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ORIGINAL

VOLUME I OF II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

G. Thomas Cooper, Circuit Court Judge

OCT 01 2013

THE STATE,

SOUTH CAROLINA COURT OF APPEALS

RESPONDENT,

V.

HENRY GRAY,

APPELLANT

APPELLATE CASE NO. 2012-209426

RECORD ON APPEAL

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****STATE 'S EXHIBIT #51-57, #80-83 AND # 87 (PHOTOGRAPHS), IS
BEING TRANSPORTED TO THE COURT OF APPEALS. ****

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF RICHLAND	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 10-GS-40-0039 et al
	)	
Henry Gray and Robin Gray Reese,	)	
	)	
Defendants.	)	

TRANSCRIPT OF JURY TRIAL

The within jury trial was held in the above-captioned action on February 28-March 2, 2012, before The Honorable Thomas G. Cooper, Jr. in General Sessions Court for Richland County, South Carolina; attended by Counsel, as follows:

APPEARANCES:

K. Luck Campbell, Solicitor
 April Sampson, Solicitor
 Nicole Simpson, Solicitor
 5TH JUDICIAL CIRCUIT SOLICITOR'S OFFICE
 Appearing for State of South Carolina

Andrew Farley, Esq.
 Appearing for Defendant Robin Reese

Mathias Chaplin, Esq.
 Appearing for Defendant Henry Gray

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Jury Trial of February 27-March 2, 2012
before The Honorable Thomas G. Cooper, Jr.

10

1 FEBRUARY 27, 2012

2:00 P.M.

2

3 (STATUTORY JURY QUALIFICATION)

4 (IN CHAMBERS CONFERENCE)

5 (DEFENDANTS PRESENT)

6 THE COURT: State ready?

7 MS. CAMPBELL: State's ready, Your

8 Honor.

9 THE COURT: Defense ready?

10 MR. FARLEY: Ready, Your Honor.

11 MR. CHAPLIN: Yes, sir.

12 THE COURT: Call your case.

13 MS. CAMPBELL: The State versus

14 Henry Gray, Robin Reese. Indictments numbers

15 11-GS-40-4916, 10-GS-40-0040, 11-GS-40-4915 and

16 10-GS-40-0039 charge each of the defendants with

17 one count of murder and one count of lynching in

18 the first degree.

19 THE COURT: Anything of a pretrial

20 nature before? Just let me -- are there any

21 pending pretrial Motions?

22 MS. CAMPBELL: Yes, sir, Your

23 Honor. We have a Motion to sever the cases.

24 THE COURT: I don't have any Motions.

25 MR. CHAPLIN: May I approach, Your

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1 Your Honor.

2 THE COURT: There's no Lyle evidence,
3 according to the State. You are not planning on
4 offering any Lyle evidence?

5 MS. CAMPBELL: No, sir, we're not
6 aware of any that would be ---

7 THE COURT: Admissible.

8 MS. CAMPBELL: --- admissible in
9 this case.

10 THE COURT: All right. Then the only
11 other Motion is the ---

12 MS. CAMPBELL: If they open the
13 door, we ---

14 THE COURT: I understand. We can
15 take that up in-camera if it becomes necessary.

16 MS. CAMPBELL: Yes, sir.

17 THE COURT: The only other thing is
18 the autopsy photographs. That's the only other
19 Motion that I see.

20 MS. CAMPBELL: You'd have to rule
21 on that as it comes up.

22 THE COURT: Your Honor, my normal
23 rule on photographs is that if they assist your
24 pathologist in determining the cause of death,
25 then they are admissible. If they are just for

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1 shock value, then they would not be admissible.

2 But I will review them at the proper time.

3 MS. CAMPBELL: I will show them to
4 Your Honor. In this case there is some issue as
5 to cause of death, which may make them more
6 relevant.

7 THE COURT: Any other pretrial
8 Motions?

9 MR. CHAPLIN: We've already done
10 the deal.

11 THE COURT: Yes, sir.

12 MR. CHAPLIN: Your Honor, when
13 will we set the record for ---

14 THE COURT: Before any witness
15 testifies?

16 MR. FARLEY: We have no further
17 Motions, Your Honor.

18 THE COURT: How about the defendants'
19 -- you work that out. All right. Anything
20 else?

21 MR. FARLEY: Nothing further, Your
22 Honor.

23 MR. CHAPLIN: No, Your Honor. I
24 just want to make sure that I understand. I
25 just want to summarize, can I do that?

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1 THE COURT: Remember, opening statements
2 are not evidence of any means.

3 MR. CHAPLIN: I understand.

4 THE COURT: Bring the jury, please.

5 (JURY IN @ 2:48 p.m.)

6 THE COURT: I have a childcare note from
7 Juror 16. That's all. That tells me what
8 I need to know.

9 BAILIFF: All jurors are present, Your
10 Honor.

11 THE COURT: All right. Thank you very
12 much.

13 Juror 11, thank you for agreeing to serve
14 as foreperson of the jury.

15 All right. Solicitor, call your first
16 witness.

17 MR. CAMPBELL: Thank you, Your Honor. The
18 State calls Officer Buck.

19 MATTHEW BUCK, being duly sworn to
20 tell the truth, the whole truth and nothing
21 but the truth, testified, as follows:

22 DIRECT EXAMINATION

23 BY SOLICITOR CAMPBELL:Q You talk really
24 loud, but just to be safe?

25 A There you go.

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1 Q Officer Buck, how long have you been
2 an officer?

3 A Five years.

4 Q What police department are you?

5 A Columbia Police Department.

6 Q Have you always been with them?

7 A Yes.

8 Q And where, what did you do prior to
9 that?

10 A I worked as UPS as an unloader.

11 Q What level are you as an officer?

12 A Master patrol officer.

13 Q What are your duties normally as a
14 master patrol?

15 A Respond to disturbance calls, civil
16 disturbance calls, write traffic tickets,
17 respond to fights, burglaries, investigate
18 minor crimes of shoplifting, things like
19 that.

20 Q And that's what you've been doing the
21 entire five years with the Columbia Police
22 Department?

23 A Yes.

24 Q And do you receive training in order
25 to do that?

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1 A Yes.

2 Q What kind of training?

3 A We go to the Criminal Justice Academy,
4 and then there's other classes that we can
5 ask that, you know, be put in to and get
6 extra help from there.

7 Q And what kind of classes have you
8 taken besides the training?

9 A I've taken radar training, DataMaster
10 which is a breath test for DUIs. I've
11 taken field training officer, officer stuff
12 like that.

13 Q I'm going to go to why we're here.
14 Were you working on February 13, 2010?

15 A Yes.

16 Q And what was your assignment that day?

17 A My assignment was to work in the south
18 region part of Columbia which is the
19 Gardens and Taylor Street, King and Bratton
20 areas of the specific south region.

21 Q When you say The Gardens, what do you
22 mean?

23 A The Gardens is an apartment complex
24 right there across from Providence
25 Hospital.

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1 Q Is that also known as Gonzales
2 Gardens?

3 A Yes.

4 Q So you were patrolling that area?

5 A I might have been several blocks away.
6 We go over to different parts of the city
7 depending upon call volume and where we're
8 dispatched to for.

9 Q And on February 1st, did you receive a
10 call to go to the Gardens?

11 A Yes.

12 Q And what was that call?

13 A Myself and another officer received a
14 call in reference to a fight at that
15 location. When we got in the area, we
16 weren't flagged down or anything like that.
17 We couldn't see anybody actively fighting,
18 just normal foot traffic that we see on a
19 normal day.

20 Q So the call you received was for a
21 fight?

22 A Yes.

23 Q When you got there, where exactly did
24 you go?

25 A We went in. Normally by the time we

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1 respond to these fight calls in The Gardens
2 people have already dispersed and left.

3 We started circulating for what we would
4 perceive as suspects involved in the fight.

5 Dispatch gave us descriptions and we
6 started trying to piece that together and
7 look if anyone matched those descriptions.

8 Q And in this case, you said dispatch
9 gave you a description. Do you remember
10 what that description was?

11 A There were several occupants involved
12 in the fight. I remember somebody was
13 wearing a red hoodie or hat. I believe one
14 was wearing a black sweat shirt or
15 something like that but it's ---

16 Q Was this a one-on-one fight or a group
17 of individuals?

18 A At the time we didn't know. They just
19 said several people were fighting. We
20 didn't know if it was two on two, or one on
21 eight. We didn't know.

22 Q Okay. And -- so when you got there,
23 you said there was nobody in the area?

24 A Nobody that flagged us down or no one
25 was actively fighting.

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1 Q So what did you do?

2 A We just started paroling the area
3 trying to locate possible suspects based
4 off of descriptions that we were given.

5 Q Did you find any?

6 A I didn't personally. Another officer
7 actually located somebody that matched the
8 description going into an apartment.

9 Q All right. We'll deal with that in a
10 little bit. What did you do after that,
11 after he found that person?

12 A We received a call about somebody who
13 was laid out between two buildings. After
14 we dealt with that one suspect -- or the
15 one individual, we went and located the
16 person that was laying in between the two
17 buildings.

18 Q How far away from where you all were
19 and where the suspect was, how much
20 distance were there between those two?

21 A There's actually a community center
22 for that apartment complex. It's in the
23 middle. There's a building here which is
24 close to Forest Drive, so there's buildings
25 that run this way. Then there's the

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1 community center with a service road. We
2 made contact on the other side of the
3 community center. If I had to guess, maybe
4 fifty yards.

5 Q But within walking distance?

6 A Yes.

7 Q And did you go to where -- you said
8 you went to where the person was laying or
9 did you?

10 A Yes, I was the first one that actually
11 located him laying in between the two
12 buildings unresponsive.

13 Q And you said -- what was his
14 condition? You said unresponsive?

15 A Yeah, his condition was I thought he
16 might have, you know, was drunk or what
17 have you -- excuse me, whatever. He was
18 unresponsive. We did a sternum rub to him.
19 He didn't wake up.

20 Q Let me stop you. What's a sternum
21 rub?

22 A A sternum rub is when you take the
23 knuckles of your fist and you push real
24 hard into their breastbone like that to try
25 to wake them.

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1 Q Did that work?

2 A No, it didn't.

3 Q Did he respond at all to the sternum
4 rub?

5 A No.

6 Q So then what did you do?

7 A We called EMS right away. We actually
8 had EMS step it up. We could hear him
9 almost gargling or snoring like. We could
10 see his fists were clenched up almost as
11 though he was having a seizure-type thing.

12 Q What did that mean to you?

13 A That he needed some medical treatment
14 immediately.

15 Q So what did you tell EMS?

16 A That, you know, we got a call that he
17 was laid out between the two buildings and,
18 you know, we had received a fight call
19 earlier, we were not sure if it was all
20 related or anything at the time.

21 Q And did EMS respond?

22 A Yes.

23 Q Did they take him away or where did
24 they take him?

25 A They took him to Richland Memorial.

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1 EMS ambulance showed up with one of their
2 supervisors that drive separately. All
3 three of them went in ambulances to the
4 hospital.

5 Q After that what did you do?

6 A After that, we were leaving. I
7 believe there was a lady at the end of the
8 building that actually called, saying she
9 witnessed the guy laying on the ground.
10 She ended up calling. We spoke to her
11 momentarily. I went to the hospital.

12 Q So you did not stay and take a
13 statement from that witness?

14 A No.

15 Q Is that part of your job?

16 A Sometimes, but not regularly.
17 Normally investigators handle all that.

18 Q So it wasn't unusual for you to just
19 find out her information and leave?

20 A Correct.

21 Q You said there was another officer
22 with you. Who was with you?

23 A Officer Delage.

24 Q All right. Do you normally work two
25 and two, together like that?

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1 A Yes. I worked together -- he actually
2 trained me and we've been together for a
3 while.

4 Q Beg the Court's indulgence.

5 DIRECT EXAMINATION CONTINUED

6 Q And where did all of this occur, in what
7 county?

8 A In Richland County.

9 MS.. CAMPBELL: No further
10 questions, Your Honor.

11 THE COURT: Cross-examination.

12 CROSS EXAMINATION

13 BY MR. FARLEY:

14 Q Officer, when you responded to this, I know
15 you said you responded to a report of a fight.
16 Did you say that everyone had dispersed from the
17 time you arrived?

18 A We didn't see anybody actively fighting at
19 that location. Like I said, it's not uncommon
20 for people to have fights or what people
21 perceive to have fights and leave by the time we
22 respond, once we are actually right there and
23 see it happen.

24 Q Can you say again how you went down to find
25 the body then you came back?

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1 A We had received a phone call from somebody
2 saying that the individual was laid out in
3 between the two buildings. After we were done
4 dealing with the incident on the other building.

5 Q And when you arrived between those two
6 buildings, do you remember what two buildings
7 those were?

8 A The G and the F building, I think.

9 Q Did you see my client at all, Ms. Robin
10 Reese?

11 A No, there was nobody, there was nobody
12 around those two buildings.

13 Q Okay. So you didn't see anything that may
14 have occurred?

15 A No.

16 Q Or anything that would give rise to the
17 injuries that were suffered by Mr. Mack?

18 A No.

19 MR. FARLEY: Thank you officer. Please
20 answer any questions defense counsel has.

21 THE COURT: Mr. Chaplin.

22 MR. CHAPLIN: Thank you very much.

23 CROSS EXAMINATION

24 BY MR. CHAPLIN:

25 Q Officer Buck, good afternoon. How are you?

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1 A Good.

2 Q I'm Mathias Chaplin. I represent Henry
3 Gray in this matter. So my questions are going
4 to be focused on his lack of involvement in this
5 matter. Let me just start off by getting some
6 things clear that I'm not quite certain about.
7 Now, you said you've been a police officer how
8 long?

9 A About five years, five-and-a-half years.

10 Q Okay. During that time you were trained
11 how to make reports?

12 A Correct.

13 Q And you were told that the reports needed
14 to be thorough?

15 A Based off of information that we have at
16 the time.

17 Q Okay. And they need to contain everything
18 that you're aware of at the time?

19 A Correct.

20 Q And it's your testimony that the report
21 that you prepared is a thorough report?

22 A Based off of the information that I had at
23 the time, yes.

24 Q Okay. All right. Then let's begin. I
25 think you indicated that you got a call about a

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1 fight?

2 A Correct.

3 Q And that fight involved what description of
4 people? Who did the fight involve, did it tell
5 you?

6 A If I can recall, it was several people
7 fighting and dispatch gave us the descriptions
8 of certain people, of what they were wearing.

9 Q What were the descriptions?

10 A The best I can recall is a red shirt, black
11 shirt, red hat. I know red was in there. You
12 know, most of the time we go to these locations
13 and we don't find anything as far as fights or
14 what-have-you.

15 Q Did dispatch tell you where this fight took
16 place?

17 A If they did, I don't recall.

18 Q So you're not quite certain on that. You
19 stated earlier that you weren't certain whether
20 or not a fight that you referenced and the fact
21 that someone was lying in between F and G
22 building, you don't know if they were related or
23 not?

24 A At the time, no.

25 Q Okay. Do you recall if dispatch ever said

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1 to you that the fight involved a man and a
2 woman?

3 A I do not recall, no.

4 Q Now, you indicate that you spoke with a
5 lady at this, the location where you found the
6 person lying?

7 A Correct.

8 Q Do you know who that person was?

9 A I don't -- can't recall off the top of my
10 head, but I believe it's the first witness on
11 that incident report.

12 Q Would it help if I showed you the incident
13 report?

14 A Sure.

15 MR. CHAPLIN: May I approach, Your Honor?

16 THE COURT: Yes.

17 MR. CHAPLIN: Thank you.

18 THE WITNESS: (Upon review), -- Yes,

19 Ms. Kara Chase is the one that actually
20 called about the individual that was laid
21 out in between the buildings.

22 DIRECT EXAMINATION CONTINUED

23 BY MR. CHAPLIN:

24 Q Did you speak with Kara Chase?

25 A Only briefly. I believe the other Officer

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1 may have spoken more in depth with her. At that
2 time, I was en route to the hospital to find the
3 condition of the individual.

4 Q When you spoke with her, do you know what
5 she said?

6 A I don't recall offhand.

7 Q But you don't have anything in your report
8 that suggests she told you anything?

9 A Just the best I could recall that she had
10 just seen an individual laying out in between
11 the two buildings. She was the one that called.

12 Q So that's what she told you. She saw
13 somebody laying out in between the two
14 buildings?

15 A Yes.

16 Q And that was Kara Chase?

17 A Yes.

18 Q Thank you. Now, your report goes on to
19 talk about the fact that you saw someone running
20 into an apartment?

21 A Right.

22 Q Would you like to review the report again?

23 A No, I'm familiar with it.

24 Q And who is that person?

25 A At the time, Officer Delage actually saw

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1 the individual running into that apartment, so
2 he made contact with the lady in that building.

3 Q Okay. Well, I'm reading your report and
4 you actually say more than that. Can I show it
5 to you again?

6 A Sure.

7 Q Thank you. I'm just calling your attention
8 to the first page, the bottom portion?

9 A Right.

10 Q Okay. So who is witness number two from
11 your report?

12 A It would be Vallery Goodwin.

13 Q Vallery Goodwin?

14 A Kiki Burns.

15 Q Okay. That's your report?

16 A You said witness number two?

17 Q Yes. On the first paragraph of your
18 statement, you say that a witness number two,
19 and I don't want to read it out loud. I'd like
20 you to tell me.

21 A Right. You want me to?

22 Q Yes.

23 A Okay. Okay.

24 Q Witness Number Two, if you would please
25 start there?

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1 A M.P.O. Delage made contact with witness
2 number two.

3 Q Okay.

4 A Ms. Goodwin who lives at S6 was asked who
5 was the unknown black male that entered her
6 apartment.

7 Q Okay. And your report goes on to say that
8 the black male was who?

9 A Witness number two stated she did not know
10 his name except that he goes by Bloom and that
11 he had already left the area.

12 Q Okay. Do you know now who Bloom is?

13 A Now, I do, yes, now.

14 Q Who is he?

15 A Marcus Brooks -- Marcellius Brooks.

16 Q So I just want to summarize real quick.
17 You came -- you got information about a fight?

18 A Correct.

19 Q You saw a body between the F and G
20 buildings?

21 A Correct.

22 Q You don't know if a fight and that are
23 related?

24 A Correct.

25 Q You came upon Kara Chase?

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1 A Yes.

2 Q Kara Chase told you she saw someone laying
3 out between the two buildings?

4 A Correct.

5 Q And another witness told another Officer in
6 your report that they saw Bloom in the area?

7 A Correct.

8 MR. CHAPLIN: Thank you very much.

9 REDIRECT EXAMINATION

10 BY MS. CAMPBELL:

11 Q Officer Buck, did you, you have been asked
12 questions about who you saw at the scene of
13 where Mr. Mack was lying, did you see Henry
14 Gray?

15 A No.

16 Q Did you see Robin Reese?

17 A No.

18 THE COURT: No further questions.

19 THE COURT: Anything further?

20 RECROSS-EXAMINATION

21 BY MR. FARLEY:

22 Q Just not, I don't mean to repeat, but you
23 did not see my client anywhere near the
24 building?

25 A No, there was nobody.

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1 MR. FARLEY: Thank you, Officer.

2 THE COURT: Mr. Chaplin, anything else?

3 MR. CHAPLIN: Nothing further. Thank you very
4 much.

5 THE COURT: Thank you very much. May this
6 witness be excused? Without objection?

7 MR. CHAPLIN: No objection.

8 MR. FARLEY: No objection, Your Honor.

9 (WITNESS STEPS DOWN)

10 THE COURT: Next witness.

11 MS. CAMPBELL: The State calls Officer Delage,
12 D-E-L-A-G-E.

13 (WITNESS TAKES STAND)

14 HARRY DELAGE, being duly sworn to tell
15 the truth, the whole truth and nothing but the
16 truth, testified, as follows:

17 DIRECT EXAMINATION

18 Q So it's Corporal Delage?

19 A Yes, ma'am.

20 Q How long have you been with the Columbia
21 Police Department?

22 A Almost ten years.

23 Q Ten years?

24 A (No verbal response).

25 Q And can you tell me how you progressed

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1 through the ranks?

2 A I started out as a patrol officer. I moved
3 up to a master patrol officer, field training
4 officer, into the current rank of corporal.

5 Q How do you go about doing that? Is it
6 training, or is it automatic or how does that
7 work?

8 A Each step of field training you go through
9 training process to learn how to do other steps
10 of the process, and then a corporal oral test,
11 written test.

12 Q And how much training have you had as an
13 officer? Is it ongoing or do you just get ---

14 A Yes, it's continuous. We always try to get
15 at least two classes.

16 Q And as a corporal, what are your duties?

17 A My current assignment is over the warrant
18 team. We basically, right now, go out to serve
19 the warrants, courtesy summonses, bench
20 warrants, those types of issues.

21 Q In February of 2010, what was your
22 position?

23 A Patrol officer, Master Patrol Officer.

24 Q And what were your duties as Master Patrol
25 Officer?

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1 A Respond to calls, calls for service.

2 Q Things of that nature?

3 A Accidents, things of that nature.

4 Q All right. On February 13, 2010 is that
5 what you were doing?

6 A Yes, ma'am.

7 Q Okay. And who were you working with at
8 that time that day?

9 A Officer Buck was one of the officers on my
10 shift.

11 Q And did you all receive a call to go to
12 Gonzales Gardens?

13 A We did.

14 Q So what did you do?

15 A We responded a call at Gonzales Gardens in
16 reference to a fight that was near one of the
17 buildings near McDuffie Street.

18 Q Now, I'm going to stop you. Where is
19 McDuffie Street in reference to Gonzales
20 Gardens?

21 A It's parallel right beside it. McDuffie
22 Street is one of the northern -- excuse me, I
23 believe it would be the eastern border. Then
24 you have Forest Drive.

25 Q So it joins Forest Drive?

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1 A Yes, ma'am.

2 Q At the corner of McDuffie and Forest Drive,
3 what is to the right?

4 A Providence Hospital.

5 Q Okay. No?

6 A Is across the street?

7 Q Is across the street. If you're standing
8 on McDuffie with your back to Providence
9 Hospital, is Gonzales Gardens there on the right
10 or the left?

11 A They're on the right.

12 Q And what is on the left?

13 A It's like a -- there's a fish market. I
14 believe it's the seafood market now. Next to
15 that it's an open air type market there.

16 Q So you all, I think you just said, you went
17 to McDuffie Street?

18 A Yes, ma'am.

19 Q You were the first call?

20 A Yes, ma'am.

21 Q What did you see when you got there?

22 A We saw nobody. I saw nobody. We
23 circulated the area. We didn't see anybody.
24 Nobody was flagging us down.

25 Q Is that unusual?

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1 A In some cases. In this particular case
2 with a fight of that nature, we thought we would
3 have been flagged down by somebody but we
4 weren't flagged down by anybody. So we continued
5 to circulate the area.

6 Q At any point did you find anyone or see
7 anyone running?

8 A Did we find anyone?

9 Q Or did you see anyone running?

10 A I saw a gentleman step into an apartment.
11 It matched a description that was given to us by
12 our dispatchers.

13 Q So what did you do?

14 A I'm sorry?

15 Q I'm sorry. What did you do based on that?

16 A I stopped my vehicle, notified Officer Buck
17 that I was possibly going to get out with a
18 potential person that may have been involved in
19 the incident that we had gotten the call and
20 told him what building I was at and where I was
21 going to be going. He came over and met me and
22 then I made contact with that apartment.

23 Q Okay. And I want to be clear on something
24 because I think I might have been confused for a
25 second there. You all are in separate cars or

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1 in one car together?

2 A Separate.

3 Q So you are in separate cars. When you
4 drive there, people can see marked cars,
5 correct?

6 A Yes, they do.

7 Q You're not in undercover cars, correct?

8 A No, ma'am.

9 Q So you're driving. You see someone going
10 in a building that matches the description?

11 A Yes, ma'am.

12 Q So, based on that, you do what?

13 A I got out of my vehicle. Notified Officer
14 Buck that I would have somebody come over to
15 where I was at just in case it turned into
16 something of a serious nature. For safety
17 reasons I had him come over there, as well.

18 Q And then what did you do?

19 A I went up to the Apartment S6, knocked on
20 the door. A lady came to the door. I
21 identified -- obviously identified myself as a
22 police officer and asked her who the gentleman
23 was that had came into her apartment.

24 Q And I assume and I shouldn't make
25 assumptions, were your dressed has you are

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1 today?

2 A Yes, ma'am.

3 Q What did she state when you asked her that?

4 A At first she was -- I would say a little
5 standoffish. It seemed like she was a little
6 hesitant at first. But then I told her, you
7 know, 'I saw a gentleman walk into your
8 apartment. Who was that person?' She told me,
9 'Well I only know him by a nickname.' She gave
10 me his nickname, Bloom. I asked, 'Well, is he
11 here?' She said no, that he had left.

12 Q Okay. So based on that what did you do?

13 A Just took the rest of her information just
14 in case something came of it later, I would have
15 her information to be able to come back to talk
16 to her.

17 Q Based on -- then what happened?

18 A As we were leaving from her apartment going
19 back to our parole vehicles, we got a call over
20 the radio about someone was calling in a person
21 down on the ground between, I think it was the F
22 and the G buildings of Gonzales Gardens which
23 was only, maybe -- once we got back to our
24 vehicles and we got to a service road. It would
25 be only maybe seventy to a hundred yards away

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1 from where we were parked, where we were at, but
2 not within the line of sight.

3 Q Okay. But within walking distance, would
4 that be fair to say?

5 Q Yes, ma'am.

6 A So did you go there?

7 A Yes, ma'am.

8 Q What did you find?

9 A We observed the victim on the ground,
10 appeared to -- at the particular time looked
11 like he had just fallen. There was nobody
12 around him. I mean, there was nobody around.

13 Q Nobody around him?

14 A Which is odd in another sense because --
15 being a sunshiny day like that, there's usually
16 people in and around and out and about like
17 that. But there was nobody around him. It was
18 just myself and Officer Buck and the victim on
19 the ground.

20 Q And what was his condition?

21 A From what it appeared, it looked like he
22 had fallen and he had sustained an injury to his
23 face like maybe he busted his nose and his lip,
24 but he was -- looked like he might have been
25 starting to have a seizure or something -- and

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1 I'm not a medical professional, obviously, so we
2 naturally relayed that to the dispatchers. EMS
3 was there fairly quickly, put him on the gurney
4 and got him to the hospital.

5 Q Was he conscious? Could you tell?

6 A No. We tried to do a sternum rub on him
7 just to see if we could get a response with no
8 results as far as a response.

9 Q Were you able to find anyone who witnessed
10 anything at that time?

11 A A young lady approached us after everybody,
12 EMS had put him on the gurney and got him into
13 the ambulance and left. We were going back to
14 our patrol vehicles and I do not know the lady's
15 name. She came from the end of the F building I
16 believe it was, and we approached her and asked
17 her if she saw anything. She elaborated a
18 little bit but was unwilling to talk about it at
19 that time. Only gave us her name and a phone
20 number.

21 Q Do you remember what name she gave you?

22 A No, ma'am.

23 Q And who did the report in this case, you or
24 Officer Buck?

25 A I'm sorry?

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1 Q Who made the report in this case, you or
2 Officer Buck?

3 A Officer Buck.

4 Q Is that unusual for just one officer to
5 make the report?

6 A No, ma'am.

7 MS. CAMPBELL: Beg the Court's
8 indulgence. No further questions, Your Honor.

9 THE COURT: Cross-examination, Mr.
10 Farley.

11 CROSS EXAMINATION

12 BY MR. FARLEY:

13 Q Thank you. Corporal Delage?

14 A Yes, sir.

15 Q Is that correct?

16 A That's correct.

17 Q Corporal Delage, I know you said that you
18 responded to the incident scene because of a
19 report of a fight?

20 A Yes, sir.

21 Q And you didn't discover any fight or
22 anything at that time?

23 A No, sir.

24 Q And it was -- you were investigating
25 someone who you may have thought fled from the

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1 scene? Is that when you received another call
2 saying that you had -- that there was a body
3 laying in between two buildings?

4 A When we didn't find anything at the initial
5 fight call location. We began to circulate the
6 area based on the descriptions that were given
7 to us over the radio of who was possibly
8 involved in the fight. As we were circulating
9 the area, I saw a gentleman step into that
10 particular apartment matching the description of
11 somebody that may have been involved in the
12 fight. And then, after making contact with the
13 apartment of, I believe it was Ms. Goodwin,
14 she -- after we had a discussion with her and we
15 were leaving, we got a call about a gentleman
16 down between those two buildings.

17 Q And that's when you went to -- I think you
18 said it was the F and G building that you went
19 down to that building?

20 A Yes, sir.

21 Q And I believe your testimony was that you
22 didn't observe anyone around those buildings; is
23 that correct?

24 A Around the F and G building?

25 Q Around the F and G building. When you went

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1 down to the F and G building responding to the
2 second call, you said that there was no one
3 around?

4 A There was no one around, and then as -- as
5 we were leaving after the ambulance was leaving
6 going back to our vehicles, we had to walk down
7 between the buildings. It was probably fifty or
8 sixty yards, a young lady approached us from
9 over there.

10 Q And you testified you thought that there
11 was a person down and it looked like he had
12 fallen?

13 A Yes, sir.

14 Q Is that correct?

15 A (Affirmative nod).

16 Q But there was no one else around?

17 A No, sir.

18 Q Okay. And you didn't observe my client,
19 Ms. Robin Reese at any time?

20 A I'm sorry?

21 Q You didn't observe my client Robin Reese at
22 any time?

23 A No, sir.

24 Q So, is it fair to say that you have no
25 information or knowledge of my client in that

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1 incident?

2 A That's correct. No, sir.

3 Q Thank you, sir.

4 A Okay.

5 THE COURT: Mr. Chaplain?

6 MR. CHAPLIN: Thank you very much.

7 CROSS EXAMINATION

8 BY MR. CHAPLIN:

9 Q Corporal Delage, I know you've answered a
10 lot of questions so far. I don't mean to pick
11 on you. I just want to try to understand this
12 report a little bit better?

13 A Sure.

14 Q And what occurred on that date, so let me
15 go straight to what I'm concerned about. Have
16 you had an opportunity to see Officer Buck's
17 report?

18 A Have I?

19 Q Yes, sir.

20 A Yes, sir.

21 Q You have. Would it surprise you if I told
22 you that he has four descriptions of unknown
23 people listed as suspects?

24 A No, sir.

25 Q It wouldn't, okay. And if I get that

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1 number wrong, the State is going to correct me,
2 but there's several people listed as suspects
3 here.

4 Now, you said you saw someone that matched
5 the description that you received?

6 A Yes, sir.

7 Q Could you just tell us a little bit more
8 about that description?

9 A About the description?

10 Q Yes, sir.

11 A We received over the radio transmission
12 through dispatch.

13 Q Yes, sir.

14 A I believe an eyewitness or witness to the
15 event of descriptions of people that were
16 involved in the fight up by McDuffie Street.

17 Q By McDuffie Street?

18 A Yes, sir.

19 Q Is that up by the -- near the open air
20 market in that area?

21 A Yes, sir.

22 Q So based on what you were told, you saw
23 someone that matched that description, and maybe
24 I'm not asking it right, but could you just tell
25 me what that description is?

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- 1 A The description was a black male.
- 2 Q Yes, sir.
- 3 A Wearing a black hoodie, with a red type
4 backpack or satchel on his back.
- 5 Q Okay.
- 6 A That was the only description that was
7 given of that particular individual.
- 8 Q Okay. Pretty unique, a red satchel on his
9 back?
- 10 A Yes, sir.
- 11 Q So you spotted someone matching that
12 description running into an apartment?
- 13 A Saw a person, I wouldn't say running.
- 14 Q Okay.
- 15 A The gentleman, as I was coming down the
16 main corridor of Gonzales Gardens, I was looking
17 between the buildings. I looked to the left by
18 the S building and saw someone matching that
19 description stepping up onto the stoop and into
20 the doorway of S6.
- 21 Q Okay. And did you -- and you went to the
22 doorway and asked for that person?
- 23 A Once I pulled over my patrol car, notified
24 Officer Buck where I was going to, so he would
25 come over to that way for safety reasons, then I

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1 approached the front and knocked on the door
2 where Ms. Goodwin came to the door.

3 Q Ms. Goodwin came to the door and -- did you
4 search the place or did you ask her what
5 happened to the person or what?

6 A I did. I said where is the gentleman that
7 stepped into your apartment? And she said,
8 'what are you talking about?' I said, 'I just
9 saw a gentleman walk into your apartment wearing
10 a black hoodie, a red satchel back pack. We're
11 looking into an incident out here. Where did he
12 go?' She said, 'Well, he is no longer here.'
13 First she told me his nickname.

14 Q And what was that?

15 A She told him me his name was Bloom.

16 Q Today do you know whose nickname is Bloom?

17 A Marcellius Brooks.

18 Q Marcellius Brooks. Okay. How long was it's
19 before you saw the person step into the house
20 that you got to the door and asked for that
21 person to come out or whatever you asked?

22 A Maybe three minutes, four minutes.

23 Q Three minutes. And there are back doors and
24 front doors to these units?

25 A There are.

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1 Q And you -- sir?

2 A That particular apartment, S6, is almost in
3 the middle of the building, almost.

4 Q Right.

5 A So I would not be able to see the back
6 door, no.

7 Q All right. Thank you. And then, finally,
8 you said you spoke with a young lady up at
9 McDuffie area or where?

10 A No.

11 Q When did you speak with somebody that you
12 didn't recall the name of?

13 A That was down at the F and the G building.

14 Q That was down at the F and G building?

15 A Yes, sir.

16 Q Okay. Finally, -- but the fight that you
17 received a call about was not down by the F and
18 G building. It was up at the McDuffie?

19 A That's correct.

20 Q That's correct. Thank you very much.

21 THE COURT: Redirect?

22 MS. CAMPBELL: No, Your Honor.

23 THE COURT: All right. You may come
24 down, sir.

25 (WITNESS STEPS DOWN)

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1 THE COURT: May this witness be
2 excused? Without objection?

3 MR. FARLEY: Without objection, Your
4 Honor.

5 MR. CHAPLIN: Without objection.

6 THE COURT: Next witness.

7 MS. SIMPSON: The State calls Roger
8 Gillan.

9 (WITNESS TAKES STAND)

10 ROGER GILLAN, being duly sworn to tell
11 the truth, the whole truth and nothing but the
12 truth, testified, as follows:

13 DIRECT EXAMINATION

14 BY MS. SIMPSON:

15 Q Officer Gillan, have you been employed with
16 the Columbia Police Department?

17 A Going on six years, now.

18 Q Six years. And what are your present duties
19 while there?

20 A Currently, I'm a parole PFC with the City
21 of Columbia, Metro Region.

22 Q And what, as a patrolman, what does that
23 include? What types of things?

24 A Answering calls for service, investigating
25 motor vehicle accidents, shootings, stabbings,

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1 pretty much everything you would expect a police
2 officer to do.

3 Q So all the types of calls that come in,
4 you're actually the responder?

5 A Yes.

6 THE COURT: Officer, could you pull up
7 to the microphone a little bit? I can't quite
8 hear you. Thank you.

9 DIRECT EXAMINATION CONTINUED

10 BY MS. SIMPSON:

11 Q Now, back in February of 2010, were you
12 actually working in your present capacity?

13 A No, I was not.

14 Q What were you doing?

15 A I was with the crime scene unit. I was a
16 crime scene investigator with that unit.

17 Q Okay. As a crime scene investigator, what
18 do they do?

19 A We respond to calls of service for scenes
20 which may include murder, rape, major crime,
21 auto break-in's, burglaries, major crimes of a
22 serious nature, murder, pretty much all the
23 calls of service that need to be processed for
24 evidence.

25 Q And you don't actually just respond on your

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1 own. You're called out there by the
2 investigators with respect to the case?

3 A We are called usually by a line unit or a
4 supervisory to the line unit.

5 Q So someone else makes the decision of
6 whether you all come out?

7 A Correct.

8 Q Can you tell the jury a little bit about
9 your educational and training background with
10 respect to crime scene investigation?

11 A Yes. I've got a four year degree,
12 Bachelors of Science degree in Crime Scene
13 Investigation. During those four years I was in
14 college, I also worked with the local sheriff's
15 department, processing the crime scene as an aid
16 to them. I worked for the crime scene unit here
17 for approximately two-and-a-half years, and I
18 also did my internship with the Columbia Police
19 Department crime scene units.

20 Q And we talked generally about crime scene
21 investigation and I know a lot of us are
22 familiar with things on TV. What types of
23 things does that include? What types of things
24 are you looking for and do you do?

25 A We generally look for anything that could

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1 be considered evidence: fibers, hairs, blood,
2 any type of bodily fluids, pieces of clothing
3 that might be tore off, anything down to a bush
4 that might be out of place or messed up from a
5 fight.

6 Q And when you respond as a crime scene
7 investigator, do you have all the facts about
8 the case?

9 A No, not generally.

10 Q All right. So, you're just looking for any
11 type -- anything that could possibly be
12 evidence?

13 A Yes.

14 Q And do you know the evidentiary value of
15 that evidence, necessarily, as soon as you
16 collect it?

17 A No, not as soon as we collect it.

18 Q I'm going to turn your attention back to
19 February of 2010. Did you have occasion to
20 become involved in this case?

21 A Yes, I did.

22 Q And how did you become involved?

23 A I was the crime scene officer on call at
24 the particular time of this incident. I was
25 called out

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1 by the line supervisor.

2 Q And do you recall where you responded?

3 A [REDACTED] Gonzales Gardens, Garden Plaza
4 Apartments, [REDACTED]

5 Q Okay. Was this a little -- when you
6 arrived, what did you see?

7 A When I arrived, I noticed there were
8 several officers on the scene. They did have
9 the scene cordoned off with yellow tape that
10 said crime scene. There was an officer posted
11 at the crime scene tape controlling the point of
12 entry, logging in names of people who entered
13 the scene, as well, as exited the scene.

14 Q And let me back up just a little bit. With
15 respect to the crime scene tape and the
16 patrolman, what is the purpose of securing the
17 scene?

18 A The purpose of securing a scene is to try
19 to negate any of the evidence disappearing or
20 being contaminated or tampered with.

21 Q Do you potentially make that scene as large
22 as it possibly could be?

23 A Yes.

24 Q But you don't necessarily know where all
25 the scene took place?

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1 A Correct.

2 Q Now, you said other officers were present
3 when you arrived, was the victim still at the
4 location?

5 A No. The victim had already been
6 transported by Richland County ambulance.

7 Q I'm going to show you what has been marked
8 as State's Exhibit six, seven, eight, nine, ten,
9 eleven, twelve and thirteen. Can you tell me
10 whether you recognize these photographs?

11 A (Upon review), yes, I do recognize these
12 photographs. These are photographs I had taken
13 whenever I arrived on the scene at the location
14 I was told as the crime scene at [REDACTED]
15 [REDACTED].

16 Q And do they fairly and accurately depict
17 the scene as you observed it that day?

18 A Yes, they do.

19 MS. SIMPSON: Your Honor, at this time
20 the State would seek to introduce State's
21 Exhibits 6 through 13 into evidence.

22 THE COURT: Any objections?

23 MR. FARLEY: No objection.

24 MR. CHAPLIN: No objection.

25 MS. SIMPSON: And permission to

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1 publish.

2 (SO ENTERED AS STATE'S EXHIBITS 6 THRU 13)

3 DIRECT EXAMINATION CONTINUED

4 BY MS. SIMPSON:

5 Q All right. Describe for the jury exactly
6 where this is OO in State's Exhibit 6?

7 THE COURT: Let him get up, show the jury.

8 WITNESS: All right. This is going to
9 be the Gonzales Gardens Apartments.

10 MS. SIMPSON: You can actually step
11 down. Would it assist to get a little
12 closer? We have these blown up?

13 WITNESS: This would be the Gonzales
14 Gardens Apartments. This is building L.
15 This side over here just past this building
16 is Forest Drive. This end over here is
17 Kentucky Street.

18 MR. CHAPLIN: I'm sorry. I understand why
19 you wouldn't use the mike but I'm having
20 trouble hearing.

21 THE COURT: Well, why don't you move over
22 there because he's talking to the jury.

23 MR. CHAPLIN: Okay. Got it.

24 DIRECT EXAMINATION CONTINUED

25 BY MS. SIMPSON:

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1 Q On State's Exhibit ---

2 THE COURT: Sit on that chair -- either
3 that or the stairs.

4 MR. CHAPLIN: This is fine.

5 DIRECT EXAMINATION CONTINUED

6 BY MS. SIMPSON:

7 Q Are these essentially just different angles
8 of the location?

9 A Yes, that's just different angles. I
10 usually drive out one way, try to take photos if
11 I need to make a panorama of the photos to have
12 a whole scene.

13 Q Okay. So all of these would add up to kind
14 of a big picture?

15 A Yes.

16 Q You get closer over here. What building
17 are we here?

18 A That's L building.

19 Q L Building. All of this is the area
20 included within the crime scene tape because it
21 was expanded, right?

22 A Yes.

23 Q And these are at the Gonzales Gardens.

24 A Right.

25 Q Now, I want to show you, do you photograph

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1 the scene before you do anything to it?

2 A Yes, I do.

3 Q What's the purpose of that?

4 A The purpose of that is to capture any
5 evidence that may be there but due to weather or
6 other factors could potentially, we could
7 potentially lose it. We want to document as
8 much of the scene as possible before we start
9 messing with the scene because any of us
10 entering the scene could potentially destroy it.

11 Q So you document it before you mark, before
12 you collect?

13 A Yes.

14 Q And I noticed that -- tell us what we're
15 seeing in here. What was the weather like?

16 A It was very cold, snow, and I believe the
17 temperature that night was just above freezing
18 so the snow hadn't actually melted.

19 Q This was back on February 13th?

20 A Yes.

21 Q And again, another picture depicting pretty
22 much the same general scene area.

23 A Yes.

24 Q I want to show you -- after you've
25 photographed and you're looking for things that

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1 may or may not have evidentiary value, how do
2 you go about preserving that?

3 A Generally the first thing we do is, of
4 course, after we photograph the whole scene, I
5 do an initial inspection of the scene to see
6 what may be evidence and what needs to be
7 marked. Once I do determine that, I'll
8 photograph the evidence from a far away angle,
9 medium angle, medium distance and close up
10 distance. I'll then take that evidence and
11 place it into a bag. I'll seal the bag and
12 place it into a box that I carry with me to
13 later place into the property room.

14 Q When you said you marked the scene, are
15 these marked with numbers, letters?

16 A Yes, they're numbered, tent placards.

17 Q I'm going to show you State's Exhibits one
18 through five. If you can, tell me whether or
19 not you recognize these. Do you recognize
20 State's Exhibits one through five?

21 A Yes, I do. Those are photos I've taken
22 into evidence.

23 Q And do they fairly and accurately depict
24 the evidence as you preserved it that day?

25 A Yes, it does.

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1 MS. SIMPSON: Your Honor, at this time
2 the State would seek to introduce State's
3 Exhibit one through five into evidence.

4 THE COURT: Any objection?

5 MR. FARLEY: No objection, Your
6 Honor.

7 MR. CHAPLIN: No objection, Your Honor.

8 (SO ENTERED AS STATE'S EXHIBITS 1 THRU 5)

9 DIRECT EXAMINATION CONTINUED

10 MS. SIMPSON:

11 Q We have several markers in these pictures.
12 If you could, step down. I noticed they're
13 numbered. You said you do -- in State's Exhibit
14 1, tell us what we're seeing.

15 A There are a couple of the markers are
16 marking the buttons that were found on the
17 ground here.

18 Number seven is actually marking this bush that
19 has been trampled over.

20 And there is a few markers here that depict what
21 appeared to be a blood trail, there is a red
22 rust stain the ground that appeared to be a
23 blood stain.

24 Q But you weren't sure. It didn't test
25 necessarily positive for blood, but you were

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1 marking every possible thing?

2 A Yes.

3 Q These items, I believe you can see in one
4 through seven is the general area.

5 A Right.

6 Q What do we see in State's Exhibit 2? Is
7 that just a closer up view?

8 A Yes, that's a close up view, at a slightly
9 different angle, marking or depicting the same
10 evidence markers.

11 Q Okay. And State's Exhibit 3. In this
12 area, let me ask you a little bit - oh, I'm
13 sorry. It seems fairly contained right here
14 where you were marking evidence?

15 A Yes, it is. Again this is the same area.
16 It's just the last photos were taken from this
17 angle over here and I moved over to this angle
18 taking photos.

19 Q And then in State's Exhibit 4, I believe
20 this is just a closer up view, as well?

21 A Yes, it is.

22 Q And State's Exhibit 5, the bush?

23 A Yes.

24 Q Right.

25 MS. SIMPSON: And, Your Honor,

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1 permission to give these to the jurors. I'd
2 like to pass around to publish?

3 THE COURT: All right.

4 DIRECT EXAMINATION CONTINUED

5 BY MS. SIMPSON:

6 Q Next I'm going to show you State's
7 Exhibit 14, 15, 16, 17, and 18. Do you
8 recognize these, as well?

9 A (Upon review), yes, I do. Again, those are
10 photographs I took while on the scene, and they
11 do accurately depict how it was on the scene.

12 MS. SIMPSON: Your Honor, at this time I would
13 introduce State's Exhibit 14 through 18 into
14 evidence.

15 THE COURT: Any objection?

16 MR. FARLEY: No objection, Your Honor.

17 MR. CHAPLIN: No objection, Your Honor.

18 (SO ENTERED AS STATE'S EXHIBITS 14 THRU 18)

19 DIRECT EXAMINATION CONTINUED

20 BY MS. SIMPSON:

21 Q Again, we're back to the markers. This is
22 still kind of a general far away depiction.
23 Number three represented in State's Exhibits 18,
24 can you tell us what that is or what you thought
25 that was?

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1 A That's what appeared to me to be a blood
2 scrape, a blood stain, or a blood drop on the
3 ground.

4 Q You said those are just reddish brown
5 stains?

6 A Yes..

7 Q But you couldn't positively determine?

8 A Correct..

9 Q And I believe this is the same thing in
10 State's Exhibit 17?

11 A Yes, it is.

12 Q We notice in State's Exhibit 18 that you
13 actually have a ruler or marker?

14 A Yes, this would be the medium photograph I
15 took. After taking that, I placed a scale by
16 the rust-colored stain and through the bush.

17 Q Okay. And why to you put a scale?

18 A To be able to depict exactly the size of
19 the drops if ever we need it.

20 Q And State's Exhibit 15?

21 A This is a close-up of marker number one,
22 which is a button that appeared to have come off
23 of a piece of clothing.

24 Q And State's Exhibit 16?

25 A That would be marker number two, which is

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1 also another button that is very similar to the
2 button number one, marker number one. It's a
3 button that appeared to come off of clothing.

4 Q But you can't confirm whether that was
5 actually the button that came off. That's what
6 you saw?

7 A Right.

8 Q Evidence that you found at the scene?

9 A Yes.

10 Q And you never mark evidence with the same
11 marker?

12 A Correct.

13 Q Okay. I'm going to show you next, State's
14 Exhibits 19, 20, 21, 22, 23, 24, and 25 and ask
15 do you recognize these?

16 A (Upon review), yes, I do. Again, these are
17 photographs I took at the scene, depicting the
18 scene as I saw it.

19 Q Okay. I know the numbers are a little
20 contained or covered by the snow in here?

21 A Yes.

22 Q Can you tell us what we're seeing? I
23 believe this is marker number nine and marker
24 number eight represented in State's Exhibit 25
25 and 24?

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1 A The reddish brown stains that continue
2 around the corner of the L building toward the
3 service road over here. Again, I'm just putting
4 markers or numbers down to depict where that
5 trail led to.

6 Q And this is a probable trail that you don't
7 show?

8 A Yes.

9 Q Do the elements affect the ability to ---

10 A Yes.

11 Q --- preserve a crime scene?

12 A Yes, especially with snow.

13 Q Is that what we're seeing in State's
14 Exhibits 23 and 22?

15 A Yes, these would be depicting what appeared
16 to be a blood droplet which were reddish brown
17 stains.

18 Q And State's Exhibit 21 and 20 and 19?

19 A Yes.

20 Q Tell us about this order. I believe it's
21 the bush?

22 A Yes, Exhibit 19 would be a bit closer-up
23 view of the bush that you saw in the other
24 photographs that looked to be trampled. Within
25 that bush, there is what appeared to be an

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1 earring laying down here on the ground and that
2 would also appear to be marker number seven and
3 a closer up view of what appeared to be an
4 earring with the scale on it.

5 Q Finally, Officer, I'm going to show you'll
6 what's been marked as State's Exhibits 26, 27,
7 28, 29, 30, and 31, can you tell me whether you
8 recognize these?

9 A (Upon review), yes. I do recognize these.
10 Again, these are photos I took while on the
11 scene at Gonzales Gardens.

12 Q Your Honor, at this time the State would
13 introduce State's Exhibits 26 through 31 into
14 evidence?

15 MR. FARLEY: No objection, Your
16 Honor.

17 MR. CHAPLIN: No objection, Your Honor.

18 (SO ENTERED AS STATE'S EXHIBITS 26 THRU 31)

19 DIRECT EXAMINATION CONTINUED

20 BY MS. SIMPSON:

21 Q Okay. I believe these might be a little
22 out of order. In State's Exhibit 26 we see
23 marker ten. Can you tell us what that is?

24 A Yes, marker ten, again, is what appeared to
25 be the blood trail.

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1 COURT REPORTER: I'm sorry. I can't
2 hear that. I didn't understand that.

3 THE COURT: Turn that way so the court
4 reporter can hear you better.

5 THE WITNESS: Marker number ten is
6 going to again, depict what appeared to be a
7 blood trail from around the corner. Marker ten
8 is another reddish brown stain that appeared to
9 be blood but was not tested positive for blood.

10 DIRECT EXAMINATION CONTINUED

11 BY MS. SIMPSON:

12 Q Again, you're just looking for anything
13 out?

14 A Yes.

15 Q And State's Exhibit 27, is that pretty much
16 the same thing?

17 A Yes. That's what we basically an overall
18 shot from the outside.

19 Q State's Exhibit 28, I believe marker eleven
20 is depicted in that picture?

21 A Yes, marker number eleven is where is where
22 the trail -- what appeared to be blood trail is
23 the end of it, the last part of it I could find.
24 With the snow and all, some of it was wiped out,
25 but that was the last one I could find.

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1 Q And then State's Exhibits 30 and 31, I
2 believe these are marker twelve?

3 A Yes. These would be right in the same
4 area. I believe that's right around the grill.
5 There's another reddish brown stain that
6 appeared to be blood.

7 Q Thank you.

8 A Uh-huh.

9 Q Now, forensically, at a crime scene, were
10 you necessarily looking for shell casings in
11 this scene?

12 A No. Not necessarily. I was looking for
13 anything that could have been evidence, whether
14 it be shell casings, hairs, fibers, torn
15 clothing, buttons, trampled bushes, anything
16 that I thought could have been evidence.

17 Q Would you have expected in a scene like
18 this to find fingerprint evidence?

19 A No. Not in a scene like this. Due to the
20 weather conditions outside, it would have made
21 fingerprints pretty much impossible to obtain.

22 Q And collection of DNA, that, too, would
23 have been fairly difficult?

24 A Yes. It would have been difficult. I did
25 take swabs but again with the snow, it would

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1 dilute the evidence.

2 Q And when you collect the swabs, can you
3 tell us what it means to collect a swab?

4 A Yeah, the area of the stains, generally
5 with something that looked like a blood stain,
6 I'll take a swab at the beginning of it, the
7 middle of it and the end of it. Just in case
8 it's not the same person. Usually I'll get
9 depictions of the beginning, middle and end.
10 I'll take that.

11 There is a box that you fill out with all
12 the information. The swab is basically a large
13 Q-Tip.

14 The first swab you take what is called a
15 control sample. You don't swab the area where
16 the blood, of the substance that may be blood,
17 that you suspect is blood. You don't swab that.
18 You swab next to that. That way you get can get
19 an accurate depiction of what might be, what
20 chemicals might be in that area. It helps to
21 drop those chemicals when they do the analysis.
22 You put a control into a box. You seal the box
23 up. You take a swab which is a Q-tip and you
24 swab the material that you're wanting tested,
25 put that into a separate up box. You seal that

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1 box. You put both boxes into an envelope, you
2 label it, and seal that envelope, as well.

3 Q And you don't actually do the testing of
4 these items, correct?

5 A Correct.

6 Q You just collect and preserve and while
7 these items are in your custody, are they
8 tampered or altered with in any way?

9 A No. They are not.

10 Q And you took several swabs in this case,
11 correct?

12 A Yes.

13 Q And submitted them, but you don't make the
14 determination of whether those are actually
15 tested?

16 A Correct.

17 Q Did you also have occasion to do some
18 additional processing in this case on March the
19 9th of 2010?

20 A Yes, on March the 9th I received a request
21 to process a chair that was recovered from the
22 scene, and I did process that chair.

23 Q Okay. When you processed the chair, what
24 were you looking for?

25 A The work request to process that was sent

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1 out to me was for visible and nonvisible blood
2 for DNA testing.

3 Q So visible and nonvisible?

4 A Yes, whenever I test the chair, I actually
5 looked at the chair for visible and non-visible
6 blood, for what might have been blood, as well
7 as any hairs, fibers, any other evidence that
8 may have been on the chair.

9 Q And did you observe any visible blood on
10 this chair?

11 A No. I did not observe any visible blood
12 whatsoever on this chair.

13 Q What was your next step once you didn't
14 observe any visible blood?

15 A My next step, I used UV light, ultraviolet
16 light, which is also commonly known as a black
17 light, that will commonly fluoresce fibers and
18 hairs and other materials. I didn't get
19 anything of that test.

20 The next test I did was long wave and short
21 wave alternating light source. Which, again,
22 fluoresces other materials and fibers and hairs.
23 I didn't get anything with that.

24 The next step I did was BlueStar, which is
25 a chemical that you mix with water and spray on

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1 the items you want to process. And if that
2 BlueStar comes in contact with any blood it
3 reacts with the protein and fluoresces. It's a
4 bright blue fluorescence. When you get that
5 fluorescence, you take a swab and you should
6 have a DNA sample from that.

7 Q And did you actually, were you able to get
8 positive results from the BlueStar test?

9 A Yes. I did get positive results from the
10 BlueStar star test.

11 Q Did you swab those?

12 A Yes, I did swab those. I turned them into
13 evidence and then once they were logged into
14 evidence, I did hand deliver them to SLED for
15 analysis.

16 Q Okay. And SLED they actually, someone else
17 is responsible for testing for DNA?

18 A Correct.

19 Q Is that the extent of your involvement in
20 this case?

21 A Yes, that is the extent of the involvement.

22 Q Okay. And I notice -- it's kind of dark in
23 some of the pictures that we've observed. About
24 what time of the day were you actually out there
25 processing the scene?

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1 A This was late night, early morning. It was
2 dark.

3 Q Okay. And you're called out later in the
4 investigation?

5 A Correct.

6 Q And how long does it take you to process?
7 Can it take a decent amount of time?

8 A There is no set, hard and fast rule of how
9 long it takes. It takes you however long it
10 takes you to process the scene. It depends on
11 what evidence you find, what evidence that
12 you're trying to find. It can take hours,
13 literally. Well, in this particular scene I
14 believe I was there for three to four hours on
15 it.

16 MS. SIMPSON: Nothing further. Please
17 answer any questions from the defense.

18 THE COURT: Cross-examination.

19 CROSS-EXAMINATION

20 BY MR. FARLEY:

21 Q Officer Gillan?

22 A Yes.

23 Q Now, if I'm not mistaken, the photographs
24 that were shown to you by counsel were all in
25 the L Building; is that correct?

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1 A Can you repeat that?

2 Q I'm sorry. All of the photograph exhibits
3 that the prosecutor has just shown you?

4 A Yes.

5 Q Were those all taken at the L building?

6 A Yes, they were.

7 Q So the crime scene that you were working
8 on, that was at the -- right next to the L
9 building?

10 A Yes, it was.

11 Q Okay. Where -- is it fair to say that you
12 really didn't have any conclusive findings from
13 that, as far as the reddish stains that you said
14 you had looked at?

15 A I wouldn't call them inconclusive findings.
16 There was evidence that was collected. I'm not
17 sure what the results of the analysis were or
18 even if the swabs taken from that were analyzed.

19 Q But you did testify that due to the
20 weather?

21 A Due to the weather, it did compromise
22 evidence, yes.

23 Q And you said that you also -- you said that
24 you also tested the chair?

25 A Yes. I analyzed or examined the chair for

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1 evidence.

2 Q Yes. Did you recover the chair?

3 A No, I did not recover the chair.

4 Q So that's another time. All of your crime
5 scene investigation was limited to the area
6 known in Building L?

7 A Yes.

8 Q Is that correct?

9 A On the scene, that's where my investigation
10 took place. The chair actually took place in
11 our laboratory.

12 Q Okay. So you only tested the chair in a
13 laboratory, but all of your crime scene
14 investigation was contained in Building L.
15 That's fair to say, right?

16 A Yes.

17 Q And you testified that when you observed
18 the chair that you saw no blood on the chair at
19 all?

20 A Not from a visual inspection.

21 Q So there was no blood on the chair when you
22 observed it?

23 A No, sir, there was no visible blood on the
24 chair.

25 Q And -- please forgive me if I need a little

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1 clarification on these things. You said that
2 you then did UV lighting; is that correct?

3 A Yes.

4 Q Ultraviolet lighting?

5 A Yes.

6 Q And the results of that test?

7 A The results of that test, I did the not
8 find any type of fibers or hairs from that test.

9 Q Okay.

10 A That test isn't a test for blood. It's
11 more or less for fibers and other material.

12 Q Okay. And then, please forgive me and I
13 may need a little bit more elaboration on this?

14 A Uh-huh.

15 Q You said the long wave, short wave?

16 A Yeah. Long wave and short wave light.

17 Q I'm sorry. Can you repeat that slightly
18 slower, I'm sorry?

19 A Yes, sir. It's long wave and short wave
20 light, an alternating light source.

21 Q All right. So a long wave and short wave
22 light source?

23 A Yes.

24 Q And that is to?

25 A It is different spectrums or wave lengths

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1 of light. Each spectrum or wave length has the
2 opportunity or the ability to pick up a
3 different type of fiber or hair that one wave
4 length doesn't necessarily pick up. So you
5 basically cycle through all the wave lengths and
6 see if you can find anything through that.

7 Q And that turned up no blood or hair or
8 fibers?

9 A Correct. And again, that method is also
10 not used for blood, it's used for fibers and
11 other body fluids.

12 Q So that test also was negative.

13 A. Yes.

14 Q Then you said -- please forgive me again,
15 blue star?

16 A Yes, BlueStar.

17 Q S-t-a-r?

18 A Yes.

19 Q Is that correct?

20 A Right.

21 Q Okay. It sounded like "blue scar" a few
22 times. So I wanted to make sure that was
23 correct.

24 A Yes.

25 Q BlueStar is another test.

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1 A Correct.

2 Q And you briefly explained that test as
3 turns on the proteins or ---

4 A It's a chemical agent. The basics of it,
5 is a chemical agent you mix with water. Once
6 you mix with water you spray the item. If there
7 is blood present, it will fluoresce -- there a
8 bright blue fluorescence.

9 Q And you said that test did turn up
10 something?

11 A Yes, it did.

12 Q And what exactly did that turn up?

13 A The test did fluoresce and I did swab the
14 fluorescence. I did deliver those swabs to SLED
15 for analysis. I can't testify to what their
16 findings or analysis were.

17 Q How much fluorescence was on the chair?

18 A It lit up pretty well, sir.

19 Q All right. And did you, at any time,
20 observe my client at the scene or anywhere,
21 your crime scene investigation?

22 A No, sir.

23 MR. FARLEY: Thank you, Officer Gillan.
24 Please answer any questions counsel may have.

25 THE COURT: Mr. Chaplin.

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1 MR. CHAPLIN: Thank you.

2 CROSS EXAMINATION

3 BY MR. CHAPLIN:

4 Q Officer Gillan, just to back up for a
5 second, when did you take these pictures?

6 A I took these pictures on the 13th of
7 February, 2010.

8 Q Okay. And those pictures are from an area
9 right by the L building?

10 A Yes, they are.

11 Q What happened at the L building?

12 A From what I observed at the scene, it may
13 have been involved in a fight or assault. I was
14 asked to process the scene for any evidence of
15 that.

16 Q Did you take any pictures between the F and
17 G building?

18 A No, I did not.

19 Q Now, before you -- you have quite an
20 impressive resume, by the way.

21 A Thank you.

22 Q Before you began this, did you review all
23 the reports that were associated, I mean that
24 were available at the time?

25 A I did confer with the officers that were on

1 the scene to get as much facts as I could about
2 what happened and what possibly happened. At
3 the time that I did process the scene, I
4 processed the scene location wise according to
5 what I was told on the scene by the officers.

6 Q Now, when you were getting the facts, were
7 you ever told that there might have been more
8 than one attack?

9 A No, I was just told that an individual had
10 been assaulted and I was shown the area around
11 the old building and I was told that was the
12 area that he was assaulted at.

13 Q Okay. Now, I mean, this is kind of
14 obvious from the pictures, but it was snowy
15 during this time?

16 A Yes, sir, it wasn't snowing but it had
17 snowed beforehand and there was snow on the
18 ground.

19 Q Things like snow, was there any ice?

20 A I don't remember there being any ice.
21 The ground was wet, though.

22 Q Okay. But maybe some of the hard surfaces
23 could have been slick?

24 A It could have been.

25 Q Yeah. I don't think I have anything else.

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1 I thank you very much.

2 THE WITNESS: Okay.

3 THE COURT: Redirect?

4 MS. SIMPSON: Briefly, Your Honor.

5 REDIRECT EXAMINATION

6 BY MS. SIMPSON:

7 Q You stated that when you arrived, you spoke
8 with officers and they said that is where an
9 assault had occurred, that they were aware of,
10 right?

11 A Yes.

12 Q And pointed in the direction of the L
13 building?

14 A Yes.

15 Q For an assault?

16 A Correct.

17 Q And they never said that that's where the
18 victim's body was actually found, correct?

19 A No. I don't recall ever being told that's
20 where the victim actually was at.

21 Q Thank you.

22 THE COURT: Anything further?

23 MR. FARLEY: No recross.

24 THE COURT: Anything?

25 MR. CHAPLIN: Just real quick.

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1 RE CROSS EXAMINATION

2 BY MR. CHAPLIN:

3 Q So the pictures that we have don't
4 necessarily show where the body was found?

5 A Correct. They show the scene that was
6 explained to me as where the assault had
7 occurred.

8 Q So it was explained to you that the assault
9 had occurred at the L building?

10 A Correct. That's the information I got from
11 the officers on the scene.

12 Q Thank you very much.

13 THE COURT: All right. You may have
14 come down. Thank you very much.

15 (WITNESS STEPS DOWN)

16 THE COURT: May this witness be
17 excused? Without objection?

18 MR. CHAPLIN: He may be excused.

19 MR. FARLEY: No objection, Your
20 Honor.

21 THE COURT: Next witness.

22 MS. CAMPBELL: Thank you. The State
23 calls Angelo Boyd.

24 THE COURT: What was the name?

25 MS. CAMPBELL: Angelo Boyd,

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1 B-O-Y-D, Jr.

2 (WITNESS TAKES STAND)

3 ANGELO BOYD, JR., being duly sworn to
4 tell the truth, the whole truth and nothing but
5 the truth, testified, as follows:

6 DIRECT EXAMINATION:

7 BY MS. CAMPBELL:

8 Q Can you state your name for the record,
9 please?

10 A Angelo Boyd.

11 Q How old are you?

12 A Eighteen.

13 Q Have we ever met before?

14 A No, ma'am.

15 Q Do you work?

16 A Yes, ma'am.

17 Q Where do you work at?

18 A Zaxby's.

19 Q Zaxby's. How long have you been there?

20 A Like six months.

21 Q Okay. I'm going to take you back to
22 February of 2010, okay?

23 A Okay.

24 Q You would have been how old then?

25 A Sixteen.

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- 1 Q Sixteen. Where did you live then?
- 2 A 1300 McDuffie.
- 3 Q 1300 McDuffie?
- 4 A Yes, ma'am.
- 5 Q Okay. That's right next to the Gonzales
- 6 Gardens?
- 7 A Yes, ma'am.
- 8 Q And how long had you lived there?
- 9 A A long time.
- 10 Q A long time? Since you were little?
- 11 A Yes, ma'am.
- 12 Q And on February 13, 2010, what were you
- 13 doing?
- 14 A Ma'am?
- 15 Q What were you doing that day?
- 16 A I don't remember.
- 17 Q You don't remember. Do you remember
- 18 meeting up with somebody you know as Bloom?
- 19 A Yes, ma'am.
- 20 Q And do you know what Bloom's first name is?
- 21 A Marcellius.
- 22 Q Okay. But you call him "Bloom"?
- 23 A Yes, ma'am.
- 24 Q How did you meet with him that day?
- 25 A I guess he was going to the store or I was

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1 walking to the store.

2 Q Y'all weren't in school that day?

3 A No, ma'am.

4 Q How come? Do you remember? Was it because
5 it snowed?

6 A I don't remember.

7 Q Okay. You don't remember. So you all were
8 walking towards the market?

9 A Yes, ma'am.

10 Q What market are you talking about?

11 A Cousin's Mini Mart.

12 Q And is that on Forest Drive?

13 A (Affirmative nod).

14 Q I need you to say out loud?

15 A Yes, ma'am.

16 Q Okay. And you live on McDuffie?

17 A Yes, ma'am.

18 Q So you were coming from your house toward
19 Forest Drive?

20 A No, I was coming from down the hill and we
21 had met right there.

22 Q Were you all planning to meet up?

23 A No. We just happened to see each other and
24 I knew him, so I spoke.

25 Q How long had you known him?

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- 1 A He went to school with my sister, I think.
2 So I say, a long time.
3 Q Were y'all friends?
4 A Um-humm.
5 Q Okay. So you all start walking in the same
6 direction?
7 A Uh-huh.
8 Q I'm sorry?
9 A Yes, ma'am.
10 Q So what did you see as you guys were
11 walking?
12 A I saw a man grabbing on a young lady and
13 she was screaming.
14 Q Okay. I'm going to stop you. Did you know
15 the man?
16 A No, ma'am.
17 Q Did you know the young lady?
18 A Yes, ma'am.
19 Q What was her name?
20 A Melquanna.
21 Q How did you know her?
22 A Me and her brother went to school since
23 elementary.
24 Q Were you friends with her?
25 A You could say that.

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1 Q So you see her and she is with a man?

2 A Yes, ma'am.

3 Q And what is going on?

4 A The dude, the man was grabbing on her arm
5 like he was trying to tell her to 'come here' or
6 something. She was yelling "Stop."

7 Q Okay. He was touching her arm?

8 A Yes, ma'am.

9 Q Do you remember if it was her right or her
10 left arm?

11 A No, ma'am.

12 Q Okay. But just her arm, that was it?

13 A (Affirmative nod).

14 Q So what happened after that?

15 A Ma'am?

16 Q What happened? You saw him on her arm and
17 you saw her and you heard her tell him to stop?

18 A Yes, ma'am.

19 Q And then what happened?

20 A The dude kept pulling on her, and he threw
21 her to the ground. That's when Marcellius had
22 ran and tackled the man to the ground and I had
23 walked over there, and we had told -- we asked
24 her what was happening, and she was like 'he was
25 grabbing on me' and we told her to hit him.

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1 Q You told her to hit him. Now, I'm going to
2 stop you. When Mr. Brooks -- would it be fair
3 that Mr. Brooks knocked him down?

4 A Ma'am.

5 Q Mr. Brooks knocked him down or did you
6 knock the guy down?

7 A Mr. Brooks.

8 Q How did he knock him down?

9 A He just grabbed him and threw him on the
10 ground.

11 Q Okay. And did the guy say anything?

12 A He was like, 'What are you doing, what are
13 you doing?'

14 Q He was able to talk, though?

15 A Yeah.

16 Q And did Brooks hit him?

17 A No, ma'am.

18 Q What did he do?

19 A He just held the man on the ground.

20 Q And he told me Melquanna to do what?

21 A "Hit him."

22 Q Did she?

23 A Yes, ma'am.

24 Q Did you?

25 A Yes, ma'am.

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- 1 Q How did you hit him?
- 2 A I kicked him.
- 3 Q Where did you kick him at?
- 4 A I don't remember exactly the place.
- 5 Q Is it his face, is it his body, do you
- 6 remember?
- 7 A I think his face or his body. It was one
- 8 of the two.
- 9 Q Was he able to talk?
- 10 A Yes, ma'am.
- 11 Q Okay. How many times did you see Melquanna
- 12 hit him?
- 13 A Like a couple.
- 14 Q Okay. And you said you didn't see Brooks
- 15 hit him at all?
- 16 A No, ma'am.
- 17 Q Okay. Did anybody else join in this
- 18 altercation?
- 19 A No, ma'am, not that I remember.
- 20 Q Was anybody else watching?
- 21 A I think it was a lot of people outside.
- 22 Q A lot of different people outside?
- 23 A Yes, ma'am.
- 24 Q But your statement is the only people
- 25 fighting are you, the victim/Melquanna and

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1 Mr. Brooks?

2 A Yes, ma'am.

3 Q Once he let her hit Mr. Mack, what
4 happened?

5 A Well, we had -- we was walking her to the
6 store to tell her mother, and the dude had got
7 up and walked off.

8 Q So he got up and walked off?

9 A Yes, ma'am.

10 Q Was he able to walk?

11 A Yes, ma'am.

12 Q Was he able to talk?

13 A Yes, ma'am.

14 Q So y'all take it -- you go to the store?

15 A Yes, ma'am.

16 Q And which store did you go?

17 A Cousin's Mini Mart.

18 Q And what did you do when you got in the
19 store?

20 A We went to the back of the store, told her
21 mother, and I left.

22 Q We who?

23 A Me and Marcellius.

24 Q What did you tell her mother?

25 A That this dude was harassing her daughter

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1 -- and that was it.

2 Q That he was harassing her. Did you say
3 he was inappropriately touching her?

4 A I don't remember exactly.

5 Q But harassing her?

6 A I guess, yeah.

7 Q Okay. What did she say?

8 A I don't remember.

9 Q You don't remember?

10 A No, ma'am.

11 Q Do you remember talking to police back in
12 February of 2010?

13 A Not specifically, but yeah.

14 Q You did talk to them.

15 Q Yes, ma'am.

16 A And your mother was there?

17 A Yes, ma'am.

18 Q And, in fact, they read you your rights at
19 that time, didn't they?

20 A Yes, ma'am.

21 Q And you agreed so talk to them?

22 A Yes, ma'am.

23 Q And you agreed to talk to them without a
24 lawyer?

25 A Yes, ma'am.

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1 Q Okay. Do you remember telling them that
2 when you told Ms. Reese what happened, she
3 jumped up and said, "Hell, no"?

4 A No, ma'am, not specifically.

5 Q Do you remember telling them that her
6 demeanor was she was being mad and looked like
7 she wanted to go find this man?

8 A No, ma'am.

9 Q You don't remember telling him that?

10 A No, ma'am.

11 MR. CHAPLIN: Objection, Your Honor;
12 leading.

13 THE COURT: Overruled.

14 DIRECT EXAMINATION CONTINUED

15 BY MS. CAMPBELL:

16 Q So you don't remember telling him that?

17 A No, ma'am.

18 Q Could you have told him that?

19 A Yes, ma'am.

20 Q Would it have been true?

21 A I mean, it probably could have been true.
22 I just don't specifically remember.

23 Q That's fine. It's been two years, you just
24 don't remember?

25 A Yes, ma'am.

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1 Q After you told her and she responded, what
2 happened?

3 A I left. That was it.

4 Q Did she leave?

5 A I don't remember.

6 Q You don't remember?

7 A I think she stayed in the store, though.

8 Q She stayed in the store. What about

9 Mr. Brooks?

10 A He came out like a minute or two after me.

11 We didn't leave at the same time, but he left
12 the store.

13 Q Did everything seem okay with you, at that
14 time to you?

15 A Uh-huh. I mean, I went my way and he went
16 his.

17 MS. CAMPBELL: Beg the Court's indulgence.

18 DIRECT EXAMINATION CONTINUED

19 BY MS. CAMPBELL:

20 Q And did you know Robin Reese, Melquanna's
21 mother? Did you know her?

22 A I wouldn't say I know her, but yes, ma'am.

23 Q Could you recognize her if you saw her?

24 A Yes, ma'am.

25 Q Do you see her in this courtroom?

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1 A Yes, ma'am.

2 Q Where is she?

3 A Right here.

4 Q Can you tell me what she is wearing?

5 A Looks like a blouse or something like that.

6 Q And who is she sitting next to?

7 A This man right here.

8 Q What does he have on?

9 A A black suit?

10 Q Let the record reflect that he has
11 identified Robin Reese.

12 THE COURT: The record so reflects.

13 MS. CAMPBELL: Beg the Court's
14 indulgence.

15 DIRECT EXAMINATION CONTINUED

16 BY MS. CAMPBELL:

17 Q Just a couple more questions. You said you
18 remember speaking with the officers, do you
19 remember telling them that after she, you told
20 her what had happened she stayed there and
21 finished her poker game, Ms. Reese?

22 A I don't remember.

23 Q But it could be true, that's what she did?

24 A Yes, ma'am.

25 Q No further questions, Your Honor.

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1 THE COURT: Cross-examination?

2 CROSS EXAMINATION

3 BY MR. FARLEY:

4 Q Mr. Boyd?

5 A Yes, sir.

6 Q You testified that you were walking down
7 the street, and you ran into Marcellius Bloom?

8 A Yes, sir.

9 Q I'm sorry, Marcellius Brooks known as
10 Bloom?

11 A Yes, sir.

12 Q And that is it while you were talking you
13 saw Mr. Mack [REDACTED] Melquanna S. [REDACTED]

14 as Melquanna
S

15 A Yes, sir.

16 Q And you described that as harassing?

17 A Sir?

18 Q You described him as harassing Melquanna
S

19 A Yes, sir.

20 Q And you said Mr. Boyd -- can you tell us
21 what Mr. Boyd did again? I mean, Mr. Brooks,
22 Bloom?

23 A Sir?

24 Q What he did again after -- when you saw
25 Kenneth Mack harassing Melquanna
S

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- 1 A He just ran over there and tackled the man,
2 put him to the ground.
- 3 Q And he did so because she was screaming?
- 4 A Yes, sir.
- 5 Q And she said, "please stop"?
- 6 A Yes, sir.
- 7 Q And you ran over there with him?
- 8 A Yes, sir.
- 9 Q And you're saying that Mr. Brooks held
10 Mr. Mack down?
- 11 A Yes, sir.
- 12 Q And..
- 13 Q And you kicked Mr. Mack?
- 14 A Yes, sir.
- 15 Q How many times did you kick Mr. Mack?
- 16 A Once.
- 17 Q Are you charged with anything, Mr. Boyd?
- 18 A No, sir.
- 19 Q You're not charged with lynching?
- 20 A No, sir. Not that I know of.
- 21 Q But you were investigated by the police?
- 22 A Yes, sir.
- 23 Q And they took your statement?
- 24 A Yes, sir.
- 25 Q But you haven't been charged with any

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1 crime?

2 A No, sir, not that I know.

3 Q And after that occurred, was it your

4 testimony that you took Mr. -- you and

5 Mr. Brooks took Melquanna, known as Melquanna back

6 to the open air market?

7 A Yes, sir.

8 Q And was Melquanna upset?

9 A Kind of, sort of.

10 Q Kind of, sort of? I mean, she was

11 screaming. She'd said "please stop." I mean,

12 was she upset? Was she crying? Was she ---

13 A She wasn't crying.

14 Q Emotional?

15 A She was emotional.

16 Q And that was why you wanted to take her

17 back to her mother?

18 A Yes, sir.

19 Q And you said her mother was upset when

20 she -- when you told her the story of what had

21 happened, what transpired?

22 A She was kind of upset, but I mean, we told

23 her it was already good. So she just looked

24 like she was about to play the machine some

25 more.

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- 1 Q But you didn't observe her?
- 2 A No.
- 3 Q You left?
- 4 A I left.
- 5 Q So you're not sure exactly what she did
- 6 after you left?
- 7 A No, sir.
- 8 Q So she could have left herself?
- 9 A Yeah.
- 10 Q I mean, that's equally possible. You don't
- 11 know?
- 12 A I don't know.
- 13 Q Okay. And you said that you left before
- 14 Ms. Reese or Melquan or Marcellius Brooks, known as
- 15 Bloom?
- 16 A Uh-huh.
- 17 Q So you left first?
- 18 A Yes.
- 19 Q So you don't know what happened after you
- 20 left?
- 21 A I don't know what happened after I left.
- 22 Q But then you saw Mr. Brooks come out after
- 23 that?
- 24 A Sir?
- 25 Q You saw Mr. Brooks come out after that?

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1 A Yeah. I saw him.

2 Q So it's equally true, it's possible Ms.
3 Reese left shortly after you two did?

4 A Yes, sir.

5 MR. FARLEY: Thank you Mr. Boyd.

6 Answer any questions ---

7 THE COURT: Mr. Chaplin.

8 MR. FARLEY: --- that Mr. Chaplin may
9 have.

10 MR. CHAPLIN: Thank you very much.

11 CROSS EXAMINATION

12 BY MR. CHAPLIN:

13 Q Hey Angelo, how are you doing?

14 A Good.

15 Q Angelo, tell me again, how old are you?

16 A Eighteen.

17 Q Eighteen, so you were sixteen when this
18 occurred?

19 A Yes, sir.

20 Q Marcellius is a friend of yours, isn't he?

21 A Yes, sir.

22 Q So since February 13, 2010, you've spoken
23 to Marcellius Brooks?

24 A Yes, sir.

25 Q Around how many times?

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1 A I don't know.

2 Q Y'all talk daily, weekly?

3 A Whenever I see him, we speak.

4 Q Did you discuss with him that you were
5 coming here today to testify?

6 A No, sir. I didn't know I was coming here
7 today until last night.

8 Q In your statement, you indicated that there
9 were three other people involved in this
10 incident with Ken Mack and you and Marcellius
11 Brooks, and that was Juve, Trigger and Genesis?

12 A Sir?

13 Q Who is Juve, J U V E?

14 A I don't know, sir.

15 Q Okay. Do you remember giving a statement
16 to Investigator Reeves on the 16th of February,
17 maybe 2010?

18 A I mean, it could have been, but I just
19 don't remember specifically.

20 Q Would it help if I let you look at the
21 statement?

22 A I read it.

23 Q You did read it?

24 A Yes, sir.

25 Q So you wouldn't be surprised if I said that

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1 the statement reads that you recall these men to
2 be names Juve, Genesis and Trigger, referring to
3 other people involved in the altercation, but
4 your testimony today is you don't know who Juve
5 is?

6 A No, sir.

7 Q And what about Genesis, do you know who he
8 is?

9 A No. I don't.

10 Q Okay. And what about Trigger, do you know
11 who Trigger is?

12 A No, sir.

13 Q Now, you indicated that when you left the
14 Cousin's Mini Mart, after you allegedly talked
15 to Robin Reese, that you left by yourself?

16 A Yes, sir.

17 Q But the video of that shows that you left
18 with three to four other people including
19 Marcellius Brooks. How could that be?

20 A It might be -- that must not be me, sir.

21 Q Okay. Now, in your statement, you
22 indicated that you kicked Ken Mack in the head?

23 A Yes, sir.

24 Q Beg your pardon?

25 A Yes, sir.

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1 Q You did?

2 A (Affirmative nod).

3 Q And you stated that you had on Timberland
4 boots?

5 A Yes, sir.

6 Q Okay. Now, where did this incident take
7 place, near McDuffie?

8 A Yes, sir.

9 Q Near the L building?

10 A Yes, sir.

11 Q Near the L building, okay. Have you ever
12 been arrested?

13 A Yes, sir.

14 Q For what?

15 A Sir?

16 Q For what?

17 A Possession of a sawed-off shotgun.

18 Q And I think it was your testimony that you
19 have not been charged with the attack on Ken
20 Mack?

21 A Yes, sir.

22 Q Even though you admitted that you attacked
23 him?

24 A Yes, sir, I do.

25 Q Okay.

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1 A And I wasn't charged.

2 Q Okay. Are you aware whether Juve,
3 Genesis, -- well, you wouldn't know because you
4 don't know them. I apologize.

5 And it's your testimony that after you all beat
6 Ken Mack up by the L building that he was fine?

7 A Yes, sir.

8 MR. CHAPLIN: All right. I have no
9 further questions for -- is it Little Ricky?

10 WITNESS: Angelo.

11 MR. CHAPLIN: Angelo. Thank you.

12 THE COURT: Redirect?

13 MS. CAMPBELL: Thank you, Your
14 Honor.

15 REDIRECT EXAMINATION

16 BY MS. CAMPBELL:

17 Q Mr. Boyd, you just said when they were
18 questioning you that when you talked to
19 Ms. Reese that you told her it was all good
20 after the fight was over, right?

21 A Yes, sir -- I mean, yes, ma'am.

22 Q And he asked you about being friends with
23 Mr. Brooks. You're also friends with
24 Ms. Reese's son, right?

25 A Yes, ma'am.

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1 Q And you're also friends, as you said
2 earlier, with Melquanna

3 A Yes, ma'am.

4 MS. CAMPBELL: No further
5 questions, Your Honor?

6 THE COURT: Mr. Farley?

7 MR. FARLEY: Beg the Court's
8 indulgence.

9 RECROSS EXAMINATION

10 BY MR. FARLEY:

11 Q Again, I just wanted to establish, you
12 aren't charged with anything in this crime, is
13 that correct?

14 MS. CAMPBELL: Objection, Your
15 Honor. It goes beyond the scope of cross -- I
16 mean, redirect.

17 THE COURT: Well, it's been asked and
18 answered, but I'll allow it. Go ahead.

19 WITNESS: Sir?

20 RECROSS EXAMINATION

21 BY MR. FARLEY:

22 Q I just said you weren't charged in this
23 with any charges?

24 A No, sir.

25 MR. FARLEY: Thank you.

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RECROSS EXAMINATION

BY MR. CHAPLIN:

Q Briefly, Angelo, you indicated under oath a second ago, that you do not know Juve, Genesis or Trigger?

MS. CAMPBELL: Objection, Your Honor. Goes beyond the scope of redirect.

THE COURT: You asked that.

MR. CHAPLIN: I did ask that. I just have a follow-up question.

THE COURT: Well, he told you he doesn't know.

MR. CHAPLIN: Well, then -- may I ask the follow-up question, Your Honor?

THE COURT: Ask your question.

RECROSS EXAMINATION CONTINUED

BY MR. CHAPLIN:

Q This report that lieutenant -- that Investigator Reeves took after meeting with you, describes all three of these gentlemen. Do you know who gave him that description?

MS. CAMPBELL: Objection, Your Honor.

WITNESS: No, sir.

THE COURT: Sustained.

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1 MR. CHAPLIN: Thank you.

2 MS. CAMPBELL: Your Honor, I'd ask
3 that his answer be stricken from the record,
4 that my objection was sustained.

5 THE COURT: Your objection is
6 sustained. Strike that from the record. Thank
7 you very much. You may come down.

8 (WITNESS STEPS DOWN)

9 THE COURT: The witness is free to go
10 without objection? (No verbal response).
11 You're free to go. Thank you very much.

12 WITNESS: You're welcome.

13 THE COURT: Next witness.

14 MS. SAMPSON: Your Honor, before the
15 next witness, we have a matter of law we need to
16 take up first.

17 THE COURT: All right. All right.
18 Ladies and gentlemen, the attorneys tell me they
19 need to discuss a matter of law with me, so I'm
20 going to ask you to go to the jury room for a
21 few minutes. Let me do that. Just take a short
22 break.

23 Juror Number 16, I have your message.
24 I mean, your note, so we'll finish on time.

25 (JURY OUT @ 4:25 P.M.)

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1 THE COURT: Ms. Campbell (sic).

2 MS. SAMPSON: Yes, sir, Your Honor. We
3 did turn over prior records in this case.

4 Mr. Angelo Boyd has no convictions. Defense
5 counsel went into fact whether or not he had
6 been arrested before which is totally improper.

7 THE COURT: Nobody objected.

8 MS. SAMPSON: Your Honor, by then
9 it's out. We just didn't anticipate it coming
10 because that - it seems simple. We would, at
11 this time however, go through and clarify each
12 and every witness's record so that this doesn't
13 happen again.

14 THE COURT: Are you prepared to do
15 that?

16 MS. SAMPSON: I'm prepared. I just
17 want to know who they intend to impeach and what
18 they intend to impeach with. So that at least
19 ---

20 THE COURT: All right. You can't
21 impeach with arrests.

22 MS. SAMPSON: Correct, but that was
23 just done.

24 THE COURT: It was just done. Well.

25 MS. SAMPSON: I mean, --

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1 THE COURT: I don't know who you're
2 going to call, so I would assume that any person
3 on your witness list would need to set the
4 record.

5 MS. SAMPSON: Yes, sir, and we handed
6 over a number of records. If they want to go
7 through them and tell me who they intend to
8 impeach, if any, with what.

9 THE COURT: Who is the next witness?

10 MS. SAMPSON: The next witness will be
11 either Mary Anderson or Denny Perry.

12 THE COURT: Anderson or Perry.

13 MR. CHAPLIN: Your Honor, I couldn't
14 respond to that until I hear their testimony.

15 THE COURT: Well, yes you can. You
16 cannot impeach on ---

17 MR. CHAPLIN: Based on their record.

18 THE COURT: About their record.

19 MR. CHAPLIN: Okay.

20 THE COURT: You can impeach them
21 under 609 with convictions.

22 MR. CHAPLIN: Okay. Well, let me.

23 MS. SAMPSON: In the last ten years.

24 MR. CHAPLIN: Okay. I understand

25 THE COURT: Or in the last ten years,

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1 unless it's a crime of dishonest.

2 MS. SAMPSON: No, sir, the ten years
3 still applies to that part.

4 THE COURT: The ten years does not
5 apply to dishonest.

6 MS. SAMPSON: No, sir. It applies to
7 all.

8 THE COURT: It applies to all. Let's
9 don't get into that. It's not an issue.

10 MS. SAMPSON: Your Honor, it's my
11 understanding with regardless of punishment.

12 THE COURT: Right. Regardless of
13 years.

14 MS. SAMPSON: And then the time limit
15 is always on both parts.

16 THE COURT: Not on dishonest.

17 MS. SAMPSON: No, sir.

18 THE COURT: Under subsection two.

19 MS. SAMPSON: B. Yes, sir.

20 THE COURT: Or B. Do we have an
21 evidentiary matter?

22 MS. SAMPSON: Yes, sir, and I'm losing,
23 as usual.

24 THE COURT: Let's talk about specifics.

25 MS. SAMPSON: Yes, sir. Ms. Anderson

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1 or Perry, is there anything you intend to
2 impeach them with?

3 MR. FARLEY: I do not.

4 MS. SAMPSON: Thank you. Mr. Chaplin?

5 MR. CHAPLIN: Hang on one second.

6 MS. SAMPSON: Your Honor, while he's
7 looking into that, can I inquire as to how long
8 we're going today for purposes of scheduling?

9 THE COURT: I don't know how long your
10 witness is going to be. I have a note.

11 MS. SAMPSON: I don't know what the
12 note is.

13 THE COURT: The juror says "I need to
14 pick my daughter up. Late fees begin at
15 6:00 o'clock." So I'd say we can run until
16 5:30. I don't know where daycare is.

17 MS. SAMPSON: I just want to know for
18 scheduling.

19 MR. CHAPLIN: Your Honor, there is
20 nothing on Ms. Perry that we intend to impeach
21 her with. However, I think Mary Anderson is a
22 different story.

23 MS. SAMPSON: It is my understanding
24 of Ms. Anderson is she has a 2009 conviction for
25 fraud and some old fraudulent checks that are

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1 past the ten-year limit.

2 THE COURT: Is that it?

3 MR. CHAPLIN: Beg the Court's
4 indulgence one second - (pause) - Your Honor,
5 may we approach?

6 THE COURT: Why?

7 MR. CHAPLIN: I'd like to ---

8 THE COURT: There is no jury in here.

9 MR. CHAPLIN: Oh.

10 THE COURT: There is nobody here.
11 Yes, sir. Talking about Mary Anderson, correct?

12 MR. CHAPLIN: Yes.

13 THE COURT: All right. What does the
14 defense believe is impeachable evidence?

15 MR. CHAPLIN: Your Honor, there are
16 some time limit cases here, *State v. Cole*, *State*
17 *v. Jones*.

18 THE COURT: Well, what's the point?

19 MR. CHAPLIN: Well, my point, sir, is
20 that I think under exceptional circumstances we
21 can go beyond the ten years. I think that when
22 you look beyond ten years, Mary Anderson's
23 record is fraught with crimes of dishonesty.

24 THE COURT: Well, what are they?

25 MR. CHAPLIN: Fraudulent checks,

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1 multiple, starting in 1982 and -- you know, I
2 understand that people can change, Your Honor,
3 but at the same rate, she is about to go up
4 there and testify to something and I just think
5 that her credibility is definitely an issue and
6 could -- has always been and continues to be.

7 THE COURT: What about the last
8 sentence of B, evidence of a conviction more
9 than ten years old is calculated here is not
10 admissible unless the opponent gives the adverse
11 party sufficient advance written notice of
12 intent to use such evidence to contest the use
13 of such evidence?

14 MR. CHAPLIN: I intended to give them
15 notice when we settled the record.

16 THE COURT: How about it, Ms. Campbell?

17 MS. CAMPBELL: Your Honor, under *State*
18 *v. Culf*, C U L F, the presumption not to allow
19 convictions over ten years old, *State v.*
20 *Cheeseborough* which specifically talks about
21 grand larceny, house breaking that were over
22 twenty years old and why they were excluding.
23 And turn to the plain language of subsection D
24 that anything over ten years should not be
25 admissible. And, Your Honor, in addition to

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1 that, we did turn over this rap sheet in
2 discovery, months ago. He had notice and we had
3 no notice. And we are talking about fraudulent
4 checks.

5 THE COURT: Any convictions within
6 the last ten years?

7 MS. SAMPSON: One that should come in
8 as a fraud conviction in 2009.

9 MR. CHAPLIN: Well, I guess, I'd allow
10 that -- that's basically my argument, Your
11 Honor.

12 THE COURT: Well, I think the ten year
13 limit applies under 609(b). Apparently there
14 has been no written notice given and I'm going
15 to limit you to ten years as stated in the
16 rules.

17 MR. CHAPLIN: And I would just
18 respectfully object to that.

19 THE COURT: Okay.

20 MR. CHAPLIN: Thank you.

21 MS. SAMPSON: Your Honor, if we can
22 just respectfully advise him that we can't go
23 into any arrests at any time.

24 THE COURT: I hope I made that clear.

25 MR. CHAPLIN: You have, Your Honor.

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1 MS. SAMPSON: Thank you.

2 THE COURT: Thank you.

3 MS. SAMPSON: And as far as Ms. Perry,
4 you agree there is nothing you can go into,
5 right, Mr. Chaplin.

6 MR. CHAPLIN: As far as arrests?

7 MS. SAMPSON: Or convictions.

8 THE COURT: You have a conviction you
9 can use.

10 MS. SAMPSON: Ms. Anderson, but
11 nothing on Ms. Perry.

12 MR. CHAPLIN: Right. I'm clear.

13 MS. SAMPSON: Thank you.

14 THE COURT: Ready for the jury?

15 MS. SAMPSON: Yes, sir.

16 THE COURT: Bring the jury.

17 (JURY IN @ 4:37 p.m.)

18 BAILIFF: All jurors are present,
19 Your Honor.

20 MS. SAMPSON: Thank you, Your Honor.
21 The State calls Donnetti Perry.

22 THE COURT: Come around Ms. Perry.

23 (WITNESS TAKES STAND)

24 DONNETTI PERRY, being duly sworn to
25 tell the truth, the whole truth and nothing but

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1 the truth, testified, as follows:

2 DIRECT EXAMINATION

3 BY MS. SAMPSON:

4 Q You can just get up near the microphone so
5 the judge can hear your and the jury can hear
6 you, okay? Do you want me to push that down a
7 little? You got it? Ms. Perry, how old are
8 you?

9 A I'm 28.

10 Q And you live here in the Columbia area?

11 A Yes.

12 Q How long have you been living in Columbia?

13 A Twenty years.

14 Q You're whole life?

15 A My whole life.

16 Q Did you go to school here?

17 A Yes.

18 Q Where did you go to high school?

19 A C. A. Johnson.

20 Q Are you familiar with Gonzales Gardens?

21 A Yes.

22 Q And how do you know Gonzales Gardens or are
23 familiar with it?

24 A I live out there.

25 Q You've been living out there?

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1 A Yeah.

2 Q How many years have you actually been
3 living in the Gonzales Gardens area?

4 A Six.

5 Q Six years?

6 A (Affirmative nod).

7 Q I'm going to turn your attention back to
8 February two years ago, February 13th. Do you
9 remember that day when it snowed?

10 A Yes.

11 Q And what were you doing that day? Where
12 were you?

13 A In my house.

14 Q That afternoon?

15 A Yes.

16 Q About midafternoon, did somebody come to
17 your door?

18 A Yes.

19 Q And who came to your door that day, ma'am?

20 A Sanovia.

21 Q How do you know Sanovia, can you tell this
22 jury?

23 A She's my neighbor.

24 Q She's a neighbor?

25 A Uh-huh.

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1 Q When Sanovia came to your door, were you
2 aware of what was going on outside?

3 A No, ma'am.

4 Q Who all was in your house that day, do you
5 remember?

6 A Me and my friend's kids.

7 Q Your friends kid's. Were you actually
8 watching them that day?

9 A Yes, ma'am.

10 Q When Sanovia came to your door, did you
11 have a conversation?

12 A Yes.

13 Q Did she tell you'll that something was
14 going on outside?

15 A Uh-huh.

16 Q As a result of the conversation you and
17 Sanovia had, what did you do?

18 A Went to my door.

19 Q You went to your door? And when you looked
20 out your door, can you tell this jury what you
21 saw?

22 A Six and Mr. Mack were having a
23 conversation.

24 THE COURT: Ma'am, you're going to have to speak
25 up a little bit.

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1 WITNESS: Six and Mack was having a
2 conversation.

3 DIRECT EXAMINATION CONTINUED

4 BY MS. SAMPSON:

5 Q Six?

6 A (Affirmative nod).

7 Q A person you knew as "Six"?

8 A Uh-huh.

9 Q And when you said Mr. Mack, they were
10 having a conversation. Did you know Mr. Mack,
11 as well?

12 A No.

13 Q But the person "Six", you knew him?

14 A Yes.

15 Q And you just knew him by the name Six?

16 A Yes.

17 Q Like the number six?

18 A Yes, ma'am.

19 Q How did you know him? Tell the jury how
20 you knew Six, that you saw out there that day
21 with somebody you now know as Mr. Mack?

22 A Because his father stays in the building
23 across from me.

24 Q His father stays in the buildings across
25 from you?

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- 1 A Yeah.
- 2 Q In what building were you staying, in what
3 building were you in that day watching the kids?
- 4 A The F building.
- 5 Q The F building?
- 6 A Uh-huh.
- 7 Q Is the F building near the G building?
- 8 A Yes.
- 9 Q Is that the area where you saw the
10 conversation.
- 11 A Yes, ma'am.
- 12 Q Ane when you looked out, was Sanovia still
13 standing there, as well?
- 14 A Uh-huh.
- 15 Q Tell this jury what you saw next?
- 16 A He was asking the man, uh, -- (pause).
- 17 Q And you're under subpoena here today,
18 aren't you?
- 19 A Yes, ma'am.
- 20 Q You don't want to be here?
- 21 A Don't want to be here.
- 22 Q And you are a little upset or scared?
- 23 A Yes.
- 24 Q Can you tell the jury, please, what you saw
25 that day. It's important.

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1 A Well, he was asking him, he was, like,
2 looked like he'd been beat up or something.

3 Q Who was saying that?

4 A He was talking to Six and Mr. Mack.

5 Q Mr. Mack, the person you later learned was
6 Mr. Mack?

7 A He was like, 'Man what happened to you?'
8 We didn't know that he'd had a fight before he
9 came down, and I -- in between -- in the field
10 right there inbetween the G and L building.

11 Q Okay. Did you see something happen between
12 Six and Mr. Mack?

13 A Yes.

14 Q What did you see happen?

15 A They started -- he clipped up the man.

16 Q Okay. And let me ask you?

17 MR. FARLEY: Your Honor, I'm afraid, I
18 can't hear the witness.

19 WITNESS: He clipped him up.

20 DIRECT EXAMINATION CONTINUED

21 BY MS. SAMPSON:

22 Q Who clipped who?

23 A Six clipped Mr. Mack.

24 Q And when you say Six clipped Mr. Mack, what
25 did he do to him?

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1 A Swept him, swept his feet from him.

2 Q Swept his feet... What did he use to sweep
3 his feet out from under him?

4 A With his feet.

5 Q With his feet? Kind of like in a motion
6 with his feet to undercut him?

7 A Yes.

8 Q At that point, what happened to Mr. Mack?

9 A He fell.

10 Q Could you tell whether or not he hit
11 anything when he fell?

12 A His head.

13 Q His head?

14 A. (Affirmative nod).

15 Q Up until that point, you said there had
16 been a conversation going on between the two of
17 them?

18 A Yeah. He was just asking him like, 'Man,
19 what happened to you.' He looked like he had
20 already done been in a fight.

21 Q While he was out there, did you see whether
22 or not Six ever got on the phone while you were
23 watching?

24 A Yeah, his phone had rang.

25 Q That's after he got off the phone that he

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- 1 clipped him?
- 2 A Yeah.
- 3 Q Then what happened? Mr. Mack went down?
- 4 A Yes.
- 5 Q And you said he hit his head?
- 6 A Yes, ma'am.
- 7 Q What did Mr. Mack do at that point?
- 8 A Nothing.
- 9 Q Did you ever see him move anymore?
- 10 A Yes.
- 11 Q But at that point was he still down?
- 12 A Uh-huh.
- 13 Q Did he stay down?
- 14 A Yes.
- 15 Q What happened next?
- 16 A They got -- he got to kicking him.
- 17 Q Who kicked who?
- 18 A Six was kicking Mr. Mack.
- 19 Q Could you tell where he was kicking
- 20 Mr. Mack?
- 21 A Just all over.
- 22 Q At some point, did somebody else come down
- 23 to that area between F and G?
- 24 A Yes.
- 25 Q And who else did you see come down there

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1 that day?

2 A Robin.

3 Q Robin. Did you know Robin's last name?

4 A No, ma'am.

5 Q And did you know whether or not Robin was
6 related in any way to Six?

7 A Yes.

8 Q And how was she related?

9 A That's her brother.

10 Q That's her brother?

11 A Yes, ma'am.

12 Q Are you aware whether or not Robin had a
13 child?

14 A Yes.

15 Q And does she have a girl?

16 A Yes, ma'am.

17 Q What's her name?

18 A Melquann

19 Q Melquanna

20 A Uh-huh.

21 Q Where did you see Robin come from? Tell
22 the jury what you saw when you saw Robin come?

23 A She was coming from her apartment.

24 Q From her apartment area?

25 A Yes, ma'am.

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1 Q Did she also live in Gonzales Gardens?

2 A Yes, ma'am.

3 Q And when she came down to that area, was
4 Mr. Mack already down? Had he already gone
5 down?

6 A Yes.

7 Q And had Mr. Gray already started assaulting
8 him?

9 A Yes.

10 Q When Mr. Gray was initially the one he
11 swept his feet out, after he got the phone call,
12 was he saying anything to the guy on the ground?

13 A Yes. But -- yes, he was.

14 Q I know it's not pleasant to repeat, but you
15 have to tell the jury what did he say?

16 A You know like, I can't tell you the exact
17 words he was saying but, you know, he was like
18 'what you did to my niece'.

19 Q Was he cussing?

20 A Yes, ma'am?

21 Q Was he using a lot of cuss words?

22 A Yes, ma'am.

23 Q And he was talking to him about his niece.

24 A Yes.

25 Q And then, at that point, all of this is

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1 happening pretty fast?

2 A Pretty much.

3 Q How far away were you from where this
4 assault is going on?

5 A Like about five doors down.

6 Q About five doors down?

7 A Uh-huh.

8 Q Do you have a clear shot that you can see
9 what's going on?

10 A Yes.

11 Q And hearing what's being said, right?

12 A Yes.

13 Q There was cussing, talking about the niece?

14 A Uh-huh.

15 Q And then Robin comes up?

16 A Uh-huh.

17 Q What happens then?

18 A She was like 'yes, that's him' and started
19 kicking him with saying something like 'I'm
20 going to teach you for messing with my
21 daughter', something like that, something
22 similar to that.

23 Q And you said she started kicking him?

24 A Yes, ma'am.

25 Q And at this point as the person you later

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1 learned was Mr. Mack, has he ever gotten up off
2 the ground?

3 A No.

4 Q And she is kicking him?

5 A Uh-huh.

6 Q What happens next?

7 A Then they got a chair and hit him.

8 Q Who got a chair, do you remember?

9 A Robin had the chair.

10 Q Do you remember where the chair came from?

11 A [REDACTED]

12 Q [REDACTED] Do you know who lives at [REDACTED]

13 A Eileen.

14 Q Eileen. And when she got the chair, what
15 did she do with the chair? Did she actually
16 have to go up somewhere to get the chair?

17 A It was right in front of where they was
18 beating him.

19 Q Was it on somebody's porch?

20 A Laying --you mean against the -- up on the
21 air conditioner.

22 Q Up on the air conditioner?

23 A Yeah, against the building.

24 Q Did she have to get the chair and bring it
25 back over, to where Mr. Mack was?

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- 1 A Yes, ma'am.
- 2 Q When she got the chair and brought back
- 3 over to where Mr. Mack was lying on the ground,
- 4 what did she do with it?
- 5 A Hit him with it.
- 6 Q Could you tell what part of him she hit
- 7 with the chair?
- 8 A His body.
- 9 Q His body. Could you tell how many times
- 10 she hit him with the chair?
- 11 A Like two or three times.
- 12 Q Two or three times?
- 13 A Uh-huh.
- 14 Q Was Mr. Mack still down?
- 15 A Uh-huh.
- 16 Q Was he saying anything at this point?
- 17 A He ain't put up a fight.
- 18 Q Did you see anybody else with the chair?
- 19 A Yes.
- 20 Q Who else got the chair?
- 21 A Her brother.
- 22 Q Her brother?
- 23 A Yeah.
- 24 Q A guy you know as Six?
- 25 A Uh-huh.

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1 Q And when he got the chair, what did he do
2 with it?

3 A He hit him with it like two or three times.

4 Q And again, did the victim put up any fight?

5 A (Negative gesture).

6 Q Did you ever see the victim with any
7 weapon?

8 A No.

9 Q Did you ever see the victim resist in any
10 way?

11 A No - (emotional).

12 Q Is there tissue?

13 COURT REPORTER: Is there tissue?

14 THE COURT: (Nods in the affirmative.)

15 MS. SAMPSON: You want tissue? Thank
16 you. Do you want some water?

17 WITNESS: Yes.

18 DIRECT EXAMINATION CONTINUED

19 BY MS. SAMPSON:

20 Q What was going through your mind before
21 witnessing this?

22 A A lot.

23 Q Okay.

24 A I can't really remember.

25 Q Did anybody else show up down there?

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1 A There was a lot of us. It was a little
2 crowd of us standing right there.

3 Q Further back?

4 MR. FARLEY: I'm sorry, I couldn't hear the last
5 thing.

6 WITNESS: I said it was a lot of us standing by
7 my apartment.

8 DIRECT EXAMINATION CONTINUED

9 BY MS. SAMPSON:

10 Q And that was further away from where the
11 assault was taking place?

12 A (Affirmative nod).

13 Q At some point did you see Melquanna

14 A Yeah, but that was like later on.

15 Q Later on? Once Mr. Mack was down, did you
16 ever see him get up?

17 A (No verbal response).

18 Q After he had been kicked and hit and hit
19 with a chair, did you see what happened to Six
20 and his sister, Robin?

21 A Yeah, they left.

22 Q They left?

23 A (No verbal response).

24 Q Where did they go? Do you know?

25 A Home.

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1 Q Home. Whose house would they have actually
2 gone into?

3 A He went into his house and she went home.

4 Q Does her Dad live down there?

5 A Uh-huh.

6 Q What apartment does her dad live in?

7 A I think like [REDACTED]

8 Q [REDACTED]

9 A I think.

10 Q What apartment did you live in back then?

11 A [REDACTED]

12 Q [REDACTED]

13 A (Affirmative nod).

14 Q When they left him there, could you tell
15 whether or not he had been hurt?

16 A Yeah, we was looking to see if he was still
17 breathing. We tried - we was keeping the kids
18 in my house because they didn't see it. Then
19 the older girl, they was crying. It was a lot
20 of stuff going on at the time.

21 Q Could you see actually any injuries or
22 evidence of injuries?

23 A All over.

24 Q Do you remember seeing blood on his face?

25 A Yeah, blood was coming out of his mouth.

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1 Q Once they had finished with the assault,
2 did they run off? How did they leave, do you
3 remember?

4 A They walked.

5 Q They walked? Do you remember them saying
6 anything as they left?

7 A No, ma'am.

8 Q After they left, they left the scene. Did
9 the police come?

10 A Yes.

11 Q Did an ambulance come?

12 A Uh-huh.

13 Q And what happened to the victim that was
14 left there on the ground?

15 A They had checked him and put him on the
16 ground.

17 Q Did anybody try to call the police?

18 A Yeah, Sanovia called the police.

19 Q You mentioned that some people were upset
20 and that you didn't want the kids to see what
21 was going on?

22 A Yes, ma'am.

23 Q That day, you didn't actually make contact
24 with the police. I think they found you later.
25 They talked to you?

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1 A No. They came back to let us know he was
2 still alive.

3 Q They did come back to let you know?

4 A (Affirmative nod).

5 Q And you actually met with the police and
6 gave them a statement about what you saw?

7 A Yes, ma'am.

8 Q And do you remember doing that on
9 February 16th about three days after this
10 happened?

11 A Probably so.

12 Q If I showed you your statement, would that
13 have the date on it?

14 A Uh-huh.

15 Q Would that be accurate? Do you want to
16 look at it? You don't have to if you don't want
17 to.

18 A I already looked at it.

19 Q You've already looked at it. Okay. So
20 that would be February 16th?

21 A Yes, ma'am.

22 Q And on that same day you mentioned that Six
23 and his sister Robin, did they show you some
24 photographs to try to make sure that they knew
25 who you were talking about?

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1 A Yes.

2 Q But you knew them from being around the
3 neighborhood and evening?

4 A Uh-huh.

5 Q I want to show you what's been marked as
6 State's Exhibit No. 66, the second page of that.
7 Do you recognize that?

8 A (Upon review), Um-humm.

9 Q And was that the second set of photographs
10 that were shown to you?

11 A Yeah.

12 Q And when they actually showed you that
13 photograph that day, however, there wasn't any
14 handwriting on this, was there?

15 A No.

16 Q Did they tell you who to pick or who to
17 identify?

18 A No.

19 Q But did you, when you looked at these six
20 photographs, did you recognize one of the people
21 in the photographs?

22 A A couple of them.

23 Q A couple of them. Did you recognize one
24 from the assault that day on the 13th?

25 A Yes, ma'am.

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1 Q Did you tell the police that?

2 A Um-humm.

3 Q Did you circle that and put your initials
4 below it?

5 A Yes.

6 Q Which one did you recognize when you were
7 shown this photograph, these six photographs,
8 I'm sorry?

9 A (Indicating).

10 Q Number two?

11 A. (Affirmative nod).

12 MS. SAMPSON: Your Honor, at this
13 time, I'd like to offer State's Exhibit 66 into
14 evidence.

15 THE COURT: Any objection?

16 MR. FARLEY: No objection.

17 MR. CHAPLIN: No objection, Your Honor.

18 (SO ENTERED AS STATE'S EXHIBIT 66)

19 DIRECT EXAMINATION CONTINUED

20 BY MS. SAMPSON:

21 Q And which one did you recognize when you
22 looked at these six photographs when the police
23 showed them to you? Who was that?

24 A Six.

25 Q This was Six. And again, nobody told you

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1 who to identify or anything like that?

2 A No.

3 Q That same afternoon, did they also --
4 excuse me, that morning, excuse me, did they
5 also show you another set of photographs as
6 shown in State's Exhibit 67. Do you recognize
7 that?

8 A (Upon review), Um-humm.

9 Q And again when you were shown this set of
10 six photographs, there wasn't any handwriting on
11 it?

12 A No.

13 Q And no one told you who to pick anything,
14 did they?

15 A No.

16 Q When you looked at these photographs did
17 you recognize one person?

18 A Yes.

19 Q Did you put a circle around it and put your
20 initials?

21 A Yes.

22 MS. SAMPSON: Your Honor, at this time
23 we'd offer State's Exhibit 67 into evidence.

24 THE COURT: Any objection?

25 MR. FARLEY: No objection.

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1 MR. CHAPLIN: No objection, Your Honor.

2 (SO ENTERED AS STATE'S EXHIBIT 67)

3 DIRECT EXAMINATION CONTINUED

4 BY MS. SAMPSON:

5 Q The circle is around number one? Who did
6 you recognize that to be?

7 A Robin.

8 Q Robin. And that would be Six's sister?

9 A Uh-huh.

10 Q And again, no one influenced you or told
11 you who to pick?

12 A No.

13 Q And then, as you mentioned you reviewed
14 your statement, and you gave them a four page
15 statement, I believe, that day about what you
16 saw involving Six and Robin?

17 A Yes.

18 Q The victim in this case, you didn't
19 actually know him. Did you know him, the
20 victim?

21 A No.

22 Q And that day, did you have any idea that
23 there had been any other assault that had taken
24 place prior to this?

25 A No.

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1 Q You just know what you saw down there
2 between buildings F and G?

3 A Yes.

4 Q The people, Six and Robin, do you see them
5 here in the courtroom?

6 A Yes.

7 Q Do you mind pointing them out for the jury?

8 A Right there.

9 Q Seated at the table with their lawyers?

10 A Yes.

11 Q The man and the woman?

12 A Yes.

13 Q Not in suits?

14 A Not in suits.

15 MS. SAMPSON: Your Honor, may the
16 record reflect she has identified the
17 defendants?

18 THE COURT: The record so reflects.

19 MS. SAMPSON: Thank you, Your Honor.

20 THE COURT: Cross-examination.

21 CROSS-EXAMINATION

22 BY MR. FARLEY:

23 Q Ms. Perry, you testified that you live at
24 Gonzales Gardens; is that correct?

25 A Yes.

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1 Q And you testified you lived in building F?

2 A Two.

3 Q [REDACTED]

4 A (Affirmative nod).

5 Q And can you tell us again what the relation
6 was from [REDACTED] to where you saw the incident that
7 you described?

8 A About five doors down.

9 Q Five doors down?

10 A Like where I'm sitting it would be like ---

11 Q Can you tell us in yard or feet?

12 A Probably about -- I can't even tell you.

13 Q I mean, I'm afraid the jury doesn't know
14 how large the door is. Five doors is -- I mean,
15 it wasn't really -- do you think it was
16 thirty feet away, forty feet away?

17 A I don't know. Probably about thirty.

18 Q Where is building -- where is apartment

19 [REDACTED]

20 A It's right across.

21 Q In the center?

22 A My building is G.

23 Q It's in the center?

24 A The field, yeah, that's where it was.

25 Q Your apartment?

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1 A No. My apartment on the end of this
2 building this way.

3 Q So your apartment is on the end?

4 A Uh-huh.

5 Q Of F building?

6 A Uh-huh.

7 Q So it's on one of the ends?

8 A Uh-huh.

9 Q And this took place right in the center?

10 A Uh-huh.

11 Q But you're don't know how far away that
12 apartment was when you saw the incident?

13 A Probably about twenty, twenty-five feet.

14 Q Twenty to twenty-five feet?

15 A I can't really give you've measurements.
16 You know what I'm saying?

17 Q Okay. So you're not sure how far away you
18 were?

19 A No.

20 ~~Q Not in measurements? Okay. But you stood in~~
21 ~~your doorway?~~

22 A I have found -- I had came outside. I was
23 standing in the doorway in the beginning and
24 then I came out the door.

25 Q How far out the door did you go?

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- 1 A On my porch.
- 2 Q So you were standing on your porch and your
3 still at?
- 4 A [REDACTED]
- 5 Q [REDACTED] correct?
- 6 A Uh-huh.
- 7 Q Okay. And what angle or what perspective
8 were you observing this happen?
- 9 A What you mean?
- 10 Q Well, if I'm you and I'm standing on your
11 porch, were you looking this way or were you
12 looking this way or were you looking straight
13 ahead?
- 14 A I was looking straight. Well, see my body
15 was turned to look straight ahead.
- 16 Q Okay. So you were looking straight ahead,
17 but your apartment is on the end? I'm not sure
18 what you mean. What angle of vision?
- 19 A I was looking to the left.
- 20 Q So you were looking to the left?
- 21 A Yeah.
- 22 Q So the incident was happening to your left?
- 23 A (Affirmative nod).
- 24 Q And how was Mr. Mack lying when you said
25 you observed him?

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1 A What you mean how was he lying?

2 Q Well, you were looking at -- the
3 perspective was to your left. So how was
4 Mr. Mack lying?

5 A He was lying on his back.

6 Q And which way were his feet, basically?

7 A What do you mean?

8 Q Well, when you're looked to the left?

9 A Uh-huh.

10 Q And you looked to the incident, what did
11 you see?

12 A He was laying on the ground.

13 Q I mean, what perspective of the victim or
14 Mr. Mack?

15 A Okay. He was lying on the ground so his
16 feet were like facing the street way.

17 Q So his feet were facing the street, and so
18 that was pointing towards you or away from you?

19 A Away from me.

20 Q Away from you, so his head was pointing
21 towards you?

22 A Yeah, basically.

23 Q Okay. And so that was the perspective when
24 you saw all the incident occur?

25 A What do you mean?

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1 Q I said that was the perspective of Mr. Mack
2 or did he change positions?

3 A He had done been in a couple of positions.

4 Q He was -- okay. So that wasn't the only
5 position that you observed him in?

6 A (No verbal response)..

7 Q So he shifted positions?

8 A (Affirmative nod).

9 Q Did he do so on his own?

10 A No.

11 Q He didn't move and -- he was moved?

12 A (Affirmative nod), basically.

13 Q How did he change positions is what I'm
14 asking?

15 A I guess by being kicked.

16 Q Okay. So did he move away from you at all?
17 How did he change positions?

18 A Wow.

19 Q I mean, Ms.. Perry, I know you said you
20 observed him one way, but how did he change
21 positions? You said he didn't stay in that
22 position.

23 MS. SAMPSON: Objection, Your Honor. I
24 believe she answered that earlier, that he got
25 kicked.

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1 MR. FARLEY: I don't think she answered
2 the question.

3 THE COURT: She said he was kicked.
4 That's why he moved.

5 MR. FARLEY: No. I asked what
6 was a different position that he moved to. Your
7 Honor?

8 THE COURT: Well, I can't answer for
9 her.

10 MR. FARLEY: No, no, no. I'm not
11 asking Your Honor.

12 THE COURT: I mean, she can answer.

13 CROSS EXAMINATION CONTINUED

14 BY MR. FARLEY:

15 Q My question was he changed positions. What
16 position did he then go to?

17 A I can't ---

18 Q So not at all times did you have this same
19 perspective of ---

20 A I'm saying he was still on his back, so --
21 you know, the was just being beaten and -
22 (pause).

23 Q Okay. And how long did you observe
24 Mr. Mack before Ms. Reese arrived?

25 A (No verbal response).

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1 Q How much time passed?

2 A (No verbal response).

3 Q Ms. Perry, would you like a Kleenex?

4 A (No verbal response).

5 THE COURT: Ms. Perry. Ms. Perry, look
6 at me a minute. If you can't answer the
7 question, if you don't remember, you tell him
8 that. If you can answer the question, please
9 try to answer it and we can get over this pretty
10 quick. Okay?

11 CROSS EXAMINATION RESUMED

12 BY MR. FARLEY:

13 Q Are you ready to resume Ms. Perry?

14 A Go ahead.

15 Q How much time had passed?

16 A Like ---

17 Q Since you observed the victim and until my
18 client arrived?

19 A Like five minutes.

20 Q Five minutes?

21 A (Affirmative nod).

22 Q And you said that you then observed
23 Ms. Reese kick the victim?

24 A Yeah.

25 Q Once or?

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1 A Numerous times.....

2 Q And ---

3 MR. FARLEY: Beg the Court's
4 indulgence one moment..

5 CROSS EXAMINATION CONTINUED

6 BY MR. FARLEY:

7 Q Now, from your perspective -- you said his
8 feet were facing away from you, right?

9 A Yes.

10 Q From your perspective, where was Ms. Reese?

11 A Standing over him.

12 Q On his right side, his left side, behind
13 him?

14 A Left.

15 Q On his left side?

16 A Yes.

17 Q So that was further to your left?

18 A With me looking at it, she would have been
19 like -- (pause). I don't know.

20 Q You don't remember?

21 A No.

22 Q Okay.

23 A I remember but how you're trying to -- how
24 you -- you confusing me on all this angles and
25 how he was moved and all this stuff.

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1 Q Well, I'm not trying to confuse you,
2 Ms. Perry. I just trying to get an
3 understanding of your what point of reference
4 was as you were looking at what you saw?

5 THE COURT: Is that a question?

6 MR. FARLEY: No. I was just trying to clarify.

7 CROSS EXAMINATION CONTINUED

8 BY MR. FARLEY:

9 Q Ms. Perry, do you wear corrective lenses?

10 A I don't wear no, no glasses, nothing.

11 Q Do you have 20/20 vision?

12 A 20/20.

13 Q You said you then observed Ms. Reese strike
14 the victim with a chair?

15 A Uh-huh.

16 Q And when you say "strike the victim", are
17 you sure that she didn't just throw it in the
18 general direction?

19 A No.

20 Q So you mean she pick up the chair and
21 struck him with it?

22 A Um-humm.

23 Q Just a few more questions. Ms. Perry, are
24 you friends with Marcellius Brooks?

25 A No. I just know of him.

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1 Q You just know of him?

2 A I'm friends with his brother.

3 Q Do you know anybody else who was involved
4 in the other altercation, other fight?

5 A I don't know who was involved in any other
6 fight. I didn't see that.

7 Q Ms. Perry, please answer any questions that
8 Mr. Chaplin may have.

9 THE COURT: Mr. Chaplin.

10 MR. CHAPLIN: Thank you.

11 CROSS EXAMINATION

12 BY MR. CHAPLIN:

13 Q You need some water or something,
14 Ms. Perry?

15 A I'm good.

16 Q You're good?

17 A Uh-huh.

18 Q Okay. Ms. Perry, when you began testifying
19 here today, you said -- correct me if I'm
20 wrong -- that when you came outside, you saw two
21 people arguing or talking?

22 A Uh-huh.

23 Q You did?

24 A Uh-huh.

25 Q Okay. And then did you say that somebody

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1 commented on the bruises that someone else had?

2 A (No verbal response).

3 Q Could you elaborate on that? I am just
4 trying to understand.

5 A I asked him what happened to him.

6 Q What happened to him?

7 A Yeah.

8 Q Okay. Did you see the victim's face?

9 A Yes.

10 Q Why did he say -- ma'am?

11 A Yes.

12 Q And how did it look?

13 A It didn't look -- it looked like he had
14 been, you know, a couple of scrapes. I wasn't
15 close up on him, I couldn't tell you up close
16 what his face looked like.

17 Q But you heard what the other person said?

18 A Yeah, but they've been side by side.

19 Q Got it. But you couldn't see the face.

20 The other person commented on the face?

21 A Uh-huh.

22 Q And said exactly, again?

23 A (No verbal response).

24 Q 'What happened to you?'

25 A Uh-huh.

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1 Q Okay.

2 A I don't know the exact words.

3 Q Okay. Well I'm not trying to put words in
4 your mouth?

5 A Okay.

6 Q But there was some comment about his
7 appearance?

8 A Um-humm.

9 Q Got it. Now, you gave a statement. Let
10 me back up for a second. I know that you saw
11 something on that day. I'm not here trying to
12 accuse you of anything. I'm just trying to
13 understand what went on.

14 MS. SAMPSON: Objection, Your Honor. I
15 think he has to ask questions.

16 MR. CHAPLIN: Okay. I will ask a
17 question.

18 CROSS EXAMINATION CONTINUED

19 BY MR. CHAPLIN:

20 Q You gave a statement on the 16th to
21 Mr. Sumpter. Do you remember going down to the
22 police department and giving a statement?

23 A Uh, -- yes.

24 Q You do?

25 A Yes.

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1 Q All right. Do you remember what you said
2 in that statement?

3 A Yeah.

4 Q Do you have a copy of it, or would you like
5 to --

6 A I have one.

7 Q You have a copy of it?

8 A (Affirmative nod)

9 Q Okay.

10 A Yes, just give me one second - (reviewing
11 statement).

12 Q Ready?

13 A Yes.

14 Q Okay. I'm reading this statement that was
15 signed by you. I'm reading it and it says,
16 (reading): "I was home playing with a friend of
17 mine's children when Sanovia came to my door and
18 said "D, you missing a fight." And I said,
19 'What fight?' When I went to the door --

20 MS. SAMPSON: Objection, Your Honor. I
21 don't think he can read her statement.

22 THE COURT: Just ask her a question.

23 MR. CHAPLIN: Okay.

24 CROSS EXAMINATION CONTINUED

25 BY MR. CHAPLIN:

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1 Q In your statement, didn't you say that when
2 you got to the door that the Mack dude was lying
3 down.

4 A (No verbal response)..

5 Q So was he lying down or standing up?

6 A He was on the ground.

7 Q Okay.

8 Q A few minutes ago you stated that they were
9 standing face-to-face?

10 A What you mean?

11 Q When I was asking you how did his face
12 look?

13 A Yeah, he was just asking him this -- but
14 when Sanovia came to my door to tell me, we ran
15 to the door, and he was asking him what happened
16 to him. By the time -- because the baby I had
17 was asleep.

18 A Okay.

19 Q So I didn't want the baby to roll off the
20 chair. So I was going back and by the time I
21 got back to the door, he was on the ground.

22 Q Oh. Okay. So you ---

23 A I could see -- at the angle, I could sit in
24 my chair and see the angle where it happened. I
25 could have sit in my house and could have

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1 watched all of it. You know what I'm saying?

2 Q Now, shortly after that very -- that
3 incident, you found out that there had been
4 another attack, did you not?

5 A Um-humm.

6 Q Ma'am?

7 A Yes.

8 Q When did you find that out, like a day
9 later, the same night, when?

10 A Same day.

11 Q The same day?

12 A That neighborhood, everybody talks.

13 Q Everybody what, I'm sorry?

14 A Well, I was talking to myself.

15 Q Okay. So you found that out a day later or
16 the same day?

17 A Later on that day.

18 Q Okay. And you found out that a friend of
19 yours had been arrested in that attack?

20 MS. SAMPSON: Objection, Your Honor, as
21 to hearsay on any other thing other than what
22 she witnessed.

23 THE COURT: Sustained.

24 CROSS EXAMINATION CONTINUED

25 BY MR. CHAPLIN:

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1 Q Were you ever told that Marcellius/Bloom
2 was arrested ---

3 MS. SAMPSON: Objection.

4 THE COURT: Calls for a hearsay answer.

5 MR. CHAPLIN: Thank you.

6 CROSS EXAMINATION CONTINUED

7 BY MR. CHAPLIN:

8 Q So the next day, maybe three days later,
9 you went down to the police station and gave a
10 statement. Did you travel by yourself?

11 A No.

12 Q How did you get there?

13 A I had a ride.

14 Q With who?

15 A Me and Kyle.

16 Q You and who?

17 A Kyle.

18 Q Did you go to the police station at the
19 same time that Sanovia and maybe another witness
20 went there?

21 A Yes. All of us stayed there.

22 Q All of you went there together?

23 A When me and her got there, they was there.

24 Q All right.

25 A They was leaving when we was coming.

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- 1 Q I see. When you -- prior to going to the
2 police station that morning, had you had a
3 conversation with the other two witnesses?
4 A No.
5 Q You never spoke about this incident at all?
6 A Yeah, when all of us who was out there.
7 Q Okay. So?
8 A At the time it was going on.
9 Q At the time it was going on and then?
10 A We was talking about what was happening.
11 Q Right. And then what about the next day?
12 Did you talk about it?
13 A No.
14 Q And what about the following day?
15 A (Negative gesture).
16 Q So how did you all happen to get to the
17 police station at the same time? How did that
18 come about?
19 A I don't know.
20 Q Were you surprised to see them when you got
21 to the police station?
22 A No.
23 Q No?
24 A No.
25 Q You said something about you were handling

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1 your or babysitting some children, correct?

2 A Five kids.

3 Q Five kids. Could you have been a little
4 distracted that day?

5 A No, they was outdoors playing in the snow,
6 except for the baby.

7 Q Okay.

8 Q So you said the incident took place in the
9 field?

10 A Uh-huh.

11 Q What do you mean by that?

12 A In the middle of the two buildings.

13 Q And that's a grassy area, correct?

14 A It was grassy, I guess.

15 Q What is it now?

16 A Sand.

17 Q Sand?

18 A Uh-huh.

19 Q Okay.

20 Q So you saw Ken Mack's body laying in the
21 grass or the sand or in that area, the field?

22 A No.

23 Q Not on the sidewalk?

24 A (No verbal response).

25 Q Not on the sidewalk?

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1 A It was at an angle, so -- it wasn't in the
2 sidewalk. His head hit the sidewalk once he got
3 flipped there.

4 Q I'm sorry. Say it again?

5 A I said his head hit the sidewalk once he
6 got clipped up, you know, but not his whole
7 head, you know. I can't even explain, you know,
8 how he was laying. You know what I'm saying?

9 Q You didn't really see him hit the ground,
10 did you?

11 A I did.

12 Q When you came outside and he was already on
13 the ground, you don't know how he got there, do
14 you?

15 A I seen everything.

16 Q Have you ever heard the name Marcellius
17 Brooks?

18 A (Affirmative nod).

19 Q You have. In what respect? How?

20 A Why?

21 Q No. When did you hear about that name.
22 Let's try that question?

23 A Like later on. See, I don't know this
24 gentleman, his government name, you know what
25 I'm saying?

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1 Q You don't know what?

2 A His government name. I didn't know his
3 government name.

4 Q Okay.

5 A So when I was told, I didn't know who they
6 were talking about.

7 Q Okay. Well, you can't talk about what you
8 were told. But anyway, you do know somebody by
9 the name of Bloom?

10 A Yes.

11 Q You do? How long have you know him?

12 A I just know him from being in the
13 neighborhood.

14 Q In the neighborhood. How long have you
15 been in the neighborhood?

16 A Six years.

17 Q And you've known Bloom for six years?

18 A No. I just know people's -- it's an
19 apartment complex. You don't you don't get to
20 know everybody, so I can't say I know him. I
21 see him, 'hey, how you doing?' like that. I
22 don't know him. I don't know nothing about him.
23 You know what I'm saying?

24 Q Right.

25 A So I can't say I know him.

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1 Q Where is the L building, do you know?

2 A The L building?

3 Q If you don't, I understand. I'm just
4 curious?

5 A It's like up there going down to the store.

6 Q Up by McDuffie?

7 A Yeah.

8 Q All right.

9 Q Do you know who Ms. Louise is?

10 A Uh-huh.

11 Q Did she see what happened? Did she see the
12 incident?

13 A She said she did.

14 Q She told you that?

15 MS. SAMPSON: Objection, Your Honor, on
16 the hearsay again.

17 THE COURT: Sustained.

18 CROSS EXAMINATION CONTINUED

19 BY MR. CHAPLIN:

20 Q And I think you testified that you didn't
21 speak to anybody the next day about this
22 incident?

23 A Um-humm.

24 Q Sorry?

25 A Um-humm.

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1 Q Did you ever see people at Gonzales Gardens
2 wearing tee shirts about this particular ---

3 MS. SAMPSON: Objection, Your Honor.

4 May we approach?

5 THE COURT: Yes, ma'am.

6 (OFF RECORD BENCH CONFERENCE)

7 THE COURT: All right. Let's take a
8 five-minute break. Ladies and gentlemen, this
9 is going to be the last witness for the day, but
10 I do need to discuss this matter with the
11 attorneys, and we need a short bathroom break.
12 Okay.

13 (JURY OUT @ 5:26 P.M.)

14 THE COURT: Ms. Campbell, the witness
15 needs a bathroom break. Will you show her
16 where? Just don't talk with her.

17 MS. SAMPSON: I'll get Dana.

18 THE COURT: We'll get Dana.

19 (BRIEF RECESS)

20 (DEFENDANTS PRESENT)

21 THE COURT: All right. Counsel, the
22 witness is not back yet but -- well, maybe she
23 is.

24 All right. Mr. Chaplin ask -- ma'am,
25 they're going to ask you -- Mr. Chaplin is going

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1 to ask you some questions. The jury is not
2 here, right now. I've got to decide whether to
3 let him ask these questions in front of the
4 jury, but I've got to hear what you have to say
5 first, okay. It gets confusing.

6 WITNESS: No, I understand.

7 THE COURT: All right. Try to get
8 close to the microphone so I can hear what you
9 have to say. Just be to the point.

10 MR. CHAPLIN: I will. Ms. Perry, do
11 you remember giving a statement to my
12 investigator on the 28th of October, 2011.

13 MS. SAMPSON: Your Honor, if I may, he
14 can impeach her if he asks the direct questions.

15 MR. CHAPLIN: Okay. I will ask her.

16 THE COURT: Okay. Identify who
17 you're asking her about.

18 MR. CHAPLIN: Okay. You met with Bobby
19 Watkins of Watkins Investigations and he asked
20 you a series of questions?

21 WITNESS, MS. PERRY: What did he look
22 like?

23 MS. SAMPSON: Your Honor, if he could
24 just ask about the t-shirt question. I think
25 that's what we're here for.

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1 MR. CHAPLIN: Your Honor, I don't mean
2 to ---

3 THE COURT: Well, we don't need the
4 whole. That's why I said, be to the point.

5 MR. CHAPLIN: Okay. May I let her look
6 at it?

7 THE COURT: Does she have a copy of
8 it? Did she ever have a copy?

9 MS. SAMPSON: No, sir.

10 MR. CHAPLIN: She can have one now.
11 She signed it. I understand she was given a
12 copy at the time.

13 THE COURT: Have you ever seen that,
14 ma'am?

15 WITNESS, MS. PERRY: Uh-uh.

16 THE COURT: Ma'am, is that your
17 signature on there?

18 WITNESS, MS. PERRY: Where is the
19 signature? Yes. That's my signature.

20 MR. CHAPLIN: Did ---

21 THE COURT: Did he give you a copy of
22 that?

23 WITNESS, MS. PERRY: I don't
24 remember.

25 THE COURT: Ask her your questions.

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1 MR. CHAPLIN: Did you ever see
2 people in Gonzales Gardens wearing tee shirts
3 that had Henry Gray and Robin Reese on it?

4 WITNESS, MS. PERRY: No.

5 MR. CHAPLIN: Did you ever say
6 that you did see Lamar, a/k/a Big Baby who is
7 Bloom's brother with such a tee-shirt?

8 WITNESS, MS. PERRY: Not that I
9 recall.

10 MR. CHAPLIN: Do you recall saying
11 that you believe Lamar is the one who was
12 passing - who was wearing the tee-shirts, who
13 you saw wearing it?

14 WITNESS, MS. PERRY: I don't remember
15 seeing nobody wear a tee-shirt.

16 MR. CHAPLIN: Ma'am?

17 WITNESS, MS. PERRY: I don't remember
18 seeing anyone wearing tee-shirts.

19 MR. CHAPLIN: Your Honor, I actually
20 have questions that aren't related to the tee-
21 shirt but I would like to get this done if I
22 could go straight to the point.

23 THE COURT: It's your case.

24 MR. CHAPLIN: Thank you. Did you ever
25 tell Investigator Watkins that you believed it

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1 was the Bloods of McDuffie that beat Ken Mack up
2 on McDuffie Street?

3 WITNESS, MS. PERRY: I told 'em
4 that's what I was told.

5 MR. CHAPLIN: Did you ever
6 identify the Bloods of McDuffie as Marcus,
7 Mushy, Chill Will, K.B. -- he's in jail now?

8 WITNESS, MS. PERRY: If that's the
9 pictures I was shown.

10 MR. CHAPLIN: These are what you
11 were told. Did you ever tell them that they
12 would be at the young girl's house who stayed
13 around the corner? The Bloods, that is?

14 WITNESS, MS. PERRY: No, they said --
15 the supervisor came to my house. He told me
16 that the Bloods be to my house, and if they get
17 caught at my house, then I'm getting put out.

18 MR. CHAPLIN: Okay.

19 WITNESS, MS. PERRY: That's what I
20 was told.

21 MR. CHAPLIN: Right, you identified ---

22 WITNESS, MS. PERRY: See, he called
23 all their government names. I don't know their
24 government names.

25 MR. CHAPLIN: I see. Did you identify

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1 Bloom as a Blood?

2 WITNESS, MS. PERRY: No.

3 MR. CHAPLIN: Did you tell him that
4 gang members have visited you in the past?

5 WITNESS, MS. PERRY: No.

6 MR. CHAPLIN: Are you testifying today
7 because you're afraid of what gang members might
8 do to you?

9 WITNESS, MS. PERRY: No.

10 MR. CHAPLIN: Your Honor, I have a
11 statement that contradicts everything she just
12 said, that she signed.

13 THE COURT: But it's all hearsay,
14 what somebody else told her.

15 MR. CHAPLIN: Your Honor, I think the
16 part about her knowing who the Bloods are and
17 them being at her house. ---

18 THE COURT: Well, you can ask her
19 that. You can ask her that.

20 MR. CHAPLIN: Thank you.

21 MS. SAMPSON: He wants to go into gang
22 affiliation in this case. I'm just saying if he
23 opens the door, we're going into his client's
24 gang affiliations.

25 THE COURT: Fine.

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1 MS. SAMPSON: And drug dealing
2 affiliations.

3 THE COURT: Ready for the jury?

4 MS. SAMPSON: Your Honor, as far as the
5 tee-shirt issue, how is that relevant or in any
6 way admissible in this trial as to whether or
7 not there were people in the Gonzales Gardens
8 that wear tee-shirts with the defendants'
9 pictures on them - that on back say "Innocent",
10 after the fact.

11 MR. CHAPLIN: Your Honor, if I may, she
12 has testified that she does not know who this
13 person is, she has no --

14 THE COURT: What person?

15 MR. CHAPLIN: I beg your pardon?

16 THE COURT: What person?

17 MR. CHAPLIN: She does not know who
18 Marcellius Bloom is.

19 THE COURT: She doesn't or she does
20 know him?

21 MR. CHAPLIN: She does know him just
22 casually. I think that she knows a great deal
23 more, and I do believe that I would like to
24 examine her more thoroughly in front of the jury
25 to determine whether or not there is a bias

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1 here. Or if maybe she is fearful or something
2 going on as to why her statements are so
3 contradictory.

4 THE COURT: Well, you can't use the
5 statements to impeach her because everything I
6 heard said that so-and-so told her 'that',
7 'this.' So-and-so told her that that. So and
8 so told her something about McDuffie Street. So
9 I mean, how is that -- how can you impeach her
10 with your investigator when her statements are
11 hearsay to start with?

12 MR. CHAPLIN: Okay. Your Honor, I do
13 know that she did say that -- she testified that
14 she has been a person of interest as far as
15 affiliating with gang members and that the Gang
16 Task Force has been to her house.

17 THE COURT: So?

18 MR. CHAPLIN: Well, that's who occupies
19 Gonzales Gardens are the Bloods, and I believe
20 that that's a reason why she is testifying the
21 way she is.

22 THE COURT: Well, you can ask her that.

23 MR. CHAPLIN: I'd like to.

24 THE COURT: But you can't impeach her
25 with that statement is what I'm saying.

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1 MR. CHAPLIN: I won't.

2 WITNESS: He just asked me.

3 THE COURT: What?

4 WITNESS: He just asked me was I afraid
5 of the Bloods.

6 THE COURT: Ma'am, all you have to do
7 is say no.

8 WITNESS: Okay.

9 THE COURT: I mean, I don't know what
10 your answer is because I ---

11 WITNESS: That's what I said, "no."
12 That's what I said. I'm confused now.

13 THE COURT: You just have got to tell
14 him as best you can.

15 MS. SAMPSON: Your Honor, we just want
16 to put Mr. Chaplin on notice at this point we
17 think he has opened the door to prior bad acts
18 with their client and why she would be scared of
19 him.

20 THE COURT: Okay.

21 MS. SAMPSON: And that would be
22 something we would be pursuing if he goes there.

23 THE COURT: That's fine. Ready for
24 the jury?

25 MR. CHAPLIN: Beg the Court's

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1 indulgence.

2 THE COURT: I'm trying to get the juror
3 out by 6:00.

4 MR. CHAPLIN: Please bring the jury.

5 THE COURT: Bring the jury.

6 (JURY IN @ 5:40 p.m.)

7 BAILIFF: All jurors are present.

8 THE COURT: Thank you very much. All
9 right. Mr. Chaplin, you may continue.

10 MR. CHAPLIN: Thank you.

11 CROSS EXAMINATION RESUMED

12 BY MR. CHAPLIN:

13 Q Ms. Perry, have you ever been questioned by
14 the Gang Task Force?

15 MS. SAMPSON: Objection, Your Honor.
16 May we approach?

17 THE COURT: Approach the bench.

18 (OFF RECORD BENCH CONFERENCE)

19 THE COURT: Ask your question again.

20 MR. CHAPLIN: Thank you very much.

21 CROSS EXAMINATION CONTINUED

22 BY MR. CHAPLIN:

23 Q Ms. Perry, have you ever been questioned by
24 officials with the Gang Task Force here in
25 Columbia, ma'am?

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1 A Excuse me?

2 Q Have you been questioned by anyone with the
3 Gang Task Force here in Columbia, South
4 Carolina?

5 A Yes.

6 Q You have. What did they ask you?

7 MS. SAMPSON: Objection.

8 THE COURT: Sustained.

9 MR. CHAPLIN: Thank you.

10 CROSS EXAMINATION CONTINUED

11 BY MR. CHAPLIN:

12 Q Are you affiliated or a member of ---

13 MS. SAMPSON: Objection, Your Honor.

14 WITNESS: Really.

15 THE COURT: Overruled.

16 CROSS EXAMINATION CONTINUED

17 BY MR. CHAPLIN:

18 Q Are you affiliated with or a member of a
19 gang?

20 A No.

21 Q At this point in time, Ms. Perry, are you
22 aware of an attack on Ken Mack that occurred
23 before the incident you described to the jury?

24 MS. SAMPSON: Objection, as far as hearsay,
25 Your Honor.

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1 MR. CHAPLIN: I'm asking her does she know.

2 THE COURT: Overruled.

3 CROSS EXAMINATION CONTINUED

4 BY MR. CHAPLIN:

5 Q I'm sorry. I didn't get your answer.

6 A What you mean do I know? Do I know about

7 ---

8 Q Yes.

9 A I only know from what I was told.

10 Q Do you know somebody by the name of Lamar?

11 A Yes.

12 Q Who is that?

13 A That's Bloom's brother.

14 Q That's Bloom's brother?

15 A Uh-huh.

16 Q And Bloom is the person you say you don't

17 really know. You just casually see, but you

18 know his brother?

19 A Yes.

20 Q Thank you.

21 Q And do you know what Bloom's real name is,

22 government name as you put it?

23 A Now I do, yes.

24 Q What is it?

25 A Marcellius.

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1 Q Do you know whether he is a Blood?

2 A No.

3 Q Ms. Perry, are you testifying today out of
4 fear of reprisal when you get back to Gonzales
5 Gardens?

6 A No.

7 Q Earlier you seemed very distraught and
8 upset?

9 A Because I don't want to be here.

10 Q And you went down to the police station on
11 the 16th. Did you want to go there on the 16th
12 of 2010 or were you forced to?

13 A (No verbal response).

14 Q And you -- disregard that. You went down
15 there with your friends, correct?

16 A Uh-huh.

17 Q Yes?

18 A Yes.

19 Q Final question, Ms. Perry, have you been
20 truthful with us today?

21 A Yes.

22 Q All right. Thank you very much.

23 THE COURT: Redirect?

24 MS. SAMPSON: Yes, sir, just one question.

25 REDIRECT EXAMINATION

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1 BY MS. SAMPSON:

2 Q He asked you about knowing Bloom or
3 Marcellius Brooks, are you better friends with
4 Robin Reese and her family? Do you know them
5 better?

6 A Do I know them both?

7 Q Do you know them better than you would know
8 Bloom?

9 A Not really.

10 Q Did you ever do Lucy's hair for her, things
11 like that?

12 A Yes.

13 Q They live actually in the same complex as
14 yours?

15 A Yes.

16 Q And they were actually your neighbors?

17 A Yes.

18 Q And you didn't have any trouble recognizing
19 them that day?

20 A No.

21 MS. SAMPSON: Thank you, Your Honor.

22 THE COURT: Any cross?

23 RE CROSS EXAMINATION

24 BY MR. FARLEY:

25 Q Just to clarify, Ms. Reese was your

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1 neighbor?

2 A Is she my neighbor? Yes, yes.

3 Q She lives next to you?

4 A No, not next to me.

5 Q Did she live ---

6 A She stays up the street.

7 Q That's what I mean. She is not?

8 A No, huh-uh.

9 Q In the same ---

10 A --- building, no.

11 Q And not the building across from that?

12 A No. Right.

13 Q She is in a different part?

14 A Yeah.

15 Q All right. Thank you, Ms. Perry.

16 THE COURT: Anything further?

17 MR. CHAPLIN: Nothing further, Your

18 Honor. Thank you.

19 THE COURT: All right. You may come
20 down. Thank you very much. You're free to go,
21 ma'am. Thank you very much.

22 WITNESS: Thank you.

23 (WITNESS STEPS DOWN)

24 THE COURT: May this witness be
25 excused? Without objection?

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1 MS. SAMPSON: Thank you, Your Honor.

2 MR. FARLEY: No objection, Your Honor.

3 MR. CHAPLIN: No objection, Your Honor.

4 THE COURT: All right. Ladies and
5 gentlemen of the jury, that will conclude the
6 testimony for today. I'm going to ask you to be
7 back in the jury room at 9:30 in the morning at
8 which time we'll continue with the trial. Again
9 I must remind you not to -- please don't discuss
10 this case with anyone else over the evening
11 hours, friends, family or any other instances.
12 I'll ask you not to try to do any independent
13 research about this case. You're hearing it all
14 live right here, like a play unfolding in front
15 of you. So, you know, it's easy -- let me just
16 say that with regard to speaking to your family
17 and friends, they're going to ask you what you
18 did today, obviously, and you can tell them
19 you're on a jury. You're on a criminal jury. I
20 would advise you and request that you not tell
21 them what the case is about. It's so easy. You
22 just don't know who -- somebody else might know
23 something, might have read about it in the
24 paper, might have seen something, might try to
25 say something to you which would influence you,

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1 not that you would be influenced but somebody
2 would say 'oh, I know this is what I'd do if I
3 were if your shoes.' It's just conversation
4 that people get into that sometimes can be such
5 that it might influence you one way or the
6 other. All the answers are right here. I'll
7 just ask you to keep it to yourselves over the
8 evening hour. Have a pleasant evening. We'll
9 see you at 9:30 in the morning.

10 (JURY OUT @ 5:51 P.M.)

11 THE COURT: All right. The issue of
12 bond, Mr. Farley.

13 MR. FARLEY: Your Honor, I have not
14 received a new letter from the bondsman. I
15 provided the fax number. I do have the current,
16 or the previous bond paperwork if you care to
17 see that.

18 THE COURT: It's no good.

19 MR. FARLEY: She is not a flight risk.

20 THE COURT: I understand, but the
21 bondsman technically is off the bond once the
22 case starts, once jeopardy attaches the bondsman
23 has no further responsibility.

24 MR. FARLEY: I've explained that to my
25 client, Your Honor, and I also have made

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1 repeated attempts to contact the bond company or
2 to have that letter.

3 THE COURT: Did it occur to you that it
4 may be a financial matter?

5 MR. FARLEY: That did not occur to me,
6 sir.

7 THE COURT: Well, it always occurs to
8 the bondsman. Anyway, I'm sorry. I just have
9 to -- that's my policy. If there is no bond in
10 place, particularly with the seriousness of
11 these charges, I'm going to have to order that
12 she be held in custody.

13 MR. FARLEY: If we were able to get
14 that letter this evening, Your Honor?

15 THE COURT: Well, I live forty miles away.

16 MR. FARLEY: No, no, I meant tomorrow.

17 THE COURT: Tomorrow, absolutely.

18 MR. FARLEY: Thank you, Your Honor.

19 THE COURT: Anytime the bondsman says
20 they will assure her appearance, it's fine with
21 me.

22 MR. FARLEY: Thank you, Your Honor.

23 THE COURT: Thank you. Anything
24 further?

25 MR. FARLEY: Your Honor, if I may ask if

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1 the prosecution could let us know as to how many
2 more witnesses they may have so we can try to,
3 I have an expert witness coming in from out of
4 town, just trying to.

5 THE COURT: You all talk about that.

6 MR. FARLEY: Yes, sir.

7 THE COURT: I hope you'll advise your
8 respective families/clients they are to have no
9 contact with the jury, please.

10 MS. SAMPSON: I've talked to them.

11 THE COURT: The jury should be escorted
12 out by law enforcement, but I don't want any
13 contact with the jury.

14 MR. CHAPLIN: Your Honor, are we still
15 on the record?

16 THE COURT: No. If you want to be on
17 the record, I thought we'd adjourned for the
18 evening.

19 MR. CHAPLIN: I think we're fine.
20 Thank you.

21 THE COURT: We will stand at-ease until
22 9:30 in the morning.

23 MR. CHAPLIN: Thank you.

24 (COURT IN RECESS)

25 (TRANSCRIPT CONTINUED NEXT PAGE)

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1 FEBRUARY 29, 2012 9:30 A.M.

2

3

(DEFENDANTS PRESENT)

4

THE COURT: Is the State ready to

5

proceed?

6

MS. SAMPSON: The State is ready to

7

proceed. There are some housekeeping matters.

8

THE COURT: Is the defense ready?

9

MR. FARLEY: Yes, Your Honor.

10

MR. CHAPLIN: We are, Your Honor.

11

MS. SAMPSON: Your Honor, it has

12

come to my attention in the body of the

13

indictments there is a scrivener's error

14

pursuant to *State v. South Carolina* and *State*

15

vs. Ripple (phonetic), we would move to amend

16

those. The actual code section is correctly

17

reflected and the actual language in the

18

indictment is correct. It's just a

19

typographical error that says 210 rather than

20

210. 15-3-210 is correct code section.

21

THE COURT: Any objection?

22

MR. CHAPLIN: Your Honor, I would

23

object based on the lack of sufficiency notice

24

in the indictment due to that scrivener's error.

25

THE COURT: You have the indictments?

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1 MR. CHAPLIN: I do.

2 THE COURT: Well, the language on the
3 face of the indictment correctly states the
4 statutory provision of lynching first degree
5 under the old law before it was changed in
6 June 2010.

7 The body of the charge is described as
8 lynching in the first degree on both of your
9 client's indictments. The language of the body
10 of the indictment indicates -- tracks the
11 language in the statute.

12 The only difference between first
13 degree and second degree is that the victim
14 didn't die. They both allege the death of the
15 victim, Kenneth Mack, so I think your clients
16 were adequately advised of the nature of the
17 charges, and I so grant the Motion.

18 MR. FARLEY: Your Honor, for the
19 record, may I join in counsel's objection?

20 THE COURT: Sure, sure.

21 MR. FARLEY: Thank you.

22 MS. SAMPSON: Your Honor, we do have
23 one other matter. One of the witnesses,
24 codefendants that will be testifying, Marcellius
25 Brooks. At some point he was given a polygraph.

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1 It's my understanding the defense would not be
2 allowed to go into anything about the polygraph
3 or the results.

4 THE COURT: Results? That is the
5 State's position?

6 MS. SAMPSON: (Affirmative nod).

7 THE COURT: What's the defense's
8 position.

9 MR. CHAPLIN: Well, Your Honor, I think
10 that we certainly couldn't say to Mr. Brooks
11 that, 'I understand you took a polygraph and you
12 failed it on two occasions', which he did, but I
13 think we could ask the investigator questions
14 surrounding his, uh, -- his -- where he stands
15 with Mr. Brooks' credibility or veracity based
16 on prior interviews he's had with him.

17 THE COURT: Well, you can ask him under
18 the rules about his reputation for truth and
19 honesty, but the results of a polygraph are
20 hearsay.

21 MR. CHAPLIN: That's correct, Your
22 Honor.

23 THE COURT: Secondly, they wouldn't be
24 admissible if you tried to get the polygraph?

25 MR. CHAPLIN: Yes, sir.

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1 THE COURT: So you can ask him if he
2 believes him.

3 MR. CHAPLIN: Yes.

4 THE COURT: If he has the language of
5 608 -- 608(a), credibility of the witness may be
6 attacked in support of the evidence in the form
7 of opinion or reputation but the evidence may
8 refer only to character untruthfulness only
9 after the character of a witness for
10 truthfulness has been attacked by opinion.
11 character for reputation or otherwise. All
12 right.

13 MR. CHAPLIN: Your Honor, my
14 understanding is I could speak with the
15 investigator with regards to that matter and
16 pursuant to Grainy, I do have --

17 THE COURT: You have what?

18 MR. CHAPLIN: It's my understanding
19 that I can question the investigator with
20 regards to Mr. Brook's credibility or
21 truthfulness.

22 I would further suggest if I have
23 information like a conversation between
24 Mr. Brooks and the investigator that clearly
25 shows that he does not believe Mr. Brooks, that

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1 I could use that for impeachment.

2 THE COURT: Impeaching who?

3 MR. CHAPLIN: The investigator.

4 THE COURT: You want to impeach the
5 investigator?

6 MR. CHAPLIN: Should he say that he
7 believes Mr. Brooks is a very honest person.

8 THE COURT: Well, I'm just going to
9 have to go along with what I have here.

10 MR. CHAPLIN: Thank you.

11 MS. SAMPSON: The final matter that we
12 have this morning, Your Honor, is that yesterday
13 during the course of Ms. Perry's testimony, at
14 some point there was a statement that was taken
15 by a private investigator that was produced that
16 we've never seen, by the defense. We did file a
17 reciprocal Rule 5.

18 It's my understanding from Mr. Chaplin
19 he does have some other statements from
20 witnesses. I don't know who. We would ask at
21 this point, just as we have to turn over all of
22 our statements of detectives -- technically we
23 don't have, I guess, until they cross-examine --
24 that he do that or, in the alternative, Your
25 Honor, we would ask if he does produce

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1 statements on witness, we have an opportunity to
2 then take a break and review it and allow the
3 witness to review it to -- instead of just being
4 kind of ambushed with this stuff. I don't know
5 any other way we could do it other than to stop
6 the trial and ask for a time period to review
7 the statements.

8 THE COURT: Are there other statements?

9 MR. CHAPLIN: Your Honor.

10 THE COURT: Taken by an investigator?

11 MR. CHAPLIN: My investigator has met
12 with Kara Chase. I do plan to call him during
13 my case in chief with regards to that
14 conversation and I think that ---

15 THE COURT: What do you mean? He has
16 had a conversation with somebody that is not
17 here? I don't know Kara Chase.

18 MR. CHAPLIN: Okay. Kara Chase is a
19 potential witness for the State.

20 THE COURT: Well, we're going to
21 have to see -- I mean, you're talk about in your
22 case in chief.

23 MR. CHAPLIN: Well, I beg your pardon.
24 Kara Chase is a witness for the State. My
25 expectation is that they're going to call Kara

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1 Chase. I'm going to get into an opportunity to
2 cross-examine her.

3 THE COURT: Absolutely.

4 MR. CHAPLIN: Therefore, then -- I'm
5 going to ask questions. If I have a belief that
6 her responses are contradictory to what she told
7 my investigator, then I have intend to call my
8 investigator and discuss what he discussed with
9 her; which is not hearsay when it's my turn to
10 call witnesses.

11 THE COURT: Okay.

12 MR. FARLEY: Your Honor, I also
13 have -- I join Mr. Chaplin. I also have a
14 statement from Kara Chase and my investigator is
15 here as well.

16 MS. SAMPSON: If they're planning
17 to use it in their case in chief, I don't see
18 how that is not reciprocal Rule 5.

19 THE COURT: Well, it is.

20 MS. SAMPSON: So they have to produce
21 it.

22 MR. CHAPLIN: I only intend to use it
23 for impeachment purposes. If she does not
24 contradict herself, I don't intend to use it.

25 THE COURT: What about Rule 5? Why

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1 haven't you turned it over?

2 MR. CHAPLIN: Because it's my
3 understanding it's not discoverable unless
4 Ms. Chase gets on the stand and says something
5 contrary to that. I've got no clue of what Ms.
6 Chase is going to say when she gets on the
7 stand. If she says something contrary to what
8 she told my investigator, then I plan to bring
9 out that conversation to show that there's a
10 problem with her credibility. But if she tells
11 the truth, I have no problem.

12 Kara Chase never signed a statement
13 with me. I don't a written statement.

14 THE COURT: Let's get the trial
15 started. I am just ---

16 MS. SAMPSON: Okay. Then we're going
17 to move for a recess as soon as he produces
18 again.

19 THE COURT: That's fine.

20 MS. SAMPSON: And, Your Honor, I think
21 he just said and stated -- he is being
22 disingenuous about this because he just said and
23 stated that he planned on putting this,
24 information in in his case in chief and he
25 hadn't turned it over to us.

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1 MR. CHAPLIN: Your Honor, in the event
2 Ms. Kara Chase is not truthful, then I have no
3 choice. But if Ms. Kara Chase tells the truth,
4 then it will not come in. I'm not saying I'm
5 definitely putting it in in my case in chief.

6 THE COURT: Okay. I'm not going to sit
7 here all morning and speculate about what may
8 come up. We'll deal with it as it comes up.

9 MS. SAMPSON: We would move at
10 this point, Judge, -- I think we have a right to
11 have their statements from them.

12 THE COURT: Well, ---

13 MR. CHAPLIN: I don't have a statement.

14 MS. SAMPSON: I've never not had that
15 turned over. Granted they can do it in the last
16 minute, but they turn them over.

17 THE COURT: Well, it is discoverable if
18 the defendant intends to introduce it as
19 evidence in chief at the trial. I don't know
20 whether he is going to put up any ---

21 MS. SAMPSON: He just said he was
22 putting up the investigator to say that.

23 THE COURT: No, he didn't. He said he
24 might, depending on your witness's testimony.

25 So let's proceed and see what your

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1 witness says. You will get it at that time.

2 Ready for the jury?

3 MS. SAMPSON: Yes, sir.

4 THE COURT: Bring the jury panel,
5 please.

6 (JURY IN @ 10:16 A.M.)

7 BAILIFF: All jurors are present, Your
8 Honor.

9 THE COURT: Good morning. Thank you
10 very much. I apologize for the delay.
11 Sometimes things don't work quite as planned.
12 Does everybody have their notepads?

13 JUROR: No, I do not have my pad.

14 THE COURT: Where are the pads?

15 JUROR: I'm so sorry.

16 THE COURT: All right. Solicitor, call
17 your next witness.

18 MS. SAMPSON: May it please the Court,
19 Your Honor. The State calls Mary Anderson.

20 (WITNESS TAKES STAND)

21 MARY ANDERSON, being duly sworn to tell
22 the truth, the whole truth and nothing but the
23 truth, testified, as follows:

24 DIRECT EXAMINATION

25 BY MS. SAMPSON:

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1 Q If you don't mind, scoot up a little bit.
2 It's hard to hear in here. Talk right into that
3 microphone. Is that good?

4 A Yes.

5 Q Ms. Anderson, where do you live, what part
6 of town?

7 A I live at
8 (phonetic).

9 Q And how long have you lived in the Columbia
10 area, ma'am?

11 A All my life.

12 Q Do you have any other siblings that live
13 here in Columbia?

14 A Yes, ma'am.

15 Q And specifically, do you have a sister that
16 lives in the Gonzales Gardens area?

17 A She used to live there but she died.

18 Q She died. When did she die, ma'am?

19 A About a year ago.

20 Q Back in February of 2010, did she used to
21 live in Gonzales Gardens?

22 A Me?

23 Q No, your sister.

24 A Yes.

25 Q Okay. Would you go visit her there?

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1 A Yes, ma'am.

2 Q I want to turn your attention to February
3 13th, the day you saw something happen there?

4 A Yes, ma'am.

5 Q What building did your sister live in, do
6 you remember?

7 A G-1, I think.

8 Q Was there an area between the buildings
9 where something happened that day that you saw?

10 A Yes, ma'am, uh-huh.

11 Q That day, was it dark or afternoon or what
12 time of day ---

13 A Afternoon.

14 Q I'm sorry, afternoon?

15 A Yes, ma'am.

16 Q Can you tell this jury what you saw that
17 afternoon when you were going on your way to
18 visit your sister?

19 A I was on my way home.

20 Q On your way home?

21 A I saw them, the brother and sister,
22 beating the boy -- kicking and stomping and
23 doing everything to him.

24 Q Okay. When you said you saw a brother and
25 sister, did you know different people that live

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1 in the Gonzales Gardens area?

2 A Yes, ma'am.

3 Q How did you know these people, from seeing
4 them?

5 A Yes, ma'am, I knew them by their daddy.

6 Q By their daddy?

7 A Yes, ma'am.

8 Q Did their daddy live right there?

9 A Yes, ma'am.

10 Q He lived in Gonzales Gardens?

11 A Yes, ma'am.

12 Q Did you know their names or their nick
13 names?

14 A I know Robin. I don't know the brother's
15 name.

16 Q Did you know a nickname for him?

17 A I forgot his nickname.

18 Q Six?

19 A Yes, ma'am.

20 Q And that's how you knew him; is that
21 correct?

22 A Yes, ma'am. Uh-huh.

23 Q Had you been knowing them for a good time
24 before you saw them that day?

25 A Not "good".

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1 Q Okay. But you could recognize them when
2 you saw them?

3 A Yes, ma'am.

4 Q You know Robin's name?

5 A Yes, ma'am.

6 Q You knew him as "Six"?

7 A Uh-huh.

8 Q That day, tell the jury as you were leaving
9 your sister's house, from that G Building, what
10 did you see?

11 A I seen the boy, they were beating the boy
12 down the ground stomping, kicking him, doing
13 everything and beating him with an iron chair.

14 Q Let me take it step by step, okay. Let me
15 just back up a little bit. Are you a little
16 nervous here today?

17 A Yes, ma'am.

18 Q That day when you first looked over and saw
19 them, where were they located?

20 A By Aileen's apartment.

21 Q Aileen's apartment and her daddy's.

22 Q Aileen's apartment and her daddy's?

23 A Yes, ma'am.

24 Q Were they inside or outside?

25 A Outside.

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1 Q Were they in the open area?

2 A Yes, ma'am.

3 Q And when you saw them when you first saw
4 what was going on, did you know who the victim
5 was?

6 A I didn't know, but I knew he worked at the
7 barbershop.

8 Q You knew him from working at the barber
9 shop?

10 A (Affirmative nod).

11 Q But you didn't know his name?

12 A No, ma'am.

13 Q And that's the barbershop down the road,
14 right there on Forest Drive, I believe?

15 A Uh-huh.

16 Q Okay. That day was he standing up or where
17 was he when you first looked over?

18 A He was on the ground.

19 Q And who was there when you looked over at
20 first?

21 A Six and his sister, Robin.

22 Q When you looked over, the guy was on the
23 ground, was he moving?

24 A No, ma'am, he wasn't moving at all.

25 Q And what were they doing to him when you

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1 looked over?

2 A They were beating him, kicking him, doing
3 everything.

4 Q And when you said they were beating him,
5 were they using their fist?

6 A They weren't using their fists. They were
7 using their feet.

8 Q Their feet?

9 A Yes, ma'am.

10 Q Could you tell what kind of shoes they had
11 on?

12 A Robin had on a pair of boots, I think. I
13 don't know what kind of shoes Six had on.

14 Q When they were kicking him and beating him
15 like you said, you said the word "stomp"?

16 A (Affirmative nod).

17 Q They were stomping him?

18 A Yes, ma'am.

19 Q When they were stomping him, they were
20 going that with their feet, too?

21 A Yes, ma'am.

22 Q What part of the body were they beating or
23 kicking, could you tell?

24 A Up in the part, up in here.

25 Q Up in here?

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- 1 A Uh-huh.
- 2 Q When they were kicking him and stuff, was
- 3 he resisting in any way?
- 4 A He couldn't move.
- 5 Q Did he have a weapon of any sort?
- 6 A No, ma'am.
- 7 Q And he was down?
- 8 A Yes, ma'am.
- 9 Q Did you ever see him get up?
- 10 A No, ma'am.
- 11 Q After they kicked him and stomped him, did
- 12 you see them hit him with anything else?
- 13 A With the iron chair.
- 14 Q With an iron chair?
- 15 A Yes. I don't know which one hit him with
- 16 an iron chair but one of them.
- 17 Q And what was going through your mind when
- 18 you were watching this?
- 19 A I said, 'Oh, Lord, they're going to kill
- 20 that man.'
- 21 Q Could you even tell how many times they
- 22 kicked him or hit him?
- 23 A I can't tell how many times but I know he
- 24 wasn't moving at all.
- 25 Q Do you remember hearing Robin say anything

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1 about the man on the ground?

2 A Hummm, -- I don't really think so.

3 Q Do you remember giving a statement to the
4 police?

5 A Yes, ma'am.

6 Q When that was fresh in your mind? It's
7 been awhile, right?

8 A Yes, ma'am, two years.

9 Q Do you remember seeing Six on his cell
10 phone?

11 A Yeah.

12 Q And then Robin was there, too?

13 A Yes, ma'am.

14 Q And do you remember telling the police what
15 you said right there -- (tendering document to
16 witness)..

17 A What does that say? I don't have my
18 glasses.

19 Q You don't have your glasses?

20 A No, ma'am.

21 Q Do you remember her saying, "motherfucker,
22 why you approach my 13-year-old"?

23 A Oh, yeah, I remember that. I remember
24 that.

25 Q Who said that?

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1 A Robin.

2 Q Do you remember Six saying anything?

3 A I don't think so.

4 Q Okay. Do you remember how long this lasted
5 that you -- the part you saw?

6 A Lasted for a while. I just went on home.

7 Q At some point, did you actually have to
8 turn away?

9 A Yes, ma'am.

10 Q Why was that?

11 A Because I ain't never seen nobody get beat
12 like that before in my life.

13 Q You didn't actually see Six hit the man.
14 You just saw him kick him; right?

15 A Yes.

16 Q And do you remember telling police you
17 actually saw him not hitting with his fist but
18 ultimately picked up the chair and hit him, as
19 well?

20 A Uh-huh, (affirmative nod).

21 Q After they -- it went on for a while,
22 right?

23 A Uh-huh, (affirmative nod).

24 Q After they stomped him and kicked him and
25 hit him with a chair, what did they do?

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- 1 A Went in his daddy's house.
- 2 Q How did they get to the daddy's house?
- 3 A Daddy was right next door.
- 4 Q And did they walk?, did they run?
- 5 A Walk.
- 6 Q Did you leave the area?
- 7 A Yes, ma'am.
- 8 Q Did you leave before the police got there?
- 9 A Yes, ma'am.
- 10 Q Did you call the police that day or were
- 11 you aware other people called the police?
- 12 A I ain't had my cell phone with me at the
- 13 time. I'd left it at home. They said other
- 14 people called, a couple of people called.
- 15 Q But this stood out in your mind?
- 16 A Yes, ma'am.
- 17 Q And later did the police contact you about
- 18 getting a statement?
- 19 A Yes, ma'am. Yes, ma'am.
- 20 Q And that statement I just showed you is
- 21 part of it?
- 22 A Uh-huh, (affirmative nod).
- 23 Q And when they talked to you, did they also
- 24 show you some photographs?
- 25 A Yes, ma'am.

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- 1 Q This was about two or three days after it
2 happened, right?
- 3 A Yes, ma'am.
- 4 Q On the 16th, does that sound about right?
- 5 A Yes, ma'am.
- 6 Q When they showed you some photographs, I'm
7 going to show you what's being marked as State's
8 Exhibit 68. Do you recognize that?
- 9 A Yes, ma'am.
- 10 Q Was this the set of photographs they showed
11 you?
- 12 A Yes, ma'am.
- 13 Q Now, when they showed you these photographs
14 though was there any handwriting on this?
- 15 A No, ma'am.
- 16 Q Did they tell you who to pick?
- 17 A No, ma'am.
- 18 Q When you looked at these six photographs,
19 tell the jury did you recognize anyone?
- 20 A Yes, ma'am.
- 21 Q Who did you recognize?
- 22 A Number two.
- 23 Q Why did you recognize number two?
- 24 A Because I know him.
- 25 Q After that did you circle it and put your

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1 initials and put your name?

2 A Yes, ma'am.

3 MS. SAMPSON: Your Honor, at this
4 time we would offer State's Exhibit 68 into
5 evidence.

6 THE COURT: Objection?

7 MR. FARLEY: No objection, Your Honor.

8 MR. CHAPLIN: No objection, Your
9 Honor.

10 THE COURT: So entered.

11 (SO ENTERED AS STATE'S EXHIBIT 68)

12 DIRECT EXAMINATION CONTINUED

13 BY MS. SAMPSON:

14 Q And who did you recognize that to be?

15 A Six.

16 Q Is that the person that you saw that day?

17 A Yes, ma'am.

18 Q Doing the beating?

19 A Yes, ma'am.

20 Q Is there any doubt that's the person you
21 saw?

22 A No doubt about it. I seen him.

23 Q That same day, did they also show you a
24 second set of photographs?

25 A Yes, ma'am.

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1 Q Oh, let me back up. After you recognized
2 it, did they have sign off on that sheet?

3 A Yes, ma'am.

4 Q And saying that's what you recognized?

5 A. Yes, ma'am.

6 Q I show you what has been marked as State's
7 Exhibit 69. I ask first, do you recognize that?

8 A Yes, ma'am.

9 Q Well, did you look at all of the six
10 photographs?

11 A Yes, ma'am.

12 Q And recognized one of them?

13 A Yes, ma'am.

14 Q When they showed you the photograph, did
15 you tell you who to pick?

16 A No, ma'am.

17 Q And you recognized one?

18 A Yes, ma'am.

19 Q And that's the circle did, and you
20 initialed it?

21 A Yes, ma'am.

22 MS. SAMPSON: Your Honor, at this
23 time we would offer State's Exhibit 69 into
24 evidence.

25 THE COURT: Any objection?

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1 MR. FARLEY: No objection, Your Honor.

2 MR. CHAPLIN: No objection.

3 (SO ENTERED AS STATE'S EXHIBIT 69)

4 DIRECT EXAMINATION CONTINUED

5 BY MS. SAMPSON:

6 Q And that was number one that you
7 recognized?

8 A Yes, ma'am.

9 Q Who is the person you recognized there?

10 A Robin.

11 Q At any point did anybody tell you what to
12 say or who to pick or anything?

13 A No, ma'am.

14 Q And you cooperated with the police?

15 A Yes, ma'am.

16 Q Why did you cooperate with the police?

17 A Because I thought that they should have
18 called the policy.

19 Q Did you see anybody else in that area when
20 you saw that last assault, did you see anybody
21 else hitting him or kick him?

22 A No, ma'am.

23 Q Did the guy ever get up off the ground?

24 A No, ma'am.

25 Q Was he able to move after they kicked him?

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1 A No.

2 Q In 2009, I think you got convicted on a
3 fraud conviction.

4 A Yes.

5 Q Okay. Let me ask you this, the two people
6 that you saw that day on that assault that
7 stands out in your mind?

8 A Yes, ma'am.

9 Q Do you see them here in the courtroom?

10 A Yes, ma'am.

11 Q Can you point them out for the jury?

12 A Right and right there, Robin and Six.

13 Q Seated at the table?

14 A Yes, ma'am.

15 Q Next to the man in the suits?

16 A Yes, ma'am.

17 MS. SAMPSON: Your Honor, may the
18 record reflect she has identified the
19 defendants?

20 THE COURT: All right. So reflects.

21 MS. SAMPSON: Thank you, ma'am. Please
22 answer any questions they have, okay.

23 WITNESS: All right.

24 THE COURT: Cross-examination.

25 MR. FARLEY: Thank you, Your Honor.

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1 CROSS EXAMINATION

2 BY MR. FARLEY:

3 Q Ms. Anderson?

4 A Yes.

5 Q You said that you were at your sister's
6 house?

7 A Yes, I was.

8 Q Can you tell me again where your sister's
9 house was in relation?

10 A In the G building.

11 Q In the G building?

12 A Yeah.

13 Q But I mean, was it's in the middle or on
14 the end?

15 A No, on the end.

16 Q Okay.

17 A I came out of the house before everything
18 started throughout.

19 Q Is that on the end towards the road or on
20 the end towards the rest of the completion?

21 A The complex.

22 Q So all the way on this end?

23 A Yeah.

24 Q And then so from your viewpoint, where was
25 the incident? Were you standing on the porch?

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- 1 A I was standing in the yard.
- 2 Q You were standing in the yard?
- 3 A Yeah.
- 4 Q From your viewpoint, how were you looking
5 at the incident?
- 6 A I was right in front of it. I seen it when
7 they kicked the man.
- 8 Q Ma'am?
- 9 A I was in front of them.
- 10 Q No. Were you looking to your right or
11 looking to your left?
- 12 A Looking straight at them.
- 13 Q You were looking straight at them?
- 14 A Yeah.
- 15 Q But it was at an angle, right?
- 16 A Yeah.
- 17 Q Okay. So what was the angle?
- 18 A (No verbal response).
- 19 Q If you were on the end and you were
20 standing ---
- 21 A I wasn't on the end. I'm trying to tell
22 you I wasn't on the end -- I was right there
23 where they were beating the man at.
- 24 Q You -- let me just clarify, you weren't on
25 the end in front of your sister's house?

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1 A No, I wasn't on the end at my sister's
2 house.

3 Q I just thought you said you were in the
4 yard.

5 A No, I didn't say that. You're trying to
6 put words in my mouth.

7 Q No, ma'am. I was just earlier you said you
8 were in her yard?

9 A I'd left her yard and came down there.
10 Everything was -- I have seen everything and I
11 standing there looking.

12 Q Okay. So you left her yard?

13 A Yeah.

14 Q So how far away from the incident, were
15 you?

16 A I was close by.

17 Q Can you tell us ---

18 A Across from my niece and my cousin's
19 apartment.

20 Q Can you tell us how far away from the
21 incident you were?

22 A Not too far.

23 Q I mean, can you give to it us in feet or
24 yards?

25 A I can't do that in the yards.

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- 1 Q Do you know how many feet away you might
2 be?
3 A About one or two feet.
4 Q One or two feet?
5 A Yeah, I was close by when I seen them
6 beating him.
7 Q Well, one or two feet would be right there.
8 I mean, you would be in the altercation,
9 wouldn't you?
10 A No. I was close by, put it that way.
11 Q But not one or two feet?
12 A No.
13 Q So you mean farther away than that?
14 A Not far away. Don't -- (shaking head).
15 Q Okay. Well, but you're not sure how far
16 away you were then?
17 A No. I know I was close to it ---
18 Q All right.
19 A --- when I seen the fight.
20 Q Well, let me ask you this, do you wear
21 corrective lens?
22 A Wear?
23 Q Reading glasses?
24 A Reading glasses. And I had my reading
25 glasses on that day. I could see good out of

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1 them.

2 Q But reading glasses are for close vision?

3 A Yeah.

4 Q You weren't that those, were you?

5 A Yeah.

6 Q You weren't?

7 A No, not that close.

8 Q You were further away?

9 A Yeah.

10 Q But you were reading your reading lasses,
11 which would have affected your far away vision?

12 A Yeah.

13 Q They would have?

14 A Well, I seen what I seen. I seen the
15 fight.

16 Q But you had your reading glasses on?

17 A Yeah.

18 Q Which is for up close reading?

19 A Yeah.

20 Q But you had to have been more than one foot
21 away?

22 A Probably three or four feet. I don't know.
23 I couldn't say how far I was.

24 Q But you were reading glasses.

25 A Yes, sir.

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1 Q Okay. And you said earlier that you didn't
2 know ---

3 A No.

4 Q I'm sorry, ma'am. You said you didn't know
5 who hit him with a chair?

6 A I seen somebody with the chair. I don't
7 know which one it was.

8 Q But you can't ---

9 A No.

10 Q You can't say ---

11 A No.

12 Q --- my client hit him with a chair?

13 A Yeah, I can say one of them hit him with a
14 chair. I don't know which one.

15 Q Right. Yes, ma'am, okay. From your
16 perspective, were they on -- when the man was
17 lying on the ground, were they on this side of
18 the body close to you or on the other side?

19 A The other side.

20 Q The other side?

21 A (Affirmative nod).

22 Q And you said Robin struck him once or twice
23 I believe is what you said?

24 A Maybe more than that, I don't knows.

25 Q So actually ---

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- 1 A They were hitting so hard, I couldn't tell.
- 2 Q Okay. I'm only talking about Ms. Reese.
- 3 A Oh, I don't know how many times.
- 4 Q You don't know?
- 5 A I know she was kicking him and beating him
- 6 and stomping him.
- 7 Q Are you sure? Because of your perspective,
- 8 you couldn't have been a little mistaken?
- 9 A No.
- 10 Q And she was yelling at him?
- 11 A No, no.
- 12 Q And you said it lasted for a while, but can
- 13 you tell us what a while is? I mean, is that a
- 14 minute, two minutes, three minutes, five
- 15 minutes?
- 16 A Two or three minutes.
- 17 Q Two minutes?
- 18 A I don't know how long. I had to leave. I
- 19 have couldn't stand it no more.
- 20 Q Okay. And so a while is only like about
- 21 two minutes?
- 22 A Um-humm.
- 23 Q And then you said that Ms. Reese and her
- 24 brother went to their father's house?
- 25 A Yes.

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- 1 Q But earlier you said that ---
2 A No, I ---
3 Q I'm sorry. Go ahead and finish?
4 A Nothing.
5 Q You said you turned away?
6 A I went home.
7 Q So you went home?
8 A Yeah, after they had beat the man to death.
9 Q But you also said that you turned away
10 because you didn't want to watch anymore?
11 A Yeah, for a while there I looked but ---
12 Q Well, how long is a while?
13 A About -- one minute.
14 Q So you turned away for one minute?
15 A Um-humm.
16 Q So okay. Are you sure you remember? You
17 said they left, but are you sure you remember
18 seeing that or is that when you were turned
19 away?
20 A I seen when they left.
21 Q Okay. But you were turned away for a while
22 and you don't know what occurred when that
23 happened?
24 A No.
25 Q Okay. And again you can't be sure that my

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1 client struck the man with a chair?

2 A I seen somebody struck him with a chair. I
3 don't know which one.

4 Q Thank you Ms. Anderson, please answer any
5 questions Mr. Chaplin has.

6 CROSS EXAMINATION

7 BY MR. CHAPLIN:

8 Q Good morning, Ms. Anderson, how are you?

9 A Fine.

10 Q Good. Ms. Anderson, my name is Mathias
11 Chaplin. I represent Henry Gray in this matter.
12 My questions to you are going to be focusing on
13 Mr. Gray. Okay?

14 A (Affirmative nod).

15 Q Thank you. Let's go ahead and start with
16 the conviction for fraud, Ms. Anderson. Tell me
17 about that.

18 MS. SAMPSON: Objection.

19 THE COURT: Sustained.

20 CROSS EXAMINATION CONTINUED

21 BY MR. CHAPLIN:

22 Q Ms. Anderson, you live in Gonzales Gardens?

23 A No. I got a brother that stays over there
24 and a sister that used to stay over there.

25 Q So you have a brother and a sister that

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1 stay there?

2 A. One of them. I've got one brother that
3 stay there now. My sister died.

4 Q I'm sorry to hear that. You came here
5 yesterday to testify, didn't you?

6 A Yes, sir.

7 Q Who did you come with?

8 A Who did I come with?

9 Q (Affirmative nod).

10 A By myself.

11 Q Do you know someone named Lamar?

12 A Lamar, (negative gesture).

13 Q Do you know someone named Bloom?

14 A Yeah. I know about Bloom. I don't know
15 about "Lamar." I don't know about his real
16 name.

17 Q I see. How do you know Bloom?

18 A Huh?

19 Q How do you know Bloom?

20 A He be at my brother's house sometimes,
21 Gonzales Gardens.

22 Q He's at your brother's house?

23 A Yeah.

24 Q Would you be surprised that if I told you
25 that Bloom is Marcellius Brooks?

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1 A Huh?

2 Q If I told you that Bloom is Marcellius
3 Brooks?

4 A I didn't know his first name.

5 Q You didn't?

6 A No, I didn't.

7 Q Okay. Now, on the second of February --
8 excuse me, on the 13th of February, 2010, you
9 said you saw something between the F and G
10 building?

11 A Uh-huh, (affirmative nod).

12 Q Who else was out there?

13 A A lot of people were out there looking.

14 Q Do you have names?

15 A No, I don't know the people's names. I
16 don't get to know people.

17 Q You didn't -- you saw people out there, but
18 you didn't know who they are?

19 A No, I don't know.

20 Q Do you know do Donetti Perry?

21 A Perry, no.

22 Q You don't know Donetti Perry?

23 A No.

24 Q Do you know Sanovia Thompson?

25 A Not -- just to know her.

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- 1 Q Do you see her out there?
- 2 A Huh?
- 3 Q Did you see her out there?
- 4 A I didn't pay no attention.
- 5 Q Did you see any kids out there?
- 6 A I don't know.
- 7 Q Okay.
- 8 A I couldn't say. I was focusing on one
- 9 thing.
- 10 Q Now, you testified that when you came
- 11 outside -- when you gave a statement -- and I
- 12 think the State has this. They provided it to
- 13 me. On the 16th of February, do you remember
- 14 giving a statement to the police?
- 15 A Yes.
- 16 Q Okay. You said that when you came out that
- 17 the man was lying on the ground?
- 18 A Yeah.
- 19 Q Lying on the ground?
- 20 A Uh-huh.
- 21 Q But I think a little earlier you testified
- 22 that you came out and you saw -- well, let me
- 23 just back up. So you don't know how he got to
- 24 the ground?
- 25 A No, I don't. He was on the ground when I

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1 got out there.

2 Q Okay. So you wouldn't have no way of
3 knowing if he had been beaten before he got to
4 that location?

5 A No, I don't.

6 Q You wouldn't know?

7 A No.

8 Q Then your statement says that around 4:00
9 to 4:30, you were walking through Gonzales
10 Gardens Apartments, but I think all of the
11 report suggests that this occurred some time
12 around 3:00 o'clock?

13 A I don't know what time it was. I didn't
14 have my watch on.

15 Q I know you said something about wearing
16 reading glasses?

17 A Yeah.

18 Q Did you write this report or did somebody
19 else write it for you? Can I show it to you?

20 A Somebody else wrote it for me. I ain't
21 going to lie.

22 Q Okay. Someone else wrote it?

23 A Yeah, I told them what to put down, I told
24 them what I'd seen.

25 Q I see.

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1 Q You said you were at your sister's house
2 earlier that day?

3 A Yes.

4 Q What were you doing?

5 A Oh, we be talking. I can't go to my own
6 sister's house?

7 Q Oh, I didn't say that. I just asked you
8 what were you doing?

9 A Just talking, because she was sick.

10 Q Do you know a young lady by the name of
11 Kenyatta Brown?

12 A Kenyatta Brown? No.

13 Q You don't?

14 A (Negative gesture).

15 Q Now, in the statement that you gave to the
16 police, you stated -- well, you did read the
17 statement after you told them what to say,
18 right?

19 A Yeah, I read it.

20 Q Okay. Give me one second. On page two,
21 the question was, (reading):

22 *Did you see Six, meaning Henry Gray, do*
23 *anything to the man?*

24 You answered:

25 *I never seen him actually hit the man.*

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1 A. But I seen him kick the man.

2 Q So why do you think your statement says
3 that you never saw Mr. Gray hit the man?

4 A I seen him. I seen both of them hitting
5 the man.

6 Q So the statement's incorrect?

7 A No, it ain't incorrect.

8 Q So, Ms. Anderson, you live at -- when you
9 went down to the police station on the 16th of
10 February, 2010, you went down with who? What
11 other people went with you that day?

12 A A friend picked me up and took me down
13 there.

14 Q What friend?

15 A I done forgot her name.

16 Q When you got there, did you see any other
17 people?

18 A Yes.

19 Q From Gonzales Gardens?

20 A Yes.

21 Q Who else did you see?

22 A I don't know those people's names. I'm
23 trying to tell you.

24 Q But you know they're from Gonzales Gardens?

25 A Yes, sir.

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1 Q Did anybody from Marcellius Brooks' family
2 ask you to go and give a statement?

3 A I was going to give one anyhow.

4 Q My question is did anyone ---

5 A No.

6 Q Give me one second. Now, I think when you
7 said you came out, you saw -- well, I think you
8 testified today, which is different from your
9 statement, that you saw Mr. Gray kicking and ---

10 A Yes, they both was kicking him.

11 Q Okay. But at some point you also testified
12 that you saw him stop to talk on a phone?

13 A Yeah.

14 Q Tell me exactly how that went. You saw him
15 stop the kicking, pick up the phone and -- then
16 stomp and kick some more? Is that what you
17 said?

18 A Yes.

19 Q Ms. Anderson, I'm about finished here, but
20 I'm a little confused because one time you said
21 that you saw the man -- when you first saw the
22 man, he was lying down?

23 A That's right.

24 Q But you indicated at other times that he
25 might not have been?

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1 A I didn't say nothing like that. Don't put
2 no words in my mouth.

3 Q You said that Mr. Gray hit the man, but in
4 your statement you said you didn't see him hit
5 the man. You stated that you ---

6 MS. SAMPSON: Objection, Your Honor, I
7 think he just asked the question.

8 MR. CHAPLIN: I'm just trying to
9 make sure I have her testimony, correct, Your
10 Honor?

11 THE COURT: Move on.

12 CROSS EXAMINATION CONTINUED

13 BY MR. CHAPLIN:

14 Q Isn't it true that you're aware today that
15 Marcellius Brooks has also been charged in this
16 matter?

17 A No.

18 Q And isn't it true that his family has
19 gotten you to come down here today and testify
20 the way you have?

21 A No.

22 Q Isn't it true that yesterday his family
23 brought you to the courthouse?

24 A No, they didn't.

25 MR. CHAPLIN: No further questions.

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1 THE COURT: All right. Any redirect?

2 MS. SAMPSON: Yes, sir, just a couple
3 of questions.

4 REDIRECT EXAMINATION:

5 BY MS. SAMPSON:

6 Q Ms. Anderson, I just have one or two more
7 questions. Okay?

8 A Yeah.

9 Q Back on the 16th after you witnessed this,
10 you went and you gave a statement to the police?

11 A Yes, ma'am.

12 Q Which is consistent with your testimony
13 here today?

14 A Yes, ma'am.

15 Q He asked you about one line about that you
16 never saw him hit, like with his fist, the man.

17 A No.

18 Q But in your statement, which is the part
19 that he didn't point you to, you clarified that,
20 didn't you?

21 A Yes, ma'am.

22 Q Down here at the bottom of the page?

23 A Uh-huh.

24 Q Where you said, "After the sister beat him
25 with a chair, that's when Six picked up the

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1 chair and hit him two times."

2 A Yes.

3 Q So you clarified that in your statement
4 that didn't because you didn't want to
5 misrepresent anything to the police?

6 A That's right.

7 Q That was in your statement, too. Thank
8 you. It?

9 RECROSS EXAMINATION

10 BY MR. FARLEY:

11 Q Ms. Anderson, you did say someone wrote the
12 statement for you, though?

13 A The police wrote it for me.

14 Q The police wrote it for you?

15 A Yes.

16 Q Earlier in your testimony you did say.

17 MS. SAMPSON: Objection, Your Honor.

18 Outside the scope of redirect.

19 THE COURT: I'll allow it. Go ahead.

20 RECROSS EXAMINATION CONTINUED

21 BY MR. FARLEY:

22 Q Earlier you said you didn't see anyone at
23 with the chair?

24 A I did. I ---

25 Q You couldn't tell which one?

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1 A No, I couldn't tell which one.

2 Q Thank you, Ms. Anderson?

3 A You're welcome.

4 RECROSS EXAMINATION

5 BY MR. CHAPLIN:

6 Q Ms. Anderson, going back to what Attorney
7 Campbell asked you, isn't it true that what you
8 did is you gave a statement and then at the end
9 of that statement, the police then came back and
10 said, 'Did you see Mr. Gray do anything to the
11 man?' You said, 'I never seen him actually hit
12 the man.' Then a little while later you said,
13 'Oh, by the way, you asked me if I saw him do
14 anything to the man.'

15 A (Affirmative nod).

16 Q What happened in the middle there?

17 A (No verbal response).

18 Q Did the police and you have a conversation?

19 A No we did not, sir.

20 Q How can you be so sure?

21 A I know. I ain't crazy.

22 Q Thank you.

23 THE COURT: You can come down, ma'am.

24 Thank you very much.

25 WITNESS: You're welcome.

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1 THE COURT: You're free to go.

2 WITNESS: Okay. Thanks.

3 (WITNESS STEPS DOWN)

4 COURT: Next witness.

5 MS. SIMPSON: The State calls Kevin
6 Thomas.

7 (WITNESS TAKES STAND)

8 KEVIN THOMAS, being duly sworn to tell
9 the truth, the whole truth and nothing but the
10 truth, testified, as follows:

11 DIRECT EXAMINATION

12 BY MS. SAMPSON:

13 Q Good morning, Mr. Thomas?

14 A Good morning.

15 Q What do you do?

16 A I'm a paramedic with Richland County EMS.

17 Q And how long have you been with Richland
18 County EMS?

19 A Seven years, four months.

20 Q Okay. Were you employed anywhere before
21 that?

22 A Before that I was employed at Lexington
23 Emergency Medical Center?

24 Q Okay. In February you were a paramedic.
25 Can you tell us a little bit about your

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1 training?

2 A As a paramedic, I basically provide
3 prehospital care, advanced life support, take
4 care of basic medical needs until we can get
5 someone to the hospital.

6 Q That's your duty? You're essentially a
7 first responder?

8 A We do more a little bit more than a first
9 responder. We give more care than a first
10 responder.

11 Q Can you tell us a little bit about what you
12 do?

13 A As far as advanced life procedures, if
14 somebody's heart stops beating, if somebody
15 stops breathing, we have measures to take to
16 try to restart those processes. We can beat
17 their -- pump their heart for them. We can
18 breathe for them, give them the medicines to
19 make -- hopefully help with the process to
20 restart the heart.

21 Q And back on February 13 of 2010, were you
22 working in your present capacity -- a couple
23 years ago?

24 A No. I was in paramedic school at the time.
25 I was still an EMT Basic.

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- 1 Q Okay, an EMT Basic. But you were with
2 Richland County EMS?
3 A Right.
4 Q Just in a different position?
5 A Correct.
6 Q And how many calls would you say you've
7 responded to while working in your capacity?
8 A No response.
9 Q Just generally. Is it a lot?
10 A The County averages about 3,500 a month, so
11 I would say I've responded to -- maybe 1,100,
12 maybe.
13 Q A lot?
14 A A lot, yes.
15 Q Do you keep reports of ---
16 A We do, yes.
-
- 17 Q --- these responses, these incidents.
18 A Yes
19 Q Do you keep these reports so you can keep
20 up with the information?
21 A Well, at the end of the shift we have to
22 file them away and they keep them in the records
23 anywhere.
24 Q You couldn't personally recall every case?
25 A No. No.

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1 Q Would it assist you if you had a copy of
2 your report in this case?

3 A It would greatly, yes.

4 Q Did you have occasion to become involved in
5 this case -- (tendering document).

6 A I'm sorry?

7 Q Did you have occasion to become involved in
8 this case?

9 A Yes. I do remember the call.

10 Q And can you tell us where and when you
11 responded on February 13, 2010?

12 A My memory is it was in the courtyard of
13 Gonzales Gardens, [REDACTED]. I
14 don't remember which building it was in the back
15 of.

16 Q But in the Gonzales Gardens?

17 A Yes.

18 Q On your report, is it noted what time you
19 received the call as well as what time you were
20 dispatched?

21 A We received it at -- 911 received it at
22 15:20. We had dispatched at 15:22.

23 Q So that's 3:20 and 3:22 in the afternoon,
24 right?

25 A Correct, yes.

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1 Q What exactly did you observe when you
2 arrived?

3 A Upon arrival on the scene, we were probably
4 maybe thirty, thirty-five feet away from the
5 individual. What I notice when had we pulled up
6 was that the patient was lying on the ground. I
7 did notice some movement, but I couldn't tell
8 how severe it was until we got closer up on him.
9 Once we got closer we realized he was having
10 some posturing signs and, so, we followed all
11 out standard protocol.

12 Q So the posturing, is that like a seizure?
13 Can you describe that kind of movement that
14 happens?

15 A It's involuntary -- it's kind of like a
16 seizure but it is more indicative of a brain
17 injury. It's a different part of the brain than
18 a seizure.

19 Q And that it movement you stated is
20 involuntary?

21 A It's involuntary, yes.

22 Q Did you note any kind of injuries to the
23 face or the head?

24 A I did notice some blood on his face. I
25 don't recall any obvious deformities of the

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1 skull or anything, no other injuries that I can
2 remember.

3 Q Okay. So maybe just some abrasions and
4 contusions to the face with some swelling?

5 A It was obvious he had been assaulted in
6 some way.

7 Q Was he conscious?

8 A No, he was not conscious.

9 Q In your report, what impression did you
10 note? I believe it will be on ---

11 A Actually, I did not write the call. My
12 partner did.

13 Q Okay.

14 A I can give you the initial assessment that
15 we both did, but you he wrote the call. He
16 spent a little more time with the patient than I
17 did.

18 Q But you were both out there assisting one
19 another?

20 A Yes.

21 Q And so he was unconscious ---

22 A (Affirmative nod).

23 Q --- and at that point what did you all do?

24 A All standard protocol. We put him in full
25 spinal precautions, put him on the back board,

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1 put a C collar on him to immobilize him as much as
2 we can. We transported him to the back of the
3 unit. I got up front and drove and my partner
4 stayed in the back with the patient.

5 Q And where did you all transport him to?

6 A Richland Emergency Department.

7 Q And when you arrived there, what happened?
8 Was he turned over to the trauma unit?

9 A Correct, we put him in the trauma room,
10 made our report to the trauma doctor on duty, to
11 the nurses. At that point, we stepped back and
12 let them take over. I got the truck together
13 and we prepared for the next call. I don't know
14 what the emergency department did for him. We
15 left the room.

16 Q All right. So that was the extent of your
17 involvement?

18 A Yes, it was -- it was a fast call. We knew
19 we had to get him to the hospital.

20 Q And the hospital is fairly close?

21 A Right. It's less than a three or four
22 minutes transport.

23 MS. CAMPBELL: Thank you.

24 THE COURT: Cross-examination?

25 MR. FARLEY: Yes, sir.

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1 CROSS EXAMINATION

2 BY MR. FARLEY:

3 Q Thank you Mr. Thomas. When you arrived on
4 the scene, did you observe anyone there?

5 A I believe there were a couple of people
6 standing outside of their doors, apartment
7 doors. Okay. They were the ones that told us
8 that he had gotten assaulted.

9 Q Do you have any information regarding my
10 client, Ms. Robin Reese?

11 A I'm sorry?

12 Q Do you have any information regarding my
13 client, Robin Reese?

14 A No.

15 Q Did you observe her at all?

16 A Not to my knowledge. The standard protocol
17 is to determine how many patients you have on
18 the scene and if you were able to gather some
19 actual information, that's what we do, but he
20 was our only patient and that's what we focused
21 on.

22 Q But you have no information regarding the
23 defendants today?

24 A No.

25 MR. FARLEY: Thank you Mr. Thomas.

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1 THE COURT: Mr. Chaplin?

2 MR. CHAPLIN: Thank you.

3 CROSS EXAMINATION

4 BY MR. CHAPLIN:

5 Q Good morning, Mr. Thomas.

6 A Morning.

7 Q I think we've already discussed that you
8 prepared a report in this matter?

9 A Actually my partner prepared it, but I was
10 on the call with her.

11 Q Okay. All right. So let's just go over it
12 briefly. In the report it says that someone --
13 well, the report indicates that there was an
14 assault by ---

15 MS. SIMPSON: Objection, Your Honor.
16 Improper hearsay.

17 MR. CHAPLIN: I think it was -- the
18 report -- I'm sorry.

19 THE COURT: The report is not in
20 evidence. You can ask him. Ask him what he
21 knows about it.

22 CROSS EXAMINATION

23 BY MR. CHAPLIN:

24 Q Have you reviewed this report?

25 A I have not. This is the first time I've

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1 seen this, when she gave it to me.

2 MR. CHAPLIN: May I approach the
3 witness? I think this report was taken in the
4 normal course of business.

5 THE COURT: Go ahead and ask him a
6 question.

7 MR. CHAPLIN: Okay. I was just giving
8 him a second.

9 CROSS EXAMINATION CONTINUED

10 BY MR. CHAPLIN:

11 Q Mr. Thompson (sic)?

12 A Yes.

13 Q How many people does that report indicate
14 participated in an attack?

15 A The report says three men and one woman.

16 Q Okay. All right. Now, you also indicated
17 that you did not -- you do not know where you
18 picked up the body from?

19 A I don't know between which buildings but it
20 was [REDACTED].

21 Q Okay. So it was at [REDACTED] I'm just going
22 to walk up here. It's at addressed but you
23 don't know if it could have been at the top.
24 You don't know if it could have been in the
25 muddle. You don't know if it could have been at

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1 the bottom. You don't know?

2 A What is that in reference to? Top?

3 Middle?

4 Q [REDACTED].

5 A It was on the Forest Drive side.

6 Q Okay. I think my pen just quit working but

7 Forest Drive is over here? So it could have

8 been anywhere on this side?

9 A Between the buildings, yes.

10 Q Okay. That's approximate. That's about as
11 specific as you can get?

12 A Yes, so far, yes.

13 MR. CHAPLIN: I have nothing further.

14 THE COURT: All right.

15 MR. CHAPLIN: Thank you.

16 THE COURT: Redirect?

17 MS. SAMPSON: Just briefly.

18 REDIRECT EXAMINATION

19 BY MS. SIMPSON:

20 Q Just briefly, what is the name of the
21 victim -- based on the report.

22 A The name in the report is Kenneth Mack.

23 Q All right. Nothing further?

24 THE COURT: Anything further?

25 MR. FARLEY: No further

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1 questions, Your Honor.

2 THE COURT: Anything further?

3 MR. CHAPLIN: (No verbal
4 response). response.

5 THE COURT: You can come down, sir.
6 Thank you very much.

7 (WITNESS STEPS DOWN)

8 THE COURT: May this witness be
9 excused?

10 MS. SAMPSON: Yes, sir.

11 MR. CHAPLIN: No objection.

12 MR. FARLEY: No objection, Your Honor.

13 THE COURT: Without objection.

14 Next witness.

15 MS. SAMPSON: Thank you, Your Honor.

16 MS. SAMPSON: The State would call Kara Chase.

17 (WITNESS TAKES STAND)

18 KARA CHASE, being duly sworn to tell
19 the truth, the whole truth and nothing but the
20 truth, testified, as follows:

21 DIRECT EXAMINATION

22 BY MS. SAMPSON:

23 Q Ms. Chase, how old are you?

24 A. Thirty-two (32).

25 Q And where do you live?

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1 A

2 Q Back in 2010, specifically in February
3 of 2010, were you living somewhere different?

4 A Yes, I was on the street then.

5 Q You were on the street?

6 A (Affirmative nod).

7 Q Are you familiar with the Gonzales Gardens
8 area?

9 A Yes, ma'am.

10 Q And did you have an occasion to go over to
11 Gonzales Gardens back in February of 2010?

12 A Yes, ma'am.

13 Q And tell this jury why you would go over
14 there?

15 A I have a friend that stated out there. She
16 is more like a best friend.

17 Q Best friend?

18 A And at the time being that I was in a
19 situation of being homeless, ---

20 Q Uh-huh.

21 A --- I would stay at her house.

22 Q And what was her name?

23 A Synovia Thompson.

24 Q And do you remember where in the complex
25 her house was located?

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- 1 A She lived in Apartment [REDACTED].
- 2 Q [REDACTED]?
- 3 A (Affirmative nod).
- 4 Q Are you familiar with the apartment that's
- 5 across from that, which is G, I believe.
- 6 A Yes, ma'am.
- 7 Q Back on February 13th, that afternoon were
- 8 you over there visiting Synovia?
- 9 A Yes, ma'am.
- 10 Q What were you doing that day?
- 11 A We were just outside. We had one of her
- 12 cousin's kids with us. We were just randomly
- 13 outside as usual.
- 14 Q And that's not unusual there, to be outside
- 15 and ---
- 16 A No.
- 17 Q And you're aware it snowed that day. Do
- 18 you remember that?
- 19 A To my recollection right now, no, I don't.
- 20 Q You don't remember that?
- 21 A No, I don't remember the snow.
- 22 Q But that afternoon when you were out there,
- 23 do you remember seeing certain people in a
- 24 beating?
- 25 A Yes, ma'am.

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1 Q Tell this jury what you first saw.

2 A I saw a man walking down the street.

3 Q Did you know him?

4 A No, I did not.

5 Q Okay.

6 A I saw him walking through the area. I was
7 actually down the street. He was up the street.

8 Q And when you say the street, was that
9 Forest Drive?

10 A (Negative gesture), in the complex area.

11 Q The street that runs in the complex?

12 A. Between the buildings.

13 Q And you were actually outside when you
14 first observed him?

15 A Yes, ma'am.

16 Q Which area was he coming from, could you
17 tell?

18 A He was coming from up the street, which
19 would have been from the BP and the open air
20 area.

21 Q The open air market area, so he was walking
22 towards the building where your friend lived?

23 A Right. He was coming down the street that
24 way.

25 Q What did you observe next?

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1 A The man had a couple words with another
2 gentleman. I really couldn't make out what they
3 were saying.

4 Q Where did they meet up and have some words?

5 A The man actually walked up to the other
6 man.

7 Q Okay. Let me differentiate, the man you
8 saw walking down the street?

9 A Yes, ma'am.

10 Q He made contact with another man?

11 A Yes, ma'am.

12 Q Did you know the man that he made contact
13 with?

14 A I knew him as the neighbor across the
15 street.

16 Q Did you know him by a nickname?

17 A Yes, ma'am.

18 Q What nickname did you know him by?

19 A Six.

20 Q So what ultimately turns out to be the
21 victim and Six have a meeting. What area of the
22 complex was that taking place?

23 A They were still right there by the G
24 Building.

25 Q By the G Building?

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1 A Right.

2 Q So it was outside?

3 A It was outside.

4 Q And that's when you first observed them
5 exchanging words?

6 A Right.

7 Q And could you tell what they were saying?

8 A No. At the time I could not.

9 Q Okay. And then what did you see happen?

10 A It looked like they had a disagreement.

11 They tried to walk down the street and Six
12 grabbed a man because it looked like obviously
13 the man said something.

14 Q Uh-huh.

15 A So he walked down the street with the man,
16 but he like nudged away, because it looked like
17 the man didn't want to go.

18 Q That's ultimately who becomes the victim in
19 the case?

20 A Right.

21 Q Six, you said, grabbed him?

22 A Right. He tried it to -- he was like, 'you
23 gonna talk to me.' I think they were already
24 talking because you could tell that the man had
25 said something. I just don't know what he said.

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1 Q And that would be Six or the other man?

2 A The other man. The man said something
3 first.

4 Q And then Six said something to him but you
5 don't know what was said?

6 A No, ma'am, huh-uh.

7 Q Is that when you saw Six grab the man?

8 A Right. He was going to walk down the
9 street with him.

10 Q By the arm?

11 A. Yeah, they pretty well stayed -- they
12 walked off together. It was just kinda like --
13 it wasn't forceful but it looked like the man
14 didn't want to go with him either.

15 Q So the man didn't want to go with him.

16 A. Right, but he did. He did walk off at
17 first. He did walk off.

18 Q And then what happened?

19 A Something else was said and there was a
20 reaction and the man got hit.

21 Q Which man?

22 A The deceased man.

23 Q And Six, who was the person hitting him?

24 A Six was the man that hit the man.

25 Q Did you see the victim actually go down?

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1 A Yeah, he fell on the ground.

2 Q When you saw him hit him, could you tell
3 how he hit him or you just saw him go down?

4 A It looked like when he went to hit him, he
5 kind of missed him, which caught the man off
6 guard which kind of -- that's why I said he was
7 swept off his feet.

8 Q Swept off his feet, so his feet were taken
9 out from under him?

10 A Right. It wasn't because he was hit -- the
11 hit was pretty much almost missed. It was as if
12 he hit him but he didn't hit him where he wanted
13 to hit him.

14 Q So he was trying to hit him with his fist?

15 A Right, it was like a punch.

16 Q And somehow, either with his legs, the man
17 got swept off his feet and he went down?

18 A Right, he did not kick the man down.

19 Q Okay.

20 A It was has if the man lost his balance.

21 Q And then he went down?

22 A Right.

23 Q Who'all was out there?

24 A It was just still them two. By that time

25 Six at one point had walked off.

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1 Q And when the man went down, did you see him
2 move any more?

3 A He did move as if to say he was defending
4 himself. He did kinda like, you know, like a
5 sway.

6 Q A bobble head?

7 A. He's on the ground, but it was like he was
8 just, you know, "humph", but he didn't get up.

9 Q Didn't get up?

10 A Right.

11 Q And at that point once he goes down, did
12 you see what Six did?

13 A That's where it kind of gets blurry to me
14 because I don't remember exactly what happened
15 from right there while the man was lying on that
16 particular area. I know Six wasn't right there
17 at the time. I know when the man hit the ground
18 that Six walked off.

19 Q And you just told us -- this happened two
20 years ago?

21 A Yes, ma'am.

22 Q Your memory is a little blurry now.

23 A Yes, ma'am. I'm blind, I'm on dialysis.

24 Q And you don't want to be here either, do
25 you?

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- 1 A Honestly, no, I don't.
- 2 Q I understand. You're under subpoena?
- 3 A I have to be here.
- 4 Q And Six and his sister, Robin, were people
5 you knew from being out at Gonzales Gardens?
- 6 A At the time I know I knew them, but I was
7 not as close to Ms. Robin as I am now.
- 8 Q Okay. And this is difficult for you?
- 9 A Right, because our children are best
10 friends.
- 11 Q I understand. Your children are best
12 friends?
- 13 A (Affirmative nod).
- 14 Q And you understand all we're trying to get
15 to is the truth?
- 16 A Yes, ma'am.
- 17 Q Do you remember back when this happened and
18 you gave a statement to the police about what
19 happened?
- 20 A Vaguely, but I do remember it.
- 21 Q Okay. And you just said in your testimony
22 here today now that your daughters are best
23 friends.
- 24 A (Affirmative nod).
- 25 Q That he didn't -- the man just fell down?

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1 A No. I said that he was -- what it looked
2 like was that he was intentionally hit, but the
3 hit was a miss. The way from what I saw, the
4 hit was a miss, and because the man was caught
5 off guard from the hit, he hit the ground. He
6 hit the ground hard enough. He stayed down.

7 Q Okay. Let me ask you this, do you remember
8 giving a statement to the police and at the time
9 you were being truthful with them; is that
10 correct?

11 A As far as I know I was.

12 Q Okay. Can you read this statement?

13 A No, ma'am, I cannot.

14 Q Okay. Do you remember telling them back
15 when -- before y'all were best friends that --

16 A No, our kids are best.

17 Q And -- okay.

18 A Our kids are best friends.

19 Q The victim snatched back and the other man
20 swept the victim from under his feet causing the
21 victim to hit his head on the pavement?

22 A Right. That's the same thing that I've
23 been saying the whole time, though.

24 Q Okay. But at that point when you were less
25 acquainted, that's what you said, that he swept

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1 him -- that Six actually did something to the
2 man that caused him to fall down?

3 A Right. I still say that.

4 Q And do you remember giving a second
5 statement on February 22, to another
6 investigator saying Six then kicked Mack's feet
7 out from under him. That Mack must have hit his
8 head when he fell because he didn't get up?

9 A No, I never told nobody that.

10 Q Okay. You don't remember giving a
11 statement to another investigator six days after
12 that?

13 A I remember talking to somebody, but I never
14 said he kicked the man from his feet.

15 Q And that's your testimony here today?

16 A Yes, ma'am.

17 Q Now, you're stating that at some point Six
18 walked off?

19 A He did. It wasn't a continuous thing at
20 that moment.

21 Q Okay.

22 A He did turn around and walk off.

23 Q Do you remember giving a statement to the
24 police back on 16th originally back before y'all
25 were friends saying a few seconds later a female

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1 runs up the street saying "that's him"?

2 A Right. I never said we were never friends.

3 It's just that at the time we were not friends

4 like that. We became closer as our kids became

5 close to each other, because our kids are close

6 in age.

7 Q Okay.

8 A I've always known her. I just didn't

9 associate myself with her because at the time I

10 was new to Gonzales Gardens. I was hanging out

11 up there but I didn't know everybody.

12 Q I understand. I'm not trying to -- please,

13 if I put words in your mouth, I don't mean to.

14 A Right.

15 Q Just so we get straight, though, your

16 relationship has progressed with her?

17 A Correct.

18 Q And this is difficult for you to be here

19 today?

20 A Yes, ma'am, it is.

21 Q But there's no doubt that even hearing your

22 testimony today that Six caused the man to go

23 down, hit his head and then he didn't get up or

24 move?

25 A He did get up after that. I told the

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1 police that. I told the investigators that.

2 He did get up from that spot and move, he never
3 stayed right there on that sidewalk.

4 Q Do you remember talking to the police back
5 when this happened and giving them a statement?

6 A No. I tell you, I've been through so much
7 myself that I don't remember everything. I kind
8 of -- I do remember, but I don't remember.

9 Q Do you remember telling police that the
10 words that you now can't remember from your
11 friends, that the victim said "I'm not going
12 anywhere. You just are going to have to do what
13 you do to me here."

14 A I do remember that.

15 Q Okay. Do you remember telling the police
16 that you witnessed the assault that occurred?

17 A I do remember that.

18 Q Do you remember telling the police that the
19 two people that participated in the assault were
20 Robin Reese and the guy you knew as Six, her
21 brother?

22 A Correct, but I also told them that
23 Ms. Reese came around that corner so fast and
24 went back around that corner so fast.

25 Q Okay. Do you remember saying that a female

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1 runs up the street saying "that's him"?

2 A I remember that.

3 Q Do you remember telling police she begins
4 kicking the man repeatedly, picking up an old
5 metal chair and throwing it on top of the victim
6 and hitting him?

7 A I told them that I have remember her
8 hitting but, but I don't remember her picking up
9 that chair.

10 Q Do you remember telling them that the other
11 man continued to kick and stomp the man in his
12 face once the female stopped?

13 A I do.

14 Q Do you remember the victim laid on the
15 ground the whole time this was occurring?

16 A No, because I told them that him he got up.
17 After the man was hit the first time and he laid
18 there, I told them that it looked as if he was
19 doing one of two things. Either he was faking
20 it, so that way nothing else would happen to
21 him, or he was seriously hurt. But I couldn't
22 tell because I'm on one end and he is on the
23 other end.

24 Q Okay. You were far away?

25 A But he did get up from that sidewalk.

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1 Q You were far away or close?

2 A Oh -- I was about twenty to thirty feet,
3 maybe.

4 Q Do you remember stating that Six had an
5 construction boots?

6 A I remember that.

7 Q And at the time you stated that you didn't
8 even know Six or Six's sister's real name?

9 A At the time I didn't. Not to -- I didn't
10 know them like that. I knew of their names but
11 not like that, not to say that was the name at
12 the time. I did not know. I was told her name.

13 Q Do you remember talking to the investigator
14 this morning and going over this statement?

15 A Yes, ma'am.

16 Q And you told him that it was correct?

17 A I told him to the best of my memory what
18 I wrote on that paper at the time, yes, ma'am.

19 Q Did you actually write this statement
20 yourself in your own handwriting?

21 A At the time I did, yes.

22 Q You've mentioned now that you can't see
23 well; is that correct?

24 A No, ma'am. I'm legally blind in my left
25 and partially in my right. I don't see your

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1 face right now.

2 Q At the time, were you able to see?

3 A Yes, ma'am.

4 Q And there is no doubt that the two people
5 that you saw that day during the assault?

6 A. Yes, ma'am.

7 Q So that hadn't changed?

8 A No, ma'am.

9 Q So you admit that the substance of what's
10 in this statement that you gave the police back
11 on February 16th is correct?

12 A I believed that it was at the time.

13 Q Do you remember giving a second statement
14 with more details?

15 A No, I do not remember that.

16 Q On February 22?

17 A I do not remember the second statement.

18 I know I talked to somebody, but I don't
19 remember the second statement.

20 Q Do you remember saying Mack -- and you
21 found out his name later, right?

22 A Yeah.

23 A I didn't know the man's name.

24 Q Okay.

25 A The police told me the man's name.

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1 Q You told that investigator that you heard
2 Mack tell Six that he was not going?

3 A He said that, "Whatever you're going to do
4 to me, you do it here. I'm not going anywhere."

5 Q And you told that investigator that Six
6 then kicked Mack's feet out from under him?

7 A No, I told him that he hit him and the man
8 was swept off his feet.

9 Q So this investigator got it wrong?

10 A Right, I don't agree with that paper on
11 that.

12 Q Okay. Do you remember telling him that
13 Mack must have hit his head when he fell because
14 he didn't get up?

15 A I did say that it looked like he hit his
16 head when he hit the ground, yes.

17 Q And he just laid there like he was out?

18 A Right. I said that, too, that he was
19 either out or that he was faking it because some
20 people do that. Where they don't want to be
21 abused anymore. They don't want to be taken
22 advantage of, so they fake what's going on.
23 They think if people are thinking that they are
24 hurt that they may walk away from them.

25 Q And then they die?

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1 A No, because he didn't just die there.

2 Q Okay. And then you said this is when
3 Robin, Six's sister, came out of the house and
4 said "that's him"?

5 A After the man was lying on the ground. She
6 did come from around the corner.

7 Q Then you told that investigator that Robin
8 and Six began kicking and stomping Mack's head,
9 face, sides and stomach?

10 A I have didn't tell him that because I don't
11 remember them together doing anything.

12 Q You actually told him more details, that
13 one was on one side and the other was on the
14 other side, kicking his head back and forth?

15 A I didn't say that.

16 Q That you then -- that it had gotten so
17 violent that you then were rounding up children
18 to make sure they didn't witness any more?

19 A The man ended up in the middle of the
20 ground. When he got up, he wound up in the
21 middle of the ground.

22 Q That's your testimony now, that he got up?

23 A I been saying that. I've never not said
24 it. It's just that they didn't put it in there.

25 Q Well, when you wrote out the statement in

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1 your own handwriting, you didn't say he got up?

2 A No, I did. I don't remember -- I know I
3 told them, but no, I didn't write it in the
4 statement.

5 Q All right.

6 A But he did get up.

7 Q Do you remember ---

8 A That's when we was rounding up the kids.

9 Q And why were you rounding up the kids?

10 A Because it was too much going on. The kids
11 are actually -- kids are ones that kind be like,
12 'what's that?' These kids nowadays, they don't
13 listen. They want to run up, go see for
14 themselves.

15 Q I understand.

16 A So we were ---

17 Q You were just protecting the kids?

18 A Right.

19 Q Do you remember telling the investigator on
20 February 22nd that 'Robin gets a metal chair
21 from outside of the apartments and hits Mack in
22 the head, at least twice'?

23 A I don't remember that.

24 Q Do you remember telling that same
25 investigator that Six then takes the chair and

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1 hits him?

2 A I do remember that. I just don't remember
3 her.

4 Q Then you talked about how people were
5 calling 9-1-1?

6 A I don't know who called 9-1-1. I know my
7 friend called 9-1-1 and the operator acted like
8 she wasn't listening to her, so I took the phone
9 and I said that there was a man who had just
10 been beaten up and he's laying in the middle of
11 the ground between the F and G building and he
12 needs an ambulance.

13 Q The ambulance did come?

14 A The ambulance did come.

15 Q And took him off?

16 A (Affirmative nod).

17 Q Do you remember telling that investigator
18 Mack never attempted to cover himself during the
19 assault, that it was like he was out cold?

20 A I said that he didn't protect himself. I
21 didn't say that he was out cold. Because he
22 couldn't have been out cold, he was moving.

23 Q Do you remember talking to the police the
24 next day and pointing to the black metal chair
25 that had been used in the assault.

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1 A No. I never pointed it out because I never
2 talked to the police in Gonzales Gardens.

3 Q And let me get to that now. When the
4 police responded that afternoon after EMS came
5 and got the victim and everything, did you
6 actually make contact with the police?

7 A They called me. I happened to be standing
8 outside and the police car rolled up. He called
9 me over to his car, and he started asking me
10 questions.

11 Q Okay. And when you talked to the police at
12 that point, you didn't tell him anything about
13 what you had seen?

14 A No.

15 Q Why not?

16 A Because you don't talk to the police in the
17 hood like that.

18 Q Ultimately three days later on the 16th
19 though, you went down to headquarters; is that
20 correct?

21 A Yes, ma'am.

22 Q Why did you go down to the police
23 headquarters?

24 A Because a friend of mine's brother was
25 being accused of a murder that I know he didn't

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1 commit. At least from my point of view I knew
2 he did not commit it.

3 Q And who was that friend?

4 A Marcellius Brooks.

5 Q So you went down there and gave information
6 to the police that's corroborated by all the
7 other witnesses, to protect Marcellius Brooks?

8 A Yes, ma'am.

9 Q Did you tell them the truth?

10 A I believe I did. I tell them to the best
11 of my ability what I saw.

12 Q But that's changed here today now that
13 you're also friends with Robin Reese?

14 A It hadn't changed because I'm friends with
15 Robin. It's changed because I've been on a lot
16 of medicine. Most of the time -- as a matter of
17 fact, I'm not supposed to be out of the
18 hospital. I'm not supposed to be released until
19 March 1st but I left because I felt my kids were
20 more important than what's going on with me
21 right now.

22 Q Do you remember when you met with the
23 police and gave that statement that you wrote in
24 your own handwriting, that we've just gone
25 through, that they then asked you some follow-up

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1 questions about the identity of the two people
2 you saw during the beating that day?

3 A I know they asked questions -- exactly what
4 they asked, I don't remember.

5 Q Okay. And you've reviewed your statement
6 this morning and told investigators from our
7 office that was correct?

8 A To the best of my knowledge with the things
9 that I remember and don't remember, yes.

10 Q I want to show you what's being marked as
11 State's Exhibit 70, do you remember that day
12 when you gave that statement that you were shown
13 some photographs?

14 A Right.

15 Q Showing what has been marked as State's
16 Exhibit 70, do you recognize that?

17 A (No verbal response).

18 Q You can't see any more?

19 A I mean, I see ---

20 Q Does holding it further away help?

21 A No. You've got to bring it a lot closer.

22 Q And you actually looking at the six
23 photographs in this one and you recognized one?

24 A Right.

25 Q And I believe you circled and initialed

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1 number one, is that correct?

2 A Correct.

3 Q That's what you did that day, and then you
4 signed off on the front page of the lineup

5 identification form that that is person that you
6 recognized?

7 A Right.

8 MS. SAMPSON: Your Honor, at this
9 time we'd offer State's Exhibit 70 into
10 evidence.

11 THE COURT: Any objection?

12 MR. FARLEY: No objection, Your Honor.

13 MR. CHAPLIN: No objection, Your Honor.

14 THE COURT: State's Exhibit 70.

15 (SO ENTERED AS STATE'S EXHIBIT 70)

16 DIRECT EXAMINATION CONTINUED

17 BY MS. SAMPSON:

18 Q That also showed you a second set of
19 pictures marked as State's Exhibit 71, do you
20 recognize those?

21 A Yes, ma'am.

22 Q Is that the photo lineup they showed you
23 that day?

24 A Yes, ma'am.

25 Q Did you recognize one of the people as a

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1 person that you saw out there that day?

2 A Yes, ma'am.

3 Q You circled it and initialed it, right?

4 A Yes, ma'am.

5 Q That would be number two in this one?

6 A Yes.

7 MS. SAMPSON: Your Honor, at this
8 time we would offer State's Exhibit 71 into
9 evidence.

10 THE COURT: Objection?

11 MR. FARLEY: No objection, Your Honor.

12 MR. CHAPLIN: No objection.

13 (SO ENTERED AS STATE'S EXHIBIT 71)

14 DIRECT EXAMINATION CONTINUED

15 BY MS. SAMPSON:

16 Q Are these the two people that you
17 recognized from the assault that you witnessed
18 inbetween buildings G and F that day?

19 A Yes.

20 Q And one of these is Six and the other is
21 Robin.

22 A (No verbal response).

23 Q I'm sorry, I'm almost through. I know you
24 don't want to be here.

25 A It's okay.

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1 Q In your statement, in your own handwriting
2 when you wrote the "victim snatched back and the
3 other man swept the victim under his feet,
4 causing the victim to hit his head on the
5 pavement." That's what you wrote?

6 A Yes, ma'am.

7 Q Then you wrote, "A few seconds later, a
8 female runs up the street, saying "that's him."

9 COURT REPORTER: You need to slow down.
10 I can't understand that.

11 MS. SAMPSON: I'm sorry. I know
12 that I get carried away.

13 DIRECT EXAMINATION CONTINUED

14 BY MS. SAMPSON:

15 Q Is that right?

16 A (No verbal response).

17 Q Then you wrote, "She begins kicking the man
18 repeatedly, picking up an old metal chair,
19 throwing it on top of the victim." That's what
20 you wrote?

21 A That's what I wrote.

22 Q And "The other man continued to kick and
23 stomp the man in his face once the female
24 stopped."

25 A No. See, ---

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1 Q I'm just asking you if that's what you
2 wrote?

3 A That's what I wrote. Right.

4 Q And then finally, and I'm through, "The
5 victim laid on the ground the whole time this
6 was occurring."

7 A (No verbal response).

8 Q You were with friends, you said, earlier to
9 go down there and tell the police who was there.
10 Did you ever see Marcellius Brooks out during
11 the assault you witnessed?

12 A At one point he did -- a distance away, I
13 remember seeing him walking through. He never
14 walked up where we were.

15 Q Not near the assault?

16 A So -- he didn't know what was going on at
17 the time, but he was cutting through.

18 Q In a different part of the complex?

19 A Right.

20 Q But as far as where the assault was taking
21 place, he wasn't around?

22 A He was not around.

23 Q And the two people you saw participating in
24 the assault were Robin Reese, who you know, and
25 her brother, who you knew as Six?

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1 A (Affirmative nod).

2 Q And you are friends with Marcellius Brooks.

3 Does he have a nickname?

4 A I am friends with Marcellius Brooks.

5 Q Bloom?

6 A Correct.

7 Q And were you aware that he is good friends
8 with Robin Reese, as well?

9 A At the time I did not know.

10 Q Now you know?

11 A As time progressed, yes.

12 Q The two people that you saw committing that
13 assault, do you see them here in the courtroom?

14 A Honestly, they're here but I cannot see
15 them.

16 Q You cannot see them.

17 Q But you're aware they're here in court?

18 A Yes, ma'am.

19 Q And you're aware they've been charged in
20 this matter?

21 A Yes, ma'am.

22 Q You would like to do what you could to help
23 them?

24 A Yes, ma'am, I would.

25 Q Thank you.

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1 THE COURT: Cross examination?

2 CROSS EXAMINATION

3 BY MR. FARLEY:

4 Q Thank you, Ms. Chase. I just have a few
5 questions for you. First off, I know that in
6 your prior testimony, you said that your child
7 and Ms. Reese's child are best friends?

8 A Yes, sir.

9 Q And you know my client, Ms. Reese?

10 A Yes, ma'am.

11 Q But you still want to come here and tell
12 the truth, tell your story. Correct?

13 A Correct.

14 Q To tell your story?

15 A Correct.

16 Q And you said -- earlier you said that you
17 saw Ms. Reese come around the corner?

18 A Yes, sir.

19 Q But then you saw her -- I'm trying to see
20 if I have it right. You saw her run away?

21 A Just as fast as she got around the corner
22 was as fast as she went back around the corner.

23 Q Just a little bit of clarity, how much time
24 do you think you spent there then?

25 A It happened so fast, it could -- I don't

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1 even think it was five minutes that she was
2 there.

3 Q She was upset?

4 A She ---

5 Q Did she appear agitated, yes.

6 A Yes.

7 Q At that time, did you have any reason to
8 know why she would have been or is that just
9 what you observed?

10 A At the time I didn't know exactly why she
11 was mad, no.

12 Q You just saw her agitated and upset?

13 A Right. I knew something was wrong but I
14 just didn't know what exactly.

15 Q And you also stated from your testimony
16 today that you didn't -- you don't recall her
17 striking Mr. Mack with any objects, especially a
18 chair?

19 A I don't remember that. I know it's written
20 in my statement, but I don't remember that. Had
21 it not been read to me, I wouldn't have
22 remembered that I wrote that.

23 Q Can you recall maybe why you wrote that?

24 A I don't know if it was at the time what was
25 going on, just how fast everything was happening

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1 or what it was -- talking to the police. I
2 know -- I'm not saying they put words in my
3 mouth, but at the time there was a lot of stuff
4 I didn't know that based just on what I saw, it
5 kind of fit and I wrote it in my statement.

6 Q I mean, could it have been that you didn't
7 actually mean that you saw her utilize the chair
8 as a weapon?

9 A Right. Yeah. I mean, I don't remember her
10 picking up the chair. I don't.

11 Q Well, in your opinion, to your belief, do
12 you believe Ms. Reese could have picked up that
13 chair and used it as a weapon?

14 MS. SAMPSON: Objection, Your Honor, to
15 her opinion. She is supposed to be testifying
16 to what she saw.

17 THE COURT: Sustained.

18 CROSS EXAMINATION CONTINUED

19 BY MR. FARLEY:

20 Q Well, do you recall her having the chair at
21 all?

22 A No, I don't.

23 Q Okay. And you say she was only there for
24 about five minutes?

25 A If that.

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1 Q If even five minutes?

2 A Just as fast as she came around that
3 corner, she went back around that corner.

4 Q Did you see her or observe her leave with
5 anyone else?

6 A Her daughter.

7 Q Her daughter?

8 A And she never made it around the corner.

9 From where I was standing at, I ---

10 Q Well, let me clarify for one second, when
11 you say she never made it around the corner, you
12 mean -- who do you mean?

13 A Her daughter was actually walking down the
14 street, so by the time she got around the corner
15 and got back around, her daughter hadn't even
16 made it past the bush that's on the side of the
17 building.

18 Q Let me clarify that. From your perspective
19 and you're saying that the incident was
20 occurring -- what was your angle of perspective?
21 Was it right in front of you or to the right or
22 ---

23 A That was right in front of me. Where I was
24 standing at and how I could see her coming down
25 the street, that was in front of me.

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1 Q When you say see her, you mean -- who do
2 you mean?

3 A I saw her, Ms. Reese, first and give or
4 take a few minutes, I seen her daughter walking.
5 By the time her daughter made it to that bush, -
6 ---

7 Q But you ---

8 A --- Ms. Reese is already walking around the
9 corner, walking her back home.

10 Q But you observed Mr. Gray and the victim?

11 A Yes, sir.

12 Q Was Robin coming around the corner that was
13 in the distance or the other corner?

14 A Far corner.

15 Q Was the incident in between you and the
16 corner that she came around?

17 A Right. It was like they were here, I was
18 here when she appeared.

19 Q So she was coming towards you?

20 A Right.

21 Q And also from your perspective you could
22 see her daughter turn the corner coming towards
23 you?

24 A She never turned the corner.

25 Q Okay. How do you know she was coming then?

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1 A I've known her child. I could see her
2 walking this way, but she never made it around
3 that corner.

4 Q And why didn't she make it around the
5 corner?

6 A She didn't make -- the daughter never made
7 it around the corner.

8 Q Well, she was walking out -- did she stop
9 walking?

10 A By the time Ms. Reese made her way around
11 that building, she turned her daughter around
12 and they walked back, so the daughter never made
13 it past -- there's a bush right there on the
14 side of that building. Her daughter never made
15 it past that bush.

16 Q So it's your testimony today Ms. Reese was
17 only there a few minutes and then she left to
18 escort her daughter back?

19 A Right. I've always said that.

20 MR. FARLEY: No further questions
21 Ms. Chase. Please answer anything Mr. Chaplin
22 has.

23 THE COURT: Mr. Chaplin.

24 MR. CHAPLIN: Thank you very much, Your
25 Honor.

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1 CROSS EXAMINATION

2 BY MR. CHAPLIN:

3 Q Good morning, Ms. Chase.

4 A Good morning.

5 Q How are you doing?

6 A Good.

7 Q Good. Ms. Chase?

8 A Yes, sir.

9 Q So on the 13th of February 2010, you saw an
10 altercation?

11 A Correct.

12 Q How long after that, did you find out that
13 a friend of yours was in trouble, Marcellius
14 Brooks?

15 A I can't honestly say if it was that
16 afternoon, that evening, but it was like the
17 same day.

18 Q Okay. All right. And you wanted to help
19 your friend, correct?

20 A Yes, sir.

21 Q Okay. So on the 16th of February of 2010
22 you and several other ladies went down to the
23 Columbia Police Department, did you not?

24 A Correct.

25 Q Okay. And I don't know if you all traveled

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1 together but you all got there around the same
2 time; right?

3 A Correct.

4 Q And prior to going to the police station on
5 that morning, the three of you've might have had
6 conversations about this?

7 A I have can honestly say, no. I mean, we --
8 see, I can't really remember.

9 Q Okay.

10 A But I can honestly say for myself I have
11 not talked about this incident up until the last
12 few weeks -- well, the last few days.

13 Q All right.

14 A I don't know if it was something everybody
15 wants to avoid or ---

16 Q Right.

17 A But we just didn't talk about it.

18 Q And you've been sick, as well, too, haven't
19 you?

20 A Yes, sir, I was put on dialysis in back in
21 November of 2010.

22 Q You go down to the police station and -- to
23 help your friend -- and you give a statement?

24 A Correct.

25 Q To the police?

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1 A. Yes.

2 Q Then on the 22nd of the same month, you get
3 approached again by another investigator. Do
4 you remember a gentleman by the name of McNeil?

5 A The name sounds familiar but I don't
6 remember him exactly. I can't tell you what he
7 looks like.

8 Q I think ethically he had to identify
9 himself as Marcellius Brooks' investigator,
10 correct?

11 A I don't remember.

12 Q Okay. Well, anyway, then he does a
13 statement that I think they were asking you
14 about here this morning?

15 A (No verbal response).

16 Q But that statement is not your handwriting?

17 A No.

18 Q And you never signed it?

19 A No.

20 Q Did you ever get a copy of it?

21 A No, sir.

22 Q So some of the things that you heard this
23 morning are kind of surprising?

24 A Yes, sir.

25 Q And this whole thing has been real tough on

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1 you, hasn't it?

2 A It has the closer it's gotten to this
3 trial, it has.

4 Q Yeah. Now, Ms. Chase, are you telling the
5 truth to us today?

6 A Yes, sir, to the best of my ability, I am.

7 Q Best of your ability. Okay. Now, you said
8 that at the end of this -- well, right around
9 when the ambulances and things were coming that
10 you saw Marcellius Brooks still in the area?

11 A He was cutting through one of the building.
12 They come down the road and they cut through the
13 daycare.

14 Q Got it. Now, does he live at -- do you
15 know if he lives at Gonzales Gardens?

16 A I don't think. I don't know if he did or
17 didn't.

18 Q Do you know now?

19 A Honestly, I don't think he did.

20 Q All right. But it's your testimony that he
21 was still in the area of Gonzales Gardens?

22 A Right. I believe he -- I remember seeing
23 him with his bookbag, and I later knew that he
24 was going, you know, ---

25 Q Okay.

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1 A He was going about his business.

2 Q All right.

3 A As far as I know, he didn't know what was
4 going on.

5 Q So you did see -- your testimony is you saw
6 Mr. Gray and the deceased having a conversation?

7 A Right. The man.

8 Q And I'm not asking you to repeat your
9 testimony again. I'm just ---

10 A Right.

11 Q Unless you want to.

12 A They did have a conversation.

13 Q Okay. And could you see the victim's face
14 during this conversation?

15 A At the time, no.

16 Q No. His back was to you?

17 A On several instances, they was and they
18 wasn't. You know, I'm standing on one end of
19 the building. He's on the whole other end of
20 the building.

21 Q Could you tell if he had been beaten
22 earlier?

23 A No, I could not.

24 Q I probably just have two more questions,
25 Ms. Chase.

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1 Q So on the 16th of February when you went
2 down to the police station with the other
3 ladies, you were encouraged to do that by
4 Marcellius Brooks and his family?

5 A No, sir, I did that on my own.

6 Q On your own?

7 A Yes, sir.

8 Q And you just happened to be there with his
9 other witnesses?

10 A Correct.

11 Q Okay. I thank you very much, ma'am.

12 A You're welcome.

13 THE COURT: Any redirect?

14 MS. SAMPSON: Your Honor, I have a
15 matter of law.

16 THE COURT: Is there redirect?

17 MS. SAMPSON: I have a matter of law
18 before I can do my redirect. I tried to bring
19 it up earlier.

20 THE COURT: I'm sorry?

21 MS. SAMPSON: I tried to bring this up
22 earlier to your attention.

23 THE COURT: All right. Ladies and
24 gentlemen, let's take a short break. Let me
25 take this up with the attorneys. Just go to

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1 your jury room. Don't discuss the case among
2 yourselves while you're in the jury room. I
3 will just be a minute.

4 (JURY OUT @ 11:43 A.M.)

5 THE COURT: Yes, ma'am?

6 MS. SAMPSON: May it please the Court,
7 Your Honor. It has come to my attention that
8 the investigator during the course of the
9 cross-examination, he asked her something about
10 being interviewed by a private investigator for
11 the defendant Marcellius Brooks. It is my
12 understanding that she has also been interviewed
13 by Mr. Chaplin's investigator. At this point
14 since she is hostile towards the State, we would
15 like to review her statement and, at this point,
16 I think we would have a right to.

17 THE COURT: Which statement?

18 MS. SAMPSON: The statement taken by
19 his investigator.

20 THE COURT: By Mr. Chaplin's
21 investigator?

22 MS. SAMPSON: Or Mr. Farley's
23 investigator. They both have investigators.

24 THE COURT: What's your position?

25 MR. FARLEY: Your Honor, I didn't --

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1 I'm sorry, do you want to speak?

2 MR. CHAPLIN: No, you go first.

3 MR. FARLEY: I didn't refer to her
4 statement in my -- make any reference to it at
5 all. I have no intention of putting it in at
6 this point when I cross-examined her.

7 THE COURT: How about it, Mr. Chaplin?

8 MR. CHAPLIN: Your Honor, I would say
9 the same. The statement that I have referred to
10 is the statement that the State provided me
11 there Mr. McNealy.

12 THE COURT: I thought -- I
13 misunderstood. You said it was Marcellius
14 Brook's investigator. Who is that?

15 MR. CHAPLIN: Well, it is my
16 understanding that ---

17 THE COURT: Who is that?

18 MR. CHAPLIN: It's my understanding
19 that ---

20 THE COURT: What's his name?

21 MR. CHAPLIN: Investigator McNeil.

22 THE COURT: He works for Marcellius
23 Brooks?

24 MR. CHAPLIN: Well, he works for the
25 Public Defender's Office and Marcellius Brooks

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1 has a public defender.

2 THE COURT: All right. And he took a
3 statement?

4 MR. CHAPLIN: From Kara Chase four to
5 five days after ---

6 THE COURT: All right. You asked her a
7 questions about it?

8 MR. CHAPLIN: I did.

9 THE COURT: All right. Turn it over to
10 the State.

11 MR. CHAPLIN: Turn what over to the
12 State?

13 MS. SAMPSON: No, sir. I'm asking for
14 their investigator's.

15 MR. CHAPLIN: She gave me the McNeil
16 statement.

17 THE COURT: All right. Now, ---

18 MS. SAMPSON: Because at this point now
19 the inference is since her testimony has changed
20 since she came to court today, the inference is
21 she has never told anybody else but the police
22 and that the police lied, did not put down
23 everything that she put, things of that nature.

24 I think that I have a right, in the
25 interest of justice to review the statement

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1 taken by their investigators since they were out
2 there, as far as whether or not she has given
3 inconsistent statements before.

4 THE COURT: How about that?

5 MR. CHAPLIN: Your Honor, I don't -- I
6 feel that would be highly inappropriate for my
7 client. I mean, it's not Mr. Gray's defense
8 team's fault that her witness that she put on
9 the stand gave her inconsistent answers or
10 responses.

11 THE COURT: Yeah, but what if your
12 investigator -- if she gave inconsistent answers
13 in her testimony today to your investigator, why
14 should that not be a basis for cross examination
15 of this witness?

16 MR. CHAPLIN: Well, then I think then
17 the way to do that would be to have my
18 investigator come in and speak to her if that's
19 what the State requires.

20 THE COURT: No, that's not the issue.
21 The issue is, did she say something to your
22 investigator that's inconsistent with her
23 testimony, her sworn testimony on the stand.

24 MR. FARLEY: Your Honor, may I reply
25 regarding the statement I may have taken.

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1 THE COURT: Well, right now I'm not
2 sure yours is in question.

3 MR. FARLEY: Yes, sir, and that's
4 exactly what I was going to.

5 THE COURT: How about it?

6 MS. SAMPSON: Your Honor, the inference
7 has been that she gave the statement to the
8 investigator to try to Marcellius Brooks out. I
9 think any prior statement ---

10 THE COURT: To who?

11 MS. SAMPSON: Well, first to the City
12 police, then to the investigator for Marcellius
13 Brooks. In addition to that, I ---

14 THE COURT: But you have that.

15 MS. SAMPSON: I've got that. In
16 addition to that, these two people sent out
17 investigators to whom she gave statements.

18 THE COURT: I know that.

19 MS. SAMPSON: The only thing we are
20 attempting to do is review those. At this point
21 her testimony has changed and we would have the
22 right to impeach her as to any prior
23 inconsistent statements. Either side has the
24 right to impeach. We don't have to vouch for
25 her credibility under 607.

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1 THE COURT: Right.

2 MS. SAMPSON: And that would be
3 the only purpose. We just ask for a moment to
4 review those statements and possibly use those.

5 THE COURT: Yes, sir?

6 MR. FARLEY: I would just reply, Your
7 Honor, that I didn't use any information that I
8 gained in any statement. I didn't refer to my
9 statement. I only referred to her own testimony
10 and the statement that was provided by the
11 State.

12 MS. SAMPSON: It's false -- it's
13 misleading on the court.

14 THE COURT: What are you relying on,
15 Mr. Chaplin?

16 MR. CHAPLIN: Well, first of all, Your
17 Honor, my investigator did speak with Ms. Chase.
18 My investigator does have notes that he has from
19 that conversation. Ms. Chase was hospitalized
20 at the time that he was speaking with her and
21 that's one of the reasons that I never had her
22 sign a statement or review a statement or
23 anything else like that, so that's why it's
24 never been executed. It's only notes. I did
25 not refer to any of that, as you could tell from

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1 my cross. I simply asked her about what was
2 already in evidence.

3 I don't know how fair it would be to
4 challenge her on something that she gave while
5 in the hospital; and I said that to my
6 investigator, as well.

7 THE COURT: All right. The motion is
8 denied. Ready for the jury -- ready for the
9 jury?

10 MS. SAMPSON: Yes.

11 THE COURT: Bring the jury in.

12 (JURY IN @ 11:51 A.M.)

13 BAILIFF: Your Honor, the jury is
14 present.

15 THE COURT: Redirect?

16 MS. SAMPSON: May it please the Court.

17 THE COURT: Yes, ma'am.

18 MS. SAMPSON: Thank you, Your Honor.

19 REDIRECT EXAMINATION

20 BY MS. SAMPSON:

21 Q Ms. Chase, I'm sorry. He asked you some
22 questions about how you got to the police
23 station this day on the 16th, three days after
24 this happened.

25 A Yes, ma'am.

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1 Q Do you remember how you got there?

2 A I rode with Marcellius Brook's brother.

3 Q When you got there, did you intentionally
4 lie to the police about what happened?

5 A No.

6 Q And you actually handwrote your statement?

7 A Yes, ma'am.

8 Q He asked you about a statement you gave to
9 Mr. Brook's investigator that was taken after
10 you talked to the police initially?

11 A Yes, ma'am. I remember talking to
12 somebody. I don't know who they worked for.

13 Q Okay. You didn't know who they worked for?

14 A No.

15 Q Since then, have you also had the
16 opportunity to talk to a private investigator
17 for Ms. Reese?

18 A Yes.

19 Q And which story did you tell them? Do you
20 have a copy of that statement?

21 A No.

22 Q Did they give you a copy?

23 A No.

24 Q Do you know which story?

25 A Yes, I did get a copy.

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- 1 Q Do you have it here today?
- 2 A No, I don't.
- 3 Q Do you know which story you told them?
- 4 A The one I just sat here and just told you.
- 5 Q How recently was it that they talked to
- 6 you?
- 7 A This was sometime last week.
- 8 Q Last week but when you met with my
- 9 investigator this morning, you said what was in
- 10 the statement was true?
- 11 A I told him to my ability or my knowledge
- 12 that I could remember, yes. I also told him
- 13 that there were things I did not remember.
- 14 When he repeated what was in my statement, I
- 15 said then 'I don't remember that.'
- 16 Q Okay. But you told him what was in the
- 17 statement to the best of your knowledge. To the
- 18 best of my knowledge, that's what I wrote.
- 19 Q And that could have been more -- your
- 20 memory might have been -- have you been on some
- 21 medications?
- 22 A Not then I wasn't.
- 23 Q So back then your mind was clear?
- 24 A As far as I know it was, yes, ma'am.
- 25 Q And you knew it was important to tell the

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1 truth?

2 A Yes, ma'am.

3 Q And in addition to talking to Ms. Reese's
4 lawyer's investigator last week, did you also
5 talk to Mr. Gray's lawyer's investigator about
6 what happened?

7 A I remember a gentleman coming into my
8 hospital room and referring to him as a doctor.
9 He later said that he did not say he was a
10 doctor. I do remember him saying Henry Gray's
11 name.

12 Q Okay. Do you remember what you told him?

13 A No, I don't remember none of what I told
14 him.

15 Q Did he give you a copy of your statement?

16 A No.

17 Q And as you testified earlier, you would
18 like to help them out in any way that you could?

19 A It's not to help them out in any way. It's
20 to tell the truth.

21 Q Yes, ma'am?, that's what we are talking
22 about.

23 A From what I know, from what I saw.

24 Q When you met with the police and handwrote
25 out your statement, that was the truth as you

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1 knew it at the time?

2 A As far as I knew it was, yeah.

3 MS. SAMPSON: Thank you.

4 THE COURT: Anything further?

5 MR. FARLEY: No further questions, Your
6 Honor.

7 MR. CHAPLIN: Nothing further,
8 Ms. Chase.

9 THE COURT: You may come down. Thank
10 you very much.

11 (WITNESS STEPS DOWN)

12 THE COURT: Approach the bench,
13 Counsel.

14 (OFF RECORD BENCH CONFERENCE)

15 MS. CAMPBELL: State calls Ida Menendez.

16 (WITNESS TAKES STAND)

17 IDA MENENDEZ, being duly sworn to tell
18 the truth, the whole truth and nothing but the
19 truth, testified, as follows:

20 DIRECT EXAMINATION

21 BY MS. CAMPBELL:

22 Q Investigator, where are you employed?

23 A The City of Columbia Police Department.

24 Q What do you do there, ma'am?

25 A I'm an investigator, ma'am.

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1 Q As part of your duties, do you assist other
2 investigators as the lead investigator in the
3 case?

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

5 Q You were not the lead investigator in this
6 murder case, were you?

7 A No, ma'am.

8 Q Did you've ultimately assist in a task on
9 February 16th, 2010?

10 A Yes, ma'am.

11 Q Can you tell the jury what you did that day
12 and what you were looking for?

13 A I was instructed to locate a large black
14 chair which was being watched over by another
15 officer -- a piece of evidence, -- to collect it
16 and tag it into the property room.

17 Q And where did you go to actually get that
18 piece of evidence?

19 A [REDACTED].

20 Q Specifically, was it between two buildings,
21 F and G?

22 A Yes.

23 Q What type of evidence were you looking for
24 that day when you went back three days after
25 this crime?

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1 A This was -- that chair. It was like a lawn
2 chair, a big 'ole metal chair. In fact, I see
3 it in the courtroom right now.

4 Q Okay. What's being marked has State's
5 Exhibit No. 72. When you got there, did you
6 take a crime scene investigator with you to take
7 some photographs?

8 A I believe a crime investigator went out.
9 I'm not sure if he was there with me. I don't
10 recall. I'm pretty sure they took pictures,
11 yes.

12 Q Okay. I'm going to show you'll a series of
13 pictures -- which, of course, are all out of
14 order -- which is Exhibit 58 through 65 and ask
15 if you recognize those?

16 A Yes, ma'am.

17 Q Does that show the general area where you
18 recovered the chair?

19 A Yes.

20 Q Just take a minute to look through them?

21 MS. CAMPBELL: Your Honor, State would
22 offer 58 through 65 into evidence.

23 THE COURT: Any objection?

24 MR. CHAPLIN: Yes. Your Honor, at this
25 point, my clients would object to that under

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1 Rule 403.

2 THE COURT: Let me see them.

3 MR. CHAPLIN: Sir?

4 MR. FARLEY: Your Honor, this is just
5 more prejudicial than probative.

6 MS. CAMPBELL: Yes, Your Honor, may I
7 approach?

8 (OFF RECORD BENCH CONFERENCE)

9 THE COURT: Objection is overruled.

10 MS. CAMPBELL: Thank you, Your Honor.

11 (SO ENTERED AS STATE'S EXHIBITS 58 THRU 65)

12 DIRECT EXAMINATION CONTINUED

13 BY MS. CAMPBELL:

14 Q Your Honor, may the witness step down?

15 A Certainly.

16 Q Can you step down? We'll just go through
17 the photographs with the jury. If you'll get on
18 this side it's easier for the court reporter. A

19 (Complies)

20 Q I'm going to show you what's being marked
21 as State's Exhibit 58. What area does that
22 show?

23 A That's Gonzales Gardens.

24 Q Is that showing the area between Buildings
25 F and G?

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- 1 A Yes, ma'am.
- 2 Q And specifically State's Exhibit 59, what
3 does that show?
- 4 A That shows the apartment that the chair is
5 sitting at. That's the chair that we collected.
- 6 Q And that's how it appeared when you got
7 there that day?
- 8 A Yes, ma'am.
- 9 Q Specifically State's Exhibit 62, does that
10 show how the chair was positioned when you got
11 there that day?
- 12 A Yes, ma'am.
- 13 Q And the other photographs which are just
14 closeups of those; is that correct?
- 15 A That's correct. There's only one chair.
- 16 Q These are all the same chair?
- 17 A Yes.
- 18 MS. CAMPBELL: Your Honor, permission
19 to publish?
- 20 THE COURT: Granted.
- 21 DIRECT EXAMINATION CONTINUED
- 22 BY MS. CAMPBELL:
- 23 Q You can step back up.
- 24 A Yes, ma'am.
- 25 Q I show you what's been marked as State's

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1 Exhibit 72. Is this the actual chair you
2 recovered that day?

3 A Yes, ma'am.

4 Q And that's the chair that's depicted in
5 those photographs?

6 A Yes, ma'am, it is.

7 MS. CAMPBELL: Your Honor, at this
8 time I'd like to offer State's Exhibit 72 into
9 evidence.

10 THE COURT: Objection?

11 MR. FARLEY: Objection, Your Honor. We
12 feel that this is far more prejudicial than it
13 is probative. There's already have pictures of
14 the chair in evidence. I don't see why we have
15 to have the actual chair in evidence.

16 THE COURT: Mr. Chaplin?

17 MR. CHAPLIN: I would join in that
18 objection, Your Honor.

19 THE COURT: All right. Overruled.

20 MR. CHAPLIN: Thank you, Your Honor.

21 (SO ENTERED AS STATE'S EXHIBIT 72)

22 DIRECT EXAMINATION CONTINUED

23 BY MS. CAMPBELL:

24 Q So State's Exhibit 72 is the actual chair
25 itself; is that correct?

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1 A Yes, ma'am. That's it.

2 Q Once you located the chair, did you then
3 take it into custody?

4 A Yes, ma'am, I did.

5 Q Was it transported back to headquarters?

6 A Yes, it was, right in the back of a patrol
7 car.

8 Q Ultimately it would have been processed by
9 different unit. You wouldn't have done the
10 actually swabbing for the DNA on this chair?

11 A No, ma'am.

12 Q That would have been crime scene?

13 A That's correct.

14 Q But you were the one who was able to locate
15 it and collect it?

16 A Yes, ma'am, and tagged it into property.

17 Q And that was the extent of your involvement
18 in this case?

19 A Yes, ma'am, pretty much.

20 THE COURT: Cross examination?

21 CROSS EXAMINATION

22 BY MR. FARLEY:

23 Q Is it Officer Menendez?

24 A Yes.

25 Q Investigator Menendez?

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1 A Yes, sir.

2 Q When did you pick up the chair -- you said
3 you went to the crime scene?

4 A Yes.

5 Q And that was -- do you remember which two
6 buildings that was between?

7 A Between F and G.

8 Q And do you recall what day that was that
9 you?

10 A I don't have notes in front of me. We just
11 testified earlier on that date.

12 Q Was it several days later?

13 A No. It was not long after this incident
14 occurred.

15 Q The next day or a few days?

16 A Again, I don't have notes in front of me,
17 sir. I don't recall how long. It wasn't very
18 long.

19 Q Okay. But this was after. You didn't do
20 anything related to the incident at all?

21 A (No verbal response).

22 Q You were there to collect the chair itself?

23 A Yes.

24 MR. FARLEY: No further questions.

25 MR. CHAPLIN: Thank you.

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1 CROSS EXAMINATION

2 BY MR. CHAPLIN:

3 Q Officer Mendez -- Menendez?

4 A Yes.

5 Q Okay. Excuse me. I just want to look at
6 this. So, Officer, you said that you were
7 instructed to go to the crime scene and collect
8 the chair?

9 A Yes, sir.

10 Q Okay. Had you read any previous reports
11 about this investigation prior to doing that?

12 A No, sir.

13 Q Okay. So the testimony was introduced that
14 the crime scene according to State's Exhibit 6
15 was at building L. Did you go to building L?

16 A No, sir.

17 Q What building did you go to?

18 A Right over there by Building G behind [REDACTED]
19 That's where we collected that particular piece
20 of evidence, the chair.

21 Q Okay. So the crime scene earlier was
22 identified as by building L. You picked up a
23 chair by G?

24 A I don't know anything about what you're
25 talking about, but that's where I went, yeah,

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1 Building G.

2 Q And how long -- I'm sorry, you might have
3 answered this already. When did you pick up
4 this chair, on what day?

5 A I testified earlier I don't have notes in
6 front of me, sir. The date that I said earlier.

7 Q I'm not trying to -- I just don't remember,
8 was it a week, was it two weeks, was it a month?

9 MS. CAMPBELL: Your Honor, if she
10 can have a copy of her report I think she would
11 be accurate.

12 MR. CHAPLIN: Okay. Thanks. I just
13 wanted to make sure that I had it.

14 MS. CAMPBELL: (Tendering).

15 CROSS EXAMINATION CONTINUED

16 BY MR. CHAPLIN:

17 Q All right. Do you want to take a second
18 and review that?

19 A (Upon review), okay. So your question was,
20 sir? Forgive me.

21 Q On what date did you go and collect this
22 chair?

23 A Okay. February 16th, 2010.

24 Q Okay. So around three to four days later?

25 A Excuse me?

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1 Q Do your notes show what the date of the
2 incident was?

3 A My note said the date of the incident is
4 February 16th, 2010.

5 Q Okay. Would it surprise you if I told you
6 the incident was February 13th, 2010?

7 A Sir, all I know is what I've got on my
8 notes right here. It says February 16th.

9 MR. CHAPLIN: Thank you very much,
10 ma'am.

11 WITNESS: You're welcome.

12 THE COURT: Any redirect?

13 MS. CAMPBELL: No, sir.

14 THE COURT: You may come down. Thank
15 you very much.

16 WITNESS: Thank you, Your Honor.

17 (WITNESS STEPS DOWN)

18 MS. CAMPBELL: The State would call
19 Investigator Sumpter, Your Honor.

20 (WITNESS TAKES STAND)

21 CLARENCE SUMPTER, being duly sworn to
22 tell the truth, the whole truth and nothing but
23 the truth, testified, as follows:

24 DIRECT EXAMINATION

25 BY MS. CAMPBELL:

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1 Q Good afternoon.

2 A Good afternoon.

3 Q You are an investigator, correct, now?

4 A Yes -- yes, ma'am.

5 Q How long have you been with the police
6 department?

7 A Approximately 17-and-a-half years.

8 Q Seventeen-and-a-half years. How did you go
9 through the ranks there?

10 A I started out as patrol officer and was
11 promoted to MPO after three or four years,
12 school resource officer, got promoted to
13 investigator.

14 Q How long have you been an investigator?

15 A Approximately three years.

16 Q And in February of 2010, what was your
17 position at that time?

18 A I was an investigator then.

19 Q Okay. And how did you become involved in
20 this case?

21 A We were called out in reference to a death
22 at an apartment complex.

23 Q So by the time that you were called, the
24 victim had passed?

25 A It was my understanding that -- I'm not

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1 sure whether he had already passed, but he was
2 in the hospital; but we were called to
3 investigate that possibility.

4 Q Okay. And where did you go upon being
5 called?

6 A I responded to Gonzales Gardens apartments,
7 and I met with Investigator Perry and then
8 Sergeant McFadden.

9 Q Is it unusual usual for there to be more
10 than one investigator?

11 A No.

12 Q Who was the lady investigator in this case?

13 A At that point, we were told that
14 Investigator Pegram is going to be the lead
15 investigator on the case.

16 Q So what was your going to be your job or
17 your role in that investigation at that point?

18 A To assist the lead investigator on anything
19 he or she may need to come to a conclusion.

20 Q Okay. So once you got to the Gardens, I
21 believe you said you were briefed at that point?

22 A We were briefed initially by Sergeant Babin
23 who was already there, and I met with him and
24 others.

25 Q At that time, did you know anything about

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1 what had happened?

2 A Before I got there, no, ma'am.

3 Q When you were briefed, what were you told
4 had happened?

5 A We were told the individual was in the
6 hospital after he was -- I think he was
7 assaulted by several males at that apartment
8 complex.

9 Q That's all you knew at that time?

10 A At that time, yes.

11 Q So based on that information, what did you
12 do?

13 A We started to follow leads that we had
14 gathered, to try to ascertain what had happened.
15 There was a report from a seafood market right
16 next to the apartment complex that we were
17 responding to.

18 Q And what did you do upon going to the
19 market?

20 A After being told that apparently the young
21 men who was involved in the assault on our
22 victim, we went there to see if they had a video
23 of the -- we had been told they had gone into
24 that restaurant.

25 Q Were you able to view any video?

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1 A There was video there, yes, ma'am.

2 Q Yes. What did you see?

3 A What I remember seeing was that there were
4 several young men would come in and approached a
5 lady who was actually in the place. I think she
6 was playing video poker. Then we could see them
7 coming out and all were walking away from the
8 restaurant back toward the complex.

9 Q Of any of those individuals that you saw,
10 did any of them seem to be very upset?

11 A There was some animation from -- I think
12 from the older female but it was hard to tell
13 because there was no audio, it was just video so
14 we could only determine that's possible.

15 Q And as part of your investigation, did you
16 ever speak with a Donetti Perry; do you
17 remember?

18 A. Yes, I did.

19 Q And what did you do with Ms. Perry?

20 A I was asked to have Ms. Perry come in and
21 take a statement and also show her a lineup of
22 individuals that she could recognize.

23 Q And did you take that statement from her?

24 A I think I did.

25 Q Did you tell her what to say in any way?

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1 A No, ma'am.

2 Q Do you remember if you wrote it or if she
3 wrote it?

4 A I don't remember. I think she may have
5 written it. I'm not sure.

6 Q I'm going to show you what's being marked
7 as State's Exhibit 67 and 66?

8 MS. CAMPBELL: May I approach, Your
9 Honor.

10 THE COURT: Yes.

11 DIRECT EXAMINATION CONTINUED

12 BY MS. CAMPBELL:

13 Q Investigator Sumpster, do recognize State's
14 Exhibit 66 and 67?

15 A Yes, ma'am, I do.

16 Q What are they?

17 A These are lineups and affidavits for
18 lineups that was shown to Ms. Donetti Perry.

19 Q What date were they shown to her?

20 A The dates here say February 16th, 2010.

21 Q And as the procedure -- what is the
22 procedure that you do when you show her those
23 lineups?

24 A The procedure that we we've been following
25 is the fact that we've just been having the

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1 individual that's being interviewed and give
2 them the statement to see if they could identify
3 anybody in the lineup. If they recognizes them,
4 then we ask them how do they know these
5 individuals.

6 Q Did you do that in this case?

7 A Yes.

8 Q Did you in any way tell her which one to
9 pick?

10 A No, ma'am.

11 Q How is that?

12 A If I remember correctly, I have to -- I put
13 it face down on a table and then allow that
14 individual to turn it over themselves, so
15 therefore I'm not handling it when they handle
16 it.

17 Q And you do that in this situation?

18 A Yes.

19 Q Do State's Exhibit 66 and 67, do those
20 accurately reflect what she did that day?

21 A Yes, ma'am.

22 MR. CAMPBELL: At this time we
23 would like to enter State's Exhibit 66 and 67
24 into evidence, Your Honor.

25 THE COURT: Any objection?

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1 MR. FARLEY: No objection, Your Honor.

2 MR. FARLEY: No objection.

3 (SO ENTERED AS STATE'S EXHIBIT 66)

4 (SO ENTERED AS STATE'S EXHIBIT 67)

5 DIRECT EXAMINATION CONTINUED

6 BY MS. CAMPBELL:

7 Q On State's Exhibit No. 66, who does

8 Ms. Perry identify or circle?

9 A On this lineup, she circled photo number
10 two.

11 Q And who is in photo number two?

12 A I think this is the young man. I think
13 it's Mr. Gray.

14 Q And how did she identify him?

15 A If I remember correctly, she knows this
16 young man because they both live in the same
17 apartment complex, knows him by name and sight.

18 Q Does she circle and put her initials?

19 A She put her initials and also her name,
20 date and time.

21 Q And that's what you asked her to do?

22 A Yes.

23 Q And then on the first sheet she signs and
24 fills that out?

25 A Yes, ma'am.

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1 Q And that states that she picked number two?

2 A Yes, ma'am.

3 Q On State's Exhibit No. 67, did she do the
4 same thing?

5 A Yes, ma'am.

6 Q She filled out the front page with her name
7 and identifying information?

8 A Yes.

9 Q And she picked which number on State's
10 Exhibit No. 67?

11 A On this lineup, she picked photo number
12 one.

13 Q And who is in photo number one?

14 A I think this is Ms. Reese, Ms. Reese.

15 Q Did she say how she knew her?

16 A Again she indicated that this individual
17 lives in the complex that she lives and she
18 knows them by name and sight.

19 Q And she circled that one and put her name
20 on that one, as well?

21 A Yes.

22 Q Did she hesitate at all when she picked
23 these two photo lineups?

24 A No, ma'am.

25 Q Did you tell her who to pick or in any way

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1 indicate that she should pick anybody?

2 A No, ma'am.

3 MS. CAMPBELL: Beg the Court's
4 indulgence. Thank you. Please answer any
5 questions that the defense may have.

6 THE COURT: Cross examine?

7 MR. FARLEY: Yes, sir.

8 CROSS EXAMINATION

9 BY MR. FARLEY:

10 Q First, I want to apologize. I caught that
11 you are an investigator but I didn't seem to
12 catch your last name?

13 A Sumpter.

14 Q Sumpter. Investigator Sumpter, I know you
15 said that you testified that you responded to a
16 call in Gonzales Gardens and you said you
17 interviewed Ms. Donetti Perry?

18 A Yes.

19 Q Is that correct?

20 A. (Affirmative nod).

21 Q And you said -- please correct me if I'm
22 wrong, she wrote the statement for your. You
23 didn't write it for her?

24 A I don't remember writing it for her. I
25 think she did write it.

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1 Q And then she just came down and gave you
2 the lineup. Was that the extent of your
3 assistance in the investigation?

4 A I'm sorry, I can't hear you.

5 Q Then you testified to the lineup?

6 A Yes, sir.

7 Q Was that the extent of your assistance in
8 the investigation?

9 A I assisted the lead investigator,
10 Investigator Pegram, on whatever was needed to
11 conduct the investigation.

12 Q That was the primary thing of what you just
13 testified to; is that correct?

14 A Yes, sir.

15 Q Okay. And that's primarily only on the
16 identification in the lineup.

17 A As far as I can remember.

18 MR. FARLEY: Thank you Mr. Sumpter,
19 answer any questions Mr. Chaplin may have.

20 CROSS EXAMINATION

21 BY MR. CHAPLIN:

22 Q Investigator Sumpter, so you weren't the
23 lead investigator on this case, but you played
24 what role? I'll go with that?

25 A As an investigator assisting the lead.

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1 Q Got it. So have you read the report that
2 was prepared by the lead investigator of your
3 investigation?

4 A When you say report, which record are you
5 talking about?

6 Q That would have been prepared by
7 Investigator Pegram.

8 A Specifically which report are you referring
9 to?

10 A I read some, yes.

11 Q You knew you had to testify today and you
12 reviewed the documents, right?

13 A Yes.

14 Q Thank you. You said you came -- you were
15 called about an incident. You responded to a
16 call about an incident?

17 A Yes, sir.

18 Q Okay. And I think said that the people of
19 interest in that incident were some young men?

20 A Initially that's what we were told, yes.

21 Q That's what you were told. Okay. So what
22 were you told about that incident?

23 A That there was an assault involving several
24 young men on another young man and a young lady
25 was also involved.

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1 Q Were these the young men that were depicted
2 in the video?

3 A From my understanding, yes, sir.

4 Q Now, are you familiar with Gonzales
5 Gardens?

6 A Somewhat.

7 Q Somewhat. So when you responded to your
8 call, you responded to an area up by McDuffie?

9 A Yes, sir.

10 Q Forest Drive?

11 A Yes.

12 Q That would have been near -- I don't want
13 to put words in your mouth. That would have
14 been nearby the Blue Ocean fish market?

15 A If that's the name of that fish market.

16 Q Seafood or something like that. All right.
17 So you responded to an incident that occurred up
18 by McDuffie?

19 A The incident I was being told had occurred
20 on Gonzales Gardens property.

21 Q Yes.

22 A Which was right there on McDuffie street.

23 Q Okay. But you weren't called about an
24 incident that which you should between at any
25 other location, like at F and G, were you?

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1 A Not at that time.

2 Q Not at that time. And as a result of
3 responding to that call, did you interview
4 anybody?

5 A I think I assisted in an interview with a
6 young man who lived across street from the
7 incident location.

8 Q Is that it? That's the only interview you
9 did?

10 A As far as I can remember.

11 Q In your investigation about that first
12 incident which the State asked you about in
13 their direct, what did you learn happened?

14 MS. CAMPBELL: Objection. That is very
15 broad, Your Honor. I mean, the investigation is
16 several things.

17 THE COURT: All right.

18 MR. CHAPLIN: I'll try to rephrase it
19 to make it more specific.

20 THE COURT: Yes.

21 CROSS EXAMINATION CONTINUED

22 BY MR. CHAPLIN:

23 Q You investigated the incident that you were
24 called out to respond to near McDuffie, correct?

25 A That was the initial response, that's why

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1 we were there, yes, sir.

2 Q And you did an investigation?

3 A Yes, sir.

4 Q Okay. And what did you learn from your
5 investigation of that?

6 MS. CAMPBELL: Again, Your Honor, it's
7 the investigation is several days.

8 THE COURT: Overruled. If you can
9 answer it, go ahead.

10 WITNESS: Can you repeat the question,
11 please.

12 MR. CHAPLIN: And I don't mean vague or
13 confusing.

14 CROSS EXAMINATION CONTINUED

15 BY MR. CHAPLIN:

16 Q I'm simply asking, trying to elicit -- when
17 you investigated the incident, you found out
18 that someone had been attacked; correct.

19 A Yes, sir.

20 Q And do you know who that person was?

21 A Kenneth Mack was the one who was the victim
22 that we were told had been attacked.

23 Q Okay. And did you find out who attacked
24 Kenneth Mack?

25 A The initial investigation revealed that

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1 Mr. Mack was assaulted by several young men and
2 there was a young girl also involved in that
3 particular incident.

4 Q And you testified earlier that you read the
5 reports supporting this investigation, correct?

6 A Yes, sir.

7 Q So do you recall the names of those young
8 men?

9 A There were several names mentioned. One
10 was Marcellius Brooks.

11 Q Marcellius Brooks.

12 A The other names that I can recall was
13 Joseph -- One was somebody named Thomas Joseph
14 and Brandon something maybe.

15 Q Okay. Do you recall nicknames or street
16 names that might have involved in that attack?

17 A No, sir, I don't remember.

18 Q You don't remember. Do you recall if the
19 name Henry Gray was involved in that attack?

20 A Initially?

21 Q In the attack up at McDuffie?

22 A The attack at McDuffie was only the young
23 men I just mentioned. Those names were
24 mentioned.

25 Q Did so as far as the first incident, the

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1 attack at McDuffie that did not involve Henry
2 Gray, correct?

3 A His name didn't come up at that point, no,
4 sir.

5 Q Thank you. Did your investigation reveal
6 the extent of the attack on Kenneth Mack?

7 A In terms of?

8 Q How badly beaten he was?

9 A I wasn't privy to the medical reports, but
10 we were initially told that after that initial
11 assault Mr. Mack did walk away. Now how bad he
12 was injured at that point, I don't know.

13 Q So you don't have any idea the I extent of
14 his injuries from that first attack?

15 A Not specifically, no, sir.

16 Q Okay. Final question. As far as the
17 people -- Investigator, as far as the
18 individuals involved in that attack near
19 McDuffie that your investigated, do you know if
20 all of those young men were arrested for their
21 involvement?

22 A I don't think all of them.

23 Q Who do you know was arrested.

24 A I think Marcellius Brooks, if I remember
25 correctly, was arrested.

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1 Q And the rest, nothing happened to them, to
2 your knowledge?

3 A At this point, I don't remember.

4 Q Has an investigator, could you tell us why?

5 A No, because I wasn't the lead. I was just
6 assisting the lead on what his conclusions were.

7 Q Based on your fifteen years of experience,
8 do you have any idea?

9 MS. CAMPBELL: Objection, Your Honor,
10 calls for speculation. He just said he wasn't
11 the lead investigator.

12 THE COURT: Go ahead. I'll allow it.

13 WITNESS: What was your question,
14 again?

15 CROSS EXAMINATION CONTINUED

16 BY MR. CHAPLIN:

17 Q I think you indicated earlier you're quite
18 experienced as an investigator.

19 A Yes, sir.

20 Q You established out of the young men that
21 you were told attacked Mr. Mack, only one was
22 arrested. So I'm asking you, based on your
23 seasoned experience as an investigator, can you
24 help us understand why Mr. Brooks was the only
25 one arrested from that first attack?

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1 A It was the decision of the lead
2 investigator to make those decisions. It was
3 his decision to make that arrest, so we relied
4 on his expertise in that area.

5 Q So you don't know?

6 A I mean, it's his case so he makes the
7 decisions on the arrests.

8 Q Okay. I'll try to ask him. Thank you very
9 much.

10 THE COURT: Any redirect?

11 MS. CAMPBELL: Briefly, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. CAMPBELL:

14 Q Investigator Sumpter, they asked you
15 about -- you went there to investigate the
16 first -- the attack and you went to McDuffie
17 Street?

18 A Yes, ma'am.

19 Q You later learned there was a second
20 attack?

21 A Yes, ma'am.

22 Q In that first attack, Mr. Mack was able to
23 get up and walk away from that first attack?

24 A Yes, ma'am.

25 Q That second attack involved Henry Gray and

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1 Robin Reese?

2 A Yes, ma'am.

3 Q Was he able to get up and walk away from
4 that attack?

5 A No, ma'am.

6 MS. CAMPBELL: No further questions,
7 Your Honor.

8 THE COURT: Redirect? Recross?

9 MR. CHAPLIN: Yes.

10 MR. FARLEY: Go ahead.

11 RECROSS EXAMINATION

12 BY MR. CHAPLIN:

13 Q Investigator Sumpter, did you prepare a
14 report regarding the second attack?

15 A No, I did not.

16 Q So it's your testimony that you're not sure
17 the extent of his injuries in the first attack
18 but its hearsay that you were told he got up.
19 Were you there at the second attack?

20 A I wasn't there either at the first or
21 second attack.

22 Q So everything that you've been testified to
23 is what you've been told?

24 A Everything I'm testifying to is what we
25 discovered during the course of our

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1 investigation.

2 Q Basically things that you were told?

3 A Discovered in our investigation.

4 Q But you didn't discover in your
5 investigation how badly beaten he was, Mr. Mack
6 was, in this first attack?

7 A I'm pretty sure it's in the case file, the
8 extent of his injuries but I don't recall. I
9 don't remember exactly how badly he was injured.

10 MR. CHAPLIN: Thank you very much.

11 THE COURT: All right, sir. You may
12 come down.

13 (WITNESS STEPS DOWN)

14 WITNESS: Thank you.

15 THE COURT: May this witness be
16 excused.

17 MR. FARLEY: No objection.

18 MR. CHAPLIN: No objection.

19 THE COURT: All right. Next witness.

20 MS. SIMPSON: The State calls Amber
21 Hardy.

22 (WITNESS TAKES STAND)

23 AMBER HARDY, being duly sworn to tell
24 the truth, the whole truth and nothing but the
25 truth, testified, as follows:

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1 DIRECT EXAMINATION

2 BY MS. SAMPSON:

3 Q Good afternoon, Ms. Hardy?

4 A Yes.

5 Q How old are you?

6 A Forty-three (43).

7 Q And what type of work do you do?

8 A I am a pharmacy manager.

9 Q What pharmacy do you manage?

10 A That's what I was doing during the
11 incident... I have since switched companies.

12 Q Okay. Back on February 13th of 2010, where
13 were you working?

14 A C.V.S.

15 Q And on that day, did something occur for
16 you to call the police?

17 A Yes. I had a shoplifter.

18 Q And you worked for C.V.S. in what capacity?

19 A The manager.

20 Q As part of your duties, how were you
21 involved with shoplifters?

22 A Taking care of the customers. You know,
23 protecting the store assets, as well as the
24 employees. And part of my rule, as well, as
25 loss prevention.

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1 Q So you would actually follow up on the
2 shoplifters?

3 A Yes.

4 Q On that day, you stated you called 9-1-1?

5 A Uh-huh -- yes, ma'am.

6 Q And as you were following the shoplifters
7 and you were on the phone with the police, did
8 you also see an altercation?

9 A Yes.

10 Q And where did you see that?

11 A On McDuffie Street.

12 Q On McDuffie?

13 A Yes.

14 Q And where were you at that point? Were you
15 in your car, were you standing out?

16 A I was following the shoplifter in my car
17 and when I saw the fight occur, my car was on
18 Forest Drive between the gas station and the
19 beginnings of the Gardens.

20 Q Okay. McDuffie actually runs like this to
21 Forest Drive, correct?

22 A Yes.

23 Q And you saw the fight on McDuffie?

24 A Yes.

25 Q At that point, you observed about four

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1 black males?

2 A Yes.

3 Q And one black female?

4 A Yes, ma'am.

5 Q And they were beating up another black
6 male?

7 A Yes.

8 Q And all of them, were they kind of taking
9 turns?

10 A Uh-huh.

11 Q And how long would you say this happened.

12 I know you weren't looking at your watch but how
13 long?

14 A Maybe five minutes. It seemed like
15 forever.

16 Q But it was just because of the fight, but
17 it was probably about -- it was a matter of
18 minutes?

19 A Yes.

20 Q Correct? After the assault, did the young
21 men who were assaulting the one guy, did they
22 leave?

23 A The ones that were hitting him?

24 Q Yes.

25 A Yes. They walked away from him.

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1 Q Okay. Did you see what direction they
2 went?

3 A They went -- they're still on the same side
4 of the street and they walked to the open air
5 market, the little grocery store there.

6 Q The other guy, did you see him get up?

7 A Yes.

8 Q You told police about this, correct?

9 A Yes.

10 Q Rather than follow the shoplifter, did you
11 go back to your store?

12 A Well, I had lost the shoplifter at that
13 point.

14 Q Okay.

15 A So after the incident happened, I went back
16 to the store.

17 Q And you actually -- I believe on the same
18 day gave a statement to law enforcement about
19 this?

20 A Yes, ma'am.

21 MS. SAMPSON: Thank you.

22 THE COURT: Cross examination?

23 CROSS EXAMINATION

24 BY MR. FARLEY:

25 Q Thank you, Ms. Hardy. You don't live in

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1 Gonzales Gardens?

2 A No, sir.

3 Q And you don't often go to Gonzales Gardens?

4 A Well, actually I would go over there quite
5 a bit because we had a lot of shoplifters, so it
6 wouldn't be ---

7 Q But you weren't going for social calls or
8 anything of that nature?

9 A No.

10 Q So you were familiar with the Gardens but
11 only in the capacity of being manager at the
12 CVS?

13 A Yes.

14 Q No other reason for you to go over there?

15 A No.

16 Q And no other connection you have to
17 Gonzales Gardens?

18 A Correct.

19 Q And you said you were following a
20 shoplifter out of your store. That's -- in the
21 process of following that shoplifter, is that
22 when you came upon this incident you're
23 describing?

24 A I had been following the shoplifter for
25 some time around the Gardens area, and while I

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1 was on the phone with the police is -- and I had
2 lost the shoplifter, she slipped away, that's
3 when I saw the fight occur.

4 Q Okay. And I hate to go back over this
5 again, but you said this was how many males?

6 A Four or five.

7 Q Four or five males. You didn't recognize
8 any of them?

9 A Recognize them from?

10 Q I mean, you have no recognition of them --
11 had you seen them before, know who any know of
12 them were?

13 A No.

14 Q And you said this lasted for about five
15 minutes?

16 A I can't be certain.

17 Q About five minutes, but you said it seemed
18 like it was a really long time?

19 A Uh-huh.

20 Q So you're saying it was a pretty emotional
21 incident, I'm sure, to observe that?

22 A It was brutal.

23 Q And after that you said the assailants
24 walked away?

25 A Yes.

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1 Q Did you say there was a female?

2 A Yes.

3 Q Did you see her leave at all?

4 A She was with a group, as well.

5 Q Did you see her leave at all?

6 A She stayed with the group -- I mean, they
7 were all together..

8 Q So you just saw them break up, didn't
9 see ---

10 A They all walked together to the store and
11 walked into the open air market.

12 Q Okay.

13 Q And how far away were you from that
14 incident, do you think?

15 A Maybe from here to the wall, about that
16 wall. It wasn't -- it was fairly close. The
17 buildings are pretty close to McDuffie and
18 Forest is, you know, right there at the corner
19 so we were pretty close.

20 Q This is okay if you don't recall, but do
21 you recall if that were any -- did you notice of
22 the building lettering or what buildings you
23 were around or what buildings this took place
24 at?

25 A Not really. It was at the beginning of the

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1 second building.

2 Q Right. I was just curious because I know
3 you're not often there, but you're did say it
4 was up by McDuffie?

5 A Uh-huh, yes.

6 Q McDuffie Drive?

7 A Uh-huh.

8 Q And did you -- you came upon them. You
9 didn't happen to see anything prior to that? I
10 mean, you weren't there at its inception?

11 A Well, I don't know when and where that was,
12 so -- I looked over and there was a group of men
13 and a female and then the fight broke out and --

14 Q Is it fair to say it was already in
15 progress?

16 A No, because I had to have seen it from the
17 beginning because I have been driving on
18 McDuffie and Manning looking for the shoplifter.
19 So -- I mean, I was up and down that street.

20 Q But did you see how the fight got start
21 then?

22 A No.

23 MR. FARLEY: Give me one second.

24 CROSS EXAMINATION CONTINUED

25 BY MR. FARLEY:

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1 Q Ms. Hardy, let me ask you this question.

2 You said it was a pretty bad beating.

3 A It was.

4 Q Did you see the person who was getting
5 beaten up, did you see him try to defend
6 himself?

7 A Yes.

8 Q Did he try to defend himself?

9 A Yes.

10 Q Did you see him get up?

11 A He was putting his hands up trying to
12 defend himself, to deflect the kicks and the
13 punches. They were just taking turns and he
14 would fall and they would kick him and punch him
15 and like karate kicks like you would break a
16 board in half.

17 MR. FARLEY: Well, thank you for being
18 here today. Please answer any questions
19 Mr. Chaplin has.

20 THE COURT: Mr. Chaplin.

21 CROSS EXAMINATION

22 BY MR. CHAPLIN:

23 Q Good afternoon, Ms. Hardy. Do you remember
24 calling it in -- or you were on it be phone with
25 9-1-1 when you started to see this, this

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1 incident, correct?

2 A Yes.

3 Q All you were trying to do is get some
4 merchandise back for your store that a
5 shoplifter took, right?

6 A Yes, sir.

7 Q All of a sudden, you're in the middle of
8 something like that?

9 A Yes.

10 Q So -- I appreciate your coming here today
11 and helping us try to understand this. So the
12 first thing I want to do is I want to establish
13 where it is that you saw this occur and, you
14 know, you would think that I would have a pen
15 that would write on that wall and I don't, but
16 I'm just going to walk over there and see if I
17 can point out -- now, this is Forest Drive -- if
18 I can. We are going to have some maps to help
19 everybody understand this later on, but if this
20 is Forest Drive, your store is over here?

21 A Correct.

22 Q And let's say this is McDuffie. Let's say
23 that's running across this way?

24 A That would be Manning.

25 Q Okay.

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1 A And then McDuffie would be down a little
2 further.

3 Q A little further?

4 A Uh-huh.

5 Q So what you saw occurred around McDuffie,
6 true?

7 A (No verbal response).

8 Q Well, let me say if I can be more general,
9 it occurred somewhere at the top -- in this
10 area? I'm saying that as opposed to down here
11 where buildings F and G are located?

12 A I'm not familiar with the letters of the
13 buildings.

14 Q Yeah, I didn't think you would be. All
15 right. Well, let's just go with what you
16 understand. But you saw -- there's an open air
17 market at the top, too. Are you familiar with
18 or aware of that seafood market?

19 A Well, there is a seafood market and then
20 there is a hair ----

21 Q Hair shop, nail shop.

22 A (Affirmative nod).

23 Q Okay. All right. So what you saw was near
24 McDuffie and Manning, up here?

25 A It was on Manning is another street on the

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1 other side of the open air market.

2 Q Okay.

3 A Manning, open air market where there's like
4 three or four stores, McDuffie, which lines up
5 with the buildings.

6 Q Okay. All right. Well, I promise to try
7 to bring a better diagram next time but --
8 anyway, let's move on.

9 A Okay.

10 Q You say -- well, you gave a statement and
11 you said you were in the turn lane of Forest
12 Drive and McDuffie?

13 A Correct.

14 Q And you looked out to your left?

15 A Yes.

16 Q And you saw a group of men beating another
17 man?

18 A And a female.

19 Q And a female, yes?

20 A Yes.

21 Q Now, let me just ask this. Did you ever
22 see a man on top of a girl or on top of a
23 female?

24 A No.

25 Q You never did?

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1 A No.

2 Q So if that's what started the incident, you
3 didn't see the beginning of the incident because
4 you never saw that, right?

5 A I don't know at what path the beginning of
6 the whole situation was.

7 Q Right. So you're not certain that you saw
8 the first attack, the initial attack. You're
9 not certain of that?

10 A I don't know if mine was the first or ---

11 Q Second, third or what?

12 A Right.

13 Q You just know what you saw?

14 A Right.

15 Q Got it. And what you saw, you saw a group
16 of men and a girl and they were -- I had the
17 pleasure of listening to your tape, and I think
18 I even heard you scream a few times every time
19 you would see somebody get kicked to the ground?

20 A (Affirmative nod).

21 Q Do you recall that?

22 A (Affirmative nod).

23 Q And based on the inflection in your voice
24 throughout this tape ---

25 MS. SIMPSON: Objection, Your Honor,

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1 with respect to the inflection of her voice.

2 THE COURT: Just wait a minute, what's
3 the objection, specific? It's not a speaking
4 objection. Please rephrase your question.

5 MR. CHAPLIN: Thank you.

6 CROSS EXAMINATION CONTINUED

7 BY MR. CHAPLIN:

8 Q Do you recall screaming when you were
9 talking to 9-1-1?

10 A Possibly.

11 Q Do you recall ever asking them to hurry?

12 A Probably, yes.

13 Q Yes. I'm not trying to torture you, ma'am.
14 I'm just trying to help this jury understand ---

15 A Right.

16 Q --- what went on. I think you said earlier
17 that you saw the victim getting kicked and
18 punched?

19 A (No verbal response).

20 Q Yes, ma'am?

21 A Yes, yes.

22 Q And you would say what you saw up there by
23 Forest Drive and McDuffie was pretty brutal?

24 A Yes.

25 Q Now, at any point did you see the victim on

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1 the ground? I mean, did you see the person they
2 were beating on the ground?

3 A He was mostly on the ground.

4 Q So would I be exaggerating if I said that
5 he got kicked in the head a few times?

6 A He got kicked everywhere.

7 Q Everywhere. Did you ever see this group of
8 men and a girl chase a man?

9 A No.

10 Q Never. Now, beg your indulgence one
11 second. I think you said -- how many men did
12 you think there were?

13 A Four or five.

14 Q Four or five?

15 A It was hard to see and I couldn't tell
16 exactly how many because they were moving. You
17 know. They weren't stationary.

18 Q And based on what you saw, did you ever see
19 anybody pick up a chair, a metal chair and hit
20 anyone?

21 A No.

22 Q You said that the person that was attacked
23 walked away. When he was walking, did he ever
24 fall in the process?

25 A The way that he stood up was as if you were

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1 spun around, you know, as a child and you try to
2 walk straight and you can't because your
3 equilibrium is off. He just -- he -- it seemed
4 like it took him a while to get his composure
5 back, and it was like he was reaching out to
6 grab something to brace himself, you know, to
7 help himself up.

8 Q Okay. Last question. Is what you saw more
9 than a slap and a kick?

10 A Yes.

11 Q Much more?

12 A Yes.

13 MR. CHAPLIN: Thank you. All right.
14 I don't have anything else.

15 THE COURT: Redirect?

16 MS. SIMPSON: No, Your Honor.

17 THE COURT: All right. Thank you very
18 much, ma'am. You may come down. You may be
19 excused.

20 (WITNESS STEPS DOWN)

21 THE COURT: All right. Ladies and
22 gentlemen of the jury, we're going to take our
23 lunch break at this time. It's about ten
24 minutes to one. I'll ask you to be back in the
25 jury room at two o'clock. Don't discuss the

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1 case among yourselves or with anyone. I hope
2 that you have a pleasant lunch. We'll see you
3 at two o'clock.

4 (JURY OUT @ 12:53 P.M.)

5 THE COURT: All right. Can we get them
6 back up about 1:45 so we won't have a delay
7 getting started at two o'clock?

8 DEPUTY: Yes, sir.

9 THE COURT: Mr. Chaplin?

10 MR. CHAPLIN: Sir?

11 THE COURT: I want to start promptly
12 at two o'clock.

13 MR. CHAPLIN: Yes, sir.

14 THE COURT: I'm asking law enforcement
15 to have your clients here. Two o'clock. Thank
16 you very much.

17 (LUNCH RECESS)

18 (DEFENDANTS PRESENT)

19 THE COURT: Is the State ready to proceed?

20 MS. SAMPSON: Your Honor, if we could
21 discuss scheduling.

22 THE COURT: Yes.

23 MS. SAMPSON: We anticipate
24 finishing the vast majority of our case today.
25 We might have two or three witnesses in the

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1 morning. One is an expert we scheduled in the
2 morning, so the defense will know, we anticipate
3 we'll finish tomorrow morning.

4 THE COURT: That includes your forensic
5 people.

6 MS. SAMPSON: That includes my
7 forensics people, as well as the DNA and all
8 that -- including the forensics pathologist,
9 would be all that, is what I anticipate.

10 THE COURT: Good. Now -- okay.
11 We'll just roll this afternoon.

12 MS. SAMPSON: Yeah, I'm just saying.
13 I've been making some scheduling decisions. It
14 should be two or three, at the most, witnesses
15 in the morning. Of course, that's barring any
16 unknown delays.

17 THE COURT: All right. Anything
18 further before we bring the jury?

19 MR. FARLEY: Nothing, Your Honor.

20 MR. CHAPLIN: Nothing.

21 THE COURT: Bring the jury in.

22 (JURY IN @ 2:00 P.M.)

23 THE COURT: All right. Thank you,
24 ladies and gentlemen. We're going to continue
25 with the trial. I hope you had a pleasant

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1 lurch. Solicitor, call your next witness.

2 MS. CAMPBELL: Thank you, Your

3 Honor. We call Heather Ramos.

4 (WITNESS TAKES STAND)

5 HEATHER RAMOS, being duly sworn to tell

6 the truth, the whole truth and nothing but the

7 truth, testified, as follows:

8 DIRECT EXAMINATION

9 BY MS. CAMPBELL:

10 Q Good afternoon, Ms. Ramos. Where do you

11 work?

12 A Sprint Nextel.

13 Q How long have you worked there?

14 A Eighteen years.

15 Q And what is your position?

16 A I am a subpoena analyst.

17 Q What exactly is a subpoena analyst?

18 A A subpoena analyst assists in legal

19 requests, complying. We interpret those

20 records. We authenticate those records and then

21 part of my duties, I serve as custodian of

22 records.

23 Q At Sprint, do you all keep the cell phone

24 records in the normal course of your business?

25 A Yes, we do.

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1 Q What records do you normally keep?

2 A We maintain subscriber information, call
3 detail records which would include calls that
4 are made to our subscribers phone, calls that
5 are received from other parties to our
6 subscribers phone, the date and the time that
7 those calls took place, the duration. In
8 addition, we also keep cell site information,
9 which is the information of the cell sites or
10 cell towers that are used when the call is first
11 made and when a call is terminated from the
12 Sprint network.

13 Q In this case, were you given a subpoena?

14 A Yes.

15 Q In fact, were you given subpoenas for two
16 phone numbers?

17 A Correct.

18 Q Do you remember those phone numbers?

19 A Not offhand, no. I'm sorry.

20 MS. CAMPBELL: May I approach, Your
21 Honor.

22 THE COURT: Yes.

23 DIRECT EXAMINATION CONTINUED

24 BY MS. CAMPBELL:

25 Q I'm going to show you what's been marked as

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1 State's Exhibits 73 through 76 and see if you
2 recognize those.

3 A Yes, these are call detail records that
4 Sprint has produced to the Columbia Police
5 Department for, I believe, two phone numbers
6 that belong to Sprint Nextel.

7 Q Can you give me the phone numbers?

8 A Yes. The first phone number is area code
9 (803) [REDACTED]-9396 and (803) [REDACTED]-8124.

10 Q And State's Exhibits number 75 and 76,
11 those are pages taken from State's Exhibit 73
12 and 74, correct?

13 A That's correct.

14 Q And do all of those exhibits accurately
15 reflect the records that you provided to the
16 Columbia Police Department based on the
17 subpoena?

18 A Yes.

19 MS. CAMPBELL: Your Honor, at this
20 time we'd ask to introduce State's Exhibits 73
21 through 76 into evidence?

22 THE COURT: Any objection?

23 MR. FARLEY: No objection, Your
24 Honor.

25 MR. CHAPLIN: No objection, Your Honor.

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1 (SO ENTERED AS STATE'S EXHIBIT 73 THRU 76)

2 MS. CAMPBELL: Thank you Ms. Ramos. I
3 keep wanting to say your name wrong. Thank you
4 Ms. Ramos, please answer any questions the
5 defense has for you.

6 CROSS EXAMINATION

7 BY MR. FARLEY:

8 Q Can you state general exactly what numbers
9 those were.

10 A I apologize, sir. I don't have the records
11 in front of me. I don't have them memorized.

12 Q But you were the one who analyzed the
13 subpoenas and just provided the records of the
14 numbers at the top?

15 A I didn't provides the records. I am a
16 custodian of records and I would authenticate
17 the records that were provided.

18 Q And you authenticated those records?

19 A Yes, sir, I did.

20 MR. FARLEY: No further questions.

21 MR. CHAPLIN: Nothing from the defense.

22 THE COURT: All right. You may come
23 down. Thank you very much.

24 (WITNESS STEPS DOWN)

25 THE COURT: May this witness be

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1 excused?

2 MR. FARLEY: No objection, Your Honor.

3 THE COURT: Without objection.

4 MR. CHAPLIN: Without objection.

5 MS. SAMPSON: The State calls Kevin

6 Reese.

7 (WITNESS TAKES STAND)

8 KEVIN REESE, being duly sworn to tell
9 the truth, the whole truth and nothing but the
10 truth, testified, as follows:

11 DIRECT EXAMINATION

12 BY MS. SAMPSON:

13 Q Investigator Reese, where are you employed?

14 A City of Columbia Police Department.

15 Q And what do you do there, sir?

16 A I'm an investigator.

17 Q And as an investigator, what do your duties
18 include?

19 A I work for the capital -- am assigned to
20 the V Cap Unit to investigate all violent crimes
21 and homicides.

22 Q And you're usually a lead investigator in a
23 homicide case?

24 A Yes.

25 Q But in this case it was assigned to Sgt.

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- 1 Pegram; is that correct?
- 2 A That's correct.
- 3 Q So your role in this case was to assist
- 4 him?
- 5 A That's correct, it was very limited.
- 6 Q Very limited.
- 7 A (Affirmative nod).
- 8 Q Specifically I want to talk about Mary
- 9 Anderson. Did you have an opportunity to
- 10 interview Ms. Anderson on February 16th of 2010?
- 11 A Yes, ma'am.
- 12 Q Where did that interview take place, sir?
- 13 A At my office at One Justice Square, which
- 14 is the Police Department.
- 15 Q That's right off Washington Street
- 16 downtown?
- 17 A Washington and Lincoln.
- 18 Q What was the purpose of you interviewing
- 19 Ms. Anderson on that day?
- 20 A I was asked by Investigator Pegram to
- 21 interview Ms. Anderson in reference to a case he
- 22 was working which was a homicide.
- 23 Q And specifically, you were not the lead
- 24 investigator in this case so you weren't as
- 25 familiar, let's say, with the facts?

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1 A No, I, wasn't.

2 Q And when you interviewed Ms. Anderson that
3 day, can you tell this jury basically how you
4 went about interviewing her and how that got
5 reduced to writing in statement form?

6 A Okay. I don't recall how we got in touch
7 with Ms. Anderson but about ten o'clock in the
8 morning, she was at my office. Well, Pegram
9 asked her to come down or I asked her on the
10 16th and I explained to her what we needed to --
11 I wanted to talk to her about. She indicated
12 that she understood and, of course, after that
13 we went to do a statement form.

14 She first gave me her synopsis of what she saw,
15 and then I went over it again with her and I
16 reduced it to writing.

17 Q And in this case, did you tell her what to
18 say or suggest in any way what she should tell
19 you?

20 A No, I did not.

21 Q Was she, in fact, quite forthcoming about
22 what she had observed in Gonzales Gardens on
23 February 13th when this occurred?

24 A Absolutely. Yes, she was.

25 Q And specifically I want to show you this

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1 three-page statement form, is that a statement
2 form or is that a copy of it?

3 A This is it. Yes, that's correct. That is
4 the form.

5 Q And when you were interviewing her, was
6 anybody else, any other witnesses, any other
7 people present that could have been influenced
8 her in any way from what she was telling you?

9 A I don't know.

10 Q In this case when you took her statement
11 and in some cases do you write what they say or
12 is it what she said in this case?

13 A In this case, I wrote the statement.
14 That's not uncommon for -- especially for me as
15 an investigator -- an investigator to write
16 statements for people; for, you know, various
17 reasons, but our hope is she talked and I wrote
18 what she spoke.

19 Q And you actually reduced what she told you
20 in writing?

21 A I did.

22 Q And then afterwards I believe there is
23 about a page, page-and-a-half of some questions
24 and answers that you followed up on?

25 A Yes, ma'am.

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1 Q That's information that you specifically
2 asked her about circumstances and other things?

3 A Yeah, I asked those questions based on what
4 she already said.

5 Q And prior to her signing this statement,
6 did you take any steps to make sure it was
7 correct as she reduced it in writing?

8 A That's correct. And prior to Ms. Anderson
9 signing the statement, as a general practice I
10 read the statement or either have them to read
11 it. In this case, I read it back to her and as
12 a matter of fact there were some mistakes that
13 were made, a couple of lines that she had to
14 sign off on, at least put her initials on. But
15 after I read the statement to her, she indicated
16 by signing it that the statement was true as she
17 gave it to me.

18 Q In this case, I believe she actually
19 corrected one thing you had written down.
20 Instead of saying "going to my sister's house",
21 she corrected it as leaving?

22 A She did.

23 Q And she initiated that?

24 A That's correct.

25 Q That would have been when you had gone back.

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1 over the statement to make sure everything you
2 had reduced to writing was what she had said?

3 A That's correct.

4 Q And then she signed each and every page
5 indicating that was her information?

6 A She did.

7 Q And in cases such as this, specifically
8 with Ms. Anderson, was she very forthright and
9 very consistent in what she told you?

10 A She was forthright.

11 Q In interviewing some witnesses in general,
12 they may vacillate a little bit or change, but
13 in this chase she was forthright?

14 A She was very straightforward.

15 MS. SAMPSON: That's all I have, Your
16 Honor.

17 THE COURT: Cross examination.

18 CROSS EXAMINATION

19 BY MR. FARLEY:

20 Q Investigator Reese?

21 A That's right.

22 Q You said that you interviewed Mary Anderson
23 on the 16th. That's what?

24 A February 16th.

25 Q So this was several days after the

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1 incident. The incident occurring on February
2 13, 2010?

3 A Three days after.

4 Q You stated you interviewed Ms. Anderson?

5 A Right.

6 Q And as a result of that interview, you
7 wrote down what you understood her interview to
8 be.

9 A Yes, sir.

10 Q And then you had her sign it?

11 A That's correct.

12 Q Do you think it would be fair to say that
13 you wrote an approximation of what she conveyed
14 to you? Not exactly?

15 A That would be fair. It's as close as I
16 could get it to what she said.

17 Q But sort of paraphrasing?

18 A Yes, sir.

19 Q I mean -- and just making sure that the
20 jury understands it's not like a court reporter
21 who takes down everything, but you take what you
22 feel is the gist of what is telling you, wants
23 to convey.

24 A I write down as much as I could understand
25 her to say and the way she said it, says it. I

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1 don't put my words. If she, uses street
2 vernacular, that's what I put.

3 Q But it's still paraphrasing?

4 A It's still paraphrasing.

5 Q And not everything that she would have said
6 in that interview would have ended up on the
7 paper, necessarily?

8 A I could have missed some things. It's not
9 an exact truth form of what she said. Again, it
10 is as close as I could possibly get it.

11 MR. FARLEY: Thank you Mr. Reese,
12 that's -- please answer any questions
13 Mr. Chaplin has.

14 WITNESS: Yes, sir.

15 CROSS EXAMINATION

16 BY MR. CHAPLIN:

17 Q Investigator Reese, did Ms. Anderson have
18 her glasses on that day?

19 A I don't recall.

20 Q You don't recall?

21 A Excuse me. I don't remember that.

22 Q Okay. And you stated that you testified
23 that you wrote this statement, correct?

24 A Yes, sir.

25 Q Now, I'm familiar with your work because

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1 you also met with Kara Chase and Kiki Burns, but
2 they wrote their own statements?

3 A Is that a question?

4 Q No. Did Kara Chase and Kiki Burns write
5 their own statements?

6 A I would have to see the statements. I
7 don't really remember.

8 Q Would it surprise you if I told you that
9 they did?

10 A No. It wouldn't surprise me.

11 Q So can you help me understand why Mary
12 Anderson didn't write her own?

13 A I can't remember why she didn't. It could
14 be a number of reasons.

15 Q Can Mary Anderson read?

16 A I don't recall.

17 Q Did you ask Mary Anderson if she was under
18 the influence of alcohol or drugs that day when
19 you met with her?

20 A I don't recall but if I would have asked
21 her that, that would have been -- there would
22 have had to have been a reason for me to ask her
23 that. If I didn't ask her, she didn't exhibit
24 any reason for me to ask her was she high on
25 drugs or drunk on alcohol.

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1 Q I'm trying to ask this. So she gave a
2 statement to you, that you wrote, on the 16th of
3 February and she testified very differently
4 from that statement today.

5 MS. SAMPSON: Objection, Your Honor.

6 THE COURT: Sustained. You can't
7 testify.

8 MR. CHAPLIN: I apologize, Your Honor.

9 CROSS EXAMINATION CONTINUED

10 BY MR. CHAPLIN:

11 Q If I would have noticed a difference in her
12 two testimonies, which one would you say the
13 accurate ---

14 MS. SAMPSON: Objection.

15 THE COURT: She has only testified
16 once.

17 MR. CHAPLIN: Yes.

18 THE COURT: You said two testimonies.

19 MR. CHAPLIN: I'd like to rephrase.

20 CROSS EXAMINATION CONTINUED

21 BY MR. CHAPLIN:

22 Q If I were to notice a difference between
23 her statement and her testimony, ---

24 MS. SAMPSON: Objection, Your Honor, to
25 his interpretation.

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1 THE COURT: Ask the question.

2 CROSS EXAMINATION CONTINUED

3 BY MR. CHAPLIN:

4 Q If there was a difference noted between her
5 statement that she gave to you and her testimony
6 at trial, which would you say is the correct
7 version?

8 MS. SAMPSON: Objection, Your
9 Honor. How on ---

10 THE COURT: Just -- I understand.

11 THE WITNESS: Shall I answer it?

12 THE COURT: No. He didn't hear her
13 testimony in court. He's been sequestered.
14 There is no way he can compare a written
15 statement which he took to her testimony today
16 except your interpretation of the way that she
17 testified today. So I sustain the objection.

18 MR. CHAPLIN: No further questions of
19 this witness.

20 THE COURT: Anything further?

21 MS. SAMPSON: No, sir.

22 THE COURT: You may come down.

23 WITNESS: Thank you, Your Honor.

24 (WITNESS STEPS DOWN)

25 THE COURT: May this witness be

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1 excused?

2 MR. FARLEY: No objection.

3 THE COURT: Without objection.

4 MS. CAMPBELL: The State calls
5 Investigator McCracken.

6 (WITNESS TAKES STAND)

7 ROBERT McCracken, being duly sworn to
8 tell the truth, the whole truth and nothing but
9 the truth, testified, as follows:

10 DIRECT EXAMINATION

11 BY MS. CAMPBELL:

12 Q Good afternoon.

13 A Yes..

14 Q What -- did you say you're a sergeant now?

15 A No, Investigator.

16 Q Investigator. Okay. I just want to make
17 sure I got all the titles right. How long have
18 you been with the Columbia Police Department?

19 A This March I will be starting my twenty-
20 third year.

21 Q How did you'll go through the ranks with
22 the department?

23 A I was a patrolman for eight years.

24 After I was a patrolman, I got assigned to
25 the regional investigations as a patrolman or a

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1 master patrolman at that time. I was assigned
2 to regional investigations for approximately a
3 year, year-and-a-half.

4 After that I was promoted to investigator.
5 I remained in regional investigations for
6 another couple of years.

7 When they reorganized and started the
8 Violent Crimes Unit, I was assigned to the
9 Violent Crimes Unit.

10 Q Do you receive training in order to be an
11 investigator?

12 A Yes, you receive training. We do training
13 at the academy. Basic investigator. When I
14 went to it, it was two week training program,
15 all aspects of investigations including crime
16 scene, interrogation, that kind of thing. Also
17 there are additional classes that we do attend.
18 I've attended several. I can't name them all,
19 but we try to attend as many as we can,
20 different aspects of investigations.

21 Q Are you trained on how to take written
22 statements?

23 A Yes. I've had a class in written
24 statements, interview and interrogation
25 techniques, that kind of thing.

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1 Q And how about on how to present photo
2 lineups?

3 A There is not really a training class for
4 that, but we do have certain procedures that we
5 go by and that's what I have use.

6 Q Okay. Now, back in February of 2010, were
7 you an investigator in your region at that time?

8 A I was an investigator in the Violent Crimes
9 Unit; yes, ma'am.

10 Q How did you become involved with this case?

11 A Back in February -- I believe that it was
12 on the 15th -- I was requested by Sgt. Pegram,
13 Investigator Pegram at the time, but it was
14 requested that I do a search warrant initially
15 and that's how I became involved in this
16 particular case.

17 Q Is it unusual for an investigator to ask
18 another investigator to do part of the
19 investigation?

20 A No, ma'am. When you have an investigation
21 like this, there's a lot of stuff you have to
22 do. You just can't do it by yourself, so yes we
23 frequently have numerous investigators involved
24 in these type occasions for different things.

25 Q Okay. I believe you said you're first

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1 involvement was preparing a search warrant?

2 A Preparing a search warrant for medical
3 records, just a basic search warrant.

4 Q And you got the medical records?

5 A Yes.

6 Q And those were for the victim in this
7 matter?

8 A For the victim from the hospital.

9 Q And what did you do with the records once
10 you received them?

11 A They would have been turned over to
12 Sergeant Pegram.

13 Q And I believe you next interpret view
14 Ms. Kara Chase.

15 A Yes.

16 Q And do you remember what date you did that
17 on?

18 A I'd have to refer back to the case notes
19 but I believe it was on the 16th if I'm not
20 mistaken, of February.

21 Q And do you remember if she wrote the
22 statement or if you wrote the statement?

23 A I do not remember. I'd have to look at the
24 statement.

25 Q Would seeing the statement refresh your

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1 memory?

2 A Yes, I haven't seen it since.

3 MS. CAMPBELL: May I approach, Your
4 Honor?

5 THE COURT: You may.

6 DIRECT EXAMINATION CONTINUED

7 BY MS. CAMPBELL:

8 Q Investigator McCracken, do you recognize
9 this.

10 A Yes, that's a Columbia Police Department
11 statement form.

12 Q Is that statement you took from Ms. Kara
13 Chase?

14 A Yes, it is.

15 Q How do you know that is what it is?

16 A As far as the top part, and my signature is
17 on there as well.

18 Q In looking at that, who wrote that statement?

19 A I filled the blanks at the top, the date
20 and time, location and that kind of stuff. The
21 statement was actually written by Ms. Kara
22 Chase.

23 Q So everything that's written on that first
24 page she wrote?

25 A Correct, everything except what I just

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1 explained to you.

2 Q Did you tell her what to write?

3 A No, ma'am. I didn't tell her. I wouldn't
4 have known what to tell her, I wasn't involved
5 in the case.

6 Q Can you explain to the jury what your
7 procedure is when she comes in to give the
8 statement?

9 A What I do -- now, I don't know what other
10 investigators do, but what I do is I fill out
11 the top portion of the statement. I ask the
12 person, whoever it is, whether it's a witness,
13 victim, suspect, to start at the very beginning
14 and write down everything from the beginning to
15 the end. Normally the question you get back is,
16 'Well, do I start here?' They mention
17 something. I tell them whatever you believe the
18 beginning is, you start there. If you leave
19 something out I'll start the question-and-answer
20 later. That's what I do.

21 Q Did you tell her in any way who did what or
22 what to write down?

23 A No, ma'am. Like I said, I didn't -- I
24 would have had very limited knowledge. I did
25 not go on the scene. I was not involved in the

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1 case until basically this statement, other than
2 medical records.

3 Q Did you know at the time you gave her that
4 statement who the suspects were?

5 who assaulted Mr. Mack or what to write down?

6 A I would not know; no, ma'am.

7 Q And when she came and spoke with you, was
8 she cooperative?

9 A Yes, ma'am.

10 Q You didn't have to find her and drag her in
11 or anything?

12 A No, ma'am. My understanding from my case
13 notes is she was at headquarters, that she was a
14 witness. So, no, she wouldn't have been
15 somebody we went out to try to find and bring
16 in.

17 Q Okay. I would turn you to the second page.
18 You've stated to the jury already that you have
19 them write and then you ask them some questions.
20 Is that what happened in this case?

21 A Correct, on page two and -- the third page.
22 What we did, is I wrote the question and she
23 wrote the answer.

24 Q And when she is writing those answers,
25 again do you tell her what to write?

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1 A No, ma'am.

2 Q Do you suggest in any way what to write?

3 A No, ma'am. The only way she would know
4 what to write is based on the question itself,
5 answering the question.

6 Q Okay. I'm going to show you what's been
7 introduced as State's Exhibit number 71 and 70
8 and ask if you recognize these.

9 A Yes, ma'am, that is photo lineup form that
10 we fill out, as well as the photo lineups that
11 would have presented at the time.

12 Q Can you tell the jury how you did present
13 those lineups to Ms. Chase?

14 A These lineups would have been presented --
15 I had her sit down, and this was done in the
16 conference room, according to my notes. I would
17 have her sit down in the conference room, my
18 normal procedures of presenting a photo lineup
19 to an individual is that I lay the photo lineup
20 face down on the table. In this case, it was a
21 table. Sometimes we do it on the floor or
22 something if we don't have anywhere to lay it
23 down. In this case it was a table.

24 I advise the person that is looking at a
25 photo lineup -- before they turn it over, I tell

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1 them that there's six photographs on the paper.
2 I tell them when they get ready that I want them
3 to turn the paper over; that the person may or
4 may not be in these picture. Then I advise them
5 to look at each picture in the photo lineup. As
6 they look at each picture, if they recognize
7 anyone in the lineup, even if it was in the
8 grocery store the day before -- anybody that you
9 recognize in the photo lineup, I want you to
10 point to that picture.

11 Once they do that and point to a picture, I
12 asked them 'how do you recognize that person?'
13 They respond however they would respond.

14 Q Is that what you did in this case?

15 A Yes, ma'am.

16 Q Did you at any time tell her who to pick?

17 A No, ma'am.

18 Q Did you ever suggest in any way that any
19 suspects were in that photo lineup?

20 A No, ma'am. That's why I lay it face down
21 and let them do everything.

22 Q Do you do them together or one at a time?

23 A One at a time.

24 Q And that's what you did in this case?

25 A Yes.

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1 Q And Ms. Chase was able to identify two
2 people?

3 A Yes. Each lineup has an indication on it.

4 Q And you didn't prepared the photo lineup.
5 You didn't choose the photographs to put in that
6 lineup?

7 A No, I did not.

8 Q And why is that?

9 A I just didn't do this one.

10 Q So I guess the question is, you didn't know
11 who for her to pick in the first place?

12 A I did not, no.

13 Q Okay. And again, was she cooperative in
14 doing the photo lineups with you?

15 A Yes, she was cooperative the whole time. I
16 don't have any indication in my notes that she
17 was uncooperative, which I would do if she was.

18 MS. CAMPBELL: Thank you,
19 Investigator McCracken.

20 THE COURT: Cross examination.

21 CROSS EXAMINATION

22 BY MR. FARLEY:

23 Q Investigator McCracken?

24 A Yes, sir.

25 Q You also interviewed Ms. Chase the 16th?

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1 A Yes, sir, that would have been the 16th.

2 Q And you said that she did -- she had
3 written this herself. You didn't write it for
4 her?

5 A Correct. She wrote her answers in the
6 statement herself. The only thing I wrote was
7 the questions and then filled in the date and
8 time location, that kind of stuff.

9 Q And I know you said earlier in the course
10 of the interview that she didn't seem -- she
11 seemed to be cooperative and forthright, ---

12 A Yes, sir.

13 Q That kind of thing. Also, you said you'd
14 take notes is there was anything that seemed odd
15 to you?

16 A If there was something odd about it, I
17 would have noted that in my case notes.

18 Q Did she seem at all nervous or a little
19 off put by speaking with an investigator?

20 A No, sir. She was comfortable with me.

21 Q You didn't put that in your notes? It
22 seemed like she was a little ---

23 A Well, anytime you have an incident that
24 you're at the police department, you can expect
25 some nervousness, but it wasn't anything that

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1 would have been unusual or noteworthy.

2 Q All right. But there probably was some
3 nervousness?

4 A There could have been but nothing that
5 stuck out enough for me to write it down.

6 MR. FARLEY: Please answer any
7 questions Mr. Chaplin may have.

8 WITNESS: Yes, sir.

9 CROSS EXAMINATION

10 BY MR. CHAPLIN:

11 Q Okay. Investigator McCracken, so I think
12 you testified that you assisted in this
13 investigation; correct?

14 A Yes, sir.

15 Q All right. So I'm not sure what you had
16 access to, but did you read any reports prior to
17 meeting Ms. Chase pertaining to this
18 investigation?

19 A What kind of reports?

20 Q I'm not sure.

21 A Police reports?

22 Q Police reports.

23 A I don't recall. I don't think I did, but I
24 can't recall that.

25 Q Okay. Well, now, Investigator McCracken,

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1 isn't it true that Kenneth Mack died on
2 February 14th?

3 A I don't know.

4 Q Okay. Isn't it true that Marcellius Brooks
5 was arrested for his murder on the 15th?

6 A I do not know.

7 Q Okay. And isn't it true that Marcellius
8 Brooks is the one that told the police
9 department about the second attack?

10 A I do not know.

11 MS. CAMPBELL: Objection, Your Honor.
12 He is asking him about hearsay.

13 THE COURT: He said he doesn't know.
14 It calls for a hearsay answer.

15 CROSS EXAMINATION CONTINUED

16 BY MR. CHAPLIN:

17 Q Are you aware that Marcellius Brooks
18 informed the police about a second attack?

19 MS. CAMPBELL: Same objection, Your
20 Honor.

21 THE COURT: Sustained.

22 CROSS EXAMINATION CONTINUED

23 BY MR. CHAPLIN:

24 Q Were you aware at the time that there were
25 two separate attacks?

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1 A I believe I was. I'm not sure.

2 Q And were you aware that Marcellius Brooks
3 had been charged in the first attack?

4 A I do not know that.

5 Q Are you aware of any negotiations between
6 Marcellius Brooks and Investigator Pegram?

7 A No. I had a very limited part in this
8 case, just what I've explained to you.

9 Q So you have no knowledge as to whether
10 somebody a subject anything?

11 MS. CAMPBELL: Objection, Your Honor.

12 THE COURT: He has answered that.

13 Sustained.

14 CROSS EXAMINATION CONTINUED

15 BY MR. CHAPLIN:

16 Q So on the 16th, the day after Marcellius
17 was arrested, Mary Anderson, Kara Chase and
18 Donetti Perry, all three, came to the police
19 department at the same time; is that correct?

20 A I cannot answer that. I was requested by
21 Investigator Thomas to interview Ms. Kara Chase.
22 That's what I can testify to.

23 Q Okay. Are you aware whether Ms. Chase had
24 been subpoenaed or did she come voluntarily?

25 A My understanding is she would have come

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1 voluntarily.

2 Q You indicated that Ms. Kara Chase picked
3 Mr. Gray out of a photo lineup?

4 A What I did was show the photo lineup, the
5 first photo lineup. She identified number one.
6 I asked her who is number one, and she responded
7 "Six's sister." So whoever that is.

8 Then the second photo lineup was shown to
9 her. She identified a photo, which is number
10 two. Number two, I asked her who that was and
11 she responded "Six."

12 So -- I don't have their names. I have
13 what she told me they were.

14 Q Okay. Did you ask her whether or not she
15 had known Six previously?

16 A I'd have to read her statements to see if
17 she had that in there. I don't have that
18 documented in my case notes.

19 Q Do you know who prepared the photo lineup?

20 A I do not.

21 Q Do you know why she wasn't shown a photo
22 lineup with Marcellius Brooks?

23 A I can't answer that question either. Again
24 I had limited involvement in this.

25 MR. CHAPLIN: Thank you very much.

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1 THE COURT: Redirect?

2 MS. CAMPBELL: No, sir.

3 THE COURT: All right. You may come
4 down.

5 (WITNESS STEPS DOWN)

6 THE COURT: May this witness be
7 excused?

8 MR. FARLEY: No objection, Your Honor.

9 MR. CHAPLIN: No objection.

10 THE COURT: Next witness.

11 MS. CAMPBELL: The State calls Malik
12 Akbar.

13 (WITNESS TAKES STAND)

14 MALIK AKBAR, being duly sworn to tell
15 the truth, the whole truth, and nothing but the
16 truth, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. CAMPBELL:

19 Q How old are you?

20 A Forty-seven (47).

21 Q Are you from the Columbia area?

22 A I've lived here a while.

23 Q About how long have you lived in Columbia?

24 A Steadily now for about sixteen years.

25 Q And what to you do?

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1 A I own a company where we put chain stores
2 and restaurants together.

3 Q I want to turn your attention back to
4 February 10th, 2012. Where were you employed?

5 A At Cousin's Mini Mart.

6 Q And what was your position?

7 A Co-owner.

8 Q You actually owned that with the people?

9 A. Yes.

10 Q Who did you own it?

11 A Magic, Malik -- myself, -- and Moses --
12 (inaudible).

13 Q And in your position as co-owner what were
14 your duties? What did you do?

15 A I ran the restaurant and made sure that
16 everything was straight for the restaurant and
17 we kept the books and stuff straight and every
18 now and then I would watch the monitors, the
19 video tape, to see what was going on in the
20 store.

21 Q And describe a little bit -- I know you
22 just said you ran the restaurant. Exactly what
23 type of establishment was Cousin's or is
24 Cousin's Mini Mart, or was it back then?

25 A It's a convenience store where the

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1 restaurant was in the bark. It's in the
2 neighborhood close to Gonzales Gardens on Forest
3 Drive. Right across the street is Sherwin
4 Williams, Bojangles. Right next to it is a
5 cleaners. Right next to it is a liquor store.
6 Right on the other side of it is Blue Ocean Fish
7 Market.

8 Q And all this is pretty -- within a block
9 pretty much?

10 A Within blocks.

11 Q And you mentioned video surveillance
12 equipment, that you reviewed that as part of
13 your duties as co-owner, can you describe a
14 little bit about your surveillance equipment
15 that you had?

16 A All total, if my memory serves me
17 correctly, I have sixteen cameras. Of the
18 sixteen camera, they're located throughout the
19 store, our premises of the store, and along the
20 premises on other end of the store toward the
21 fish market.

22 Q Okay. So you actually had cameras inside
23 the store?

24 A Yes, ma'am.

25 Q And on the outside, the front of your

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1 building?

2 A Outside of the front it's four cameras, one
3 down the far end, one directly as you come in,
4 one right on the other end and then there's one
5 zone go straight down towards the end towards
6 Gonzales Gardens.

7 Q Did that surveillance equipment actually
8 record things?

9 A Yes, ma'am.

10 Q And are you aware of whether that
11 surveillance equipment was recording back on
12 February 13, 2010?

13 A It records every day.

14 Q Every day.

15 Q And those records or disk are maintained,
16 you were able to retrieve them?

17 A We can retrieve them any time that we need.

18 Q And the police actually came to you and
19 asked for the video, correct, or one of your co-
20 owners?

21 A They asked Mack I think first and he could
22 not download it. Then we brought in a company
23 to try to download it but we didn't get the disk
24 that they say that they wanted, as to the right
25 time. Then they served us with a subpoena and

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1 took all of our surveillance equipment.

2 Q So they actually took the whole equipment.

3 A Yes, ma'am.

4 Q Let me ask you -- this here today, you're
5 actually under subpoena here today?

6 A That's correct.

7 Q You don't really want to be here?

8 A No, ma'am.

9 Q I'm going to show you what has been marked
10 as State's Exhibit 77 now, earlier did I show
11 you -- or myself and some colleagues in my
12 office, were you able to review part of a disk?

13 A Yes, ma'am.

14 Q Do you recognize this?

15 A Yes, ma'am.

16 Q And was that disk surveillance from your
17 store?

18 A Yes, ma'am.

19 MS. CAMPBELL: Your Honor, at this
20 time the state would introduce State's
21 Exhibit 77.

22 MR. FARLEY: No objection.

23 MR. CHAPLIN: Without objection.

24 THE COURT: No objection.

25 (SO ENTERED AS STATE'S EXHIBIT 77)

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1 MS. CAMPBELL: Permission to
2 publish?

3 THE COURT: Certainly.

4 MS. CAMPBELL: It will take just a
5 moment to set up the ---

6 DIRECT EXAMINATION CONTINUED

7 BY MS. CAMPBELL:

8 Q While they're setting up, I know you
9 referred to it as Cousin's Mini Mart, is it also
10 referred to as an open air market?

11 A The reason why a lot of people say open air
12 market is because Mr. Roach, who used to own the
13 store beforehand, had an open air market for
14 fifteen years. When we purchased it we changed
15 the name to Cousins for our company but people
16 still recognize it because it's been open for so
17 long. It's just like, let's say, you run a
18 family business for so long and people just know
19 it by that.

20 Q Event if it goes over to corporate, that's
21 what they refer to?

22 A Yes.

23 Q But open area and Cousins is one and the
24 same?

25 A Yes, it's one and the same.

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1 Q How close is it to Gonzales Gardens?

2 A About eighty yards.

3 Q Eighty yards, so not very far at all?

4 A No.

5 Q Did you actually work in the store pretty
6 much on a daily basis?

7 A I worked in the store thirteen to fourteen
8 hours a day six days a week, and then one day a
9 week about forty-five hours.

10 Q So you worked a whole lot in the store and
11 you were familiar with people coming in and out?

12 A Yes, ma'am.

13 Q Okay. Our very fancy technology needs a
14 moment to warm up before the signal will come
15 on. It's counting down from about four minutes.
16 I don't know if you wanted to sit tight or take
17 a short break.

18 THE COURT: Does that answer your
19 question?

20 MS. CAMPBELL: Sit tight.

21 THE COURT: No such thing as a five
22 minute break.

23 MS. CAMPBELL: You are correct.

24 DIRECT EXAMINATION CONTINUED

25 BY MS. CAMPBELL:

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1 Q While we're waiting, just a couple more
2 questions. You said you worked there daily,
3 correct?

4 A Yes, ma'am.

5 Q And you're pretty familiar with the people
6 coming in and out?

7 A Yes, ma'am.

8 Q Did you know Robin Reese?

9 A She comes in the store regularly.

10 Q Regularly and you had video game machines
11 or poker machines in the store at the time?

12 A Yes, ma'am.

13 Q Would she be playing on those when she came
14 in sometimes?

15 A Sometimes.

16 Q And are you familiar with Henry Gray?

17 A Yes, ma'am.

18 Q He would come in the store, as well?

19 A Yes, ma'am.

20 Q And are you familiar with Robin Reese's
21 daughter. They refer to her as Melquanna

22 A Yes, ma'am.

23 Q And do you know Marcellius Brooks, who is
24 referred to as Bloom?

25 A Yes, ma'am.

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1 Q Did you know that Robin Reese and Melquan were
2 affiliated with Marcellius Brooks?

3 A What do you mean they were affiliated?

4 Q That they knew and hung out with Bloom,
5 associated with him?

6 A I wouldn't say that they was, uh, -- hung
7 out. I'd just say they would know each other.
8 That's as far as I know with that part.

9 Q Your surveillance equipment records only
10 what happened but no audio, correct?

11 A Pardon.

12 Q Yes. Is there any audio with respect to
13 your surveillance equipment or just the video?

14 A There is no audio except by the register.

15 Q By the register?

16 A By the register.

17 Q If I can have you step down just for a
18 second so you can see.

19 A. (Complies).

20 Q (Video playing) -- Can you tell us what
21 part of the store that we're watching in this
22 camera, just describe the layout for what we're
23 seeing.

24 A This is the restaurants part right here.

25 Q Where the people are, the very top part?

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- 1 A The top part there, that's the restaurant
2 part there.
- 3 Q Okay.
- 4 A That's the beer cooler and this is the
5 front part of the store. This is the part right
6 here, the wall as you walk in straight to your
7 left.
- 8 Q And back towards the restaurant, is that
9 where the video machines are?
- 10 A Those machines are in the red right there,
11 machine right there and -- and the bulk that you
12 see on the other side.
- 13 Q So you had two machines in the store.
14 Where were these actually ---
- 15 A There were three.
- 16 Q Where was the other one?
- 17 A See the person playing right there.
- 18 Q Okay.
- 19 A That's the machine.
- 20 Q Okay. Where is the actual entrance to the
21 store in relationship to that?
- 22 A You can't see it from this one but right at
23 this barrel, ten, maybe twelve feet down is
24 another door that walks right in here.
- 25 Q Okay. You were actually working at the

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1 Mini Mart on that day?

2 A Yes, ma'am, back here.

3 Q In the restaurant?

4 A Yes, ma'am.

5 Q You can have a seat -- (video ended)

6 A (Complies)

7 Q Also Mr. Akbar, the timestamp on the video,
8 it's little bit off, correct? Doesn't it kind
9 of flip flop back and forth to where the time
10 stamp is not exactly correct?

11 A. Yes. Just a little bit. The cameras are
12 motion sensor. It records but it's records when
13 someone walks.

14 Q So while the date is correct the time may
15 not be necessary correct?

16 A. Right. There is -- sometimes there's
17 anywhere between a six second and twelve minute
18 gap between customers. If you don't walk under
19 it, that means the cameras is there but it is
20 not recording.

21 Q Mr. Akbar, when you came up here earlier,
22 were you actually working and could be seen in
23 the video?

24 A Yes, ma'am.

25 Q Did you work that whole day?

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- 1 A Yes, ma'am.
- 2 Q This video is kind of long, but you recall
- 3 Ms. Reese coming in that day?
- 4 A Yes, ma'am.
- 5 Q And was she playing the video machines?
- 6 A Yes, ma'am.
- 7 Q We're going to go ahead and switch to title
- 8 two. Is this going to be a different camera or
- 9 just a different timeframe?
- 10 A Just different cameras.
- 11 Q Just different cameras. Mr. Akbar, if I
- 12 can have you step down for just a second.
- 13 A (Complies)
- 14 Q (Video running) -- Were you still behind
- 15 the register or where were you in this video?
- 16 A Actually just -- right there (indicating).
- 17 Q Stand back where the jurors can see you?
- 18 A That's me walking back there in the white.
- 19 Q Okay. Do you know one of the people
- 20 sitting at the machines?
- 21 A Yeah, that's Robin there.
- 22 Q That's Robin who is sitting at the
- 23 machines?
- 24 A Yeah.
- 25 Q Okay. If you could step back just a little

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1 bit. She is actually standing there with two
2 guys, I believe, around her?

3 A Yes.

4 Q And that's where all three machines for?

5 A We have two other machines are facing that
6 way. She's on the short end of the machine.

7 Q And you're still outside or have you come
8 back?

9 A I'm outside. I'm outside. I'm going that
10 way back to the counter. That the time it's
11 like a big crowd in there getting their food and
12 stuff and playing on the machines.

13 Q At some point during those breaks, do you
14 ever play the machines?

15 A Yes, I play.

16 Q Were you actually playing on this day? Are
17 we going to see you come up?

18 A Actually, a little bit earlier I was
19 playing, then the crowd started, so I stepped
20 back. I was playing that machine right there.

21 Q Okay. That machine is actually right next
22 to where Ms. Reese was playing?

23 A Ms. Reese is right here and the machine is
24 right here. She will be at this one and I'll be
25 at that one next to her.

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1 Q In a few minutes the crowd kind of comes
2 in?

3 A Well, actually this crowd right here kind
4 of dissipated down. Both people came in and as
5 it dissipated town, she is still going to be
6 playing on one of the machines on the side.

7 Q And do you know any of the people around
8 her right now?

9 A I can't remember this person's name, but I
10 do know him when I see him.

11 Q And is that?

12 A This right here looks like Marcus right
13 there. It's a little hard to tell. I notice
14 this person here keeps moving more, but I can't
15 tell you his name.

16 Q We haven't seen Ms. Reese's daughter come
17 in yet?

18 A No, ma'am.

19 Q But you were there when she came in, as
20 well?

21 A Yes, ma'am.

22 Q And did she come in with a group?

23 A I didn't see a group because when I first
24 saw her, when she came in, I was like in that
25 section going back to the kitchen getting some

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1 food.

2 Q Okay. So maybe -- but then you came back
3 out at some out, correct?

4 A Yes. Any time I'm there fixing the food, I
5 get the food, come back and serve it to the
6 people.

7 Q Do you remember when Melquan came into the
8 store?

9 A I can't remember exactly what happened or
10 what all happened when she came in the store.

11 Q Right. Now, that little crowd is kind of
12 dancing around, aren't they?

13 A Yeah.

14 Q And Ms. Reese is still sitting there?

15 A Yes, ma'am.

16 Q You said you know that guy who is moving
17 around a lot?

18 A Yeah, I just can't think of his name.

19 Q Do you recognize some of the people
20 leaving? You said this is the crowd that goes
21 down, right? Kind of dispersed?

22 A Yes, ma'am.

23 Q And Ms. Reese?

24 A Actually, when somebody walks in front of
25 the camera it creates motion for another camera

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1 and as that camera comes in, this camera blinks
2 out. So you miss out a section when somebody
3 walks, our system right there.

4 Q Not very fancy?

5 A But the one we had, I can go straight to it
6 and split the screen and the other person is
7 straight up as they walk out the door and you
8 can see them then.

9 Q And do you know who that person is who just
10 came and talked to her, from your best
11 recollection of that day?

12 A No. I can't see it.

13 Q Are you still behind the counter cooking?

14 A At this point right here -- you don't see
15 that until you do.

16 Q Were you paying attention when people came
17 in?

18 A I paid enough attention to know basically
19 what you're doing, where you're at. We have
20 trouble spots in the store, so I paid attention
21 to the trouble spots. These are trouble spots
22 right here, right here and somebody -- there's
23 another spot right here that the camera don't
24 show you that's a trouble spot.

25 Q They're trouble spots because they're out

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1 of sight of anybody who might be working in the
2 store?

3 A Right, somebody comes in the store for
4 people to rob you and stuff like that. Those
5 are called trouble spots.

6 If anybody is working up to here, we pretty
7 much know who is it and will see you every day.
8 I knew a lot of people there. I know some of
9 them by names, some by faces, some by nicknames.

10 Q Do you remember Melquan coming in that day and
11 Robin being there?

12 A She was there before Melquan came in the
13 store. When Melquan came in, I can't remember
14 whether she left right then but I do know she
15 left out of the store shortly after.

16 Q Okay. Do you know if Melquan left with her?

17 A I don't remember.

18 Q You don't remember.

19 Q Okay. So the cameras are -- you have a
20 total of sixteen cameras, correct?

21 A Correct. Looking based on what you looking
22 at, you're looking down a little bit, you only
23 use two cameras. There's another camera that's
24 right there that zooms this way.

25 Q There were complications with copying the

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1 disks?

2 A Yes, we had to get a technician to come in
3 to drop to download these cameras. It's
4 complicated.

5 Q Now, is Ms. Reese still in the store?

6 A No, she's not there.

7 Q All right. So she has left out?

8 A That's when I tell you that when people
9 move to different a motion camera, it blips and
10 they are gone. The next motion on the other
11 camera -- between here and there, there's five
12 cameras. In the process of walking through each
13 camera, it blips. The motion sensors do that.
14 If you have the system where it's gone onto the
15 rest of the cameras, you can pull up it up when
16 someone walks out and walks up here. But here
17 you are only on two cameras.

18 Q So it's probably the equipment that is not
19 allowing us to see it?

20 A Yes. You see, it's five cameras there.
21 There's a camera right there. In the front
22 there's three cameras right there. Two cameras
23 on the register. As soon as you walk out the
24 floor, there's another camera that got you. We
25 use that security measures to use when y'all

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1 want to check something, a robbery. Those are
2 motion sensitive at all times. So the equipment
3 that you'll have when they're drawn out, you
4 should have followed through the motion.

5 Q So we're seeing the center of the store
6 where the camera kind of always reverts back to,
7 outside of the motion sensors?

8 A Right. This runs all day like this. The
9 outside camera runs all day. The other camera
10 in the back runs. All the motion cameras blip
11 off as this goes back. This is the one you
12 really want to put in the system.

13 Q And who is that walking out of the store
14 now?

15 A Oh, that was Tyree. He works there.

16 Q Oh, he actually works there. Okay. And on
17 that day when Ms. Reese was in there and Melquan
18 walked in, do you recall anything about how they
19 were acting or whether they were kind of allowed
20 or were they quiet, things of that nature?

21 A I know it was like fussing but quiet, be
22 quiet and then everybody left. A while later,
23 everybody made a whole bunch of noise, stuff
24 like that.

25 Q And kind of dancing around?

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1 A Yes, ma'am.

2 Q Socializing, things of that nature?

3 A Yes, ma'am.

4 Q You're no longer affiliated with that
5 business, correct?

6 A No, ma'am.

7 Q You said there were additional cameras also
8 in that store during that timeframe?

9 A Yes, ma'am.

10 Q And the person you know as robin Reese, do
11 you see her in the courtroom today?

12 A Yes, ma'am.

13 Q Can you point her out for us?

14 A Right there in the brown.

15 Q Is she next to her attorney?

16 A Yes, ma'am.

17 Q And the person you know as Henry Gray or
18 Six, do you see him in the courtroom?

19 A Yes, ma'am.

20 Q Where is he?

21 A He's in the blue shirt.

22 MS. SIMPSON: Thank you.

23 THE COURT: Cross-examination?

24 MR. FARLEY: Thank you, Your Honor.

25 CROSS EXAMINATION

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1 BY MR. FARLEY:

2 Q Mr. Akbar, did you recognize robin at the
3 machine on the video or do you just remember her
4 being there?

5 A Pardon me?

6 Q Do you recognize her from the video?

7 A I recognize her in the video because I
8 could recognize people that walk. If I deal
9 with a person and the person comes in the store
10 all the time, that's my job to remember how
11 people look and stuff, so when I saw her in the
12 video that's what I was looking for. I was
13 looking for body structure and stuff and I
14 recognize the person in the video.

15 Q And you recognized her from watching the
16 video?

17 A Yes, I did, yes, I did.

18 Q Okay. Well, it's kind of hard to tell who
19 else was who, but you said -- I believe your
20 testimony was there was a lot of moving around?

21 A A lot of moving around, but if somebody
22 comes in your store every day for a whole year
23 and you talk to them and see them every day,
24 you'll be able to recognize them.

25 Q I wasn't talking about Ms. Reese, I was

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1 talking about a lot of the other folks on the
2 video, that it was kinda hard to pick them out
3 as they were moving around.

4 A Some of them I recognize but I don't know
5 people by names.

6 Q Right.

7 Q And you did say there was a lot of in and
8 out?

9 A Yes.

10 Q And you yourself went in and out?

11 A I went in and out the kitchen. I didn't go
12 in and out of the store.

13 Q But your attention was a little bit
14 distracted and you were back in the restaurant;
15 is that correct?

16 A Yes, sir.

17 Q The -- and the other thing I want to ask,
18 if you could clarify something for me, this is
19 something you would know as far as the video was
20 concerned. I was kinda curious when I saw the
21 video time date stamp at the top said 21312 but
22 at the bottom it said 22412. I was just kind of
23 confused by that.

24 A Okay. Sometimes when they go inside the
25 system to reboot the system or to recheck the

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1 system, they log in a time. That time is the --
2 the top time is usually the last time that
3 somebody went in the system to manually record
4 on the system. The bottom time is supposed to
5 set the time that it goes through the camera.
6 Sometimes on the camera if they go in and they
7 boot it out, then the time will skip. In this
8 case here, four different people tried to mess
9 with it to try to get it to pull up, so as far
10 as I've known the time I've worked there,
11 there's been times we went to court on other
12 situations and because they didn't pull it out
13 of the program correctly, the time always kicks
14 out.

15 Q So when you say the time kicks out, you
16 mean if ---

17 A It means like if there is a delay on the
18 motion sensor. Say if the delay is -- for
19 example the day is 2/29 okay. And say that ti
20 is 1:00 o'clock, but the motion skipped.
21 There's nobody come on this time zone on this
22 camera. Well, the time they were actually
23 rolling on the camera, but it won't actually
24 show the time that you actually walk through the
25 part and it won't show nothing else. If nothing

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1 else comes in on that timeframe, it won't show
2 nothing else but that time and that's it.

3 Q So the date of February 24th, 2010, at the
4 bottom is the date that that timestamp on the
5 bottom would be the ---

6 A I can't tell you one way or the other on
7 that timestamp on that one, because of the
8 simple fact is I have never was the one that
9 pulled it or the one to go into it or anything
10 once the incident happened. They came in on the
11 same day of the incident and asked that we
12 download and pull it at that moment. Because
13 nobody was there to authorize, besides myself
14 and there's only one other person who could,
15 they couldn't pull it.

16 When he came back to pull it, he didn't say
17 he wanted each part of the tape. He scanned the
18 camera manually and tried to download it.
19 Anything could happen between then, but one
20 thing for sure, it was already solved the same
21 day and they want to pull it the same day. It's
22 just that the senior partner wasn't going to let
23 y'all have the camera because it meant we didn't
24 have no security on the store. Anyway, it ended
25 subpoenaed on everything but we still didn't

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1 have security.

2 Q But anything could happen to the video?

3 A What I'm saying is anything could happen to
4 the video but one thing for sure, the video that
5 I saw today was the video that was taken on that
6 same day.

7 Q But anything that could have happened and
8 that kinda goes to the accuracy of the video.

9 A No.

10 Q Well, you were just saying it has motion
11 sensors on it and it blips. Isn't it fair to
12 say there's pieces missing?

13 A Pieces missing how?

14 Q Well, you said there were blips?

15 A The blips are that if they had a better
16 computer system there, I can pull up every
17 camera here and show you exactly what happened,
18 every person that walked in the store or out of
19 the store.

20 Q Well, Mr. Akbar, ---

21 A Hold up. Because you don't have a better
22 system, you can't see everybody walking in the
23 store and out of the store; but on that disk
24 that's pulled from our program, you can see
25 everything in the store, everything moving in

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1 the store.

2 Q Now, Mr. Akbar, ---

3 A If you'll allow me to go to my car, we can
4 get a computer system in here and we can
5 download everything and I pull everything up for
6 you; if you need that.

7 Q I wouldn't want you to do that, Mr. Akbar,
8 but what I'm saying is the video that was shown
9 by the prosecution is what we have to deal with.
10 That's the video I want you to speak to. What
11 I'm saying is, are there pieces missing out of
12 that video that was just shown to the jury?

13 A I would say that there were sections
14 missing where the camera relates itself.

15 Q So is it fair to say not all the pieces
16 were there, that there are pieces missing?

17 A No.

18 Q From the video that we just saw?

19 A No. I'm saying they don't have the proper
20 equipment to show the video.

21 Q My question is not about equipment. My
22 question about what they saw?

23 A And my answer to you is still the same.
24 They do not have the proper equipment to show
25 you the video that you just saw.

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1 Q So not withstanding the equipment, the
2 resulting image is not a complete image?

3 A It's not a complete image? The image of
4 everybody that was in that video that I said was
5 I that video is in that video.

6 Q But you just said there were pieces
7 missing, because ---

8 A No, I did not. I said everybody was there
9 that did not have the complete equipment to show
10 you each camera. That's what I said.

11 Q Okay. And this was only one -- I'm sorry,
12 two cameras and there were five cameras in the
13 store?

14 A There's a total of sixteen cameras.

15 Q A total of sixteen cameras but we only have
16 two views?

17 A They only had two views that they pulled
18 from the system.

19 Q And when I say two views, I mean, the jury
20 only saw two perspectives. I don't want you to
21 get hung up on the equipment we have. I'm just
22 saying.

23 A I don't want to mislead anybody, because
24 everything was on the camera. You're trying to
25 tell me that they only saw part of something.

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1 I'm telling you that they can only see what the
2 equipment allows them to see. That's it.

3 Q They only saw what the equipment allowed
4 them to see. Thank you Mr. Akbar. No further
5 questions.

6 CROSS EXAMINATION

7 BY MR. CHAPLIN:

8 Q Good afternoon Mr. Akbar. At the time in
9 February of 2010, you ran the store.

10 A Yes, sir.

11 Q Okay. You no longer run that store?

12 A No, sir.

13 Q Who runs the store?

14 A Magic. Well, Magic don't run it now.

15 Q Do you know Marcellius Brooks?

16 A Bloom.

17 Q Bloom/Marcellius Brooks?

18 A Yes.

19 Q How do you know him?

20 A I know him through the store and seeing him
21 around the neighborhood.

22 Q You didn't see any attacks that took place
23 on February 13th, 2010, did you?

24 A No, sir.

25 Q You didn't. Earlier you said you knew my

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1 client, Henry Gray?

2 A Yes, sir.

3 Q And that's because you run the store in the
4 community, right?

5 A That and I've seen him around.

6 Q Okay. All right. No further questions.
7 Thank you.

8 THE COURT: Anything further?

9 MS. SIMPSON: Nothing from the State,
10 Your Honor.

11 THE COURT: All right. Mr. Akbar,
12 thank you very much. You're free to go.

13 (WITNESS STEPS DOWN)

14 MR. CHAPLIN: No objection.

15 THE COURT: You're excused.

16 MR. FARLEY: No objection.

17 THE COURT: Next witness.

18 MS. SAMPSON: The State calls
19 Marcellius Brooks.

20 THE COURT: Ladies and gentlemen it's
21 going to take Mr. Brooks a few minutes to
22 appear. I suggest we take a short afternoon
23 break. Just retire to your jury room. Don't
24 discuss the case among yourselves while you're
25 in the jury room. Just relax a few minutes. I

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1 hope the bailiffs will have you some refreshes.

2 (JURY OUT @ 3:44 p.m.)

3 (BRIEF RECESS)

4 (DEFENDANTS PRESENT)

5 THE COURT: Be seated. Ready for the
6 jury?

7 MS. SAMPSON: The State is ready.

8 THE COURT: Defense ready?

9 MR. FARLEY: We're ready.

10 MR. CHAPLIN: Ready, Your Honor.

11 THE COURT: Bring the jury.

12 (JURY IN @ 4:01 p.m.)

13 BAILIFF: All jurors are present, Your
14 Honor.

15 THE COURT: Solicitor, call your next
16 witness.

17 MS. SAMPSON: May it please the Court.
18 The State calls Marcellius Brooks. Be careful.
19 Go over there.

20 (WITNESS TAKES STAND)

21 MARCELLIUS BROOKS, being duly sworn to
22 tell the truth, the whole truth and nothing but
23 the truth, testified, as follows:

24 DIRECT EXAMINATION

25 BY MS. SAMPSON:

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- 1 Q Mr. Brooks, how old are you?
- 2 A Twenty-four (24).
- 3 Q And are you from the Columbia area?
- 4 A Yes, ma'am.
- 5 Q How long have you been living in Columbia?
- 6 A All my life.
- 7 Q Where did you go to high school?
- 8 A A.C. Flora High.
- 9 Q Are you familiar with Gonzales Gardens?
- 10 A Yes, ma'am.
- 11 Q Why are you familiar with Gonzales Gardens?
- 12 A Because I used to live out there.
- 13 Q And what area of Gonzales Gardens do you
- 14 live in?
- 15 A At the bottom of the gardens in the D
- 16 Building.
- 17 Q The D Building?
- 18 A Yes, ma'am.
- 19 Q When you say the bottom of the Gardens,
- 20 what area is that?
- 21 A On Forest Drive.
- 22 Q It's on Forest Drive?
- 23 A Yes, ma'am.
- 24 Q Are you familiar with where F and G are?
- 25 A Yes, ma'am.

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1 Q As well as the L building on the other end?

2 A Yes, ma'am.

3 Q Are you familiar with the open air market
4 there on Forest Drive?

5 A Yes, ma'am.

6 Q Is that within walking distance of Gonzales
7 Gardens?

8 A Yes, ma'am.

9 Q Did you know Robin Reese?

10 A Yes, ma'am.

11 Q Tell this jury how you know Robin Reese.

12 A Well, me and my girlfriend lived next door
13 to her for about two years, two-and-a-half
14 years.

15 Q Would you consider yourself to be friends
16 or acquaintances with Ms. Reese?

17 A Yeah, we talked.

18 Q You talked?

19 A Yeah, was next-door neighbors.

20 Q And did you know that she had a daughter?

21 A Yes, ma'am.

22 Q And what was her daughter's name, did you
23 remember?

24 A I know her by the name Melquanna S.

25 Q Melquanna

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1 A Yes, ma'am.

2 Q And you know Melquan from living next door to
3 her for a couple of years?

4 A Yes, ma'am.

5 Q Did you know her brother Henry Gray?

6 A I knew of him but I don't know him.

7 Q Did you know whether or not he had
8 nickname?

9 A Yes.

10 Q What was his nickname?

11 A Six.

12 Q Were you familiar with whether or not he
13 also lived in Gonzales Gardens?

14 A I'm not sure about that.

15 Q Do you know whether or not their father
16 lived in Gonzales Gardens?

17 A Yes, ma'am.

18 Q What building was that?

19 A It was the G building.

20 Q Do you have a nickname?

21 A Yes, ma'am.

22 Q What's your nickname?

23 A I go by the nickname of "Bloom."

24 Q Bloom?

25 A Yes, ma'am.

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1 Q And that's what everybody pretty much knows
2 you by?

3 A Yes, ma'am.

4 Q Would you say that your relationship with
5 Robin Reese was a good relationship. You were
6 on good terms?

7 A Yes, ma'am.

8 Q I want to turn your attention back to
9 February 13th of 2010, the day all this happened?

10 A Yes, ma'am.

11 Q Were you in the Gardens that day?

12 A Yes, ma'am, I was.

13 Q What were you doing that day, that
14 afternoon?

15 A I was walking down the street on McDuffie
16 Street.

17 Q On McDuffie Street?

18 A Yes, ma'am.

19 Q What did you o?

20 A I observed Melquan [REDACTED] and an unknown guy talking.
21 Well, it was in some type of altercation.

22 Q All right. When you say she was talking
23 when you first observed them, were they standing
24 up on the ground or where were they?

25 A They were face to face, talking.

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1 Q And what -- and you were just walking down
2 the street. At that point, you didn't know
3 anything was going on?

4 A No, ma'am, I didn't.

5 Q What did you observe next that caught your
6 attention?

7 A I observed Melquan [REDACTED] slap the guy.

8 Q So prior to seeing Melquan [REDACTED] slap the guy, you
9 just observed them talking?

10 A Yes.

11 Q After you saw Melquan [REDACTED] slap the guy, what
12 happened?

13 A I saw the guy pick Melquan [REDACTED] up and slam her to
14 the ground.

15 Q To the ground?

16 A Yes, ma'am.

17 Q And the guy that we're referring to, the
18 ultimately victim in this case?

19 A Yes, ma'am.

20 Q Did you know him?

21 A No, not at all.

22 Q Had you ever seen him before?

23 A Had never saw him.

24 Q Had you ever been to his barber shop down
25 the street?

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1 A No, ma'am.

2 Q So the first person you saw do anything of
3 a not nice nature or a violent nature was Melquan
4 slapped him?

5 A Yes, ma'am.

6 Q You don't know what was said or what caused
7 that?

8 A No, ma'am.

9 Q You don't know anything about how she
10 wouldn't give him his potato chips or anything
11 like that?

12 A No, ma'am.

13 Q At that point when you saw him slam Melquan to
14 the ground, what was going through your mind?

15 A Go help Melquan

16 Q So is that what you did?

17 A That's what I did.

18 Q Tell this jury what happened -- how far
19 away from them were you when this happened?

20 A Like from here to where the benches are at.

21 Q Like from here over to here?

22 A Yes, ma'am.

23 Q Back to this bench or even further back
24 maybe?

25 A I'd say right there in that area.

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- 1 Q And is what -- you were perceiving is that
2 Melquan was in trouble and you were helping her?
3 A I was helping Melquann yes, ma'am.
4 Q What happened next?
5 A I then ran and bum rushed the guy.
6 Q When you say "bum rushed" the guy, what is
7 that? For people old, like me?
8 A I tackled him off of her.
9 Q Off of her?
10 A Yes, ma'am.
11 Q So you bum rushed him, you kinda pushed him
12 off?
13 A Yes, ma'am.
14 Q At that point is he down on the ground?
15 A Yes, ma'am.
16 Q So what to you do?
17 A I'm on top of him and I hit him twice.
18 Q Okay. With what?
19 A With a closed fist.
20 Q Were there other people in the area?
21 A I mean, a crowd started to form to see what
22 was going on then.
23 Q Is that typically what happens in Gonzales
24 Gardens when there is a fight?
25 A That's typically what happens when there is

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1 a fight, any fight.

2 Q Then what happened?

3 A After that a little struggle, a little
4 tussle here and there. We both were tussling
5 with each other. I was then pulled up by
6 someone, Little Ricky. Then after that the guy
7 got up and ran off.

8 Q Little Ricky, is his name Angelo?

9 A Angelo Boyd. Yes, ma'am.

10 Q What about Kenneth Archie, was he out there
11 that day?

12 A I don't know anybody by the name of Archie.

13 Q You don't know him by that name?

14 A No, ma'am.

15 Q Do you remember another person involved in
16 the fight, getting some licks in?

17 A I didn't see nobody else there.

18 Q Do you remember? Are you going to tell
19 this jury about how you got Melquan to kick him a
20 few times.

21 A. Yeah, she did. She tried to kick him but I
22 was on top of him. I was on top of him, so I
23 will guess she couldn't really get a lick in
24 like that because I was on top of him.

25 Q And you're kind of protective of Melquanna

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1 A What do you mean by that?

2 Q Protective of Melquann you look at her fondly?

3 A Oh, yes, ma'am; yes, ma'am.

4 Q So you told Melquan to kick him but you
5 testimony here today is that she couldn't get
6 good licks in.

7 A She couldn't because I was on top of him.

8 Q Do you remember a guy named Thomas Joseph
9 being out there that day?

10 A Just -- he probably was in the crowd if he
11 was, but I'm not sure.

12 Q You don't recall anybody else joining in
13 your fight?

14 A No, ma'am.

15 Q And hitting him?

16 A No.

17 Q And your testimony here today is that you
18 only hit him twice?

19 A Twice; yes, ma'am.

20 Q Do you remember kicking him?

21 A No, ma'am, I did not kick him.

22 Q Do you remember what the victim was saying
23 when you had him pinned down to the ground and
24 was hitting him?

25 A No, ma'am.

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1 Q Do you remember how long you had him down
2 on the ground?

3 A No, ma'am, not really.

4 Q You mentioned that somebody had to pull you
5 off of him?

6 A Ricky did pull me off of him.

7 Q Ricky Boyd?

8 A Yes, ma'am.

9 Q Do you remember Ricky getting in his couple
10 of licks that he testified to?

11 A No, no, no, ma'am, I didn't.

12 Q Was the victim bleeding?

13 A He did have a busted lip.

14 Q And was that where you'd hit him?

15 A I'm not sure. Probably so.

16 Q Or was that from where Melquan hit him?

17 A I'm not sure.

18 Q Once you got pulled off of him, what
19 happened?

20 A I then got Melquann she got up, she picked her
21 shoes up off the ground and I walked her to the
22 store, to the open air market.

23 Q And who all was with you?

24 A I mean, the crowd was behind me but I'm not
25 sure who was in the crowd.

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1 Q Little Ricky?

2 A Yes, he was with me.

3 Q And some of these other guys who have nick
4 names?

5 A I mean, I don't know. I'm not sure. There
6 was a crowd that was walking.

7 Q Once you left and you got Melquann where were
8 you taking her?

9 A To the store where her mother was.

10 Q And why were you taking her to the store?

11 A Because that's the mother be at, at that
12 store.

13 Q She's always at the store?

14 A Yes, ma'am.

15 Q What is she doing at the store?

16 A Playing on the machines, video poker.

17 Q That's what she does pretty much on a daily
18 basis?

19 A That's what we -- well, we all do that, so
20 yeah.

21 Q So you went straight to the store with Melquan
22 and the crowd that was traveling behind you?

23 A Yes, ma'am.

24 Q When you got to the store, what did you do?

25 A Took her to her mother, told her mother

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1 what happened.

2 Q What did you tell her mother had happened?

3 A I just told her some guy was on Melquan or
4 whatever. I got him off of Melquan and I brought
5 her to him, whatever.

6 Q And what was her mother's reaction?

7 A She was like, 'Who?' That's the question
8 she asked me was who was the guy.

9 Q What did you tell her?

10 A 'I don't know.' She asked her daughter who
11 it was.

12 Q Do you remember what Melquan told her?

13 A She said she don't know.

14 Q Was somebody else able give information
15 identifying the person?

16 A No, ma'am.

17 Q Were you able though to give her a
18 description of what the person was wearing and
19 what they looked like?

20 A I didn't, though.

21 Q Do you know if anybody else did?

22 A I am not sure.

23 Q But there were other people in the store,
24 as well?

25 A Yeah.

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1 Q And everybody was pretty upset?

2 A I mean, not everybody. It was just really
3 it was me talking to Robin and Melquanna Really,
4 they was together.

5 Q Were they upset? Was she upset?

6 A Yes, she was upset.

7 Q Do you remember Robin getting on the phone
8 while you were there?

9 A Not when she was in the store but when she
10 walked out of the store.

11 Q Well, before y'all left the store, did she
12 have to finish her video poker game?

13 A I'm not sure.

14 Q You don't remember that part either?

15 A No, ma'am. I'm not sure about that part.

16 Q When you all left the store, did she leave
17 first or did you leave first?

18 A She left first.

19 Q And once outside you said you saw her get
20 on the phone?

21 A Yes, she was on the phone.

22 Q Do you know who she was talking to?

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

24 Q But she was down there making a phone call?

25 A Yes, ma'am.

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1 Q Could you hear what she was saying to the
2 person on the other end of the phone?

3 A No.

4 Q Was she excited, was she upset, was she
5 angry?

6 A All I saw, she was just on the phone.

7 Q Was Melquan with her at that point?

8 A Yes, ma'am.

9 Q Were you with her at that point?

10 A No, ma'am.

11 Q Was this right outside the store or back
12 into Gonzales Gardens?

13 A Well, she was trying to get on the phone
14 when she was going out of the store.

15 Q So she was trying to make phone calls as
16 she left the store?

17 A Yes, ma'am.

18 Q She ended talking to someone. You just
19 couldn't hear what she said?

20 A I don't know what she said.

21 Q Where did you go?

22 A I went back down McDuffie and walked
23 through the Gardens to the S Building.

24 Q To the edge of it?

25 A To the S Building.

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- 1 Q Which is on McDuffie Street?
- 2 A No, ma'am. It's in the Gardens plaza.
- 3 It's in the middle of the Gardens.
- 4 Q It's in the middle?
- 5 A Yes.
- 6 Q But it's not next to be F and G?
- 7 A No, ma'am.
- 8 Q Did you cut through the children's center?
- 9 A The daycare, no. No, I didn't cut through
- 10 there because I was still on McDuffie so I cut
- 11 like through the -- I'd say the "O" and "R"
- 12 area.
- 13 Q Okay.
- 14 Q But you cut through that area in the
- 15 middle.
- 16 A Yes, ma'am.
- 17 Q Did you go down the F and G building at
- 18 that point?
- 19 A No, ma'am.
- 20 Q You went to building S?
- 21 A Yes, ma'am.
- 22 Q That's where you were living at the time?
- 23 A No, ma'am. I went there to go see someone.
- 24 Q Who were you going to see?
- 25 A Vallery, Ms. Vallery.

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- 1 Q Ms. Vallery Goodwin?
- 2 A Yes, ma'am.
- 3 Q Why were you going to see Vallery Goodwin?
- 4 A Well, I'd got a phone call from her. She
- 5 asked for a couple of dollars for her son that
- 6 was incarcerated, a friend of mine.
- 7 Q A friend of yours?
- 8 A Yes, ma'am.
- 9 Q So you went by there to give her some money
- 10 for her son who was incarcerated?
- 11 A Yes, ma'am.
- 12 Q So you went into her apartment?
- 13 A Yes, ma'am, I did.
- 14 Q Do you remember the police coming to that
- 15 apartment and knocking on the door?
- 16 A No. I was gone there. I was gone.
- 17 Q You didn't leave because the police came,
- 18 did you?
- 19 A No, ma'am.
- 20 Q Then where did you go?
- 21 A I went to my mother's house.
- 22 Q Where is your mother's house?
- 23 A On Rosewood.
- 24 Q How did you get there?
- 25 A She picked me up.

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- 1 Q And where did she pick you up?
- 2 A From off of McDuffie.
- 3 Q Why did you want to go to your mother's
- 4 house suddenly?
- 5 A I'd called her before of this happened.
- 6 I've been calling.
- 7 Q Let me ask you this. After the fight you
- 8 got up and left. Melquan got her shoes and she
- 9 left. Where did the victim go?
- 10 A The victim was running like towards the
- 11 bottom of the Gardens.
- 12 Q Why was he running?
- 13 A Because of what just happened.
- 14 Q Because you beat him up?
- 15 A Yes, ma'am, he got up and ran off.
- 16 Q Did he say anything as he left?
- 17 A No, ma'am, not that I know of.
- 18 Q After you left the store that day, did you
- 19 see what direction Robin Reese went?
- 20 A Yes, ma'am. She walked straight down
- 21 Forest Drive.
- 22 Q And if you go straight down Forest Drive.
- 23 If you go straight down Forest Drive, is
- 24 that another edge -- McDuffie goes this way and
- 25 Forest Drive goes this way? Are there a row of

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1 buildings there in Gonzales Gardens?

2 A Yes, ma'am.

3 Q In Gonzales Gardens?

4 A Yes, ma'am.

5 Q Does that include F and G?

6 A Yes, ma'am.

7 Q And where did her daughter go?

8 A Her daughter was with her.

9 Q In that same direction?

10 A Yes, ma'am.

11 Q When she left the store that day, how would
12 you describe her demeanor?

13 A Angry.

14 Q So the first person you saw throw a punch
15 that day, or threw a punch as far as you know,
16 was Melquanna

17 A Yes, ma'am.

18 Q After you got to your mother's house, did
19 you become aware the police were looking for
20 you?

21 A No, ma'am.

22 Q Not that day?

23 A Well, yes, that day when I got to the mall.

24 I left my mother's house, went to the mall.

25 Q Okay. And how did you become aware that

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1 the police were looking for you?

2 A I got a phone call from my brother.

3 Q And they were trying to contact you?

4 A Ma'am?

5 Q They were trying to contact you?

6 A Now, he did contact me and told me about
7 what was going on.

8 Q Your brother did?

9 A Yes, ma'am.

10 Q The next day did the police find you?

11 A No, ma'am. They called my phone, though.

12 Q Did you turn yourself in?

13 A Yes, ma'am.

14 Q When did you turn yourself in?

15 A I guess that was the 15th.

16 Q A day or two after this happened?

17 A Yes, it was like the 15th or something like
18 that, 14th or the 15th.

19 Q Could it have been February 15th around
20 that evening?

21 A I know it was like evening time, like after
22 5:00.

23 Q And you actually went to the police
24 department yourself?

25 A Yes, ma'am, my mother took me.

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1 Q When you got there, did you make contact
2 with investigators?

3 A Yes, ma'am.

4 Q Do you remember what investigators you
5 talked to?

6 A Pegram and Thomason.

7 Q And at that point, were you aware of why
8 they were looking for you?

9 A Yes, ma'am. They told me on the phone when
10 they called me.

11 Q And why were they looking for you?

12 A For a murder.

13 Q And then you went and turned yourself in?

14 A Yes, ma'am.

15 Q Once you turned yourself in at
16 headquarters, did they advise you of your
17 rights?

18 A Yes, ma'am.

19 Q Did you decide to waive your rights and
20 talk to them?

21 A Yes, ma'am.

22 Q They went through your whole advice of
23 rights; is that correct.

24 A Yes, ma'am.

25 Q Your right to remain silent?

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1 A Yes, ma'am.

2 Q Your right to have an attorney?

3 A Yes, ma'am.

4 Q All your Constitutional rights?

5 A Yes, ma'am.

6 Q But you choose to talk to them?

7 A Yes, ma'am.

8 Q Why?

9 A Because I felt that I was innocent.

10 Q Had you been given some information about a
11 second assault that happened that day?

12 A Yes, ma'am.

13 Q Was that information -- was that some
14 information you wanted to give to the police?

15 A Yes, ma'am.

16 Q Did you give them the recorded statement,
17 the information on the assault you participated
18 in and then what you'd heard about what had
19 happened after that?

20 A Yes, ma'am.

21 Q What information did you give the police?

22 A About with the second incident?

23 Q The first incident where we talked about,
24 going to the open air market and all that.

25 A Right.

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1 Q Then what information did you give them
2 about the second incident?

3 A I told them what I heard was the man got to
4 the bottom.

5 MR. CHAPLIN: Objection, Your Honor.

6 THE COURT: All right. He told him.
7 He can't say what he told the officer you can't
8 say what somebody else said.

9 MS. SAMPSON: I'm just asking what he
10 told the officers.

11 THE COURT: Overruled.

12 DIRECT EXAMINATION CONTINUED

13 BY MS. SAMPSON:

14 Q Tell me what you told the officers?

15 A I told the officer that I heard someone
16 said that the man got to the bottom, uh, said he
17 got in contact with someone was talking to them,
18 said he was -- asked him what happened to him,
19 said he was up the street fighting with some
20 little B.

21 MR. FARLEY: Your Honor, I'd like to
22 renew that hearsay objection.

23 MS. SAMPSON: I'll move on.

24 THE COURT: Move on.

25 MS. SAMPSON: Okay.

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1 DIRECT EXAMINATION CONTINUED

2 BY MS. SAMPSON:

3 Q Once you told them the information that you
4 had heard, were you arrested that day?

5 A No, ma'am.

6 Q When were you arrested?

7 A Oh, -- yes, -- yes, ma'am.

8 Q You were arrested that same day?

9 A Yes.

10 Q For, I believe, the murder and lynching?

11 A Yes, ma'am.

12 Q And those charges are still pending, are
13 they not?

14 A Yes, ma'am.

15 Q And you have a lawyer?

16 A Yes, ma'am.

17 Q And is she here in the courtroom?

18 A Yeah.

19 THE COURT: Stand up.

20 WITNESS: Yes, ma'am, right there.

21 DIRECT EXAMINATION CONTINUED

22 BY MS. SAMPSON:

23 Q And you're aware that your murder charge
24 carries thirty to life?

25 A Yes, ma'am.

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1 Q And you're also aware that the lynching
2 charge carries five to forty.

3 A Yes, ma'am.

4 Q You also have pending charges that include
5 criminal domestic violence?

6 A Yes, ma'am.

7 Q Malicious injury to property?

8 A Yes, ma'am.

9 Q Simple possession of marijuana?

10 A Yes, ma'am.

11 Q Two counts.

12 A Yes, ma'am.

13 Q And PWID marijuana, possession with intent
14 to distribute?

15 A Yes, ma'am.

16 Q And those are all pending?

17 A Yes, ma'am.

18 Q Are you testifying here today?

19 A Yes, ma'am.

20 Q Why?

21 A Because I'm innocent.

22 Q Has anybody promised you any deals as far
23 as any reduction?

24 A No, ma'am.

25 Q Any dismissal?

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- 1 A No, ma'am.
- 2 Q Any certain sentence?
- 3 A No, ma'am.
- 4 Q Any kind of leniency in exchange for your
5 testimony?
- 6 A No, ma'am.
- 7 Q Are you hoping that will happen?
- 8 A I mean, I hope that they'll see me innocent
9 in this.
- 10 Q You hope that someone takes it into
11 consideration down the road?
- 12 A Yes, ma'am.
- 13 Q But you understand you can still be
14 prosecuted for all these charges I've just gone
15 through?
- 16 A Yes, ma'am.
- 17 Q And there are absolutely no deals that have
18 been made, with you or your lawyer or anyone
19 else?
- 20 A No, ma'am.
- 21 Q And you're facing up to life?
- 22 A Yes, ma'am.
- 23 Q Did you participate in the second assault?
- 24 A No, ma'am, I didn't.
- 25 Q The people that you knew, Ms. Robin Reese

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1 and -- you knew who her brother was?

2 A Yes, ma'am.

3 Q Do you see them here in the courtroom?

4 A Yes, ma'am.

5 Q And what was his nickname?

6 A Six.

7 Q Can you point him out for the jury?

8 A (Indicating).

9 Q Seated at the table?

10 A Yes, ma'am.

11 Q What's Six wearing?

12 A Blue shirt.

13 Q And Ms. Reese is the only female at the
14 table?

15 A Yes, ma'am.

16 Q And you aren't here today to tell the jury
17 you didn't beat up Kenneth Mack that day?

18 A Ma'am?

19 Q You aren't saying that you beat up Kenneth
20 Mack that day?

21 A. No.

22 Q You're just saying he walked away?

23 A Yes, ma'am.

24 Q And you had nothing to do with the second
25 assault?

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1 A No, ma'am.

2 Q And you're the one that went with her
3 daughter and actually told her about what you
4 perceived as an assault on her daughter?

5 A Yes, ma'am.

6 Q And who was the first person to throw a
7 punch that afternoon?

8 A Melquanna

9 Q After the altercation -- and you don't know
10 when the altercation happened because you didn't
11 see it?

12 A No, ma'am.

13 Q Did Ms. Reese try to make any further
14 contact with you that afternoon?

15 A Yeah, she called my phone.

16 Q Okay. What did she want to talk to you
17 about after these assaults took place?

18 A I really can't remember.

19 Q You don't want to tell the jury?

20 A I mean, I don't remember.

21 MS. SAMPSON: Thank you.

22 THE COURT: Cross-examination?

23 CROSS EXAMINATION

24 BY MR. FARLEY:

25 Q Mr. Brooks, you stated that you knew Robin

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- 1 Reese and her daughter?
- 2 A Yes, sir.
- 3 Q Knew them pretty well?
- 4 A Yes, sir.
- 5 Q You lived next door to them for about two
- 6 years?
- 7 A Yes, sir.
- 8 Q I guess around the neighborhood?
- 9 A Being neighbors, yes, sir.
- 10 Q Being neighbors and you knew Melquan pretty
- 11 well?
- 12 A Yes, sir.
- 13 Q Do you know how old Melquan is?
- 14 A At the time I guess she was like thirteen.
- 15 Q And I'd just like to go back to that day,
- 16 as well, February 13th. You said that you were
- 17 out walking along?
- 18 A Yes, sir, McDuffie.
- 19 Q Where were you going? Were you going --
- 20 A I was going to the store.
- 21 Q You were going to the open air market?
- 22 A Yes, sir.
- 23 Q The open air market?
- 24 A Yes, sir.
- 25 Q When you said you saw Melquan and this person,

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1 can you tell us us how you saw them? I mean,
2 you were walking to the store?

3 A No, I was on the sidewalk of McDuffie
4 walking, so I guess I was between the O and the
5 L buildings when I saw what was going on.
6 That's where I was on the sidewalk between the O
7 and the L building.

8 Q How far away were you?

9 A I mean, from here to where you're at.

10 Q Okay. So not very far at all?

11 A No, not far at all.

12 Q Okay. And did it seem as if -- I know you
13 said that you saw her strike this man?

14 A Yes, sir.

15 Q Did you see anything that happened before
16 then?

17 A No, sir, I didn't.

18 Q Okay. But I mean, you said earlier in your
19 testimony there was an altercation?

20 A Yeah, they was standing in front of each
21 other. That's what I saw. I mean, you could
22 see them talking but I don't know what they was
23 talking about. You could see her and the guy
24 talking. From what it was that I saw, it was
25 just talking, you know what I mean. After I saw

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1 the slap, then it was something different.

2 Q What was going through your mind at that
3 point?

4 A Going to help Melquann
na S

5 Q Well, I know you were going to help Melquan
na S
6 but why did you feel that you needed to help
7 her?

8 A Why did I feel I needed to help her?

9 Q Yes, sir.

10 A Because I know her and she's got this hand
11 messing with her, an older guy, she slapped him
12 and he was -- he was thirty, thirty-plus and
13 Melquan was thirteen. That's why I helped her.
na S

14 Q Right.

15 A Yes, sir.

16 Q Did you think at the time he was taking
17 advantage of her?

18 A He was; yes, sir.

19 Q And that's why you felt like you had to
20 intervene?

21 A Yes, sir.

22 Q And you said that you -- I want to use your
23 words -- you "bum rushed" her? Or bum rushed
24 him?

25 A Yes, sir.

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1 Q And that means to tackle him?

2 A Off of her.

3 Q So and -- so that you kind of tumbled?

4 A No, I was just on top of him at the time.

5 That's all it was.

6 Q So you knocked him off?

7 A Off the top of her.

8 Q He was on the top of her?

9 A He was on the top of Melquanna

10 Q And you knocked him off?

11 A Yes, sir.

12 Q And then you were on top of him?

13 A Yes, sir.

14 Q And you stated that you were only on top of
15 him for a few minutes?

16 A I said I didn't know how long I was on top
17 of him.

18 Q And do you know -- do you recall that
19 when -- I believe you said that Little Rick
20 pulled you off?

21 A Yes, sir.

22 Q Angelo Boyd?

23 A Yes, sir.

24 Q You said you didn't remember anyone else
25 around?

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1 A No, sir, I didn't.

2 Q You said Melquan got her shoes and then you
3 went to the store?

4 A Yes, sir.

5 Q And did you know to go to the store?

6 A Yes, sir.

7 Q How did you know to go to the store?

8 A I know that's where her mother would be.
9 Her mother would be at the store.

10 Q All right. So you took Melquan back there and
11 explained what happened?

12 A Yes, sir.

13 Q But did I understand this correctly, you
14 said that they left before you did? Did I
15 understand your previous testimony correctly,
16 that they left before -- that they left the open
17 air market before you did?

18 A Yes.

19 Q And then you left shortly thereafter?

20 A Right after.

21 Q You left right after?

22 A Right after.

23 Q But you don't know exactly where they were
24 going?

25 A No.

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1 Q You just kind of saw them leave and you
2 said -- you did say that she called you later on
3 that evening, right?

4 A Yes, sir.

5 Q But it wasn't -- but you recall what she
6 wanted?

7 A I don't recall the conversation.

8 Q Was that unusual?

9 A What, sir?

10 Q I mean, did she call you ever?

11 A Yeah, she did. She called me a few times
12 before that.

13 Q You can't recall any reason why she would
14 have called you?

15 A For that I'm not sure. I'm not sure. I
16 don't remember.

17 MR. FARLEY: All right. Well, thank
18 you, Mr. Brooks.

19 CROSS EXAMINATION:

20 BY MR. CHAPLIN:

21 Q Good afternoon, Marcellius Brooks?

22 A Good afternoon.

23 Q Mr. Brooks, you said you're twenty-four
24 years old?

25 A Yes, sir.

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1 Q And before being arrested where were you
2 working?

3 A Well, I had a few jobs. I was probably was
4 at TGI Fridays. No, I mean Fatz Café.

5 Q How long did you work there?

6 A Two years, two-and-a-half years.

7 Q You were working there on February 13,
8 2010?

9 A I believe I had the job still, yeah.

10 Q So that's a yes?

11 A Yes, sir.

12 Q You maintain that you used to live in
13 Gonzales Gardens?

14 A Yes, sir.

15 Q And where do you live now?

16 A With my girlfriend in Hidden Homes. Well,
17 what's it's called, Rosewood, Rosewood Hills,
18 Rosewood Hills.

19 Q When you say your girlfriend, is that
20 Kenyatta Brown?

21 A Kenyatta Brown.

22 Q Now, but you indicated you used to live in
23 Gonzales Gardens.

24 A Yes, sir.

25 MR. CHAPLIN: So may I approach,

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1 Your Honor?

2 THE COURT: Yes, sir.

3 CROSS EXAMINATION CONTINUED

4 BY MR. CHAPLIN:

5 Q Thank you, sir. I'm basically just trying
6 to get a schematic or a little diagram of this
7 because we keep talking about these streets, so
8 I want you to help me out here. My drawing is
9 not so good. Let's say this is Forest Drive.
10 Okay. Where is McDuffie?

11 A Go ahead.

12 Q Right here?

13 A Yeah.

14 Q Okay. All right. And then where would the
15 seafood market and Cousins and all of that be?
16 Would it be somewhere right here?

17 A Yeah.

18 Q Okay. Kind of

19 A Forest Drive like.

20 Q So that's pretty good?

21 A Yeah.

22 Q All right. So that's all facing the store
23 -- the street. That is facing Forest Drive?

24 A Forest Drive, yeah.

25 Q Okay. Maybe L building is over here?

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- 1 A Yeah, you can do that.
- 2 Q Okay.
- 3 A The I building, J.
- 4 Q J would be on the corner, right?
- 5 A Yeah, the corner right there.
- 6 Q Okay. And then where would F and G be?
- 7 A Down at the bottom.
- 8 Q Tell me when to stop?
- 9 A Go on down. There.
- 10 Q Okay. All right. Then they're facing each
- 11 other, right?
- 12 A Yeah.
- 13 Q So I could draw them like that?
- 14 A No, you have to do them the other way.
- 15 Q I've got to do them this way?
- 16 A Yeah, just the letters like you did at the
- 17 top.
- 18 Q All right. I'm just going to scratch
- 19 through this so I don't confuse anybody.
- 20 A It's F and G.
- 21 Q Got it. So the incident that you're
- 22 referring to as -- that you were involved with
- 23 with Melquan and the gentleman, Kenneth Mack, the
- 24 deceased, was that down here or up there?
- 25 A At the top.

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1 Q At the top. Okay. So where would that be?

2 That would be -- tell me hot, cold?

3 A On the side. You can do it on top of that

4 L.

5 Q Right here?

6 A Yeah.

7 Q Okay. I'm going to put a big X there?

8 A Right.

9 Q Okay. Now, let's do the -- I'm going to
10 try to refresh your testimony. You indicated
11 that when you walked up, you saw Melquan slap the
12 victim?

13 A Yes, sir.

14 Q What area would they have been?

15 A Right in that area.

16 Q Okay. I'm going to use an "x" for attack.
17 Can I just put a one there, maybe that's where
18 the slap took place?

19 A Yes.

20 Q Okay. Now, you said then you came over and
21 you bum rushed him?

22 A Uh-huh.

23 Q I'm going to put a two here for another
24 attack?

25 A Uh-huh.

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1 Q All right. And then I think somebody might
2 have kicked him with their boot. You didn't see
3 any of that, so I can't put it up here now, and
4 then you said the victim ran away?

5 A Ran away.

6 Q And the victim ran down or to the left?

7 A Between the J and the A building.

8 Q The victim ran down here. Okay. All
9 right. So you've got at least two attacks up
10 here that occurred and then he got up and ran,
11 did he just kind of pop up and run?

12 A No.

13 Q No stumbling, no nothing?

14 A Not from my knowledge, he just got up and
15 ran off.

16 Q All right. Did anybody ever tell you a
17 lady by the name of Amber Hardy saw that attack?

18 A Yes.

19 Q Okay. So it's your testimony that you hit
20 him twice?

21 A Yes, sir.

22 Q And he was fine. He got up and he just
23 walked away?

24 A Ran -- yes, sir.

25 Q Was anybody chasing him when he ran?

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1 A No, sir.

2 Q So right after this you get arrested
3 originally for A-B-I-K (sic) yes?

4 A No.

5 Q No?

6 A No.

7 Q Well -- when you became aware of it, you
8 got arrested for charged with murder?

9 A Yeah.

10 Q Okay. So let me ask you this, Marcellius,
11 after you said you just hit him twice and then
12 you got charged with murder, how did that make
13 you feel?

14 A I just couldn't believe. I just couldn't
15 believe.

16 Q Couldn't believe.

17 A. Right.

18 Q All right. So then at some point after
19 that, you met with the Columbia Police
20 Department and you told them about a second
21 attack?

22 A Yes, sir.

23 Q All right. And at some point, you
24 identified witnesses that saw a second attack?

25 A Yes, sir.

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1 Q And you had conversations on the telephone
2 with your girlfriend, Ms. Brown, about these
3 witnesses?

4 A Plenty of times. I mean, I talked to her
5 about it so many times.

6 Q Yeah. Well, there's around forty phone
7 calls that you made from the jail. Is it
8 possible you could have discussed that with her?

9 A Yeah. Some.

10 Q Okay. After you identified these
11 witnesses, then they went down to the police
12 department and gave statements?

13 A Yeah.

14 Q Okay. Now, earlier you testified that no
15 one had promised you anything or whatever, but
16 isn't it true that you were under the impression
17 that once your witnesses testified that your
18 murder charge was going to change to a simple
19 assault?

20 A I said it should have changed to a simple
21 assault.

22 Q And it's ---

23 A I assaulted the guy, but I didn't kill the
24 guy.

25 Q Right. Did you ever have a conversation

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1 with anybody from the Columbia Police Department
2 about changing your charge to simple assault?

3 A No.

4 Q Are you certain?

5 A I'm positive.

6 Q Do you recall ever talking with
7 Investigator Pegram -- maybe Kenyatta Brown
8 called him for you, a three-way call.

9 A A three-way call with Pegram?

10 Q Yes.

11 A I don't remember a three-way call with
12 Investigator Pegram.

13 MR. CHAPLIN: Your Honor, may we
14 approach?

15 THE COURT: Certainly. Thank you.

16 (OFF RECORD BENCH CONFERENCE)

17 MR. CHAPLIN: I apologize for the
18 interruption.

19 CROSS EXAMINATION CONTINUED

20 BY MR. CHAPLIN:

21 Q So you said that you thought that your
22 charge was going to be reduced to simple assault
23 once your witnesses has testified.

24 A I said it should be.

25 Q Should have been reduced.

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1 A Yes.

2 Q Was it reduced?

3 A No, sir.

4 Q Did your witnesses testify? I mean, did
5 they give statements?

6 A Yes, sir.

7 Q They did. And who were those witnesses, do
8 you know?

9 A D, Kara and Nova.

10 Q So Kara is it Kara Chase?

11 A Yes.

12 Q And "D" is Donetti Perry?

13 A Yes.

14 Q And Nova is Sanovia Thompson?

15 A Yes.

16 Q And these are your witnesses?

17 A They are witnesses.

18 Q Okay. During the time that you were
19 incarcerated, did you have a conversation with
20 another person by the name of Juve, letting him
21 know that you didn't scream his name to the
22 police?

23 A Do what?

24 Q Did you have a conversation with a
25 gentleman by the name of Juve, informing him

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1 that you didn't mention him to the police?

2 A No.

3 Q Now, when you said that you left the open
4 air market, you went to -- well, you said you
5 called your mother before this started?

6 A Yes, sir.

7 Q To pick you up?

8 A Yes, sir.

9 Q All right. And where were you when you
10 called your mother?

11 A I mean, I'm not sure.

12 Q Not sure?

13 A Not sure about that.

14 Q And then after you left the open air market
15 after the incident at the top, you went to
16 Vallery Goodwin's apartment?

17 A Yes, sir.

18 Q All right. And how do you know Vallery
19 Goodwin?

20 A From the neighborhood.

21 Q Do you know her son?

22 A Yes, sir.

23 Q And who is her son?

24 A Antonio.

25 Q And where does he live?

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1 A He was living with her.

2 Q And where does he live now?

3 MS. SAMPSON: Objection, Your Honor, if
4 we can approach.

5 THE COURT: What's the objection?

6 MS. SAMPSON: I need to approach.

7 (OFF RECORD BENCH CONFERENCE)

8 CROSS EXAMINATION CONTINUED

9 BY MR. CHAPLIN:

10 Q And where is Antonio now?

11 A He's in jail.

12 Q Okay. On February 13th, 2010, were you
13 with someone by the name of "Tu", up at the top,
14 so to speak?

15 A No, sir.

16 Q Okay. What about "Trigger"?

17 A No, sir.

18 Q What about Genesis?

19 A Genesis? No, sir. I don't even know who
20 Genesis is.

21 Q Now, you said that when you finished your
22 business -- you went to Vallery Goodwin's house
23 and you stayed there approximately three
24 minutes?

25 A Yes, sir, I'd say about that long.

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1 Q And you went in the front door?

2 A Went in the front door to the back, went to
3 the back door.

4 Q And you left out the ---

5 A Back door.

6 Q Back door.

7 Q Okay. That took three minutes?

8 A Yes, sir.

9 Q All right. Were you aware that the police
10 were at Vallery Goodwin's house?

11 A I mean, after I came home, all that other
12 stuff, yes.

13 Q Now, Marcellius, you said that you went to
14 the open air market and you told Robin Reese
15 something about what happened to her daughter?

16 A Yes, sir.

17 Q Okay. Tell us what you said?

18 A Well, I just told her I saw the guy, her
19 and Melquan -- him and Melquan was arguing. Whatever
20 was going on with them. I saw her daughter slap
21 him. He slammed her. I helped her and that was
22 it. She asked who. 'I don't know.' She asked
23 her daughter who. She said she didn't know.

24 Q Did you tell her at that time that Angelo
25 Boyd kicked the man in the head?

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1 A No, I didn't.

2 Q You didn't see that?

3 A No, I didn't.

4 Q Did anybody pull you off of the man?

5 A Ricky/Angelo.

6 Q Angelo Boyd, so you saw him there?

7 A Yes.

8 MR. CHAPLIN: Beg the Court's
9 indulgence.

10 CROSS EXAMINATION CONTINUED

11 BY MR. CHAPLIN:

12 Q Marcellius, you know, who Investigator
13 Pegram is, don't you?

14 A Yes.

15 Q Did he ever tell you that he wishes you had
16 been straight with him?

17 A No, I don't recall him saying that to me.

18 Q Marcellius, have you ever told a lie to
19 help a friend?

20 A I mean, I don't know. I don't remember. I
21 don't think I did.

22 Q Have you ever told a lie to get out of
23 trouble?

24 A When I was young with my mother and my
25 brother.

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1 Q At what age did you stop doing that?

2 A I can't say. I don't know.

3 Q Would you tell a lie to help a family
4 member?

5 A Not on the Bible.

6 Q What does that mean?

7 A I wouldn't swear it and lie.

8 MR. CHAPLIN: Your Honor, that's all I
9 have for now, but I do request the opportunity
10 to recall this witness in the morning.

11 THE COURT: Without objection.

12 MR. CHAPLIN: Thank you.

13 THE COURT: Redirect?

14 MS. SAMPSON: No, sir.

15 THE COURT: All right. You may come
16 down. Most witnesses I say are free to go, but
17 I can't tell you that.

18 (WITNESS STEPS DOWN)

19 THE COURT: Counsel, let me see you.
20 Let's talk about scheduling for a minute.

21 (OFF RECORD BENCH CONFERENCE)

22 THE COURT: Call your next witness.

23 MS. SIMPSON: The State calls
24 Katie Ukra.

25 (WITNESS TAKES STAND)

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1 KATIE UKRA, being duly sworn to tell
2 the truth, the whole truth and nothing but the
3 truth, testified, as follows:

4 DIRECT EXAMINATION

5 BY MS. SIMPSON:

6 Q How do you pronounce your name?

7 A Katie Ukra.

8 Q Good morning, Ms. Ukra. What do you do?

9 A I'm a forensics DNA analyst at the South
10 Carolina Law Enforcement Division.

11 Q And how long have you been with -- is it
12 generally termed SLED?

13 A Yes.

14 Q How long have you been with SLED?

15 A Six years.

16 Q And what type of services does SLED
17 provide?

18 A In my division we provide serological and
19 DNA testing for evidence items.

20 Q You said serological testing, what is that?

21 A Serology is the identification of body
22 fluids such as blood, semen and saliva.

23 Q And can you tell us us a little bit about
24 your educational background and your training?

25 A I have a bachelor of science degree in

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1 forensics biology. I also have a masters in
2 science in forensics. Upon my employment at
3 SLED, I continued a year long training program
4 under the supervision of a forensics DNA
5 analyst.

6 Q Do you actually posses any certifications
7 or qualifications.

8 A I am certified to be a forensics DNA
9 analyst.

10 Q And do you consistently maintain, take
11 classes or courses to stay update with respect
12 to the DNA?

13 A Yes, we're required to complete proficiency
14 tests twice a year. I have successfully
15 completed those every year. We also are
16 required to attend outside training once a year.

17 Q Okay. And what exactly is the study of
18 DNA?

19 A DNA as it relates to forensics is when we
20 are generating a DNA profile from an item of
21 evidence, as well as from a known standard and
22 we compare the known profiles and determine if
23 they match.

24 Q It is a pretty large field, would you say?

25 A I'm not sure what you're asking me.

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1 Q Okay. The study of DNA -- like, it
2 encompasses a variety of things?

3 A Yes, DNA is very large and forensics is a
4 very small subset of that.

5 MS. SIMPSON: Your Honor, at this time
6 I would seek to qualify Ms. Ukra as an expert
7 in DNA analysis.

8 THE COURT: Any *voir dire* or objection?

9 MR. CHAPLIN: None from Mr. Gray.

10 MR. FARLEY: None from Ms. Reese, Your
11 Honor.

12 THE COURT: All right. You may
13 proceed.

14 DIRECT EXAMINATION CONTINUED

15 BY MS. SIMPSON:

16 Q Where exactly can DNA be found on humans?

17 A DNA is found within the nucleus of a cell.

18 Q Can you explain that to us?

19 A Your body is composed of cells. Your
20 organs have cells, your skin has cells, your
21 blood has cells. Within the nucleus of those
22 cells is where your DNA is found.

23 Q You mentioned blood and saliva, those are
24 specific sources of DNA?

25 A Yeah, these are typical samples of what we

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1 might find from crime scenes.

2 Q Are some sources of DNA where you might
3 develop a profile, are they better than others?

4 A Yes.

5 Q Can you explain more about that, whether it
6 is like touch DNA or blood or semen?

7 A Touch DNA is when you just touch an item,
8 either a pen or a notebook. You have the
9 potential to leave some DNA behind, but you
10 don't always.

11 A known buccal standard is just scraping
12 the inside of your cheek and that has tons of
13 DNA.

14 Q And known standards, what exactly do you
15 mean by that phrase?

16 A A known standard is a DNA swab that is from
17 a specific person.

18 Q And with respect to DNA, can any of us have
19 exactly the same DNA?

20 A Identical twins have the same DNA.

21 Q Could anybody else have the same DNA or
22 only twins?

23 A Everyone has a different profile.

24 Q Does DNA ever change in any way?

25 A DNA can undergo degradation and break up,

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1 into smaller pieces, but your profile doesn't
2 change.

3 Q Okay. So essentially your ability to
4 develop a profile of a partial versus a full may
5 be affected by that but not the DNA itself?

6 A Right.

7 Q And can you explain a full DNA profile
8 versus a partial DNA?

9 A In the type of analysis that I will do,
10 we're looking at fifteen locations on the DNA.
11 A profile is where I get information. A partial
12 profile is where there is information missing at
13 one or more locations.

14 Q And did you -- when evidence comes to you,
15 what form does it come in?

16 A Generally the evidence that I will receive
17 is a swab.

18 Q And exactly where swabs are taken from, do
19 you actually take the swabs yourself?

20 A No.

21 Q Are those typically given to you from law
22 enforcement?

23 A Law enforcement or our evidence processing
24 department.

25 Q In this case, did you actually receive some

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1 swabs.

2 A (No verbal response).

3 Q Did you actually receive some swabs for
4 testing in this case?

5 A Yes.

6 Q I'm going to show you'll what is marked as
7 State's Exhibit 78 and ask if you can tell us
8 whether you recognize this?

9 A It has our SLED label on it, as well as my
10 initials.

11 Q Okay. And while it's in your custody here,
12 this hadn't been opened, would you like to go
13 ahead and open it?

14 A If you need me to.

15 Q That would be great.

16 A (Opening)

17 Q And this is sealing that you do after it's
18 been tested?

19 A I would receive it in a heat-sealed pouch
20 and then when I do my analysis, I cut along the
21 side to get out is inside. Then when I'm done I
22 seal it back inside the pouch.

23 Q And while it's -- when it comes to you, it
24 comes to you typically from, you said, your
25 evidence processing department, correct?

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1 A Or the log-in department.

2 Q Or the log in, and typically evidence there
3 are procedures for which they have so it's not
4 altered or tampered with in any way?

5 A Correct.

6 MS. SIMPSON: Your Honor, at this time
7 the State would introduce State's Exhibit 78
8 into evidence.

9 MR. CHAPLIN: No objection.

10 MR. FARLEY: No objection, Your Honor.

11 (SO ENTERED AS STATE'S EXHIBIT 78)

12 COURT REPORTER: Is this the only
13 exhibit that you have marked?

14 MS. SIMPSON: And 79 for ID.

15 (SO ENTERED AS STATE'S EXHIBIT 79, ID ONLY)

16 DIRECT EXAMINATION CONTINUED

17 BY MS. SIMPSON:

18 Q Were you able to collect a known standard
19 in this case?

20 A I don't typically collect standards.

21 Q Okay. Did you have a known standard
22 availability to you for comparison?

23 A Yes, yes.

24 Q Is a known standard needed for comparison?

25 A Yes.

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1 Q In this case, whose standard did you have?

2 A I had a blood standard from Kenneth Mack.

3 Q Okay. I wants to talk a little bit. You
4 actually -- about your procedure with respect to
5 comparing the DNA and analyzing it. Can you
6 explain that for the jury?

7 A When I open up the evidence typically what
8 I get are swabs, so I take a small cutting of a
9 swab put it in a tube. Then I do my analysis
10 from there. The DNA profile is kind of like
11 your Social Security number. It's just a string
12 of numbers, so we have a string of numbers for
13 evidence and the same for a known standard so
14 I'm just comparing the number to say whether it
15 agrees or disagrees.

16 Q Did you do that in this case?

17 A Yes.

18 Q And what all did you have -- what all
19 evidence was submitted to you?

20 A I had SLED item number four, a controlled
21 swab from the black metal chair; SLED number
22 five, from left armrest of the black metal
23 chair; SLED item six, a swab from the bottom of
24 seat on right side of black metal chair. SLED
25 item seven, a swab from the edge of bottom of

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1 black chair.

2 Q And I want to -- did you actually come to
3 some results in this case?

4 A Yes.

5 Q I want to talk to you a little bit about
6 that. I'm showing you what has been marked as
7 State's Exhibit 79. In State's Exhibit 79 are
8 these essentially your results comprised into a
9 chart?

10 A Yes.

11 Q Would it assist you in explaining to the
12 jury your results if you could step down and
13 perhaps use this chart?

14 A Yes.

15 Q That would be great.

16 MS. SIMPSON: Your Honor, at this
17 time I'd like to introduce State's Exhibit 79
18 into evidence?

19 MR. CHAPLIN: No objection.

20 THE COURT: Without objection.

21 (SO ENTERED AS STATE'S EXHIBIT 79)

22 DIRECT EXAMINATION CONTINUED

23 BY MS. SIMPSON:

24 Q If you could, just step down?

25 A Can I take my report with me.

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1 A Yes.

2 Q Okay. Explain to us how you -- what
3 results you arrived at and what this means?

4 A First I did serological testing on each of
5 the evidence items and found them to be ---

6 COURT REPORTER: Your Honor, ---

7 THE COURT: Slow down.

8 MS. SIMPSON: And we'll trade sides. I
9 think she (court reporter) might be able to hear
10 a little better.

11 THE COURT: You're going to have to
12 make sure that she can see you. The court
13 reporter has to hear what you have to say.

14 THE WITNESS: Yes, sir.

15 DIRECT EXAMINATION CONTINUED

16 BY MS. SIMPSON:

17 Q Let's go back a little bit. You said that
18 in some of the swabs blood was indicated. Can
19 you explain that to the jury?

20 A When I do a serology test, it is a chemical
21 reaction. I take a small cutting of the swab,
22 put a chemical on it. A color change occurs,
23 that means it's a positive result.

24 Q Okay. What does that mean to you if you
25 get a positive result?

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1 A Generally when we get positive results,
2 we'll will continue with DNA analysis.

3 Q Okay. And in this case I notice there is a
4 control swab from the black metal chair but no
5 analysis was performed. Is that typical with
6 respect to a control swab?

7 A Right. We don't perform analysis on
8 control swabs.

9 Q Okay. Item five, the swab from the left
10 armrest of the black metal chair, here we have
11 "blood indicated but no DNA profile developed."
12 Can you explain that result to the jury?

13 A That just means my serological test
14 indicated a positive reaction for blood, but no
15 DNA profile was developed from that item.

16 Q Just because you have blood from some other
17 course doesn't necessarily mean you're going to
18 be able to develop a DNA profile.

19 A Right. Serological tests are presumptive.
20 It was just indicating the possibility of that
21 blood being present. There's other substances,
22 such as rust, that can cause a false positive,
23 so that could be the case in this instance.

24 Q Okay. And then moving to item number six,
25 which is a swab from the bottom seat, right-hand

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1 side of black metal chair. Explain your
2 results.

3 A The partial DNA profile developed from that
4 item matches the DNA profile of Kenneth Mack.
5 The probability of randomly selecting an
6 unrelated individual having a DNA profile
7 matching this item is one in approximately
8 twenty-five million.

9 Q Okay. So one, explain how you arrive at
10 the potential of one in twenty-five million.

11 A When we have an evidence sample that
12 matches a known standard, we perform a
13 statistical calculation to give weight to that
14 piece of evidence. In this case the calculation
15 was one in twenty-five million.

16 Q Is that a pretty high number?

17 A That's pretty high, yes.

18 Q How many zeros is one in twenty-five
19 million?

20 A A million has six zeros.

21 Q So one -- six zeros?

22 A Yes.

23 Q That's one million?

24 A Yes.

25 Q One in twenty-five million?

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1 A Would be twenty-five with six zeros,
2 (25,000,000).

3 Q So it's a pretty safe bet that is Kenneth
4 Mack, the victim in this case? Belonged to him?

5 A Yes.

6 Q The DNA profile, I apologize?

7 A Yes, I would say it's consistent with his
8 profile.

9 Q And then the swab from the bottom of the
10 seat, front edge, of the black metal chair,
11 blood was indicated but again no DNA profile was
12 developed.

13 A Correct.

14 Q But you were able to get the blood standard
15 from Kenneth Mack and that DNA was found on the
16 black metal chair?

17 A Correct.

18 Q And your results, you actually do formulate
19 them into a report?

20 A Yes.

21 Q Okay. And is that the extent of your
22 involvement with respect to this case?

23 A Yes.

24 MS. SIMPSON: Thank you.

25 THE COURT: Cross-examination?

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1 CROSS EXAMINATION

2 BY MR. FARLEY:

3 Q Thank you, Ms. Ukra. You were saying that
4 you had a partial blood match on the left
5 armrest and the bottom of the seat center. Is
6 that ---

7 A The match was to the swab on the seat on
8 the right seat of the chair. I did not
9 identify blood on that item.

10 Q Forgive me. Which item is that again?

11 A Swab from bottom of seat on right side of
12 black metal chair.

13 Q So not on the right side of the black metal
14 chair but on the left side and on the seat? Is
15 that? I'm sorry?

16 A It's SLED item six, swab from bottom of
17 seat on right side of black metal chair.

18 Q That is the DNA match you were speaking of?

19 A Yes.

20 Q Is there any explanation as to how that DNA
21 got there?

22 A I can't tell how DNA get on an item. I can
23 only say that I found DNA.

24 Q So there's no way you can say how the DNA
25 got on there?

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1 A No.

2 Q Just that there was DNA on there?

3 A Right.

4 Q And from the swabs you said there was some
5 blood indicated?

6 A Which swab?

7 Q I was looking at SLED item number five or
8 number seven?

9 A Yes, there was blood indicated on those
10 swabs.

11 Q Is it -- is it just like something that
12 matches up in -- I mean, it doesn't give you any
13 amount or anything of that nature?

14 A I was unable to develop a DNA profile from
15 either of those items.

16 Q Right, but I was just talking about the
17 blood. The blood itself was indicated?

18 A It's a serological test that I do that
19 let's me know if I should continue testing.

20 Q And it said there was blood indicated?

21 A Right.

22 Q So you continued testing because there was
23 some amount of blood that turned up. Is that?

24 A The serological that I performed indicated
25 the presence of blood.

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1 Q Okay. But there's no indication of how
2 much blood or anything of that nature.

3 A Right.

4 Q And again you're not here to speculate on
5 how that got there or offer any explanation?

6 A Right.

7 Q From your testing?

8 A Right.

9 MR. FARLEY: Thank you. Please answer
10 any questions Mr. Chaplin has.

11 CROSS EXAMINATION

12 BY MR. CHAPLIN:

13 Q You didn't collect these samples, did you?

14 A No.

15 Q Okay. A gentleman by the name of Roger
16 Milan Gillian said that he collected them?

17 A (No verbal response).

18 Q Do you know who collected them?

19 A I don't know.

20 Q You don't know.

21 MR. CHAPLIN: Your Honor may I
22 approach?

23 THE COURT: Yes.

24 CROSS EXAMINATION CONTINUED

25 BY MR. CHAPLIN:

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1 Q I think Mr. Gilland said that he
2 investigated a crime scene around building F.
3 Do you if any blood -- did you test anything
4 that came from this location, to your knowledge?

5 A I don't know where those logs were -- what
6 area those logs were from.

7 Q You just know they were on a black metal
8 chair?

9 A That's how they were described to me.

10 Q That's how they were described. Is it
11 possible the swabs could have come from
12 something other than a black metal chair?

13 A I have no idea.

14 Q Is it possible?

15 A It's possible.

16 Q How did you receive the swabs?

17 A (No verbal response).

18 Q I mean was it in a Ziploc baggy? How was
19 it presented to you?

20 A The swabs were in a heat-sealed poach that
21 all of our evidence gets put in when it comes to
22 the log in.

23 Q Okay. When did you do the test?

24 A I began analysis on July 20th, 2010.

25 Q So a little more than five months after the

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1 incident. Would you say that DNA evidence has
2 been wrong in the past?

3 MS. SIMPSON: Objection, Your Honor.

4 MR. CHAPLIN: She's been qualified to.

5 MS. SIMPSON: With respect to relevance
6 in this case.

7 THE COURT: Well, overruled.

8 WITNESS: I don't know.

9 CROSS EXAMINATION CONTINUED

10 BY MR. CHAPLIN:

11 Q You've been qualified to testify in this
12 area, I'm just asking you for an opinion. Has
13 DNA been wrong in the past?

14 A I don't think DNA evidence is wrong. We
15 can't change the profile that we get.

16 Q So DNA analyses (sic), you're not aware of
17 any of them ever making a mistake?

18 A People make mistakes. I don't know if
19 they'd changed the results.

20 Q So if they a make a mistake, it wouldn't
21 have an impact on the results?

22 A It could. I mean, I follow all the
23 procedures outlined to me.

24 Q Yeah. No, I'm certainly not implying that
25 you did something wrong. I'm just asking you a

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1 question about your opinion.

2 A People make mistakes. That's all I can
3 say.

4 Q Now, there's different qualities of types
5 of DNA like maybe strong and weak?

6 A Right. Sometimes we'll get a full profile
7 and other times we'll get a partial profile.

8 Q Would you consider this evidence that you
9 analyzed here strong or weak?

10 A It's a partial profile.

11 Q So your answer is it's strong or weak?

12 A I would say it's a very strong profile.

13 Q Okay. Did you read Mr. Gilland's report
14 that came along with collecting these swabs?

15 A I probably read the incident accident
16 report before I performed analysis. I don't
17 recall any information right now.

18 Q Would you like to review it? Would that
19 help you? I want to ask you some questions
20 about it?

21 A I can read it.

22 Q Okay.

23 MR. CHAPLIN: May I approach, Your
24 Honor?

25 THE COURT: Yes.

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1 MS. SIMPSON: Objection, Your Honor,
2 with respect to this witness testifying about
3 another witness's report.

4 THE COURT: Well, let's wait until we
5 hear a question.

6 MR. CHAPLIN: Basically that he
7 tested something and didn't get it used another
8 way?

9 MS. SIMPSON: And, Your Honor, if
10 counsel is asking the witness a question.

11 MR. CHAPLIN: I was simple trying to
12 explain to her the area I was looking at but she
13 is, right. I shouldn't have been talking
14 directly to her.

15 CROSS EXAMINATION CONTINUED

16 BY MR. CHAPLIN:

17 Q Referring to the last paragraph.

18 A No.

19 Q Okay. Thank you. So in his report he
20 says -- did you read that the chair was
21 nonvisible for DNA?

22 A I believe he said there was no visible
23 blood.

24 Q Yes. Then he used UV lighting?

25 A Correct.

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1 MS. SIMPSON: Objection, Your Honor, to
2 questioning this witness.

3 THE COURT: Overruled.

4 CROSS EXAMINATION CONTINUED

5 BY MR. CHAPLIN:

6 Q Both short and long wave?

7 A I believe that's what it says.

8 Q And he still had no results.

9 A I don't remember. (Upon review), he said
10 he used short and long wave and no results.

11 Q No results. Okay. Then after not having
12 any visible results and not having any results
13 using UV lighting, short and long wave, he then
14 used a BlueStar reagent. He got a positive
15 result, right?

16 A Correct.

17 Q How accurate are samples that are obtained
18 using a reagent such as BlueStar?

19 A Bluestar from what I understand is quite
20 commonly used in crime scenes. It's used to
21 detect minute amounts of blood. From what I
22 know, it should not interfere with DNA testing.

23 Q Now, this chair was located in the evidence
24 room at the City of Columbia when the swabs were
25 taken?

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1 A If you say so.

2 Q For five months?

3 A I can't comment on the collection of
4 evidence.

5 Q Well, you said you did your results in June
6 or July?

7 A July.

8 Q July. Okay. And then we've had this thing
9 sitting here, and I just want to kind of look at
10 it for a second. It's a chair. Can you see it
11 from where you're at?

12 A If I stand up.

13 Q Please. So you're saying that the blood,
14 the sample was found on the bottom of the chair
15 is that what you're saying?

16 A I have three separate swabs described from
17 being taken on different places on the chair.

18 Q Okay. I'm just trying to understand you.
19 So the first swab was?

20 A There was one swab from the left armrest.
21 There was another on the bottom of the seat on
22 the right seat and there was one on the bottom
23 seat, center, front edge.

24 Q Okay. So the one that you said is positive
25 for the victim's blood was on the bottom of the

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1 seat?

2 A I didn't say that anything was positive for
3 the victim's blood.

4 Q Oh.

5 A I developed a DNA profile but my
6 serological testing did not indicate blood.

7 Q So what did it indicate?

8 A There was a DNA profile there.

9 Q But no blood?

10 A My test did not indicate blood.

11 MR. CHAPLIN: Thank you. No further
12 questions.

13 THE COURT: Redirect?

14 MS. SIMPSON: Briefly.

15 REDIRECT EXAMINATION:

16 BY MS. SIMPSON:

17 Q Counsel first of all referred to I believe
18 the collection of evidence. You don't
19 participate in actual physical collection of
20 evidence, correct?

21 A No.

22 Q Your role is with respect to processing and
23 analyzing that evidence?

24 A Correct.

25 Q Now, I think there's been some confusion

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1 with respect to blood and DNA. DNA, does it
2 just float through the air?

3 A No.

4 Q So in order to, say, put my DNA on
5 something, I have to have contact with it in
6 some way?

7 A Correct.

8 Q I don't themselves have to leave blood in
9 order for my DNA to be there?

10 A Right.

11 Q Just because blood was indicated but no DNA
12 profile developed doesn't necessarily mean there
13 was no DNA. There was just not enough blood
14 to ---

15 A Right.

16 Q Go ahead.

17 A Maybe there wasn't enough sample there to
18 develop a DNA profile. As I said serological
19 testing is a presumptive. There are other
20 factors that wouldn't give you a result of a DNA
21 profile.

22 Q So just because of -- well, let me back up
23 a little bit, too, the surface of the item which
24 is touched makes it -- or where the evidence DNA
25 potentially is left -- does that affect the

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1 ability to collect DNA?

2 A It can.

3 Q Or samples for DNA?

4 A It can. Certain objects that DNA is left
5 on could inhibit, but our process now is so
6 streamlined that it doesn't affect it as much as
7 it used to in older times, older days.

8 Q But say a slick surface where it might
9 smudge, that would be different than say a rough
10 surface?

11 A I don't think that would really affect how
12 much DNA is on there.

13 Q How about weather elements, can that affect
14 the ability to collect something that would
15 allow you to get enough for a DNA profile?

16 A Yes. Humidity and heat can degrade DNA,
17 which might lead me to get a positive
18 serological result but not get a DNA profile.
19 If something has been cleaned, wet, washed off,
20 that could remove some of the sample.

21 Q I believe counsel went over the incident
22 report. You've don't rely on that for your
23 testing, correct?

24 A We read it to get an idea of what happened.
25 What they're looking for if they're looking for

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1 blood or semen. We do use that to see how we
2 should proceed with our testing if we have any
3 questions, but we'd call investigator if there's
4 anything that comes up.

5 Q But that report doesn't necessarily affect
6 the outcome of your testing as to whether you
7 get a profile?

8 A No.

9 Q And what profile is developed?

10 A Right.

11 Q And does time affect the results?

12 A Time?

13 Q Of the DNA profile itself?

14 A Time?

15 Q Correct?

16 A As long as DNA is stored properly and it's
17 not exposed to the elements, heat or humidity,
18 water, DNA is stable for room temperature for
19 many, many years.

20 Q And earlier I believe you said this was
21 very strong represent to the DNA profile, how
22 you would view it in your opinion?

23 A It's a good match, yes.

24 Q And the match is for Kenneth Mack, correct?

25 A Right, right.

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1 MS. SIMPSON: Thank you.

2 THE COURT: Recross?

3 RE CROSS EXAMINATION:

4 BY MR. FARLEY:

5 Q Just a quick followup question, Ms. Ukra, I
6 know you were saying there was a DNA match
7 earlier, did you -- on redirect, did you say
8 that you identified blood but it wasn't -- you
9 could not identify Kenneth Mack's blood being on
10 the chair?

11 A For item six there was no blood indicated.
12 However, I developed a DNA profile matching
13 Kenneth Mack.

14 Q Was that from blood?

15 A I don't know. The submitting agency used
16 BlueStar, which is a test for blood. BlueStar
17 can sometimes interfere with our serological
18 testing, so even though I got a negative blood
19 test, I continued with the DNA because I know
20 that BlueStar can interfere with our testing.

21 Q So you're saying that the test that the
22 previous person did can interfere with the
23 results of your test?

24 A It can interfere with the serological
25 testing.

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1 Q Which is the body fluids and those things?

2 A Correct.

3 Q There were none of those indicated that
4 belonged to Kenneth Mack?

5 A There was no blood indicated on item six,
6 however blood found on the other items matches
7 Kenneth Mack.

8 Q And that item wasn't blood?

9 A I can't say.

10 Q Is that what you're saying, though. That's
11 whey I'm trying to understanding. It seems to
12 say no blood indicated so that you're saying
13 that Kenneth Mack's blood wasn't on the chair,
14 at least to item six?

15 A My serological testing was that no blood is
16 indicated. However, the testing that was
17 performed by the submitting agency is a blood
18 test, presumptive blood test. So -- but I
19 can't say from my testing that I found blood.

20 Q So from your test, you found no blood?

21 A For item six, no.

22 Q And the testing that they did is BlueStar,
23 which could interfere with your testing?

24 A BlueStar can interfere with the serology
25 tests that I perform.

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1 MR. FARLEY: Thank you, Ms. Ukra.

2 THE COURT: Anything further?

3 MR. CHAPLIN: Briefly.

4 RE CROSS EXAMINATION

5 BY MR. CHAPLIN:

6 Q You said that the way the item is stored
7 can also affect the quality of the test. Do you
8 know how it was stored?

9 A No.

10 Q What is an allele?

11 A Allele.

12 Q Yes.

13 A For a DNA profile, the string of numbers
14 that they each, each set of numbers has an
15 allele, such a repeated unit and you have a
16 possibility of two numbers. Each of those
17 numbers is what we'll call an allele.

18 Q Okay. But that wasn't applicable in this
19 chase?

20 A I don't know what you are asking.

21 Q Did you apply that theory in this matter?

22 A Every DNA profile has alleles. I compared
23 the alleles from the evidence samples to the
24 alleles from the victim's standard.

25 Q I think you said that you were not aware

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1 that can not here at nine o'clock, would you
2 raise your hand. Thank you.

3 Again don't discuss the case among
4 yourselves when you return to the jury room or
5 with anyone else over the evening hours. Have a
6 pleasant evening and please don't do any
7 research on this case. You don't need to go
8 home and looking up DNA.

9 Thank you very much. You're excused
10 for the evening.

11 (JURY OUT @ 5:33 p.m.)

12 THE COURT: Can we make priority
13 request that the defendants be here seated by
14 9:00 o'clock in the morning.

15 DEPUTY: Yes, sir.

16 THE COURT: Thank you.

17 MR. FARLEY: Your Honor, can I just put
18 one last thing on the record. It's just been
19 informed by the deputies that -- we requested
20 Mr. Weather come and be transported tomorrow. He
21 actually was transported today, he is here right
22 now. I just want to make sure ---

23 MS. SAMPSON: I've already taken care
24 of that.

25 MR. FARLEY: He is a witness that we

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1 want to call so we just wanted to make sure he
2 was going to be called tomorrow.

3 THE COURT: Well, talk it over with the
4 solicitor's office. Nine o'clock.

5 (COURT IN RECESS)

6 (TRANSCRIPT CONTINUED NEXT PAGE)

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1 yet? I know they had to get a separate batch.
2 They had to bring these defendants separate from
3 the other ones. If you give me one second, I
4 will go and check on his status.

5 THE COURT: Well, we don't need him
6 right now.

7 MR. CHAPLIN: We can do that at some
8 point. I mean, it doesn't have to be right now,
9 Your Honor.

10 THE COURT: What's scheduled for right
11 now?

12 MS. SAMPSON: Witnesses.

13 THE COURT: Can you give me an idea?

14 MS. SAMPSON: One, two, three,
15 four, maybe five at the most.

16 THE COURT: All right. I'm going to
17 allow Mr. Streeter to testify. I don't know
18 what he's going to testify to, but I'll allow
19 him to testify. So your objection is overruled.

20 MR. CHAPLIN: Thank you, Your Honor.

21 THE COURT: Ready for the jury?

22 MS. SAMPSON: State's ready.

23 THE COURT: Defense ready for the jury?

24 MR. CHAPLIN: Ready, Your Honor.

25 MR. FARLEY: We're ready, Your Honor.

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1 THE COURT: Bring the jury.

2 (JURY IN @ 9:17 a.m.)

3 BAILIFF: Your Honor, the jury is
4 presents.

5 THE COURT: Good morning ladies and
6 gentlemen. We are ready to continue with the
7 trial.

8 MS. CAMPBELL: Thank you, Your Honor.
9 The State would call Sanovia Thompson.

10 (WITNESS TAKES STAND)

11 SANOVIA THOMPSON, being duly sworn to
12 tell the truth, the whole truth and nothing but
13 the truth, testified, as follows:

14 DIRECT EXAMINATION

15 BY MR. CAMPBELL:

16 Q How old are you?

17 A Thirty-three (33).

18 Q And where do you live?

19 A Gonzales Gardens.

20 Q How long have you lived there?

21 A Almost five years.

22 Q And do you work?

23 A No.

24 Q You take care of children sometimes in your
25 home?

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- 1 A Uh-huh.
- 2 Q In fact, in February of 2010, you lived in
- 3 Gonzales Gardens?
- 4 A Uh-huh.
- 5 Q I need you to say "yes" or "no"?
- 6 A Yes.
- 7 Q And what apartment do you live in?
- 8 A F-8.
- 9 Q F-8, is that across from G?
- 10 A Directly across from G.
- 11 Q So if I'm standing facing the buildings, F
- 12 would be here and G would be here?
- 13 A Yes, ma'am.
- 14 Q Okay and F-8, which end is it on?
- 15 A It's on the Forest Drive end.
- 16 Q So if I'm driving down Forest Drive, I can
- 17 actually see the end of your building, correct?
- 18 A Correct.
- 19 Q That's where you lived back in 2010 in
- 20 February?
- 21 A Yes.
- 22 Q What were you doing that day?
- 23 A Babysitting and cleaning you.
- 24 Q Babysitting, who were you babysitting?
- 25 A My cousin and five kids.

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1 Q Five kids?

2 A (Affirmative nod).

3 Q That's a lot. What were they doing that
4 day?

5 A They were outside running around playing.

6 Q Were you outside with them?

7 A I was back and forth because Kara was
8 babysitting with me.

9 Q Is that Kara Chase?

10 A Yes.

11 Q Was she staying with you or does she live
12 near you?

13 A She was staying with me temporarily.

14 Q Was she helping you with the kids?

15 A She was helping me off and on.

16 Q So did anything unusual happen that day?

17 A Yes.

18 Q What happened?

19 A I was sweeping my steps -- well, I was back
20 and forth outside talking to Cara. Cara was
21 outside with the kids. I was sweeping down my
22 stairs. When I got to the next to last stair, I
23 noticed a man walking down the street with his
24 hand over his head. He appeared to be
25 intoxicated, to me.

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1 Q Okay. I want to stop you. When you say
2 walking down the street, is he walking down
3 Forest Drive?

4 A He's walking. He's on the Gonzales Gardens
5 sides. He was walking down the sidewalk on
6 Forest Drive.

7 Q So between Forest Drive and your building
8 is a sidewalk?

9 A It's a sidewalk that goes all the way up
10 Forest Drive.

11 Q And he's walking from the market towards
12 your?

13 A Down, yes, ma'am.

14 Q You can see him from your front porch?

15 A I can see him from the bottom stair walking
16 down Forest Drive.

17 Q And when you say that the children are
18 outside, there's a big -- is there a big yard?

19 A It's a big open field.

20 Q And they're out playing in that field?

21 A Running around.

22 Q Did you know the man?

23 A No, ma'am.

24 Q All right. So. You see him. Could you
25 see him face?

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1 A Yes, ma'am.

2 Q How did it appear to you?

3 A He had a knot on his head and it obviously
4 was bleeding. He was kind of like staggering
5 like he might have been intoxicated.

6 Q But he could walk?

7 A He could talk, but he was staggering.

8 Q Could he talk?

9 A At the time he didn't say anything.

10 Q So then what happened.

11 A He walked up and was talking to one of the
12 guys that lives out there. The guy lives in
13 one of the apartments ---

14 Q Did you know the guy that he spoke with?

15 A No, I don't really know the guy but -- so
16 he was walking up the ramp.

17 Q Who was walking up the ramp?

18 A Mr. Gray. He looked at him. He was like,
19 'What happened to you?' Then he went on about
20 his business.

21 Q Now, let me stop you. How tune Mr. Delay?

22 A I've been knowing him a long time, not
23 really personally.

24 Q Okay. When you say Mr. Gray, what's his
25 first name?

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1 A Henry.

2 Q Do you see him in the courtroom?

3 A To my left.

4 Q Is he sitting at the defense table?

5 A Uh-huh.

6 Q Let the record reflect that she has
7 identified Henry Gray?

8 THE COURT: The record so reflects.

9 DIRECT EXAMINATION CONTINUED

10 BY MS. CAMPBELL:

11 Q Now, Ms. Thompson, what did he say to the
12 man?

13 A He said, 'What happened to you?' Because
14 the man had a knot on his head, was bleeding.

15 I was standing in my front door, which is where
16 they were standing was directly in front of me.

17 Q I want you to tell me, how far away were
18 they? I know you don't know in feet but tell me
19 when to stop when I get to where they were.

20 A From about here to this table, maybe a
21 little farther because it's directly in front of
22 you.

23 Q So this far?

24 A Probably a little farther.

25 Q A little farther?

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- 1 A Uh-huh, about that far.
- 2 Q And you could hear them talking?
- 3 A He didn't really like talk to him. He just
4 said, you know, what happened to him.
- 5 Q Did the person with the knot, did he
6 respond?
- 7 A He said something about some young -- I
8 couldn't hear the whole thing but he said
9 something about some young men up the street.
- 10 Q Could you just hear the whole conversation?
- 11 A I heard a little. He said something about
12 some young b-i-t-c-h up the street.
- 13 Q So he was able to talk ---
- 14 A (Affirmative nod).
- 15 Q --- and did Mr. Gray respond?
- 16 A No. He went inside.
- 17 Q Okay.
- 18 A His phone had rung. He went inside.
- 19 Q Whose apartments did he go into?
- 20 A His father's.
- 21 Q So then what happened?
- 22 A He came outside and he said "you put your
23 hand on my niece." He grabbed him on the
24 collar. He said, "we're going to talk to my
25 sister."

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1 Q Who was his sister?

2 A Robin.

3 Q Do you see her in the courtroom?

4 A Uh-huh.

5 Q Where is she?

6 A She is to my left.

7 Q She is also at the defense table?

8 A (Affirmative nod).

9 MS. CAMPBELL: Let the record
10 reflect she has identified Robin Reese.

11 THE COURT: The record so reflects.

12 DIRECT EXAMINATION CONTINUED.

13 BY MS. CAMPBELL:

14 Q Did you know that they were brother and
15 sister?

16 A (Affirmative nod)

17 Q How did you know?

18 A I used to date her brother.

19 Q How long have you known Ms. Reese?

20 A I knew her -- I didn't know her on a
21 personally level at the time because they were
22 already grown, when I was dating her brother. I
23 came to really, really know her where I moved
24 out there.

25 Q So for five years or so you'd known her?

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1 A Uh-huh.

2 Q Had conversations with her?

3 A. (Affirmative nod).

4 Q Friendly with her?

5 A (Affirmative nod).

6 Q And so you knew that she and Mr. Gray were
7 brother and sister?

8 A Yes.

9 Q And who is the niece he was speaking of?

10 A Melquann
S

11 Q And you knew that his neice?

12 A That was her daughter.

13 Q So when he said that to him, what did you
14 do?

15 A I kind of stood there watching, had him by
16 the collar saying "we're going to talk to my
17 sister." You don't want to make it obvious that
18 you're ---

19 Q You were being nosey?

20 A Yeah, being nosey. Then I came around, I
21 walked out the back door. When I came around, I
22 walked around the building.

23 Q I want you to stop there. You walked
24 through your back door?

25 A I walked behind my building to go around.

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1 Q Is it a big long walk to go from one end of
2 the building?

3 A It's from apartment eight to apartment one.

4 Q So there's only one, two, three, four, five
5 six seven?

6 A Kind of spaced out, and Cara was already
7 outside.

8 Q So Cara and Donetti were outside?

9 A Yes.

10 Q And they were in front of Donetti's
11 apartment?

12 A (Affirmative nod)

13 Q Which is F-1?

14 A [REDACTED] because F-1 is on the backside.

15 Q Okay. So. You went around the back way.

16 A (Affirmative nod).

17 Q Why did you do around the back?

18 A To be nosey, to be honest.

19 Q Why didn't you do around the front?

20 A Because you don't want to make it obvious
21 you're being nosey.

22 Q So your went around and what did you do
23 when you got back to the front?

24 A The guy was on the ground. I seen Robin
25 coming down the sidewalk.

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1 Q How did she appear to you? Was she upset?

2 Was she mad?

3 A She looked like she was upset, maybe

4 crying. So you don't really know what's going

5 to happen. You don't know how, you know, the

6 outcome. I'm telling the kids, you know, let's

7 go in the house. I walk out to maybe F-6 and

8 then told the kids 'let's go in the house.'

9 Q On the front or the back?

10 A On the back.

11 Q So you can't see what else going on?

12 A No.

13 Q So what do you do?

14 A After the kids go in, I walk around. I

15 heard Robin say, 'Why did you put your hand on

16 my baby' or something like that. She kicked him

17 on the leg one or two times and just walked

18 away.

19 Q They walked away?

20 A (Affirmative nod).

21 Q Did you ever see him defending himself?

22 A No.

23 Q Did you ever see him get up?

24 A (Negative gesture).

25 Q I need you to say it out loud?

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1 A "No."

2 Q Did you notice that the chair, anything
3 about the chair?

4 A I just noticed the chair was out of place.

5 Q It was out of place. Where is it normally?

6 A Up against the wall.

7 Q Up against what wall?

8 A The wall of the apartment across from me.

9 Q Which apartment is that?

10 A G-something.

11 Q But in front of the G building?

12 A I didn't really pay attention. I just know
13 it was in the grass.

14 Q It wasn't where it was before?

15 A No.

16 Q Did you see anything else happen to the
17 man?

18 A No.

19 Q Did you watch EMS come?

20 A I went back in the house at the time.

21 Q Okay.

22 A And I went back. I came back out the door
23 because I was -- oh, gosh, you know, just kind
24 of nervous. I dialed 9-1-1 to tell them that
25 there was a man lying on the ground.

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1 Q You dialed 9-1-1?

2 A I dialed but Cara talked to them, I
3 couldn't really. She talked to them. I went
4 back in the house, stood at the front door. I
5 heard the police said he was throwing up blood
6 and the ambulance was on the side, on my side by
7 the fire hydrant and they said to turn him
8 over.

9 Q Okay. Did you at that time talk to police?

10 A No.

11 Q Did you ever go talk to police?

12 A I did.

13 Q And you told them what you saw?

14 A I told them what I saw and then one of the
15 guys, I don't know his name, he said, 'Okay,
16 well, you didn't really see much. I know your
17 buddies talked about it. What did you buddies
18 say they saw.'

19 Q You told them?

20 A I told them what they say they saw. I
21 didn't see what they saw.

22 Q So you told them what you heard and what
23 you saw?

24 A I told them what I will saw and what I
25 heard. I told them what I saw first and then

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1 what I heard.

2 Q Okay. Why didn't you write your statement,
3 write a statement for him?

4 A First of all, I didn't want to be involved.
5 Secondly of all, he said based on what I saw, it
6 wasn't really no evidence. I wasn't really no
7 witness.

8 Q Why didn't you want to be involved?

9 A Because it had nothing to do with me.

10 Q Were you truthful with them?

11 Q Are you being truthful today?

12 A Yes, yes.

13 MS. CAMPBELL: No further questions.

14 Please answer anything that the defense may ask
15 you.

16 CROSS EXAMINATION:

17 BY MR. FARLEY:

18 Q Hello Ms. Thompson.

19 A Hello.

20 Q I just have a few questions for you. You
21 stated earlier that you -- you said you had five
22 kids?

23 A Yeah, I was babysitting my cousin's five
24 kids.

25 Q Five kids. That is a handful.

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1 A Yes.

2 Q You have a front door, and I think you said
3 you went out the back?

4 A Correct.

5 Q So you have the front door and a back door?

6 A Correct.

7 Q And five kids?

8 A Running around.

9 Q And all in the apartment, ---

10 A (Affirmative nod).

11 Q So were you going from the front door, the
12 back door and herding all these children?

13 A Well, the kids were outside with Cara, and
14 they were back and forth. She was at my house
15 babysitting.

16 Q Helping?

17 A Helping. So while I was cleaning up, she
18 said she was taking the kids outside, so that's
19 how they ended up outside. I was just kind of
20 walking back and forth.

21 Q Is it fair to say that you were back and
22 forth and you could only watch some of what
23 occurred but not all of what occurred?

24 A None of the kids were in the house at the
25 time. They were all outside. I was cleaning

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1 and mopping. She agreed to take the kids
2 outside.

3 Q So. I'm just saying what you heard.

4 A Yeah.

5 Q I mean you were testifying that you were in
6 and out, back and forth?

7 A Yeah.

8 Q So you didn't see all of what occurred but
9 some of what occurred?

10 A No.

11 Q Okay. And you did say that you saw my
12 client, Ms. Reese, come around the corner and
13 that she was, she looked upset I think was?

14 A She looked upset, uh-huh.

15 Q And you saw her come up and make a
16 statement to Mr. Mack?

17 A . Yes, she was asking him "why you put your
18 hand on my baby?" Or "why did you touch my
19 baby?" I couldn't really. I wasn't real close
20 to her.

21 Q And then you said that she left?

22 A Uh-huh, she left.

23 Q How long do you think she was there?

24 A Well, maybe a minute or two, if that. I
25 know it wasn't long because the timeframe for me

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1 to walk to one end of the building; which was
2 probably about a minute, you know. I was a
3 little slow but about a minute, maybe a minute
4 or two.

5 Q So in the going back and forth, all you
6 know is the chair wasn't in the place where
7 you're accustomed to seeing it?

8 A Yes.

9 Q Which is up against the G building?

10 A Yes.

11 Q Okay. But you don't recall seeing anybody
12 with the chair or anything like that?

13 A No.

14 Q And you didn't want to give a statement
15 because you said ---

16 A I didn't want to be involved.

17 Q You said you didn't want to be involved?

18 A Didn't want to be involved.

19 Q Well, that makes sense. I understand that.
20 You're being truth with us here today?

21 A Yes.

22 Q Thank you for coming. Please answer any
23 questions Mr. Chaplin has?

24 MR. CHAPLIN: Beg the Court's
25 indulgence.

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1 CROSS EXAMINATION

2 BY MR. CHAPLIN:

3 Q Ms. Chase?

4 A I'm Ms. Thompson.

5 Q Ms. Thompson. You indicated that when you
6 spoke with the police on the 16th of February
7 that you told them what you heard and what you
8 saw?

9 A I told them what I saw at first. He said,
10 'Well, I know you and your buddies got together
11 and talked about it. What did your buddies
12 say?'

13 I told them what was said. That's not what
14 I witnessed. I told him that's not what I saw.
15 He said, 'I already know what happened. Just
16 tell me what your buddies said.' You know.

17 Q Are you under subpoena today?

18 A Uh-huh -- yes.

19 Q And you took an oath, right, to tell the
20 truth?

21 A Yes.

22 Q And you were telling us the truth?

23 A Yes.

24 Q All right. I thank you.

25 THE COURT: Redirect?

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1 MS. CAMPBELL: Just briefly, Your
2 Honor.

3 REDIRECT EXAMINATION

4 BY MS. CAMPBELL:

5 Q I want to make sure we have the timeline of
6 events, correct. It seems like you got a little
7 confused. You seen Mr. Gray grab the guy by the
8 collar.

9 A Yes.

10 Q And say, 'I'm taking you to my sister.'

11 A Yes.

12 Q Then you go back and you come back out,
13 he's on the ground?

14 A Yes. I did hear the guy say, and I forgot
15 to mention this part, 'I am not going back
16 around that corner. I'm not going back around
17 that corner.'

18 Q The fellow said that to Mr. Gray?

19 A Yes, obviously what happened happened
20 around the corner, he didn't want to go back.
21 'Whatever is going to happen is going to happen
22 right here. I'm not going back around the
23 corner.'

24 Q All right. And then you go back around,
25 you come back out and at that time he is down on

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1 the ground?

2 A He is on the ground.

3 Q Mr. Gray is standing there beside him?

4 A Correct.

5 Q Then Ms. Robin Reese comes up?

6 A Correct.

7 Q You go back around to the back?

8 A Not all the way, about halfway.

9 Q And when you come back, you see her kick
10 him?

11 A And then she walked away.

12 Q So you did see her actually assault him?

13 A Yes.

14 Q Okay.

15 MS. CAMPBELL: No further questions,
16 Your Honor.

17 THE COURT: Anything further?

18 MR. FARLEY: Just one question.

19 RECROSS EXAMINATION

20 BY MR. FARLEY:

21 Q You said that at that time my client was
22 there was only about a minute or two.

23 A He was only there shortly. It doesn't take
24 me much time to walk from one end of the
25 building to the other.

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1 Q Make a quick kick at him and then left
2 after that?

3 A Yeah.

4 MR. FARLEY: Thank you.

5 RECROSS EXAMINATION

6 BY MR. CHAPLIN:

7 Q Ms. Thompson, ---

8 A Yes.

9 Q --- you testified that when you initially
10 saw the victim that he had a knot on his head?

11 A Correct.

12 Q That he was bleeding?

13 A Correct.

14 Q He was staggering?

15 A Correct.

16 Q That is before he made any contact with
17 Mr. Gray?

18 A Correct.

19 MR. CHAPLIN: Thank you very much.

20 THE COURT: All right. Ma'am. Thank
21 you very much. You may come down. You're free
22 to go. Thank you very much.

23 (WITNESS STEPS DOWN)

24 MS. CAMPBELL: May we approach, Your
25 Honor?

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1 (OFF RECORD BENCH CONFERENCE)

2 THE COURT: Next witness.

3 MS. SAMPSON: State calls Isaac
4 Weathers.

5 (WITNESS TAKES STAND)

6 THE COURT: Ms. Sampson, hold up a
7 minute. Ladies and gentlemen of the jury, again
8 one of my function is to try to manage time.
9 We're going to send out for your lunch today and
10 the court reporter's -- I'm sorry, the clerk is
11 going to hand you a menu. We will give you a
12 few minutes to fill it out. We're going to have
13 a lunch break. I mean, you're still going to be
14 able to go out, but I think it will speed things
15 you mean if we go ahead and get your menus.

16 THE COURT: All right. Ms. Sampson.

17 MS. SAMPSON: Thank you, Your Honor.
18 May it please the Court.

19 ISSAC WEATHERS, being duly sworn to
20 tell the truth, the whole truth and nothing but
21 the truth, testified, as follows:

22 DIRECT EXAMINATION

23 BY MS. SAMPSON:

24 Q Good morning, Mr. Weathers.

25 A (No verbal response).

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1 Q You're currently incarcerated.

2 A Yes.

3 Q I need you to speak up for me or sit up for
4 me. You're currently incarcerated?

5 A Yes.

6 Q You're at the Alvin S. Glenn Detention
7 Center?

8 A That's correct.

9 Q And back in 2010 in February, did you live
10 over by Gonzales Gardens?

11 A Yes, I did.

12 Q Where were you living at?

13 A R-8 Gonzales.

14 Q You're going to have to speak up.

15 A R-8 Gonzales.

16 Q So you lived in Gonzales Gardens?

17 A Yes, I did.

18 Q On February 13th, did you witness a fight?

19 A Yes, I did.

20 Q What did you see and how did it start?

21 A A young lady and a guy was arguing I guess,
22 and they fell.

23 Q They fell. I'm going to stop. Did he
24 throw her to the ground?

25 A Well, they got kind of tangled up. He

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1 didn't actually throw her. They got tangled up
2 and they fell.

3 Q Did it look to you like they were playing
4 at first. That's what he said.

5 Q That's what he said?

6 A Yes.

7 Q When did he say that?

8 A When the guy jumped on him.

9 Q So I'm going to mix it up. I'm going to
10 nothing back a little bit. You said they were
11 arguing and they fell. What happened?

12 A The guy jumped on him.

13 Q What guy jumped on him?

14 A It was a few guys.

15 Q Who was the first guy? Do you know his
16 name?

17 A Well, it wasn't a first guy. It was a
18 bunch of guys just went and jumped on him.

19 Q Did they ask, tell the girl to do anything?

20 A Well, no. She did hit him.

21 Q She did hit him?

22 A Yes.

23 Q And what did the man do?

24 A The man that was being beaten?

25 Q Yes..

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- 1 A He was saying to tell them that we were
2 just playing.
- 3 Q Was he just defending himself?
- 4 A He tried to. It was just too many.
- 5 Q And after they got through beating on him,
6 what happened?
- 7 A He jumped up and ran.
- 8 Q He jumped up and ran. What did the people
9 do?
- 10 A They didn't do anything.
- 11 Q Where did they go?
- 12 A They went into the store.
- 13 Q They went to the store?
- 14 A Yes.
- 15 Q But he was able to get up and leave?
- 16 A Yes.
- 17 Q And after -- after the assault, did you
18 talk to police?
- 19 A What you mean, the police came to my
20 sister's house, took me to headquarters.
- 21 Q And you made a statement with them?
- 22 A Yes.
- 23 Q And do you remember what you told them?
- 24 A Basically, yes.
- 25 Q Okay. Do you remember telling them that

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1 Bloom was the first guy that hit him?

2 A He was the first one that hit him.

3 Q And did you remember telling him that Bloom
4 said to the girl "get your licks in"?

5 A Yes.

6 Q And did that happen?

7 A Yes.

8 Q And she did get her licks in?

9 A Yes.

10 Q And they were kicking at him, you said?

11 A Yes, a bunch of them was.

12 Q And did Bloom say something when he left
13 like, 'I didn't get him good enough'?

14 A 'I have didn't get him', right.

15 Q I didn't get him, right. Okay.

16 Q And the only thing the victim said is he
17 was just playing?

18 A That was it.

19 Q That was it?

20 MS. CAMPBELL: Beg the Court's
21 indulgence.

22 DIRECT EXAMINATION CONTINUED

23 BY MS. SAMPSON:

24 Q And Mr. Weather, not to get all in your
25 business, but that day were you smoking?

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1 A Earlier that morning I was.

2 Q What were you smoking?

3 A Crack.

4 Q Crack. But were you able to see things?

5 A I was able to comprehend very well.

6 Q Okay.

7 A I was able to competent very well.

8 Q So you saw everything?

9 A Yes.

10 Q You're being truthful with us today?

11 A I don't have no reason to lie.

12 Q Even though you're in jail today, ---

13 A At that time, I wasn't in any trouble.

14 Q Right.

15 A I didn't have no charges or anything.

16 Q Right. And now that you're in jail, we

17 didn't make any deals with you to get you to

18 testify today?

19 A All I gave is a statement.

20 Q In fact, me and you have never even talked

21 have we?

22 A (Negative gesture), at all.

23 MS. CAMPBELL: No further questions,

24 Your Honor.

25 THE COURT: Cross examination?

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1 CROSS EXAMINATION

2 BY MR. FARLEY:

3 Q Mr. Weather, you testified just a minute
4 ago that you were living in Gonzales Gardens,
5 and you observed the beginning of this fight?

6 A That's correct.

7 Q And I'm just not real clear in what you
8 said that -- I wasn't real clear on how you said
9 they got tangled up.

10 A It was like, you know, she was telling the
11 guy to leave her alone, but he wouldn't, and he
12 was like touching her and just coming around.
13 He tried to put his arms around her and they
14 fell. The way I seen it, looked like he was
15 really messing with her. They just really tried
16 to go to her rescue. That's all it was.

17 Q Oh, so he was messing with her and they
18 tried to go to the rescue?

19 A Because he kept on, kept on. He went too
20 far. She was asking him to leave her along,
21 over and over and over, and he wouldn't.

22 Q Okay.

23 A There's some kind of way that he put his
24 hands on her and they got tangled up and she
25 fell.

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1 Q Okay. Did you say he tried to hug her, put
2 his arms around her?

3 A I guess. I mean, they got tangled -- and
4 he fell. He kind of put his arms around her.

5 Q Did you know this man at all?

6 A Not at all.

7 Q Can you describe what he looked like?

8 A The guy?

9 Q (Affirmative nod).

10 A Yeah, he's a short dark-skinned guy. I
11 guess he is around 5'8", 5'9", probably weighed
12 about 160 pounds, short hair. You know, he was
13 very groomed. She was groomed.

14 Q Did you have any idea of how old he was?

15 A Older than her.

16 Q When you say older than her, were you able
17 to ---

18 A I mean, years apart.

19 Q Years apart?

20 A Yeah, she was a young, a teenager and he's
21 a full grown man. I guess in his late 30s.

22 Q Oh, in his late 30s?

23 A Yeah.

24 Q Did you know Melquanna

25 A Did I know ---

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- 1 Q Did you know Melquanna S. [REDACTED] [REDACTED] ?
- 2 A The young lady?
- 3 Q Yes..
- 4 A I'd seen her around, kind of like knew her
- 5 from the neighborhood.
- 6 Q Did you know how old she was?
- 7 A Basically, yeah, like fifteen, sixteen,
- 8 fifteen years old.
- 9 Q Would it surprise you to learn at the time
- 10 that she was thirteen?
- 11 A I would be very surprised. She is a big
- 12 girl.
- 13 Q And you said that after they got tangled up
- 14 because he tried to put his arms around her, you
- 15 thought the other ---
- 16 A I thought those guys basically was going to
- 17 her rescue, basically.
- 18 Q Did you know the other guys?
- 19 A I mean, do I know the other -- I know quite
- 20 a few of them.
- 21 Q So you -- there was quite a few guys. How
- 22 many guys do you think there were total?
- 23 A Four or five.
- 24 Q Four or five?
- 25 A Yes.