

Volume I of II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Florence County

Thomas A. Russo, Circuit Court Judge

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S.C. Supreme Court

DEVODUS ROUSE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2013-000474

APPENDIX

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STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF FLORENCE)

STATE OF SOUTH CAROLINA)

ORIGINAL

-VS-

) 2008-GS-21-0849
)
)
)
)
)
)

DEVODUS ANTONIO ROUSE,

DEFENDANT.

THE FOLLWOING PROCEEDINGS WERE HELD BEFORE THE HONORABLE

RALPH KING ANDERSON, JR.

IN THE CIRCUIT COURT OF FLORENCE COUNTY (12TH JUDICIAL
DISTRICT) BEGINNING AT 10:48 AM ON THE 12TH DAY OF
JANUARY, 2009, IN THE FLORENCE COUNTY COURTHOUSE,
FLORENCE, SOUTH CAROLINA.

PARTIALLY REPORTED BY: H. EUGENE BUCKNER, CVR

NOTE: REPORTED JURY SELECTION JANUARY 12, 2009; AND THEN
WAS RELIEVED BY PAMELA OZMINT-CARTEE DUE TO
ILLNESS, WHO REPORTED REMAINDER OF JANUARY 12,
2009, AND ENTIRE PROCEEDINGS OF JANUARY 13, 2009.

RETURNED AND REPORTED ENTIRE PROCEEDINGS OF
JANUARY 14, 2009, ON WHICH DATE THEY CONCLUDED.

ORIGINAL

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ALL OTHER NOTABLE EVENTS AND TESTIMONY WERE REPORTED BY PAMELA OZMINT-CARTEE AND SHOULD BE CONTAINED IN THE TABLE OF CONTENTS FROM HER PORTION OF THE PROCEEDINGS.

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ALL OTHER EXHIBITS WERE MARKED AND ENTERED BY
PAMELA OZMINT-CARTEE AND SHOULD BE CONTAINED IN
THE INDEX FROM HER PORTION OF THE PROCEEDINGS.

1 BAILIFF:

2 All rise, please.

3 THE COURT:

4 Thank you. Please be seated.

5 Counsel, let me see you at the
6 bench, please.

7 Ms. Bailey, check outside,
8 because I'm not going to let people go back and forth
9 during the jury qualification now.

10 We've got a serious matter here.

11 Any other jurors outside, Ms.

12 Bailey?

13 BAILIFF:

14 I'm looking.

15 I don't see anymore, Judge.

16 THE COURT:

17 All right.

18 Keep the door closed Ms. Bailey,
19 for I don't want anyone living coming in.

20 BAILIFF:

21 Okay.

22 THE COURT:

23 Maybe that should limit it.

24 Jurors, give me your attention.

25 We now begin the trial of the

1 case Indictment 2008-GS-21-849, the State versus Devodus
2 Antonio Rouse, a pending charge for murder.

3 Mr. Rouse, would you please
4 stand and face the jury panel for me please.

5 BAILIFF:

6 We've still got some in the
7 bathroom, sir.

8 CLERK:

9 I'm going to walk in there and
10 see if there is any more in there.

11 THE COURT:

12 All right, we start over.

13 It is Indictment 2008-GS-21-849,
14 the State versus Devodus Antonio Rouse, a pending charge
15 for murder.

16 Mr. Rouse, would you please
17 stand and face the jury panel.

18 WHEREUPON: The Defendant did as
19 instructed by The Court.

20 THE COURT:

21 Is there any member of the jury
22 panel who is related by blood or connected by marriage to
23 the Defendant, Devodus Antonio Rouse?

24 If so, please stand.

25 (No response.)

1 THE COURT:

2 Is there any member of the jury
3 panel who has any direct or indirect connection with the
4 Defendant Devodus Antonio Rouse in any fashion?

5 If so, please stand.

6 WHEREUPON: A person seated with
7 the Defendant at the Defense Counsel's table stood.

8 THE COURT:

9 Thank you, sir. Please be
10 seated.

11 Mr. Solicitor, once again, stand
12 and introduce yourself and the counsel who will be
13 assisting you.

14 MR. CLEMENTS:

15 Thank, Your Honor.

16 If it please The Court?

17 Ladies and gentleman, I'm Ed
18 Clements, Solicitor for the 12th Judicial Circuit.

19 I will be prosecuting this case.

20 Uh -- Helping me in the
21 courtroom -- uh -- is Ms. Christine Von Lutcken and Ms.
22 Rachelle Jean of my staff.

23 Uh -- There's another one of my
24 attorneys seated at the table. He will be -- uh -- be
25 conferring with us during the jury qualifications of this

1 trial; however, he will not be participating in the
2 prosecution of this case; and that is Mr. Fitzlee
3 McEachin.

4 THE COURT:

5 Thank you.

6 Is there any member of the jury
7 panel who is related by blood or connected by marriage to
8 any of these persons identified by the solicitor?

9 If so, please stand.

10 (No response.)

11 THE COURT:

12 Is there any member of the jury
13 panel who has any direct or indirect connection with the
14 Solicitor or any members of his staff?

15 If so please stand.

16 (No response.)

17 THE COURT:

18 Witnesses you plan to call for
19 the State please, Mr. Solicitor?

20 MR. CLEMENTS:

21 Thank Your Honor.

22 If it please The Court, Your
23 Honor?

24 Uh -- I've set a list of
25 potential witnesses there in front of you.

1 I will read them out, Your
2 Honor, unless -- uh -- you would prefer to do that.

3 THE COURT:

4 Well, let me find them.

5 My Because, bifocals have
6 apparently jumped.

7 I do find them.

8 MR. CLEMENTS:

9 Thank Your Honor.

10 THE COURT:

11 Read them out for me, please.

12 MR. CLEMENTS:

13 Thank you, Your Honor.

14 If it please The Court?

15 And if any of the witnesses are
16 in the courtroom, I'd ask for them to stand.

17 Uh -- Sergeant Michael Brandt of
18 the Florence Police Department.

19 Investigator Lee Davis of the
20 Florence Police Department.

21 Uh -- Sergeant Larry Drayton of
22 the Florence Police Department.

23 Sergeant Melvin Godwin of the
24 Florence Police Department.

25 Officer Mark Happ of the

1 Florence Police Department.

2 Investigator Chris Moreau of the
3 Florence Police Department.

4 Investigator Thomas Myers of the
5 Florence Police Department.

6 Special Agent S. Dan Defreeze of
7 SLED.

8 Special Agent Kenny Kinsey of
9 SLED.

10 Special Agent Ila Simmons of
11 SLED.

12 Dr. Cynthia Schandl of the
13 Medical University of South Carolina.

14 Vincent Adams.

15 Lawrence Willie Bell, Jr.

16 Antoinette B. [REDACTED].

17 Milton Gerald.

18 Travis S. James, also known as

19 Gusto.

20 Herbert Johnson.

21 Farhonda Pompey.

22 Renetha Staggers.

23 Caroline Washington.

24 Douglas Washington.

25 Quandeline W. [REDACTED].

1 And Brandon Woodberry.

2 Those are the potential
3 witnesses for the State, Your Honor.

4 THE COURT:

5 Thank you.

6 Is there any member of the jury
7 panel who is related by blood, or connected by marriage,
8 or has any direct or indirect connection with any of
9 these witnesses?

10 If so, please stand.

11 WHEREUPON: A couple of jurors
12 from the venire stood.

13 THE COURT:

14 Your name, please.

15 JUROR:

16 Tammy Briggs.

17 MR. CLEMENTS:

18 Juror 17, Your Honor.

19 THE COURT:

20 17?

21 What is your connection, please?

22 JUROR:

23 Uh -- I'm some kin by marriage
24 to -- uh -- Carolyn Washington, one of the witnesses.

25 THE COURT:

1 All right.

2 What is that kinship?

3 Is it first cousin or below;

4 past cousin?

5 JUROR:

6 Uh -- She was married to my

7 first cousin.

8 THE COURT:

9 Is that still in place?

10 You say she was married to your

11 first cousin?

12 JUROR:

13 (Nods in the affirmative.)

14 THE COURT:

15 Not in place now?

16 JUROR:

17 (Shrugs.)

18 THE COURT:

19 Are you able to give everyone a

20 fair and impartial trial at this point?

21 JUROR:

22 Oh, yes sir.

23 THE COURT:

24 Okay.

25 Thank you. Please be seated.

1 Your name and number please?

2 JUROR:

3 Number 36, Leigh Eagleton.

4 THE COURT:

5 Yes?

6 JUROR:

7 I live in the neighborhood with

8 Mr. Herbert Brown.

9 THE COURT:

10 Are you able to give all of
11 these parties a fair and impartial trial?

12 JUROR:

13 Yes.

14 THE COURT:

15 Thank you. Please be seated.

16 Thank you for responding.

17 Anyone else, please?

18 Anyone else?

19 (No response.)

20 THE COURT:

21 Witnesses to be called by

22 Defense?

23 Do you have witnesses that you

24 can identify?

25 MR. HERRON:

1 No. No, we don't, Your Honor.

2 THE COURT:

3 Thanks.

4 MR. HERRON:

5 Your Honor, I should say none
6 that are -- haven't already been called out.

7 THE COURT:

8 Yes; thanks.

9 Is there any member of the jury
10 panel who is conscious of or aware of any information in
11 regard to this pending charge for murder against Devodus
12 Antonio Rouse, which the State alleges occurred on or
13 about January 2, 2007, where it is alleged that:

14 The Defendant, Devodus Antonio
15 Rouse, killed one Brandon Timmons by means of shooting
16 him with a gun.

17 If you have any information
18 about this case; heard anything about this case; or
19 talked about this case in any form or fashion, please
20 stand.

21 (No response.)

22 THE COURT:

23 Is there any member of the jury
24 panel who is conscious of or aware of any bias or
25 prejudice for or against the State or the Defendant,

1 Devodus Antonio Rouse?

2 If so, please stand.

3 (No response.)

4 THE COURT:

5 Is there any member of the jury
6 panel who could not give both the State and the
7 Defendant, Devodus Antonio Rouse, a fair and impartial
8 trial?

9 If not, please stand.

10 (No response.)

11 THE COURT:

12 Is there any member of the jury
13 panel who knows of any reason whatsoever as to why you
14 should not serve on this jury?

15 If so, please stand.

16 (No response.)

17 THE COURT:

18 Any further query requested by
19 the State?

20 MR. CLEMENTS:

21 Nothing from the State, Your
22 Honor; thank you.

23 THE COURT:

24 Thank you.

25 By the Defendant?

1 MR. HERRON:

2 Your Honor, you may have covered
3 this; but anybody's related by blood or marriage to the
4 victim, Brandon Timmons.

5 THE COURT:

6 Is there any member of the jury
7 panel who is or was related to Brandon Timmons?

8 If so, please stand.

9 (No response.)

10 THE COURT:

11 Is there any member of the jury
12 panel who did in fact have any direct or indirect
13 connection with Brandon Timmons?

14 If so, please stand.

15 (No response.)

16 THE COURT:

17 Thank you, Counsel.

18 Anything further?

19 MR. HERRON:

20 Nothing further, Your Honor.

21 THE COURT:

22 Peremptories, five and ten; five
23 and ten.

24 Jurors, let me explain the
25 process to you.

1 We're going to call your name.

2 As your name is called --

3 Historically, we have followed this procedure and I think
4 it's valid, so I will validate it today.

5 Come forward and stand right --

6 Mr. Bailiff, show them about where to stand.

7 Right here.

8 Come forward and stand there.

9 We will ask the State their
10 desire. And depending on what they say, we will then go
11 to Defense.

12 Now these lawyers have the right
13 to excuse you under what is called peremptory challenges
14 in the law.

15 And please do not be upset or
16 embarrassed if you get excused.

17 You might not have enough hair
18 to suit them, or something like that.

19 So please, please, relax.

20 Let the system work. And we'll
21 proceed from there.

22 State ready?

23 MR. CLEMENTS:

24 The State is ready, Your Honor.

25 THE COURT:

1 Defense ready?

2 MR. HERRON:

3 We are, Your Honor.

4 THE COURT:

5 Ms. Clerk, you're recognized.

6 CLERK:

7 45, Lacy Gainey.

8 (WHEREUPON: The juror came

9 forward and turned and faced counsel table as

10 instructed.)

11 CLERK:

12 What say the State?

13 MR. CLEMENTS:

14 Please present Mr. Gainey.

15 CLERK:

16 What say the Defendant?

17 MR. HERRON:

18 Please present the juror.

19 CLERK:

20 Please have a seat in the --

21 MR. HERRON:

22 I mean, please seat the juror.

23 CLERK:

24

25 Please have a seat in the jury

1 box.

2 (WHEREUPON: This juror, having
3 been accepted by the parties, was seated as a juror in
4 this case.)

5 CLERK:

6 20, Sabrina Capell.

7 (WHEREUPON: The juror came
8 forward and turned and faced counsel table as
9 instructed.)

10 CLERK:

11 What say the State?

12 MR. CLEMENTS:

13 Please present Ms. Capell.

14 CLERK:

15 What say Defendant?

16 MR. HERRON:

17 Please seat the juror.

18 CLERK:

19 Please have a seat in the jury
20 box, ma'am.

21 (WHEREUPON: This juror, having
22 been accepted by the parties, was seated as a juror in
23 this case.)

24 CLERK:

25 16, William Bradshaw.

1 (WHEREUPON: The juror came
2 forward and turned and faced counsel table as
3 instructed.) CLERK:

4 What say the State?

5 MR. CLEMENTS:

6 Please present Mr. Bradshaw.

7 CLERK:

8 What say Defendant?

9 MR. HERRON:

10 Please seat the juror.

11 CLERK:

12 Please have a seat in the juror
13 box.

14 (WHEREUPON: This juror, having
15 been accepted by the parties, was seated as a juror in
16 this case.)

17 CLERK:

18 71, Mary Howell.

19 (WHEREUPON: The juror came
20 forward and turned and faced counsel table as

21 instructed.)

22 CLERK:

23 What say the State?

24 MR. CLEMENTS:

25 Please present Ms. Howell.

1 CLERK:

2 What say the Defendant?

3 MR. HERRON:

4 Please excuse this juror.

5 CLERK:

6 You've been excused for this
7 trial only. You may return to your seat.

8 (WHEREUPON: This jury panel
9 member, not being accepted by all parties, returned to
10 the panel and was not seated as a juror in this case.)

11 CLERK:

12 8, Thomas Bailey.

13 (WHEREUPON: The juror came
14 forward and turned and faced counsel table as
15 instructed.)

16 CLERK:

17 What say the State?

18 MR. CLEMENTS:

19 Please present Mr. Bailey.

20 CLERK:

21 What say the Defendant?

22 MR. HERRON:

23 Please excuse this juror.

24 CLERK:

25 You may be excused for this

1 trial only, sir.

2 (WHEREUPON: This jury panel
3 member, not being accepted by all parties, returned to
4 the panel and was not seated as a juror in this case.)

5 CLERK:

6 157, Nancy Pigatt.

7 (WHEREUPON: The juror came
8 forward and turned and faced counsel table as
9 instructed.)

10 CLERK:

11 What say the State?

12 MR. CLEMENTS:

13 Please present Ms. Pigatt.

14 CLERK:

15 What say Defendant?

16 MR. HERRON:

17 Please seat the juror.

18 CLERK:

19 Please have a seat in the jury
20 box.

21 (WHEREUPON: This juror, having
22 been accepted by the parties, was seated as a juror in
23 this case.)

24 CLERK:

25 61, Richard Hardee.

1 (WHEREUPON: The juror came
2 forward and turned and faced counsel table as
3 instructed.)

4 CLERK:

5 What say the State?

6 MR. CLEMENTS:

7 Please present Mr. Hardee.

8 CLERK:

9 What say the Defendant?

10 MR. HERRON:

11 Please excuse this juror.

12 CLERK:

13 You've been excused for this
14 trial only, sir.

15 (WHEREUPON: This jury panel
16 member, not being accepted by all parties, returned to
17 the panel and was not seated as a juror in this case.)

18 CLERK:

19 18, Ernestine Burgess.

20 (WHEREUPON: The juror came
21 forward and turned and faced counsel table as
22 instructed.)

23 CLERK:

24 What say the State?

25 MR. CLEMENTS:

1 Please excuse Ms. Burgess from
2 the trial of this case only.

3 CLERK:

4 You've been excused for this
5 trial only, ma'am.

6 You may return to your seat.

7 (WHEREUPON: This jury panel
8 member, not being accepted by all parties, returned to
9 the panel and was not seated as a juror in this case.)

10 CLERK:

11 140, Minnie Timmons.

12 (No response.)

13 CLERK:

14 140, Minnie Timmons.

15 (No response.)

16 CLERK:

17 She might be outside. I'm going
18 to put it all on the side.

19 THE COURT:

20 Counsel, there were two jurors
21 who were not available for the query in terms of
22 qualification; and I simply could not let them come in,
23 in the middle of the qualifications.

24 There's a State Supreme Court
25 case directly on point. The jurors must hear the

1 qualification query.

2 So, she may be one outside.

3 There were two outside that did
4 not make it in.

5 Any problem from the State?

6 MR. CLEMENTS:

7 None from the State, Your Honor.

8 THE COURT:

9 From Defense?

10 MR. HERRON:

11 None, Your Honor.

12 THE COURT:

13 Thank you.

14 CLERK:

15 132, Michelle Smith.

16 (WHEREUPON: The juror came
17 forward and turned and faced counsel table as

18 instructed.)

19 CLERK:

20 What say the State?

21 MR. CLEMENTS:

22 Please excuse Ms. Smith from the
23 trial of this case only.

24 CLERK:

25 You've been excused for this

1 trial only, ma'am.

2 (WHEREUPON: This jury panel
3 member, not being accepted by all parties, returned to
4 the panel and was not seated as a juror in this case.)

5 CLERK:

6 29, John Dantzler.

7 (WHEREUPON: The juror came
8 forward and turned and faced counsel table as
9 instructed.)

10 MR. CLEMENTS:

11 Doris; what number was that?

12 CLERK:

13 29.

14 MR. CLEMENTS:

15 Thank you.

16 CLERK:

17 What say the State?

18 MR. CLEMENTS:

19 Please present Mr. Dantzler.

20 CLERK:

21 What say the Defendant?

22 MR. HERRON:

23 Please seat the juror.

24 CLERK:

25 Please have a seat in the jury

1 box.

2 (WHEREUPON: This juror, having
3 been accepted by the parties, was seated as a juror in
4 this case.)

5 CLERK:

6 30, Mary Dean.

7 (WHEREUPON: The juror came
8 forward and turned and faced counsel table as
9 instructed.) CLERK:

10 What say the State?

11 MR. CLEMENTS:

12 Please present Ms. Dean.

13 CLERK:

14 What say the Defendant?

15 MR. HERRON:

16 Please seat the juror.

17 CLERK:

18 Please have a seat in the jury

19 box.

20 JUROR:

21 Yes ma'am.

22 (WHEREUPON: This juror, having
23 been accepted by the parties, was seated as a juror in
24 this case.)

25 CLERK:

1 151, Carol Barlett.

2 (WHEREUPON: The juror came
3 forward and turned and faced counsel table as
4 instructed.)

5 CLERK:

6 What say the State?

7 MR. CLEMENTS:

8 Please present Ms. Barlett.

9 CLERK:

10 What say Defendant?

11 MR. HERRON:

12 Please excuse the juror.

13 CLERK:

14 You've been excused for this
15 trial only.

16 (WHEREUPON: This jury panel
17 member, not being accepted by all parties, returned to
18 the panel and was not seated as a juror in this case.)

19 CLERK:

20 68, Louise Holden.

21 (WHEREUPON: The juror came
22 forward and turned and faced counsel table as
23 instructed.)

24 CLERK:

25 What say the State?

1 MR. CLEMENTS:

2 Please present Ms. Holden.

3 CLERK:

4 What say Defendant?

5 MR. HERRON:

6 Please excuse this juror.

7 CLERK:

8 You've been excused for this
9 trial only, ma'am.

10 (WHEREUPON: This jury panel
11 member, not being accepted by all parties, returned to
12 the panel and was not seated as a juror in this case.)

13 CLERK:

14 149, Jimmy Woods.

15 (WHEREUPON: The juror came
16 forward and turned and faced counsel table as
17 instructed.)

18 CLERK:

19 What say the State?

20 MR. CLEMENTS:

21 Please present Mr. Woods.

22 CLERK:

23 What say the Defendant?

24 MR. HERRON:

25 Please seat the juror.

1 CLERK:

2 Please have a seat in the jury
3 box.

4 (WHEREUPON: This juror, having
5 been accepted by the parties, was seated as a juror in
6 this case.)

7 CLERK:

8 154, Roger Foxworth.

9 (WHEREUPON: The juror came
10 forward and turned and faced counsel table as
11 instructed.)

12 CLERK:

13 What say the State?

14 MR. CLEMENTS:

15 Please present Mr. Foxworth.

16 CLERK:

17 What say Defendant?

18 MR. HERRON:

19 Please excuse the juror.

20 CLERK:

21 You've been excused for this
22 trial only, sir.

23 You may return to your seat.

24 (WHEREUPON: This jury panel
25 member, not being accepted by all parties, returned to

1 the panel and was not seated as a juror in this case.)

2 CLERK:

3 158, Michelle Sansbury.

4 (WHEREUPON: The juror came
5 forward and turned and faced counsel table as
6 instructed.)

7 CLERK:

8 What say the State?

9 MR. CLEMENTS:

10 Please present Ms. Sansbury.

11 CLERK:

12 What say the Defendant?

13 MR. HERRON:

14 Please excuse the juror.

15 CLERK:

16 You've been excused for this
17 trial only, ma'am.

18 (WHEREUPON: This jury panel
19 member, not being accepted by all parties, returned to
20 the panel and was not seated as a juror in this case.)

21 CLERK:

22 119, Lula Platt.

23 (WHEREUPON: The juror came
24 forward and turned and faced counsel table as
25 instructed.)

1 CLERK:

2 What say the State?

3 MR. CLEMENTS:

4 Please present Ms. Platt.

5 CLERK:

6 What say Defendant?

7 MR. HERRON:

8 Please seat the juror.

9 CLERK:

10 Please have a seat in the jury
11 box, ma'am.

12 (WHEREUPON: This juror, having
13 been accepted by the parties, was seated as a juror in.
14 this case.)

15 CLERK:

16 92, Russell Lyerly.

17 (No response.)

18 CLERK:

19 That one's out in the hallway.

20 THE COURT:

21 That's one outside in the
22 hallway with the other one, Counsel.

23 Everybody understand?

24 State?

25 MR. CLEMENTS:

1 Yes, Your Honor.

2 THE COURT:

3 Defense.

4 MR. HERRON:

5 Yes, we understand.

6 THE COURT:

7 Thank you.

8 CLERK:

9 125, Christopher Richardson.

10 (WHEREUPON: The juror came
11 forward and turned and faced counsel table as
12 instructed.)

13 CLERK:

14 What say the State?

15 MR. CLEMENTS:

16 Please excuse Mr. Richardson
17 from the trial of this case.

18 CLERK:

19 You've been excused for this
20 trial only.

21 (WHEREUPON: This jury panel
22 member, not being accepted by all parties, returned to
23 the panel and was not seated as a juror in this case.)

24 CLERK:

25 98, Oral Matthews.

1 (WHEREUPON: The juror came
2 forward and turned and faced counsel table as
3 instructed.)

4 CLERK:

5 What say the State?

6 MR. CLEMENTS:

7 Please present Mr. Matthews.

8 CLERK:

9 What say the Defendant?

10 MR. HERRON:

11 Please excuse the juror.

12 CLERK:

13 You've been excused for this
14 trial only.

15 (WHEREUPON: This juror, having
16 been accepted by the parties, was seated as a juror in
17 this case.)

18 CLERK:

19 23, Elizabeth Clark.

20 (WHEREUPON: The juror came
21 forward and turned and faced counsel table as

22 instructed.)

23 CLERK:

24 What say the State?

25 MR. CLEMENTS:

1 Please present Ms. Clark.

2 CLERK:

3 What say Defendant?

4 MR. HERRON:

5 Please seat the juror.

6 CLERK:

7 Please have a seat in the jury
8 box.

9 (WHEREUPON: This juror, having
10 been accepted by the parties, was seated as a juror in
11 this case.)

12 CLERK:

13 147, Dorothy Williamson.

14 (WHEREUPON: The juror came
15 forward and turned and faced counsel table as
16 instructed.)

17 MR. CLEMENTS:

18 Doris, what number was that
19 again?

20 CLERK:

21 147.

22 MR. CLEMENTS:

23 Thank you.

24 CLERK:

25 What say the State?

1 MR. CLEMENTS:

2 Please present Ms. Williamson.

3 CLERK:

4 What say the Defendant?

5 MR. HERRON:

6 Please excuse the juror.

7 CLERK:

8 You've been excused for this
9 trial only

10 (WHEREUPON: This jury panel
11 member, not being accepted by all parties, returned to
12 the panel and was not seated as a juror in this case.)

13 CLERK:

14 67, Jessica Hicks.

15 (WHEREUPON: The juror came
16 forward and turned and faced counsel table as
17 instructed.)

18 CLERK:

19 What say the State?

20 MR. CLEMENTS:

21 Please present Ms. Hicks.

22 CLERK:

23 What say the Defendant?

24 MR. HERRON:

25 Please seat the juror.

1 CLERK:

2 Please have a seat in the jury
3 box.

4 (WHEREUPON: This juror, having
5 been accepted by the parties, was seated as a juror in
6 this case.)

7 CLERK:

8 15, Alberta Bradley.

9 (WHEREUPON: The juror came
10 forward and turned and faced counsel table as
11 instructed.)

12 CLERK:

13 What say the State?

14 MR. CLEMENTS:

15 Please present Ms. Bradley.

16 CLERK:

17 What say Defendant?

18 MR. HERRON:

19 Please seat the juror.

20 CLERK:

21 Please have a seat in the jury
22 box.

23 (WHEREUPON: This juror, having
24 been accepted by the parties, was seated as a juror in
25 this case.)

1 CLERK:

2 126, Patricia Richardson.

3 (WHEREUPON: The juror came
4 forward and turned and faced counsel table as
5 instructed.)

6 CLERK:

7 What say the State?

8 MR. CLEMENTS:

9 Please present Ms. Richardson.

10 CLERK:

11 What say Defendant?

12 MR. HERRON:

13 Please excuse this juror.

14 CLERK:

15 You've been excused for this
16 trial only, ma'am. You may return to your seat.

17 (WHEREUPON: This jury panel
18 member, not being accepted by all parties, returned to
19 the panel and was not seated as a juror in this case.)

20 CLERK:

21 That's 10, Judge?

22 THE COURT:

23 Yes.

24 CLERK:

25 65, Robin Hewitt.

1 (WHEREUPON: The juror came
2 forward and turned and faced counsel table as
3 instructed.)

4 CLERK:

5 What say the State?

6 MR. CLEMENTS:

7 Please present Ms. Hewitt.

8 CLERK:

9 Does the Defendant wish to
10 challenge this juror for cause?

11 MR. HERRON:

12 We do not, Your Honor.

13 CLERK:

14 Please have a seat in the jury
15 box.

16 (WHEREUPON: This juror, having
17 been accepted by the parties, was seated as a juror in
18 this case.)

19 THE COURT:

20 Ms. Hewitt, take seat number one
21 and be the foreperson.

22 JUROR:

23 Okay.

24 THE COURT:

25 If you will, let -- let her

1 change seats.

2 All right, Counsel; we go to the
3 alternate procedure; one and two -- one and two on the
4 peremptories; one and two.

5 Alternate one.

6 CLERK:

7 127, Quade Richardson.

8 (WHEREUPON: The juror came
9 forward and turned and faced counsel table as
10 instructed.)

11 CLERK:

12 What say the State?

13 MR. CLEMENTS:

14 Please present Mr. Richardson.

15 THE COURT:

16 What say the Defendant?

17 MR. HERRON:

18 Please seat the juror.

19 CLERK:

20 Please have a seat in the jury
21 box.

22 THE COURT:

23 We go to alternate two.

24 CLERK:

25 100, Leon McCray.

1 MR. CLEMENTS:

2 Your Honor, I thought he was a
3 transfer because of his request being the principle of a
4 school.

5 THE COURT:

6 He -- He -- He --

7 JUROR:

8 Thanks. I decided to go ahead.

9 MR. CLEMENTS:

10 Okay.

11 JUROR:

12 And get it over with.

13 MR. CLEMENTS:

14 Fine.

15 COURT REPORTER:

16 What do you say? I'm sorry,
17 sir. I didn't --

18 THE COURT:

19 He -- He said he changed his
20 mind and he decided to serve.

21 Welcome.

22 (WHEREUPON: The juror came
23 forward and turned and faced counsel table as
24 instructed.)

25 CLERK:

1 What say the State?

2 MR. CLEMENTS:

3 Beg The Court's indulgence one
4 moment?

5 THE COURT:

6 Yes sir.

7 MR. CLEMENTS:

8 Please present Mr. McCray.

9 THE COURT:

10 What say the Defendant?

11 MR. HERRON:

12 Please seat the juror.

13 CLERK:

14 Please have a seat in the jury
15 box, sir.

16 WHEREUPON: The jury was seated
17 in this proceeding at 11:18 AM, January 12th, 2009.

18 THE COURT:

19 Jurors, give me your attention.

20 The Foreperson must sit at that
21 seat at all times; so if you will, Ms. Hewitt, sit there
22 every time.

23 And the two alternates, if you
24 would occupy those seats at all times.

25 And it's preferable that you

1 come in last as we bring the jury out from time to time
2 so as to get the others seated.

3 Batson, State?

4 MR. CLEMENTS:

5 Your Honor, we would decline to
6 move under Batson.

7 THE COURT:

8 Batson, Defense?

9 MR. HERRON:

10 We would decline also, Your
11 Honor.

12 THE COURT:

13 Let the record show the
14 declination is accepted by The Court and I place my
15 imprimatur and approbation upon the jury as sworn.

16 Give them an oath of office,
17 please, Ms. Clerk.

18 WHEREUPON: The jury was sworn
19 by the Clerk for trial of this particular case at 11:19
20 AM, January 12th, 2009.

21 THE COURT:

22 All right.

23 Jurors, give me your attention.

24 I've got several procedural
25 matters to take up in this case.

1 But also, I need to get Judge
2 Russo in this courtroom and let him draw a jury, so he
3 can work today.

4 And at this time, the lawyers
5 have agreed with me to send you to an early lunch. And I
6 ask you to be back at 1:30 -- 1:30.

7 That's a long lunch hour; but
8 we've just got so many things to do.

9 Now jurors, listen to me.

10 Listen carefully.

11 Under no circumstances -- under
12 no circumstances -- under no circumstances -- yes I did
13 repeat it three times -- can you discuss this case with
14 each other or any outside person.

15 That includes your husband, your
16 wife, your girlfriend, your boyfriend -- or, as we had in
17 one case, a minister.

18 No one.

19 No one can discuss this case
20 with you now until you've decided it.

21 Please help me in that regard.

22 There exist some cases from the
23 appellate venues where there was discussion by jurors
24 over the instruction of The Court.

25 Please help me, people.

1 We must try the case under the
2 rules.

3 And we must enforce the rules as
4 they apply.

5 I repeat again:

6 Do not discuss this case under
7 any circumstances with anyone until you come back.

8 When you come back, you will be
9 wearing your juror identification card; and come into the
10 juryroom.

11 Do not stay out in the hallways.

12 Someone might make an innocent
13 remark in your presence.

14 Keep moving. Keep moving.

15 When you come back here, keep
16 moving.

17 And if the lawyers happen to
18 know you, they can't talk to you.

19 They can make any statement.

20 So, if they happen to look the
21 other way, they are not exercising any kind of attitude
22 or disposition.

23 They just want to have any
24 trouble themselves.

25 They can't say anything to you

1 or have any conversation with you at all until we finish
2 trying this case.

3 Please, please obey these
4 instructions.

5 Have a nice lunch.

6 Please be back by 1:30 in The
7 courtroom.

8 Come right through here catch
9 them an elevator by themselves, please.

10 (WHEREUPON: The jury empanelled
11 in the case withdrew from the courtroom at 11:22 AM,
12 January 12th, 2009; and was no longer present during the
13 following proceedings.)

14 THE COURT:

15 THE COURT:

16 Is the door closed?

17 All right, Counsel; we had a
18 brief conference in the office. And it's my
19 understanding now that we will let Judge Russo proceed to
20 draw his jury.

21 And that, after he finishes, we
22 will then proceed to have the Denno hearing in this case.

23 And the State will proceed in
24 that regard when we come back.

25 Is that correct, Mr. Solicitor?

1 THE COURT:

2 That's correct, Your Honor.

3 THE COURT:

4 Is that correct, Counsel?

5 MR. HERRON:

6 Yes, Your Honor.

7 You want us back at 1:30 also;

8 or --

9 THE COURT:

10 No. I want you to stay.

11 Because if he finishes, I want to proceed as much as
12 possible if we can finish the Denno before -- before
13 1:30, if possible.

14 MR. HERRON:

15 Okay.

16 THE COURT:

17 It might be a short lunch,
18 depending on what we have here my first day.

19 But let -- let's -- You say
20 around please, for the time being.

21 Jurors in the audience, please
22 stay where you are. Please stay where you are. And
23 we'll get Judge Russo up here shortly, and select his
24 jury.

25 And so, please do not leave the

1 courtroom as I vacate the premises.

2 Thanks.

3 (WHEREUPON: The court was
4 declared in recess at 11:24 AM, January 12th, 2009.)

5 REPORTER'S NOTE: This reporter,
6 H. Eugene Buckner, was relieved, due to illness, for the
7 remainder of January 12th, 2009, by Pamela Ozment-Cartee,
8 who was the reporter for the remaining of that date's
9 proceedings and the entire proceedings of January 13th,
10 2009.

11 This reporter, H. Eugene
12 Buckner, was again the reporter for these proceedings on
13 January 14th, 2009; and those proceedings begin on the
14 following page.

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1 (WHEREUPON: The court was
2 called to order by the Bailiff at 8:58 AM, January 14th,
3 2009; and all pertinent parties, along with their
4 counsel, were back and present in the courtroom.)

5 BAILIFF:

6 All rise. Order in The Court.

7 THE COURT:

8 Thank you. Please be seated.

9 Good morning everyone.

10 MR. CLEMENTS:

11 Good morning, Your Honor.

12 THE COURT:

13 Good morning. You doing well?

14 MR. CLEMENTS:

15 Yes sir. How are you doing,

16 sir?

17 THE COURT:

18 Wonderful. Wonderful.

19 Defense Counsel, you doing fine?

20 MR. HERRON:

21 Yes, Your Honor. Thank you.

22 THE COURT:

23 Okay. All right.

24 Are we ready to proceed? MR.

25 CLEMENTS:

1 Your Honor, we are ready.

2 And -- uh -- I told you I had
3 one more witness.

4 But Your Honor, I would ask
5 permission -- I need to call Sergeant Drayton up on one
6 short little issue first, Your Honor.

7 THE COURT:

8 No problem whatsoever. No
9 problem.

10 In regard to our record, we have
11 the court reporter back from Monday morning as I hope
12 he's feeling better. He says he is. And --

13 MR. CLEMENTS:

14 He looks betty, Your Honor.

15 (Laughter.)

16 THE COURT:

17 I welcome him back.

18 And for purposes -- At a later
19 time, you lawyers just need to note we had this
20 interchange in regard to court reporting.

21 MR. CLEMENTS:

22 Yes sir.

23 THE COURT:

24 Bring them out, Mr. Bailiff.

25 BAILIFF:

1 Yes sir.

2 (WHEREUPON: The jury empanelled
3 in the case was escorted back into the courtroom at 9:00
4 AM, January 14th, 2009; and was in fact present during
5 the following proceedings.)

6 THE COURT:

7 Good morning everyone.

8 JURORS:

9 Good morning.

10 THE COURT:

11 Hope you had a good nights rest.

12

13 Everyone feeling okay?

14 Everybody well?

15 JURORS:

16 Yes sir.

17 THE COURT:

18 Our court reporter who was sick
19 Monday is back with us and ready to go.

20 Mr. Solicitor, you're recognized

21 MR. CLEMENTS:

22 Thank Your Honor.

23 If it please The Court?

24 Your Honor, at this time we'd
25 like to call Ms. Farhonda Pompey.

1 CLERK:

2 If you will, ma'am, come to the
3 witness stand. Place your left hand on the bible and
4 raise your right hand.

5 WHEREUPON: FARHONDA POMPEY WAS
6 DULY SWORN AND TESTIFIED UNDER OATH AS FOLLOWS:

7 CLERK:

8 Please be seated a State your
9 full name for the record.

10 WITNESS:

11 Farhonda Pompey.

12 DIRECT EXAMINATION BY MR. CLEMENTS:

13 Q. Ms. Pompey, would you -- uh -- spell your first and
14 last name for the court reporter, please.

15 A. F-a-r-h-o-n-d-a, P-o-m-p-e-y.

16 Q. Ms. Pompey, do you know Devodus Antonio Rouse?

17 A. Yes.

18 Q. Uh -- Where do you live Ms. Pompey?

19 A. 717 North Ames (phonetic) Avenue.

20 Q. And where --

21 THE COURT:

22 Give us a little more volume,
23 ma'am.

24 WITNESS:

25 Okay.

TESTIMONY OF FARHONDA POMPEY

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1 THE COURT:

2 Please speak up a little bit.

3 Everybody needs to hear?

4 DIRECT EXAMINATION BY MR. CLEMENTS CONTINUED:

5 Q. Tell us again, real loud.

6 A. 717 North Ames (phonetic) Avenue.

7 Q. And where is that located?

8 A. North Florence.

9 Q. All right. And -- uh -- how long have you lived
10 there?

11 A. 11 years.

12 Q. And where did you live prior to that?

13 A. Uh -- 309 South Jarret (phonetic) Street?

14 Q. Do you have any children, Ms. Pompey?

15 A. Yes.

16 Q. How many children do you have?

17 A. 1

18 Q. And who is the father of that child?

19 A. Devodus Rouse.

20 Q. Devodus Rouse? And that's a son?

21 A. Yes sir..

22 Q. And how old is he?

23 A. 4.

24 Q. 4? How long have you known Devodus Rouse?

25 A. 6 years.

1 Q. And is he known by another name other than Devodus?

2 A. Von.

3 Q. Von? Ms. Pompey, you scared up here, this morning?

4 A. A little..

5 Q. A little? Okay. I can understand it.

6 Uh -- Did law -- Did law
7 enforcement come and talk to you about this incident that
8 -- uh -- we're having this trial about today?

9 A. Yes sir.

10 Q. Okay. And did you have knowledge about that
11 incident?

12 A. Yes sir.

13 Q. How many times did law enforcement talk to you or
14 come take a statement from you?

15 A. Twice.

16 Q. Twice? The first time you gave them a statement,
17 how truthful were you -- or how much did you tell them
18 that you knew?

19 A. I didn't tell them everything. I told them parts of
20 it.

21 Q. Why didn't you tell them everything?

22 A. Because I was scared.

23 Q. Why were you scared?

24 A. I -- Growing up, I'd never been in trouble, like.
25 And stuff like this I always seen on TV. I didn't think

TESTIMONY OF FARHONDA POMPEY

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1 it would happen to me.

2 Q. Okay. You didn't participate in this crime in any
3 way, did you?

4 A. No sir.

5 Q. Okay. How about Devodus Rouse? Are you scared of
6 him? Or were you scared of him?

7 MR. HERRON:

8 Your Honor, can -- We got an --
9 uh -- issue of law I need to take up.

10 I object to the question; but if
11 we could approach?

12 THE COURT:

13 All right.

14 Approach the bench first, before
15 I send the jury out.

16 (WHEREUPON: A conference was
17 held at the bench by The Court and Counsel at 9:05 AM.)

18 THE COURT:

19 We've had a bench conference and
20 hopefully it is curative and we should -- uh -- proceed
21 from there.

22 Is that suitable Mr. Solicitor?

23 MR. CLEMENTS:

24 Yes, Your Honor.

25 THE COURT:

1 Defense counsel?

2 MR. HERRON:

3 Yes, Your Honor.

4 THE COURT:

5 All right.

6 DIRECT EXAMINATION BY MR. CLEMENTS CONTINUED:

7 Q. Were you -- Were you a little afraid?

8 A. (Nods in the affirmative.)

9 Q. Okay. Now, Ms. Pompey -- uh -- do you recall the
10 date you talked to law enforcement the first time?

11 A. No sir.

12 Q. Okay. Do you recall what month it was?

13 A. January.

14 Q. January? Okay. Uh -- Do you recall how -- how much
15 you told them that first-time? Do you remember the
16 difference between the 2 statements?

17 A. A little.

18 Q. Okay. Can you tell this jury as best you recollect
19 what you -- what you told law enforcement the first time
20 when they asked you about this?

21 A. Uh -- Devodus Rouse called me to pick him up --

22 THE COURT:

23 Ma'am, please speak up a little
24 more.

25 Please --

TESTIMONY OF FARHONDA POMPEY

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1 WITNESS:

2 Okay.

3 THE COURT:

4 Please speak up for me?

5 WITNESS:

6 Devodus Rouse called me to pick
7 him up I think around 2:00 AM.

8 And I got up -- because he said
9 he needed a ride home.

10 So I got up and I -- I asked him
11 where he was at?

12 He said he be by Tiger Make a
13 reference to.

14 So I went and picked him up.

15 And in my statement, I said:

16 I missed the turn. I was taking
17 him home and I missed the turn. And we was going across
18 the bridge and we was coming back. And we saw 2 boys
19 coming across the bridge. And he say they was his
20 cousins.

21 So they was going towards North
22 Mont (phonetic).

23 So we asked them could I take
24 them home?

25 So I said:

1 I took them home.

2 Then they -- uh -- they was
3 talking.

4 And then I took Devodus home.

5 And then I went home.

6 Q. That's all you told law-endorsement at that first-
7 time?

8 A. I think so.

9 Q. Okay. And did they take a recorded statement from
10 you then?

11 A. No.

12 Q. Or did you just write that statement out for them?

13 A. Wee just talked -- yeah, I wrote it out.

14 Q. Okay. All right. Now, subsequent to that, did
15 you -- they come back and did you give another statement?

16 A. Yes sir.

17 Q. And was that statement more truthful or more
18 complete in detail?

19 A. I think I added a little bit -- a little bit more
20 stuff to it.

21 Q. Okay. Do you remember what time of the year that
22 was when you gave that statement? What month?

23 A. Probably the beginning February.

24 Q. It was in February?

25 A. I think so.

TESTIMONY OF FARHONDA POMPEY

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1 Q. Okay. Did they take a recorded statement at that
2 time?

3 A. No sir.

4 Q. They didn't? That you know of?

5 A. No sir.

6 Q. All right. Did you ever give a recorded statement?

7 A. Yes sir, the -- I think the third time.

8 Q. Okay. The third time?

9 A. Yes sir.

10 Q. Okay. And the third time, were you completely
11 honest with them?

12 A. Yes sir.

13 Q. You told them all the details?

14 A. Yes sir.

15 Q. All right. Now, in a minute, I want you to tell
16 this jury everything you remember that happened and what
17 you told law enforcement.

18 But first let me ask you this:

19 You knew Devodus Rouse -- uh --
20 before this.

21 Did you ever know -- uh --

22 Travis Sentelle James (phonetic) also known as Gusto?

23 Did you know him prior to this?

24 A. No sir.

25 Q. Did you know Cory Byrd (phonetic)?

1 A. No sir.

2 Q. Did you know Douglas Washington?

3 A. No sir.

4 Q. Did you know Brandon Timmons?

5 A. Yes sir.

6 Q. How long had you known Brandon Timmons?

7 A. 4 years.

8 Q. 4 years? And -- uh -- How did you know Brandon
9 Timmons?

10 A. I went to school with him.

11 Q. Went to school with him?

12 A. Uh-huh.

13 Q. And -- uh -- did y'all ever go out?

14 A. Yes sir.

15 Q. Date?

16 A. Yes sir.

17 Q. All right. Uh -- Were you still friends in January
18 of 2007.

19 A. No sir.

20 Q. All right. Uh -- Had you remained friends for a
21 while after you dated even?

22 A. The -- The summer of 2002.

23 Q. Okay. All right. To your knowledge, did Devodus
24 Rouse know Brandon Timmons?

25 A. They stayed in the same neighborhood.

TESTIMONY OF FARHONDA POMPEY

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1 Q. Okay. Did Brandon live close to Devodus' Aunt?

2 A. Yes sir.

3 Q. Okay. And they played basketball in that area some
4 together, didn't they?

5 A. I don't know if they played basketball together; but
6 I know they stayed in the same neighborhood.

7 Q. And you know they knew each other?

8 A. He -- He didn't know him. He just knew where he
9 stayed at.

10 Q. All right. And he knew y'all used to go out,
11 didn't he?

12 A. Yes sir.

13 Q. And he didn't like Brandon calling you?

14 MR. HERRON:

15 That calls for speculation, Your

16 Honor. I --

17 THE COURT:

18 Sustained.

19 WITNESS:

20 No sir.

21 THE COURT:

22 No. No. Strike that from the
23 record.

24 MR. CLEMENTS:.

25 All right.

1 Uh -- Your Honor -- uh -- I may
2 -- May I rephrase my question?

3 THE COURT:

4 Yes, you may rephrase --

5 THE COURT:

6 All right.

7 THE COURT:

8 -- but that one is gone.

9 MR. CLEMENTS:

10 All right.

11 DIRECT EXAMINATION BY MR. CLEMENTS CONTINUED:

12 Q. Did you and Devodus ever have any conversations
13 about -- uh -- Brandon calling you?

14 A. He just didn't want him calling me; not even as a
15 friend.

16 Q. Okay. All right. Uh -- Now, let's get to your --
17 your statement that you gave -- uh -- to the law
18 enforcement.

19 Do you remember which law
20 enforcement officers you've talked to?

21 A. Mr. Lee Davis.

22 Q. Okay. Was there any other law enforcement officers
23 present there during that conversation?

24 A. Mr. Drake.

25 Q. Mr. Drayton?

TESTIMONY OF FARHONDA POMPEY

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1 A. Yes sir.

2 Q. Okay. All right, I want you tell this jury,

3 Farhonda:

4 Uh -- At this time, you were
5 Devodus' girlfriend?

6 A. Yes sir.

7 Q. Okay. Tell this jury all that happened from the
8 beginning when you got the phone call from Devodus,
9 everything that took place, okay?

10 A. (Nods in the affirmative.)

11 Q. All right. What happened first?

12 A.. He called me because he needed a ride home.

13 He was at my house earlier that
14 day to see our son.

15 So I took him back to
16 Darlington. And then I went back home.

17 But later that night, he called
18 me and asked me that he needed a ride home because he was
19 in Florence.

20 And I asked him where he was at:
21 and he said he be by Tiger Make a reference to.

22 So I went and picked him up.

23 And he got in the car. And he
24 said:

25 Uh -- Boy dead.

1 And I asked him what he was
2 talking about. So he asked me to take him --

3 THE COURT:

4 He said what now?

5 WITNESS:

6 Boy dead.

7 THE COURT:

8 Repeat that. He said what?

9 WITNESS:

10 Boy dead.

11 THE COURT:

12 Boy dead? All right.

13 WITNESS:

14 So he asked me: could I take him
15 to Westmont (phonetic)?

16 So I took him to Westmont.

17 And when we got there, I seen
18 Brandon' car and -- uh -- the police -- police cars.

19 And I asked him: what was going
20 on?

21 So he say:

22 I'm looking for my cousin.

23 So he say he didn't have his
24 cell phone number.

25 So he said take me to the

1 hospital.

2 Q. All right.

3 A. We went to MacLeod --

4 Q. Ms. Pompey, first: Did he tell you who was dead
5 when you went -- you know what address you went to or
6 what -- what -- uh -- street you went to?

7 A. Uh -- Marion Street.

8 Q. Okay. Did he tell you -- when he said "Boy was
9 dead," did he ever tell you who was dead?

10 A. Brandon.

11 Q. Brandon? Okay. And what was your response to him?
12 Did you believe him?

13 A. No.

14 Q. Okay. All right. Uh -- So y'all went to the
15 emergency room at the McLeod Hospital?

16 A. Yes sir.

17 Q. Okay. And -- uh -- why were you going to the
18 emergency room?

19 A. He said he wanted to go to the emergency room.

20 Q. Okay. Was he injured at all?

21 A. No.

22 Q. Okay. All right. Do you know why you went to the
23 emergency room; or not?

24 A. He just said: Take me to the emergency room.

25 Q. Okay. Well, you went to the emergency room.

1 Uh -- And what happened at the
2 emergency room?

3 A. He came back out and said: Boy dead. Brandon dead.

4 Q. All right. Did he go into any details at that time
5 about why Brandon was dead?

6 A. No.

7 Q. Okay. All right. What did y'all do next?

8 A. We was coming across the bridge and we seen 2 -- 2
9 people running across to get to the other side of the
10 bridge.

11 Q. Running across the highway?

12 A. Yes sir.

13 Q. Okay.

14 A. So he said: Stop. There go my cousins. So -- And
15 they got in the car.

16 Q. All right. Did you know any of those guys or know
17 those cousins?

18 A. No sir.

19 Q. What did you say; or think to yourself?

20 A. What going on.

21 Q. Okay. All right. Do you know most of his cousins?

22 A. Some of them. Some of them.

23 Q. And you didn't know these guys?

24 A. No.

25 Q. All right. But he said there -- there was his

TESTIMONY OF FARHONDA POMPEY

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1 cousins?

2 A. Yes sir.

3 Q. Uh -- So what did you do? Stop the car?

4 A. Yes sir.

5 Q. Who called out to who? Did the 2 guys call out --

6 A. Von --

7 Q. -- to Devodus; or Devodus call out to the 2 guys?

8 A. Von called out to them.

9 Q. Okay. And what happened?

10 A. They got in the car. And we went to a house -- uh -
11 - apartment -- uh -- Oakland Plantation.

12 Q. Okay. Do you know whose apartment that was?

13 A. No sir.

14 Q. Was any conversation going on between the 3 of them
15 while you went to Oakland Plantation? Did you --

16 A. No. They got out.

17 Q. Okay.

18 A. And was talking.

19 Q. All right. Did they talk to each other or did they
20 talk to somebody else?

21 A. They was talking to the person that came out the
22 house.

23 Q. Was that a male or a female?

24 A. A male.

25 Q. Okay. Do you to know who that was?

1 A. No sir.

2 Q. Do you know who that is today? Did you know -- know
3 who --

4 A. No sir.

5 Q. Okay. Could you see? Was it light or dark?

6 A. It was dark.

7 Q. Okay. All right. So they had a conversation.

8 Uh -- What happened after that
9 conversation?

10 A. They got back in the car. And he say he had to get
11 his coat.

12 Q. Okay. And where were -- Where did you go to get his
13 coat?

14 A. A house on Ames Avenue.

15 Q. All right. And -- uh -- what did you do on Ames
16 Avenue?

17 A. I seen a -- a dark colored truck. And --

18 Q. SUV truck --

19 A. Yes sir.

20 Q. -- or a pickup truck?

21 A. It was a SUV.

22 Q. Okay. Do you know what kind?

23 A. It was a Honda.

24 Q. Okay. All right. And -- uh -- what happened
25 then when you -- you saw the truck? Did you stop there?

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1 Did he tell you to stop there?

2 A. Yes sir.

3 Q. All right. And what happened next?

4 A. Uh -- One of -- One of the boys got out and went and
5 got his coat for him.

6 Q. Okay.

7 A. And they came back to the car and gave him his coat.

8 Q. Did you see them exchange anything else or get
9 anything else?

10 A. No sir.

11 Q. Okay. All right. What happened next?

12 A. We went to a house on Pawleys where one of the boys
13 had stayed.

14 Q. Okay. And -- uh -- what did you do then?

15 A. They was -- They stayed in the car and they was
16 talking.

17 Q. What were they talking about?

18 A. At first the other boys didn't say nothing.

19 And then Von said:

20 It all right to talk in front of
21 her.

22 Q. Okay.

23 A. So they started talking. And they asked him:

24 What did you get off of him?

25 Q. The "him" being who?

1 A. Brandon.

2 Q. Okay.. And what did Devodus say?

3 A. He got a chain and a bag of weed.

4 Q. All right. What else did he say about it?

5 A. He said:

6 Uh -- When I walked up on boy,
7 he pulled out a gun.

8 Q. All right. And what -- what else did he say?

9 A. They was fighting.

10 Q. And what else did he say?

11 A. Uh -- He said when -- uh -- they was on the ground,
12 when he looked down Brandon was already shot.

13 Q. Did he say who shot him?

14 A. No sir.

15 Q. He never said that he -- he shot Brandon?

16 A. No sir. He just said when he was on the ground he
17 was already shot.

18 Q. Did he say anything ever or not about he was robbing
19 Brandon or going to rob Brandon?

20 A. Before all this happened; no.

21 Q. No; not before --

22 A. During --

23 Q. -- but when he was telling them, what happened?

24 A. He just said he walked up on him.

25 Q. He didn't -- He never said he was going to -- trying

1 to rob Brandon?

2 A. No. I -- He just -- uh -- They asked him what he
3 got off of them. He said a -- a chain and a bag of weed.

4 Q. All right. And -- uh -- what he say about the
5 guns?

6 A. He said: Boy got the guns.

7 Q. Who did he say?

8 A. He didn't say no names. He just said: Boy had the
9 gun.

10 Q. All right. Did he say anything about he took a gun
11 off of Brandon?

12 A. No.

13 Q. He never said that?

14 A. No sir.

15 Q. All right. Uh --

16 THE COURT:

17 Hold it. Hold it just a second.

18 We got some interference.

19 Is that just coming in on the --

20 COURT REPORTER:

21 It must be coming in on a box.

22 I don't know where it's coming from. Maybe this thing
23 over here. I don't have a clue.

24 THE COURT:

25 Okay. We got some extra voices

1 up here; but --

2 COURT REPORTER:

3 It sounds like a radio box.

4 Maybe a police radio of some kind.

5 THE COURT:

6 Let the record show that I'm not
7 hearing voices.

8 (Laughter resounded in the
9 courtroom.)

10 MR. CLEMENTS:

11 May I approach the witness, Your
12 Honor?

13 THE COURT:

14 Yes.

15 DIRECT EXAMINATION BY MR. CLEMENTS CONTINUED:

16 Q. Ms. Pompey, I want to show you a copy of your
17 sentiment. I'm going to ask if you will read that and
18 see if this refreshes your recollection?

19 All right.

20 You can start right there and
21 just read -- read that. Take your time.

22 Read as much of that as you want
23 to refresh your recollection.

24 You want to keep this in case
25 you need to refer to it to refresh your recollection

1 further?

2 Ms. Pompey, now, did Devodus
3 ever say anything about -- uh -- getting the gun off of
4 Brandon?

5 A. All I know is, he said:

6 Uh -- Boy got the guns.

7 Q. All right. Uh -- Well, what did he say about
8 Brandon's gun?

9 A. It had a little silencer on it.

10 Q. All right. Did you ever see Von with a gun?

11 A. No sir.

12 Q. On him that night?

13 A. No sir.

14 Q. What kind of clothing did he have on?

15 A. He had on some bluejeans and a light-colored shirt I
16 think.

17 I think he had on a white shirt.

18 Q. What kind of jacket did he have on? What color?

19 A. When I picked him up, he didn't have a jacket on.

20 Q. He didn't have a jacket on when you picked him up?

21 A. No sir.

22 Q. He just had on a shirt?

23 A. Yes sir.

24 Q. All right. When you saw him earlier in the day, do
25 you recall whether he had a jacket on then or not?

1 A. He had a -- a green jacket on -- I think green or
2 black.

3 Q. Okay. All right. So when you picked him up, he -
4 - all he had on was -- was a shirt?

5 A. Yes sir.

6 Q. And no jacket?

7 A. Yes sir.

8 Q. Uh -- When they got his jacket out the car, did you
9 notice -- or did you know if they got anything out the
10 car or not?

11 A. No sir.

12 Q. Okay. Did Devodus ever tell you anything about:

13 It was him or me?

14 A. Yes sir.

15 Q. What did he say about that? Tell us the details
16 about that.

17 A. Well, I was fussing with him because I said:

18 Uh -- You're going to get into
19 some more trouble. You've got to think about your kids.

20 And he just said -- he just
21 said:

22 It was either him or me.

23 Q. Okay. Meaning Brandon or -- Brandon or him?

24 A. Yes sir.

25 Q. All right. So he said he shot him because he

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1 thought Brandon was going to shoot him --

2 MR. HERRON:

3 Objection to --

4 MR. CLEMENTS:

5 -- if he didn't shoot Brandon.

6 MR. HERRON:

7 Objection to leading, Your

8 Honor. THE COURT:

9 I sustain the objection.

10 Rephrase that, Mr. Solicitor.

11 MR. CLEMENTS:

12 All right.

13 DIRECT EXAMINATION BY MR. CLEMENTS CONTINUED:

14 Q. What did he mean in the conversation:

15 It was either him or me?

16 MR. HERRON:

17 Object. Speculation, Your

18 Honor. THE COURT:

19 I overrule that.

20 DIRECT EXAMINATION BY MR. CLEMENTS CONTINUED:

21 Q. What did he mean?

22 A. I know he said:

23 Brandon pulled out a gun.

24 And they was fighting.

25 But I don't know if he had a gun

1 or not.

2 Q. You don't know if he had a gun or not?

3 A. No. Because he never that. He just said:

4 Boy had a gun.

5 Q. Well, what did he say about trying to rob Brandon?

6 A. He said: He walked up on him.

7 Q. And that --

8 A. And that Brandon pulled out a gun.

9 Q. He didn't say anything about he was trying to rob
10 him?

11 A. No. He -- I -- I don't know.

12 Q. You don't remember?

13 A. But he did say -- he say he walked up on him and
14 Brandon pulled out a gun.

15 Q. But he did say he took some weed and a necklace off
16 of him?

17 A. Yes sir.

18 Q. Or a chain?

19 A. Yes sir.

20 MR. CLEMENTS:

21 All right. Beg The Court's
22 indulgence just a moment.

23 THE COURT:

24 All right.

25 DIRECT EXAMINATION BY MR. CLEMENTS CONTINUED:

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1 Q. Did Devodus ever tell you anything about what he did
2 with the gun or guns?

3 A. No sir.

4 Q. All right. He just said:

5 Brandon had a gun with a
6 silencer on it?

7 A. Yes sir.

8 Q. All right. Now, what did he say to the other 2
9 boys in your presence about any of that when he told them
10 it was okay to talk in front of you?

11 A. The other boys asked him what he got off of him.

12 Q. He didn't give them any more details about robbing
13 him or anything else --

14 A. No sir.

15 Q. -- that you overheard him saying to them?

16 A. No sir.

17 Q. Okay. That was all the conversation they had about
18 it?

19 A. And I -- I know one of the boys said:

20 Well, they can't get us for
21 nothing because we was in the house.

22 Q. All right. And did you hear him ask them anything
23 about were they going to say anything or were they
24 straight or any of that?

25 A. I think he asked them what did they tell the police.

1 And -- uh -- they just said:
2 They can't get us for nothing
3 because we was in the house.

4 Q. Okay. All right. Did you notice any bruises or
5 anything of that nature on Devodus.

6 A. He had a -- The next day he had a bruise above his
7 right eye.

8 Q. All right. And did he tell you where that came
9 from? A. He said he was -- when the -- uh -- incident
10 occurred, that him and Brandon was fighting.

11 Q. So he got that when he struggled with Brandon?

12 A. Yes sir.

13 Q. Okay. Did he tell you any other details?

14 A. No Sir.

15 Q. All right. And -- uh -- do you still consider him
16 your boyfriend?

17 A. No sir.

18 Q. You don't? All right. But you still his baby's
19 momma; right?

20 A. Yes sir.

21 MR. CLEMENTS:

22 All right.

23 Please answer any questions Mr.

24 Herron may have.

25 MR. HERRON:

1 Thank you.

2 CROSS-EXAMINATION BY MR. HERRON:

3 Q. Ms. Pompey, if I heard you right, you talked to
4 police officers 3 times?

5 A. Yes sir.

6 Q. And the first time you gave a handwritten statement,
7 is that right?

8 A. Yes sir.

9 Q. All right. Now, the second time you talked to
10 police officers, I think you told the jury that that
11 wasn't recorded?

12 A. No sir.

13 Q. What were the police officers -- uh -- What was the
14 point of that conversation?

15 MR. CLEMENTS:

16 Your Honor, I -- Unless you
17 know, that calls for speculation or if she -- If he's
18 asking her:

19 What was the point of the police
20 officers?

21 THE COURT:

22 I sustain the objection,
23 Counsel, as -- as it's phrased.

24 CROSS-EXAMINATION BY MR. HERRON CONTINUED:

25 Q. Did you tell the police officers the second time

1 that you -- you were going to stick your first statement
2 and you still didn't know really the -- uh --
3 circumstances surrounding Brandon's death?

4 Did -- Did you tell the police
5 officers that the second time?

6 A. When I -- uh -- When I talked to them the second
7 time, I think I started adding a little bit more stuff to
8 my story.

9 Q. Were you getting more scared as time went along?

10 A. Yes sir.

11 Q. Tell the jury why you were getting scared and what
12 was causing you to be scared.

13 A. Because I -- I was thinking about my son.

14 Q. Okay. Did the police officers put any pressure on
15 you?

16 A. Uh -- No.

17 Q. Okay. Now the third time, they recorded that
18 statement; is that right?

19 MR. HERRON:

20 Your Honor can I approach?

21 THE COURT:

22 Sure.

23 CROSS-EXAMINATION BY MR. HERRON CONTINUED:

24 Q. Now for the record, I want to read your handwritten
25 statement; the one that you gave on January the 24th of

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1 '07.

2 First of all, is that your
3 handwriting?

4 MR. CLEMENTS:

5 Your Honor, I would --

6 THE COURT:

7 Yes sir?

8 WITNESS:

9 Yes sir?

10 MR. CLEMENTS:

11 I would object to him reading
12 the statement.

13 Now, if he wants to put into
14 evidence as written there, I don't object to that.

15 But I would object to him
16 reading into evidence -- uh -- a document.

17 I think the document speaks for
18 itself.

19 THE COURT:

20 I sustain the objection,
21 Counsel.

22 MR. HERRON:

23 Okay.

24 THE COURT:

25 Under the rules, you cannot

1 publish a document unless it is in evidence.

2 MR. HERRON:

3 Okay. I'll -- uh -- rephrase.

4 CROSS-EXAMINATION BY MR. HERRON CONTINUED:

5 Q. Ms. Pompey, isn't it true that:

6 On your statement of January the
7 24th, that you said:

8 Von came to mother's house to
9 spend time with our son?

10 Didn't you --

11 MR. CLEMENTS:

12 Your Honor, I -- I object.

13 I think he's basically doing the
14 same thing.

15 MR. HERRON:

16 I'm -- I'm asking a question,

17 Your Honor.

18 THE COURT:

19 Counsel, you're reading off that
20 document.

21 MR. HERRON:

22 I'm asking -- just simply asking

23 her if she --

24 THE COURT:

25 You pose a pristine query and

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1 I'll you proceed.

2 MR. HERRON:

3 Thank you.

4 THE COURT:

5 But you can't publish that
6 document without it being in evidence.

7 MR. HERRON:

8 Okay.

9 THE COURT:

10 It's either got to come in or it
11 can be used as a publication.

12 MR. HERRON:

13 Okay. I'm not going to put it
14 in.

15 I just want to ask her some
16 questions, Your Honor, at the time.

17 THE COURT:

18 Okay.

19 CROSS-EXAMINATION BY MR. HERRON CONTINUED:

20 Q. Ms. Pompey, isn't it true that you told police --

21 MR. CLEMENTS:

22 Your Honor, I would still
23 object.

24 He's reading from the statement.

25 If he wishes to refresh the --

1 uh -- witness's recollection, there's a way to do that
2 under the rules; but --

3 MR. HERRON:

4 Your Honor --

5 MR. CLEMENTS:

6 -- presently, I -- I object to
7 this as just --

8 MR. HERRON:

9 Your Honor, I'm -- I'm sorry --
10 I am asking the witness what she said.

11 Whether I'm putting this over
12 here or I'm not, I'm asking her what she said.

13 And I'm clearly entitled to ask
14 the witness what she told law enforcement.

15 THE COURT:

16 You are clearly entitled to ask
17 the witness a question.

18 And you are clearly not entitled
19 to publish a document not in evidence.

20 So posit a query that is not
21 next to that document you hold in your hand.

22 CROSS-EXAMINATION BY MR. HERRON CONTINUED:

23 Q. Farhonda, isn't it true that you told law
24 enforcement -- You didn't tell law enforcement that
25 Devodus had anything to do with the shooting in your

1 first written statement.

2 Isn't that true?

3 A. Yes sir.

4 Q. And that was a voluntary statement. Is that right?

5 in A. Yes sir.

6 Q. Was any law enforcement officers around when you
7 wrote that statement or anybody around you?

8 A. You mean, like the investigators?

9 Q. Uh-huh.

10 A. When I was writing it, he wasn't in the room.

11 Q. How about that time where -- The recorded statement,
12 how many investigators were in the room with you?

13 A. One.

14 Q. Okay. And did y'all have some conversations
15 beforehand; before the tape recorder went on?

16 A. No. I think it was -- uh -- two investigators.

17 Q. Did -- Did y'all have some conversation before they
18 said they were going to turn -- turn the tape recorder

19 on? A. They just said that I needed to tell the truth.

20 Q. Okay. But did y'all have -- uh -- a conversation
21 about what y'all were going to talk about before the tape
22 recorder was turned on?

23 A. No sir.

24 Q. Okay. Now, Devodus, you never saw a gun on
25 Devodus?

1 Is that right?

2 A. No sir.

3 Q. Okay. You never saw him with Brandon's gun?

4 Is that right?

5 A. No sir.

6 Q. You were -- You used to date Brandon?

7 A. Yes sir.

8 Q. Do you know if he carried a gun?

9 A. When I talked to him, it was like -- uh --

10 MR. CLEMENTS:

11 Your Honor, I would object
12 unless she knows of her own personal knowledge, having
13 seen it.

14 Uh --

15 THE COURT:

16 But we are in the realm of
17 asking this witness query.

18 It must be knowledge that she
19 has.

20 It certainly needs to be
21 identified as to time -- when you're talking about
22 carrying a weapon; that kind of thing.

23 MR. HERRON:

24 Before Brandon passed away, Your
25 Honor.

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1 THE COURT:

2 Proceed.

3 MR. HERRON:

4 Okay.

5 CROSS-EXAMINATION BY MR. HERRON CONTINUED:

6 Q. Before Brandon passed away, do you know -- uh -- if
7 he carried a weapon?

8 A. No sir.

9 Q. Have you ever talked to Travis James or Cory Byrd
10 (phonetic) after this incident took place?

11 A. No sir. I don't know them.

12 Q. Okay. You know Brandon's family?

13 A. Yes sir.

14 Q. Okay. Do you know any of the Washington's?

15 A. No sir.

16 MR. HERRON:

17 Okay.

18 Beg The Court's -- The Court's
19 indulgence.

20 THE COURT:

21 Yes sir.

22 CROSS-EXAMINATION BY MR. HERRON CONTINUED:

23 Q. Did you go to Brandon's funeral, Ms. Pompey?

24 A. Yes sir.

25 Q. Okay. And you no longer consider yourself a

1 girlfriend of Devodus Rouse?

2 Is that right?

3 A. No sir. We're just friends.

4 MR. HERRON:

5 Okay.

6 No further questions, Your

7 Honor. THE COURT:

8 Redirect?

9 MR. CLEMENTS:

10 No further questions, Your

11 Honor. THE COURT:

12 All right. You may step down.

13 Next witness, please.

14 MR. CLEMENTS:

15 Your Honor, we would like to

16 call Sergeant Larry Drayton.

17 And Your Honor, on -- We would

18 ask that Ms. Pompey be released from her subpoena.

19 MR. HERRON:

20 That's fine.

21 THE COURT:

22 Sure. She's released.

23 All right, Mr. Drayton:

24 You've already been sworn and

25 you remain under oath as you re-take the stand. You

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1 understand that?

2 WITNESS:

3 Yes sir.

4 THE COURT:

5 Proceed.

6 WHEREUPON: SERGEANT LARRY

7 DRAYTON WAS DULY REMINDED OF HIS OATH AND TESTIFIED UNDER
8 OATH AS FOLLOWS:

9 DIRECT EXAMINATION BY MR. CLEMENT:

10 Q. Sergeant Drayton, you've got how many years in law
11 enforcement?

12 A. 28.

13 Q. And I believe you told us earlier in your testimony
14 that you served in the military and went into Desert
15 Storm?

16 A. Correct.

17 Q. is that correct?

18 A. That's correct. I still am associated with the --
19 uh -- South Carolina National Guard.

20 Q. How long have you been in the military?

21 A. Since 1979.

22 Q. Uh -- And you're familiar with 9 millimeter weapons?

23 A. Yes, I am.

24 Q. All right. I'm going to show State's Exhibit 22.

25 And we have added a -- a -- uh -

1 - trigger lock on that for safety.

2 Uh -- What is that on the front
3 end of this gun right here at the front of the barrel?

4 A. It appears to be a flash suppressor.

5 Q. All right. And what does a flash suppressor do?

6 A. When a weapon is fired -- When a weapon is fired --
7 a handgun or rifle -- gases come out the end of the
8 barrel -- the muzzle end.

9 What a flash suppressor does:

10 It directs the flash to the
11 sides or either down from the -- the muzzle end.

12 What it does:

13 It helps the fire -- the person
14 that's doing the shooting as far as night's concerned --
15 as far as to keep his night vision.

16 It doesn't eliminate the person
17 downrange that's being shot at from seeing the flash; but
18 the person that's doing the shooting, you can -- uh --
19 helps him to shoot better at dark.

20 If I can relate it to the M-16
21 rifle.

22 If you can visualize what I'm
23 talking about?

24 On the end of the M-16 rifle is
25 a little small end on the muzzle.

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1 That's called a flash
2 suppressor.

3 It's automatic on all M 16
4 rifles as far as the military is concerned.

5 And it can be placed on hand
6 guns also.

7 Q. Uh -- Is it normal to have them on handguns or
8 usual?

9 A. Not usually. No sir.

10 Q. On the street, what are these referred to?

11 A. If someone's just looking at it, not having any
12 knowledge of it, it could be called a -- uh -- it could
13 be called a silencer.

14 Or someone if someone knew what
15 they was looking at, could call it a flash suppressor.

16 A silencer would be -- the same
17 type would be usually a little longer and it screws in
18 the muzzle at the same type of motion -- you screw it
19 into the end of the muzzle.

20 Q. Okay. Uh -- So somebody that might not have
21 military background or training in weapons would think
22 that was a silencer?

23 A. It could easily -- be custom call it -- easy be
24 called a silencer -- attachment to the weapon.

25 Q. And investigation reveals this exhibit was Brandon's

1 gun -- Brandon Timmons' gun?

2 A. That's correct, sir.

3 MR. CLEMENTS:

4 Okay.

5 Sergeant Drayton, please answer
6 any questions that -- uh -- Mr. Herron may have.

7 Oh.

8 THE COURT:

9 Yeah?

10 MR. CLEMENTS:

11 I got one more quick final
12 questioning.

13 DIRECT EXAMINATION BY MR. CLEMENT CONTINUED:

14 Q. Sergeant Drayton, I want to ask you one more thing
15 about this gun.

16 It just popped into my head.

17 I apologize.

18 What is this where this trigger
19 lock runs through -- this hole right here?

20 What is that called?

21 A. Ejection port.

22 Q. The ejection port?

23 A. Yes sir.

24 Q. Now, let me ask you:

25 Do bullets drop out of this?

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1 Or do that get ejected out of
2 this?

3 A. They are ejected out in two different fashions --
4 two different ways they are ejected.

5 The magazine, which goes in the
6 bottom portion here, the grip portion -- the magazine
7 which goes in which holds the ammunition.

8 Once the ammunition -- the
9 magazine has been slotted into -- into the -- uh -- the
10 handle here.

11 Normally, what you would do to
12 chamber a round:

13 You would take this slide; grab
14 it like so -- would bring the slide back.

15 It's also called -- It's
16 commonly referred to as: chambering in a round.

17 Once you do that, there is only
18 two ways that the ammunition -- the round now can be
19 ejected.

20 One is by the firing.

21 Once the trigger is pulled, it -
22 - on this particular type weapon, semi-automatic -- when
23 you pull the trigger, the chamber automatically comes
24 back at a high rate of speed.

25 The spent cartridge goes out;

1 and automatically it chambers another round.

2 The other way is a -- commonly
3 used to -- in law enforcement or in the military, where
4 we used to make the weapon safe, what you would do is:

5 Manually pull the chamber back.

6 You slide the -- the chamber
7 slide back.

8 The round itself will then eject
9 from the port itself.

10 Q. Okay. So when they eject, do they just drop out;
11 or do they fly out?

12 A. They fly out of this. They fly out.

13 Q. And you've been, I'm sure, in your military training
14 and your police training -- you been on firing ranges?

15 A. Yes sir.

16 Q. Uh -- And on firing ranges, can you have more than
17 one person firing at a time?

18 A. Yes sir. Normally, if you're firing for -- you
19 have to fire for live-fire qualification -- it's not
20 uncommon to have any -- it all depends on how long the
21 range is.

22 You can have anywhere from 10 to
23 20 individuals firing in one line.

24 Q. And they'll be spaced apart --

25 A. Yes sir.

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1 Q. -- side by side?

2 A. Yes sir; in a line formation.

3 Q. Have you ever experienced, or not -- uh -- ejected,
4 spent, cartridges flying from the person beside you over
5 to where you are?

6 A. Yes sir; several times. It's not uncommon for a
7 round that's ejected to fly out when the individual's
8 firing a weapon -- for the rounds ejecting -- actually --
9 and some individuals have been burnt from that ejected
10 round.

11 It will fly that far.

12 Q. From the person beside them?

13 A. From the person beside.

14 MR. CLEMENTS:

15 Okay. All right.

16 Please answer any questions Mr.
17 Herron has.

18 MR. HERRON:

19 Thank you.

20 CROSS-EXAMINATION BY MR. HERRON:

21 Q. Sergeant Drayton, I think you -- uh -- told the
22 Solicitor that part of -- part of your investigation
23 revealed that this was the gun that Brandon Timmons had?

24 A. That's correct, sir.

25 Q. Okay. Isn't it also true, as part of your

1 investigation also revealed, that:

2 The reason Brandon bought this
3 gun is because he heard Doug and Gusto were going to rob
4 him?

5 A. I don't have any knowledge of that.

6 MR. CLEMENTS:

7 Your Honor, that calls for
8 speculation; and I object to that.

9 THE COURT:

10 I'll sustain the objection,
11 Counsel.

12 You've got to rephrase.

13 MR. HERRON:

14 I was -- refreshed of his
15 recollection.

16 CROSS-EXAMINATION BY MR. HERRON CONTINUED:

17 Q. As part of your investigation, y'all take
18 statements?

19 is that right?

20 A. That's correct, sir.

21 MR. HERRON:

22 Okay.

23 MR. CLEMENTS:

24 Your Honor -- Still, Your Honor,
25 I think he's getting into hearsay information.

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1 MR. HERRON:

2 Your Honor, I'm not going to ask
3 him --

4 THE COURT:

5 Well, this is general
6 background; and I will allow it up to a certain point.

7 MR. HERRON:

8 Thank you, sir.

9 CROSS-EXAMINATION BY MR. HERRON CONTINUED:

10 Q. Sergeant Drayton, you just told this jury that you
11 didn't recollect why Brandon bought this gun.

12 I want you to read this document
13 and see if that'll refresh your recollection as to what
14 your investigation revealed?

15 A. If I may read --

16 Q. You --

17 A. -- what it says?

18 Q. You may.

19 A. Well, the document reads --

20 MR. CLEMENTS:

21 Your Honor -- uh -- still
22 believe this -- this will be hearsay, if it's the
23 document I think it is.

24 MR. HERRON:

25 I'm -- I'm --

1 THE COURT:

2 It is rank hearsay.

3 But it's part of the
4 investigation.

5 And I'm going -- I'm going to
6 allow it under State versus Brown.

7 But you can't go any further,
8 Counsel.

9 MR. HERRON:

10 I -- I want, Your Honor.

11 THE COURT:

12 You either got to put in
13 evidence or -- or sit it aside.

14 MR. HERRON:

15 I just want him to know what his
16 investigation revealed.

17 MR. CLEMENTS:

18 Okay.

19 MR. HERRON:

20 Please tell the jury what you
21 read --

22 THE COURT:

23 I'm letting it in under State
24 versus Brown.

25 CROSS-EXAMINATION BY MR. HERRON CONTINUED:

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1 Q. Please tell the jury what your investigation
2 revealed about this gun?

3 A. Well, sir, investigation didn't reveal this. I'm
4 looking at this document witnessed by I think it's
5 Investigator Lee Davis and a Everett Johnson.

6 I --

7 Q. Okay. Well --

8 A. I can read what's on here --

9 Q. Okay.

10 A. -- but not what my investigation revealed.

11 MR. HERRON:

12 Okay.

13 MR. CLEMENTS:

14 Your Honor, I think that's
15 publishing the document.

16 I -- uh --

17 MR. HERRON:

18 Your Honor, he's testified that
19 he -- he's looked at documents as part of his
20 investigation.

21 They clearly don't this document
22 to come in.

23 I'm asking him if he -- if he --

24 MR. CLEMENTS:

25 Your Honor, I don't mind the

1 document coming in, if wants to put it into evidence.

2 I'm fine with that; but -- uh --

3 THE COURT:

4 I sustain the objection,

5 Counsel; and I'll let you do this:

6 Posit a query to him as to his
7 recollection in regard to his investigation.

8 MR. HERRON:

9 Okay.

10 THE COURT:

11 Direct query.

12 MR. HERRON:

13 Okay.

14 CROSS-EXAMINATION BY MR. HERRON CONTINUED:

15 Q. Sergeant Drayton, as part of your investigation, you
16 take statements; is that right?

17 A. Yes sir. But I didn't take this statement.

18 Q. I understand that. I understand that.

19 A. Yes sir.

20 Q. But as part of your investigations, you review
21 statements?

22 A. Yes sir.

23 Q. is that right? Okay. Now, after reviewing that

24 statement, please tell the jury what your investigation

25 has revealed as to why Brandon Timmons bought this gun --

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1 as part of your investigation?

2 MR. CLEMENTS:

3 Your Honor, I ob -- I object.

4 I think he could -- he could say
5 what he did in following up on that information.

6 But as far as to publish that
7 information -- uh --

8 MR. HERRON:

9 Your Honor, I'm not asking him
10 to publish anything.

11 I'm asking him if his
12 investigation has revealed that.

13 And he said he didn't remember.

14 I refreshed his recollection,
15 which it's clear I'm allowed to do by the rules.

16 I'm asking this gentleman:

17 As part of his investigation, if
18 it revealed why Brandon Timmons bought this gun.

19 I'm not asking him to publish
20 anything.

21 He can stand up there and say he
22 doesn't remember.

23 But I just refreshed his
24 recollection.

25 I'm now asking him if he

1 remembers what his investigation revealed.

2 And he also testified that he
3 relies on statements as far as his investigation.

4 THE COURT:

5 My ruling is seriatum:

6 One:

7 Do not publish a statement not
8 in evidence, Mr. witness.

9 Two:

10 You may answer the question that
11 he poses if your memory has been refreshed and you
12 recollect that yourself.

13 Proceed.

14 CROSS-EXAMINATION BY MR. HERRON CONTINUED:

15 Q. Sergeant Drayton, I've shown you a document. is
16 that right?

17 A. Yes sir.

18 Q. Has your recollection been re -- refreshed as to
19 what your investigation revealed as to why Brandon
20 Timmons bought this gun?

21 A. Uh -- To --

22 Q. Please tell the jury what your collection is?

23 A. To say again, sir:

24 I did not take this statement.

25 Q. Investigator --

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1 A. I did not investigate the document.

2 Q. I understand that, Investigator.

3 But that's part of your
4 investigation, all statements; is that right?

5 A. No sir.

6 Q. Can you tell the jury that your investigation
7 revealed that:

8 The reason Brandon bought this
9 gun is because Doug and Gusto said they were going to rob
10 him?

11 A. I can tell the jury, sir, what's written on this
12 form. Q. I -- I don't want you to tell the jury what --
13 that's part of the investigation; isn't it?

14 A. I can tell -- If I may? I can tell the jury what's
15 written on this form.

16 I can tell the jury what was
17 said.

18 I can't tell the jury that the
19 reason he bought it was because Doug and Gusto said they
20 was going to rob him.

21 I can tell you what was written
22 on the form and what was said.

23 Q. So your investigation revealed that the reason
24 Brandon Timmons bought this gun is because Doug and Gusto
25 said that they were going to rob him; and Brandon was

1 worried about it; and he bought the gun?

2 A. No sir. I can't say that. I can say what's
3 written on this from and what was said.

4 I can't say way he bought it.

5 MR. HERRON:

6 I don't have any further
7 questions, Your Honor.

8 THE COURT:

9 All right.

10 Anything further?

11 MR. CLEMENTS:

12 Nothing further, Your Honor.

13 THE COURT:

14 Step down.

15 Next witness please?

16 MR. CLEMENTS:

17 Your Honor, at this point, the
18 State rests.

19 THE COURT:

20 The State rests.

21 Jurors, I need to take up
22 matters of law at this time.

23 I must do that in your absence.

24 Please go to your jury room.

25 (WHEREUPON: The jury empanelled

1 in the case withdrew from the
2 courtroom at 9:46 AM, January 14th, 2009; and was no
3 longer present during the following proceedings.)

4 THE COURT:

5 Motions, counsel?

6 MR. CLEMENTS:

7 Nothing from the State, Your
8 Honor.

9 MR. HERRON:

10 Your Honor, if I may have a
11 moment?

12 THE COURT:

13 Yes sir.

14 MR. HERRON:

15 Your Honor, at this time the
16 Defense would move for a directed verdict of not guilty
17 and for the acquittal of Devodus Rouse.

18 Your Honor, the burden of proof
19 is on the State in this matter.

20 If you take the evidence in the
21 light most favorable to the State, we know that:

22 There is no physical evidence --
23 absolutely none -- that link the murder of Brandon
24 Timmons to this young man Devodus Rouse.

25 We know that:

1 There were no eyewitnesses that
2 have seen Mr. Rouse shoot Mr. Timmons.

3 The only thing we do know is
4 that:

5 Mr. Rouse was one party out of
6 another 3 who went to [REDACTED] [REDACTED].

7 If you take the light most
8 favorable to the State we know that:

9 Three individuals went into the
10 home.

11 Again, light most favorable to
12 the State:

13 A gunshot rang out.

14 That's really all the evidence
15 they have here, Your Honor.

16 And again, in a directed
17 verdict, they have to bring forth substantial evidence --
18 substantial evidence, Your Honor -- that clearly would --
19 would infer that this young man is general -- this young
20 man is guilty of murder.

21 Murder.

22 Malice aforethought.

23 We don't -- uh -- evidence most
24 likely -- most -- in the light most favorable to the
25 State:

1 He didn't even know the victim.

2 He didn't know the victim was
3 going to be there that night.

4 We also note that:

5 Doug Washington -- Travis James
6 --had a plan to rob the victim.

7 We also know that:

8 When the victim showed up at the
9 house, that:

10 Those gentlemen were getting
11 ready to leave and they stopped.

12 They didn't leave when they saw
13 him pull up. And then, somebody gets shot.

14 All they've done, Your Honor,
15 is:

16 Created an inference that
17 Devodus Rouse shot Brandon Timmons.

18 An inference.

19 No physical evidence.

20 No eyewitness testimony.

21 Nothing.

22 They're just relying on the fact
23 that:

24 Oh, he was the only one outside.

25 A gunshot rang out.

1 And Brandon Timmons is dead.

2 Farhonda Pompey's testimony --

3 the light most favorable to the State:

4 It was either him or me.

5 Doesn't say anything about being
6 robbed.

7 Doesn't say anything about
8 pulling a gun.

9 Farhonda Pompey, as a matter of
10 fact, said:

11 Devodus Rouse didn't even have a
12 un.

13 So, Your Honor, on -- on the
14 basis of that:

15 I just don't see that there's
16 substantial evidence that would infer that this young man
17 is guilty of murder; the most serious crime we have laws
18 for.

19 And I would respectfully move
20 that:

21 This Court should dismiss the
22 charges and acquit Devodus Rouse of murder.

23 There's just not enough
24 evidence, Judge.

25 THE COURT:

1 Mr. Solicitor?

2 MR. CLEMENTS:

3 Your Honor -- uh -- I would
4 respectfully disagree with Mr. Herron.

5 I think there's sufficient
6 evidence for this to go to a jury.

7 We've got -- uh -- several
8 people that said:

9 Devodus said it was him or me.

10 Uh -- You've got people that
11 said:

12 Devodus told them he took a bag
13 of weed and a chain off of him; and he took the gun off
14 of him.

15 And -- uh -- got a person that
16 says what he did with the gun and -- uh -- wanted to get
17 the gun back.

18 Uh -- And we've got the other
19 circumstantial evidence that I think is -- uh --
20 legitimate, relevant, evidence.

21 And that -- uh -- we got
22 witnesses saying:

23 The only person that was outside
24 with Brandon was Devodus Rouse when the gunshot was fired
25 and the gunshot was heard.

1 Uh -- And I think there's enough
2 to send this to a jury.

3 I think it's a jury decision,
4 Your Honor.

5 THE COURT:

6 Anything further, Counsel.

7 MR. HERRON:

8 I would just cite the case of
9 State versus Everett Leon Wakefield, a Court of Appeals
10 case 1996, where The Court said:

11 The case should be submitted to
12 the jury --

13 THE COURT:

14 Who wrote that opinion?

15 (Laughter.)

16 MR. HERRON:

17 I hope you -- Your Honor did.

18 Uh -- Where that case says:

19 The case should be submitted to
20 the jury if there is substantial evidence which
21 reasonably tends to prove the guilt of the accused, or
22 from which guilt may be fairly and logically deduced.

23 If you take what he just said as
24 true, Your Honor:

25 Picked up some weed and a -- a

1 gold chain.

2 You got to shoot somebody.

3 That's what murder is, Your
4 Honor.

5 You could -- They could have
6 charged him with -- uh -- robbery after the fact --
7 accessory after-the-fact of murder; that's fine.

8 But murder?

9 You got to have malice
10 aforethought, Your Honor.

11 You've got to have some kind of
12 robbery if you want him charged under the felony --
13 felony murder doctrine.

14 We don't have any of that.

15 There's no evidence, Your Honor;
16 none.

17 MR. CLEMENTS:

18 And, Your Honor, I think malice
19 can be inferred when you rob someone and they are killed
20 in the process.

21 And again, you can infer malice
22 aforethought.

23 THE COURT:

24 Order:

25 The Defendant moves for a

1 directed verdict under Rule 19 of the South Carolina
2 Criminal Procedural Rules, period.

3 Rule 19 articulates:

4 Quote:

5 On motion of the Defendant, or
6 on its own motion, The Court shall direct a verdict in
7 the Defendant's favor on any offense charged in the
8 indictment after the evidence on either side is closed,
9 if there is a failure of competent evidence tending to
10 prove the charge in the indictment, period. In ruling on
11 the motion, comma, the trial judge shall consider only
12 the existence or nonexistence of the evidence and not its
13 weight, period.

14 End of quote.

15 New paragraph:

16 A plethora of cases exist in
17 South Carolina in regard to the absolute rule that the
18 role of the trial judge is to determine the existence of
19 evidence and not its weight, period.

20 New Paragraph:

21 This record, when viewed in
22 totality, is an example of a classic circumstantial
23 evidence case, period.

24 The leading case in South
25 Carolina in regard to circumstantial evidence is: State

1 versus Grippon, G-r-i-p-p-o-n.

2 The rule, as established in
3 Grippon, is:

4 Quote:

5 There are two types of evidence
6 which are generally presented during a trial. Direct
7 evidence and circumstantial evidence, period.

8 Direct evidence is the testimony
9 of persons who assert or claim to have actual knowledge
10 of a fact, such as an eyewitness, period.

11 Circumstantial evidence is proof
12 of a chain of facts and circumstances indicating the
13 existence of a fact, period.

14 The law makes absolutely no
15 distinction between the weight or value to be given to
16 either direct or circumstantial evidence, period.

17 Nor is a greater degree of
18 certainty required of circumstantial evidence than of
19 direct evidence, period.

20 The jury must weigh all the
21 evidence in the case.

22 After weighing all of the
23 evidence, if the jury is not convinced of the guilt of
24 the Defendant beyond a reasonable doubt, then, the jury
25 must find the Defendant not guilty, period.

1 New paragraph:

2 Giving efficacy to the law
3 extant in this State in regard to the role of the trial
4 judge and the duty of the jury under the circumstantial
5 evidence rule, I come to the ineluctable conclusion that
6 the motion must be denied, period.

7 This case must be submitted to
8 the jury for their disposition of the factual record in
9 the case, period.

10 And it is so ordered.

11 All right.

12 There is no testimony from the
13 Defense?

14 Is that correct, Counsel?

15 MR. HERRON:

16 That's correct, Your Honor.

17 THE COURT:

18 All right.

19 Charge information.

20 Counsel, let me hear you in
21 reference to any request.

22 Obviously, I have my own charge.

23 I've written a charge book; and
24 I'm going to use that, ha, in regard to the charges.

25 What about the idea notion of

1 the verdict form?

2 I have had my staff lawyer type
3 some verdict forms.

4 The first form that looks to be
5 efficacious in this case is a form that says:

6 One: Not guilty.

7 And two: Guilty of murder.

8 What says the State in reference
9 to any other charge to be submitted?

10 MR. CLEMENTS:

11 Your Honor, I've been wrestling
12 with myself on -- uh -- whether I should request the
13 lesser included offense of voluntary manslaughter.

14 Uh -- And I have concluded, Your
15 Honor, that based on the testimony that the Defendant has
16 asserted that:

17 It was either him or me.

18 That there might be some issue
19 that the jury -- uh -- might need to consider a lesser
20 included offense of voluntary manslaughter.

21 Uh -- So Your Honor, we would
22 ask for that -- uh -- charge of voluntary manslaughter.

23 THE COURT:

24 What say you in that regard,
25 Counsel?

1 MR. HERRON:

2 I have no objection to the
3 State's request, Your Honor.

4 THE COURT:

5 To voluntary manslaughter?

6 MR. HERRON:

7 That's correct, Your Honor.

8 THE COURT:

9 Okay.

10 MR. HERRON:

11 I have no objection.

12 THE COURT:

13 Order:

14 The issue posited to The Court
15 is the identification of a charge or charges to be
16 submitted to the jury, period.

17 New paragraph:

18 The record must be viewed in
19 totality giving credence to the testimony of all
20 witnesses, period.

21 After some degree of cogitation,
22 I have concluded that the offense of voluntary
23 manslaughter should be submitted to the trial jury in
24 this case, period.

25 In the past, my service on the

1 South Carolina Court of Appeals included an opinion where
2 voluntary manslaughter was submitted to the jury and the
3 jury concluded that voluntary manslaughter was the proper
4 verdict, period.

5 On appeal, the three judges
6 concluded that the voluntary manslaughter charge was not
7 presented by the record, period.

8 That case gives me some angst in
9 regard to proceeding with a voluntary manslaughter charge
10 unless the record supports that charge because of the
11 implication of double jeopardy in that instance.

12 But suffice it to say, I am
13 convinced that the record in this case will in fact
14 support a voluntary manslaughter verdict if that be the
15 choice of this trial jury.

16 And it is so ordered.

17 All right.

18 Lawyers, we will take a brief
19 recess.

20 I will just simply identify what
21 I intend to do in the way of my charge.

22 Obviously, simply defining the
23 role of The Court and the jury; presumption of innocence;
24 burden of proof.

25 I will define reasonable doubt

1 under State versus Manning.

2 As you well know, State versus
3 Manning is a simplistic, one sentence, definition of
4 reasonable doubt; and that is to be used in this case.

5 I will give a charge in regard
6 to circumstantial evidence directed from Grippon.

7 I will give a brief charge in
8 regard to expert witnesses.

9 I will give a charge in regard
10 to a statement given by a Defendant.

11 Unless requested by the lawyers,
12 I am definitely not going to give a charge on alibi.

13 I am considering a charge on
14 identification.

15 What says the State in reference
16 to a charge to the jury on identification?

17 MR. CLEMENTS:

18 Your Honor -- uh -- I don't
19 believe that identification is at issue here and that --
20 uh -- as Ms. Herron said -- nobody said:

21 Uh -- I saw Devodus Rouse shoot
22 Brandon Timmons.

23 I saw him ran (sic) away and I
24 identify him as that person that ran away.

25 I don't think that's a issue.

1 What is the issue is the
2 statements he made to other individuals and the
3 circumstantial evidence.

4 But I don't think there's --
5 there's actually been an identification issue -- uh -- as
6 far as some eyewitness saying:

7 I don't know who he was; but
8 that's the man I saw shoot Brandon Timmons.

9 All the people knew -- that
10 talked about his statements and the other things -- knew
11 him.

12 THE COURT:

13 What do you say to that,
14 Counsel?

15 MR. HERRON:

16 I -- I'm -- I agree with the
17 State, Your Honor.

18 THE COURT:

19 Okay.

20 Anything further in the way of
21 any additional request from the State?

22 MR. CLEMENTS:

23 No, Your Honor. Thank you.

24 THE COURT:

25 Defense?

1 MR. HERRON:

2 Your Honor, if I could have a
3 "mere presence" charge -- presence at the scene of the
4 crime doesn't necessarily infer that -- you know -- the -
5 - uh -- person at the scene had anything to do with the
6 crime, just to --

7 THE COURT:

8 I -- I will give that charge,
9 Mr. Solicitor.

10 I just am compelled, I think, to
11 give the "mere presence" charge in this instance.

12 MR. CLEMENTS:

13 I understand, Your Honor.

14 THE COURT:

15 Okay.

16 MR. HERRON:

17 And Your Honor, if I may?

18 The statement to be made -- uh -
19 - just so I'm clear when I'm -- when I'm talking to the
20 jury.

21 Uh -- Reasonable doubt is a
22 doubt that would cause a reasonable person to hesitate to
23 act?

24 Is that -- would be your charge?

25 THE COURT:

1 State versus Manning:

2 Quote:

3 What is a reasonable doubt in
4 the law, question-mark?

5 A reasonable doubt is the kind
6 of doubt that would cause a reasonable person to hesitate
7 to act, period, end of quote.

8 MR. HERRON:

9 Absolutely, Your Honor, there's
10 just one more issue.

11 Will we have -- uh -- uh -- the
12 verdict form -- a copy of the verdict form that we could
13 use doing our closings?

14 I would just make that request.

15 THE COURT:

16 Yes.

17 MR. HERRON:

18 Okay.

19 THE COURT:

20 I -- I'm going to have that
21 available.

22 Mr. Law Clerk, pass me that
23 verdict form.

24 MR. HERRON:

25 And Your Honor, if I'm clear,

1 it's going to be two -- is going to be:

2 Murder: Guilty or not guilty of
3 murder.

4 And manslaughter: Guilty or not
5 guilty of manslaughter?

6 THE COURT:

7 I don't want you to guess in
8 this record.

9 Both you lawyers come forward;
10 and here it is, typed and ready to go.

11 MR. HERRON:

12 The only problem I have with it,
13 Your Honor, is:

14 There's two "guilty" and one
15 "not guilty."

16 Uh --

17 THE COURT:

18 We've got two charges --

19 MR. HERRON:

20 The less --

21 THE COURT:

22 -- that we talked about.

23 I've got -- I've got to identify
24 those charges.

25 MR. HERRON:

1 It's a lesser included -- uh --

2 THE COURT:

3 I will explain to the jury up
4 front, before you lawyers engage in your presentations,
5 the verdict form and the choices.

6 These are just choices.

7 And -- I -- I'm --

8 MR. CLEMENTS:

9 And Your Honor, I'm sure that
10 you're going to explain to them that:

11 They had to be put in some
12 order; and there's no significance as to the order
13 they're put in.

14 THE COURT:

15 None whatsoever.

16 MR. HERRON:

17 And they just want to circle it,
18 Your Honor, the --

19 THE COURT:

20 No. She's going to sign it.

21 MR. HERRON:

22 Because there's no -- uh --

23 THE COURT:

24 There's a line for the
25 foreperson to sign.

1 MR. HERRON:

2 Okay. I've got you. I got
3 you.

4 THE COURT:

5 Yeah.

6 MR. HERRON:

7 Thank you.

8 MR. CLEMENTS:

9 Thank Your Honor.

10 THE COURT:

11 Okay.

12 All right, Ms. Clerk, while we
13 take this hiatus, would you get from the jury the lunch
14 order.

15 CLERK:

16 I sure will.

17 THE COURT:

18 And we'll about a 15 minute
19 recess and come back and proceed; okay.

20 (WHEREUPON: The court was
21 declared in recess at 10:05 AM, January 14th, 2009.)

22 (WHEREUPON: The court was
23 called to order by the Bailiff at 10:26 AM, January 14th,
24 2009; and all pertinent parties, along with their
25 counsel, were back and present in the courtroom.)

1 BAILIFF:

2 All rise. Order in the court.

3 THE COURT:

4 Thank you. Please be seated.

5 One the matter that I did not
6 discuss what you lawyers is the charge on self defense.

7 What say the State in regard to
8 that charge?

9 MR. CLEMENTS:

10 Your Honor, I do not believe
11 that is an appropriate charge due to the fact that:

12 When you are -- are robbing
13 someone, if -- and if you take the testimony even given
14 by Mr. Rouse -- his statement when he told people:

15 It was him or me:

16 It was him or me when he was in
17 the process of robbing Mr. Timmons, which gave Mr.
18 Timmons the right to defend himself.

19 And -- uh -- so in doing that,
20 that certainly wasn't self defense on the part of Mr.
21 Rouse to then shoot him while he was robbing him.

22 Also Your Honor, I believe self
23 defense requires -- uh -- that there be no reasonable
24 means of retreat.

25 And I think Mr. Rouse could have

1 ran away if Brandon had have pulled a gun on him -- uh --
2 and he wasn't robbing him.

3 If he wasn't robbing him and
4 Brandon Timmons just pulled a gun on him just to pull a
5 gun on him -- I believe Mr. Rouse could have ran away in
6 the dark.

7 THE COURT:

8 What do you say --

9 MR. CLEMENTS:

10 I said, I believe self-defense
11 is appropriate charge (sic).

12 THE COURT:

13 What do you say?

14 MR. HERRON:

15 I'll actually agree with the
16 State, Your Honor.

17 THE COURT:

18 Okay.

19 MR. HERRON:

20 I think it's inappropriate.

21 THE COURT:

22 Okay. No self-defense charge?

23 MR. HERRON:

24 Correct, Your Honor. Thank
25 you.

1 THE COURT:

2 Good. Okay.

3 All right.

4 When I bring the jury out now,
5 the State goes first and defense closes.

6 What about, say 30 minutes?

7 Is that enough?

8 MR. HERRON:

9 I -- I -- I believe it is, Your
10 Honor.

11 Again, is that the verdict
12 sheet? I just --

13 THE COURT:

14 Yes sir.

15 MR. HERRON:

16 Do you mind if I --

17 (WHEREUPON: Defense Counsel
18 reviewed the verdict form.)

19 THE COURT:

20 What did you do with the verdict
21 form? You got it?

22 MR. HERRON:

23 Yes, Your Honor. I just put it
24 right here in front of you on the --

25 MR. CLEMENTS:

1 It's right on the --

2 MR. HERRON:

3 It's right here on the podium.

4 THE COURT:

5 Okay.

6 MR. HERRON:

7 Do you need it back? I'm sorry.

8 THE COURT:

9 No. I just want to know where
10 it was.

11 MR. HERRON:

12 Okay.

13 THE COURT:

14 I was going to tell the jury
15 when I bring them out.

16 Thanks.

17 (WHEREUPON: The jury empanelled
18 in the case was escorted back into the courtroom at 10:29
19 AM, January 14th, 2009; and was in fact present during
20 the following proceedings.)

21 THE COURT:

22 Jurors, give me your attention
23 please.

24 It is now the time in this trial
25 when the lawyers will discuss this matter with you.

1 The lawyers are officers of The
2 Court. They have the right to discuss the facts and
3 testimony with you in detail.

4 They also must discuss the law
5 if they so choose.

6 That of course is a matter where
7 you can listen to the lawyers on their discussion of the
8 law; but you must take the law as I give it to you when
9 the lawyers finish.

10 Now Madam Forelady, you are
11 responsible for signing this verdict form on behalf of
12 the jury.

13 And you must not sign this form
14 until all 12 agree -- all 12. It must be unanimous.
15 Unanimity is mandated.

16 Now I have prepared the verdict
17 form for you to use. It's got the -- what we call the
18 caption of the case, verdict; and then I have three
19 possibilities.

20 The order of presentation has no
21 significance -- none.

22 Do not derive any inference from
23 the order presentation. I'm just simply giving you the
24 possibilities; and there are three.

25 And once again, do not derive

1 any inference from the order of presentation. I must
2 list them in some order.

3 The first one says:

4 1: Not guilty.

5 Then a line for the Foreperson
6 to sign.

7 If all of the jurors unanimously
8 agree the Defendant is not guilty of anything, then sign
9 that form, Madam Forelady.

10 Number 2, is: Guilty of murder.

11 If the jury unanimously
12 concludes that the Defendant is guilty of murder, sign
13 that form.

14 And then I'm going to submit a
15 lesser included charge under murder.

16 It is called voluntary
17 manslaughter. That's a lesser included charge.

18 And that's number 3: Guilty of
19 voluntary manslaughter.

20 If the jury decides under the
21 facts and law that the Defendant is guilty of voluntary
22 manslaughter, you will sign that line, Madam Forelady.

23 Now once again, the order of
24 presentation on this verdict form has no significance.

25 Please, please, please, do not

1 derive any inference from the order of presentation. I
2 must of necessity give them to you in some order.

3 And as you can proceed to
4 consider this matter, please recognize that:

5 I do not have an opinion on the
6 facts of this case.

7 But above that:

8 Under the Constitution, I'm not
9 entitled to an opinion on the facts.

10 So these options I give to you
11 are simply options for you to consider.

12 So once again:

13 Voluntary manslaughter is a
14 lesser charge under the charge of murder.

15 Any objections in regard to the
16 State to my presentation to the jury of the verdict form?

17 MR. CLEMENTS:

18 No, Your Honor.

19 THE COURT:

20 Defense?

21 MR. HERRON:

22 No, Your Honor.

23 THE COURT:

24 Thank you.

25 Mr. Solicitor, you're

1 recognized.

2 MR. CLEMENTS:

3 Thank Your Honor.

4 If it please The Court

5 I got a chain.

6 I got a bag of weed.

7 And it was him or me.

8 You know, he didn't tell Travis

9 and Cory and Farhonda, it was him or Doug. He said:

10 It was him or me.

11 Not him or Doug.

12 She told law enforcement:

13 Yeah, I saw Doug shoot him.

14 I saw Doug while the guy's shoot

15 the guy.

16 Everybody else says:

17 Doug was in the house. Ain't no doubt about it. Even

18 though they're mad with him because he didn't help and

19 they didn't think he was helping and they thought he was

20 trying to prevent them.

21 They didn't -- They thought Doug

22 was acting suspicious.

23 But they were all -- absolutely

24 all the witnesses: firm; unshakable on the fact that:

25 Doug was in the house.

1 Travis was in the house; Cory
2 was in the house when the gunshot rang out.

3 Ladies and gentlemen of the
4 jury, when I was at Law School and I was about to get out
5 my third year, we were taking Trial Advocacy.

6 We had professors in Trial
7 Advocacy that were also practicing lawyers. And they
8 would come in. And they'd teach us how to try her case.

9
10 And one of them told me; he
11 said:

12 Ed, if you've got the facts, you
13 argue facts.

14 If you've got the law, you argue
15 the law.

16 If you ain't got either one of
17 them, you better blow smoke.

18 Well, Mr. Heron is going to get
19 up in a little bit and he's going to probably tell you:

20 He doesn't have any burden of
21 proof.

22 And I agree with him a hundred
23 percent.

24 He doesn't have any burden of
25 proof.

1 He's going to tell you:

2 I didn't have to prove Doug
3 Washington did it. That's not my job to prove Doug
4 Washington did it.

5 And he's right. That's not his
6 job, to prove Doug Washington do it.

7 He's going to probably tell you
8 it's my job to prove Von did it -- Devodus Rouse did it.

9 And I agree with him on that.
10 Absolutely, that's my job to
11 prove.

12 But he's got to blow smoke --
13 got to say:

14 Doug did it.

15 Doug and -- uh -- Travis were
16 going to rob Brandon.

17 They had a plan to rob Brandon.

18 Well, if they did have a plan to
19 rob Brandon -- and maybe they did -- I don't know; guess
20 what?

21 Von beat them to the punch.

22 Von beat them to the punch.

23 Because he robbed Brandon while
24 they were in the house; and shot Brandon in the process.

25 Or maybe they were all planning

1 to do that and -- and Devodus was just the gun -- the guy
2 that actually did it.

3 Maybe they was like:

4 He was just supposed to rob him.

5 He wasn't supposed to shoot him
6 dead; so they didn't know Brandon had a gun.

7 And so they all took off and
8 they were all worried about it. And -- uh -- they were
9 scared.

10 They -- They didn't come forward
11 and tell the police anything. And they were charged with
12 misprison of a felony.

13 And maybe they had planned to do
14 it. I don't know. I don't know that.

15 But that's -- They're not on
16 trial today.

17 Who's on trial today is Devodus
18 Antonio Rausch.

19 And what he on trial draw for?

20 He's on trial for shooting
21 Brandon Timmons.

22 Maybe he didn't plan to shoot
23 Brandon Timmons.

24 Maybe when he -- Brandon pulled
25 a gun -- if that's -- Brandon did pull a gun -- or if he

1 saw a gun on Brandon, maybe he decided to shoot him then
2 or shot him in the heat of the moment.

3 But when you robbing somebody
4 and you shoot them and kill them, malice is inferred.

5 I believe the judge will tell
6 you that.

7 He's going to tell you what
8 malice aforethought is.

9 He's going to define murder for
10 you when he gives you the law. So don't take the law the
11 way I give it to you.

12 If anything I tell you differs,
13 or anything Mr. Heron tells you on the law differs from
14 what Judge Anderson tells you, don't pay any attention to
15 us.

16 We're not near as smart as Judge
17 Anderson; and it's not our job to tell you the law.
18 That's Judge Anderson's job.

19 But I'm supposed to talk to you
20 about my view of the facts and how I think the facts
21 apply to the law. And that's what we're going to talk
22 about right now.

23 And I want you to consider these
24 things with me.

25 I watched you as we tried this

1 case. Y'all have been very attentive. Uh -- And I
2 appreciate that. I want to tell you I appreciate that.

3 I represent the State of South
4 Carolina. And I represent the bar as a member of the
5 bar. And I represent the system.

6 And I want to tell you:

7 I am proud of you; and I thank
8 you; and I'm grateful to you for the State of South
9 Carolina; but also for Devodus Rouse.

10 Because the system is supposed
11 to work. And it works based on you good jurors bringing
12 your common sense, and your knowledge, and your
13 experience, and weighing these facts, and applying the
14 law, and reaching a verdict -- as Judge Anderson told at
15 the beginning of the trial -- that speaks the truth.

16 So I thank you on behalf of all
17 of us for how attentive you have been. And I'm going to
18 ask you to continue.

19 We're almost to the point where
20 we give the case to you.

21 And I just got a few more things
22 to say to you. Then Mr. Heron, he gets to step up last.

23 And I go first because the burden of proof is mine.

24 Well, let's talk about these
25 facts.

1 Remember, when we were first
2 started, in my opening statement, I told you I had the
3 burden of proof. And I -- I embrace that burden.

4 Remember me talking about the
5 presumption of innocence, and how Mr. Rouse is sitting
6 there with the red shirt on.

7 And just like he was clothed
8 with that red shirt, he was clothed with a presumption of
9 innocence. And my job was to take that off of him.

10 You remember that?

11 You know, we have done that
12 through the evidence and the testimony that has been
13 presented to you.

14 And it is going to be your job
15 to go back and consider that; and reach that verdict that
16 tells the truth -- that removes that presumption and
17 says:

18 Mr. Rouse, you're guilty.

19 Now what kind of evidence have
20 you heard?

21 I imagine that Mr. Heron's going
22 to get up and he's going to talk about:

23 Well, he didn't have any DNA.

24 And they didn't have any of
25 this.

1 And they didn't have any of
2 that.

3 And, you know, he's right.

4 But this ain't CSI.

5 This ain't:

6 Touch DNA and they got all them
7 magic things.

8 You know, anybody touches
9 anything and you can come up and prove everybody that's
10 ever touched this right here.

11 That's Hollywood guys.

12 That's not reality.

13 Well, we don't have a lot of
14 forensic evidence.

15 But you know what we do have?

16 We have good old-fashioned
17 investigation done by the Florence Police Department.

18 When they talked to witnesses,
19 and they talked to people and took their statements, and
20 they examined those statements, and they compared all
21 those facts, they put those circumstances together to
22 determine what happened.

23 They followed the chain.

24 Judge Anderson is going to tell
25 you what direct evidence is. He's going to tell you what

1 circumstantial evidence is.

2 And I think he might talk about
3 how circumstantial evidence is a chain of events or a
4 chain of facts that lead you to a conclusion.

5 When you take the chain of facts
6 you've been presented from this witness stand and the
7 exhibits that have been presented, and you take that
8 chain, and you work your way down that chain, and you
9 pull down that chain, and you -- uh -- examine the
10 witnesses statements of what's credible about what they
11 said and the facts that can be verified about what they
12 said and what matches up; and you pull on that chain,
13 that chain I'm going to lead you right here to Mr. Rouse.

14 You remember on Monday I talked
15 about:

16 You've got to have to find a
17 verdict that speaks the truth.

18 And that verdict is going to be
19 a verdict that does what; I said?

20 Makes sense. Makes sense.

21 You guys got common sense,
22 wisdom, knowledge, and experience, collectively among all
23 of y'all that is far greater than what I have in my own
24 self.

25 So I'm not going to go over

1 every fact to try to tell you what every fact means;
2 because I know y'all were listening to everything.

3 I just wanted to hit on a few of
4 them.

5 Number-one thing is:

6 You've got every person that
7 testified that you can judge their credibility.

8 And you may not believe
9 everything of what they said. You may believe all of
10 what they said. Or you may believe nothing of what they
11 said.

12 But I'll tell you this:

13 None of them contradicted
14 themselves on the fact that:

15 Doug Washington was in the house
16 in his bedroom when the shot was fired.

17 Nobody contradicts that; no one.

18 Now you heard a statement. Mr.

19 Rouse told law enforcement:

20 Doug shot him.

21 And you heard particularly from

22 Quandeline W. [REDACTED]:

23 Doug didn't shoot him.

24 Doug was sitting right there in
25 the room with me trying to tell me about some guy.

1 And I'm on the phone.

2 And we hear the gunshot.

3 And I'm saying:

4 I know they ain't no

5 firecrackers.

6 And I'm looking right at him.

7 And Mr. Heron did his best --

8 his very best -- which is his job to do -- to try to trip

9 her up.

10 He did his best, saying:

11 That wasn't in your statement.

12 You didn't write that down.

13 You didn't tell that to law

14 enforcement.

15 And she said:

16 Oh, yes I did. If it ain't in

17 there, they messed up.

18 I'm telling -- That's what I

19 said.

20 And then, we gave her, her

21 statement and she read it; and said:

22 Oh yeah, I knew it was in there.

23 And she could not be shaken;

24 that Douglas Washington was in the house when the shot

25 was fired.

1 Carolyn Washington told you who
2 all was in the house when the shot was fired.

3 Travis James, who -- yeah, he
4 got a little bit of a criminal record. He was scared.

5 You could -- I think you could
6 tell from his demeanor on the witness stand, he was
7 scared.

8 His best friend Cory's dead.
9 And he just wasn't here to
10 testify.

11 But Travis was scared.
12 But he testified anyway. And he
13 said:

14 Yeah, I lied.
15 I told them I was Travis
16 Johnson, you know.

17 Uh -- I didn't want to talk to
18 them. I didn't want to cooperate. But I was in the
19 house. And Doug was in the house.

20 He didn't testify that -- He
21 tried to make it better than it was.

22 He didn't get up there and try
23 to say:

24 Man, yeah, I looked out the
25 window and I Devodus shoot him.

1 He didn't get up there and try
2 to stretch things and tell that.

3 He told what he knew.

4 He told what he remembered.

5 And finally told the truth.

6 He's charged with not coming
7 forward and not telling the truth; and he didn't.

8 And he told you:

9 Yeah, I got a deal.

10 I got to plead to that.

11 And the State's going to
12 recommend probation. And we will.

13 But he may not get it; but we'll
14 recommend that; but because he got on this witness stand
15 and told the truth.

16 But he sure didn't to begin
17 with.

18 Well, you know, judge his
19 credibility. Judge his credibility.

20 Mr. Heron is going to attack him
21 and say:

22 Well you know he tried to cut
23 himself a deal.

24 Well -- you know -- he did.

25 His deal was:

1 You tell the truth.

2 And you got to go on probation
3 and keep your nose clean all the time you on probation.
4 That's his deal.

5 If you think that makes him not
6 a credible witness, that's your prerogative.

7 That's what you've got to do.

8 But you judge him under the
9 circumstances of this whole thing -- whether you think
10 he's telling the truth.

11 And what else did Travis tell
12 you?

13 He told you that Farhonda and
14 Von picked he and Cory up.

15 And said:

16 Yeah. He -- You know, I got a
17 bag of weed off of him. The boy was dead. I got a bag
18 of weed off of him. Got his gun. Got a chain.

19 What did you tell the police?

20 Man, I don't know nothing.

21 I don't know you.

22 I -- I'm straight. I'm
23 straight. You know.

24 And then, he told you more
25 details.

1 They went and talked to Doug,
2 which matches up with what we think happened, and what
3 I'm convinced happened, and what you've got to decide
4 happened.

5 He wanted to go back and get
6 that gun.

7 And what happened?

8 What happened?

9 He went to Rob Brandon.

10 And Brandon tried to pull his
11 gun. And he shot him in the side here. And it came out
12 here.

13 And Brandon fell, everybody
14 testified about, here -- you know -- right -- right about
15 here, which isn't very far from those windows -- didn't
16 get very far from those steps.

17 When they looked out of the
18 window, they could see.

19 It was dark outside; but they
20 saw Brandon fall and somebody over him running,
21 Quandeline said:

22 Ran -- you know -- not really
23 walking and not really running, but hurrying in dark
24 clothes, dark jacket, go on around this side of the house
25 after this shot.

1 So what did he do?

2 He went around -- He went around
3 the house around here and came around -- car was parked
4 on the side here -- came around while all the commotion
5 was out front and everybody was yelling and hollering --
6 come around here -- put his gun -- the gun -- in his jack
7 -- in his car, while they were all hollering and carrying
8 on and wondering:

9 What's going on out here?

10 Mr. Heron's going to get up and
11 say:

12 Well, Doug knew about it. He
13 tried to keep them from going outside.

14 Doug had an explanation for
15 that, that kind of makes sense to me.

16 Maybe he knew there was a
17 robbery taking place. I don't know. I don't know that.

18 Or maybe he was just like:

19 Whoa man, somebody just got
20 shot. You're trying to rush outside. Let's wait a
21 second.

22 I don't know.

23 But Doug said:

24 Yeah, he put the gun in the
25 truck. And he wanted the gun back. And I lied to him;

1 and said:

2 Man, I left that -- I -- that
3 gun's still in that truck. I left that truck back -- uh
4 -- in the man's house over on Ames (phonetic) Street.

5 He got to have that gun now.

6 I ain't got it.

7 But he lied. He had the gun.

8 And he got rid of it; got some money out of it.

9 That kind of stuff happens on
10 the street. And he didn't lie about that. He could have
11 liked about that -- tried to make himself look good; but
12 he didn't.

13 Has he got a bad record?

14 Yeah, he's got a bad record.

15 Is he all that credible a

16 person?

17 No; he's not credible a person.

18 But I believe he's telling the
19 truth now.

20 You weight what he said from
21 that witness stand against what everybody else said --
22 and against all the facts and circumstances -- and I
23 think you'll reach the conclusion beyond a reasonable
24 doubt that what he said matches up and is confirmed by
25 everything else. And he was getting up there telling the

1 truth.

2 He didn't tell the truth to
3 begin with. He didn't want to be involved in it. He was
4 on probation. He was getting out of there.

5 He didn't want to call the
6 police:

7 Let's take him to the hospital
8 ourselves. Don't get the police involved, 'cause Dad
9 gum, I'm not -- I'm going to go back to prison. And he
10 did.

11 And he's charged with misprison
12 of a felony. He's got to plead to that too.

13 And he told you -- he was honest
14 with you -- he said:

15 I tried probation. I didn't do
16 too good -- you know.

17 He's going to be on probation
18 again. Might not do too good again. Might wind up in
19 prison again.

20 But we said we'd recommend it if
21 he'd just get up there and tell the truth.

22 And I believe he told the truth,
23 finally.

24 He told the truth about getting
25 rid of the gun. Whether he's going to get in trouble

1 about or not, he knows that that's what happened.

2 And he said they came by and he
3 talked to them.

4 And said he told -- told them
5 about it.

6 And Farhonda talked about this.

7 Yeah, we went a house. Some guy
8 came out and they talked to him.

9 And Travis, said:

10 Yeah -- and he gives you a
11 little hand gesture and stuff like they're having a
12 little bit of conflict:

13 Well, I imagine Von was mad that
14 Doug didn't give him that gun back; and told him that gun
15 was gone.

16 So what did he do?

17 I got to go get my coat. I got
18 to go get my gun.

19 So they go.

20 And the witnesses tell -- told
21 you; Travis said:

22 Yeah, we went and got a coat out
23 the truck. The gun wasn't there.

24 Why wasn't the gun there?

25 Because Doug was lying to him.

1 He got rid of the gun. He
2 didn't leave the gun in the truck.

3 Farhonda said she ain't never
4 seen a gun -- or guns.

5 Might have been 2 guns in that
6 truck.

7 But Farhonda got up -- and you
8 saw Farhonda. Farhonda is his baby's momma -- been his
9 girlfriend. Didn't want to be there.

10 That was clear from looking at
11 her.

12 She didn't want be there. She
13 didn't want to be here.

14 But she had to tell the truth.
15 And that is that:

16 Von picked her up. The first
17 thing he said is:

18 The boy's dead.

19 How would he know the boy's dead
20 unless he shot him.

21 Mr. Heron is going to say:

22 Well, he knew he did because he
23 saw Doug shoot him.

24 But, everybody else says:

25 Doug was in the house.

1 Why do they want to lie for
2 Doug?
3 It was evident from that witness
4 stand how much they cared about Brandon.
5 They said Brandon didn't never
6 do nothing to nobody.
7 And it was evident how upset
8 they were with Doug.
9 And it was evident how upset
10 they were that night with Doug.
11 You think they wouldn't have
12 told the police?
13 They thought Doug might have
14 some to do with it.
15 But they knew Doug didn't shoot
16 him, because Doug was in the house.
17 Farhonda said he said:
18 Take me by Marion.
19 He wanted to go by there and see
20 what was going on.
21 And that's typical of somebody
22 commits a crime.
23 They worry about getting caught.
24 They want to go check and see.
25 They want to kind of look --

1 look from -- from a distance to see what's going on.

2 It's kind of like, lots of times
3 killers, being undetected, may go to the victims funeral
4 -- you know -- just to see what's going to.

5 He went by. Saw the police was
6 up there.

7 Come on and take me to the
8 hospital. He went to the hospital. Checked on it.

9 And said:

10 The boys dead.

11 Did he tell law enforcement that
12 in his statement; that they went by the hospital?

13 No. He didn't tell them that.

14 You heard his statement. It's
15 going to go into evidence.

16 It's in evidence.

17 You can listen to it again, if
18 you want to; if you I've got it wrong.

19 He didn't say a thing about
20 going by the hospital.

21 He didn't say a thing about
22 checking on whether Brandon was dead or not.

23 He didn't say anything about
24 talking about what -- uh -- he took off of him.

25 He didn't say a thing about

1 going to Doug to get the gun.

2 He's trying to put it on Doug.

3 And if you listen to his

4 statement again -- because he talked about:

5 Doug shot him and I left.

6 And then later, he says:

7 Well, then Doug came and got in
8 the truck and put stuff in the truck.

9 How would he know that when he
10 first said:

11 I left. Soon as the shot fired,
12 I left.

13 He's lying about all that.

14 He's lying about all that.

15 He's lying about Dough shooting
16 him.

17 If he'd have known that, I
18 submit to you:

19 He would've come forward right
20 there in the beginning.

21 But he hid his jacket because
22 they saw him in a dark jacket.

23 He hid his -- the guns in the
24 car and he took off. And he called and got Farhonda to
25 come pick it up.

1 And Farhonda heard him.

2 It was him or me.

3 Travis said he told us that:

4 It was him or me.

5 Well, you're not entitled to a
6 charge on the law of self-defense if you're robbing
7 somebody and they try to defend themselves and you shoot
8 them.

9 Because you're robbing somebody,
10 they got a right to defend themselves.

11 Somebody tries to rob you,
12 you've got a right to defend yourself.

13 But unfortunately, Brandon
14 wasn't able to defend himself. And he got shot and
15 killed.

16 Murder is:

17 The taking of human life with
18 malice aforethought.

19 And if you're robbing somebody
20 and you use a deadly weapon, malice is inferred.

21 Voluntary manslaughter is a
22 lesser included offense of murder.

23 Voluntary manslaughter, I
24 believe Judge Anderson is going to tell you, is:

25 The taking of a human life in

1 the heat of passion with legal provocation.

2 What's the heat of passion?

3 The judge I'm going to tell you
4 about that.

5 What's the legal provocation?

6 The judge is going to tell you
7 about that.

8 I would submit to you:

9 If you kill somebody when you're
10 robbing them, that's not in the heat of passion.

11 And that's not a legal
12 provocation when they defend themselves to shoot. That's
13 murder.

14 If you're robbing somebody and
15 they pull a gun to defend themselves, you can't claim
16 that as legal provocation.

17 You can't claim that as the heat
18 of passion, I don't think.

19 If you find that way, then you
20 find Devodus Rouse guilty of voluntary manslaughter.

21 If you believe his statement:

22 It was him or me.

23 And you think:

24 Well, you know, he had to shoot
25 him; well then, find him guilty of voluntary

1 manslaughter.

2 But if you think:

3 Wait a minute, he was robbing
4 him. That wasn't the heat of passion. That wasn't legal
5 provocation.

6 Then, you find him guilty of
7 murder.

8 There's a lot more I want to
9 cover about what the witnesses said and didn't say; but I
10 know you've heard it all.

11 Compare what they said.

12 Compare what you think is
13 accurate and true, and what everybody confirms, and what
14 is not contradicted between witnesses.

15 And reach a verdict that speaks
16 the truth.

17 Reach a verdict that makes
18 sense.

19 You don't have to have direct
20 evidence in every case.

21 The judge is going to tell you
22 that:

23 There is no distinction between
24 the weight of direct evidence from circumstantial
25 evidence.

1 You can find somebody guilty on
2 circumstantial evidence.

3 We don't have fingerprints,
4 because he didn't touch anything we could -- we could
5 tell.

6 We didn't have ballistic
7 reports, because we didn't have no gun to compare
8 anything to, and we didn't have a slug, because it went
9 clean through Brandon.

10 So there was no comparison to be
11 made.

12 Do you think law enforcement
13 didn't do their jobs?

14 Man, they did their jobs.

15 You heard them.

16 They spent hours out there with
17 a fine tooth comb.

18 They went through everything.

19 And they found one spent
20 cartridge that didn't match State's Exhibit 22, the gun.

21

22 So we know that Devodus had
23 another gun because the spent cartridge didn't match.

24 Found a unspent cartridge that
25 we don't know where it came from.

1 Now, is that confusing?

2 Does that cause a problem?

3 No, it doesn't.

4 Let me tell you why.

5 Because we know:

6 Brandon was shot with a 9
7 millimeter gun; maybe not this one, but we know he was
8 shot with a 9 millimeter gun.

9 Devodus could have taken his
10 gun; made sure it was hot and ready to go by racking it
11 back; and it ejected and spit out a live cartridge;
12 because he didn't know he already had one in the
13 chamber;.

14 And then he had one ready -- bam
15 -- to shoot Brandon with.

16 Or he could've shot Brandon.
17 His gun eject that spent cartridge, spits it out.

18 And Mr. Heron I'm going to maybe
19 say some kind of stuff about:

20 Well, the body was over here and
21 the cartridges were found over here.

22 Well, yeah.

23 He's shot here in the side, this
24 way, that cartridge is going to go out that ejection
25 port; it's going to fly out over here.

1 That makes sense. Everything
2 about that makes sense.

3 Whether you rack the gun first
4 or just shot and spit an ejected cartridge, he could have
5 then grabbed Brandon's gun and say:

6 I don't want to run off with
7 this and it's loaded; shoot myself. Let me make sure.

8 And he ejects -- The live
9 cartridge might have been ejected from Brandon's gun.

10 Either way, it makes sense when
11 they're ejected, they're going to fly out.

12 Another very key thing about
13 this gun.

14 Farhonda doesn't know anything
15 about guns. She wasn't there. She never saw Brandon's
16 gun.

17 But what did she say?

18 She said:

19 Brandon's gun had a silencer on
20 it.

21 Go check it out.

22 Maybe some of y'all know a lot
23 about guns; been in the military. I don't know.

24 But here, added to the muzzle
25 right here is a suppressor to suppress flames that come

1 out.

2 And what is that commonly
3 referred to?

4 A silencer.

5 He knew he had something on the
6 end of that barrel.

7 Oh, man, he's got a silent --
8 silencer on that gun.

9 That gun's worth some money. I
10 want -- I want that back, Doug. I want that gun.

11 Because his take wasn't very
12 much.

13 Poor Brandon was shot for a
14 little bit of weed and a gold chain.

15 Because the pendant, the cross,
16 fell off of it when it was ripped off.

17 And that's all he got; that and
18 the gun. And he'd didn't even get the benefit of the
19 gun.

20 That's a mighty cheap price to
21 take somebody's life and have to face murder charges.

22 He probably thought he had him -
23 -somebody had some money on him.

24 Come off with a pretty nice car
25 with nice rims on it; LED screens in the back seat.

1 Thought:

2 Hey, man, got a load.

3 I need to do me a lick.

4 I need to do some dirt.

5 Pop him.

6 I'm going to rob him and then

7 run off.

8 And I know him.

9 Mr. Heron, he talked about at
10 the trial;

11 He didn't even know Brandon

12 Timmons.

13 Yeah, he did; because his baby's
14 mama used to date him.

15 And his -- who he spent time at
16 his aunt's house all the time -- lived right down from
17 Brandon.

18 The basketball court's there.

19 They -- uh -- They knew each
20 other because he didn't want Brandon calling Farhonda
21 anymore.

22 Farhonda told you about that.

23 So he knew Brandon.

24 Maybe that's why he shot him.

25 Maybe it wasn't him or me.

1 Maybe it was:
2 Uh -- Man, why are you robbing
3 me, Von?
4 Oh, well, Lord, he recognized
5 me.
6 Bam.
7 There was testimony, I think
8 from Quandeline, that somebody she knows out there in the
9 front yard talking with Brandon earlier.
10 She poked her head out there on
11 the porch -- on the steps.
12 Cory was out there and Doug was
13 out there; and it was when they came back in.
14 So Brandon knew Von.
15 Maybe that's why he shot him.
16 But the bottom line, ladies and
17 gentlemen, is:
18 He doesn't have to prove Doug
19 Washington did it.
20 He's just got to plant
21 reasonable doubt in your mind.
22 And that's his best shot, is to
23 blow smoke about Doug Washington.
24 Travis and Doug -- Gusto -- they
25 going to rob Brandon.

1 So what if they were?

2 Who shot Brandon Timmons?

3 The only answer that makes sense

4 -- and I believe we've proven to you beyond a reasonable

5 doubt -- that it is Devodus Rouse -- shot Brandon Timmons

6 in the act of robbing him, which is murder.

7 Douglas Washington in the house.

8 Travis James in the house.

9 Cory Bird in the house.

10 Devodus Rouse run around putting

11 the gun in his -- and his coat in the truck.

12 Why would he -- It was January

13 the 2nd, 2 o'clock in the morning.

14 It's going to be cool out.

15 Why are you going to walk off

16 and get a ride -- just -- because you're waiting on your

17 ride to get there -- why you going to walk off and leave

18 your coat in the car, when it's cold, in the middle of

19 the night?

20 You're not going to do that.

21 He just didn't want to be seen

22 with a dark coat on because that's who the lady saw

23 running away -- somebody in a dark coat.

24 So he hid that and the gun.

25 Ain't but one person said:

1 It was him or me.

2 If he didn't shoot him, why did
3 he want to go back by and look and see -- see the police
4 three and not stop and say:

5 I -- I was out there.

6 I saw what happened.

7 Doug Washington shot him.

8 No. He saw the police there and
9 wants to go to the hospital. Sees he's dead.

10 Comes back and says:

11 Boy's dead. Boy's dead.

12 Tells Farhonda:

13 Boy's dead.

14 Then he sees Cory and Travis.

15 They stuck around. They didn't
16 run.

17 Ain't giving everything they
18 knew; but they didn't run.

19 They talked to the police.

20 And he talked to -- saw them out
21 there talking to the police when he had Farhonda ride him
22 by the house.

23 And he them; and he says:

24 Oh, there go my cousins. There
25 go my cousins. Whoa, stop, stop. Come here and get in

1 the car.

2 What did you tell the police?

3 Man, they ain't gone know

4 nothing.

5 They don't know nothing.

6 We went in the house.

7 No. We ain't told -- I'm

8 straight. I'm straight. I don't know you.

9 Where does Doug live?

10 Where -- Where's Doug at?

11 Why did he want to know where

12 Doug lived?

13 He was going to the gun back.

14 It's him or me.

15 I got a bag of weed off of him.

16 I got a chain off of him.

17 It was him or me; and he's dead.

18 Ladies and gentlemen, the chain

19 is all connected.

20 You pull on that chain of

21 circumstantial evidence.

22 You pull on it. You pull on it.

23 And you pull on. And you pull on it.

24 You look at every bit of this

25 evidence.

1 You listen to the statements, if
2 you need to.

3 You do whatever you need to do,
4 but you fully consider all that evidence.

5 And the only thing that's going
6 to make sense when you pull on the chain and you reach
7 the end of that chain, is:

8 You find Devodus Rouse the man
9 who murdered Brandon Timmons.

10 And you bring back a verdict
11 that speaks the truth; that makes sense; and say:

12 We find the Defendant guilty of
13 murder.

14 Thank you.

15 THE COURT:

16 Mr. Heron, you're recognized.

17 MR. HERRON:

18 If it please The Court

19 Maybe, maybe.

20 Maybe, maybe, maybe.

21 Maybe, I don't know.

22 Maybe, I don't know.

23 Might. Might.

24 I believe. I imagine.

25 He could have.

1 Might.

2 Maybe, maybe, maybe.

3 Maybe.

4 I believe.

5 The burden's on the State,

6 ladies and gentlemen of the jury.

7 Maybes aren't good enough when a
8 man is charged with murder.

9 And the State is asking you to
10 take away one of the most precious things that you have.

11 The first most precious thing
12 you got's your life.

13 The second most precious thing
14 that you have is your freedom.

15 The State is asking you to take
16 away that young man's freedom.

17 These State has charged him with
18 one of the most serious crimes that we have laws for;
19 murder.

20 Eleven maybes.

21 Now, when this case first
22 started out -- I'm going to go ahead and -- and -- we can
23 agree on one thing.

24 I hate the way they draw
25 criminal juries. I hate it.

1 And I know you guys hate it.
2 Because y'all are out there in the -- in the auditorium
3 and y'all had to each come up here one by one and stand..

4 And you heard -- You saw the
5 Solicitor whispering about you. You saw us whispering
6 about you.

7 I know that had to be
8 uncomfortable.

9 But ladies and children of the
10 jury, you felt about that much uncomfort as compared to
11 what this young man right here is feeling.

12 You just had to stand here and
13 wanted to know if you were going to get called for a
14 jury and take some -- had to take some time off of work -
15 - be inconvenienced.

16 He's been charged with murder;
17 shooting.

18 You felt about that much
19 uncomfort as to what that young man is feeling.

20 This case started out with a
21 murder charge.

22 I believe the Solicitor -- the
23 State got up here and said that they were going to charge
24 Brandon (sic) with murder.

25 Well, ladies and gentlemen of

1 the jury:

2 I see guilty of murder; but then

3 I see this other charge:

4 Guilty of voluntary

5 manslaughter.

6 When did we get that charge?

7 We got that charge because the

8 State requested it. The State requested this charge.

9 Maybe, maybe, maybe.

10 Might. I don't know.

11 I believe.

12 The State requested that charge.

13 And the reason the State

14 requested that charge is:

15 The State heard all the

16 evidence; heard the testimony; and knew the case wasn't

17 strong on the murder.

18 So he said:

19 Well, better try voluntary

20 manslaughter.

21 We didn't request that.

22 We did not request that. The

23 State requested that.

24 MR. CLEMENTS:

25 Your -- Your Honor, I think he's

1 arguing facts not in evidence and -- which is improper.

2 I do object to that.

3 I don't want the jury to be
4 confused on that issue.

5 THE COURT:

6 I'm going to let it go to this
7 point.

8 MR. HERRON:

9 Thank you, Your Honor.

10 THE COURT:

11 Proceed.

12 MR. HERRON:

13 Now, let's talk about this case.

14 First of all:

15 If you took something that I
16 did, or said, or acted in the wrong way, please hold that
17 against me.

18 Please hold that against me; and
19 don't hold that against Mr. Rouse.

20 At times I was angry.

21 At times I was frustrated.

22 And it's for a reason.

23 I was angry when witnesses got
24 up there and didn't tell the truth. I got angry.

25 I got angry when Doug Washington

1 told his story. Travis James told his story. And their
2 stories didn't match up with what other people have said.

3 Now Doug Washington -- It's not
4 in dispute. Doug Washington, Cory Byrd, and Travis
5 James, and Devodus Rouse went to 700 West Main Street.
6 It's not in dispute.

7 Everybody that testified said
8 that:

9 Nobody knew Brandon was coming
10 that night.

11 Devodus Rouse didn't know
12 anybody in the house. Never seen them before. Never
13 knew -- didn't know anybody.

14 He sat outside talking to some
15 girls on the cell phone. That's undisputed.

16 Devo -- uh -- Doug, Travis and
17 Cory go in the house. Start talking with Doug's
18 relatives.

19 That's very important; Doug's
20 relatives.

21 They get ready to leave.

22 Everybody said they were getting
23 ready to leave -- walking out the door.

24 Oops. Who pulls up? Brandon
25 Timmons.

1 All of a sudden, they're not
2 leaving no more.

3 They were out the door, getting
4 ready to leave.

5 Brandon Timmons pulled up.
6 They're not leaving anymore.

7 Now it was like pulling teeth to
8 get Sergeant Drayton to admit what his investigation --
9 what the police's investigation said about this gun.

10 This -- According to their
11 testimony, this is Brandon Timmons' gun.

12 Their investigation revealed:

13 The reason Brandon Timmons
14 bought this gun is because he heard Doug Washington and
15 Travis James were going to rob him.

16 That's why he brought this gun;
17 for protection.

18 MR. CLEMENTS:

19 Your Honor, we would object to
20 that as not facts in evidence.

21 That was just questions that
22 were asked; but those facts have not been -- were never
23 established.

24 MR. HERRON:

25 I think it did come into

1 evidence; and I would just rely on the jury's -- uh --
2 recollection of that.

3 THE COURT:

4 Jurors, you have the duty and
5 responsibility to decide the facts of this case; what's
6 in evidence. And it is your decision.

7 I'm going to let the lawyers
8 have leeway in regard to discussing the matter with you.

9
10 But you must make the final
11 decision on the facts.

12 MR. HERRON:

13 Thank Your Honor.

14 Heard they were rob him.

15 And obviously he was concerned.

16 He bought a gun for protection.

17 Everyone in this room would've
18 done that if they are two people going to rob somebody.

19 Now, you also heard testimony
20 from Ms. Washington.

21 How did Brandon look when he
22 came in the house and went to her kitchen? How did he
23 look after he saw Doug Washington, Cory Bird, and Travis
24 James?

25 He looks so scared and

1 frightened. He look so scared and frightened.

2 The reason Brandon went over
3 there was to pick up his girlfriend, according to
4 Washington.

5 But when he saw those guys
6 there, he said:

7 I -- I'll come back later. I'm
8 going to go ahead and go.

9 And everybody testified that
10 people went outside.

11 Now, it is true that all of
12 Doug's relatives said that Doug was in the house.

13 What you really need to remember
14 is that:

15 Everybody said Doug was in the
16 house.

17 Somebody in the kitchen saw
18 Doug.

19 Somebody in the living room saw
20 Doug.

21 Somebody in the bedroom saw
22 Doug.

23 They also saw Doug in the house.

24 Now, what happened after the
25 shooting?

1 Doug Washington said Brandon was
2 his friend.

3 And I asked Doug:

4 Well -- I -- I do agree with the
5 Solicitor on one point.

6 What Doug did does not make any
7 sense by any stretch of the imagination.

8 Now, I think Doug said that he
9 didn't want to call the police because they could take it
10 in the car to the hospital.

11 Okay. We'll go along with that.

12 Snatches the phone out of her
13 hand:

14 Don't call the police.

15 We got a car. We'll go out
16 there.

17 So Caroline Washington gets in
18 the car -- because it's still running -- Brandon's car
19 was still running -- goes to a payphone because she don't
20 -- Doug won't give her, her phone back.

21 Doug Washington gets in the car;
22 snatches the keys out of the ignition.

23 I thought we were taking
24 somebody to the hospital. That's why you didn't call
25 them.

1 When he snatches the keys, a
2 cell phone drops.

3 Caroline says:

4 Oh, a my cell phone. I can call
5 for help.

6 Picked up the cell phone.

7 Doug Washington snatches that
8 cell phone from her.

9 This is her relative. This is
10 her blood.

11 Snatches the cell phone.

12 When Doug finally does find out
13 that 911's on the way -- the police were coming; he's
14 gone. He's gone.

15 Let's don't -- Let's -- Please
16 don't miss the big picture.

17 This is one gun. And they say
18 that's Brandon's gun.

19 And they also said that the
20 bullet that was fired did not come from this gun.

21 That leaves one other gun. That
22 leaves one other gun.

23 Now, Doug said something about:

24 Devodus put the gun in his
25 truck, and then Doug left.

1 Why would you put one gun in the
2 truck?

3 Are you going to go down the
4 street carrying one gun? You could have put both guns in
5 the truck.

6 He said:

7 Doug -- uh -- Devodus wanted to
8 come back and get this gun from him.

9 Milton Gerald, the crackhead --
10 sorry -- but I'm going to call a spade a spade -- the
11 crackhead who they loaned -- got the truck from; he
12 testified that:

13 When Doug brought the truck back
14 to him, there were two 9 millimeter shells in the truck -
15 - two 9 millimeter shells in the truck.

16 Devodus said that:

17 Doug had a gun the whole time.

18 Nobody that took that stand ever
19 saw a gun in Devodus Rouse's hands; nobody. Nobody.

20 Again, why would you put one gun
21 in the truck and -- and go down the street with the
22 other.

23 It just makes sense you would
24 want to get rid of everything.

25 Why would Doug leave in such a

1 hurry?

2 Why would Doug not want them to
3 call the police?

4 Why would Doug prevent them from
5 calling the police?

6 He's got the murder weapon.

7 He's got the murder weapon.

8 You also urged Devodus Rouse's
9 statement.

10 I ain't shot him. And Doug got
11 the murder weapon. If y'all had the murder weapon, y'all
12 could knowed that I ain't did it. Y'all would have
13 knowed he did it.

14 Doug Washington had the murder
15 weapon.

16 That's the reason Doug
17 Washington was hauling butt when he heard that the police
18 was coming. He had the murder weapon.

19 He's drunk.

20 I mean, in his own testimony, he
21 had passed out and came to and -- you know -- don't know
22 if he did coke in the -- don't know if he did coke in the
23 truck.

24 And they gave him -- crackhead -
25 - some coke for -- for the truck, you know. I guess he

1 didn't have any to do. What -- Whatever.

2 Let's talk a little bit about
3 Doug.

4 When anybody takes the stand,
5 they're putting their credibility in issue; because, you
6 put your hand on the bible and you promise to tell the
7 truth.

8 And as part of credibility,
9 you're allowed to take into consideration their
10 convictions.

11 Well, I guess while we're
12 talking about prior convictions, Quandeline Johnson --
13 Quandeline W. [REDACTED] had a conviction for intimidating a
14 court official, juror, witness.

15 She pled guilty to that. That's
16 not in dispute. That came in. So you can take that into
17 consideration.

18 Somebody that would intimidate a
19 juror, a court official, or a witness; already been
20 convicted of that.

21 Doug Washington. Doug
22 Washington:

23 One count of assault and battery
24 with intent to kill.

25 Two counts of discharging a

1 firearm into a dwelling.

2 One count of point -- pointing
3 and presenting a firearm.

4 Two counts of giving false
5 information.

6 Two counts of criminal domestic
7 violence -- beating on a woman -- beating on your
8 girlfriend -- your wife.

9 And when I asked him about it; I
10 said:

11 You beat on your grandma?

12 No; I didn't beat on her. I
13 threw a chair at her.

14 You can take all that in
15 consideration as to what kind of person Doug Washington
16 is.

17 And take that in consideration
18 when you think about why he was in such a hurry to leave
19 that night.

20 Take that in consideration when
21 you think about what he testified to on the stand; same
22 thing with Quandeline W. [REDACTED], a relative of Doug's.

23 Blood's thicker than water. We
24 all know that. Blood's thicker than water.

25 Yes. Brandon was a friend.

1 But he wasn't blood.

2 Now, they know that:

3 Even though Doug's been charged
4 with misprison of a felony, he could easily be sitting at
5 that chair right there charged with murder.

6 And I submit to you:

7 He should be the one sitting at
8 that chair; not Devodus Rouse.

9 Doug Washington and Travis James
10 were the ones with the plans to rob Brandon.

11 Now, after Doug leaves in great
12 haste, the next day, what do we know?

13 The next day, Doug goes over to
14 his relative's house:

15 What y'all tell the police?

16 What -- What y'all tell the
17 police?

18 Is that -- Use your commonsense.

19 Is that the actions of an
20 innocent person? Or is that the actions of someone
21 that's wants to cover-up what they did?

22 What did y'all tell the police?

23 I was at my house; right?

24 I was at my house; right?

25 Y'all all saw me.

1 Blood's thicker than water.

2 My homeboy, Doug.

3 Travis James said:

4 That's my homeboy, Doug.

5 I asked Travis James, I said:

6 Did you talk about your

7 testimony with Doug?

8 No.

9 Your homeboy, being a witness on
10 a murder charge; been charged with misprison of a felony
11 --the same thing that you've been charged with; and
12 you're going to sit here with a straight face and tell us
13 that y'all haven't talked about your testimony?

14 That's your homeboy? Your best
15 friend?

16 And -- And -- And keep in mind,
17 there would be nothing wrong with them talking about it.

18 But admit that you've talked
19 about it.

20 That's just common sense. Yeah,
21 they're going to talk about it.

22 They got to get their stories
23 straight.

24 Doug was in the house; yeah.

25 I saw Doug in the house; yeah.

1 He was in the house.

2 Now, where was all the evidence
3 found?

4 All of the evidence was found
5 right there at the front steps of the house -- front
6 steps of the house.

7 Gun shell here.

8 Gun shell here.

9 An hour later -- thing over
10 here. Brandon right here.

11 Brandon pulled his car right up
12 to the front of the house -- the front of the house;
13 everybody said.

14 Now, the problem I have with the
15 statements is:

16 Either Doug's in the -- Either
17 Dough is in the bedroom and everybody's seen him in the
18 bedroom or he's at the front stopping people from going
19 out.

20 You can't be two places at one
21 time.

22 Or:

23 Doug was on the way back in
24 after he shot -- got scared:

25 Oh, where y'all going?

1 Y'all don't need to come out
2 here.

3 Y'all don't need to come out
4 here.

5 And Jesse says:

6 Well, you didn't prove that.

7 Ladies and gentlemen of the
8 jury, the burden is on the State of South Carolina to
9 prove that young man guilty of murder; and they didn't do
10 it.

11 We don't have to prove Doug did
12 it.

13 And I'm going to go ahead and
14 tell you:

15 I admit we didn't prove that.

16 If I was the State and I was
17 prosecuting Doug, I didn't prove Doug did it.

18 But again, the burden is not on
19 us. The burden is on the State.

20 Talk to you about the evidence:

21 I didn't touch this -- this
22 thing the other day. I did not touch that. I didn't.

23 If I was to say that and y'all
24 were -- the twelve of y'all would say:

25 Yeah, we saw you touch it.

1 And I say:
2 No I didn't.
3 How would you prove it?
4 Sergeant Brandt said:
5 The technology is so good.
6 If y'all remember, I still got -
7 - I like to chew gum. I've still got the same pack of
8 gum.

9 Sergeant Brandt said:
10 That DNA technology is so good.
11 When I asked him, I said:
12 If somebody went in my pocket
13 and pulled it out and dropped it on the ground, couldn't
14 you check the DNA from what they had their hands on?

15 Sergeant Brandt said:
16 Uh -- Well yeah, but you'd also
17 get the DNA from the factory workers.

18 You'd also get the DNA from
19 everybody that has had their hands on that gum.

20 Just think about how amazing
21 that technology is -- how scientific it is; that you
22 could go all the way back to when this was manufactured
23 and get somebody's DNA who had touched this.

24 I said:
25 You could also takes somebody's

1 DNA if somebody went into your pocket and pulled
2 something out, they'd leave skin cells?

3 Yep. Uh-huh.

4 You could also do that?

5 Yep.

6 You take any of those test?

7 No.

8 Why?

9 The technology wasn't as good
10 back then.

11 Okay. That was 2007?

12 Technology, I -- By their own
13 admission, technology is so good now that if I did this,
14 they could take a swab and say:

15 Lee Heron touched this jury box.

16 And could say that to a
17 scientific degree of certainty, that I touched it.

18 They'd take the skin cells --
19 the microscopic skin cells that nobody can see; take
20 those skin cells; do a swab; do a DNA analysis (snaps his
21 fingers) and comeback with probably 99.9 percent
22 certainty that Lee Heron touched that railing.

23 They didn't do any of that in
24 this case.

25 And ladies and gentlemen of the

1 jury, I don't expect magic spray.

2 I don't expect Gill Grissom.

3 I don't expect Hollywood.

4 I expect them to come back with
5 some fingerprints.

6 I expect them, that if you have
7 -- if you have the ability to test for DNA, test for the
8 DNA.

9 That young man's on trial for
10 murder.

11 They're asking you to take away
12 the second prize possession he has; his freedom.

13 And they didn't even run a damn
14 test that would come back to tell you to a reasonable
15 degree of certainty whether or not he did it.

16 I've got a problem that. I'm
17 aggravated. I'm angry.

18 He said:

19 Oh, well, it wasn't good in --it
20 wasn't good back then. It's great now.

21 There it is. Take it.

22 The bullet's still there.

23 Lay your hand on it. Take it.

24 You got his clothes over there
25 in a box. Run the test.

1 They didn't do any of that.

2 Reasonable doubt, ladies and
3 gentlemen of the jury; reasonable doubt.

4 The burden's on the State.

5 I think the judge is going to
6 tell you:

7 A doubt that would cause a
8 reasonable person to hesitate to act.

9 You all took an oath to uphold
10 the law. And all I'm simply asking you to do is to
11 uphold your oath.

12 Because ladies and gentlemen of
13 the jury, I respectfully submit to you that:

14 If you take that oath right
15 there and you think about the burden of proof with a --
16 with clear conscience -- I do not believe the evidence
17 shows that Devodus Rouse is guilty of murder beyond a
18 reasonable doubt.

19 And if you say that, you're
20 going to say that:

21 You didn't want any of the
22 evidence. You're not going to have any problem with them
23 not running any tests.

24 You're saying:

25 That wouldn't even matter to

1 you. You're that certain. You're that certain.

2 Maybe, maybe.

3 Might, might.

4 I believe.

5 I imagine.

6 He could have.

7 Might.

8 Maybe, maybe.

9 Maybe, I believe.

10 Maybe, maybe.

11 Maybe, maybe, maybe.

12 That's the State's case.

13 I just want you to leave here

14 with one thing:

15 Devodus Rouse has members of his

16 family with him; members of the congregation with him.

17 I'm going to turn myself in.

18 I'm innocent.

19 I didn't did any -- I didn't --

20 I ain't did nothing.

21 That's what he said.

22 He turned himself in.

23 Doug Washington didn't -- didn't

24 turn himself in.

25 As a matter of fact, Doug

1 Washington was downstairs of this building right here.

2 When law enforcement tried to
3 arrest him, he jumped a rail. They almost had to -- They
4 pulled their tasers out -- almost had to tase him. Had
5 to take him into custody.

6
7 Doug Washington left the scene
8 that night with the murder weapon.

9 That's why I submit to you he
10 hasn't showed you; but again, the burden is not on us to
11 prove that.

12 The burden is on the State to
13 prove that that young man is guilty of murder.

14 I guess, you know, since they
15 threw this new charge at him -- a lesser included; I
16 guess they want you to say he's guilty of manslaughter
17 too.

18 Again, that wasn't what he was
19 brought in for to begin with.

20 Ladies and gentlemen of the
21 jury, I'm going to -- I'm going to sit down.

22 And I just want you to think
23 about your oath.

24 Your -- Your verdict has got to
25 be unanimous.

1 You've probably seen the same TV
2 shows that I have -- that I've seen; Dateline, 2020.

3 And sometimes you see somebody
4 sits in jail; somebody sits on death row; and then they
5 are found innocent later on.

6 And it's usually DNA evidence
7 that does it.

8 I've always thought to myself, I
9 said:

10 How could 12 people on a jury
11 make the same mistake?

12 I don't think that 12 people on
13 the jury made the same mistake. I think what probably
14 happened is:

15 There was three or four people
16 that say:

17 He's guilty.

18 There's one or two persons say:

19 He's not guilty.

20 And the rest are kind of like:

21 Ah, we don't care.

22 I'm going to ask you to do one
23 thing.

24 Take that oath into your heart.

25 And if you've got a strong

1 belief of reasonable doubt, don't give that up. Don't
2 give that up.

3 Because later on, they may
4 finally run some test on that DNA.

5 It's a tragedy that Brandon
6 Timmons lost his life.

7 But, ladies and gentlemen of the
8 jury, it would be more of a tragedy for you to convict
9 Devodus Rouse for murder when there's no -- absolutely no
10 evidence and there are all these questions.

11 Maybe, maybe.

12 Maybe, maybe, maybe.

13 Maybe, maybe.

14 Might, Might.

15 I believe. I imagine.

16 He could have.

17 Might.

18 Maybe, maybe.

19 Maybe, maybe.

20 Come back and find that man not
21 guilty.

22 THE COURT:

23 Jurors, it will take me
24 approximately 30 minutes to charge you the law.

25 Is everyone okay? Everyone

1 ready to proceed?

2 Officer, I don't want anyone
3 coming in.

4 DEPUTY:

5 Yes sir.

6 THE COURT:

7 The State of South Carolina
8 charges or accuses the Defendant with the offense of
9 murder in this indictment.

10 This indictment is not evidence.
11 It does not prove anything. It's simply the charging
12 paper.

13 Under a well recognized
14 principle of law in this State, a lesser included charges
15 is now presented to you, called: voluntary manslaughter.

16
17 I will charge you in detail in
18 regard to the offense of murder, and the offense of
19 voluntary manslaughter.

20 To this indictment, the
21 Defendant has pled not guilty. That plea of not guilty
22 places the burden of proof upon the State of South
23 Carolina to prove the Defendant guilty beyond a
24 reasonable doubt.

25 The Defendant is presumed to be

1 innocent unless and until the State has established guilt
2 beyond a reasonable doubt.

3 A person charged with committing
4 a criminal offense in South Carolina is never required to
5 prove himself innocent.

6 The Defendant is presumed to be
7 innocent unless and until the State has established his
8 guilt beyond a reasonable doubt.

9 It is a vital, important rule of
10 the law that the Defendant in a criminal trial, no matter
11 how grave or serious may be the offense with which he is
12 charged, must always be presumed innocent, unless and
13 until his guilt has been proven beyond a reasonable
14 doubt.

15 A person charged with committing
16 a criminal offense in South Carolina is never required to
17 prove himself innocent.

18 This presumption of innocence is
19 legal proof of innocence.

20 This presumption of innocence
21 remains with the Defendant at all times from the moment
22 of his arrest throughout the trial proceedings and goes
23 into your jury room and remains with the Defendant there,
24 even in the jury room, unless the jury reaches a verdict
25 based upon evidence which the State has presented to

1 satisfy you of the Defendant's guilt beyond a reasonable
2 doubt.

3 The burden of proof is upon the
4 State to establish guilt by evidence to your satisfaction
5 beyond reasonable doubt.

6 What is a reasonable doubt?
7 What is a reasonable doubt in the law?

8 A reasonable doubt is the kind
9 of doubt that would cause a reasonable person to hesitate
10 to act.

11 A reasonable doubt is the kind
12 of doubt that would cause a reasonable person to hesitate
13 to act.

14 By the constitution and laws of
15 the State of South Carolina, you the jury are the sole
16 judges of the facts and evidence in this case.

17 I am not permitted to intimate
18 any opinion that I may have in the case; or to show any
19 feeling as to what I may think about the facts.

20 I am not permitted to indicate
21 to you how I feel about the testimony and evidence
22 presented. That is not my role.

23 I tell you now: I do not have an
24 opinion in this case. But above that, I am not entitled
25 to an opinion under the Constitution.

1 I have made some trial rulings
2 on matters of evidence in your present.

3 Please do not derive any
4 inference from any ruling that I have made as to any
5 opinion or feeling that I may have on the facts.

6 In determining what the facts
7 are in this case, you of necessity must pass upon the
8 credibility of the witnesses who have testified.

9 Credibility means believability.

10 You are the sole judges of the
11 credibility of the witnesses who took the witness stand
12 in this case.

13 Can I believe this witness?

14 Is this witness credible?

15 The value and weight to be given
16 to the testimony is in your sound discretion and
17 judgment.

18 You alone must decide the force
19 and effect and the truth of the testimony.

20 In making a determination as to
21 the credibility of the witness, there are many factors
22 that you may and should take into consideration, such as:

23 The appearance and manner of the
24 witness on the witness stand itself, known in the law as
25 the demeanor of the witness.

1 Did the witness have an interest
2 in the outcome of this trial?

3 Was the witness forthright or
4 hesitant?

5 Was the witness's testimony
6 consistent? Or did it contain discrepancies?

7 What was the ability of the
8 witness to know about the facts concerning about which he
9 or she testified?

10 Did the witness have a cause or
11 reason to be biased or prejudiced in favor of the
12 testimony that he or she gave?

13 Was the testimony of the witness
14 corroborated and made stronger by other evidence and
15 testimony? Or was it impeached and made weaker by other
16 evidence and testimony presented?

17 A person who has a past criminal
18 record is competent to testify during trial. A past
19 record does not affect the ability of that witness to
20 testify.

21 The past record may only be
22 considered by you the jury, if at all, in determining the
23 witness's credibility or believability.

24 Remember, you are the sole
25 judges of the facts and evidence in the case. And the

1 believability or credibility of any witnesses is for you
2 to determine.

3 As jurors, you have the right to
4 believe a small portion of a witness's testimony and
5 disregard the larger part.

6 Or you may believe the larger
7 portion of a witness's testimony and disregard the
8 smaller part.

9 You may believe the witness's
10 testimony in its entirety. Or you may completely reject
11 the witness's testimony in totality; not doing that
12 arbitrarily, but if you have sound reason in the record
13 for doing so.

14 You may believe the witnesses'
15 testimony in regard to a single witness as against
16 several witnesses. Or you may believe the several as
17 against the one.

18 Most certainly, you do not
19 determine credibility or believability by counting
20 witnesses on that issue.

21 Throughout this entire process,
22 you have but one single objective and that is to seek the
23 truth in the case, regardless of from what source that
24 truth may come.

25 Very -- By the very same

1 constitution and laws which make you the finders of the
2 facts in the case, I am as the trial judge made the sole
3 and only instructor in the law.

4 Under the Constitution you must
5 accept as correct the law as I charge it to you.

6 In that regard, neither you nor
7 I should be concerned with what the law ought to be in
8 this State; but rather what the law actually is.

9 You must accept under your oath
10 the law as I charge it to you.

11 The Defendant is entitled to
12 every inference in his flavor which can reasonably be
13 drawn from the evidence.

14 When two inferences may be drawn
15 from the same set of facts, one consistence with a
16 verdict of guilty and one inference consistent with a
17 verdict of not guilty, the Defendant is entitled to the
18 inference which is consistent with a verdict of not
19 guilty.

20 You cannot find this Defendant
21 guilty based upon suspicion, conjecture, or speculation,
22 no matter how strong.

23 A conviction can only be based
24 upon proof of guilt beyond a reasonable doubt.

25 And if the proof does not meet

1 that standard, you must find the Defendant not guilty.

2 Mere presence:

3 The mere presence of a Defendant
4 where a crime has occurred or where a crime has been
5 committed, or the mere association by a Defendant with
6 people who have committed a crime, is insufficient proof
7 that the Defendant has committed a crime.

8 Evidence that an individual is
9 present at the time a crime is committed is not, in and
10 of itself, sufficient proof that the individual committed
11 the crime.

12 The burden is on the State to
13 prove every element of the crime charged.

14 If you find after reviewing all
15 of the evidence that the State has proved that the
16 Defendant was only present at the scene of the crime and
17 the State has not proved beyond a reasonable doubt any
18 participation in the crime, then you are required to type
19 the Defendant not guilty.

20 The Defendant in this case has
21 not testified. This is his constitutional right. It is
22 not a circumstance that you can take into consideration,
23 or even allow to enter into your discussion in the jury
24 room.

25 Under the Constitution of the

1 State of South Carolina and under the United States
2 Constitution, it is the Defendant's constitutional right
3 not to testify.

4 The burden of proof is upon the
5 State of South Carolina to establish his guilt by
6 competent evidence beyond a reasonable doubt.

7 The fact a Defendant did not
8 take the witness stand and testify in his own behalf does
9 not create any inference against him.

10 The jury must not permit that
11 fact to weigh in the slightest degree against this
12 Defendant.

13 Nor should this fact enter into
14 discussions or deliberations in the jury room. That is a
15 constitutional issue.

16 Direct and circumstantial
17 evidence in South Carolina:

18 There are two types of evidence
19 which are generally presented during a trial: Direct
20 evidence and circumstantial evidence.

21 Direct evidence is the testimony
22 of persons who assert a claim to have actual knowledge of
23 a fact, such as an eyewitness.

24 Circumstantial evidence is proof
25 of a chain of facts and circumstances indicating the

1 existence of a fact.

2 The law makes absolutely no
3 distinction between the weight or value to be given to
4 either direct or circumstantial evidence. Nor is a
5 greater degree of certainty required of circumstantial
6 evidence than of direct evidence.

7 You should weigh all the
8 evidence in the case.

9 After weighing all the evidence,
10 if you're not convinced of the guilt of the Defendant
11 beyond a reasonable doubt, you must find the Defendant
12 guilty -- not guilty, I'm sorry. Not guilty.

13 If on the other hand, after
14 weighing all the evidence and testimony in the case, you
15 are convinced beyond a reasonable doubt that the
16 Defendant is guilty, then you must find the Defendant
17 guilty.

18 Expert witnesses:

19 Although lay witnesses are
20 limited to testifying about facts within their knowledge
21 and are not allowed to give an opinion, certain
22 witnesses, who by training, education, or experience, are
23 considered experts in a particular field, may give their
24 opinions in that field based upon the facts of a matter
25 and their conclusions.

1 These opinions constitute
2 evidence to be considered by you in connection with all
3 other testimony and evidence in the case.

4 You may consider the expert's
5 opinion just as you do all the other evidence in the
6 case.

7 It is for the jury to give it
8 such weight as you and your experience and discretion may
9 determine.

10 You must weigh such evidence and
11 accept or reject it in the same manner that you treat all
12 other evidence in the case.

13 The Defendant in this case has
14 given a statement. While The Court generally determines
15 the admissibility of evidence, as regards any alleged
16 oral or written statement by the Defendant, the jury
17 makes the ultimate determination of whether:

18 One: The Defendant made the
19 alleged statement?

20 Two: If he made the statement,
21 whether it was made by the Defendant voluntarily and of
22 his own free will and accord?

23 And three: What weight, if any,
24 should be given to the alleged statement of the
25 Defendant?

1 You must determine if the
2 alleged statement was the product of an essentially free
3 and unconstrained choice by its maker.

4 If you determine it was -- and
5 the burden is upon the State to prove this fact beyond a
6 reasonable doubt -- then you may give the statement such
7 further consideration as you deem proper.

8 If you determine the alleged
9 statement was not the free and voluntary -- voluntary,
10 willed, expression of the Defendant, then you should not
11 consider at all.

12 Murder:

13 What is murder?

14 Murder is defined as:

15 The willful, felonious, killing
16 of a human being by a human being with malice
17 aforethought; that malice being either expressed malice
18 or implied malice.

19 The presence of malice is a
20 required element of murder.

21 Malice is defined as being
22 hatred or ill will.

23 Malice in its legal sense does
24 not necessarily import ill will toward the individual
25 injured, but signifies rather a general malignant

1 recklessness in regard to the lives and safety of others,
2 or a condition of mind which shows a heart, regardless of
3 social duty, fatally bent on mischief.

4 Malice is the wrongful intent to
5 injure another person. It indicates a wicked and
6 depraved spirit intent on doing wrong..

7 Malice is a legal term implying
8 wickedness and excluding just cause or excuse.

9 It is the doing of a wrongful
10 act intentionally and without just cause.

11 The term "malice" indicates a
12 formed purpose and design to do a wrongful act under the
13 circumstances that exclude any legal right to do it.

14 Malice may be either expressed
15 or implied.

16 The words "expressed" or
17 "implied" add nothing to the meaning of malice. They do
18 not imply different kinds of malice; but merely the
19 manner in which the only kind of malice known to the law
20 may be shown to exist; that is: either by positive
21 evidence or by inference.

22 Expressed malice is when there
23 is a deliberate intention to unlawfully take the life of
24 another.

25 Implied malice is when

1 circumstances demonstrate a wanton or reckless disregard
2 for human life; or a reasonably prudent person would have
3 known that according to human experience, there is a
4 plain and strong likelihood that death would follow the
5 contemplated act.

6 The law says:

7 If one intentionally kills
8 another with a deadly weapon, the implication of malice
9 may arise.

10 If facts are proved beyond a
11 reasonable doubt sufficient to raise an inference of
12 malice to your satisfaction, this inference would be
13 simply an evidentiary fact to be taken into consideration
14 by you the jury along with any other evidence in the
15 case. And you may give it such weight as you determine
16 it should receive.

17 A deadly weapon is any article,
18 instrument, or item, which is likely to cause death or
19 great bodily harm.

20 Whether an instrument or object
21 has been used as a deadly weapon depends on the facts and
22 circumstances of each case.

23 Although malice must be
24 aforethought, as in the definition, there is no
25 requirement that it must exist for any appreciable length

1 of time before the commission of the act. It may be
2 conceived at the very moment the act occurs.

3 There must be a combination of
4 the evil intent and the act producing the result.

5 Voluntary manslaughter:

6 What is voluntary manslaughter?

7 Voluntary manslaughter is:

8 The unlawful killing of another
9 without malice expressed or implied.

10 Voluntary manslaughter is the
11 unlawful killing of a human being without malice in
12 sudden heat and passion upon sufficient legal
13 provocation.

14 To prove voluntary manslaughter,
15 the State must demonstrate beyond a reasonable doubt
16 that:

17 The Defendant unlawfully killed
18 another without malice in sudden heat of passion based on
19 sufficient legal provocation.

20 Heat of passion alone will not
21 suffice. Both heat of passion and sufficient legal
22 provocation must be present at the time of the killing to
23 constitute voluntary manslaughter.

24 The sudden heat of passion upon
25 sufficient legal provocation, while it need not dethrone

1 reason entirely, or shut out knowledge and volition, must
2 be such as would naturally disturb the sway of reason and
3 render the mind of an ordinary person incapable of cool
4 reflection; and produce what, according to human
5 experience, may be controlled and called an
6 uncontrollable impulse to do violence.

7 The passion need not be so
8 overpowering as for the time to shut out knowledge and
9 destroy volition.

10 To constitute sufficient legal
11 provocation, the provocation must come from some acts of,
12 or related to, the victim.

13 The provocation of the deceased
14 must be such as would naturally or instantly produce in
15 the mind of a person ordinarily constituted the highest
16 degree of rage, anger, sudden resentment, or terror,
17 rendering the mind incapable of cool reflection.

18 If sufficient legal provocation
19 does not exist, the killing -- even if committed during
20 the heat of passion -- is not voluntary manslaughter.

21 The provocation must deprive one
22 of the power of self-control; but it need not entirely
23 dethrone reason.

24 The verdict must be unanimous.
25 Unanimity is mandated. All 12 must agree. All 12 must

1 freely and voluntarily consent to the jury verdict.

2 Madam Forelady, when you sign
3 this jury verdict form, that assures The Court that what
4 you have signed is in fact a unanimous verdict.

5 Do not sign your name until your
6 verdict is unanimous.

7 The possibilities are listed on
8 the verdict form.

9 The order of presentation has no
10 significance; none. Do not drive any inference from the
11 order of presentation.

12 Number 1 says: Not guilty.

13 A line for the foreperson to
14 sign.

15 If the jury unanimously, all 12
16 agreeing, finds the Defendant not guilty, then sign that
17 line.

18 Number 2 is: Guilty of murder.

19 If the jury unanimously, all 12
20 agreeing, finds the Defendant guilty of murder, sign that
21 form, Madam Forelady.

22 And Number 3 is: Guilty of
23 voluntary manslaughter.

24 If the jury unanimously, all 12
25 agreeing, finds the Defendant guilty of voluntary

1 manslaughter, sign that.

2 And Madam Forelady, date it for
3 me, please -- hopefully today.

4 Is there any member of the jury
5 panel not feeling well?

6 It's now the time to consider
7 the viability of the alternates.

8 If you're not feeling well or
9 you have any problem staying with the case and discussing
10 the case until you reach a verdict, tell me now.

11 Slide your hand up and let's
12 talk.

13 Any one of the 12 not feeling
14 well, or have any reason as to why you not serve on the
15 jury?

16 Everyone okay?

17 Everyone feeling well?

18 All right. Let the record show
19 that I have inquired of the jury as to the status of the
20 alternates.

21 And you two alternates wait
22 right there for me. Do not go to the jury room now.

23 The 12 of you must now go to
24 your jury room. Do not begin talking. Do not begin
25 talking.

1 Why?

2 I'm required -- required to let
3 these lawyers object to my charge. And I must do that in
4 your absence.

5 It might be that I bring you
6 back out.

7 But if I do not bring you back
8 out, as soon as you get the verdict form and the
9 exhibits, then begin deliberation.

10 Now in regard to one exhibit,
11 it's this video cassette.

12 If you want to hear that again,
13 you may do that. But I must bring you out here and play
14 it out here, so we can play it in everyone's presence.

15 The 12 of you, please go to your
16 juryroom and wait for further instructions.

17 (WHEREUPON: The jury empanelled
18 in the case withdrew from the courtroom at 11:51 AM,
19 January 14th, 2009; and was no longer present during the
20 following proceedings.)

21 THE COURT:

22 You two jurors, I thank you for
23 serving. I thank you for being with me to this point.
24 I thank you for your kind attention.

25 I need you back at 10:00

1 tomorrow?

2 CLERK:

3 Yes sir.

4 THE COURT:

5 10:00 o'clock tomorrow.

6 So you are free to go now; but
7 please be back at 10:00 tomorrow.

8 Come right through here and
9 catch this elevator.

10 CLERK:

11 If they want to wait a few
12 minutes, the food will be here. If they choose to, I can
13 put them in that room on the other side of the juryroom.

14 THE COURT:

15 All right. We've got food
16 coming for you. Is that correct?

17 CLERK:

18 Yes sir.

19 THE COURT:

20 And --

21 CLERK:

22 They -- If they -- They can
23 choose. If you want me to talk with them --

24 THE COURT:

25 You can take the food with you

1 or you can eat it here.

2 Ms. Clerk, would you just talk
3 to them back in the other room.

4 CLERK:

5 I'll do that.

6 WHEREUPON: The alternates
7 exited the courtroom and were no longer present in any
8 further proceedings.

9 THE COURT:

10 Objections or exceptions from
11 the State?

12 MR. CLEMENTS:

13 None, Your Honor.

14 THE COURT:

15 From defense?

16 MR. HERRON:

17 None, Your Honor.

18 THE COURT:

19 All right, Counsel; come forward
20 and help me identify the exhibits that go in. And Mr.
21 Bailiff, you will hand this to the forelady when all the
22 exhibits are ready to go in.

23 BAILIFF:

24 Yes, Your Honor.

25 THE COURT:

1 And tell them to start talking.

2 BAILIFF:

3 Yes, Your Honor.

4 COURT REPORTER:

5 Your Honor, they've all agreed
6 on the exhibits.

7 MR. CLEMENTS:

8 We all -- got all of them right
9 here, Your Honor.

10 THE COURT:

11 Send them in. Take them in.

12 WHEREUPON: At 11:54 AM, the
13 jury was instructed to begin deliberations.

14 (WHEREUPON: The court was
15 called to order by the Bailiff at 12:19 PM, January 14th,
16 2009; and all pertinent parties, along with their
17 counsel, were back and present in the courtroom.)

18 THE COURT:

19 All right.

20 Let the record show that Counsel
21 and the Defendant are present in the courtroom.

22 I have a written note from the
23 jury.

24 It reads, quote: . . .

25 Could we have a written

1 definition of the charges.

2 Then, under that, she has guilty
3 of murder versus guilty of MS -- VS -- I'm sorry -- VS or
4 visa.

5 I have written this response:

6 No, but I will charge the jury
7 again in the courtroom on any facet of the charge; and
8 signed my name.

9 Is that agreeable with the
10 State?

11 MR. CLEMENTS:

12 It is agreeable with the State,
13 Your Honor.

14 THE COURT:

15 With Defense?

16 MR. HERRON:

17 It is.

18 THE COURT:

19 All right. Mr. Bailiff, hand
20 this to the forelady and tell her to give it back to you
21 after she talks to the jury about the note.

22 BAILIFF:

23 Yes sir.

24 THE COURT:

25 We -- We want to maintain it for

1 the record.

2 BAILIFF:

3 Yes sir.

4 THE COURT:

5 Anything else, Mr. Solicitor?

6 MR. CLEMENTS:

7 No, Your Honor.

8 THE COURT:

9 Defense?

10 MR. HERRON:

11 Nothing, Your Honor.

12 THE COURT:

13 Thanks. We'll be at ease.

14 (WHEREUPON: The court was
15 declared at ease at 12:21 PM, January 14th, 2009:)

16 (WHEREUPON: The Court was
17 informed by the Bailiff at 1:22 AM, January 14th, 2009,
18 that the jury would like to hear the testimony of
19 Farhonda Pompey, again.

20 (WHEREUPON: The court was
21 called to order by the Bailiff at 1:54 PM, January 14th,
22 2009; and all pertinent parties, along with their
23 counsel, were back and present in the courtroom.)

24 BAILIFF:

25 The court will come to order.

1 All Rise.

2 THE COURT:

3 Thank you. Please be seated.

4 Mr. Court Reporter, are we in a
5 position to respond to the jury's request?

6 COURT REPORTER:

7 We are, Your Honor.

8 THE COURT:

9 Okay. The State is ready.

10 Defense ready?

11 MR. HERRON:

12 We are.

13 MR. CLEMENTS:

14 Your Honor, the State is ready;
15 but one thing I would draw attention to The Court to --
16 and they may do it -- but they want to hear -- uh -- Mr.
17 Rouses' statement again.

18 That is on a disk that is
19 actually back there in evidence with them; so they would
20 need to bring that disk out.

21 THE COURT:

22 Okay. Do we need it out for
23 playing purposes?

24 MR. CLEMENTS:

25 They need to bring the disk out

1 to play it --

2 THE COURT:

3 Okay.

4 MR. CLEMENTS:

5 -- if they want to hear it
6 again.

7 MR. HERRON:

8 Yes sir.

9 THE COURT:

10 All right.

11 I don't want any moving around
12 now people while this is being done. You're welcome in
13 the courtroom but I'm not going to have in and out -- in
14 and out. If you need to go, go now.

15 Anybody?

16 This is serious business.

17 All right. Bring them to us.

18 (WHEREUPON: The jury empanelled
19 in the case was escorted back into the courtroom at 1:56
20 PM, January 14th, 200p; and was in fact present during
21 the following proceedings.)

22 THE COURT:

23 Thank you for your patience. It
24 took us a little while to get some equipment meshed up
25 here because we were dealing with the other court

1 reporter and our equipment.

2 We're ready to go now, I think.

3 Mr. Court Reporter?

4 WHEREUPON: Beginning at 1:55
5 PM, January 14th, 2009, the entire testimony of Farhonda
6 Pompey, as reported herein, was played back to the jury
7 in open court. The playback concluded at 2:29 PM,
8 January 14th, 2009.

9 WHEREUPON: Beginning at 2:30
10 PM, January 14th, 2009, State's Exhibit 26, the Audio CD
11 containing the statement of Devodus Antonio Rouse that
12 was earlier made to investigators, was played for the
13 jury in open court. This playback was concluded at 2:51
14 PM, January 14th, 2009.

15 THE COURT:

16 Madam Forelady, does that
17 respond, now, to the request?

18 FORELADY:

19 Yes, Your Honor.

20 THE COURT:

21 Okay. Thank you.

22 You all, please go to your
23 juryroom.

24 (WHEREUPON: The jury empanelled
25 in the case withdrew from the courtroom at 2:52 PM,

1 January 14th, 2009; and was no longer present during the
2 following proceedings.)

3 THE COURT:

4 The State want to put anything
5 on the record?

6 MR. CLEMENTS:

7 No, Your Honor.

8 THE COURT:

9 Defense?

10 MR. HERRON:

11 No, Your Honor.

12 THE COURT:

13 All right.. We'll be at ease.

14 (WHEREUPON: The court was
15 declared in recess at 2:53 PM, January 14th, 2009, while
16 the jury continued with their deliberations.)

17 (WHEREUPON: The court was
18 called to order by the Bailiff at 4:24 PM, January 14th,
19 2009; and all pertinent parties, along with their
20 counsel, were back and present in the courtroom.)

21 BAILIFF:

22 All Rise. Order in the court.

23 THE COURT:

24 Thank you. Please be seated.

25 Let the record show I have a

1 bill ado from the jury that reads, quote:

2 "At this point we are unable to
3 come to an unanimous decision. Robin Hewitt."

4 End of quote.

5 Make this a part of the record,
6 please.

7 WHEREUPON: SAID NOTE WAS MARKED
8 BY THE COURT REPORTER AS COURT'S EXHIBIT NUMBER 7.

9 THE COURT:

10 It is my intent now to give an
11 Allen charge.

12 All right. No one comes in the
13 back door and no one goes out. No one coming in or out
14 there.

15 Bring the jury out.

16 (WHEREUPON: The jury empanelled
17 in the case was escorted back into the courtroom at 4:31
18 PM, January 14th, 2009; and was in fact present during
19 the following proceedings.)

20 THE COURT:

21 Madam Forelady and members of
22 the jury, I have the note from the Forelady on your
23 behalf that indicates that you have not reached a
24 verdict.

25 That is not unusual.

1 A unanimous verdict is sometimes
2 difficult to achieve.

3 When we have to have two or
4 three people on a particular issue or topic, sometimes
5 they have difficulty agreeing.

6 When we have 12 of you, that
7 makes the process more difficult to achieve in regard to
8 unanimity.

9 In most cases, absolute
10 certainty cannot be reached or expected. However, you
11 have a duty to make every reasonable effort to reach a
12 unanimous verdict.

13 In doing this, it is your duty
14 to consult with one another; express your own views;
15 consider each others views; and discuss the evidence with
16 the objective of reaching a just verdict, if you can do
17 so without violence to your individual judgment.

18 Each of you must decide the case
19 for yourself. But do so only after discussion and
20 impartial consideration of the evidence in the case with
21 fellow jurors.

22 Although the verdict of the jury
23 must be unanimous, every one of you has the right to your
24 own opinion.

25 No juror is expected to give up

1 his or her opinion based on reasoning satisfactory to
2 himself or herself merely for the purpose of being in
3 agreement.

4 The verdict you agree to must be
5 your own verdict; the result of your convictions. And
6 you should not give up your firmly held beliefs merely to
7 be in agreement with your fellow jurors.

8 But no juror has the right to
9 rare back in the chair and say:

10 It's going to be my way or no
11 way. And we can go out and tell the judge that.

12 The Constitution does not
13 advocate that kind of decision making process.

14 The law does not require that a
15 juror violate his or her conscience just to agree with
16 the other jurors.

17 But the law does ask that each
18 juror listen to other jurors with an open mind; willing
19 to be convinced; keeping in mind that you do not have to
20 violate your conscience just to agree on a verdict.

21 You are not advocates for one
22 side or the other. Under your oath, you are not
23 advocates for the State or the Defendant.

24 In the course of your
25 deliberations, do not hesitate to re-examine your own

1 views and to change your opinion if you are convinced you
2 are wrong.

3 But do not surrender your honest
4 conviction as to the weight or affect of the evidence
5 solely because the opinion of your fellow jurors is
6 contrary to your opinion or for the mere purpose of
7 returning a verdict.

8 If the case can be ended without
9 a single one of you doing violence to your conscience, it
10 is your duty as jurors to consult with one another and to
11 deliberate with a view towards reaching an agreement, if
12 you can do so without violence to your individual
13 judgment.

14 The majority should consider the
15 minorities' position. And the minority should consider
16 the majorities' position.

17 You should carefully consider
18 and respect the opinions of each other; and reevaluate
19 your position for reasonableness, correctness, and
20 impartiality.

21 You must lay aside all outside
22 matters and re-examine the questions before you based on
23 the law as charged and the evidence in the case.

24 What happens if you do not agree
25 on a verdict in this case?

1 I must declare a mistrial.

2 Well, what does the declaration
3 of a mistrial mean?

4 The case doesn't go away,
5 jurors. The case doesn't just simply evaporate from the
6 docket.

7 It means that either myself or
8 another judge will draw another jury and we'll have the
9 trial in this courtroom with the same witnesses
10 testifying, probably to almost identical testimony; a
11 general charge on the law; the lawyers' argument; and
12 then we ask that jury to reach a verdict.

13 Well, what does that mean?

14 That means that:

15 I must come to the conclusion
16 that you 12 are unable to decide this case.

17 There's nothing -- absolutely
18 nothing -- in this record to indicate to me that I would
19 get 12 more responsible jurors to decide the case.

20 There's nothing to convince me
21 that I should simply stop at this point and work toward a
22 trial in the next couple of weeks with a different jury.

23 It costs money to try these
24 cases. It's taxing on the system. It also is burdensome
25 on the State and on the Defendant.

1 playing back some more testimony; giving you a re-charge
2 on the law, I am happy to do that. I'm delighted to do
3 that. I want to help you if I can.

4 Please now, return to your
5 juryroom and continue deliberations. And please do not
6 get upset with any other jurors about their attitudes or
7 opinions to this point.

8 Let's work together. Treat each
9 other courteously. Treat each other as you would want to
10 be treated.

11 Have the best atmosphere in the
12 juryroom with absolute courtesy permeating the
13 discussions and the consideration.

14 But please,, please, please,
15 return to the deliberative process.

16 Thank you.

17 (WHEREUPON: The jury empanelled
18 in the case withdrew from the courtroom at 4:40 PM,
19 January 14th, 2009; and was no longer present during the
20 following proceedings.)

21 THE COURT:

22 Anything from the State as to my
23 charge?

24 MR. CLEMENTS:

25 Nothing, Your Honor.

1 THE COURT:

2 Anything from Defense as to my
3 charge.

4 MR. HERRON:

5 Other -- Other than Your Honor
6 needs to place this on the record:

7 It appeared that during the
8 charge, the jury Foreperson was getting physically
9 distraught.

10 I just -- It -- It appeared to
11 me that she was have -- having some emotional problems.

12 I just wanted to place that on
13 the record.

14 But as to the charge, I --
15 there's no objection as to the charge.

16 THE COURT:

17 Thank you. We'll be at ease.

18 (WHEREUPON: The court was
19 declared in recess at 4:41 PM, January 14th, 2009.)

20 (WHEREUPON: The court was
21 called to order by the Bailiff at 5:49 PM, January 14th,
22 2009; and all pertinent parties, along with their
23 counsel, were back and present in the courtroom.)

24 BAILIFF:

25 The court will come to order.

1 All Rise.

2 THE COURT:

3 Thank you. Please be seated.

4 I have a note from the jury. It
5 reads, quote:

6 "We would like a clarification
7 on the differences between murder and voluntary
8 manslaughter. Robin Hewitt."

9 That will be made a part of the
10 record.

11 WHEREUPON: SAID NOTE WAS MARKED
12 BY THE COURT REPORTER AS COURT'S EXHIBIT NUMBER 8.

13 THE COURT:

14 Bring the jury out.

15 BAILIFF:

16 Yes sir.

17 (WHEREUPON: The jury empanelled in the case was escorted
18 back into the courtroom at 5:52 PM, January 14th, 2009;
19 and was in fact present during the following
20 proceedings.)

21 THE COURT:

22 Thank you.

23 Murder: What is murder?

24 Murder is defined as:

25 The willful, felonious, killing

1 of a human being by a human being with malice
2 aforethought; that malice being either expressed malice
3 or implied malice.

4 Again:

5 Murder is defined as:

6 The willful, felonious, killing
7 of a human being by a human being with malice
8 aforethought; that malice being either expressed malice
9 or implied malice.

10 The presence of malice is a
11 required element of murder.

12 Malice is defined as being
13 hatred or ill will.

14 Malice in its legal sense does
15 not necessarily import ill will toward the individual
16 injured, but signifies rather a general malignant
17 recklessness of the lives and safety of others, or a
18 condition of mind which shows a heart, regardless of
19 social duty, and fatally bent on mischief.

20 Malice is the wrongful intent to
21 injure another person. Malice indicates a wicked and
22 depraved spirit intent on doing wrong.

23 Malice is a legal term implying
24 wickedness and excluding just cause or excuse.

25 Malice is the doing of a

1 wrongful act intentionally and without just cause or
2 excuse.

3 The term "malice" indicates a
4 formed purpose and design to do a wrongful act under the
5 circumstances that exclude any legal right to do it.

6 Malice may be either expressed
7 or implied.

8 The words "expressed" or
9 "implied" add nothing to the meaning of malice. They do
10 not imply different kinds of malice; but merely the
11 manner in which the only kind of malice known to the law
12 may be shown to exist; that is: either by positive
13 evidence or by inference.

14 Expressed malice is when there
15 is a deliberate intention to unlawfully take the life of
16 another.

17 Implied malice is when
18 circumstances demonstrate a wanton or reckless disregard
19 for human life; or a reasonably prudent person would have
20 known that according to common experience, there was a
21 plain and strong likelihood that death would follow the
22 contemplated act.

23 The law says:

24 If one intentionally kills
25 another with a deadly weapon, the implication of malice

1 may arise.

2 If facts are proved beyond a
3 reasonable doubt sufficient to raise an inference of
4 malice to your satisfaction, this inference would be
5 simply an evidentiary fact to be taken into consideration
6 by you the jury along with any other evidence in the
7 case; and you may give it such weight as you determine it
8 should receive.

9 A deadly weapon is any article,
10 instrument, or device, which is likely to cause death or
11 great bodily harm.

12 Voluntary manslaughter:

13 What is voluntary manslaughter?

14 Voluntary manslaughter is:

15 The unlawful killing of another
16 without malice expressed or implied.

17 Voluntary manslaughter is the
18 unlawful killing of a human being by a human being
19 without malice in sudden heat of passion upon sufficient
20 legal provocation.

21 Once again:

22 Voluntary manslaughter is:

23 The unlawful killing of a human
24 being by a human being without malice in sudden heat of
25 passion upon sufficient legal provocation.

1 To prove voluntary manslaughter,
2 the State must demonstrate beyond a reasonable doubt
3 that:

4 The Defendant unlawfully killed
5 another without malice in sudden heat of passion based on
6 sufficient legal provocation.

7 Heat of passion alone will not
8 suffice. Both heat of passion and sufficient legal
9 provocation must be present at the time of the killing to
10 constitute voluntary manslaughter.

11 The sudden heat of passion upon
12 sufficient legal provocation, while it need not dethrone
13 reason entirely, or shut out knowledge and volition, must
14 be such as would naturally disturb the sway of reason and
15 render the mind of an ordinary person incapable of cool
16 reflection; and produce what, according to human
17 experience, may be called an uncontrollable impulse to do
18 violence.

19 The passion need not be so
20 overpowering as for the time to shut out knowledge and
21 destroy volition.

22 To constitute legal provocation,
23 the provocation must come from some act -- or related to
24 the victim.

25 The provocation of the deceased

1 must be such as would naturally produce in the mind of a
2 person ordinarily constituted the highest degree of rage,
3 anger, resentment, or terror, rendering the mind
4 incapable of cool reflection.

5 If sufficient legal provocation
6 does not exist, the killing -- even if committed during
7 the heat of passion -- is not voluntary manslaughter.

8 The provocation must deprive one
9 of the power of self-control; but it need not entirely
10 dethrone reason.

11 Under the law, if the jury comes
12 to the unanimous conclusion that the Defendant is guilty
13 but there is some question as to whether the Defendant is
14 guilty of murder or voluntary manslaughter, the Defendant
15 must be given the privilege of the lesser offense.

16 But obviously -- But obviously -
17 - But obviously, under no circumstances should the
18 Defendant be found guilty unless you in fact find the
19 Defendant guilty of an offense beyond a reasonable doubt.

20

21 Thanks.

22 (WHEREUPON: The jury empanelled
23 in the case withdrew from the courtroom at 6:01 PM,
24 January 14th, 2009; to continue their deliberations and
25 was no longer present during the following proceedings.)

1 THE COURT:

2 State?

3 MR. CLEMENTS:

4 Nothing from the State, Your
5 Honor.

6 THE COURT:

7 Defense?

8 MR. HERRON:

9 Nothing, Your Honor.

10 THE COURT:

11 All right. Thanks.

12 We'll be at ease.

13 (WHEREUPON: The court was
14 declared in recess at 6:01 PM, January 14th, 2009.)

15 (WHEREUPON: The court was
16 called to order by the Bailiff at 6:10 PM, January 14th,
17 2009; and all pertinent parties, along with their
18 counsel, were back and present in the courtroom.)

19 BAILIFF:

20 All rise. Order in The Court.

21 THE COURT:

22 Thank you; please be seated.

23 All right.

24 Folks in the audience, there is
25 not going to be any reaction to the jury verdict.

1 Point blank, let me explain that
2 again:

3 Because, I will in fact give you
4 jail time for contempt.

5 If you don't believe it, you try
6 me.

7 Now I'm not going to put up with
8 any kind of reaction. It's not allowed. It's not
9 proper. And we're just not going to have it.

10 Now Deputies, I want order in
11 the courtroom.

12 If anybody reacts to the jury
13 verdict, I want the person arrested on the spot.

14 DEPUTY:

15 Yes sir.

16 THE COURT:

17 And I will hand out a contempt
18 sentence tonight.

19 I'm just not going to have it.

20 We don't have that kind of reaction in the courtroom.

21 Does everybody understand that?

22 If you haven't understood my
23 statement, slide your hand up. Just lift your hand up in
24 the audience and I'll try to make it clearer.

25 Anybody who has not understood

1 what I mean and what I have said? If so, slide your hand
2 up -- slide your hand up.

3 Let the record show there is no
4 hand up.

5 Deputies. help me enforce the
6 courtroom decorum.

7 DEPUTY:

8 Yes sir.

9 (WHEREUPON: The jury empanelled
10 in the case was escorted back into the courtroom at 6:12
11 PM, January 14th, 2009; and was in fact present during
12 the following proceedings.)

13 THE COURT:

14 Ms. Clerk you're recognized.

15 CLERK:

16 Members of the jury, have you
17 agreed upon a verdict?

18 FORELADY:

19 We have.

20 THE COURT:

21 Publish the verdict.

22 CLERK:

23 State of South Carolina versus
24 Devodus Antonio Rouse, Verdict Indictment Number 2008 GS
25 21 849, guilty of voluntary manslaughter. Robin Hewitt.

1 Dated January 14 2009.

2 Members of the jury, if this is
3 your verdict please raise your right hand.

4 That's all of them.

5 THE COURT:

6 Let the polling procedure show
7 unanimity in the jury verdict.

8 Any further requests for polling
9 by the State?

10 MR. CLEMENTS:

11 None, Your Honor.

12 THE COURT:

13 By defense?

14 MR. HERRON:

15 I would like them each
16 individually polled.

17 THE COURT:

18 You're entitled to that under
19 the law.

20 Ms. Clerk, follow the polling
21 procedure -- the two queries.

22 CLERK:

23 Members of the jury, as I call
24 your name, I will ask you two questions. Please respond
25 to questions.

1 Lacy Gainer?

2 JUROR:

3 Yes ma'am.

4 CLERK:

5 Was this your verdict then?

6 JUROR:

7 Yes ma'am.

8 CLERK:

9 Is it still your verdict now?

10 Yes ma'am.

11 CLERK:

12 Sabrina Capell?

13 JUROR:

14 Yes ma'am.

15 CLERK:

16 Was this your verdict then?

17 JUROR:

18 Yes ma'am.

19 CLERK:

20 Is it still your verdict now?

21 JUROR:

22 Yes ma'am.

23 CLERK:

24 William Bradshaw?

25 JUROR:

1 Yes ma'am.

2 CLERK:

3 Was this your verdict then?

4 JUROR:

5 Yes ma'am.

6 CLERK:

7 Is it still your verdict now?

8 JUROR:

9 Yes ma'am.

10 CLERK:

11 Nancy Pigatt?

12 JUROR:

13 Yes ma'am.

14 CLERK:

15 Was this your verdict then?

16 JUROR:

17 Yes ma'am.

18 CLERK:

19 Is it still your verdict now?

20 JUROR:

21 Yes ma'am.

22 CLERK:

23 John Dantzler?

24 JUROR:

25 Yes ma'am.

1 CLERK:
2 Was this your verdict then?
3 JUROR:
4 Yes ma'am.
5 CLERK:
6 Is it still your verdict now?
7 JUROR:
8 Yes ma'am.
9 CLERK:
10 Mary Dean?
11 JUROR:
12 (Stands in response.)
13 CLERK:
14 Was this your verdict then?
15 JUROR:
16 Yes ma'am.
17 CLERK:
18 Still your verdict now?
19 JUROR:
20 Yes ma'am.
21 CLERK:
22 Jimmy Woods?
23 JUROR:
24 Yes ma'am.
25 CLERK:

1 Was this your verdict then?
2 JUROR:
3 Yes ma'am.
4 CLERK:
5 Still your verdict now?
6 JUROR:
7 Yes ma'am.
8 CLERK:
9 Lula Platt?
10 JUROR:
11 (Stood in response.)
12 CLERK:
13 Was this your verdict then?
14 JUROR:
15 Yes ma'am.
16 CLERK:
17 And still your verdict now?
18 JUROR:
19 Yes ma'am.
20 CLERK:
21 Elizabeth Clark?
22 JUROR:
23 (Stood in response.)
24 CLERK:
25 Was this your verdict then?

1 JUROR:

2 Yes ma'am.

3 CLERK:

4 Still your verdict now?

5 JUROR:

6 Yes ma'am.

7 CLERK:

8 Jessica Hicks?

9 JUROR:

10 Yes ma'am.

11 CLERK:

12 Was this your verdict then?

13 JUROR:

14 Yes ma'am.

15 CLERK:

16 Still your verdict now?

17 JUROR:

18 Yes ma'am.

19 CLERK:

20 Alberta Bradley?

21 JUROR:

22 (Stood in response.)

23 CLERK:

24 Was this your verdict then?

25 JUROR:

1 Yes ma'am.

2 CLERK:

3 Still your verdict now?

4 JUROR:

5 Yes ma'am.

6 CLERK:

7 Robin Hewitt?

8 FORELADY:

9 (Stood in response.)

10 CLERK:

11 Was this your verdict then?

12 FORELADY:

13 Yes.

14 CLERK:

15 Still your verdict now?

16 FORELADY:

17 Yes.

18 CLERK:

19 That's all of them, Judge.

20 THE COURT:

21 Let the record show that the
22 polling procedure reveals unanimity in regard to the jury
23 verdict, each individual juror having been subjected to
24 voir dire.

25 Jurors, thank you so much for

1 working on the case. Thank you for your good attitude;
2 your good disposition.

3 I need you back at 10:00
4 tomorrow. We got another case to try.

5 And so I need you back in the
6 courtroom at 10:00 tomorrow -- 10:00 tomorrow.

7 Now Deputies, I don't want the
8 women going to their cars by themselves unless they tell
9 you not to escort them.

10 But I want everybody escorted to
11 their vehicles; all the way, please.

12 DEPUTY:

13 Yes, sir.

14 THE COURT:

15 All right; come right through
16 here.

17 Go ahead and get your stuff
18 there.

19 DEPUTY:

20 The ones that has personal
21 effects, belongings, whatever; you're welcome to go get
22 them now.

23 The others: out the door.

24 (WHEREUPON: The jury empanelled
25 in the case withdrew from the courtroom at 6:16 PM,

1 January 14th, 2009; and was no longer present during the
2 following proceedings.)

3 DEPUTY:

4 That's the last one.

5
6 THE COURT:

7 All right.

8 Any matters of law, Counsel,
9 before we pass sentence?

10 MR. HERRON:

11 Yes, Your Honor.

12 I'd like to -- uh -- make a
13 motion for a new trial and a motion to set aside the
14 verdict pursuant to the 13th juror doctrine.

15 Your Honor, I previously made a
16 direct verdict motion.

17 In that motion, I Stated that
18 the case was circumstantial at best.

19 Only two people -- uh -- even
20 remotely put him in a situation where he's pulling the
21 trigger.

22 I think the testimony was:
23 either him or me.

24 And as a matter of fact, part of
25 -- as -- as a result of my directed verdict motion, I

1 | believe the State has reduced their charge from murder
2 | down to manslaughter.

3 So I believe there was enough
4 doubt to -- to do that. And I don't believe the standard
5 of the State has been met; that there's substantial
6 evidence that was to prove this Defendant guilty beyond a
7 reasonable doubt, Your Honor.

8 Uh -- The jury hung-up there for
9 awhile.

10 Uh -- And -- And again, beyond a
11 reasonable doubt to cause a reasonable person to hesitate
12 to act; there's absolutely no physical evidence.

13 The testimony was:

14 There could have been DNA out
15 there that could have exonerated the Defendant.

16 They didn't do any of the
17 testing that they could have -- uh -- even to this day.

18 So, on -- on those basis, Your
19 Honor, I'd -- I'd make a motion for new trial and a
20 motion and to set aside the verdict -- uh -- on the basis
21 of the 13th juror doctrine.

22 THE COURT:

23 All motions are respectfully
24 denied.

25 I conclude that the matter was a

1 jury issue factually. And I deny the motions.

2 And all right reserve is
3 protected for purposes of appellate review.

4 Bring him forward for
5 sentencing, please.

6 What does the State have in
7 regard to any prior record?

8 MR. CLEMENTS:

9 Your Honor, may we approach? If
10 we could?

11 THE COURT:

12 Yes. Yes.

13 MR. CLEMENTS:

14 If it please The Court, Your
15 Honor?

16 Uh -- I have a public disorderly
17 conduct conviction, 2003.

18 Operating a motor vehicle in
19 violation of restriction, 2004.

20 Uh -- Other charges that was
21 dismissed, Your Honor.

22 And when he was arrested on
23 these charges, he had pending charges in Darlington
24 County, Your Honor.

25 THE COURT:

1 All right.

2 Does the State want to be heard
3 in regard to sentencing?

4 MR. CLEMENTS:

5 Uh -- Your Honor, we believe --
6 uh -- that this was a murder.

7 Uh -- It was a robbery gone bad
8 and in the State's theory of the case -- uh -- it was a
9 robbery gone bad.

10 It might have been other people
11 that talked about doing a lick or -- or doing dirt, as
12 the terminology was, that we had in this case with Mr.
13 Rouse.

14 Our best witness, Your Honor, is
15 dead; Cory Byrd. And he -- he gave us information in
16 that regard.

17 Uh -- Mr. Rouse might not have
18 ever intended -- or anyone might not have ever intended
19 for Mr. Brandon Timmons to be shot and killed.

20 We believe, Your Honor, that --
21 that a robbery was planned. He attempted to rob Mr.
22 Timmons. And Mr. Timmons produced a gun. And Mr. Rouse
23 shot him and he died.

24 We believe it's murder because
25 of armed robbery. But we believe that we presented the

1 best case we could with the witnesses we had left alive;
2 and that -- uh -- the jury reached a verdict which we
3 think probably was somewhat of a compromise, Your Honor.

4
5 Uh -- We do believe that Mr.
6 Timmons had a right to defend himself when he's been
7 robbed and he drew a weapon.

8 So Your Honor, we would ask that
9 you consider giving Mr. Rouse -- we -- we think he's
10 going to get the benefit of 85 percent, since it's a
11 voluntary manslaughter, rather than day per day as a
12 murder would be.

13 And we would ask, Your Honor,
14 that you consider giving him the maximum sentence of the
15 30 years.

16 Your Honor, I do have the mother
17 of Mr. Timmons in the courtroom. And she wishes to
18 address The Court, Your Honor, I would like for you to
19 give her the opportunity.

20 THE COURT:

21 Absolutely. Bring her forward.

22 Right -- Right there is fine.

23 What -- What is your name,
24 please?

25 MS. TIMMONS:

1 Margaret Timmons.

2 THE COURT:

3 Yes ma'am; Ms. Timmons.

4 MS. TIMMONS:

5 Margaret Timmons.

6 I sat here patiently. I sat
7 here and listened to different things insinuating about
8 my son.

9 I'm going to tell you about the
10 Brandon Timmons that I raised.

11 Brandon Timmons was the -- one
12 of the most kindhearted young man.

13 Brandon Timmons would help
14 anybody.

15 I often told Brandon:

16 You can not -- Everybody is not
17 your friend.

18 He always used to say:

19 Well, momma, if I don't bother
20 nobody, nobody has the right to bother me.

21 My child started his work
22 history at age -- I started at 17; Brandon started 15.

23 Brandon was working every day
24 from the age of 15 until he was killed.

25 At the age of 19 when Brandon

1 was working for Dominoes, Brandon was their shift
2 manager.

3 Brandon was taking their monies
4 to the bank, making night deposits on his way going back
5 to Frances Marion University.

6 Brandon attended Francis Marion
7 and Florence Darlington Tech. He was supposed to
8 graduate in May of 2007. I will never see that.
9 (Weeping profusely.)

10 My child worked for Timmonsville
11 and Florence Boys Club.

12 Brandon has helped so many
13 children -- so many children. They loved Brandon. They
14 respected Brandon.

15 I will never see my child get
16 his degree. I will never see my child get married. I
17 will never have any grandchildren.

18 Brandon Timmons was not only my
19 son. Brandon was my only child. I have nothing else --
20 nothing else.

21 Brandon Timmons' father could
22 not live with what happened to his oldest son. He had a
23 heart attack and died in August of this year.

24 So I sat here by myself. My son
25 was a good child. My son was a good child.

25 My child is gone. I have nobody

1 else. My only child is gone.

2 I received numerous cards like
3 these made from the children at the Florence and -- and
4 Timmonsville Boys Club.

5 All of those telling me how much
6 they loved Mr. Timmons; how much they respected him; how
7 much he helped them.

8 This card is like:

9 Rest in peace, Mr. Timmons.
10 Goodbye friend. And this has tears for your son.

11 I'm going to miss you.

12 Dear Ms. Timmons: I'm sorry for
13 the loss of your wonderful son. I have cried where --
14 wherever I can. He didn't deserve to lose his life.
15 This was a great teacher and a great friend.

16 The person who killed your son
17 deserves to be punished.

18 He was -- He never got to see
19 his birthday. I am so, so sorry. He is in a better
20 place; and he is still with you. Much love for Mr.
21 Timmons.

22 And on the back of this card --
23 this particular card -- this child says:

24 Stop the violence now.

25 I beg you -- I beg you for my

1 son -- my son -- my only child -- my only child. I have
2 nobody else. (Weeping, sobbing and unable to speak
3 further.)

4 THE COURT:

5 Thank you.

6 MR. CLEMENTS:

7 Your Honor, here's the
8 sentencing sheet.

9 THE COURT:

10 Anything further, Mr. Solicitor?

11 MR. CLEMENTS:

12 Your Honor, you've heard the --
13 the case and you reviewed the evidence; and -- uh --
14 that's all we have to say.

15 THE COURT:

16 All right.

17 Counsel?

18 MR. HERRON:

19 Uh -- Thank you, Your Honor.

20 Uh -- First of all, I'd just
21 like to say on behalf of my client:

22 Ms. Timmons, if -- uh -- you
23 took anything that I said during the course of this case
24 against Mr. Timmons, from my heart, I would like to
25 apologize.

1 That was never my intent.

2 I have a job to do and that's
3 what I did.

4 So Your Honor, I'd just like to
5 personally apologize to Ms. Timmons if she took offense.

6 Your Honor -- uh -- you heard
7 the facts of the case and we respect the jury's decision.

8
9 We disagree with it; but we do
10 respect the jury's decision. We respect the process.

11 Uh -- Standing beside me is Ms.
12 Rouse. She's Devodus' mother.

13 Devodus is 23 years old, Your
14 Honor.

15 As you heard, he has very, very,
16 very, little in the way of a -- uh -- any kind of -- uh --
17 - previous bad conduct or disorderly conduct charges as
18 far as a record, Your Honor.

19 Mr. Rouse has a -- a learning
20 disability. And he's been collecting SSI benefits
21 according to Ms. Rouse.

22 Uh -- Obviously, I didn't think
23 that affected his ability to stand trial and that never
24 came up and was never an issue. But I think that should
25 be set forth in front of The Court.

1 As far as Mr. Rouse being a
2 client, he's always cooperated with me, Your Honor.

3 He's been respectful of me.

4 He's -- uh -- answered my
5 questions.

6 As -- As far as clients go, he's
7 -- he's one of my better ones.

8 Your Honor, the voluntary
9 manslaughter does carry -- uh -- zero to a maximum of 30
10 years.

11 Given the facts of this case and
12 the circumstances surrounding it, I do believe that a
13 maximum sentence of 30 years would be too much in this
14 case Your Honor -- too much.

15 Uh -- Obviously, a young man is
16 dead and that's a tragedy, Your Honor. But this is a
17 young man who is 23 and that could do a lot with his life
18 if Your Honor would give him the chance.

19 Uh -- I -- So I would
20 respectfully request that Your Honor show mercy in this
21 case.

22 And Ms. Rouse, if Your Honor
23 would, she'd would like to be heard on this matter as
24 well.

25 THE COURT:

25 I'm sorry for their loss; but I

1 have a loss too, because I done lost 2 years from when he
2 was incarcerated.

3 Devodus have three children.

4 He got two -- two of them, 4, by
5 two 2 different people. Then he got one, 3.

6 And I know all kids need their
7 father in their lives.

8 I can't be the father to his
9 kids.

10 I can just be who I am -- the
11 grandmother.

12 I just want to see him back on
13 his medicine and to get what he needs to get out of life;
14 to get a job; to get his education; and to be home with
15 the family.

16 MR. HERRON:

17 Thank you, Judge.

18 THE COURT:

19 Yes sir.

20 MR. HERRON:

21 Your Honor, if you would, could
22 you hear --

23 THE COURT:

24 Yes.

25 MR. HERRON:

1 -- from Mr. Rouse?

2 THE COURT:

3 Yes sir?

4 MR. HERRON:

5 Thank you, Your Honor.

6 DEFENDANT ROUSE:

7 I just want to apologize to the
8 family, I mean, for being around the wrong people.

9 And I mean, stuff ain't never
10 supposed to went the way it went. So I apologize for the
11 tragedy; but also -- you know -- I mean, I want to let
12 y'all know that I wasn't the only person involved -- you
13 know.

14 I mean, and it ain't never
15 supposed to went that way.

16 The only think I want to do is
17 just apologize to the family; and tell y'all and my
18 family:

19 Don't hold nothing against each
20 other, because I'm not the only one involved.

21 But I apologize.

22 And I mean, for the tragedy that
23 happened.

24 Also, you know, I mean, I don't
25 want my family and y'all's family to have no

1 confrontations when I go down the road; because I know
2 I've got to be punished because -- for -- for making the
3 wrong choices in life -- for hanging around the wrong
4 people causes consequences.

5 So I just wanted to apologize to
6 the family. And I mean and tell you and my family as
7 y'all see each other, don't -- don't hold nothing against
8 each other.

9 Because I made bad choices in
10 life by hanging around the wrong people when I know I
11 ain't came up in no family like that.

12 As well as, I know Brandon.

13 We -- We was in the hood; played
14 basketball together. I know he wasn't a bad person.

15 Like I say:

16 It wasn't never meant to be
17 nothing to hurt him. And I wasn't the only one involved.

18 So I feel that I ain't the only
19 one should be punished.

20 I just want to apologize to the
21 family.

22 THE COURT:

23 Thank you.

24 MR. HERRON:

25 I think that's all we have, Your

1 Honor.

2 THE COURT:

3 It is always difficult at
4 sentencing time to analyze the appropriate punishment in
5 regard to a death.

6 A death is so final and in this
7 courtroom in the presentation I have positions taken; but
8 there's one silent voice: Brandon Timmons.

9 The sentence of The Court is
10 that:

11 The Defendant is committed to
12 the Department of Corrections for a term of 25 years.

13 Thank you.

14 MR. CLEMENTS:

15 Thank you.

16 WHEREUPON: The Court left the
17 bench and this proceeding was concluded at 6:34 PM,
18 January 14th, 2009.

19

20

21 (THERE BEING NOTHING FURTHER IN
22 THIS MATTER, THE FOREGOING PROCEEDINGS WERE CONCLUDED AT
23 10:11:36 AM, THURSDAY, JUNE 16, 2005).

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CERTIFICATE

I, THE UNDERSIGNED, H. EUGENE BUCKNER, CVR, OFFICIAL COURT REPORTER IN AND FOR THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING PROCEEDINGS WERE RECORDED ON THE 12TH AND 14TH DAY OF JANUARY, 2009; AND THAT THE FOREGOING IS, TO THE BEST OF MY ABILITY, AN ACCURATE COPY OF THE TRANSCRIPTION OF SAID PROCEEDINGS. I FURTHER CERTIFY THAT I AM NEITHER COUNSEL NOR SOLICITOR TO ANY OF THE PARTIES IN THE FOREGOING PROCEEDINGS, NOR INTERESTED IN THE EVENT OF THE CAUSE. IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL THIS 30TH DAY OF APRIL, 2009.


H. EUGENE BUCKNER, CVR
OFFICIAL COURT REPORTER AT LARGE
15TH JUDICIAL DISTRICT, CONWAY, S.C.

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEASE
	)	
COUNTY OF FLORENCE	)	TWELFTH JUDICIAL CIRCUIT
	)	
THE STATE OF SOUTH CAROLINA	)	
	)	
PLAINTIFF	)	2008-GS-21-849
	)	
VERSUS	)	
	)	
DEVODUS ROUSE	)	
	)	
DEFENDANT	)	
	)	

BEFORE**THE HONORABLE RALPH KING ANDERSON, JR.**

Edward Clements, Esquire
Attorney for The State

Lee Heron, Esquire
Attorney for the Defendant

Pamela Ozment-Cartee
Circuit Court Reporter

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WITNESSES

WITNESS	VOIR DIRE	DIRECT	CROSS	RE-DIRECT	RECROSS
LARRY DRAYTON		007	017		
MELVIN GODWIN		021	027		
RENETHA STAGGERS		048	052		
MARK HAPP		053	067		
MILTON GERALD		068	072	073	
MICHAEL C. BRANDT		075	109	116	117
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1 (Whereupon, court came to order at 1:46 p.m. on
2 Monday, January 12, 2009.0

3 THE COURT: Thank you. Please be seated, everyone.
4 Counsel, give me your attention. One of the jurors wanted
5 to speak to The Court, and she did so through Deputy Clerk
6 of Court. Ms. O'Hara. Would you just tell them, which
7 juror it is, and what the lady said.

8 MS. O'HARA: Juror Jessica Hicks. She said through
9 Palmetto something --- I'm not really sure how she knows the
10 Defense Attorney Lee Heron, not personally but knows him
11 through work, and has dealt with her paralegal.

12 MR. HERON: Palmetto Wellness Center?

13 MS. O'HARA: That's it. And I've tried not to ---
14 I've told her --

15 THE COURT: I will be very happy to bring her out and
16 just quiz her and make sure that everything is comfortable
17 and so forth, her comfort zone, if you would like.

18 MR. CLEMENTS: Your Honor, just to make sure, there is
19 no gray areas in the record, I would ask that you do that,
20 please.

21 THE COURT: Yes, okay. Bring her out, Ms. Clerk. Mr.
22 Bailiff, would you bring her out. Do you know which one it
23 is?

24 BAILIFF: Ms. Hicks?

25 MS. O'HARA: That is correct.

1 **THE COURT:** Hey, hi are you doing?

2 **MS. HICKS:** Good, how are you.

3 **THE COURT:** Wonderful. Thank you for bringing that
4 information to my attention and that is what you should have
5 done. I am glad that you did.

6 In regard to this relationship, do you feel comfortable
7 with yourself, in saying without doubt, or hesitate, that
8 you are able, to give all parties a fair and impartial
9 trial?

10 **MS. HICKS:** Yes.

11 **THE COURT:** Will you do that in this case?

12 **MS. HICKS:** I will.

13 **THE COURT:** Do you feel any kind of compulsion, or any
14 feeling that would impede you from being able too just
15 absolutely try the case based on the evidence presented here
16 in the courtroom and my charge on the law?

17 **MS. HICKS:** No, sir.

18 **THE COURT:** Okay. All right. Anything from anybody?

19 **MR. CLEMENTS:** Nothing from The State, Your Honor.

20 **MR. HERON:** Nothing from Defense.

21 **THE COURT:** Thank you.

22 **MS. HICKS:** Thanks.

23 **THE COURT:** Okay. Counsel, I know you have noticed
24 the change in physiognomy, of The Court reporter. The
25 beautiful lady here is probably known to all of you, Pamela

LARRY DRAYTON - DIRECT EXAMINATION BY MR. CLEMENTS

7

1 Ozment-Cartee and I welcome here to my court. It's
2 wonderful to have you.

3 We now proceed into the *Jackson versus Denno Hearing*.
4 Is The State ready to proceed?

5 MR. CLEMENTS: We are, Your Honor.

6 THE COURT: Defense ready to proceed?

7 MR. HERON: We are, Your Honor.

8 THE COURT: Okay. Mr. Solicitor, you are recognized,
9 you may call your first witness.

10 WHEREUPON, COURT'S EXHIBIT
11 NUMBER 1 AND 2 WERE MARKED
12 FOR THE RECORD.

13 JACKSON V DENNO HEARING

14 MR. CLEMENTS: Thank you, Your Honor. If it please
15 The Court, Your Honor, we would call Investigator Larry
16 Drayton of the Florence Police Department.

17 LARRY DRAYTON

18 BEING DULY SWORN TESTIFIES AS FOLLOWS

19 CLERK OF COURT: Please be seated and state your full
20 name for the record.

21 MR. DRAYTON: Larry Drayton.

22 DIRECT EXAMINATION BY MR. CLEMENTS

23 Q. Mr. Drayton, can you tell The Court where you work, in
24 what capacity, and how long you have been so employed?

25 A. I am employed with the City of Florence Police

LARRY DRAYTON - DIRECT EXAMINATION BY MR. CLEMENTS

8

1 Department. Been in employed since September 29, 1980.

2 I am currently assigned to the Criminal Investigation
3 Division as an Investigator.

4 Q. And were you working as an investigator January of
5 2007?

6 A. Yes, I was.

7 Q. Did you have an occasion to become involved in the
8 investigator, in the murder of Brannon Timmons?

9 A. Yes, sir, I did.

10 Q. Were you the lead investigator on that case?

11 A. No, sir, it would be Sergeant Lee Davis.

12 Q. And you were assisting Sergeant Davis

13 A. At the time, Sergeant Davis was actually working ---
14 I was his supervision at the time, so I was assisting
15 him with the investigation.

16 Q. All right. And assisting Sergeant Davis in the
17 investigation can you tell this Court, did you have any
18 opportunity to talk to Mr. Devodus Anthony Rouse?

19 A. Yes, sir, I did.

20 Q. Can you please tell The Court, when that was?

21 A. On March 22, 2007.

22 Q. Okay. And who, if anyone, talked with Mr. Rouse with
23 you?

24 A. Sergeant Melvin Godwin with the Florence Police
25 Department.

1 Q. Okay. And did you --- Before you talked with Mr.
2 Rouse, were you knowledgeable of the fact that he was
3 charged with a grave offense?

4 A. Yes, sir. Actually, Mr. Rouse turned himself in to the
5 Police Department the first time when I met him.

6 Q. Okay. And when you met him that time what did you do -
7 -- When you approached him to talk to him what did you
8 do?

9 A. He was advised of his Miranda Rights and Miranda
10 Waiver?

11 Q. And can you please inform The Court, how you did that?

12 A. Well, it was on two different occasions at the time
13 same time. But the first time we read his Miranda
14 Warning and the Waiver of Rights Form. We read the
15 Waiver of Rights Form and explained it to him in
16 detail. He agreed, to sign it without an attorney
17 present. He signed his Waiver of Rights in my presence
18 and Sergeant Godwin's presence, saying he would talk
19 without an attorney present.

20 Q. And that was after you read him his Miranda Rights?

21 A. That is correct.

22 Q. Can you tell The Court, please, exactly what you read
23 to him?

24 A. This being the second time I read. We spoke with him
25 just in general. Then when we asked him, would he mind

LARRY DRAYTON - DIRECT EXAMINATION BY MR. CLEMENTS 10

1 repeating what he said in regards to a taped statement,
2 he said he would. And I read him his Miranda Rights
3 again the second time. I can read verbatim from the
4 card.

5 Q. Okay. And the first time you read to him?

6 A. It's from the Florence Police Department, a Waiver of
7 Rights Form.

8 Q. Okay. And where did you read that to him?

9 A. We were located in the Florence County Detention
10 Center. It's the Sheriff's Department beside the
11 Detention Center, the investigation interview room.

12 Q. Okay. And who was present in the interview room?

13 A. Myself, Mr. Rouse, and Sergeant Godwin.

14 Q. Can you read for The Court, what you read to Mr. Rouse?

15 A. On which occasion?

16 Q. The first time.

17 A. I need to see a copy of the Waiver of Rights.

18 Q. Let me show you what has been marked as Court's Exhibit
19 Number Two.

20 THE COURT: Officer if you will speak up, a little
21 louder and a little slower; she must take down every word
22 you say and sometimes you, kind of trail off before us.

23 Q. Do you recognize what has been marked as Court's
24 Exhibit Number 2?

25 A. Yes, sir. I do.

1 Q. What is that?

2 A. A Waive of Rights Form, Division of the Police,
3 Florence, South Carolina.

4 Q. Is that what you read to Mr. Rouse?

5 A. Yes, sir. It was.

6 Q. And can you read that for The Court, please.

7 A. It read. I, Mr. Rouse, except we called him by name --
8 -- did put his name in there, case provided, volunteer
9 without threat, duress, force, promises, or immunity or
10 reward, I agree to be questioned by the Florence Police
11 Department. I fully realize that I have the right to
12 remain silent the entire time I am here. Anything I
13 say can say can be used against me in a court of law.
14 I have the right to have an attorney present, and if I
15 cannot afford an attorney and desire to be represented
16 one will appointed for me prior to any questioning
17 without cost. Even after signing this form, I realize
18 that I have the opportunity to exercise these rights at
19 any time I wish to while I am here.

20 I also realize, I have the right first to consult
21 with an attorney or anyone else I wish to before
22 signing this form or answering any questions.
23 Nevertheless, I volunteer, request and authorize the
24 Florence South Carolina Police Department to proceed
25 with the questioning.

LARRY DRAYTON - DIRECT EXAMINATION BY MR. CLEMENTS

12

1 In addition, I represent that I feel all right
2 both mentally and physically, and there was no mental
3 or physical ailment which might be impaired by any
4 questioning.

5 Important Notice, if you do not understand, any
6 part of this form, do not sign until you do.

7 This was read to him in its entirety. After I
8 read it to him, Mr. Rouse signed it, I signed it, and
9 Sergeant Godwin also signed it.

10 Q. Okay.

11 A. And the witnesses.

12 Q. And you said earlier you read it to him twice, is that
13 correct?

14 A. The Waive of Rights Form was read to him when we first
15 met and began our initial interview with him.

16 Q. Okay.

17 A. When he agreed to provide a taped statement then I read
18 verbatim from a Miranda Card that we carry.

19 Q. Okay. And when did he sign that form, after you read
20 the Miranda?

21 A. Immediately after I read it to him.

22 Q. Immediately after you read it to him?

23 A. Correct.

24 Q. Before you took the taped statement?

25 A. Absolutely.

1 Q. Before you took the verbal statement?

2 A. Yes, sir.

3 Q. Okay. Now, how did he appear when you talked to him,
4 did he understand what you were reading to him?

5 A. Yes, sir, he did.

6 Q. Did he appear to be under the influence of anything?

7 A. No, sir, he did not --- did not appear to be.

8 Q. And you said that Sergeant Godwin was with you as well?

9 A. Sergeant Godwin was present the entire time.

10 Q. Did you all threaten him in any way, or alarm him in
11 any --- to scare him into signing that Statement?

12 A. No, sir. We did not.

13 Q. Okay. Now, on the statement, it's got a place here
14 where it is highlighted for someone to sign and print
15 their name?

16 A. Correct.

17 Q. Who printed that name in there?

18 A. Mr. Rouse did.

19 Q. In your presence?

20 A. Yes, sir.

21 Q. And there is a place for a signature here as well. Who
22 signed there?

23 A. Mr. Rouse.

24 Q. And whose signature is that underneath Mr. Rouse's
25 signature?

LARRY DRAYTON - DIRECT EXAMINATION BY MR. CLEMENTS

14

1 A. The first signature is my signature. The second
2 signature is Sergeant Godwin --- Melvin Godwin's
3 signature.

4 Q. Okay.

5 THE COURT: Solicitor, is that Court's Exhibit 2?

6 MR. CLEMENTS: Yes, it is, Your Honor, Court Exhibit
7 2.

8 THE COURT: Thanks.

9 Q. And on Court's Exhibit 2 is the date, who dated that?

10 A. The date is my handwriting.

11 Q. All right. And is the date on Court's Exhibit 2, 3-
12 22-07?

13 A. Correct.

14 Q. Okay. So let me be sure I am following you correctly.
15 You read that form to him. He understood it. He
16 signed it. You and Melvin Godwin signed it, witnessed
17 it, and then you all talked?

18 A. Correct, sir.

19 Q. Approximately how long did you all talk, do you
20 remember?

21 A. If I can recall, no more than probably about thirty
22 minutes or so.

23 Q. Okay. And then after you talked, you said you read off
24 of the Miranda Card to him?

25 A. That is correct, prior to taking the taped statement

1 from him.

2 Q. And then after reading the Miranda Card, you took a
3 taped statement?

4 A. That is correct, sir.

5 Q. I am going to show you what has been marked as Court's
6 Exhibit Number 3. Do you recognize that?

7 A. I do.

8 Q. What is that?

9 A. The tape transcript of the statement that was taken on
10 March 22.

11 Q. So this was transcription of the taped statement?

12 A. That's correct.

13 MR. CLEMENTS: Your Honor, I would like to mark this,
14 as State's Exhibit --- Court's Exhibit Number 4. And if I
15 could mark it on the cover, Your Honor, because we need to
16 play this?

17 THE COURT: Yes, please do that.

18 WHEREUPON, COURT'S EXHIBIT
19 NUMBER 4 WAS MARKED AND MADE
20 A PART OF THE RECORD.

21 Q. I am going to show you what has been marked as Court's
22 Exhibit Number 4. Do you know what that is?

23 A. Yes, sir.

24 Q. What is this?

25 A. This --- What I am looking at, is the disc that was ---

LARRY DRAYTON - DIRECT EXAMINATION BY MR. CLEMENTS 16

1 what the procedure was then, I was using a video tape
2 recorder to record the statement. Once I returned back
3 to the Police Department it was then turned over to
4 Crime Scene, our Crime Scene Unit. Someone in the
5 crime scene would have then transferred the taped audio
6 portion to this disc.

7 Q. Okay. All right. And were you present during the
8 entire time, this recorded statement was made?

9 A. Yes, sir. I was.

10 Q. And who else was present with you?

11 A. Sergeant Godwin.

12 Q. Okay.

13 A. And Mr. Rouse.

14 Q. At any time during that statement did Mr. Rouse tell
15 you he wanted to stop or ask for an attorney?

16 A. No, sir. He did not.

17 Q. Okay.

18 MR. CLEMENTS: Your Honor, ask permission to play this
19 disc at this time.

20 THE COURT: Any problem, counsel?

21 MR. HERON: No objection, Your Honor.

22 THE COURT: All right. Proceed, counsel.

23 WHEREUPON, STATE'S EXHIBIT 4 AS PUBLISHED.

24 Q. Sergeant Drayton, when you say that is the entire
25 statement, that is not entirely true is it; that you

LARRY DRAYTON - CROSS EXAMINATION BY MR. HERON

17

1 talked to him before the tape recorder; is that right?

2 A. Yes, sir. Why didn't you tape the entire whole thing
3 when you went in there/ what did you talk about?

4 Q. Okay. After you turned off the recording machine, did
5 you talk to him any further?

6 A. Not in reference to the incident. It would have been
7 like general conversation, nothing else about the
8 incident.

9 Q. Okay. All right. Investigator Godwin was there
10 present the whole time. Was that his voice on the tape
11 to?

12 A. Yes, sir. The third voice is Sergeant Godwin.

13 MR. CLEMENTS: Okay. All right. Beg The Court's
14 indulgence for just a moment.

15 THE COURT: Yes, sir.

16 MR. CLEMENTS: Please answer any questions that Mr.
17 Heron may have.

18 SERGEANT DRAYTON: Yes, sir.

19 MR. HERON: Thank you, Your Honor.

20 CROSS EXAMINATION BY MR. HERON

21 Q. Sergeant Drayton, you said that is the entire
22 statement. That is not entirely true, is it because
23 you talked to him before the tape recording got turned
24 on, is that right?

25 A. That is the entire taped statement, yes, sir.

LARRY DRAYTON - CROSS EXAMINATION BY MR. HERON

18

1 Q. Entire taped statement. Why didn't you tape the whole
2 thing from when you went in there? What did you all
3 talk about before the tape recording?

4 A. Part of an investigation before the taped statement --
5 - is it protocol to go in after you have talked to the
6 individuals to give them the Miranda Rights and
7 Warnings just to speak with them in reference to all
8 the facts and everything involved in the case. The
9 reason why we do this is because when we're getting
10 ready to take the taped statement is because we try to
11 narrow the statement down too just the facts
12 themselves.

13 Now, if we have been able to talk to individuals
14 prior to --- individuals have a tendency to just ramble
15 on and just talk about everything and just different
16 things in nature. When we take the taped statement
17 we've already talked about the incidence and we're just
18 asking --- nothing personal, just you know exactly what
19 we're talking about, and what the conversation is we
20 are talking about.

21 Q. So would you describe your first conversation as a
22 coaching session as to what you want you --

23 A. -- No, sir. It's not a coaching session. That's not
24 what I want. Because an individual --- At the end of
25 the statement, if you will recall, I ask if there is

1 anything that he would like to tell us. I am not
2 telling him what to do. I am just doing what we need
3 to talk to him about.

4 Q. Now, that first statement is not recorded. Did you all
5 talk about the fact that Mr. Rouse was facing a murder
6 charge?

7 A. We talked about the charge he was charged with murder,
8 yes.

9 Q. Did you tell him how much time he could receive for a
10 murder charge?

11 A. No, sir. I can never tell anyone that. I didn't tell
12 him that, no sir.

13 Q. Did you make him any kind of promises, or did you
14 allude to the fact that it would be better for him if
15 he cooperated with law enforcement and gave you the
16 taped recorded statement? Did you make any statements
17 that would make him believe that?

18 A. Absolutely not, sir. Once again he requested to see
19 me.

20 Q. Now, when these statements were given, you and Mr.
21 Godwin were in there, did you have your guns on?

22 A. No, sir.

23 Q. No guns, okay. Was he in handcuffs, Mr. Rouse?

24 A. He would have been, yes sir.

25 Q. Okay. How long do you think that first conversation

LARRY DRAYTON - CROSS EXAMINATION BY MR. HERON

20

1 was before you turned on the tape recorder?

2 A. It would have been at least thirty minutes.

3 Q. So you talked.--- You talked to him for thirty minutes
4 before you turned the tape recorder on?

5 A. That's correct. Approximately. When we first go in
6 and speak with an individual it is always in more in
7 length than the tape recording is.

8 Q. And that was the only statement Mr. Rouse gave law
9 enforcement, is that correct?

10 A. It is the only statement he gave Sergeant Godwin and
11 myself.

12 Q. How long do you think he was in that room total? I
13 guess that statement was about twenty minutes?

14 A. If he was timely taken to the investigation room, we
15 spoke with him about thirty minutes, and went directly
16 into the tape statement, and shortly after the tape
17 statement he was taken back to his cell.

18 Q. How long was he there before you guys got there, did
19 you all get brought in at the same time, or was he
20 already sitting in there?

21 A. We were there before. Once we arrive at the Detention
22 Center, then we requested to see him, and then he was
23 brought up from his pod to us. We escorted him from
24 the Detention Center side of the Sheriff's Department
25 over to Investigation.

MELVIN GODWIN - DIRECT EXAMINATION BY MR. CLEMENTS 21

1 MR. HERON: I don't have any further questions.

2 THE COURT: Redirect, Mr. Solicitor?

3 MR. CLEMENTS: Nothing further regarding this matter,
4 Your Honor.

5 We would like to call Sergeant Godwin to the stand now,
6 if we may?

7 THE COURT: Yes, sir.

8 MELVIN GODWIN

9 BEING DULY SWORN TESTIFIES AS FOLLOWS

10 CLERK OF COURT: Please be seated. State your full
11 name for the record.

12 Mr. GODWIN: My name is Melvin Godwin.

13 DIRECT EXAMINATION BY MR. CLEMENTS

14 Q. Would you please tell this Court where you work, in
15 what capacity, and how long you've been so employed?

16 A. I work for the City of Florence as a police officer. I
17 have been employed with Florence for eighteen years,
18 sir.

19 Q. And how long have you been an investigator?

20 A. I've been assigned to investigations for about fourteen
21 years. I am a Sergeant in that particular Unit.

22 Q. And were you a Sergeant, in January of '07, excuse me,
23 March of '07, January of '07 as well?

24 A. Yes, sir. That is correct.

25 Q. Now, do you have occasion to work on an investigation

MELVIN GODWIN - DIRECT EXAMINATION BY MR. CLEMENTS 22

1 of murder of Brandon Timmons?

2 A. Yes, sir.

3 Q. And can you tell this Court what you did in regards to
4 taking any statements from any individuals?

5 A. Cases of this matter the lead investigator, which was
6 Sergeant Davis, needed assistant of myself and Sergeant
7 Drayton went down to conduct the interview with Mr.
8 Rouse after he was booked. And I believe Sergeant
9 Drayton, was requested by members of the family to go
10 down and talk with this individual.

11 Q. And when Sergeant Drayton went down did you go with
12 him?

13 A. That is correct.

14 Q. Did you ride together or in separate cars?

15 A. We rode together.

16 Q. Okay. Were you pretty familiar with --- This happened
17 January 2nd, and this is now March 22nd, are you pretty
18 familiar with the case and the investigation that has
19 been going on so far?

20 A. That is correct.

21 Q. Okay. Did you talk with Mr. Rouse?

22 A. Yes, sir. You have the tape. It picked me up asking
23 several questions.

24 Q. Do you see Mr. Rouse in this courtroom?

25 A. Yes, sir, in the red shirt, sitting at the table over

1 there.

2 MR. CLEMENTS: All right. May the record reflect, that
3 he has identified the Defendant?

4 THE COURT: It will do so.

5 MR. CLEMENTS: Thank you, Your Honor.

6 Q. Sergeant Godwin, do you Mirandize, Mr. Rouse yourself?

7 A. No. Sergeant Drayton was the lead --- read him the
8 Miranda Warning and the Waiver of Right Form.

9 Q. In your presence?

10 A. That is correct.

11 Q. Okay. Did he leave anything out?

12 A. No. No, sir, he didn't.

13 Q. You've been a law enforcement officer for a long time.
14 Did he fully advise him of his Miranda Rights?

15 A. Yes, he did, sir.

16 Q. I want to show you what has been marked as Court's
17 Exhibit Number 2. Do you recognize that?

18 A. Yes, sir. It is a Waiver of Rights Form that we use
19 when we're getting ready to question an individual, and
20 advise them of their rights.

21 Q. Do you see anything on that that look real personally
22 familiar?

23 A. Yes, sir. It's got my signature on there and Sergeant
24 Drayton's signature.

25 Q. All right. And did you sign that?

MELVIN GODWIN - DIRECT EXAMINATION BY MR. CLEMENTS

24

1 A. That is correct. That is my signature.

2 Q. Did Larry Drayton sign that in your presence?

3 A. Yes, sir.

4 Q. Who else's signature is on there?

5 A. The Defendant, Mr. Rouse.

6 Q. Did he sign that in your presence?

7 A. Yes, sir.

8 Q. And when these rights were read to him, did he appear
9 to understand what was going on?

10 A. Clearly, he understood.

11 Q. Okay. Did you threaten him in any way?

12 A. No, sir.

13 Q. Make any promises in any way?

14 A. No, sir.

15 Q. Coherence him in any way?

16 A. No, sir.

17 Q. Did you attempt to frighten him, or scare him into
18 talking to you?

19 A. No, sir.

20 Q. Okay. And to your knowledge, what we heard here in the
21 courtroom this afternoon, was that the entire context
22 of the recorded conversation?

23 A. Yes, sir.

24 MR. CLEMENTS: Beg The Court's indulge for a moment?

25 THE COURT: Yes, sir.

1 Q. Two more questions, Sergeant Godwin and then I would
2 ask that you please answer any questions Mr. Heron may
3 have.

4 The next to the last question I have is, at whose
5 urging did you go down to the Detention Center to speak
6 with Mr. Rouse?

7 A. Sergeant Drayton was contacted by, I believe,
8 individuals in his family, and he ask me to come along
9 with him to sit in on this interview.

10 Q. When you say his family, do you mean Mr. Rouse's
11 family?

12 A. Yes, sir.

13 Q. Okay. And is it --- Well I'm asking you more than two
14 questions. I apologize. Is it normal protocol that
15 when you take an individual's statement who is charged
16 with a crime of this nature that more than one person
17 sits in on it?

18 A. That is correct. This individual is charged with
19 murder.

20 Q. Okay. And was the --- You said, you had a lot of
21 knowledge about this case from the prior investigation?

22 A. Yes, sir.

23 Q. Was the previous knowledge you had, was it consistent
24 with everything that Mr. Rouse told you?

25 A. Yes, sir. The names of the individuals that were

MELVIN GODWIN - CROSS EXAMINATION BY MR. HERON

26

1 there, yes, sir.

2 Q. All right. How about all the details. Do you know
3 about all the details or not?

4 A. I believe that Detective Davis may can clear up some
5 other matters, but basically, yes, sir.

6 MR. CLEMENTS: All right. Please answer any questions
7 Mr. Heron may have.

8 CROSS EXAMINATION BY MR. HERON

9 Q. Sergeant Godwin, is it also normal protocol to talk to
10 an individual for thirty minutes before turning on the
11 tape recorder?

12 A. Yes, sir. These statements have to be transcribed.
13 They are advised of their rights. The Warrant was
14 already served on this individual. He was advised of
15 his rights. And to get to the facts of the matter
16 instead of prolonging, and the tape that had to be
17 transcribed --- Our transcriber has to do these tapes,
18 so we try to get to the facts of the matter.

19 Q. So, to get to the facts you would have to tell the
20 Defendant, what you wanted him to say?

21 A. No, sir. He just state what he wanted to say, sir. He
22 was asked questions. He gave answers.

23 Q. Well, what if he went in there and said I was at the
24 Burger Kind at 8:00. I went to Skateland at 9:00. Met
25 up with the boys --- Wouldn't you have to say, hey, we

1 don't need to hear that. We want to hear about when
2 you met up with Gusto --

3 A. No, sir. He's giving his alibi, and it's our job to go
4 out and investigate that, and prove whether that is
5 true or false, sir.

6 Q. But there are certain things that you would not want
7 him to say during his taped statement. That is the
8 purpose of that half hour conversation before the tape
9 comes on, isn't that right?

10 A. He's given the right to say what he wants to say. Like
11 I just said, it's up to us to go down and verify his
12 alibi.

13 MR. HERON: I don't have any other questions.

14 THE COURT: Redirect?

15 MR. CLEMENTS: No further questions regarding the
16 matter of Jackson v Denno, Your Honor.

17 We would submit The State has met the burden of proof
18 they need to for this hearing.

19 THE COURT: All right, Counsel, what do you say?

20 MR. HERON: Your Honor, the question of the
21 voluntariness of The statement gives me concerns that The
22 State talked to this individual for thirty minutes, and we
23 don't know --- Well, by the officer's on admission they
24 basically told him what they didn't want him to say.

25 Obviously, I would bring in the issue of whether or not

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1 the statement was voluntary, when by their own admission
2 they would have to, tell him they don't want to hear certain
3 things. They want him to say certain things. So, two armed
4 police officers whether this was voluntary or not, whether
5 it started out to be voluntary, could definitely come in
6 voluntary when they --- Two armed police officers are
7 sitting in the room with an individual, and they say look we
8 don't want to hear this we want you to say this, and then
9 turn on the tape recorder. I think that brings in the
10 question of the voluntariness of the statement. I think it
11 should be excluded, Your Honor.

12 THE COURT: Solicitor?

13 MR. CLEMENTS: Beg The Court's indulgence, Your Honor.

14 (PAUSE)

15 MR. CLEMENTS: Your Honor, I believe the testimony was
16 that they weren't armed. I don't think they let law
17 enforcement go back in an area where they were talking while
18 they were armed.

19 And as far as what Mr. Heron is suggesting is, they
20 don't want the Defendant to talk about certain things. I am
21 sure they wouldn't want the Defendant to talk about who he
22 thought was going too win the Super Bowl, or you know, what
23 he had to eat the night before at the jail, and those types
24 of things. They wanted to focus on relevant pertinent
25 information. And the question is whether he was coerced, or

1 whether he had the freedom to say what he wanted to say, and
2 I think the tape kind of speaks for itself, Your Honor.

3 THE COURT: Anything further, counsel?

4 MR. HERON: Nothing further, Your Honor.

5 THE COURT: Order. The matter is a Jackson versus
6 Denno Hearing, 378 U.S. 368.

7 The process of under Denno is bifurcated. The first
8 prong relates to the given of Miranda Warnings to a person
9 who gives a statement. The second prong deals with the
10 issue of voluntariness of the statement.

11 Recently the case of State versed Rodney Parker.
12 Opinion 3475, filed December 23, 2008, articulates the laws
13 as it relates to Denno Hearings, and the factors to be
14 analyzed in regard a hearing of this nature.

15 State versus Arrowwood reported at 275 S.C. 359 is a
16 case, that articulates with some degree of specificity, the
17 law as it applies in a case of this nature.

18 You saw that first and foremost it is apodictic that
19 the Defendant in this case was given the Miranda Warnings as
20 mandated by the Miranda Decision. There is no question that
21 the Defendant was given Miranda Warnings on two occasions,
22 and he indicated his ascent by signing his name to that
23 document.

24 The record in totality also clearly indicates that any
25 statement emanating from the Defendant was free and

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1 voluntary, and in compliance with the writings contained in
2 Denno, Parker, and Arrowwood. Concomitantly, the statement
3 is admissible. There is, of course, a bifurcated
4 evidentiary process. Under State verse Washington; under
5 State versus Washington documents such as admissions or
6 confessions are analyzed and if presented to The Court, The
7 Court decides the admissibility based on a preponderance of
8 the evidence. If ruled admissible the issue is then
9 submitted to the jury on the burden of proof beyond a
10 reasonable doubt. That procedure will be used in this
11 particular case.

12 And it is so ordered.

13 All rights are reversed, and all rights are protected
14 in regard to appellate review.

15 Thank you, Officer, you may step down. Any other
16 matters before we bring the jury out?

17 **MR. CLEMENTS:** Your Honor, we have what has been
18 marked as State's Exhibits 1 through 20. Your Honor, I
19 don't believe there are any objections. Those have been
20 premarked. I would ask to move those into evidence at this
21 time.

22 **THE COURT:** Suitable, counsel for Defense?

23 **MR. HERON:** That is the stipulation, Your Honor.

24 **THE COURT:** All right. That is done in regards to
25 admitting those documents into evidence without objection.

1 Ms. Court Reporter, please place that in the admitted stack
2 for The State.

3 WHEREUPON, STATE'S EXHIBIT

4 NUMBERS 1 - 20 WERE MARKED AND

5 ADMITTED INTO THE RECORD.

6 MR. CLEMENTS: Your Honor, also at this time, if it is
7 not premature, I would ask that The Court Exhibit's 2, 3 and
8 4, be submitted as State's Exhibits 21, 22, and 23.

9 THE COURT: They will be admitted. But, I would
10 suggest to you Mr. Solicitor, to offer them in front of the
11 jury, so the jury will understand the admissibility of the
12 documents.

13 MR. CLEMENTS: Yes, Your Honor.

14 MR. HERON: Your Honor, I didn't know if you wanted to
15 hear arguments on that, but it's my understanding that 21
16 would have been the Consent Form.

17 MR. CLEMENTS: Court's Exhibit 2 would be the Consent
18 Form. Three would be Transcript, and 4 would be the actual
19 disc.

20 MR. HERON: Your Honor, I would move --- I object to
21 the Transcript coming into evidence, because it's cumulative
22 under South Carolina Rules of Evidence 403. The jury is
23 going to get the benefit of the statement. It's going to be
24 played before them. If we allow juries too not only hear
25 statements, but get transcripts of the statements, then the

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1 jury is going to go back with a stack of papers about that
2 thick. Every witness that is going to testify in this case,
3 all their statements were transcribed as well. It's
4 cumulative evidence to allow the --- to give the jury the
5 transcript of the statement. They are going to hear it.
6 And if we did that all the way through, like I said, it
7 would be --- it's cumulative and it's unnecessary. So, I
8 would object to the transcript itself coming in. I have no
9 objection, and I understand The Court's ruling about the
10 statement, but I object to the Transcript coming in, because
11 the jury is going to go back there and nitpick, every-little
12 line, and that's not fair to the Defendant. And like I
13 said, if we did that everybody they would have a stack of
14 transcripts that thick.

15 THE COURT: What say you, Mr. Solicitor?

16 MR. CLEMENTS: Your Honor, he makes a pretty good
17 point for me to think about. When it is time for me to
18 submit those items, I am going to think twice about
19 submitting the transcripts.

20 THE COURT: That would be under advisement by the
21 Solicitor.

22 MR. CLEMENTS: Thank you, Your Honor.

23 THE COURT: You're welcome. Anything further before
24 we bring the jury out?

25 MR. CLEMENTS: Not from The State, Your Honor.

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1 MR. HERON: Nothing from the Defense, Your Honor.

2 THE COURT: It may be wise that we take a short recess
3 here now, because when we come back, we are going to roll.
4 So let's take a short recess.

5 MR. CLEMENTS: Thank you, Your Honor.

6 (Whereupon, a short recess was taken from 2:30
7 p.m. until 2:43 p.m.)

8 BAILIFF: All rise, order in The Court.

9 THE COURT: Thank you, please be seated. Are we ready
10 to proceed from The State?

11 MR. CLEMENTS: We are, Your Honor.

12 THE COURT: Ready to proceed, for Defense?

13 MR. HERON: We are, Your Honor.

14 THE COURT: All right. Now, while I am talking, I
15 don't want anybody moving. Now, if you need to move, do it
16 now. But when I talked to the jury, I would like to their
17 attention, and so I don't want any moving around while I am
18 talking to the jury. It will not be a lengthy statement,
19 this is a preliminary statement. And do not move around
20 while I am talking. Does everybody understand that? Bring
21 them out.

22 (Whereupon, the jury enters the courtroom at 2:45
23 p.m.)

24 THE COURT: All right. Do I have my alternates in the
25 right place, Mr. Richardson and Mr. McCray?

PRELIMINARY STATEMENTS BY THE COURT

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1 Mr. RICHARDSON: Yes, sir.

2 Mr. MCCRAY: Yes, sir.

3 PRELIMINARY STATEMENTS BY THE COURT

4 THE COURT: Good. Thanks. Jurors, give me your
5 attention. First and foremost I know you wondered why we
6 send you to the room at 1:30 p.m. and we do not call you
7 back out until a quarter to three. It is because this case
8 is decided and tried under Constitutional principles. These
9 principles are articulated by the United States Supreme
10 Court, and by our own State Supreme Court, and by the South
11 Carolina Court of Appeals. We try the cases under The Court
12 rules. I have been taking up matters of law in your
13 absence, and we have achieved substantial success in regards
14 to certain issues, and those issues have been decided; so
15 thank you for your patience, thank you for your
16 understanding.

17 You will notice to my right we have a different
18 physiognomy present here in regard to this wonderful lady
19 who has taken the place The Court reporter this morning, and
20 she is Pamela Ozment-Cartee and I welcome her to The Court.
21 I really think she is one of the top line court reporters in
22 The State, in fact, I know that. And that is shared by some
23 of colleagues who recommended her to me in days gone by.

24 Madam Forelady, members of the jury, this document is
25 an indictment. It is paper that charges, or accuses this

1 Defendant of the offense of murder. The indictment is not
2 evidence. It does not prove anything. It is simply the
3 paper charging vehicle used under our constitution and laws.
4 To this indictment the Defendant has plead not guilty. That
5 plea of not guilty on behalf of the Defendant, places the
6 burden of proof upon The State.

7 What is the burden of proof placed upon The State? The
8 State must prove the Defendant guilty beyond a reasonable
9 doubt. I will define for you in detail, in my charge on the
10 law, and I digressed just a moment, this is not a charge.
11 This is just the preliminary statement about the trial of
12 the case, but I will give you a detailed statement, in
13 regard to burden of proof when I give you my charge on the
14 law. The State must prove the Defendant guilty beyond a
15 reasonable doubt.

16 The Defendant also has the constitutional protection of
17 the doctrine of presumption of innocence. This Defendant,
18 like all Defendants, is presumed to be innocent under the
19 law and under the Constitution. He is presumed to be
20 innocent, and The State must prove his guilt beyond a
21 reasonable doubt, that is removing the presumption of
22 innocence given to the Defendant.

23 We shall proceed in this fashion. As soon as I
24 finished talking to you the lawyers will make an opening
25 statement. The lawyers are officers of The Court. They

PRELIMINARY STATEMENTS BY THE COURT

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1 have the right to present opening statements, and they have
2 the right to present matters to me in your presence. From
3 time to time the lawyers will bring matters to my attention
4 by way of objection. Please, please understand jurors, this
5 is not only their right, it is their legal duty under our
6 procedure. So, please be patient with the lawyers as they
7 try the case under the system, and please understand on some
8 occasions, hopefully not many but on some occasions I am
9 required to you send you to your jury room while I take up
10 these matters with more specificity insofar as the detail of
11 the issue. So please be patient with us as we try the
12 cases, and try this case under The Court rules.

13 As we proceed now, The State will call forward a
14 witness. That witness will be given an oath and that
15 witness will be required under the oath, to tell you the
16 truth and nothing but the truth, so help, him God.

17 You are under a unique position today. Our law goes
18 back and has a nexus all the way to the Roman Law. And
19 under the Roman Law the greatest thing that could be given
20 to a person was an oath, because if you violated the oath
21 the penalty under Roman Law was the death penalty. You are
22 an oath person, because the word juror comes from the word
23 *jurat* in Latin. It means an oath person. You have taken a
24 solemn oath now to try this case under the facts and
25 evidence presented in the courtroom and my charge on the

PRELIMINARY STATEMENTS BY THE COURT

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1 law. And jurors, I do not have an opinion on the facts. I
2 do not have an opinion on the evidence. I am not entitled
3 to an opinion on the evidence. I just simply let it in
4 under the procedure. On the other hand, you are required
5 under your oath to take law as I give it to you. You are
6 required to take the law as I charge it to you before I give
7 you the case for final decision.

8 There are some rules that govern your conduct. One, I
9 will explain to you. You cannot discuss this case with
10 anyone as you leave the courtroom. You can't discuss this
11 case at all outside this Court. And also there is a
12 limitation in regard to your discussion in the jury room
13 now. You cannot discuss the case, or talk about the facts
14 as we try the case. The State law says the jury must not
15 discuss the case until the case is given to the jury for
16 decision, and the Judge has charged the law of the case. So
17 as you go into the jury room from time to time, or in the
18 morning, do not talk about the facts of the case. Do not
19 mention the witness. Do not mention any evidence. Talk
20 about weather, sport, politics or whatever, gossip, don't
21 talk about this case. That is absolutely a mandate. And
22 what happens if you did, I am required to set your verdict
23 aside, and I do not want any problem in that regard, and I
24 know you do not want to be a catalyst in regard to
25 difficulty in regard to the final verdict. So please help

OPENING STATEMENT BY MR. CLEMENTS

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1 me in that regard.

2 My final statement is this. I love Latin. I took four
3 years, not all of it took like my typhoid shot, but be that
4 as it may; verdict, it comes from two Latin root words. The
5 first word in Latin is verus, I love that word. It means
6 truth. It means, pure truth. Verus, pure truth. The other
7 word in Latin is dicto. It means to speak. The two words
8 are combined in Latin. The word verdict comes from the word
9 veridicto, to speak the truth. When the forelady on your
10 behalf, announces you have reached verdict, that verdict
11 must speak the truth in the case.

12 I welcome you to The Court. I look forward to trying
13 the case with you. Thank you for your attention.

14 Mr. Solicitor, you are recognized.

15 MR. CLEMENTS: Thank you, Your Honor, if it pleases
16 The Court.

17 THE COURT: Yes, sir.

18 OPENING STATEMENT BY MR. CLEMENTS

19 MR. CLEMENTS: Good afternoon, ladies and gentlemen of
20 the jury.

21 On January the second, barely January second, wee
22 morning hours, the year 2007, over on the corner of Lawson
23 Street and Marion Street at [REDACTED], a young man
24 by the name of Brandon Timmons lost his life. He had pulled
25 up there to the home of Carolyn Washington, Quandeline

OPENING STATEMENT BY MR. CLEMENTS

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1 Washington, and Carolyn Washington the rest of her family,
2 to meet his girlfriend, they were going off, and there were
3 other people there at the home. Douglas Washington, another
4 kin person; Cory Byrd and Travis Sentell James also known as
5 Gusto, were all there in the house. You are going to hear
6 testimony from a lot of people in that house. You are going
7 to hear that Doug and Cory and Gusto had come up, driven up
8 the house, pulled up on the side the house in a car they've
9 borrowed from Mr. Milton Gerald. Also riding with them was
10 Devodus Rouse, and Devodus Rouse didn't go in the house.
11 You are going to hear this from the people in the house that
12 he wasn't in there. Hear from a statement that he gave law
13 enforcement that he didn't go in the house. And you are
14 going to hear who all was in the house when they heard shots
15 ring out --- a shot ring out, and they rushed to the window
16 and looked out. And the people looking out the window saw
17 someone they didn't recognize, bent over Brandon, going
18 through his pockets, and rushing off. And they went
19 outside, and the ladies tried to help Brandon. Couldn't get
20 him in the car. Couldn't get any help from the young men
21 that were there. And, then Brandon Timmons died. He was
22 robbed. He was shot. And he died.

23 You are going to hear other testimony that Devodus
24 Rouse called his baby's mamma, Farhonda Pompey to come pick
25 him up. She picked him up. She is going to tell you they

OPENING STATEMENT BY MR. CLEMENTS

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1 went to the hospital and found out that Brandon Timmons was
2 dead. And then they picked up Gusto, and they picked up
3 Cory, and they rode by Doug's house, or the house where Doug
4 was. And you are going to hear from Farhonda what Devodus
5 told her about what happened. And the claim was, it was him
6 or me.

7 Now I know that all of you all are probably
8 knowledgeable people. You are here. You are educated. And
9 you bring your education and your good common sense to this
10 courtroom. That is what you are going to exercise. I
11 believe at the end of the case Judge Anderson is going to
12 charge you with the fact that you are the judges of the
13 facts. He is the Judge of the law. And you've got to take
14 the law the way he gives it to you. But you are the judge
15 of the facts. And the facts are going to come from this
16 witness stand, and the facts are going to come from exhibits
17 that Judge Anderson ruled as competent evidence. And so
18 those exhibits will come before you, pieces of physical
19 evidence. And you are going to have to judge all those
20 facts, and decide what kind of weight you give to those
21 facts. You are going to judge the credibility of the
22 witnesses, the believability, based on your good common
23 sense and your good judgment. And you are going to see what
24 makes sense, and you are going to have to put all the pieces
25 together and bring a verdict that speaks the truth like

1 Judge Anderson told you.

2 Now my job as the Solicitor is, I have to prove Mr.
3 Rouse guilty beyond a reasonable doubt. That is my burden
4 of proof, and I embraced that burden.

5 Now one of things about our Country, is that every
6 person in this country that is accused of a crime is clothed
7 with a robe of righteousness, the presumption of innocence.
8 Just like Mr. Rouse has on his red shirt here clothing him,
9 he is clothed right now with a presumption of innocence.
10 And my duty, my burden is to remove that presumption so
11 that at the end of all testimony, at the end of all the
12 evidence, and at the end of Judge Anderson's charge, that
13 you can go back and take all the evidence, and weigh it and
14 say, Ed, you've met your burden of proof, you removed that
15 presumption of innocence of Mr. Rouse, and we find him
16 guilty beyond a reasonable doubt of murder.

17 Now, here we are, and this very serious. This is a
18 very serious case for The State of South Carolina. This is
19 a very serious case for Brandon Timmons' family, who has
20 been suffering his lose for two years and about ten days.
21 This is a very very serious case for Mr. Devodus Anthony
22 Rouse. And, I ask you to give your full attention to all of
23 us, and give both The State and Mr. Rouse a fair trial.
24 This is real. This is real life. This is not T.V. This is
25 not Hollywood. This is not CSI. We are not going to come

OPENING STATEMENT BY MR. CLEMENTS

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1 in here and present a bunch of testimony that we sprayed
2 this magic stray on and figured out the case in an hour's
3 time, it is not going to be like that at all. As a matter
4 of fact this is one of those cases where there is not a
5 whole lot of forensic evidence. Not a whole lot of physical
6 evidence. It is going to be based on the eye witnesses,
7 what they saw and what they heard. And you are going to
8 listen to them, and you are going to weigh their credibility
9 and their believability. And you are going to listen to
10 what they say, and you are going to have to put it all
11 together.

12 And at the end of this case, Judge Anderson is going to
13 tell you something to the effect that you are the sole judge
14 of the credibility of these witnesses, of their
15 believability, and you can take all what they say, part of
16 what they say, or none of what they say, it is up to you.
17 But I ask you, to look at those witnesses, listen to those
18 witnesses, and look at their demeanor and see whether they
19 have a friend to reward, or an enemy to punish. If they
20 have something that would cause them to be bias or
21 prejudice, or whether their testifying to even something
22 that might be painful, because the relationship there and
23 whether they're telling the truth. Because that is what
24 this case is base on. And put things together. Come back
25 with a verdict that speaks the truth. And, I will submit to

OPENING ARGUMENTS BY MR. HERON

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1 you that a verdict that speaks the truth is going to be a
2 verdict that makes good sense. Thank you.

3 **THE COURT:** Mr. Heron, you are recognized.

4 OPENING STATEMENT BY MR. HERON

5 **MR. HERON:** May it, please The Court. This is
6 Devodus Rouse. He is guilty. He's guilty of smoking
7 dope. He's guilty of hanging out with the wrong crowd.
8 He is guilty of not helping somebody who he saw got shot.
9 He is guilty of not going to law enforcement and telling
10 his story. Ladies and gentlemen of the jury, he is not
11 guilty of murder.

12 The State has the burden of proof in this case. And
13 The State has told you a broad picture of the story, and I
14 like would like to fill in some more of the details that I
15 think you would definitely find interesting. Douglas
16 Washington, Travis James, Cory Byrd, and Devodus Rouse
17 went to [REDACTED]. Everybody that is going to
18 take that stand, everything that you going to hear,
19 Devodus Rouse knew nobody at [REDACTED]. Knew
20 nobody. Devodus Rouse, Douglas Washington, Cory Byrd, and
21 Travis James went into the home. Everybody is going to
22 testify to that. They are going to testify that Douglas
23 Washington and everybody was getting to leave. As they
24 were getting ready to leave, they see Brandon Timmons pull
25 up. They see Brandon Timmons pull up. They stop, come

OPENING ARGUMENTS BY MR. HERON

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1 back in the house.

2 Now, you are going to hear testimony from Ms.
3 Washington --- There are a couple of Ms. Washingtons,
4 Katica W. [REDACTED], Quandeline W. [REDACTED] and Carolyn
5 Washington. They are going to testify that Brandon
6 Timmons, when he saw Doug Washington, and saw Cory Byrd,
7 and Travis James, he looked scared. He looked scared.
8 Keep in mind, Devodus Rouse knew nobody at [REDACTED]
9 [REDACTED]. But everybody is going to testify that Brandon
10 Timmons went in that house and saw who was there, and he
11 looked scared. Katica Washington is going to testify that
12 she heard Doug Washington say that that they were going to
13 rob Brandon James a few days before this happened. Katica
14 Washington is going to testify to that. Keep in mind,
15 there are relationships everywhere. When Katica
16 Washington takes the stand she is going to tell you the
17 relationship with Doug Washington.

18 Carolyn Washington --- Now The State says that nobody
19 helped Brandon Timmons after he was shot. No. Let me
20 give you the details of what happened. After Brandon
21 Timmons was shot, laying on the ground bleeding to death,
22 they come outside. Doug Washington is at the door. Doug
23 Washington is coming in the door. You'll don't need to go
24 out there. You don't need to go out there. When they
25 finally do --- are able to get past Doug Washington, they

1 go out there, Ms. Washington grabs the phone to call 911.
2 Doug Washington snatches the phone out of her hand. Doug
3 Washington snatches the phone out of her hand. They go
4 outside, they are comforting Brandon, and they are
5 begging, they are pleading for Travis James, Cory Byrd, or
6 Doug Washington to help them out. Everybody is going to
7 testify that Travis James and Cory Byrd stood in the porch
8 while a young man was bleeding, bleeding to death. Doug
9 Washington is still out there. Ms. Washington, in a
10 panic, sees that Brandon's car is still running. Brandon
11 Timmons, the guy that came over there. The guy that Mr.
12 Rouse had never met. Brandon Timmons' car still running.
13 Ms. Washington says, I can use his car and go down to the
14 pay phone --- She doesn't have a phone anymore, Doug
15 Washington snatched it out of her hand. I am going to
16 take Brandon Timmons' car, go down to the pay phone and
17 can call 911. She gets in the car. Doug Washington gets
18 in the passenger seat of Brandon Timmons' car, snatches
19 the keys out of the ignition. Snatches the keys out the
20 ignition and throws them on the floor. As he does that a
21 cell phone drops. When the cell phone drops Ms.
22 Washington --- And, anybody would do this in a panic,
23 says, well I can use the cell phone to call 911. Doug
24 Washington had already took her portable phone out of the
25 house, locked them out the door, snatched the keys, and

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1 now this is a phone sitting there in car. She grabs the
2 phone. Doug Washington snatches that phone out of her
3 hand. Thankfully somebody came along finally, and called
4 911.

5 Now, you are going to hear all the witnesses that get
6 on this stand, they are going to say after Doug Washington
7 found out that 911 was on the way, the police were on the
8 way, that Doug Washington gets in the truck that he came
9 over there with --- He gets in that truck and, in such a
10 hurry almost runs over a young man that is bleeding to
11 death. You are going to hear everybody on that stand
12 testify to that. When he finds out 911 is coming, he's
13 going. Everybody is going to tell you that.

14 Devodus Rouse, turned himself into the police
15 department when he found out they were looking for him.
16 The investigator is going to tell that Devodus Rouse
17 voluntarily turned himself in. He voluntarily gave a
18 statement. You are going to hear his statement played.
19 He is going to testify that Doug Washington came out of
20 the house and waited for Brandon around the corner and
21 when Brandon comes out of the house Doug Washington goes
22 up to him tries to rob him. Brandon goes for what he
23 thinks is going to be money, pulls out a gun, Doug
24 Washington shoots Brandon, and Brandon is dead.

25 Ladies and gentlemen of the jury, it is a tragedy

1 what happened, and my heart goes out to his family. But
2 the real tragedy in this case, would be to convict that
3 young man sitting right there.

4 Now as far as evidence goes; during the course of
5 this trial I want you to keep one number in mind, zero.
6 Keep zero in your mind. Because you are going to see
7 about nineteen, twenty pieces of evidence; ninety, twenty
8 witnesses. There is going to be zero pieces of physical
9 evidence that length that young man right there to this
10 murder. Zero pieces.

11 Now, The State says they didn't spray any magic
12 spray. Ladies and gentlemen of the jury, we don't even
13 have a fingerprint. We don't even have a fingerprint.
14 Now I don't expect The State to be CSI. I understand a
15 lot of that stuff is Hollywood, and make-believe, but I
16 do, when somebody is accused of murder, I do expect The
17 State to dust for fingerprints. I do expect The State to
18 do DNA evidence. But do you know what every lab
19 technician, every investigator officer, when I ask them
20 the question do you have any physical evidence to link
21 Devodus Rouse to this crime, they are going to tell you
22 no. Zero pieces of physical evidence.

23 I want you, to listen the evidence, and I want you to
24 remember one thing. You ask yourself, do I think he did
25 it, you're asking the wrong question. It's not whether or

RENETHA STAGGERS - DIRECT EXAMINATION BY MR. CLEMENTS 48

1 not you think Mr. Rouse did it. The question is, is The
2 State able to prove that Mr. Rouse did it beyond a
3 reasonable doubt? The answer is, no. The answer is, no.
4 His is clothed with the presumption of innocence. I want
5 you to listen to the evidence. I want you to listen to
6 the eye witnesses and when you come back with your
7 verdict, I want it to be not guilty. Thank you.

8 THE COURT: Solicitor, call your first witness,
9 please.

10 MR. CLEMENTS: We call Ms. Renetha Staggers.

11 RENETHA STAGGERS

12 BEING DULY SWORN TESTIFIES AS FOLLOWS

13 CLERK OF COURT: Please be seated and state your
14 full name for the record.

15 MS. STAGGERS: My name is Renetha Staggers.

16 THE COURT: Ms. Staggers, you've got to speak up
17 now. The Court reporter must take down every single word
18 you say. And please help us in this regard. And, of
19 course, the jury needs to hear, please.

20 MS. STAGGERS: Okay.

21 DIRECT EXAMINATION BY SOLICITOR CLEMENTS

22 Q. Ms. Staggers, can you tell this jury where you worked
23 in January 2007?

24 A. I worked at Florence County 911 Center.

25 Q. Florence County 911 Center?

RENETHA STAGGERS - DIRECT EXAMINATION BY MR. CLEMENTS 49

1 A. Yes, sir.

2 Q. And where is that located at?

3 A. 6719 Friendfield Road, Effingham, by the Sheriff's
4 Department.

5 Q. Is that at the Law Enforcement Center?

6 A. Yes.

7 Q. All right. And how long did you work there?

8 A. At that time, about nine years.

9 Q. Okay. And what capacity did you work at the 911
10 Center?

11 A. Are you referring to the amount of people or --

12 Q. What did you do, what was specific job?

13 A. To answer 911 emergency calls, and also dispatch all
14 the emergency medical units that are needed.

15 MR. HERON: Your Honor, if we may, I don't know if
16 Mr. Clements can hear but something is going on with that
17 microphone. It keeps ---

18 THE COURT: I noticed it kind of spouting back to
19 us.

20 THE COURT: We don't have the best equipment here.

21 MR. CLEMENTS: That is true. We need a new Court
22 House and new equipment.

23 THE COURT: Amen, Lord. Okay, proceed. Let's do
24 the best we can.

25 Q. Ms. Staggars, if you would, don't depend on that

RENETHA STAGGERS - DIRECT EXAMINATION BY MR. CLEMENTS 50

1 microphone. Kind of project your voice, if you
2 would.

3 A. Okay.

4 Q. Thank you. So you worked taking 911 calls?

5 A. Yes, sir.

6 Q. Were you working on the early morning hours of
7 January 2, 2007?

8 A. Yes, sir.

9 Q. When you take 911 calls, do you take them just for
10 the Sheriff's Department?

11 A. No. No, sir.

12 Q. Who do you take them for?

13 A. We dispatch --- We take 911 calls, we have a couple
14 of --- we dispatched for EMS, Fire Department, Law
15 Enforcement.

16 Q. Law Enforcement would include all the Police
17 Departments in the county as well as the Sheriff's
18 Office?

19 A. Yes, sir.

20 Q. Okay. So you would take 911 calls from Florence Pee
21 Dee?

22 A. Yes.

23 Q. Did you receive a call and have to dispatch law
24 enforcement or ambulances to [REDACTED] that
25 evening?

1 A. Yes.

2 Q. Okay. And when you take a 911 call, are those calls
3 memorialized or saved for later purposes?

4 A. Yes, sir.

5 Q. Can you tell this jury how that works?

6 A. A 911 call comes into the center. We pick up on the
7 line. You enter the caller's into the CAD sometimes
8 it pops up itself depending on the address. If you,
9 need to change it you can make those changes to the
10 address, phone number. Then you save them to the
11 CAD-System, so you can retrieve when you need it.

12 Q. Okay. And so all the calls are recorded that way?

13 A. All the calls are recorded.

14 Q. Okay. And was there more than one call that came in
15 that evening?

16 A. If I'm not mistaken, it was two calls.

17 Q. Okay. Did you take both of them or just one of them?

18 A. I believe, I only took one call.

19 Q. Okay. All right. And when you got the call, who did
20 you dispatch there?

21 A. If I'm not mistaken, we dispatched law enforcement,
22 EMS, and I believe fire.

23 Q. Okay.

24 A. And was that call, did you save it into the cab
25 system?

RENETHA STAGGERS - DIRECT EXAMINATION BY MR. CLEMENTS 52

1 Q. Yes.

2 A. Okay.

3 Q. And for what purposed did you save that call into the
4 Cad-System?

5 A. So it may be retrieved if needed by Law Enforcement
6 or Court.

7 Q. Now, you do not work for the 911 System any longer,
8 do you?

9 A. No, sir.

10 Q. You are going to school?

11 A. Yes, sir.

12 Q. What are you going to school for?

13 A. To be an R.N.

14 Q. To be an R.N. Okay.

15 MR. CLEMENTS: Beg The Court's indulgence for one
16 moment?

17 THE COURT: All right.

18 MR. CLEMENTS: Please answer any questions Mr. Heron
19 may have.

20 CROSS EXAMINATION BY MR. HERON

21 Q. Ms. Staggars, when you got the 911-call in this
22 incident, were there several 911 calls?

23 A. If I am not mistaken, it was two 911 calls. I got
24 the original, the first one.

25 Q. Do you remember if any male voices were heard on

1 those 911 calls?

2 A. I don't remember.

3 Q. Do you remember that second 911 call, if the person
4 who called 911 was calling 911 because there were
5 some disorderly males in her yard, do you remember
6 that one?

7 A. I don't remember the second 911-call, because I
8 didn't have --- I don't believe I picked up that
9 call, and we didn't play it back.

10 MR. HERON: Okay. Thank you.

11 THE COURT: Redirect?

12 MR. CLEMENTS: That's all from this witness, Your
13 Honor, and we would ask that she be relieved from her
14 subpoena?

15 THE COURT: Defense?

16 MR. HERON: No objection.

17 THE COURT: Have a nice day.

18 MS. STAGGERS: Thank you.

19 MR. CLEMENTS: Your Honor, at this time we would
20 call Officer Mark Happ to the stand.

21 **MARK HAPP**

22 **BEING DULY SWORN TESTIFIES AS FOLLOWS**

23 CLERK OF COURT: Please be seated and state your
24 full name for the record.

25 MR. HAPP: My name is Mark Richard Happ.

DIRECT EXAMINATION BY MR. CLEMENTS

Q. Officer Happ, you work for the Florence City Police?

A. Yes, sir.

Q. How long have you worked for the city police?

A. Almost five years now.

Q. And what is your job as a city police?

A. Right now I am a field training officer.

Q. Back in 2007 in January, specifically January 2nd, did you worked for the city police in what capacity then?

A. I was a patrol officer assigned to the north region.

Q. Okay. And you've had five years with the Florence City Police. Do you have any additional years in law enforcement?

A. Yes, sir. I worked about two years at the Darlington County Detention Center prior to coming here.

Q. Okay. So you got about seven years in law enforcement all together?

A. That is correct.

Q. Okay. Were you call out, or dispatched out to [REDACTED] on January 2?

A. Yes, I was.

Q. Can you please tell this jury how you came to be dispatched out there and what you did?

A. I believe the initial call came out as a man down.

1 call. That is the information that we had. It was
2 limited. I was fairly close to area, and we arrived
3 in about three minutes.

4 Q. Okay. Man down. What do you know about a man down
5 call, when you get that?

6 A. Could have been several things, I mean, we didn't
7 know if it was like an intoxicated person, could have
8 been a medical call, I mean, we didn't have any
9 additional information at that time.

10 Q. Okay. Did you get any additional information before
11 you arrived on the scene?

12 A. I believe there was a second transmission from
13 dispatch, something about a resident at that location
14 was complaining about some disorderly males in the
15 yard.

16 Q. Okay. In the same location?

17 A. Yes, sir.

18 MR. CLEMENTS: Your Honor, previously we had entered
19 into evidence, I believe, without an objection. State's
20 Exhibit 1 through 20.

21 THE COURT: One through twenty in evidence without
22 objection, correct, counsel?

23 MR. HERON: Yes, Your Honor, correct.

24 THE COURT: Thanks.

25 MR. CLEMENTS: Your Honor, I ask permission to ask

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1 this witness to step down in front of the jury.

2 THE COURT: You may do so. One caveat officer, now
3 speak up. I want her to be able to hear you completely in
4 terms of taking down every word, okay?

5 Mr. HAPP: Yes, Your Honor.

6 THE COURT: Thanks.

7 MR. HERON: Your Honor, may I reposition?

8 THE COURT: Yes, certainly.

9 Q. Officer Happ, when you went on the scene, do you
10 remember what you found there?

11 A. Yes, sir.

12 Q. Okay. I am going to show what has been marked as
13 State's Exhibit Number 1, which is a diagram. Does
14 that look similar to what you saw, when you arrived
15 on the scene?

16 A. Yes sir, it does.

17 Q. Okay. Now can you explain to us, where Marion Street
18 and Lawson Street intersected, where the house is
19 located?

20 A. Yeah. It was on the corner of Marion Street which
21 runs in front of the house, and Lawson Street which
22 runs north/south on the east side of the house.

23 Q. Okay. And were there any cars in the yard?

24 A. There was one car in the front yard.

25 Q. Where was it located?

1 A. Approximately where --- right --

2 Q. Okay, is there a porch on the front of the house?

3 A. Yes, sir.

4 Q. All right. How many individuals were outside, if you
5 recall, when you got out there?

6 A. I don't recall the exact number. It appeared four or
7 five.

8 Q. Did you notice a man down?

9 A. Yes, I did.

10 Q. And where approximately was that man down at?

11 A. He was --- If you are facing the house, to the right
12 of the vehicle and the porch in the front yard.

13 Q. So in this area here?

14 A. Yes, sir.

15 Q. Okay. Were there individuals there trying to lend
16 aid to this man?

17 A. Not that I could see as far as rendering any aid.
18 There were several people from the house standing
19 around the victim as he was lying there on his back
20 when we arrived.

21 Q. All right. When you say we arrived, who arrived on
22 the scene with you?

23 A. I was the first officer on the scene. I parked my
24 car somewhere down there on Marion Street. Officer
25 Cantrell arrived right behind me. All right, thank

1 you. You can have a seat back up.

2 You and Officer Cantrell arrived on the scene,
3 what would be your first duty when you arrived on a
4 scene like this?

5 A. We went immediately to the victim who was lying on
6 the ground to check on his status to see what was
7 wrong with him.

8 Q. What did you find?

9 A. He was lying on his back with his eyes open. He did
10 not appear to be breathing and one of the --- I can't
11 say which residents of the house, one the females, I
12 believe, pulled up his --- he had a white T-shirt on,
13 pulled up his T-shirt and showed me a bullet wound,
14 in his right side and there was just a small patch of
15 blood on his T-shirt where the bullet wound was. I
16 immediately got on the radio and had dispatch make
17 sure that they were sending EMS, and I asked for a
18 Code 3, which is, lights and siren fast response for
19 a non responsive victim.

20 Q. Okay. And the individuals --- You say you noticed
21 females in the yard?

22 A. Yes, sir.

23 Q. Did you know approximately how many at this time?

24 A. I would be guessing, but I think I would say around
25 two.

1 Q. Okay. All right. And you said you received a
2 dispatch about disorderly males. Did you see any
3 other males in the yard, or on the porch, or anywhere
4 else?

5 A. I believe that they were on the porch when we
6 arrived.

7 Q. All right. And do you recall how many?

8 A. Two.

9 Q. Two. All right. I am going to show you what has
10 been marked as State's Exhibit 2, 3, 4, 5, 6, 7, 8,
11 9, 10, and if you would please refer to them
12 individually by number. Tell me if you recognize the
13 scene depicted, and what it depicts?

14 A. This is the number on back here, sir?

15 THE COURT: Officer, speak up. Speak up.

16 A. The number on the back is State's Exhibit 2.

17 Q. Right.

18 A. This would be a photograph of the victim's car at [REDACTED]
19 [REDACTED], parked in the front yard.

20 Q. Okay. And is that what you found when you arrived on
21 the scene?

22 A. Yes, sir.

23 Q. Okay. Is there anything different about that picture
24 then what you found?

25 A. Not that I can determine.

MARK R. HAPP -- DIRECT EXAMINATION BY MR. CLEMENTS

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1 Q. What about these yellow stripes going across there?

2 A. We strung that crime scene tape that night or that
3 morning.

4 Q. Okay. All right. It wasn't there when you got
5 there. You all put that up?

6 A. Yes, we put crime scene tape up to secure the area.

7 Q. Okay. All right, State's Exhibit 3.

8 A. This, looks to be just a different angle, over
9 towards the intersection of Lawson and Marion of the
10 front of the house with the victim's car in the front
11 yard.

12 Q. Okay. And is that the way you found it when you
13 arrived on the scene?

14 A. Except for the crime scene tape.

15 Q. Okay. Were there any other vehicles in the yard that
16 you saw?

17 A. I don't recall another vehicle there.

18 Q. All right. State's Exhibit 4, please.

19 A. This would be another side view/angle view from the
20 front of the house showing the very front of the
21 victim's car. A little bit of our crime scene tape,
22 and this would have been facing towards the --- I
23 want to say south east.

24 Q. Is there a driveway on the side of the house?

25 A. Yes, but it's not depicted --- Yes, sir, it's not

1 depicted in this photo.

2 Q. Would it have been on the --- As you stand in front
3 of the house and look at the house, would the
4 driveway have been on the right-hand side of the
5 house or the left-hand side of the house?

6 A. The right-hand side of the house.

7 Q. Okay. And would Lawson Street have been on the left-
8 hand side of the house or right-hand side of the
9 house?

10 A. Left-hand side of the house.

11 Q. All right. Please tell us about State's Exhibit, I
12 believe we're up to number 5.

13 A. Number five. This would be another view of the front
14 yard at [REDACTED]. It appears to have been
15 taken from may be the neighbor's house next door to
16 the right just to the west with the crime scene tape
17 in view.

18 Q. Okay. All right, how about State's Exhibit 7.

19 A. Six.

20 Q. Yeah, six, excuse me.

21 A. This is a photograph of the rear of the house from
22 the angle --- Lawson Street would be at the
23 photographer's back facing back towards Marion Street
24 so it would be the southeast corner of the house.

25 Q. Okay.

MARK R. HAPP - DIRECT EXAMINATION BY MR. CLEMENTS 62

1 A. This would be a photograph standing from directly in
2 the rear of the house facing toward Lawson Street
3 towards Marion Street.

4 Q. That is State's Exhibit Number?

5 A. Number 7. And this would be number 8. This would be
6 the southwest corner from the rear of the house
7 facing forward.

8 Q. And is that the side the driveway is on?

9 A. Yes, sir. I think you can barely see it in this
10 picture.

11 Q. Okay.

12 A. Number 9 is a photograph of a --- partially of the
13 front door, the stairs going up to the front porch
14 close up.

15 Q. All right.

16 A. And Number 10, would be another photograph of the
17 front porch and partially of the front yard of the
18 house.

19 Q. How many windows are there in the front?

20 A. One, two, three windows and some glass in the door.

21 Q. All right. Did you go on the inside of the house?

22 A. I did.

23 Q. Okay. What are the rooms there at the front of the
24 house, if you recall?

25 A. I can't recall. I believe the first room was like a

1 living room area and there was a hallway going back
2 to the kitchen. I can't recall --- I believe rooms
3 off to the left might have been bedrooms.

4 Q. So those windows would have been in the bedroom and
5 the living room?

6 A. I believe the one to the right would have been in the
7 living, the ones to the left bedroom as you face the
8 house.

9 Q. All right. Now, when you arrived on the scene, and
10 you went to check on the individual who was down, you
11 called dispatched to get EMS there immediately, what
12 were your next priorities?

13 A. We had somebody coming for the victim; the next thing
14 was to secure the scene. I notified my supervisor
15 that we had, you known, a shooting and tell him to
16 bring some crime scene tape. I didn't have any crime
17 scene tape in my vehicle. And I had the people who
18 were around the victim move up to the porch area to
19 secure the scene.

20 Q. All right. Did you see anyone leave?

21 A. No, I don't recall anybody --- we didn't let anybody
22 leave.

23 Q. You didn't let anybody leave?

24 A. No.

25 Q. Okay. All right. Then after securing the crime

1 scene; what were your duties after that?

2 A. After we secured the crime scene, once we had enough
3 officers there to, you know, maintain the crime
4 scene, we began a basic investigation of the facts.

5 Q. Okay. Did you participate in the basic investigation
6 or just --

7 A. Yes, I did.

8 Q. Okay. In what capacity did you perform in that?

9 A. I interviewed two witnesses at the scene.

10 Q. Do you recall who it was you interviewed?

11 A. I did -- I do. I interviewed Travis Sentell James,
12 and Quandeline W. [REDACTED].

13 Q. Okay. And where did you interview them?

14 A. I interviewed Mr. James outside the house I believe
15 on the porch, and I interviewed Ms. Washington inside
16 the house.

17 Q. Okay. Do you recall anything about their demeanor?

18 A. Mr. James seemed to be cooperative and gave me a
19 brief statement. And obviously the people at the
20 scene were upset about what had happened. It was
21 little bit chaotic at first.

22 Q. All right. How about Quandeline W. [REDACTED], was she
23 cooperative?

24 A. Yes, sir.

25 Q. What was her demeanor?

1 A. She seemed to be upset about what happened, but she
2 was able to give a statement, an articulate
3 statement.

4 Q. Okay. All right. After taking those statements from
5 those two individuals, did you participate in any
6 other way?

7 A. Helped look around the area, I mean, walking the
8 area around searching for evidence.

9 Q. Okay. And what were the other officers there on the
10 scene, what were they doing?

11 A. I guess there were a few of us there at the time so,
12 I really can't say what everybody was doing. I mean,
13 but basically we were maintaining the scene. Keeping
14 the people from coming off the porch and, you know,
15 tromping through the scene, maintain the evidence,
16 just keeping the perimeter, when people showing up
17 from the neighborhood and that kind of stuff. We
18 strung crime scene tape around the area. When
19 Corporal Walters arrived, he kept everybody out of
20 the scene.

21 Q. Were you able to maintain that perimeter?

22 A. Yes, we were.

23 Q. Okay.

24 A. Officer Cantrell maintained the crime scene entrance
25 log for everybody who entered.

MARK R. HAPP - DIRECT EXAMINATION BY MR. CLEMENTS

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1 Q. Okay. Did people from the Crime Scene Unit respond
2 from the Florence Pee Dee?

3 A. Yes. Once my supervisor, Corporal Walters arrived,
4 and he contacted Pee Dee Investigator and Crime Scene
5 was summoned.

6 Q. Do you recall who the duty investigator was?

7 A. Was it Corporal Davis --- Sergeant Davis.

8 Q. Okay. And do you recall who responded from Crime
9 Scene?

10 A. Sergeant Brandt and Officer Myers.

11 Q. Okay.

12 MR. CLEMENTS: Beg The Court's indulgence.

13 THE COURT: Yes, sir.

14

15 (PAUSE)

16 Q. Did you do anything else, participate in anything
17 else like canvassing the neighborhood for any other
18 witnesses that weren't there at the house, or walk up
19 and down the street, or talk to any other individuals
20 yourself?

21 A. No. I spoke with the people that were present at the
22 scene what happened.

23 Q. Did the people at the scene, did they give you their
24 correct names?

25 A. No, not everyone.

1 Q. All right. Did anybody give you an incorrect name?

2 A. Travis James originally told me, when I asked him
3 what this name was, he said --- I believe he said his
4 name was Travis Johnson.

5 Q. Okay. When did you find out later that he was Travis
6 James?

7 A. When Sergeant Davis advised me that he was familiar
8 with the subject, and let me know that he had given
9 me a fake name.

10 Q. All right. Did you ever ascertain from Mr. James why
11 he gave you the name Johnson?

12 A. No.

13 MR. CLEMENTS: Please answer any questions Mr. Heron
14 may have.

15 CROSS EXAMINATION BY MR. HERON

16 Q. Officer Happ, did any of the individuals at the
17 scene, the witnesses that you spoke to, tell you that
18 Doug Washington had just left moments before you got
19 there?

20 A. No, sir. I don't recall that.

21 MR. HERON: I don't have any further questions.

22 THE COURT: Redirect ---

23 MR. HERON: I'm sorry, Your Honor, if I may.

24 Q. As a result of your investigation you were searching
25 for an individual with shoulder length dread-lock

MILTON GERALD - DIRECT EXAMINATION BY MR. CLEMENTS

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1 hair, isn't that right?

2 A. No, actually we had two different descriptions.

3 Q. Okay. What was the other description you had?

4 A. Well, Mr. James told us, that there was a black male
5 subject outside when he came to the window that fled
6 north on Lawson Street that had, like a leather
7 jacket, blue jeans. I think it was a red and white
8 leather jacket and blue jeans. He stated that he had
9 like shoulder length dread-lock hair, but I don't
10 believe Ms. Washington said anything about dread-lock
11 hair. She said she saw a black male wearing a black
12 hoodie that ran south on Lawson Street, so we had
13 conflicting reports of the suspect.

14 Q. And I am assuming you never apprehended the person
15 that was running away?

16 A. No, we never located anybody in the area.

17 MR. HERON: I don't have any other questions, Your
18 Honor.

19 MR. CLEMENTS: Nothing further from this witness,
20 Your Honor.

21 THE COURT: You may step down.

22 MR. CLEMENTS: Your Honor, we call Mr. Milton Gerald
23 to the stand right now.

24 MILTON GERALD

25 BEING DULY SWORN TESTIFIES AS FOLLOWS

1 CLERK OF COURT: Please be seated and state your
2 full name for the record.

3 MR. GERALD: My name is Milton Quinn Gerald.

4 DIRECT EXAMINATION BY SOLICITOR CLEMENTS

5 Q. Mr. Gerald, how you doing today?

6 A. Fine, thank you.

7 Q. Mr. Gerald, what type of vehicle did you own, back on
8 January 1 or January 2 of 2007?

9 A. A '97 Honda Passport, grey in color.

10 Q. A '97 Honda Passport, grey in color?

11 A. Yes, sir.

12 Q. All right. Can you tell us what a passport looks
13 like? Does it look similar to any other vehicle?
14 What type of vehicle is it?

15 A. It's a four-door SUV. It's similar to a Rodeo.

16 Q. Similar to a Rodeo?

17 A. Yes, sir.

18 Q. Okay. You ever let people borrow your car, or rent
19 your car from you?

20 A. Yes, sir.

21 Q. Okay. On January 1, January 2, 2007 did you let any
22 individuals use your vehicle?

23 A. Yes, I did, sir.

24 Q. And about what time of day did they get that vehicle
25 from you?

MILTON GERALD - DIRECT EXAMINATION BY MR. CLEMENTS

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1 A. Around between eleven and midnight.

2 Q. Eleven and midnight?

3 A. Yes, sir.

4 Q. Okay. And do you recall when you got that vehicle
5 back from them?

6 A. It was approximately between 4:30, 5:30 in the
7 morning.

8 Q. Okay. All right. Can you tell this jury who you let
9 use that vehicle?

10 A. Doug, Cory and Gusto.

11 Q. Doug, Cory and Gusto?

12 A. Yes, sir.

13 Q. Do you know their last names?

14 A. I know Doug's last name. I found out later it was
15 Doug Washington. The other two, I'm not familiar
16 with their last names.

17 Q. Okay. But you know them --- you knew them --

18 A. Yes, sir.

19 Q. -- prior to this?

20 A. Yes, sir.

21 Q. All right. And they used your car for quite a number
22 of hours?

23 A. Yes, sir.

24 Q. Okay. And you don't know where they went or what
25 they did with it?

1 A. No, they didn't tell me where they were going. They
2 just said they needed to use it.

3 Q. Okay. All right. And to your knowledge did any of
4 them have their own vehicles?

5 A. Not to the best of my knowledge.

6 Q. Okay. All right. And you knew them well enough to
7 let them use your vehicle?

8 A. Yes, sir, that wasn't the first time.

9 Q. That wasn't the first time?

10 A. No, sir.

11 Q. All right. To your knowledge when you got the
12 vehicle back, did they come in and give you the keys,
13 or they just park it where you were, or do you recall
14 exactly how you got it back?

15 A. I think I met Cory and Gusto outside when they came
16 back.

17 Q. Okay. All right. Do you recall anybody getting
18 anything out the car, coming back getting anything
19 out of the car?

20 A. Not to the best of my knowledge.

21 Q. Okay. No clothing, or any kind of article like that?

22 A. They didn't retrieve anything from the car at that
23 time.

24 Q. At that time, when you got the keys back from them?

25 A. No, sir. Yes, sir.

MILTON GERALD - CROSS EXAMINATION BY MR. HERON

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1 Q. Okay. All right. Did you leave it locked up, or
2 unlock, or do you remember?

3 A. Well after we got it --- well I left it unlocked, but
4 a friend of mine just made sure they didn't leave any
5 beer cans or so forth in the car.

6 MR. CLEMENTS: Okay. All right. Please answer any
7 questions Mr. Heron may have.

8 CROSS EXAMINATION BY MR. HERON

9 Q. Mr. Gerald, you say you gave your car to --- who did
10 you say you gave your car to?

11 A. Doug, Cory and Gusto.

12 Q. Did they give you anything in exchange for using your
13 car?

14 A. They just needed a favor at the time. I was trying
15 to get in good with them.

16 Q. They didn't give you any drugs in exchange for using
17 your car?

18 A. Yes, sir, at the time.

19 Q. Well why didn't you tell the jury that when Mr.
20 Clements was talking to you?

21 A. He didn't ask that particular question.

22 Q. Okay. Let me ask you, what kind of drugs did they
23 give you in exchange for your using vehicle?

24 A. Crack cocaine, sir.

25 Q. They gave you crack cocaine. Have you ever seen this

1 young man sitting here right at this table?

2 A. No, sir. I am not familiar with him.

3 Q. You didn't see him, when they picked the car up did
4 you?

5 A. No, sir.

6 Q. You didn't see him when they brought the car back did
7 you?

8 A. No, sir.

9 Q. Okay. And tell the jury what you found in the car
10 that you loaned Travis, Cory and Doug when they
11 brought it back?

12 A. When we looked at the car, we found like two bullets
13 unfired.

14 Q. Two unfired bullets. What caliber bullets were they?

15 A. Probably they were 9-millimeter. I wasn't really
16 sure I just made a guess. I'm not that familiar with
17 them.

18 Q. What did you do with those bullets?

19 A. I gave them to the female that was with me at the
20 time.

21 Q. So just so I get it right. Doug, Cory and Gusto
22 picked your car up, for some crack cocaine. They
23 give you some crack cocaine. They leave. And when
24 they came back there are two 9-millimeter bullets in
25 your car.

MILTON GERALD - REDIRECT EXAMINATION BY MR. CLEMENTS 74

1 A. I believe they were 9-millimeter.

2 Q. And you've never seen this young man right here?

3 A. No, sir.

4 MR. HERON: Thank you.

5 REDIRECT EXAMINATION BY SOLICITOR CLEMENTS

6 Q. And you said you gave the 9-millimeter bullets to
7 who?

8 A. Ms. English, Patty English.

9 Q. Why didn't you turn them into law enforcement?

10 A. Well, we reported that we found them in the car, but
11 we weren't aware that any --- We just felt they just
12 left them in the car at the time.

13 Q. And you don't know who left them in the car?

14 A. No, sir. Had no idea. Wasn't aware of anything
15 transpiring or any thing.

16 Q. Do you know who they rode in the car, or who didn't
17 ride in the car?

18 A. I have no idea, sir.

19 Q. Okay. All right. Is it fair to say you can't make
20 any statements one way or another or not about
21 whether Mr. Rouse rode in that car?

22 A. I have no idea, sir.

23 MR. CLEMENTS: Okay. That's all, Your Honor.

24 MR. HERON: Nothing, Your Honor.

25 THE COURT: Okay. Thank you.

MICHAEL BRANDT - DIRECT EXAMINATION BY MR. CLEMENTS 75

1 MR. CLEMENTS: The next witness we'll be calling
2 will be Sergeant Michael Brandt of the Florence Police
3 Department.

4 And we would ask that Mr. Gerald be release from his
5 subpoena.

6 MR. HERON: No objection.

7 THE COURT: He's released. Thank you. Have a good
8 day.

9 MICHAEL C. BRANDT

10 BEING DULY SWORN TESTIFIES AS FOLLOWS

11 CLERK OF COURT: Please be seated and state your
12 full name for the record.

13 MR. BRANDT: My name is Michael Christopher Brandt.
14 I am a police officer with the City of Florence. My
15 current rank is Sergeant with the Crime Scene Unit. I
16 have been an officer since July 20, 1998. I have been
17 serving with the crime scene unit for about five years
18 now.

19 At the time of this incident in 2007 I was a corporal
20 over the unit also training Investigator Thomas Myers.

21 DIRECT EXAMINATION BY MR. CLEMENTS

22 Q. Sergeant Brandt, did you have occasion to go to [REDACTED]
23 [REDACTED] in the early morning hours of January
24 2, 2007?

25 A. Yes, sir, I did. Investigator Myers and I were

MICHAEL BRANDT - DIRECT EXAMINATION BY MR. CLEMENTS 76

1 processing another crime scene at approximately 1:28
2 in the morning of that morning, and heard Officer
3 Happ radio transmission of a gun shot victim. We
4 completed that scene. Secured our evidence in our
5 Crime Scene Lab, and then responded to [REDACTED]
6 [REDACTED], which is the city and county of
7 Florence. And that is where we began our processing
8 of the scene.

9 Q. When you arrived on the scene both the officers were
10 already there?

11 A. There were a couple of officers on the scene, but
12 Mark Happ is the officer that briefed me. Upon my
13 arrival they had already secured the scene with crime
14 scene tape. I instructed them to move vehicles out
15 and block the entire roadway in front of the house,
16 and extent it out to impede any foot or vehicle
17 traffic just in case we had additional evidence out
18 in the roadway.

19 Q. Were you able to determine if there was any
20 additional evidence out in the roadway?

21 A. No, sir. We spent several hours on that scene, and
22 searched the scene thoroughly, and there was no
23 further evidence recovered from the roadway.

24 Q. Can you, before we get into exactly what you did that
25 evening, can you explain in a little bit more detail

1 what your job is, and what is all that entails --- I
2 know they've seen television, but tell us how
3 accurate that is with what you actually do?

4 A. All right. The Crime Scene Unit is never that clean.
5 We don't think wear fantasy suits like this. This is
6 the only occasion I get to wear to suit, but it is a
7 long tedious process, very dirty. What we do is we
8 come into a crime scene, and we try to secure the
9 evidence, and protect it from being destroyed,
10 manipulated. Then we want to document it
11 photographically through video and by our observation
12 so we can accurately present it to you as the jury.

13 Q. Now, will you start with what you did after Officer
14 Happ briefed you on what he had?

15 A. Yes, sir.

16 Q. Could you then go through the steps you took on the
17 scene that night with this jury?

18 A. Yes. As I responded to the scene, I observed that it
19 was already secure, and met with Officer Happ. He
20 walked me through the scene and pointed out some
21 things that he noted. By the time I arrived the
22 victim had already been transported, so I did not
23 observe how the victim was positioned. He pointed
24 out to me the victim's position. On the ground where
25 he pointed out were two packages of, Now or Later

MICHAEL BRANDT - DIRECT EXAMINATION BY MR. CLEMENTS 78

1 candies. He advised that the victim was on his back
2 perpendicular to the residence. And he also pointed
3 out a spent 9-millimeter shell casing and a live
4 round 9-millimeter casing. And at that point, I
5 believe Investigator Myers arrived, and I briefed him
6 and walked him through the scene. And begin
7 observing, examining, without touching the vehicle
8 that was in the front yard.

9 Q. Now did the officer indicate to you at all about the
10 condition of Mr. Brandon Timmons' pockets?

11 A. Yes. He did indicate to me that Mr. Timmons' pockets
12 were found out like they had been gone through. And
13 I believe he made the comment that the candy possibly
14 coming from the pockets but that is an assumption.

15 Q. You talking about pulled out like this?

16 A. That is what he indicated to me, yes, sir.

17 Q. Now, you went through and observed everything, then
18 what did you do next?

19 A. I directed Investigator Myers to take digital
20 photographs of the scene. We are transitioning from
21 old 35-millimeter film, but at that time we're still
22 in the process of using 35-millimeters. So
23 Investigator Myers took the primary photographs in
24 the digital format, and I followed up behind with the
25 35-millimeter camera. I took fewer photographs, but

1 just to back up the digital photography. And then I
2 walked through the scene with a video camera to
3 reproduce what we observed.

4 Q. Okay. As you are talking these photos and taking
5 video, what else are you also doing at the same time?

6 A. Searching the scene. We're keeping our eyes open.
7 We're trying to look for any additional evidence.
8 Anything that would indicative of what event took
9 place. Give us more information about what was going
10 on at the scene.

11 Q. Also, making notes at the same time?

12 A. Yes, sir. Yes, sir.

13 Q. When you come across something in a crime scene, the
14 first thing you do is what?

15 A. Photograph it. What we try to do is take a --- what
16 is called a raw photograph. It's in its original
17 state as we find it, that way it doesn't loose any
18 interruptive value. Somebody could come back and
19 look at that photograph and say, okay, this is the
20 way it was before we manipulate it, before we mark
21 it, before we do anything with it, that way it is
22 still in its original state in that photograph.

23 Q. Okay. And did you do that with every item that you
24 found here on the scene?

25 A. Yes, sir. Yes, sir.

MICHAEL BRANDT - DIRECT EXAMINATION BY MR. CLEMENTS 80

1 Q. Once you take a raw photograph then what do you do
2 next?

3 A. As we go through the scene in our processes what we
4 do is, start marking items of evidence so we can
5 reproduce them such as the diagram that you have seen
6 early. It gives a representative location on that
7 diagram of what piece of evidence was discovered.

8 Q. Do you mark them in any fashion?

9 A. We try to mark them in a manner that makes sense to
10 the event that occurred, but a lot of times what we
11 do is we find additional items as we go along. In
12 this case Item Number One would be the package of,
13 Now or Later candies because that is where the body
14 was discovered. That is where Investigator Happ
15 pointed out that the body was discovered, so we
16 started from that point. Then the next two items
17 that were pointed out were the spent 9-millimeter
18 casing and the live 9-millimeter casing.

19 Q. Okay. Now you said you didn't take photographs but
20 were they taken in your presence?

21 A. Yes, sir.

22 Q. I am going to show you what has been marked State's
23 Exhibit Number 11 through 20. They are already in
24 evidence. I am going to ask if you would please
25 refer to each exhibit by number, and tell me if you

1 recognize what those photos depict, and explain to me
2 what they depict?

3 A. Yes, sir. State's Exhibit 11, this is a picture of
4 the Now or Later candy marked with evidence marker
5 number One. This is the position that we --- that
6 Office Happ indicated was the position of the victim
7 --- the location of the victim.

8 This photograph is State's Exhibit A-12. This
9 photograph depicts evidence marker number two,
10 marking the live 9-millimeter round with the head-
11 stamp FC.

12 Q. And that's a live round?

13 A. That is a live, unfired round of ammunition. State's
14 A-13, this evidence marker number three, marking the
15 spent or fired casing, 9-millimeter casing found at
16 the scene.

17 Q. And about how far was that from where you were told
18 the body laid?

19 A. I would have to refer to the diagram but it was
20 within a few yards. It was near the front porch of
21 the residence. Near the front porch steps.

22 State's Exhibit A-14, this is another view ---
23 as we go through the processes we want to
24 document/evidence is, what the item of evidence is.
25 We will take photographs without moving them, and

MICHAEL BRANDT - DIRECT EXAMINATION BY MR. CLEMENTS 82

1 then we'll move them to further identify them. In
2 this case this is evidence marker number three and it
3 shows the fired casing headstamp and it reads 9-
4 millimeter Luger FC, and FC is a brand stand. It's
5 similar to like Toshiba, or Honda, or something of
6 that nature.

7 Q. Sergeant Brandt, was the brand of the fired cartridge
8 a different brand from the unfired cartridge?

9 A. No, sir, it was the same, the same brand.

10 Q. Okay. Now in that picture you just referred to,
11 State's Number?

12 A. State's Exhibit Number A-14.

13 Q. It appears to be something red there in the
14 background, can you tell me what that is?

15 A. This red in the background are pine needles.

16 Q. Okay. All right. Next exhibit, please.

17 A. State's Exhibit A-15, evidence marker number four.
18 It's a blue transparent baggie typically for drug
19 paraphernalia or packaging for drugs. This was also
20 located near the porch just to the west of the steps.

21 State's Exhibit A-16, evidence marker number
22 five, it's a gold tone cross charm or pendent.
23 Looked like it had a loop for a necklace. But this
24 was found on the rail post of the steps of the front
25 porch. And if you are looking at the front of the

1 house it would have been on the right side, the right
2 post of the front of the house.

3 Q. Was the loop for a chain broken or unbroken?

4 A. It did not appear to be broken, no. State's Exhibit
5 A-17, this depicts the interior of the gold tone
6 Maximum that was found just in front of the front
7 door of [REDACTED]. This is the
8 interior. Down here in the bottom there is a gold
9 ring. There is a crown royal bag, a red plastic cup,
10 the keys to the vehicle --- which turns out to be the
11 keys to this vehicle, and the cup contained what is
12 smelled to be an alcoholic beverage.

13 State's Exhibit A-18, this is a closer shot of
14 the front passenger floor where the keys of the
15 vehicle were located.

16 State's Exhibit A-19, this is a picture of the
17 rear seat of the gold tone Maxima found in the front
18 yard and in the center of the seat is a black Eastbay
19 nylon bag.

20 And State's Exhibit A-20 is a photograph of the
21 contents in the bag. The bag contained some drug
22 baggies similar to the drug baggie found at marker
23 number four, and a small amount of marijuana, some
24 toiletry items, and a head-wrap, or is it commonly
25 referred to as a do-rag or skullcap.

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1 Q. Did you prepare any diagrams of this crime scene?

2 A. I did. Before leaving the scene we conducted
3 measurements, and I sketched the scene --- did a
4 rough sketch --- and then later produced a diagram of
5 the scene to further the aid in the investigation.

6 Q. I am going to show you State's Exhibit Number 1 in
7 evidence, can you tell me what that is?

8 A. That is an enlargement of my original diagram from my
9 completed diagram from this incident.

10 MR. CLEMENTS: Your Honor, I would ask permission
11 for this witness to stand before the jury and I admonish
12 you to keep your voice up.

13 THE COURT: You may proceed.

14 Q. I going to hold State's Exhibit Number 1 and use this
15 pen perhaps, or if you've got something you can point
16 with.

17 A. Yes, sir.

18 Q. Can you explain what all these means for this jury?

19 A. Okay. First off I am going to give you an
20 orientation. This is the direction of north; for
21 ease of viewing I depicted it as you would be looking
22 at the front of the house. So north is actually
23 down. South is up. East is in this direction and
24 west is over towards the solicitor. These items
25 right here are just depiction of trees, trees on

1 either side of the vehicle that were found in front
2 of the residence, and then scrubs out in front of the
3 front porch. This is a utility pole near a stop sign
4 for Marion Street. This utility pole has a unique
5 identifying number and that was reported as JH66BM
6 and that was used as a reference point for
7 measurement along with the north/east and north/west
8 corners of the house, so we could take measurements
9 to accurately reproduce where these items were
10 located.

11 Q. Now is this diagram done to scale?

12 A. No, sir. No. To give you further orientation, this
13 is the residence at [REDACTED] in the
14 city of Florence. This is the front porch and steps
15 right here. This is what was later determined to be
16 the victim's vehicle parked near the front steps.

17 Q. Do you know about how many feet away from the front
18 steps it was?

19 A. It was approximately --- approximately ten yards. We
20 did not actually measure from the front steps. We
21 took measures from the fixed points of the corners of
22 the residence. This is the dirt driveway off to the
23 side of the residence. There is a down slope towards
24 that driveway from the yard. There is a slight down
25 slope of the driveway as well. This is an overturned

MICHAEL BRANDT - DIRECT EXAMINATION BY MR. CLEMENTS 86

1 mailbox. We had concerns that it was involved in the
2 incident but it was advised by parole officers that
3 they learned from the residence that this was
4 previous to the shooting incident.

5 As I arrived, the parole officers had this area
6 cornered with the yellow and black crime scene
7 barrier tape. I further instructed them to move
8 vehicles here and here to block the roadway off and
9 keep pedestrian traffic out of the area.

10 Here is evidence marker number one where the Now
11 or Later candy was located, and it was also the
12 position that Mark Happ, Officer Mark Happ pointed
13 out that the victim was found when he arrived.
14 Number two is the live round that was recovered near
15 the front porch. Number three, closer toward the
16 vehicle was this spent casing that we've seen
17 previously. Number four is the drug baggie located
18 near the shrubs here. Number Five was the gold tone
19 cross that was on the rail or the post --- or the
20 front steps rail. And Number Six was a single light
21 housing to the victim's vehicle found just underneath
22 the front bumper of the vehicle.

23 Q. Sergeant Brandt, did you go inside the house?

24 A. No, sir, I did not.

25 Q. Is this all the evidence that you gathered at the

1 scene?

2 A. Yes, sir. Once we photographed the vehicle I took
3 precautions too not to further contaminate the
4 vehicle and brought it here to the Florence Police
5 Department and secured it so we could later process
6 it, but the items that I have described to you from
7 the diagram all the evidence that we were able to
8 locate at the scene. Spend several hours there. I
9 believe left the scene at 5:04 in the morning after a
10 thorough search of the roadway, the yard, the
11 structure itself, the actually residence, looking for
12 any signs of bullet strikes, pot marks, bullet holes.
13 Inspected the trees, inspected the vacant lot next
14 door to try to find further evidence but we were
15 unable to locate any further evidence at the scene.

16 Q. Now, as far as the car, before you brought it back
17 here to the complex to inventory to it and process it
18 what, if anything, did you do out there on the scene
19 to try to ascertain if you could find any evidence as
20 to who the shooter might be?

21 A. Well first we wanted to find out who the vehicle
22 belonged to and we were able to determine it was the
23 victim's vehicle. We photographed it and then we
24 went to conduct an inventory of the vehicle to see if
25 there was anything that would help us out immediately

MICHAEL BRANDT - DIRECT EXAMINATION BY MR. CLEMENTS 88

1 and the vehicle was locked but on the driver side
2 rear door the window was down a few inches and I was
3 able to unlock the vehicle and that set the vehicle's
4 alarm off. So I got the keys out of the front floor
5 board and silenced the alarm and that is when we
6 started conducting the inventory of the vehicle. It
7 was photographed before we even manipulated anything
8 so we would document the original location of all
9 these items and then try to get further evidence of
10 what went on if anything we could determine from the
11 items in the vehicle.

12 Q. Okay. Did you find any ammunition or anything in the
13 vehicle?

14 A. No, sir.

15 Q. Did you attempt to try to get any latent
16 fingerprints?

17 A. Yes, sir. We secured the --- we brought it back from
18 the scene --- or I drove it from the scene to the
19 Police Department and secured it in an area where no
20 one else had access to. We had it taped off and
21 secured it so we could later process it. We weren't
22 able to process it on the second, because as soon as
23 we finished with the scene we went to the hospital
24 and secured the victim's hands in brown paper bags to
25 try to preserve any trace evidence that might be on

1 his hands. From the hospital we came back to the
2 Police Department, secured the evidence in the Crime
3 Lab and then went to Charleston, to attend the
4 autopsy. On January 3rd, is when we were able to
5 process the vehicle, if I'm not mistaken. Let me
6 refer to my notes real quickly. Yes, on January 3rd
7 of '07 is when we processed the vehicle. And from
8 processing the vehicle we recovered twenty-seven sets
9 of latent prints from the vehicle, and additional two
10 from the red cup that was on the inside.

11 Q. Were you able to match up any of those fingerprints?

12 A. Several of the fingerprints returned to the victim
13 compared to the major case prints we collected during
14 the autopsy or the fingerprints and palm prints we
15 collected from the victim at the autopsy. There was
16 one other name that appeared --

17 Q. That would have been Travis Miller?

18 A. Travis Miller, was the other identified fingerprints
19 from the vehicles.

20 Q. Were you able to determine who Travis Miller was?

21 A. I did not. That is beyond the scope of my
22 responsibilities in this investigation.

23 Q. That wouldn't have been something you would normally
24 done?

25 A. No, sir, no.

MICHAEL BRANDT - DIRECT EXAMINATION BY MR. CLEMENTS 90

1 Q. All right. And you say you went to the hospital and
2 was your purpose for going to the hospital?

3 A. When we go to the hospital what we want to do is to
4 insure that any trace evidence, biological or such on
5 the victim's hands, especially involving in a
6 shooting, is preserved as best possible. What we use
7 is brand new never used brown paper bags. Slide them
8 over the victim's hands and secure them with tape.
9 That insures that what is on his hand stays on his
10 hands. What is everywhere else doesn't --- the two
11 items don't commingle or you don't transfer from one
12 area to another. We try to eliminate that from
13 happening as best possible.

14 Q. And what would be the type of evidence you would be
15 looking for on the victim's hands?

16 A. The victim's hands typically will contain, from a
17 shooting, gunshot residue if they were involved in
18 actually firing a weapon, or any DNA evidence such as
19 skin cells, blood from another party if they were
20 involved in a fight possibly through punching,
21 scratching, things of that nature. That is the type
22 of evidence we are looking for.

23 Q. Were you able to do a gun shot residue test on the
24 victim?

25 A. When we responded to the autopsy at MUSC that is one

1 of the procedures that we do. The pathologist will
2 do a gross examination of the victim, and during that
3 gross examination they will remove the bags and that
4 is our opportunity to collect fingernail clippings,
5 and gunshot residue in which in this case we did
6 collect gun shot residue kit from the victim and
7 fingernails.

8 Q. And did the kit produce any evidence?

9 A. The SLED Report indicated that there was not gun shot
10 residue present on the victim or any portion of the
11 victim's hands. The test that we do is a two-prong
12 test that it tests for gunshot residue in two
13 different manners. One is a dry test and one is a
14 wet test. Samples are taken from the backside of
15 each hand along with the front side of each hand just
16 to indicate --- just to give an idea of if any gun
17 shot residue is present, if it is on the hand, you
18 know, from being transferred from the clothing or
19 anything like that, or from firing a weapon it would
20 be on the outside of your hand. In this case there
21 was no gun shot residue present.

22 Q. Okay. Were you able to find any other trace
23 evidence, any DNA or any other trace evidence on Mr.
24 Timmons' hand?

25 A. No.

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1 Q. All right. What other evidence did you gather at the
2 hospital or at the autopsy?

3 A. At the autopsy we collected autopsy specimens for DNA
4 analysis. Comparison blood samples will be taken so
5 we can develop a DNA profile to be compared against
6 anything that we find in the car as well as
7 toxicology reports --- toxicology specimens to
8 indicate if there were any poisons or intoxicants in
9 the victim's body at the time he died. As well as we
10 collect the clothing and we collected all the
11 victim's clothing at that time. And in his upper
12 clothing the jacket, the shirt, we found holes in the
13 clothing that were consistent with the injuries on
14 his torso to a gunshot wound.

15 Q. Okay. And did you bring those items with you here
16 today?

17 A. Yes, sir.

18 Q. They're over there in those boxes?

19 A. Yes, sir.

20 Q. All right. On the clothing, where were the holes at
21 on his clothes? If you would stand up, please, and
22 demonstrate to the jury where they were?

23 A. Okay. The holes --- there was one hole here and
24 there was another hole here. For orientation, this
25 approximate --- this is about where ---

1 Q. In your experience with the two holes like that be
2 consistent with an entrance wound and an exit wound?

3 A. Yes, sir. Yes, sir. And we also during the autopsy
4 a prob was used to further demonstrate the tract of
5 single bullet through the body.

6 Q. Okay. So there was a single bullet passed through
7 his body?

8 A. Yes, sir.

9 Q. Now many times you are able to test clothing or
10 fibers for gunpowder or anything because of the close
11 proximity to the gun muzzle to clothes, were you able
12 to do any those type tests on these clothes?

13 A. In this case, no, sir.

14 Q. Okay. All right. Do you have that type of evidence
15 in every case?

16 A. No. No. Unfortunately, it's not like television
17 where they spend thirty minutes on a scene and pull
18 up in a nice little nifty computer and have your
19 suspect. In this case it's not clean it's not that
20 easy but I assure you we extended every effort to
21 obtain all the evidence possible and presented here
22 today.

23 MR. CLEMENTS: Beg The Court's indulgence.

24 THE COURT: Yes, sir.

25 (PAUSE)

MICHAEL BRANDT - DIRECT EXAMINATION BY MR. CLEMENTS 94

1 Q. Sergeant Brandt, did you ever recover any guns
2 related to this incident?

3 A. Yes, sir. If I could refer back to my notes, I
4 believe it was May 29th of 2007 I was advised by then
5 Corporal Davis --- yes, it was 5/29/07 I responded to
6 the Marion Police Department in Marion, South
7 Carolina and recovered the victim's pistol --- Hi-
8 Point 9-millimeter pistol from Lieutenant Blue of the
9 Marion Police Department.

10 Q. Okay. And that was the victim's pistol?

11 A. That was the victim's pistol.

12 Q. How were you able to link that pistol to the victim?

13 A. It was entered into NCIC, the crime computer data
14 base, through Corporal Davis' efforts and it was
15 located in Marion. It was identified through its
16 serial number. Its unique serial number on the
17 weapon.

18 Q. Is that from the purchase records?

19 A. I would, assume so. I don't have any direct
20 knowledge of that but typically that's the records.
21 The company will stamp it with a unique number and
22 that number goes along with the purchase records, at
23 least first transaction purchase records.

24 Q. And so you go retrieve the pistol from NCIC from
25 Marion Police Department?

1 A. Yes, sir.

2 Q. They got a hit on the NCIC and contacted you?

3 A. Contacted the police department. I responded and
4 recovered the weapon and photographed it and then
5 sent the weapon to SLED State Laboratory for forensic
6 comparison to the casing that was recovered at the
7 scene, and that casing was not fired from the
8 victim's weapon. It was fired from another weapon.

9 Q. Okay. And what type of weapon was this again?

10 A. Hi-Point 9-millimeter.

11 Q. What color was it?

12 A. It was black in color.

13 Q. Okay. Do you have that pistol?

14 A. Yes, sir.

15 Q. Okay. Is that what is called --- is it what is
16 called a revolver or an automatic, Sergeant Brandt?

17 A. It's a semiautomatic weapon. It has a slide --- it's
18 called semiautomatic because the trigger, it fires
19 the round, but the energy from the round forces the
20 gun to reload itself so it's a semiautomatic process
21 where the revolver has a cylinder in the center that
22 revolves when you pull the trigger it revolves around
23 to bring another round into the chamber.

24 Q. So, if you fire this gun it automatically reloads
25 itself?

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1 A. Yes, sir.

2 Q. Okay. Now if there is a cartridge in the chamber and
3 you want to check to see if it loaded or not tell me
4 how would you do that, what would happen?

5 A. The top of the gun referred to as the slide, you
6 would pull it back and it slides back away from the
7 handle, and it has an injector clip --- an injector
8 prong that holds the ammunition into the barrel of
9 the gun. When you pull that back it pulls that round
10 out of the chamber and it slings it out. So whatever
11 is in there, if there is something in there, it is
12 going to come out when you pull it back like that so
13 it will expend a round.

14 Q. So you pick up a gun and you check it to see if is
15 loaded it is going to shoot a round out?

16 A. Eject out a round.

17 Q. Eject, okay. All right, where --- you did this
18 diagram of this crime scene?

19 A. Yes, sir.

20 Q. And you checked it on GPS coordinate?

21 A. I used GPS to mark cone number one, the position of
22 the victim.

23 Q. Where is this located, [REDACTED]

24 A. [REDACTED] is in the city of Florence and
25 county of Florence, South Carolina.

1 Q. State of South Carolina?

2 A. State of South Carolina, yes, sir.

3 Q. Did you do a video of this crime scene?

4 A. Yes, sir, I did.

5 Q. Okay. While Officer Myers, was taking pictures you
6 were taking 35-millimeter, you also took a video?

7 A. Yes, sir. A video walk through to further
8 demonstrate the crime scene as we saw it.

9 Q. Do you have that video with you?

10 A. Yes, sir.

11 THE COURT: Mr. Solicitor, hold it one second.

12 Jurors, is everybody okay. Time is close to break.
13 time. Does anyone need a break, or we want to finish this
14 witness?

15 MR. CLEMENTS: Your Honor, this might be a good time
16 to take, because it might take a minute or two to set that
17 video up.

18 THE COURT: Done. Break time.

19 (Whereupon, the jury exits the courtroom at 4:28
20 p.m.)

21 BAILIFF: Order in The Court, all rise.

22 THE COURT: Thank you, please be seated. Counsel,
23 it is my intent to run until about five thirty. That okay
24 with everybody?

25 MR. HERON: Yes, sir, Your Honor.

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1 THE COURT: Thank you. Proceed. Bring the jury
2 out.

3 (Whereupon, the jury enters the courtroom at
4 4:28 p.m.)

5 THE COURT: Jurors, its my intent to run to about
6 five thirty and we will stop for the day at that point.
7 Solicitor.

8 MR. CLEMENTS: Thank you, Your Honor.

9 Q. You made a video, is that correct?

10 A. Yes, sir. Yes, sir.

11 Q. I m going to show you what has been marked as State's
12 Exhibit for ID-21. Do you know what that is?

13 A. This is a CD containing video footage from the
14 incident --- from the incident location.

15 MR. CLEMENTS: Your Honor, I move this into evidence
16 at this time.

17 THE COURT: No objection. It's in evidence.

18 WHEREUPON, STATE'S EXHIBIT

19 NUMBER 21 WAS MADE PART OF

20 THE RECORD

21 MR. CLEMENTS: Your Honor permission to publish to
22 the jury?

23 THE COURT: You may proceed.

24 WHEREUPON, STATE'S EXHIBIT

25 NUMBER 21 WAS PUBLISHED TO

THE JURY

Q. Sergeant Brandt, as it is necessary if you can kind of give us a play by play as this video play?

A. Yes, sir.

MR. HERON: Your Honor.

THE COURT: Yes, sir. Don't stand in front of the jurors.

THE COURT: If you all are having trouble I'll bring in my five-year-old grandson. He knows how to run the internet.

AGENT: I apologize for that, Ladies and gentlemen.

A. You will have to forgive the quality of the video. This is a Cannon 8-millimeter video --- 8 millimeter cassette, and I digitized to CD to play it in the courtroom. Purchased in 1999 and it is generally referred to as The Court's some of our equipment needs to be updated as well. But this is Lawson and Marion Street in the city of Florence which is in The State of South Carolina.

THE COURT: Would it help if we turned down the lights?

MR. BRANDT: Yes, sir.

THE COURT: Okay. All right.

A. After I completed an initial scene search with 35-millimeter photographs, came through with the video

MICHAEL BRANDT - DIRECT EXAMINATION BY MR. CLEMENTS 100

1 recorder, to document the scene. It was very low
2 like situation. We were using the spot light from
3 the crime scene van running off of the generator.
4 And trying to move them around as we could to
5 illuminate the video. This is facing south toward
6 the front of the house. This is the victim's
7 vehicle. Trying to find the best position for the
8 light so you can see it. Just show the position of
9 the vehicle. Just off to either side there are trees
10 to either side of the vehicle. This is the front
11 porch with the steps. If you see this post right
12 here that is where Cone number five was found, or the
13 gold cross marked by cone number five. That would be
14 on the western post or the right post if you're
15 looking at the front of the house. It is very
16 difficult to see out there. Looking through a
17 viewfinder you loose orientation, I was looking for
18 the items of evidence that were on or right out
19 front. Investigator Myers, is illuminated one of the
20 pieces of --- couple of pieces of evidence for me.
21 Right here is the spent casing --- spent shell
22 casing on the ground in front of the residence. You
23 can see the live round. It is difficult to see, I
24 apologize for the quality, but this is the live round
25 9-millimeter. You can see the cross. We're going to

1 look back towards where the victim was discovered by
2 Officer Happ. Two bags of, Now or Later candies were
3 found there. I am looking back from that position
4 back towards the first porch, heading over to the
5 victim's vehicle. Showing the condition of the
6 vehicle as best as possible with the lighting. There
7 is the gap in the window. That is where I reached in
8 a unlocked the vehicle to gain access. Where the
9 turn single housing, was suppose to be located at.
10 That is the position we located it underneath the
11 vehicle. This is just trying to depict the condition
12 of the vehicle as we found it at the scene. After we
13 removed the vehicle I came back with the video
14 recorder and documented after we marked the evidence
15 and after we had removed the victim's vehicle to
16 security here at the police department. We set up
17 scene lights. Initially, we don't bring in the scene
18 lights right into the scene. We don't want to add
19 to. We want to try to do as much as possible the way
20 we found it. And here it is illuminated a little
21 better. You can see evidence marker number one, the
22 two packages of Now or Later candy also in the
23 position in which the victim was located. He was
24 located perpendicular to the house. The house is up
25 here and you can look at it perpendicular to the

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1 house. As was told to me by Officer Happ. You see
2 the live round --- the unfired round. Let me back up
3 and show you the proximity of the number two and
4 number three in relation to the house.

5 Now during the photography Investigator Myers
6 located two of these drug baggies. After I had gone
7 through the first time with the video camera it's in
8 his photograph documentation but this is the first
9 time it appears on the video because it had not been
10 located as I went through the first half with the
11 video camera. In proximity to the front porch steps
12 forward to try and video tape the cross. He and I
13 did the distance between the vehicle and the house in
14 that shot. And that is the turn signal assembly in
15 the front driver's side of the vehicle.

16 Q. Sergeant Brandt, is there anything you left undone in
17 that crime scene?

18 A. I don't believe there was anything that I could have
19 done further or Investigator Myers could have done
20 further at that scene.

21 Q. You told us you had the victim's gun with you?

22 A. Yes, sir.

23 Q. Let's have it marked for identification purposes.

24 MR. CLEMENTS: Marked just for identification
25 purposes at this time, Your Honor.

1 THE COURT: I.D., not in evidence at this time. He
2 moves it into evidence, counsel. He wants to publish --

3 MR. HERON: No objection, Your Honor.

4 THE COURT: It's in evidence without objection.
5 Remove from I.D. status.

6 WHEREUPON, STATE'S EXHIBIT
7 NUMBER 22 WAS MADE PART OF
8 THE RECORD.

9 Q. Sergeant Brandt, this is the gun that belonged to
10 Brandon Timmons?

11 A. Yes, sir. That is the weapon I recovered from
12 Lieutenant Blue of the Marion Police Department.

13 Q. And you talked about semiautomatic, how you slide it
14 back and eject and unspent cartridge --

15 A. Yes, sir.

16 Q. You slide it back. Is that this part of up --- can
17 you point out to the jury that?

18 A. This upper portion right here, is referred to as the
19 slide. You can manipulate back in this manner, and
20 as you can see it slides open and this rod right here
21 is the ejector it holds on to the round, and as you
22 pull it back it removes it from the barrel and flips
23 it out the open portage here, this window, if you
24 will right here, and that is how it is ejected from
25 the weapon. It still has the red tag here is the

MICHAEL BRANDT - DIRECT EXAMINATION BY MR. CLEMENTS 104

1 evidence tag from Marion P.D. as well as the SLED
2 evidence bar codes, from where it was processed and
3 analyzed in the SLED Forensic Laboratory in Columbia.

4 Q. And this weapon, State's Exhibit 22 did not fire the
5 spent cartridge?

6 A. That is correct. We received a SLED lab report
7 indicating that the casing that we recovered at the
8 scene was not fired by this weapon.

9 Q. Do you have that casing with you?

10 A. Yes, sir, I do. This is the container in which it
11 was sealed at the SLED laboratory in Columbia and it
12 contains the fired spent 9-millimeter casing from
13 cone number three.

14 Q. And you never recovered a gun to match the spent
15 casing?

16 A. No. It was --- that casing was entered into the
17 integrated ballistics indexing system. It is a data
18 base that maps those particular identifiers or the
19 tool marks on that casing, and it's run through that
20 system and as of yet we have no matches to that
21 casing.

22 MR. CLEMENTS: I would like to have this mark for
23 evidence, Your Honor.

24 THE COURT: Offered into evidence

25 MR. HERON: No objection, Your Honor.

1 THE COURT: In evidence without objection. That is
2 23, Ms. Court Reporter, 23.

3 WHEREUPON, STATE'S EXHIBIT
4 NUMBER 23 WAS MARKED AND
5 MADE PART OF THE RECORD.

6 Q. And it looks just like depicted in the pictures that
7 you all took?

8 A. Yes, sir. The pictures that displayed this far are
9 an accurate representation of the casing in that
10 container.

11 Q. And this is the only spent cartridge that you found
12 at the scene?

13 A. That is the only spent shell casing at that scene.

14 Q. All right.

15 MR. CLEMENTS: Beg The Court's indulgence for one
16 moment.

17 THE COURT: Yes, sir.

18 (PAUSE)

19 Q. Sergeant?

20 A. Yes, sir.

21 Q. Tell me whether or not this is true. Part of your
22 duties, at the crime scene do you take evidence that
23 investigators bring you such as tapes, photos and
24 digitize them?

25 A. Yes. As part of our responsibility with the crime

MICHAEL BRANDT - DIRECT EXAMINATION BY MR. CLEMENTS 106

1 scene unit all audio and video that is generated
2 through the department typically will come through
3 our hands especially when it is generated for cases
4 of this magnitude. Each investigator and patrol
5 officer is issued a digital voice recorder so when
6 they have an opportunity to take a statement is can
7 be digitally recorded and they bring it to us. We
8 upload to our archives transfer that file to a
9 compact disc and write protect so there are no other
10 files that can written to it and the only way you can
11 change that file on that disc is to physically damage
12 the disc to render it so it won't play. In this case
13 I received at the time Corporal Davis' digital voice
14 recorder on several occasions and uploaded the
15 statements from this case and transferred them to
16 CD's and turn them over for transcription to the CID
17 secretary.

18 Q. Do you have a chance digitize cassette tapes?

19 A. Yes; we do. That is another one of our
20 responsibilities especially the 911 Call Center at
21 the time their only output was to the old style audio
22 cassettes. It's familiar to me anyway, but what we
23 do is we digitize that and put it on a cd for ease of
24 use that way it can be transcribed or easily played
25 from a computer CD player so we don't have to look

1 for an analog digital --- an analog tape recorder to
2 play it back.

3 Q. Did you digitize the 911 tapes in this case?

4 A. I did not digitize the 911 tape. My predecessor,
5 Sergeant Steven Boyd, received that from Corporal
6 Davis, digitized it and logged it into evidence but I
7 have that logged that out and brought that today, the
8 original tape from the 911.

9 Q. All right. Just one more brief subject. You talked
10 about fingerprinting the car when you processed the
11 car back here at the complex.

12 A. Yes, sir.

13 Q. Tell us how difficult, or how prevalent, or how easy
14 getting identifiable fingerprints is?

15 A. Fingerprints are akin to an ink stamp. Your fingers
16 have ridges on them, but you don't --- everything
17 that you touch you don't necessarily leave a
18 fingerprint behind, because you have to have sweat,
19 or oils, or something to act as the ink, so to speak.
20 A lot of times, this materials is either or oils or
21 sweats, skin cells, things of that nature. When we
22 have rains enough humidity, you know, fingers slide
23 across surfaces when it's moist, things of that
24 nature. That affects the ability to collect
25 fingerprints. Like I testified too earlier, I

MICHAEL BRANDT - DIRECT EXAMINATION BY MR. CLEMENTS 108

1 collected twenty-seven sets of fingerprints from the
2 vehicle itself and then two from a Dixie cup on the
3 inside. Only a hand of, I believe it was four of
4 those prints were able to be identified because of
5 environmental elements or how they were transferred
6 to the car or the cup.

7 It is a difficult process. It is not like
8 television where you could just spray and boom it
9 appears and take a photo and you get an
10 identification very rapidly. Let me dispel that T.V.
11 myth for you. It took probably about two hours of
12 processing the vehicle just to develop the prints.
13 Then we go back and photograph them and lift them and
14 put them on latent lift card to send to SLED. And it
15 is depressing how few of those prints that we get are
16 actually identifiable.

17 Q. Are some of them referred to as smudges or partial
18 prints?

19 A. Partial prints. We collect --- It is our protocol in
20 this unit to collect fingerprints if they have any
21 ridge detail in them at all. That is why there was
22 such a large number, just the outside chance the
23 possibility that it could be identified. And
24 unfortunately, it's not the case for most of the
25 time.

1 Q. Was there anything submitted to you or not, for you
2 to fingerprint that you were under the impression was
3 touched by the assailant in this case?

4 A. To my knowledge nothing was --- everything^p at the
5 scene was treated that way that the possible suspect
6 touched it. That is the way we try to --- we try to
7 handle everything in that manner. But there was
8 nothing brought forth to me after the fact that that
9 was that case.

10 MR. CLEMENTS: Please answer any questions Mr. Heron
11 may have for you.

12 CROSS EXAMINATION BY MR. HERON

13 Q. Sergeant Brandt, you are the CSU. I know this isn't
14 TV, but that would be like CSI we see on TV?

15 A. Loosely, yes, sir.

16 Q. All right. And you, I guess, would be the Grissom,
17 of Florence Police Department, would that be safe to
18 say?

19 A. People refer to me as Grissom, but it's nothing,
20 nothing like TV depicts.

21 Q. I gotcha. Now you talked a little bit about
22 epithelial cells. Can you --- maybe I said it wrong?

23 A. Well I don't recall discussing epithelial cells but
24 --

25 Q. Well can you tell the jury what epithelial cells are?

MICHAEL BRANDT - CROSS EXAMINATION BY MR. HERON 110

1 A. It's portions of the human body that contain DNA.

2 Q. Can you run tests to check to see --- first of all,
3 are those epithelial cells microscopic?

4 A. Yes.

5 Q. Okay. How do you --- I mean if you wanted to --- if
6 I picked up this mouse could you run a test on it to
7 see if some of my epithelial cells rubbed off on this
8 mouse?

9 A. I could not, but I could collect swabs and sent them
10 to SLED.

11 Q. And just by picking that mouse, if you swabbed that
12 mouse and you got some of my epithelial cells off of
13 it, you could say to a reasonable degree of certainty
14 whether or not I picked up the mouse based on just
15 doing that couldn't you?

16 A. It's possible. There a lot of parameters that have
17 to --- there are a lot of environmental conditions
18 that go into leaving DNA --- trace DNA behind as
19 well.

20 Q. If somebody went into Mr. Timmons' pockets and pulled
21 his pockets out they would leave epithelial cells
22 wouldn't they?

23 A. There is a possibility.

24 Q. Okay. If I got a pack of gum, if I pulled out my
25 pack of gum and dropped it you could swab my gum for

1 epithelial cells and get a DNA match, saying that I
2 picked up --- I had my hands on this gum couldn't
3 you?

4 A. That is a possibility. But you would also run the
5 risks of getting DNA cells from the person that
6 packaged the gum, the person who stocked the gum, the
7 person purchased, the cashier that may have handled
8 it. There is a number of possibilities in this realm
9 that is there. In this case they were processed for
10 fingerprints, because that is the most direct way of
11 identifying, who last possessed those things if they
12 were pulled out, things of that nature. Because the
13 top layer, the last person to touch it is probably
14 going to be the most developed of the fingerprints.

15 Q. If I am hearing you right, the DNA technology is so
16 good that you could not only get my epithelial cells
17 off a pack of gum, but back to when this gum was
18 packaged, is that what you are telling us?

19 A. That is a possibility. It is a possibility.

20 Q. Now, there were some Now or Later's candy found on the
21 ground, is that right?

22 A. Yes, sir.

23 Q. And I guess based on your investigation that is was
24 believed that the Now or Later's came out Brandon
25 Timmons' pocket, is that right?

MICHAEL BRANDT - CROSS EXAMINATION BY MR. HERON 112

1 A. Yes, sir. It's also a possibility that they fell
2 out..

3 Q. Okay. And was there a DNA test run on the Now or
4 Later's?

5 A. On the Now or Later's, no, sir. They were
6 fingerprinted, processed.

7 Q. How about the inside of Brandon's pockets, was there
8 a DNA tests run on the inside of the pockets to get
9 epithelial cells?

10 A. No, sir.

11 Q. Okay. Now there is a live 9-millimeter round, was
12 there any DNA evidence run on the --- millimeter
13 round?

14 A. No, sir. Fingerprint --- at the time the protocols
15 for this January of 2007 time protocol for DNA
16 collection were not as advanced as they are today, as
17 he is referring to now. And typically that is not
18 going to be the first procedure that is run on these
19 type of items. That is why we following protocol we
20 processed them for fingerprints, unfortunately there
21 were no fingerprints recovered from this.

22 Q. Sergeant Brandt, you still have the evidence don't
23 you?

24 A. Yes, sir.

25 Q. So if you wanted to you all could run tests on this

1 evidence today and find out if there is any
2 epithelial cells in Mr. Timmons' pockets, on the Now
3 or Laters, on the live 9-millimeter round, on the
4 empty 9-millimeter round, on the gold tone cross, on
5 the blue drug baggie. You could run tests today and
6 find out who had their hands in the victim's pockets
7 couldn't you?

8 A. That would not necessarily give a definitive answer
9 on any of those questions you presented.

10 Q. Okay. Looking on the video that car and we pretty
11 much agreed this is not to scale; is that correct?

12 A. Correct.

13 Q. But watching the video would you agree with me that
14 the car was parked pretty close to the house?

15 A. Yes, sir.

16 Q. And could we also agree that where the victim was
17 found was also pretty close to the house?

18 A. Yes, sir.

19 Q. Now you put paper bags on the victim's hands, is that
20 right?

21 A. Yes, sir.

22 Q. And the victim had scratched someone, is it possible
23 that when I do that I'm scratching my face and even
24 though I didn't make a mark, there are skin cells up
25 underneath fingernails?

MICHAEL BRANDT - CROSS EXAMINATION BY MR. HERON 114

1 A. Yes, sir.

2 Q. Okay. Did you all run any tests for up underneath
3 the victim's fingernails to see if there was a
4 struggle or if he scratched someone?

5 A. All the fingernail clippings that were taken from the
6 victim were sent to SLED.

7 Q. And did you all do DNA analysis --- Did they do DNA
8 analysis?

9 A. I have not seen a DNA analysis report indicating
10 that.

11 Q. So as we sit hear today with the evidence --- Well,
12 let me, ask you one more question. On the 9-
13 millimeter gun, if I had a 9-millimeter gun in my
14 pocket right now and I had it loaded and I had I
15 guess what you would call a bullet in the chamber ---
16 First of all, to put a bullet in the chamber would I
17 have to pull it back and the bullet goes into the
18 chamber?

19 A. You have to load it into a magazine, into the
20 magazine.

21 Q. Put it in the magazine --

22 A. -- Yeah --

23 Q. -- pull it back and it loads a bullet into the
24 chamber and then it's ready to fire?

25 A. Yes, sir.

1 Q. If I had a fully loaded 9-millimeter gun, and I had a
2 bullet already in the chamber, if the bullet was in
3 the chamber and I pulled it back what would happen to
4 that bullet that was already in the chamber?

5 A. It would slide out of that barrel and fall to the
6 ground.

7 Q. And you found a 9-millimeter casing on the ground?

8 A. Yes.

9 Q. And you also did a test on the fired 9-millimeter
10 casing, what we've been calling the spent casing, is
11 that right?

12 A. Spent or fired, yes.

13 Q. As a matter of fact the test that you all did on that
14 technology is so good that you could determine
15 whether or not that live bullet --- the spent bullet
16 was fired from that gun we just talked about, is that
17 right?

18 A. No, sir. The mechanism is different. It slides out
19 and it's ejected but without the force that the fired
20 casing comes out. So it's not going to leave the
21 marks, especially the firing pin marks that
22 identifies the fired casing to the pistol. That will
23 not be there on the unfired casing.

24 Q. I wasn't trying to trip you up actually I tripped
25 myself up. But the spent casing --- the fired casing

MICHAEL BRANDT - REDIRECT EXAMINATION BY MR. CLEMENTS 116

1 you all ran tests on that?

2 A. I sent it to SLED for analysis, yes, sir.

3 Q. And those tests determine that it did match that gun?

4 A. Correct.

5 Q. And the way you all determined that is that
6 technology is so good that you could do the imprint
7 of a firing pin on the bullet?

8 A. I am not a firearm's analyst so I could not begin to
9 touch their procedures for analysis of firearm tool
10 marks.

11 Q. We've talked about all the evidence, all the evidence
12 that you collected, pictures you have taken,
13 fingerprints that you've lifted, is there any
14 evidence whatsoever, physical evidence, that links
15 this murder to that young man sitting over there,
16 Devodus Rouse?

17 A. Unfortunately, no.

18 Q. Thank you.

19 **THE COURT:** Redirect?

20 **MR. CLEMENTS:** Briefly, Your Honor, if it please,
21 The Court.

22 **REDIRECT EXAMINATION BY SOLICITOR CLEMENTS**

23 Q. I want to be sure I can pronounce it correctly. Mr.
24 Heron was talking to you about epithelial cells?

25 A. Yes, sir.

MICHAEL BRANDT - REDIRECT EXAMINATION BY MR. CLEMENTS 117

1 Q. Is that commonly referred to as touch DNA?

2 A. Touch DNA, yes, sir.

3 Q. You all doing much, if any, touch DNA in January of
4 2007?

5 A. No. As I referred to earlier that was not a typical
6 procedure. It's been under development in the last
7 few years and the time frame gives opportunity for
8 new --- technology develops as we go along. However,
9 at the time, that was not the procedure that were
10 available to us.

11 Q. And with the passage of time and maintaining
12 something where it wouldn't be handled or anything
13 would all that with the passage of time have any
14 impact on resubmitting it at a later time to do touch
15 DNA, if you know?

16 A. The way we packed it is to preserve it. However,
17 especially specifically to the Now or Later candy
18 that he referred to when we processed it for latent
19 prints it is an additive process. It puts latent
20 prints powder over the top of the surface and that
21 would probably inhibit DNA from being recovered from
22 that item in particular.

23 MR. CLEMENTS: Thank you. No further questions.

24 THE COURT: Recross:

25 MR. HERON: Just one brief followup.

MICHAEL BRANDT - RE-CROSS EXAMINATION BY MR. HERON 118

RECROSS EXAMINATION BY MR. HERON

Q. That touch DNA evidence that you have been talking about?

A. Yes, sir.

Q. Is that the same DNA evidence that has been used to get people off of death row, to get people out of prison that have been in prison sitting for ten years and prove their innocence, isn't that the same technology we're talking about?

A. I can't speak for that because I am --- Project Innocense that I believe you are referring to is typically referred to as seminal DNA, not epithelial. I could be mistaken but I don't have direct knowledge of those particular cases.

Q. But if you want to you could run the test today if you wanted to?

A. State Law Enforcement Division could. Florence Police Department is not a forensic laboratory.

MR. HERON: Okay. Thank you.

THE COURT: You may step down.

MR. BRANDT: Thank you, sir.

THE COURT: Next witness, how long?

MR. CLEMENTS: Your Honor, it might go a little beyond 5:30 on direct and cross.

THE COURT: Jurors, okay, everybody okay or someone

1 need to leave now or are we okay to take one more.

2 MR. CLEMENTS: Okay. May we approach, Your Honor?

3 THE COURT: Yes.

4 (Whereupon, a bench conference was held in the
5 presence of the jury but out of the hearing of the jury.)

6 THE COURT: Jurors, we're going to stop here for the
7 evening. Let me give you these instructions that I gave
8 you before lunch. Do not talk to anyone about this case.
9 Do not let anyone discuss it in your presence. It is
10 absolutely essential that no one discuss this matter with
11 you and you not to discuss it with anyone. Please
12 remember that. That is very important. That effects the
13 integrity of the verdict, and as I indicated to you would
14 be major concernment to The Court if it occurred. When
15 you come back tomorrow please remember those instructions
16 when as you come to the jury room. I would like to start
17 a 9:00 in the morning. Is everybody okay with starting at
18 9:00, so we can proceed and make some progress?

19 Have a wonderful evening. Come right through here.
20 No one leaving now but the jury. Catch them the elevator.
21 No one but the jury. Good night everyone.

22 (Whereupon, the jury exits the courtroom at 5:11
23 p.m.)

24 THE COURT: Anything from The State, before adjourn?

25 MR. CLEMENTS: Nothing, Your Honor. Thank you.

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1 THE COURT: From Defense?

2 MR. HERON: Nothing, Your Honor.

3 THE COURT: Remember now, 9:00 in the morning.

4 9:00.

5 MR. HERON: Yes, Your Honor.

6 THE COURT: Have a good night's rest everyone.

7 (Whereupon, The Court concludes its business for
8 the day at 5:12 p.m. on Monday January 12, 2009.)

9 -- END OF DAY ONE OF TRIAL --

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1 (Whereupon, The Court begins the proceedings at
2 9:02 a.m. on Tuesday, January 13, 2009.)

3 -- DAY TWO OF TRIAL --

4 THE COURT: Good morning, jurors.

5 JURORS: Good morning.

6 THE COURT: Hope everyone had a good night's rest.
7 Anyone with any specials problems? Everybody okay?
8 Thanks. Mr. Solicitor, our next witness, please.

9 MR. CLEMENTS: Thank you, Your Honor, if it please
10 The Court we call Investigator Lee Davis.

11 LEE DAVIS

12 BEING DULY SWORN TESTIFIES AS FOLLOWS

13 CLERK OF COURT: Please be seated and state your
14 full name for the record.

15 Mr. DAVIS: My name is Lee Davis and I am an
16 investigator with the Florence, South Carolina, Police
17 Department.

18 DIRECT EXAMINATION BY MR. CLEMENTS

19 Q. And what is your rank?

20 A. I am a Sergeant. I have been with the Florence
21 Police Department approximately ten and a half years
22 and prior to that I was in criminal investigations
23 for three and a half years and then prior to that I
24 was in narcotics for four and a half years.

25 Q. Were you a criminal investigator back in January of

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1 2007?

2 A. Yes, sir, I was.

3 Q. Were you the on call investigator or the duty
4 investigator?

5 A. Yes, sir. We have a duty investigator and that is
6 the person who each day of the week after hours there
7 is an investigator assigned to come out when a crime
8 occurs and on this night I was the duty investigator
9 for the Florence Police Department.

10 Q. All right. Can you tell the jury about when you
11 received the call and what can of called you received
12 and how you responded?

13 A. Actually I was already out on another call. There
14 was another shooting that occurred earlier and I had
15 went over to McLeod Regional Hospital and I was
16 actually on my way home. And the call came out from
17 central dispatch about a man that was down. I heard
18 that on the radio, but we didn't know where the man
19 down was so I kept going towards my house just in
20 case it was not major case.. I waited for the
21 responding officer who was Officer Happ to get on the
22 scene. Once Officer Happ got on the scene he advised
23 that the person on the scene had been shot. At that
24 point I turned around and I came back and started
25 headed toward [REDACTED].

1 Q. When you got to [REDACTED] tell this jury what
2 you found and what you did?

3 A. When I arrived at the scene at [REDACTED]
4 the victim who had been shot had already been taken
5 to McLeod Regional Hospital. I spoke with Officer
6 Happ and he advised me that where he saw the victim
7 lying beside the car. He showed me a spent shell
8 casing and a live round that was on the ground. He
9 showed me a broken necklace that was on the step of
10 the house and he just walked me through the scene,
11 you know, told me what he found. Also when I got
12 there, there were two other people there. There was
13 Travis James and Cory Byrd were also there. I spoke
14 to them just briefly because my objective was to get
15 to the hospital to find out the condition of the
16 victim, and see I could get any information from him.
17 So I spoke with them briefly after I went to the
18 scene, and then I went to McLeod Regional Hospital.
19 When I got to the hospital, the medical staff was
20 still trying to work on Mr. Timmons. I had been
21 there approximately five minutes and the doctors came
22 out and told me that Mr. Timmons had passed away. At
23 that point, I made contact with family members and
24 the doctor and I and the nurse went to talk to the
25 family members just trying to get any information we

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1 could get about Mr. Timmons. Who he associated with.
2 Who he had been there with. All that kind of
3 information. I stayed there for approximately thirty
4 to forty minutes. We have a process we go through
5 where we have to try and maintain what is called a
6 chain of custody because we didn't want anyone to
7 disturb Mr. Timmons' body so I waited until I got
8 another officer there to stay there with him and then
9 I went back to [REDACTED].

10 Q. All right. Was Mr. Timmons' body taken for an
11 autopsy?

12 A. Yes, it was. It was taken for autopsy the following
13 morning and Sergeant Brandt and Investigator Myers
14 went with him to Charleston for the autopsy.

15 Q. Okay. Now when you went back to [REDACTED]
16 had you left law officers there?

17 A. Yes, sir. There was --- Officer Happ was at Marion
18 Street, Officer Cantrell, I believe Sergeant Brandt
19 and Investigator Myers was also on the scene. They
20 had already started processing the scene.

21 Q. When you came back or before you left?

22 A. When I left initially there was Officer Happ and
23 Cantrell. They were already maintaining the scene.
24 They had put up crime scene. Officer Brandt and
25 Investigator Myers were on the way but they hadn't

1 got there yet when I left initially, but by the time
2 I got back Corporal Brandt and Myers were already on
3 the scene processing the vehicles and going through
4 the scene.

5 Q. Okay. So when you got back there they were from the
6 Crime Scene Unit and they were processing the scene
7 there. Did you assist them or what was your duties
8 then --- what did you do?

9 A. At that point my duties were to find out what had
10 happened and I began interviewing people that were
11 there. I spoke with Travis James who was there. I
12 spoke with Cory Byrd who was there. Initially, the
13 people who lived at the house they were not there.
14 They had went to the hospital when Mr. Timmons was
15 initially taken to the hospital. So when I came back
16 to the none of them were there. I think Ms. Tacika
17 Washington was there. She is the sister of the
18 homeowners, Ms. Carolyn Washington. I spoke with
19 her. She came up at the end of this and after the
20 shooting had occurred. She came up prior to Mr.
21 Timmons being taken the hospital. She wasn't there
22 prior. So I spoke with briefly. I spoke with Mr.
23 Byrd and I spoke with Mr. James and tried to get
24 information about what they saw, what they observed
25 when they were there. I was advised by them that Mr.

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1 Douglas Washington was there earlier but Mr.
2 Washington had left the scene prior to law
3 enforcement's arrival. So my job at that time was to
4 try and talk to all the people who were there. Get
5 their information. Get their side of the story as to
6 what they observed and what they saw that night
7 before the shooting, and during and after the
8 incident.

9 Q. All right. Is Travis James, does he go by another
10 name or have a nickname?

11 A. He goes by the name of Gusto.

12 Q. Gusto?

13 A. Yes, sir.

14 Q. Okay. All right. And who exactly is the homeowner
15 again, and who exactly lives in the house at [REDACTED]

16 [REDACTED]
17 A. That night --- Ms. Carolyn Washington is the
18 homeowner. However, she has several daughters that
19 live there with her. There is Quandeline W. [REDACTED],
20 Antoinette B. [REDACTED] lives there and she had a sister,
21 Tatica W. [REDACTED] who also lived there, but Tatica
22 was not there initially. Only Antoinette and
23 Quandeline were there and they were there when the
24 shooting occurred.

25 Q. All right. Was Ms. Carolyn Washington there when the

1 shooting occurred as well?

2 A. Yes, she was.

3 Q. Okay. So if you would tell what your investigation
4 revealed and you name to this jury who your
5 investigation revealed to you were there in the house
6 at that time?

7 A. Okay. On the following day I asked Ms. Washington
8 and her daughters to come to my office so I could
9 interview them further and find out what originally
10 had. When I spoke with Ms. Washington and Ms.
11 Washington said she had gotten home approximately
12 around 11:30 that night. She was in her kitchen and
13 she was cooking, I think she said a cheese toast
14 sandwich or something like that, and she observed
15 that Cory Byrd, Doug Washington, and Travis James,
16 were coming into her yard and they were driving an
17 older gray truck. She said she went back into the
18 kitchen, continue cooking, and at that point her
19 daughter Quandeline opened the door and let the three
20 of them into her house. Cory Byrd went back into the
21 kitchen where she was and talking to with her. Doug
22 went into the room with her daughter Quandeline and
23 was talking to Quandeline, and her daughter
24 Antoinette was asleep in the house. They stayed
25 there for a few minutes, not very long, and from what

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1 I understand they were getting ready to leave the
2 house. They had been there maybe five or ten minutes
3 and they were getting ready to leave the house. At
4 that time the victim, Mr. Timmons, he arrived in his
5 vehicle. He parked his vehicle in the yard. He came
6 into the house and he stayed there briefly. Spoke
7 with Ms. Washington for few minutes and then he went
8 and spoke to Quandeline. He told Quandeline that he
9 would be back later. He left out of the house and
10 Ms. Washington said the one thing that stood out to
11 her is she remember that the three of them were
12 getting ready to leave just prior to Mr. Timmons
13 arrival. But then all of a sudden it seems that they
14 were back again for whatever reason they changed
15 their mind about leaving. Quandeline told me during
16 the course of my investigation that ---

17 Q. Investigator Davis, appreciate all that but you just
18 list --- were those --- the people that you mentioned
19 were those the only people that were in the house?

20 A. That was the only people that were inside the house
21 at the time.

22 Q. All right. That was Douglas Washington, Cory Byrd,
23 Travis James, also known as Gusto, Quandeline and
24 Carolyn Washington, and Antoinette --

25 A. Burgess. That is correct.

1 Q. And did your investigation reveal anybody else coming
2 in the house other than Brandon Timmons?

3 A. No, it did not, go inside that house.

4 Q. All right. Did you take full statements from
5 Carolina Washington?

6 A. Yes, I did.

7 Q. Did you took full statement from Quandeline

8 W. [REDACTED]?

9 A. Yes, I did.

10 Q. And you took a full statement from Antoinette

11 B. [REDACTED]?

12 A. Yes, I did.

13 Q. Okay. And you told us previously you had talked to
14 Travis James and Cory Byrd?

15 A. Yes, I did.

16 Q. After talking to all of them and getting statements
17 from them what was the next step in your
18 investigation?

19 A. After I talked to Mr. Byrd and Mr. James the next
20 day, basically I was trying to find out from them who
21 actually was at the house with them that night that
22 came to the house with them. From what I understand
23 they told me that there were four people that came
24 with them to house.

25 MR. HERON: Your Honor, I let him go with a lot, but

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1 I am going to object to hearsay as to what people told
2 him.

3 THE COURT: Sustained.

4 MR. HERON: Thank you.

5 Q. All right. Investigator Davis, can you understand
6 you can't tell us what somebody else said, okay?
7 What I am asking you is what you did and you tell us
8 who you talked to, not what they said. Okay?

9 A. Okay.

10 Q. All right.

11 A. All right, the next day doing my investigation I
12 spoke with Cory Byrd, I spoke with Travis James. As
13 a result after speaking with them I determined that
14 there was a person there who went by the name of Von,
15 it was the nickname of the person that was there.

16 Q. All right, and following up on this Von, tell the
17 jury what you did next in your investigation?

18 A. What I did then was my investigation revealed that
19 this person Von was from Darlington. At that time,
20 what we do is sometimes we have information on a
21 person who doesn't have a last name or whatever, we
22 refer to some other agencies. What I did I talked
23 with the U.S. Marshall's office. They have a future
24 task force and they help us locate people that we are
25 looking for. We also talk with other local agencies.

1 What I did was give that name to Darlington County
2 and to U.S. Marshall Service and they came back with
3 a name for me and that name came back as Devodus
4 Rouse.

5 Q. All right. After you received that name did you
6 investigate that name further?

7 A. Yes, I did.

8 Q. Can you tell this jury what you did next in the
9 investigation of who Devodus Rouse was?

10 A. During my investigation I obtained a photo of Mr.
11 Rouse, a booking photo in Darlington County. I went
12 and I showed that photo to Mr. Cory Byrd. And as a
13 result of my investigation I obtained information on
14 that being the person who was there that night.

15 Q. Well after talking to Cory Byrd and after getting
16 that picture then what was the next step in your
17 investigation?

18 A. At that time, I obtained information that there was a
19 girlfriend of this person who came to Florence that
20 night and had information regarding what occurred
21 that night.

22 Q. Girlfriend of whom?

23 A. Girlfriend of Devodus Rouse.

24 Q. Okay. And what did your investigation reveal her name
25 was?

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1 A. Her name was Farhonda Pompey.

2 Q. Okay. Did you ever have opportunity to talk with
3 her?

4 A. Yes, I did.

5 Q. How many times?

6 A. I talked to her on several occasions. Initially, I
7 spoke with her maybe a few days after the incident
8 and then I spoke with her maybe a couple of weeks
9 after the incident.

10 Q. Okay. All right. After speaking with her and after
11 speaking with Cory Byrd what did you do next?

12 A. At that point, after I spoke with Ms. Pompey, her
13 information revealed some of the same information
14 that I had found out earlier in my investigation.
15 So what I did based upon that I went and got her
16 information as what she could tell me about what she
17 observed that night, and what she saw that night, and
18 her information told me that I needed to try and
19 locate Mr. Devodus Rouse and speak with him.

20 Q. Okay. Did you ever talk to Mr. Douglas Washington?

21 A. I spoke with Mr. Douglas Washington briefly.

22 Q. Okay. All right. And as a result of that at what
23 point and time did you decide to get Warrants?

24 A. After I spoke with Ms. Pompey, and after I spoke with
25 Mr. Byrd and also Mr. James, based upon the

1 information they gave me, I went and sought Warrants
2 for Murder from City Court for Mr. Devodus Rouse.

3 Q. All right. Did you get any warrants on any other
4 people?

5 A. I obtained warrants on Cory Byrd, Travis James and
6 Doug Washington also for accessory after the fact of
7 a felony.

8 Q. All right. Is Mr. Byrd, is he still around?

9 A. No, Mr. Byrd was shot and killed in September 2008.

10 Q. Mr. James, Mr. Washington, they still around?

11 A. Yes, Mr. James and Mr. Washington are still here.

12 Q. Okay. All right. Ms. Pompey, is she still around?

13 A. Yes, she is.

14 Q. Ms. Carolina, Ms. Quandeline W. [REDACTED], Ms. Burgess,
15 they still around?

16 A. Yes, they're here in the courtroom today.

17 Q. Okay. All right. Now, after receiving the warrants
18 from the City Court, what was your next process in
19 the investigation?

20 A. Well actually at that point we attempted to located
21 the people that we had got warrants for, Mr. Rouse,
22 Mr. James, Mr. Byrd and Mr. Washington?

23 Q. Were you able to serve the warrants on all them
24 people?

25 A. No, we were not initially. We were not able to

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1 locate them as a matter of fact.

2 Q. Okay.

3 A. And as a result of that we put their information in
4 the media and the newspaper, because at that point
5 they were wanted people. And we went by and try to
6 locate them at their houses, their friends, their
7 contact and they we were not able to locate them so
8 we put them on the news media as wanted people. And
9 after several weeks, I think, we had a few of them to
10 turn themselves in.

11 Q. All right. And you said Mr. Rouse was from
12 Darlington. Did your investigation reveal --- did he
13 have any connection or family ties in the city of
14 Florence?

15 A. Yes, sir. He had --- we revealed that he had an
16 association Mr. Travis James, the person called
17 Gusto.

18 Q. Okay. And did he have any other family members in

19 --

20 A. He has an aunt that lives, I think, in Florence and I
21 think she lives somewhere close to where the victim
22 lived on Marshall Avenue.

23 Q. Okay. Close to Brandon Timmons?

24 A. Yes.

25 Q. Okay. Okay. Ms. Pompey, is she from Darlington or

1 is she from Florence?

2 A. She is from Florence.

3 Q. Okay. All right. Now after --- after --- When you
4 got the warrants served on all these individuals,
5 what next did you do --- Well, let me ask this first.
6 How long a period of time was it from when Brandon
7 Timmons was killed, til Mr. Rouse had warrants served
8 on him for this offense?

9 A. One moment let me check on that. Mr. Timmons was
10 killed on the first --- on the second of January, and
11 it was the middle --- the end of February before we
12 had any arrest warrants served on any of them.

13 Q. Okay.

14 A. They were placed in the NCIC as wanted people on the
15 seventh of February and they were not arrested like
16 the end of February..

17 Q. Now let me ask you this. That is quite a passage of
18 time. Did you just put this on the back burner and
19 tend to other things or was this an ongoing
20 investigation during that entire time?

21 A. No, sir, it was an ongoing investigation, and it was
22 a high priority, and because there was so much
23 information that was incoming --- there was tips that
24 came in from Crime Stoppers that we had to follow up
25 on. There were tips that came in from the community

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1 that we had to follow up on, and in the meantime we
2 also were trying to talk to other people who might
3 have information so it was a long processing in
4 trying to determine the exact person who actually did
5 this before we just went and got warrants. We wanted
6 to make sure that it was the correct person we were
7 serving warrants on.

8 Q. Okay. All right. After serving warrants on any of
9 these individuals were you able to interview them?

10 A. We did not interview any of them. Mr. Rouse did not
11 want to speak with us. Mr. Byrd did. Mr. James
12 spoke with us briefly, and Mr. Washington did not
13 speak with us, very briefly, and he did not give us
14 anything that was crucial to our investigation.

15 Q. Okay. Mr. Byrd, Mr. James, they cooperated?

16 A. Yes, yes, they did.

17 Q. All right. Was there ever any information that came
18 to you that Mr. Rouse did want to speak to law
19 enforcement?

20 A. In February while I was working on another accident
21 case, Sergeant Drayton, received information from a
22 family member, a friend of Mr. Rouse that he wanted
23 to speak with Sergeant Drayton. And Sergeant Drayton
24 and Sergeant Godwin went down to the jail and
25 interviewed him.

1 MR. CLEMENTS: Okay. I beg The Court's indulgence.

2 THE COURT: Yes, sir.

3 (PAUSE)

4 Q. As a part of your investigation Sergeant Davis, when
5 you need to speak to individuals and interview them
6 and get information that they would have to give you,
7 what other things do you hunt for in an investigation
8 like this that you try to find?

9 A. We try to find any evidence that is there than can
10 link that individual to that person or to the crime.
11 That is one of the reasons we use the crime scene, we
12 have them come out and process the crime scene. See
13 if there is anything relevant that may lead us back
14 or tie us into the suspect or any additional
15 suspects.

16 Q. All right. And how about vehicles, do you
17 investigate any vehicles?

18 A. Yes, sir. We process vehicles, we run information on
19 the vehicles. Any information that comes in about
20 any about vehicle possibly involved in --- and again,
21 like I said, our crime scene unit that is their job
22 to process any vehicle or anything that is involved
23 at the scene that could may render information that
24 we could use.

25 Q. Your investigation revealed how many vehicles that

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1 might have had some connection to this incident?

2 A. There was Mr. Timmons' vehicle that was at the
3 residence, and then there was gray vehicle that was
4 owned Mr. Milton Gerald that was also involved that
5 was at the scene but left prior to our arrival.

6 Q. All right. Was there any other vehicle involved with
7 any of these subjects?

8 A. Not that I recall, not off the top of my head.

9 Q. Okay. Not driven by any of the witnesses or any of
10 the people you talked to?

11 A. The Honda Passport that was driven by Mr. Washington,
12 and there was the vehicle that was driven by Ms.
13 Pompey who was Mr. Rouse's girlfriend.

14 Q. Okay. Do you also hunt for weapon or any type
15 physical in regards to weapons?

16 A. Yes, sir. Especially since there had been a shooting
17 that occurred we try to find any weapons that was
18 tied to the crime. I spoke with Ms. Timmons, who was
19 Brandon's mother, and also one of his family members
20 and found out he had a gun that was registered to
21 him. That gun was not located so as a result of that
22 gun not being located, we placed that gun into the
23 National Crime Information Center so that if it's
24 found or located that, that gun would then come back
25 to us and the person will arrested for being in

1 possession of a stolen weapon and that gun was
2 eventually located.

3 Q. The gun was located?

4 A. Yes, it was.

5 Q. And where did you receive information from about the
6 gun?

7 A. Marion --- Lieutenant Blue from Marion County, he
8 called us and advised us --- Actually what is
9 whenever another agency gets a hit on a weapon that
10 is stolen from our agency, they contact our agency
11 through our dispatch center. They advised us that
12 they had a subject that was detained and arrested in
13 Marion County and he had Brandon Timmons' gun in his
14 possession.

15 Q. Okay. And did you all go and retrieve that gun?

16 A. Yes, sir, we did. We went to Marion County, myself
17 and Sergeant Brandt of the Crime Scene Unit to
18 recover it.

19 Q. I am going to show you what has been marked as
20 State's Exhibit 22. Do you recognize that?

21 A. Yes, sir. That is the gun that was recovered from
22 Marion County.

23 Q. This is Brandon Timmons' gun?

24 A. It is.

25 Q. And where did your investigation reveal this gun was

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1 purchased from

2 A. It was purchased from Fudd's Pawn Shop. He had the
3 proper paperwork showing where he purchased it at and
4 it was at his house and Ms. Timmons' provided the
5 information.

6 Q. Okay. The paperwork on this gun?

7 A. Yes.

8 Q. Okay. I just have a few more questions, Sergeant
9 Davis. First little area I want to cover with you
10 right now is in regards to the 911 call. Does that
11 have any important in your investigation?

12 A. Yes, sir, it surely does. One of the reasons that
13 the 911 tape ---911 calls are recorded so that during
14 the process of our investigation if there was an
15 information that is pertinent, we can go back and
16 pull that tape and have that tape used as a tool in
17 our investigation.

18 Q. What did you do in regards to the 911 call, in this
19 incident?

20 A. What we have to do is the communication center at
21 Florence County Central Dispatch what they do is
22 provide us with a form and what we have to do is put
23 the case number, the date and time on that form and
24 send a request to them and then based upon that they
25 will pull that 911 tape and they will just forward us

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1 a copy of that actual 911 call that they have in
2 their CAD System.

3 Q. Did you do that for the tape in this case?

4 A. I did.

5 MR. CLEMENTS: All right. Your Honor, I would like
6 to have this marked for identification.

7 THE COURT: Okay. I.D. only this time.

8 WHEREUPON, STATE'S EXHIBIT

9 NUMBER 24 WAS MARKED FOR

10 IDENTIFICATION.

11 Q. I am going to show you what has been marked as
12 State's I.D. Number 24 for identification only. Do
13 you recognize that?

14 A. Yes. That is a copy of the cassette tape that I
15 received from central dispatch for this particular
16 incident, and it's marked with the case number 2007-
17 000.6 which refers to this case.

18 MR. CLEMENTS: Your Honor, at this time we would
19 like to move State's Exhibit 24 into evidence.

20 THE COURT: 24 into evidence without objection.

21 MR. HERON: Correct, Your Honor.

22 THE COURT: Thanks.

23 WHEREUPON, STATE'S EXHIBIT

24 NUMBER 24 WAS MADE PART OF

25 THE RECORD.

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1 MR. CLEMENTS: Your Honor, we have State's Exhibit
2 Number 24 which is the original tape and I questioned
3 Sergeant Brandt about the digitization of these tapes for
4 ease of play in Court and we have the disc that has been
5 made from this tape. We would like to ask to publish it
6 at this time.

7 MR. HERON: No objection, Your Honor.

8 THE COURT: That's by agreement. You may proceed.

9 MR. CLEMENTS: Thank you, Your Honor.

10 Q. Investigator Davis, when you all get these tapes what
11 do you do with them, within your agency, to make them
12 easy to give to the prosecution and for presentation
13 of Court?

14 A. We have our crime scene unit make a copy of those and
15 burn them to CD's so that the defense and the
16 prosecution will also have a copy. As far as their
17 investigation and preparation for their file.

18 Q. Was that done with this tape in this case?

19 A. Yes, sir, it was.

20 (WHEREUPON, THE 911 TAPE WAS PUBLISHED TO THE JURY.)

21 Q. Investigator Davis, in your investigation did you
22 determine how many calls were made to 911?

23 A. Yes, sir, it was two calls that were made to 911.

24 Q. Did you talk to individuals and find out who made
25 those two calls?

1 A. Yes, I did.

2 Q. And who were those two people that called?

3 A. The first person I called Shadonna. Shadonna is a
4 cousin of the victim Brandon Timmons, and the second
5 person was Antoinette B. [REDACTED]

6 Q. Now Shadonna, do you know how Shadonna got on the
7 scene --- was she on the scene to begin with?

8 A. Shadonna was brining Tatika Washington home. Tatika
9 lives there. Shadonna was --- they work together at
10 the same place. They got off work and she was
11 brining Tatika home and that's how --- when she got
12 there someone told her that was her cousin Brandon
13 that was on the ground.

14 Q. Okay. So this was after the shooting?

15 A. Yes, it was.

16 Q. Okay. And she made the first call to 911?

17 A. Yes, she did.

18 Q. And who made the second call?

19 A. The second call was made by Antoinette B. [REDACTED]

20 Q. And earlier I think you testified Antoinette B. [REDACTED]
21 was in the house?

22 A. She was in the house asleep at the time. She said
23 she was in the house sleeping during the time the
24 shooting occurred.

25 Q. Okay. All right. Now you testified you got a lot of

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1 tips. You had to follow up on those. Get the Crime
2 Stopper's tips. You have to follow up on all those.
3 Can you explain to us the process not to say what
4 anybody else to you but the process of how you went
5 from the beginning of the investigation to
6 determining that you needed to get a warrant for
7 Devodus Rouse?

8 A. During the course of the investigation like I said we
9 got tips and information from different sources.
10 During the course of my investigation I got
11 information that a person whose name was Von was the
12 person who was outside of the house at [REDACTED]
13 [REDACTED] on the night that this incident
14 occurred. My investigation also revealed that person
15 never came inside the house. That person stayed
16 outside the house the entire the time, and also that
17 they were only three people that were in the house.
18 That was Doug Washington, Cory Byrd and Travis James
19 were the only people that went inside the house.

20 Q. That did not live there?

21 A. That did not live there. Later on in my
22 investigation I found out that the person, Devodus,
23 who is known as Von, who I later identified as
24 Devodus Rouse had a girlfriend that he had called to
25 come and pick him up that night after this incident.

1 My investigation revealed that person gave
2 information to his girlfriend. Based upon that
3 information that he gave his girlfriend, I followed
4 up on that information and that information revealed
5 that person actually told someone that he had shot --

6 Q. -- Now don't say what somebody told someone. On the
7 information you got from the girlfriend, who else did
8 you talk with?

9 A. I also talked with Cory Byrd.

10 Q. After talking to Cory Byrd what steps did you take?

11 A. After I spoke with Cory Byrd I got a booking photo of
12 Mr. Rouse and he identified that person based on --

13 Q. -- And after getting the booking photo and talking to
14 Cory Byrd what did you do next?

15 A. I interviewed Ms. Pompey.

16 Q. And after interviewing Ms. Pompey what did you do
17 next?

18 A. After that I went and gave that information to my
19 city court judge and based upon that they found it
20 was proper cause for a warrant for the murder.

21 MR. CLEMENTS: Okay. I beg The Court's indulgence
22 for a moment. Sergeant Davis, thank you. Will you please
23 answer any questions Mr. Heron might have.

24 THE COURT: Thank you, Your Honor.

25 CROSS EXAMINATION BY MR. HERON

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1 Q. Sergeant Davis, when you do your investigation you
2 type a summary of what you've done, is that right?

3 A. Summary report.

4 Q. And I am going to hand you --- will you just tell the
5 jury what that appears to be. I know it's
6 highlighted and drawn on, but you're free to describe
7 that.

8 A. This is a copy of a supplement report, my
9 supplemental report that was submitted for this case.

10 Q. Do you have a copy of this report before you?

11 A. I do.

12 Q. Now in lieu of your investigation we know that
13 Douglas Washington was not on the scene when law
14 enforcement arrived, is that correct?

15 A. That is correct.

16 Q. And he wasn't on the scene when the ambulance showed
17 up, is that correct?

18 A. That is correct.

19 Q. Now that first 911 call which was made by Shadonna,
20 did you hear anything on there about someone getting
21 shot?

22 A. There is not --- No. No.

23 Q. Did you hear anybody describe a male running away
24 from the scene?

25 A. No, I did not.

1 Q. Okay. That second phone call was made by Antoinette

2

B. [REDACTED]

3 A. That is correct.

4 Q. And isn't it true that Ms. Burgess --- it seemed to
5 be her main concern that there were some disorderly
6 males in her yard?

7 A. There were people that she wanted to have removed
8 from her property and that is why she made the call
9 to 911.

10 Q. And it wasn't until later on when a 911 employee
11 informed her that somebody was down in the yard that
12 is when she knew about isn't that right?

13 A. That's when she knew about?

14 Q. Someone being down in her yard?

15 A. No, she knew someone was down in her yard she wanted
16 the other people to be removed from her yard that was
17 there also.

18 Q. Okay. Let's talk about the people that were in the
19 yard. According to your investigation there was Cory
20 Byrd, Travis James, and we know Douglas Washington
21 left before law enforcement got there is that right?

22 A. That is correct.

23 Q. Now as a result of your investigation isn't it true
24 that Douglas Washington planned on robbing the victim
25 Brandon Timmons?

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1 A. There was some information that came out during my
2 investigation that there was someone that said that
3 about Mr. Washington and Mr. Byrd.

4 Q. And as a result of your investigation did you get
5 information from anyone that this young man sitting
6 right here had any plans on robbing the victim,
7 Brandon Timmons?

8 A. No, his name never came up as far as that is
9 concerned.

10 Q. But the name who did come up was Douglas Washington?

11 A. That is correct.

12 Q. The same guy that wasn't there when you all showed
13 up?

14 A. That is correct.

15 Q. Now when this young man found out that you all were
16 looking for him isn't it true that he turned himself
17 into law enforcement?

18 A. Not right away. We had --- like I said before we
19 actually put him on TV. and in the newspaper because
20 we could not find him. We attempted to locate him we
21 went to the address that he listed as Douglas
22 Boulevard. We tried to locate him there and we gave
23 his family that we were looking for him. We went to
24 his father's house looking for him. We went to
25 Darlington with the assistance of Darlington County,

1 Darlington Sheriff's Department and we were not able
2 to locate him. So he did not turn himself in right
3 away.

4 Q. Okay. But he turned himself in?

5 A. Several weeks later.

6 Q. Okay. And he also voluntarily gave a statement to
7 law enforcement?

8 A. Several months later.

9 Q. Did Doug Washington give a statement to law
10 enforcement?

11 A. He spoke with us briefly.

12 Q. Did you take down notes about that statement?

13 A. It was very brief. He didn't stay very long.

14 Q. Okay. Now we talked about Mr. Rouse turned himself
15 in, did you have any knowledge as to the
16 circumstances surrounding the arrest of Douglas
17 Washington?

18 A. Yes, sir.

19 Q. Please tell the jury how Doug Washington came to be
20 in custody?

21 A. Mr. Washington --- I think if I'm correct he came the
22 complex because he was on probation, and he was
23 coming to see his probation agent. At that point
24 when one of the officers downstairs at the desk
25 recognized him and knew that we had a warrant for him

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1 and that his is a wanted person, he attempted to flee
2 and he was arrested.

3 Q. He attempted to flee. And the complex, we're talking
4 about this building that we are standing in right
5 now?

6 A. That is correct.

7 Q. And isn't it true that he jumped a rail downstairs
8 new the police department and that is almost like a
9 half story?

10 MR. CLEMENTS: Your Honor, I'm fine with this
11 information if it comes through the right person. I am
12 not sure Sergeant Davis was there.

13 Your Honor, first I would ask that the proper
14 foundation be laid with Sergeant Davis if he was there if
15 he has personal knowledge of that or we need to call
16 someone else.

17 MR. HERON: Your Honor, he testified as to
18 circumstances surrounding Mr. Rouse turning himself in,
19 and he also --- I think I laid a foundation when I ask him
20 if he had any information about circumstances surrounding
21 the arrest of Doug Washington and he stated that he did.

22 THE COURT: I am going to be liberal in regard to
23 this matter. It is rank hearsay. Proceed to a certain
24 point.

25 Q. They hadn't tased Doug Washington?

1 A. I read the report I was not there but I read the
2 report.

3 Q. Okay. Investigator Davis, part of the investigation
4 is to find evidence to implicate the guilty, isn't
5 that right?

6 A. There is an attempt made, yes, sir.

7 Q. And isn't part of the investigation --- isn't part of
8 the reason to do an investigation is to exonerate the
9 innocent?

10 A. That is correct.

11 Q. Investigator Davis, there was no physical evidence
12 found at the scene that indicated this young man did
13 the crime, was it?

14 A. Physical evidence, correct, but, you know, a case
15 does not always go on just physical evidence.

16 Q. Okay.

17 A. There are many cases where you have no physical
18 evidence at all.

19 Q. Were drugs found in the car of the victim?

20 A. Yes, sir.

21 Q. Okay. And there was a drug baggie found on the
22 ground outside the home?

23 A. Yes, sir.

24 Q. And you found Brandon Timmons', the victim's gun in
25 Marion?

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1. A. That is correct.

2. Q. And there is no link between the victim's gun and
3. this young man sitting right here is there?

4. A. Not with person that was arrested with the gun.

5. MR. HERON: Your Honor, can I have just a minute.

6. THE COURT: Sure.

7. (PAUSE)

8. MR. HERON: No further questions, thank you.

9. THE COURT: Redirect.

10. MR. CLEMENTS: Thank you, Your Honor, if it please
11. The Court.

12. REDIRECT EXAMINATION BY MR. CLEMENTS

13. Q. Sergeant Davis, Mr. Heron ask you if they almost
14. tased Mr. Washington. Do you have any knowledge of
15. Mr. Washington started to run and then stopped when
16. they commanded him to stop?

17. A. Like I said, I wasn't there. I read the report after
18. the fact and I think he did stop after they told him
19. to stop. After he attempted to flee, he stopped.

20. Q. Okay. All right. And Mr. Heron asked you didn't
21. your investigation reveal talk about robbing Brandon
22. Timmons?

23. A. Correct.

24. Q. And didn't you investigation --- Did your
25. investigation or not reveal there was talk in the car

1 coming over to Carolyn Washington's house about doing
2 a robbery?

3 A. That is correct.

4 Q. And who talked about that?

5 MR. HERON: I object to who talked about what, Your
6 Honor, it's hearsay.

7 MR. CLEMENTS: Well, Your Honor, I believe he opened
8 door.

9 THE COURT: Well as you well know, Mr. Solicitor,
10 there is a recent case about opening the door, and I don't
11 want to revisit that again. I sustain the objection.

12 MR. CLEMENTS: Yes, sir. I withdraw the question.

13 THE COURT: Thank you.

14 Q. Just one last question. And I don't want you to
15 respond with any hearsay so I want you to listen to,
16 my question carefully. Without stating what, where
17 you able to somewhat trace that gun, State's Exhibit
18 22, I believe, from that robbery and shooting of
19 Brandon Timmons to it showing up in Marion County?

20 MR. HERON: Your Honor, I object to the form of the
21 question. Somewhat trace, I just don't --- it's
22 confusion, argumentative, I just ---

23 THE COURT: Rephrase, Mr. Solicitor.

24 Q. Were you able to develop a path or theory without
25 stating what that is, from the evidence you received,

BEING DULY SWORN TESTIFIES AS FOLLOWS

1 CLERK OF COURT: Please be seated and state your
2 full name for the record.

3 MR. MYERS: Thomas Myers.

4 DIRECT EXAMINATION BY MR. CLEMENTS

5 Q. And do you go by a nickname?

6 A. I go by Bo.

7 Q. Bo. And you mind if I call you Bo?

8 A. That's quite all right.

9 Q. Bo, where do you work?

10 A. I work for the Florence Police Department.

11 Q. How long have you been in law enforcement?

12 A. I have been in law enforcement for just over five and
13 a half years.

14 Q. Is that entire five and a half years been spent with
15 Florence Pee Dee?

16 A. It has.

17 Q. In what capacity are you working now?

18 A. Currently, I am Investigator assigned to the Crime
19 Scene Unit of the Criminal Investigation Division.

20 Q. In January of 2007, what were you doing for the
21 Florence Pee Dee?

22 A. I had recently been promoted to my current position
23 and was in training within the Crime Scene Unit.

24 Q. And who were you in training under?

25 A. Then Corporal Brandt.

THOMAS MYERS - DIRECT EXAMINATION BY MR. CLEMENTS 156

1 Q. And now he's Sergeant Brandt?

2 A. That is correct.

3 Q. Okay. Did he get that promotion from training you?

4 A. I hope not.

5 Q. Okay. Can you tell this jury briefly what you did on
6 January the 2nd?

7 A. We had --- Corporal Brandt and I had been processing
8 an earlier shooting scene unrelated to this one. In
9 the final stages of that scene, central dispatch had
10 advised the units about a man down call. At that
11 point the specifics to the man down were unknown. We
12 continued to complete the scene that we were
13 currently on. At some point during the competition
14 of that scene we had learned that there was actually
15 a victim who had been shot at [REDACTED].

16 At that time, we complete evidence, security. We
17 each had stopped by the Police Department at our
18 crime scene and lab and secured the evidence from
19 their earlier scene, transferred photos and refreshed
20 our equipment to respond then to [REDACTED]

21 [REDACTED]

22 Q. When you responded to [REDACTED] can you
23 tell this jury, based on your experience, how
24 thorough were you, and how much time did you spend on
25 that crime scene at [REDACTED]

1 A. We spent several hours. My arrival was approximately
2 2:00 a.m. I arrived a few minutes after Corporal
3 Brandt. We left I believe after 5:00 a.m. A lot of
4 the uncertainty of the scene keeps us questioning
5 what took place, who was involved, where evidence
6 may be. There was a large canvas search for the
7 evidence, and ---

8 Q. When you say canvas search, tell us in layman's terms
9 what that means?

10 A. Just a basic search of the property surrounding.
11 There was some known evidence that was advised to us
12 by Officer Happ on our arrival. The victim had
13 already been transported and was not at the scene
14 upon our arrival. Just due to the uncertainty of the
15 circumstances it was unknown to us at that time any
16 suspects that who may have still been there or left
17 the scene, so just in a detailed search basically
18 with walking with flashlights, searching for anything
19 that could possibly stand out as evidence to us, with
20 the type of search, that we performed, and that
21 search is ongoing. After the initial arrival, we
22 spent a lot of time getting the information that is
23 available. A lot of times there is not a lot of
24 information to be passed on to us.

25 We then begin photography which is what I had

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1 done on that scene. I performed the digital
2 photography of the scene. The search continues on
3 during that. We, you know, as photographing one
4 item, you might come across another item, or looking
5 at one piece of evidence at one angle may delude to
6 another piece of evidence, so the search is ongoing.
7 We don't just search one time. We also continue
8 searching after the evidence is collected and the
9 measurements are drawn, we do a final walkthrough of
10 the scene and any surrounding property.

11 Q. So after doing that thorough search of the primary
12 scene, are there also secondary crime scenes?

13 A. They are a lot of time.

14 Q. Like what are they normally?

15 A. In this case the secondary crime scene for us would
16 have been our arrival at the morgue at McLeod ER. At
17 the time we were on the scene we were advised that
18 the victim had succumb to the injury. And at that
19 time any individual that is linked to the crime scene
20 to the incident becomes, for a lack of better of
21 term, a piece of evidence. Just based on the
22 possible information on items we could retain from
23 that person's body, their clothing, anything like
24 that, so that would be --- After completing the scene
25 we responded to McLeod to secure the victim's hands,

1 and that would have been a secondary crime scene.

2 Q. Let me ask you this. Back at the primary crime scene
3 Sergeant Brandt testified in detail about that, did
4 you notice or see any blood or a lot of blood?

5 A. No. We were advised of the location of the victim.
6 Several --- there is really no set frame of a gun
7 shot victim, or any assault victim, whether there is
8 suppose to be a lot of evidence or suppose to be a
9 lot of blood here, there is no rule book for that.
10 Several times we see a very in depth, very dirty
11 scene, a lot of times it is very clean with minimal
12 evidence.

13 Q. How would you characterize this crime scene?

14 A. There was not a lot of physical evidence there for
15 us, which is not uncommon it's --- of course, the
16 more evidence --- the more physical evidence that we
17 can locate and have the opportunity to process gives
18 us a clearer picture of the incident. But a lot of
19 times, unfortunately, there is not that amount of
20 physical evidence that allows us to do that.

21 Q. Okay. The answer is this was a clean --

22 A. -- This was clean scene, yes.

23 Q. Not ---

24 A. Not a lot of physical evidence that was left behind.

25 I don't recall seeing any blood stain in the grass

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1 where we were told the victim was lying.

2 Q. Okay. So with the lack of blood stains or lack of
3 blood being there, what impact would that have had on
4 how quickly you could determine the person down had
5 been shot?

6 A. They were removed from the scene relatively quickly.
7 That was probably first --- just the lack of time
8 being down and having the opportunity to bleed out.
9 Several factors could play in. The amount of
10 clothing that the person may have worn that got shot.
11 It may lend to containing, absorbing any fluid.

12 Q. Did you accompany the body to the autopsy?

13 A. We did. Corporal Brandt and I, we accompanied EMS to
14 the autopsy at MUSC.

15 Q. And you retrieved what evidence you could find there?

16 A. That is correct. At the scene the pathologist
17 indicated to us that the gunshot wound had an
18 entrance and an exit, but there was not a projectile
19 located within the body. Obtained gun shot residue
20 collection from the victim's hands. Corporal Brandt
21 and I obtained, made the face prints from the victim.
22 Photographed the processed and the clothing.

23 Q. What was the result of the gun shot residue test that
24 you did on the victim's hands?

25 A. I have not seen that report, so I would not been able

1 to tell you.

2 Q. All right. Did you process any vehicles?

3 A. I did. I assisted Corporal Brandt in processing the
4 victim's vehicle as it was secured in this building.
5 Just two eyes are better than one a lot of times.

6 Q. How soon after this occurrence did you process that
7 vehicle?

8 A. That vehicle was the day after the autopsy which was
9 the same day of the incident.

10 Q. Okay. Did you process a second vehicle?

11 A. I did. I was advised approximately a month later, I
12 believe the date February 3rd, then Corporal Davis
13 had requested that I meet him at the complex to
14 process another vehicle that was believed to be
15 related in some way to the incident.

16 Q. Okay. And that was how long later?

17 A. That was a month later.

18 Q. Okay. Do you have any knowledge about that vehicle
19 came?

20 A. I don't. I don't. The request was there for us to
21 process. That falls in the realm of our scope of
22 duties, and in a case like this, you know, we do
23 several things without having a lot of background
24 information.

25 Q. Okay. All right. Now, what if anything, were you

THOMAS MYERS - CROSS EXAMINATION BY MR. HERON

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1 able to find in this vehicle processing it a whole
2 month after the occurrence?

3 A. The vehicle, the 1997 Honda Passport, a small SUV
4 style vehicle. After processing it, I located three
5 possible latent print lifts which are fingerprints,
6 fingerprints from the vehicle from various parts.
7 They were then collected sealed and submitted to SLED
8 for analysis. I don't believe that they actually
9 gave us any value.

10 Q. Okay. You don't know if they were identifiable or
11 not?

12 A. I don't recall that they were.

13 Q. Okay. All right. And this again was how much later?

14 A. This was approximately a month after the incident.

15 Q. And is that the entire scope of your participation in
16 this investigation?

17 A. As far as the investigation, yes.

18 Q. Okay. All right.

19 MR. CLEMENTS: Beg The Court's indulgence.

20 THE COURT: Yes, sir.

21 (PAUSE)

22 MR. CLEMENTS: Please answer any questions Mr. Heron
23 may have.

24 CROSS EXAMINATION BY MR. HERON

25 Q. Investigator Myers, I would like to talk a little bit

1 about the victim's car. What did you all find in the
2 victim's car?

3 A. Items found were the set keys on the floor board.
4 There was some various items in the center console
5 also there were shoulder type bag, sport bag that was
6 located and contained.

7 Q. You also found drugs?

8 A. They were inside that

9 Q. Okay. Let's talk about the bag that you --

10 A. Okay.

11 Q. -- you found drugs.

12 A. That is correct. They were inside of the black bags.
13 There were various personal hygiene items. There
14 were, I believe two small packages of what we had
15 believed at that time to be marijuana, and some items
16 that were common to us as being packaging material,
17 and the baggies.

18 Q. You when you say packaging material if I as a drug
19 dealer I would have those kind of packaging
20 materials?

21 MR. CLEMENTS: That calls for speculation, Your
22 Honor. I object that question.

23 THE COURT: I sustain the objection, counsel.

24 Q. You said you found drugs, and you found baggies, and
25 you found a scale?

- 1 A. I believe there was a scale.
- 2 Q. Didn't you also find a check from Superior Machine?
- 3 A. I believe that --- that --
- 4 Q. -- Can you tell the jury what your investigation
- 5 determined about that check, and I believe there was
- 6 a debit card as well?
- 7 A. The check I believe was written to the victim which
- 8 appeared to be a paycheck. As far as further
- 9 investigation I'm not sure.
- 10 Q. Do you have a copy of your supplemental report?
- 11 A. I do.
- 12 Q. Flip it to --- I guess we need to make sure we're on
- 13 the same page. Isn't it true that on your report it
- 14 says that the debit card and check were possibility
- 15 connected to a forgery case being worked by another
- 16 investigator?
- 17 A. That possibility was not given to me in any further
- 18 detail.
- 19 Q. Now since there is not a whole lot of physical
- 20 evidence, isn't that what you told the Solicitor?
- 21 A. That's right.
- 22 Q. Did I leave some physical evidence on this jury box?
- 23 A. It's possible that there may be some.
- 24 Q. But if you would come over you couldn't see it with
- 25 your naked eye?

1 A. No.

2 Q. And that is why we have DNA testing; isn't that
3 right?

4 A. That's correct.

5 Q. And by doing that, or by doing that, what am I
6 leaving behind?

7 A. Possibility skin cells, but that is not a given.

8 Q. Okay. And to determine whether or not I left some
9 skin cells behind you would have to do the test,
10 right?

11 A. Basically we would have to swab this entire room
12 because not having the aforethought to actually have
13 the opportunity to observe you touching that we
14 wouldn't know where your touch was.

15 Q. If some witnesses said that I touched this jury box
16 that would narrow you down the search, wouldn't it?

17 A. It would.

18 Q. And you would take it and swab the jury box and you
19 would find the epithelial cells, and you could
20 determine to a reasonable degree of medical
21 engineering certainty, scientific certainty that I
22 touched this jury box?

23 A. Through testing that has come more into play more
24 recently than at the time of this case.

25 Q. I think Sergeant Brandt said the same thing with

1 pulling out my pocket.. If I had something in my
2 pocket and I pulled it out and dropped it on the
3 ground, you all could run tests on whatever I had in
4 my pocket. You could run tests on the inside of my
5 pockets to determine if I pulled out my pocket or
6 somebody else pulled out my pocket. You could do
7 those tests, couldn't you?

8 A. They could be done more currently than previously.

9 Q. You still have the evidence.

10 A. That is correct.

11 Q. You all still haven't done any of those tests?

12 A. Well, a lot of that is determined on our relationship
13 with the lab. They've already been processed
14 latently. It would completely be, you know, a lot of
15 times we focus on what we know we can get at that
16 time. With latent appearance which I processed, that
17 candy that you mentioned --

18 Q. Here's what I am getting at. There could have been
19 an abundance of physical evidence, maybe not the
20 procedures that you could see with your naked eye.

21 A. There is always that possibility.

22 MR. HERON: Thank you.

23 THE COURT: Redirect?

24 MR. CLEMENTS: Your Honor, that's all the questions
25 we have for this witness.

1 THE COURT: Thank you. How long is the next
2 witness?

3 MR. CLEMENTS: Probably going to be fairly long.

4 THE COURT: Break time.

5 (Whereupon, the jury exits the courtroom at
6 10:10 a.m. and a recess was taken until 10:20 a.m.)

7 THE COURT: Thank you, please be seated. Ready to
8 proceed, Mr. Solicitor?

9 MR. CLEMENTS: Your Honor, we would like to release
10 Investigator Myers from the subpoena?

11 THE COURT: Suitable?

12 MR. HERON: Suitable.

13 THE COURT: He's released.

14 MR. CLEMENTS: We're ready, Your Honor.

15 THE COURT: You ready?

16 MR. HERON: Yes, Your Honor.

17 THE COURT: Call you next witness, please.

18 MR. CLEMENTS: Your Honor, do you want us to do it
19 now outside the presence of the jury.

20 THE COURT: No, I was going to get the jury in as
21 you call the witness.

22 MR. CLEMENTS: We would call Larry Drayton, Your
23 Honor.

24 (Whereupon, the jury enters the courtroom at
25 10:20 a.m.)

LARRY DRAYTON - DIRECT EXAMINATION BY MR. CLEMENTS

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1 THE COURT: Are you jurors fairly comfortable with
2 the heat and air whatever we've got. Is everybody okay.

3 JUROR: Cold.

4 THE COURT: Too cold? All right. Where's the
5 thermostat in this thing? Have they changed to move it?

6 JUROR: I think there is one right behind there.

7 THE COURT: All right, if you get too hot raise your
8 hand.

9 LARRY DRAYTON

10 BEING DULY SWORN TESTIFIES AS FOLLOWS

11 CLERK OF COURT: Please be seated and state your
12 full name for the record.

13 Mr. DRAYTON: Larry Drayton.

14 DIRECT EXAMINATION BY SOLICITOR CLEMENTS

15 Q. Mr. Drayton, can you tell the jury where you work?

16 A. The City of Florence Police Department.

17 Q. And what is your job with the police department?

18 A. I am a Sergeant in Investigator Supervisor in the
19 Criminal Investigation Division.

20 Q. How long have you been in law enforcement?

21 A. I have been employed with law enforcement for the
22 City of Florence since September 29, 1980, twenty-
23 eight years.

24 Q. And you've been employed with City of Florence that
25 entire time?

1 A. Correct.

2 Q. Okay. How long have you been an investigator?

3 A. I have been in investigations, the second time since
4 1992.

5 Q. The second time, what was the first time?

6 A. When I first became employed with the City of
7 Florence and worked patrol from 1980 til 1983. From
8 1983 to 1986 I worked with as a Narcotic Specialist
9 Investigation Unit. In 1986 until 1990 I worked
10 with, was assigned back to the Uniform Patrol
11 Division. After being deployed, I came back off
12 deployment in '92 I was reassigned back to the
13 Criminal Investigation Division where I am currently
14 still at.

15 Q. When you said deployed, you served in the military?

16 A. Yes. Desert Storm.

17 Q. Now, you were the investigator and a supervisor in
18 investigation of January of 2007?

19 A. Yes, sir, I was.

20 Q. All right. Did you have an occasion to be involved
21 in the investigation of the murder of Brannon Timmons
22 from the initial investigation?

23 A. Yes, sir.

24 Q. How so?

25 A. Sergeant Davis, who was then Corporal Davis at that

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1 time, I was his immediate supervisor. Sergeant Davis
2 was the lead investigator. By being his immediate
3 supervisor I assisted him in this investigation.

4 Q. All right. And assisting him in investigation can
5 you tell this jury what you did?

6 A. Throughout the investigation, but the primary thing I
7 did had opportunity to interview the Defendant and
8 obtain the taped statement from the Defendant.

9 Q. Okay.

10 (PAUSE)

11 THE COURT: 25 and 26 in evidence without objection?

12 MR. HERON: Correct, Your Honor.

13 THE COURT: Thanks.

14 MR. CLEMENTS: We so move, Your Honor, thank you.

15 WHEREUPON, STATE'S EXHIBIT

16 NUMBER 25 AND 26 WERE MARKED

17 AND MADE PART OF THE RECORD.

18 Q. Sergeant Drayton, would you jury tell this jury ---
19 you interviewed Mr. Rouse and took a statement from
20 him, is that correct?

21 A. That is correct.

22 Q. I am going to show you what has been marked State's
23 Exhibit Number 25, which is in evidence without
24 objection. Do you recognize that?

25 A. Yes, sir, I do.

1 Q. Can you tell the jury what State's Exhibit 25 is?

2 A. State's Exhibit 25 is a Waiver of Rights form, it's a
3 standard issued form by the Florence Police
4 Department, Miranda Warning Right's Form.

5 Q. Okay. I am going to show you what has been marked as
6 State's Exhibit 26, which is in evidence without
7 objection. Can you tell me, if you recognize that?

8 A. Yes, sir, I do.

9 Q. What is that?

10 A. This is a CD that contains the taped recording. I
11 recorded the statement on a video recorder, excuse
12 me, audio record. The audio recorder was given to
13 Crime Scene, and Crime Scene then transferred to
14 audio portion to this CD.

15 Q. Is that for the ease playing in the courtroom?

16 A. Yes, it is.

17 Q. Okay. All right. Can you tell the jury how you came
18 to interview Mr. Rouse and what date that was?

19 A. The date was on March 22, 2007. After Mr. Rouse had
20 turned himself in to police, a family member of Mr.
21 Rouse notified me, contact me, said that Mr. Rouse
22 wanted to speak with me in reference to his charge.
23 So myself and Sergeant Godwin who went down to the
24 Florence County Detention Center and we interviewed
25 him on that date upon his request to speak to law

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1 enforcement.

2 Q. Okay. So you and Sergeant Godwin with the Florence
3 Police Department went and interviewed him?

4 A. That is correct.

5 Q. Why did two you go, isn't that like ganging up on
6 him?

7 A. No, sir. In reference to this type of case, which
8 would be what he is charged with is murder, it is
9 protocol for two investigators to go in reference to
10 when you are talking to an individual that is charged
11 with a crime of this nature.

12 Q. Okay. You identified State's Exhibit 25 for us, and
13 you said it was a Waiver of Rights Form, Miranda
14 Rights. Can you give a little detail to this jury
15 about what this form is used for, why you use it, and
16 whose names are contained on this form?

17 A. Yes, sir. Prior to when we are going to question an
18 individual that is under arrest particularly of
19 individuals that is suspected of committing a crime
20 we advise the individual of their rights. This
21 particular form is generated by the Florence Police
22 Department. It is a matter of record keeping
23 documentation that we did advise the individual of
24 his rights. On the 22nd when we spoke to Mr. Rouse,
25 I read this form to him verbatim in its entirety, and

1 made sure he understood the form. After he
2 understood the form, he signed this form, printed his
3 name here, he signed the form, I signed it and also
4 Sergeant Godwin signed this form to witness his
5 signature. He said he fully understood his rights
6 before we started talking to him about the case.

7 Q. Okay. And is there a date on that?

8 A. Yes, sir. It's dated March 22, 2007.

9 Q. Who dated that form?

10 A. I dated the form.

11 Q. You dated the form?

12 A. Yes. All right, thank you. Now you got him to sign
13 this form, went of these rights with him, and made
14 sure he understood them. Had you read those to him
15 and talked to him about them. Did it appear to you
16 that he fully understood his rights?

17 A. Yes, sir, absolutely he understood exactly what his
18 rights were. Like I said, he requested this
19 statement from me in particular so understood his
20 rights. There is no question about whether he wanted
21 to talk to us or not. He understood his right. We
22 make sure an individual understand their rights
23 before we go any further. If he didn't understand
24 his rights, if he gave any indication then we would
25 stop the interview at that time to make sure.

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1 Q. Okay.

2 A. The Wavier of Rights Form is documentation that he
3 did understand. His signature indicates that he
4 understood.

5 Q. Now where did you talk to him?

6 A. Florence County Detention Center in Effingham where
7 the jail is located, the Sheriff's Department is
8 located there also. One side of the building is the
9 Detention Center, on the opposite side of the
10 building is the Sheriff's Department as far as their
11 administrative offices and the investigators are at,
12 Sheriff's Office and Communication Center. Just
13 adjacent to the investigator's office they have two
14 or three interview rooms. Sergeant Godwin and myself
15 interviewed the Defendant in one of the interview
16 rooms.

17 Q. Okay. All right, and how are those interview rooms
18 furnished?

19 A. There is maybe two or three chairs with a desk, and
20 usually from the Sheriff's Department because it's
21 their building they will have some type of tape
22 recorder device, but I had my own audio appliance.

23 Q. All right, and after he read the --- or you read the
24 Miranda Waiver Form to him, and you all signed and
25 executed that what did you do next?

1 A. After he signed the Waiver of Rights Form then we
2 begin to interview him to see what he wanted to talk
3 about, and talk about the case and what he was
4 charged with. We talked about that in great detail
5 for approximately thirty minutes, it could have been
6 a little more or a little less, but approximately
7 thirty minutes to talk to him about the case. And
8 once we came to a point where we figured there was
9 nothing else that he wanted to tell us about the
10 case, I asked him at that time would he mind giving
11 me a tape recording of what he had just told me and
12 he said he had no objections to giving us a tape
13 recording. So at that time, what I did was, I read
14 him his rights again. This time I read it to him
15 verbatim from a card that we carry, verbatim, read it
16 to him on tape. All that was on tape, and he said
17 understood his rights on tape recording during the
18 interview again.

19 Q. Do you have that card on you today?

20 A. Yes, sir, I do.

21 Q. Can I see that? All right. It has two sides on it,
22 Sergeant Drayton, can you tell us what those two
23 sides are?

24 A. Yes, sir. On one side it states, victim's rights,
25 innocent victims of crime. As victim it tells you

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1 the rights of the victims, what rights you have.

2 Q. Okay. And what's on the other side?

3 A. And the opposite side is actually what we call in law
4 enforcement, whatever one knows as your Miranda
5 Warnings. Like a series of statements that you read
6 them. It's actually seven statements of bullet kind
7 of that you read to the individual. After each
8 comment or statement you ask the individual do you
9 understand what I have read to you, and the
10 individual will reply by saying yes or no. In this
11 case, he said yes, he understood every right. And at
12 the very end of that you ask him if, having these
13 rights in mind, do you wish to talk with us now
14 without a lawyer present, and he said he would talk
15 with us without a lawyer present. I read him the
16 rights in this card.

17 Q. Okay. And you read that card to every Defendant you
18 interview?

19 A. Yes, sir. It is a matter of protocol, absolutely.

20 Q. Okay. And did he give you a taped statement?

21 A. Yes, sir, he did give us a taped statement.

22 Q. Okay. And what did you do with that taped statement?

23 A. The taped statements --- the audio is by a small tape
24 recorder was taken back to the Florence Police
25 Department and given to --- I can't remember exactly

1 who I gave it to, but it was one of the
2 investigator's in crime, it would have been Sergeant
3 Boyd or Corporal Grant, I can't remember. I can't
4 remember who I gave it to but anyway it was
5 transferred to them, and what they did was with the
6 audio tape download it to this CD.

7 Q. Okay. It is that called digitizing?

8 A. Digitizing, correct. And what happens from that
9 point on is it is given to a young lady that is
10 employed with us, and one of her jobs is to transform
11 this digital images to that tape itself.

12 MR. CLEMENTS: At this time, Your Honor, request
13 permission to publish the statement, Exhibit 26 to the
14 jury.

15 THE COURT: You may proceed.

16 Q. During this time, while we are preparing this
17 equipment, did you threaten Mr. Rouse in any way?

18 A. No, sir.

19 Q. Did Sergeant Godwin threaten him in any way?

20 A. No, sir.

21 Q. Did you coerce him in any way?

22 A. No, sir, we did not.

23 Q. Did you all make him any kind of promises?

24 A. No, sir, we did not.

25 Q. Okay. At any time did he ask you all to stop and you

1 didn't?

2 A. No, sir, he never asked us to stop. He requested for
3 us to come see him --- for me to come see him in
4 particular, so there wouldn't been a reason for him
5 not doing this.

6 Q. After you took this taped statement from Mr. Rouse
7 did you interview him any further?

8 A. No, sir. After --- at the end of the taped
9 statement, he was asked the question is there
10 anything else that you would like to add to this
11 statement, and at the time he said no, and that
12 concluded the interview and the tape recorder was
13 turned off. There may have been one or two other
14 statements or something said, but it was not have
15 been in reference to the investigation.

16 Q. It would have been like the weather or sports?

17 A. Just general comments, or whatever. His aunt, the
18 Defendant's aunt, I knew her and may be have been
19 something like that so I can't say 100% sure there
20 wasn't any small conversation, but nothing about the
21 incident itself after the tape recorder was cut off.

22 Q. All right.

23 (WHEREUPON, STATE'S EXHIBIT 26 IS PUBLISHED TO
24 THE JURY.)

25 Q. Sergeant Drayton, this aunt that Mr. Rouse was

1 referring to, is that who notified you he wanted to
2 talk to you?

3 A. Yes, sir.

4 Q. And where does she live?

5 A. I know it's in Florence, but I'm not sure exactly
6 where she is in Florence.

7 Q. Okay. Do you have any knowledge about whether that
8 was in any proximity or not to where Mr. Timmons
9 lived?

10 A. I'm not sure of the exact location. I know she lived
11 in Florence.

12 Q. All right. Did she live in Florence for quite some
13 time?

14 A. Since I've known her, yes.

15 Q. Did you have any other discussion with Mr. Rouse?

16 A. No, sir, after we left the Detention Center to obtain
17 the recorded statement I haven't spoken with him
18 since then.

19 Q. Did you have any other knowledge regarding the facts
20 of this investigation?

21 A. Yes, sir.

22 Q. Okay. Was Mr. Rouse's comments to you in
23 confirmation of those facts you had or in conflict
24 with those other facts you had?

25 A. The statement that Mr. Rouse gave us was in direct

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1 conflict with information that was given throughout
2 he investigation as result of that, that is what lead
3 to his arrest.

4 Q. Did you do anything else in this investigation other
5 than take the statement and supervising and assisting
6 Sergeant Davis?

7 A. I may have sat in one or two interviews with Sergeant
8 Davis at the time as far sitting in with him in
9 reference to the investigation. My primary part was
10 to obtain the statement.

11 MR. CLEMENTS: Please answer any questions Mr. Heron
12 may have.

13 A. Yes, sir.

14 CROSS EXAMINATION BY MR. HERON

15 Q. Sergeant Drayton, you said that Devodus Rouse'
16 statement was in direct conflict with other
17 statements but you all didn't take a statement from
18 Douglas Washington, did you?

19 A. I did not take statement from him, no, sir.

20 Q. Doug Washington has voluntarily asked for the police
21 to get a statement, has he?

22 A. He hasn't volunteered, asked for me to give him a
23 statement. He gave a statement. All individuals
24 involved gave statement at the time of the incident
25 during the investigation. Everybody gave a statement

1 as to what they wanted to tell the police at that
2 time.

3 Q. I'm talking about a recorded statement where you are
4 sitting down with a tape recorder and talk with the
5 police?

6 A. I didn't have a recorded statement from Doug
7 Washington.

8 Q. Now we know who was at the house that night, Doug
9 Washington, Cory Byrd and Travis James, based on your
10 investigation?

11 A. Yes, sir.

12 Q. Based on your investigation Devodus Rouse know
13 anybody at [REDACTED]?

14 A. At the residence, no, sir, he didn't know anyone.

15 Q. As a matter of fact during his statement he doesn't
16 even mention Brandon Timmons by name does he. He
17 just says the victim, is that right?

18 A. That is correct.

19 Q. Now before the tape recorder got turned on you all
20 turned to Devodus Rouse for about thirty minutes, is
21 that right?

22 A. Approximately thirty or more.

23 Q. And we didn't hear any part of that statement did we?

24 A. No, sir, that statement is not recorded.

25 Q. Why wouldn't you all record everything that is said

1 between you and somebody that wants to give a
2 statement?

3 A. Protocol is for investigators to come and take a
4 statement. Protocol is when we meet with the
5 individual, we sit and talk to the individual. We
6 may talk in length thirty or forty minutes about just
7 talking in general. It's just to sit and talk to the
8 person. It could be anything from a football game to
9 how I knew his aunt, anything, just talking to in
10 general. And once we start talking in general then
11 we start going into the facts of the case or what we
12 are there to talk about. Once we do that we talked
13 to the individual and we ask him at that time are you
14 willing to give us a taped statement, a taped
15 recording of it. The reason we do the two different
16 --- it's not two different interviews but why we have
17 the recording statement is because it helps narrow
18 done the amount of time and the amount of information
19 that is going on the tape recording as opposed to
20 just rambling on about during the statement that has
21 not significant value to this incident itself. So
22 whenever we ask individuals to give a tape recorded
23 type statement we are looking for now just the facts
24 of the case that is involving the incident. At the
25 end of the statement, we always ask him if there is

1 something we left out. Is there something that they
2 feel like they want to tell us? We ask them always
3 is there anything else you would like to tell us
4 about the incident. And he was asked that. At the
5 time, he said he did not have anything else to tell
6 us.

7 Q. Sergeant Drayton, again, the reason you were there is
8 because this young man, asked for the police to come
9 to where he was at to give his statement, is that
10 right?

11 A. That is correct. I went down there per his request.

12 Q. I would like to go into some specifics he admits on
13 the tape. Smoking marijuana, is that right?

14 A. That is correct.

15 Q. And the place that they were going to was supposedly
16 Travis' baby's mamma's house, is that right?

17 A. That is correct.

18 Q. According to Mr. Rouse' statement?

19 A. That is correct, sir.

20 Q. Mr. Rouse said he stayed outside talking on the
21 phone, is that correct?

22 A. Yes, sir.

23 Q. Is that consistent or inconsistent with three people
24 going in the house that night?

25 A. That is consistent with the investigation. Mr. Rouse

1 never entered the residence.

2 Q. Mr. Rouse also testified that Gusto and Doug were
3 doing some cocaine. Did you have a chance to talk to
4 Milton Gerald?

5 A. Yes, sir, I did.

6 Q. And isn't Milton Gerald the guy who gave his
7 Passport, and didn't he also tell you that the
8 reason he gave them the Passport is because Doug
9 gave him some cocaine in exchange?

10 A. That is correct.

11 Q. So would that be consistent or inconsistent with what
12 Mr. Rouse statement said?

13 A. Two things. Mr. Gerald said he gave them the vehicle
14 for --- to obtain crack cocaine. Mr. Rouse stated
15 that they used the drugs in the vehicle. We have no
16 knowledge whether drugs were used in the vehicle
17 outside by what Mr. Rouse gave us.

18 Q. But we do know that Doug had cocaine on him to give
19 Milton Gerald?

20 A. That is from Mr. Gerald's statement and I can't
21 confirm or deny that. And I can't confirm or deny
22 what Mr. Rouse said. Only that he gave the statement
23 to us.

24 Q. Didn't also --- doesn't Mr. Rouse also state in his
25 statement that he did not shoot him, and that if he

1 had the murder weapon that you would know that?

2 A. He did make that statement.

3 Q. And didn't he also say that Doug tried to rob the
4 victim, Brandon Timmons, and Doug Washington shot the
5 victim?

6 A. That is what he said in his statement.

7 Q. And doesn't he also say that when he was incarcerated
8 that he didn't want to have anything to do with Cory
9 Byrd and everybody else that was in jail?

10 A. Yes, sir.

11 Q. As a matter of fact, he asked to be moved from a pod
12 that was near them, isn't that right?

13 A. Yes, but that's not uncommon, that is not uncommon
14 for that to happen.

15 Q. And doesn't this young man in his statement say, I am
16 going to turn myself in. I am innocent. I ain't did
17 nothing.

18 A. That is correct.

19 MR. HERON: One moment, Your Honor.

20 THE COURT: Yes.

21 MR. HERON: No further questions, Your Honor.

22 THE COURT: Redirect?

23 REDIRECT EXAMINATION BY SOLICITOR CLEMENTS

24 Q. Sergeant Drayton, Mr. Heron was asking you about the
25 process you used in taking The statement. Can you

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1 tell us approximately how many statements you have
2 ever taken?

3 A. I couldn't tell you. It's been over hundreds.

4 Q. Over hundreds?

5 A. Yes, sir.

6 Q. People ever lie to you?

7 A. All the time.

8 Q. Do they ever then sometimes lie to begin with but
9 then come around and tell the truth?

10 A. One of the things of basic elementary investigation,
11 whenever you interview someone, sometimes I think the
12 luxury of individuals admitting to what they've done
13 as far as it was shop lifting or murdering someone.
14 But the majority of the time, individuals given
15 statements and it's not fully accurate, it's not
16 completely true. What we do with that statement is
17 we take that statement and go back and try to verify
18 what the individual said. Try to corroborate what
19 they said. After we go back and do that then a lot
20 of time we will go back and confront the individual
21 again with the information they gave in the first
22 statement. Then at that time, usually what they will
23 do is give a different statement but sometimes we
24 have statements. And a lot of time that second or
25 third statement sometimes will be correct. But it's

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1 not unusual for an individual not to tell the truth
2 in the first statement. It's very common not to tell
3 the truth. Every now and then someone will just go
4 ahead and admit, yes, I did do this, I did do that.

5 Q. Is it important to talk with them awhile or not, to
6 get in a degree of comfort level between you all or
7 not?

8 A. Yes, that's why I said we will talk about anything.
9 I can't recall specifically what was said but, it's
10 protocol when you go in just to sit and relax and
11 talk with the individual to establish some type of
12 protocol just to create a nice atmosphere that the
13 individual does feel like he's being threatened or
14 intimidated. To make sure he is giving the statement
15 freely and voluntarily, and that he is not be coerced
16 at that time. And that is exactly what we did at
17 that time is what we do with all investigations when
18 we talk to individuals.

19 Q. What purpose, if any, is there to try to fool
20 somebody, deceive somebody, by not cutting on the
21 tape recorder from the very beginning?

22 A. There would be no purpose. There would be nothing to
23 gain from that. Like I said, the individual is told
24 the tape recorder will be placed in plane view. You
25 will the individual he's not being taped. You are

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1 sitting there talking to him but when you get ready
2 to --- whenever we begin the recording, the recorder
3 is in plane view. There is red light that is on the
4 recorder, and you tell individuals that you know he
5 is being recording. There is no doubt in their mind
6 that they are being recorded at that time. There
7 would not be a reason to try to deceive someone on
8 it.

9 Q. Now, Mr. Heron, ask you about drugs and about what
10 Mr. Gerald said. Is there is a difference between
11 crack cocaine and a bag of coke, are they the same
12 thing?

13 A. They will all start from the same base but it's
14 different as far as the end result itself. The crack
15 cocaine itself in the baggie. The crack cocaine is
16 in a solid type form, and the cocaine would be in
17 more in a powder type form.

18 Q. So you are familiar --- You were a drug investigator,
19 right?

20 A. Correct, sir.

21 Q. Are you familiar with street terminology for drugs?

22 A. Maybe not some of the new ones now but when I was
23 back then, yes, sir.

24 Q. Okay. Based on your knowledge from that is there is
25 a difference in a reference to a bag of coke and

1 crack cocaine?

2 A. Yes, sir. Big difference.

3 MR. CLEMENTS: All right. Thank you, no further
4 questions.

5 THE COURT: Recross?

6 MR. HERON: Two brief questions, Your Honor.

7 RE-CROSS EXAMINATION BY MR. HERON

8 Q. You said that, sometimes people give statements and
9 admit to it; is that right?

10 A. That is correct, sir.

11 Q. Doug Washington hasn't given any statement to law
12 enforcement that has been recorded for this jury to
13 hear has he?

14 A. Not to my knowledge.

15 MR. HERON: Thank you.

16 THE COURT: You may step down. Next witness,
17 please.

18 MR. CLEMENTS: Your Honor, we would like to call
19 Sergeant Melvin Godwin of Florence Pee Dee.

20 MELVIN GODWIN

21 BEING DULY SWORN TESTIFIES AS FOLLOWS

22 CLERK OF COURT: Please be seated and state your
23 full name for the record.

24 Mr. GODWIN: My name is Melvin Godwin.

25 DIRECT EXAMINATION BY MR. CLEMENTS

MELVIN GODWIN - DIRECT EXAMINATION BY MR. CLEMENTS

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1 Q. Can you tell us where you where work?

2 A. I work for the City of Florence as a police officer
3 assigned to the Investigation Department. I am a
4 sergeant in that unit.

5 Q. How long have you been in law enforcement, Sergeant
6 Godwin?

7 A. I have been employed by the City of Florence as a
8 police officer for eighteen years.

9 Q. Have you served your entire law enforcement career
10 with the City of Florence?

11 A. That is correct.

12 Q. How long have you been an investigator?

13 A. I have been an investigator for about fifteen-years.

14 Q. Can you answer for and tell the jury did you
15 participate in the investigation of this crime in any
16 capacity other than in being with Sergeant Drayton
17 when he took this statement from Devours Rouse?

18 A. Yes, on several occasions I may have been with
19 Investigator Sergeant Lee Davis in trying to locate
20 subjects with him for the matter.

21 Q. Trying to locate subjects?

22 A. Yes, sir.

23 Q. Okay. All right. I want to get back to March 22,
24 '07. You went with Sergeant Drayton to take a
25 statement from Mr. Rouse?

1 A. That is correct. Sergeant Drayton ask me to go down
2 with him to Effingham, to interview the Defendant,
3 Mr. Rouse, in reference to this murder.

4 Q. How many interviews or how many statements have you
5 taken from the Defendants during your career in law
6 enforcement?

7 A. Not as many as Sergeant Drayton but numerous.

8 Q. Okay. Was there anything different, anything stood
9 out, anything that was an aberration of taking this
10 statement from Mr. Rouse than any other statement
11 you've taken?

12 A. No, sir. Like Sergeant Drayton stated, what we did
13 we did followed our protocol.

14 Q. Okay. That is the protocol you follow every
15 interview?

16 A. Yes, sir.

17 Q. Okay. Were you present when Mr. Rouse' rights were
18 read?

19 A. Yes, I was.

20 Q. Were you sitting there during the entire taped
21 conversation, or did you get up and leave?

22 A. No, sir, once we start interviewing, we are there
23 until it is completed.

24 Q. Okay. So you didn't get up and leave to go to the
25 bathroom, get anything to drink?

MELVIN GODWIN - DIRECT EXAMINATION BY MR. CLEMENTS

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1 A. No, sir.

2 Q. You were there the whole time?

3 A. No, sir, that is not our protocol.

4 Q. Okay. All right. As far as Mr. Rouse' demeanor in
5 regards to his willingness, or his voluntariness, or
6 his understanding of exactly what was going on what
7 was your perception of his demeanor?

8 A. He was calm and collective. He went along and agreed
9 to give a statement on what happened.

10 Q. Did he appear to be under any duress?

11 A. No, sir.

12 Q. Did you threaten him in any way?

13 A. No, sir.

14 Q. Did you coerce him?

15 A. No, sir.

16 Q. Did you make him any promises that were not on that
17 recorded statement?

18 A. No, sir, can't even do that.

19 Q. Okay. And did he appear to you that he understood
20 what the process was and what was going on?

21 A. Yes, sir.

22 Q. Okay. Please answer any questions Mr. Heron may
23 have.

24 MR. HERON: Just a couple.

25 CROSS EXAMINATION BY MR. HERON

1 Q. Sergeant Drayton --- excuse me, Sergeant Godwin, did
2 you all have your guns on you, when you were getting
3 the statement?

4 A. No, sir. When you enter the facility at Effingham
5 you are required to leave your firearm in your
6 vehicle, or lock them into a locker at that location.
7 You cannot carry firearms into the jail.

8 Q. So you are telling this jury that neither you or
9 Sergeant Drayton had your guns on you?

10 A. That is correct, sir.

11 Q. Isn't it true that during Mr. Rouse' statement that
12 he says what's this, is this a .38, what's this? Do
13 you remember hearing that?

14 A. I believe he's referring to himself trying to
15 remember, or what's a gun with hand gestures, or
16 something. As far as trying to describe a slider on
17 an automatic weapon, he was making hand gestures on
18 what's this.

19 Q. Now were you involved in the apprehension of Doug
20 Washington?

21 A. Doug Washington?

22 Q. Yes, sir.

23 A. No, sir.

24 Q. Okay. From Mr. Rouse' statement, we know three
25 people were inside the house.

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1 A. Correct.

2 Q. Doug Washington, Cory Byrd, and Travis James, is that
3 right?

4 A. Correct. The people that lived there, The
5 Washington's.

6 Q. Have you taken any statement from Doug Washington?

7 A. No, sir.

8 MR. HERON: One second, Your Honor. No further
9 questions. Thank you.

10 THE COURT: Anything, counsel.

11 MR. CLEMENTS: Beg The Court's indulgence one
12 moment.

13 (PAUSE)

14 REDIRECTION EXAMINATION BY MR. CLEMENTS

15 Q. Just very briefly, Sergeant Godwin. Can you show
16 this jury exactly what you were talking about, about
17 the hand gestures that Mr. Rouse was using when he
18 trying to, describe a weapon on his fingers?

19 A. Yes, sir. Automatics, they got a slide and it's
20 common if you --- somebody is trying to describe an
21 automatic weapon. Pulling back like that you're
22 thinking about the slide. Pulling it back to a round
23 could be loaded into the chamber.

24 Q. And that was his hand gesture?

25 A. Yes, sir. Trying to describe what type gun this is.

1 Q. There were no guns in that room that he could use to
2 demonstrate or use as an example?

3 A. No, sir, There were no props. You cannot take a
4 weapon into the detention center in Florence.

5 MR. CLEMENTS: Thank you. That's all the questions
6 I have.

7 THE COURT: Re-cross?

8 MR. HERON: One brief, Your Honor.

9 RE-CROSS EXAMINATION BY MR. HERON

10 Q. Sergeant Drayton --- I mean Sergaent --- excuse me,
11 Sergeant Godwin, I apologize. You are familiar with
12 hand guns, is that right?

13 A. Yes, sir. I served in the military.

14 Q. If, you can assume for me that if you got a 9-
15 millimeter automatic that is fully loaded and you
16 have one in the chamber, what does one in the chamber
17 mean?

18 A. You got one loaded and it's hot, it's ready to go.

19 Q. Pull the trigger and it's ready to go?

20 A. That is correct.

21 Q. If you forgot that you had one in chamber and you
22 pulled that slide back, what would happen to that
23 live round?

24 A. It is going to eject.

25 Q. Fall on the ground?

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1 A. Correct.

2 MR. HERON: Thank you.

3 THE COURT: You may step down. Next witness,
4 please.

5 MR. CLEMENTS: Your Honor, we would like to call Dr.
6 Cynthia Schandl.

7 CYNTHIA SCHANDL, M.D.

8 BEING DULY SWORN TESTIFIES AS FOLLOWS

9 CLERK OF COURT: Please be seated and state your
10 full name for the record.

11 VOIR DIRE EXAMINATION BY MR. CLEMENTS

12 Q. Could you please state your name and spell your name,
13 please, for the record?

14 A. I am Cynthia Schandl. The last name is
15 S-C-H-A-N-D-L.

16 Q. And Dr. Schandl, can you tell this jury where you
17 work?

18 A. Yes. I am employed at the Medical University of
19 South Carolina in Charleston, South Carolina.

20 THE COURT: Doctor, give us a little more volume,
21 please. One more volume.

22 A. At the Medical University of South Carolina in
23 Charleston, South Carolina.

24 Q. And in what capacity are you employed at the Medical
25 University of South Carolina?

1 A. I am a forensic pathologist and assistant professor.

2 Q. Okay. And can you tell The Court and this jury about
3 your curriculum vitae?

4 A. Yes. Are you referring to those things that I've
5 done professionally? In order to become a forensic
6 pathologist one must complete college so I have a
7 Bachelor's Degree from the California State
8 University System. One must then complete medical
9 school. I have my medical degree from the Medical
10 University from South Carolina in Charleston, South
11 Carolina. One must then complete a residence program
12 in pathology and laboratory medicine. And I did
13 complete that program also at the Medical University
14 of South Carolina. And at that point one must
15 complete an additional year of fellowship training,
16 specifically in the field of forensic pathology which
17 I also have done. And then having completed that
18 training one then can become board certified through
19 a national association called the American Board of
20 Pathology, and I am board certified in anatomic
21 pathology, clinical pathology, and forensic
22 pathology.

23 Q. And how long have you been employed as a forensic
24 pathologist at the Medical University of South
25 Carolina?

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1 A. I have been on staff there since 2004, and I have
2 been training in pathology since 1999.

3 Q. Have you ever been employed anywhere else as a
4 forensic pathologist?

5 A. No, no, I have not.

6 Q. Have you ever had any papers published or any type of
7 publication in the field of forensic pathology?

8 A. Yes, I have several publications including general as
9 well as inspectional papers that I have published
10 through the College of American Pathologist in order
11 to help train those interested in forensic pathology.
12 Other training things that I am involved in are
13 training of the new fellows coming through. I do
14 direct forensic pathology fellowship program at the
15 Medical University at this time.

16 Q. And can you tell us, a rough estimate, how many
17 papers you've had published?

18 A. About fifteen.

19 Q. Have you been qualified as an expert in the field of
20 forensic pathology, to testify as an expert witness,
21 in either State or Federal Court?

22 A. Yes, sir, both.

23 Q. And could you tell us how many times?

24 A. About fifty times.

25 Q. Fifty times?

1 A. Yes, sir.

2 MR. CLEMENTS: Your Honor, we would offer Dr.
3 Schandl as an expert in the field of forensic pathology.

4 THE COURT: Do you desire to query concerning
5 qualifications, counsel?

6 MR. HERON: Just a couple, Your Honor.

7 THE COURT: Proceed.

8 VOIR DIRE EXAMINATION BY MR. HERON

9 Q. Dr. Schandl, what are some of the limitations of
10 being a forensic pathologist?

11 A. Limitations in regards to what, sir?

12 Q. If I brought you a victim, could you render any kind
13 of opinions as to how the victim fell, how the blood
14 spatter came out, anything like that, like we see on
15 TV, or you just pretty much just looking at the
16 victim in front of you?

17 A. Well in our system in South Carolina the forensic
18 pathologist does not usually directly involved in the
19 investigation and in our office we are not involved
20 in the investigations. So any evidence that might be
21 at the scene we will be privy to. We will not be a
22 participant in gathering that sort of evidence.

23 Also, perhaps you are referring to the fact that my
24 investigation as a forensic pathologist in our system
25 is specifically depended upon the body. The body as

CYNTHIA SCHANDL, M.D. - DIRECT EXAMINATION BY MR. CLEMENTS200

1 the evidence.

2 Q. So if they don't bring it to you and it's not in the
3 evidence they bring it to you, you don't give any
4 opinions?

5 A. That is correct. That is correct.

6 MR. HERON: Thank you, Dr. Schandl, I don't have
7 any other questions. And I have no objection to her being
8 as an expert.

9 THE COURT: She is qualified as a forensic
10 pathologist. You may proceed, to query.

11 MR. CLEMENTS: Thank you, Your Honor.

12 DIRECT EXAMINATION BY MR. CLEMENTS

13 Q. In your capacity as a forensic pathologist at the
14 Medical University of South Carolina, do you all
15 perform autopsies?

16 A. We do. We do perform autopsies, that is correct.

17 Q. And do you have an attending pathologist, that work
18 under your supervision?

19 A. We work as a team more than one supervising another.

20 Q. And do you review autopsy reports on autopsies you
21 did not specifically perform yourself?

22 A. We do review other team member's autopsy reports on
23 occasion, for quality assurance purposes and another
24 reason, yes.

25 Q. And do you have your report on autopsies you've done,

CYNTHIA SCHANDL, M.D. - DIRECT EXAMINATION BY MR. CLEMENTS201

1 certified by other attending pathologist? .

2 A. At times.

3 Q. Okay. To your knowledge, at the Medical University
4 of South Carolina, at your lab, was there an autopsy
5 done on the victim by the name of Brandon Timmons on
6 January 2, 07?

7 A. Yes, sir, that is correct, there was.

8 Q. Okay. And did you certify that autopsy report?

9 A. Yes, sir. I did, sir.

10 Q. Okay. Can you tell us the manner of death of Brandon
11 Timmons?

12 A. The manner of death in this case was homicide. We
13 have just few to choose from which include natural,
14 accidental, homicide, suicide and undetermined. And
15 so in this case the manner of death had to come from
16 one of those, basically, it's homicide.

17 Q. And you can testify to that to a reasonable degree of
18 medical certainty?

19 A. Yes, sir.

20 Q. Okay. And to a reasonable degree of medical
21 certainty can you testify as to the cause of the
22 death of Mr. Brandon Timmons?

23 A. Yes. The cause of death is what happened to the
24 individual that actually lead to his death. And in
25 this case it was a great deal of blood loss.

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1 Specifically what we are talking about is what we
2 call hemothorax, which is blood in the chest cavity;
3 and hemoperitoneum which the blood in the belly. So
4 between those two areas he had almost two liters of
5 blood loss when we received him. So I don't know how
6 much blood was lost at the scene and other things
7 like that, but even just that amount is a great deal
8 of blood loss, enough to kill a person. Now, that
9 resulted directly from injuries to multiple organs as
10 a bullet went through his body. Specifically, one
11 bullet went through his spleen, his left kidney, his
12 aorta which is a very large vessel that carries blood
13 at a high pressure, the interior vena cava, another
14 very large vessel that carries blood at a lower
15 pressure in the vena system there is an arterial
16 system. And then basically bruises to both of his
17 lungs. So that series of injuries as the bullet
18 traveled through the body lead to a great deal of
19 blood loss which was his cause of death.

20 Q. Do you have an opinion as to a reasonable degree of
21 medical certainty as to how many gun shot wounds Mr.
22 Timmons had?

23 A. Yes, it was a single gun shot wound.

24 Q. Okay. And do you have an opinion as to a reasonable
25 degree of medical certainty where would most of the

CYNTHIA SCHANDL, M.D. - DIRECT EXAMINATION BY MR. CLEMENTS203

1 hemorrhaging in the blood collected due to the wound
2 that Mr. Timmons had, inside the body or outside the
3 body?

4 A. It's difficult to tell, you know without, again,
5 having information from the scene and so forth. I do
6 not know that information.

7 Q. Okay. All right. Now if you would, Dr. Schandl, I
8 would ask that you step down, and can you demonstrate
9 for the jury using me as a model where the gun shot
10 entrance wound was and where the gun shot exit wound
11 was?

12 A. Yes, sir.

13 THE COURT: Doctor, you got to keep your voice up
14 now, we are required to take down every single word. Help
15 me, please.

16 DR. SCHANDL: Yes, sir.

17 THE COURT: All right.

18 MR. CLEMENTS: Thank you, Your Honor.

19 A. So essentially the entrance gun shot wound, which is
20 where the bullet entered the body, was about in this
21 area here on the left side of his chest, low on the
22 chest but still on the chest where the ribs are.
23 Basically one of your very lower ribs, the tenth rib.
24 It then went into the body cavity just slightly into
25 the chest cavity where the lung resides. Then it

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1 went through the diaphragm, which is the muscle that
2 divides the chest cavity from the belly cavity into
3 and through the spleen, which is an organ that sits
4 right here in the back of the body right below the
5 diaphragm. Then it went through the upper fold so
6 the top part of the left kidney which is also quite
7 --- back there on the back side, and then it
8 continued on its way to the right through the aorta,
9 which is that very large vessel that basically feeds
10 the whole body with blood. It comes out of the
11 heart, it is about wide and feeds the whole body with
12 blood. It went through that large vessel, and then
13 through an adjacent vessel, which is again the
14 pressure vessel called the interior vena cava that
15 basically brings all the blood back up to heart. And
16 then it continued on its way out through the right
17 side again on the lower chest slightly forward of
18 where it went in and exited the body. So, it all the
19 way through which is called perforating gun shot
20 wound. Again, it hit the spleen, the kidneys, that
21 aorta, the large vessel, the interior vena cava the
22 second large vessel, and then it traveled out to the
23 right side of the body. So from here basically to
24 about here.

25 Q. Thank you. Doctor, tell me if this is accurate or

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1 not. In layman's terms he was shot on one side and
2 it went all the way through the middle of his body
3 and came out the other side?

4 A. That is correct.

5 Q. And without any further evidence there would be no
6 way for you to determine what type of weapon or what
7 type of caliber or anything is it?

8 A. That is correct. Since there was not bullet to
9 recover obviously, I did not have that as evidence so
10 I do not know that information.

11 Q. All right. Were there any other contributing factors
12 to his death that we haven't touched on?

13 A. No, sir.

14 Q. And is it true to a reasonable degree medical
15 certainty that the sole cause of death was the
16 perforated gun shot wound?

17 A. That is correct.

18 MR. CLEMENTS: Beg The Court's indulgence a moment.

19 (PAUSE)

20 MR. CLEMENTS: Please answer any questions Mr. Heron
21 may have.

22 DR. SCHANDL: Yes, sir.

23 CROSS EXAMINATION BY MR. HERON

24 Q. Dr. Schandl, you also found some personal effects on
25 the victim, is that right?

CYNTHIA SCHANDL, M.D. - CROSS EXAMINATION BY MR. HERON 206

1 A. Yes, sir.

2 Q. Can you please describe for the jury what personal
3 effects were found, please?

4 A. If I may refer to my report.

5 Q. Yes, please. Thank you.

6 A. Are you referring to the clothing?

7 Q. Not necessarily the clothing ---

8 A. Okay.

9 Q. -- the jewelry, cash ---

10 A. Sure. Yes. There was a stud eye ring. A yellow
11 metal bracelet that had clear stones and some
12 chopstick.

13 Q. Did you find anything --- when the victim came into
14 your possession, did he have some paper bags on his
15 hands?

16 A. His hands were within paper bags, that is correct.

17 Q. As a forensic pathologist, be in the process of
18 looking to whether or not there was any microscopic
19 evidence, DNA, is that in your field?

20 A. Yes. Well we don't look for those things. What we
21 do is we collect so if any individual comes bagged or
22 doesn't come bagged and it's a homicide; either way
23 is what we're going to do is --- is collect the
24 fingernails and/or the fingernails scrapings and
25 those will go to law enforcement to be tested for

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1 trace evidence. So we collect that evidence at
2 autopsy, but we do not do the testing of that
3 evidence. It goes to South Carolina Law Enforcement
4 Division or some other law enforcement office.

5 Q. When you are talking about trace evidence would that
6 include epithelial skin cells like if somebody
7 scratched somebody, or had some cells up underneath
8 their fingernails, do you test for that?

9 A. Again, I don't do the testing, but that sort of
10 evidence may be in the evidence kit that we collect
11 and send to a testing agency.

12 Q. Would you agree with me that time is of the essence
13 when it comes to getting someone who has suffered
14 this kind of injury getting him to the hospital?

15 A. Generally speaking time can be very important in
16 these sorts of injuries.

17 Q. Can you give us any kind of opinion as to whether or
18 not Mr. Timmons could have survived if medical
19 attention was quicker getting there?

20 A. That I cannot tell you.

21 Q. But if blood loss is the cause the death, and the
22 blood loss was caused by the gun shot wound?

23 A. Yes, sir.

24 Q. Did you also run some blood tests on Mr. Timmons?

25 A. Yes, we were doing --- gathered samples at the

CYNTHIA SCHANDL, M.D. - CROSS EXAMINATION BY MR. HERON 208

1 autopsy to run a toxicological examination, and we
2 don't do that examination in house. Again, we send
3 those samples out, and get the results back from
4 another party.

5 Q. Can you tell the jury if the victim tested positive
6 for any drugs?

7 A. Yes, I can. First they will do urine drug screen and
8 that was what they call presumptively positive for
9 cannabinoids which includes marijuana. And then
10 presumptively positive doesn't mean anything by
11 itself, so then they have to go back and do
12 confirmatory testing on another sample or by a
13 different method. And in this case, they tested the
14 peripheral blood again for those substances and it as
15 positive for tetrahydrocannabinol, which is THC which
16 is the active substance in marijuana.

17 Q. And how about ethanol?

18 A. There was also a small amount of ethanol, give me a
19 moment --- in the blood it was 0.013%.

20 Q. Okay. And ethanol comes from just alcohol drinking?

21 A. Ethanol, alcohol, that is correct.

22 Q. I'm sorry. One last question. I don't even want to
23 say the technical term, but it's cannabinoids, that's
24 laymen's terms for marijuana, pot use?

25 A. Generally speaking from some kind of exposure to

CYNTHIA SCHANDL, M.D. - DIRECT EXAMINATION BY MR. CLEMENT 209

1 marijuana by something, yes.

2 Q. And did you also say that there was cash found on the
3 victim?

4 A. I did not say.

5 Q. Was there any cash found on the victim?

6 A. There was cash found in the amount of --- just one
7 second, \$10.64.

8 MR. HERON: I don't have any further questions,
9 thank you.

10 THE COURT: Redirect?

11 REDIRECT EXAMINATION BY SOLICITOR CLEMENTS

12 Q. Dr. Schandl, the THC, metabolites, marijuana stays
13 in your system for along period of time?

14 A. They can stay in your system for a period of time.

15 Q. How long period of time, twenty days, thirty days,
16 ten days?

17 A. It seems to very specific to the individual, so I
18 can't give you a specific time.

19 Q. Could you give an opinion as far as days --- would it
20 be in days, or hours, or minutes?

21 A. Well, again, it's very individual specifics.

22 Generally, hours. Can be days. But again, what was
23 found in Brandon Timmons' blood is the active form of
24 THC and not the metabolize, so it does suggest it was
25 a more recent exposure, so I would guess no more than

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1 hours.

2 Q. Okay. As far as the amount of ethanol found in his
3 blood, again, it was how much, point?

4 A. 0.013%.

5 Q. And how is that compared with what is looked as far
6 as DUI's?

7 A. DUI's in this state is 0.08%, so it significantly
8 less. Between 0.013 compared to 0.08, so it's
9 significantly less.

10 Q. Would you have any opinion as a reasonable degree of
11 medical certainty whether he was intoxicated or not?

12 A. No, sir.

13 Q. No, you don't have an opinion?

14 A. I have no opinion on that, because each individual is
15 different depending on how they react to alcohol.

16 Q. Okay. Thank you. One last question. Did you take
17 fingernails clippings to submit those through law
18 enforcement to SLED?

19 A. Yes, sir.

20 Q. All right. As far as the results of those you don't
21 have any thing to do with that?

22 A. That is correct, I have no information from them.

23 MR. CLEMENTS: Thank you, Dr. Schandl.

24 DR. SCHANDL: You are welcome.

25 RECROSS EXAMINATION BY MR. HERON

Carolyn WASHINGTON - DIRECT EXAMINATION BY MR. CLEMENTS 211

1 Q. The reason you all take those fingernails clippings
2 is they can test and find DNA and things like that?

3 A. Yes. Generally that is what law enforcement is
4 looking for is DNA evidence under the fingernails.

5 Q. And part of your job in collecting evidence is to
6 implicate the guilty and exonerate the innocent, you
7 would agree?

8 A. Well, my job is to determine the cause and manner of
9 death and assist law enforcement.

10 MR. HERON: Okay, thank you, Doctor.

11 MR. CLEMENTS: Your Honor, we would ask that Dr.
12 Schandl be released from her subpoena?

13 MR. HERON: No objection, Your Honor.

14 THE COURT: Doctor, thank you for coming to the
15 Court. Have a nice trip back to Charleston.

16 DR. SCHANDL: Thank you, sir.

17 THE COURT: Next witness, please.

18 MR. CLEMENTS: Your Honor, we would call Ms. Carolyn
19 Washington.

20 CAROLYN WASHINGTON

21 BEING DULY SWORN TESTIFIES AS FOLLOWS

22 CLERK OF COURT: Please be seated and state your
23 full name for the record.

24 MS. WASHINGTON: Carolina Washington.

25 DIRECT EXAMINATION BY MR. CLEMENTS

Carolyn WASHINGTON - DIRECT EXAMINATION BY MR. CLEMENTS 212

1 Q. Ms. Washington, can you tell this jury where you
2 live?

3 A. [REDACTED]

4 Q. Can you tell this jury who your children are?

5 A. Quandeline W. [REDACTED], Antoinette B. [REDACTED] You want
6 me to name all my kids or just the ones that were in
7 the house that --

8 THE COURT: Ms. Washington, you got --- a little
9 louder now. She's got to take down everything single word
10 and that's important so please a little louder.

11 Ms. Washington: Okay.

12 Q. The names of the children that live with you?

13 A. Okay. Quandeline W. [REDACTED], and Antoinette B. [REDACTED].

14 Q. Do you have other children that don't live with you?

15 A. Yes, I do.

16 Q. Were any of them present on January 2, 2007?

17 A. No, sir.

18 Q. Okay. Does anyone else in that house with you?

19 A. Just my sister, Tatica W. [REDACTED]

20 Q. And was she present on January 2, '07?

21 A. She came out later because she was at work at the
22 time.

23 Q. Okay. And where does she work?

24 A. McDonald's on 327.

25 Q. And she wasn't present when you heard gun shots

Carolyn WASHINGTON - DIRECT EXAMINATION BY MR. CLEMENTS 213

1 fired, is that correct?

2 A. No, sir.

3 Q. Okay. And where do you work, Ms. Washington?

4 A. I am unemployed right now.

5 Q. On January 2nd , where did you work?

6 A. About a week before that I was at Sav-Way.

7 Q. Okay. All right. And were you home that evening in
8 the early morning hours of January 2?

9 A. Yes.

10 Q. Okay. And who was present in the house with you?

11 A. My daughter, Quandeline and Antoinette.

12 Q. Okay. How many of them were asleep or awake?

13 A. Just one was sleep.

14 Q. Which one?

15 A. Antoinette.

16 Q. Okay. And I want to show you what has been marked as
17 State's Exhibit 1. You ever seen this before?

18 A. No, sir.

19 Q. Okay. Does it look at all like anything you would
20 recognize?

21 A. Yes..

22 Q. And what does it look like it is a depiction of?

23 A. Okay. You have the porch, you have the steps, and is
24 that number 8 or number 6, is where the car was
25 parked.

Carolyn WASHINGTON - DIRECT EXAMINATION BY MR. CLEMENTS 214

1 Q. Okay. Let me stop a minute. Does this --- does this
2 diagram does it depict anything familiar to you?

3 Does it look like anything familiar to you?

4 A. It's my home.

5 Q. It's your home?

6 A. Yes.

7 Q. Okay. All right. And does it look like your home on
8 a particular date?

9 A. Yes.

10 Q. Which date would that be?

11 A. January the 2nd, 2007.

12 Q. When this event occurred?

13 A. Yes.

14 Q. Okay. All right. I am going to ask you to speak up
15 real loud for me, and ask you to stand a moment,
16 please, if you would. And just use my pen here to
17 point with and this is a diagram --- is it pretty
18 accurate to the outside of your house or not?

19 A. Yes.

20 Q. Okay. It doesn't show anything about the inside of
21 your house does it?

22 A. No, it doesn't.

23 Q. Can you describe for this jury what the rooms are in
24 this house and what they look like? I probably need
25 to ask that you step down so you will have some room.

Carolyn WASHINGTON - DIRECT EXAMINATION BY MR. CLEMENTS 215

1 MR. CLEMENTS: May I, Your Honor?

2 THE COURT: Yes. Keep your voice up, Ms.

3 Washington, please.

4 A. Okay, right here is the living room. On this side of
5 the house is the two bedrooms. Okay, as you go down
6 you have the hallway and the living room, you have
7 den, kitchen and you have like a bathroom back around
8 here.

9 Q. SO there is two bedrooms, one in the back and one in
10 the front?

11 A. Yes. Both of these rooms have windows. This is the
12 front, the living room window and this is your front
13 bedroom window.

14 Q. Okay. Are there side windows to?

15 A. Yes. You have the side windows to the den, the
16 kitchen and the back area back there. You also have
17 two side windows to both bedrooms.

18 Q. All right. Is there any glass at the door, can you
19 see out of the door?

20 A. Yes, you have a door.

21 Q. So there is a hallway here?

22 A. Yes.

23 Q. Bathroom at the end of the hallway?

24 A. Yes.

25 Q. Two bedrooms?

Carolyn WASHINGTON - DIRECT EXAMINATION BY MR. CLEMENTS 216

1 A. Yes.

2 Q. Kitchen, den, living room?

3 A. Yes.

4 Q. Okay. Do you have a driveway?

5 A. The driveway is on the side of the house.

6 Q. Okay. This side of the house?

7 A. Yes. When you pulled up you can pull all the way ---
8 actually you can go around the house so when you
9 pulled up and then pulled right here if you park
10 right here on the side of the house you can hear
11 voices through those windows on the side.

12 Q. All right. Thank you. You can sit back down. Now,
13 I want to show you what has been marked as State's
14 Exhibit Number 7. Do you recognize that?

15 A. Yes.

16 Q. What side of the house is that?

17 A. That is the side on Lawson.

18 Q. Okay.

19 A. You got Marion here and you got Lawson on the side.

20 Q. All right. And those windows are coming into what
21 room?

22 (PAUSE)

23 Q. What rooms are on the Lawson Street side of the
24 house?

25 A. The Lawson Street side of the house is the two

Carolyn WASHINGTON - DIRECT EXAMINATION BY MR. CLEMENTS 217

1 bedroom windows.

2 Q. Okay. So are those the bedroom windows?

3 A. Yes.

4 Q. Okay. I am going to show you what has been marked as
5 State's Exhibit Number 8. Now which side of the
6 house is that?

7 A. Okay, that's the driveway --- the side the driveway
8 is on.

9 Q. The side with the driveway?

10 A. Yes.

11 Q. All right. And those are the side windows on that
12 side of the house?

13 A. Yes.

14 Q. Okay. Are those the windows you were referring to
15 you said somebody pulls in there, you can hear voices
16 from those windows?

17 A. Yeah, I can hear. --- this is the windows to the back
18 porch of the house. This is the kitchen window.
19 This is the den window, and this is the other side
20 window to the living room.

21 Q. I would like to show you State's Exhibit 10. Do you
22 recognize State's Exhibit 10?

23 A. Yes. That is the front of the house.

24 Q. Okay. Can you tell me about the windows in the door
25 on the front of the house there?

Carolyn WASHINGTON - DIRECT EXAMINATION BY MR. CLEMENTS 218

1 A. Okay, right here is, your front living room windows.
2 This is your door window and this is the first
3 bedroom window.

4 Q. Now do you know which room Antoinette was asleep in,
5 was it the back bedroom or the front bedroom?

6 A. It was in the back bedroom.

7 Q. Okay. And Quandeline, what bedroom was she in?

8 A. She was in the first bedroom.

9 Q. In the first bedroom. Where these windows are?

10 A. Yes.

11 Q. Ms. Washington, can you tell this jury when you got
12 home that night who was home?

13 A. Well, all us arrived at the same time. We was at my
14 mom's house. We got home about 11:30, that was
15 myself, Quandeline and Antoinette. So all of us did
16 arrive at the same time.

17 Q. Can you tell this jury what did Antoinette do, to
18 your knowledge, when you got home?

19 A. She had to be work at 4:30 that morning, so when she
20 got home she got ready for bed and she went straight
21 to bed.

22 Q. All right. Can you tell us if you know what did
23 Quandeline do?

24 A. She got ready for bed. She went in my room and she
25 was laying across the bed watching TV, and talking on

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1 her cell phone.

2 Q. What did you do?

3 A. Got ready for bed, and went to the kitchen, and
4 started cooking my cheese toast.

5 Q. All right. Do you know Cory Byrd?

6 A. I know him through my daughters, because his mother
7 used to be married to my deceased father.

8 Q. Okay. All right. Do you know Travis James, also
9 known as Gusto?

10 A. Yes, I do. My daughter has two kids by him.

11 Q. Okay. And did you know Douglas Washington?

12 A. Yes, I do. He's a relative. He's my nephew.

13 Q. He's your nephew, okay. Did you know Devodus Rouse?

14 A. No, I don't know him. I never seen him, and I never
15 heard of him.

16 Q. Okay. Did you know Brandon Timmons?

17 A. Yes, I do. I watched Brandon grow up from a child.

18 Q. Okay.

19 A. I have a son from his uncle.

20 Q. Ma'am?

21 A. I have a child from his uncle.

22 Q. To your knowledge did Brandon have any kind of
23 relationship with either of your daughters?

24 A. At that time, no, I wasn't familiar with anything
25 that was going on.

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1 Q. Did you gain any information later?

2 A. Yes, I did.

3 Q. Okay. Who did he have a relationship with?

4 A. With Quandeline.

5 Q. Okay. But at that time it was secret?

6 A. Yes, it was.

7 Q. Okay. All right. You were home, you were back
8 cooking you some cheese toast, did you have any
9 visitors at your house?

10 A. Yes, I did. Travis, which is Gusto, and Cory.

11 Q. To your knowledge how did they get to your house?

12 A. Well, I am the type of person I am constantly back
13 and forth like looking out of my window because of
14 the area that we live in. So, as I was looking out
15 the window I seen the truck pull up.

16 Q. What kind of truck?

17 A. A Rodeo, but I wasn't familiar with the color because
18 it was a dark color accept when it pulled up in the
19 yard. And when it pulled up in the yard, it pulled
20 on the side of the house. When it pulled up on the
21 side of the house I couldn't see anything else.

22 Q. Okay. And who was in that vehicle to your knowledge?

23 A. It was Doug, Gusto, and Travis.

24 Q. Okay.

25 A. And the only way that I knew it was them was because

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1 they came in the house.

2 Q. Okay. When they came in the house, did you leave the
3 kitchen or did you stay in the kitchen?

4 A. When they came in the house I stayed within the
5 kitchen, but I like peeped around to see who came in
6 the door and it was those three, Doug, Travis and
7 Cory.

8 Q. Would you recognize their voices? Did you know them
9 well enough to recognize their voices?

10 A. Yes.

11 Q. Okay. Did you hear any voices that were unfamiliar?

12 A. No.

13 Q. Okay. All right. So what happened next?

14 A. As they came in, Cory came in the kitchen, came to
15 speak to me, and we was in there, like talking or
16 whatever. Gusto came in he was in the living room.

17 Q. Did he ever come down to the kitchen that you
18 remember?

19 A. No.

20 Q. Okay.

21 A. And Doug was in my bedroom talking to my daughter
22 Quandeline.

23 Q. Okay. And what bedroom would that be?

24 A. That's the first bedroom.

25 Q. Okay. All right. Do you know about how long they

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1 stayed?

2 A. They wasn't there that long. I'd say about probably
3 about five minutes, five to ten minutes.

4 Q. Okay. Did Cory ever leave?

5 A. Yeah, all of them was in the process of leaving.
6 They was already on the out side of the house.

7 Q. They were headed outside the house?

8 A. They was already --- as they left --- when Cory left
9 out of the kitchen he left --- Doug, him and Gusto
10 went out of the front door.

11 Q. Okay. How soon from the time they went out the front
12 door did they come back in?

13 A. Probably ten minutes.

14 Q. All right. Did anybody come in before they came in?

15 A. Yes. Brandon came in.

16 Q. Okay. All right. Did that surprise you or was that
17 something usual? Did he come by your house a lot?

18 A. Brandon is a normal visitor. He always comes by, no
19 matter what time of the morning it is, you know, he
20 is always welcome.

21 Q. Okay. All right. After he came in, who else came
22 in?

23 A. After he came in the house he came to like the den,
24 because after Douglas left and went out the door
25 Quandeline came in the den, and I was in the kitchen,

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1 so Brandon came in and Brandon came and he spoke to
2 me in the kitchen and all. And once he came in and
3 we were talking, Doug, Gusto, and Cory came back in
4 the house.

5 Q. Okay. All right. And when they came back in the
6 house what were the three of them doing?

7 A. Okay. Doug and Gusto was at my room, the first room
8 talking to Quandeline. And she was still watching
9 TV.

10 Q. Okay.

11 A. Hold up. Quandeline still was in the den, and when
12 Doug and Gusto when they came back in they was like
13 standing like at my room door, and then Brandon came
14 and I was like Brandon I said --- he asked me what I
15 was doing and I said I was cooking cheese toast. And
16 normally when he comes over there he always eats
17 cheese toast with me. So I was like you want some,
18 no. He said I don't want any. Then we started about
19 my birthday. My birthday was January the third. So
20 then, you know, we were just conversating, and then
21 he left. He told my daughter that he would talk to
22 her later so he left and he went back out the door.
23 As he was leaving, Doug, Gusto, and Cory still was in
24 the house.

25 Q. They didn't leave?

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1 A. They never did leave.

2 Q. They never did leave?

3 A. They didn't leave to go out the door.

4 Q. Okay.

5 A. They still was in. Brandon went out the door he went
6 out alone.

7 Q. Okay.

8 A. And when you are coming back and forth in my door I
9 hear, because the door makes like a squeaky noise.

10 So I know ---

11 Q. Is the house that big, is the kitchen really that far
12 from the door?

13 A. No, it's not --- it's not far.

14 Q. Okay. So you absolutely --- this is important ---
15 You are absolutely positive Doug, Gusto, or Cory
16 never went back out your house after Brandon left?

17 A. No, they never did go back out the house, because
18 after Brandon left Quandeline got up and she went
19 back into my bedroom. When she ---

20 Q. -- Did anybody go in there with her?

21 A. Doug did.

22 Q. Doug did. So he was still talking to Quandeline?

23 A. Yeah, he was still talking to her about some boy that
24 had liked her or something, I don't know.

25 Q. Okay.

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1 A. But I still could hear the voices from where I was at
2 in the kitchen.

3 Q. Right.

4 A. And Cory, he came in the kitchen and still was like
5 talking to me.

6 Q. And where was Gusto?

7 A. He was in the living room.

8 Q. Okay. All right. Did anything unusual happen next?

9 A. Okay, I was still in the kitchen, Cory was still
10 talking to me. After that we heard a gun shot.

11 Q. How do you know it was a gun shot?

12 A. Because I was in the kitchen, and I heard the gun ---
13 and what I heard --- I thought I was the only one
14 that heard the gunshot, but my daughter Quandeline
15 heard it to. So, the next thing that I know that she
16 was up, she was going to the front door, and I heard
17 screaming ---

18 Q. -- All right. Let me stop you right there. You are
19 in the kitchen. How do you know she went to the
20 front door?

21 A. Because as she got up --- I was in the kitchen, and I
22 kind of figured that she was already --- she got up
23 and she went to the living room door, because I heard
24 her screaming to somebody about let her out the door.
25 So that's the only door that's right there as you go

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1 through.

2 Q. Okay. All right. Did you move?

3 A. Yes. I left out of the kitchen and that's when I
4 came around and went in the hall and that is when I
5 seen that she was screaming trying to get out the
6 front door, and Doug was like not letting her, you
7 know, get out the door. And as I walked on the
8 kitchen --- I mean, in the living room he moved and
9 let her out the door. And after she went out the
10 door, that's when we seen Brandon laying on the
11 ground.

12 Q. All right. Did you see anyone else outside yourself?

13 A. No, I didn't.

14 Q. You didn't?

15 A. No, I didn't.

16 Q. Okay. How many gun shots did you hear?

17 A. I only heard one.

18 Q. And you were absolutely positive who was in that
19 house with you when the gun shot went off?

20 A. Yes.

21 Q. Tell us each person that was in that house.

22 A. It was Doug, Gusto which is Travis, and Cory.

23 Q. And who else?

24 A. And my daughter Antoinette, she is still in the bed
25 sleep.

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1 Q. Okay. And who else?

2 A. And Quandeline.

3 Q. And yourself?

4 A. And my myself.

5 Q. No one else in the house?

6 A. No, just those.

7 Q. So did look out the door, or look out the window, or
8 walk out the door to see Brandon?

9 A. Yes. Me and Quandeline went out the door at the same
10 time.

11 Q. Okay. So you didn't look out the window first?

12 A. No.

13 Q. Where was Travis at?

14 A. The livingroom. He still was like standing by the
15 living room window.

16 Q. He was standing by the living room window?

17 A. Yeah, he was like pacing the floor in the living
18 room, because the living room didn't have any
19 furniture in it, so he was like pacing the floor in
20 the living room.

21 Q. All right. And where was Antoinette, was she still
22 sleep?

23 A. She still asleep.

24 Q. Okay. All right. So who went out the door first,
25 you or Quandeline?

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1 A. At my knowledge, Quandeline went out the door first,
2 and then I went behind her.

3 Q. Okay. And did anybody come out the door behind you?

4 A. Yeah, Doug, Gusto, and Cory.

5 Q. Okay. All right. And what exactly did you see?

6 A. When I walked out the door, I see Brandon laying on
7 the ground and his car still was running.

8 Q. Okay. The car was still running?

9 A. Yes.

10 Q. Okay. All right. Ms. Washington, let's pretend that
11 this is your door on your porch, these are your steps
12 coming down, okay. About how far away was Brandon's
13 car from the steps, can you tell me if I get about
14 that distance or not?

15 A. His car wasn't that far.

16 Q. Wasn't that far?

17 A. No, it wasn't.

18 Q. When I come up to about where the front of his car
19 was tell me?

20 A. You say these are the steps here?

21 Q. Those are the steps right there.

22 A. You going to have to come up some more. Stop.

23 Q. Okay.

24 A. It's right up in there.

25 Q. The front of his car is right here?

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1 A. Yeah, because that's his park. That's where he
2 normally parks his car when he comes over.

3 Q. Okay. That's between two trees in the front yard?

4 A. Yeah.

5 Q. Okay. All right, those are the steps, was his body
6 on the passenger side of the car, or the driver's
7 side of the car?

8 A. On the passenger side.

9 Q. On the passenger side?

10 A. Uh-huh.

11 Q. All right. If I get to about the area where his body
12 was tell me, please.

13 A. You gonna have to come up some. A little further
14 over. Back over a little bit. Right up in there.

15 Q. So his body was right up in here.

16 A. Yeah.

17 Q. That close?

18 A. Yes.

19 Q. Okay. All right. And his head was which direction,
20 here or back this way?

21 A. Back that way.

22 Q. So his feet would have been here and his head would
23 have been back here?

24 A. Yes.

25 Q. Okay. And he was lying how, in front or on his back?

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1 A. On his back.

2 Q. On his back. Okay. So, please, tell this jury, you
3 all went out the door in a hurry or slowly?

4 A. In a hurry.

5 Q. Okay.

6 A. Because as we came out on the porch, we could see his
7 body laying on the ground.

8 Q. Okay. All right. And you didn't get close to a
9 window, you were coming from the kitchen, so you were
10 coming up the hallway you went on out the door you
11 didn't have an opportunity to look out a window or
12 did you?

13 A. No, I didn't look out a window.

14 Q. Okay. Did you see anyone else on the street, anyone
15 else in the yard, any other persons other than
16 Brandon Timmons laying there shot?

17 A. No, I didn't see anyone else.

18 Q. What did you do when you saw Brandon laying there?

19 A. I started screaming, because I didn't know what had
20 happen to him.

21 Q. Knowing that you heard a gun shot and he was lying
22 there what did you think?

23 A. The gun shot really had not frighten me because
24 further down the street there use to be like gun
25 shots down there, you know, further down, like on a

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1 daily basis; so, I wasn't thinking that he was shot,
2 but I didn't know what had happened to him. The only
3 think I was trying to do was call and get help, or
4 you know, someone to come help us or something.

5 Q. Did you go to his body and look at him first?

6 A. Yes, I did.

7 Q. Okay. What did you notice or see, if anything?

8 A. He was just laying there with his eyes open.

9 Q. Was he making any movements?

10 A. No.

11 Q. Okay. What did you do next?

12 A. I realized his car still was running, so I jumped in
13 his car ---

14 Q. -- Did you try to call anybody before jumping in his
15 car?

16 A. Yes, I did. We just only had a cell phone. We
17 didn't have a house phone.

18 Q. Okay.

19 A. So, I tried to use the cell phone and Doug snatched
20 the phone from me.

21 Q. Okay. He snatched the cell from you?

22 A. Yes.

23 Q. Okay. So what did you say to him?

24 A. I told him I needed to use the phone so I could call
25 911, that something has happened to Brandon. He's

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1 just laying there and not moving.

2 Q. Okay. So what did you do next?

3 A. After he took the phone that's when I realized the
4 car still was running and I jumped in his car and as
5 I got in his car his seat was pushed all the way
6 back. And by the height that I am my foot wouldn't
7 of touched the pedal, so I was fumbling trying to
8 pull the seat up so that my foot would reach it, and
9 as I look out the corner of my eyes I see Doug
10 stepping in the car with me. So me, him, we fumbled
11 with the keys, you know, initially he turned the car
12 off and he snatched the keys. In between that time a
13 cell phone was right there, Brandon's cell phone and
14 it dropped in my hand and the only thing I could
15 think of was yes, I got cell phone, I can use it I
16 can call to get help. So then he got the cell from
17 me. So I just jumped out the car and just started
18 screaming hoping that somebody would come help, you
19 know, help us or whatever. So finally, Shadonna, his
20 cousin came up and my sister ---

21 Q. His cousin, who's cousin?

22 A. Brandon.

23 Q. Brandon, okay.

24 A. She came up --- she was bringing my sister home from
25 work and they got out and I was like Shadonna, please

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1 let me call, something happened to Brandon. Please
2 call and get some help, so Shadonna called 911. So
3 when she did that, you know, I was down on the
4 ground, I had done got down with Brandon. And
5 between before all of this --- let me go back for a
6 minute. Before Shadonna brought my sister home, I
7 ran in the house and I woke my daughter up. I said,
8 Shontay, but she's Antoinette, I said you got to get
9 up, something happened Brandon. You got to get up.
10 You got to wake up. So she's not knowing really
11 what's going on so she came out the door, you know,
12 like she wanted to peep out in the yard or whatever,
13 whatever, but she didn't really know what was going
14 on. So then finally she realized my cell phone was
15 laying --- must be somewhere on the porch. So during
16 the time when Shadonna pull up to drop my sister off,
17 she had --- both of them had cell phones, like at the
18 same time. Shadonna called first and then my
19 daughter called second.

20 Q. Called 911?

21 A. Yes. So while they was during the calls and stuff I
22 was on the ground with Brandon, and Gusto and Cory
23 was standing on the porch. I got down on the ground
24 with Brandon, Quandeline was on the other side, and I
25 picked his head up and put his head in my hands, and

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1 he wasn't doing anything. He wouldn't move his eyes,
2 I said just please, just let me know you all right,
3 just move your eyes, let me know something, and he
4 still wasn't doing anything. So, Quandeline ran her
5 hand up under his back --- we was trying to lift him
6 up and when she pull her hand out her hand had blood
7 all over it. So then that's how we know he was shot.
8 Okay, and that's when Shadonna was trying to help and
9 we all was trying to lift him to put him in
10 Shadonna's Van, and I was asking them to please help
11 us lift but nobody never moved to help us. So we had
12 to then wait on the ambulance and the police and
13 stuff to get there.

14 Q. Are you all right, Ms. Washington? Do you want some
15 water? What happened next, Ms. Washington?

16 A. After he left, Doug jump in the car --- the truck and
17 he left. So, that's all Cory did was standing on the
18 porch. They said was there when the ambulance came.

19 Q. And what happened when the ambulance came?

20 A. When the ambulance came, you know, he was pushing, I
21 think my daughter --- I went in the house to change
22 clothes to get ready to go to the hospital. So, they
23 came and they put him in the ambulance, and all of us
24 went to the hospital.

25 Q. Okay. When you say all of us, who is all of us?

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1 A. Quandeline and Antoinette.

2 Q. What about Tatica and Shadonna, did they go to the
3 hospital as well?

4 A. Yeah, I know Shadonna came. I can't remember whether
5 Tatica came or not because my grand baby was there,
6 so I'm thinking that she was still at the house with
7 my grand baby and she caught a ride later.

8 Q. What did you find when you got to the hospital?

9 A. We went in the hospital, and we sit and we waited for
10 the doctor to come out. And when he came out, he ask
11 for the mother and then he was telling her that her
12 son --- her son was dead. I'm sorry. And then we
13 all --

14 Q. Ms. Washington, go ahead, I'm sorry.

15 A. And we left the hospital.

16 Q. When you left the hospital where did you go?

17 A. I went to my mom's house.

18 Q. You went to your mom's house?

19 A. Yes.

20 Q. And where does she live?

21 A. On Maxwell, here in Florence.

22 Q. And how far is that from where you live on Marion
23 Street?

24 A. About ten minutes, ten or fifteen minutes away.

25 Q. All right. Did you stay there?