office. Once there, it was processed for DNA at the handle, trigger, and magazine
3 area.

4 Q When you say processed, what does that mean? How do you go about
5 processing something?

6 A Taking DNA takes a sterile swab, distilled water in which you dip the swab.
7 And the tip of the swab is applied to the area that you desire to collect DNA from.
8 And in this case, was the handle, trigger and magazine. Once the DNA was
9 collected, the item was processed for fingerprints.

10 Q Did you, or do you know, or do you recall whether you obtained any prints
11 that were suitable for comparison?

12 A No, negative for fingerprints.

13 Q I'm referring you to State's 57, 58 and 68. Do you recognize these items?

14 A (pause to examine items) Yes, I do.

15 Q You tried to collect DNA off of the gun?

16 A Yes sir.

17 Q What are these items?

18 A The actual swab is actually packaged in a manila envelope, as you can see.
19 The swab comes in a smaller paper container that's smaller to write on. So, we have
20 to package that up inside of envelopes. Either that or a cardboard box.

21 Q With regard to State's 57, 58 and 68, did you subsequently seal these items and
22 place the property in evidence?

23 A Correct.

24 Q And did you sign and initial and date the items?

25 A Correct.

1 Q Did you have any further dealing with these items until examining them here
2 today?

3 A No sir.

4 Q Do you know where they were stored until being brought to court today?

5 A They're taken to P&E and kept there.

6 The Court: I didn't hear your answer.

7 A They're turned into Property and Evidence. That was the last time that I had
8 any action with those items.

9 The Court: Thank you.

10 Q I'll show you State's 65 and ask you if you recognized what's packaged in
11 there.

12 A This is item JD 2 that I collected at the scene at Mooremont, the black, hooded
13 sweatshirt, sized xl, and examined for blood and projectile dust.

14 Q Is that sweatshirt the same one that you photographed in State's 46?

15 A Correct.

16 Q Did you do any test on this items to examine for DNA?

17 A No sir. It was photographed. It had a projectile hole in the left shoulder, as
18 well as a speck of blood. That was photographed.

19 Q But you did not process this for DNA?

20 A No sir.

21 Q And once you collected this package, where did it go?

22 A That, with the swabs, was turned into Property and Evidence.

23 Q Have you had any further dealings with it before today?

24 A No sir.

25 Mr. Marchant: Beg the court's indulgence.

1 The Court: Yes sir.

2 (pause)

3 Q Once you finished up photographing and collecting these items at
4 Mooremont, did you have the occasion to respond to the hospital?

5 A Yes, I did.

6 Q What was the purpose of you responding to the hospital?

7 A The individual who was taken into custody at Mooremont was transported
8 there with a gunshot wound.

9 Q I'll show what's been marked as State's 47. Do you recognize that item?

10 A Yes sir.

11 Q Does that picture clearly depict the condition of the defendant as you found
12 him in the hospital?

13 A Yes sir.

14 Yes.

15 Mr. Marchant: I offer State's 47 in evidence.

16 The Court: Any objection??

17 Mr. Johnson: No objection.

18 The Court: In evidence without objection. You may

19 (Whereupon State's Exhibit Number 47 was admitted into evidence without
20 objection.)

21 Q Now, at the hospital, did you do any treatment on the defendant? Did you
22 take any statements from him? Did he make any comments to you?

23 A I didn't take any statements there.

24 Q Is it part of your job to interview the suspects at the hospital?

1 A Not necessarily. When I visit a suspect or an individual at the hospital for
2 injuries, I ask them if they have any more injuries that I'm not aware that aren't
3 present.

4 Q Out of everything that you were able to determine at the hospital, was that the
5 only injury that you were able to find

6 A Yes sir.

7 Q I'll show you what's been marked as State's 56. Do you recognize that item?

8 A It's item JD 3 which I collected from the hospital. It's a gray tee shirt, size xl,
9 with a speck of blood.

10 Q Again, once you collected it, did you submit it to Property and Evidence?

11 A Yes sir, I did.

12 Q Did you have any further dealing with it prior to today?

13 A No sir.

14 Q I'm showing you what's been marked as JD 1-A, which is State's 54. Do you
15 recognize that?

16 A Yes sir.

17 Q What is that?

18 A This is the five empty shells that was taken out of the magazine that collected
19 at Mooremont.

20 Q Is that ammunition come out of the magazine that is included in State's 53?

21 A Yes sir.

22 Q What did you do with it once you took it out and packaged it?

23 A It was processed for latent fingerprints.

24 Q Do you recall whether or not you were able to obtain any prints that were
25 positive for comparison purposes?

1 A No sir.

2 Q So, whatever's in here, there was not sufficient information to you to compare
3 it to a known fingerprint?

4 A That's correct.

5 Q Where did you put JD 1 once you collected it?

6 A Property and Evidence.

7 Q So, you did some work at and you also went to the hospital---

8 A That's correct.

9 Q ---and collected some evidence that we've already discussed. And did you
10 also process any items that came out of the vehicle that Officer Hamilton talked
11 about?

12 A Yes sir, I did.

13 Q I'm going to show you what's been marked as State's 48, 49, 50, and 51. See
14 if you recognize those.

15 A (pause to examine items) Yes, I do.

16 Q Do those fairly and accurately depict how you found the vehicle and the
17 contents inside the vehicle as you were processing it?

18 A Yes sir.

19 Q What particularly of significance is depicted in these photographs?

20 A Exhibit 48 and 49 are pictures of an ammunition box and their location inside
21 the vehicle. The next two pictures are the actual items without the vehicle
22 photographed on our table.

23 Yes.

24 Mr. Marchant: The State would move 48, 49, 50 and 51 in evidence.

25 Your Honor.

1 The Court: Any objection?

2 Mr. Johnson: No objection.

3 The Court: In evidence without objection.

4 (Whereupon State's Exhibit Number 48, 49, 50 and 51 was admitted into evidence
5 without objection.)

6 Q Officer Derby, would you please explain to the jury what-- Can you see the
7 photographs are showing on the screen?

8 A Yes sir.

9 Q If you need to, you can step down. Explain to the jury what is shown in these
10 photographs.

11 A This is the rear passenger door, open. A photograph of the rear of the vehicle.
12 This orange item there I'm trying to show in relationship in the vehicle to the items
13 that I collected, the empty box.

14 Q That's State's 48 and 49.

15 A This would be a closer, mid-range photograph of the same empty box.

16 Q State's 50.

17 A And this is the box pulled out of the vehicle and then placed on our table.

18 Q State's 51.

19 A Same box, just the tray pulled out.

20 Q Now, with respect to the box and the tray, did you do any processing of those
21 items?

22 A Yes, I did.

23 Q What exactly did you?

24 A It was processed for latent fingerprints.

1 Q And do you know whether or not you retrieved a print that was of sufficient
2 quality to be compared?

3 A Yes sir, I did.

4 Q From where exactly did you retrieve that?

5 A The black tray and the cover of the box.

6 Q I'm showing you what's been marked as State's 52. Do you recognize that
7 item?

8 A This is item JD 11, the box that was collected from the vehicle.

9 Q And once you collected it, was it placed into evidence as previously discussed,
10 with the other items?

11 A Once it was processed, yes.

12 Q Can you tell from the packaging whether or not it's been tampered with or
13 been opened?

14 A Actually, this envelope's not mine. This is what Property and Evidence-- We
15 switched over to the bar code system. And here, these two have their own envelopes.
16 My items are still in their original packaging.

17 Q Has anybody opened this or tampered with it?

18 A My seal's still attached. The next person that opened it, initialed it and
19 resealed it back.

20 Q Do you recognize the initials of the person from Property and Evidence?

21 A The initials, PF, but no.

22 Yes.

23 Mr. Marchant: The State would move 52 into evidence.

24 The Court: Any objection?

25 Mr. Johnson: No objection.

1 The Court: In evidence without objection.

2 (Whereupon State's Exhibit Number 52 was admitted into evidence without
3 objection.)

4 Q Open State's 52 for the jury, please.

5 A (Whereupon State's Exhibit 52 was opened by witness)

6 Q So, State's 52, that's the same thing that you found in the Tahoe that was in
7 the bay that y'all processed, that's also depicted in photographs 48, 49, 50, and 51?

8 A That's correct.

9 Q If you would put it back inside the envelope.

10 A (Whereupon State's Exhibit 52 was returned to envelope)

11 Q With respect to State's 54, again, were you able to determine whether or not
12 that's been opened or tampered with?

13 A Again, my seal's still intact, but it appears to have been opened at a different
14 location and resealed back, marked with the same initials as the other one, PF.

15 Q If you would open Item 54.

16 A (Whereupon State's Exhibit 54 was opened by witness)

17 Q What's in the bag?

18 A These are live ammunition bullets.

19 Q Again, where did those come from?

20 A They came from the magazine.

21 Q Do you recall how many you pulled out of the magazine?

22 A I believe thirteen; no, I'm sorry, twenty-five.

23 Q And that magazine is the magazine that you recovered with the gun from
24 Mooremont Avenue that's identified as JD 1, and also marked as State's 53. Is that
25 correct?

1 A Correct.

2 Mr. Marchant: The State moves 54 into evidence.

3 The Court: Any objection?

4 Mr. Johnson: No objection.

5 The Court: In evidence without objection.

6 (Whereupon State's Exhibit Number 54 was admitted into evidence without
7 objection.)

8 Mr. Marchant: Beg the court's indulgence.

9 The Court: Yes sir.

10 (pause)

11 Q Officer Derby, as I asked Officer Hamilton, once you collect fingerprints or
12 any potential swabs for DNA, do you do any further testing or does that go to a
13 different department?

14 A It goes to, the fingerprints go to our Latent section, and DNA will go to
15 Property and Evidence.

16 Q And as Officer Hamilton discussed the collection procedures, is there
17 anything different that you would have done as far as the collection and maintaining
18 the integrity of those fingerprints?

19 A There's different ways we do it. You know, photograph after collecting the
20 actual latents. Both are sufficient; one is electronically and the other one is through
21 hard copy.

22 Q Would you have put the actual print on that card that he discussed?

23 A This one here was submitted to me on a flash drive, I believe, or a zip drive.

24 Q You initialed and marked and indicated those things as you collected them, as
25 you submitted them?

1 A Yes.

2 Q I have no further questions. Please answer any questions Mr. Johnson may
3 have.

4 The Court: Cross examination

5 Mr. Johnson: Yes, Your Honor, briefly.

6 **CROSS EXAMINATION BY MR. JOHNSON:**

7 Q Officer Derby, for example, when you opened those packages, you put on
8 gloves. Now, why did you do that?

9 A In this case because they're fingerprint powder on them.

10 Q Fingerprint powder on them?

11 A Yes.

12 Q If you are dealing with either fingerprints or DNA, you have to be careful.
13 Right?

14 A That's correct.

15 Q First I'll ask you, the fingerprints, do they transfer? Can you transfer one
16 fingerprint from an item to another?

17 A No sir.

18 Q What about DNA, can that transfer?

19 A Yes, it can.

20 Mr. Johnson: I have nothing further.

21 The Court: Any re-direct?

22 Mr. Marchant: One last question, Your Honor.

23 **RE-DIRECT EXAMINATION BY MR. MARCHANT:**

24 Q Officer Derby, when you were collecting these items were you wearing
25 gloves?

1 A Yes, I was.

2 Q Why were you wearing gloves?

3 A To prevent contamination and cross-- I'm sorry. Cross-contamination of
4 items.

5 Q Very good. Thank you.

6 Mr. Marchant: I have no further questions. I ask that this witness be excused.

7 The Court: Any objection?

8 Mr. Johnson: No objection.

9 The Court: You may be released from your subpoena and released to go back to your
10 regular duties, sir. Next witness, please, sir.

11 Mr. Marchant: The State calls Sergeant Dar Shaw.

12 **DARWIN SHAW**, duly sworn, testified as follows:

13 Clerk of Court: Please state your name for the record.

14 A Darwin Shaw.

15 The Court: Please spell your first name.

16 A D-a-r-w-i-n.

17 The Court: Very good. Go ahead, Solicitor.

18 **DIRECT EXAMINATION BY MR. MARCHANT:**

19 Q Sergeant Shaw, where are you employed?

20 A Greenville County Forensic Division.

21 Q What are your responsibilities with the Forensic Division?

22 A I'm a Sergeant, so I have supervisory duties such as going over reports with
23 officers, assisting them with working scenes, and I also work crime scenes myself.

24 Q How long have you been doing that here in Greenville County?

1 A I've been a Sergeant for thirteen years and have been with Forensics for going
2 just short of fourteen years.

3 Q What sort of training or experience does one need or have to have in order to
4 begin working with the Forensics Department?

5 A I had twenty-one years with another agency, seven years working the road and
6 fourteen years as an investigator prior to being hired on by the Forensic Division.

7 Q Throughout the course of your employment with the Forensic Division do you
8 continuously go to classes and keep up with the latest technology and scientific
9 discoveries as related to DNA, latents, things of that nature?

10 A There's ongoing education as far as, in our online courses, one-day seminars,
11 reading up, which is all part of the job. I've also attended numerous schools dealing
12 with death investigations, shooting reconstruction, blood pattern analysis, that type of
13 thing.

14 Q Back in October of 2011, were you working in the capacity then as you have
15 described today?

16 A Yes, I was.

17 Q Did you respond to Berkeley Point Apartments, specifically Building 1300 in
18 reference to this case?

19 A Yes, I did.

20 Q And once you arrived at Berkeley Point, Building 1300, what did you first do?

21 A I met with the officers, investigators or detectives or who were gonna be
22 working the scene. I had them briefly describe to me what had occurred. And then I
23 did an initial walk-through of the scene to see what type of evidence would be there
24 for collection and for photographing.

25 Q Did y'all put up crime scene tape around the location of an incident?

1 A Well, that is always, that's done by the law enforcement agency prior to our
2 responding.

3 Q Once you arrived, do you have a kit, if you will, that you pull out and start
4 marking evidence to indicate where particular pieces of items are located?

5 A We do. Normally, it's a matter of once we make the observations we will take
6 photographs of the scene as it is and then we'll start putting placards down and try to
7 identify potential evidence by using placards. Again, photograph, and then later,
8 during the collection of the evidence, it can be corresponded to the placards.

9 Q Did you do that in this case---

10 A Yes, I did.

11 Q ---as you would in any other case? I'm gonna go through a lot of numbers.
12 here. I'm going to show you what's been marked as State's 11, 12, 15, 17, 18, 19, 20,
13 21, 22, 23, 24, 26, 25, 27, 28, 29, 30, 31, 32, 33, 34, 36, 42, and 43.

14 I'll ask you to take a look at these and see if these fairly and accurately depict
15 the incident location as you found it that afternoon.

16 A (pause to review exhibits) Yes sir, they do.

17 Mr. Marchant: The State would move State's 11, 12, 15, 17, 18, 19, 20, 21, 22, 23,
18 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 42, and 43 into evidence.

19 The Court: Any objection?

20 Mr. Johnson: No objection, Your Honor.

21 The Court: In evidence without objection.

22 (Whereupon State's Exhibits Numbers 11, 12, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25,
23 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 42, and 43 were admitted into evidence without
24 objection.)

25 Mr. Marchant: Publish to the jury, Your Honor.

1 The Court: You may publish.

2 Q Sergeant Shaw, I think because of the number of photographs here, it's
3 probably going to be easier for you to step down here and describe to the jury what
4 we're looking at and what we're talking about.

5 (Whereupon witness exits witness stand for demonstration with exhibits)

6 Sergeant Shaw, let's start with State's 42. Please tell the jury what this shows.

7 A This is a photograph that was taken in which placards were put in place.
8 There's a placard, number 18, placard number 19. It also shows two impact areas on
9 the steps, on the base of the second step as well as the base on the fourth step.

10 It also shows an impact, projectile impact on the side of the wall. These are
11 the steps leading down to the main floor and the basement level. And this is the main
12 floor as you come in from out of the parking lot.

13 Q I'll show you what's been marked as State's 24.

14 A These, again, are-- Once the photographs were taken I put the arrows in to
15 help visualize to show the impact areas. Again, this is an impact area on the step, on
16 the base of the step that did not penetrate the metal. It just put an indentation in the
17 metal. This is the actual hole where a projectile penetrated the base of the step. And
18 a projectile, lead core, flattened out, was actually found directly underneath.

19 On this side is a stairwell -- I'm sorry -- a door that leads to a closet. There's a
20 closet that leads under here and it's hollow under these steps. And a projectile was
21 found on the floor actually inside underneath the step area.

22 Q I'll show you State's 25.

23 A That is the one that shows the impact which is on the base of the fourth step.

24 Q State's 26.

1 A This is the-- It's hard to see, you've got the writing. But there is a hole right
2 there where it actually, the projectile penetrated the metal and went clear through.

3 Q Referencing back to State's 42, what does State's 43 show?

4 A This is a photo that was taken of the impact area on the wall of the building
5 downstairs on the main floor to the bottom level. And that is a piece of tape showing
6 the directionality of which that projectile struck the side wall and entered into the
7 wood.

8 Q And what items or things do you look for to determine impact area,
9 directionality, final resting?

10 A One of the first things that we look at is try to find out where the projectile
11 may have struck. If it's like a ricochet, most of the time you're going to find a, it's
12 called a slice, which is where a projectile first makes impact with a wall. In this
13 particular area there will be, like, a groove. And again, with lead that is actually
14 transferred onto to there.

15 We're also looking at this pattern. It's basically a vee pattern which starts
16 small and goes out. The farther out it goes, the more paint, the more wood is going
17 to be disbursed to the area opposite of where the projectile hits.

18 Q We had previously discussed the stairwell and the closet area. Let me show—
19 Please describe what we are seeing in State's 33.

20 A These are the steps that lead up from the ground floor up to the main floor. As
21 I said, it was hollow underneath. This is the floor of the bottom level, and there's a
22 door that's open. What you're seeing is the opening that leads out to the breezeway
23 on the bottom level.

24 Q Frame of reference, this is 35.

1 A This is the door I was referring to. When that door was opened up there was a
2 projectile that was found on the floor just inside the door.

3 Q State's 34.

4 A That's a close-up of the projectile that was recovered.

5 Q When you say recovered, what do you mean?

6 A I mean that I collected it.

7 Q What did you once you collected it?

8 A It was packaged and put into Property and Evidence.

9 Q Did you process any of the projectile for fragments or fingerprints?

10 A No.

11 Q Or DNA?

12 A No.

13 Q I'm showing you what has been marked as State's 18.

14 A This is a photograph of some impact areas on the ceiling. Again, this is the
15 main floor coming in from the parking lot. The steps go down to the grown floor
16 level. These steps are actually leading up to the third floor. So, it's on the main level.
17 And there were some impact areas on the ceiling.

18 Q State's 19.

19 A Again, these are impact areas. There are times when projectiles will separate.
20 You might get fragments of lead that come apart. The copper jacket may separate.
21 This, I don't believe, was from a bullet itself, but from fragments of a projectile,
22 either the jacket or the lead core in that. There were some found out, in front of the
23 apartment building. There were projectile fragments found out on the sidewalk.

24 Q Please explain to the jury the difference between the jacket and the projectile.

1 A The projectile, if it's intact, I refer to that as a projectile. Once it separates
2 you're gonna have a lead core on the inside, and on the outside of that core is a
3 copper jacket. A lot of times if you see, like the one that he showed down in the
4 closet.

5 Q Referring back to State's 34.

6 A Yes. This did not strike anything enough to tear this copper jacket off, so it
7 was fully recovered. Had that jacket come off there would be a lead core underneath
8 it. If it hits metal, if it hits certain things that are, very porous objects, that jacket can
9 come off. Like a nail, that type of thing, it can rip it and then those pieces will come
10 off.

11 Q For frame of reference, the door that's shown in State's 18, is that the same
12 door that's depicted in State's 15?

13 A Yes, it is.

14 Q And what is this showing?

15 A This is showing impact area. The photo does not show, at least in this photo,
16 is a projectile that went from low to high through the door frame. It would be the
17 same as-- This sticks out about two inches. There's an impact area here. On the left
18 side there's this frame just like that a projectile went through from the bottom and
19 exited the inside of the frame on the left side, struck the door, ricocheted off the door
20 and penetrated through that frame.

21 Q Showing you State's 17.

22 A That is, again, a close-up photo showing the vee pattern, showing the direction
23 in which that projectile was traveling.

24 Q I'm going to move to State's 20.

1 A Once the photographs are taken and I start to look for impact areas where
2 projectiles would have struck. There is one on this railing, on this metal spindle.
3 You can see the spindle where it's bent and there was an impact on that spindle.

4 There is an arrow pointing in this direction which would-- Again, these are
5 steps leading downstairs to the basement level. This is the main floor. A projectile
6 went through the top rail of this 2x6 rail, and exited off the back side.

7 Q I'm showing you State's 22.

8 A This is the opposite side of that 2x6 rail. The bullet actually penetrated the
9 top. And it's hard to see with this photo that the wood---

10 Q Showing you State's 23. Excuse me.

11 A The wood is splintered to the outside which is the direction in which the
12 projectile was traveling.

13 Q State's 27.

14 A This photo shows two impacts. This is the one that you were just shown
15 where a projectile came through the top and exited out the inside of this rail. And this
16 is another impact area that was from the bottom up.

17 Q State's 28?

18 A This is that lead swipe that I had referred where the impacts, the wood is
19 going to leave a mark and it also-- In this particular hole, it went from low to high,
20 but I could not recover projectile because it penetrated through that header, and I was
21 unable to, without doing damage, be able to recover the projectile.

22 Q State's 21 and 29.

23 A This, again, these are photographs showing the directionality of the projectile.
24 It struck the rail and part of that determination was because of the damage done to the
25 rail you have the indentation and then where the projectile separated you can see where

1 the damage was done to the top of this rail from the jacket, or possibly from that lead
2 core.

3 Q State's 30.

4 A This was an impact area on a wall. To orient you, this is the parking lot, this
5 is the main level coming in. The stairwell was off on this side. A projectile went
6 from low to high.

7 Q State's 31, State's 36.

8 A The photograph prior shows that from standing on the stairwell of the
9 basement level of this, this hole was visible. Again, because of being in siding, no
10 projectile was recovered. But, again, we're looking at the impact being up this side
11 and then going out the fabric, or the wood of the wall there.

12 Q State's 36.

13 A That's a photograph of-- There are droplets of suspected blood that was on
14 the basement level or in the breezeway. There was a photograph-- A swab was
15 actually conducted, and I believe that's 35.

16 Q Who pulled the swab off of 35?

17 A I did.

18 Q Is that depicted in State's 62?

19 A Yes.

20 (Whereupon witness returned to witness stand)

21 Q So, referring back to State's 62, which is depicted in the photograph showing
22 5 through 35, how is it that you collected what you believed to be suspected blood
23 down at the bottom of the stairwell?

24 A The blood was dried, and so we take a Q-tip, take distilled water, moisten the
25 Q-tip and then take a swab of the blood.

- 1 Q Were you wearing gloves when you collected this?
- 2 A Yes.
- 3 Q Why were you wearing gloves?
- 4 A It prevents cross-contamination.
- 5 Q And how is the Q-tip stored and maintained once you take the sample?
- 6 A I believe that the Q-tip that we have, had at that time in a plastic cap. You pop
- 7 the top, slide the Q-tip out, moisten it, take your swab, and it gets retracted into the
- 8 capsule and it has a cap on it that you secure it, and it has holes in the side to allow it
- 9 to dry.
- 10 Q Once you secured it in that package, did you then submit it to Property and
- 11 Evidence?
- 12 A Yes, I did.
- 13 Q Did you seal the evidence in State's 62?
- 14 A I did.
- 15 Q Do you indicate that by your initials?
- 16 A I do.
- 17 Q Are your initials located on State's 62?
- 18 A Yes, they are.
- 19 Q Following you sealing it, what do you do with it, where do you take it?
- 20 A Each technician has an evidence locker assigned to them. We each have a key
- 21 and it's put into our temporary locker until such time as it can be packaged and put in
- 22 Property and Evidence.
- 23 Q Did you do anything else with it, as far as processing that swab?
- 24 A I did not.
- 25 Q You don't do the DNA analysis, do you?

1 A No sir.

2 Q Also located and depicted in a number of these photographs shown earlier are
3 various shell casings and other placards. Were all of the placards put down by you?

4 A Yes.

5 Q And the significance of putting those placards down and taking the
6 photographs is what?

7 A You can correspond the placard with the piece of evidence collected. Also,
8 because some of the items being very small, trying to take a photograph without a
9 placard, you can't see them. So, we use a placard, which helps identify. If you're
10 taking a overall photograph, it shows the area of where those were collected from. It
11 makes them more visible.

12 Q Showing what's been marked as State's 60, do you recognize this packaging
13 and what's contained within?

14 A I do.

15 Q And you collected those?

16 A Yes, I did.

17 Q Were you wearing gloves when you collected it?

18 A Yes, I was.

19 Q What is it that you collected?

20 A There are-- These are bar coded items. Each piece of evidence that I collect
21 is assigned a number. Normally, what we use is our initials. Mine being DS, I will
22 start with DS-1, and it'll be specific as to what I collected.

23 These particular items are shell casings that were collected at the scene of
24 different manufacturers, but there are nine of them, as there are nine bar codes. So,
25 there is one bar code that is assigned to each spent casing.

1 Q Why would you package these nine together?

2 A I was aware of the brand and the manufacturer of the shell casings found that
3 should have been the same type as what the officer had fired from her weapon. These
4 were an off-brand that I felt were probably those fired from a different weapon other
5 than the officer's, so I packaged them separately.

6 Q Once you packaged them, did you seal and initial them and submit them to
7 Property and Evidence?

8 A Yes, I did.

9 Q Did you do any analyzation (sic) on those?

10 A No, I did not.

11 Q I'm showing you what's been marked as State's 59.

12 A Yes sir.

13 Q What does State's 59 depict?

14 A These are bar coded numbers indicating they are shell casings that have a
15 stamp, Speer 9 millimeter Luger, which is consistent with the brand the officer had in
16 her weapon.

17 Q How many shell casings did you find?

18 A Fourteen.

19 Q How many of the off-brand did you find?

20 A Nine.

21 Q Again, once you packaged and sealed them, initialed them, you submitted
22 them to Property and Evidence?

23 A That's correct.

24 Q Did you do any analyzing of these items?

25 A No sir.

1 Q Taking what you have in State's 59 and 60, the shell casings, did you
2 subsequently take measurements and do a schematic of the scene and where you
3 located those particular items?

4 A Yes, I did.

5 Q I'm showing you what's been marked as State's 63. Do you recognize that
6 schematic?

7 A Yes sir, I do.

8 Mr. Marchant: I offer State's 63 into evidence.

9 The Court: Any objection?

10 Mr. Johnson: No objection.

11 The Court: In evidence without objection.

12 (Whereupon State's Exhibit Number 63 was admitted into evidence without
13 objection.)

14 Q Sergeant, if you will, step down and continue to speak loudly and please
15 explain to the jury what you have done with State's 63.

16 (Whereupon witness exits witness stand for demonstration of exhibit)

17 A I did a diagram showing the location of the Speer 9 millimeter Luger which
18 was, I believe, identified as the officer's shell casings that came from her weapon.
19 And they were marked with a red asterisk. As you can see, there are red marks on the
20 corners which are the areas which I used to, I measured from so that I could put the
21 evidence back in place. It's triangulation. I go from Point A. I measure that
22 distance. From B I measure that distance. I write that information down.

23 When it comes to doing the diagram I put the measurements, the outside
24 measurements here. The overall measurements that I triangulated because of the
25 overall distance. I triangulated these three items, using these two. The rest of these

1 shell casings that were recovered, those were the two permanent markers that I used
2 to measure to put the shell casings back in place.

3 Again, this is the main level. On the steps leading downstairs to the bottom
4 level, this is the breezeway. These are the stairs going up to this main level. The off-
5 brand ammunition that I found which was a 9 millimeter, I can go to that by marking
6 that in green just to be able to separate and make more visible, as to the location of
7 them. Plus, separating them between officer and possible suspect's shell casings.

8 Q Thank you, sir. You can take the stand again.

9 (Whereupon witness returns to witness stand.)

10 Q I'm going to show you what's marked as State's 61 and ask if you recognize
11 that?

12 A Yes, I do.

13 Q What is contained in State's 61?

14 A These are bar coded pieces of evidence that I had collected at the scene, either
15 projectiles, a lead core, the jacket fragments. Because they're collected in different
16 areas, I collected them separately and then assigned a, as far as whether it be a lead
17 fragment and where it was located. Each one of those pieces of evidence was given a
18 number and was bar coded.

19 Q I want to talk specifically about two of those items that were recovered out of
20 that package. Is there a DS 14 that's contained in that package?

21 A Yes sir, it is.

22 Q Where did you located DS 14 out there at the scene?

23 A That was out of the sidewalk in front of the apartment complex between the
24 building, Building 1300 and the parking lot.

25 Q I'm showing you State's Exhibit Five. Which one of these was Item 14?

1 A It was marked with placard number 14. I believe that's correct, yes.

2 Q In that package as well was there DS 41?

3 A Yes, there is.

4 Q Again, where did you find 41?

5 A This was the projectile that I talked about earlier. This jacket was found just
6 inside of the door to the closet that would be in this area.

7 Q Lastly, Sergeant, looking at State's Number 11. What does this depict?

8 A I was advised by the officers on scene that a vehicle that was parked in front
9 of the 1300 Building appeared to have been hit by a projectile. This is a photograph
10 showing where the paint had been dislodged from this vehicle, and it's in a parking
11 stall directly in front of the apartment complex.

12 Q State's 12?

13 A That's just another photograph putting a scale on it just to show the
14 dimensions, length and width of the impact area.

15 Q Sergeant Shaw, did you do any of the processing of the vehicle back at y'all's
16 bay?

17 A No, I did not.

18 Q So, your involvement in this case was confined or limited to Building 1300
19 out at Berkeley Point?

20 A That's correct.

21 Q Again, Forensics collects but does not analyze or compare any evidence or
22 information that's collected at the scene, just than take it to another department here
23 in the county. Is that correct?

24 A That's correct.

1 Q Thank you, Sergeant Shaw. Please answer any questions Mr. Johnson may
2 have.

3 The Court: Cross examination.

4 Mr. Johnson: Thank you, Your Honor.

5 **CROSS EXAMINATION MR. JOHNSON:**

6 Q Sergeant Shaw, why don't, say, for instance, just like an officer in this
7 courtroom, how come they don't take evidence? Except compared to you? What is
8 the difference between the two of you?

9 A There's an agreement made with the county and the city for several years that
10 a separate agency-- We're no different than SLED. We are requested by agencies
11 throughout Greenville County. The county, the city, all of the municipalities, federal,
12 state, we are requested to do the photographing and collection of evidence. That was
13 just a decision that was made several years ago.

14 Q Is there a difference in the training that you receive in order to do what it is
15 that you do? I supposed I'm asking you: Do you receive any special training to be a
16 forensics officer?

17 A Yes, we do.

18 Q You talked a little bit about that earlier. Is it some of that training that teach
19 you how to be careful, or how to very meticulously collecting from the scenes, and is
20 that how you conducted yourself in this situation?

21 A Yes sir.

22 Q And the reason why you do that, as you mentioned earlier, things could easily
23 be contaminated or otherwise just evidence destroyed?

24 A Potentially, yes sir.

1 Q Yes sir. So, say, for instance, a layman, such as myself, might not know what
2 he is doing if I handle a certain piece of evidence. If I came in contact with it, I could
3 potentially destroy or otherwise contaminate the evidence?

4 A That's correct.

5 Mr. Johnson: Your Honor, I have nothing further.

6 The Court: Any re-direct?

7 Mr. Marchant: No, Your Honor.

8 The Court: Do you wish for the witness to be excused?

9 Mr. Marchant: Yes, Your Honor.

10 The Court: Any objection?

11 Mr. Johnson: No objection.

12 The Court: You are released from your subpoena and you may go back to your
13 regular duties, sir.

14 A Thank you.

15 The Court: Ladies and gentlemen, we're going to break for lunch at this point in
16 time. I would ask that you be back in your jury room at 2:00, please. Thank you.

17 (Whereupon the jury exited the courtroom)

18 The Court: Solicitor, is there anything we need to before we break for lunch?

19 Mr. Marchant: No, Your Honor.

20 The Court: Anything from the defense?

21 Mr. Johnson: No sir, Your Honor.

22 The Court: Y'all be ready to go at 2:00 and we'll resume at that time.

23 (Whereupon court was in recess for the lunch break)

24

25

COURT IN SESSION

1

2

The Court: Solicitor, are you ready? Do we have any issues about the expert or no?

3

Mr. Marchant: Your Honor, he is gone to Anderson.

4

The Court: Okay.

5

Mr. Marchant: Supposed to be testifying at 2:00.

6

The Court: Okay.

7

Mr. Marchant: And so, should be back here---

8

The Court: Great.

9

Mr. Marchant: ---3:30 or 4:00.

10

The Court: Okay.

11

Mr. Marchant: He should be one of the last witnesses of the day.

12

The Court: All right, great.

13

Mr. Johnson: One second, please, Your Honor. Can I discuss something with the

14

Solicitor?

15

The Court: Sure.

16

(Whereupon, a conference between Defense counsel and the Solicitor took place)

17

Mr. Johnson: We're ready, Your Honor.

18

The Court: Ask the jury to come in, please.

19

(Whereupon the jury entered the courtroom)

20

The Court: Solicitor, your next witness, please, sir.

21

Mr. Marchant: The State calls Norman Pearson.

22

The Court: Mr. Pearson, come around and be sworn, please.

23

24

25

1 **NORMAN PEARSON**, duly sworn, testified as
2 follows:

3 Clerk of Court: Please state your name for the record.

4 A Norman Pearson.

5 The Court: All right, Solicitor.

6 **DIRECT EXAMINATION BY MR. MARCHANT:**

7 Q Mr. Pearson, where do you live?

8 A Drive.

9 Q On what side of town is ?

10 A In Bellview Community.

11 Q Is that near Mooremont Avenue?

12 A Yes.

13 Q Do you know William Brockman?

14 A Yes.

15 Q Do you know where William Brockman's house is?

16 A Yes.

17 Q Do you know the defendant in this case, Patrick Lowrance?

18 A Yes.

19 Q How do you know him?

20 A We're, like, cousins, grew up together, and my cousins his cousins.

21 Q Can you give a little more detail on how y'all might be related?

22 A Well, we're not related, not blood cousins. My mom and his mom are real
23 close, so we all grew up together.

24 Q Back in October of last year, 2011, when this incident happened, had you seen
25 him or been around him---

- 1 A Yes.
- 2 Q ---about that time?
- 3 A Yes.
- 4 Q And prior to October, had he in fact stayed and lived with you?
- 5 A Yes.
- 6 Q That was at your house at Pine Creek?
- 7 A Right.
- 8 Q Roughly, how long or how frequently was he staying with you?
- 9 A It was during the summertime. I'd say it started about-- It was just a couple
- 10 of months during the summertime.
- 11 Q Was it continuous? Did he stay with you every night or was it on and off?
- 12 A On and off.
- 13 Q On October 28, when this incident happened, was he staying with you the
- 14 night before this occurred?
- 15 A No sir.
- 16 Q Do you know where he was staying?
- 17 A At the Comfort Inn.
- 18 Q Why do you say that he was staying at the Comfort Inn?
- 19 A I had talked to him on the phone and he was at the room.
- 20 Q Do you know how he got the money to pay for that room?
- 21 A I had loaned him some money.
- 22 Q Did you actually go to that hotel?
- 23 A No sir.
- 24 Q So, the night before this happened, he did not stay with you?
- 25 A No sir.

- 1 Q Did you see him the night before this happened?
- 2 A Yes sir.
- 3 Q Where did you see him?
- 4 A At my house.
- 5 Q What were y'all doing at the house?
- 6 A Just hanging around.
- 7 Q The day that this happened he did not-- The night before the day this
8 happened he did not stay with you?
- 9 A No sir.
- 10 Q He stayed at the Comfort Inn because that's what he told you?
- 11 A Yes sir.
- 12 Q The morning that this incident occurred did he call you?
- 13 A Yes sir.
- 14 Q Did you speak to him on your cellular phone or house phone or what?
- 15 A My cell phone.
- 16 Q How do you know that it was him that had called you?
- 17 A I know his voice and his name popped up.
- 18 Q And how did the conversation go that morning with him?
- 19 Mr. Johnson: Your Honor, this is hearsay.
- 20 The Court: Rephrase your question, Solicitor.
- 21 Q The morning that this incident occurred---
- 22 A Right.
- 23 Q ---you spoke to him on your cell phone?
- 24 A Right.
- 25 Q His number popped up?

1 A Right.

2 Q Did you ask him where he was or what he was doing?

3 A He had told me he---

4 Mr. Johnson: Objection, Your Honor.

5 The Court: I'm gonna allow that.

6 A He had told me he needed a ride. He had run from the police.

7 Q Did he tell you why?

8 A No.

9 Q Did he tell you where he was?

10 A Yes.

11 Q Where did he tell you?

12 A He was in the woods by Berkeley Point.

13 Q Did he tell you in what condition he was in?

14 A He said just he was shot.

15 Q Did he say by whom?

16 A No.

17 Q Did he say anything else about the shooting?

18 A No sir.

19 Q Did you go pick him up?

20 A No sir.

21 Q At some point in time later that morning did you end up talking to Detective
22 Conroy?

23 A Yes sir.

24 Q Did you give him a written statement?

25 A Yes sir.

1 Q Did Detective Conroy threaten you or make you any promises about giving
2 that written statement?

3 A No sir.

4 Q I'm gonna show what's been marked as State's 53. I'm gonna ask you to take
5 a look at this, and do you recognize that?

6 A Yes sir.

7 Q How is it that you recognize State's 53?

8 A I seen Pat with it.

9 The Court: I'm sorry, sir. I didn't hear your answer.

10 A I seen Patrick with it before.

11 Q When you say Patrick, who are you talking about?

12 A The defendant.

13 Q Where is that person sitting in this courtroom?

14 A (indicating defense counsel's table)

15 Q What are they wearing?

16 A White shirt, tie.

17 Q When was the last time you saw the defendant with State's 53?

18 A The day before this happened.

19 Q You didn't pick him up that day?

20 A No sir.

21 Q Did you ever see him, again,-- Let me rephrase that. When was the last time
22 you saw him on the street the night it happened?

23 A The night before it happened.

24 Q Thank you. Please answer any questions Mr. Johnson may have.

25 The Court: Cross examination.

1 Mr. Johnson: Thank you, Your Honor.

2 **CROSS EXAMINATION BY MR. JOHNSON:**

3 Q Mr. Pearson, how old are you?

4 A 32.

5 Q How long you been growing that hair?

6 A Going on five years now.

7 Q Seems like it would take longer than that to grow hair that long.

8 A My hair grow fast.

9 Q You what?

10 A My hair grow fast.

11 Q How do you know Mr. Brockman?

12 A From the neighborhood.

13 Q from the neighborhood?

14 A Uh-huh.

15 Q Where does he live in relation to where you live?

16 A Across Crestfield.

17 Q Let me get you to put it in miles or feet or half a mile.

18 A Couple of block over.

19 Q Couple of blocks over?

20 A Yeah.

21 Q So, you could walk to his house?

22 A Yeah.

23 Q If you wanted to?

24 A Yeah.

25 Q How long have y'all known each other, you and Mr. Brockman?

- 1 A I couldn't say how long. I'd say about five years.
- 2 Q About five years. How long have you known Patrick? All your life, you
- 3 said?
- 4 A Yes.
- 5 Q Now, you have spoken with Mr. Brockman about this today?
- 6 A Sir?
- 7 Q You haven't spoken with Mr. Brockman?
- 8 A No.
- 9 Q You never spoke with him about anything here today?
- 10 A No sir.
- 11 Q So, y'all weren't trying to get your stories straight or anything?
- 12 A No sir.
- 13 Q Now, you stated you saw that State's exhibit-- You said you saw my client
- 14 with that State's exhibit yesterday. Is that right?
- 15 A Yesterday?
- 16 Q Well, the day before-- Excuse me. The day before the incident.
- 17 A Yes sir, I did.
- 18 Q What were y'all doing? Were y'all playing with it?
- 19 A No.
- 20 Q Were you playing with it?
- 21 A No, it was in the car.
- 22 Q It was in the car? I mean-- I guess what I'm trying to say is, Norman, is why
- 23 would you be there playing with his gun?
- 24 A I didn't say I was playing with his gun.
- 25 Q Well, you were looking at it?

1 A It was in the car, laying on the console.

2 Q You say you're telling the truth about this whole thing?

3 A Yeah.

4 Q When the police came to talk to you, did you think you were gonna be in
5 trouble?

6 A No.

7 Q You didn't think you were gonna be in trouble?

8 A No, I didn't have nothing to do with that, what was going on.

9 Q But you testified that you spoke with Patrick, and you testified that he asked
10 you to help him. Is that right?

11 A Right.

12 Q And you helped him, didn't you?

13 A No.

14 Q So, you didn't help him?

15 A No.

16 Q What would Mr. Brockman say about that? Would Mr. Brockman say that
17 you spoke with him about Patrick that day?

18 A I didn't talk to Brockman that day.

19 Q You didn't talk to Mr. Brockman?

20 A No.

21 Mr. Johnson: I have nothing further.

22 The Court: Re-direct.

23 **RE-DIRECT EXAMINATION BY MR. MARCHANT:**

24 Q Mr. Pearson, Mr. Johnson asked you where you saw the gun and you said in
25 the car. Whose car are you talking about?

1 A Patrick's.

2 Q What sort of vehicle was that?

3 A Tahoe.

4 Q What color?

5 A Champagne, brownish color.

6 Q Very good, thank you.

7 Mr. Marchant: I have no further questions.

8 The Court: Anything on those questions, Mr. Johnson?

9 Mr. Johnson: Briefly, Your Honor.

10 **RE-CROSS EXAMINATION BY MR. JOHNSON:**

11 Q So, Mr. Pearson, you were in his car?

12 A Was I in the car?

13 Q Yeah.

14 A Yeah.

15 Q You were riding in the car?

16 A Yeah, he took me to the store.

17 Mr. Johnson: Nothing further.

18 Mr. Marchant: I ask that this witness be excused, Your Honor.

19 The Court: Any objection?

20 Mr. Johnson: No objection, Your Honor.

21 The Court: You are released from your subpoena. You may go back to your regular
22 activities, sir. Next witness, Solicitor.

23 Mr. Marchant: The State calls William Brockman.

24

25

1 **WILLIAM BROCKMAN**, duly sworn, testified as
2 follows:

3 Clerk of Court: Please state your name for the record.

4 A William Theodore Brockman, Jr.

5 **DIRECT EXAMINATION BY MR. MARCHANT:**

6 Q Mr. Brockman, where do you live?

7 A Right now, I'm at

8 Q Where were you living back in October of 2011?

9 A Avenue.

10 Q Did anybody else live in that residence with you at that time?

11 A No sir.

12 Q Did you own the house?

13 A No, my grandmother owned the house.

14 Q Is she still living?

15 A No, she died.

16 Q Did she leave it to you?

17 A She-- It's-- She left it with my mama.

18 Q Do you know the defendant in this case, Patrick Lowrance?

19 A Yes sir.

20 Q How do you know him?

21 A I met him in the neighborhood. You know, I don't really know him too-- I'm
22 not really close to him, like that. I just know him from the neighborhood.

23 Q About how long had you known him prior to this incident happening?

24 A About three weeks.

25 Q The day this event occurred, did you see him?

- 1 A No. I seen him-- Yeah, I seen him later on that day.
- 2 Q Do you recall whether or not it was around lunch time or dinner time?
- 3 A It was round about five-thirty.
- 4 Q Where did you see him?
- 5 A He was walking on Ridge, I think it was Ridgeway Avenue in my
6 neighborhood.
- 7 Q How far is Ridgeway from your house?
- 8 A Probably about a block over.
- 9 Q Do you recall what he was wearing?
- 10 A A black hoodie and some black shorts.
- 11 Q How is it that you recognized him walking on the street?
- 12 A I just seen somebody walking on the street with a black hood on his head. I
13 looked back and it was him. So, he flagged me down and I stopped for him.
- 14 Q Did you let him get in the car with you?
- 15 A Yes sir.
- 16 Q Where did you go?
- 17 A He asked me to take him to Norman's house, so I took him to Norman's
18 house.
- 19 Q When you say Norman, who are you talking about?
- 20 A Mr. Pearson.
- 21 Q What if anything was the defendant carrying with him when he got in the car
22 with you/
- 23 A He wasn't carrying nothing when he got in the car with me.
- 24 Q I'll show you State's 53. Did he have this with him?

1 A I've seen it, you know. He wasn't carrying it, wasn't holding it, but I've seen
2 it, you know.

3 Q He didn't have it that day?

4 A He didn't have it that day, you know, but I've seen it.

5 Q Did you let him in the car with it?

6 A Yeah, I let him in the car with it. I didn't know he had it.

7 Q All right. Let's back up. He's walking down the street and he flagged you
8 down and you picked him up?

9 A Yes, but he wasn't carrying anything.

10 Q Okay.

11 A In his hands or anything.

12 Q When did you see this, State's 53, that day?

13 A I kinda seen it in the car. I seen it when I got to my house.

14 Q And this is your car that you were driving?

15 A Yes sir.

16 Q Is that right?

17 A Yes sir.

18 Q Do you know whether he brought this into your house?

19 A All I'm saying, I didn't bring it in the house. I know he brought it in the
20 house, you know.

21 Q When he came into the house what sort of condition was he in? Was he
22 injured?

23 A Yeah, he was injured.

24 Q How do you know he was injured?

25 A He showed me. He had a bullet hole in his shoulder.

1 Q Did he tell you how that occurred?

2 A We didn't even talk about it, you know.

3 Q Mr. Brockman, I'm going to show you what's been marked as State's Number
4 70. It's a statement that you gave to Detective Flavell. I want you to take a look at it
5 and read a couple of these lines and see if that refreshes your memory.

6 A Which lines?

7 Mr. Johnson: Your Honor, he's asked the questions. I don't think this is an
8 appropriate question for him to---

9 The Court: I appreciate it. It's possible for a witness to be shown a statement to see
10 if it refreshes their memory. He's not gonna read it out loud. He's just gonna read it.

11 Q Read it to yourself and see if it refreshes your recollection of what occurred
12 that afternoon. Start right there and read it to yourself for just a minute.

13 A I'll read it. (pause to read statement) Okay

14 Q So, did the defendant---

15 The Court: Solicitor, why don't you ask him if that helps him to refresh his memory.

16 A Yes sir.

17 Q Are you clear now? Do you remember or recall what occurred that day and
18 what you told the detectives?

19 A Yes sir.

20 Q What did he tell you about being shot?

21 A He told me he shot at them, they shot at him first.

22 Q What did he tell you about whether or not he shot at the police?

23 A He just-- We didn't really talk about it. He just told me that he was shot and
24 they had shot at him first.

1 Q Mr. Brockman, I'm going to ask you to look at this again, and see if it clears
2 up---

3 Mr. Johnson: Your Honor, again?

4 The Court: I appreciate that. Under-- Y'all come over here and talk to me a
5 second.

6 (Whereupon a bench conference took place)

7 Q Mr. Brockman, so we don't have to revisit the statement again, I just want you
8 to read the whole thing, top to bottom, and then I'll ask you some questions.

9 A Read it out loud?

10 Q No sir. Read it to yourself.

11 (pause for witness to read statement)

12 Mr. Brockman, does that help you recall what you told law enforcement that
13 day?

14 A Yes, but it's saying the same thing I said, that he told me he was shot, and that
15 the lady shot him. We didn't never talk about anything about what happened, you
16 know. He just told me this, you know, and, you know, that's what I read.

17 Q Where did you take him once y'all got in the car?

18 A I took him to Norm's house and that's where I took him.

19 Q Did he get out of the car and go in Norm's house?

20 A He tried to, but Norm's people didn't want him there.

21 Q What happened next?

22 A He jumped back in the car with me.

23 Q Where did you go?

24 A He asked me to take him to my house, so, you know, I took him to my house,
25 you know, and that's basically it.

1 Q What happened once you go to your house? Did you let him stay there?

2 A Yeah, I let him stay there for a minute. I didn't know what to do, so I let him
3 stay there for a minute. And I left. Basically, I stayed there for a minute and talked
4 to him for a second, but I didn't stay long.

5 Q Well, did you end up talking to some people that he knows?

6 A I called his family. I called somebody that he had called from my phone. I
7 told him when they would come get him.

8 Q Did you subsequently meet them somewhere and carry them back to your
9 house?

10 A Yes sir.

11 Q Did they come in a different car there?

12 A Yeah, they was in a different car.

13 Q Where did he go inside your house?

14 A Well, first he was in the kitchen. When I left he went back to my back
15 bedroom, the one farthest to the back.

16 Q I'm showing you what's in evidence as State's 44, 45, and 46. Do you
17 recognize the location where that picture was taken?

18 A Yes, my back bedroom.

19 Q That's your bedroom?

20 A Yes sir.

21 Q Is that your gun?

22 A No, it's not my gun.

23 Q Is that your sweatshirt?

24 A No, it's not my sweatshirt.

25 Q That's in reference to State's 44. What about State's 45? Is that yours?

1 A No, it's not my gun; it's my mattress.

2 Q And State's 46, is that your sweatshirt?

3 A No sir.

4 Q When law enforcement arrived that afternoon, did you cooperate with them?

5 A Yes sir.

6 Q Did you allow the detectives into your house to search the house?

7 A Yes sir.

8 Q Please answer any questions Mr. Johnson may have.

9 The Court: Cross examination.

10 Mr. Johnson: Thank you, Your Honor.

11 **CROSS EXAMINATION BY MR. JOHNSON:**

12 Q Mr. Brockman, on October 28, 2011, the date of the incident, it's your
13 testimony that you saw my client walking down the street?

14 A Yes sir.

15 Q And that's how you encountered him?

16 A Say what?

17 Q And that's how you encountered my client, he was walking the street?

18 A He was walking down the street.

19 Q It just happened by chance that you saw him walking down the street?

20 A Yeah.

21 Q Now, with regard to Norman, you took him over to his house?

22 A Yes sir.

23 Q Initially?

24 A Yes sir.

1 Q I'm sorry, but I can't remember correctly if you stated. But did he go up to
2 the door to see Norman?

3 A I don't think Norman was there. He went in the yard and Norman's family
4 was in the yard.

5 Q Norman's family was in the yard?

6 A Yes sir.

7 Q Okay. Did they turn him away?

8 A Yes sir.

9 Q Now, earlier the Solicitor had showed you your statement. Is that right?

10 A Yes sir.

11 Q And in fact, in that statement, you told the detectives, I believe it was Flavell,
12 that Norman told you the jeep was stolen. Is that right?

13 A Yes, I told him that.

14 Q So, Norman actually told you the jeep was stolen?

15 A Nah. Norman actually didn't tell me, but somebody that my best friend, that
16 be with Norman told me Norman said the jeep was stolen.

17 Q Okay. Now, you stated earlier when he got in your car you didn't see him
18 carrying anything?

19 A He wasn't carrying anything in his hand, that's what I'm saying, not in his
20 hand.

21 Q When he got into your house did you keep an eye on him the whole time, or
22 was this something where you just kind of told him this is my house and it's yours?

23 A I kept a eye on him. We sat there and talked for a long time.

24 Q How long did y'all talk?

25 A Probably about thirty, forty minutes before I left.

1. Q Mr. Brockman, you ever been in trouble before?

2. A Yes, I been in trouble before.

3. Q In fact, didn't you get a thirty-year sentence once for trafficking?

4. A Yes sir.

5. Q Trafficking drugs?

6. A Yes sir.

7. Mr. Johnson: I have nothing further at this time.

8. The Court: Any re-direct?

9. Mr. Marchant: None, Your Honor. Ask that this witness be excused.

10. The Court: Any objection?

11. Mr. Johnson: No objection.

12. The Court: You're excused, sir, released from your subpoena. You may go back to
13. your regular activities, sir.

14. Mr. Marchant: The State calls Chris Gary, Your Honor.

15. The Court: Please come around and be sworn.

16. **CHRIS GARY**, duly sworn, testified as follows:

17. Clerk of Court: Please state your name for the record.

18. A My name is Christopher Adam Gary, and the spelling of the last name is

19. G-a-r-y

20. The Court: You may proceed, Solicitor.

21. **DIRECT EXAMINATION BY MR. MARCHANT:**

22. Q Mr. Gary, where are you employed?

23. A I work for the Greenville County Department of Public Safety in the Forensic
24. Division.

25. Q In particular, what are your duties with the Forensic Division?

1 A I work in the latent fingerprint section where I receive latent fingerprint
2 evidence as well as tire tracking, footwear impression evidence.

3 Q How long have you been in that position with the county?

4 A I've been with Greenville County for approximately, a little over three years
5 actually full-time. But prior to that I was at three years where I worked in an
6 apprentice-style learning experience, and also with the North Charleston Police
7 Department for about a year.

8 Q What sort of education do you have in order to hold this position with the
9 county?

10 A I have a bachelor's degree in biology from the College of Charleston.

11 Q What sort of additional training and specialization do you have in fingerprint
12 analysis and impression analysis?

13 A In 2009, I actually got to take part in a program that was sponsored by the
14 National Institute of Justice. They sent me and fourteen other people from around the
15 country to Florida for approximately ten weeks. In those ten weeks we underwent
16 on-in exercises, practical exercise, anything that had to do with fingerprint and
17 fingerprint examination. That course concluded in 2010.

18 After that course I also went to a class sponsored by Marshall University in
19 collaboration with the FBI where I also underwent forty hours of training at that
20 institute as well.

21 Q Are you a member of any organizations relating to the field of Forensics?

22 A Yes. I am a member of the International Association for Identification, as
23 well as the South Carolina Chapter of the IAI.

24 Q Do you currently hold any certifications in the field of Forensics?

1 A Yes. I'm a certified latent fingerprint examiner from the International
2 Association for Identification.

3 Q How long did it take you to become certified?

4 A It's actually a multi-step process in order to become a certified latent print
5 examiner. You have to start out with a minimum of two years of actual field work
6 before you can even start the process to become certified. Once you have that two
7 years of experience under your belt you then can apply for a testing process. In the
8 testing process you have three phases, the first being actual exercises where you
9 actually have to take latent fingerprints and compare them and demonstrate you are
10 capable of doing that.

11 You also have a written test, and then you have a pattern test that you have to
12 complete in order to achieve a passing grade to get certified by the IAI.

13 Q Do you also have continuing education that you have to keep up each year to
14 keep your certification current?

15 A Yes. We're annually proficiency tested. And with the IAI we're given
16 different journal articles to read and given different training opportunities around the
17 country as they become available to take part in those training opportunities.

18 Q Are you able to put an estimate on how many fingerprints you've analyzed
19 through the course of your career?

20 A I've done tens of thousands of examinations.

21 Q Have you ever testified in court before?

22 A Yes, I have, multiple times.

23 Q Have you ever been qualified as an expert witness here in this courtroom?

24 A Yes sir, multiple times.

25 Mr. Marchant: The State would move to qualify him as an expert witness, Your

1 Honor, in fingerprint examination and identification.

2 The Court: All right. Does counsel wish to voir dire the witness as to his
3 qualifications or question him about the experience?

4 Mr. Johnson: Just briefly, Your Honor.

5 The Court: Very good.

6 **VOIR DIRE BY MR. JOHNSON:**

7 Q You stated that you've testified in court multiple times. Can you quantify
8 that?

9 A Approximately six times.

10 Q Six times. Was there ever a time when you were not qualified?

11 A No sir.

12 Q So, six times up, six times down?

13 A Yes sir.

14 Q On that examination was your, what was your pass rate? Was it 100%?

15 A There was actually not given a score of, a numerical score; it was a pass/fail
16 grade. So you have to achieve at least 80% in order to pass the test.

17 Q So, based upon what you just said there, you don't have to be perfect in order
18 to be qualified?

19 A No sir. It's not a numerical score. I could have achieved a perfect score, but
20 you're not given a numerical score.

21 Q But---

22 A In order to pass the---

23 Mr. Johnson: Your Honor, would he allow me to ask him questions, please.

24 The Court: Well, just-- Yes sir. He was answering your question. Go ahead and
25 finish your answer and I'll be glad to you to ask him some more questions.

1 Mr. Johnson: Yes sir, Your Honor.

2 A Like I said, in order to pass the practical exercise you do have to be perfect.

3 You cannot make a misidentification on that section. Whereas, the practical exercise
4 is what I would be doing every day. There were no errors in that area.

5 Q You state practical exercise. What is the test in total?

6 A Sir?

7 Q Other than a practical exercise, what else is there?

8 A There is also pattern recognition. And there is also a test in terms of just
9 general knowledge about fingerprints, practical examinations.

10 Q And they tested you on those items because they believe it to be perfect
11 towards your qualifications?

12 A Yes sir.

13 Mr. Johnson: Your Honor, I have nothing further.

14 The Court: I find the witness to be qualified to give his opinion. You may proceed,
15 Solicitor.

16 **RESUMPTION OF DIRECT EXAMINATION BY MR. MARCHANT:**

17 Q Mr. Gary, what type of equipment do you use in the comparison of
18 fingerprints and how is it used?

19 A Unlike television, it's not like we can put it on a computer and ship it out and
20 it brings back answers. We actually use a magnifier that is especially made for
21 fingerprint identification. And we use the magnifier and compare these one-on-one to
22 make identifications.

23 Q Would you explain to the jury what a latent print is?

24 A A latent fingerprint is just the term that we use for a fingerprint that is found at
25 a crime scene. If you look on the surface of your hand, you actually have raised

1 ridges, and these ridges act just like rubber stamps that you may have had as a kid, or
2 may have now. And sweat, oil, and other, you know, dirt and grime, they act as the
3 ink for that stamp. So, when you come in contact with other objects you're leaving
4 behind a replication of that skin.

5 Once a crime scene technician comes along, they actually can develop it with
6 powder, and that powder adheres to that sweat and dirt in order to lift the fingerprint.
7 If it is a fingerprint that cannot be lifted, it can be captured with a camera or photo
8 system.

9 Q How are fingerprints subsequently compared and identified?

10 A Once those fingerprints are lifted, we actually compare them to known prints.
11 And what know prints are, are fingerprints from the individuals that we know who
12 they are. We have them in front of us and we roll their fingers onto a card, along with
13 all their identifying information, such as their name, race, gender, and other, Social
14 Security numbers, other person identification, to identify that person with the
15 fingerprints that we have on file.

16 Q Is it possible for two people to have the same fingerprints?

17 A Absolutely not. Twins actually share some of the same DNA, but twins have
18 different fingerprints. Fingerprints are unique to every individual.

19 Q Did you have the occasion to examine any latent prints in this case?

20 A Yes, I did.

21 Q I'll show you what's been marked as State's 72, 73, 74, 75, and 76, as well as
22 77. Can you take a look at those and see if you recognize those?

23 A (pause to examine exhibits) Yes, I do.

24 Q Who provided those, or submitted those prints to be analyzed?

25 A Forensic Investigator Derby as well as Forensic Investigator Hamilton.

1 Q Once you received those prints, did you have a potential suspect or a person of
2 interest to match them with?

3 A Yes. I was given information for a Patrick Lowrance to compare these prints.

4 Q And out of State's-- With respect to State's 72 through 77, what, if any, were
5 found matches and where did the match come from on those fingerprints?

6 A On State's Exhibit 72, from Item JD 11, which was a plastic tray inside a
7 cardboard box of ammunition, I identified that as being the number seven, which is
8 the left index finger, of Patrick Lowrance.

9 On State's Exhibit 73, from the exterior of the hood, I identified the number
10 nine, which is the left index finger (sic) of Patrick Lowrance.

11 On State's Exhibit 74, from the exterior of the hood, I identified the number
12 three finger, which is the right, middle finger of Patrick Dean Lowrance.

13 On State's Exhibit 75, from the exterior facing side of the driver's side, rear
14 door, I identified the number ten finger, which is the little, left finger, to Patrick Dean
15 Lowrance.

16 On State's Exhibit 76, from the exterior, facing side of the passenger's side
17 front door window, I identified the number seven, which is the left index finger, to
18 Patrick Dean Lowrance.

19 And State's Exhibit 77, from the exterior of the hood, I identified the number
20 two finger, which is the right index, the number seven finger, which is the left index,
21 and the left palm, to Patrick Dean Lowrance, with all of those fingerprints coming
22 from either the ammunition box or a 2005 GMC Yukon.

23 Q Mr. Gary, you've talked about a number of numbers, what fingers mean. Can
24 you explain to the jury-- You talked about number one, number ten, number seven.
25 Which way do you count fingers?

1 A It's actually international, everywhere uses the same formula. You start with
2 the right thumb, and it's number one, two, three, four, five. And then with the left
3 thumb, six, seven, eight, nine, ten.

4 Q You've indicated that on six of the State's exhibits you've made a comparison
5 and match to the defendant. What steps did you do to insure that you've got the right
6 person of Mr. Lowrance? How many points, or how did you go about determining
7 these prints belong to this man?

8 A There's no point standard. That's kind of a misunderstanding. Once I finish
9 my examination and I determine that this is in fact the individual I say it is, Patrick
10 Dean Lowrance, those prints are then peer-reviewed by another qualified examiner
11 and then the report is issued.

12 Q Maybe I wasn't very clear in my question. How were you able to determine
13 that what's on these cards belong to this man?

14 A Because we compare the known standards to the questioned prints and make
15 an identification and they are Patrick Dean Lowrance.

16 Q Did you have the occasion to compare any other prints in this case?

17 A Yes, I did.

18 Q Out of all the other prints that were submitted, are these the only ones that
19 come back to the defendant?

20 A Yes, they are.

21 Mr. Marchant: The State would move into evidence 72, 73, 74, 75, 76, and 77 into
22 evidence

23 The Court: Any objection?

24 Mr. Johnson: No objection.

25 The Court: In evidence without objection.

1 (Whereupon State's Exhibit Numbers 72, 73, 74, 75, 76, and 77 were admitted into
2 evidence without objection.)

3 Q Now, Mr. Gary, in the course of your examination, did you find through your
4 analysis and comparison that there were some prints that did not come back to the
5 defendant, but came back to someone else?

6 A Yes, I did.

7 Q And how many of those prints came back to someone else?

8 A I'll refer to my notes. (pause to refer to notes) There were three fingerprints
9 that came back to a different individual, or to different individuals.

10 Q Thank you. Please answer any questions Mr. Johnson may have.

11 The Court: Cross examination.

12 Mr. Johnson: Thank you, Your Honor.

13 **CROSS EXAMINATION BY MR. JOHNSON:**

14 Q Officer Gary, you went through that kinda fast, so I'd like to go over again
15 briefly where you found the prints. Is that okay?

16 A That's fine.

17 Q Okay. If you don't mind-- I think I have your report, so I'm gonna try to go
18 by them and if you can confirm for me and make sure I get it right. Okay?

19 A Okay.

20 Q So, with regards to my client, we're talking about the exterior, passenger's
21 side door, as one. We're talking about the front, exterior, driver's side rear door.
22 We're talking about the hood from the exterior. We're talking about the passenger's
23 side exterior. And again, from the passenger's side exterior. And that's as far as the
24 exterior of the car. Is that correct?

25 A Yes sir.

1 Q Now, you also mentioned an ammunition box. There was also another young
2 man's prints on that box. Is that correct?

3 A Yes, there were.

4 Q And then as far as other individuals there was another male and then a female
5 print in the car. Is that correct?

6 A On the vehicle, that is correct.

7 Q Yes sir. Did you get a name for the other male on the ammo box?

8 A No sir, I was not given that name.

9 Q You were not given the name?

10 A No, I was not.

11 Q Would it refresh your memory if I gave you a copy of your report?

12 A Yes, it would. (pause to review report) Yes sir.

13 Mr. Johnson: Thank you, Your Honor. Nothing further.

14 The Court: Any re-direct?

15 Mr. Marchant: No, Your Honor. We ask that this witness be excused.

16 The Court: Any objection?

17 Mr. Johnson: No objection.

18 The Court: All right, sir. You are released from your subpoena and may go back to
19 your regular activities, sir. Your next witness, Solicitor.

20 Mr. Marchant: The State would call Doctor Kandala.

21

22

23

24

25

1 **JAGANNADHA KANDALA**, duly sworn, testified as
2 follows:

3 Clerk of Court: Please state your name for the record, and please spell it for the
4 record.

5 A My name is Jagannadha Chkryun Kandala.

6 Clerk of Court: Would you spell it, please?

7 A My first name is J-a-g-a-n-n-a-d-h-a. My middle name is C-h-k-r-y-u-n. And
8 last name is Kandala, K-a-n-d-a-l-a.

9 The Court: Go ahead, Solicitor.

10 **DIRECT EXAMINATION BY MR. MARCHANT:**

11 Q Doctor Kandala, where are you employed?

12 A I am employed by the Greenville Department of Public Safety in the Forensic
13 Division as a DNA technical leader.

14 Q As a DNA technical leader?

15 A Yes.

16 Q What does a DNA technical leader do?

17 A The DNA technical leader takes care of the DNA lab, and also is a DNA
18 analysis, and takes care of the evidence.

19 Q The DNA lab that you're referring to, is that here in Greenville, or is it
20 somewhere else?

21 A It is in Greenville.

22 Q How long has this been open?

23 A 2008, May, I joined the lab and I started the lab.

24 Q Who is responsible for getting the lab certified?

1 A There are two certifications, one is for quality and one is for technical
2 accuracy.

3 Q Were you an integral part of getting that certification?

4 A Yes.

5 Q Let's talk about your education for a moment. Where were you educated and
6 what degrees do you hold?

7 A I got educated in India. And I have a bachelor's degree in biology and
8 chemistry, and a master's degree in chemistry and a master's degree in macro-
9 biology, and a PhD in biochemistry.

10 Q When did you move to the United States?

11 A In 1978.

12 Q Have you resided here since 1978?

13 A Yes.

14 Q What sort of employment have you had here in the U. S. since 1978?

15 A I worked doing research in forensic and academic institutions and I did
16 instruction in DNA for twenty-five years. Then in 1997, I joined the St. Louis police
17 department as a DNA analyst. And in 2008-- In 2004, I moved to San Bernardino
18 Sheriff's Department. I work as a DNA analyst there. And from there I moved here
19 in 2008 and joined the Greenville Department of Public Safety as DNA technical
20 leader.

21 Q Have you authored any articles or publications in peer research journals?

22 A Yes.

23 Q Approximately how many?

24 A Thirty-nine publications.

25 Q Thirty-nine?

1 A Yes.

2 Q Were you the lead author on some of those or a second-tier author or a
3 combination?

4 A Combination.

5 Q Were the majority of those publications related to DNA?

6 A Yes.

7 Q Do you have any teaching experience?

8 A I did teach while I was doing the research, mostly for the graduate students.

9 Q To obtain the qualifications and certifications to get this lab up and running,
10 are you required to participate in continuing education?

11 A I was already certified before joining this lab. I was a DNA analyst and
12 worked with other labs. And then I have gone through DNA training and education
13 in St. Louis and also in San Bernardino before being qualified.

14 Q Approximately how many samples have you analyzed through the course of
15 your career?

16 A Probably four, five thousand minimum.

17 Q Have you been qualified as an expert in DNA analysis before?

18 A Yes.

19 Mr. Marchant: The State would move to qualify him as an expert in forensic DNA
20 analysis.

21 The Court: Do you wish to voir dire the witness as to his qualifications or challenge
22 the offer by the State?

23 Mr. Johnson: No charges; very brief voir dire.

24 The Court: Yes sir.

25

1 **VOIR DIRE BY MR. JOHNSON:**

2 Q How many times have you testified in court?

3 A About three times.

4 Q Has anyone ever failed to qualify you in court?

5 A Pardon?

6 Q Has anyone ever failed to qualify you in court?

7 A No.

8 Mr. Johnson: That's it, Your Honor. Thank you.

9 The Court: Very good. I'm going to qualify the witness to give his opinion. You
10 may proceed, sir.

11 **RESUMPTION OF DIRECT EXAMINATION MR. MARCHANT:**

12 Q Doctor Kandala, what is DNA?

13 A DNA is a blueprint that is seen in cells that make up our existence.

14 Q How is DNA used for forensic purposes?

15 A DNA is used as a unique marker for DNA purposes because DNA differs
16 from human being to human being, except identical twins.

17 Q I'm sorry. What was that last part?

18 A Identical twins.

19 Q Identical twins?

20 A Yes.

21 Q So, are you saying identical twins can have the same DNA?

22 A Yes.

23 Q What type of DNA analysis do you perform here in the Greenville County
24 lab?

1 A We do the method called the STR DNA analysis. STR stands for short
2 tandem repeat.

3 Q What is a short tandem repeat?

4 A DNA is made up of what is called nucleotides, like beads in a chain. And the
5 number of beads in a human being is about three times, times about nine; that is, three
6 billion. In this DNA we use specific, small portions of DNA that are unique to those
7 seen in a human being.

8 Q What types of human body fluids or tissues can a DNA sample or profile be
9 developed from?

10 A DNA is found in the human body in the living organs, in the living cells
11 except red blood cells and the knees.

12 Q Did you have the occasion to examine and perform an analysis on some
13 evidence in this case?

14 A Yes.

15 Q Do you recall reviewing what's been marked as State's 57, 58, and 68.

16 A Yes.

17 Q Did you also subsequently review State's 53 for analysis?

18 A Yes.

19 Q Where did you pick up State's 53?

20 A From the Property and Evidence.

21 Q Did it remain with you the entire time?

22 A Yes, during the examination of the evidence.

23 Q How many people work in the DNA lab here in Greenville?

24 A Three people including me.

25 Q Does anyone else have access to your lab except the three of you?

1 A No.

2 Q So, with respect to State's 53, did you obtain a sample off of the-- Did you
3 obtain a sample off the gun, itself, and the magazine?

4 A Yes.

5 Q And did you compare that against a known standard?

6 A Yes.

7 Q And is that known standard State's 64?

8 A Yes.

9 Q Based on your analysis and comparison of State's 53 to the known standard,
10 64, who is the known standard of?

11 A The standard is Patrick Lowrance.

12 Q What were your results from analyzing this firearm?

13 A Let me see my papers. (pause to review papers) The DNA, the mixture, but
14 then the major contributor, the major contributor of the DNA matches the DNA of
15 Patrick Lowrance. And I have statistical analysis done on that and it is one in twenty-
16 three billion in the Caucasian population, and one in fifty-six million in the African-
17 American population and one in sixty-one billion in the Hispanic population.

18 Q Doctor Kandala, you're talking about one in such and such billion.

19 A Yes.

20 Q What do you mean when you're using these statistical numbers about one in
21 what? What does one in what means?

22 A That means if you take so many people you can see this for five-twenty in one
23 person.

24 Q And with respect to the handgun in this case, you're saying that the defendant
25 is a major contributor?

1 A Yes.

2 Q Are there other people that potentially handled?

3 A But they are within trace-- The DNA that I obtained from the other people is
4 in very, very small amounts.

5 Q Does that mean more than one person has touched this gun?

6 A Yes.

7 Q And the possibility that someone else that touched the gun that is Caucasian is
8 one in?

9 A One in twenty-three billion.

10 Q Twenty-three billion?

11 A Yes.

12 Q And someone who happens to be African-American touched the gun?

13 A No. I take back. I'm not talking about other people. I'm talking about only
14 the major contributor who is the providing DNA. I could not get statistics for the
15 minor string of beads.

16 Q Let me make sure I'm clear.

17 A Yes.

18 Q The major contributor to the gun---

19 A Yes.

20 Q ---is Patrick Lowrance?

21 A Yes. I would say that yes, the profile I got from Patrick Lowrance.

22 Q The profile you got---

23 A Yes.

24 Q ---that is State's 64?

25 A Yes.

1 Q And what are the chances that someone else has the exact, same DNA profile
2 as the sample that you were given for Patrick Lowrance?

3 A That is if it is a Caucasian is one in twenty-three billion. If it is African-
4 American, it is one in fifty-six million. And if it is Hispanic it is one in sixty-one
5 billion.

6 Q African-American is fifty-six million, with an m?

7 A Yes.

8 Q These other two were billions with a b?

9 A Yes.

10 Q Did you have the occasion to examine in State's 53, the magazine as well?

11 A Yes.

12 Q What were your findings on the magazine?

13 A That showed at least three people and the major contributor is an unknown
14 male.

15 Q So, you can't say who the major contributor is on the magazine?

16 A Yes. I don't have a standard sample for that.

17 Q You have the defendant's sample?

18 A Yes. And he is not the contributor, as a major contributor for the magazine
19 DNA.

20 Q Once you finished analyzing the gun, where did you take it?

21 A After the analysis is done we return it to Property and Evidence.

22 Mr. Marchant: Your Honor, at this time the State would offer 53, 57, 58, and 68 into
23 evidence.

24 The Court: Tell me those numbers again, please.

25 Mr. Marchant: 53. Your Honor, court's indulgence?

1 The Court Yes sir.

2 Mr. Marchant: State's 57, 58, and 68 into evidence.

3 The Court: Any objection?

4 Mr. Johnson: No objection.

5 The Court: In evidence without objection, 53, 57, 58 and 68.

6 (Whereupon State's Exhibits Numbers 53, 57, 58 and 68 were admitted into evidence
7 without objection.)

8 Q Doctor Kandala, I'm showing you what's been marked as State's 62. Did you
9 have the occasion to pick that up from the evidence locker in the evidence, Property
10 and Evidence room, and do some analysis on that as well?

11 A Yes.

12 Q I'm also going to show what's been marked as State's 55 and 56.

13 A Yes.

14 Q Did you have the occasion to compare-- Let's start with State's 55. With
15 respect to State's 55, where did you retrieve that piece of evidence to conduct your
16 analysis?

17 A All, everything is taken from the Property and Evidence.

18 Q And is brought to where?

19 A To the DNA lab.

20 Q The DNA lab is where you do all this analysis?

21 A Yes.

22 Q And then once you're done with it, where does it go?

23 A It goes back to the Property and Evidence.

24 Q So, you did analysis on 55, 56, and 62?

25 A Yes.

- 1 Q Let's talk about State's 55.
- 2 Mr. Marchant: Your Honor, before I publish it to the jury, I would move 55 into
3 evidence.
- 4 The Court: Any objection?
- 5 Mr. Johnson: No objection.
- 6 The Court: In evidence without objection.
- 7 (Whereupon State's Exhibit Number 55 was admitted into evidence without
8 objection.)
- 9 Q Doctor Kandala, when you received this sweatshirt, which is State's 55, did
10 you pull a sample of DNA off of it?
- 11 A Yes.
- 12 Q Where did you pull that sample from?
- 13 A I think about the area here.
- 14 Q How did you mark it, and did you initial it?
- 15 A Yes, I mark it as 4-1 and then my initial and then I made my serology sample
16 off there.
- 17 Q So, on State's 55, you pulled a sample off there, and did you compare it to the
18 known standard of Patrick Lowrance, which is State's 64?
- 19 A Yes.
- 20 Q What were your results?
- 21 A The comparison shows that it is a match with the provider, Patrick Lowrance.
22 And the location we say that Patrick Lowrance is the contributor to this DNA, as to
23 Item 4-1 to a reasonable degree of scientific certainty. It is a match.
- 24 Q So, as close as to a hundred percent as you can say, that's your standard of
25 reasonable degree of scientific certainty?

1 A Yes.

2 Q The sample that you pulled on State's 55 is as close of a match as you're able
3 to call it to the known standard in 64?

4 A Right. This particular way of expressing it is when we have a minimum
5 number of one in three hundred billion, that is what the calibration, at least one in
6 three hundred billion. Then only we say to a reasonable degree of scientific certainty.

7 Q Is another way of saying that is that the possibility of someone else having the
8 same profile is one in three hundred billion?

9 A Yes.

10 Q I'll show you what's been marked as State's 56.

11 Mr. Marchant: Move 56 into evidence, Your Honor.

12 The Court: Any objection?

13 Mr. Johnson: No objection.

14 The Court: In evidence without objection.

15 (Whereupon State's Exhibit Number 56 was admitted into evidence without
16 objection.)

17 Q Did you have the occasion to analyze State's 56?

18 A Yes.

19 Q Did you make markings on---

20 A The shirt, yes.

21 Q Are these your markings up here?

22 A Yes.

23 Q And you pulled a sample from the front, left shoulder of this shirt?

24 A Right.

25 Q What were your results/

- 1 A I compared the sample to the one that I got from here also and the DNA,
2 Patrick Lowrance is the contributor of this DNA from this Item 5-1 to a reasonable
3 degree of scientific certainty.
- 4 Q Same analysis, same procedure, ---
- 5 A Yes.
- 6 Q ---same results as the sweatshirt?
- 7 A Yes.
- 8 Q And lastly, did you have the occasion to analyze what's been marked as
9 State's 62, which is also identified as DS 35?
- 10 Mr. Marchant: The State would move 62 into evidence, Your Honor.
- 11 The Court: Any objection?
- 12 Mr. Johnson: No objection.
- 13 Mr. Marchant: As well as 64.
- 14 Mr. Johnson: No objection.
- 15 The Court: All right. State's 62 and 64 in evidence without objection.
- 16 (Whereupon State's Exhibits Numbers 62 and 64 were admitted into evidence
17 without objection)
- 18 Q Did you have the occasion to analyze State's 62, which is DS 35?
- 19 A Yes.
- 20 Q What exactly is this?
- 21 A This is the swab that they have got from the blood.
- 22 Q This is blood?
- 23 A Yes.
- 24 Q What were your results on DS 35?

1 A This is also very similar to the one I got from the shirt and Patrick Lowrance
2 is the contributor of this DNA to a reasonable degree of scientific certainty. And if
3 you want the exact number on statistics, I can give you.

4 Q Please, Doctor Kandala.

5 A It is 8.7 times about eighteen. Anything that is times about nine is the figure,
6 and this is times about eighteen. Times about twelve is a trillion.

7 Q So, this is more than one in one trillion. Is that what you're saying?

8 A Yes. It is a trillion trillion.

9 Q And did you analyze any other evidence in this case?

10 A No.

11 Q Please answer any questions Mr. Johnson may have.

12 The Court: Cross examination.

13 Mr. Johnson: Thank you, Your Honor.

14 **CROSS EXAMINATION BY MR. JOHNSON:**

15 Q Is it Doctor Kandala?

16 A Yes.

17 Q Okay. I wanted to be sure. First of all, the Solicitor went into on direct
18 testimony and then I asked you just a couple of questions, but we went into how
19 much education, et cetera, that you have. Now, you said you initially learned in
20 India. Is that where you got your PhD?

21 A Yes.

22 Q And then you came over here and you got some additional training?

23 A It is not training, it is a job.

24 Q It's a job?

25 A Yes.

1 Q Now at the time, and especially with regard to DNA or DNA testing, can you
2 go over some of the safeguards? Just like how careful-- Is it really-- On a level of
3 one to ten, just how careful with regard to these tests?

4 A This is laid down by-- We get the gradation on these tests. It is laid down.
5 And we are constant checks on us. They look at all of our records here. And this
6 goes on periodically and they check this whole thing. And we have a quality
7 assurance system in place and we have to follow it, the quality assurance system.

8 Q And the quality assurance system is to make sure there is no contamination,
9 that you're very careful in what you're doing?

10 A Yes.

11 Q And those assurances were followed in this instance as well?

12 A Yes.

13 Q Now, with regard to DNA, I believe you stated earlier, it can come in many
14 different forms. Is that true? DNA can be found in many different, whether it's hair,
15 saliva, semen or anything like that?

16 A Yes.

17 Q Is that an exhaustive list or is there anything else?

18 A It is found in every, in every organ in the body except red blood cells and
19 knees. So, any place you take in the body, any organ, any tissue you will see, you
20 will see DNA. So, there is DNA everywhere, yes.

21 Q Now, you said except for---

22 A Red blood cells.

23 Q What did you mean by red blood cells?

24 A There are, in the blood there are cells, white cells and red cells, two kinds of
25 cells.

1 Q So, the cells in the blood?

2 A Yes.

3 Q You have your report with you. Right?

4 A Yes.

5 Q I'd like to talk about DNA testing. When you test something can you tell how
6 it got there? Do you have any idea of how the DNA actually got there?

7 A You mean, what are you asking the question?

8 Q Say, for instance, my DNA is on this pen, and you test it and you find my
9 DNA. Can you tell how my DNA got on that pen?

10 A It is by touch.

11 Q It is always by touch?

12 A In that case.

13 Q In that case it is. But let's say, for instance, you didn't know I touched it.

14 A Yes?

15 Q I can rephrase my question. I apologize. Let's say you tested this cup here at
16 the bottom. I apologize. This is far away. I'll pick it up. This cup here at the
17 bottom. So, you didn't see-- I didn't touch this. Now, let's say my DNA is on that
18 cup. How can you tell how it got there?

19 A The DNA testing is done by finding DNA on or in the object that is there by
20 any means. It can be saliva, it can be other body fluids, it can be touch that is sweat.
21 But to know whose DNA that is, we have to have a standard. And without that we
22 cannot say that it is belong to this person or this person.

23 Q Now, Doctor Kandala, I'm not talking about whether DNA is somebody
24 versus another person.

25 A Yes.

1 Q I'm talking about how the DNA was actually deposited on the item you're
2 testing. Can you tell-- When you test can you tell how the DNA was deposited on
3 the item?

4 A It's different ways. If it is blood that has come off and then drop on the floor,
5 the blood has DNA.

6 Q Now, is that something that you always know or is that something that's
7 unknown to you when you test it?

8 A When we test it, we do testing to know what kind of body fluid is there.

9 Q Okay.

10 A Then from there we extract DNA and then we determine whether that DNA is
11 human DNA or not and then analyze whatever, with the STR analysis. We do that
12 after the extraction of DNA.

13 Q Okay. You talk about first you identify what type of body fluid, ---

14 A Yes.

15 Q ---except for red blood cells, obviously.

16 A Through forensics.

17 Q Okay. Now, can you tell how that body fluid got there?

18 A DNA-- The purpose of DNA testing is any material, any material that comes
19 to the lab we check for DNA one of two ways by different means and then we get it.
20 We're not saying how it got there.

21 Q Okay.

22 A All we're saying is there DNA and does that DNA belong to somebody that I
23 have their standard.

24 Q So, you're saying-- So, when you test something you cannot say how the
25 DNA got there.

- 1 A Because I'm not there.
- 2 Q That's right, because you don't know how it got there.
- 3 A Yes.
- 4 Q All right. Related to that, DNA can get on surfaces in many ways. Isn't that
- 5 right?
- 6 A Yes.
- 7 Q And isn't one of those ways transfer?
- 8 A Yes.
- 9 Q Can you explain to us what transfer is?
- 10 A When you hold an object, your DNA is transferred onto that object.
- 11 Q So, say, for instance, this pen, my DNA's on this pen and I can transfer it just
- 12 like that, potentially?
- 13 A Potentially.
- 14 Q Yes. And that applies to everyday life or anything. Any material can be
- 15 tested.
- 16 A Yes.
- 17 Q It comes into contact with something and it's transferred to different place?
- 18 A Yes, depending on how hard it has touched that material or something.
- 19 Q Yes sir.
- 20 A Yes sir.
- 21 Q Now, another-- All-- You can't always tell-- Or, you cannot tell when
- 22 something got there, when the DNA got there, can you?
- 23 A That's not the purpose of DNA testing in the lab because we are not testing
- 24 for when it has it.
- 25 Q Okay.

1 A The purpose of the DNA lab is to get anything that comes into the lab, test for
2 any things that are present, any fluids that are present, any touch DNA that are
3 present. And then get the DNA and the likely.

4 Q But overall, you cannot how and when the DNA got there?

5 A That's not our purpose. That is not the point of DNA lab. The DNA lab is not
6 looking for how it got there. The DNA lab is looking for is there DNA, any body
7 fluid. And get the DNA out and the likely and then compare it to your standard
8 battery of tests.

9 Q So, considering you're not even looking for how or when it got there, say, for
10 instance, with these tests, you're not given, you're not giving a conclusion on how
11 and when the DNA got there.

12 A I told you that.

13 Q Okay, all right, fine.

14 A Yes.

15 Q But that's what you're saying?

16 A Yes.

17 Q Okay, all right. Now let me-- Can I make sure we have the same statements?

18 Can I see what you're---

19 A Yes.

20 Q This is the same thing. Right?

21 A Yes.

22 Q Okay. I know the Solicitor referred to the items with regard to their
23 evidentiary numbers. I'd like to refer to these, what they were. So, I'm gonna refer
24 you to page three of your report.

25 A Yes.

1 Q Now, one of the things you tested and one of the things you went over with
2 the Solicitor was you swabbed the handgun?

3 A Yes.

4 Q And you said that my client was a major contributor and there were two minor
5 contributors?

6 A Yes.

7 Q Okay. Now, and then you swabbed the magazine that was also submitted to
8 you. Is that right?

9 A Yes.

10 Q And the major contributor was an unknown person?

11 A Yes.

12 Q Unknown male person?

13 A Yes.

14 Q And you weren't able to conclude whether my client was involved in that
15 magazine or not?

16 A Yes.

17 Q Now, Doctor Kandala, tell me again, like, who was-- Who was-- Who was
18 the sample that you were given to for comparison again? What was his name?

19 A On the evidence it is Patrick Lowrance.

20 Q All right. Can you spell out his name for me, please?

21 A It's in here, is L-o-w-r-e-n-c-e.

22 Q L-o-w-r-e-n-c-e, is that what you just said?

23 A That is what is in here, yes.

24 Q Now, you testified about how you got to have all these qualities and you were
25 very careful. Is that true?

- 1 A Yes.
- 2 Q And y'all are taught to be careful. Y'all have people double-checking you and
- 3 that's to make sure that y'all don't screw anything up. Is that right?
- 4 A Yes.
- 5 Q Are you aware that you don't have his name spelled right?
- 6 A We spell it as we see it from the report.
- 7 Q So, somebody went and took this stuff and didn't even know whose name they
- 8 were spelling. They didn't even do that right, did they?
- 9 A But here we are not-- I'm not really concerned with the person. I am looking
- 10 at the profile that I get from the buccal swab.
- 11 Q Oh, I know you're not concerned with; you were just reading what was
- 12 written. Isn't that true?
- 13 A Yes.
- 14 Mr. Johnson: Nothing further.
- 15 The Court: Re-direct?
- 16 Mr. Marchant: No, Your Honor.
- 17 The Court: Do you wish the witness to be excused?
- 18 Mr. Marchant: Yes, Your Honor.
- 19 The Court: Any objection?
- 20 Mr. Johnson: No, Your Honor.
- 21 The Court: You are released from your activities and may go back to your regular
- 22 activities, sir.
- 23 Mr. Marchant: May we approach, Judge?
- 24 The Court: Yes.
- 25 (Whereupon a bench conference took place)

1 Ladies and gentlemen, we are going to take a short break. If you will, go to your jury
2 room and later we will resume the trial. Everyone else remain seated, please.

3 (Whereupon the jury exited the courtroom)

4 We'll be at ease for about ten minutes. Thank you very much.

5 (Whereupon the court was in recess)

6 **COURT IN SESSION**

7 The Court: State ready to proceed?

8 Mr. Marchant: State's ready, Your Honor.

9 The Court: Defense?

10 Mr. Johnson: Defense is ready, Your Honor.

11 The Court: Bring in the jury.

12 (Whereupon the jury entered the courtroom)

13 The Court: Solicitor, your next witness, please.

14 Mr. Marchant: If it please the court, the State calls James Armstrong.

15 The Court: Please come around and be sworn, sir.

16 **JAMES ARMSTRONG**, duly sworn, testified as

17 follows:

18 Clerk of Court: Please state your name for the record.

19 A James William Armstrong.

20 The Court: Go ahead, Solicitor.

21 **DIRECT EXAMINATION BY MR. MARCHANT:**

22 Q Mr. Armstrong, where are you employed?

23 A I am employed with the Greenville Division of Public Safety, Forensic
24 Division, Crime Laboratory.

25 Q Where is your office located?

1 A I'm located in the basement of the law enforcement center here in Greenville.

2 Q How long have you been employed by the county?

3 A A little over sixteen and a half years.

4 Q How long have you been in the position that you currently hold today?

5 A I've been employed by the crime laboratory for sixteen and a half years. I've
6 been a firearms examiner for about twelve years.

7 Q What are your official duties with the county in the position that you're in?

8 A I have the dual responsibilities of forensic drug chemist and a firearms
9 examiner.

10 Q Do you analyze marijuana, crack cocaine, cocaine---

11 A Yes.

12 Q ---as well as firearms examiner? What does a firearms examiner do?

13 A Compare any fire cartridge casings, projectiles and link those to a particular
14 firearm if it is submitted. And then also identify projectiles and try to link that
15 projectile to a specific firearm if there are any questions about it.

16 Q What is your formal education?

17 A A bachelor of science degree in chemistry from Erskine College. I trained as a
18 firearms examiner as an apprentice-type training for two years under a retired
19 firearms examiner from Philadelphia PD. I've attended numerous courses sponsored
20 by ATF, or Alcohol Tobacco and Firearms, in the area of firearm identification. I
21 also attended courses by FBI as well for firearms identification and tracking. And
22 I've testified in federal and state courts in the area of firearms identification twenty-
23 nine times as an expert.

24 Q You've testified in this court, though not particularly in this courtroom, in this
25 courthouse before?

1 A Yes, I have.

2 Q Have you testified in the field of your expertise of firearms identification?

3 A Yes, I have.

4 Q Approximately how many times?

5 A Approximately twenty-nine times total in this courtroom as well as in a
6 federal courtroom.

7 Mr. Marchant: The State would offer Mr. Armstrong as an expert in firearms
8 identification.

9 The Court: Do you wish to voir dire the witness as to qualifications or challenge
10 The offer by the State?

11 Mr. Johnson: Brief voir dire.

12 The Court: Yes sir.

13 **VOIR DIRE BY MR. JOHNSON:**

14 Q You say you've testified twenty-nine times?

15 A Yes sir, I have.

16 Q When did you first start testifying?

17 A First testifying about firearms, I believe was in 2000.

18 Q So, you have that documented?

19 A (referring to notes) First testimony for firearms identification was November,
20 2003.

21 Q Oh, you've actually kept that documented in that folder?

22 A I actually have, basically, this is a whole, a copy of my CV, yes sir.

23 Mr. Johnson: Thank you, Your Honor.

24 The Court: All right. I will qualify the witness to give his opinion in the field of
25 firearms identification. You may proceed, sir.

1 **RESUMPTION OF DIRECT EXAMINATION BY MR. MARCHANT:**

2 Q Mr. Armstrong, were you submitted some evidence in this case to do some
3 analysis?

4 A Yes, I was.

5 Q Specifically, Mr. Armstrong, you-- We'll start with State's 59. Were you
6 able to determine what that is? It's in evidence. You need to look in the inside.

7 A I do recognize it. It has my initials and the date placed on the red evidence
8 tape.

9 Q How many pieces of evidence are in that bag?

10 A Fourteen.

11 Q Those items are DS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 22, and 29. Is that
12 correct?

13 A That's correct.

14 Q What does the DS stand for?

15 A That'd be one of the officer's initials that submitted it.

16 Q What did you do with these fourteen items when they got back down to the
17 lab?

18 A Once I received the items I inventoried the contents of the sealed container. I
19 then identified each, individual item, gave each an item number as well, or described
20 the item number inside the case of the fired cartridge casing. And then made notes of
21 that and then compared them to each other and then to firearms in reference to the
22 case.

23 Q What exactly are items DS 1 through 12, 22 and 29?

24 A DS 1 through 12, 22 and 29, are caliber nine millimeter Luger fired cartridge
25 casings.

1 Q Now, with respect to the shells that have been unspent, what is exactly the
2 casing? Can you explain that to the jury?

3 A The casing is basically a body which holds the projectile in the mouth area,
4 and it has a power charge and then a live primer on the base. The base is then struck
5 by a firing pin, which then ignited the powder which pushes the projectile down the
6 barrel and now what is left is a piece of brass.

7 Q You've opened DS 1. Can you explain to the jury what's left once you've
8 fired a gun?

9 A This is DS 1. It is nickel-plated brass, has a mouth where the projectile would
10 have been placed, and the firing pin impression on the primer region of the cartridge
11 case.

12 Q So, are you able to know just from looking at this item what sort of weapon
13 was fired?

14 A Just by looking at it, I can tell it would be one that was capable of firing a nine
15 millimeter Luger.

16 Q Did you have the occasion to compare these fourteen shells to Officer Taci
17 Cobb's gun, which would be – sorry – identified as Item TC-1. It's not present in the
18 courtroom today, James. Did you compare it to Officer Cobb's gun?

19 A Yes sir, I did.

20 Q What analysis did you do to insure that the results that you obtained was that
21 both of these items were fired by her gun?

22 A In order to do my comparison for that, I took the TC-1 pistol, test-fired it, and
23 collected the test-fired specimens and then compared the knowns from the test fires to
24 the unknowns I had with the items DS 1 through 12, and 22 and 29. I compared them
25 under the microscope in a side-by-side comparison to look at any kind of tool mark

1 impression that were left behind in the firing of that location and then rendered my
2 opinion.

3 Q Do you know or recall what sort of gun she was carrying that day?

4 A It was a Sig Sauer Model T-226.

5 Q So, if we had two Sig Sauers Model T-226, are you able to look at the tool
6 marking strikes from the back of the shell casings and say with certainty it came
7 from this one as opposed to this one?

8 A Correct.

9 Q So, all of these items, 1 through 12, 22 and 29, came from Officer Taci
10 Cobb's gun?

11 A Yes sir.

12 Q Now, I'm gonna show State's Exhibit 60, which has been marked and is in
13 evidence as Frederickson DS 21, 25, 26, 27, 28, 31, 32, 33, and 30. And I'm going to
14 open DS 21.

15 Mr. Armstrong, just like the other packaging that you did your analysis on, did
16 you do the same thing with this one?

17 A Yes sir, I did.

18 Q Did you in fact compare those spent shell casings to what was collected by
19 Jon Derby, labeled as JD-1 and is State's 53?

20 A Yes sir, I did.

21 Q And what were the results of your analysis on those nine items?

22 A DS 21, 25, 26, 27, 28, 30, 31, 32, and 33, fired cartridge casings, were fired in
23 the item JD-1 pistol.

24 Q After your examination, viewing the strikes and the tool marks as well, those
25 nine shells were fired by that gun?

1 A That's correct.

2 Q You also had the opportunity to examine various projectiles pertaining to this
3 case as well, DS 13, 14, 15, 16, 17, 18, 19, 20, 23, 24, 40, 41, 42, 43, 44, and 45?

4 A Yes sir, I did.

5 Q With the exception of DS 14 and DS 41, were you able to determine or
6 eliminate out of the two guns that we're talking about here today where the fragments
7 came from?

8 A Some of the fragments I was not able to because they were not suitable for
9 microscopic comparison purposes, but I was able to rule out or eliminate from other
10 firearms.

11 Q Well, let's talk about DS 14. Were you able to eliminate which firearm DS 14
12 came from?

13 A Yes sir. It was not fired from item TC-1 pistol.

14 Q If you would, hold that up and show the jury as best you can, with the
15 fragment in the condition that it is, how were you able to look at that projectile and
16 compare it to something that had come out of Officer Cobb's gun and say with
17 certainty that that did not come from her gun?

18 A Well, one is the difference in the general rifling characteristics. The number
19 of lands and grooves and the direction of twists. By looking at the number of lands
20 and grooves, I could actually rule case one are out. And plus the dimensions of some.
21 The dimensions on this are definitely different from the ones from Officer Cobb's
22 gun.

23 Q I'm also going to show you DS 41. Did you do a similar analysis on that?

24 A Yes sir, I did.

25 Q Were you able to determine or eliminate which firearm DS 41 came from?

1 A Yes sir. I was able to determine that DS 41, was fired from the item JD-1
2 pistol.

3 Q So, you're no doubt about it, one hundred percent clear, certain this projectile
4 came from that gun?

5 A That's correct.

6 Q With respect to the other fragments were they of sufficient quality that you
7 were able to determine which one they came from or at least which one they did not
8 come from?

9 A I'll have to see all the results to verify.

10

11 Mr. Johnson: Your Honor, I'm gonna object to this line of questioning. I don't think
12 that this---

13 The Court: All right, sir. I'm going to allow the question and the answer. Thank
14 you.

15 A (pause to examine items) The item DS 18, 19-A, 23, 40, 42, 43, and 45, I was
16 able to determine that they were not fired from the item JD-1 pistol, but they bear
17 similar marks to render identification to that of TC-1 pistol.

18 Q So, all these you just talked about you can say for certainty were not fired
19 from this one?

20 A Correct.

21 Q But they are of insufficient quality to determine whether or not they came
22 from Officer Cobb's gun?

23 A Right. There are similarities, but not enough to make a confirmation.

24 Q Mr. Armstrong, where did you get these from for your analysis?

1 A Received from the Property and Evidence room in the basement of the law
2 enforcement center.

3 Q And once you got done with them, where were they returned?

4 A Back to the Property and Evidence room for storage.

5 Mr. Marchant: Move State's 59, 60 and 61 into evidence.

6 The Court: Any objection?

7 Mr. Johnson: No objection.

8 The Court: State's 59, 60 and 61 in evidence without objection.

9 (Whereupon State's Exhibits Numbers 59, 60 and 61 were admitted into evidence,
10 without objection)

11 Q Mr. Armstrong, please answer any questions Mr. Johnson may have.

12 The Court: Cross examination.

13 Mr. Johnson: Thank you, Your Honor.

14 **CROSS EXAMINATION BY MR. JOHNSON:**

15 Q Mr. Armstrong, when we're talking about these pistols, the actual bullet gets
16 into the gun through the magazine. Is that right?

17 A Correct.

18 Q And the magazine can be of different shapes and sizes?

19 A Correct.

20 Q It can hold different amounts of bullets based on what size it is?

21 A Yes sir.

22 Q Now, how would someone put a magazine in a gun? How would you-- Is it
23 hard to do, or something you just slide in? How does a magazine actually get in the
24 gun?

1 A Well, the magazine usually is just hand-fed into what is called the magazine
2 well on the pistol, which is usually around the grip area, and it's fed right in by the
3 hand.

4 Q So, you would grab the magazine like this and actually put it in the gun.

5 A Right.

6 Q Is it hard to do?

7 A It's not hard to do in the majority of firearms.

8 Q Thank you.

9 Mr. Johnson: I have nothing further.

10 The Court: Any re-direct?

11 Mr. Marchant: No, Your Honor. We ask that the witness be excused.

12 The Court: Any objection?

13 Mr. Johnson: No objection.

14 The Court: All right, sir. You are released from your subpoena and may go back to
15 your regular activities, sir. Next witness, Solicitor.

16 Mr. Marchant: The State calls Detective Tim Conroy.

17 The Court: Come around and be sworn.

18 **TIM CONROY**, duly sworn, testified as follows:

19 Clerk of Court: Please state your name for the record.

20 A Timothy Michael Conroy.

21 **DIRECT EXAMINATION BY MR. MARCHANT:**

22 Q Detective Conroy, where are you employed?

23 A Greenville Police Department.

24 Q How long have you been with the Greenville Police Department?

25 A Sixteen years.

1 Q Did you work anywhere in law enforcement prior to becoming employed with
2 the city police?

3 A No, I did not.

4 Q What is your current position with the city police department?

5 A I work in the Detective Division as a Crime Scene Investigator.

6 Q We heard earlier from Detective Flavell. Is Detective Flavell one of your
7 colleagues, contemporaries in that same department?

8 A Yes, he is.

9 Q How many investigators, detectives are with that division?

10 A There are five of us.

11 Q Now, on the day of this incident were you working?

12 A I was.

13 Q Do you recall where you were when the call went out that shots had been
14 fired?

15 A I was at the law enforcement center in my office.

16 Q Where did you go once that call went out?

17 A I went directly to

18 Q What did you do when you got there?

19 A I met with Officer Cruell and Lane.

20 Q At some point in time, which has been testified to, that you were the lead
21 officer in this case. What exactly does that mean?

22 A Usually as your lead officer, all the information comes through you and you
23 filter them out to other investigators so they can be investigated.

24 Q How long did you stay at the Berkeley Place Apartments before going back to
25 the law enforcement center?

1 A I stayed there till after the scene was cleared which was roughly four o'clock,
2 five hours.

3 Q At that time, once you cleared the scene and the investigation is underway, did
4 you have a suspect at the time you went back to the law enforcement center?

5 A Yes, we did.

6 Q And how long between the time you left the law- excuse me - between the
7 time you left Berkeley Place Apartments, was the suspect apprehended, roughly?

8 A Three or four hours.

9 Q For that entire time were you back at the law enforcement center after you left
10 the apartments?

11 A Yes, I was.

12 Q And you were interviewing people or?

13 A I was.

14 Q Did you write any report at that time?

15 A I was interviewing people and talking with other investigators.

16 Q At some point in time were you informed that there may be, that they have a
17 suspect and the location where he was?

18 A Yes.

19 Q So, did you go to Mooremont Avenue?

20 A No, I stayed at the law enforcement center.

21 Q As the lead investigator why did you not go to where the suspect was
22 potentially apprehended?

23 A Just in case there was something else that came up. There were plenty of units
24 out at that scene.

1 Q At some point in time did you come to understand that the suspect had been
2 apprehended?

3 A I did.

4 Q And where did you go once you determine he had been apprehended?

5 A Once he was apprehended, I learned he had gone to the hospital. So, I went to
6 the hospital.

7 Q Why would you go to the hospital?

8 A To speak with him and see if there was any evidence there I could gather.

9 Q When you got to the hospital where did you locate the defendant?

10 A I got to the hospital and he was brought into a trauma bay in the emergency
11 room.

12 Q Did you immediately go up and speak with the defendant at that time?

13 A No sir. I allowed him to be treated first and then I spoke with him.

14 Q How long were you in the hospital room before you spoke with the defendant?

15 A Approximately twenty minutes. He was being treated and then I spoke with
16 him. And then-- Shortly after that I spoke to him.

17 Q During the course of his treatment were the nurses and doctors and other
18 medical personnel asking him questions?

19 A Yes, they were.

20 Q Did he seem to understand the questions they were asking him?

21 A He did, and he seemed to answer them.

22 Q He responded verbally?

23 A Correct, he did.

24 Q While you were there did you notice, or were you informed of any medication
25 that the defendant had been given?

- 1 A I was not aware of any.
- 2 Q Do you know if he was on any pain medication?
- 3 A Not that I'm aware of.
- 4 Q During this-- How long were you there before you spoke with him?
- 5 A Twenty minutes.
- 6 Q During this period of time, you overheard medical personnel ask him
- 7 numerous questions?
- 8 A Yes, I did.
- 9 Q And he responded verbally?
- 10 A Correct.
- 11 Q In your opinion, did he appear to understand their questions?
- 12 A He did.
- 13 Q Now, following the roughly twenty-minute period, did you decide to speak
- 14 with the defendant?
- 15 A I did after the majority of the medical personnel cleared out, pretty much.
- 16 Mr. Johnson: Your Honor, over pre-trial, my prior objection.
- 17 The Court: All right, Sir. I will allow this to continue. Your objection is noted.
- 18 Q The defendant, when you were speaking with him, where did you first make
- 19 contact?
- 20 A In the trauma center.
- 21 Q The photograph that we've already seen and has been shown to the jury is
- 22 State's 47. Is that basically how you found him?
- 23 A That's correct.
- 24 Q Was he under arrest at that time?
- 25 A He was.

1 Q So, if he wanted to get up and walk out of the hospital room, could he have
2 done so?

3 A No sir.

4 Q Once you decided to speak with him, what was the normal course of action
5 that you and the detective division, as well as other officers with the city go through
6 to make sure that the defendant is speaking with you freely and voluntarily?

7 A Prior to talking to him about the incident I advised him of his rights.

8 Q And why do you advise somebody of their rights?

9 A It's their constitutional right.

10 Q I'm showing you what's been marked as State's 59. Do you recognize this
11 document?

12 A Yes, I do.

13 Q Please explain to the jury what that document is and what you did with it
14 before you spoke or asked the defendant any questions.

15 A This is a waiver of rights. Correction. It's his rights and then a waiver of
16 rights. Prior to talking to him I advised him of, read his rights to him. I read each
17 line out loud to him and he acknowledged-- I asked him to acknowledge if he
18 understood what I read to him, and he stated he did.

19 Q What's the specifics? How exactly did you inform him of his rights? And
20 how did he indicate to you whether or not he understood those rights?

21 A I read the form to him. The first line reads: "Before you answer any
22 questions you must understand your rights." He acknowledged verbally that he
23 understood that. I continued with the next line which read, "You have the right to
24 remain silent." Again, he responded that he understood. "Anything you say can be
25 used against you in court." He responded he understood that as well. I went on to

1 say, "You have the right to talk to a lawyer for advice before we ask you any
2 questions and have them with you during questioning." He acknowledged he
3 understood that. "If you have no money to pay a lawyer to be here the court will
4 appoint one to represent you without cost if you wish." He advised he understood
5 that. It goes on to say---

6 Q Detective Conroy, how did he advise you that he understood? Was it verbal
7 or written? Did he nod his head?

8 A Verbal.

9 Q But after each line you read he indicated he knew, yes, I understand? Or how
10 was it that he---

11 A After I read each line, do you understand, yes.

12 Q Once you got through all those rights is there a second portion of that form
13 that you read to people who you are interviewing?

14 A There is.

15 A And what is that? What is the purpose of that second section and how did you
16 deliver that information to the defendant?

17 A I read the waiver of rights. It reads: "I have read this statement of my rights
18 and understand what my rights are. I am willing to make a statement and answer
19 questions. I do not want lawyer at this time. I understand and know what I am doing.
20 No promises or threats have been made to me, and no pressure or coercion has been
21 used against me."

22 Q Did you explain to him what the word, coercion, means?

23 A I did. I explained to him it meant force; could be mental or physical force to
24 try to get him to do or say something that he didn't want to do. He advised he
25 understood.

- 1 Q Did you make him any promises about if he talked to you, you would---
- 2 A I told him I could not promise, make any promises or deals with him.
- 3 Q Did he indicate to you that he understood that portion of his rights and then he
- 4 waived those rights?
- 5 A Yes, he did.
- 6 Q And did he indicate that he wanted to speak with you?
- 7 A After I advised him, he did indicate he wanted to speak.
- 8 Q Now, was the defendant handcuffed at the time?
- 9 A He was.
- 10 Q Do you recall how or where he was handcuffed?
- 11 A He was handcuffed to the bed or stretcher he was on.
- 12 Q And what I would consider more of a normal setting, someone is at your
- 13 office and you're interviewing them. How would you go about reading their rights
- 14 and advising them of what their rights are?
- 15 A I would have them-- After they have read their rights or had them read to
- 16 them, I would have them initial on each line and sign the form.
- 17 Q Did you do that in this case?
- 18 A I didn't, due to his condition.
- 19 Q When you say due to his condition, can you elaborate a little bit on that?
- 20 A Yes. He was handcuffed to the bed. He also had a wound to his left arm, to
- 21 the shoulder area, and blood on him. So, he was immobile.
- 22 Q With respect to State's 69, you read the line-by-line, read him the waiver
- 23 portion and you believe that he understood his rights and what he was doing?
- 24 A Yes sir.
- 25 Q And did he agree to waive those rights and speak with you?

1 A Yes, he did.

2 Mr. Marchant: Move State's 69 into evidence.

3 The Court: Any objection?

4 Mr. Johnson: Over prior objection, Your Honor.

5 The Court: All right. In evidence over the objection of defense.

6 (Whereupon State's Exhibit Number 69 was admitted into evidence over objection)

7 Q Now, Detective Conroy, did you ask him any questions?

8 A No, I didn't ask him any questions. I explained to him that we found several
9 items at the apartments, his Social Security card, his personal belongings, and we
10 were gonna process the vehicle that he was in for latent prints. At that time he made
11 the statement that he was shot and passed out in the woods and that's, the next thing
12 he remembered was waking up, walking towards the police tape.

13 Q That statement was in response to you informing of the evidence that you
14 believe you had at that time---

15 A That's correct.

16 Q ---that was being processed?

17 A That's correct.

18 Q Did you ask him any further questions?

19 A I did not ask him any further questions.

20 Q Why?

21 A Because at that point he stated he wanted an attorney.

22 Q Well, why did you terminate the conversation at that point in time?

23 A Because he requested an attorney and that's his right, so I terminated the
24 questioning.

1 Q Subsequently, some days down the road, did you have the occasion to speak
2 with him again and get a DNA sample from him?

3 A I did.

4 Q I'm showing you what's been marked as TMC-5, State's Exhibit 64. Did you
5 get that sample from the defendant?

6 A Yes.

7 Q Can you please explain to the jury how you went about retrieving that sample?

8 A I met with Mr. Lowrance. I handed him a sealed packet in a plastic envelope,
9 or a plastic, sealed envelope and explained to him how to open it. He opened it up.
10 Inside there, there was a swab on a stick with a capsule around it. I explained to him
11 to open the capsule, slide it down on the stick and wipe it on the inside of his mouth.
12 Which, he opened the package himself, swabbed the inside of his mouth, closed the
13 capsule up and then put it in an evidence box.

14 Q So, what you just described is what's located in here?

15 A That is correct.

16 Q And did you seal the ends of this?

17 A I did.

18 Q And subsequently submitted it for testing for Doctor Kandala?

19 A That's correct.

20 Q And the handwriting on the side of this, is that your handwriting?

21 A It is.

22 Q So, the only statement the defendant made to you was in the hospital prior to
23 invoking his right to a lawyer?

24 A That's correct.

1 Q Now, as lead investigator, you've been here through a lot of other testimony.
2 I don't want to minimize your involvement in the case, but is there anything else that
3 you collected in this case, or were there other officers, forensic officers, other
4 detectives that retrieved the majority of the information in this case?

5 A That's correct. Evidence was collected by a number of people.

6 Q Please answer any questions Mr. Johnson may have for you.

7 The Court: Cross examination.

8 Mr. Johnson: Thank you, Your Honor.

9 **CROSS EXAMINATION BY MR. JOHNSON:**

10 Q Detective Conroy, I want to show you what's been marked as State's Exhibit
11 47. Now, that's the picture of my client in the hospital. Correct?

12 A That's correct.

13 Q And that's the condition he was in when he got there?

14 A When he got there, he had his shirt on and medical personnel cut his shirt off
15 and started treating him. This was after he was treated. Forensics showed up after he
16 was treated and I left the hospital.

17 Q So, you were already gone by the time that picture was taken?

18 A That's correct.

19 Q Detective, that's the picture I just showed you. Correct?

20 A Yes sir.

21 Q And that's my client after you say Forensics had cut off his shirt?

22 A Medical personnel---

23 Q Medical personnel, excuse me.

24 A ---cut his shirt off. Yes sir.

25 Q Excuse me. Then Forensics collected his shirt?

1 A Yes sir.

2 Q Now, you testified earlier that you went to see my client and you questioned
3 him. Is that true?

4 A I never asked him a question. I wanted to talk to him. I wanted to question
5 him, yes sir.

6 Q So, you went to question him, but you stated that you never asked him a
7 question?

8 A No sir. I explained the facts that were found. He uttered something, then
9 requested an attorney.

10 Q Now, when you said those facts as you portrayed them, did you expect a
11 response?

12 A Not necessarily.

13 Q Then why did you say it? You said you wanted to question him. Then why
14 did you say this stuff if you didn't expect it would elicit a response?

15 A I was hoping he would speak with me about the case, but I didn't expect him
16 to utter a response.

17 Q Now, you guys in the Academy and otherwise, are taught how to interrogate
18 and otherwise question people, aren't you?

19 A I have been to interrogation schools, yes sir.

20 Q Yes sir. Now, and besides the shirt-- I mean, this is the virtual condition he
21 was in when you wanted to talk to him, isn't it?

22 A It is.

23 Q He looks in pain, doesn't he?

24 A I can't-- I mean, I'm sure he was in pain, yes sir.

25 Mr. Johnson: (inaudible)

1 The Court: Re-direct, Solicitor?

2 Mr. Johnson: Your Honor, I'm not—

3 The Court: Oh, I'm sorry.

4 Mr. Johnson: My apologies.

5 The Court: Continue on.

6 Mr. Johnson: Thank you.

7 Q Now, Detective Conroy, you did a report in this issue, in this incident?

8 A Yes sir.

9 Q Do you have that with you?

10 A I do not.

11 Q I'm going to hand you what has been provided to me. If you will, please
12 confirm to me whether or not that's your report that you made.

13 A (pause to examine document) Yes sir.

14 Q May I have that back, please?

15 A Yes sir.

16 Q Now, you were involved in all this except for what folks testified as to what
17 happened at the Comfort Inn and the chase. You were pretty much involved as far as
18 coming to the scene at Berkeley Point. And past that point you were not involved in
19 processing the scene and things of that nature, but you were involved in the
20 investigation from that point on?

21 A Yes sir.

22 Q Okay. Now, when you first got there, you talked to a Hispanic male, didn't
23 you?

24 A I did.

1 Q Alright. And you learned from that Hispanic male that he observed two black
2 males quickly away from the 1300 Building, that they were both six feet, 200 pounds.
3 Once was wearing a black and white shirt with long, twisted hair, and the other one
4 was wearing all black. Did you learn that at the scene?

5 A I did.

6 Q And you passed that information and then you continued on with the
7 investigation, didn't you?

8 A Yes.

9 Q Now, did you ever follow up and see who those people were?

10 A No sir, I did not.

11 Q Now, you are aware that the earlier description as given by Officer Cruell was
12 a black male, approximately six feet tall with long hair? Aren't you aware of that?

13 A I was.

14 Q But you didn't follow up on that, did you?

15 A No sir. The investigation took another turn.

16 Mr. Johnson: Your Honor, I have nothing further of this witness.

17 The Court: All right. Re-direct.

18 Mr. Marchant: No, Your Honor.

19 The Court: The witness will stay with us

20 A Yes sir.

21 The Court: You're released from the subpoena now, anyway. All right. Further
22 witnesses from the State?

23 Mr. Marchant: Your Honor, that's the State's case.

24 The Court: All right, ladies and gentlemen. I assume, Mr. Johnson, there are certain
25 matters of law you need to take up with the court at this point in time?

1 Mr. Johnson: Yes sir, Your Honor.

2 The Court: Very good. All right, ladies and gentlemen. At the present time, when
3 the State rests its case or ends its case there are certain matters of law the court will have to
4 review with the attorneys. It will take some time. Looking at the clock, I'm not gonna keep
5 you here in the hopes that we would continue on with at least some more of the case before
6 we conclude it.

7 As far as your participation for today, that's gonna be over with. I'm gonna send you
8 home with the instructions I gave you last night. You can't go home and talk about this case
9 with anybody. Again, y'all shouldn't be talking about this case because I have not submitted
10 it to you for your deliberations and your unanimous decision yet.

11 So, again, you aren't investigators. Don't look up anything. Don't do any research.
12 Don't read any reports or watch any reports about this particular matter. You decide the case
13 solely and completely on the facts and evidence you hear in the courtroom, and from now
14 other source.

15 So, with that, I will see you back, please be back in your jury room by 9:25 tomorrow
16 so we can start at 9:30 please. Thank you very much. Have a good evening. Everyone else
17 remain seated.

18 (Whereupon the jury exited the courtroom)

19 I'll be glad to hear any motions that you have at this point in time, Mr. Johnson.

20 Mr. Johnson: Thank you, Your Honor. At this time, the-- First of all, the defense
21 wishes to renew all prior objections, including the objection to the testimony from Officer
22 Conroy of the statement given by my client and the waiver of rights form.

23 Your Honor, I think the evidence has revealed that---

24 The Court: Well, let's deal with them one at a time.

25 Mr. Johnson: Yes sir.

1 The Court: Your renewal of that particular matter as to the statement of the
2 defendant, I will reaffirm my prior ruling that it was, clearly the defendant was under arrest.
3 I do find that he was partly given his Miranda warnings. He waived those Miranda warnings
4 and he voluntarily gave a statement to the detective at that time with the full knowledge of
5 his rights and having waived those rights. I reaffirm that prior ruling. All right.

6 Mr. Johnson: Your Honor, I would also like to renew my prior objection to the
7 identification made by Officer Brittany Cruell as a violation of my client's due process for
8 unduly suggestiveness.

9 The Court: All right, sir. Regarding that particular issue, I'll reaffirm the prior ruling
10 of the court that I found under the standards that I set forth at that time when we conducted
11 the Neil versus Biggers hearing. I did not find the circumstances to be such that it was
12 unduly suggestive or that the defendant was pointed out to the officer or any way tainted her
13 identification of the officer (sic), and therefore, respectfully decline to grant your motion. I
14 reaffirm the prior ruling.

15 Mr. Johnson: Your Honor, at this point in time I'd like to make a motion for a
16 directed verdict on all charges. Your Honor, more specifically with regards to the failure to
17 stop and the possession of a stolen vehicle over \$10,000. I do not believe Officer Cruell or
18 the other officer testified that they saw my client get into said vehicle. It was also further
19 testified by Officer Lane that he could only tell it was a black male. And the chase video does
20 not reveal who is the driver of that car.

21 I do know-- I do acknowledge that there was evidence presented that placed my
22 client on the outside or in and around the vehicle with fingerprints. However, it does not
23 prove that he was in the vehicle in that specific chase. Especially, with the element of failure
24 to stop driving and the element, and no one testified that they saw my client driving the
25 vehicle.

1 With regards to the possession of a weapon and the two attempted murder charges, I
2 do believe that the evidence is largely circumstantial and attempted to be pieced together in
3 order to make a substantial case. I think that fails under State versus-- Excuse me. State
4 versus Williams. And this is not substantial circumstantial evidence as required to survive
5 a directed verdict.

6 The Court: Thank you. Solicitor, any arguments you want to make?

7 Mr. Marchant: Your Honor, the court's familiar with the burden of proof. At this
8 stage of the game, Judge, we believe there's sufficient evidence on all charges to allow the
9 case to go forward and deny the directed verdict motion. There is in fact the existence of
10 evidence. Of course, the court's not concerned with the weight. The jury will weigh that
11 out at the end of the trial. So, based on the standards in Williams, there is plenty of evidence
12 in this case for the jury to consider the defendant's innocence or guilt on those five charges.

13 The State would move respectfully that defendant's motion for a directed verdict be
14 denied.

15 The Court: All right, sir. Regarding the directed verdict motion on the charges
16 against the defendant, the standard is the defendant is entitled to a directed verdict when the
17 State fails to produce evidence of the offense or offenses charged. As the trial judge I'm
18 concerned with the existence of evidence, not with its weight; not its credibility,
19 believability. That's the job of the jury. My job is only to decide whether or not the
20 evidence does exist.

21 If there's any direct evidence or substantial circumstantial evidenced reasonably
22 tending to prove the guilt of the accused, the case is properly submitted to the jury, the
23 motion for directed verdict is properly denied.

24 Only when I would find the evidence merely raises a suspicion that the accused is
25 guilty of a particular crime would it be proper for the court to grant a directed verdict motion.

1 So, if I would find that the jury was merely speculating as to the guilt of the accused or where
2 the evidence is sufficient only to raise a mere suspicion of guilt, then a directed verdict
3 motion would be proper.

4 As to the two charges you mentioned first, failure to stop for a blue light, and
5 possession of a stolen vehicle, I do find that there is more than sufficient, certainly
6 substantial circumstantial evidence that would show the defendant was driving the vehicle,
7 there was a failure to stop for the blue light. When you combine the testimony of Officer
8 Cruell, Officer, the other officer that was present, Lane, I believe. Hold on one second.

9 All right. And then you combine it with the evidence that was found regarding the
10 defendant's fingerprints on the vehicle, the vehicle being found shortly after the chase by
11 Officer Cruell. I do find there's substantial circumstantial evidence to find that there was a
12 failure to stop for a blue light.

13 Regarding possession of a stolen vehicle, again, I find there's substantial
14 circumstantial evidence. It's clear from the testimony provided that the vehicle as testified to
15 was a stolen vehicle.

16 And the other evidence that was introduced regarding the attempted murder charges
17 and the possession of a weapon during the commission of a violent crime, again, I do find
18 there is direct evidence and substantial circumstantial evidence that reasonably tends to prove
19 the guilt of the accused as testified by the numerous witnesses in this case.

20 And therefore, your motion for a directed verdict at this stage of the proceedings is
21 denied.

22 As far as proceeding on with the trial of this matter, Mr. Johnson, do you at this time
23 plan to present evidence in this case?

1 Mr. Johnson: Your Honor, I think that I probably will. I think-- At this time I'm not
2 sure. I guess I'll ask that if you will prepare the proper questioning for my client, but I
3 believe he may testify in this matter.

4 The Court: All right, sir. If you-- Do you want to have until first thing in the
5 morning to review the matter with your client and make that decision, or are y'all prepared to
6 make that decision right now?

7 Mr. Johnson: I prefer to make the decision in the morning, Your Honor.

8 The Court: All right, sir. I don't have a problem with doing that. What I would ask
9 of you in the morning is if you intend to produce evidence in the case or bring forth evidence
10 in the case that would not be that of your client; that is, not your client testifying, then what
11 we would do is proceed with that particular part of the trial. When you're done with all of
12 your presentation except the possibility of your client testifying, we'll take a short break and
13 then I'll go over his constitutional rights with him and his decision whether or not he wants
14 to testify in this particular case or not.

15 So, when we reconvene in the morning, you need to let me know where it is and what
16 your intentions are regarding your presentation of evidence, so I'll know how we're gonna
17 proceed.

18 Mr. Johnson: Yes sir, Your Honor.

19 The Court: All right, very good. If y'all have any requests to charge that would like
20 to submit, I would ask that if there are any you want me to consider you bring those in the
21 morning and give those to me in the morning.

22 Mr. Johnson: Yes sir, Your Honor.

23 The Court: Both the State and the Defense. All right. Anything else from the State
24 before we recess for the evening?

25 Mr. Marchant: Nothing from the State, Your Honor.

1 The Court: From the Defense?

2 Mr. Johnson: Nothing from the Defense, Your Honor.

3 The Court: Very good. I'd appreciate it if y'all would be here shortly after 9:00 so if
4 there are any matters we need to go over, anything that comes up, we can discuss those prior
5 to the jury coming in and we can get started at 9:30.

6 Mr. Johnson: Yes sir, Your Honor.

7 (Whereupon court was adjourned for the day)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	:	
COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT
STATE OF SOUTH CAROLINA,	)	TRANSCRIPT OF RECORD
	:	2012-GS-23-1422
PLAINTIFF,	)	2012-GS-23-1423
	:	2012-GS-23-1425
VERSUS	)	2012-GS-23-1426
	:	2012-GS-23-1427
PATRICK DEAN LOWRANCE,	:	
	)	
DEFENDANT.	:	VOLUME III
	)	OCTOBER 10, 2012
		GREENVILLE, SOUTH CAROLINA

BEFORE:

THE HONORABLE STEVEN H. JOHN, JUDGE, AND A JURY

APPEARANCES:

FOR THE STATE;
LUCAS C. MARCHANT, ESQ., ASSISTANT DEPUTY SOLICITOR

FOR THE DEFENSE:
BRIAN JOHNSON, ESQ.
JOHN CRANGLE, ESQ

PHYLLIS BARRETT
COURT REPORTER

OCTOBER 10, 2012 – COURT IN SESSION

1
2 The Court: All right, counsel, I've thought about this matter overnight. I want to-- I
3 believe this is the issue of the defendant's motion for a directed verdict on the possession of a
4 stolen vehicle. At the present time the testimony that has been presented to the court, there's
5 no testimony from anyone saying that the vehicle was stolen. There is testimony that there
6 was an improper tag and the VIN number was obscured. There was testimony from any
7 officer of who actually owned the vehicle. The police had the custody and control of the
8 vehicle, they towed it in. They had plenty of opportunity to take the air freshener off the VIN
9 number, check the VIN number, communicate with the owner of the vehicle, find out if the
10 defendant had permission to use the vehicle or be in possession of the vehicle.

11 There's no testimony before the court of the person that owned the vehicle, whoever
12 that person may be, saying it is their car, that defendant did not have permission of the
13 vehicle.

14 Therefore, at the present time, I, under the authority that I have as presiding judge in a
15 criminal matter, I can and will offer to the State to re-open their case to present further
16 evidence on the issue of possession of stolen vehicle, if they so choose to do so. If they
17 decline to do so, then the court will grant the defendant's motion for a directed verdict as to
18 the possession of a stolen vehicle.

19 The Court: What's your position, Solicitor?

20 Mr. Marchant: Your Honor, at this time the State would move to reopen the case and
21 call Detective Conroy back to the stand to clarify the issue at hand.

22 The Court: Very good. Hold on one second.

23 (pause)

24 Under the-- As I said, under the authority the court has, I'll just cite a few cases that
25 cite it's in the trial judge's discretion to allow the state to reopen its case to prove the

1 essential element of the offense charged. That's found at State versus Humphrey, 274 SE 2nd
2 918, 1981 decision of the South Carolina Supreme Court; State versus Wren, 470 SE 2nd 111,
3 South Carolina Court of Appeals decision, 1996; State versus Greene, 567 SE 2nd 505, 2002
4 decision of the South Carolina Court of Appeals.

5 Yes sir, Mr. Johnson?

6 Mr. Johnson: Your Honor, I-- Actually, I suppose you just ruled. However, I would
7 like to object for the record, understanding the motion and otherwise the practice of
8 objecting. I understand that's your ruling, but I'd like to-- I don't think I ever said objection.
9 So, I would like that on the record.

10 The Court: Well, I appreciate that. If you want to put your grounds on the record, I'll
11 be glad for you to do so.

12 Mr. Johnson: Yes sir, Your Honor, just briefly. The Solicitor had closed their case.
13 We actually were prepared to start-- We possibly could have started our case yesterday, if it
14 weren't for logistical reasons as far as time was concerned.

15 I would like to object for the record to the State being able to reinstitute this
16 testimony and ask that you grant my motion for a directed verdict on that charge once again,
17 Your Honor.

18 The Court: All right. Well, I'm gonna allow the State to reopen the case. As I
19 indicated, I will obviously hear from you again after we've heard any further testimony as to
20 the matter. We'll see if there is or can be produced sufficient evidence regarding the charge
21 of possession of a stolen vehicle.

22 With that, is the State ready for the jury?

23 Mr. Marchant: Yes, Your Honor.

24 The Court: And the Defense?

25 Mr. Johnson: Yes sir, Your Honor.

1 The Court: Ask the jury to come in, please.

3 All right, ladies and gentlemen. Yesterday, the State rested. There was a matter
4 brought to the court's attention. In my discretion I am allowing the State to reopen its case
5 on a certain matter. And therefore, Solicitor, you may call your next witness.

8 The Court: Detective, please remember that you under oath, remain under oath in this
9 particular matter. Thank you very much.

12 DIRECT EXAMINATION BY MR. MARCHANT:

15 A Yes, I did.

17 A Yes, I did.

19 A Delana Grisham.

21 A I spoke with her on November 2 by phone, and then again on the fourth in
22 person.

24 A November 4.

1 A At Elgin Body Shop.

2 Q Why did you meet with her at Elgin Body Shop?

3 A To return her vehicle to her.

4 Q How did that exchange go at Elgin Body Shop?

5 A I had her vehicle identification number with her vehicle information. I

6 checked it with the VIN on the car, as well as her driver's license to confirm that she
7 was the rightful owner.

8 Q Where did the registration information come from?

9 A Off a printout run through dispatch.

10 Q Did she indicate to you whether or not anyone had permission to be drive her
11 vehicle?

12 A She stated no one had permission.

13 Mr. Johnson: Judge, this is hearsay.

14 The Court: As far as the last statement by the Detective, I'll strike that and ask the
15 jury to disregard the last statement. Continue on, Solicitor.

16 Q You took the VIN number off of the vbehicl or off a piece of paper?

17 A I compared the two, off of the printout from dispatch to the one on the
18 vehicle.

19 Q And is there a case file or jacket concerning this vehicle out of Spartanburg
20 County?

21 A Yes, there is.

22 Q Did you do any investigation into that case in Spartanburg County?

23 A No, I did not.

24 Q Please answer any questions Mr. Johnson may have you.

25 The Court: Cross examination.

1 Mr. Johnson: No questions, Your Honor.

2 The Court: Thank you very much. You may step down, sir. Further presentation by
3 the State?

4 Mr. Marchant: None from the State, Your Honor.

5 The Court: Very good. All right, ladies and gentlemen. I appreciate your patience.
6 You just came in the courtroom. Again, I assume, Solicitor, you're telling me then that the
7 State rests?

8 Mr. Marchant: Yes, Your Honor, the State rests.

9 The Court: Very good. All right. I'll have to again talk to the lawyers for about five
10 minutes. Y'all go back to your jury room and we'll call you back in and we'll resume the
11 case. Thank you very much.

12 (Whereupon the jury exited the courtroom)

13 All right, Mr. Johnson, I'll be glad to hear from you, sir.

14 Mr. Johnson: Yes sir, Your Honor. I'd like to renew my motion for a-- First of all,
15 Your Honor, permission to approach?

16 The Court: Yes sir.

17 (Whereupon a bench conference took place)

18 So, the record is clear, I allowed the State to reopen its case only on the issue of the
19 possession of a stolen vehicle, having brought that to the attention of counsel in this matter.

20 Previously the State had rested. The Defense had made its motions for a directed
21 verdict on the other charges, the failure to stop for a blue light, possession of a weapon
22 during the commission of a crime, the attempted murder charges. Those were heard and
23 ruled on by the court at that point in time. The Court states to the Defense counsel it's not
24 necessary to reassert those motions for a directed verdict. You've made those, the Court's
25 ruled on them. The only matter that was reopened was on the issue of possession of a stolen

1 vehicle. So, I'll be glad to hear from you, Mr. Johnson on the issue of a renewed motion for
2 directed verdict on the possession of a stolen vehicle.

3 Mr. Johnson: Thank you, Your Honor. Based upon the testimony we just heard the
4 only testimony that we heard as far as did anyone have permission to use this car was struck
5 as hearsay. So, therefore, without any testimony on the record as far as if anyone else had
6 permission to drive the car, that does not exist in the record. Therefore, I am renewing my
7 motion for a directed verdict on this charge.

8 The Court: All right, sir. One second.

9 (pause)

10 Regarding the motion for possession of a stolen vehicle, the evidence, I believe,
11 under directed verdict, I do find there is substantial circumstantial evidence regarding the
12 particular matter. There's, kind of coincides with the failure to stop for a blue light. You
13 have the officer, Officer Cruell, finding the GMC Yukon at the Comfort Inn with an
14 improper tag and the vehicle identification number being obscured.

15 They go inside to investigate the matter further. Officer Cruell sees the defendant,
16 whom she later identifies through the records of this defendant and identified him in court,
17 walked by her. The police and persons at the hotel immediately see that vehicle leaving the
18 Comfort Inn. Officer Cruell attempts to stop the vehicle. It's clear that the vehicle, GMC
19 Yukon will not stop. I mean, you can see the blue lights reflected on the back of the vehicle
20 in the video. So, it's clearly not stopping for a blue light.

21 Thereafter, the vehicle was located at the apartment complex. There is substantial
22 circumstantial evidence that shows the defendant was there at the complex. His fingerprints
23 are all over the Yukon in any number of places; driver's side, passenger's side, all over the
24 vehicle.

25 He is linked to the scene by other evidence. You have the officer-- I'm sorry.

1 Detective Conroy checking the VIN number, vehicle identification number, finding its
2 rightful owner, returning the vehicle to the proper owner of the vehicle, who is not the
3 defendant, who is someone outside the area, and has the proper paperwork for the ownership
4 of the vehicle.

5 Therefore, the substantial circumstantial evidence reasonably tends to prove the guilt
6 of the defendant of the crime of possession of a stolen vehicle. And therefore, I would
7 respectfully decline to grant your motion for a directed verdict.

8 Mr. Johnson: Your Honor, may I make a second motion?

9 The Court: Sure.

10 Mr. Johnson: Your Honor, also in the testimony it was mentioned by Detective
11 Conroy that there was a case out of Spartanburg. I am concerned with that testimony itself.

12 Based upon that I am going to ask the court to rule for a mistrial in this matter.
13 Mentioning some case out of Spartanburg I believe is unduly prejudicial and I don't know
14 that a curative instruction would fix that. Mentioning a case out of Spartanburg indicates that
15 my client was involved in a case out of Spartanburg and therefore, the jury could deduce
16 because of that he is guilty of this charge here.

17 That concerns me greatly. And as I mentioned previously I don't know that
18 instructing the jury on the matter would fix the issue.

19 The Court: All right, sir. Solicitor?

20 Mr. Marchant: Your Honor, there's no way to talk about being in possession of a
21 stolen vehicle without talking about where the vehicle was stolen, if there is a case, or a
22 report about the vehicle being stolen. We can't talk about possession of stolen property if
23 it wasn't stolen from someone somewhere. There's no indication our information has been
24 put forth on the testimony of Detective Conroy about any facts or circumstances of that case
25 other than there was a report from the victim, Delana Gresham, that the vehicle was stolen in

1 Spartanburg County.

2 The Court: I appreciate that. He did not even say that. He said he, there was a
3 matter in Spartanburg and he did not investigate. He did not-- There was no statement by
4 the detective that the defendant was involved, that there was any connection to the defendant.

5 Also, it was not objected to at the time that the statement was made, allowing the
6 Court, if there was time, to talk to the jury at this point in time.

7 I do not find the matter rises to the standard necessary for a mistrial. If you wish, I
8 will tell the jury that any matters in Spartanburg are not at issue here, do not affect this
9 defendant and we are only here about the matters the State has charged the defendant with. If
10 you want me to tell the jury that or something to that effect, I'll be glad to do so, Mr.
11 Johnson. But I'm not going to declare a mistrial. I do not find that there is any reason, nor
12 has the proper standard been met to declare a mistrial in this matter.

13 Do you want me to say that to the jury?

14 Mr. Johnson: No sir, Your Honor, but I accept your ruling as made. I would not
15 think a curative instruction would be appropriate. But I respect your ruling as made, Your
16 Honor.

17 The Court: Very good. As I understand it, then, we are now at the point where the
18 defense may produce testimony or evidence. Is it your intention, Mr. Johnson, to produce
19 evidence on behalf of the defendant in this matter?

20 Mr. Johnson: Yes sir, I believe my client will testify.

21 The Court: Very good. If you would, stand up, Mr. Lowrance, please. Madam
22 Clerk, place him under oath.

23

24

25

1 **PATRICK DEAN LOWRANCE**, duly testified as
2 follows:

3 **QUESTIONS BY THE COURT:**

4 Q Mr. Lowrance, let me talk to you about certain of your constitutional rights.
5 First, as far as strategy, before we go into that, you understand at this point in time
6 your attorney on your behalf has not introduced evidence such that you would lose
7 your right to the last argument to the jury. At the present time that is preserved.

8 What will happen in the closing argument, the State would have to give its full
9 and complete argument, then your attorney would be allowed to make the last
10 presentation to the jury.

11 If there is any presentation of evidence by the defendant you lose that and the
12 State, having the burden of proof to prove you guilty beyond a reasonable doubt of
13 the charges brought against you, would have the last argument.

14 Do you understand that?

15 A Can you say that one more time?

16 Q Yes sir. Right now, there hasn't been any evidence that you have officially
17 put in the case. All right? Your attorney's cross-examined the witnesses, but you
18 have not introduced any evidence. You haven't introduced any documents. You
19 haven't presented a witness.

20 So, since that has occurred so far, your attorney now possesses the right to
21 have the last argument before the jury when the attorneys do their closing arguments.
22 All right? That's not normally the case, but since you have not introduced evidence
23 you have that right. You now possess it.

24 If you go forward and produce any evidence in this case, if you decide to
25 testify or you've brought forth any witness, or you produce a document, you would

1 lose that right. What would happen then would be depending upon the Defense's
2 position, the State may be required to open as to certain legal matters. Your attorney
3 would make his full and complete argument. And then the State would have the last
4 opportunity to close; that is, to speak to the jury before they go back to the jury room
5 and deliberate. All right? So, that's the situation.

6 So, I want you to understand that in making your decision. All right, sir?

7 A Yes sir.

8 Q Now, do you understand what we've talked about here?

9 A Yes sir.

10 Q All right. Do you need a minute before we talk about whether or not you're
11 gonna testify in this case? Do you need a minute or two to talk to your attorney about
12 that particular issue? Do you want to talk to him about that, sir?

13 A Yes sir.

14 The Court: Very good. Mr. Johnson, if you would---

15 Mr. Johnson: We just need a minute.

16 The Court: You just need a minute right there?

17 Mr. Johnson: Yes sir.

18 The Court: Very good.

19 Mr. Johnson: Thank you, Your Honor.

20 The Court: Y'all take a minute to do that.

21 (pause for attorney/client conference)

22 Mr. Johnson: We're finished.

23 The Court: Very good.

24 Q All right, Mr. Lowrance. You've had an opportunity now to talk about that
25 with your attorney. Correct?

1 A Yes sir.

2 Q So, understand you have that particular right, let me go over your
3 constitutional rights as far as you testifying in this case.

4 If at any point in time during our discussion you don't understand anything
5 we're talking about, you've got a question about it in any way, I want you to stop me.
6 I want you to indicate that to me. You can raise your hand, you can tell your
7 attorney, Mr. Johnson. But in some way tell me that you've got a question or you
8 don't understand. Are we on the same page there?

9 A Yes sir.

10 Q We've reached the stage of the trial where you can present your defense. You
11 have the right guaranteed to you by the Fifth Amendment of the Constitution of the
12 United States of America that says no person shall be compelled in any criminal case
13 to be a witness against themselves.

14 That means nobody can make you testify. Nobody can force you to come into
15 court and testify in the case. You can testify if you want to, but it's your decision.
16 You get to choose whether or not you want to testify in the case.

17 Do you understand that?

18 A Yes sir.

19 Q All right. Now, if you decide to testify you're gonna be subject to the same
20 rules that govern all the other witnesses that have testified in this case. What would
21 happen would be you will be called to the witness stand by your attorney. He'd ask
22 you questions about the case. The court would allow the State to cross examine you
23 about all matters that are relevant to this particular case.

24 The Court: As I understand it, at the present time, Mr. Lowrance does not
25 have a criminal record. Is that correct or is that not correct?

1 (no response)

2 The Court: Solicitor, are there any matters that you would be requesting to cross
3 examine him on the issue of credibility or believability?

4 Mr. Marchant: No, Your Honor.

5 The Court: Very good.

6 Q So, there are no conditions regarding dishonesty or false statement or crimes
7 punishable by imprisonment by more than one year. If you had those, then the State
8 could ask you whether or not you've been convicted of them, but that's not gonna be
9 an issue. All right?

10 So, you'll just be subject to the cross examination by the State as to all of the
11 facts of this case or all of the matters the court finds to be relevant to the charges that
12 have been brought against you.

13 Do you understand that?

14 A Yes sir.

15 Q All right. If you decide to testify, it's gotta be your decision, understanding
16 the rights where you are in this case, the protections given to you by the Fifth
17 Amendment of the Constitution of the United States of America.

18 Now, if you decided not to testify, I would have an instruction to the jury. It
19 would say in essence that they cannot talk about that in the jury room. They can't
20 consider it in the jury room. They can't mentally use it to make their determination.
21 The fact that you didn't testify in this case is not a part of this case whatsoever. I'll
22 make that clear to them---

23 A Yes sir.

1 Q ---through the instructions. It being your decision, now, to decide whether or
2 not you want to testify. You can obviously ask your attorney any questions. Or if
3 you've got a family member you wanted to ask a question of before you decide.

4 Do you want to do either of that?

5 A No sir.

6 Q All right, sir. Do you understand everything we've talked about?

7 A Yes sir.

8 Q All right, sir. Do you want to testify in this case?

9 A Yes sir.

10 Q Very good. Thank you very much. Y'all have a seat.

11 The Court: With that, Mr. Johnson, are you ready for the jury to come in?

12 Mr. Johnson: Yes sir.

13 The Court: Ask the jury to come in, please.

14 (Whereupon the jury entered the courtroom)

15 All right, Mr. Johnson, witnesses on behalf of the defense?

16 Mr. Johnson: The Defense calls Patrick Lowrance.

17 **PATRICK DEAN LOWRANCE**, duly testified as

18 follows:

19 Clerk of Court: Please state your full name for the record.

20 A Patrick Lowrance.

21 The Court: All right, Mr. Johnson, I'll be glad to hear from you, sir.

22 Mr. Johnson: Thank you, Your Honor.

23 **DIRECT EXAMINATION MR. JOHNSON:**

24 Q Now, Patrick, make sure you speak loudly enough in the microphone so
25 everyone can hear you. Okay?

- 1 A Okay.
- 2 Q Now, what's your middle name?
- 3 A Dean.
- 4 Q Patrick Dean Lowrance. Where are you from?
- 5 A Woodruff, South Carolina. That's where I first stay at. Then I moved to
- 6 Duncan.
- 7 Q All right. I want you to speak a little bit louder than that, just so you know.
- 8 A I lived-- When I was in elementary school I lived in Woodruff. Then my
- 9 mom got a house in Duncan, so we moved to Street.
- 10 Q Do you have any brothers and sisters?
- 11 A I have one sister.
- 12 Q What's her name?
- 13 A Louisa.
- 14 Q What about your other family? Do you have any other family that's close to
- 15 you, any aunts, uncles, cousins, grandparents?
- 16 A Yes. I have aunts, uncles, cousins. A lot of people seen them the other day
- 17 when they came.
- 18 Q So, you went to elementary school in Woodruff. Where'd you do, do you
- 19 remember?
- 20 A Woodruff Elementary.
- 21 Q And what about middle school?
- 22 A I went to Beech Springs Intermediate, and then I went to D. R. Hill Middle
- 23 School before attending Burns High School.
- 24 Q Past high school, did you go to college?

1 A After I graduated Burns High School, I attended Universal Technical Institute
2 in Houston, Texas. I became a auto collision technician there.

3 Q How long a program is that, two years, four years?

4 A Like, a year and a half.

5 Q So, what did you learn there that prepared you for a job?

6 A I rebuild and construct cars and made collision repairs.

7 Q What do you mean by rebuild and construct? I don't know anything about
8 that stuff. Can you tell us about that?

9 A I restore cars. I worked at Image's Collision three years doing insurance
10 work. Anything with a car pretty much I can do.

11 Q So, if I had a car that was raggedy and needed to be fixed up, could you make
12 it new?

13 A Yes.

14 Q How long does it take you?

15 A Just depending on the condition of the car.

16 Q So, you said you worked where for three years?

17 A Image Collision.

18 Q Image Collision, and that's where you restore cars?

19 A I did insurance work at Image Collision and my work was sufficient enough it
20 enabled me to go to a custom shop and do customs. That's where I began restoring
21 cars and doing on frame-on, frame-off work.

22 Q What's frame-on, frame-off?

23 A Taking the car completely off the frame, building it from the ground up,
24 restoring it.

25 Q What's the most exclusive car you ever worked on?

- 1 A I guess, like, a '67 Chevy GT, Mustang.
- 2 Q Now, we've talked about your work life a little bit and your school. I'd like to
- 3 talk a little bit about, what is it you like to do. Do you have any type of hobbies? Do
- 4 you like sports?
- 5 A I just enjoy spending time with my son and my wife and just playing with him
- 6 a lot.
- 7 Q What's your son's name?
- 8 A Minor .
- 9 Q How old is he?
- 10 A He's eight years old.
- 11 Q What's your wife's name?
- 12 A Sierra Lowrance.
- 13 Q Do you have any other family that you are close to and can speak of?
- 14 A Yes. We spend a lot of time with my mom, with her mom, my sisters. I have
- 15 two nieces my sister and her husband has together. And we go up to Durham
- 16 Christmas or either, they come down. We spend a lot of time together.
- 17 Q Do you have any other friends that mean a lot to you, or did you meet anyone
- 18 there like most people do?
- 19 A Yes, I do have very close friends. They came on two days ago, on the eighth.
- 20 My friend, Kim, my friend, April, they came to support me.
- 21 Q Were they in the same program as you?
- 22 A Yes sir. We graduated together from UTI in Houston.
- 23 Q Patrick, how old are you?
- 24 A I'm 26. I'll be 27 this December 11.
- 25 Q December 11?

1 A Of this year, I'll be 27. I'm 26 right now.

2 Q Now, I know you said you lived in Woodruff. Were you born in Spartanburg
3 as well?

4 A I was born in Mary Black Hospital,

5 Q You mentioned your mother and your sister. Is your father also close to you?

6 A My father lives with my aunt.

7 Q Now, Patrick, I'd like to now go into the days of October 27, 28, of 2011. Do
8 you remember those days?

9 A The 27th, that's the date before the incident happened?

10 Q Yes sir.

11 A I was hanging out with my older cousin.

12 Q Who's your older cousin?

13 A Norman Pearson. I had been-- Really, just, he had kinda took me in because
14 this November 3rd, will be my fifth anniversary of being married, and this, the
15 beginning of this year was the first time me and my wife ever started to have
16 problems, or whatever. And I was kinda just hanging out with him at the time
17 because me and my wife were having problems at the time. And so, on the 27th, I
18 was, it was just a normal just hanging out with Norman, just chilling out.

19 Q Now, you were obviously in the courtroom when Norman testified. Isn't that
20 right?

21 A Yeah.

22 Q Now, he mentioned that he saw you from the car, in the Yukon in question
23 here, and saw you with, otherwise with a gun. You heard him mention that. Is that
24 true or is that not true?

1 A He did see me in the car. Whether I know or not he seen the gun, I don't
2 know because I don't even know if the gun was in the car.

3 Q So, you don't remember the gun being in the car?

4 A No, I don't recall it.

5 Q Whose gun is it?

6 A He goes by the name of Meat. I don't know his government last name, but I
7 believe his first name, his government name is Lametrius or Lometrius. It's, like, I
8 just heard a female pronounce his name one time.

9 Q Now, that's kind of odd to be hanging out with somebody that you don't know
10 actually their government name. Why is that? What's going on? How long have you
11 known this man?

12 A Maybe going on three weeks. I don't hang out with people because I mean,
13 I'm a married man. I just normally go to work, come home, go to work, come home,
14 spend time with my family.

15 Q Now, the vehicle, the Yukon, when you were with Norman, were you driving
16 this? You and Norman riding together? What was going on there?

17 A I would drive the car sometimes. Norman would drive the car sometimes. I
18 thought that it belonged to -- I can't even call him a friend, just an acquaintance --
19 Lametrius, because, I mean, he had several cars. So, that's definitely the way he
20 presents himself.

21 Q Now, what was-- Did y'all have any other friends that y'all like to hang out
22 with it, or that you were hanging out with other than Lametrius?

23 A No. Most of the time I'm with my cousin. I was just with Norman. When I
24 go to my mom's house. And whenever was being around the house I didn't want her

1 to know that me and my wife was having problems. So, I'd leave and then go to my
2 cousin's house and hang out with him.

3 Q I mean, what would y'all do together when y'all hung out??

4 A We was doing stuff that I didn't normally do, going to clubs, going to bars,
5 just hanging out.

6 Q What did y'all do at the clubs and bars?

7 A Socialize, meet people, all of that. And I think the name of the club is Dollar
8 Bill down White Horse Road, way down White Horse Road on the left. I'm not from
9 Greenville, so I'm not that familiar with it. But I just think it's down White Horse
10 Road. That's where I met Lametrius at.

11 Q Did y'all drink, do any drugs? What was going on?

12 A Yes.

13 Q Yes, as in?

14 A As in yes, we did drink and we did the drugs.

15 Q What type of drugs did you do?

16 A Just smoke marijuana.

17 Q Who would have the drugs?

18 A Most of the time Lametrius would have all the drugs.

19 Q Is that why you hung out with him?

20 A I think that's why everybody hung out with him.

21 Q Well, let's go back to that date. You stated that you didn't know Norman saw
22 some gun in there. Obviously, he has testified that he saw the gun. Whose gun was
23 it? Was it yours, or whose was it?

24 A It was Lametrius' gun. That's one of several I know of him having.

25 Q So, you knew it was in the car?

1 A When?

2 Q When you were driving you knew it was in the car?

3 A Whenever he would be in the car I knew that it was a gun present.

4 Q That was on the 27th when you were Norman. Norman stated that he gave you
5 money for a hotel room. Is that true?

6 A Yes. Actually he owed me money, but he said he let me borrow it. It's all the
7 same. I mean, we-- Sometimes I give him money and sometimes he gives me
8 money.

9 Q But, anyhow, you got to the hotel. How did you get in the hotel room?

10 A Quality Inn on-- I believe it was on-- I think it's the Motor Mile, something
11 like that.

12 Q Now, I believe it's been testified to previously by officers that-- Well, she
13 said that she saw you at a Comfort Inn. Did you stay at the Comfort Inn?

14 A Yeah.

15 Q Were you there by yourself or was there anyone with you?

16 A There were several people in and out of the room. The night of-- The night
17 that I was with Norman, the day before the incident happened, we had a party at the
18 hotel.

19 Q Now, can you tell me who was at the party with you?

20 A Lametrius was at the party. He had a good friend named Tee. I don't really
21 know his name other than Tee. And some people I just, it's kinda just like this, hey,
22 how you doing, places. Or you know, like, you know, what's up, man. I really didn't
23 know anybody else like that. There's men and there's females.

24 Q Now, you stayed at the-- Now, obviously, you don't know government names
25 as far as Lametrius and Tee. Can you describe and tell us what they looked like?

- 1 A Lametrius is, he's way taller than me; I guess six foot-two, something like
2 that, long hair.
- 3 Q Six foot-two?
- 4 A Something like that. I know he's over-- I mean, I'm, like, five eight, five
5 nine. So, he's gotta be like six foot something, or six two, something like that.
- 6 Q Go on. I apologize. I cut you off.
- 7 A He does have long hair. He has dreads similar to my cousin's, Norman
8 Pearson. He has-- He's kinda stocky.
- 9 Q What about-- You mentioned a man by his nickname, Tee. What about Tee,
10 what did he look like?
- 11 A Tee is brown-skinned, just like caramel or honey brown, if you want to call it.
12 He's also, stands maybe a little shorter than Lametrius.
- 13 Q Now, after the party was over-- What time did your party end?
- 14 A It really didn't. We was-- I mean, we were up all night. We stayed up the
15 whole, entire night, hanging out and smoking and drinking.
- 16 Q At what point did y'all either leave or decide this party was over? What
17 happened?
- 18 A Some people start leaving and I guess, falling asleep around, like four. Some
19 people fell asleep, some people left. And then in the morning time the rest of the
20 people got up and left. And there was still just me, Lametrius and Tee at the hotel.
- 21 Q At what point did y'all leave the hotel?
- 22 A I can't really recall the time. The only thing I know is, when we left, I got a
23 bath because the was gonna take me to a friend's house.
- 24 Q Who was gonna take you?
- 25 A Lametrius.

1 Q Now, what vehicle were y'all gonna take to this friend's house?

2 A He was driving the Yukon.

3 Q You say this Yukon. You've heard testimony about it was stolen. Did you
4 know it was stolen?

5 A No. I found out that the vehicle was stolen once I was in custody because
6 prior to the incident ever happened, I mean, we was riding around on a regular basis,
7 going to the mall, going, hanging with the mall. I thought everything was checked
8 out fine with the car. I had never had-- I did not have an involvement with a stolen
9 car. I have not had involvement with a stolen car in my life.

10 Q Now, you state that y'all went-- Well, they were gonna take you somewhere
11 is what you stated. Where was it that you were gonna say that they were gonna take
12 you?

13 A Yeah. I was on the way to go chill with a friend of mine.

14 Q So, y'all were in the Yukon. And who's driving and where are they going to,
15 and what's going on?

16 A Tee and myself were in the back watching TV in the truck, and Lametrius was
17 driving.

18 Q Oh, he was driving the car?

19 A Yes.

20 Q Now, Officer Cruell stated earlier that she saw either a suspect of a certain
21 description. Actually, she said that she saw you walking through the lobby. Do you
22 remember seeing police officers, or what was the deal there?

23 A No, I don't remember seeing a officer. I would have noticed. I would have
24 seen the officer and recognized them.

1 Q Okay. Now, y'all are in the car and obviously y'all are driving. What
2 happens next?

3 A Meat, Lametrius-- I call him Meat, that's what I know him by. He proceeds
4 to get on the interstate. Everything seemed fine at the time. He heads up the
5 interstate, heads up 85, and then the lights turned on.

6 Q What do you mean by lights?

7 A Police lights.

8 Q What happened next?

9 A When the police lights turned on, he punched it.

10 Q What do you mean by punched it?

11 A He proceeded to run away from the police, the police officer that was trying to
12 pull us over.

13 Q What was going on in the car at the time that he did that? What was going
14 on?

15 A At the time me and Tee began questioning him why was he not pulling over.
16 We was---

17 Q What did you ask him that?

18 A Because I didn't think-- I was wondering why did he have to run from the
19 police officer, you know. There was no question in my mind that he should be, that
20 he should have to run from the police for any reason.

21 Q Now, you know he may have had a gun in the car. Was that a question to
22 you?

23 A Yeah. And once we started arguing about that he did say that he had a gun in
24 the car and he also had drugs on him.

25 Q So, where did y'all go? I mean, during the chase, where'd y'all go?

1 A We got off on the next exit and I read that it was Mauldin Road that he got off
2 on, and he veered off and went to a place called Berkeley Point.

3 Q When you get to Berkeley Point, where'd you go?

4 A When he came into the apartment complex he immediately went to the left. I
5 thought he knew somebody over there at first, or something, because he pulled in,
6 backed the truck in and got out.

7 Q So, he gets out and what happens next?

8 A While he was getting out, I was getting out, too.

9 Q Okay. And did Tee stay in the car or did he get out?

10 A No, Tee got out. Tee got out also.

11 Q What did y'all do when y'all got out?

12 A At the point in time, all three of us was arguing, but Meat had the gun in his
13 hand.

14 Q Why were y'all arguing?

15 A Because he had ran-- I was arguing with him because he had ran from the
16 police, and Tee also was doing the same.

17 Q I know you told me you were arguing because he ran from the police. What
18 were the type of things that you were saying? You can say what they said, but what
19 type of things were you saying?

20 A I was telling him that he should not have did that, the only thing he had to do
21 was pull over for the officer and let her run his license and we probably would have
22 kept going. He probably would just get a speed ticket or something. And after that
23 he was telling me, well, I got, I had the drugs on me and I have this gun and he was
24 saying that he didn't have time to deal with that lady.

- 1 Q Okay, so, y'all were arguing. And then what happens next? Do y'all stand
2 there or do y'all-- What did y'all do?
- 3 A I'm arguing with him, but at the same time I'm trying to be calm because he
4 does have the gun in his hand and he is kind of intimidating.
- 5 Q What about him is intimidating?
- 6 A Like, just the way he acts around people. Like, at parties, like, there was a
7 little incident with a guy and I guess he pretty much, like, just like punched him
8 around, something like that, you know.
- 9 Q So, let's go back. You said y'all got out of the car. where did y'all do, where
10 did y'all go? Where did you go?
- 11 A I had my duffel bag with me and I was telling him, well, you know, I was
12 standing there looking at him. We got to arguing. I don't know what he had and I
13 started walking towards the breezeway, just trying to get out of the open because we
14 was in the open and he was out there with a gun in his hand. And Tee also was doing
15 the same thing. I was actually following Tee because Tee led the way. So, I started
16 walking behind Tee.
- 17 Q And so y'all proceeded towards the breezeway?
- 18 A Yeah.
- 19 Q Do you remember what building it was?
- 20 A I don't remember what building it was.
- 21 Q Anyway, y'all proceeded towards the breezeway. Where did y'all go?
- 22 A I was following Tee down the stairs.
- 23 Q What happened next?
- 24 A We was still arguing in the breezeway as far as how-- I was trying to tell him
25 and I was trying to call somebody to come get me. You know what I was saying. I

1 was gonna call somebody to come get me. And by this time I guess the police had
2 figured out where the vehicle had went to. And then I heard a radio--

3 Q Excuse me. Let me stop you. Radio, what radio?

4 A Like, a intercom, you know, like a walkie-talkie.

5 Q Like a walkie-talkie. Okay. So, you heard the radio and then what happened?

6 A Once I heard that I heard shots being fired.

7 Q Now, let's talk about where you were when you heard the radio. Were you on
8 the stairs? Were you down the stairs? Were you still in the breezeway?

9 A Yes. I-- Meat was-- Tee went down there first. I was behind Tee and Meat
10 was above me.

11 Q And that's when you heard the radio?

12 A Yes.

13 Q And then you said you heard shots fired. Who was shooting---

14 A Yes.

15 Q ---or what was going on?

16 A I don't actually know who shot first. I don't know who shot first. The only
17 thing I remember is a loud popping noise of the gun, the noise of the gun.

18 Q What did you do?

19 A When the first shots went off I had turned around because we had been
20 arguing. I didn't know if Meat tried to shoot me or what was going on. So, once I
21 turned around, I seen him shooting in the officer's direction.

22 Q So, when you figured out he was doing that, what did you do?

23 A I was-- I didn't-- I did not have a gun, so I was trying to stay behind him
24 when everything first started happening.

25 Q Okay. So, you stand behind him. Then what happened after that?

1 A I had been shot for the first time in my life and it took effect quickly because I
2 was shot and when I was shot I was stunned, in a tremendous amount of pain. It hit
3 real fast. I didn't know if Tee had shot me. I mean, I didn't know if Meat had shot
4 me or who had shot me, whoever Meat was shooting hit me in the conflict.

5 Q What happened after that? Did the gun battle end? What did you do?

6 A No, once I was shot, I went down to the bottom, went down to the bottom of
7 the steps and I dropped my bag, like that, and I was trying to gather myself. And it
8 was a pause and a stop in the shots being fired and then they started again.

9 Q Where was Tee during this? What was Tee doing during all this?

10 A He was hiding behind the building.

11 Q What happened next?

12 A Once the shots kept going I started to run for my life. I was afraid of being
13 shot again.

14 Q Where'd you run?

15 A I just took off into a wooded area.

16 Q Where was Meat and Tee?

17 A Before I started running I tried to figure out which direction Tee had went
18 into, but I did not see which direction he had went into.

19 Q So, did y'all ever meet up again, or what happened?

20 A Honestly, Meat seen the direction I ran in, because after I guess I-- While I
21 laying was in the woods, I was laying there bleeding and in a tremendous amount of
22 pain. I heard somebody coming through the woods. I didn't know who it was. I
23 tried to hide as best I could and I heard Lametrius call my name.

24 Q So, he called your name. What happened after that? ...

1 A He said, Pat, and I said-- I didn't saying nothing at first. And then he called
2 me again, and I was, like, yeah, man. He was, like,-- He was actually-- He was,
3 like, you good, you good? I was, like, no, man, I'm not good. I think you shot me, or
4 I don't know who shot me. So, then after that we started arguing again. And I was
5 just telling him, you know, this is crazy, man; the only thing you had to do was just
6 pull over and none of this would have ever happened.

7 Q So, after y'all were arguing what happened next? Did y'all stay together, or
8 what happened?

9 A After that he was trying to tell me that he had a way for us to leave, but I
10 would not go with him because I was scared to go with him. I just wanted to go my
11 own, separate way.

12 Q Did you eventually leave, or did y'all leave?

13 A Yeah, he eventually left and he-- Before he left-- Before he left me in the
14 woods he left the gun with me and told me that I needed to keep the gun because he
15 thinks the lady or whoever was shooting him seen him, seen his face.

16 Q Why would you-- I mean, why would you even agree to do that?

17 A It was a stupid decision. I thought he was my friend and I just took the gun. I
18 didn't grab it with my hand or anything. He put the gun on me and I just took it on
19 me.

20 Q Now, he-- When Meat said, I thought she saw me, what-- Did he tell you--
21 Was he more specific, or did he give you any details?

22 A He was-- He just-- He just stated that the lady that he had shot at, he thought
23 that she had shot, had saw his face.

24 Q So, now Meat's gone and you have the gun?

25 A Yes.

1 Q What did you do after that?

2 A I began walking. And I was just beginning walking towards-- I was trying to
3 go to my cousin's house.

4 Q Okay.

5 A I didn't know where else to go.

6 Q All right. We're talking about time periods here. I mean, I need some time
7 periods. I mean, say, for instance, when you were found at, in your cousin's
8 residence, the area and the incident. What was going on during that period of time?

9 A Well, before-- I was down in the woods. After-- After Meat had left me I
10 passed out and-- Because I was just laying there and I passed out. And when I woke
11 up I just began walking.

12 Q Now, did you-- I mean, before you passed out did you ever call for help or try
13 to get away? Or what did you?

14 A Yes, I was. I was trying to call-- I was trying to-- I had called my cousin's
15 mom's house and I was trying to get him or somebody to come get me because I was
16 shot at the time.

17 Q Which cousin is this?

18 A Norman.

19 Q Norman. Were they the only people you called?

20 A I also called my wife, but she-- She go-- She attend school. She goes to
21 USCS and I believe she's in class at the time.

22 Q So, at some point you passed out. About how long were you passed out? Do
23 you remember any, seeing any, hearing any police or anything of that nature?

24 A No, I can't remember.

25 Q So, at some point you wake up, I suppose?

1 A Yes.

2 Q Then what'd you do?

3 A I just-- I just started walking towards my cousin house.

4 Q Now, there was testimony earlier from a Will Brockman. Do you know who
5 Will is?

6 A Yes, I know-- I know-- I know him as just Will. I don't know-- I don't even
7 know his last name. I never knew his last name until I got the motion for discovery.

8 Q Now, how did you find Will? Did you call Will? Or, how did you end up
9 running into Will?

10 A I seen Will going by and I know his car, 'cause he's been over my cousin's
11 house a couple times when I was over there, and I flagged him down.

12 Q When you say your cousin's house, you're talking about Norman?

13 A Yeah, Norman.

14 Q So, you say you flagged him down?

15 A Yes.

16 Q What happened when you flagged him down?

17 A He asked me, why you up here? He was, like, man, you all right? He was,
18 like,-- He was, like, -- He say-- He was, like, man, they saying that you shot at the
19 police, or shot at some lady cop, or whatever. And I was, like, I didn't shoot at
20 nobody. And after that we really didn't talk about it no more. I was, like, I don't
21 want to talk about it no more. I just want to-- I'm trying to get to my cousin's house.

22 Q Now, did you get to your cousins' house?

23 A Yes, I did.

24 Q What happened when you got to your cousins' house?

1 A I proceeded to go in, and his sister, Via, told me that I needed to get out of the
2 yard and I didn't to be there.

3 Q What'd you do after that?

4 A Will was getting ready to pull off and I ran back to the car and he let me back
5 in the car.

6 Q Then where'd y'all go?

7 A Went to Will's house.

8 Q Did you get inside Will's house?

9 A Yes.

10 Q What'd you do when you got to Will's house?

11 A I was trying to call to see if I could get somebody to come get me to see if I
12 could help, and that's when I contacted some of my family members.

13 Q What happened after that? Did your family members end up helping you, or
14 what happened?

15 A Yes. Once I-- I got in contact with my wife and she was at my mom's house,
16 I believe. And they was just telling me that everything would be all right if I would
17 turn myself in. And they was just asking me to do that for my safety. And so, after
18 that I told-- I told Will would he go meet my family, my sister, so she could come,
19 so they could come get me.

20 Q Now, were you afraid that you were in trouble?

21 A I was-- I was really scared for my life. I didn't-- This is the first-- This is
22 the first time anything like this had happened to me.

23 Q So, what did you-- What happened after Will met your family?

24 A He brung them-- He brung them there.

25 Q So, what happened at the house when they got there?

1 A When they got there, they were there for about ten, fifteen minutes, maybe,
2 just talking with me. And then the police came.

3 Q What happened when the police came?

4 A When the police came Will and - I think it was a cousin or his friend, I don't
5 know his name - left out first. And then my wife was there, she came out and then
6 they told me to come out. I came out.

7 Q At that point what's going through your mind?

8 A I was wanting to get to the hospital to see if I was okay.

9 Q Did you get to the hospital?

10 A Yes.

11 Q Do you remember seeing Detective Conroy at all?

12 A No. I did not recognize Detective Conroy until I had seen-- I did not
13 recognize him yesterday. The first day this trial started is the first time seeing him. I
14 don't remember him talking to me. I remember somebody talking in my ear, but I
15 don't remember looking in his face.

16 Q Patrick, at this time, I have nothing further. Please answer any questions the
17 Solicitor has for you.

18 A All right.

19 The Court: Cross examination.

20 Mr. Marchant: If it please the court.

21 **CROSS EXAMINATION BY MR. MARCHANT:**

22 Q All right, Mr. Lowrance. You talked about your wife and yourself having
23 difficulties. What were those difficulties?

24 A We were having personal problems, I guess.

1 Q Okay. Please elaborate for me. What kind of personal problems were you
2 having?

3 A Relationship problems.

4 Q Well, what was long with the relationship? You can't pay the bills? Or,
5 what's going on that caused you to move out of the house and move down with your
6 cousin?

7 Mr. Johnson: Your Honor, I'm gonna object on relevance. I'm not sure what the
8 relevance is.

9 The Court: I appreciate that. It was brought up in direct examination and I'm gonna
10 allow it in cross. Thank you very much.

11 Mr. Johnson: Yes sir, Your Honor.

12 The Court: Go ahead, Solicitor.

13 Q Mr. Lowrance, what were the problems that you were having?

14 A I guess, like, infidelity. She thought I was cheating. I thought she was
15 cheating. Those type problems. It wasn't any one, particular problem, or anything
16 like that.

17 Q So, she thought you were having an affair?

18 A Yes.

19 Q You thought she was having an affair?

20 A Yes.

21 Q So, you moved down and lived with your cousin, Norman Pearson, for a little
22 while?

23 A Yes, I would stay there from time to time.

24 Q And Mr. Pearson, as he described the relationship, is that accurate, that his
25 sister married one of your cousins?

- 1 A Yes.
- 2 Q Now, you were also staying at the Comfort Inn on Laurens Road the day this
- 3 happened. Right?
- 4 A The day what happened?
- 5 Q The day that you got shot you were staying at the Comfort Inn?
- 6 A Yes.
- 7 Q You rented a room there?
- 8 A Yes.
- 9 Q Under the name, Dean Lowrance?
- 10 A Yes.
- 11 Q Room 427?
- 12 A Yes.
- 13 Q And you had at least one bag that you left in the room once you claim you got
- 14 in the car with this person named Lametrius and Tee?
- 15 A Because you heard Detective Flavell testify that he found your driver's license
- 16 in a backpack in room 427, approximately 5:00 p.m. on the 28th?
- 17 A Yes.
- 18 Q So, you got-- You rented the room for one night?
- 19 A Yes.
- 20 Q You got in the car with some of your friends and you decide to go to another
- 21 friend's house?
- 22 A Yes. I was just getting dropped off.
- 23 Q And you'd been drinking and smoking marijuana the night before?
- 24 A Yes.
- 25 Q Basically had a party in the room?

- 1 A Yes.
- 2 Q Tell me again who all was there.
- 3 A Myself, Lametrius, Tee, and there was several other people.
- 4 Q I'm sorry. Tell me that last part again.
- 5 A Several other people.
- 6 Q How many are we talking, two, four, six?
- 7 A I don't remember.
- 8 Q Where'd they come from?
- 9 A They-- Different places. I mean, I don't know exactly where they came from.
- 10 Q You rented the room. Right?
- 11 A Yes.
- 12 Q Did you invite them into the room?
- 13 A Yes, I let them in the room.
- 14 Q I mean, you say different places. What sort of different places? I mean, did
- 15 y'all club-hop that night or something?
- 16 A Yeah. We had-- We had been to a couple of clubs.
- 17 Q Okay. And so, where and how did you get to-- I believe you referred to as
- 18 Dollar Bill. How did you get to the Dollar Bill out on White Horse Road?
- 19 A We didn't go to Dollar Bill that night. That's where I met Lametrius at.
- 20 Q Where you met---
- 21 A Yeah.
- 22 Q Okay. So, where'd you go on the 27th, the day before you got shot?
- 23 A I-- Went to a couple places, a couple, like, bars.
- 24 Q What side of town were they on?
- 25 A Went to Godiva's.

1 Q Where's Godiva's?

2 A I don't really know. Only place I really know of in Greenville is really how to
3 get to my uncle's house. I mean, get to my cousin's house.

4 Q I can appreciate you don't know where these places are. How many places did
5 you go to the day before you got shot?

6 A Just really two, Godiva's, and we went to a couple of other peoples' houses.

7 Q Where do these other people fix into the mix? Was this Lametrius' house or
8 Tee's house?

9 A I don't know whose house it was. I mean, it's....

10 Q How'd you get there?

11 A I was riding with Lametrius.

12 Q Was Tee with you as well?

13 A Yes.

14 Q Let's go back and talk about the description you gave of Lametrius. You said
15 you'd known him for about three weeks.

16 A Yes.

17 Q And you met him at Club Dollar Bill.

18 A Yes.

19 Q Who were you at Club Dollar Bill with when you met him?

20 A I was with my cousin.

21 Q Norman?

22 A Yes.

23 Q Who introduce you to him?

24 A Nobody introduced us. We kinda just said a little something to each other,
25 and then kinda just started talking to each other.

1 Q So, just from that you established a relationship with him---

2 A Yes.

3 Q ---such that you would get in the car and roll around town with him and start
4 smoking weed and drinking and club-hopping. Is that the lifestyle that you were
5 living at that time?

6 A At that time.

7 Q Only smoking marijuana, nothing else?

8 A No.

9 Q You ever been to Lametrius' house?

10 A No, I have not.

11 Q So, the only information that you can provide us here today is that Lametrius
12 is, you say, a black male, about six foot, with long hair like Norman's?

13 A Yes, that's the best way I know to describe him to you because he has dreads.

14 Q You told your lawyer this information before you testified today?

15 A Yes.

16 Q And you understand that the defense attorney has investigators that work for
17 him?

18 A I do. I do understand that.

19 Q Do you realize that they did a lot to try to find the gun---

20 Mr. Johnson: Judge, I want to object to this line of questioning.

21 A I didn't know that.

22 The Court: We're gonna move along, Solicitor.

23 Mr. Marchant: Yes sir.

24 Mr. Johnson: Thank you, Your Honor.

- 1 Q Let's talk about Tee. What's he look like? You said honey-brown, or
2 something like that?
- 3 A Yeah. He's maybe a little shorter than Lametrius.
- 4 Q You never heard even his first name?
- 5 A No. The same as Will. I would have never knew Will's last name until this
6 happened. I mean, Will doesn't even know my last name. He never knew my last
7 name until till. That's just-- I call him Will and he calls me Pat.
- 8 Q You're saying that you don't know these people that you're hanging out with
9 for some period of time; you don't know where they live?
- 10 A No sir.
- 11 Q You don't even know their real names?
- 12 A No sir.
- 13 Q You don't know anything about them but you're smoking weed with them.
14 Correct? And club-hopping?
- 15 A Yes sir.
- 16 Q The family member that you mentioned that lives in Durham, who's that?
- 17 A My sister.
- 18 Q Your sister?
- 19 A Yes.
- 20 Q What's her name?
- 21 A Alicia.
- 22 Q Alicia?
- 23 A Yes.
- 24 Q What's her last name?
- 25 A Alicia Davis.

- 1 Q Is she here today?
- 2 A Yes, she is.
- 3 Q Would you point her out for the jury?
- 4 A (witness indicates spectator area of courtroom)
- 5 Q What's she wearing?
- 6 A Black.
- 7 Q Is she on the front row, second row, or third row over here?
- 8 A Front row.
- 9 Q And third person in, next to the gentleman in the suit, wearing black?
- 10 A Yes.
- 11 Q You ended up speaking with her over at Mr. Brockman's house, didn't you?
- 12 A Yes.
- 13 Q And you talked to her for a few minutes, kind of told her what was doing on,
- 14 didn't you?
- 15 A Yeah. I told her that the shooting had happened. I said the police had shot at
- 16 me. And I don't know who shot, who shot at who first. I told her that I had been shot
- 17 and-- But-- And I also told her that Meat had shot at the police.
- 18 Q Just a minute ago when you testified on direct, you said you never saw these
- 19 officers.
- 20 A At this time when I told her that it's because I had talked with Will and Will
- 21 had informed me of everything that was going on. He had said that it was a person
- 22 that was involved in the shooting had shot at the police. That's how I knew that at
- 23 that time.
- 24 Q You also talked to your wife, Sierra, that day. Isn't that right?
- 25 Mr. Johnson: Judge, I'm gonna object to any---

1 The Court: I'm going to allow him to ask the question. I'm gonna see if anything
2 go further than that.

3 Mr. Johnson: Yes sir, Your Honor.

4 A Yeah. Just about-- That night-- Yeah, I was just trying to get her to come to
5 where I was at.

6 Q And you told her---

7 Mr. Johnson: Your Honor.

8 A I told her the same thing I told the family.

9 The Court: I'm not going to allow anything that she states. Okay? He can say what
10 he said. I'm going to allow that. Go ahead.

11 Q Mr. Lowrance, you told her that a female had shot you. Isn't that right?

12 A I told her the same thing that I had told my sister. At this time Will, Will had
13 told me that a lady officer had been shot at. And I told her that Meat had shot at the
14 police, and I wasn't sure if Meat or whoever it was that was shooting at Meat, wasn't
15 sure it was the police had shot me.

16 Q The vehicle that you were riding in, where were you sitting?

17 A I was sitting in the back seat.

18 Q Were you sitting behind the driver or the passenger?

19 A I don't remember.

20 Q Well, now, the cops are following you up I-85 and you're telling this jury that
21 you're trying to convince somebody named Lametrius to stop because he's done
22 nothing wrong, and you don't remember where you're sitting?

23 A I was sitting in the back seat.

24 Q Where were you sitting?

25 Mr. Johnson: Your Honor, he's badgering the witness.

1 Mr. Marchant: I'm trying to get him to answer.

2 The Court: I appreciate that. I'm going to allow him to ask the question and the
3 defendant can answer it if he can; if he can't he can say he doesn't know.

4 A I was sitting in the back seat. I think I was sitting on the left side, the same
5 side behind Lametrius.

6 Q Okay. And how is it that you ended up being on the left side of that vehicle,
7 but you end up placing the box of shells on the right sides?

8 A I mean, I had been in and out of the car.

9 Q So, you had touched that shell box a number of times before, is what you're
10 telling this jury?

11 A Yes, I have touched the..

12 Q And you've loaded this gun before.

13 A No, I have not loaded the gun.

14 Q You have not loaded the gun, but you touched the gun. Right? You testified
15 about State's 53 that Mr.-- What's his name?

16 A Meat.

17 Mr. Johnson: Your Honor, he's answered the question.

18 Q Meat, that Meat gave you this gun and told you that you should keep it
19 because the lady cop saw it. Right?

20 A That's the last thing I remember-- That's the last thing I remember him
21 saying before I had passed out in the woods.

22 Q And you had your cell phone with you. Right?

23 A Yes, I did.

24 Q You didn't do anything wrong this day. You're an innocent victim of Officer
25 Cobb shooting. Right?

- 1 A I don't know if she shot me or if Lametrius shot me.
- 2 Q Okay. But either way, you didn't do anything wrong?
- 3 A I don't believe so.
- 4 Q And, are you familiar with three numbers called 911?
- 5 A Yes, I am.
- 6 Q And you had your phone with you. Right?
- 7 A Yes.
- 8 Q And you laid in the woods for roughly five, six, seven hours before you went
9 to Norm's house. Right?
- 10 A Yes. And at the time I was shot and that's the first time that has ever
11 happened to me in my life, and I panicked.
- 12 Q Your phone was working. Correct? Your battery was charged, you could
13 make calls?
- 14 A I believe so.
- 15 Q Well, you either did or you didn't. Did you call your family later that day on
16 that same phone or did you use a different phone?
- 17 A No, I called, I called on that phone.
- 18 Q And you were turning your phone on and off that day, weren't you?
- 19 A No.
- 20 Q You weren't?
- 21 A I don't-- I don't recall turning it on and off.
- 22 Q And for somebody that didn't do anything wrong you show up at your
23 cousin's house that you been staying with for a little while and they turned you away.
24 They your family. Right?
- 25 A I thought so.

1 Q You've got no idea why they turned you away?

2 A No, I-- No, I did not. I was wondering why they did do that.

3 Q And this officer that testified yesterday, Officer Taci Cobb, you've never seen
4 her before?

5 A No sir.

6 Q You heard her on her radio.

7 A I just heard a walkie-talkie. I don't-- I don't remember hearing a distinctive
8 voice or necessarily her voice. My first time ever seeing her when she came in the
9 courtroom, the same as, I believe, as Detective Conroy, Mr. Conroy.

10 Q And where exactly, tell us again, in the stairwell or the breezeway did you get
11 shot? I'll be happy to pull those pictures up if that would help you show the jury.

12 A Okay.,

13 (Whereupon overhead projector was put in use)

14 Mr. Marchant: Beg the court's indulgence. It takes a moment for it warm up here.

15 The Court: Yes sir.

16 (interval allowing overhead projector to become operable)

17 Q Mr. Lowrance, it's been testified to that the ground floor of that apartment
18 complex, if you will, the ground floor being right here at the entrance to the parking
19 area. I'm going to give you this pointer and you tell the jury where you got shot,
20 where you were standing when you got shot.

21 A Where is this?

22 Q This is the parking lot level. You're walking in from where the parking lot is.

23 A Well, this right here is, like, coming in from the parking lot?

1 Q Yes sir. Let me get you a large shot. Mr. Lowrance, what I'm showing is
2 State's Number 5, is from the parking lot, and State's Number 6 of that stairwell-
3 breezeway. Where were you when you got shot?

4 A I was downstairs.

5 Q Okay. And I'm gonna show you what's been marked as State's 35. Where
6 were you when you got shot?

7 A Somewhere on-- Somewhere on-- Somewhere on the steps. I was right
8 behind Tee. Tee was right around in here. Lametrius was right around in here. And
9 I was really, almost directly right behind him because I was-- We was talking at the
10 time.

11 Q Let me be sure I'm clear. The fellow who you keep talking about, Tee, was
12 already down here on this landing area.

13 A Yes.

14 Q Where all those numbered placards are?

15 A Yes.

16 Q Okay. You're how many steps down before you reach the bottom, roughly?

17 A I really can't remember exactly where I was. I just know I was on the steps.

18 Q Okay. You're on the steps; fair enough. And this other fellow who you claim
19 shot at the police, Demetrius-- Is it Demetrius with a D or with a L?

20 A I believe it's a L. I heard a female call him Lametrius.

21 Q Lametrius with a L. Okay. So, he's behind you. Is that right?

22 A No, he's in-- I was behind him.

23 Q Okay. So, it's Tee, Lametrius and then you.

24 A Tee, me, Lametrius. You understand what I'm saying?

25 Q I got you. So, you're saying you're standing between the two of them?

1 A Yes.

2 Q Okay. So, Lametrius is further up the stairs, closer to the top of the stairwell
3 than you are?

4 A Yes. He's closer to the top than I am.

5 Q So, you're walking-- You're walking downstairs with all this luggage that
6 you've got that you're over to chill at your homeboy's house. Right?

7 A (no response)

8 Q Right here.

9 A (no response)

10 Q This is all your stuff. Right? You dropped a birth certificate, Social Security
11 card,---

12 A Yeah, I just had the one duffel bag.

13 Q You had one duffel bag. But out of that duffel bag came your wallet that
14 contained your Social Security card, your health card, and a pawn ticket for, that's
15 marked as State's 41, the pawn ticket as well. Right?

16 A (No response)

17 Q Let's see. You pawned a man's small diamond chip band on, looks like, July
18 14 of 2011. Right?

19 A Yeah.

20 Q So, that's your stuff. That's your information. That's your---

21 A I'm not denying that.

22 Q Okay. So, were you carrying that bag with that stuff down the stairs when
23 you got shot?

24 A Yes.

25 Q So, you got shot from behind. Is that what you're saying?

- 1 A No, I didn't-- I didn't-- I didn't get shot from behind.
- 2 Q But Lametrius has the gun. Right?
- 3 A Yes.
- 4 Q Lametrius has the gun. He is behind you as y'all are walking down the stairs.
- 5 A Yes.
- 6 Q You get shot on the stairs.
- 7 A Yes.
- 8 Q Lametrius has the gun.
- 9 A Yes.
- 10 Q How do you get shot in the front?
- 11 A Once I heard the first shot going off I didn't know who was shooting and
- 12 where the shot was coming from. So, I could see what's in front of me, so I'm trying
- 13 to turn around to adjust myself to see what's going on behind me. And that's when
- 14 everything occurred.
- 15 Q Is it your testimony to the jury that you got shot on that first round of shots or
- 16 that the second round that you heard?
- 17 A I can't-- I can't remember if it was... I mean, I've never been-- I haven't
- 18 been in a shootout before.
- 19 Q Thank you, Mr. Lowrance. I don't have any further questions.
- 20 The Court: Any re-direct?
- 21 Mr. Johnson: Brief re-direct, Your Honor.
- 22 **RE-DIRECT EXAMINATION BY MR. JOHNSON:**
- 23 Q Patrick, ---
- 24 A Yes.
- 25 Q ---the Solicitor cross-examined you said you left your license at the room.

1 A Yes.

2 Q Now, if you were intending on driving somewhere or you were going to drive
3 somewhere would you have taken your license?

4 A No. I keep-- I keep-- When I'm gone drive, I have my license in my pocket.

5 Q So, you would have taken your license with you---

6 A Yeah. Also---

7 Q ---if you were intending to drive?

8 A ---me driving, I would have taken my license with me.

9 Q Now, as far as Meat, or Lametrius and Tee, did you really want to know the
10 details of their lives?

11 A No, because, for the simple fact, they were just acquaintances, just somebody
12 to pass time with. I didn't want nobody really knowing me like that. Because, I
13 mean, I--- Like I say, I'm married, so I didn't want nobody going back, you know,
14 telling my wife things because I really wanted to work it out with her.

15 Mr. Johnson: I have nothing further, Your Honor.

16 The Court: Anything on those questions?

17 Mr. Marchant: No, Your Honor.

18 The Court: Very good. You may step down, sir. Thank you very much.

19 Further witnesses on behalf of the Defense?

20 Mr. Johnson: No sir, Your Honor.

21 The Court: All right, sir. Any reply testimony on behalf of the State?

22 Mr. Marchant: None, Your Honor.

23 The Court: Very good. All right, ladies and gentlemen. That concludes the
24 evidentiary portion of this trial. Obviously, that does not end the matter. We still have
25 before us the closing arguments of the attorneys and then the charge on the law where I

1 explain to you the law that you will apply to the facts and evidence you find to be true in this
2 particular case.

3 At this point in time I'm going to ask you to go back to your jury room for about ten
4 minutes. There are some matters of law I need to talk to the lawyers about at this point in
5 time. Then I'll call you back out and we'll go into the closing arguments and the charge on
6 the law. Thank you very much. Everyone else remain seated.

7 (Whereupon the jury exited the courtroom)

8 All right, Mr. Johnson, I'll be glad to hear from you, sir.

9 Mr. Johnson: Your Honor, the defense would like to renew any prior objections.

10 Excuse me, Your Honor. (pause) Including the identification made by Officer Cruell.

11 Also, including the statement as admitted prior, pre-trial motion, You Honor, given by my
12 client to Officer Conroy.

13 Finally, I'd like to move for a directed verdict on arms charges, especially after my
14 client's testimony if there was, and Your Honor's view, prior substantial, circumstantial
15 evidence. I believe that that evidence has been cleared, cleared up. On the possession of a
16 stolen vehicle over \$10,000, again, specifically, I don't believe the officer testified that,
17 testified to anything that was admissible as far as--- That the owner of the vehicle said that
18 she had not allowed someone to drive it. I believe that testimony was objected to by myself
19 as hearsay and stricken from the record by Your Honor in front of the jury.

20 And that's the motions we have at this time, Your Honor.

21 The Court: Thank you, Mr. Johnson. Just a second. (pause) Let me ask you a
22 question, Solicitor. 16-21-80, the receiving, possession, concealing, selling, or disposing of a
23 stolen vehicle. Subsection one sets forth the dollar amount. Subsection two sets forth the
24 dollar amount. I don't recall any testimony, word one, about the value of the vehicle.

1 Mr. Marchant: Your Honor, I believe the record should reflect that Officer Cruell, in
2 my examination, indicated that the Blue Book value of that 2000, either 5 or 6, GMC Yukon
3 came back at \$20,000.

4 The Court: All right. Let me look back at the testimony, and see if I can see that in
5 my notes. (pause) All right, very good.

6 Regarding the-- Let's start off with the first motion, the renewed motion regarding
7 the identification in-court and because of the identification out-of-court by Officer Cruell,
8 I'm going to reaffirm and reiterate the ruling I previously made that the in-court
9 identification was not the result of any outside force indicating to Officer Cruell that this was,
10 the defendant was the person that she saw. She stated her identification was based upon her
11 observations and then her matching that based that -- based on her own independent actions --
12 matching that with a photograph that she looked up of the defendant and then, of her own,
13 believed those to be the same person, and was not the result of someone else telling her or
14 suggesting to her the identity of the defendant.

15 Regarding the statements to the detective, Detective Conroy at the hospital, I found
16 that it was a voluntary statement of the defendant after being advised of his Miranda rights
17 and voluntarily made a statement. And then the, any further conversation between the
18 detective and the defendant ceased when he invoked his rights to have an attorney.

19 As to the directed verdict motions, again, I do find that there is direct evidence and
20 substantial circumstantial evidence reasonably tending to prove the guilt of the defendant of
21 the crimes charged that have been presented in this case.

22 In the cases of the possession of a stolen vehicle and the failure to stop for a blue
23 light, those are the most, mostly by, what the Court believes to be substantial circumstantial
24 evidence, there being more direct evidence on the other charges. And therefore, the Court
25 would respectfully decline to grant your motions for directed verdict.

1 Lowrance did these things. And I'm going to ask you to find him guilty of each and every
2 count. Thank you.

3 The Court: All right, ladies and gentlemen. It's my duty and responsibility now to
4 give you the law that you are going to apply to the facts and evidence you find to be true in
5 this particular case. I told you at the very beginning that I wouldn't indicate to you at any
6 time what I believe the facts of this case are because it wasn't my job, not my responsibility.
7 It's your job, it's your responsibility to find the facts and evidence you believe to be true in
8 this particular case.

9 Now, in that same vein that you are the judges of the facts, if you came into this
10 courtroom with any preconceived ideas on what the law is, what it ought to be, what it should
11 be, what you hope it would be, you'll disregard that. You will take the law as I now give it to
12 you and apply it to the facts and evidence you find to be true.

13 I remind you that one of your jobs and duties and responsibilities in this matter is to
14 judge the credibility and the believability of the witnesses that have presented themselves to
15 you under oath in this matter. In doing so, you can believe one witness against several,
16 several against one. You can believe a portion of what a witness says, and disregard the
17 remaining portion of it. If you've got a good and sound reason for doing so, you can
18 disregard in its entirety the testimony of a particular witness.

19 You look at whether or not that witness has exhibited to you any kind of interest,
20 motive, bias, prejudice that they might have in giving you the testimony they gave you from
21 the witness stand. You obviously consider the opportunity for knowledge, how they come
22 about that information they gave you. You can even consider the demeanor of the witness,
23 how did the witness appear when they were testifying before you.

24 You remember I told you at the very beginning in judging credibility and
25 believability, that's something you do every, single day of your life. You automatically

1 judge what somebody's telling you, whether it's true or not, when they're telling it to you
2 during your ordinary, normal course of business. You use your good, common sense. You
3 use your good judgment. You apply it to the facts and evidence you heard in this case and
4 find that evidence which convinces you of its truth.

5 You don't have any friends to reward. You don't have any enemies to punish. Your
6 verdict can't be the result of any kind of passion, prejudice or sympathy. It has to be an
7 examination of the facts and evidence and to find that evidence which convinces you of its
8 truth.

9 In this case there was presented two types of evidence that's presented in virtually
10 every case that's tried, called direct and circumstantial evidence. Direct evidence, that's the
11 testimony of a person who asserts or claims to have actual knowledge of a fact. What they
12 saw, heard, observed; what took place in their presence. Circumstantial evidence, that's
13 proof of a chain of fact indicating the existence of a fact.

14 The law doesn't make any distinction between the two. A greater degree of proof is
15 not required of one over the other. You must examine all the facts and evidence in the case
16 and find that evidence which convinces you of its truth. After weighing all the evidence, if
17 you are not convinced of the guilt of the defendant of the crime or crimes charges beyond a
18 reasonable doubt, you must find the defendant not guilty.

19 In this case, I qualified several witnesses to give their opinion. Now, normally we
20 don't allow witnesses to give their opinion. They've got to tell you what they saw and what
21 they heard, what they observed in their presence. Sometimes a witness by their scientific
22 knowledge, training, education, work in a special area, we allow them to give their opinion.
23 Just because the court does that doesn't give them any special status.

24 You judge all the witnesses the same. You look at all the evidence. You find that
25 evidence which convinces you of its truth.

1 The rules of evidence provide that a testimony of a witness may be discredited or
2 impeached by showing that witness has been convicted of a crime for which they could have
3 been in prison for more than one year, or a crime involving dishonesty. Now, as to that
4 evidence, it's only on the issue of credibility and believability and for no other purpose.

5 A person who has a past criminal record can testify during a trial. Their past record
6 doesn't affect their ability to testify. It's only considered by you, if at all, in determining the
7 witness' believability or credibility, remembering, of course, that you are the sole judge of
8 the facts in this case.

9 A statement alleged to have been made by the defendant was admitted by the court as
10 evidence in this case. Now, while I determined that the statement was admissible as
11 evidence, you the jury make the ultimate decision of several things: whether or not the
12 defendant, indeed, made the statement. If the defendant made the statement you must
13 determine whether the statement was made by the defendant voluntarily and of their own free
14 will. That means the statement was not caused by pressure, force, fear, threats, coercion, or
15 intimidation; or by hope or promise of leniency or reward of any kind.

16 In determining whether or not the statement was voluntary you take into
17 consideration the details of the questioning, the facts surrounding the questioning. Some of
18 the things you can consider are the age of the defendant, the defendant's education or lack
19 thereof, the defendant's mental ability and capacity, his physical makeup and presence at the
20 time of the questioning, his intelligence or IQ, background and environment, the nature of the
21 questioning. The advice or lack thereof to the defendant of his constitutional rights,
22 including but not limited to the right to remain silent, that any statement can and will be used
23 against you in a court of law; you have the right to have a lawyer present; if you cannot
24 afford one, one will be appointed to represent you; and you can stop making a statement at
25 any time that you wish.

1 You carefully consider all surrounding circumstances before you give any weight to
2 the alleged statement.

3 I told you – and I'll go over this in just a minute – the State has the burden of proof,
4 of proving everything to you beyond a reasonable doubt. That goes with all of these things
5 that I'm talking to you about.

6 So, regarding this statement and all the characteristics and everything I'm talking
7 about, the State has to prove that to you beyond a reasonable doubt because the State has the
8 burden of proof.

9 You decide what weight, if any, you give that alleged statement. If you determine
10 that the statement was not a free and voluntary statement of the defendant, you don't consider
11 it at all.

12 Identification. At issue in the case is identification of the defendant as the person
13 who committed the crime. The State, again, has the burden of proof, of proving the identity
14 of the defendant as the person who committed the crime beyond a reasonable doubt. The
15 State has the burden of proof on everything. You must be satisfied beyond a reasonable
16 doubt the accuracy of the identification of the defendant before you may convict the
17 defendant. And, again, it has to be beyond a reasonable doubt.

18 Identification testimony is the expression, believe, impression of a witness. You must
19 determine the accuracy of the identification of the defendant. You must consider the
20 believability of each identification person in the same way you would any other witness.
21 You may consider whether the witness had adequate opportunity to observe the offender at
22 that time. This will be affected by things like how long or short a time was available to
23 observe the person; how far or close the witness was; the lighting conditions; whether the
24 witness had a chance to see or know the person in the past.

1 The burden of proof is on the State and extends to every element of the crimes
2 charged. And this includes the burden of proving beyond a reasonable doubt the identity of
3 the defendant as the person who committed the crime. If, after examining the testimony, you
4 have a reasonable doubt as to the accuracy of the identification, you must find the defendant
5 not guilty.

6 Presumption of innocence. I told you at the very beginning the defendant plead not
7 guilty to the charges levied or brought against him by the state of South Carolina, and that
8 puts that burden of proof on the state of South Carolina to prove the defendant guilty of the
9 crime or crimes charged beyond a reasonable doubt. As I told you, the defendant has nothing
10 to prove to you. The defendant has not a thing to show you. I told you at the very beginning,
11 the defendant need not even show up to trial because they don't have to prove a thing to you
12 or show anything to you. The State must prove the guilt of the defendant beyond a
13 reasonable doubt.

14 This is an important rule of law regarding any defendant in a criminal case, no matter
15 the seriousness of the charge. The defendant is always presumed to be innocent of the crime
16 for which the indictment or the charge was issued, unless guilt is proven to you by evidence
17 satisfying you of that guilt beyond a reasonable doubt.

18 Now, this presumption of innocence didn't end at the beginning of the trial. It hasn't
19 ended now. It only ends if and when you believe by the evidence you find to be true, the
20 State has proved the guilt of the defendant of the crime charged beyond a reasonable doubt.

21 This presumption of innocence is likened to a robe of righteousness. It is placed on
22 the shoulders of the defendant and it stays on the shoulders of the defendant until it's ripped
23 from the shoulders of the defendant by evidence which convinces you of its truth and its
24 evidence that you believe the defendant has committed the crime or crimes charged beyond a
25 reasonable doubt.

1 This isn't just legal theory or some legal phrase. It's a substantial right to which this
2 defendant, and to which every American is entitled, unless and-- They're entitled to it unless
3 you are satisfied from the evidence of the defendant's guilt beyond a reasonable doubt.

4 So, what's reasonable doubt? The kind of doubt that would causes an ordinary,
5 reasonable person to hesitate to act. The State has the burden of proving the defendant guilty
6 beyond a reasonable doubt. Proof beyond a reasonable doubt is proof that leaves you firmly
7 convinced of the defendant's guilt.

8 Now, there are very few things we can know with absolute certainty, and the State
9 isn't required to give you that kind of degree of proof. What is required is based upon your
10 consideration of the evidence. If you are firmly convinced that the defendant is guilty of the
11 crime charged, you must find the defendant guilty. .

12 On the other hand, based upon your view of the evidence, the evidence you find to be
13 true, you are not firmly convinced of the defendant's guilt of the crime or crimes charged,
14 you must give the defendant the benefit of the doubt and find him not guilty.

15 In order to establish criminal liability, criminal intent is required. Criminal intent
16 must be proven to you by the State beyond a reasonable doubt. Criminal intent is always a
17 matter that must be determined by the jury from the circumstances surrounding the situation.
18 There's no way to prove it to you by a mathematical certainty. The law says that criminal
19 intent may be inferred from the circumstances that existed. It's not necessary to establish
20 intent by direct and positive evidence, but intent may be established by inference the same
21 way by taking into consideration the acts of the parties and all the facts and circumstances of
22 the case.

23 Criminal intent is a mental state, a conscious wrongdoing. It's up to you to determine
24 what the defendant intended to do, if anything, based on the circumstances shown to have
25 existed. Mere presence at the scene of a crime is not sufficient to prove somebody guilty of

1 the crime. A defendant's presence where a crime is being committed or mere association
2 with the person who commits the crime does not make a defendant an accomplice or aider or
3 abettor of the person committing the crime. The burden is on the State to prove every
4 element of the crime charge.

5 If you find after reviewing all the evidence that the State has proved that the
6 defendant was only present at the scene of a crime and they have not proved beyond a
7 reasonable doubt his participation in the crime, then you must find the defendant not guilty.
8 Mere presence at the scene of a crime is not sufficient to prove somebody guilty of a crime.

9 So, the defendant is charged with several offenses. What are the elements of those
10 offenses? The most serious being attempted murder. A defendant being charged with
11 attempted murder, in order to prove this crime the State has to prove to you that the
12 defendant attempted to kill another person with malice aforethought, either expressed or
13 implied.

14 Now, malice is hatred, ill will, hostility towards another person. It's the intentional
15 doing of a wrongful act without just cause or excuse. And with an intent to inflict an injury
16 or under circumstances that the law would infer this evil intent.

17 Now, malice aforethought doesn't require that malice exists for any particular time
18 before the act is committed, but it has to exist in the mind of the defendant just before and at
19 the time the act is committed, the attempted murder. Therefore, there has to be this
20 combination of the evil intent and the act.

21 Now, malice aforethought can be expressed or implied. It's merely the manner in
22 which they may be shown to exist. It can be shown by direct evidence or inference from the
23 facts and circumstances proved. Expressed malice is shown when a person speaks words
24 which express hatred or ill will for another or when a person prepared beforehand to do the

1 act which was later accomplished. Or some other act of preparation going to show that the
2 deed was within the defendant's mind to be expressed malice.

3 Malice can also be inferred from conduct showing a total disregard for human life.
4 That inferred malice can arise when the deed is done with a deadly weapon, a deadly weapon
5 being any kind of article, instrument or substance which is likely to cause death or great
6 bodily harm. Whether or not an instrument is used as such depends on the facts and
7 circumstances of the case.

8 Now, regarding the facts, if they are proved beyond a reasonable doubt sufficient to
9 raise some inference of malice, this inference of malice is just an evidentiary fact, one of the
10 facts you consider and you give it the weight you think it should receive, if any.

11 A specific intent to kill is not an element of attempted murder, but there has to be a
12 general intent to commit serious bodily injury. Intent means intending the result which
13 actually occurred, not by accident or involuntarily. Intent may be shown by the act and
14 conduct of the defendant from which you could infer intent. Evidence of a character of the
15 act; the character of the instrument used; the manner in which it was used; the purpose to be
16 accomplished.

17 Intent may also be inferred when it is demonstrated that the defendant voluntarily and
18 willfully committed an act of which the natural tendency of which would be to destroy
19 another's life.

20 He's also-- There's two counts of attempted murder, and we'll talk about that in just
21 a second.

22 Possession of a weapon during the commission or attempt to commit a violent crime.
23 Defendant, having been charged with this crime, the State has to prove to you beyond a
24 reasonable doubt that the defendant was in possession of a firearm or visibly displayed what
25 appeared to be a firearm during the commission of a violent crime.

1 Again, a firearm is any kind of weapon which is designed to or may readily converted
2 to expel a projectile. In order to find the defendant guilty of possession during the
3 commission of a violent crime you must find the defendant guilty of committing the violent
4 crime or attempting to commit a violent crime. In this matter it'd have to be, you would have
5 had to have found him guilty of one or both of the attempted murders. If you find him not
6 guilty of those, he cannot be in possession of a weapon during the commission or attempt to
7 commit a violent crime.

8 The violent crime that's been alleged against the defendant is attempted murder. And
9 the State also has to prove to you beyond a reasonable doubt that the weapon further
10 advanced or helped in the commission of the crime.

11 The possession of a stolen vehicle. A person is not entitled to possess a vehicle
12 knowing it to be stolen or converted under circumstances constituting a crime. To prove
13 possession the State has to prove to you beyond a reasonable doubt that the defendant had
14 both the power and the intent to control the disposition or the use of the vehicle. It could be
15 actual possession, meaning that he was in actual, physical custody of the vehicle. Or he had
16 constructive possession, he had the dominion and control, or the right to exercise the
17 dominion and control over the vehicle. The State, therefore, has to prove to you beyond a
18 reasonable doubt he possessed the vehicle, it was a stolen vehicle and he knew it to be
19 stolen.

20 Failure to stop for a blue light. Defendant being charged with failure to stop for a
21 blue light. In order to prove the crime the State has to prove to you beyond a reasonable
22 doubt that the defendant was driving a motor vehicle. That the defendant was driving this
23 motor vehicle on a road, street, or highway of the state of South Carolina. That the defendant
24 was signaled to stop by law enforcement by means of a siren or flashing light and the
25 defendant did not stop for a blue light. You may consider the actual road conditions, the

1 actual roadside conditions, other conditions, such as lighting, weather, officer-driver-
2 passenger safety, any other circumstances you believe to reasonably mitigate the violation.

3 An official signal requiring a motorist to stop may be a siren or a flashing light. It
4 does not have to be both. The attempt to increase the speed of a vehicle or in some other
5 manner avoid the pursuing law enforcement vehicle when signaled by siren or flashing light
6 may be considered as evidence. However it is merely an evidentiary fact to be taken in
7 consideration by you along with all the other evidence in the case and given the weight for
8 you to decide.

9 So, he has to be driving the vehicle. He has to be driving the vehicle on a road, street,
10 or highway of the state. He has to be signaled by law enforcement to stop and he doesn't
11 stop.

12 The last one that he's charged with-- I'm sorry. That was the last one he was
13 charged with.

14 Going through the verdict forms. Let me go through the verdict forms. There are
15 five decisions you have to make because there are five charges. Two of them are attempted
16 murder. And you've got possession of a weapon during a violent crime, possession of a
17 stolen vehicle and failure to stop for a blue light. Each one of them is a separate charge.
18 Each one of them is a separate case. Each one of them the State has to prove to you every
19 element of the crime and the facts to back up every element of the crime beyond a reasonable
20 doubt. So, you're making five separate decisions; you're not just making one. You're
21 making five, separate decisions. You make a separate, independent decision on each and
22 every charge.

23 The verdict forms are very straightforward. On the charge of attempted murder of
24 Officer Taci Cobb, we the jury by unanimous consent, find the defendant, Patrick Dean

1 Lowrance, you've got two boxes, check one or the other, not guilty or guilty. I put one
2 before the other, obviously don't assign anything to that.

3 When you decide that, you go on to attempted murder. On the charge of attempted
4 murder of Officer Charles Lane, we the jury by unanimous consent, find the defendant,
5 Patrick Dean Lowrance, you've got two choices, not guilty or guilty. Pick one and go on to
6 the next charge.

7 Possession of a weapon during a violent crime. On the charge of possession of a
8 weapon during a violent crime, we the jury, by unanimous consent, find the defendant,
9 Patrick Dean Lowrance, again, not guilty or guilty. Remember, you have to have had found
10 him guilty of one or both the attempted murders to find him guilty of possession of weapon
11 during a violent crime. If you find him not guilty, you've got to find him not guilty of this
12 one because the only violent crime is attempted murder.

13 Possession of a stolen vehicle. He's charged with possession of a stolen vehicle. We
14 the jury, by unanimous consent, find the defendant, Patrick Dean Lowrance, two choices, not
15 guilty or guilty.

16 Failure to stop for a blue light. He's charged with failure to stop for a blue light. We
17 the jury, by unanimous consent, find the defendant, Patrick Dean Lowrance, not guilty or
18 guilty.

19 When you've reached a unanimous verdict on all of those matters, every, single one
20 of those matters, you knock on the door and let the bailiff know that the jury's reached a
21 unanimous verdict on all the matters presented.

22 Now, I have said unanimous I don't know how many times. It means exactly what
23 you think it means. It means twelve-zero. It doesn't mean eleven-one, ten-two, or any
24 combination thereof. So, Mr. Foreman, you check the appropriate block, whatever the block
25 is, not guilty or guilty. Whatever it is, when you check that, you sign your name, you put the

1 date on there, you are telling the court every, single member of the jury agrees, that's their
2 verdict. All twelve of them say, yes sir, that's my verdict, including yourself, obviously.

3 So, when you sign it, you date them, you check the blocks and you knock on the door
4 and you let the bailiff know you have a unanimous verdict on all these matters.

5 What I'm going to ask that you do is, Mr. Foreman, and the other eleven members of
6 the regular jury, I'm going to ask that you go back to the jury room at this point in time. I'm
7 going to ask the two alternates to stay with us, please. Do not, do not begin your
8 deliberations until the bailiff hands to you the verdict form and they bring all the exhibits into
9 the jury room for your use. When that occurs you may begin your deliberations.

10 The Clerk of Court has ordered lunch. Hopefully, it will be there. If it's not, it
11 should be there very shortly. Take the time to enjoy that and then resume your deliberations.

12 So, Mr. Foreman, take your regular members of the jury to the jury room, please.

13 (Whereupon the jury exited the courtroom)

14 At this time, is there any reason from the State or the Defendant that the court should
15 not excuse the two alternates in this particular matter? From the State?

16 Mr. Marchant: No, Your Honor.

17 The Court: From the Defense?

18 Mr. Johnson: No sir, Your Honor.

19 The Court: Very good. Mr. Arnold and Ms. Bell. The court can release you from
20 your service in this particular case. So, I'm going to excuse you. You've sat through this
21 trial for a couple of days. I'm going to excuse you from your jury service for the week.
22 Your job was to step in the shoes of the regular members of the jury if they were unable to go
23 forward by reason of sickness or some other matter. They are all here ready, willing, and
24 able to go forward with their duties. So, I am going to excuse you from your jury service for
25 this week. Thank you for your service, and you are now excused. Just give your badges to

1 the bailiff when you leave. And if you need any statements for your work, the Clerk of Court
2 can get that for you. Thank you very much.

3 (Whereupon alternate jurors exited the courtroom)

4 All right. Exceptions, deletions to the charge from the State?

5 Mr. Marchant: None, Your Honor.

6 The Court: From the Defense?

7 Mr. Johnson: No sir, Your Honor.

8 The Court: Very good. Gentlemen, first I want to tell you the way that you,
9 Solicitor, and you, Mr. Johnson, you tried this case. In the court's estimation you did
10 everything that the court would expect of you, and you did everything that you should on
11 behalf of your respective clients to present this matter properly and eloquently to the jury. I
12 commend you both for your work in this particular case.

13 Mr. Johnson: Thank you, Your Honor.

14 Mr. Marchant: Thank you, Your Honor.

15 The Court: If you would, get with the Court Reporter and make sure we've got all the
16 proper exhibits going into the jury room.

17 Mr. Johnson: Yes sir.

18 Mr. Marchant: Yes, Your Honor.

19 The Court: And with that we will be in recess

20 (Whereupon court was in recess at 1:00 p.m.)

21 **COURT IN SESSION – 1:58 P.M.**

22 The Court: All right, Solicitor and Mr. Johnson. We've got a note that the jury
23 wanted to watch the video again. I believe we've got it cued up. Is that correct?

24 Mr. Marchant: Ready to go, Your Honor.

25 The Court: As soon as they bring the defendant out, we'll call the jury in. Okay?

1 if you want to just pass that one among the other members of the jury so they are clear that
2 what you have written down and indicated is....

3 (pause for Jury Foreman to fill out verdict form and jury members to review same)

4 The Court: All right. All members of the jury having viewed the verdict form that
5 the Foreperson filled out, is there any member of the jury that disagrees or has a problem
6 with what has been indicated on the verdict form? If so, indicate by raising your right hand.

7 (no response)

8 No one so indicates. Madam Clerk of Court, if you would publish this verdict,
9 please, ma'am.

10 Clerk of Court: In the case of 2012-GS-23-1422, the State of South Carolina versus
11 Patrick Dean Lowrance, possession of a stolen vehicle. On the charges of possessing a stolen
12 vehicle, we the jury, by unanimous consent, find the defendant, Patrick Dean Lowrance,
13 guilty. This is signed by Mr. Davis, the Foreperson.

14 The Court: The other matters are the ones that the jury was unable to reach a
15 unanimous conclusion on the other matters. Is that correct?

16 Jury Foreman: That's correct.

17 The Court: Very good. As to the jury itself, at this point in time, are there any
18 matters from the State as to the jury itself?

19 Mr. Marchant: No, Your Honor.

20 The Court: From the Defense?

21 Mr. Johnson: No sir, Your Honor.

22 The Court: Regarding the verdict, let me just ask one more question. Regarding the
23 verdict that has been rendered does the Defense wish the jury polled on that particular
24 verdict?

25 Mr. Johnson: Sure, Your Honor, yes.

1 The Court: All right, sir. Very good. Madam Clerk, if you would poll the jury on
2 that verdict, please, ma'am.

3 Clerk of Court: The verdict which was just published was the verdict you reached in
4 your jury room. I ask you was it your verdict then and is it your verdict now. When I call
5 your name, please answer yes or no. James McLemore?

6 James McLemore: Yes.

7 Clerk of Court: Michael Chapman?

8 Michael Chapman: Yes.

9 Clerk of Court: Angela Gosnell?

10 Angela Gosnell: Yes.

11 Clerk of Court: Diane Furmanski?

12 Diane Furmanski: Yes.

13 Clerk of Court: Lateria Sibert?

14 Lateria Sibert: Yes.

15 Clerk of Court: Bruce Edwards?

16 Bruce Edwards: Yes.

17 Clerk of Court: Belinda Vance-Breazeale?

18 Belinda Vance-Breazeale: Yes.

19 Clerk of Court: Shelley Brown-Davies?

20 Shelley Brown-Davies: Yes.

21 Clerk of Court: Judy Sanders?

22 Judy Sanders: Yes.

23 Clerk of Court: Laura Shaw?

24 Laura Shaw: Yes.

25 Clerk of Court: Gregory Davis?

1 Gregory Davis: Yes.

2 Clerk of Court: And Melinda Jessup?

3 Melina Jessup: Yes.

4 The Court: All the jurors having affirmed the verdict, anything further as to the jury
5 from the Defense?

6 Mr. Johnson: No sir, Your Honor.

7 The Court: All right, very good. All right, ladies and gentlemen. I'm going to
8 discharge you from your duties for this particular week. I appreciate your service. You
9 worked at your duties diligently. You did everything the court asked you to do, to well and
10 truly try the case, to do your utmost to reach a unanimous conclusion in this matter. I told
11 you and I appreciate the difficult nature of the task. Please do not take it as any type of
12 disappointment or failure on your part. You did exactly what the jury is supposed to do, to
13 try the case and try to come to a unanimous conclusion and if not, then as I indicated, then
14 we'll try the matter again at some future date.

15 With that, I'm going to discharge you for the week. I appreciate it very much. Thank
16 you for your service.

17 (Whereupon the jury exited the courtroom)

18 All right. As to the charges of two counts of attempted murder, the possession of a
19 weapon during the commission of a violent crime, and the failure to stop for a blue light, the
20 court would declare a mistrial in those matters and they are returned to the Solicitor's office
21 for further consideration and prosecution again in the future if that is the choice of the
22 Solicitor.

23 As to the matter of the possession of a stolen vehicle, do we have a sentencing sheet
24 for that particular offense, Madam Clerk?

25 Clerk of Court: Yes sir.

1 The Court: Very good. Hand me the sentencing sheet and the indictment, please.
2 Solicitor, I'll be glad to hear from you.

3 Mr. Marchant: May it please the court. Your Honor's heard the testimony in this
4 case. The jury found a unanimous verdict with respect to possession of a stolen vehicle. As
5 Your Honor's aware, the charge carries up to ten years. I will inform the court that Mr.
6 Lowrance has been incarcerated for 349 days. He does not have a prior record.

7 The Court: Thank you very much. All right, Mr. Johnson, I'll be glad to hear from
8 you, sir.

9 Mr. Johnson: Thank you, Your Honor. As the Solicitor said, you've been here
10 during this trial. I would like you to take into respect the fact that the jury has declined to
11 decide another four charges of not guilty.

12 The Court: Those matters are not before me.

13 Mr. Johnson: Yes sir, Your Honor. Therefore, I ask that you consider my client is a
14 first-time offender. He has come before the court with a clean slate and I ask you to consider
15 that when you sentence him. I actually think that he be entitled to time served or a
16 probationary sentence based upon this charge only and with him being a first-time defendant.

17 Your Honor, to a certain extent, he has a wonderful family. If you will please stand
18 up.

19 (Whereupon members of defendant's family stood in the courtroom)

20 There were more here earlier, but---

21 The Court: Yes, of course, I saw that.

22 Mr. Johnson: Yes sir, Your Honor. But they are here in support of Patrick, his Uncle
23 Johnny, his mother, his sister. They are all here in support of him.

24 The Court: Yes sir, thank you. Y'all can sit down.

1 Mr. Johnson: And as Your Honor heard his testimony, he does have a college
2 education and has skills to work. So, I do think he would be a candidate for whenever Your
3 Honor thinks he may be readmitted to society.

4 The Court: Thank you very much.

5 (pause)

6 All right. Regarding 2012-GS-23- 1422, State of South Carolina, County of
7 Greenville versus Patrick Dean Lowrance, regarding the possession of a stolen vehicle, the
8 court has taken into consideration several factors. I cannot take into consideration the
9 charges that he is facing in these other matters. The jury did not return a verdict in that.
10 What I am considering is the fact that he does not have a prior criminal record. He has been
11 in jail for 349 days. The offense is possession of a stolen vehicle. The sentence, therefore, is
12 the defendant is committed to the state department of corrections for a determinate term of
13 three years, suspended, placed on probation for one year. The defendant is given credit for
14 349 days he's already spent in jail.

15 Special terms and conditions of probation, you must undergo random drug and
16 alcohol testing, seventy-five hours' public service employment, or maintain full-time
17 employment. Thank you very much.

18 Mr. Johnson: Thank you, Your Honor.

19 The Court: Gentlemen, while y'all are here let's deal with the order of bond. Bail on
20 the matters of the two counts of attempted murder, the possession of a weapon during the
21 commission of a violent crime, and the failure to stop for a blue light.

22 I do have here a order of bail. Y'all tell me that Judge Stilwell heard this apparently
23 on February 17, 2012, and he considered those charges, obviously the one that the defendant
24 was just convicted of, and a number of other charges.

260

WITNESSES

B V Cruell

Greenville Police Department

10/29/2011

DOCKET NO. 2012-GS-23- 001422

LCM

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

March

TERM 2012

THE STATE

VS.

PATRICK DEAN LOWRANCE

ARREST WARRANT NUMBER

M802909

ACTION OF GRAND JURY
TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

3468

Indictment for

POSSESSION OF A STOLEN MOTOR VEHICLE

VIOLATION § 16-21-0080

Foreperson of Petit Jury

Date:

RECEIVED

MAR 01 2012

Clerk of Court
Greenville County

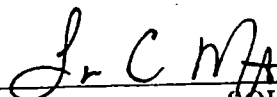
STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
POSSESSION OF A STOLEN MOTOR VEHICLE

At a Court of General Sessions, convened on MAR 20 2012 the Grand Jurors of Greenville
County present upon their oath:

That PATRICK DEAN LOWRANCE did in Greenville County, on or about the 28th day of October,
2011, willfully and unlawfully receive, possess, conceal, sell or dispose of a motor vehicle belonging to
DELONDA M. GRESHAM described as a 2005 GMC Yukon, valued at more than Ten Thousand
Dollars and PATRICK DEAN LOWRANCE was not entitled to possession of the vehicle and knew the
vehicle to be stolen or converted under circumstances constituting a crime. This is in violation of § 16-
21-0080 of the South Carolina Code of Laws (1976) as amended.

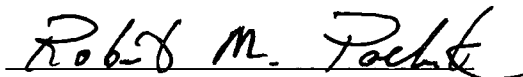
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

September 30, 2013

A handwritten signature in black ink, reading "Robert M. Pachak". The signature is written in a cursive style with a horizontal line underneath.

Robert M. Pachak
Appellate Defender

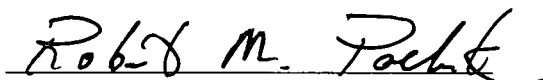
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

September 30, 2013

A handwritten signature in black ink, reading "Robert M. Pachak". The signature is written in a cursive, flowing style with a horizontal line underneath the name.

Robert M. Pachak
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Steven H. John, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

PATRICK LOWRANCE,

APPELLANT

APPELLATE CASE NO. 2012-213300

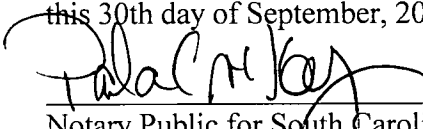
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon J. Benjamin Aplin, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 30th day of September, 2013.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 30th day of September, 2013.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022.

RECEIVED
SEP 30 2013
SC COURT OF APPEALS