

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Greenville County

Honorable G.D. Morgan, Jr., Circuit Court Judge

RONNIE C. SWOFFORD,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-001436

APPENDIX

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STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
-----)

GENERAL SESSIONS COURT
09-GS-23-9403-9405
11-GS-23-7263

STATE OF SOUTH CAROLINA)
)
vs.)
)
RONNIE C. SWOFFORD, JR.)
-----)

TRANSCRIPT OF RECORD

MAY 14 - 17, 2012
GREENVILLE, SC

B E F O R E:

THE HONORABLE EDWARD W. MILLER

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

KRIS HODGE, ESQUIRE
ASSISTANT SOLICITOR

ANDREW JOHNSTON, ESQUIRE
GERALD WILSON, ESQUIRE
ASSISTANT PUBLIC DEFENDERS

VIVIAN CROSS,
SHARON D. JONES,
OFFICIAL COURT REPORTERS

STATE V. RONNIE SWOFFORD, JR.

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P R O C E E D I N G S

(MAY 14, 2012 - 11:52 A.M.)

(CASE NUMBERS: 09-GS-23-09403, 09404, 09405;

11-GS-23-07263)

THE COURT: All right, ladies and gentlemen, I want to welcome you all up to courtroom number four. And, uh, I don't have to introduce myself; I trust you-all remember me.

Uh -- we are about to begin the process of qualifying you all to serve as jurors in this particular case. And, uh, in order to do that, I need to ask you a few more questions which are specific to this case, um, in order to qualify you to serve.

So let me introduce the case to you. Um -- there are four indictments in this case. The first indictment is *The State versus Ronnie Cleveland Swofford, Junior*; an indictment for Assault With Intent to Kill. This indictment alleges that Ronnie Cleveland Swofford, Junior did, in Greenville County, on or about the 27th day of July 2009, with malice or forethought commit an assault upon Rikki Danielle Edwards, and the Defendant had the apparent present ability to complete the act in violation of our statutes and laws.

The second indictment is The State of South Carolina -- excuse me; the number on that first indictment was 2011-7263.

The next indictment, 2009-9405, uh, is *The State versus Ronnie Cleveland Swofford, Junior*; it's an indictment for

1 Possession of a Pistol by a Person Convicted of a Violent
2 Crime. It alleges that Ronnie Cleveland Swofford, Junior
3 did, in Greenville County, on or about the 27th day of July
4 2009, possess or acquire a pistol within this state, having
5 been convicted of a violent crime.

6 The next indictment is indictment number 2009-9404, *The*
7 *State versus Ronnie Cleveland Swofford, Junior*. This is a
8 two-count indictment, uh, for Assault and Battery With Intent
9 to Kill and Possession of a Weapon During the Commission of a
10 Crime. Count one alleges that Ronnie Cleveland Swofford,
11 Junior did, in Greenville County, on or about the 27th day of
12 July 2009, willfully, unlawfully, and with malice or
13 forethought, either express or imply, commit an assault and
14 battery upon Kris -- Curtis Wooten. Count two alleges that
15 Ronnie Cleveland Swofford, Junior did, in Greenville County,
16 on or about the 27th day of July 2009, possess or visibly
17 display a handgun during the commission or attempted
18 commission of a violent crime. That is, Assault and Battery
19 With Intent to Kill.

20 And the fourth indictment is 2009-9403, *The State versus*
21 *Ronnie Cleveland Swofford, Junior*. An indictment for
22 Burglary First Degree. It alleges that Ronnie Cleveland
23 Swofford, Junior did, in Greenville County, on or about the
24 27th day of July 2009, willfully and unlawfully enter the
25 dwelling of Curtis Wooten, located at [REDACTED] Memorial Drive

1 Extension, Greer, without consent and with the intent to
2 commit a crime therein and armed with a deadly weapon.
3 And/or did cause physical injuries to any person who is not a
4 participant in the crime.

5 Now ladies and gentlemen, to these indictments
6 Mr. Swofford has plead not guilty. And as such, uh, certain
7 rights attach which belong to every citizen. And that is
8 that every person who is charged with an offense -- a
9 criminal offense -- in this state is presumed to be innocent
10 unless and until the charging body -- in this case The State
11 of South Carolina -- proves to a jury, beyond any reasonable
12 doubt, each and every element of each offense. So please
13 keep that in mind throughout the course of these proceedings.

14 I would also instruct you and -- and inform you that
15 these four pieces of paper that I read to you are nothing
16 more than what they appear to be. They are just the formal
17 documents which are issued and required to move the case
18 through the system in order to arrive here for disposition
19 and you should make no, uh, presumption -- take no inference
20 from the fact that these documents have issued. They're
21 simply the formal legal documents that bring the case to
22 Court.

23 Now, before I begin the questioning, I will ask the
24 attorneys to please stand and introduce themselves and their
25 clients. Ms. Hodge?

1 **MS. HODGE:** Thank you, Your Honor. My name is Kris
2 Hodge and I'm the Assistant Solicitor here in Greenville
3 County. And at my desk is Melissa Bishop; she's my
4 investigator at the Solicitor's Office as well.

5 **THE COURT:** All right.

6 **MR. JOHNSTON:** Good morning, ladies and gentlemen, my
7 name is Andy Johnston; this is my co-counsel, uh, Gerald
8 Wilson. And this is my client, Ronnie Swofford.

9 **THE COURT:** All right; thank you very much. Is there
10 any member of the jury panel who is related by blood or
11 marriage or who has a business, personal, or social
12 relationship with any member of the Thirteenth Circuit
13 Solicitor's Office? If so, please stand.

14 (NO RESPONSE FROM THE JURY PANEL.)

15 **THE COURT:** Is there any member of the jury panel who is
16 related by blood or marriage or who has a business, personal,
17 or social relationship with either of the attorneys involved,
18 Mr. Johnston or Mr. Wilson? If so, please stand.

19 (NO RESPONSE FROM THE JURY PANEL.)

20 **THE COURT:** Is there any member of the jury panel who is
21 related by blood or marriage or who has a business, personal,
22 or social relationship with Mr. Ronnie Cleveland Swofford,
23 Junior? If so, please stand.

24 (NO RESPONSE FROM THE JURY PANEL.)

25 **THE COURT:** Is there any member of the jury panel who is

1 related by blood or marriage or who has a business, personal,
2 or social relationship with either Ms. Rikki Danielle Edwards
3 or with Mr. Curtis Wooten? If so, please stand.

4 (NO RESPONSE FROM THE JURY PANEL.)

5 **THE COURT:** Okay. Now I'm gonna read a list of
6 potential witnesses to you, ladies and gentlemen. I ask you
7 to listen, and I'll need to know the same about each of these
8 persons.

9 Investigator Christopher Miller with the Sheriff's
10 Office; uh, Sergeant David Hayes with the Sheriff's Office;
11 Deputy J. Miles; Deputy J. Cassel; Master Deputy Grice;
12 Deputy Emily; Sergeant David Weiner; uh, Renee Beauford; uh,
13 Officer Derby; Officer Smith; Sergeant Dar Shaw; Investigator
14 Wayne Campbell; Kara Bennick; Israel Flounders; James
15 Armstrong; Doris Yarborough; Selena Kinard; Verona Gibson;
16 Adrian Hefney; Doctor Brian Dach; Eva Leon; Jonathan Howard;
17 Ila Simmons; Stoney Coleman; Charlie Duffie; Amber Lawter;
18 Jordan Lawter; Shannon Lawter; Glen Medaugh; Michelle Parker;
19 Stephen Parker; Jaren Pettit; Otis Pullen; Hunter Smalley;
20 Terry Stephens; Jamie Swofford; Phyllis Swofford. Is there
21 any member of the jury panel who is related by blood or
22 marriage or who has a business, personal, or a social
23 relationship with any of those potential witnesses whose
24 names I have just read? If so, please stand.

25 (WHEREUPON, MICHAEL S. HUSKEY, JUROR NUMBER 93, STOOD.)

1 **THE COURT:** Yes, sir; your name?

2 **MR. HUSKEY:** Michael Huskey.

3 **THE COURT:** And would you give us your number, please
4 sir?

5 **MR. HUSKEY:** Ninety-three.

6 **THE COURT:** All right; and who are you -- what's your,
7 uh, familiarity with these folks?

8 **MR. HUSKEY:** Since I work for the County, I -- I'm
9 familiar with a few names like Kara Bennick in---

10 **THE COURT:** All right.

11 **MR. HUSKEY:** ---Property and Evidence.

12 **THE COURT:** All right; and, uh, would the fact that you,
13 uh, know those people or are related, uh -- you know, have
14 that relationship with them, would that impair your ability
15 to be fair and impartial in this case?

16 **MR. HUSKEY:** No, sir.

17 **THE COURT:** Could you follow your oath and judge this
18 case solely on the law and the evidence that's presented in
19 this courtroom?

20 **MR. HUSKEY:** Yes, sir.

21 **THE COURT:** All right; thank you very much.

22 **THE COURT:** Is there any member of the jury panel who
23 has any knowledge whatsoever about the events that are
24 alleged in these indictments? If so, please stand.

25 (NO RESPONSE FROM THE JURY PANEL.)

1 **THE COURT:** Is there any member of the jury panel who,
2 uh -- or a family member or a close personal friend -- who
3 has ever been a victim of or charged with this -- these types
4 of offenses? If so, please stand.

5 (NO RESPONSE FROM THE JURY PANEL.)

6 **THE COURT:** Okay. Is there any member of the jury panel
7 who has ever been a witness or potential witness for the
8 Thirteenth Circuit Solicitor's Office? If so, please stand.

9 (NO RESPONSE FROM THE JURY PANEL.)

10 **THE COURT:** Is there any member of the jury panel, uh,
11 who is a member of or a contributor to those groups, uh -- to
12 a group whose primary concern is the promotion of victims or
13 law enforcement's rights? Uh -- examples would be MADD, SADD
14 and CAVE. If so, please stand.

15 (NO RESPONSE FROM THE JURY PANEL.)

16 **THE COURT:** Is there any member of the jury panel who
17 has ever been employed as a law enforcement officer? If so,
18 please stand.

19 (NO RESPONSE FROM THE JURY PANEL.)

20 **THE COURT:** Is there any member of the jury panel who is
21 related by blood or marriage to a law enforcement officer?
22 If so, please stand.

23 Yes, ma'am; your -- your, uh---

24 **MS. EICHELBERGER:** Number fifty-four.

25 **THE COURT:** I'm sorry?

1 **MS. EICHELBERGER:** Tameka Eichelberger and I'm fifty-
2 four.

3 **THE COURT:** Okay; and tell me the relationship please.

4 **MS. EICHELBERGER:** Related to a deputy; Tina
5 Eichelberger.

6 **THE COURT:** Okay. Yes, ma'am, your name and number?

7 **MS. JONES:** Susan Jones, juror one-o-one.

8 **THE COURT:** Okay.

9 **MS. JONES:** My husband is a retired N-C-I-S officer.

10 **THE COURT:** All right. Yes, ma'am?

11 **MS. NORTON:** Pamela Norton, juror one-fifty-six. My
12 father-in-law is a retired State Trooper in Missouri.

13 **THE COURT:** All right. Now, does the fact that you-all
14 have -- that you-all have those relationships, would that
15 impair your ability to be fair and impartial in this case to
16 either The State or the Defense? If so, please stand.

17 (NO RESPONSE FROM THE JURY PANEL.)

18 **THE COURT:** All right. And if you cannot follow under
19 your oath the law and the evidence presented in this
20 courtroom, please stand.

21 (NO RESPONSE FROM THE JURY PANEL.)

22 **THE COURT:** All right; thank you. All right; does any
23 member of the jury panel have any special experience or
24 training in working with victims of crime? If so, please
25 stand.

1 (NO RESPONSE FROM THE JURY PANEL.)

2 **THE COURT:** Has any member of the jury panel, uh, heard
3 or read anything about either the case or Mr. Ronnie
4 Swofford? If so, please stand.

5 (NO RESPONSE FROM THE JURY PANEL.)

6 **THE COURT:** All right. Is any member of the jury panel
7 aware of any bias or prejudice towards either The State or
8 the Defense? If so, please stand.

9 (NO RESPONSE FROM THE JURY PANEL.)

10 **THE COURT:** Does any juror know of any reason whatsoever
11 why you should not serve in this case, with particular
12 emphasis on your ability to be fair and impartial and to
13 judge this case solely on the merits of the evidence and the
14 law as presented in this courtroom? If you cannot do that,
15 please stand.

16 (NO RESPONSE FROM THE JURY PANEL.)

17 **THE COURT:** Okay. All right, let's strike the jury.
18 You-all duck. (Room laughter.)

19 **THE CLERK:** When I call your name, if you'll please
20 stand in place; wait for further instructions.

21 Juror one-eighty-seven, Richard Sayer.

22 (WHEREUPON, RICHARD W. SAYER, JUROR NUMBER 187 STOOD AND
23 PRESENTED TO COUNSEL.)

24 **THE CLERK:** What says The State?

25 **MS. HODGE:** (After conference) Please excuse Mr. Sayer.

1 **THE CLERK:** All right, sir, you may be seated; you have
2 been excused from this case.

3 (WHEREUPON, RICHARD W. SAYER, JUROR NUMBER 187 WAS
4 EXCUSED FROM JURY SERVICE ON THIS CASE AND RESUMED HIS SEAT.)

5 **THE CLERK:** Juror one-eleven, Rodrigues Labean (sic) --
6 Laboone, I beg your pardon.

7 (WHEREUPON, RODRIGUES M. LABOONE, JUROR NUMBER 111 STOOD
8 AND PRESENTED TO COUNSEL.)

9 **THE CLERK:** What says The State?

10 **MS. HODGE:** (After conference) Please present this
11 juror.

12 **THE CLERK:** Okay; Defense?

13 **MR. JOHNSTON:** Please swear Mr. A- -- Laboone; please
14 swear him.

15 **THE CLERK:** Sir, please come have a seat in the jury
16 box. And if you'll bring your things with you? Ladies,
17 purses and so forth, um, that way you can look -- go straight
18 to the jury box.

19 **THE CLERK:** Juror one-eighty-four, Megan Sackett.

20 (WHEREUPON, MEGAN L. SACKETT, JUROR NUMBER 184 STOOD AND
21 PRESENTED TO COUNSEL.)

22 **THE CLERK:** What says The State?

23 **MS. HODGE:** Please present the juror.

24 **THE CLERK:** What says the Defense?

25 **MR. JOHNSTON:** Please swear Ms. Sackett.

1 **THE CLERK:** Ms. Sackett, please come have a seat in the
2 jury box.

3 (WHEREUPON, MEGAN L. SACKETT, JUROR NUMBER 184, WAS
4 SEATED IN THE JURY BOX.)

5 **THE CLERK:** Juror two-twenty-nine, Lisa Vaughn.

6 (WHEREUPON, LISA W. VAUGHN, JUROR NUMBER 229 STOOD AND
7 PRESENTED TO COUNSEL.)

8 **THE CLERK:** What says The State?

9 **MS. HODGE:** (After conference) Please present the juror.

10 **THE CLERK:** What says the Defense?

11 **MR. JOHNSTON:** Please excuse her in this case.

12 **THE CLERK:** All right, ma'am, you have been excused from
13 this case.

14 (WHEREUPON, LISA W. VAUGHAN, JUROR NUMBER 229, WAS
15 EXCUSED FROM JURY SERVICE ON THIS CASE AND RESUMED HER SEAT.)

16 **THE CLERK:** Juror two-eleven, Allison Sullivan.

17 (WHEREUPON, ALLISON J. SULLIVAN, JUROR NUMBER 211 STOOD
18 AND PRESENTED TO COUNSEL.)

19 **THE CLERK:** What says The State?

20 **MS. HODGE:** (After conference) Please present the juror.

21 **THE CLERK:** What says the Defense?

22 **MR. JOHNSTON:** Please swear Ms. Sullivan.

23 **THE CLERK:** Ms. Sullivan, please come have a seat in the
24 jury box.

25 (WHEREUPON, ALLISON J. SULLIVAN, JUROR NUMBER 211, WAS

1 SEATED IN THE JURY BOX.)

2 THE CLERK: Juror one-forty-seven, Von Miller.

3 (WHEREUPON, VON A. MILLER, JUROR NUMBER 147 STOOD AND
4 PRESENTED TO COUNSEL.)

5 THE CLERK: What says The State?

6 MS. HODGE: (After conference) Please excuse this juror.

7 THE CLERK: All right, sir, you may be seated; you have
8 been excused.

9 MR. MILLER: Thank you.

10 THE CLERK: Yes, sir.

11 (WHEREUPON, VON A. MILLER, JUROR NUMBER 147, WAS EXCUSED
12 FROM JURY SERVICE ON THIS CASE AND RESUMED HIS SEAT.)

13 THE CLERK: Juror one-twenty-four, Donna Lord.

14 (WHEREUPON, DONNA L. LORD, JUROR NUMBER 124 STOOD AND
15 PRESENTED TO COUNSEL.)

16 THE CLERK: What says The State?

17 MS. HODGE: (After conference) Please present the juror.

18 THE CLERK: What says the Defense?

19 MR. JOHNSTON: Please excuse her in this case.

20 THE CLERK: All right. Ma'am, you may be seated; you
21 have been excused from this case.

22 (WHEREUPON, DONNA L. LORD, JUROR NUMBER 124, WAS EXCUSED
23 FROM JURY SERVICE ON THIS CASE AND RESUMED HER SEAT.)

24 THE CLERK: Juror fifty-four, Tameka Eichelberger.

25 (WHEREUPON, TAMEKA M. EICHELBERGER, JUROR NUMBER 54

1 STOOD AND PRESENTED TO COUNSEL.)

2 **THE CLERK:** What says The State?

3 **MS. HODGE:** Please present the juror.

4 **THE CLERK:** What says the Defense?

5 **MR. JOHNSTON:** Please excuse her in this case.

6 **THE CLERK:** All right. Ma'am, you may be seated; you
7 have been excused from this case.

8 (WHEREUPON, TAMEKA M. EICHELBERGER, JUROR NUMBER 54, WAS
9 EXCUSED FROM JURY SERVICE ON THIS CASE AND RESUMED HER SEAT.)

10 **THE CLERK:** Juror nineteen, Teresa Buffkin.

11 (WHEREUPON, TERESA G. BUFFKIN, JUROR NUMBER 19 STOOD AND
12 PRESENTED TO COUNSEL.)

13 **THE CLERK:** What says The State?

14 **MS. HODGE:** (After conference) Please present the juror.

15 **THE CLERK:** What says the Defense?

16 **MR. JOHNSTON:** Please swear Ms. Buffkin.

17 **THE CLERK:** Ms. Buffkin, please come have a seat in the
18 jury box.

19 (WHEREUPON, TERESA G. BUFFKIN, JUROR NUMBER 19, WAS
20 SEATED IN THE JURY BOX.)

21 **THE CLERK:** Juror ninety-seven, Franklin James.

22 (WHEREUPON, FRANKLIN JAMES, JUROR NUMBER 97 STOOD AND
23 PRESENTED TO COUNSEL.)

24 **THE CLERK:** What says The State?

25 **MS. HODGE:** (After conference) Please present the juror.

1 **THE CLERK:** What says the Defense?

2 **MR. JOHNSTON:** Please swear Mr. James.

3 **THE CLERK:** Mr. James, please have a seat in the jury
4 box.

5 (WHEREUPON, FRANKLIN JAMES, JUROR NUMBER 97, WAS SEATED
6 IN THE JURY BOX.)

7 **THE CLERK:** Juror twenty-nine, Tara Choice.

8 (WHEREUPON, TARA J. CHOICE, JUROR NUMBER 29 STOOD AND
9 PRESENTED TO COUNSEL.)

10 **THE CLERK:** What says The State?

11 **MS. HODGE:** (After conference) Please present the juror.

12 **THE CLERK:** What says the Defense?

13 **MR. JOHNSTON:** Please swear Ms. Choice.

14 **THE CLERK:** Ms. Choice, please come have a seat in the
15 jury box.

16 (WHEREUPON, TARA J. CHOICE, JUROR NUMBER 29, WAS SEATED
17 IN THE JURY BOX.)

18 **THE CLERK:** Juror fifty-three, Johnnie Ebelein.

19 (WHEREUPON, JOHNNIE C. EBELEIN, JUROR NUMBER 53 STOOD
20 AND PRESENTED TO COUNSEL.)

21 **THE CLERK:** What says The State?

22 **MS. HODGE:** (After conference) Please present the juror.

23 **THE CLERK:** What says the Defense?

24 **MR. JOHNSTON:** Please swear Ms. Ebelein.

25 **THE CLERK:** Ms. Ebelein, please come have a seat in the

1 jury box.

2 (WHEREUPON, JOHNNIE C. EBELEIN, JUROR NUMBER 53, WAS
3 SEATED IN THE JURY BOX.)

4 **THE CLERK:** Juror one-fifty-six, Beverly Norton.

5 (WHEREUPON, BEVERLY P. NORTON, JUROR NUMBER 156 STOOD
6 AND PRESENTED TO COUNSEL.)

7 **THE CLERK:** What says The State?

8 **MS. HODGE:** (After conference) Please present the juror.

9 **THE CLERK:** What says the Defense?

10 **MR. JOHNSTON:** Please swear Ms. Norton.

11 **THE CLERK:** Ms. Norton, please have a seat in the jury
12 box.

13 (WHEREUPON, BEVERLY P. NORTON, JUROR NUMBER 156, WAS
14 SEATED IN THE JURY BOX.)

15 **THE CLERK:** Juror one-eighty-six, Cheryl Satterfield.

16 (WHEREUPON, CHERYL L. SATTERFIELD, JUROR NUMBER 186
17 STOOD AND PRESENTED TO COUNSEL.)

18 **THE CLERK:** What says The State?

19 **MS. HODGE:** (After conference) Please present the juror.

20 **THE CLERK:** What says the Defense?

21 **MR. JOHNSTON:** Please excuse her from this case.

22 **THE CLERK:** All right; ma'am, you may be seated. You
23 have been excused in this case.

24 (WHEREUPON, CHERYL L. SATTERFIELD, JUROR NUMBER 186, WAS
25 EXCUSED FROM JURY SERVICE ON THIS CASE AND RESUMED HER SEAT.)

1 **THE CLERK:** Juror forty-eight, Alice Dent.

2 (WHEREUPON, ALICE C. DENT, JUROR NUMBER 48 STOOD AND
3 PRESENTED TO COUNSEL.)

4 **THE CLERK:** What says The State?

5 **MS. HODGE:** (After conference) Please present the juror.

6 **THE CLERK:** What says the Defense?

7 **MR. JOHNSTON:** Please swear Ms. Dent.

8 **THE CLERK:** Ms. Dent, please come have a seat in the
9 jury box.

10 (WHEREUPON, ALICE C. DENT, JUROR NUMBER 48, WAS SEATED
11 IN THE JURY BOX.)

12 **THE CLERK:** Juror seventy-five, Robert Haney.

13 (WHEREUPON, ROBERT L. HANEY, JUROR NUMBER 75 STOOD AND
14 PRESENTED TO COUNSEL.)

15 **THE CLERK:** What says The State?

16 **MS. HODGE:** (After conference) Please present the juror.

17 **THE CLERK:** What says the Defense?

18 **MR. JOHNSTON:** Please excuse him in this case.

19 **THE CLERK:** All right; sir, you may be seated; you have
20 been excused from this case.

21 (WHEREUPON, ROBERT L. HANEY, JUROR NUMBER 75, WAS
22 EXCUSED FROM JURY SERVICE ON THIS CASE AND RESUMED HIS SEAT.)

23 **THE CLERK:** Juror one-sixty-seven, John Potter.

24 (WHEREUPON, JOHN M. POTTER, JUROR NUMBER 167 STOOD AND
25 PRESENTED TO COUNSEL.)

1 **THE CLERK:** What says The State?

2 **MS. HODGE:** (After conference) Please present the juror.

3 **THE CLERK:** What says the Defense?

4 **MR. JOHNSTON:** Please swear Mr. Potter.

5 **THE CLERK:** Mr. Potter, please have a seat in the jury
6 box.

7 (WHEREUPON, JOHN M. POTTER, JUROR NUMBER 167, WAS SEATED
8 IN THE JURY BOX.)

9 **THE CLERK:** Juror forty, Kevin Crain.

10 (WHEREUPON, KEVIN D. CRAIN, JUROR NUMBER 40 STOOD AND
11 PRESENTED TO COUNSEL.)

12 **THE CLERK:** What says The State?

13 **MS. HODGE:** (After conference) Please excuse the juror.

14 **THE CLERK:** All right, sir, you may be seated.

15 (WHEREUPON, KEVIN D. CRAIN, JUROR NUMBER 40, WAS EXCUSED
16 FROM JURY SERVICE ON THIS CASE AND RESUMED HIS SEAT.)

17 **THE CLERK:** Juror ninety, Jennings Hucks.

18 (WHEREUPON, JENNINGS C. HUCKS, JUROR NUMBER 90 STOOD AND
19 PRESENTED TO COUNSEL.)

20 **THE CLERK:** What says The State?

21 **MS. HODGE:** (After conference) Please present the juror.

22 **THE CLERK:** What says the Defense?

23 **MR. JOHNSTON:** Please swear Mr. Hucks.

24 **THE CLERK:** Mr. Hucks, please have a seat in the jury
25 box.

1 (WHEREUPON, JENNINGS C. HUCKS, JUROR NUMBER 90, WAS
2 SEATED IN THE JURY BOX.)

3 **THE CLERK:** Juror one-seventy-seven, David Robison.

4 (WHEREUPON, DAVID M. ROBISON, JUROR NUMBER 177 STOOD AND
5 PRESENTED TO COUNSEL.)

6 **THE CLERK:** What says The State?

7 **MS. HODGE:** (After conference) Please present the juror.

8 **THE CLERK:** What says the Defense?

9 **MR. JOHNSTON:** Please excuse him in this case.

10 **THE CLERK:** All right, sir, you may be seated.

11 (WHEREUPON, DAVID M. ROBINSON, JUROR NUMBER 177, WAS
12 EXCUSED FROM JURY SERVICE ON THIS CASE AND RESUMED HIS SEAT.)

13 **THE CLERK:** Juror one-ninety-three, Christine Sharp.

14 (WHEREUPON, CHRISTINE E. SHARP, JUROR NUMBER 193 STOOD
15 AND PRESENTED TO COUNSEL.)

16 **THE CLERK:** What says The State?

17 **MS. HODGE:** (After conference) Please present the juror.

18 **THE CLERK:** What says the Defense?

19 **MR. JOHNSTON:** Please swear Ms. Sharp.

20 **THE CLERK:** Ms. Sharp, please have a seat in the jury
21 box.

22 (WHEREUPON, CHRISTINE E. SHARP, JUROR NUMBER 193, WAS
23 SEATED IN THE JURY BOX.)

24 **THE COURT:** All right, let's get, uh, one alternate; two
25 and one -- one and two.

1 **THE CLERK:** Juror one-thirteen, Megan Lambrecht.

2 (WHEREUPON, MEGAN C. LAMBRECHT, JUROR NUMBER 113 STOOD
3 AND PRESENTED TO COUNSEL.)

4 **THE CLERK:** What says The State?

5 **MS. HODGE:** (After conference) Please present the juror.

6 **THE CLERK:** What says the Defense?

7 **MR. JOHNSTON:** Please swear Ms. Lambrecht.

8 **THE CLERK:** Ms. Lambrecht, please have a seat in the
9 jury box.

10 (WHEREUPON, MEGAN C. LAMBRECHT, JUROR NUMBER 113, WAS
11 SEATED IN THE JURY BOX.)

12 **THE COURT:** Okay; two groups in here. One of you thinks
13 you've won the lottery and one thinks you've lost maybe.
14 Um -- I want to tell you that I -- I honestly believe that
15 the group that's been selected are the unfortunate ones.
16 Uh, they -- they are participating where the rubber meets the
17 road in our justice system. I hope that you all will get an
18 opportunity to serve, uh, this week, um, but it won't be in
19 this case.

20 So, uh, I want to thank you all and I think I need to
21 ask you to go back downstairs and, uh -- where Ms. Olsen will
22 tell you what awaits you.

23 All right; thank you very much.

24 (WHEREUPON, JURY PANEL RELEASED AND EXITED THE
25 COURTROOM.)

1 **THE COURT:** All right. Any exception or objection
2 to the jury as impaneled from the State?

3 **MS. HODGE:** None from the State, Your Honor.

4 **THE COURT:** From the defense?

5 **MR. JOHNSTON:** No, sir.

6 **THE COURT:** Okay. All right. Ladies and
7 Gentlemen, I want to thank you and I'm sincere about
8 that. I hope you all feel the same way. You know, I
9 told you I got to sit up here and watch y'all when your
10 names were called, and I didn't see any -- too many
11 grimaces when y'all came up, so maybe y'all were --
12 since I made you aware of it, you weren't going to do
13 that for me. But I do want to thank you and appreciate
14 y'all being up here.

15 I want to tell you that -- that we have a dispute
16 about the facts in this matter that cannot be resolved
17 in any other fashion except to ask a jury to come
18 listen to the evidence presented in this courtroom, and
19 the law presented in this courtroom, and to come to a
20 resolution of this dispute. And that is your job.

21 I want to remind you and emphasis how important it
22 is that every person who is charged with a crime in
23 this country, is presumed to be innocent unless and
24 until the charging body, the moving party, which in
25 this case is the State, proves to each of you beyond

1 any reasonable doubt each and every element of each
2 offense that that person is charged with. Okay. So,
3 keep that in mind.

4 I would also remind you again that the
5 indictments, arrest warrants, other papers that have
6 been issued up to this point are simply pieces of
7 paper. And they are just the formal documents which
8 allow this matter to wind its way through our system,
9 to arrive here in court for resolution of the dispute.

10 Do not take any inference from the fact that they
11 have issued or make any presumption from the fact that
12 they have issued. They are just pieces of paper.

13 Now, you can divide a trial into as many parts as
14 you would like. And if you read crime novels or watch
15 some of these TV shows, they break it down into all of
16 these minute little parts, well, I break it into five
17 parts so you all have kind of a procedural road map to
18 know where we are in this case.

19 The first part we'll embark on after lunch -- and
20 I guess what I'm doing now is part of it -- is opening
21 statements to you.

22 The second part is the meat and potatoes of every
23 case, and that is the presentation of the testimony and
24 the evidence in this case.

25 The third part at the close of all -- when all the

1 evidence has been presented, the attorneys will get up
2 and make their closing arguments to you, where they
3 advocate their position.

4 The fourth part will be when I give you the charge
5 on the law, what the law is as it applies to this case.

6 And the fifth part will be when you all are
7 excused to your jury room to deliberate this matter and
8 resolve the dispute. They are not -- those parts are
9 not of equal length, but it will give you an idea
10 procedurally where we are in the case.

11 I'll ask you to do many things probably throughout
12 the course of the trial, but there are three main
13 things I ask you to do. The first is to keep an mind.
14 We go through all this qualify -- these qual -- these
15 qualifying questions to ensure that we have a fair and
16 impartial jury. We don't want a jury that comes in
17 here with their mind made up one way or the other.

18 We want citizens who are willing to listen --
19 honestly listen to the facts and the evidence that are
20 presented in the courtroom and the law, and to render a
21 fair and impartial verdict in the case, resolving the
22 dispute. So keep an open mind.

23 The second thing seems a little elementary. I've
24 been hearing it my whole life because I'm probably more
25 guilty than most people, and that is to pay attention.

1 I ask you, if you let your mind wonder off during some
2 piece of testimony, you may miss some important fact or
3 you may miss the way the witness acts on a witness
4 stand or something else. And if that happened, you
5 would be at a disadvantage in your deliberations at the
6 end of the case. So please pay attention throughout
7 the course of the trial.

8 The last thing that I will ask you to do and I
9 instruct you is to not discuss this case with anyone
10 until you are free to deliberate at the end of the
11 case. That means -- and I'm going to let y'all go to
12 lunch, because we've got some matters we need to take
13 up outside your presence.

14 When you're at lunch, and you speak to someone you
15 know on the street, or you call a family friend or a
16 spouse or something like that, they are going to want
17 to know what you -- what you're up to, what you're
18 doing. And I would tell you, do not discuss the case.
19 Even an innocent comment from someone on the street
20 might impact your frame of mind.

21 We've been through this whole process and you all
22 have been selected to serve in this case. You and only
23 you. And a comment from someone who you like and trust
24 or someone who you don't like, might impact your state
25 of mind and we're not interested in that.

1 Just remember, following this instruction, you
2 will be fair to both -- all the parties involved in the
3 case. And it would be unfair for you to do otherwise.
4 It would be unwise to your fellow jurors. It would be
5 unfair to yourself to allow someone who is not making
6 the sacrifices that you all are making, to have any
7 input into the outcome of this case. That's why it is
8 vitally important.

9 And it also includes doing any sort of independent
10 research. It is so easy nowadays to get on the
11 internet and go look something up. Well, as we all
12 know, what's on the internet is not necessarily
13 correct. And you've sworn -- you will swear under oath
14 in just a second not to do that.

15 So don't go visit any location that you may hear
16 about. Don't talk about the case. Don't do any
17 research. Everything that you need to know to decide
18 this case will -- you'll hear in this courtroom, and it
19 will be subject to constitutional protections that
20 belong to each and every one of us. So I ask you to
21 protect that in this case for these parties and for
22 every one else.

23 I want to tell you that you are the sole judges of
24 the facts in this case and in every case. A trial
25 judge is not allowed, by law, to have any opinion about

1 the facts of the case. You all are the sole judges of
2 the believability of the witnesses, who to believe,
3 what to believe, how much and how little. You're the
4 sole judges of the facts.

5 That same law makes me the sole judge of the
6 law. So if you think you have some idea as to what the
7 law is or what the law should be, and it disagrees with
8 what I tell you the law is from time to time throughout
9 the case or at the close of the case, you're going to
10 swear under oath in just a second, to set aside your
11 own opinion and apply the law precisely as I give it to
12 you in this case.

13 Now, there may be times throughout the trial
14 when I excuse you from the courtroom or I ask the
15 attorneys to come up and speak with me privately. We
16 are not trying to deceive you all in any way, but we
17 are maybe trying to keep something from you. And I
18 hope you can appreciate that if there is a piece of
19 evidence that should not come in, that you all
20 shouldn't hear about, that's what we're doing when we
21 excuse you or when we have a bench conference up here.

22 So I think that's all I have to say. There is
23 one other thing I'll ask you to do first, and that is
24 when you all -- I'm am going to excuse you to go to
25 lunch. I'm going to ask you to be back at about 2:00.

1 We -- when you get back, I would ask you all to
2 see if you can decide on a person you would like to be
3 your foreperson. And the foreperson is the moderator
4 of the discussions at the close of the trial and the
5 jury spokesperson in the room should that become
6 necessary.

7 And if you all are unable to decide that, I can
8 certainly pick somebody out for you. But this -- you
9 know, this will be good practice for this November when
10 we have all these elections coming up. Y'all -- but
11 absolutely no campaign spending in there. Okay.

12 All right, Ladies and Gentlemen, at this time I
13 will ask you to stand and please take your oath.

14 **THE CLERK:** The proper response is I will.

15 (Whereupon, the jury was sworn in.)

16 **THE COURT:** Great. Thank you very much. If you
17 all will show you -- we're going to send you out the
18 back and we'll show you where to come. And y'all have
19 a pleasant lunch. Thank you.

20 (Whereupon, the jury left the courtroom at 12:27
21 p.m.)

22 **THE COURT:** All right. What do we want to do?

23 **MR. JOHNSTON:** May it please the court, Your
24 Honor, this is probably more in the area of
25 housekeeping, but I would ask the court to allow Mr.

1 Swofford to stay out on bond during the pendency of
2 this trial.

3 I have shown the prosecutor a letter that my
4 client obtained from his bail bondsman indicating that
5 they would be willing to the stamp good on his bond for
6 the balance of this trial.

7 I would also inform the court that he has been out
8 on bond for quite some time in this case, and he is
9 currently wearing an ankle monitor as part of the
10 Greenville County Detention Program. So I would submit
11 to the court that the risk of his not returning is
12 minimal.

13 **MS. HODGE:** Your Honor, we would object to that.
14 We would ask for him to be taken into custody at this
15 point. He's facing life without parole.

16 **THE COURT:** Okay. I'm -- based on the serious
17 nature of the charges, I am going to go ahead and take
18 him into custody.

19 All right. And a couple of things that we are
20 going to put on the record, I don't think that we had a
21 discussion off the record, with respect to the
22 indictment -- and I don't have the indictment number,
23 but possession of a pistol by someone convicted of a
24 violent crime, I believe Mr. Johnston, you might please
25 confirm this, that you all consent that -- or stipulate

1 that he has a conviction for a violent crime so that we
2 do not need to -- the jury to hear that the violent
3 crime we are speaking of is voluntary manslaughter, is
4 that correct?

5 **MR. JOHNSTON:** That is correct, Your Honor.

6 **THE COURT:** Okay. All right. What else had we --

7 **MS. HODGE:** Your Honor, the State has a Motion to
8 Sequester Defense Witnesses. I believe there might be
9 possibly an alibi defense. I was provided a list of
10 alibi witnesses. I certainly don't want them hearing
11 testimony during each other's.

12 **THE COURT:** All right. I would be happy to do
13 that, but we'll make it two sided, so what's good for
14 the goose, is good for the gander. All right.

15 **MS. HODGE:** And then we did have a Jackson vs.
16 Denno that we can take care of right now.

17 **THE COURT:** Okay. All right.

18 **MS. HODGE:** The State calls --

19 **MR. JOHNSTON:** Your Honor, excuse me -- I need to
20 get rid of my witnesses right now.

21 **THE COURT:** Yeah. Y'all go ahead and tell them,
22 Mr. Johnston and the State, is to tell their witnesses
23 not to discuss testimony after they have testified.

24 **MR. JOHNSTON:** Yes, sir.

25 **THE COURT:** Okay. Great.

SGT. WEINER -- DIRECT BY MS. HODGE

1 **MS. HODGE:** Sgt. Weiner.

2 DAVID WEINER, having been first duly
3 sworn, testified as follows:

4 **THE CLERK:** Thank you. Please be seated. State
5 your full name for the record.

6 **THE WITNESS:** David Weiner.

7 DIRECT EXAMINATION BY MS. HODGE:

8 Q Sgt. Weiner, you are employed with the
9 Greenville County Sheriff's Office, correct?

10 A Yes, ma'am.

11 Q And back in July of 2009, were you an
12 investigator with the Violent Crimes Unit?

13 A Specifically assigned to armed robbery.

14 Q Did investigator Chris Miller ask you to assist
15 him in this case, the one against Mr. Swofford?

16 A Yes, ma'am, he did.

17 Q And as part of your assistance in that case,
18 did you respond to the crime scene in this case?

19 A Yes, ma'am.

20 Q And in responding to the crime scene, did you
21 find or collect a cell phone possibly belonging to the
22 victim, Mr. Curtis Wooten?

23 A Yes, ma'am, I did.

24 Q Did you look through the cell phone in the call
25 logs or text logs or anything like that?

SGT. WEINER -- DIRECT BY MS. HODGE

1 A I did.

2 Q And did -- what did you find in there
3 pertaining to Mr. Swofford?

4 A That there were some text messages in there
5 with Mr. Swofford trying to locate where Mr. Wooten
6 was.

7 Q And were those on the incident date?

8 A Yes, ma'am.

9 Q Was there an actual name listed with the text?

10 A It just said -- it said Ronnie.

11 Q And it -- did it have a phone number?

12 A It did.

13 Q And did you call that phone number?

14 A I did.

15 Q When did you make that call?

16 A The next day is when I made a call, and I
17 didn't get a response. And I actually made contact
18 with Mr. Swofford on July 29, 2009 at that phone
19 number.

20 Q All right. And at that time, were you informed
21 that Mr. Swofford was a possible suspect in this case?

22 A Yes, ma'am.

23 Q Do you know where he was physically located
24 when you were speaking to him on the telephone?

25 A No, ma'am.

SGT. WEINER -- DIRECT BY MS. HODGE

1 Q Had a warrant been issued for his arrest at
2 this point?

3 A Not that I'm aware of, no, ma'am.

4 Q What was your purpose in calling to Mr.
5 Swofford?

6 A I was trying to find out why he was trying to
7 locate Mr. Wooten at 3:00, 4:00 in the morning when
8 this all took place.

9 Q And he said that you had a conversation with
10 him?

11 A Brief, yes, ma'am.

12 Q And what was that conversation?

13 A Just confirming that he knew who Mr. Wooten
14 was, which he said he did, when he -- when he had seen
15 him. He said -- he told me he had seen him recently.
16 I briefly spoke that he was engaged, had a child on the
17 way. Had his own company he was running.

18 Q And did you inquire as to why he wanted to talk
19 to Mr. Wooten at those hours on that day?

20 A I did. And he just told me he didn't remember.

21 Q Did you ask him if he was specifically involved
22 in this incident?

23 A I did and he denied it.

24 Q At the point you're speaking to him, he's
25 obviously not in your presence or custody, is that

SGT. WEINER -- CROSS BY MR. JOHNSTON

1 correct?

2 A Correct.

3 Q And he was free to stop talking to you at any
4 time?

5 A Yes, ma'am.

6 Q And did you conclude the conversation in a nice
7 manner?

8 A Just like we're talking right now.

9 Q Is that the only time you've ever spoken to Mr.
10 Swofford in this case?

11 A Yes, ma'am.

12 MS. HODGE: That would be all that we would have
13 of this witness.

14 THE COURT: Okay. Cross.

15 CROSS EXAMINATION BY MR. JOHNSTON:

16 Q Did you preserve those text messages?

17 A I turned the phone over. I don't know what
18 happened after that, sir.

19 Q To whom did you turn it over?

20 A To property and evidence.

21 Q Okay. And that was Mr. Wooten's phone?

22 A Yes, sir.

23 Q How did you find out that Mr. Swofford was a
24 suspect before you made the call?

25 A That night at the house, the Uniform Patrol

SGT. WEINER -- CROSS BY MR. JOHNSTON

1 based on scene had provided me with his name.

2 Q All right. And do you know where they got the
3 information from?

4 A They told me from a witness, Rikki Edwards.

5 Q All right.

6 MR. JOHNSTON: Please answer any other questions.

7 THE WITNESS: Yes, sir.

8 THE COURT: Anything else?

9 MS. HODGE: None, Your Honor.

10 THE COURT: Okay. Thank you, sir. You can step
11 down.

12 THE WITNESS: Thank you.

13 MS. HODGE: Your Honor, we obviously intend to
14 introduce that phone conversation. He wasn't in
15 custody. We don't believe that Miranda applies, that
16 it would be admissible. And he is now possibly going
17 to allege an alibi, initially he denied any
18 involvement. So we just weren't sure exactly where the
19 defense is going, so we would like to admit these
20 statements.

21 MR. JOHNSTON: I'm going to leave the admission of
22 the statements in the court's discretion.

23 THE COURT: Okay. I'm going to allow it in. What
24 else can we do?

25 MS. HODGE: I'm not sure if the defense has any

1 motions --

2 **MR. JOHNSTON:** I'm interested in the text messages
3 that were just referenced here. I am wondering -- I
4 have seen the discussion about them, but I haven't seen
5 anything that was printed off or if anybody noted them,
6 but I do -- it might be some significance here.

7 Apparently they were in electronic format on this
8 phone. I wonder if the -- if the prosecution or the
9 police have done anything about these text messages.

10 **MS. HODGE:** Unfortunately they did not. They
11 returned the phone to Mr. Wooten. There was no
12 forensics analysis of the cell phone, so it would be
13 the testimony of the investigating officer that he
14 observed them.

15 **THE COURT:** Okay. Sergeant Weiner is still in the
16 courtroom, if you have any questions you want to ask
17 him with respect to the content of the text messages, I
18 think all he said was that he was trying to locate him
19 at 3:00 in the morning.

20 **MR. JOHNSTON:** I have his report, Your Honor. I
21 think that's satisfactory for what I can do.

22 **THE COURT:** Okay. All right. Anything else?

23 **MS. HODGE:** Mr. Johnston has been kind enough to
24 tell me he would be willing to stipulate to some of our
25 chain of custody witnesses. If we want go ahead and

1 get that on the record.

2 **THE COURT:** Yeah. Okay.

3 **MR. JOHNSTON:** That -- that's fine, Your Honor.
4 Anyone who is just going to testify that they took
5 something from one person and gave it to another, and
6 that's all their testimony is, we'll stipulate to their
7 testimony.

8 **THE COURT:** All right.

9 **MS. HODGE:** For the record, that would be Ms. Kara
10 Bennett from our property and evidence room. Israel
11 Flounders, he's in the property and evidence room as
12 well.

13 Investigator Wayne Campbell drove a piece of
14 evidence from P&E and deposited it at SLED. Deputy
15 Jonathan Howard, the same thing. He drove a piece of
16 evidence from property and evidence to SLED.

17 Doris Yarborough would be the evidence recipient
18 at SLED. Selena Kinard would an evidence recipient at
19 SLED. They do no testing -- none of these witnesses
20 would have any type of testing, or opening of any
21 seals. They were here as chain witnesses to verify the
22 integrity of the items.

23 **THE COURT:** Okay.

24 **MR. JOHNSTON:** That is correct. We feel there is
25 no need to produce those sorts of witnesses in this

1 matter.

2 **THE COURT:** All right. Very good. We'll see
3 y'all at 2:00.

4 **MS. HODGE:** Yes, sir.

5 (After a recess, Court reconvened.)

6 **THE COURT:** Okay. Are you ready to go?

7 **MS. HODGE:** Yes, sir.

8 **MR. JOHNSTON:** Yes, sir.

9 (Whereupon, the jury entered the courtroom at 2:13
10 p.m.)

11 **THE COURT:** Okay. Did y'all have an election?
12 Who -- who -- all right. That was a resounding --
13 yeah. All right. We have two assigned seats for
14 y'all. And your name, sir, for the record?

15 **JOHN POTTER:** John Potter.

16 **THE COURT:** Okay. Mr. Potter, if you would, we
17 don't have to change right now, but from now on during
18 the course of the trial, if you would sit front right.

19 And then Ms. Lambrecht, you also have an assigned
20 seat which would be back right up there. Okay. Yeah.
21 All right. Thank you very much. All right, with that,
22 I'll turn it over the attorneys.

23 **MS. HODGE:** Thank you, Your Honor. May it please
24 the court.

25 **THE COURT:** Yes, ma'am.

1 **MS. HODGE:** Mr. Johnston, Ladies and Gentlemen of
2 the jury, on July 27 of 2009, Curtis Wooten and Rikki
3 Danielle Edwards came this close to being murdered.
4 They literally came this close to being killed, gunned
5 down in cold blood for no justified reason. No self
6 defense. No accident, nothing but pure meanness.

7 The evidence will show that on that date, a few
8 hours earlier, Mr. Wooten had been out and about and
9 that he stopped at Wal-Mart and got some groceries and
10 food and he was bringing it back to his home.

11 He and Ms. Edwards were boyfriend and girlfriend
12 at the time and they were living at his house on
13 Memorial Drive Extension here in Greenville.

14 It was around 2:30 or 2:40 in the morning on the
15 27th, they're in the kitchen putting away the groceries
16 and just talking, when Ms. Edwards hears something, she
17 thinks. And says to Mr. Wooten, is somebody with you?
18 Did you hear that?

19 Mr. Wooten said I didn't hear anything. I don't
20 know what you're talking about, kind of dismisses her.
21 And in that same moment, a man dressed in all dark
22 clothing, a black ski mask, he had a hole here for the
23 eyes, came around the corner, which is how you enter
24 Mr. Wooten's kitchen, pointed a 40 caliber hand gun and
25 fired into Mr. Wooten's stomach.

1 At that point, the shooter then took aim as
2 Ms. Edwards started to run out the back door, and fired
3 at her too. She, however, was more lucky than Mr.
4 Wooten. She was able to get out of the house and not
5 be shot.

6 Mr. Wooten, who will testify, will tell you that
7 he also -- a fortunate turn of events -- had his own
8 gun in his pocket. A 380 that he had, that he kept on
9 him in his home when he was at his house for
10 protection.

11 He will tell you, that he lived in a neighborhood
12 that wasn't quite so nice, and that one of his
13 neighbors had been broken into several times in that
14 recent history, and he had armed himself for protection
15 in his home. And, again, luckily for him, he did have
16 that gun on him.

17 And he pulled that gun out while the shooter took
18 aim at Ms. Edwards running out the door. And he was
19 able to fire at and hit the shooter. That did two
20 things.

21 Number one, it saved Mr. Wooten's life probably.
22 And number two, it got the shooter to flee. And
23 actually there are three things. The third thing it
24 left some pretty powerful evidence behind.

25 After firing that gun -- that shot at the shooter,

1 the shooter fled the scene. Mr. Wooten calls 911. He
2 gathers up his keys and he goes and looks for
3 Mr. Edwards. He actually gets himself in his own
4 truck, get Ms. Edwards, she was hiding outside, and
5 drives them to Greenville Memorial Hospital, and their
6 own cell phone with 911 and the house phone with 911.

7 Officers are at the hospital to speak to Mr.
8 Wooten and to Ms. Edwards. And before Mr. Wooten had
9 to be transferred then to Greenville Memorial to have
10 very extensive trauma surgery, he was able to briefly
11 talk to an officer and give him some small details.

12 And they asked him, who do you think did this.
13 And he gives the name. The name of the Defendant,
14 Mr. Ronnie Swofford. Pretty much, that's the last the
15 police were able to speak with Mr. Wooten because he
16 went into a medical coma.

17 And he was in the hospital for 30 days. And he
18 had extensive rehab after that. He lost his spleen, a
19 kidney and most of his intestines. He had several
20 surgeries. It is a miracle that he is alive today.

21 So the officer then focused their attention, the
22 evidence will show, at the crime scene. They learned a
23 little bit from Mr. Wooten, but they had to go back and
24 process the scene and many items of evidence were
25 collected. Many things were tested.

1 You will hear from various experts. You will hear
2 from a ballistics or firearms expert. You will hear
3 from the trace evidence expert. Then you will hear
4 from a DNA analysis expert.

5 And the evidence in this case shows the person
6 that was the shooter, the person that was shot by Mr.
7 Wooten left behind his DNA. A splatter on the kitchen
8 wall and body tissue and hair, is the DNA of the
9 Defendant, Ronnie Swofford.

10 At the close of the evidence, the State will be
11 back for closing arguments and go through every piece
12 with you. Then I feel confident that once you have
13 heard all of the evidence of the State's and if the
14 defense chooses to put any up, you will feel the
15 Defendant is guilty of all charges beyond a reasonable
16 doubt.

17 As the judge told you, it is very important that
18 you pay attention, because there will be a lot of
19 various pieces moving through this trial. Physical
20 evidence, witnesses, recordings and photographs and
21 things of that nature, so it's obviously important to
22 pay attention, which I know you will.

23 It's important to take your job seriously. This
24 is a very important case. Not only is it important for
25 Mr. Swofford, he is entitled to a fair trial, to find

1 an impartial jury. It is an important day for the
2 State of South Carolina, for all the citizens that live
3 in Greenville County. And especially for Mr. Wooten to
4 ensure that justice is done in this case. Thank you.

5 **THE COURT:** Mr. Johnston.

6 **MR. JOHNSTON:** May it please the court, Counsel,
7 Mr. Foreman, Ladies and Gentlemen of the jury, things
8 are not always what they seem. The apparent theme
9 behind the evidence as you go through the trial of the
10 case, what it appears to be at the start of the case or
11 at the start of an investigation, is not always what it
12 is at the end of the case when you have then heard all
13 of the evidence and -- and the arguments of the
14 counsel.

15 The question that I'm going to put to you in this
16 case is not whose blood was found in the residence of
17 Curtis Wooten by the police. I'll answer that question
18 for you right now. The blood and tissue that was found
19 in the home of Curtis Wooten belongs to my client,
20 Ronnie Swofford.

21 The question that I'm going to put to you through
22 the course of this case, is what does the presence of
23 that blood and tissue evidence mean? What does it
24 mean?

25 I want to be honest with you up right -- up -- up

1 front. Ronnie has a criminal record. He has even done
2 some time in prison; so has the alleged victim in this
3 case, Mr. Curtis Wooten. That's where they met. They
4 met in prison. They were friends and they continued to
5 be friends until this incident wherein Curt Wooten has
6 accused Ronnie Swofford of breaking into his home and
7 shooting him.

8 As you hear the evidence in this case, I believe
9 that you will find there are a number of mysteries and
10 a number of discrepancies in the State's evidence. And
11 I will do my best to call your attention to each and
12 every single one of them.

13 The first thing that I think will be of note is
14 that when Mr. Wooten called the police to report that
15 he's been shot -- because he calls 911 to report that
16 he's been shot, he's repeatedly asked the question who
17 shot you. There's no response.

18 The evidence is going to show that his assailant,
19 if there was one, that the assailant was dressed in
20 black and had on a mask that covered their face. Yet
21 at some point in time, Mr. Curt Wooten began to
22 identify Ronnie Swofford as being the assailant dressed
23 in black with the ski mask on. I'll ask you to
24 consider this case, was this a result of something the
25 police told him or something that he told the police.

1 We would submit to you in this case that this is a
2 prosecution of convenience. That Ronnie is a
3 convenient scapegoat. He was a friend of Wooten's and
4 he also has a criminal record and done time in prison,
5 and anybody who has done that is always a convenient
6 target.

7 There has been a failure in this case to preserve
8 some important evidence. Mr. Wooten's cell phone was
9 taken into possession by the police. They kind of made
10 some notes about what was supposed to be on there and
11 what time calls or texts were sent from what they
12 allege to be Mr. Swofford and from other individuals.
13 They didn't preserve those in this case.

14 There are many different ways they could have.
15 The easiest would have been to simply write down
16 everything that was on there. They could have taken
17 pictures or they could have kept the phone. But I
18 submit to you that some of most important evidence in
19 this case has been lost.

20 I will always in this case ask you to look for the
21 innocent explanation of the evidence. You know, Sir
22 William Blackstone back in 1763 wrote in his commentary
23 on the law of England about something that's now come
24 to be known as Blackstone's Ratio. And Mr. William
25 Blackstone said it is better that ten guilty men

1 escape, than one innocent person suffer for something
2 that he did not do. That has come down to us in the
3 common law of England. It has come down to us from our
4 forefathers and it is in our law today.

5 And this value of protection of innocence is going
6 to take two concrete forms in this case. The first is
7 the presumption of innocence. Ronnie Swofford is
8 presumed to be innocent. It is like the old discussion
9 about a glass. A glass that has half of its contents,
10 is it half full or is it half empty. In this
11 situation, you must always presume that the cup is half
12 full. That Ronnie Swofford is presumed innocent.

13 The second way that it has come down to us is the
14 requirement that the State have to prove each and every
15 element of the crimes with which they have charged Mr.
16 Swofford beyond any reasonable doubt. If you look down
17 here at the various forms of proof that a case can
18 have, it would start on this end with reasonable
19 articulable suspicion. That's the amount that a
20 policeman needs to stop a person and get more
21 information from them.

22 Then we have a little bit more, this would be
23 probable cause. That's the amount of evidence that the
24 State needs to arrest someone. Moving just about here,
25 a little bit more than half way, 51 percent, that is

1 proof by a preponderance of the evidence. That is,
2 that it is more likely than not. That's the standard
3 that a jury in a civil case, for example, an accident
4 or something like that. That's the standard that a
5 Plaintiff has to prove in order to establish his case
6 and recover.

7 Coming about here, would be clear and convincing
8 evidence. That's the standard that a Family Court
9 Judge would employ before he would, for example, take
10 away a person's children out of their homes. Way down
11 here, way down here, almost all the way to the end,
12 that's proof beyond a reasonable doubt. That's what
13 they have to prove in this case. Their evidence, their
14 case must be 100 percent proof of reasonable doubt. If
15 it's not, you must find Ronnie Swofford not guilty.

16 In this case, I submit to you that they will not
17 be able to do that. There will simply be too many
18 doubts. Thank you.

19 **THE COURT:** All right.

20 **MS. HODGE:** Thank you, Your Honor. The State
21 calls Renee Beauford.

22 **THE CLERK:** Please place your left hand on the
23 Bible and raise your right hand.

24 RONDA RENEE BEAUFORD, having been
25 first duly sworn, testified as follows:

R. BEAUFORD -- DIRECT by MS. HODGE:

1 **THE CLERK:** Please state your full name for the
2 record.

3 **THE WITNESS:** Ronda Renee Beauford.

4 DIRECT EXAMINATION BY MS. HODGE:

5 Q Ms. Beauford, who are you employed by?

6 A Greenville County Sheriff's Office.

7 Q And what are your job responsibilities at the
8 Sheriff's Office?

9 A 911 research and training.

10 Q How long have you been doing that?

11 A That particular position with them, I have been
12 there two years.

13 Q And did you have prior employment with the
14 Sheriff's Office?

15 A Yes. I have been with them 17 years all
16 together --

17 Q Okay.

18 A -- working in the 911 Dispatch Center as a
19 supervisor.

20 Q Were you working in the same capacity in July
21 of 2009? Had you been a supervisor at that point?

22 A No. I -- I was not a supervisor at that point.
23 I had already come out of communications into
24 administration duties.

25 Q And included in those duties, what -- tell us

R. BEAUFORD -- DIRECT by MS. HODGE:

1 what you did. Tell us what kind of job you had.

2 A During that time period?

3 Q Uh-huh.

4 A I was actually processing concealed weapon
5 permits and doing NCIC, which is the National Crime
6 Information Center certifications. I was training for
7 certifications and I was also recertifying all of our
8 deputies with their certifications.

9 Q And today, we have you here with the 911 calls?

10 A That's correct.

11 Q All right. So what happens when a 911 call
12 comes into to the Sheriff's Office?

13 A When a 911 call comes into the Dispatch Center,
14 when a person dials the actual 911, it automatically
15 starts recording at the time the person dials 911, no
16 matter if dispatch has picked up or not.

17 Once it comes into our 911 Dispatch Center, it
18 then goes to the first available call taker. The call
19 taker takes that information, enters it into a computer
20 system, which is called our CAD system, Computer Aided
21 Dispatch. And from there, it disperses to the proper
22 radio station for them to dispatch to the deputies for
23 response.

24 Q And are these recordings of the 911 call kept
25 indefinitely?

R. BEAUFORD -- DIRECT by MS. HODGE:

1 A There -- right now they're actually kept for
2 three years.

3 Q Did Investigator Miller in this case request a
4 copy be made of the 911 calls involved in this case?

5 A Yes, he did.

6 Q And I'm going to show you what's been marked
7 State's No. 1; are you familiar with that?

8 A Yes, ma'am.

9 Q Have you actually listened to that?

10 A Yes, ma'am, I have.

11 Q Okay. And what is that?

12 A This is a CD recording of the call from 2009 to
13 ■■■ Memorial Drive Extension in reference to a home
14 break in and shots fired.

15 Q And is this copy -- a true and accurate copy
16 from the original recording that night?

17 A Yes, ma'am.

18 Q Do you know which operators or dispatch workers
19 are on this call or these calls?

20 A No, ma'am. Not right off hand.

21 Q Okay.

22 A I -- I want to say that I'm not exactly sure.
23 I would have to look at the CAD report.

24 Q Okay.

25 A To verify.

R. BEAUFORD -- DIRECT by MS. HODGE:

1 Q You would know some of their voices if you
2 heard it?

3 A Oh, yes, because that actually was the shift I
4 was on prior to going out into administration duties.

5 MS. HODGE: At this time, Your Honor, I would move
6 to admit State's No. 1.

7 MR. JOHNSTON: No objection, Your Honor.

8 THE COURT: Okay.

9 (STATE'S EXHIBIT EXHIBIT NO. 1 RECEIVED INTO
10 EVIDENCE.)

11 MS. HODGE: If I may publish it at this time, Your
12 Honor?

13 THE COURT: Yes, ma'am.

14 (Whereupon, State's Exhibit No. 1 was played to
15 the jury.)

16 BY MS. HODGE:

17 Q So, Ms. Beauford, did you recognize the names
18 of -- of -- did you recognize the voices of the
19 dispatch operators?

20 A Yes, ma'am. The first call taker was Marilyn
21 Mathini. And then the supervisor, Marie Simpkins. The
22 way the call -- she appeared to break into the line and
23 they both were on the line at the same time. And then
24 a supervisor was monitoring and trying to assist her in
25 getting them to the phone.

R. BEAUFORD -- DIRECT by MS. HODGE:

1 And then when -- the call back, the second --
2 well, the second call, they attempted to call them back
3 when they hung the phone up. And the third call was
4 taken by Eleanor Hendricks.

5 Q And there was that long piece of static in
6 there, you heard the --

7 A That was the home phone, the land line. And
8 evidently it went out of range and then they called
9 back on the cell phone.

10 Q So when -- in between the two actual phone
11 calls, your people called back to the home?

12 A And got the voice mail.

13 **MS. HODGE:** Okay. Thank you. Please answer any
14 of Mr. Johnston's questions.

15 **THE WITNESS:** Okay. Thank you.

16 **MR. JOHNSTON:** I have no questions.

17 **THE COURT:** All right. Thank you, ma'am. You may
18 step down.

19 **MS. HODGE:** May she be excused, Your Honor? May
20 she be excused, Your Honor?

21 **THE COURT:** Yeah. Any objection to releasing her?

22 **MR. JOHNSTON:** None whatsoever.

23 **THE COURT:** All right. Thank you.

24 **THE WITNESS:** Thank you.

25 **MS. HODGE:** The State would call Mr. Curtis

C. WOOTEN -- DIRECT BY MS. HODGE

1 Wooten.

2 **THE CLERK:** Mr. Wooten, please stop at the end of
3 the bench, place your left hand on the Bible and raise
4 your right hand.

5 CURTIS WOOTEN, having been first
6 duly sworn, testified as follows:

7 DIRECT EXAMINATION BY MS. HODGE:

8 Q Please state your full name for the record.

9 A Curtis Randoff Wooten.

10 Q Mr. Wooten, how old are you?

11 A I'm 49.

12 Q I'm going to ask you to make sure you speak up
13 so that the last juror in this box can hear you. You
14 can pull the microphone if you need to.

15 A Okay.

16 Q All right. Are you married currently?

17 A Yes, I am now.

18 Q And how about do you have any children?

19 A I have one which -- well, we have three, but
20 two of them are not mine.

21 Q Step children or --

22 A Yes.

23 Q And do you live in the Greenville area right
24 now?

25 A Yes, ma'am.

C. WOOTEN -- DIRECT BY MS. HODGE

1 Q Are you from here originally?

2 A Yes, ma'am.

3 Q And how far did you go in school?

4 A I went through high school and I went to
5 technical school.

6 Q You went to technical school?

7 A Yes.

8 Q What high school did you go to?

9 A I went to Greer.

10 Q And are you working right now?

11 A No, ma'am. I'm disabled.

12 Q Had you done -- worked previously in your life?

13 A Yes, ma'am.

14 Q What kind of work did you do?

15 A Most of the time machine work. I worked at
16 machine shops and mechanic work.

17 Q And do you know the Defendant, Mr. Swofford?

18 A Yes, ma'am.

19 Q Did you meet Mr. Swofford in prison?

20 A Yes, ma'am.

21 Q Were you in there for some -- obtaining
22 prescription drugs by fraud?

23 A Yes, ma'am.

24 Q And forgeries?

25 A Yes, ma'am.

C. WOOTEN -- DIRECT BY MS. HODGE

1 Q How much time did you actually have to serve
2 for those?

3 A Two years -- a little over two years.

4 Q Were you and Mr. Swofford friends for that
5 whole time? Did you know each other that whole time?

6 A We knew each other the whole time, but it -- I
7 wasn't at the same place as he was the whole time.

8 Q At some point, did y'all --

9 A We separated from -- from -- it was county --
10 Spartanburg County Jail together and then we separated.
11 And then when I went to McCormick, he was in McCormick.

12 Q And that's at the South Carolina Department of
13 Corrections?

14 A Yes, ma'am.

15 Q Okay. All right. And so, do you consider him
16 a friend of yours?

17 A Yes, ma'am.

18 Q Did y'all lose touch or not see each after you
19 got out of prison for a while?

20 A Yes, ma'am.

21 Q Did y'all somehow meet back up and start
22 talking again?

23 A Yes, ma'am.

24 Q Do you remember when that was?

25 A About in -- it was in 2009. It was probably

C. WOOTEN -- DIRECT BY MS. HODGE

1 just a few months before I -- I got shot.

2 Q And where did y'all run into each other again?
3 How did that happen?

4 A I was getting gas at the B.P. and just happened
5 to run into him. He was at the same store I was.

6 Q Did y'all immediately recognize each other and
7 just start talking?

8 A Yes, ma'am.

9 Q And where -- what area of town was this in?

10 A In Greer.

11 Q Did y'all exchange phone numbers or what
12 happened from there?

13 A We got each other's phone numbers and started
14 talking again.

15 Q Did y'all hang out after this?

16 A Yes, ma'am.

17 Q How often do you think you would hang out
18 together?

19 A We would see each other just nearly every day,
20 but four or five times a week probably.

21 Q And where would y'all be when y'all would hang
22 out?

23 A Most of the time my house.

24 Q And where were you living then?

25 A On Memorial Drive.

C. WOOTEN -- DIRECT BY MS. HODGE

1 Q Would he come over to your house then?

2 A Yes, ma'am.

3 Q Did he have transportation?

4 A Yes, ma'am.

5 Q What would y'all do when y'all were over at
6 your house?

7 A I --

8 Q Anything specific?

9 A Just different things. I had -- I worked on
10 cars if I had a car, I tried to sell, and stuff like
11 that.

12 Q And were you were dating Ms. Edwards at that
13 time?

14 A Yes, ma'am.

15 Q How long had you been dating Ms. Edwards back
16 in July of 2009?

17 A Probably a year or two, a year or a year and a
18 half, something like that.

19 Q And was she living with you back then or did
20 she have her own place?

21 A She had just -- she had just started living
22 with me then.

23 Q And are you with Ms. Edwards today?

24 A Huh?

25 Q Are you dating Ms. Edwards or married to

C. WOOTEN -- DIRECT BY MS. HODGE

1 Ms. Edwards today?

2 A No.

3 Q Y'all broke up at some point?

4 A Right.

5 Q All right. So the house -- the place on
6 Memorial Drive Extension, is that a house or an
7 apartment or a trailer?

8 A It's a house.

9 Q Okay. And during that time, were you disabled
10 at that time as well, or were you working any place?

11 A I was -- I was already partially disabled from
12 bipolar and kidney problems, and -- but I still worked
13 some.

14 Q What about -- so far as paying, how did you pay
15 your bills then, is that how you would pay your bills
16 with disability?

17 A I got a -- I got a check and -- and Ms. Edwards
18 got a check. She got two checks. And we paid the
19 bills with those.

20 Q And what was she getting a check for, do you
21 know?

22 A She got Social Security checks for her and her
23 son from her previous husband.

24 Q Was he killed?

25 A He got killed in a motorcycle accident.

C. WOOTEN -- DIRECT BY MS. HODGE

1 Q And how old was her son at that time, do you
2 know?

3 A I'm not -- I think he was three.

4 Q Did her son live with y'all too?

5 A Most of the time he stayed with his
6 grandmother.

7 Q Her mom?

8 A Yes.

9 Q And so the money that you got from being
10 disabled and she got some Social Security checks, is
11 that what y'all lived on?

12 A That and my -- my checks, her checks and
13 anything I made working on the side on cars and stuff.

14 Q Did you also like to fix up -- like Jockey Lot
15 and trade and do things like that?

16 A Yeah, me and my dad sold knives and stuff like
17 that.

18 Q Okay. And did you ever put your money in the
19 bank or did you keep your money on you?

20 A Most of the time I kept it all on me because
21 the stuff I needed -- if I had to -- to buy stuff, I
22 needed the money then to buy it.

23 Q You just operated in cash?

24 A Yes, ma'am.

25 Q You didn't have a checking account or savings

C. WOOTEN -- DIRECT BY MS. HODGE

1 account or credit card or anything like that?

2 A No.

3 Q And now at this time back in July of 2009, when
4 you said you and Defendant started hanging out again,
5 would Danielle be around y'all when y'all would hang
6 out?

7 A Sometimes.

8 Q Did she know the Defendant before --

9 A No, ma'am.

10 Q -- before you had introduced her to him?

11 A No, ma'am.

12 Q How many times do you think Danielle may have
13 been around him?

14 A Maybe eight or ten times, I guess. I don't
15 know. I'm not really sure how many times. I mean, it
16 was in and out.

17 Q Just a handful or...?

18 A Ma'am?

19 Q Just a handful of the times maybe?

20 A Yes.

21 Q At some point after you and the Defendant
22 started becoming friends again, did he ask to borrow
23 some money from you?

24 A Yes, ma'am.

25 Q Tell us about that.

C. WOOTEN -- DIRECT BY MS. HODGE

1 A He said that he got behind on his bills and he
2 asked to borrow some money, so I loaned him some money.

3 Q Do you know -- remember how much you loaned
4 him?

5 A I loaned him about \$750.

6 Q Okay. And did you pay cash?

7 A Yes. I gave him cash.

8 Q And when you did that -- do you remember when
9 you did that, before you got shot?

10 A Before I got shot, about two days or so before
11 I got shot.

12 Q At that time, did you have more money on your
13 person than just the money you let him borrow?

14 A Yes, ma'am.

15 Q How much more money do you think you had on you
16 at that time?

17 A Probably close to \$2,000.

18 Q And was that -- where did that money come from,
19 do you remember?

20 A I know Ms. Edwards had just gotten both of her
21 checks and I had the money that I usually keep on me.

22 Q Did she ask you to hold her money, too?

23 A I kept all of her money because she couldn't
24 keep up with it.

25 Q Why is that?

C. WOOTEN -- DIRECT BY MS. HODGE

1 A She just couldn't keep up with it. She would
2 lose it. She was just irresponsible.

3 Q Now, was the Defendant supposed to pay you back
4 for that money that you loaned him?

5 A Yes, ma'am.

6 Q You loaned him?

7 A Yes, ma'am.

8 Q Did you know how he was going to pay you back?

9 A He was supposed to have a job because he was
10 supposed to go -- you know.

11 Q Okay. So he was going to pay you back quickly
12 or over time or how was that going?

13 A In a couple of days.

14 Q And why did you loan him that much money?
15 That's a lot of money.

16 A I thought -- I thought he would pay me back.

17 Q At that time, y'all were friends?

18 A At that time we were friends and I thought I
19 could trust him.

20 Q Tell us what happened in the day or two after
21 you loaned him the money; did y'all have more
22 communication? Did you ever see him face-to-face
23 again?

24 A I seen him the next day, but the -- the day I
25 was supposed to get the money, he -- I was supposed to

C. WOOTEN -- DIRECT BY MS. HODGE

1 meet him that night. And he kept texting me to meet
2 him places, but then he wouldn't -- he wouldn't be
3 there. And after texting back and forth until about
4 2:30, I finally left the grocery store and I just went
5 on home.

6 Q So you were going to go out and meet him
7 somewhere?

8 A Yeah.

9 Q Y'all communicated?

10 A We were supposed to meet -- and then he come up
11 with excuses, his brother got pulled over or something.
12 And drinking and something like that. I couldn't meet
13 him. And it just got later and later, and he kept
14 texting me he couldn't meet me.

15 Q And do you remember what -- roughly what time
16 the last text came in?

17 A Somewhere around 2:00, I guess. 2:00 in the
18 morning.

19 Q And you were out -- up and out at that time
20 still?

21 A Yes, ma'am.

22 Q Is that normal for you to be up that late?

23 A Yes, ma'am. I stay up at night.

24 Q And where -- did you go anywhere specific
25 before you came home or where were you?

C. WOOTEN -- DIRECT BY MS. HODGE

1 A I stopped to get -- I usually stop at the store
2 and get yogurt and pudding and stuff like that, just
3 stuff I eat at night. I stop at the grocery store
4 about four or five times a week at night, in the middle
5 of the night.

6 Q And did you do that on this night?

7 A Yes, ma'am.

8 Q And then what did you do after you stopped at
9 the grocery store, what did you do?

10 A I drove home from the grocery store. And I had
11 done decide I wasn't going to meet him because I
12 couldn't get a straight answer in a text. And I -- I
13 got -- walked in the house.

14 Q Okay.

15 A And do you want me to keep going?

16 Q You can keep going. Tell us what happened.

17 A So I walked in the house. And I was at the
18 kitchen counter and I was putting something up or
19 something. And Danielle asked if somebody is with me.
20 And I said, no, because I didn't -- there wasn't nobody
21 with me, I thought. I didn't know what she was talking
22 about.

23 And I turned my back. And I heard somebody say
24 my name, Curt, and I -- I recognized the voice. And I
25 turned around and somebody -- and I recognized -- I

1 recognized the gun because I had seen the gun a couple
2 of days before. And the mask he had on, didn't cover
3 his whole face. It only covered like this part. I
4 could see his eyes and stuff. And he said, Curt, and I
5 turned around and basically he shot me.

6 Q Where did he shoot you?

7 A Right here (indicating).

8 Q How close was he to you?

9 A Probably about four to five feet.

10 Q And do you remember what clothing he was
11 wearing?

12 A I don't remember the clothing, just the mask --
13 because I was looking at the face and the eyes.
14 Because he was standing behind the counter, I could see
15 the top part. It was dark clothes. But the mask, it
16 was just one of those that the whole -- he didn't have
17 the a hole like this, just like that (indicating). I
18 could see enough to know who it was.

19 Q Okay. And what happened next? What happened
20 when you got shot?

21 A I was on my back before I knew it. I -- all I
22 know is I was on my back. And I seen him shooting at
23 her -- at Danielle as she was running. And I got my
24 gun, and I reached over and kind of shot back and shot
25 him and he ran. And I got up to try to catch him, but

C. WOOTEN -- DIRECT BY MS. HODGE

1 I couldn't.

2 Q How many shots did you get off?

3 A I could only fire one because my clip fell out.
4 It only had one in the chamber.

5 Q And what kind of gun did you have?

6 A A 380.

7 Q And whose gun is that?

8 A It was my Dad's.

9 Q Why did you have a gun on you?

10 A I kept -- I -- most of the time, I kept it on
11 when I was there because a friend of mine lived across
12 the street, named Reuben. He's done been robbed about
13 three times and they done shot him. And took his money
14 and some stuff. And it had been going on for a couple
15 of years. They lived up on top of the hill in the
16 woods there, so I kept a gun with me for protection.

17 Q Did you take that gun out of the house with you
18 or was that --

19 A I didn't carry the gun out of the house. I
20 didn't carry it on the street or nothing.

21 Q And do you know -- did you grow up with them?
22 Do you know a lot about guns?

23 A Yes, ma'am.

24 Q And you say you saw a person in a black mask
25 point a gun at you, and you recognized that gun, what

1 kind of gun was that?

2 A It was a Hi Point 40 caliber.

3 Q And where had you seen that gun before.

4 A He had showed it to me a couple of days before,
5 he had it. He said it was his brother's. And he had
6 showed it to me that day.

7 Q Do you know what kind of ammunition he had?

8 A It was a full jacket 40 Caliber Revolver.

9 Q Why was he showing you that gun because you
10 liked guns or...?

11 A Just showing me the gun. He was just -- we
12 just did stuff like that. He had a gun in back of his
13 car and he showed it to me.

14 Q And you know he wasn't supposed to have a gun,
15 is that correct?

16 MR. JOHNSTON: Your Honor, I object to leading the
17 witness.

18 THE COURT: All right. Don't lead.

19 BY MS. HODGE:

20 Q Do you know if he was supposed to have a gun?

21 A I know that neither one of us was supposed to
22 have a gun, but that wasn't the point.

23 Q Was there some gun he attempted to sell you as
24 well or trade you?

25 A He was always over, he was wanting to sell them

C. WOOTEN -- DIRECT BY MS. HODGE

1 for some of the money he owed me, but he never did do
2 anything on that.

3 Q Did you want that in trade for your money?

4 A No, that wasn't worth the money, so I wouldn't
5 trade it for it.

6 Q Does the gun stay at your house?

7 A It was laying on the counter -- left laying
8 right next to the door on the table or something where
9 it was brought in at.

10 Q And when did that happen?

11 A The -- the day before he had come by and left
12 it there.

13 Q The day before the shooting?

14 A The day before the shooting.

15 Q And the day after you loaned the money?

16 A Yes.

17 Q All right. So you fired one gun -- one shot
18 from your gun, correct?

19 A Yes.

20 Q What happened then after you fired that shot?

21 A He ran. I got up and I tried to see where he
22 went, but I couldn't. So I picked up the house phone
23 and called 911 and -- and got my stuff together and got
24 in the truck and got Danielle from outside and drove to
25 the hospital.

C. WOOTEN -- DIRECT BY MS. HODGE

1 Q Did you know where Danielle had gone?

2 A I just knew she went out the back door. I
3 don't know where she went.

4 Q Was -- was your back door open?

5 A Yes.

6 Q Why -- do you leave your doors unlocked
7 normally?

8 A She opens the back door to go out to smoke
9 cigarettes because I don't smoke. She had it open
10 because she was going out to smoke a cigarette.

11 Q And how about your front door, was your front
12 door open and unlocked at that time?

13 A It was at that time because I had came in and
14 brought a little bit of groceries in. I still hadn't
15 brought everything in out of the truck, and I left the
16 door open and the screen shut, but there wasn't nothing
17 locked.

18 Q I'm going to show you State's No. 24, do you
19 recognize that?

20 A Yes, ma'am.

21 Q What is that?

22 A That's a Kel-Tec 380.

23 Q I'm going to get you to speak up a little bit.

24 A Kel-Tec 380.

25 Q And was that the gun that you had this night?

C. WOOTEN -- DIRECT BY MS. HODGE

1 A Yes, ma'am.

2 Q And what is that?

3 A A clip.

4 Q Did it have some rounds of ammunition in the
5 clip?

6 A There still should have been some in the clip.

7 Q Okay. And is this gun essentially in the same
8 condition other than the safety lock that's on it as
9 when it was collected from you?

10 A Yes, ma'am.

11 Q What did you do with this gun after the
12 shooting happened? When you ran out, what -- what
13 happened with the gun?

14 A I kept it in my hand. And when I got in the
15 truck, I put it in the truck, laid it on the seat of
16 the truck.

17 Q So it was in your truck?

18 A Yes.

19 Q All right. You can hold that up if you would
20 please. And that is in substantially the same
21 condition as when you had it?

22 A Yes, ma'am.

23 **MS. HODGE:** All right. We would move to admit
24 State's No. 24.

25 **MR. JOHNSTON:** No objection.

C. WOOTEN -- DIRECT BY MS. HODGE

1 **THE COURT:** Without objection.

2 (STATE'S EXHIBIT NO. 24 RECEIVED INTO EVIDENCE.)

3 BY MS. HODGE:

4 Q Do you know if you shot -- the person that shot
5 you, do you know where on the body or if at all you
6 shot that person?

7 A I didn't know exactly where I hit him, but I
8 knew I had hit him because of the way he ran.

9 Q And do you know what side you may have have hit
10 him on?

11 A I knew that -- from the way he was standing, it
12 would have had to have been his -- it had to --
13 probably been his left side.

14 Q And kind of explain your kitchen and where you
15 were standing and where he -- how it is all set up.

16 A The counter -- the way the counter is, the lady
17 was standing -- when I fell on my back, I could only --
18 I had to reach out this way to shoot around the counter
19 up at an angle because it was blocking it, to shoot out
20 where he was standing.

21 Q Let me show you a couple of photographs. I'm
22 going to show you State's No. 3 through State's No. 17.
23 If you will just look at them real fast, just as a
24 group, and tell me what these are pictures of just in
25 general as a group.

C. WOOTEN -- DIRECT BY MS. HODGE

1 A It's a picture of my house and the front room
2 and my kitchen. Kitchen. Basically the inside of my
3 house where it happened at. And the back door where --
4 where she ran out.

5 Q Okay.

6 A The inside of the house.

7 Q Did the entire shooting take place in the
8 kitchen area?

9 A Well, the way the house is set up -- let me see
10 if I can find it.

11 Q Well, here, I'll make it easy for you --

12 A The way the house was set up, I was standing
13 right here in the kitchen. And then right here on the
14 other side is the refrigerator and the counter goes
15 back into the den. See, the den is right here. So I
16 was right here in the kitchen. And he was kind of
17 standing at the edge of the den right there. Half way
18 and half way.

19 Q Okay. You were shot, but you were in the
20 kitchen?

21 A Uh-huh.

22 Q But when you shot back, you were still in the
23 kitchen, but he was sort of in the den, sort of in the
24 kitchen?

25 A Yes.

C. WOOTEN -- DIRECT BY MS. HODGE

1 Q Okay. All right. And are these true and
2 accurate representations of your house, how it looked
3 that night?

4 A Yes, ma'am.

5 MS. HODGE: We move to admit State's No. 3 through
6 17.

7 MR. JOHNSTON: No objection, Your Honor.

8 THE COURT: Okay.

9 (STATE'S EXHIBITS NOS. 3 THROUGH 17 RECEIVED INTO
10 EVIDENCE.)

11 BY MS. HODGE:

12 Q State's No. 3 --

13 MS. HODGE: May we dim the lights, Mr. Bailiff?
14 Thank you.

15 BY MS. HODGE:

16 Q And what is that a picture of, Mr. Wooten?

17 A The front of my house.

18 Q Okay. Let's get to the inside. Let me show
19 you State's -- all right. So it's a little bit dark,
20 but can you see what that picture is?

21 A That's the kitchen.

22 Q All right. What is this right here?

23 A Refrigerator.

24 Q And what about over here, can you see this?

25 A That's the sink.

C. WOOTEN -- DIRECT BY MS. HODGE

1 Q Okay. And on this side, we're trying to
2 refer -- tell me something about this, what's over
3 here?

4 A Just a little -- just a little end of a -- end
5 of the wall where the partition stops, where the den
6 and kitchen divides.

7 Q Is that the main entrance way into the kitchen?

8 A The den -- the den -- that's the only way into
9 the kitchen, is that opening right there, between the
10 refrigerator and all.

11 Q And what about over here, back in the portion
12 of the photograph that you can't really see.

13 A That's where the back door is.

14 Q Where would you have been standing? You can
15 use this laser pointer. If you want to come down, you
16 can do it, but you've got to speak up. If you could
17 get it to point to where you would have been standing
18 when you first saw the person with the mask on. It's
19 got a button right over here. This thing. Push down
20 on that right there.

21 A I was standing right up there at the edge of
22 the refrigerator.

23 Q All right.

24 A And then he was standing right here at the edge
25 of the counter.

C. WOOTEN -- DIRECT BY MS. HODGE

1 Q Uh-huh.

2 A And when I was shot, I landed right there on
3 the floor on my back, and I shot around the
4 refrigerator, not the counter.

5 Q All right. Did you have your cell phone on you
6 at that time?

7 A I had it -- I think I had it in my hand.

8 Q All right.

9 A I don't remember if I had it in my hand or on
10 the counter. I had been using it -- I think I was -- I
11 think I had it in my hand at the time he come around
12 the counter.

13 Q Okay. And is that the same phone that you had
14 been receiving text messages back and forth on with him
15 that night about where you were and what was going on?

16 A Yes, ma'am.

17 Q I show you State's No. 14. Is that your cell
18 phone, and State's No. 15?

19 A Yes, ma'am. That's -- that's my cell phone.

20 Q All right. And is that the phone that y'all
21 had been swapping messages on, that number and that
22 phone?

23 A Yes, ma'am. Well, I had two phones, but that
24 was the one I was using at the time.

25 Q Okay. Let's do it like this. We're going to

C. WOOTEN -- DIRECT BY MS. HODGE

1 do it the old fashion way. Did you -- did the police
2 officers collect that telephone from you or from the
3 house that you're aware of?

4 A Yes, ma'am.

5 Q Did you ask to get that phone back?

6 A Yes, ma'am.

7 Q Did they give it back to you?

8 A I got about three months -- three months after
9 I was able to get up and walk.

10 Q All right. Did you happen to save any of those
11 messages when you got the phone back?

12 A I did for a while. And then the phone got
13 gone. I don't know what happened to it after several
14 years --

15 **MR. JOHNSTON:** Your Honor, I'm sorry -- I can't
16 hear what he's saying.

17 **THE WITNESS:** It's been several years, so the
18 phone got gone now. So I don't know where it's at.

19 BY MS. HODGE:

20 Q Now, let's talk about what happened to you once
21 you fled the house and you got in your car, what
22 happened then -- in your truck, what happened next?

23 A In the truck?

24 Q Uh-huh. Once you got in the trunk, what
25 happened?

C. WOOTEN -- DIRECT BY MS. HODGE

1 A All I remember, I remember telling them -- I
2 had the house phone, using the house phone to call 911.
3 And then I knew it was going to go out of the range, so
4 I hung it up and gave Danielle the cell phone and told
5 her to call 911 back.

6 Q I'm going to show you State's No. 18. What is
7 that, Mr. Wooten?

8 A That's a picture of my truck.

9 Q Is that the truck you drove to the hospital?

10 A Yes, ma'am.

11 Q And how about State's No. 19, what's that?

12 A The house phone.

13 Q All right. Was that the phone you took into
14 the truck on your way to the hospital?

15 A Yes, ma'am.

16 Q Okay. And I'm going to show you State's No.
17 20, 21 and 22; do you know what that's a picture of?

18 A Inside of the truck.

19 Q Okay. And what is the items that's shown in 22
20 on the inside of the truck?

21 A That's the gun I laid in the truck. I laid it
22 beside me in the truck and that's where I was sitting.
23 There's the blood.

24 Q All right. And are these true and accurate
25 representations of your truck and what was in it on

C. WOOTEN -- DIRECT BY MS. HODGE

1 this night?

2 A Yes, ma'am.

3 MS. HODGE: I move to admit State's No. 18 through
4 23.

5 MR. JOHNSTON: No objection, Your Honor.

6 THE COURT: All right.

7 (STATE'S EXHIBITS NO. 18 THROUGH 23 RECEIVED INTO
8 EVIDENCE.)

9 BY MS. HODGE:

10 Q AND then I'm showing you State's No. 23, did I
11 already say that -- State's No. 23, what does it show?

12 A It's my shirt with the blood on it.

13 Q Okay. Was that the shirt you were wearing when
14 you got shot?

15 A Yes, ma'am.

16 Q Mr. Wooten, did you get admitted to Greenville
17 Memorial Hospital after this?

18 A They transferred me from Greer to Greenville
19 Memorial, I was admitted.

20 Q Before they transported you to Greenville, did
21 you speak to some police officers at the Greer
22 Hospital?

23 A I spoke to an officer. I think it was a Greer
24 City Officer.

25 Q And at that point, did you tell them who you

C. WOOTEN -- DIRECT BY MS. HODGE

1 thought may have done this to you?

2 A Yes, ma'am.

3 Q Who did you tell them you thought had shot you?

4 A I told them Ronnie Swofford shot me. I told
5 them what he shot me with.

6 Q Did he ask you a bunch of questions or were you
7 giving them the information?

8 A He asked me some questions. I was on -- they
9 was trying to do some medical work on me.

10 Q Did anyone mention the name Ronnie Swofford to
11 you or did you tell them the name Ronnie Swofford?

12 A I gave them the name. I was the only one that
13 said the name.

14 Q And is that the person you saw in your house
15 with the ski mask, that had the open face?

16 A Yes, ma'am.

17 Q And is gun that you were shot with, is that the
18 same gun you saw the Defendant with just a day before?

19 A Yes, ma'am.

20 Q Did you and Mr. Swofford have some falling out
21 or bad blood because you he was supposed to pay you
22 that money back?

23 A No, ma'am. I -- he was texting me that night,
24 to pay me back, and we just -- he said he couldn't meet
25 me or something. So I didn't -- that's as far as it

C. WOOTEN -- DIRECT BY MS. HODGE

1 got. We never even got to go past that. It was
2 supposed to be paid that night. And then we never even
3 got to talk after that because he said I couldn't come,
4 I couldn't talk to him.

5 Q So as far as you were concerned, y'all were
6 still on good terms before he shot you?

7 A Yes, ma'am.

8 Q You didn't send him any threatening messages or
9 tell him that he better come pay you or any of that
10 kind of stuff?

11 A No, ma'am.

12 Q Do you have any idea why Mr. Swofford shot you?

13 A Well, I'm -- I'm sure he shot me to take -- get
14 the money.

15 Q Was anything taken from your home on this night
16 that you're aware of?

17 A Not that I'm aware of.

18 Q How long did this incident last?

19 A Not long. Less than a minute.

20 Q And there was no discussion when the shooter
21 came in, no talking of any kind?

22 A He just said my name like -- he said my name.
23 Because I was facing the other way. And he said, Curt,
24 so I would turn around, to shoot me. Like he didn't
25 want to shoot me in the back, I guess. So when I

C. WOOTEN -- DIRECT BY MS. HODGE

1 turned around, he shot me in the front.

2 Q And is the person that you know as Ronnie
3 Swofford, the person that you say shot you, is he
4 present in court today?

5 A Yes, ma'am.

6 Q And where is he?

7 A Right there.

8 Q Which one is he?

9 A The one in the middle.

10 MS. HODGE: Thank you. Please answer any of
11 Mr. Johnston's questions.

12 THE COURT: Well, let me -- let me talk to the
13 lawyers for one second up here.

14 (Whereupon, there was a bench conference in the
15 presence of the jury, but outside the hearing of the
16 jury.)

17 All right. Mr. Foreman, Ladies and Gentlemen of
18 the Jury, let's -- we've been going almost an hour and
19 a half. Let's take a short break. We'll get back to
20 you in about ten or 15 minutes. Please don't discuss
21 the case. All right. Thank you.

22 (Whereupon, the jury left the courtroom at
23 3:20 p.m.)

24 THE COURT: All right. Mr. Wooten, you may stand
25 down, but you are not allowed to discuss your testimony

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 with anybody. Okay. All right. We'll take a short
2 break.

3 (After a recess, court reconvened.)

4 **MS. HODGE:** Your Honor, do you remember when you
5 asked about the officer in the back row, two of those
6 people were my investigators at the Solicitor's Office.

7 **THE COURT:** Yeah.

8 **MS. HODGE:** Apparently, Sergeant Hayes, who wasn't
9 in a uniform, came in at some point. I did not know
10 that -- I didn't see that -- in the last minute or two
11 of the victim's testimony. He didn't realize he
12 couldn't come in.

13 **THE COURT:** I didn't see -- I didn't notice him.
14 He wasn't in long enough for -- Mr. Johnston, anything?

15 **MR. JOHNSTON:** No, sir.

16 **THE COURT:** Okay. All right. Are y'all ready?

17 **MS. HODGE:** Yes, sir.

18 **THE COURT:** Come on back up.

19 (Whereupon, Curtis Wooten returned to the witness
20 stand.)

21 (Whereupon, the jury entered the courtroom at
22 3:41.

23 **THE COURT:** All right. Cross examination.

24 CROSS EXAMINATION BY MR. JOHNSTON:

25 Q Mr. Wooten, I want to take you back to July 27,

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 2009, and I want to ask you again about -- about your
2 income. What kind of income did you have?

3 A (No response).

4 Q Did you hear me?

5 A What kind of income?

6 Q Yes.

7 A I had money income like everybody else.

8 Q Well, I understand that you were getting income
9 in money. I want to know how much you were getting and
10 where you were getting it from?

11 A I received a Social Security check for 700 and
12 something dollars. Ms. --

13 Q Hang on just a second. Let me get that. You
14 were getting a Social Security check for \$750?

15 A And Ms. Edwards got a check for \$1,822.

16 Q Ms. Edwards got a check for \$1,822. Is that
17 all of the income that you had at that time?

18 A No. I had other income.

19 Q Okay. Well, what other income did you have?

20 A I sold -- bought and sold things and stuff and
21 different things.

22 Q Okay. You bought and sold things, is that
23 right?

24 A Uh-huh.

25 Q Like at the flea market or something like that?

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 A Some.

2 Q Well, what kind of things?

3 A Different things. Anything I can make money
4 on.

5 Q Okay. Well, where did you get the things from?

6 A I get the things at the Jockey Lot and from
7 dealers at the auction.

8 Q Okay. So you would buy things at the Jockey
9 Lot and you would buy things at an auction. What sort
10 of things?

11 A Tools.

12 Q Tools?

13 A Knives.

14 Q Knives.

15 A Stuff like that.

16 Q Anything else?

17 A Not specific that I remember, I mean.

18 Q Tools and knives. Okay. So you would take
19 tool and knives that you would buy from dealers and
20 then you would turn around and sell them?

21 A Sometimes.

22 Q Correct?

23 A Sometimes.

24 Q Okay. Did you have any other income at that
25 time?

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 A I worked on cars.

2 Q You worked on cars. You're a mechanic?

3 A Yes.

4 Q Okay. And people would bring you their cars to
5 work on?

6 A They would bring them -- some would bring them.
7 I would pick some up. I just done it part-time. I did
8 it at my dad's house, at the shop over there at my
9 dad's, and it was people that I knew.

10 Q Okay. Did you have a full garage of tools and
11 things like that, that you could handle all kinds of
12 different automotive problems?

13 A I could handle basically most mechanical
14 problems in a car.

15 Q Most mechanical problems in a car. So how many
16 days a week did you work on cars?

17 A No specific times. Sometimes a couple of days
18 and sometimes I didn't work on cars.

19 Q Okay. Well, it sounds to me -- now you correct
20 me if I'm wrong, Mr. Wooten, like that \$750 check, that
21 was the -- that was the biggest part of your income?

22 A Not the biggest part of my income, Ms. Edward's
23 income --

24 Q Well, other than Ms. Edwards, because that's
25 her income, not your income, right?

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 A I --

2 Q I'm talking about your income, that 700 and
3 something dollars that you got as a check, is it fair
4 to say that was the biggest part of your income? The
5 only thing that you had coming in regularly?

6 A You say regularly, but I had other income.

7 Q All right. We've been over that. You've got
8 your tools and stuff that you buy and sell
9 occasionally, and then you've got your work that you do
10 on cars every now and then. All right. Now, when did
11 you get your check?

12 A Ah --

13 Q The first of the month, the last of the month,
14 the middle of the month?

15 A It depends on when I get down to the bank. It
16 comes to my mom's and I get it cashed at the bank.

17 Q So when did it come in the mail?

18 A It comes in the mail on the 1st.

19 Q On the 1st of the month. When did Danielle's
20 checks come?

21 A On the 4th Wednesday of each month.

22 Q The 4th Wednesday of each month. And they came
23 on the same day?

24 A Not the check. My check and her check?

25 Q No. No. Did she get one check or two checks?

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 A Two checks.

2 Q Did they come on the same day?

3 A Yes.

4 Q Okay. The 4th Wednesday of the month?

5 A Uh-huh.

6 Q Now, despite the major part of your income
7 being this check that you get -- I'm not talking about
8 Danielle's check -- you said you kept it for her so she
9 -- because she didn't -- she wasn't good with money.
10 Your check was what came at the 1st of the month,
11 right.

12 A Okay.

13 Q Okay. Now, despite the fact that that was most
14 of your income, you're out loaning money?

15 A No. I loaned the money to one person, because
16 I thought he was a friend.

17 Q Okay. Well, then, how much money did you loan
18 to Ronnie Swofford?

19 A \$750.

20 Q \$750. The amount of your whole monthly income,
21 right? Am I right or not?

22 A I guess so. I'm tired of repeating myself.

23 Q Now -- and it was at the end of the month that
24 you loaned him the money?

25 A It was towards the end of the month.

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 Q After you had gotten your check at the first
2 part of the month?

3 A We've done decided that I get my check on the
4 1st of the month.

5 Q Okay. Well, we might have established that,
6 but what -- what I'm having a hard time understanding
7 is you loaning somebody money, that much money on such
8 a little amount of income -- now was he going to pay
9 you back in -- with interest?

10 A No. He was going to pay me back in two days so
11 it wasn't a big deal.

12 Q Okay. Now, did you get some texts from him?

13 A Yes, I did.

14 Q Tell me about the texts that you got.

15 A I got text messages from him to meet him. But
16 then I was -- we was going to meet, and then some
17 things come up where he couldn't meet me.

18 Q Okay. And when did you get those texts?

19 A The night of the shooting.

20 Q The night of the shooting. Okay. What time
21 did you get the texts?

22 A Which one?

23 Q Well, how many were there?

24 A Probably four or five.

25 Q Four or five. Now, were those all texts from

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 him or where those texts back and forth from you to him
2 and him to you?

3 A Well, we probably text four or five times
4 because I probably text him back four or five times --
5 I answered him back. When he would text me, I would
6 answer him back.

7 Q Okay. So then we're talking about a minimum of
8 eight to ten texts between you and him about this
9 money?

10 A Not about the money, it was about meeting him.
11 We didn't say nothing about money --

12 Q Okay. It was about meeting?

13 A Talking about meeting that night.

14 Q Okay.

15 A And this went on from that night until late in
16 the morning.

17 Q All right. Now, what is the last communication
18 you had from Mr. Swofford by text?

19 A By text? Around 2:00.

20 Q Around 2:00. And what did he say?

21 A I don't remember the exact words of the text,
22 but it was --

23 Q Well, just give me the gist of it so-to-speak.

24 A That he wasn't going -- that he wasn't going to
25 be able to show up.

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 Q He can't make it?

2 A Something like that.

3 Q Okay. That's the last text that you received
4 from him or is it?

5 A As far as I know, that's the last text I
6 received because like I said, after I was shot, I
7 wouldn't know.

8 Q Well, you got the phone back later, didn't you?

9 A Yes.

10 Q Did you go back and look?

11 A Yeah. It had the messages in it.

12 Q Okay. So I'm asking you, after you are shot,
13 you went back and looked, were there any other texts
14 from Ronnie Swofford?

15 A No.

16 Q No, am I correct?

17 A There ain't nothing in the phone from Ronnie
18 Swofford after that night.

19 Q After 2:00?

20 A 2:00 or 2:30, I don't know the exact time.

21 Sometime --

22 Q 2:00 or 2:30 -- before you were shot?

23 A Right.

24 Q Okay. Nothing later?

25 A No.

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 Q "A large orange bottle containing 165" --

2 MS. HODGE: Objection, Your Honor. I'm not sure
3 what he's reading into evidence.

4 THE COURT: Well, I -- ask the question.

5 BY MR. JOHNSTON:

6 Q Are you familiar with this object, based on
7 this description, "A large orange box" --

8 MS. HODGE: Objection, Your Honor. May we
9 approach?

10 THE COURT: Yeah. Come on up.

11 (Whereupon, there was a bench conference was held
12 in the presence of the jury, but outside the hearing of
13 the jury.)

14 THE COURT: All right. Mr. Foreman, Ladies and
15 Gentlemen of the jury, we need to ask y'all to step
16 back in the jury room for a few minutes.

17 (Whereupon, the jury left the courtroom at
18 3:54 p.m.)

19 THE COURT: All right.

20 MR. JOHNSTON: May it please the court, Your
21 Honor. It would be our position that we're entitled to
22 make a relevant inquiry into Mr. Wooten's activities.
23 He has described, first of all, what his income was and
24 what limitations he had on his income and yet he's
25 claiming that he is loaning \$750 to my client.

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 The other thing is that the discovery is replete
2 with information whereby the police believe that Mr.
3 Wooten is a dealer in drugs. There were large
4 quantities -- not by my characterization -- but by the
5 police's characterization of narcotic medications found
6 in the home.

7 There were also large quantities of methadone
8 found in the home and there are also text messages from
9 another individual which discusses drugs and getting
10 drugs from Mr. Wooten.

11 It would be my position to question Mr. Wooten on
12 two points. One, I want to challenge the credibility
13 of the statement that he's loaning \$750 based on the
14 income that he's represented here today.

15 And further, I want to ask him about why he had
16 all these large amounts of drugs in his house. And I
17 think that that is -- is a situation which creates
18 other motives, other opportunities for other
19 individuals to be involved here.

20 **THE COURT:** Well, that's where you -- are you
21 trying to introduce evidence of third party guilt?

22 **MR. JOHNSTON:** No, sir. I'm not trying to
23 introduce evidence of third party guilt. I'm trying to
24 let the jury know the whole circumstances. I don't
25 have the name of a person that that -- that I'm saying

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1 that robbed him in an attempt to get drugs. I just
2 want them to understand the circumstantial evidence
3 that surrounds what happened in this case.

4 Further, Your Honor, I would request to be allowed
5 to go into all of the drugs that were in the home
6 because they may have -- may have affected Mr. Wooten's
7 perception on the night in question.

8 **THE COURT:** The State's position?

9 **MS. HODGE:** Your Honor, of course we would object
10 to this line of questioning. What this is, is a
11 character attack and wants the jury to think that Mr.
12 Wooten is some kind of a pill dealer or some, you know,
13 bad person is completely a character attack. It has
14 nothing to do with anything else in this case.

15 Mr. Wooten has prescriptions for the majority of
16 what was in his home. I think if you want to ask him,
17 are you under the influence of prescription pills that
18 have affected your memory, he can answer that. But to
19 attempt a P&E sheet, with a quantity of drugs on it, is
20 nothing more than a character attack. It is not
21 probative in this case. This case is not about a drug
22 deal. It is a shooting. At best, the motivation is
23 about money.

24 There is no other evidence in this case of
25 anything about drugs or that that's the basis for this

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1 -- these crimes. And to do that, to allow that is, in
2 fact, putting third party guilt out there. Oh, well,
3 it could have been people coming to buy pills from him.
4 That's exactly what he has done. He has shifted that
5 over to third party guilt. There is no evidence to
6 support that.

7 **MR. JOHNSTON:** Your Honor, again, it's the police
8 who have characterized him as a drug dealer, not me.

9 **MS. HODGE:** The police will not be testifying
10 about that.

11 **THE COURT:** Well, unless you have got something
12 else to the contrary, Rule 608 governs. And this has
13 to go to the truthfulness or non-truthfulness. And
14 I -- certainly you can impeach him if he's under the
15 influence at the time of the offense, to attack his
16 identification testimony.

17 But you're not just wildly to get into, you know,
18 all these drugs. You don't even -- the P&E or the
19 incident report is hearsay, so you can ask him about
20 it, but -- but -- but you're not going to read the
21 report into evidence and you're not going to talk about
22 what the police characterized him as.

23 If he's got prescriptions for all of that, it's
24 going to come back to bite you. So you can attack his
25 character for truthfulness or untruthfulness. Okay.

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 Does that make sense?

2 **MR. JOHNSTON:** Well, Your Honor, would the court
3 permit me to ask about the text messages that the
4 police documented, where people were contacting him to
5 get drugs from him?

6 **MS. HODGE:** Your Honor, I'm going to object to the
7 relevance. What's the relevance?

8 **THE COURT:** How is that relevant? I'm not...

9 **MR. JOHNSTON:** Well, Your Honor, it flies in the
10 face of his position that he has a prescription for
11 everything and he only has medication for himself.

12 **THE COURT:** Well, there are plenty of people and
13 the police have charged people who sell their own
14 prescriptions. But that's not -- how is that -- how
15 does that relate to this case and how does it attack
16 his truthfulness?

17 **MR. JOHNSTON:** Because the text messages that I'm
18 talking about are close in time to the text messages
19 that we're talking about, that he is referencing here
20 about Mr. Swofford. They are just as relevant as
21 those.

22 **THE COURT:** No. This is a case about a shooting.
23 So how does text messages from somebody else, just
24 because they are temporally close, how does that make
25 them relevant?

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 **MR. JOHNSTON:** Well, I would submit that it is not
2 just a -- the case is not just about a shooting, the
3 case is about who may have shot him.

4 **THE COURT:** Well, no question about that. But you
5 can't just put somebody's character into issue without
6 -- I mean, the rules are pretty specific about that.

7 **MR. JOHNSTON:** Well, Your Honor, I wasn't --
8 really wasn't planning on putting his character in
9 issue, what I was planning on asking was, did he have
10 these drugs in his home, and did he get text messages.
11 And I want to probe into the person who is contacting
12 him.

13 **THE COURT:** Well, go ahead and make a proffer and
14 we will see what you got.

15 BY MR. JOHNSTON:

16 Q What kind of drugs do you have in your house,
17 Mr. Wooten?

18 A Prescription drugs.

19 Q Sir?

20 A Prescription drugs.

21 Q Okay. And how many prescription drugs do you
22 have?

23 A I have pain medication. I had pain medications
24 from my doctor. And I had methadone where I was
25 getting off the pain medication. I started methadone

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 to get off of the pain medication.

2 Q Is it fair to say that you had a 165 pink
3 oblong tablets marked 3600 --

4 A It's fair to say because I was prescribed 180 a
5 month.

6 Q All right. And what are those?

7 A Lortab.

8 Q All right. And is it fair to say that you also
9 had a large orange pink bottle containing 109 pink
10 oblong tablets marked 3600 with 25 of --

11 A That was the other bottle from the month before
12 that I had -- I had stopped taking them.

13 Q And six blue oblong tablets marked 8540, what
14 are the those?

15 A Those with the ones when they don't have the
16 pink ones, they put the blue ones in because --

17 Q And those are Lortab, aren't they?

18 A Right.

19 Q And were you also taking methadone?

20 A I had stopped taking the Lortab and started
21 taking the methadone to get off the Lortab.

22 Q Okay. Who is Angela Guy?

23 A Who's who?

24 Q Angela Guy.

25 A Angela Guy.

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 Q Yes. I think that's her name. Somebody named
2 Angie that was texting you?

3 A I know a girl named Angie, but I don't have any
4 idea of her last name.

5 Q Okay. Well, who is Angie that was texting you?

6 A A friend of mine.

7 Q Pardon me?

8 A I know a girl named Angie that's a friend of
9 mine.

10 Q Okay. Did she text you on the night in
11 question?

12 A I don't remember.

13 Q Okay. Would she have texted about drugs?

14 A She might have texted me and tried to ask
15 something about Lortab.

16 Q Okay. What would she have asked you about
17 Lortab?

18 A She could have asked -- I don't really know
19 what -- she could have asked anything about it.

20 Q Okay. Well, would it be fair to say that she
21 was contacting you to see if you would distribute some
22 Lortab to her?

23 A Not necessarily. She might have -- she gets
24 Lortab, too, and she is going to ask for some, but that
25 don't mean that she could be trying to get some at that

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1 time.

2 Q Well, if I told you that the police noted that
3 she had contacted you and asked you about distributing
4 her some Lortab in the form of a text on the night in
5 question, would that help your memory?

6 A My memory is fine. I know what the police said
7 to me.

8 Q Okay. Well, do you remember what Angie said to
9 you about the Lortab?

10 A Not word for word, I don't know.

11 Q Okay. Do you remember the gist of what she
12 said?

13 A No. I was in a coma for a month after that. I
14 don't really remember any of it.

15 Q Well, you got texts before you went into a
16 coma, didn't you?

17 A Yes.

18 Q Okay. Did you get any texts from Angie about
19 you distributing some Lortab to her before you went
20 into a coma?

21 A I don't remember since then because I was in a
22 coma. It's been three years.

23 Q All right. Well, you told us that you looked
24 at the phone afterwards, didn't you?

25 A Yes.

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 Q And you looked at the messages that were on
2 there, didn't you?

3 A Yes.

4 Q Did you see any messages from Angie on there?

5 A I don't remember. Angie -- because it wasn't
6 relevant at the time.

7 Q Okay. Well, do you remember whether or not you
8 had any texts from her?

9 A No, I don't remember if I had any texts from
10 her. I think -- I think I had one on there from her,
11 but I --

12 Q Well, what did it say?

13 A It wasn't -- I'm not sure, but it wasn't
14 relevant to me.

15 Q Was it anything to do with pills?

16 A I don't know.

17 Q Or Lortab?

18 A I don't know.

19 Q Okay. Well, how do you know it wasn't
20 relevant?

21 A What's that got to do with me being shot?

22 Q Then how do you know that wasn't relevant if
23 you don't remember what it was?

24 A Relevant to what? Me being shot?

25 Q No. What I'm asking you is, did you get a text

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 from her about distributing Lortab?

2 A And I said I don't know.

3 Q Okay. Well, what you said was, that it wasn't
4 relevant.

5 A I mean, it was nothing for me to remember or I
6 would remember it. So, I don't -- it's not nothing
7 important for me to -- I mean, there is nothing -- I
8 didn't have anything from Angie that I remember, so it
9 was -- so it must not have been important for me to
10 remember it. The only thing I was looking at was the
11 texts from the person who I thought shot me.

12 Q Okay.

13 A And that kind of overshadowed who else might
14 have texted me.

15 Q Okay. Well, did you keep the phone?

16 A I did for about a year.

17 Q But you don't have it now?

18 A When I moved, it got gone.

19 Q It got gone?

20 A Somebody stole it when I was moving.

21 Q Somebody stole it.

22 **MR. JOHNSTON:** That would be our proffer, Your
23 Honor.

24 **THE COURT:** All right. Well, I'm -- I'm going to
25 sustain the objection by the State. Under 404 and 608,

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 I don't find that this would be appropriate evidence.

2 Okay. Are you ready?

3 MS. HODGE: Yes, sir.

4 THE COURT: Are you ready?

5 MR. JOHNSTON: Yes, sir.

6 THE COURT: Okay.

7 (Whereupon, the jury entered the courtroom at 4:07
8 P.M.)

9 THE COURT: All right.

10 BY MR. JOHNSTON:

11 Q Were you present when the 911 call was placed,
12 sir?

13 A Yes.

14 Q Did you hear them?

15 A Yes.

16 Q Did you hear the question being asked, who shot
17 you?

18 A Yes.

19 Q Did your hear an answer from you?

20 A No.

21 Q You were not supposed to have a gun, were you?

22 A Nope.

23 Q Because you're a convicted felon, am I right?

24 A Yeah.

25 Q Now, do you also have other guns -- or did you

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 also have other guns?

2 A No.

3 Q You didn't have any other guns in your house?

4 A There was another gun there, but it wasn't --
5 it was the gun that had been left the day before, but
6 it was the gun that was there.

7 Q Okay. Well, was it in your house?

8 A Yes. It was laying on the table beside the
9 door.

10 Q Okay. Well, who left it there?

11 A Mr. Swofford.

12 Q Mr. Swofford left that gun, is that correct?

13 A Yes.

14 Q And you just -- it was just sitting there?

15 A He was trying to work a deal on it, taking some
16 of the money that he owed me for the gun.

17 Q Mr. Swofford was in the house the day before
18 the shooting?

19 A He was at the front door -- in the front room
20 the day before the shooting.

21 Q He was in the front room. Why just the front
22 room? Is that important?

23 A I mean, why would anybody be in my bedroom?

24 Q Well, you've got other rooms, too. You have a
25 kitchen, don't you?

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 A Well, we wasn't eating, so we wasn't in the
2 kitchen.

3 Q I know. But you specifically said he was only
4 in the front room; why was that?

5 A He was standing in the front room.

6 Q And I was asking you why he was in there?

7 A Because that's where I sit. My TV, my chairs,
8 everything is in the front room. That's where people
9 sit, right there.

10 Q Okay. And what kind of gun was this?

11 A It's a Smith & Wesson semiautomatic.

12 Q A Smith & Wesson semiautomatic handgun?

13 A Uh-huh.

14 Q And this was found in your house?

15 A Uh-huh.

16 Q Where was it found in your house?

17 A In the front room.

18 Q And that was the second gun you were not
19 supposed to have in your house, isn't that true?

20 A (No response.)

21 Q Isn't that true?

22 A If you say so.

23 Q Well, I'm asking you. You weren't suppose to
24 have one gun, you certainly weren't supposed to have
25 two; isn't that fair to say?

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 A I guess so.

2 Q But you had two. In fact, you know that you
3 could get in trouble for having a gun, couldn't you?

4 A Yes, sir.

5 Q And you knew that back in June -- July 27th of
6 2009, you knew that you could get in trouble for having
7 a gun in your possession?

8 A Yes.

9 Q Serious trouble?

10 A Yes.

11 Q Isn't that right?

12 A Yeah.

13 Q So I suppose it's fair to say, also, that you
14 would not want to be caught with it?

15 A No. I wouldn't want to be caught with one.

16 Q Okay. Well, have you been arrested for having
17 a gun?

18 **MS. HODGE:** Objection, Your Honor --

19 **THE WITNESS:** I --

20 **THE COURT:** Wait a minute.

21 **MS. HODGE:** His arrest for past criminal
22 history --

23 **THE COURT:** Yeah. Don't -- that's inappropriate.
24 Go ahead.

25

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 BY MR. JOHNSTON:

2 Q Have you been charged --

3 MS. HODGE: Objection, Your Honor. That's not the
4 standard --

5 THE COURT: All right. Go ahead. Move on.

6 BY MR. JOHNSTON:

7 Q Do you remember when the first time you signed
8 the statement saying that it was Ronnie Swofford who
9 shot you?

10 A I don't remember the date, no.

11 Q Okay. Well, was it close in time that you got
12 shot?

13 A I said I don't remember the date.

14 Q Okay. Well, I'm trying to help you. Do you
15 remember if it was close in time? I mean, was it a day
16 --

17 A I don't need your help. I don't remember.

18 Q Okay. Well, would it surprise you to know that
19 it was not until some almost two months later that that
20 was the first time you ever signed a statement?

21 A It wasn't surprise me because I was in coma for
22 a month, I couldn't write.

23 Q Okay. So it wouldn't surprise you that it was
24 two months later, that was the first time you ever
25 signed a statement saying that it was Ronnie Swofford

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 that shot you?

2 A No. Because that's the first time I would have
3 been able to.

4 Q Okay. You and Ronnie weren't just in prison
5 together, in fact, you all were roommates, weren't you?

6 A Uh-huh.

7 Q Is that a yes?

8 A Yes.

9 Q And how long were you roommates?

10 A Probably at least a year.

11 Q I imagine you all got pretty close during that
12 time?

13 A Yes, sir.

14 Q How big was that cell y'all were in?

15 A I don't know. I didn't measure it.

16 Q You all spent a lot of time together as
17 roommates in prison together, didn't you?

18 A Yes, sir.

19 Q Is it fair to say that you all were close
20 friends?

21 A Yes, sir.

22 Q And is it fair to say that after you got out,
23 after he got out, that you all renewed your friendship
24 together?

25 A Yes.

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 Q Is it fair to say that before you say that
2 Ronnie Swofford shot you, you and he didn't have a
3 cross word?

4 A Yes.

5 Q You say that Ronnie Swofford was trying to rob
6 you?

7 A Yeah.

8 Q Even though you had loaned him almost
9 everything you made just a few days before he was
10 trying to rob you; that's what you say, right?

11 A Yes, sir.

12 Q Describe the mask that the assailant had on?

13 A It was a knit ski mask that you pull over your
14 head and has a hole where it comes across the
15 forehead -- it comes across at -- right here.

16 Q Okay. What you're showing me, I think, is
17 you're taking your hands and you're making motions
18 around your eyes?

19 A I'm doing it like this. I'm not making a
20 motion -- it's like this.

21 Q Okay.

22 A It was open -- it was open all the way across.
23 It didn't -- it didn't have a nose piece. It was open
24 all the way around.

25 Q Okay. It had --

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 A It come across like that.

2 Q Okay. So there was no bridge?

3 A No, not that I remember because I could see his
4 eyes --

5 Q Okay. Well, you could see his eyes even if it
6 was just two holes, couldn't you?

7 A Probably.

8 Q So, what about the mouth, did you see the
9 mouth?

10 A The what?

11 Q The mouth. Was there a hole?

12 A I didn't see the mouth, so I don't know.

13 Q What I'm -- what I'm getting at is, in
14 describing the mask that the assailant was wearing, did
15 it cover -- was it just above the nose, that the hole
16 was, or was it down around the mouth or what?

17 A It was right here where I said, right there
18 around his eyes and his nose.

19 Q So --

20 A I did not see his mouth.

21 Q So you could not see the person's mouth?

22 A No.

23 Q Because it was covered, am I correct?

24 A You're correct.

25 Q So if you told the police that the mask was the

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 kind that had the whole face open, you were wrong?

2 A I didn't say the whole face open.

3 Q Okay. Just a moment ago you said --

4 A I said it had the top open -- I said it had
5 the -- the whole face part here, not the mouth part
6 though, this part.

7 Q Well, you recognize that if I'm talking about
8 the whole face, I'm talking about the mouth, too; you
9 would agree with that, wouldn't you?

10 A I wouldn't say it was a mask if your whole
11 faced wasn't covered up.

12 Q Okay. Well, did you remember telling the
13 police that you said the mask had the whole face open;
14 did you tell them that or not?

15 A I told them exactly how I told you. I showed
16 them exactly where the mask went.

17 Q Okay. Well, if you said that the whole face
18 was open, were you wrong? I'm talking about the
19 statement that you gave in writing on 9/30/09, to
20 Investigator Chris T. Miller, did you say in that
21 statement that the person who shot you was wearing a
22 mask with the whole face open?

23 A If I did, I meant the half -- I meant this part
24 of the face here. I didn't mean the whole face because
25 a mask couldn't -- if your whole face is open, it

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1 couldn't be a mask.

2 Q If you said that the person was wearing a mask
3 with the whole face open, were you wrong?

4 A I just said the -- the mask wasn't the whole
5 face open.

6 Q I didn't ask you that question, sir. I asked
7 you, if you said that in this statement, that I'm
8 talking about --

9 A If I said it in the statement, but I don't know
10 what the statement says.

11 Q Okay. Well, I'm going to ask you about it --

12 **MS. HODGE:** May he have a copy of it?

13 **THE COURT:** Show it to him.

14 BY MR. JOHNSTON:

15 Q All right. Do you recognize that?

16 A I can't read that. I don't have my contacts
17 in.

18 Q You don't have your contacts in. You can't
19 read it at all?

20 A I can read my name --

21 Q Well, I'm going to make it big for you. Can
22 you read it now?

23 A Yeah, I can.

24 Q Okay. Now, is that your name?

25 A Yes.

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 Q Is that your signature?

2 A Uh-huh.

3 Q Is this the statement that you gave on 9/30/09?

4 A It must be.

5 Q Well, is there any question about it?

6 **MS. HODGE:** Your Honor, I'm going to object.

7 Number one, he's showing him something that -- how is
8 he going to verify what that is? May I hand him a
9 written statement. I'm sure --

10 **THE COURT:** Well, look at it, Mr. Johnston --

11 **MS. HODGE:** Mr. Johnston has a copy, he could have
12 provided it.

13 BY MR. JOHNSTON:

14 Q All right. Now, look at that for us. Do you
15 recognize that statement?

16 A It's looks like I signed it.

17 Q Okay. Now, I want to ask you about your
18 contacts, can your contacts see that okay -- I mean,
19 can you see this okay without your contacts?

20 A I can't read when you hold it over there.

21 Q Well, I know that. But, I mean, when you hold
22 it in your hand?

23 A Yeah.

24 Q Okay. Now --

25 A If I said the whole face was open, then, yes,

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 it would be wrong.

2 Q Okay.

3 A If that's what you're getting at.

4 Q That is exactly what I'm getting at. Now, will
5 you read that sentence for me right there? Where my
6 finger is.

7 A I can't see it.

8 Q Okay. Well, you told me just a minute ago you
9 could see it.

10 A I said I could see my name and the date.

11 Q Can you read anything on here?

12 A I've answered your question about the mask --

13 Q Can you read any of this? I want to know what
14 you told the police?

15 A I told them what this statement says.

16 Q Okay. Well, that's what we're getting at. So,
17 I'm going to read it to you and you tell me if it's
18 right or not. "I turned around and saw Ronnie Swofford
19 with a stocking mask on. It was the kind that has the
20 whole face open", is that what you told the police or
21 not?

22 A If that's what's wrote down -- whoever wrote
23 that down -- did I write this or did they type this?

24 Q Well, obviously this is typing.

25 A Well, if he typed it, then I'm not sure what I

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 said. I said that the face was open up here.

2 Q Well, whose signature is that?

3 A That's my signatures.

4 Q Okay. It wouldn't be much of a mask if you had
5 the whole face open, would it?

6 A That's what I said a while ago.

7 Q Okay. It kind of defeats the purpose?

8 A Right.

9 Q Especially it would defeat the purpose for
10 somebody who was your roommate in a little old small
11 room for many months?

12 A Uh-huh.

13 Q Right?

14 A Uh-huh.

15 Q Do you always carry a gun in your house?

16 A Not always.

17 Q You just happened to have one that night?

18 A At night when I go back outside, yes, I carry
19 one.

20 Q Okay. Did you talk to anyone on the phone
21 before or did you try to leave a voice mail for
22 anybody -- right before you got shot?

23 A I think I was on the phone when I got shot.

24 Q All right. You were on the phone when you were
25 shot?

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 A I think so.

2 Q Well, I guess -- do you remember in your
3 statement saying that you were on the phone when you
4 got shot? Did you ever tell the police that before or
5 is that something new?

6 A I can't read the statement, so I don't know
7 what it says.

8 Q Well, do you remember?

9 A I was either -- I said I had the phone in my
10 hand or I was on the phone.

11 Q Okay. Well, were you actually talking to
12 somebody? That's what I'm kind of getting at.

13 A I don't know if I was talking to someone or
14 leaving a voice mail.

15 Q Well, did you leave a voice mail to someone?

16 A I probably did if I was on the phone.

17 Q Well, just because you make a call doesn't mean
18 you leave a voice mail necessarily, does it? It could
19 mean that you were actually conversing with a human
20 being, couldn't it?

21 A Well, nobody said they were conversing with me
22 that night when it happened.

23 Q Well, I'm not asking you --

24 A No, I wasn't conversing with anybody at the
25 time.

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 Q All right. Would you please repeat that and
2 make sure I heard it.

3 A I said I wasn't conversing with anybody at the
4 time I was on the phone --

5 Q Were not conversing with anyone at the time
6 that you were shot?

7 A I might have been leaving a voice message, but
8 I wasn't talk to anybody.

9 Q Okay. You might have been leaving a voice
10 mail, but you weren't actually talking with anyone.
11 Now, do you know some people named Pearson and Smith?

12 A Pearson and Smith?

13 Q Yeah. How about the Little Debbie Cakes, does
14 that ring a bell with you?

15 A Yeah.

16 Q All right. Well, tell me about the Little
17 Debbie Cakes?

18 A They sold them at the grocery store.

19 Q I know that, were you calling about some Little
20 Debbie Cakes?

21 A And other things.

22 Q All right. Isn't it fair to say that you were
23 extremely angry when you made that -- that voice mail?

24 A Uh-huh.

25 Q Left that voice mail?

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 A Yes.

2 Q And that it was about Little Debbie Cakes? Yes
3 or no?

4 A Yes.

5 Q Okay.

6 A But I don't think I was being robbed for my
7 Little Debbie Cakes.

8 Q Sir? I didn't hear you.

9 A How long is this going to go on?

10 **THE COURT:** No. Just answer his questions.

11 **THE WITNESS:** No. Whatever.

12 BY MR. JOHNSTON:

13 Q Mr. Wooten, this man's on trial over here. I'm
14 going to ask you some questions. Okay. I'll try not
15 to take up too much of your time.

16 **MS. HODGE:** Objection, Your Honor.

17 **THE COURT:** Yeah. Just ask questions.

18 **MR. JOHNSTON:** Yes, sir.

19 BY MR. JOHNSTON:

20 Q Did you leave an angry voice mail about
21 somebody eating your food?

22 A Yes, I did, but it wasn't him.

23 Q And, in fact, did you threaten -- was it a
24 threatening voice mail?

25 A It probably was.

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 Q It probably was. And, in fact, did you tell
2 them that you were going to cut their F-ing head off?

3 A Well, maybe.

4 Q Are you right handed or left handed?

5 A Right handed.

6 Q When you fired your gun that night, did you
7 fire with your right hand or your left hand?

8 A Right hand.

9 Q And you kept it in in your back pocket?

10 A I had it in my back pocket at the time.

11 Q And you pulled it out with your right hand?

12 A Uh-huh.

13 Q Did I hear you say on direct examination that
14 you had to fire around the refrigerator?

15 A I said I reached out at an angle because the
16 counter and the refrigerator was right here. And it
17 was right -- I was right here, and I reached out like
18 this (indicating) and shot.

19 Q Okay. Why did you have to do that? That seems
20 like --

21 A Because I was on my back because I had been
22 shot and knocked down.

23 Q Okay. So you were on your back. Do you and
24 Mr. Swofford talk about guns a lot when you meet?

25 A Sometimes.

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 Q You have an interest in guns apparently? He
2 showed you his gun and you showed him your gun, right?

3 A I don't know if I showed him mine or not, I
4 might have.

5 Q Okay. Well, gun enthusiasts do that, don't
6 they? Hey, let me show you this gun I've got. They do
7 that, don't they?

8 A I guess some of them do.

9 Q Okay. Well, do you ever do it?

10 A No. I don't show people my gun.

11 Q Well, in any event, you said Mr. Swofford
12 showed you a gun. Describe it for me.

13 A It was a black Hi Point, black finish, 40
14 caliber, semiautomatic pistol.

15 Q Okay. Is there anything distinctive about that
16 kind of gun?

17 A It's the cheapest one made.

18 Q Okay. Anything distinctive about its
19 appearance?

20 A About its what?

21 Q How it looks?

22 A It's fatter and thicker, made different. It is
23 a very distinctive -- Hi Point looks different than any
24 other pistol.

25 Q Okay. It's fatter and thicker -- and what was

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 the third?

2 A Just totally different. It's just like a car,
3 just like a Ford and Chevrolet, they look different.
4 They're made different.

5 Q I understand that. I'm trying to get from you
6 what the distinctive aspect of it is.

7 A The distinctive aspect is it's a Hi Point.
8 It's the cheapest gun made and I have seen a thousand
9 of them. I've been to the gun shows and looked. And I
10 see them laying on the tables. And I was raised in a
11 gun shop.

12 Q You know about guns?

13 A Yes.

14 Q Do you all Hi Points look like that?

15 A Hi Point? All Hi Points did. Mr. Swofford
16 showed me his.

17 Q Well, do all Hi Points look that way? You said
18 they --

19 A Not all Hi Points. They make rifles and they
20 make other things.

21 Q Well, all their hand guns?

22 A They make a small version of it.

23 Q Okay. Does Hi Point make a 45 caliber?

24 A They make a 45. They make a 40. They make a 9
25 millimeter.

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 Q You were able, you say, to identify the caliber
2 of this weapon just from looking at it?

3 A No. I said I knew it was because I knew it was
4 him with that weapon and I had done seen the weapon
5 before and I knew what caliber it was. That's how I
6 knew that it was a 40 caliber.

7 Q So you assumed it was the same gun that you had
8 seen?

9 A Uh-huh.

10 Q Is that right?

11 A Right.

12 Q You didn't identify it as the same gun, did
13 you?

14 A But I knew it was.

15 Q Well, you couldn't tell -- you couldn't tell
16 just by looking at it, could it?

17 A Not just by looking at it you couldn't tell
18 perfectly, but I'm sure he didn't carry around a car
19 load of Hi Point handguns.

20 Q What kind of car did he have?

21 A He had a mustang.

22 Q What color was it? What year?

23 A Black.

24 Q And that's what you saw him driving when you
25 dealt with him?

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 A That and a Ford truck. He had a truck also.

2 Q Well, you mentioned that you saw him get
3 something out of his car in your statement; was that
4 the Mustang?

5 A I saw him getting something out of his car.

6 Q Yes. Back when you were dealing with him, when
7 you said that you loaned him money and all of that, and
8 he showed you the gun, did you see it in his car?

9 A I ain't -- he drove the truck and the car. I
10 mean, what's the point here? I mean.

11 Q Well, I'm wanting to know if that was what the
12 car was that he was driving at that time?

13 A He had that car at that time, but I don't know
14 what he was driving at that night, because I didn't see
15 what nobody was driving.

16 Q I didn't ask you about what he was driving that
17 night. I asked you about what he was driving earlier
18 when you were talking with him about collecting the
19 money?

20 A I was on the phone. I was talking with him
21 about it, so I don't know what he was driving.

22 Q Okay. So if you said it was a car, you don't
23 know whether that's right or not?

24 A He, at one time, said he was with his brother
25 in a car, but I don't know what he was in because I

C. WOOTEN -- CROSS BY MR. JOHNSTON

1 didn't see him before.

2 Q Do you take a lot of medicine, Mr. Wooten?

3 A I don't take -- I take more now since I got
4 shot.

5 Q Okay. Well, at the time when you got shot, you
6 took a lot of medicine, didn't you?

7 A No. I had done cut it. I was just taking t
8 methadone.

9 Q You were taking methadone. Methadone is some
10 pretty strong stuff, isn't it?

11 A It can be.

12 Q Are you taking any other medications?

13 A Not at the time I wasn't.

14 Q Like Haldol?

15 A Like what?

16 Q Haldol?

17 A No.

18 Q You not familiar with that?

19 A No.

20 Q How much methadone had you taken the night that
21 you got shot?

22 A I had taken it the morning before. I had taken
23 75 milligrams, but that was the morning before so it
24 had probably been about 15 or more hours since I had
25 taken any methadone.

C. WOOTEN -- REDIRECT BY MS. HODGE

1 Q Okay. And that's all you were taking that day?

2 A Yes, sir.

3 **MR. JOHNSTON:** Please answer any other questions.

4 REDIRECT EXAMINATION BY MS. HODGE:

5 Q Mr. Wooten, you loaned Mr. Swofford about \$750?

6 A Yes, ma'am.

7 Q And when you loaned him that money, you had
8 more cash in your hand than that, is that correct?

9 A I had about \$2,000 more dollars.

10 Q That cash, other than what you gave him, went
11 back in your pocket?

12 A Yes, ma'am.

13 Q And the night that you got shot, when you got
14 to the hospital, within 15 or 30 minutes of being shot,
15 you said to an officer who you thought shot you,
16 correct?

17 A Yes, ma'am.

18 Q You didn't write it on a piece of paper?

19 A No, ma'am.

20 Q You verbally said to the officer who you
21 thought --

22 A Yes, ma'am.

23 **MR. JOHNSTON:** Object to leading, Your Honor.

24 **THE COURT:** Don't lead.

25

C. WOOTEN -- REDIRECT BY MS. HODGE

1 BY MS. HODGE:

2 Q Who did you think shot you that night?

3 A I thought that Ronnie Swofford shot me that
4 that night.

5 Q You've spent a lot of time around Mr. Swofford,
6 close up?

7 A I spent a long time with him close up.

8 Q You knew his voice?

9 A His voice, yeah, everything.

10 Q Did you recognize the voice?

11 A I recognized the voice. When he said my name,
12 I recognized the voice.

13 Q Were you surprised by --

14 A Yes, ma'am.

15 Q -- seeing him?

16 A Yes, ma'am.

17 Q Did you expect that in the least?

18 A No, ma'am.

19 Q When you finally came out of your medical coma
20 and had your rehabilitation, you did meet with the
21 Sheriff's Office Investigator?

22 A Yes, ma'am.

23 Q At that time, they asked you for more details
24 about what happened to you, is that correct?

25 A Yes, ma'am.

C. WOOTEN -- REDIRECT BY MS. HODGE

1 Q And what Mr. Johnston has been asking you
2 about, this two page typed statement, is that the
3 statement that you ended up telling to Chris Miller?

4 A Yes, ma'am.

5 Q Okay. And though I understand you can't read
6 the small print today, at the time did you have an
7 opportunity to go over it with Mr. Miller?

8 A I went over. I had just got -- I had just come
9 home and I still was opened up, a dressing from here to
10 here, opened up wounds and I was barely -- barely able
11 to even come over here and do it. So I wasn't in that
12 great a shape when I did it.

13 Q But you had pretty -- still be able to recall
14 that night?

15 A I could recall --

16 MR. JOHNSTON: Objection to the leading.

17 THE COURT: All right. Don't lead.

18 MS. HODGE: Yes, sir.

19 THE WITNESS: But I could remember everything that
20 happened. I still remember everything that happened.

21 BY MS. HODGE:

22 Q Tell us, was there any reason that you have to
23 try to put this shooting on Ronnie Swofford?

24 A No, ma'am.

25 Q Did Mr. Swofford shoot you?

C. WOOTEN -- RECROSS BY MR. JOHNSTON

1 A Yes, ma'am.

2 Q Do you know that for a fact?

3 A I was 99.9 percent sure. And after they found
4 the bullet I shot him with, with his blood on it in my
5 wall, I'm 100 percent sure.

6 Q At the time, before you knew any of that, were
7 you sure it was Ronnie Swofford?

8 A Yes, ma'am, I --

9 Q Did you state that it was probably Ronnie
10 Swofford?

11 A I have stated it.

12 **MS. HODGE:** Thank you.

13 RECROSS EXAMINATION BY MR. JOHNSTON:

14 Q When did they tell you about the blood, Mr.
15 Wooten?

16 A After I got out of a coma.

17 Q Okay. Before you wrote this statement or
18 after?

19 A I don't remember.

20 Q Well, did you write the statement the first
21 time you talked to them?

22 A I don't remember that either.

23 Q Is it possible that they told you about the
24 blood before you wrote the statement?

25 A It might have been, but it wasn't possible that

DR. DACH -- DIRECT BY MS. HODGE

1 I told the officer at the hospital when I went in who
2 shot me.

3 **MR. JOHNSTON:** Nothing other questions, Your
4 Honor.

5 **THE COURT:** All right. Thank you. You can step
6 down.

7 **MS. HODGE:** Your Honor, the state would call Dr.
8 Brian Dach.

9 **THE COURT:** All right. Dr. Dach, please come
10 forward and place your left hand on the Bible and raise
11 your right hand please.

12 DR. BRIAN WAYNE DACH, having been
13 first duly sworn, testified as follows:

14 **THE CLERK:** Thank you. Please be seated. Please
15 state your full name for the record.

16 **THE WITNESS:** Brian William Dach.

17 DIRECT EXAMINATION BY MS. HODGE:

18 Q Dr. Dach, what is your occupation?

19 A I'm a surgeon at Greenville Hospital system.

20 Q And how long have you been with Greenville
21 Hospital system?

22 A As a surgeon for seven years.

23 Q Are you licensed to practice medicine in South
24 Carolina?

25 A Yes.

DR. DACH -- DIRECT BY MS. HODGE

1 Q Any other states?

2 A No, ma'am.

3 Q And tell us about your educational background
4 and experience as a physician?

5 A I received my medical degree from the
6 University of North Texas Health Science Center in Fort
7 Worth, Texas. I came to Greenville in 2000 and did a
8 surgical residency from 2000 to 2005. And then
9 remained in Greenville and became an employee of the
10 Greenville Hospital System.

11 Q Have you been ever been qualified as an expert
12 in general surgery and/or trauma surgery?

13 A Yes.

14 Q And in what courts have qualified you?

15 A In this court of law.

16 Q In General Sessions?

17 A In General sessions.

18 **MS. HODGE:** At this time, Your Honor, we would
19 move to admit Dr. Dach as an expert in general and
20 trauma surgery.

21 **MR. JOHNSTON:** Your Honor, we believe he's
22 qualified to offer his opinion.

23 **THE COURT:** All right.

24 BY MS. HODGE:

25 Q Doctor, did you have an opportunity to treat

DR. DACH -- DIRECT BY MS. HODGE

1 Curtis Wooten back on July 27, 2009?

2 A Yes, ma'am.

3 Q And how did he present to you at the hospital?

4 A Mr. Wooten presented to the Greenville Hospital
5 System, to the emergency room trauma facility as a
6 transfer from Greer Memorial Hospital after apparent
7 injuries.

8 Q Was Greer Memorial capable of handling the
9 injuries that Mr. Wooten had?

10 A No, ma'am.

11 Q And what injuries did Mr. Wooten have at the
12 time?

13 A At the time we evaluated him, he had an
14 apparent wound to the -- to the anterior abdominal wall
15 and to his back. And he was showing signs of shock in
16 the emergency room.

17 Q Do you know how he got those injuries?

18 A I was -- was told that they were gunshot
19 wounds.

20 Q And you state that he was in shock, are there
21 different levels of shock, and what is the significance
22 of that?

23 A There are several different classes of shock.
24 Mr. Wooten was exhibiting class three/four shock, which
25 means that he had lost over 30 to 40 percent of his

DR. DACH -- DIRECT BY MS. HODGE

1 blood volume probably from hemorrhage.

2 Q And does that mean that the bleeding went
3 outside of his body or was it inside?

4 A It was a combination. He probably lost some
5 blood on the outside as well as internal bleeding.

6 Q And how did you treat Mr. Wooten's injuries and
7 what exactly did you do?

8 A Mr. Wooten, due to his shock, was intubated,
9 which means he had a breathing tube placed and then he
10 had several central veinous access catheters placed to
11 give him fluids as well as blood.

12 He was taken emergently up to the operating room
13 where he underwent a laparotomy, which is opening of
14 the abdomen. And he had over two liters of blood
15 evacuated from his abdominal cavity. And then he was
16 found to have multiple injuries.

17 Q What organs in his body were injured?

18 A He was found to have injury to the left kidney,
19 which was hemorrhaging or bleeding. He was also found
20 to have an injury to the spleen, which was bleeding.

21 He had injuries to the colon, which is the large
22 intestine. And then he had injuries to the small
23 intestine.

24 These were treated by -- his left kidney was
25 removed. His spleen was removed. A portion of his

DR. DACH -- DIRECT BY MS. HODGE

1 small intestine was removed and a segment of his colon
2 was removed.

3 Q Was that happening in phases of surgery or was
4 that the initial --

5 A That was the initial surgery. Because he was
6 in shock and required a large amount of resuscitation.
7 He had what was called a damage control procedure
8 performed because he was just too hemodynamically
9 unstable to proceed with any type of repair of his
10 injuries.

11 So after the initial assessment and taking care
12 of the bleeding, and what we consider damage control --
13 control and contamination, which would be contamination
14 from the leakage of the small intestine and colon, he
15 had abdominal packs placed in his belly. He was taken
16 to our intensive care unit, where he was resuscitated
17 with further fluids and blood.

18 Q Would you say that the -- Mr. Wooten's injuries
19 were life threatening type injuries?

20 A Absolutely.

21 Q And if he would have gone untreated for any
22 certain amount of time, would he have possibly died?

23 A He would have expired.

24 Q Tell us what were the next steps in treating
25 Mr. Wooten?

DR. DACH -- DIRECT BY MS. HODGE

1 A Mr. Wooten, once stabilized and resuscitated,
2 he was brought back to the operating room where he
3 underwent definitive repair of his intestines. He had
4 his intestines put back in continuity. He had his
5 abdomen washed out. He was, at that point, very
6 swollen from fluids and resuscitation.

7 He had what we call an open abdomen, where the
8 abdomen was left open. He was taken back to the ICU.
9 He remained on a ventilator. And then several days
10 after that, was taken back to the operating room where
11 he had his abdominal wall eventually closed.

12 Q And were there -- do you know how long he
13 stayed in the hospital?

14 A He was in the hospital approximately 29 days at
15 Greenville Memorial.

16 Q Was there any -- did he have any complications
17 after the surgeries that you're aware of?

18 A He had several problems. He had respiratory
19 failure requiring a tracheostomy. He had pneumonia.
20 He developed what we call fungemia, where he had fungus
21 in his blood stream, which required treatment. He had
22 open wounds that needed to be cared for and taken care
23 of.

24 Q And is there also some rehabilitation process
25 once discharged from the hospital?

1 A Yes.

2 Q For someone like this?

3 A Yes.

4 Q Can that -- how long did that go?

5 A You know, depending on the injuries, it can
6 take, you know, months to years.

7 **MS. HODGE:** Thank you. Please answer any of
8 defense's questions.

9 **MR. JOHNSTON:** I have no questions of this
10 gentleman.

11 **THE COURT:** Thank you, sir. You may step down and
12 be released from subpoena.

13 **MS. HODGE:** The State calls Sergeant Hayes.

14 **THE COURT:** Let me -- let me talk to y'all for a
15 second up here before you do that.

16 (Whereupon, a conference was held in presence of
17 the jury, but outside the hearing of the jury.)

18 **THE CLERK:** Please come forward. Place your left
19 hand on the Bible and raise your right hand.

20 DAVID HAYES, having been first duly
21 sworn, testified as follows.

22 **THE WITNESS:** So help me God.

23 **THE CLERK:** Thank you. Please be seated. State
24 your full name for the record.

25 **THE WITNESS:** Sergeant David Hayes.

SGT. HAYES -- DIRECT BY MS. HODGE

1 DIRECT EXAMINATION BY MS. HODGE:

2 Q Sgt. Hayes, you work for Greenville County
3 Sheriff's Office?

4 A Yes, ma'am.

5 Q How long have you been with the Sheriff's
6 Office?

7 A Twenty-three years.

8 Q What are your duties and responsibilities with
9 them?

10 A I'm currently assigned to the Uniform Patrol
11 Division as a supervisor on Delta Platoon.

12 Q What does the Delta Platoon mean?

13 A Uniform Patrol. We're patrol officers that you
14 see out on the street on a daily basis that answers
15 calls and serves throughout the county.

16 Q Do you have a special area in the county?

17 A At this particular incident that we're here for
18 today, I was currently assigned to the east side of the
19 county, a supervisor that night.

20 Q And did you get a call to respond in reference
21 to a shooting at [REDACTED] Memorial Drive Extension?

22 A Yes, ma'am, we did.

23 Q Is that location within the county?

24 A It is. What we call our East Side Area One,
25 towards -- above Greer, towards the mountains.

SGT. HAYES -- DIRECT BY MS. HODGE

1 Q But not in Greer city limits?

2 A No. It was in the county.

3 Q All right. And what did you do in reference to
4 that call?

5 A When the call initially came out, we thought we
6 had an incident location, there on Memorial Drive
7 Extension. While responding, we were then advised that
8 the victim had shown up at the Greer Memorial Hospital,
9 which is the new hospital over on South Bumcombe Drive
10 on 14. I then had to have units respond, not only to
11 that location, but also to the hospital. And since I
12 was actually closer to the hospital, I went by there
13 first.

14 Q What time was this, do you know?

15 A Approximately 2:45 in the morning, A.M.

16 Q A.M. What did you do upon arriving at the
17 hospital?

18 A Once I was actually there, I was able to find
19 the victim. He was in a trauma bay in the emergency
20 room. I was able to briefly speak with him when I was
21 in there. And pretty much at that time, I established
22 he was in a great deal of pain and they were kind of
23 frantically working on him while they were in there, so
24 I wasn't able to say a lot to him, but I was able to
25 speak to him.

SGT. HAYES -- DIRECT BY MS. HODGE

1 Q And did you inquire about what had happened?

2 A Yes, ma'am, I did. Obviously, you have to
3 understand, it was kind of a hectic situation in there.
4 He was in a trauma bay being worked on by a physician.
5 And I was just asking basic questions, you know, what
6 happened to you. He said that he just gotten home from
7 the grocery store. And when he had gotten into his
8 home, an unknown assailant in dark clothing -- I think
9 he said possibly wearing a cream jacket and a ski mask,
10 came in behind him and just started shooting at him
11 while he was in his home.

12 Q And did you have any follow-up questions for
13 him?

14 A Yes, ma'am. As we went -- as he came through
15 and answering the questions, I asked him why would
16 somebody do this. Do you know anybody who -- you know,
17 basic questions, who, what, when, where, how. I said,
18 well, who would do this to you? And he immediately
19 stated Ronnie Swofford did it.

20 I asked him to repeat it to me again because I
21 wanted to make sure I had the right name. He said a
22 Ronnie Swofford. Any idea why he would do this to you?
23 And he said, well, he owes me money.

24 And at that time, he sort of kind of started
25 going downhill a little bit. The emergency room

SGT. HAYES -- DIRECT BY MS. HODGE

1 physician looked at me and he said, Officer, you're
2 just going to have to move on and he started
3 administering some medications.

4 But I was able to basically get that out of him,
5 the name. And he said -- I said, are you sure he's the
6 one who did it. He said, no, I don't -- I'm not
7 totally certain that's who it was, but I know he lives
8 in Spartanburg. That's where you can find him. And
9 that he owns a hand gun. I think he said it was a 40
10 caliber. And after that, that was pretty much all that
11 I got -- ascertained from him.

12 Q Did you -- at the time that you interviewed him
13 or spoke to him in this trauma bay, had you been
14 provided any information about possible suspects?

15 A No, ma'am. We didn't have any -- nothing to go
16 on.

17 Q So any information you have about Ronnie
18 Swofford came from Mr. Wooten?

19 MR. JOHNSTON: Object to leading.

20 BY MS. HODGE:

21 Q Where did the information from Mr.
22 Swofford come from -- I mean about Mr. Swofford come
23 from?

24 A It came from the victim, Mr. Wooten.

25 Q Did any of it come from other law enforcement

SGT. HAYES -- DIRECT BY MS. HODGE

1 officers to you at that time?

2 A No, ma'am.

3 Q What was your next step after he faded out?

4 A I already had deputies on the scene. We
5 basically had -- at that time, what we thought were two
6 crime scenes, the incident location where the shooting
7 happened and he was driven -- or drove himself, if I
8 recall, to the hospital, so we had a vehicle there. So
9 we had to treat that as the two crime scenes.

10 There was a second person there that was a
11 witness. The name escapes me, maybe Edwards --
12 Ms. Edwards, I think it was. She was also there. I
13 had a deputy basically hold onto her until the
14 investigator can arrive on the scene for questioning of
15 her.

16 We also had her sign what we call a Consent to
17 Search the premises, which she stated that she lived
18 there, so we had her actually sign this particular
19 paperwork that gives us the reason to go into the home
20 and search it for any kind of possible evidentiary
21 value.

22 We also had that vehicle there, so I had to have
23 our duty rotation wrecker come and pick up that vehicle
24 and take it to be impounded for forensics, so that it
25 could be searched at a later time and also processed.

SGT. HAYES -- DIRECT BY MS. HODGE

1 We also obtained the victim's clothing from the
2 ER staff, secured them so we could also place them in
3 property and evidence, also for storage and forensics
4 later on, if they so needed to be processed by
5 investigators.

6 We were able to give out a brief description at
7 that point to communications, to give out over the
8 radio, what we call a BOLO, or be-on-the-lookout-for,
9 for a possible suspect. We chose not to give any names
10 out at that time because we couldn't confirm who our
11 suspect we were -- we were looking for. And that was
12 pretty much my involvement at the hospital.

13 Q Did you ever go over to the scene on Memorial
14 Drive?

15 A Yes, ma'am. Once I cleared from the hospital,
16 I then responded over to the actual incident location,
17 because I have this Consent to Search, is the reason to
18 go into the home after it has been cleared. We still
19 needed a reason to go into the house or have the
20 authority to go in.

21 So once we were there, we stood by and waited
22 for our investigators to arrive. And once they get
23 there, the scene is then turned over to them. The
24 paperwork is given to them. And then after we back off
25 and take a -- we basically take over the perimeter of

1 the house while the investigators and forensics do
2 their job inside.

3 Q Did you collect any items of evidence in this
4 case?

5 A I did not, no.

6 Q Personally you?

7 A No, ma'am, I did not.

8 Q Did you interview any other potential witnesses
9 in this case?

10 A No, ma'am, I did not.

11 Q Did that end your involvement in this case?

12 A Yes, ma'am.

13 **MS. HODGE:** Answer any defense questions please.

14 CROSS EXAMINATION BY MR. JOHNSTON:

15 Q You said an unknown assailant shot him?

16 A Yes, sir.

17 Q You asked him who would do something like this
18 and he said Ronnie Swofford?

19 A Correct.

20 Q He owes me money?

21 A Yes, sir -- well -- yes, after the line of
22 questioning. I said why would he do this to you?

23 That's what he said, yes, sir.

24 Q Okay. And at that point, you still are not
25 sure you have a suspect?

1 A No, sir. Just based on that information, I
2 didn't feel it was pertinent to give that out, no, sir.

3 **MR. JOHNSTON:** No other questions.

4 **THE COURT:** Anything else?

5 **MS. HODGE:** No, sir.

6 **THE COURT:** All right. Thank you, sir. You may
7 step down.

8 **THE WITNESS:** Thank you, sir.

9 **THE COURT:** All right. Mr. Forman and Ladies and
10 Gentlemen of the jury, this is hard to believe, but it
11 is almost exactly 5:00 so it's a great time for us
12 start -- stop -- pardon me.

13 I want to remind you about the oath you have sworn
14 to, which includes not talking about the case. And
15 believe you me, that we all know it's human nature that
16 you are going to want to talk about it and also that
17 the people you will see this evening will want to talk
18 to you about it. We all know that. You've got to be
19 curious, maybe you want to go online and look something
20 up, don't do it.

21 If you protect these rights in this case, you
22 protect them for everybody. If you violate them in
23 this case, it's kind of like pulling the bricks out of
24 the wall, eventually the whole house of cards will come
25 down. It's not a house of cards, but the whole wall

1 will come down.

2 So don't talk about it. Don't do any research.
3 Y'all have a pleasant evening. We will see you back at
4 9:30 in the morning. Thank you very much.

5 (Whereupon, the jury left the courtroom at
6 4:56 p.m.)

7 **THE COURT:** Okay. Anything before we break?

8 **MR. JOHNSTON:** Your Honor, I just want to ask if
9 we could have the courtesy -- I know the Solicitor has
10 got a lot more witnesses that she is going to call, but
11 could we get some advance notice when it gets closer to
12 the time in the end of their case, so that I can make
13 sure that I have my people in place.

14 **THE COURT:** Okay. Yeah. It's certainly not going
15 to be over -- is it going to be over in the morning?

16 **MS. HODGE:** No. We probably have about seven more
17 witnesses and some of them are coming in with SLED.

18 **MR. JOHNSTON:** I'm not asking for anything
19 precise, just generally what she thinks --

20 **THE COURT:** Certainly at the very earliest, late
21 morning.

22 **MS. HODGE:** Definitely after lunch.

23 **THE COURT:** After lunch.

24 **MR. JOHNSTON:** After lunch, even better.

25 **THE COURT:** Okay. All right. Great.

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(Whereupon, the hearing adjourned.)

J. DERBY -- DIRECT BY MS. HODGE

* * * MAY 15, 2012 * * *

THE COURT: Are you ready?

MS. HODGE: Yes, we're ready.

THE COURT: Ready?

MR. JOHNSTON: Yes.

(Whereupon, the jury entered the courtroom at 9:44 a.m.)

THE COURT: All right. Ladies and Gentlemen, welcome back. We are ready to commence. All right.

MS. HODGE: The State calls John Derby.

THE CLERK: Please place your left hand on the Bible and raise your right hand.

JOHN DERBY, having been first duly sworn, testified as follows:

THE CLERK: Thank you. Please be seated. State your full name for the record.

THE WITNESS: John Derby.

DIRECT EXAMINATION BY MS. HODGE:

Q Officer Derby, who are you employed by?

A Greenville County Forensics.

Q How long have you been with Greenville County Forensics?

A Almost four years now.

Q Did you work in another jurisdiction before

J. DERBY -- DIRECT BY MS. HODGE

1 coming to Greenville?

2 A Yes, I did.

3 Q Where was that?

4 A I worked for the Callat (ph) Police Department
5 in the Forensics Division. And prior to that, I worked
6 at the Department of Law Enforcement.

7 Q What are your duties and responsibilities here
8 in Greenville?

9 A Working with the crime scene section, my job is
10 to document, collect, observe physical evidence from
11 crime scenes.

12 Q What kind of educational background and
13 training do you have for your position?

14 A I have a Criminal Justice Degree and I have
15 outside training in crime scene reconstruction, cold
16 case investigation and blood stain and powder analysis.

17 Q Were you employed with Greenville County back
18 July 27, 2009?

19 A Yes, I was.

20 Q And were called out to process a crime scene
21 located at [REDACTED] Memorial Drive Extension?

22 A Yes, I was.

23 Q Do you recall what time you were called out?

24 A About 3:00 a.m -- 3:40.

25 Q What did you do?

J. DERBY -- DIRECT BY MS. HODGE

1 A I spoke with the deputies on scene. They
2 advised me of what they were informed from the victims
3 or people on the scene, that a shooting occurred,
4 involving two victims. Both of them arrived on the
5 scene, and shortly after a suspect entered and both --
6 one of them was shot. The victims fled and the suspect
7 fled. The victims were taken to the hospital prior to
8 my arrival.

9 Q Did you ever personally see either victim?

10 A No, ma'am.

11 Q Did you get your information from the deputies
12 that are on the scene?

13 A That's correct.

14 Q Did you ever go to the hospital to see Mr.
15 Wooten, one victim?

16 A No, ma'am.

17 Q Was your focus primarily the crime scene?

18 A Yes, it was.

19 Q When you arrived on scene, who -- do you recall
20 who else was there?

21 A Several deputies, I think Deputy Miles, Rice
22 and Investigator Weiner were on the scene.

23 Q And do you work in concert with them or are you
24 set loose just to do your own thing?

25 A They advise me of what they have. A lot of

J. DERBY -- DIRECT BY MS. HODGE

1 times, they have already kind of walked through
2 themselves to make sure the scene is secure. They'll
3 inform me of what they have found and then I'll make my
4 assessment as I do my walk through.

5 Q And tell us what you did when you arrived on
6 scene after getting information -- background
7 information; what did you do first?

8 A I was explained where items inside the scene
9 were located. I confirmed those. I did my walk
10 through. I went back to my vehicle and I got my
11 equipment.

12 The next step I do is photograph the actual
13 scene, determine what I think is potential evidence for
14 this case. The evidence is marked with evidence
15 placards and then photographed again and then they are
16 collected.

17 Q I'm showing you what's been previously entered
18 as State's No. 3 through 23. And if you can, just take
19 a quick glance through those and then tell us what --
20 if you took those pictures?

21 A Not this.

22 Q Okay. You did not take No. 18?

23 A Correct.

24 Q Or 19?

25 A Correct.

J. DERBY -- DIRECT BY MS. HODGE

1 Q Or 21, 23. Okay. All right. If you don't
2 mind, since our equipment doesn't seem to be
3 cooperating today, can I just have you come down and
4 give the jury kind of a brief recitation of what this
5 is, why you wanted to take a picture of that and why?

6 A This is the front of the house.

7 Q This is State's No. 3.

8 A The front yard, the front of the house --

9 **THE COURT:** Officer, keep your voice up so we can
10 get everything.

11 **THE WITNESS:** Sorry.

12 **THE COURT:** Thank you.

13 BY MS. HODGE:

14 Q State's No. 4.

15 A This is the front door, it's a more closer step
16 than the prior picture.

17 Q And did you eventually end up processing or
18 attempting to process this front door?

19 A Yes, I did.

20 Q State's No. 5?

21 A That is the living room into the house. The
22 front door would be to your left and the kitchen is
23 straight to the right.

24 Q And State's No. 6? Can you see that?

25 A Pretty much right at the front door when you

J. DERBY -- DIRECT BY MS. HODGE

1 enter the residence.

2 Q And where would be?

3 A That's -- that's the living room.

4 Q Where is the kitchen in relation to this
5 picture?

6 A Right there, right around that wall.

7 Q State's No. 7?

8 A That is a closer picture heading towards the
9 kitchen and that wall.

10 Q State's No. 8?

11 A That's another shot of the living room.

12 Q Do you recall how many bedrooms this house was
13 off the top of your head?

14 A Two, maybe three.

15 Q State's No. 9?

16 A This is a picture of the chair and the cloth.

17 Q State's No. 10?

18 A This is the kitchen, still in the living room.

19 Q You're standing in the living room?

20 A Looking towards the entry way of the kitchen.

21 Q Is there anything so far of significance in
22 this photograph?

23 A There is. It's hard to see from the pictures,
24 but on the wall, there's a projectile hole and on the
25 kitchen floor is a projectile jacket, which I have a

J. DERBY -- DIRECT BY MS. HODGE

1 picture of that closer up.

2 Q State's No. 11?

3 A This is a closer picture of the projectile hole
4 through the kitchen wall.

5 Q State's No. 12?

6 A This is the kitchen with -- I had my back
7 towards the projectile hole.

8 Q So -- I'm sorry. The wall is back here?

9 A Right here. I'm facing the wall behind me.

10 Q State's 13?

11 A The kitchen. I photographed the kitchen sink
12 with a projectile hole underneath the kitchen sink.

13 Q State's 14?

14 A It is an open cell phone on the kitchen floor.

15 Q State's 15?

16 A A close-up of that cell phone.

17 Q Sixteen?

18 A A picture of the kitchen showing the back door
19 still ajar.

20 Q So the door was open when you arrived?

21 A Yes.

22 Q And State's No. 17?

23 A This is a close-up picture of the trash can and
24 the back door, showing the mops in the corner.

25 Q And why was that significant?

J. DERBY -- DIRECT BY MS. HODGE

1 A The projectile hole is -- later seen in the
2 trash bag against the wall and the broom handles.

3 Q And those were behind the back door?

4 A The door is now closed. I took a picture of
5 the broom handles.

6 Q If you'll stay right there, there's a few more
7 of these. Can you identify that for us please? I
8 think you had stated earlier you take photographs of
9 the scene as they are when you arrive?

10 A Correct.

11 Q And then at some point do you start
12 identifying, marking objects that you're photographing
13 as well?

14 A Yes. That's correct.

15 Q And who provides -- do you have those placards
16 with you?

17 A We are given those, assigned to us.

18 Q Is there any rhyme or reason as to how you
19 number them or label them?

20 A Generally we do numbers, 1 through whatever.
21 We also have alphabetical ones, we're trying to phase
22 out of those. We don't use those very often. In this
23 case, --

24 Q Is that -- why are y'all phasing out, I'm just
25 curious, of the alphabetical ones for numerical ones?

J. DERBY -- DIRECT BY MS. HODGE

1 A It's just easier, common, everybody using the
2 numbers.

3 Q I'm going to show you State's 25, 26, 27, 28,
4 Officer Derby, I need to have you speak up again.

5 A Yes, ma'am.

6 Q What are these photographs in general?

7 A These are photographs of cartridge cases on the
8 floor.

9 Q Which floor?

10 A This would be the living room.

11 Q Is this -- next in the series of your
12 photographs that we've already looked at?

13 A Yes. These would be close-ups of items that I
14 thought relevant to the case.

15 Q Are those true and accurate representations of
16 the scene?

17 A Yes, they are.

18 **MS. HODGE:** At this time, we move to admit numbers
19 28 through -- 25 through 28.

20 **MR. JOHNSTON:** No objection.

21 **THE COURT:** All right. Without objection.

22 (STATE'S EXHIBITS NO. 25 THROUGH 28 RECEIVED INTO
23 EVIDENCE.)

24 BY MS. HODGE:

25 Q If you would, please, tell the jury what we are

J. DERBY -- DIRECT BY MS. HODGE

1 looking at here in State's No. 25?

2 A Okay.

3 Q And I'll hold it up if you answer it.

4 A This is a -- one of the cartridge cases found.

5 Q And again, where are we looking at this?

6 A Living room floor.

7 Q And State's No. 26?

8 A This is another one, right next to it. It's
9 standing on its head.

10 Q Are both cartridge casings in this photograph?

11 A Yes, they are.

12 Q And 27, I think?

13 A Is a close-up of the one standing on its head.

14 Q And then 28?

15 A Is a close-up of the one next to it, that's on
16 the side.

17 Q In total, how many cartridge casings did you
18 actually collect?

19 A That were on the floor?

20 Q That were on the floor?

21 A Three.

22 Q Did you see all three at first?

23 A No, I did not.

24 Q So those two --

25 A That's correct.

J. DERBY -- DIRECT BY MS. HODGE

1 Q -- first -- okay. Let me show you State's No.
2 29, 30, 31. Are those photographs also continuing on
3 with the crime scene?

4 A Yes, they are.

5 Q Are they true and accurate representations as
6 well of the crime scene?

7 A Yes, they are.

8 **MS. HODGE:** I move to admit State's No. 29 through
9 31.

10 **MR. JOHNSTON:** Without objection.

11 **THE COURT:** Okay.

12 (STATE'S EXHIBITS NOS. 29 THROUGH 31 RECEIVED INTO
13 EVIDENCE.)

14 BY MS. HODGE:

15 Q Number 29?

16 A This is the projectile jacket that was located
17 on the kitchen floor.

18 Q Is there a difference between a jacket and a
19 shell casing?

20 A This -- the casing actually holds on the bullet
21 projectile -- this is actually attached to the
22 projectile while being fired.

23 Q State's No. 30 and 31?

24 A These are trash cans and the washer and dryer
25 in the kitchen. And a picture of the actual projectile

J. DERBY -- DIRECT BY MS. HODGE

1 hole in the trash can -- trash bag.

2 Q I show you State's No. 32, 33, 34 and 35, the
3 same continuation of photographing the crime scene?

4 A That's correct, with more detail.

5 Q It's true and accurate representations of the
6 crime scene?

7 A Yes, they are.

8 Q Do you know how many pictures that you took of
9 this crime scene?

10 A Not off the top of my head, no.

11 Q Could you guestimate?

12 A Over 100.

13 Q So, it's not unusual that we're seeing several
14 photographs?

15 A No.

16 MS. HODGE: At this time, we move to admit State's
17 No. 32 through 35?

18 MR. JOHNSTON: Without objection.

19 THE COURT: All right.

20 (STATE'S EXHIBITS NOS. 32 THROUGH 35 RECEIVED INTO
21 EVIDENCE.)

22 BY MS. HODGE:

23 Q State's No. 32.

24 A This is the floor in the kitchen where the mop
25 and broom handles are.

J. DERBY -- DIRECT BY MS. HODGE

1 Q And 33?

2 A And a close-up of the wall behind the mop and
3 broom handles, and shows the projectile hole in the
4 wall.

5 Q Let me show you State's No. 34 and 35.

6 A This is the projectile hole in the kitchen
7 sink -- in the wood below the kitchen sink.

8 Q And 35?

9 A Thirty-five is with the kitchen cabinet door
10 opened up, showing the wood and things on the inside,
11 the projectile.

12 Q Okay. Were you able to recover any projectile
13 from the kitchen sink area?

14 A Yes, I was.

15 Q I'm going to show you State's No. 36.

16 A This is the projectile underneath the sink I
17 located.

18 Q Is it a true and accurate representation of how
19 it was when you found it?

20 A Yes, ma'am.

21 **MS. HODGE:** I move to State's No. 36.

22 **MR. JOHNSTON:** Without objection.

23 **THE COURT:** Okay.

24 (STATE'S EXHIBIT NO. 36 RECEIVED INTO EVIDENCE.)

25

J. DERBY -- DIRECT BY MS. HODGE

1 BY MS. HODGE:

2 Q Can you -- can you say where exactly it is?

3 A It is to the right of that red bucket.

4 Q And that was underneath the cabinet?

5 A Yeah, inside the cabinet.

6 Q I show you State's 37, 38 and 39, what are
7 those pictures of?

8 A This is the kitchen wall with the projectile
9 hole.

10 Q And in relation to the sink, where is the wall?

11 A On the opposite side of that.

12 Q Those are all true and accurate representations
13 of that wall when you took the photos?

14 A Yes.

15 MS. HODGE: I would move to admit State's 37
16 through 39.

17 MR. JOHNSTON: Without objection.

18 THE COURT: Okay.

19 (STATE'S EXHIBITS NOS. 37 THROUGH 39 RECEIVED INTO
20 EVIDENCE.)

21 BY MS. HODGE:

22 Q State's 37 and 38?

23 A These are close-up pictures. It's kind of hard
24 tell a little bit -- but the left one is actually a
25 projectile hole. The right one, at the time, I didn't

J. DERBY -- DIRECT BY MS. HODGE

1 know what it was. It appeared to be some tissue -- I'm
2 sorry fabric, a wad of fabric.

3 Q It looks like two holes.

4 A It does.

5 Q There are not two holes there?

6 A No. One on the left is the projectile hole and
7 the right is the fabric.

8 Q And then 39?

9 A Is an another close-up picture of that, with
10 the scale to show the relationship between the two
11 items, the hole and the fabric.

12 Q Now, why is it important to use that scale?

13 A Just to give us a more accurate representation
14 of it, the actual size of the hole and the stains
15 around the hole.

16 Q Did the kitchen wall have these kinds of stains
17 anywhere else on it?

18 A Not that I -- those are the areas that I really
19 focused on, the ones I could actually see.

20 Q And any other piece of the wall that looked --
21 that had this reddish look or fabric or a hole in it
22 anywhere else?

23 A No, not that I saw.

24 Q All right. What did you eventually do with
25 that section of the wall that you had scaled off?

J. DERBY -- DIRECT BY MS. HODGE

1 A After it was photographed, it was cut away from
2 the wall and then it was collected --

3 **COURT REPORTER:** I'm sorry.

4 **THE WITNESS:** It was cut away from the wall and
5 then it was collected.

6 BY MS. HODGE:

7 Q I show you 40 and 41, do you also go around the
8 entire house?

9 A Yes, I did.

10 Q And what are these photographs of?

11 A This is going to be the back yard of the -- at
12 the kitchen door.

13 Q Are they true and accurate representations of
14 the home as you photographed it that night?

15 A Yes, they are.

16 **MS. HODGE:** I move to admit.

17 **MR. JOHNSTON:** Without objection.

18 **THE COURT:** Okay.

19 (STATE'S EXHIBIT NOS. 40 AND 41 RECEIVED INTO
20 EVIDENCE.)

21 BY MS. HODGE:

22 Q And why is it important to take these
23 photographs?

24 A This is showing the actual scene, all angles
25 from outside to the inside. Showing what I saw at the

J. DERBY -- DIRECT BY MS. HODGE

1 scene.

2 Q Was there anything outside in the back that you
3 collected through the course of processing the scene?

4 A No, I did not.

5 Q State's 42, 43, 44, and 45?

6 A This is the jacket -- the projectile jacket
7 that I found on the kitchen floor. A photograph,
8 again, with the evidence placard as evidence placard E.

9 Q State's 43?

10 A This is the living room, again, with evidence
11 placard C and D next to the cartridge cases that were
12 shown earlier.

13 Q And State's No. 44?

14 A This is overall the living room of -- that you
15 see both C and D cartridge casings. A and B are fabric
16 cloths that I collected that has blood on them.

17 Q And are these true and accurate representations
18 again of your photographs and of the crime scene?

19 A Yes, they are.

20 **MS. HODGE:** We move to admit.

21 **MR. JOHNSTON:** Without objection.

22 **THE COURT:** All right.

23 (STATE'S EXHIBITS NOS. 42 THROUGH 44 RECEIVED INTO
24 EVIDENCE.)

25

J. DERBY -- DIRECT BY MS. HODGE

1 BY MS. HODGE:

2 Q State's 43, State's 44 and State's 42, and you
3 would have collected each item that had a placard
4 beside it as well, independently collected those items?

5 A That's correct.

6 Q State's 45, what is that?

7 A This is a third cartridge casing that was later
8 discovered.

9 Q Again, is this photograph a true and accurate
10 representation?

11 A Yes, it is.

12 **MS. HODGE:** I move to admit.

13 **MR. JOHNSTON:** Without objection.

14 **THE COURT:** Okay.

15 (STATE'S EXHIBITS NO. 45 RECEIVED INTO EVIDENCE.)

16 BY MS. HODGE:

17 Q So in total, three cartridge casings?

18 A Yes.

19 **THE COURT:** What was the number?

20 **MS. HODGE:** State's No. 45.

21 **THE COURT:** Thank you.

22 BY MS. HODGE:

23 Q If you would -- you can have a seat for now.

24 Thank you. So after taking your photographs with the
25 placards, what was your next step?

J. DERBY -- DIRECT BY MS. HODGE

1 A It would be to collect those items.

2 Q And what's the first item you collected?

3 A I'd have to look at my property & evidence
4 sheet to be exact in which one I took.

5 Q Well, let's start with State's No. 46., are you
6 familiar with this item?

7 A Yes, I am. That is packaging that I filled
8 out.

9 Q And tell us -- tell the people what you do --
10 how do you package this stuff? What important things
11 do you put on there?

12 A This is a -- I use the bags that we have
13 stocked in our vehicle or at the crime scene office.
14 The item is collected using gloves, placed into the
15 bag. And on the front of it, it is documented with the
16 case number, item number, the location where I got it
17 from, the address where I got it from. My name,
18 indicating that I found it. And the investigator on
19 the case underneath it. And the top is the date and
20 the time that I collected it.

21 Q And if you want to put on gloves or not put --
22 I'd ask you to pull that item out and see if you can
23 verify for us what that is and if you collected it, and
24 if it's in substantially the same condition as when you
25 collected it? May I ask you a question while you're

J. DERBY -- DIRECT BY MS. HODGE

1 doing that, is this your packaging, this white paper?

2 A No, it's not.

3 Q Where -- do you know where this white paper
4 comes from?

5 A No, ma'am.

6 Q You don't process any of the evidence after you
7 collect it, is that a fair statement?

8 A Depending on the kind of item it is.

9 Q Did you process this item after it was
10 collected?

11 A I did a phenolphthalein test on it.

12 Q And what does that mean?

13 A That is a test for blood.

14 Q And what was your result?

15 A Positive. This appears to be the blanket that
16 I collected from the chair in the living room.

17 Q All right. Other than the section that appears
18 to be cut from here, is it substantially in the same
19 condition as when you collected it?

20 A It appears so, yes.

21 **MS. HODGE:** At this time, we move to admit State's
22 No. 46.

23 **MR. JOHNSTON:** Without objection, Your Honor.

24 **THE COURT:** All right. Thank you.

25 (STATE'S EXHIBIT NO. 46 RECEIVED INTO EVIDENCE.)

J. DERBY -- DIRECT BY MS. HODGE

1 BY MS. HODGE:

2 Q I show you State's No. 47.

3 A This would not be my fact sheet. I fill it out
4 the same way. This is item JD-A I collected. The
5 yellow plain cloth from coffee table. It's filled out
6 the same way as the other one, indicating the case
7 number and what case.

8 Q Did you do any testing on this item of
9 evidence?

10 A Yes, I did. The phenolphthalein that I did on
11 the other one as well.

12 Q Okay. What was the result?

13 A Positive.

14 Q When there are items of evidence that you
15 indicated positive for blood, do those sometimes go on
16 to be tested at DNA laboratories for trace evidence or
17 other types of things?

18 A That is correct.

19 Q And would South Carolina Law Enforcement
20 Division do that?

21 A At that time, yes. It was sent off to the lab.

22 Q Now, do we have our own lab in Greenville?

23 A Yes.

24 Q But back in 19 -- excuse me -- 2009, SLED was
25 the one?

J. DERBY -- DIRECT BY MS. HODGE

1 A That's correct.

2 Q It is substantially in the same condition as
3 when you collected it aside from the cutting?

4 A Aside from the cutting out part, yes, it is.

5 MS. HODGE: Mr. Johnston, do you want to take a
6 peak?

7 MR. JOHNSTON: Without objection.

8 MS. HODGE: We move to admit.

9 THE COURT: All right.

10 (STATE'S EXHIBIT NO. 47 RECEIVED INTO EVIDENCE.)

11 BY MS. HODGE:

12 Q Those items, were they photographed -- one of
13 the pictures we have already shown?

14 A That's correct.

15 Q And where were they? What room were they in?

16 A The living room.

17 Q Let me show you State's No. 48, tell me what
18 that is?

19 A This is our packaging container for
20 projectiles. And it is filled out with my
21 documentation of the scene and item number is JD-E --
22 JD-E. Sorry. Inspected for projectile jacket, and
23 inside that was later determined to have blood and
24 possible tissue.

25 Q I show you State's No. 42 photograph, is that

J. DERBY -- DIRECT BY MS. HODGE

1 the same item?

2 A Yes, it is.

3 Q And if you wouldn't mind opening that up for
4 me. Is the item in here?

5 A Yes, it is.

6 Q Is it in substantially the same condition as
7 when you collected it?

8 A Yes, it is.

9 Q How about that piece of paper?

10 A This would probably be the packaging that it
11 was in --

12 MS. HODGE: Okay. We would move to admit State's
13 No. 48.

14 MR. JOHNSTON: Without objection.

15 THE COURT: All right.

16 (STATE'S EXHIBIT NO. 48 RECEIVED INTO EVIDENCE.)

17 BY MS. HODGE:

18 Q Hold it up, I don't know if they will be able
19 to see it or not. I'll certainly show it around as
20 well. If you'll just hold the little jacket up.
21 State's No. 49, what is State's No. 49?

22 A This is another packaging container we have.
23 And it packaged with my documentation illustrating item
24 JD-F. It's a projectile inside cabinet under sink, one
25 side -- underneath the kitchen sink.

J. DERBY -- DIRECT BY MS. HODGE

1 Q Open that up. And, again, it has the paper for
2 protection and it appears to be in the same -- the same
3 condition as when you collected it?

4 A Correct.

5 MS. HODGE: All right. At this time, we would
6 move to admit State's No. 49.

7 MR. JOHNSTON: No objection.

8 THE COURT: Okay.

9 (STATE'S EXHIBIT NO. 49 RECEIVED INTO EVIDENCE.)

10 BY MS. HODGE:

11 Q If you could hold that one up. I show you
12 State's No. 36, is this the same item?

13 A Yes, it is.

14 Q Let me show you State's No. 50, what is that?

15 A This is an coin envelop we use for cartridge
16 casings. It's my documentation on the outside,
17 illustrating item JD-D, just cartridge casing on living
18 room floor. Also indicating the head stand (ph) of the
19 Winchester 40 Smith & Wesson, S&W.

20 Q Okay. Open that up. Is it in the same
21 condition as when you collected it?

22 A Yes.

23 MS. HODGE: Okay. We move to admit State's No.
24 50.

25 MR. JOHNSTON: Without objection.

J. DERBY -- DIRECT BY MS. HODGE

1 **THE COURT:** Okay.

2 (STATE'S EXHIBIT NO. 50 RECEIVED INTO EVIDENCE.)

3 BY MS. HODGE:

4 Q Would you just hold that up for us. And what
5 caliber is this?

6 A .40 caliber.

7 Q I'm showing you State's No. 51, what is that?

8 A Another coin envelope, with a -- that I
9 collected with my documentation illustrating JD-C
10 cartridge casing on the living room floor, with head
11 stand Winchester .40 S&W.

12 Q Let us know if that's in substantially the same
13 condition as when you collected it?

14 A It is.

15 **MS. HODGE:** Thank you. I move to admit State's
16 No. 51.

17 **MR. JOHNSTON:** No objection.

18 **THE COURT:** All right.

19 (STATE'S EXHIBIT NO. 51 RECEIVED INTO EVIDENCE.)

20 BY MS. HODGE:

21 Q I'm showing you State's 52, what is that?

22 A This is another coin envelope, with my
23 documentation on the outside indicating item JD-H,
24 which is cartridge casing on living room floor. Head
25 stand is different, this is Federal 380 auto. This was

J. DERBY -- DIRECT BY MS. HODGE

1 located on the green rug.

2 Q Is it in substantially the same condition?

3 A Yes, I believe so.

4 Q So that's from a different caliber than these?

5 A That's correct.

6 **MS. HODGE:** I'm asking to admit State's No. 52.

7 **MR. JOHNSTON:** No objection.

8 **THE COURT:** Okay.

9 (STATE'S EXHIBIT NO. 52 RECEIVED INTO EVIDENCE.)

10 BY MS. HODGE:

11 Q Did you attempt to determine any type of
12 directionality of shots that could have been possibly
13 fired where one person had been standing in relation to
14 another one or anything along those lines?

15 A Yes, I did.

16 Q Okay. How did you go about doing that? What
17 did you do?

18 A To determine kind of flight path or angling of
19 a projectile, we use trajectory rods, which those are
20 inserted into holes. You have to have a conversion
21 point, meaning that if you have a wall with a hole in
22 it, you have to have another point to be able to
23 determine the angle actually -- where it actually ended
24 up striking another object.

25 Q Did you come to any conclusions regarding that?

J. DERBY -- DIRECT BY MS. HODGE

1 A We -- I was able to insert a trajectory rod
2 into the black trash can, trash bag in the corner of --
3 with the washing machine. Later, that -- it was
4 determined, to keep on traveling towards the mop handle
5 in the corner of the kitchen.

6 Q Were you able to determine from the corner of
7 the kitchen through the trash bag, to where that would
8 have continued on out?

9 A In the angle where it was going, yes. It was
10 going towards the actual wall where that projectile
11 hole and that fabric mark was on the actual kitchen
12 wall, in that general area.

13 Q And how about the one, the projectile hole at
14 the kitchen sink, the cabinet there, in relation to the
15 hole in the wall of the kitchen?

16 A I was not able to insert a rod in there at the
17 time. That projectile hole was made and actually
18 closed back up. I didn't try to force anything into
19 that hole.

20 Q Did you collect that portion of the wall that
21 had the hole in it?

22 A Yes, I did.

23 Q And why did you think that was important?

24 A Due to the items that were on the outside of
25 the wall, the suspected blood that we observed on

J. DERBY -- DIRECT BY MS. HODGE

1 there, fabric on there as well, to get DNA off that
2 wall section.

3 Q I'm going to show you State's No. 53, and tell
4 us what that is please.

5 A This is actually a packaging box that we use to
6 package larger items. It is documented on the outside,
7 the same as the other ones, this one indicating JD-G,
8 which is a section of wall from kitchen, containing
9 suspected projectile holes, suspected fabric and
10 suspected body tissue.

11 Q If you would, open that up and let me know if
12 that's in substantially the same condition.

13 A It's wrapped with the paper.

14 Q Was that from another agency?

15 A That's correct. This is not -- mine was here
16 at the bottom of the box with tape on the corners.

17 Q Now, there are some markings on here. Did you
18 make the pen markings on this item?

19 A No, I did not.

20 Q Other than those pen markings, is that in
21 substantially the same condition?

22 A The wall section, yes. It's obviously
23 deteriorated over time, the actual substance now -- the
24 coloring of it.

25 Q And how about -- you stated there was

J. DERBY -- DIRECT BY MS. HODGE

1 something -- suspected fabric, is that on here any
2 more?

3 A It appears to be a small possible trace of it.
4 The item was actually next to the projectile hole. The
5 majority of it is not there.

6 Q Did you do any testing on this piece of
7 evidence?

8 A No, I did not.

9 Q And would that be something that would go to
10 SLED?

11 A That's correct.

12 Q For the testing?

13 A That's correct.

14 **MS. HODGE:** At this time, we would move to admit
15 State's No. 53.

16 **MR. JOHNSTON:** Without objection.

17 **THE COURT:** Okay.

18 (STATE'S EXHIBIT NO. 53 RECEIVED INTO EVIDENCE.)

19 **MS. HODGE:** If you would please hold that up for
20 the jury can see. Front and back as well.

21 **THE WITNESS:** This is the front section. And the
22 back section and the interior of the wall.

23 BY MS. HODGE:

24 Q Okay. All right. Is that same section of wall
25 that is shown in State's No. 39?

J. DERBY -- DIRECT BY MS. HODGE

1 A Yes, it is.

2 Q After you collected the items that we have just
3 gone through at the scene and done your photographs, is
4 there anything else that you do at the scene?

5 A Also look for potential latent fingerprints, to
6 process items on the scene that we feel might have been
7 touched or handled by individuals inside the house.

8 Q And what's the difference -- when you say a
9 latent fingerprint, what does that mean?

10 A It's a fingerprint -- a recording of the inner
11 side of the hand or the finger that is left there by
12 chance.

13 Q And does it automatically mean if I touch this,
14 I've just left my fingerprints on that?

15 A Not necessarily.

16 Q And why is that?

17 A There's a lot of variables that play into the
18 possibility of an actual recording of the inner side of
19 the finger. Depending on how -- if a person sweats a
20 lot, or doesn't sweat, the condition of the item you're
21 touching, the way you touch it, and weather conditions.
22 it's also a possibility that a person was wearing
23 gloves at the time, that touch would not leave a
24 fingerprint behind.

25 Q And are there different -- is it possible to

J. DERBY -- DIRECT BY MS. HODGE

1 leave partial or only a little bit of a print behind?

2 A That's normally what you get with latent
3 fingerprints. A lot of times people touch things, down
4 the side, or barely touch it and barely touching the
5 inside of the finger. And also you're touching items,
6 you're not actually pressing down or move your hand
7 across. That's another reason to get partials.

8 Q And when you or -- or a forensic technician,
9 you are lifting up latents prints on items or
10 attempting?

11 A That's correct.

12 Q You would not actually be the person to sit
13 down and try to analyze if that matched a print or not
14 to someone's print, is that correct?

15 A That's correct. We would not do that.

16 Q And who would do that?

17 A Our latent division does that.

18 Q Do the prints have to be of a certain quality
19 for them to even be able to attempt to make a match?

20 A Yes. We determine if that print is actually
21 good for comparison. And then once that is sent up to
22 the latent division, they make the final decision, if
23 that's actually comparable or not comparable.

24 Q And did you find any prints that you thought
25 might be comparable or have sufficient detail for

J. DERBY -- DIRECT BY MS. HODGE

1 comparisons?

2 A Yes, I did.

3 Q And where were those?

4 A The front porch glass storm door, the second
5 picture that was shown.

6 Q And did you find any other areas in the house
7 that you thought would be suitable?

8 A Correct. The front door, the actual door, and
9 the back door.

10 Q Tell us what else you would have done at the
11 crime scene after that?

12 A After collecting and photographing and
13 processing the prints, I would do another walk through
14 to make sure everything that I feel is essentially done
15 for my part. Then I would tell that to the crime scene
16 office and package my evidence up.

17 Q Where is the crime scene office?

18 A Our actual crime scene office is located on
19 Winterberry Court, which is Greenville Tec Campus, main
20 campus.

21 Q What do you do -- or what did you do with these
22 items once you got there?

23 A Those are another date I did that. Because I
24 was on night shift on this case, and this went all the
25 way up to my -- the time I was off for a day. On my

J. DERBY -- DIRECT BY MS. HODGE

1 next day on, I believe, I processed the items such as
2 the cartridge casings, the handgun that was located in
3 the living room. Those are then processed for prints
4 with chemicals.

5 The clothing items with suspected blood were
6 processed with the phenolphthalein, for suspected
7 blood. And the shirts were documented, that belonged
8 to the victim, showing the projectile holes.

9 Q Okay. State's No. 23, which is already in
10 evidence, is that the shirt that you processed?

11 A Photographed.

12 Q Photographed?

13 A Yes.

14 Q Oh, okay. Did you do a phenolphthalein test on
15 the shirt?

16 A I don't believe I did.

17 Q And do you know whose shirt this was?

18 A I believe that was the victim's shirt.

19 Q You say you processed the shell casings --
20 excuse me -- the cartridge casings, you processed
21 those. What do you process those for?

22 A Potential for fingerprints, latent
23 fingerprints.

24 Q Were you able to develop any latent prints off
25 of those?

J. DERBY -- DIRECT BY MS. HODGE

1 A No, I was not.

2 Q Is that unusual?

3 A For cartridge casings, no. That is not
4 unusual.

5 Q And tell us about the bullet jacket specimen.
6 What did you do with that, which is State's No. 48,
7 would have been JD-E?

8 A That was brought back to our lab and unpackaged
9 and laid out on clean butcher paper. I used special
10 lighting on the sides to actually look inside in the
11 actual jacket, which later turned the possible
12 suspected tissue or fabric inside that jacket.

13 Q I'm going to show you State's No. 54. Can you
14 tell me what that is?

15 A The packaging is different. It is an
16 indication that it went to somewhere else. It's going
17 to be SLED. And this is going to be a swab container,
18 which we package up our swabs with. And on the
19 outside, it's actually written my documentation of the
20 incident location, where it was collected, which would
21 be the crime scene office. The identification number,
22 which is going to be JD-1, and contains swabs of
23 suspected blood and tissue from item JD-E.

24 Q So you swabbed this item?

25 A That's correct.

J. DERBY -- DIRECT BY MS. HODGE

1 Q Is the swab still in there?

2 A There is a swab in there, yes.

3 Q How many swabs do you do?

4 A One for an item this size.

5 Q Okay. If you want to pull it out, is that in
6 substantially the same condition as when you collected
7 it?

8 A Yes, it appears so.

9 Q And that's pretty much a Q-tip?

10 A It's what -- it is a sterile Q-tip that we use
11 with the actual cotton swab on one end. Some come in
12 the actual plastic container, that helps with the
13 drying process and it keeps it from touching the inside
14 of the packaging. It all comes this way. We have
15 different suppliers we use.

16 Q And then you package it up?

17 A That's correct. Once we have collected the
18 sample, it's placed back in here and actually placed in
19 its own individual packaging box.

20 **MS. HODGE:** At this time, we move to admit State's
21 No. 54.

22 **MR. JOHNSTON:** No objection, Your Honor.

23 **THE COURT:** All right.

24 (STATE'S EXHIBIT NO. 54 RECEIVED INTO EVIDENCE.)
25

J. DERBY -- DIRECT BY MS. HODGE

1 BY MS. HODGE:

2 Q After collecting the swab from the bullet
3 jacket, what else were you asked to do in this case if
4 anything?

5 A I think -- I believe later, I was asked to
6 process some more items for latent fingerprints that
7 were collected from one of the investigators.

8 Q And what were those items?

9 A The note pad, the miscellaneous papers,
10 greeting cards.

11 Q Do you know where they came from?

12 A No, I do not.

13 Q How did they come into your possession?

14 A They were collected from an investigator, which
15 is normally what they do sometimes. They'll come back
16 to the scene and find more things to process after
17 talking to victims. Those were collected by them
18 sometimes. If not, they will call us out and we will
19 collect them. In this case, an investigator collected
20 these and sent it to our office to be processed for
21 latent prints.

22 Q Were you able to develop some latent prints to
23 send up to the analysis division?

24 A Yes, I was.

25 Q You're not the person that is going to be

J. DERBY -- CROSS BY MR. JOHNSTON

1 making any comparisons or trying to match those prints?

2 A No, I am not.

3 Q After you were asked to do that on -- what
4 items were you asked to processed, paper? Is that what
5 you said?

6 A Notebook paper. I think a beer can, greeting
7 cards and miscellaneous papers.

8 Q After that, did that end your involvement in
9 the case or did you do anything else?

10 A I believe that's it.

11 **MS. HODGE:** All right. Please answer any of the
12 defense's questions.

13 CROSS EXAMINATION BY MR. JOHNSTON:

14 Q Different guns have different calibers, is that
15 correct, sir?

16 A Yes.

17 Q And there are many gun manufacturers?

18 A Yes.

19 Q And different gun manufacturers may have many
20 different models of a particular, for example, handgun?

21 A Yes.

22 Q And they may also make rifles or shot guns or
23 other firearms as well?

24 A Yes, sir.

25 Q Now, you can't shoot a caliber bullet -- a

J. DERBY -- CROSS BY MR. JOHNSTON

1 different caliber bullet in the wrong handgun, is that
2 fair to say?

3 A It's not a --

4 Q Well, it could -- it's possible?

5 A Correct.

6 Q But it's not recommended?

7 A That's correct.

8 Q Because?

9 A It's not suited for that either chamber or
10 magazine.

11 Q And what could happen if that were to happen,
12 if one were to do that?

13 A It could either not fire or misfire.

14 Q Or blow up somehow?

15 A That's correct, as well.

16 Q So, is it fair to say that the most common
17 practice is to shoot bullets of a caliber, which are
18 appropriate for the particular firearm that's being
19 deployed?

20 A Yes, that's correct.

21 Q What kind of gun do you have?

22 A I have a 40 caliber Glock.

23 Q And you would only use 40 caliber ammunition in
24 that firearm, is that fair to say?

25 A That's correct.

J. DERBY -- CROSS BY MR. JOHNSTON

1 Q Okay. Now, in this particular case, you
2 collected shell casings of two different calibers, is
3 that right?

4 A That's correct.

5 Q Okay. And do you remember how many of each?

6 A The ones on the floor?

7 Q Yes.

8 A Three total.

9 Q All right. I'm showing you what has been
10 marked as State's Exhibit No. 50, State's Exhibit No.
11 51 and State's Exhibit No. 52, just eye ball those for
12 me a second and look inside. Am I correct in saying
13 that those are the three shell casings that you
14 collected at the scene?

15 A Yes, sir.

16 Q Now, there are two basic different kinds of
17 handguns, right, revolvers and semiautomatics?

18 A Yes, sir.

19 Q A fair statement?

20 A Yes, sir.

21 Q Now, if I have a revolver, that's one of those
22 that has a revolving cylinder, hence the term revolver?

23 A Yes, sir.

24 Q Am I correct?

25 A Yes, sir.

J. DERBY -- CROSS BY MR. JOHNSTON

1 Q Now, if I have a revolver and I fire the
2 revolver, where does the shell casing go?

3 A It stays inside the actual revolver cylinder.

4 Q It is not automatically ejected?

5 A No. It has to be manually ejected.

6 Q It only comes out when I slide the button, pop
7 the cylinder out and somehow choose to eject the shell
8 casing?

9 A That is correct.

10 Q Now, that's not the way a semiautomatic handgun
11 works, is it?

12 A No, sir.

13 Q A semiautomatic handgun, when I fire it, what
14 happens to that shell casing if the gun is working
15 right?

16 A If it's working functionally correctly, it
17 should eject it out of the ejector fork.

18 Q Okay. Now, generally the ejector fork is on
19 one side or other of the handgun?

20 A That's correct.

21 Q Of the semiautomatic handgun?

22 A Correct.

23 Q So based on just general principals of physics,
24 it's going to fly out the side that it's located on?

25 A That's correct.

J. DERBY -- CROSS BY MR. JOHNSTON

1 Q Okay. So, it's going to fly out the side that
2 it's located on -- if the hole is on the right hand
3 side, it's going to fly to the right. If the hole is
4 on the left-hand side, it's going to fly to the left?

5 A Yes, sir. That's correct.

6 Q And it's also possible, these objects being
7 round, that once they hit the floor, they can roll,
8 right?

9 A That's correct.

10 Q They could bounce?

11 A That's correct.

12 Q Or if somebody is walking along and they kick
13 them or something like that, they can move even after
14 they are ejected?

15 A That's correct.

16 Q Tell me which one of these three is the 380?
17 Just double check that for me. Because I -- your
18 writing is so small I --

19 A This is the one with the 380.

20 Q And that came out of bag number 52, so that's
21 Exhibit 52?

22 A Correct. It's on the outside.

23 Q Yes. Let's put it back in the bag so we don't
24 get it mixed up. Now, the other two, will you confirm
25 that they are the 40 calibers?

J. DERBY -- CROSS BY MR. JOHNSTON

1 A Yes. On --

2 Q Fifty?

3 A Fifty.

4 Q Fifty is a 40 caliber?

5 A Correct. And Exhibit 51 is also a 40 caliber.

6 Q All right. And both of those are brass
7 colored, am I correct?

8 A Yes, sir.

9 Q And the 380, it's more of a silver color?

10 A Yes, sir.

11 Q Right?

12 A Yes, sir.

13 Q And it's a little bit smaller?

14 A That's correct.

15 Q Than the 40 caliber?

16 A Yes.

17 Q Now, where was the 40 caliber found, do you
18 remember?

19 A The living room floor.

20 Q The living room floor. And that wouldn't be
21 much of a stretch if the person firing the 40 caliber
22 bullet -- I'm showing you number 43 -- if you would
23 just come down just a second, sir. If the person
24 firing the 40 caliber is here, it's not much of a
25 stretch to think that his shell casings are going to

J. DERBY -- CROSS BY MR. JOHNSTON

1 perhaps go into the living room?

2 A If the ejector fork is on the right side.

3 Q The ejector fork is on the right side.

4 A He's holding it straight up, then it's
5 possible.

6 Q Well isn't that probably the most likely thing?

7 A More if you are going to the left side.

8 Q If the ejector fork is located on the right?

9 A Correct.

10 Q Now, what was E in that picture, do you
11 remember?

12 A I believe that's going to be the jacket.

13 Q That's the jacket, which is not the casing?

14 A No, sir.

15 Q Now, what is D?

16 A That is the cartridge casing.

17 Q For which caliber?

18 A Forty.

19 Q How about C?

20 A The same, 40.

21 Q The 40. Now, do we have a photograph -- do you
22 remember what number it was that you found that you
23 marked the 380 with?

24 A That one --

25 Q You feel free to look through here and when you

J. DERBY -- CROSS BY MR. JOHNSTON

1 see it, just let me know. Right. I recognize this
2 one, but I'm looking for one that has a further out
3 perspective?

4 A This one was not photographed with the actual
5 placard.

6 Q It didn't have one of those little letters on
7 it?

8 A No, sir, it did not.

9 Q Okay. Well, we're looking here at State's
10 Exhibit No. 45. Now, I'm showing you State's Exhibit
11 No. 43, do you see this kind of like little throw rug?

12 A Yes, sir.

13 Q Little green throw rug?

14 A Yes, sir.

15 Q Is that the same green throw rug as in 45?

16 A Yes, sir, it is.

17 Q Okay. So our friend, the 380 shell casing, was
18 found somewhere on this rug?

19 A Yes, sir.

20 Q Because we see the rug?

21 A Yes, sir.

22 Q It wasn't found in that little corner there?

23 A No, sir.

24 Q So it has got to be somewhere else on the
25 right?

J. DERBY -- CROSS BY MR. JOHNSTON

1 A Yes, sir, that's correct.

2 Q Please return to your seat. I'm showing you
3 now State's Exhibit No. 22, do you recognize that?

4 A No, sir.

5 Q Okay. That's fine. You processed all of the
6 guns that were found and all of the shell casings that
7 were found for latent prints?

8 A From the scene.

9 Q From the scene?

10 A Yes, sir.

11 Q That came out of the truck, so perhaps you
12 didn't do that?

13 A I had nothing to do with the actual vehicle.

14 Q Nothing to do with the truck, okay. So from
15 the house, you processed all of the firearms and all of
16 the shell casings that were located to see if there
17 were any latent prints?

18 A Correct. The ones I collected from the scene,
19 were processed.

20 Q And you found no latent prints?

21 A That's correct.

22 Q On those items?

23 A That's correct.

24 Q The fabric that was on the wall, where is that?

25 A I'm sorry?

J. DERBY -- CROSS BY MR. JOHNSTON

1 Q Didn't you say that on this -- I'm showing you
2 State's Exhibit 53, this is the white box, I opened it
3 up, and I guess that's a piece of -- I don't know, wood
4 or some paneling?

5 A Yes, sir.

6 Q Was there -- did I hear you say there was
7 fabric on here?

8 A The section I was -- that was taken from the
9 actual scene had a black ball of -- suspected fabric.
10 That would -- should be right there.

11 Q Where is it?

12 A That would be normally sent to our agency,
13 which would be SLED.

14 Q Okay. Well, do you have any documentation that
15 you sent that anywhere, the fabric?

16 A No, sir.

17 Q Well, you would make documentation -- I mean
18 all other stuff is very carefully documented?

19 A Correct.

20 Q Where is the documentation about the fabric?

21 A It's on my P & E sheet.

22 Q Okay. Well, what did you do with it?

23 A The item was packaged as it was at scene.

24 Q Yes, sir.

25 A And the possible bodily fluid or suspected

1 blood with fabric, the item was then placed into a
2 packaging box as what he's holding, and then there it
3 was sent to our property and evidence section.

4 Q Okay. So you didn't make separate
5 documentation of the fabric, is that what you're
6 telling me?

7 A I described that item the way it was on the
8 scene.

9 Q All right. Well, you don't see any fabric on
10 there now, do you?

11 A I thought I saw a very small --

12 Q Okay. Well, I want you to look at this real
13 careful because I'm not seeing it.

14 A I believe that could be --

15 Q Okay. Those little things there?

16 A Yes.

17 Q Okay. Now, how did this happen on the back, on
18 this other place here?

19 A That I do not know.

20 Q Okay. You would agree that this indentation,
21 or whatever it is, corresponds to the front where the
22 suspected fabric is?

23 A That's correct.

24 **MR. JOHNSTON:** Okay. Please answer other
25 questions.

D. SHAW -- DIRECT BY MS. HODGE

1 **MS. HODGE:** Nothing else of this witness.

2 **THE COURT:** All right. Thank you, sir. You may
3 stand down. Can we release him?

4 **MR. JOHNSTON:** We have no objection to him being
5 excused.

6 **THE COURT:** All right. You can be released from
7 your subpoena. We're going to take a break.

8 **MS. HODGE:** Oh, did you want to do that.

9 **THE COURT:** Yes. All right. Ladies and
10 gentlemen, we've been going for a little while. It's
11 probably a good time for a morning break. So y'all you
12 don't discuss the case, and we'll get back to you
13 shortly. Thank you.

14 (Whereupon, the jury left the courtroom at
15 10:53 a.m.)

16 **THE COURT:** Okay. Let's take a short break.

17 (After a recess, court reconvened.)

18 (Whereupon, the jury entered the courtroom at
19 11:16 a.m.)

20 **MS. HODGE:** Darwin Shaw.

21 DARWIN SHAW, having been first
22 duly sworn, testified as follows:

23 **THE CLERK:** Please state your full name for the
24 record.

25 **THE WITNESS:** Darwin Shaw, S-h-a-w.

D. SHAW -- DIRECT BY MS. HODGE

1 DIRECT EXAMINATION BY MS. HODGE:

2 Q Sergeant Shaw, who do you work for?

3 A The Department of Public Safety Forensics
4 Division.

5 Q And who does the Department of Public Safety
6 service?

7 A We service all municipalities, Greenville
8 County, Greenville City, all the municipalities within
9 Greenville County.

10 Q And how long have you been with forensics or
11 the Department of Public Safety?

12 A Almost 13 and a half years.

13 Q Do you have some prior law enforcement
14 experience?

15 A I do. Twenty-one years with another
16 Department, seven years as a road officer, and 14 and a
17 half years as an investigator.

18 Q What are your current duties right now with the
19 Department of Public Safety?

20 A I'm a Sergeant, so I have supervisory duties,
21 which is to correct reports and so on. But I'm also
22 the working supervisor, so I go out and answer calls,
23 like the other technicians, and I go out to assist
24 other technicians who respond to crime scenes.

25 Q Officer John Derby, is he under you?

D. SHAW -- DIRECT BY MS. HODGE

1 A Yes, ma'am, he is.

2 Q Your supervision?

3 A Yes.

4 Q And what types of training and educational
5 background do you have in your your job?

6 A I have numerous schools I have attended,
7 homicide investigations, firearms. I've been a
8 firearms instructor for ten years -- or I was. I have
9 gone to shooting reconstruction schools. Numerous
10 schools that I have attended, and plus going on 35
11 years of experience.

12 Q And I'm guessing, is there some continuing
13 education that the Department of Public Safety likes
14 y'all to do to keep up current with things?

15 A Yes, ma'am.

16 Q Okay. And were you appointed as the Sergeant
17 in forensics back in July 27th of 2009?

18 A Yes.

19 Q Did you get a call to respond to the incident
20 location on the night of this incident?

21 A On the 9th?

22 Q On the night -- on the actual date in July?

23 A I'm sorry. No. No, I was not.

24 Q How did you become involved in this case, when
25 was your first involvement?

D. SHAW -- DIRECT BY MS. HODGE

1 A I was called and asked to respond to the Law
2 Enforcement Center to conduct a gunshot residue test on
3 an individual.

4 Q And who was that?

5 A I'd to have to refresh my memory.

6 Q Okay. Your report actually is -- the property
7 and evidence sheet?

8 A It was a Rikki Danielle Edwards.

9 Q Did you know what her role in this incident was
10 at that time?

11 A My understanding was that she was at the
12 residence where a shooting had taken place.

13 Q And what were you doing with regard to Ms.
14 Edwards?

15 A I did a gunshot residue test.

16 Q And what is that?

17 A That is a presumptive test to see if there are
18 components present on a person's hands. There is
19 antimony, barium and lead are three items that are
20 together if a weapon has been discharged or if they've
21 been -- had contact with a weapon.

22 And there are two different parts of the
23 examination, one is the called the cadaver -- excuse
24 me -- where you take a small canister that has a sticky
25 tab on it, you dab the palm of the hand. Each one is

D. SHAW -- DIRECT BY MS. HODGE

1 -- each canister is labeled. One is left palm, left
2 back, right palm and right back. So you do those four.

3 And then there is a second test, which is the
4 atomic absorption, where you use a Q-tip with nitric
5 acid and water and actually swab the same areas of the
6 hands.

7 Q And do you know what time it was when you did
8 the gunshot residue test on Ms. Edwards?

9 A I believe it was about five minutes to 7:00.

10 Q AM or PM?

11 A AM.

12 Q And do you know what time the incident -- the
13 shooting incident actually occurred?

14 A No, ma'am, I don't.

15 Q And did you package -- how did -- what do you
16 do with the cadavers and swabs and all that kind of
17 stuff?

18 A We have to fill out a sheet that indicates what
19 the -- why the test was being conducted, who it was
20 conducted on, and that all gets enclosed into a card
21 board box. And it's sealed and then put into property
22 and evidence.

23 Q Did you do that with this kit on Ms. Edwards?

24 A Yes, I did.

25 Q And are you responsible for testing the

D. SHAW -- DIRECT BY MS. HODGE

1 contents of the kit or do you leave it in property and
2 evidence?

3 A It goes to property and evidence. I collect it
4 only.

5 Q Who would process a gunshot residue kit?

6 A Normally SLED.

7 Q Was that all that you did on the night of the
8 shooting, on July 27, 2009 -- or excuse me -- the early
9 morning hours of July 27, 2009?

10 A Yes.

11 Q What was your next involvement in this case?

12 A I was contacted by Investigator Miller with the
13 Sheriff's Office, and he asked if somebody would be
14 available to respond back out to an address on Memorial
15 Drive Extension in regards to a shooting incident that
16 happened a few days prior.

17 Q Do you recall what day it was that you went
18 back out to the scene or that incident location?

19 A The 31st of July.

20 Q And what exactly were you out there to do, do
21 you remember?

22 A I told them that I would go out with him to see
23 if I could find any other potential evidence or
24 possibly try to determine where shots had been fired
25 from in regards to the shooting incident.

D. SHAW -- DIRECT BY MS. HODGE

1 Q And when -- when did you go there? I'm sorry.

2 A I believe it was about 9:00 in the morning on
3 the 31st.

4 Q Was anyone else out there at that time?

5 A The owner of the property, I think it was Mr.
6 Wooten was the name given, he owned the residence and
7 he was there. He had a key to allow us in.

8 Q Did you bring any items of evidence with you
9 that had been previously collected?

10 A Yes, I did.

11 Q And what was that and tell us why you did that?

12 A There was a small section of wall that had --
13 appeared to be a projectile hole in it. And also it
14 looked like it had tissue. I'm talking -- when I say
15 "tissue", I'm talking skin. I had taken that out to
16 try to assist with trying to determine if there was a
17 projectile that had not been recovered from that part
18 of the wall, so I needed to put it back in place so I
19 can try to determine which direction it was traveling.

20 Q Okay. While she's working on those, let me
21 show you State's No. 53; is this the item you are
22 referring to, that you took back...?

23 A Yes, it is.

24 Q And at that time, did you remove it from the
25 box in the packaging?

D. SHAW -- DIRECT BY MS. HODGE

1 A I did. It wasn't at that time, it was a short
2 time later because I was shown some -- where there was
3 some projectile holes, one was like under a sink in the
4 wood. There was also another projectile hole near the
5 back door, down towards the corner. And before I put
6 that in, I tried to determine the path the projectile
7 would have taken from the hole in the wall where that
8 would have -- that bullet may have come from.

9 Q And were you able to make some conclusions
10 regarding that?

11 A Yes.

12 Q All right. And what did you conclude?

13 A Inserting a trajectory rod into the hole in
14 the -- in the bottom of the wall, I had a laser
15 attachment that shoots a red beam, as any laser --
16 laser does. And it pointed back into an area where
17 this section of wall had been taken out of.

18 Q All right. Were you able to determine a -- a
19 path or an angle?

20 A From there, I didn't -- I didn't try to
21 determine the -- an angle. I was interested in the
22 path that that projectile would have taken to see if it
23 would -- could have come from the living room or where
24 that particular projectile would have originated from.

25 Q So you're saying it came from the general area

D. SHAW -- DIRECT BY MS. HODGE

1 of the sink to the wall --

2 **MR. JOHNSTON:** Object to the leading, Your Honor.

3 **THE COURT:** Don't lead.

4 BY MS. HODGE:

5 Q Could you restate that for me?

6 A Where this section was taken from the wall,
7 it's at the opposite end of the kitchen is where the
8 projectile was at. When I followed the trajectory from
9 the hole in the corner, it originated back to the wall,
10 not where the sink was at, but the wall farther back
11 where this section was cut out from -- and my
12 understanding was where the suspect was standing.

13 Q And is -- I'm showing you State's No. 12, is
14 this the area that you're speaking of, the sink area?

15 A That is the sink area, but that's not the
16 location of where the trajectory path was to. It was
17 actually to the opposite wall across from the sink.

18 Q On this side?

19 A On this side.

20 Q Oh, this side. I apologize. All right. Had
21 you -- you said you used a trajectory rod, I'm going to
22 show you State's No. 59; is that what you're speaking
23 of?

24 A Yes. That's a trajectory rod. It's just a
25 nylon rod that is a straight -- it gives you a straight

D. SHAW -- DIRECT BY MS. HODGE

1 line. And then you can screw an attachment on the end
2 that has a laser pointer, which then would project the
3 distance. If it was a straight -- a straight angle, it
4 would go straight out from the end of the trajectory
5 rod, out to where it would impact on the wall.

6 Q Did you then take photographs of the placement
7 of the trajectory rod?

8 A Yes, I did.

9 Q And is that a photograph also that you took --
10 I'm showing you State's No. 61?

11 A This is a photograph that I took, yes.

12 Q Okay. And are those true and accurate
13 representations of what you were observing at the time,
14 the projectile holes in those two areas?

15 A The only exception is with the laser dot, this
16 dot coincided with the hole in the wall, not the one
17 from the sink.

18 Q Let me show you State's No. 60.

19 A That's correct.

20 Q That's it. All right.

21 A Yes, ma'am.

22 Q So when you say the "hole in the wall", tell
23 the jury where is the hole in the wall?

24 A If I -- if my back is towards the solid wall,
25 directly in front of me would be the sink, over to the

D. SHAW -- DIRECT BY MS. HODGE

1 left was the door that entered out the back of the
2 house. On the bottom corner, by the rear door, is
3 where the hole was at that I found.

4 Q I'm going to show you what's State's No. 16.
5 And where is the hole that you're speaking of?

6 A This hole is actually behind the door. If the
7 door were closed, it would be in the corner behind that
8 door.

9 MS. HODGE: Okay. I move to admit State's No. 61
10 and 60.

11 MR. JOHNSTON: Without objection.

12 THE COURT: Okay.

13 (STATE'S EXHIBITS NOS. 60 AND 61 RECEIVED INTO
14 EVIDENCE.)

15 BY MS. HODGE:

16 Q Let's look at State's No. 59, did you take that
17 photograph?

18 A Yes, I did.

19 Q Okay. And where did that laser pointer show
20 up? Where does that laser line follow through to show?

21 A It was -- it was in the same -- the same area
22 as the hole in the back wall there. From my
23 understanding from investigator Miller, where the
24 suspect was standing.

25 Q Was that where this piece of wall also had been

D. SHAW -- DIRECT BY MS. HODGE

1 removed from that general vicinity?

2 A That's correct.

3 **MS. HODGE:** We move to admit State's No. 59.

4 **MR. JOHNSTON:** Without objection.

5 **THE COURT:** All right.

6 (STATE'S EXHIBIT NO. 59 RECEIVED INTO EVIDENCE.)

7 BY MS. HODGE:

8 Q Did you find any other evidence of projectiles
9 or anything of the sort and collect those at this time?

10 A Yes, I did.

11 Q Okay. Tell us about that.

12 A Where -- where that small section of wall had
13 been taken out, it was -- it was too small of an area
14 to try to find a projectile behind it. So I cut out a
15 larger area of the wall behind that. Behind that wall
16 was a black fiber board. And I started breaking pieces
17 of that black fiber board away, and I found a
18 projectile down inside, between the black fiber board
19 and a brick wall, which separated the bathroom from the
20 kitchen.

21 Q All right. Let me show you State's No. 55, 56
22 and 57; what are those?

23 A These are photographs that I took, one is after
24 I had cut the larger sections of -- of the wall out.
25 One of other photographs is a distance photograph. It

D. SHAW -- DIRECT BY MS. HODGE

1 was -- looked like a lead swipe on the brick wall,
2 which is on the inside, which would have been impacted
3 by a projectile.

4 And the third picture is just a larger
5 photograph showing the lead swipe, where a projectile
6 impacted on the -- on the brick.

7 Q And are those true and accurate representations
8 of how that wall looked when you went out there to
9 remove that piece?

10 A Once I removed the piece, yes.

11 MS. HODGE: Okay. At this time, we would move to
12 admit State's No. 55, 56 and 57.

13 MR. JOHNSTON: Without objection.

14 THE COURT: All right.

15 (STATE'S EXHIBITS NOS. 55, 56 AND 57 RECEIVED INTO
16 EVIDENCE.)

17 BY MS. HODGE:

18 Q I show you State's No. 58, did you actually
19 find a projectile down at bottom of that area?

20 A Yes, I did.

21 Q And what is State's 58?

22 A That's a photograph of the projectile that I
23 found behind the black fiber board, between the board
24 and a brick wall.

25 Q And did you then collect that item?

D. SHAW -- DIRECT BY MS. HODGE

1 A Yes, I did.

2 Q I show you what's marked as State's No. 64;
3 what is that?

4 A This is a coin envelope that is denoted DLS-2,
5 which are my initials, and item number two. It has a
6 time on it. And also it indicates it's a lead
7 projectile from the kitchen wall.

8 Q If you would, if you could open that up for me.
9 And is that what you collected?

10 A I'm going to say that it is because it's in the
11 packaging that I put it in.

12 Q Is it -- did you take a photograph of it also?

13 A I did.

14 Q Is it in substantially the same condition?

15 A It appears to be, yes.

16 **MS. HODGE:** At this time, we would move to admit
17 State's No. 58 and 64.

18 **MR. JOHNSTON:** No objection.

19 **THE COURT:** All right.

20 (STATE'S EXHIBIT NO. 58 AND 64 RECEIVED INTO
21 EVIDENCE.)

22 BY MS. HODGE:

23 Q If you would hold that up for me. Can you tell
24 us a little bit about projectiles? What does that
25 mean? Maybe normal people call it bullets, but that

D. SHAW -- DIRECT BY MS. HODGE

1 might not be accurate.

2 A In layman's terms, if you have an unfired --
3 because some people call it bullets, I call it a
4 cartridge. It's been unfired. It's a cartridge. The
5 lead point that gets shot out is considered a
6 projectile.

7 It may -- it may just have lead on it. It may
8 be jacketed with a copper jacket, but that is the
9 projectile that gets -- that gets shot out from the
10 gunpowder once -- once it has been fired. And then
11 what's left over is the casing.

12 So you have a have cartridge when it's intact,
13 before it is fired. A shell casing, which is after the
14 projectile is gone. And then you'll have the
15 projectile, which can be lead and/or could have a
16 jacket of some sort on it unless it separates.

17 Q Did you find another projectile when you went
18 back out to this house?

19 A Yes, I did.

20 Q Tell us about that.

21 A When I -- the hole that was behind the side
22 door, the back door, I went around inside the house and
23 I saw where it appeared that that hole, that I believed
24 to be a projectile hole, went through the kitchen --
25 the back of the kitchen wall and went into a bathroom,

D. SHAW -- DIRECT BY MS. HODGE

1 which was off of the master bedroom.

2 And I -- when I got down behind the toilet, I
3 could see where the projectile had actually come
4 through the bathroom wall and penetrated the side wall
5 of the bathroom next to the toilet.

6 Q Did you then collect that item, that
7 projectile?

8 A Yes, I did.

9 Q I'm showing you State's 62 and 63, did you take
10 those photographs?

11 A Yes, I did.

12 Q What is 62?

13 A That is a photograph of the projectile that I
14 actually collected, from out of the side wall in the
15 bathroom.

16 Q And what is 63?

17 A It is a photograph showing where the projectile
18 came through the wall, behind the toilet, and is
19 actually the hole that I cut out. It was the damage
20 that I caused when I cut the hole out to retrieve the
21 projectile.

22 MS. HODGE: We move to admit State's Exhibit No.
23 62 and 63.

24 MR. JOHNSTON: Without objection.

25 THE COURT: All right.

D. SHAW -- DIRECT BY MS. HODGE

1 (STATE'S EXHIBIT NOS. 62 AND 63 RECEIVED INTO
2 EVIDENCE.)

3 BY MS. HODGE:

4 Q If you would, go ahead and identify what's --
5 State's No. 55, I believe.

6 A This is a coin envelope that is labeled DLS-3,
7 which is the third item that I collected. It has the
8 time in which it was collected. And it also indicates
9 there was a jacketed projectile from the bathroom wall.

10 Q If you would open that up for me. Is that in
11 substantially the same condition as when you collected
12 it?

13 A It is.

14 Q Now, you say this is a jacketed projectile. So
15 what's the difference between this one and the one that
16 hit the brick and went down?

17 A The -- this projectile still has the jacket on
18 the outside of it. When a projectile impacts, it goes
19 through something, it could go through a wall. It
20 could go through some type of porous surface. That
21 jacket can peel off and fall away with just remaining
22 the lead core is all that's left. And this actually
23 did not hit anything hard enough to remove the jacket.
24 The jacket was still intact over the lead.

25 MS. HODGE: We would move to admit State's Exhibit

D. SHAW -- CROSS BY MR. JOHNSTON

1 No. 65.

2 MR. JOHNSTON: No objection.

3 THE COURT: All right.

4 (STATE'S EXHIBIT NO. 65 RECEIVED INTO EVIDENCE.)

5 BY MS. HODGE:

6 Q Sgt. Shaw, what else, if anything, did you do
7 out at this crime scene?

8 A That was pretty much the remainder of what I
9 had done as far as trajectory or not trajectory, to try
10 to determine a path in the collection of these items --
11 these three items.

12 MS. HODGE: Thank you. Please answer any of the
13 defense's questions.

14 CROSS EXAMINATION BY MR. JOHNSTON:

15 Q Gunshot residue tests, why do you do that?

16 A It's to see if there is the presence of any
17 gunshot residue on a person's hands.

18 Q And if this material is located in a sufficient
19 quantity, then the person who is examining it, who is
20 an expert, could opine that the person had, in fact,
21 either handled the firearm or had held their hands up
22 where their hands had come into contact with the gases
23 from the weapon; true?

24 A That would be correct, yes.

25 Q Now, it's been a while since I've fired a gun,

D. SHAW -- CROSS BY MR. JOHNSTON

1 probably a couple of years. If you took a gunshot
2 residue test on me today, would it show up if I fired a
3 gun two years ago?

4 A I would hope not, but that doesn't mean it
5 wouldn't.

6 Q Okay. Well, how about if I have washed my
7 hands in the last two years?

8 A I would say that washing your hands should take
9 gunshot residue off, yes.

10 Q Okay. So you even if I fired a gun at -- at --
11 at 11:45, if I fired a gun at 11:15, if I thoroughly
12 washed my hands under running water, there wouldn't be
13 any gunshot residue there likely, would there?

14 A Not likely.

15 Q The other thing is, even if I don't wash my
16 hands, stuff will wear off over time?

17 A That's correct.

18 Q Can you tell me what -- what the average time
19 that these -- are these like dust particles?

20 A No, sir.

21 Q What are they like?

22 A They are -- like I say, when you have a weapon,
23 the -- when a weapon is fired, there are three
24 components in the discharge --

25 Q Well, let me just stop you just a second. I

D. SHAW -- CROSS BY MR. JOHNSTON

1 don't mean that it is dust particles, I mean is the
2 stuff like dust particles?

3 A It could react like dust if it were blown, if
4 it would project out some type of particle, yes.

5 Q Okay. Now, even if you don't wash your hands
6 thoroughly, how long does it take to go away?

7 A There is no answer to that. The only thing I
8 can answer is that SLED, who does the analysis --

9 Q Yes, sir.

10 A -- will not do a test for GSR after six hours.

11 Q Okay. They don't want to even bother to look
12 at it?

13 A That's correct.

14 Q And I guess it would be fair to say that the
15 longer the time, the more likely the dissipation of the
16 gunshot residue even without washing your hands?

17 A I believe that would be correct.

18 Q Okay.

19 A Putting your hands in your pocket, and so on
20 could effect that.

21 Q Putting your hands in your pocket, you might
22 have a tendency to rub off in there. Now, what time
23 did you do this again?

24 A I believe it was five minutes to 7:00.

25 Q Five minutes to 7:00, 6:55 A.M. So, it was

D. SHAW -- CROSS BY MR. JOHNSTON

1 within six hours of the incident, but getting there?

2 A I --

3 Q You don't know what time --

4 A No, sir --

5 Q You don't know what time the incident occurred?

6 A No, sir.

7 Q Where was Rikki Danielle Edwards at the time
8 you swabbed her hands?

9 A She was at the Law Enforcement Center.

10 Q So if she had been at the hospital earlier, she
11 would have then come to the Law Enforcement Center
12 where you were?

13 A Probably, yes, sir.

14 Q Certainly possible she could have washed her
15 hands at the hospital?

16 A Very possible.

17 Q People who get blood on their hands, they
18 usually want to get it off as quick as they can?

19 **MS. HODGE:** Objection, Your Honor. That's just
20 speculation.

21 **MR. JOHNSTON:** Withdrawn. No other questions.

22 **THE COURT:** Any redirect?

23 **MS. HODGE:** No.

24 **THE COURT:** All right. Thank you. Sir, you can
25 step down. Can we release him?

J. ARMSTRONG -- DIRECT BY MS. HODGE

1 **MS. HODGE:** Yes, sir.

2 **MR. JOHNSTON:** Yes, sir.

3 **THE COURT:** All right. Thank you, sir. You are
4 released from subpoena.

5 **MS. HODGE:** The State calls James Armstrong.

6 **THE CLERK:** Please place your left hand on the
7 Bible and raise your right hand.

8 JAMES ARMSTRONG, having been first
9 duly sworn, testified as follows:

10 **THE CLERK:** Thank you. Please be seated. Please
11 state your full name for the record.

12 **THE WITNESS:** James William Armstrong.

13 DIRECT EXAMINATION BY MS HODGE:

14 Q Officer Armstrong, who do you work for?

15 A I'm employed with Greenville County Department
16 of Public Safety Forensics Division Crime Laboratory.

17 Q What are your duties in the crime laboratory?

18 A I have a dual responsibility as a Forensics
19 Chemist and a Firearm Examiner.

20 Q How long have you been in that capacity?

21 A I have been in the crime lab a little over 16
22 years.

23 Q And did you work in the Forensics Division any
24 other time in your career?

25 A Yes, ma'am. Before I came over to the

J. ARMSTRONG -- DIRECT BY MS. HODGE

1 laboratory, I was actually a uniform patrol officer in
2 Laurens County for about two and a half years.

3 Q And how long have you been a firearms examiner?

4 A Twelve years.

5 Q Do you -- what does your work in firearms
6 examination consists of?

7 A I examine the firearm, test for operability and
8 functionality. I also compare the firearm projectiles
9 to test specimens from the firearms. I test fire
10 those. I also compare fired cartridge casings to each
11 other to see if they were fired from the same firearm
12 or not.

13 And it goes to the firearms themselves. I also
14 look at tool marks and other evidence to compare any
15 kind of strike or contrast markings to each other.

16 Q And what kind of educational background and
17 training do you have for that?

18 A I first have a Bachelor of Science degree in
19 Chemistry from Erskine College. I have trained in the
20 area of firearm identification as an apprenticeship
21 style training for approximately two years under the
22 direction of a retired firearm examiner from
23 Philadelphia Police Department.

24 I have attended four ammunition manufacturing
25 facilities where they produce ammunition from raw

J. ARMSTRONG -- DIRECT BY MS. HODGE

1 materials to the finished products. I have attended 13
2 firearms manufacturers, I watched the production of
3 firearms from raw materials to finished product.

4 I have attended -- completed five different
5 firearm schools, where you looked at the function of
6 firearms. Both -- all the features on the inside as
7 well as the outside features of them.

8 I have at least 200 hours of microscope
9 training. I am member of the Association of Firearms
10 and Tool Mark Examiners. I have attended numerous
11 classes sponsored by the Bureau of Alcohol, Tobacco &
12 Firearms in the area of firearm identification.

13 And I have testified in area of firearm
14 identification as an expert in Federal and State Court
15 at least 26 times.

16 **MS. HODGE:** At this time, Your Honor, we would
17 move to admit Officer Armstrong as an expert in Firearm
18 Examiner Identification.

19 **MR. JOHNSTON:** We think he is qualified to offer
20 his opinion, Your Honor.

21 **THE COURT:** All right. So, admitted.

22 BY MS. HODGE:

23 Q Officer Armstrong, have you examined certain
24 items of evidence in this case for those very purposes
25 you were just talking about?

J. ARMSTRONG -- DIRECT BY MS. HODGE

1 A Yes, ma'am, I have.

2 Q All right. I am going to show you what has now
3 been marked as State's No. 24; did you examine this
4 item?

5 A Yes, ma'am, I did.

6 Q And what is this?

7 A This is a Kel-Tec Model P3AT, a semiautomatic
8 pistol, with a serial number JRN 68. Caliber 380 auto
9 semiautomatic pistol.

10 Q And where did you get this item from to examine
11 it?

12 A I received this item from our property and
13 evidence room, in the basement of the Law Enforcement
14 Center.

15 Q And did you have an opportunity to examine
16 State's No. 48 and 49?

17 A Yes, ma'am, I did.

18 Q Let's go ahead and get -- did you examine
19 State's No. -- 50 -- 50, 51 and 52?

20 A Yes, ma'am, I did.

21 Q Tell us what you did in examining the firearm
22 in the various items we just listed there?

23 A Upon receiving the items, I inventoried the
24 contents of the containers. I opened up the seals of
25 the firearms. I wrote down the type of the frame,

J. ARMSTRONG -- DIRECT BY MS. HODGE

1 appears -- the materials it's made out of, the serial
2 number, the caliber.

3 Then I went and test fired the firearms and made
4 sure it was functioning. I collected my test specimens
5 and put the other specimen back for comparison for
6 future reference.

7 Then I opened up the individual components such
8 as the fired cartridge casings and the fired bullet
9 specimens. I identified those, made my notes. And
10 then did comparisons to each other, and then to test
11 specimens from the firearms.

12 Q And what conclusions did you reach?

13 A The item DES 1 A pistol that was examined, test
14 fired and found to be operable. The items JD-C and --
15 JD-C and JD-D fired cartridge casings, which are the 40
16 Smith & Wesson caliber, were fired in the same firearm,
17 but not the item DES 1 A pistol.

18 The item JD-H fired cartridge case, which is a
19 380 fired cartridge case, was fired in the item DES 1 A
20 pistol. And the item JD-F, fired bullet specimen was
21 not fired from the item DES 1 pistol. And that the
22 JD-E fired bullet jacket, beared similar, but
23 insufficient microscopic marks to prevent
24 identification to the pistol.

25 And all of that, the item JD-F fired bullet

J. ARMSTRONG -- DIRECT BY MS. HODGE

1 specimen, which is a 40/10 millimeter caliber, bears
2 riffling characteristics consistent with the firearms
3 marketed by Hi Point and possibly others.

4 Q All right. So if you wouldn't mind that
5 breaking down for me. These -- State's No. 50 and 51,
6 State's No. -- if you will tell them what those are,
7 and then give your answers and your results.

8 A Okay. State's Exhibit 50 and 51 are two fired
9 cartridge casings. They are both from caliber 40 Smith
10 & Wesson, and they were fired from the same firearm,
11 but not the item DES or State's Exhibit 24.

12 Q Okay.

13 A This one.

14 Q And was this -- these handguns -- or this
15 handgun, is this a semiautomatic or revolver, or what
16 is this?

17 A It's semiautomatic.

18 Q And how do you know the difference between
19 those two -- or what is the difference between those
20 two?

21 A Well, the revolver will have what is known as a
22 cylinder in it and actually revolves around, in other
23 words to fire. The semiautomatic had a slide-in
24 components that are made -- when you pull the trigger,
25 it fires and automatically feeds itself.

J. ARMSTRONG -- DIRECT BY MS. HODGE

1 Q And in a revolver, do the spent casings come
2 out?

3 A No. They stay inside the cylinder.

4 Q And how about in guns such as this one?

5 A In the semiautomatics, they are generally
6 ejected to the right of the ejection fork.

7 Q Is that always the case?

8 A Not always the case, but they generally fire --
9 when they eject, the casing will go up and to the right
10 of the shooter if it is held in a traditional shooter
11 stance.

12 Q What does that mean?

13 A With the barrel horizontal with the ground, and
14 the grip going straight down toward the ground.

15 Q Are there any factors that can change the path
16 the cartridge casing takes as it is being ejected?

17 A It could be many factors. Any objects nearby.
18 If the gun was actually slanted or someone had their
19 hand in the way, bumping it, kicking it to the side as
20 well.

21 Q Let's go to State's No. 52. Tell us what that
22 is and how that relates to your results?

23 A State's No. 52 is a caliber 380 auto fired
24 cartridge case. It was fired from the item -- or
25 State's Exhibit 24 pistol.

J. ARMSTRONG -- DIRECT BY MS. HODGE

1 Q And how do you make those determinations?

2 A I made those determinations by taking test
3 shots from the pistol and comparing them side-by-side
4 on the comparison microscope, and looking at what we
5 call striations or impressions from the firearm to the
6 fired cartridge casings.

7 Q State's No. 48, tell us what that is.

8 A State's 48 is a fired bullet jacket. The
9 caliber is consistent with a 380 auto.

10 Q Were you able to determine if that jacket came
11 from a projectile fired from this gun?

12 A It bears similar but insufficient microscopic
13 marks to prevent a positive identification to this
14 firearm.

15 Q Is that -- is that surprising?

16 A No, ma'am.

17 Q Is that something normal?

18 A It's -- it's fairly common. It depends, one,
19 on the condition of the projectiles. This projectile
20 was actually deformed in such a way I did not have all
21 the lands and groves, or the good pressed areas to
22 compare is the reason we could not make a positive
23 identification.

24 Q And finally State's No. 49.

25 A State's No. 49 is a fired bullet specimen,

J. ARMSTRONG -- DIRECT BY MS. HODGE

1 caliber 40.

2 Q And would that projectile have come from this
3 gun?

4 A No, ma'am.

5 Q Could you make that ammunition work in that
6 gun?

7 A No, ma'am.

8 Q And then finally -- okay. Did you make an
9 additional comment about this --

10 A Yes, ma'am. Based on -- based on the rifling
11 characteristics, the firearm that more than likely
12 fired this projectile was manufactured by Hi Point
13 Firearm Manufacturing Company or possibly another one
14 that may be out there. But Hi Point is definitely on
15 that list of firearms that are made -- that are the
16 same rifling characteristics that are consistent on
17 that projectile.

18 Q Thank you. Once you conclude your analysis, do
19 you take those items back to property and evidence?

20 A Yes, ma'am, I do.

21 Q Did you do any other examinations in this case?

22 A No, ma'am, I did not.

23 **MS. HODGE:** Thank you. Please answer any
24 defense's questions.

25 CROSS EXAMINATION BY MR. JOHNSTON:

J. ARMSTRONG -- CROSS BY MR. JOHNSTON

1 Q You can tell me for sure this gun is unloaded?

2 A Yes, sir, I can.

3 Q All right. Did you check it?

4 A I have checked it, I picked it up, yes, sir.

5 Q Okay. All right. Do me a favor, come down
6 here with me. For the record, we are dealing with
7 Exhibit No. 24. Let's face towards the wall.

8 A Yes, sir.

9 Q Okay. Now, hold this gun, are you right handed
10 or left handed?

11 A I'm right handed.

12 Q Okay. Hold it in your right hand like you
13 would in the standard, as you said, the shooter's
14 position?

15 A The standard shooter's position is one such
16 like this (indicating).

17 Q Okay. And that's if a person is taking his
18 best shot, he has got some time. It's also possible he
19 would have to shoot from the hip or shoot sideways like
20 a ganister does or whatever they do?

21 A That does happen.

22 Q Okay. But from the standard shooter position,
23 where is the shell -- to which side is that shell going
24 to eject?

25 A It is generally going to go to come up and to

J. ARMSTRONG -- CROSS BY MR. JOHNSTON

1 the right hand side of the shooter.

2 Q Up and to the right. Okay. You can return to
3 your place. And this is only gun you did anything with
4 in this case, is that right?

5 A That's correct.

6 Q There are many gun manufacturers, aren't there?

7 A That's correct.

8 Q Many gun manufacturers who make handguns?

9 A That's correct.

10 Q Many gun manufacturers who make 40 caliber guns
11 that will fire a 40 caliber Smith & Wesson?

12 A That's correct.

13 Q Now, a 40 caliber Smith & Wesson, Smith &
14 Wesson is also a company that makes guns, am I correct?

15 A That's correct.

16 Q But the caliber, 40 caliber bullet -- is there
17 some significance to Smith & Wesson being attached to a
18 40 caliber?

19 A I believe Smith & Wesson was actually the
20 company that came out with that caliber.

21 Q So if a bullet with a -- if a shell casing says
22 40 caliber Smith & Wesson, that doesn't mean it was
23 fired from the Smith & Wesson, does it?

24 A That's right.

25 Q It means it fired a 40 caliber -- a 40 caliber

J. ARMSTRONG -- CROSS BY MR. JOHNSTON

1 Smith & Wesson bullet?

2 A Yes, sir.

3 Q Right?

4 A Yes, sir.

5 Q You said that the two 40 caliber bullets in
6 this case -- two 40 caliber shell casings?

7 A Yes, shell casings.

8 Q You tested them?

9 A Yes.

10 Q Against certain -- you tested them against that
11 380 and you know they don't match up with that?

12 A Correct.

13 Q So then I guess you just kind of went to the
14 literature to look at other information, right?

15 A On the fire cartridge casings, I can only
16 compare those against themselves.

17 Q I understand.

18 A There is no other literature on that. They
19 were just -- they were fired from the same firearm.

20 Q Okay.

21 A The fired bullet specimen, as -- we call it
22 general rifling characteristics search. Based on the
23 general rifling characteristics, which are impressed on
24 to the projectile from the barrel of the firearm, I
25 measure those and count those and have a direction

1 twist. There is a data base that is put out by the
2 F.B.I. and A.T.F., each company keeps a record of those
3 on hand. By that data that is collected, I put the
4 data in it, and it came back with only Hi Point, and
5 there are possibly others that we don't know of that
6 are listed as manufactures for that company.

7 **MR. JOHNSTON:** No other questions.

8 **MS. HODGE:** Just one follow up.

9 REDIRECT EXAMINATION BY MS. HODGE:

10 Q Ejected cartridge casings, are they fairly
11 mobile?

12 A Yes, ma'am.

13 Q Can be kicked, stepped on?

14 A Yes, ma'am.

15 Q So if I'm standing here and I fire in a good
16 fire shooter position, is there a possibility that my
17 cartridge casing can end up over there at some point?

18 A It depends on the situation in a room that
19 you're in.

20 Q How many people walk through the room?

21 A Yes, ma'am --

22 **MR. JOHNSTON:** Object to the leading, Your Honor.

23 BY MS. HODGE:

24 Q Give us hypotheticals, in your expert opinion,
25 of how a shell casing could get to the other side of a

1 room?

2 A If the fire cartridge case is ejected out, it
3 can strike some objects, it can roll across the room.
4 Somebody can kick it when they are going back and forth
5 from one room to another. Or if the person was holding
6 it in a different position, it just ejected in that
7 direction.

8 MS. HODGE: Thank you. Nothing further.

9 MR. JOHNSTON: Just one brief follow-up.

10 RECROSS EXAMINATION BY MR. JOHNSTON:

11 Q They can't go through a wall, can they?

12 A No, sir.

13 MR. JOHNSTON: No other questions.

14 THE COURT: All right. Thank you, sir. You can
15 stand down. You are released from subpoena.

16 MR. JOHNSTON: Without objection, sir.

17 MS. HODGE: Would you like me to call another
18 witness?

19 THE COURT: Yeah. Please -- unless, Jury, you
20 okay? Okay. Yeah.

21 MS. HODGE: The State calls Sergeant David Weiner.

22 THE CLERK: Sir, please place your left hand on
23 the Bible and raise your right hand.

24 DAVID WEINER, having been first
25 duly sworn, testified as follows:

D. WEINER -- DIRECT BY MS. HODGE

1 **THE CLERK:** Thank you. Please be seated. Please
2 state your full name for the record.

3 **THE WITNESS:** David Weiner.

4 DIRECT EXAMINATION BY MS. HODGE:

5 Q Sergeant Weiner, who are you employed by?

6 A Greenville County Sheriff's Office.

7 Q How long have you been with them?

8 A This year will make 12 years.

9 Q What are your current duties and
10 responsibilities?

11 A Currently I'm assigned as a sergeant or
12 supervisor to the Criminal Investigation Division, more
13 specifically I handle the Sex Crimes Unit and Crimes
14 Against Children.

15 Q And back in 2009 -- July of 2009, what was your
16 position?

17 A I was assigned as an investigator to armed
18 robbery.

19 Q And were you asked to assist in a shooting
20 incident that happened at [REDACTED] Memorial Drive Extension?

21 A Yes, ma'am.

22 Q Who was the lead investigator on the case?

23 A Investigator Chris Miller.

24 Q What were you asked to do in this case?

25 A It's very common when they get serious crime

D. WEINER -- DIRECT BY MS. HODGE

1 scenes like that, or like in this case, if they had
2 been to the hospital, they'll call the armed robbery
3 investigator on call, to come help them out. It was
4 just too much for one person to handle that night. He
5 asked me to go to the house and help process the scene
6 there at -- the crime scene at the house.

7 Q Do you know what time the incident was to have
8 occurred at the house?

9 A I don't know exactly when it occurred. I know
10 it was several hours before I arrived. I got there
11 shortly after 4:00 in the morning.

12 Q And what did you do on arrival to the incident
13 location?

14 A My first thing I always do, is the uniform
15 patrol deputies are there. I will get them to brief me
16 on what they know. And forensics is waiting, we need
17 to get into house. I need permission. In this case, I
18 got permission from a co-resident at the house to
19 search the house for any evidence that I might want to
20 take.

21 Q What did you do once you went into the house?
22 Do you have a normal routine that you go through?

23 A For me, I follow forensics. They are the
24 experts in that stuff. Unless -- I was -- I just kind
25 of stand behind them and watch. Maybe I will see

D. WEINER -- DIRECT BY MS. HODGE

1 something that they don't see, but I -- I let them run
2 the show inside. I don't want to step on anything,
3 trample on anything, carry anything away. I just walk
4 behind them in their foot steps.

5 Q What did you observe when you entered the
6 residence?

7 A I remembered as soon as you walk in, there is
8 like a living room. No -- no noticeable forced entry
9 to the front door. I recall the back door was standing
10 open. A couple of shell casings on the floor. I
11 remember in the kitchen, there was some blood. There
12 was a -- specifically a spot on the wall between the
13 kitchen and the living room that had like a small hole
14 with a little bit of fabric and looked to me like blood
15 around it. I recall that.

16 Q And did -- did you collect any -- well, let me
17 ask you, did you see anything else that was of interest
18 to you?

19 A I picked up a cell phone off the floor that was
20 later identified by the victim to be his. And I
21 flipped through it, just to look, see recent calls and
22 anything like that, that could help us to identify who
23 might be responsible.

24 Q Is it fairly common these days to want to look
25 through a cell phone for information?

D. WEINER -- DIRECT BY MS. HODGE

1 A Yes, ma'am.

2 Q They tend to provide good information?

3 A Usually, yes, ma'am.

4 Q What did you find or what did you observe or
5 note in the cell phone collected off the floor?

6 A There were a couple of text messages in there
7 from earlier, I guess that morning, after midnight. I
8 don't recall the specific times. They just were from a
9 phone number that was identified by the name Ronnie.
10 And it was -- I don't remember the exact context of the
11 statements or the text messages, but they were
12 wondering where the victim was. Where are you now;
13 what are you doing; that kind of thing.

14 Q And did you end up collecting that cell phone?

15 A Yes, ma'am.

16 Q Is that the same phone that I show you here in
17 State's No. 14?

18 A Yes, ma'am. That's it.

19 Q Did you make any specific notes about what time
20 texts came in or what the exact information was?

21 A No, I just briefly looked through it, just to
22 see those text messages. And then turned it over at
23 that point. It wasn't my case.

24 Q Okay. So who did you turn it over to?

25 A From me, it goes to property and evidence.

D. WEINER -- DIRECT BY MS. HODGE

1 That's where I submitted it to -- for safe keeping.

2 Q And then who's responsibility would it be to
3 get out and go through that?

4 A Investigator Miller.

5 Q Okay. Now, you say you saw some texts with the
6 name listed Ronnie, did it have a phone number?

7 A It did.

8 Q Did you end up calling that number?

9 A I did.

10 Q And what happened then?

11 A If I recall, initially I got no response off of
12 it until two days later, the 29th, when I spoke to the
13 Defendant on the telephone. I asked him if he knew the
14 victim. He said that he did, that they had met prior.

15 I asked him when he had seen him. He said
16 recently. He met with him -- met up with him after not
17 seeing him for a while. He also -- I specifically
18 asked, why he was looking for him so early in the
19 morning. And he said he didn't remember why he was
20 looking for the victim.

21 And I also asked him very specifically were you
22 involved in the shooting of the victim. And he denied
23 that.

24 Q Did you give him any details of what -- what
25 they found at the crime scene?

D. WEINER -- DIRECT BY MS. HODGE

1 A No.

2 Q Did you tell him anything about the victim's
3 medical status?

4 A No.

5 Q Did you tell --

6 A I don't even think I knew what his status was.

7 Q Did you tell him that the victim had been shot?

8 A Yes.

9 Q And did he inquire at all about the victim's
10 medical status?

11 A No, not that I recall.

12 Q Did he appear concerned in any way about the
13 victim?

14 A No.

15 Q And did he have any explanation at all for why
16 he had text messages that very morning of the shooting?

17 A Like I say, he just -- he told me he couldn't
18 remember why he was trying to locate the victim.

19 Q Did he tell you that the victim had loaned him
20 any money?

21 A No mention of that.

22 Q Did he tell you where he was at the time of
23 that shooting?

24 A No, ma'am and I didn't ask.

25 Q He didn't offer up?

D. WEINER -- DIRECT BY MS. HODGE

1 A No, ma'am.

2 Q And did you tell Investigator Miller about this
3 conversation?

4 A Yes, ma'am.

5 Q And was the Defendant free to not speak to you,
6 not call you back if he didn't want to?

7 A Sure.

8 Q At that point?

9 A Yes, ma'am.

10 Q Had he been developed as a suspect to your
11 knowledge at that point?

12 A Again, I don't know. I was provided his name
13 that night by the uniform patrol deputies, but I don't
14 know the details on how that came about.

15 Q So on the night that you went out, you got the
16 phone, you knew that there was a possible suspect --

17 **MR. JOHNSTON:** Object to leading.

18 **THE COURT:** Who, what, when -- yeah. Thanks.

19 BY MS. HODGE:

20 Q Did you know --

21 A Yes. When I -- before I entered the house, I
22 was told by everybody -- I was briefed by uniformed
23 patrol about what they had found, and they provided me
24 with the name of Ronnie Swofford. So obviously, when I
25 looked through the cell phone for text messages, and I

D. WEINER -- CROSS BY MR. JOHNSTON

1 see Ronnie, it piqued my interest, which is why I made
2 that phone call to try to find him.

3 Q Did you have any other conversations with the
4 Defendant after that?

5 A No, ma'am.

6 Q Did you have any other involvement in the
7 investigation of this case --

8 A No, ma'am.

9 Q -- after that.

10 MS. HODGE: Please answer any of the defense's
11 questions.

12 THE WITNESS: Yes, ma'am.

13 CROSS EXAMINATION BY MR. JOHNSTON:

14 Q Did you document the text messages that were on
15 this phone?

16 A Just in my supplemental report, yes, sir.

17 Q Okay. And that's your supplemental report
18 dated 7/30/09?

19 A It should have been around that, yes, sir.

20 Q When I say document, did you take a piece of
21 paper and write down, Ronnie, 3:02, or whatever it was,
22 "where are you", question mark?

23 A No, sir.

24 Q This lady here, this court reporter, she is
25 taking down everything that you and I say, just as I

D. WEINER -- CROSS BY MR. JOHNSTON

1 say it. And you respond back. She writes down
2 everything exactly what you say. All right?

3 A Yes, sir.

4 Q You didn't do that for these text messages, did
5 you?

6 A No, sir.

7 Q The best you can tell us is that there was a
8 call from someone named Ronnie at a particular -- from
9 a particular phone number, that said something to the
10 effect of, where are you --

11 A It was a text message, not a call.

12 Q Yeah. I'm sorry. It was a text message?

13 A Yes, sir.

14 Q And it said something to the effect of where
15 are you?

16 A Right.

17 Q Can you tell me if that's the only text message
18 from Ronnie?

19 A If I recall, there were several on the phone
20 from Ronnie, that belonged to the same -- again, I
21 don't remember the exact wording, but just, where are
22 you, what are you doing right now. That kind of thing.

23 Q Do you know if this was -- you know, my cell
24 phone, I can keep text messages back for months and
25 months?

D. WEINER -- CROSS BY MR. JOHNSTON

1 A No. These were all like after midnight,
2 somewhere around midnight, in between then.

3 Q How --

4 A The same day.

5 Q How many were there?

6 A Maybe two or three, tops.

7 Q Two to three?

8 A Yes, sir.

9 Q Did you document that in your report?

10 A I think if you read it, it says text messages.
11 There is an "s".

12 Q Okay. Well, do you know what -- they're just
13 all basically from your recollection, where are you,
14 sort of text messages?

15 A Yes, sir.

16 Q And when was the first one?

17 A Again, from what I recall, some time around
18 midnight or thereafter.

19 Q But you didn't write that down?

20 A No, sir.

21 Q When was the last one?

22 A Again, I don't know.

23 Q Okay.

24 A Obviously prior to me picking up the phone.

25 Q Yes, sir. And there were other people who had

D. WEINER -- CROSS BY MR. JOHNSTON

1 sent text messages during that evening, weren't there?

2 A Yes, sir.

3 Q Is it fair to say that Mr. Swofford advised you
4 that he had spent time in prison with Mr. Wooten?

5 A Yes, sir.

6 Q That he advised you that since he had been out,
7 he had started a new life, that he had a fiance and
8 that she was pregnant?

9 A Yes, sir, that's correct.

10 Q And that he had started his own business?

11 A Yes, sir.

12 Q You asked him when he had first met up with
13 Wooten after prison, and he said he had recently seen
14 him and they spoke?

15 A Correct.

16 Q You asked him why he wanted to speak with Mr.
17 Wooten at 4:00 a.m.?

18 A Uh-huh.

19 Q Was there a significance to you asking about
20 4:00 a.m.?

21 A No. I think I just -- I put that down or I
22 asked that because that's what time I got there.
23 Obviously before were the text messages.

24 Q So to the best of your recollection, the text
25 wasn't -- didn't -- wasn't sent at 4:00 a.m. or

D. WEINER -- CROSS BY MR. JOHNSTON

1 received at 4:00 a.m.?

2 A Right. I have no idea when the text messages
3 were sent or received. I don't remember that.

4 Q Doesn't it usually say that on the phone?

5 A Absolutely, yes, sir.

6 Q But you didn't write those down?

7 A I did not, no, sir.

8 Q And to your knowledge, nobody else did either?

9 A I have no idea, sir.

10 Q Okay. And you could also take pictures of what
11 it says on the phone?

12 A Absolutely, yes, sir.

13 Q You didn't take any pictures?

14 A No, sir.

15 Q And then we would know exactly -- if we had
16 that, we would know exactly what the text messages say?

17 A Correct.

18 Q Or if we still had the phone?

19 A Yes, sir.

20 Q Did you see the phone after that night?

21 A Not that I recall.

22 **MR. JOHNSTON:** Please answer other questions.

23 **MS. HODGE:** Nothing further.

24 **THE COURT:** All right. Thank you, sir. You may
25 stand down. You are released from subpoena as well.

1 **THE WITNESS:** Thank you, sir.

2 **MS. HODGE:** May we approach for scheduling?

3 **THE COURT:** Sure.

4 **MR. JOHNSTON:** Your Honor, I would respectfully
5 request that he not be -- that he be subject to --

6 **THE COURT:** All right. You are not released from
7 subpoena. Come on back.

8 **MR. JOHNSTON:** Thank you.

9 (Whereupon, a conference was held in the presence
10 of the jury, but outside the hearing of the jury.)

11 **THE COURT:** All right. Ladies and gentlemen, we
12 just had a little scheduling conference, so that's what
13 that was all about. We are going to break for lunch
14 now. I'll ask y'all to be back at 2:00.

15 It's kind of a long lunch, but I want to tell you
16 that the next witnesses are coming from Columbia. So
17 that's why we need to do that.

18 Don't discuss the case with anybody. We'll see
19 you back at 2:00. Thank you very much.

20 (Whereupon, the jury left the courtroom at
21 12:20 p.m.)

22 **THE COURT:** All right. Anything before we break?

23 **MS. HODGE:** Nothing from the State.

24 **MR. JOHNSTON:** Not from the defense, Your Honor.

25 **THE COURT:** All right. See y'all at 2:00.

V. GIBSON -- DIRECT BY MS. HODGE

1 (After a recess, court reconvened.)

2 **THE COURT:** All right. Ms. Hodge.

3 **MS. HODGE:** Thank you. The State calls Verona
4 Gibson.

5 **THE CLERK:** Ms. Gibson, please come forward.
6 Please place your left hand on the Bible and raise your
7 right hand.

8 VERONA GIBSON, having been first
9 duly sworn, testified as follows.

10 **THE CLERK:** Thank you. Please be seated. Please
11 state your full name for the record.

12 **THE WITNESS:** Verona Gibson.

13 DIRECT EXAMINATION BY MS. HODGE:

14 Q Ms. Gibson, where do you work?

15 A South Carolina Law Enforcement Division,
16 commonly referred to as SLED.

17 Q And what do you do at SLED?

18 A I'm the Evidence Processing Technician in the
19 DNA Department.

20 Q How long have -- I'm sorry.

21 A I'm sorry. That's fine.

22 Q How long have you been doing that?

23 A Approximately four years.

24 Q So what does your job entail?

25 A We get larger pieces of evidence, such as

V. GIBSON -- DIRECT BY MS. HODGE

1 sheets, clothing and process them for body fluids,
2 touch DNA, which is like skin cells and fibers.

3 Q And have you been qualified as an expert in
4 forensics processing in the courts of law before?

5 A Yes, ma'am.

6 Q About how many times?

7 A Approximately five.

8 Q In South Carolina?

9 A Yes, ma'am.

10 Q General Sessions?

11 A Yes, ma'am.

12 **MS. HODGE:** At this time, we would move to admit
13 her as an expert in forensics processing.

14 **MR. JOHNSTON:** Your Honor, I believe she is
15 qualified to offer her opinion.

16 **THE COURT:** All right.

17 BY MS. HODGE:

18 Q And August 3, 2009, did you receive two items
19 of evidence in this case, the State vs. Swofford. I
20 show you what's been previously entered as State's No.
21 46 and State's No. 47. I'll put it down if you want me
22 to. That's okay. You brought your own gloves?

23 A Yes, ma'am.

24 Q State's No. 46.

25 A This is item three from SLED.

V. GIBSON -- DIRECT BY MS. HODGE

1 Q Okay. Is -- are these your initials on this
2 package?

3 A They are, yes, ma'am. They are our item
4 number, my initials, our case number and the date that
5 I opened the packaging.

6 Q When did you received the package, was it
7 sealed?

8 A It was, yes, ma'am.

9 Q So you broke the seal and then -- is that your
10 white packaging?

11 A This is the paper that we process it on.

12 Q Okay.

13 A And the same information that is on the white
14 processing paper as well as the item itself.

15 Q Okay. Okay. Let's look at State's No. 47.

16 A Yes, ma'am. This is our item two, which was a
17 piece of cloth.

18 Q Okay. Did it have any color description?

19 A Yellow Gingham print.

20 Q Okay. Let's start with this one since it is
21 just bigger and --

22 A Okay.

23 Q And get it out of the way. Does that appear to
24 be what you were requested to view with State's No.

25 46 -- yes, 46.

V. GIBSON -- DIRECT BY MS. HODGE

1 A That was requested to look for blood. We do a
2 visual examine in the areas that appear positive -- or
3 appear to be blood. We test it with a solution called
4 phenolphthalein. There's a color change if it is a
5 positive presumptive test for pheno -- I mean for
6 blood, excuse me.

7 Q Can you hold this up and show the area that you
8 may have tested.

9 A This is the area where I made a cutting of an
10 area that tested positive for the presumptive test for
11 blood.

12 Q Would it be difficult to send this entire
13 blanket to the DNA lab?

14 A Yes, ma'am. They don't have facilities large
15 enough to process something this big.

16 Q So you make an actual cutting?

17 A Right.

18 Q Of what you thought to be pertinent?

19 A That tested positive for the presumptive test,
20 yes, ma'am.

21 Q And did you make that an item in and of itself,
22 that cutting from there?

23 A Yes, ma'am. Any items that -- any cuttings or
24 swabs that come from the -- the original item that was
25 sent in, would have that item number plus a point one.

V. GIBSON -- DIRECT BY MS. HODGE

1 So in this case, this is item three. So the cutting is
2 3.1.

3 Q I'm going to show you what has been marked
4 State's No. 66; if you could identify that.

5 A This is the coin envelope I sealed the cutting
6 from this blanket into, labeled item 3.1. And then I
7 sealed and dated the back of it.

8 Q And where does that go?

9 A This went to the DNA Department, to the DNA
10 analyst.

11 Q She would have been the person next to open
12 that item and test the item?

13 A Yes.

14 Q Okay. And then I'm going to let you wrap that
15 up if you don't mind. If you don't mind holding that
16 up. Explain what you did with that item.

17 A This was the same situation, the request was
18 for blood as well. This is the area that I took a
19 cutting from on this item after I tested it for the
20 presumptive test for blood.

21 Q And it tested positive?

22 A It did.

23 Q And let me show you what's been marked State's
24 No. 62 I believe -- 67?

25 A Sixty-seven.

V. GIBSON -- DIRECT BY MS. HODGE

1 Q Sixty-seven. Thank you.

2 A And this was item 2, so this is item 2.1, it's
3 labeled. It's the coin envelope that that cutting went
4 into.

5 Q Can you open it and let's verify that's
6 actually in there. I need you to do that also with
7 number 63.

8 A Yes, ma'am.

9 Q All right. Would that be in substantially the
10 same condition as when you took the cutting from the
11 blanket?

12 A It is very close. The DNA analyst, it appears
13 she took a very small section of the same.

14 Q How about from 66 as well?

15 A Yes, ma'am.

16 Q All right.

17 **MS. HODGE:** At this time, we move to admit 66 and
18 67.

19 **MR. JOHNSTON:** Without objection.

20 **THE COURT:** Okay.

21 (STATES'S EXHIBIT NOS. 66 and 67 received into
22 evidence.)

23 **MR. JOHNSTON:** No objection.

24 **BY MS. HODGE:**

25 Q Were you asked to examine any other items of

V. GIBSON -- DIRECT BY MS. HODGE

1 evidence under this lab number, this case number?

2 A Yes, I was.

3 Q What was that?

4 A It is our item number seven, a section of wall.

5 Q All right. I think what has now been marked
6 State's No. 53; see if you can identify this.

7 A Yes, ma'am. This is a section of the wall that
8 I processed.

9 Q Okay. What did you do with that?

10 A The request was for blood and DNA, other, which
11 usually means hair. So I swabbed the area that is
12 circled and tested it for the presumptive presence for
13 blood. There was one possible hair that I collected.
14 And there was, what appeared to be fibers, that I
15 collected.

16 Q And do you mind holding that up and showing
17 what markings are on there. Who made those markings?

18 A I made these markings. This is where I labeled
19 the item. This is the area that I tested with a
20 presumptive test for blood. This is where the hair --
21 the possible hair came from. And this right here is
22 where the possible fibers came from.

23 Q And how do you take off the possible hair and
24 fibers; what do you do?

25 A We clean tweezers with alcohol, dry that off.

V. GIBSON -- DIRECT BY MS. HODGE

1 And then physically pluck it off the background.

2 Q Do you know what the other material on this
3 board might be? Did you do any testing for that?

4 A The other material?

5 Q The yellowish?

6 A No, ma'am.

7 Q Okay. And your presumptive test on this one?

8 A Was negative.

9 Q Was negative for blood. Okay. I'm showing you
10 State's No. 68. What is that? And you may need a pair
11 of scissors.

12 A I can -- unless you want to --

13 Q No. You can do that.

14 A This is the coin envelope that I sealed the
15 possible fibers into.

16 Q All right.

17 A It's item number 7.1 because it came off our
18 item 7.

19 Q All right. What about State's No. 69.

20 A This is item 7.2. This is the possible hair I
21 collected off a section of wall.

22 Q Where would State's No. 68 have gone after you
23 collected it and made it 7.1?

24 A To our Trace Department.

25 Q And let's open this one up too. Do you have

V. GIBSON -- DIRECT BY MS. HODGE

1 have your markings on that as well?

2 A I do, yes, ma'am. My initials and the date
3 that I sealed it are on the back, as well as where I
4 filled out the front of it.

5 Q And how about this one?

6 A Yes, ma'am. My initials and the date again.

7 Q Okay. Great. Thank you. Were you asked to
8 examine any other items of evidence in this case?

9 A No, ma'am.

10 MS. HODGE: Please answer any of the defense's
11 questions.

12 MR. JOHNSTON: I have no questions for the lady.

13 THE COURT: All right. Thank you, ma'am. You may
14 stand down. Any reason not to release her from
15 subpoena?

16 MR. JOHNSTON: Not from the defense.

17 THE COURT: Okay. You are free to go, ma'am.

18 MS. HODGE: The State calls Ila Simmons.

19 THE COURT: Okay.

20 THE CLERK: Ma'am, please place your left hand on
21 the Bible and raise your right hand.

22 ILA SIMMONS, having been
23 first duly sworn, testified as follows:

24 THE CLERK: Thank you. Please be seated. State
25 your name for the record.

ILA SIMMONS -- DIRECT BY MS. HODGE

1 **THE WITNESS:** My name is Ila Simmons.

2 DIRECT EXAMINATION BY MS. HODGE:

3 Q Ms. Simmons, where do you work?

4 A I work at the South Carolina Law Enforcement
5 Division, also known as SLED in the Forensics
6 Laboratory, Trace Evidence Department.

7 Q How long have you been doing that?

8 A Almost 13 years.

9 Q What kind of education and training have you
10 had for that job?

11 A I received a Bachelor's of Science degree in
12 Chemistry. After completing that, I came to work at
13 SLED. For my first three years, I worked with a
14 qualified trace evidence examiner, who taught me how to
15 collect and analyze trace evidence.

16 During that time, I had to take written and
17 practical examinations and complete them all with 100
18 percent efficiency. After that, I was then -- I came
19 to court, had a mock court as well as testifying in
20 courts of law. I worked with other analysts in
21 different disciplines of trace evidence to be sure that
22 I had all of the areas and all of the disciplines that
23 we handle in trace evidence.

24 And after completing all of my examinations, I
25 was since qualified.

ILA SIMMONS -- DIRECT BY MS. HODGE

1 Q What exactly are the areas that trace evidence
2 handles?

3 A We analyze gunshot residue, gun powder
4 residues. We perform fiber, paint and explosive
5 comparisons, as well as analyzing arson and glass.

6 Q Have you been qualified as an expert to testify
7 to regard to trace evidence and those items?

8 A Yes, ma'am.

9 Q Do you know about how many times?

10 A Over 200 times.

11 **MS. HODGE:** At this time, we move to qualify her
12 as an expert in trace evidence analysis.

13 **MR. JOHNSTON:** We believe she is qualified to
14 offer her opinion.

15 **THE COURT:** All right. Without objection.

16 BY MS. HODGE:

17 Q Ms. Simmons, I show you what's been marked as
18 State's No. 70. Can you tell us what that is?

19 A Yes, ma'am. This is an item of evidence that
20 was received into the laboratory. It is marked with a
21 unique identification number that each case has as it
22 comes in and logged into our laboratory. It is marked
23 with a unique item number. It also has my initials and
24 the day it was opened for analysis. It is a gunshot
25 residue kit.

ILA SIMMONS -- DIRECT BY MS. HODGE

1 Q And what -- when you received that kit, do you
2 know what date you received that kit?

3 A If I may consult this.

4 Q Sure.

5 A Yes, ma'am. I received it on February 24th of
6 this year.

7 Q And was it sealed when you received it?

8 A Yes, ma'am, it was.

9 Q And tell us what you did with that item of
10 evidence?

11 A I checked to make sure that it was under proper
12 seal. After that, I took the kit out and made sure
13 that all the components were present. After completing
14 that, I processed it and prepared it for analysis and
15 analyzed it.

16 Q And is there a name that is associated with
17 that gunshot residue kit?

18 A Yes, ma'am.

19 Q What is that?

20 A It was labeled as being collected from Rikki
21 Danielle Edwards.

22 Q Is there anything left in this packaging?

23 A Yes, ma'am, there is.

24 Q Okay. If you wouldn't mind opening that up for
25 me.

ILA SIMMONS -- DIRECT BY MS. HODGE

1 A Sure.

2 Q And would you show the jury what a gunshot
3 residue kit or what it looks like?

4 A This is the envelope -- the standardized
5 envelope. A company makes the gunshot residue kits.
6 And we actually give them to the customer agencies.
7 And there are two components in each gunshot residue
8 kit.

9 The first would be what we call particles lifts,
10 which is a piece of double sided sticky tape on a small
11 handle. And when the officer gets ready to collect the
12 GSR kit and take the handle out of the end of the vile,
13 and this has a double sided sticky tape on it, and they
14 would dab it over the hands of whomever they are trying
15 to collect the GSR kit from, so that the hands of the
16 officer never touches the tape that's being analyzed,
17 only the hand of the person from whom the kit is being
18 collected.

19 And then officer would place it back in and be
20 sure that it was sealed, so that it never makes
21 contacts with any of the other samples.

22 Q Okay.

23 A The second portion is a set of a cotton swabs.
24 They would come in a small envelope. And they would
25 take these sterile swabs out, put a couple of drops of

ILA SIMMONS -- DIRECT BY MS. HODGE

1 Nitric acid on them, which is also provided in the kit.
2 And they would rub that over the hands of whomever they
3 are collecting the GSR kit from.

4 Then they would place it in one of these sterile
5 tubes, which are marked controlled right palm --
6 meaning from the palm of the right hand. Right back,
7 the back of the right hand. Another sample from the
8 palm of the left hand and a sample from the back of the
9 left hand.

10 Q And what elements are you looking for to
11 determine whether there's gunshot residue or not?

12 A We're looking for lead, barium and antimony in
13 a certain ratio one to another.

14 Q And is that the only place that those items
15 exists in certain ratios together?

16 A Yes, to be considered gunshot residue --

17 Q I'm sorry.

18 A Uh-huh.

19 Q Do you know what that time that GSR kit was
20 collected off of Ms. Edwards? Is that part of the
21 packaging?

22 A Yes. Also, in each one of these kits, there is
23 a form, a blank form that the officer will fill out.
24 And they list the date and time of the incident, and
25 they list the date and time of collection.

ILA SIMMONS -- DIRECT BY MS. HODGE

1 And the date and time of the incident was
2 approximately 2:00 a.m. on July 27th of 2009. And the
3 GSR kit was collected at about 4:30 a.m.

4 Q According to that paperwork?

5 A Yes, ma'am. According to this paperwork.

6 Q And is there an officer's name?

7 A Yes, ma'am.

8 Q Associated with that?

9 A Yes, ma'am.

10 Q Who is that?

11 A It would be D.L. Shaw.

12 Q And what conclusions, if any, did you reach
13 regarding the gunshot residue kit?

14 A The quantity of the metals that we found, the
15 lead, barium and antimony did not indicate the presence
16 of gunshot residue.

17 Q Okay. Did you also have the opportunity to
18 examine another item of evidence in this case?

19 A Yes, ma'am.

20 Q And it's now been marked as State's No. 68;
21 what is that?

22 A It was a small piece of debris, that had fibers
23 attached to it.

24 Q And do you know where that originated from?

25 A I believe it was cut from a section of wall.

ILA SIMMONS -- DIRECT BY MS. HODGE

1 Q And what you were asked to do with that?

2 A To see what types of fibers were present on the
3 debris.

4 Q And were you able to come to a conclusion about
5 that?

6 A Yes, ma'am.

7 Q What was that?

8 A There were black polyester fibers.

9 Q How do you know that?

10 A When we receive a fiber in, we will analyze it
11 using four or five different types of instrumentation.
12 And we have a standard of polyester, nylon, of all
13 different types of fibers that we would run on the same
14 five instruments. You have to get the same fingerprint
15 signature from each instrument to say that it matches
16 back to polyester nylon copy.

17 Q And would you mind opening that? Is the item
18 of evidence still in there?

19 A Yes, ma'am.

20 Q Would it still be in there?

21 A Yes, ma'am.

22 Q And when I am asking you about -- are there
23 times when certain samples and things are actually not
24 put back into the kits and sent back?

25 A Yes, they can be. Yes, ma'am. It's in here.

ILA SIMMONS -- DIRECT BY MS. HODGE

1 There is another tin inside.

2 Q Okay. When you received that, it was -- this
3 was sealed inside?

4 A Yes.

5 Q Oh, your slide -- is that the slide you placed
6 it on?

7 A Yes.

8 Q So you put your entire testing kit back?

9 A Yes. I put everything back in here.

10 Q Okay. Is that the --

11 A Yes, ma'am.

12 MS. HODGE: At this time, we would move to admit
13 State's No. 68.

14 MR. JOHNSTON: No objection.

15 (STATE'S EXHIBIT NO. 68 RECEIVED INTO EVIDENCE.)

16 BY MS. HODGE:

17 Q Were there any other items of evidence that you
18 examined in this case?

19 A No, ma'am.

20 Q All right. I'm not sure, did -- let me -- was
21 this kit in substantially the same condition as when
22 you received it and opened it?

23 A Yes, ma'am.

24 MS. HODGE: At this time, we would move to admit
25 item number 70.

ILA SIMMONS -- CROSS BY MR. JOHNSTON

1 **MR. JOHNSTON:** Without objection.

2 **THE COURT:** Okay.

3 (STATE'S EXHIBIT NO. 70 RECEIVED INTO EVIDENCE.)

4 **MS. HODGE:** Thank you. Please answer any of the
5 defense's questions.

6 CROSS EXAMINATION BY MR. JOHNSTON:

7 Q Would not your paperwork show that the GSR kit
8 was performed?

9 A It says "approximately per Chris Miller at
10 4:30 a.m."

11 Q Okay. Well, who filled out that paperwork?

12 A DL Shaw would have filled out the paperwork.
13 The information from the collection would have come
14 from Chris Miller.

15 Q Okay. So, DL shaw is the one who actually
16 performed the taking of the sample?

17 A Yes, according to the paperwork.

18 Q All right. The person who wrote the time down,
19 that was per Chris Miller?

20 A Yes, sir.

21 Q Who is not the person that --

22 A No.

23 Q -- that performed the test -- not performed the
24 test, but gathered the data, the information?

25 A Yes.

A. HEFNEY -- DIRECT BY MS. HODGE

1 Q Okay. You all won't even accept a GSR sample
2 where the time of the alleged incident is more than six
3 hours from the time that the sampling standard --

4 A If it is on a living individual, yes, sir.

5 Q If it's on a living individual?

6 A Yes, sir.

7 Q Okay. There's a -- the simple washing of hands
8 under running water would remove all elements?

9 A Yes, it can.

10 Q Putting your hands in your pants, that could
11 remove some of the materials as well, couldn't it?

12 A Yes, sir, it can.

13 Q And as we talked earlier, there is a natural
14 dissipation?

15 A Yes, sir, over time.

16 Q Over time.

17 **MR. JOHNSTON:** Please answer any other questions.

18 **MS. HODGE:** I have got no further questions for
19 this witness.

20 **THE COURT:** All right. Thank you. If there is no
21 no objection, you are released from subpoena.

22 **MR. JOHNSTON:** There is none.

23 **MS. HODGE:** The State calls Adrian Hefney.

24 **THE CLERK:** Please come forward. I'll let you set
25 your things down and then please place your left hand

A. HEFNEY -- DIRECT BY MS. HODGE

1 on the Bible and raise your right hand.

2 ADRIAN HEFNEY, having been
3 first duly sworn, testified as follows:

4 **THE CLERK:** Please state your name for the record.

5 **THE WITNESS:** Adrian Hefney Wylie H-e-f-n-e-y.

6 DIRECT EXAMINATION BY MS. HODGE:

7 Q Ms. Hefney, who are you employed by?

8 A With the South Carolina Law Enforcement
9 Division, more commonly known as SLED.

10 Q And how long have you been with SLED?

11 A November will be about 15 years.

12 Q What are your current duties with SLED?

13 A I'm a forensics DNA analyst with SLED.

14 Q Did you have any other jobs with the SLED prior
15 to doing that?

16 A I was a forensics technician for the first year
17 and a half that I joined SLED.

18 Q Okay.

19 A But I have been a forensics DNA analyst since.

20 Q What is your educational background and what
21 type of training do you have to be a DNA analyst?

22 A I have Bachelor of Science degree from the
23 University of South Carolina in Biology. I have taken
24 post graduate courses in the field of genetics,
25 molecular biology and population statistics.

A. HEFNEY -- DIRECT BY MS. HODGE

1 I have a MDA Degree from Winthrop University as
2 well. And I have continued to have continuing
3 education courses each year, where we must attend a
4 conference or a training to stay abreast of any changes
5 in the field of DNA analysis.

6 Q And how many cases involving DNA profiling have
7 you worked over your years?

8 A I would say it's in the thousands.

9 Q Can you tell us a little bit about DNA and then
10 a little about serology also?

11 A Sure. I'll start with serology because that's
12 where our DNA analysis starts pretty much. Serology is
13 a scientific body fluid identification. It's where you
14 see if you're working with blood or semen or saliva.
15 And once you determine whether you have those items or
16 have those substances, then you move on towards DNA.

17 Now what DNA is, it stands for Deoxyribonucleic
18 acid. It's a chemical substance that is found in all
19 nucleated cells of our body. And we are -- the DNA
20 that we have is passed down from our parents. We get
21 half of it from our mother and half of it from our
22 father.

23 Now, as humans, we all have a lot of the same
24 DNA. The DNA that comes from us to be human, gave us
25 two arms and two legs and eyes and ears and a mouth,

A. HEFNEY -- DIRECT BY MS. HODGE

1 nose. But, of course, if you look around this
2 courtroom, you notice that everybody looks different.
3 So everybody's DNA is different. No two people will
4 have the same DNA profile with the exception of
5 identical twins.

6 And we use that in forensics to make comparisons
7 between unknowns, which are items that were left behind
8 at a crime scene, and knowns which are items come from
9 the people involved or said to be involved in the
10 crime -- the victim and the subject.

11 Q And have you been qualified to testify as an
12 expert in relation to serology and DNA analysis in the
13 past?

14 A Yes, ma'am, I have.

15 Q How many times?

16 A Approximately about 55 or 56 times now.

17 **MS. HODGE:** At this time, we would move to admit
18 her as an expert in DNA analysis and serology.

19 **MR. JOHNSTON:** Your Honor, we believe she is
20 qualified to offer her opinion.

21 **THE COURT:** Without objection.

22 BY MS. HODGE:

23 Q Ms. Hefney, on August 3rd, did you -- of 2009,
24 did you receive an item -- in this case State vs.
25 Swofford -- for you to test for either serology or DNA

A. HEFNEY -- DIRECT BY MS. HODGE

1 analysis?

2 A Yes, ma'am. I did receive these items and it
3 is noted by my initials and the date on the package,
4 the container.

5 Q And was it sealed, that item sealed when you
6 received it?

7 A Yes, ma'am.

8 Q Can you tell us a little bit about when
9 something comes into SLED, what is the process that
10 this item would have been taken from my investigating
11 officer to you?

12 A Okay. From -- your investigating officer will
13 bring it to SLED. It is locked in our Evidence Control
14 Unit. A request is put on it, whatever type
15 request they need -- in this case, it was DNA analysis
16 needed. So they put a DNA request on it.

17 From there, our technician or either I will go
18 downstairs and retrieve it from the Evidence Control
19 Department, and bring it up to the lab to begin work on
20 it.

21 The first thing I will note is to see what items
22 we have, compare it to what was logged it on the log-in
23 sheet. Make sure each item was sealed. And they are
24 usually sealed in this heat sealed pouch with the
25 initials of the submitting officer, as well as my

A. HEFNEY -- DIRECT BY MS. HODGE

1 initials when I'm done.

2 Q Okay. And do you know where -- what the swab
3 was from? What was swabbed?

4 A This -- the -- the description on the box and
5 the Item D.1, which will be Greenville County's item
6 number, swab of suspected blood tissue from item JD-E.

7 Q All right. And can you tell me what you did
8 with that item please, State's No. 54?

9 A With that item, I was able to take it straight
10 to DNA analysis. I did not see any appreciable stains
11 on it. I didn't want to do a serology test and risk
12 not having enough to do a DNA -- DNA analysis on it.

13 So on this particular item, which is our item
14 one, I went straight to DNA. And I later found --
15 would you like me to read the results of what I found?

16 Q Were you able to develop a DNA profile off of
17 that?

18 A Yes, ma'am, I was.

19 Q And did you make a preliminary match to anyone
20 off that DNA profile?

21 A Not initially. When I was able to get a
22 standard, a known standard to compare it to, I did -- I
23 was able to make a match, DNA match.

24 Q I show you -- I give it to you. I can't get a
25 number. State's No. 71, can you tell me what that is?

A. HEFNEY -- DIRECT BY MS. HODGE

1 A It's marked "known standard". This is -- was
2 from a buccal swab. And a buccal swab is just a swab
3 from the inside of someone's cheek.

4 Q And do you know whose buccal swab it is? Does
5 it say?

6 A It does not say, but I'll compare it to what I
7 have.

8 Q Sure.

9 A And this will be buccal swab from Ronnie
10 Swofford, Jr.

11 Q What do you do with the buccal swabs?

12 A The buccal swabs, I make a comparison to the
13 unknown items of evidence that we have, that were
14 collected from the crime scene, to see if it matched
15 anyone, the victim or the subject in this case.

16 And in this case, I determined that the swab of
17 suspected blood tissue from the kitchen floor, which is
18 our item number one, matches the DNA profile of Ronnie
19 Swofford, Jr.

20 And when we have a visual match, we also apply a
21 statistical match to it. And it just gives, I guess,
22 weight to the sampling. It's just a further way of us
23 saying that we have a match. We apply a statistic to
24 it.

25 And in this case, the probability of randomly

A. HEFNEY -- DIRECT BY MS. HODGE

1 selecting a unrelated individual, having a DNA profile
2 matching this item, is approximately one in 24
3 quadrillion.

4 Q Do you know what the earth's current population
5 is?

6 A Roughly about 7 billion. So this is about a
7 million -- roughly about 3 million and some change,
8 times -- a million times our earth's population.

9 Q Are these in substantially the same condition
10 as when you would have taken them and analyzed them?

11 A Yes.

12 MS. HODGE: At this time, we move to admit State's
13 No. -- State's No. 71.

14 MR. JOHNSTON: Without objection.

15 THE COURT: Okay.

16 (STATE'S EXHIBIT NO. 71 RECEIVED INTO EVIDENCE.)

17 BY MS. HODGE:

18 Q Did you have an occasion to examine some
19 cuttings, that were described as 2.1 and 3.1, as your
20 item number?

21 A Yes. They were obtained from a yellow gingham
22 print table cloth. That was item 2.1. Item 3.1 was a
23 cutting from a beige material blanket.

24 Q I'm going to show what's has been labeled as
25 State's No. 72. Are you familiar with this item?

A. HEFNEY -- DIRECT BY MS. HODGE

1 A This was the standard from Mr. Wooten.

2 Q All right. Would you say that a little bit
3 louder?

4 A This is the standard from Curtis Wooten, who is
5 the victim in this case.

6 Q The same type of buccal swab?

7 A Yes.

8 **MR. JOHNSTON:** Without objection.

9 **THE COURT:** All right.

10 (STATE'S EXHIBIT NO. 72 RECEIVED INTO EVIDENCE.)

11 BY MS. HODGE:

12 Q Did -- could you compare State's No. 72?

13 A There is nothing in this envelope.

14 Q It was this.

15 A Okay.

16 Q State's No. 72, the buccal swabs of Curtis
17 Wooten, did you compare those to the cutting from the
18 Gingham cloth and from the blanket?

19 A Yes, ma'am, I did.

20 Q What were your results?

21 A The DNA profile developed from items 2.1 and
22 3.1 is consistent with the DNA profile of Curtis
23 Randolph Wooten.

24 Q And so -- did you determine those to be blood
25 on the blanket --

A. HEFNEY -- DIRECT BY MS. HODGE

1 A Yes, ma'am -- I'm sorry -- I did. It was blood
2 indicated on both items, the cutting from the yellow
3 Gingham table cloth, as well as the beige material
4 blanket.

5 Q And you finally have an opportunity to examine
6 one other item of evidence in this case, your 7.2.

7 A Yes, ma'am.

8 Q Okay. And what was 7.2, SLED 7.2?

9 A Item 7.2 was a possible hair collected from a
10 section of wall.

11 Q And is that State's No. 69 now?

12 A Yes.

13 Q And is there anything in that envelope that you
14 --

15 A What's remaining in this envelope is the hair
16 shaft, because we get DNA from the root of the hair.
17 So what I did, I sliced the hair and put the root to do
18 the DNA analysis on, and saved the shaft in case
19 further analysis is needed at another time. So my item
20 number indicates 7.2.1.

21 Q Is that what's inside there?

22 A Yes, inside.

23 Q All right.

24 **MS. HODGE:** At this time, we would move to admit
25 State's No. 69.

A. HEFNEY -- DIRECT BY MS. HODGE

1 **MR. JOHNSTON:** Without objection.

2 (STATE'S EXHIBIT No. 69 RECEIVED INTO EVIDENCE.)

3 BY MS. HODGE:

4 Q And what results, if any, did you come to
5 regarding the item -- the hair that was removed from
6 the section of the wall?

7 A I'm going to read directly from my report, "the
8 DNA profile developed from item 7.2.1, matches the DNA
9 profile of Ronnie Swofford, Jr. The probability of
10 randomly selecting an unrelated individual having a DNA
11 profile matching this item is approximately 1 in 24
12 quadrillion".

13 Q And did you extract that DNA just from the root
14 of the hair or is there some other material that is
15 contained in it?

16 A There was tissue associated with those hair
17 roots. It was intermingled with them -- the hair was
18 intermingled with those tissues, so that's probably
19 where the majority of the DNA came from, between the
20 root as well as that associated tissue.

21 Q Did that conclude your involvement in this
22 case?

23 A Yes, ma'am, it did.

24 **MS. HODGE:** Thank you. Please answer any of
25 defense's questions.

A. HEFNEY -- CROSS BY MR. JOHNSTON

1 CROSS EXAMINATION BY MR. JOHNSTON:

2 Q I'm curious, ma'am, you gave a very precise
3 quantification regarding the probability of selecting
4 someone else with exactly the same DNA as from those
5 tissues, as to the suspect analysis?

6 A Yes, sir.

7 Q Yet you gave a very general statement that as
8 far as the victim -- comparison with the victim's blood
9 is concerned, and it being consistent, which seems
10 awfully general, why?

11 A Well, when we have items that are known to come
12 from the victim, such as any clothing they are wearing,
13 any items that's in their house or items that may have
14 been around them or somewhere in the vicinity of where
15 the body was laying, that they are known to have blood
16 from, we sometimes say consistent with instead of
17 applying a statistic to it. Because in that case, it
18 is considered less probative, I guess, than any other
19 items found in the house.

20 For example, if it was a shirt that someone was
21 wearing when they were shot or stabbed, we would not
22 typically say it matches the victim and apply a
23 statistical match to it. We would just say it is
24 consistent with the victim because that is expected to
25 be there.

A. HEFNEY -- CROSS BY MR. JOHNSTON

1 Q Less importance -- therefore, you conduct a
2 less strict analysis?

3 A No. The analysis was exactly the same, but --

4 Q Some evidence --

5 A But statistical weight, I guess, or the
6 statistical -- we didn't apply a statistics to it
7 because it was expected.

8 MR. JOHNSTON: Please answer other questions.

9 MS. HODGE: I don't have any further questions.

10 THE COURT: All right. You may step down, ma'am.
11 If there is no objection, you are released from
12 subpoena.

13 MR. JOHNSTON: No objection, Your Honor.

14 MS. HODGE: Your Honor, we would have a matter of
15 law that has to be decided prior to the next witness.

16 THE COURT: All right. Mr. Foreman, ladies and
17 gentlemen of the jury, I'm going to -- probably not a
18 bad time for a little break. We have got to take care
19 of an issue outside your presence. We'll get you back
20 just quickly as we can. Thank you.

21 (Whereupon, the jury left the courtroom at
22 3:07 p.m.)

23 THE COURT: Okay. Your Honor, we would need to do
24 a Jackson V. Denno at this time. Investigator Miller
25 is here and he's feeling so much better I'm sure. He's

C. MILLER -- DIRECT BY MS. HODGE

1 going to suffer through.

2 **THE COURT:** All right. Officer, if you have an
3 issue, just let me know. Okay. Come on around.

4 **THE CLERK:** Sir, please place your left hand on
5 the Bible and raise your right hand.

6 CHRISTOPHER MILLER, having
7 been first duly sworn, testified as follows:

8 **THE CLERK:** Thank you. Please be seated. Please
9 state your name for the record.

10 **THE WITNESS:** Christopher Miller.

11 DIRECT EXAMINATION BY MS. HODGE:

12 Q Investigator Miller, are you the lead
13 investigator on this incident, the shooting involving
14 Curtis Wooten and the Defendant, Ronnie Swofford?

15 A I am.

16 Q And during the course of your investigation,
17 did you determine the Defendant -- well, did you have
18 sufficient evidence to secure a warrant against the
19 Defendant for these charges?

20 A Yes, I did. You have to forgive me, I have
21 lost my voice.

22 Q Okay. Do you want some water?

23 A Yes.

24 Q Did you actually arrest the Defendant?

25 A I did not.

C. MILLER -- DIRECT BY MS. HODGE

1 Q And he was taken into custody by marshals, is
2 that right?

3 A In -- Spartanburg County Sheriff's Office,
4 through the Marshals Task Force.

5 Q Do you know what date he was arrested?

6 A That was August 18th, I believe.

7 Q August 18th of 2009?

8 A Yes.

9 Q And did you then get a search warrant to take
10 photographs of the Defendant after he had been
11 arrested?

12 A Yes. The next day on August 19th.

13 Q And what was the basis for that search warrant?

14 A The basis was to look for any injuries
15 consistent with a gunshot wound.

16 Q Had you learned through the course of your
17 investigation that the victim had possibly shot the
18 victim, the Defendant, during the course of this
19 shooting, home invasion?

20 A Yes.

21 Q And did you then go to the detention center,
22 after the Defendant was arrested, and pull him with the
23 intent to execute that search warrant?

24 A Yes, I did.

25 Q And tell us about that incident, you got the

C. MILLER -- DIRECT BY MS. HODGE

1 Defendant from custody and what followed?

2 A Well, of course, I called them and I had him
3 sent down to transport. And I advised him why I was
4 picking him up, I had a search warrant to take pictures
5 and that I was going to have -- walk him over to my
6 office.

7 So I didn't ask him anything during the time
8 I -- I just walked him. He made a few spontaneous
9 statements, wanted to know why he was being arrested.
10 He was friends with Mr. Wooten. He had read in the
11 warrants that his DNA was found at the scene. And he
12 said, well, of course his DNA would be found at the
13 scene because he had been to the residence before.

14 Q All right. Did he say something about how
15 would -- the people know a suspect when they said the
16 gunman was masked?

17 A Yes, he did say that.

18 Q At this point, were you attempting to ask him
19 any questions or elicit any information from him?

20 A No. I was not going to ask him anything until
21 I advised him of his rights.

22 Q And had you planned on doing that during the
23 walk from the detention center to your office?

24 A No. Because there is a standardized form that
25 we read and we have someone that we're advising the

C. MILLER -- DIRECT BY MS. HODGE

1 rights to initial and sign.

2 Q When he made these spontaneous statements, did
3 you answer anything back or engage in any kind of
4 conversation about the facts of this case?

5 A No, ma'am.

6 Q Once you got over to -- or did you
7 intentionally interrogate him in any way on this walk
8 or even in the execution of the search warrant?

9 A No. My intent was once the search warrant was
10 executed, then to talk to him about it. And forensics
11 was really busy. So once we got to my office, and we
12 sat down, I went ahead and advised him of his rights,
13 and asked him if he wanted to talk.

14 Q And what rights did you advise him of?

15 A His Miranda Rights.

16 Q And did you go over the written form as you
17 were discussing it?

18 A Yes, I did.

19 Q And at that point, did he wish to speak to you
20 about the case?

21 A He advised me that he had an attorney and that
22 he was advised not to speak with me.

23 Q Did you continue to ask questions of him or
24 attempt to get him to talk to you at that point?

25 A No. I continued to read the -- the end portion

C. MILLER -- DIRECT BY MS. HODGE

1 of the Miranda Rights form. And just -- then the
2 waiver portion. And then I just -- this is my
3 signature here with my writing, but that he refused to
4 sign per his attorney.

5 Q Okay. After you finished filling out this form
6 and signing that, did the Defendant continue to talk to
7 you?

8 A He -- yes, he did. He continued to make
9 statements. He said he wanted to talk off the record.

10 Q What did you say to that?

11 A I didn't say anything. I just continued to
12 talk. And he made statements such as -- that he had a
13 baby -- he wanted to know if he was going to get out
14 because he had a baby on the way and he wanted to spend
15 some time with the baby.

16 And that he -- that he has tried to stay out of
17 trouble and he was -- wanted to know if he was going to
18 be entitled to a bond. I told him he would. And he
19 wanted to know, you know, how anyone would think that
20 he would do something like this because he was friends
21 with Mr. Wooten.

22 Q Did he tell you that he had been or did you
23 know that he had been in prison with Mr. Wooten or did
24 he tell you that?

25 A Yes.

C. MILLER -- DIRECT BY MS. HODGE

1 Q He said he had been trying to stay out of
2 trouble -- trying hard to stay out of trouble the last
3 three years?

4 A He did.

5 Q Did he say he didn't do this?

6 A Yes. He said he didn't do it. He was friends
7 with Mr. Wooten.

8 Q During this time, are you asking him any more
9 questions or is this just a free flowing spontaneous
10 account from him --

11 A No, this is free flowing. I didn't ask him
12 anything.

13 Q Was it your intention to ask him any more
14 questions once he acknowledged that he wanted to invoke
15 his rights?

16 A No. I knew better.

17 Q And specifically about him stating that he
18 wanted to see his unborn child, did he say "before he
19 went back to prison"?

20 A Yes, he did.

21 Q About about getting a bond before he would be
22 sent back to jail?

23 A Yes.

24 Q Did you --

25 A He kind of --

C. MILLER -- DIRECT BY MS. HODGE

1 Q Go ahead.

2 A I'm sorry. I just -- to me, I took it as he
3 was planning on going back to jail, you know, how long
4 will I be out.

5 Q Did you answer some basic procedural questions
6 about who would set a bond or how long the case would
7 take to try? Those kinds of things?

8 A Yes. I told him he would have to see a Circuit
9 Court judge. And to -- as far as the length of how
10 long it would be for the trial, that it would be a
11 lengthy process and it would be basically up to the
12 courts and prosecutors before, you know, when they want
13 to try it.

14 Q Did he then want to talk to you about general
15 stuff as well?

16 A We had -- we had some conversations about
17 football. And him just -- generalized conversation. I
18 asked him, did he need to go to the bathroom. I gave
19 him some coffee. He asked me could he use the phone to
20 call his girlfriend. I let him use the phone. I tried
21 to accommodate him as much as I could because we had
22 been up there a while.

23 Q And eventually did the officers come and take
24 photographs of him?

25 A Yes.

C. MILLER -- CROSS BY MR. JOHNSTON

1 Q Was there any more conversation regarding the
2 case or the facts of the case between the statements
3 made by him to you, after the photographs were taken,
4 on the way back to detention; anything like that?

5 A No, it was -- I think we continued to talk
6 about football and our kids playing football.

7 **MS. HODGE:** Thank you. Answer any questions that
8 counsel has.

9 CROSS EXAMINATION BY MR. JOHNSTON:

10 Q At the time that you say these statements were
11 made, Mr. Swofford was in jail?

12 A Right.

13 Q He was in the custody of the county jail, is
14 that right?

15 A That's correct.

16 Q And you went to county jail and you removed him
17 from the county jail?

18 A That's correct.

19 Q And how -- was he handcuffed?

20 A Yes.

21 Q Okay. Was he handcuffed behind his back, in
22 front of his back, belly chains?

23 A Below waist belt.

24 Q Pardon me?

25 A Waist belt with his hands in the front.

C. MILLER -- CROSS BY MR. JOHNSTON

1 Q Okay. So he had chains around him like a belt
2 and then his hands are chained to the belt?

3 A I have a leather waist belt.

4 Q Yes, sir.

5 A And then handcuffs fit through the front of it
6 and it fits comfortably.

7 Q Was there anyone else with you; if you
8 remember?

9 A Not that I remember.

10 Q Okay. And you picked him up at the county
11 jail?

12 A Yes.

13 Q And did you walk him to the law enforcement
14 center or how did you get there?

15 A I walked him.

16 Q And how far is that? How long does it take?

17 A It's probably from the back door of the
18 detention center to the back door of the law
19 enforcement center, not quite the length of a football
20 field.

21 Q Okay. And you told him, I guess, to come with
22 you?

23 A Yes.

24 Q And he agreed to do so?

25 A Correct.

C. MILLER -- CROSS BY MR. JOHNSTON

1 Q And he accompanied you literally?

2 A Yes.

3 Q I guess he had no choice? Pretty much?

4 A Right.

5 Q The first part of your conversation, where were
6 you when that happened?

7 A Probably -- walking through the parking lot of
8 the law enforcement center.

9 Q So it was that football field in length area
10 that we were talking about?

11 A Somewhere in that, yes.

12 Q How did you start the conversation?

13 A I did not.

14 Q How -- you didn't say -- he didn't say where am
15 I going?

16 A No. I advised him of that once -- he came in
17 from transport, I advised him why I was taking him
18 over.

19 Q And what did you tell him?

20 A I told him that I had a search warrant for
21 pictures of his person.

22 Q Okay. When is the first time that you learned
23 he had counsel?

24 A When he told me in my office.

25 Q So that would have been after the walk?

C. MILLER -- CROSS BY MR. JOHNSTON

1 A After the walk and when I advised him -- after
2 I advised him of his rights, after the walk.

3 Q How did the subject of the conversation occur?
4 How did it come up?

5 A Which conversation?

6 Q The first one, the one on the way over?

7 A It was just spontaneous, just trying to talk.

8 Q Okay. And did you say anything to him?

9 A I didn't make any comments.

10 Q He apparently knew at that point, that he had
11 been charged with, among other things, a shooting --
12 shooting Curt Wooten?

13 A That's correct.

14 Q And he said -- he asked why he was being
15 charged with shooting Curt Wooten because they were
16 friends?

17 A He said he did not know why.

18 Q Okay. He went on to say he did not see how he
19 was named as the suspect, did he say that?

20 A Something in those words.

21 Q All right. When did you give him -- at some
22 point, did you give him a copy of that search warrant?

23 A Yes.

24 Q When?

25 A It would have been in the office.

C. MILLER -- CROSS BY MR. JOHNSTON

1 Q Okay. So he gets the search warrant only after
2 you arrive across the football field in length area and
3 arrive at the Law Enforcement Center?

4 A That's correct.

5 Q Did --

6 A The reason -- I'm sorry.

7 Q Go right ahead.

8 A The reason would be because that would not
9 be -- because I cannot execute my own search warrant.

10 Q Yes, sir, I understand.

11 A So I had --

12 Q You took him somewhere?

13 A Correct.

14 Q And asked somebody else -- in?

15 A Correct.

16 Q To do the execution of the search warrant?

17 A Yes.

18 Q Yes, sir, I understand that. I'm looking at
19 your report dated 8/28/09; you don't have a copy of
20 that handy, do you?

21 A Not in front of me.

22 Q Okay. Well, let me ask you about this
23 statement. As I take this, this is on the way to the
24 law enforcement center during the walk. He -- you
25 report that Mr. Swofford said that he read the warrants

C. MILLER -- CROSS BY MR. JOHNSTON

1 and he saw that his DNA was found at the scene. Am I
2 characterizing that correctly? What he said -- what
3 you say he said?

4 MS. HODGE: I would like a copy.

5 MR. JOHNSTON: Yes. That would be helpful. Thank
6 you very much.

7 BY MR. JOHNSTON:

8 Q Let me show you the particular part that I'm
9 referencing. I'm glad to see you brought your glasses
10 with you. Okay. "As I was escorting the suspect to my
11 office, the suspect began to make spontaneous
12 utterances." We're walking across the football field
13 at this point, am I correct?

14 A Correct.

15 Q He wanted to know why he was being charged. He
16 didn't see how -- "the suspect stated that he read the
17 warrants and that he saw his DNA was found at the
18 scene". Now, am I correct in characterizing that line
19 of dialogue, if you will, that line of dialogue was on
20 the way over to the Law Enforcement Center?

21 A Yes.

22 Q Okay. Well, what warrants would he have read?

23 A He would have copies of the originals.

24 Q The arrest warrants. Okay. Does the arrest
25 warrant in this case say that his DNA was found at the

C. MILLER -- CROSS BY MR. JOHNSTON

1 scene?

2 A I don't have a copy of the arrest warrant in
3 front of me.

4 Q Okay. Well, if it's not on the arrest warrant,
5 where is the only other place it would have been?

6 A It would have been -- it wasn't on the search
7 warrant.

8 Q Okay. We have got a copy of the arrest warrant
9 coming for you.

10 A It is on this one.

11 Q Okay. The statement from the basis of the
12 case, "the probable cause is, eye witness oral
13 statement and corroborating DNA evidence". Okay. So
14 at that point, he would have seen the arrest warrant
15 and he would have known that DNA evidence was involved,
16 am I correct?

17 A Correct.

18 Q "He then goes on to say there would be DNA that
19 is there because he visited the residence a few times,
20 I did not respond to the suspect"; am I correct?

21 A Correct.

22 Q Then you go on to make your own personal notes
23 about what you saw, am I correct?

24 A Yes, sir.

25 Q And by that point, you have arrived at the Law

C. MILLER -- CROSS BY MR. JOHNSTON

1 Enforcement Center?

2 A Yes, sir.

3 Q Okay. You take him into, what, your office or
4 some general area for this process?

5 A I took him to my office.

6 Q Okay. And at that point, what do you do?

7 A At that point, I contacted forensics and asked
8 them to respond.

9 Q Okay. Well, fair enough. But I really mean,
10 what did you do with Mr. Swofford?

11 A I had him sit down.

12 Q Yes, sir.

13 A I asked him if he needed some water or coffee
14 or anything, and I gave him some coffee.

15 Q All right.

16 A And then after I contacted forensics and found
17 out they were going to be there a while, then I --

18 Q Because your original plan, as you said, you
19 were going to do the -- take the sample first?

20 A Correct.

21 Q They're tied up, so to make more efficient use
22 of your time, you decided to go ahead and do the
23 questioning then?

24 A That's correct.

25 Q So what did you do?

C. MILLER -- CROSS BY MR. JOHNSTON

1 A Then I read him his rights or -- I typed -- I
2 printed up the Miranda form, and then asked him some
3 basic questions, his name, date of birth. And then I
4 advised him of his rights.

5 Q Did you have a copy of your written rights form
6 with you when you went over to get Mr. Swofford at the
7 jail, or did you retrieve that from your office?

8 A I printed it from my computer.

9 Q You printed it from your computer. That's why
10 part of it is in -- it looks like it's typed?

11 A Correct.

12 Q And part of it, however, is handwriting?

13 A Correct.

14 Q I assume your handwriting?

15 A The part of it in his initials are his
16 handwriting.

17 Q Okay. But I don't see his initials on there,
18 but I'll -- I'll let you point them out to me. You
19 printed out the rights form and then began to
20 immediately read it to Mr. Swofford?

21 A Yes.

22 Q Okay. So you printed it out?

23 A Right.

24 Q You read it to him?

25 A Yes.

C. MILLER -- CROSS BY MR. JOHNSTON

1 Q And then you say, knowing these rights, do you
2 wish to...?

3 A Normally I have -- normally, I have him
4 initialing it, but apparently he refused to initial it.

5 Q Okay. Well, do you know if he refused to
6 initial it?

7 A Well, if he -- if they are not initialed, he
8 would have refused to have initialed them.

9 Q Okay. Well you're assuming that, aren't you?

10 A I think that's apparent.

11 Q Okay. In any event, you printed it out and
12 begin -- you read it over to him and then you basically
13 ask -- you call for the questions so-to-speak, having
14 these rights in mind, are you going to talk to me?

15 A Correct.

16 Q And what does Mr. Swofford say?

17 A He tells me that he has been advised by his
18 attorney, Gerald Wilson, not to make any statements.

19 Q And immediately upon hearing that, you did
20 what?

21 A I hadn't got to the waiver portion. I went
22 ahead and read it to him. And then --

23 Q Yes, sir.

24 A -- and then I wrote in here at the bottom,
25 refused to sign per his attorney, Gerald Wilson.

1 Q The first part is the informational part, the
2 second part is the waiver if they choose to exercise
3 it?

4 A Correct.

5 Q Okay. So after you have concluded the
6 conversation with him, you wrote down that he refused
7 to sign per his attorney, Gerald Wilson?

8 A Yes, sir.

9 Q Now, you -- what time did you --

10 **THE COURT:** Mr. Johnston?

11 **MR. JOHNSTON:** Yes, sir.

12 **THE COURT:** I'm going to ask you speed this up.
13 We are just here to determine the voluntary nature of
14 the statements.

15 **MR. JOHNSTON:** Yes, sir.

16 **THE COURT:** So let's keep your questions
17 specifically to that issue.

18 **MR. JOHNSTON:** I will, sir.

19 BY MR. JOHNSTON:

20 Q What time did you print it out?

21 A 9:40 a.m.

22 Q Sir?

23 A A.M.

24 Q Yes, sir. What time did you execute the
25 "refused to sign"?

C. MILLER -- CROSS BY MR. JOHNSTON

1 A When we were finished, it was at 9:56 a.m.

2 Q So it took you eight minutes?

3 A I take a long time when I'm reading these -- I
4 make -- I make -- I ask the person to read the sentence
5 back to me. Each sentence, I'll read it and ask that
6 person to read it back to me.

7 Q All right.

8 A To make sure they understand it.

9 Q All right, sir. And that point, you knew that
10 he had invoked his right to counsel?

11 A When we got to the end, yes.

12 Q He still made some additional statements?

13 A Yes, sir.

14 Q You didn't question him?

15 A No, sir.

16 Q Did you record any of these comments?

17 A No, sir.

18 Q Other than your memorandum in your report?

19 A Correct.

20 Q All of the other statements came after he had
21 invoked his right to counsel?

22 A Correct.

23 **MR. JOHNSTON:** Beg the court's indulgence just one
24 moment. (Pause). Please answer any other questions.

25 **MS. HODGE:** No other questions.

C. MILLER -- CROSS BY MR. JOHNSTON

1 **THE COURT:** All right. Thank you, sir. You can
2 step down.

3 **MS. HODGE:** That would be all from the State --

4 **THE COURT:** All right.

5 **MS. HODGE:** -- in regard to the Jackson v. Denno.

6 **THE COURT:** Any reason why I shouldn't allow the
7 statement to the jury?

8 **MR. JOHNSTON:** Your Honor, we would argue that the
9 circumstances here are inherently coercive. The
10 Defendant was in jail. He was being taken while pinned
11 up from one place to another in the custody of an
12 officer. We would argue that all of it should be
13 suppressed as being the product of custodial
14 interrogation.

15 But if the court disagrees with us on that, I
16 would at least ask that you suppress what I call the
17 second half, the part that came after the Defendant
18 clearly invoked his right to counsel.

19 **THE COURT:** Well, based on the preponderance of
20 the evidence, I find that the statement was free and
21 voluntary, and I'm going allow the jury to hear it.
22 Anything else?

23 **MR. JOHNSTON:** No, sir, Your Honor. Will you let
24 us take a little break before you start back in?

25 **THE COURT:** Okay. Let's take a short break. All

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1 right.

2 (Whereupon, after a recess, court resumed at 3:50
3 p.m.)

4 (Whereupon, the jury entered the courtroom at 3:52
5 p.m.)

6 **THE COURT:** All right, Ms. Hodge.

7 **MS. HODGE:** Thank you, Your Honor. The State
8 calls Investigator Chris Miller.

9 CHRISTOPHER MILLER, having been
10 first duly sworn, testified as follows:

11 **THE CLERK:** Please be seated. Please state your
12 name for the record.

13 **THE WITNESS:** Christopher Miller.

14 DIRECT EXAMINATION BY MS. HODGE:

15 Q Investigator Miller, who do you work for?

16 A Greenville County Sheriff's Office.

17 Q How long have you been with the Sheriff's
18 Office?

19 A I started there in June of 1999.

20 Q And what are your duties or responsibilities
21 with the Sheriff's Office currently?

22 A I am a homicide investigator. You have to
23 forgive me, I'm losing my voice.

24 Q In fact, you were sick yesterday and some of
25 today?

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1 A Yeah.

2 Q So were you employed in the same capacity as an
3 investigator CID or homicide back in July of 2009?

4 A Yes, ma'am.

5 Q And were you the lead investigator on the case
6 that we're on today, State vs. Ronnie Swofford?

7 A Yes.

8 Q Tell us -- do you guys go on rotation or was
9 this some of your normal work hours that you were
10 called out on? How did this occur?

11 A We have a rotation. At that time, there was
12 four of us, so it was a four week rotation. And it
13 goes from 8:00 on Monday morning until 8:00 the next
14 Monday morning. So this call came in about 2:30 on
15 Monday morning, when I was about to get off call.

16 Q At 8:00?

17 A Yes.

18 Q A few hours later --

19 A Yeah.

20 Q -- it would have been the next person?

21 A The next person, yes.

22 Q Okay. And where was this call coming from?

23 A This was coming from Memorial Drive in Greer.

24 Q Do you know what time the actual call for
25 service came into dispatch?

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1 A Yes. We were contacted -- we were contacted at
2 2:43 a.m. on July 27th.

3 Q And what was your first responsibility in
4 regard to investigating this case?

5 A Well, I was the lead investigator, so it was up
6 to me, first, to determine how much help that I would
7 need depending on what had happened.

8 So when I would -- when I get the call from the
9 uniform patrol supervisor, he will brief me exactly
10 what they have and how many victims or suspects they
11 may have and -- on scene. How many witnesses.

12 So I was advised that they were at the hospital
13 with a gunshot victim and a witness. And then the --
14 there were deputies on the scene of the actual
15 shooting. So they were at Greer Memorial Hospital, the
16 victim was and the witness was at that time.

17 Q What were the names, the victim and the
18 witness?

19 A Curtis Wooten is the victim and Rikki Edwards
20 was the witness.

21 Q So where did you go first?

22 A I went to the hospital first since I was hoping
23 to speak with the witness and the victim at the
24 hospital. And so I contacted Investigator David
25 Weiner, who was my back-up on call for that week and

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1 asked him to go to the scene. And also Master Deputy
2 Will Lewis was cross training with me. I was training
3 him in homicide. And I asked him to respond to the
4 scene with Investigator Weiner.

5 Q And were you able to meet with Mr. Wooten at
6 the hospital?

7 A He was being treated and being prepared to go
8 to Greenville Memorial, so I was unable to speak with
9 him. But I was directed by Sgt. Hayes, Sergeant David
10 Hayes to Rikki Edwards, and he gave me a little
11 briefing there on what they found since they had been
12 at the hospital. And that the victim's vehicle was out
13 in front of the hospital, which was a pickup truck.
14 And I saw it sitting out there when I pulled up.

15 Q A red pickup truck?

16 A Yes.

17 Q Were you able to do a full interview with
18 Ms. Edwards at the hospital?

19 A No, I -- I didn't. We like to conduct our
20 interviews at the office where the statements can be
21 typed. And so I just initially asked her what
22 happened. And she was pretty hysterical, emotional.
23 You know, you can imagine, somebody that had just
24 witnessed a shooting and said they had been shot at
25 themselves, kind of how hysterical they would be.

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1 So talking to her there wasn't the best place to
2 talk to her. And she just game me a briefing, you
3 know, said that --

4 **MR. JOHNSTON:** Your Honor, I'll object to what she
5 said as hearsay.

6 **MS. HODGE:** Your Honor, she is still under the
7 excitement of the event. She is hysterical.

8 **THE COURT:** I'm going to allow it. It's part of
9 the res gestae. Go ahead.

10 **THE WITNESS:** She was very vague. She just said
11 that her and Mr. Wooten were in the kitchen and they
12 heard a noise. A masked man came in, shot Mr. Wooten.
13 She ran for the back door. She heard a gunshot. She
14 assumed he was shooting at her. She ran out the back
15 door.

16 As she was -- after Mr. -- she said that he --
17 that Mr. Wooten was able to return. And I believe that
18 he had shot the masked person.

19 BY MS. HODGE:

20 Q Was she able to give you any kind of physical
21 description of what the person looked like or the size
22 or --

23 A Just general. He was dressed in black, average
24 height. That was about it.

25 Q And was she directed then to go to your office

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1 for interview?

2 A Yes. I asked Sgt. Hayes if he would have one
3 of the patrol deputies to transport her to the office.

4 Q What did you do after that?

5 A After that, I made sure that Sgt. Hayes got
6 the -- a wrecker for the victim's vehicle, so in case
7 there was any evidence there for us to obtain, so I
8 could obtain a search warrant for that at a later time.
9 And then I responded to the actual shooting scene.

10 Q What did you observe about the scene?

11 A When we got to the scene, I was directed to the
12 kitchen area of the house. As you walk -- you have to
13 walk in the front door and walk through a den. And
14 then walk through the kitchen area. I saw where two
15 areas, where people had been shot. One was over by the
16 sink. And the phone line there and there was blood.
17 And against the wall to the left, there was a gunshot
18 projectile on the paneling and there was blood and
19 tissue and blood spattered on the wall.

20 Q Did you collect anything from the scene?

21 A Forensics --

22 Q Any items?

23 A I did not. Forensics processed it.

24 Q Were they there while you were doing this this
25 walk through?

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1 A Yes.

2 Q Is that important for you to actually go to the
3 scene?

4 A Yes. To see it and then make sure that I
5 direct them if there is anything that -- special that
6 they don't -- that maybe they didn't catch, to make
7 sure they collect it.

8 Q And what did you do after that?

9 A After that, I responded to the Law Enforcement
10 Center. And then that's when I interviewed
11 Ms. Edwards.

12 Q In more detail? More detail than what you were
13 --

14 A Yes. Yes. More -- I actually took a written
15 statement. Master Deputy Lewis and I took a written
16 statement from her.

17 Q Did you also ask that a gunshot residue kit be
18 collected from her?

19 A Yes. That's standard procedure, anyone that's
20 on the scene of a shooting and -- just to eliminate
21 them as a possible suspect, we would do a gunshot
22 residue kit. And also did a search warrant for her
23 clothing since she was covered in blood, just to make
24 sure -- sometimes there's not gunshot residue on
25 someone's hands, there will be some on their clothing.

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1 So that was the purpose of taking her clothes.

2 Q Did she cooperate with you?

3 A Yes.

4 Q How was her emotional state at this point?

5 A She was still a little emotional, and she was
6 kind of -- just not the way you would think someone
7 would act when their boyfriend just got shot. You
8 would think they would be more upset. She -- she
9 started talking more about her emotional state and, you
10 know, all these different things. It kind of threw up
11 a red flag for me with her, but...

12 Q Did she have some mental health issues?

13 A Yes.

14 Q And was there anything that ever led you -- any
15 evidence, anything that led you to think that she was
16 part of this shooting in any way?

17 A Never -- I mean, she remained a person of
18 interest for quite a while, but...

19 Q Was she ever charged?

20 A No. But at a later date, we were able to
21 exclude her from it.

22 Q So you were treating her as a possible suspect
23 at this point?

24 A As a person of interest, yes.

25 Q Did that have any bearing on her demeanor --

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1 **MR. JOHNSTON:** Your Honor, I would object to that.
2 How would he know what was -- what was the cause of her
3 demeanor?

4 **THE COURT:** Well, he can state what he observed.

5 BY MS. HODGE:

6 A I didn't observe her acting any differently
7 than she had been acting.

8 Q All right. And about how long did you speak to
9 her?

10 A Probably -- I don't have a statement in front
11 of me, but probably an hour or so.

12 Q And then was she free to go?

13 A She was free to go after that.

14 Q And in preparation for this trial, have you
15 attempted to locate Ms. Edwards?

16 A On two different occasions. And I spoke with
17 her mother and her mother --

18 **MR. JOHNSTON:** I object to what her mother said.

19 **THE COURT:** Okay. Don't -- you can't -- that
20 would be hearsay. Go ahead.

21 **THE WITNESS:** I was unable to contact her.

22 BY MS. HODGE:

23 Q You were unable to make contact with her?

24 A Right.

25 Q After you spoke to Ms. Edwards, what was your

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1 next step in this investigation?

2 A My next step was to try to determine the
3 identity of the perpetrator on the scene of the -- at
4 the hospital. Sgt. Hayes spoke with Mr. Watson -- Mr.
5 Wooten, and he asked him who did it. And he got the
6 name of Ronnie Swofford. So at that time, I began to
7 try to locate Ronnie Swofford.

8 Q And were you able to locate where Mr. Swofford
9 may have been living?

10 A Through our investigation, I was finally able
11 to determine who he was and where he lived.

12 Q And where was he from if you know?

13 A He lived in Spartanburg.

14 Q And had you been -- had you and Investigator
15 Weiner had conversations about the cell phone at the
16 incident location that you saw?

17 A Yes. And Investigator Weiner had the phone and
18 he was able to stroll through the phone and find the
19 name Ronnie. And actually made phone contact with that
20 phone number with Mr. Swofford.

21 Q And did he provide you that name, Ronnie, and a
22 phone number that was associated with it?

23 A Yes.

24 Q And were you able to make contact -- or did you
25 attempt to then make contact with Ronnie Swofford?

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1 A I did. I was able to talk with his fiance or
2 girlfriend, Ms. Lawter. And I told her I needed to
3 speak with him. And --

4 **MR. JOHNSTON:** Your Honor, I would object on
5 grounds of hearsay.

6 **THE COURT:** No. He is just saying what he said to
7 this man. So overruled. Go ahead.

8 **THE WITNESS:** I told her I needed to speak with
9 him. I left my number for him to give me a call, which
10 I never got a return call.

11 **MR. JOHNSTON:** Your Honor, I have a matter of law.

12 **THE COURT:** All right. Mr. Forman, ladies and
13 gentlemen of the jury, I have to ask you to go back to
14 the jury room. Please don't discuss the case.

15 (Whereupon, the jury left the courtroom at
16 4:05 p.m.)

17 **THE COURT:** Okay.

18 **MR. JOHNSTON:** Your Honor, I would ask that you
19 instruct the jury to disregard that last statement.
20 There's no reason for them to introduce evidence saying
21 "and I never got a call back" -- other than to comment
22 on the defendant's silence.

23 **MS. HODGE:** Your Honor, he's not under arrest at
24 this time.

25 **THE COURT:** Yeah. I -- I'm --

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1 **MR. JOHNSTON:** I'm not asking for a mistrial, Your
2 Honor. I'm just asking for them to disregard -- to ask
3 you to tell the jury to disregard that.

4 **MS. HODGE:** Your Honor, I believe that's a
5 perfectly valid question and answer. It would be as if
6 he called me and I didn't return the call. There's no
7 5th Amendment Rights that are being violated. I'm not
8 not under arrest --

9 **THE COURT:** We don't -- he doesn't -- there's no
10 explanation for why -- I mean, he may never have gotten
11 the message from whoever --

12 **MR. JOHNSTON:** I agree.

13 **THE COURT:** -- called the -- I'm going to -- no.
14 I'll deny your request.

15 **MR. JOHNSTON:** All right, sir.

16 **THE COURT:** Okay.

17 **MR. JOHNSTON:** Your Honor, while they're out, I
18 would like to bring up one other issue.

19 **THE COURT:** Okay.

20 **MR. JOHNSTON:** I would make a motion in limine
21 that they not introduce evidence saying that Mr.
22 Swofford was arrested by the U.S. Marshal's task force.
23 I think that's highly prejudicial and it's not
24 probative of any facts in the case. I think the fact
25 that he's arrested by police officers is more than

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1 satisfactory.

2 **THE COURT:** I don't -- were you planning on doing
3 that? I mean, I don't --

4 **MS. HODGE:** The process is, did you arrest him?
5 Who arrested him? When was he arrested. This is
6 across county lines. It was also a person that had
7 been convicted of a crime of violence. That is their
8 protocol, is to invoke the help of federal marshals.

9 **MR. JOHNSTON:** I have no objection to them doing
10 it as the protocol. I'm merely objecting to injecting
11 it into this case. It is not relevant who arrested
12 him. And it sounds prejudicial to say he was arrested
13 by the Fugitive Task Force of the U.S. Marshals. It
14 sounds bad. And it is not necessary. It makes it seem
15 like he is on the run. He was arrested at Mary Black
16 Hospital.

17 **THE COURT:** Well, I don't -- I tell you what, just
18 don't say "Fugitive Task Force". You can say he was
19 arrested by the U.S. Marshal Service.

20 **MR. JOHNSTON:** I have no problem with that.

21 **THE COURT:** Okay. We'll do that. All right.
22 Okay. You got that, officer?

23 **THE WITNESS:** Yes, sir.

24 **THE COURT:** Okay. Investigator I should say.

25 **THE WITNESS:** Officer is fine.

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1 (Whereupon, the jury entered the courtroom at
2 4:10 p.m.)

3 **THE COURT:** All right. Ms. Hodge.

4 BY MS. HODGE:

5 Q Investigator Miller, so July 28th of 2009, you
6 contacted a Ms. Lawter, is that correct?

7 A That's correct.

8 Q And if you will, I think some of your answer
9 may have gotten cut off, were you able to speak to
10 Ms. Lawter?

11 A I was.

12 Q Did you ask to speak to the Defendant?

13 A I did.

14 Q Was the Defendant put on the phone or were you
15 told that he was there?

16 A I was told that he was not there, that he was
17 working in Columbia.

18 Q Did you leave a message to be relayed?

19 A I left a phone number.

20 Q And did the Defendant call you back July 28th?

21 A No.

22 Q Did he ever call you back?

23 A No.

24 Q After finding more information about Mr.
25 Swofford, what was the next step in your investigation?

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1 A The next step was to -- the evidence that was
2 collected, I was to get it down to SLED.

3 Q And which items of evidence did you attempt to
4 get down to SLED?

5 A That was a swab from a projectile that was
6 located on the floor of the kitchen that also contained
7 tissue and blood. And that was taken. Also, there was
8 a -- a table cloth and a blanket or -- a table cloth
9 and a blanket, and those also contained what was
10 suspected blood. Those items were taken, because SLED
11 will only take so many items at one time. So we
12 thought those were the best items to take.

13 Q And what instructions did you give them and
14 what did they tell you back about those items?

15 A It was --

16 Q Did you ask for DNA analysis --

17 A Yes. Yes.

18 Q Blood analysis --

19 A Yes. I'm sorry. We filled out a -- what they
20 call an analysis form. And we told them what type of
21 DNA we are looking for, which in this case would have
22 been blood DNA. Then I filled that out. And I -- I
23 took that down to SLED myself.

24 Q Is this before you had actually secured any
25 warrants or arrested anyone in the case?

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1 A No, I had not arrested anyone or -- secured any
2 warrants or arrested anyone at that time.

3 Q This is still part of your active
4 investigation?

5 A That's correct.

6 Q And did you ask them to go ahead and process
7 that?

8 A Yes. I spoke with Lieutenant Clayton, and
9 asked her if they could possibly do a rush on the DNA.
10 I explained the nature of the case, that we had -- we
11 had a shooter on the loose. And that we had someone in
12 the hospital that we weren't sure of his medical
13 condition at that time.

14 So they agreed about going and breaking it down,
15 and they would try to do it as quickly as possible.
16 And so I took those items down. And then they were
17 secured in our evidence packaging. And then -- once I
18 get there, we turn them over to the SLED techs and they
19 are secured in their own packaging. We never open them
20 up. We -- they take our packaging and put it in their
21 packaging.

22 Q Did they tell you that they needed a known
23 standard from the victim as well?

24 A They did. And so I had to come back to
25 Greenville and then draw up another search warrant.

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1 And then get with hospital personnel to make sure it
2 would be okay for me to take DNA buccal swabs from the
3 victim, since he was intubated at the time.

4 So I spoke with the nursing supervisor -- and I
5 don't have her name in front of me. But I -- Lydia
6 Leech -- Lydia Leech. She said it would be okay
7 because it's not intrusive. So I went there. I
8 executed a search warrant. I took a buccal swab myself
9 and sealed them back up in the proper containers that
10 were given by SLED. And I took them back to SLED.

11 Q What was the condition of the victim at the
12 time you took his buccal swab?

13 A He was on life support and he was intubated.

14 Q And let's go back a few days. Did you go -- on
15 July 30th or 31st, did you go back out to the incident
16 location, the residence, with another forensics
17 officer?

18 A Yes. Myself, Master Deputy Lewis and Sergeant
19 Shaw went back to the incident location. I tried to
20 get a better picture of what happened.

21 Q And were you present when they used trajectory
22 rods --

23 A Yes.

24 Q -- to determine the location of a shooter
25 vs. -- a person shooting, a person shot?

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1 A Yes.

2 Q All right. And the photographs at that time,
3 you were present when they took those photographs?

4 A Yes, I was.

5 Q Did you ask them to collect some papers and a
6 beer can at that time?

7 A I did.

8 Q And what were you asking to be done with those
9 items?

10 A Just finger prints, to see if we can come up
11 with any suspect, anything.

12 Q All right. And are you advised by the latent
13 examiners if there are ever matches or no matches?

14 A Yes. The matches came off of the papers that
15 were collected. That was Rikki Edwards.

16 Q Did she live in that residence --

17 A Yes.

18 Q -- with Mr. Wooten?

19 A Yes.

20 Q And none of the finger prints came back a match
21 to the Defendant?

22 A No, they didn't.

23 Q Did you attempt to go to the Defendant's
24 residence at some point during this investigation?

25 A Yes. After we left that day, July 31st, we

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1 left -- myself and Master Deputy Lewis met with
2 Spartanburg County Sheriff's office. We didn't know
3 where the residence was. And they led us and told me
4 where we needed to go and they took us out there.

5 Q And what were you going out there for?

6 A To see if we could make contact with Mr.
7 Swofford.

8 Q Were you able to do that?

9 A No.

10 Q Did you make contact with anyone at that
11 residence?

12 A With Ms. Lawter.

13 Q What did you say to Ms. Lawter at that time?

14 A We advised her what we were there for. Told
15 her that I was the one that had called her and left a
16 message. And she said that --

17 **MR. JOHNSTON:** Your Honor, I object to what she
18 said.

19 **THE COURT:** Yeah. That's hearsay. You can't say
20 that.

21 BY MS. HODGE:

22 Q Tell us what you said to her.

23 A I told her why we were there, that we needed to
24 speak with Mr. Swofford. And, again, we left a number
25 for him to get in touch with us.

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1 Q Did you ask her -- without saying what her
2 answer was -- but did you inquire of her if she knew
3 whether the Defendant had any injuries or gunshot
4 wounds?

5 A Yes, I did.

6 Q Did you advise her that you needed to talk to
7 him and see for yourself whether he may have had
8 injuries?

9 A I did.

10 Q Was there anyone else at the residence that you
11 spoke to at that time?

12 A Not that I recall.

13 Q Do you recall the address?

14 A It's [REDACTED] Blanchard Road in Spartanburg.

15 Q On August 5th of 2009, did you receive some
16 preliminary DNA results from SLED, on the items that
17 you had taken down?

18 A I did. I got a call from Lieutenant McClure
19 from SLED. He was part of the DNA laboratory. And he
20 said a preliminary profile came back matching Mr.
21 Swofford.

22 Q On which item of evidence?

23 A That would have been the swab from the buccal.

24 Q At that point, what did you do?

25 A Based upon that information, I then obtained

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1 warrants for burglary first, assault & battery with
2 intent to kill, possession of a weapon during the
3 commission of a violent crime.

4 Q At that point, did you also secure a warrant
5 for possession of a weapon by a person convicted
6 previously of a crime of violence?

7 A Yes.

8 Q And what new information did you put on your
9 warrants? What did you use for your probable cause on
10 the warrants?

11 MR. JOHNSTON: Your Honor, I would object to that.
12 We have no question that the warrants were properly
13 issued. I think it is proper to introduce what
14 probable cause was on the warrant. He was lawfully
15 arrested. We would certainly agree to that.

16 THE COURT: All right. I'm going to overrule the
17 objection. I am not sure -- okay. Go ahead.

18 BY MS. HODGE:

19 Q Would you please state what you put as your
20 probable cause for arresting the Defendant?

21 A Eye witness statement from the victim and the
22 corroborating DNA evidence.

23 Q Is that all it said or is --

24 A Do you want me to read it?

25 Q You can read it verbatim.

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1 A Okay. Okay. The "The affiant" -- which is me
2 -- "has an eye witness, oral statement from the victim,
3 corroborating DNA evidence indicates the Defendant in
4 the burglary and shooting of the victim, Curtis Randolph
5 Wooten. The Defendant shot the victim with a handgun
6 causing the victim to be placed on life support. The
7 Defendant did enter the victim's residence unlawfully
8 with malice aforethought, to cause the death of the
9 victim. This incident occurred in Greenville County"
10 and it is filed under a Greenville County case number,
11 1-9-119378.

12 Q Do you personally attempt to serve warrants
13 once you've sworn the warrants out for a suspect or
14 Defendants?

15 A Yes, ma'am -- it depends on -- in a situation
16 like this, no, I would contact our warrants division
17 because they have more manpower and more tools to try
18 to locate him.

19 Q So you did not physically arrest the Defendant
20 in this case?

21 A No. No.

22 Q You headed back to the warrants division?

23 A Correct.

24 Q Let's go back to the actual night of the
25 shooting, had you been advised that the possible

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1 suspect may have been shot or injured?

2 A Yes.

3 Q Did you contact hospitals with that
4 information?

5 A We contacted all the hospitals in the area, in
6 Oconee, Pickens, Spartanburg, Greenville Hospitals,
7 Laurens, I think we may have even contacted the
8 hospitals in Columbia.

9 Q And what are you advising them?

10 A Just anybody came in with a gunshot wound that
11 was -- you know, anybody to contact us and let us know.

12 Q Did you ever receive a call from any hospitals
13 on the incident night or any time thereafter?

14 A No.

15 Q Do you know what date the Defendant was
16 arrested?

17 A He was arrested on the 18th of August, 2009.

18 Q Did Spartanburg County arrest him or assist in
19 arresting him?

20 A Yes. One of our deputies was in contact with
21 one of Spartanburg County Deputies, and they had been
22 on the lookout for him there.

23 Q So they arrested him in Spartanburg County?

24 A That's correct.

25 Q What happened then?

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1 A Then they would be transported -- normally to
2 the county line, where one of our deputies would switch
3 out handcuffs and everything, and put him in one of our
4 cars and then transport him to the Detention Center
5 from there.

6 Q And do you have any idea what time of day or
7 night that might have occurred?

8 A I don't have that in my notes.

9 Q Are you contacted -- once a person that you
10 have been the lead investigator on the case, are you
11 contacted when that person is arrested?

12 A Yes. Yes. And normally, I would put the time
13 that they were arrested, but I didn't in this case.

14 Q Did you then attempt to make contact with the
15 Defendant after this?

16 A I did not. I'm not -- I'm thinking I was out
17 on another call when this happened, assisting him. I
18 couldn't leave at that point in time.

19 Q The day after August 19, 2009, did you have
20 contact with the Defendant?

21 A Yes. That's when I went to the Detention
22 Center and drafted the search warrant.

23 Q Tell us about that.

24 A What I did was, when I went and saw Mr.
25 Swofford for the first time, in order to see if he

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1 could -- see if possibly did he have any gunshot wound,
2 I drew up a search warrant. And I went over to the
3 detention center and got Mr. Swofford out, advised him
4 of why I was getting him out. And when I made eye
5 contact with him, I noticed he had a small wound on his
6 left forearm and a large wound coming out.

7 It's -- it was consistent with a projectile that
8 will -- it goes in, it normally -- when it enters, it's
9 small -- the hole is smaller. When it comes out, it's
10 larger. And that's what this one was consistent with.

11 Q So you visually observed that when you first
12 spoke with him?

13 A Yes.

14 Q Did you advise him while you were pulling him
15 out of detention?

16 A I did. I told him that I was -- I got the
17 search warrant for pictures. And I was going to have
18 him come up to my office and forensics would take those
19 pictures for us.

20 Q Did you intend to ask him any questions about
21 the incident or the shooting or anything like that at
22 the time that you took him out of the Detention Center
23 and were bringing him to your office?

24 A No, I didn't ask him anything.

25 Q And is the Detention Center close in location

C. MILLER -- DIRECT BY MS. HODGE

1 to your office?

2 A It is within walking distance.

3 Q And did the Defendant start asking you
4 questions or saying anything to you?

5 A He just made spontaneous comments, that he
6 didn't understand -- he and Mr. Wooten were friends,
7 and that he had noticed on the warrant that his DNA was
8 found at the scene. He said, well, you know, that
9 wouldn't be strange for my DNA to be found at the scene
10 because I had been over there before. I didn't tell
11 him what kind of DNA we found or anything else. I
12 didn't say anything. And -- so that -- that, you know.

13 Q Did he say -- I'm sorry -- did he say something
14 about the gunman was supposed to be masked or something
15 like?

16 A He did say something about the gun -- the
17 gunman being masked.

18 Q Did you write in your notes what he said
19 exactly?

20 A Yes.

21 Q Or paraphrase what he said?

22 A Okay. He said that he didn't know why he had
23 been charged with shooting Mr. Wooten because they were
24 friends. The suspect did state to me that he did not
25 see -- he did not know how he was named a suspect when

C. MILLER -- DIRECT BY MS. HODGE

1 the witnesses told authorities that the gunman was
2 masked. The suspect stated that he read the warrants
3 and saw that DNA was found at the scene.

4 Q Is that when he made the comment about his DNA?

5 A Yes.

6 Q And he's making these comments -- or really,
7 they sound like questions to you?

8 A Yeah. They're almost like questions.

9 Q Did you answer any of those questions?

10 A No.

11 Q Did you intend to get into any kind of
12 interrogation with him on this walk?

13 A No.

14 Q What's your normal procedure when you want to
15 speak to a suspect in a case?

16 A When we are going to interrogate someone,
17 especially when they are already in custody, we read
18 them their Miranda rights. We have a standardized form
19 that we print out, that we go over in detail in length,
20 to make sure that they understand it before they decide
21 whether they want to give us a statement, with or
22 without an attorney present.

23 So I never had any intent of asking him any
24 questions until that form was read and he acknowledged
25 that he understood it.

C. MILLER -- DIRECT BY MS. HODGE

1 **MR. JOHNSTON:** Your Honor, may we approach?

2 **THE COURT:** Okay.

3 (Whereupon, there was a bench conference in the
4 presence of the jury, but outside the hearing of the
5 jury.)

6 **THE COURT:** Okay.

7 BY MS. HODGE:

8 Q So tell us, after you have made this walk, you
9 and Mr. Swofford made the walk from the detention
10 center to your office, tell us what happened next.

11 A Well, then we arrived at my office. And I
12 asked him to have a seat. And my normal procedure with
13 anybody that is in custody, I try to make them as
14 comfortable as possible.

15 So I asked him had he had anything to eat. Do
16 you want anything to drink? And I offered him some
17 coffee and he said he wanted some coffee, so I made him
18 some coffee and gave him some coffee.

19 And I contacted the forensics division and asked
20 them if they -- they won't come until I told them he
21 was over in my office. So when I contacted them, they
22 said they would be on their way as soon as they could.
23 It might be a while.

24 So at that point, after I made Mr. Swofford some
25 coffee, I went ahead and read him his rights and

C. MILLER -- DIRECT BY MS. HODGE

1 printed out the Miranda form, went over it with him.

2 Q And is this the standard form that you that
3 have, that you go through with every suspect?

4 A Yes.

5 Q And what does the standard form basically say?

6 A It's just, you have the right to remain silent.
7 Anything you say, can and will be used against you in a
8 court of law. You have the right to an attorney. If
9 you cannot afford one, one will be appointed to you at
10 no cost.

11 You can stop answering questions at any time
12 until you consult with an attorney. Do you understand
13 your rights? And there is a bottom portion that talks
14 about the waiver of the rights, do you wish to talk
15 without an attorney present.

16 Q Okay. Did you, in fact, go over all of those
17 rights with Mr. Swofford?

18 A Yes. My procedure is, that I read each
19 sentence to the Defendant, and then I have them read it
20 back to me, to make sure that they understand.

21 Q Did he appear to understand? Could he read and
22 write?

23 A Yes.

24 Q Did he understand what you were saying -- in
25 your opinion, did he understand?

C. MILLER -- DIRECT BY MS. HODGE

1 A Yes.

2 MR. JOHNSTON: May we approach, Your Honor?

3 THE COURT: All right.

4 (Whereupon, a bench conference was held in the
5 presence of the jury, but outside the hearing of the
6 jury.)

7 THE COURT: All right. Just -- ladies and
8 gentlemen, we need to take up a matter outside your
9 presence. We will be back with you very shortly. So
10 it will be a very short break.

11 (Whereupon, the jury left the courtroom at
12 4:36 p.m.)

13 MR. JOHNSTON: May it please the court, Your
14 Honor?

15 THE COURT: Yes.

16 MR. JOHNSTON: My concern here is that there is
17 going to be testimony brought out that would be a
18 comment on the Defendant's right to silence.

19 The Solicitor, I -- she was courteous, and she
20 basically ran by me sort of an overview while we're
21 standing in the corner, what she proposed to do, which
22 I appreciate it, but I could not agree with what she
23 proposed to do.

24 As I understand what she proposed to do --

25 THE COURT: Well, I'll tell you what let's do --

C. MILLER -- DIRECT BY MS. HODGE

1 **MR. JOHNSTON:** Yes, sir.

2 **THE COURT:** Ms. Hodge, will you go ahead and ask
3 the questions you are going to ask as a proffer and
4 let's see if it's objectionable.

5 BY MS. HODGE:

6 Q Investigator Miller, after you advised the
7 Defendant of his rights, did he wish to give you a
8 statement; yes or no?

9 A No.

10 Q At that point, did you cease attempts to
11 interrogate him?

12 A Yes, I did.

13 Q At some point, did he then start to make
14 statements --

15 **THE COURT:** Just what happened next.

16 BY MS. HODGE:

17 Q What happened next? What happened next?

18 A At that point, I just -- I wrote a form that he
19 refused to sign it.

20 Q Without saying that portion that he refused to
21 sign or -- because he was advised by an attorney -- you
22 asked him if he wanted to give a statement, he
23 declined?

24 A Right.

25 Q Is that correct?

C. MILLER -- DIRECT BY MS. HODGE

1 A That's correct.

2 Q And what happened after that?

3 A After that, we -- I told him that we were still
4 waiting on forensics to arrive. And he -- just sit
5 with me until they arrive.

6 Q Did he -- what happened next?

7 A Just -- he, again, started making, you know, a
8 couple of comments about why he was there, why -- he
9 didn't understand.

10 Q So -- go ahead.

11 A So after that, he --

12 **THE COURT:** Let's do it this way, Officer, just
13 what did he say? I mean, what we are trying to -- we
14 don't want there to be a comment on his assertion of
15 his constitutional right to remain silent. So the
16 question is, did he make a statement? The answer is
17 no. What happened next? We sat -- this is what I
18 understand -- I'm not trying to suggest answers, but
19 this is what I've heard. We sat and he began a
20 conversation. Is that how it happened?

21 **THE WITNESS:** Yes, sir.

22 **THE COURT:** All right. If that's what he
23 testifies to, what's objectionable?

24 **MR. JOHNSTON:** Your Honor, I don't think it is
25 objectionable --

C. MILLER -- DIRECT BY MS. HODGE

1 **THE COURT:** Okay.

2 **MR. JOHNSTON:** -- if -- if he makes the statement
3 that he then began a conversation, there are two things
4 that I think are objectionable. If the statements
5 elicited, I asked him after reading him his rights, did
6 he want to make a statement, and he said no, I think
7 --

8 **THE COURT:** Well, I tell you what we will do.
9 Don't ask did he want to, just say, did you read him
10 his rights -- yes. Did he signed the waiver of rights
11 statement -- no. Did he make a statement -- no. What
12 happened next. Plain, simple, no leading questions.
13 And don't suggest about what he wanted or wished to do,
14 because we don't really know what.

15 But what happened, what did he do. And he did not
16 make a statement. Did he make a statement -- no. What
17 happened next. We had a -- he began a conversation.
18 Is that in short form what happened -- and I'm not
19 trying to suggest questions or answers, but to keep it
20 simple without just -- short declaratory stuff.

21 **MR. JOHNSTON:** If it's done precisely the way Your
22 Honor just did it, I'll have no objection.

23 **THE COURT:** You don't have to try to flatter me,
24 Mr. Johnston.

25 **MR. JOHNSTON:** No, sir. I was actually saying

C. MILLER -- DIRECT BY MS. HODGE

1 that the way you did it, was precisely the only way I
2 could not object to.

3 **THE COURT:** Okay.

4 BY MS. HODGE:

5 Q For clarification, though, Investigator Miller,
6 didn't he state -- I'm not going to say this to the
7 jury -- didn't he state that he wanted to talk to you
8 off the record?

9 A He did.

10 **MS. HODGE:** All right. So that's where it's going
11 to pick up, what happened next. He states he wanted to
12 talk to me.

13 **THE COURT:** Right. And as long as you ask the
14 questions, he's just reciting what occurred.

15 **MS. HODGE:** I'm afraid he's going to be gun shy
16 now because he's not sure what he's supposed to say
17 so...

18 **THE COURT:** Miller? He ain't going to be gun shy.

19 **MS. HODGE:** I'm just making sure.

20 **THE COURT:** All right. Do you understand,
21 officer, what we're -- just describe what happened.
22 Okay. And that's all we ask you to do.

23 **MS. HODGE:** Without mentioning that he invoked his
24 right to his attorney.

25 **THE COURT:** Yeah. Just leave that out.

C. MILLER -- DIRECT BY MS. HODGE

1 **THE WITNESS:** Just what he told me. That's okay.

2 **MS. HODGE:** Correct. Correct.

3 **THE COURT:** Right. That he -- just say what
4 happened next. He began a conversation. What was the
5 conversation. And then you can describe it. But don't
6 mention invoking his rights, you know, the
7 constitutional rights specifically invoked, whether it
8 was for the attorney or his right to silence. Okay?

9 **THE WITNESS:** Okay.

10 **THE COURT:** Agreeable with the defense?

11 **MR. JOHNSTON:** Yes, sir.

12 **THE COURT:** Okay. All right. Let's get them
13 back. And I don't know if that's all his testimony or
14 not, but that's --

15 **MR. JOHNSTON:** I think that will get us over the
16 hump so-to-speak.

17 **THE COURT:** Okay.

18 (Whereupon, the jury entered the courtroom at 4:43
19 p.m.)

20 **THE COURT:** All right, Ms. Hodge.

21 **MS. HODGE:** Thank you.

22 BY MS. HODGE:

23 Q Investigator Miller, did you read the Defendant
24 his Miranda Rights?

25 A Yes.

C. MILLER -- DIRECT BY MS. HODGE

1 Q Did the Defendant give you a statement -- a
2 written statement after that?

3 A No.

4 Q What happened next?

5 A A conversation took place after that.

6 Q How did the conversation start? Who started
7 it?

8 A Mr. Swofford.

9 Q Tell us about that.

10 A He just, again, made -- started making
11 spontaneous comments that he -- he said he wasn't the
12 person who shot Mr. Wooten. That he had been trying to
13 stay out of trouble and that he didn't do it. That he
14 and Mr. Wooten were friends and that -- he thought
15 maybe that Mr. Wooten thought him and -- Mr. Swofford
16 and Ms. Edwards had been having a sexual relationship.

17 And he started to cry. And said that he was
18 terminally ill. And that he had an unborn child that
19 he was concerned about.

20 Q Did you document what statements he made in
21 your supplemental --

22 A I did.

23 Q I'm going to direct you to line two of your
24 supplemental of August 20th of '09; how did this
25 conversation start? Did the Defendant say anything

C. MILLER -- DIRECT BY MS. HODGE

1 specific to you or just start talking?

2 A He just started talking.

3 Q And did he say he was -- tell me about the part
4 about him trying to stay out of trouble?

5 A He said that he was trying to stay out of
6 trouble. And that for the last three years, he had --

7 Q Yes. Continue on.

8 A He had got out of prison and for the last three
9 years, he tried -- he tried to stay out of trouble.

10 Q Okay.

11 A And that he did not do it. And the two were in
12 prison together. They were friends.

13 Q And I direct you to a fifth one, did he state
14 something about a child or --

15 A He did. He said he had an unborn child that he
16 would like to see before he went back to jail.

17 Q And when he is making these comments, are you
18 saying anything in response?

19 A No. I didn't say anything to him.

20 Q Did you answer any of his questions?

21 A The only thing I answered to him was when he
22 asked about the court process, arrest process, I told
23 him that, you know, it would take a long time before it
24 could go -- go to trial. And that was out of my
25 control. That it would be up to the courts and the

C. MILLER -- DIRECT BY MS. HODGE

1 amount of cases that were already, you know, on the
2 docket. And basically up to the prosecutors and the
3 courts. And then he asked about a bond. And I told
4 him he would be entitled to a bond.

5 Q About how long did you guys have to wait for
6 forensics to come up?

7 A It -- probably -- from the time I called them,
8 probably an hour. It seemed like at least an hour.

9 Q Were you present when forensics came to take
10 photographs of the Defendant?

11 A Yes, ma'am.

12 Q I'm showing you State's Nos. 73 through 77;
13 what are those?

14 A These were photographs that Sgt. Linwood (ph)
15 took in my office.

16 Q Are those true and accurate depictions of how
17 the Defendant looked on August 19th of 2009?

18 A Yes, ma'am.

19 Q Are there -- what are these photographs
20 specifically showing?

21 A These are showing the two scabs that I observed
22 on Mr. Swofford's left forearm and his elbow.

23 **MR. JOHNSTON:** Without objection, Your Honor.

24 **MS. HODGE:** I move to admit these, Your Honor.

25 **THE COURT:** All right. Okay. They're in.

C. MILLER -- DIRECT BY MS. HODGE

1 (STATE'S EXHIBIT NO. 73 THROUGH 77 RECEIVED INTO
2 EVIDENCE.)

3 BY MS. HODGE:

4 Q State's No. 74 and 75. In the Defendant's
5 statements to you, did he make any mention of how he
6 got those injuries?

7 A No.

8 Q Did he make any mention of where he may have
9 been the night Curtis Wooten was shot?

10 **MR. JOHNSTON:** Your Honor, I have an objection.

11 **THE COURT:** Well, approach.

12 (Whereupon, a bench conference was held in the
13 presence of the jury, but outside the hearing of the
14 jury.)

15 BY MS. HODGE:

16 Q Investigator Miller, after the photographs were
17 taken, what did you do next?

18 A After the photographs were taken, I then gave
19 Mr. Swofford a copy of the search warrant for the
20 pictures and then he was escorted back to the detention
21 center.

22 Q What, if anything, was your next step in this
23 investigation?

24 A The next step was to, first, determine the
25 condition of Mr. Wooten to see -- go back to the

C. MILLER -- DIRECT BY MS. HODGE

1 hospital to check on him to see what condition he was
2 in. And still, they weren't sure whether he was going
3 to survive or not. But also -- and then, is that what
4 --

5 Q Tell me, were you ever able to take his
6 statement or speak to Mr. Wooten?

7 A Yeah, after that.

8 Q After?

9 A Yes, it was later. Once he came to, which was
10 not until September 30th, when he was able to -- of
11 2009, he was able to come to my office and give me a
12 written statement. And he was very coherent and
13 remembered a lot of details as to what happened. He
14 told me that --

15 **MR. JOHNSTON:** Your Honor, I would object to him
16 reading what he said. Mr. Wooten has already testified
17 to his recollection.

18 **THE COURT:** Well, see -- all right. Y'all come up
19 here for a second.

20 (Whereupon, there was a bench conference in the
21 presence of the jury, but outside the hearing of the
22 jury.)

23 BY MS. HODGE:

24 Q After your interview with Mr. Wooten on
25 September 30, 2009, did you make a subsequent charge or

C. MILLER -- DIRECT BY MS. HODGE

1 get another warrant against the Defendant?

2 A Yes. It was after speaking with Mr. Wooten.

3 And --

4 Q What was that charge?

5 A That was for assault with intent to kill on
6 Ms. Edwards.

7 Q Is there any reason why you did not do that
8 with the initial group of warrants?

9 A Because of the -- at the time, as I explained
10 before, she was still a person of interest. And I was
11 only able to exclude her as a suspect in this after
12 speaking with Mr. Wooten.

13 Q Did you also have that assault with intent to
14 kill warrant served on the Defendant?

15 A Yes, I did.

16 Q Did you personally do that?

17 A No.

18 Q After obtaining that final -- was that the
19 final warrant, the assault in this case?

20 A Yes, ma'am.

21 Q What was your next step in this investigation
22 with regard to DNA analysis in the case?

23 A The next step was I received a court order to
24 obtain buccal swabs from Mr. Swofford. And I was able
25 to meet up with him on September 9, 2010. And I met

C. MILLER -- DIRECT BY MS. HODGE

1 with him and collected two buccal swabs. And then,
2 again, placed them in the proper containers, which SLED
3 provides us, and then took them straight to P & E.
4 And -- where they were packaged and an analysis form
5 was filled out and given to the evidence tech.

6 Q Did you ask for any other items of evidence
7 from the crime scene to be sent down to SLED after this
8 time?

9 A Yes. There was a piece of wall that was cut
10 out -- Sgt. Shaw and Master Deputy Lewis went back a
11 second time. That -- after looking at it, Sgt. Shaw,
12 you know, he wanted to cut this piece out and make sure
13 that we had everything that we could from the other
14 projectile. But when we first -- Sgt. Shaw and I first
15 were looking at the items to send down, we just sent
16 one down, but we decided later when we wrote the report
17 to go ahead and submit it as well.

18 Q That section of wall that you're referring to,
19 is -- is it State's No. 53; is that actually the --
20 collected by Derby?

21 A That's correct.

22 Q And you and Sergeant Shaw went later and got a
23 smaller portion?

24 A Yes.

25 Q State's No. 53 --

C. MILLER -- CROSS BY MR. JOHNSTON

1 A Yes, that was it.

2 Q All right. Did you also ask for any ballistic
3 testing to be done in this case?

4 A We did.

5 Q And who would do that?

6 A James Armstrong. This is what he does.

7 Q And all of these things were done after Mr.
8 Swofford had been arrested?

9 A That's correct.

10 Q Continuing an investigation?

11 A Yes.

12 Q Is there anything else that you did after that,
13 aside for preparing for trial?

14 A No, ma'am.

15 **MS. HODGE:** Thank you. Please answer any
16 questions of the defense.

17 **THE COURT:** All right.

18 CROSS EXAMINATION BY MR. JOHNSTON:

19 Q You wouldn't know when Ronnie Swofford's
20 birthday is, does your investigation show that?

21 A The records show that it was July 25th of '72.

22 Q All right. And the incident date in question,
23 again, is what?

24 A July 27th.

25 Q July 27th.

C. MILLER -- CROSS BY MR. JOHNSTON

1 A Of 2009.

2 Q Sir?

3 A Of 2009.

4 Q Yes, sir. Did you have -- did you collect
5 Ms. Rikki Danielle Edward's clothing.

6 A I did.

7 Q Did you have it tested?

8 A No, I didn't.

9 Q When you were questioning her, you said that
10 she appeared not upset, that at least -- well, you said
11 at first when you began to question her, that she was
12 upset, having been through this traumatic experience;
13 is that a fair statement?

14 A Correct.

15 Q But a few hours later, when you were seated
16 with her in the room face-to-face, kind of like we are
17 right now, she acted weird or unexpected?

18 A True.

19 Q Not upset?

20 A It was upset and then not upset.

21 Q Okay.

22 A Back and forth.

23 Q I believe you -- I wrote this down and you
24 correct me if I'm wrong, that her demeanor kind of
25 threw up a red flag for you?

C. MILLER -- CROSS BY MR. JOHNSTON

1 A Yes, sir.

2 Q And that she remained a person of interest --
3 and I always hear that on TV, but I don't know exactly
4 what that means. What is a person of interest?

5 A Someone that you haven't been able to exclude.

6 Q Okay. Somebody who might be involved?

7 A Yeah.

8 Q Might be a perpetrator?

9 A Yes.

10 Q And she remained a person -- a person of
11 interest until you got the DNA results back, is that
12 fair to say?

13 A She remained a person of interest until I was
14 able to speak to Mr. Wooten.

15 Q Okay. Until you were able to speak to Mr.
16 Wooten, October the --

17 A September.

18 Q September the 3rd, is that right?

19 A That's correct.

20 Q And that was the first time he gave you -- did
21 he give you a written statement then?

22 A Yes.

23 Q And that was the first written statement he was
24 able to give in this case, is that right?

25 A That's correct.

C. MILLER -- CROSS BY MR. JOHNSTON

1 Q And at that point, you had already gotten the
2 DNA results back, hadn't you?

3 A Yes, sir.

4 Q When you talked to Mr. Swofford, you didn't
5 record any of the things that he said to you, did you?

6 A No, sir.

7 Q I mean by record, I mean you didn't use a tape
8 recorder?

9 A Digital recorder.

10 Q You did use a video recorder?

11 A No, sir.

12 Q I've even got an app on my phone that I can
13 record people with, you didn't do anything like that?

14 A No, sir.

15 Q All right. You basically -- you basically have
16 to rely on your recollection?

17 A That's correct.

18 Q There were text messages on Mr. Wooten's phone;
19 am I right?

20 A There were.

21 Q Okay. What did you do to preserve them?

22 A The text messages were read by Investigator
23 Weiner.

24 Q Yes, sir.

25 A They were documented by him.

C. MILLER -- CROSS BY MR. JOHNSTON

1 Q How were they documented by him?

2 A In his incident report.

3 Q Well, did he write -- did he like make a log of
4 each phone -- or each text, who sent it, what time,
5 what the precise wording was?

6 A That I don't recall.

7 Q Well, you've read his report, haven't you?

8 A Yes.

9 Q Okay. Well, that's not what it says, does it?

10 A No. It does not say that.

11 Q Okay. He basically said he recalled a couple
12 of texts and what the gist of them was?

13 A Correct. Right.

14 Q Okay. So they weren't documented in a log
15 form, were they?

16 A No, sir.

17 Q To your knowledge?

18 A No, sir.

19 Q Not by investigator -- is it Investigator or
20 Detective Weiner?

21 A Investigator.

22 Q Investigator Weiner, nor by yourself?

23 A That's correct.

24 Q You could have taken a photograph of the screen
25 of the phone?

C. MILLER -- CROSS BY MR. JOHNSTON

1 A Yes, sir.

2 Q You didn't do that?

3 A No, sir.

4 Q You could have kept the phone, right?

5 A Correct.

6 Q We could have fired it up right here in the
7 courtroom and looked at the texts presumably?

8 A Yes, sir.

9 Q We don't have the phone, do we?

10 A No, sir.

11 Q Basically what we have is Investigator Weiner's
12 take from a couple of those texts; true?

13 A Yes, sir.

14 Q And these were texts that were purportedly
15 close to the time of the incident; am I correct, sir?

16 A Yes, sir.

17 Q And that there were texts from other persons
18 close to the time of the incident, isn't that fair to
19 say?

20 A Yes.

21 Q You were the lead investigator in this case?

22 A Yes, sir.

23 Q You're familiar with all of the photographs
24 were taken in this case?

25 A Yes, sir.

C. MILLER -- CROSS BY MR. JOHNSTON

1 Q You also walked through the crime scene
2 so-to-speak?

3 A Yes, sir.

4 Q And you're able to -- you were able to look at
5 all of the things that were in the various photographs?

6 A Yes, sir.

7 **MR. JOHNSTON:** I beg the court's indulgence one
8 moment.

9 BY MR. JOHNSTON:

10 Q All right, sir. I'm going to show you what has
11 been marked as Defendant's Exhibit No. 1, take a look
12 at it. Tell me if you can identify what that is.

13 A That is the den area of Mr. Wooten's house.

14 Q Does it fairly and accurately reflect the
15 situation at the time of the investigation in this
16 case?

17 A Yes.

18 **MR. JOHNSTON:** Your Honor, we offer Defendant's
19 Exhibit No. 1 into evidence.

20 **MS. HODGE:** Without objection.

21 **THE COURT:** Okay.

22 (DEFENDANT'S EXHIBIT NO. 1 RECEIVED INTO
23 EVIDENCE.)

24 BY MR. JOHNSTON:

25 Q I'm showing you what has been marked as

C. MILLER -- CROSS BY MR. JOHNSTON

1 Defendant's Exhibit No. 2, can you identify what's in
2 there?

3 A Yes.

4 Q What is it?

5 A That is a chair with a cloth cover and a -- it
6 appears to me to be a blood spot.

7 Q Okay. Does it also fairly and accurately
8 reflect the scene at the time of your investigation?

9 A Yes, sir.

10 MR. JOHNSTON: Your Honor, we offer this item,
11 Defendant's Exhibit No. 2, into evidence.

12 MS. HODGE: No objection.

13 (Defendant EXHIBIT NO. 2 RECEIVED INTO EVIDENCE.)

14 BY MR. JOHNSTON:

15 Q Likewise, I'm showing you what has been marked
16 for identification as Defendant's Exhibit No. 3; have
17 you seen that before?

18 A Yes, sir.

19 Q What does it show?

20 A It shows the area of the den right before
21 entering the kitchen, the two cartridge casings on the
22 floor.

23 Q Does it fairly and accurately reflect the
24 condition of the scene at the time of your
25 investigation?

C. MILLER -- CROSS BY MR. JOHNSTON

1 A It does.

2 MR. JOHNSTON: Your Honor, we offer this into
3 evidence.

4 MS. HODGE: No objection.

5 THE COURT: Without objection.

6 (DEFENDANT'S EXHIBIT NO. 3 RECEIVED INTO
7 EVIDENCE.)

8 BY MR. JOHNSTON:

9 Q I'm showing you what has been marked as
10 Defendant's Exhibit Nos. 4 and 5. They're pretty
11 similar. Tell me what those depict.

12 A That is the kitchen counter where the sink is,
13 with the projectile hole through the counter.

14 Q Do those fairly and accurately reflect the
15 scene at the time of your investigation?

16 A They do.

17 MR. JOHNSTON: Your Honor, we offer those two
18 exhibits into evidence.

19 MS. HODGE: No objection.

20 THE COURT: Okay.

21 (DEFENDANT'S EXHIBIT NO. 4 AND 5 RECEIVED INTO
22 EVIDENCE.)

23 BY MR. JOHNSTON:

24 Q Now, Defendant's Exhibit No. 6, take a look at
25 that for me. And you may or may not be able to tell me

C. MILLER -- CROSS BY MR. JOHNSTON

1 some specific things about it. But first of all, does
2 -- what do you say it shows?

3 A It's a -- again, the den area, with a scale.
4 And it appears to be a cartridge casing.

5 Q Can you tell me which cartridge casing that is?
6 And you may not be able to, that's fine. But if you
7 are able to, I would like to know.

8 A I'm -- not by the picture, no.

9 Q That's fine. Does it fairly and accurately
10 reflect the scene at the time of your investigation?

11 A Yes.

12 **MR. JOHNSTON:** Your Honor, we offer Defendant's
13 Exhibit No. 6 into evidence.

14 **MS. HODGE:** No objection.

15 **THE COURT:** All right.

16 (DEFENDANT'S EXHIBIT NO. 6 RECEIVED INTO
17 EVIDENCE.)

18 BY MR. JOHNSTON:

19 Q Now, let me show you what has been marked for
20 identification as Defendant's Exhibits No. 7 and 8,
21 tell me if you have seen those before? That's a
22 different part of the house than what we've been
23 dealing with?

24 A Right. That is a table -- well, actually, it's
25 --

C. MILLER -- CROSS BY MR. JOHNSTON

1 Q Before we get to what it is, can you tell me
2 what room it is?

3 A I'm not sure if it is the master bedroom or the
4 first bedroom to the right.

5 Q It's not any of the rooms that we have been
6 dealing with here for the most part?

7 A No.

8 Q The living room of the kitchen?

9 A No, sir.

10 Q It's another room in the house, is that
11 correct?

12 A Yes.

13 Q Does it fairly and accurately reflect the scene
14 at the time of the commission -- or at the time of your
15 investigation?

16 A Yes.

17 **MR. JOHNSTON:** Your Honor, we would offer seven
18 and eight into evidence.

19 **MS. HODGE:** Without objection.

20 **THE COURT:** All right.

21 (DEFENDANT'S EXHIBITS NOS. 7 AND 8 RECEIVED INTO
22 EVIDENCE.)

23 **MR. JOHNSTON:** Your Honor, we have a matter of
24 law.

25 **THE COURT:** Would you approach please?

C. MILLER -- CROSS BY MR. JOHNSTON

1 (Whereupon, a bench conference was held in the
2 presence of the jury, but outside the hearing of the
3 jury.)

4 **THE COURT:** Ladies and gentlemen, I need to take a
5 matter up outside your presence. I'll get back with
6 you in just a minute. Please don't discuss the case.

7 (Whereupon, the jury left the courtroom at
8 5:13 p.m.)

9 **THE COURT:** All right. I'm in possession of
10 Defendant's Exhibits 9, 10, 11, 12, 13, 14, 15 and 16
11 marked for identification only. What do you want to
12 tell me about it?

13 **MR. JOHNSTON:** May it please the court, Your
14 Honor. The victim testified that he was getting off of
15 pills, that he had a lot of pills there because he
16 wasn't taking them. And that he was relying on the
17 methadone. As I'm sure the court knows, is a
18 substitute drug to try to get off of opiates. Those
19 photographs there -- at least three of them -- directly
20 contradict that statement.

21 Because what it shows is this: Mr. Wooten had
22 apparently written notes to himself and placed them in
23 an extremely prominent place, where he wouldn't forget
24 them, which is basically on the speedometer of the
25 speedometer window of his truck. And the notes

C. MILLER -- CROSS BY MR. JOHNSTON

1 basically say, Curt, you need to go to the doctor today
2 -- reminding himself -- and you need to get all of
3 these different pills, including but not limited to
4 Lortab.

5 I would argue that that is in direct contradiction
6 of the victim's statements under oath. And that it
7 goes to his credibility, which is an issue in this
8 case.

9 **THE COURT:** The victim is not on the stand.

10 **MR. JOHNSTON:** Yes, sir.

11 **THE COURT:** So I'm -- I'm not going to allow you
12 to do it with this witness.

13 **MR. JOHNSTON:** All right, sir.

14 **THE COURT:** I mean, it's as simple as that. He's
15 not here. If you want to impeach a witness'
16 credibility and the witness is not on the stand -- is
17 that the purpose of the -- of the --

18 **MR. JOHNSTON:** What I'm -- what I'm trying to do
19 right now, Your Honor, is simply establish that the
20 police obtained this evidence. I'm not going to ask
21 him to comment on it. I'm just trying to confirm that
22 the police obtained this evidence.

23 **THE COURT:** Well, how is it relevant?

24 **MR. JOHNSTON:** It attacks -- it attacks the
25 victim's credibility.

C. MILLER -- CROSS BY MR. JOHNSTON

1 **THE COURT:** Right. And he's not here. It's --
2 you're trying to put it in for impeachment. I'm not
3 going to let you impeach someone who has already
4 testified -- you could have brought -- you should have
5 brought it up when he was here testifying, if that's
6 the intent of what you wanted to do.

7 **MR. JOHNSTON:** All right, sir.

8 **THE COURT:** So I'm going to deny it.

9 **MR. JOHNSTON:** All right, sir.

10 **THE COURT:** You can put these in, you know, in the
11 record so that they are there for the appellant record,
12 if that's what you want to do.

13 **MR. JOHNSTON:** Yes, sir.

14 **THE COURT:** Okay. Anything else before we --

15 **MR. JOHNSTON:** Your Honor, this is how -- I'm just
16 going to ask him if these are part -- I'm not going to
17 ask him -- I'm not going to put the photographs in
18 evidence. I will simply ask that he confirm he took
19 the exhibit, as his part of the official police
20 investigation, and not offer them.

21 **THE COURT:** I'm --

22 **MS. HODGE:** I'm objecting to any testimony about
23 these photographs. It's not relevant.

24 **MR. JOHNSTON:** All right, sir.

25 **MS. HODGE:** Or the correct witness.

C. MILLER -- CROSS BY MR. JOHNSTON

1 **THE COURT:** You want to do it as a proffer?

2 **MR. JOHNSTON:** Yes, sir.

3 **THE COURT:** I mean, is that what you're talking
4 about?

5 **MR. JOHNSTON:** Yes, sir.

6 **THE COURT:** I'm not going to allow you to do it in
7 front of the jury, no.

8 **MR. JOHNSTON:** All I wanted to do is just have
9 testimony in the record, that those -- that identified
10 it as part of the police investigation.

11 **THE COURT:** Well, you can ask him right now out of
12 the presence of the jury.

13 **MR. JOHNSTON:** All right, sir.

14 **THE COURT:** All right. There you go. The same
15 exhibits.

16 **MR. JOHNSTON:** Those would be exhibit numbers --

17 **THE COURT:** Nine through 16.

18 **MR. JOHNSTON:** Yes, sir.

19 BY MR. JOHNSTON:

20 Q Take a look at those photographs. Tell us what
21 they are. Tell if they are part of the investigation?

22 A These were all photos of items that were
23 obtained during the search.

24 Q All right. And do they fairly and accurately
25 reflect the conditions of the locations where the

1 photographs were taken?

2 A Yes, sir.

3 MR. JOHNSTON: No further questions, Your Honor.

4 THE COURT: All right. Let's get the jury back.

5 MR. JOHNSTON: And for your planning purposes, I
6 don't have any further questions for this gentleman.

7 THE COURT: Do you want to say that in front of
8 the jury?

9 MR. JOHNSTON: Yes, sir. I'll be happy to do
10 that.

11 MS. HODGE: While they're out, we've got the
12 matter of just the stipulation of the Defendant's prior
13 conviction for other crimes -- I didn't know if Your
14 Honor wanted to say that the parties have stipulated or
15 if you want me to state it.

16 THE COURT: Hang on one second.

17 MS. HODGE: Sometimes it's --

18 THE COURT: Well, what -- I can't remember --
19 stipulate that the Defendant has a prior -- has a
20 conviction for an offense that is statutorily defined
21 as a violent crime?

22 MR. JOHNSTON: I think the procedure is, that you
23 would publish the stipulation. And then the court
24 would instruct the jury as to how to treat it. That it
25 would be a stipulation, of course, of something --

1 **THE COURT:** Well, I'm just asking, what was the
2 stipulation?

3 **MR. JOHNSTON:** The stipulation is, that the
4 Defendant has been convicted in the past of a violent
5 crime.

6 **THE COURT:** Okay. Do you want to do that?

7 **MS. HODGE:** Now, I'm going to rest. I just didn't
8 know if you wanted to do it and say this is what it
9 means. I've had judges --

10 **THE COURT:** Well, I'll tell them after you do
11 that -- after you do that. But Andy wants to rests --

12 **MS. HODGE:** Yes, him.

13 **THE COURT:** Are you going to have any redirect?

14 **MS. HODGE:** No.

15 **THE COURT:** Okay. Any other witnesses?

16 **MS. HODGE:** No.

17 **THE COURT:** Okay. All right then.

18 (Whereupon, the jury entered the courtroom at
19 5:20 p.m.)

20 **MR. JOHNSTON:** Your Honor, I don't have any
21 further questions for this gentleman.

22 **THE COURT:** All right. Any redirect?

23 **MS. HODGE:** No redirect, Your Honor.

24 **THE COURT:** All right. Thank you. You can step
25 down. Thank you, Officer.

1 **MS. HODGE:** Your Honor, at this time, the State
2 would like to publish a stipulation between the
3 parties.

4 **THE COURT:** Okay.

5 **MS. HODGE:** That the Defendant has been convicted
6 in the past of a crime that is classified as violent
7 under South Carolina Code of Laws.

8 **THE COURT:** All right.

9 **MR. JOHNSTON:** And the defense does so stipulate.

10 **THE COURT:** All right. Mr. Foreman, Ladies and
11 Gentlemen of the jury, I guess I could have told you
12 earlier in my opening comments to you that generally
13 evidence comes to you in one of three ways in the
14 courtroom.

15 The first is the way we all think about it, and
16 that is verbal testimony. Y'all have seen quite a bit
17 of that.

18 The second common way that that evidence comes
19 into the courtroom is the introduction of tangible
20 documents or items. You all are -- have seen all of
21 that.

22 The third common way that evidence is introduced
23 into the court is by way of stipulation of the parties.
24 And that means that the parties agree that some fact is
25 so beyond dispute that you all are to accept it as

1 true. And that's what the stipulation means in this
2 case. That you all are to accept that there is a prior
3 conviction on behalf of the Defendant for a violent
4 crime. Okay.

5 All right, ladies and Gentlemen. Ms. Hodge.

6 **MS. HODGE:** Your Honor, the State rests.

7 **THE COURT:** All right. Ladies and Gentlemen, we
8 are going to break for the day. And I know it has been
9 quite a bit of up and down. That is just all part of
10 the process. And we want to ensure that every trial --
11 everyone receives due process of law.

12 So we're going to break for the evening. I have
13 always felt and I think it is true that the farther you
14 get into a case, the longer it goes, the more you want
15 to talk about it. The more the people who didn't get
16 to talk to you last night about it, are going to want
17 to talk to you about it tonight. So you have to be
18 stronger than you were last night and resist those
19 temptations for all the reasons I have explained to
20 you.

21 Don't do any research. Please don't go visit any
22 location that's has been discussed. And y'all have a
23 pleasant evening and I'll see you back at 9:30 in the
24 morning.

25 (Whereupon, the jury left the courtroom at

1 5:23 p.m.)

2 **THE COURT:** All right. Mr. Swofford, this is a
3 good time for -- if you would, just raise your right
4 hand.

5 RONNIE SWOFFORD, having been
6 first duly sworn, testified as follows:

7 **THE COURT:** Okay. I want you to understand that
8 you have an absolute constitutional right to testify in
9 your own defense. You have an equal absolute
10 constitutional right not to testify and it cannot be
11 held against you in this court.

12 And I will give a strong instruction to the jury
13 should you and your attorneys decide that you're not
14 going to testify and decide that you want me to make
15 that instruction.

16 I'm not asking you now whether or not you intend
17 to testify, that is a decision that you and your
18 attorneys will come to. It has come out that you have
19 a prior criminal history, but I want to tell you that
20 if you do testify, that the State -- there may be -- I
21 don't know what your criminal history is, but the State
22 may be able to use prior convictions to impeach your
23 credibility and that would come out in front of the
24 jury.

25 These are issues that you need to discuss with

1 your attorneys. You probably already have. But
2 it's -- whether or not you testify, there are a lot of
3 strategic things that go into it. In the final
4 analysis, it is your decision and your decision alone.

5 You can take the advice of your counsel, and I
6 hope that you will. But it is your decision to make.
7 Do you understand that?

8 **MR. SWOFFORD:** Yes, sir.

9 **THE COURT:** Do you have any questions you would
10 like to ask me about that?

11 **MR. SWOFFORD:** No, sir, I don't.

12 **THE COURT:** Okay. All right. Well, I'll see you
13 back at 9:30. Andy, you all -- or Mr. Johnston -- for
14 the record -- do you all anticipate presenting a
15 defense?

16 **MR. JOHNSTON:** Yes, sir, we do.

17 **THE COURT:** Okay. And I won't hold you to it if
18 you change your mind overnight. But if you all have
19 any proposed jury instructions, I'd like to receive
20 those in the morning if I could. If you -- you know
21 they may not be final, but if you've got some you want
22 me to take a look at -- and I just say this -- it is
23 not necessary -- perhaps not necessary that you print
24 out a bunch of instructions, but if you tell me the
25 subject matter that you're interested in, then we can

1 perhaps come to an agreement on that. The same with
2 the State.

3 **MS. HODGE:** Yes, sir. Would you like to handle a
4 directed verdict motion?

5 **THE COURT:** The direct verdict -- do you want to
6 do that now? We might as well. I can do a Judge Epps.

7 **MR. JOHNSTON:** At this time, the Defendant, Your
8 Honor, would move for a directed verdict, acquittal on
9 all charges as being insufficient evidence to carry the
10 case forward.

11 **THE COURT:** All right. Heard and denied. Okay.
12 Y'all have a pleasant evening. Okay.

13 (Whereupon, the hearing adjourned at 5:26 p.m.)
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* * * WEDNESDAY MAY 16, 2012 * * *

THE COURT: Thank you very much. Please be seated.

MR. JOHNSTON: Your Honor, may we approach?

THE COURT: Yeah. All right. Before we bring the jury, let me ask Mr. Swofford, do you have any questions about what we talked about yesterday, about any testimony, any questions you want to ask me?

MR. SWOFFORD: No, Your Honor.

THE COURT: Okay. Just so we're clear, do you have a list of the impeachable offenses?

MS. HODGE: Yes, Your Honor. He was convicted in 1994 and stayed incarcerated until September 29th of 2006 of assault and battery with intent to kill times two, assault on an officer while resisting arrest. Armed robbery, kidnapping, voluntary manslaughter and FTC fraud.

THE COURT: Okay. What did I read about the voluntary manslaughter?

MS. HODGE: It was an indictment for possession of a weapon by a person convicted of a crime of violence.

THE COURT: Okay. But that's not --

MR. JOHNSTON: It's not evidence at this time, Your Honor.

1 **THE COURT:** Was that -- you're not going to
2 impeach him with that?

3 **MS. HODGE:** My intention is specifically to ask
4 him if he has been convicted of those crimes, yes.

5 **THE COURT:** Oh, I didn't hear you say voluntary
6 manslaughter. ABIK times two.

7 **MS. HODGE:** And assault on an officer while
8 resisting arrest. Armed robbery, kidnapping, voluntary
9 manslaughter and FTC fraud.

10 **THE COURT:** Sorry. I got lost in the -- sorry.
11 Okay. Do you understand all of that, Mr. Swofford?

12 **MR. SWOFFORD:** Yes, sir.

13 **THE COURT:** Okay. All right. Anything else
14 before we bring the jury?

15 **MR. JOHNSTON:** No, sir, Your Honor.

16 **THE COURT:** Okay.

17 (Whereupon, the jury entered the courtroom at
18 10:03 a.m.)

19 **THE COURT:** All right. Welcome back Ladies and
20 Gentlemen. All right, Mr. Johnston.

21 **MR. WILSON:** Your Honor, the Defendant calls
22 Hunter Smalley.

23 **THE CLERK:** Hunter Smalley, please come forward.

24 HUNTER SMALLEY, having been
25 first duly sworn, testified as follows:

H. SMALLEY -- DIRECT BY MR. WILSON

1 **THE CLERK:** Please be seated. Please state your
2 name for the record.

3 **THE WITNESS:** Jeffrey Hunter Smalley.

4 DIRECT EXAMINATION BY MR. WILSON:

5 Q Mr. Smalley, where do you live?

6 A Spartanburg, [REDACTED] Gardner Road (ph).

7 Q How long have you lived there?

8 A For about six years now.

9 Q Were you a life long resident of Spartanburg
10 County?

11 A Yes, sir.

12 Q What is your education?

13 A I have high school, some Spartanburg Tech and a
14 lot of on-the-job training, I guess you would say, with
15 the co-op program.

16 Q What is your line of work?

17 A Metal fabricator and pretty much construction.

18 Q And how long have you been doing that?

19 A My whole life.

20 Q And what is your business called?

21 A C & H Industrial Services.

22 Q C & H Industrial?

23 A Yes.

24 Q If you would, be sure to speak loudly so that I
25 can hear you and the jury can hear you and the court

H. SMALLEY -- DIRECT BY MR. WILSON

1 reporter. Okay?

2 A Yes, sir.

3 Q I think you said C & H Industrial?

4 A Services Incorporated.

5 Q And is that also located in Spartanburg County?

6 A Yes, sir.

7 Q Mr. Smalley, are you acquainted with Ronnie
8 Swofford, the Defendant in this case?

9 A Yes, sir.

10 Q How long have you known him?

11 A I think -- I'm pretty sure we went to high
12 school together. And after that, I've probably known
13 him like 20 years I guess as far as knowing him. But
14 actually working with him, about two years or three
15 years maybe.

16 Q All right. Can you tell us about what kind of
17 working relationship you had with him, how did it
18 occur?

19 A Yes, sir. Well, really, I guess he got me out
20 of the phone book and he called me up and wanted to do
21 some metal fabrication on his trailer and stuff and
22 install tail lights and stuff.

23 Q And what kind of trailer are we talking about
24 here?

25 A Well there have been several, but mostly it's

H. SMALLEY -- DIRECT BY MR. WILSON

1 been like a pressure washing trailer, like a 30-foot
2 trailer. He has equipment on it and everything. It's
3 easier to store it with racks and all.

4 Q Do you have any idea how many times you may
5 have done work for Mr. Swofford?

6 A I would say, probably all together, probably 30
7 or 40 different jobs. Some, maybe just actually making
8 a part for the tail light, some actually rebuilding
9 half a trailer. So pretty much different size jobs
10 so...

11 Q Mr. Smalley, I want to hand you something and
12 ask if you can identify that. Just tell me if you know
13 what it is or not?

14 A Yes.

15 Q And is that something that you provided to me?

16 A Yes, sir.

17 Q And would you tell me what it is?

18 A Yes, sir. It's a -- actually it's a book that
19 I had to keep in the shop. My secretary makes me keep
20 them. I may run through about ten or twelve different
21 jobs that day. So we had to have a place for the
22 invoice, so I keep -- she makes me keep this. I have
23 to turn them in to her. We have a three part form, one
24 for the customer, one for her and one she keeps on file
25 for me, the job I have done and see the receipt.

H. SMALLEY -- DIRECT BY MR. WILSON

1 Q What date does that book cover?

2 A Excuse me, sir?

3 Q What date does that date cover?

4 A This is July.

5 Q Of what year?

6 A 2009.

7 Q July of 2009?

8 A Yes.

9 Q All right, sir. Have you looked at that book?

10 A Yes. Here, the last, I put on.

11 Q Did you do any work for Ronnie Swofford for --

12 A Yes, sir.

13 Q During that time?

14 A Yes, sir.

15 Q All right. Do you remember what jobs you did
16 for him in the month of July?

17 A We had done one -- one we actually -- we took a
18 trailer to the shop and did some ladder racks and
19 stands for the trailer, you know, mobile ladder racks.
20 But we did one job earlier that month, a smaller job.
21 I'm not really sure what it was. I think like three
22 jobs that month, three or four.

23 Q And was Mr. Swofford charged for these jobs?

24 A Yes.

25 Q And did he pay you?

H. SMALLEY -- DIRECT BY MR. WILSON

1 A Yes.

2 Q One second.

3 THE COURT: Mr. Smalley, please just speak a
4 little more clearly for us.

5 THE WITNESS: Yes, sir.

6 THE COURT: All right. Thank you.

7 MR. WILSON: Your Honor, we wish to introduce this
8 book that Mr. Smalley -- that is kept in his business.

9 THE COURT: All right. Any objection?

10 MS. HODGE: No objection.

11 THE COURT: All right.

12 (DEFENDANT'S EXHIBIT NO. 17 RECEIVED INTO
13 EVIDENCE.)

14 BY MR. WILSON:

15 Q Mr. Smalley, let me hand you what's been marked
16 as Defendant's No. 17, and ask you is that the book
17 that is kept in your business?

18 A Yes, sir.

19 Q If you would, look through the book and tell me
20 what dates you may have done work in the month of July
21 for Ronnie?

22 A Okay. Okay, on 7/16, we -- that's when he
23 brought the trailer in and basically and -- and we
24 fabricated some tail light assemblies and some ladder
25 racks.

H. SMALLEY -- DIRECT BY MR. WILSON

1 Q All right, sir. Was the trailer delivered to
2 you?

3 A Yes, sir.

4 Q Do you know what the charge for that job was?

5 A At this time, it was \$491. And that was for
6 the materials that Ronnie picked up and brought back to
7 me.

8 Q Was that an unusual arrangement that he picked
9 up the materials?

10 A No, sir. I mean, a lot of times -- I guess
11 he's kind of in a hurry because his trailer -- he needs
12 it for work, I guess. So instead of waiting on them to
13 be delivered, a lot of times, I'll say if you pick it
14 up from wherever I ordered it from, it'll save
15 delivery. It gets to me quicker.

16 Q All right. Can you tell from that receipt what
17 was done in that particular case?

18 A On this here, Ronnie pick-up, the metals at
19 Tool Metals (ph) and paid for over there and brought it
20 back to me.

21 Q Where is Tool Metals (ph)?

22 A It's in Greenville.

23 Q And did you keep the trailer or did he take it
24 with --

25 A I kept it.

H. SMALLEY -- DIRECT BY MR. WILSON

1 Q Would you flip through and see the next time
2 you did some work for him?

3 A It was on the -- well, this is where --
4 fabricate -- I guess doing the ladder racks and
5 everything and installed them and took off metal racks.
6 And so it looks like we put in a couple of hours of
7 overtime on it and everything. And I guess on the 22nd
8 is when he come back and picked it up. That's what's
9 here, the 22nd.

10 Q Okay. Do you remember him picking that trailer
11 up?

12 A Yes, sir.

13 Q Can you tell me what you did, when he picked it
14 up, what you had to do to get it where he can take it
15 with him?

16 A Yes. The ladder racks, like I say, it's like a
17 removal thing, big assembly. Kind of bolts in place,
18 you can get it on and off. So we set it up here, put
19 it in place and check the ladder racks and everything,
20 to make sure they actually fit, doing what they're
21 supposed to do.

22 Q Was Ronnie able to help you with putting the
23 ladders on the vehicle?

24 A Some. You know, he had an injury on his arm.

25 Q Okay. Can you tell me about the injury on his

H. SMALLEY -- CROSS BY MS. HODGE

1 arm? Where was it?

2 A It was -- he had a bandage on it. Right here
3 in this area.

4 Q Could you describe the bandage for me?

5 A Yes. It was sort of like a -- I guess, a field
6 dressing pretty much. Just like a gauze wrap. I know
7 it was kind of done -- kind of done it himself pretty
8 much.

9 Q You sort of did your head down like this -- he
10 sort of tied it off --

11 A Cause it's kind of what it looked like -- it
12 didn't look like a, you know, physician's dressing or
13 anything.

14 Q Okay. Did you eventually see the wounds?

15 A Yes.

16 Q Can you describe the wounds?

17 A Yes. It was like -- a pierce mark and another
18 little pierce mark -- you know, like -- sort of like
19 something passed through right there.

20 Q Okay. And it was on his left arm?

21 A Yes, sir.

22 **MR. WILSON:** That's all I have of this witness.
23 Thank you, sir.

24 CROSS EXAMINATION BY MS. HODGE:

25 Q Mr. Smalley, are you also friends with the

1 Defendant?

2 A Over the last few years, yes. He'll bring his
3 son with him and I have got a daughter, and we would
4 talk a little bit, stuff like that.

5 Q Okay. Did he pay you for these items that you
6 did?

7 A Yes, ma'am. Yes, ma'am.

8 Q How did he pay you?

9 A Well, this one, it says paid cash. A lot of
10 times it would be cash. Sometimes it would be a check
11 on different jobs.

12 Q What does that one say?

13 A This one says paid cash.

14 Q And that was on the 22nd?

15 A Yes, ma'am.

16 Q How much was that?

17 A This was \$900.

18 Q \$900 in cash? All right. And the other one,
19 the \$491?

20 A Yes, ma'am.

21 Q How did he pay you or did he pay you for that?

22 A No. He didn't pay me for that. He paid Tom
23 Evans (ph) for that. He went to pick up the material
24 for me. He paid for the material and the --

25 Q But you have it in your book?

H. SMALLEY -- CROSS BY MS. HODGE

1 A It's paid. It's marked paid. It didn't say
2 how he paid it.

3 Q So you kept it in your book as paid?

4 A Yes. Because he didn't owe me anything for the
5 materials.

6 Q But you kept it in your book, your invoices as
7 that?

8 A Yes. That part -- yeah, the material he
9 brought me was paid for, yes.

10 Q Why did you put the price in your book?

11 A Because on that price right there, the price of
12 of material, and everything, because you still have to
13 order material, you have to have an account with them.
14 So you have to put it under somebody's name, so my
15 secretary gets a bill. Plus we don't owe for it. It
16 would be double charging.

17 Q So he had to pay you \$900 total on the 22nd,
18 you're saying?

19 A Paid me, yes.

20 Q All right. Did you ask Mr. Swofford where he
21 got that injury, that he had that funny band-aid on it?

22 A Yes, sir.

23 Q What did he tell you?

24 A He pretty much told me that his friend's gun
25 had went off.

H. SMALLEY -- CROSS BY MS. HODGE

1 Q He said his friend's gun went off?

2 A Yes.

3 Q Did he tell you what friend?

4 A No, I didn't -- I didn't really ask. Because,
5 you know, I said what happened to you and stuff like
6 that. I didn't know what it was, I was -- made a
7 joking statement like, did your wife beat you up or
8 something. Just kidding with him like. Then I found
9 out what it was, oh, I was sorry. I'm sorry. I didn't
10 mean to press any jokes.

11 Q He didn't say what friend?

12 A No.

13 Q The gun went off?

14 A No.

15 Q And this is on July the 22nd, is that right?

16 A Yes, when I picked up the --

17 Q Okay. You have no idea what Mr. Swofford was
18 doing on July 27th at 2:40 in the morning, do you?

19 A No, ma'am.

20 Q You're not here to say, you have any idea what
21 his whereabouts were at that time, do you?

22 A No.

23 **MS. HODGE:** Thank you.

24 **THE COURT:** Anything else?

25 **MR. WILSON:** That's all of this witness, Your

P. SWOFFORD -- BY MR. JOHNSTON

1 Honor. I would ask that he be excused if possible.

2 **THE COURT:** Any objection to excusing him?

3 **MS. HODGE:** No, Your Honor.

4 **THE COURT:** All right. You can stand down.

5 **THE WITNESS:** Thank you.

6 **MR. JOHNSTON:** The next witness is coming, Your
7 Honor.

8 **THE COURT:** All right.

9 **THE CLERK:** Please place your left hand on the
10 Bible and raise your right hand.

11 PHYLLIS SWOFFORD, having been
12 first duly sworn, testified as follows.

13 **THE CLERK:** Thank you. Please be seated. Please
14 state your name for the record.

15 **THE WITNESS:** Phyllis Swofford.

16 DIRECT EXAMINATION BY MR. JOHNSTON:

17 Q Do you know this man over here in the blue
18 blazer?

19 A I do.

20 Q The one in the middle, not the one at the end?

21 A I do.

22 Q Who is it?

23 A He's my son, my oldest son.

24 Q When is his birthday?

25 A [REDACTED] 1972.

1 Q I'm going to ask you about his birthday in the
2 year 2009?

3 A Okay.

4 Q Do you have a recollection of that period?

5 A I do.

6 Q Tell me why you remember it?

7 A Well, I was living with my sister and her
8 husband at [REDACTED] Pickney (ph) Street in Arcadia. And I
9 just had lost my sister. She had passed away July 5th.

10 So, anyway, me and her had went shopping a
11 couple of weeks, you know, before that. And -- I got
12 him three shirts, that was on sale at Ingles. They had
13 them three for ten.

14 Q And was there a reason you bought these shirts
15 at that time?

16 A I did.

17 Q What was the reason?

18 A For Ronnie's birthday.

19 Q Okay. When did you buy the shirts?

20 A In June.

21 Q Okay. All right. What happened next?

22 A Me and my children speak every day briefly, you
23 or, I see them, you know. But I talk to all my
24 children every day. So, I had called Ronnie on the
25 23rd which was on a Thursday, and asked him to come on

P. SWOFFORD -- BY MR. JOHNSTON

1 over and eat, that I had marinated a turkey roast, and
2 to come and eat. And Ronnie's -- sorry, but he's HIV
3 positive. And he eats healthy --

4 Q What does that mean?

5 A HIV positive?

6 Q Yes, ma'am.

7 A He has a disease that's HIV -- Aids, you know.

8 Q Is that what leads to Aids?

9 A It is. And I told --

10 Q How long has he had it?

11 A It was told to me --

12 Q That's all right, you don't need to tell us --
13 how long have you known he had it?

14 A Since -- I'm trying to say at least 18 years.

15 Q Okay. All right. And so was there some
16 significance to -- some connection between your cooking
17 for him and him having this disease?

18 A Ronnie has to eat healthy. And he also can't
19 be in the heat because he has little blisters or the
20 little bumps that break out on him and everything. And
21 he, you know, it makes him itch or whatever, you know,
22 sweat. But anyway, it just -- he can't get heat on his
23 arms and stuff like that.

24 Q It irritates the skin?

25 A It does. It does. And, anyway, when he came

P. SWOFFORD -- BY MR. JOHNSTON

1 over there that day, he came in the door --

2 Q Now, again, when is this in relation to his
3 birthday?

4 A It was two days before his birthday.

5 Q Okay. So that would have been -- if his
6 birthday --

7 A July 23rd.

8 Q July 23rd?

9 A Yes.

10 Q Okay.

11 A And, anyway, like I said, I had offered him to
12 come and eat with me. And I fixed him two turkey
13 sandwiches. He came in the door and he hugged and
14 kissed me like he normally does and washed his hands,
15 you know. When he came in, I seen he had a bandage on
16 his arm, right -- right around in here.

17 Q Okay. Now, for the record, I would like you to
18 identify which arm -- you did some pointing there. But
19 for the record, tell us which arm it is that you're
20 referencing?

21 A It's the left arm.

22 Q His left arm?

23 A Yes.

24 Q Okay. And he had some something on it?

25 A He had a bandage.

P. SWOFFORD -- BY MR. JOHNSTON

1 Q All right. What happened next?

2 A Okay. I asked him, I said, what have you done
3 now? What happened to your arm? And he was washing
4 his hands, sitting down. I was getting his soda and
5 stuff out of the refrigerator. He asked me, he said,
6 momma, do you remember Curt Wooten? I said the name
7 sounds vaguely familiar. You know, but I don't know --

8 MS. HODGE: I'm going to object to anything that
9 the Defendant may have said at this point as hearsay.

10 MR. JOHNSTON: Don't tell us what he said.

11 THE COURT: All right.

12 BY MR. JOHNSTON:

13 Q What did you see?

14 A I saw a bandage on his arm.

15 Q Okay.

16 A After he ate and everything, I went to the
17 bathroom. I thought he had burnt his arm when he took
18 it off. I was going to the bathroom to clean it.

19 Q Did he take the bandage off?

20 A Yes, sir, he did.

21 Q All right.

22 A And I went in the bathroom, while he was
23 eating, I got the Quake brand Neosporin and a big
24 band-aid, and I went back in there. After he got
25 through eating, and I bandaged it. I put Neosporin on

1 it. It was like a burnt place, you know. I put the --
2 what you call it -- the band-aid back on his arm.
3 That's when he, you know, I asked him what have you
4 done now. I thought he had burned his arm on his
5 pressure washing wand. And -- which I'm always looking
6 my kids over, you know.

7 Q Because you are mom?

8 A That's what a mother does.

9 Q Because you are a mom?

10 A I am.

11 Q And he has skin problems?

12 A Yes, sir.

13 Q Did you recall that at some later time that
14 your son was accused of the incident for which he is on
15 trial today?

16 A I did later on. They -- I just learned also
17 that I was going to be a grandmother by Ronnie and
18 Shannon. And I was excited about that, too. But my
19 feelings and my emotions are kind of up and down
20 because of the loss of my sister and me living with
21 her. And -- but I was excited I was going to be a
22 grandmother again.

23 Q Are you confident that the facts you related to
24 us about what you saw, that they occurred before his
25 birthday in 2009?

P. SWOFFORD -- CROSS BY MS. HODGE

1 A I'm sorry. Repeat that.

2 Q Are you confident that what you have told us
3 about what you saw about your son's arm, that that was
4 before his birthday?

5 A Oh, I know it was.

6 Q Okay. Now, were you convicted of petit larceny
7 back in 2001?

8 A I was. Excuse me, sir. I wasn't convicted --
9 when they served the warrant on me --

10 Q That's fine.

11 A Okay.

12 **MS. HODGE:** Are you finished?

13 **MR. JOHNSTON:** Yes. Please answer any questions.

14 **THE COURT:** All right. Cross.

15 CROSS EXAMINATION BY MS. HODGE:

16 Q Okay. Ms. Swofford, you're the Defendant's
17 mother?

18 A I am.

19 Q You love your son very much?

20 A Sure. Sure.

21 Q And you learned that he was accused of pretty
22 violent heinous crimes in July of 2009?

23 A Yes, ma'am.

24 Q Almost killed two people?

25 **MR. JOHNSTON:** Your Honor, I have a matter of law.

1 **THE COURT:** Well, approach please.

2 (Whereupon, a bench conference was held in the
3 presence of the jury, but outside the hearing of the
4 jury.)

5 BY MS. HODGE:

6 Q Okay. So after his birthday, where you
7 remember that you made him a turkey sandwich and you
8 got him three packs of shirts -- a three pack from
9 Ingles, after that birthday, you learned that he was
10 accused of committing a very violent crime, trying to
11 kill two people, correct?

12 A I heard something to that affect.

13 Q Did your son not talk to you? You talk to your
14 son every day.

15 A Right.

16 Q So did he tell you that's what he was accused
17 of?

18 A He didn't put it to me in those words. You
19 know, I didn't want to hear no more about it either,
20 you know. I don't like bad news. So I as soon not to
21 hear that. You know, it's bad news, I don't want to
22 hear it, you know, because --

23 Q You don't want to hear that your son --

24 A No, I just said at the time -- you know, I
25 don't want to hear any bad news. Just keep it to

P. SWOFFORD -- CROSS BY MS. HODGE

1 yourself. Because what I was hearing from, you know,
2 different people -- I mean, I just didn't want to hear
3 it. You know, I just blocked it out. I didn't want to
4 hear it.

5 Q But you heard --

6 A But I did hear something to that affect.

7 Q Right. That was charged with burglary in the
8 first degree, assault and battery with intent to kill,
9 assault with intent to kill, possessing weapons when
10 he's not supposed to be possessing weapons; you heard
11 that, correct?

12 A I didn't hear that for a while down the road,
13 that he had weapons or anything. I was just -- I heard
14 that he was charged.

15 Q Okay. And he was arrested on those charges?

16 A Right.

17 Q Okay. So you knew that, because you talked to
18 him every day?

19 A Right.

20 Q All right. And did he tell you when he was
21 supposed to have done this crime?

22 A No dates were really said to me. All I
23 remember was the date that he came to the house, and he
24 had went out for his birthday on the 25th. And
25 sometime after that is when I heard all of these -- I

1 knew he was arrested.

2 Q Okay.

3 A You know.

4 Q But what's the birthday, going out on the
5 25th -- what's the relation to this?

6 A To what?

7 Q Your answer. You heard it after his birthday
8 is what you are saying to me? That you heard he had
9 been arrested or being accused of this crime?

10 A Yes, ma'am.

11 Q Okay. Did you know at that time, that they
12 were -- the police might be interested in that injury
13 he had on his arm?

14 A No.

15 Q In preparation for this trial, have you come to
16 learn that the police were real interested in that
17 injury on his arm?

18 A No, ma'am. I'm not sure about, you know -- no
19 cops have talked to me at all.

20 Q That's my point exactly. You have not gone to
21 law enforcement at all, have you?

22 A No.

23 Q You have not volunteered that he supposedly had
24 this injury that you're aware of prior to July 27th,
25 2009, is that correct?

P. SWOFFORD -- CROSS BY MS. HODGE

1 A Say that one more time, the last part.

2 Q You never went to the police about the injury
3 that you're talking about today, that you saw on your
4 son's arm?

5 A Right.

6 Q You never went to them after he was arrested?

7 A No.

8 Q And said, whoa, that was there on July 23rd;
9 did you say that?

10 A No. I did not, no, to any cops, no.

11 Q No. And those are the people in charge of his
12 criminal case?

13 A Right.

14 Q Correct?

15 A Right.

16 Q You didn't come to the prosecutor's office and
17 tell us, whoa, he had that injury before, did you?

18 A No.

19 Q And you have learned that that is pretty
20 important in this case, haven't you?

21 A Right.

22 Q And you still haven't decided to come forward
23 until today, right now, and say it for the very first
24 time, is that correct?

25 A That's correct.

1 Q And that was something that you learned after
2 you spoke to your son about the case?

3 A I heard he was arrested and, you know, then I
4 started hearing different things, you know. I wasn't
5 worried about it because, you know, the place he had on
6 his arm, I knew for a fact was there on the 23rd.

7 Q Okay. He had one place on his arm?

8 A He had two places. One was right here.

9 Q Okay.

10 A And the other was right back here.

11 Q Okay. You know that that's important? You
12 knew that was important later?

13 A Right.

14 Q And you never came forward to say anything
15 about that?

16 A No, not to any prosecutors. I did write a
17 letter. This is -- maybe some months to a year ago.
18 In the event of my death -- because I have some very
19 bad health issues -- and -- a bad heart as well. And I
20 did write a letter, in the event of my death or a heart
21 attack, that I couldn't testify, that this was to be
22 opened and read.

23 Q And that would have been after you learned
24 about the specifics of what the police had on him,
25 correct?

P. SWOFFORD -- CROSS BY MS. HODGE

1 A No. Just what I heard.

2 Q Right.

3 A There wasn't no specifics, you know. That is
4 just what I heard. That's hearsay as well.

5 Q That the police were real interested in that
6 injury and that that was evidence that was going to be
7 used, correct?

8 A Well, I'm assuming that's it, you know.
9 Because I can't say. Nobody ever said -- no cop ever
10 said that to me.

11 Q Right. And you never came forward with it,
12 correct?

13 A No.

14 Q You didn't think that was important to do?

15 A No, because number one, I don't drive. And I
16 don't -- I can't get back and forth up here to
17 Greenville.

18 Q Do you have a phone?

19 A I have a cell phone, I do.

20 Q Okay. Then you said you were -- you were only
21 served with a warrant on petit larceny; is that what
22 you are saying?

23 A I was -- I woke up one morning, I was living
24 with my daughter before I got my own place. I started
25 having bad -- I lost a sister in '08, nine and ten.

P. SWOFFORD -- CROSS BY MS. HODGE

1 And I was with each one of them. Okay. I was living
2 with my daughter, trying to get my disability. And
3 that morning, they said -- my daughter came in there
4 and said, Momma, don't pick up the phone. Well, I
5 thought something bad had happened to one of my kids.
6 Because I raised these kids by myself. I have been a
7 widow for 32 years.

8 So, any way, I said what's wrong. She said,
9 they've got a warrant for you. I said, okay. And it
10 kind of made me mad, you know. I said, for what?

11 I go down there and turn myself in. You know, I
12 said, I understand you have a warrant for my arrest.
13 And he said, no, ma'am, we don't.

14 I said, well, somebody better have a warrant
15 because my face is on the front page of the Jail Bird.

16 So they called the City and asked the City.
17 They said, yeah, they brought one over there. It was
18 ten years old. I was found not guilty and dismissed
19 all charges.

20 Q Okay. Well, let me show you this: Is your
21 name Phyllis Yvonne Swofford?

22 A It is.

23 Q Is your birth date-- tell me your birthday?

24 A [REDACTED]/1953.

25 Q Okay. Does this say right here --

P. SWOFFORD -- CROSS BY MS. HODGE

1 **MR. JOHNSTON:** Your Honor, I would object --

2 Q -- petit larceny --

3 **THE COURT:** Wait. Wait. Wait. What?

4 **MR. JOHNSTON:** She can't impeach from a rap sheet.

5 **MS. HODGE:** I'm showing her -- and she can verify
6 it, yes or no. And then we can get a certified copy if
7 necessary.

8 **THE COURT:** Yeah, I'm going to let her go forward.
9 Go ahead.

10 BY MS. HODGE:

11 Q Okay. Can you read what that says right there?

12 A Yes, ma'am.

13 Q Okay. What does it say?

14 A The court charge, petit larceny, court --
15 convicted, six twenty five --

16 Q Or 30 days?

17 A Thirty days.

18 Q So that --

19 A That was on that charge. The one I just --

20 Q Oh, you're talking about a different charge?

21 A A different charge, yes, ma'am.

22 Q Okay. So, you do have a petit larceny
23 conviction?

24 A I did.

25 Q Okay. And you have had fraudulent check

P. SWOFFORD -- CROSS BY MS. HODGE

1 convictions also, isn't that correct?

2 A I did.

3 Q All right. Let's see, you had one, two,
4 three -- five --

5 **MR. JOHNSTON:** Your Honor -- Your Honor, I think
6 we are get -- may we approach?

7 **THE COURT:** Yeah.

8 (Whereupon, a bench conference was held in the
9 presence of the jury, but outside the hearing of the
10 jury.)

11 BY MS. HODGE:

12 Q All right. Ms. Swofford, you don't want to see
13 anything bad happen to your son, isn't that true? You
14 don't want to see him --

15 A No, I don't.

16 Q You're his mom and you love him?

17 A Right.

18 Q In the end --

19 A Right. I adore all my children.

20 Q You do what you need to do for your children?

21 A No. I do what I have to do as a mother.

22 Q As a mother?

23 A To take care of them. And be there when they
24 need me.

25 Q Okay. Your son needs you, isn't that correct?

C. DUFFIE -- DIRECT BY MR. JOHNSTON

1 A He needs me.

2 MS. HODGE: Thank you.

3 MR. JOHNSTON: I have no further questions. I ask
4 for her to be excused.

5 MS. HODGE: No objection.

6 THE COURT: All right. Okay. Call your next
7 witness.

8 MR. JOHNSTON: Yes, sir. We're getting him right
9 now.

10 THE CLERK: Please come forward. If you will
11 pause at the end of the bench there, please place your
12 left hand on the Bible and raise your right hand.

13 CHARLIE DUFFIE, having been
14 first duly sworn, testified as follows:

15 THE CLERK: Please be seated. State your name for
16 the record.

17 THE WITNESS: My name is Charlie Duffie.

18 DIRECT EXAMINATION BY MR. JOHNSTON:

19 Q Tell us where you live Mr. Duffie?

20 A I live at [REDACTED] Colleen Court, Spartanburg,
21 South Carolina.

22 Q Do you know this gentleman over here in the
23 yellow top?

24 A Yes, I do.

25 Q Who is it?

C. DUFFIE -- DIRECT BY MR. JOHNSTON

1 A That is Ronnie Swofford.

2 Q How do you know him?

3 A I have known him since we had worked together
4 at Beverage Air back in the late '80's. And I've known
5 since he -- we wasn't really friends back then, but I
6 knew who he was at that time. And since then, we have
7 become friends.

8 Q All right. How long have you really been
9 close -- or are you close?

10 A Yeah. We're -- we're -- we're fairly close.
11 Probably the last seven or eight years.

12 Q All right. Do you -- do you recall July of
13 2009?

14 A Yes, sir, I do.

15 Q What do you recall about July of 2009?

16 A I had done some work about two weeks previous
17 to Ronnie's, which is on the 25th of July, on one of
18 his trailers. I am a welder by trade. And he had
19 asked me to repair some ladder racks on his trailer.
20 And he had come by my house. It was -- I believe it
21 was on the 22nd, on a Wednesday to pay me for the work
22 that I had done. And during that time, his birthday
23 was coming up that weekend.

24 So he invited me and my wife and my son and my
25 mother out to Chiefs Wings & Firewater the following

C. DUFFIE -- DIRECT BY MR. JOHNSTON

1 day because he had done some work and they had an
2 account out there and everything.

3 Q At Chiefs?

4 A Chiefs Wings & Firewater. And they had an
5 account -- an account out there, so it wasn't going to
6 cost anything. So we all went out there on Thursday
7 evening, which was the 23rd, and had -- had dinner to
8 celebrate his upcoming birthday that coming weekend.

9 Q All right. And what happened? Did you
10 actually do that?

11 A Yes, I did. During this time, the Wednesday
12 that he was at my house, I had noticed a bandage on his
13 arm. And we kind of talked, you know --

14 Q Is this the same period that you have been
15 talking about?

16 A Yes, it is. We kind of talked, you know,
17 because we're all real close. And he asked me for
18 advice because I'm a little older than he is. And we
19 kind of talked. He had been there for me, because my
20 father committed suicide and I have talked to him on
21 previous occasions about that.

22 I noticed a bandage on his arm. And I asked
23 him, what did you do to your arm --

24 Q Okay. Don't tell us what he said.

25 A Okay.

C. DUFFIE -- DIRECT BY MR. JOHNSTON

1 Q Just tell us what you saw.

2 A I saw a band-aid on the left arm forearm.
3 There was two band-aids actually, one right here and
4 then one around right, right -- right in here
5 (indicating).

6 Q Now, you're -- now you're pointing out some
7 things. I want you to see if you can help me specify
8 so that the written record will show what you're
9 talking about. Okay.

10 A It was above --

11 Q Do me a favor and roll that sleeve up on your
12 arm. We're going to use your arm.

13 A Okay.

14 Q Okay.

15 A It was above the left wrist, right on the top
16 of the forearm. There was a band-aid right here. And
17 then to the back, around behind towards -- behind the
18 hand, on the forearm part, there was another bandage
19 right here.

20 And -- and the bandage that was on the back of
21 the forearm, was up higher than the bandage that was on
22 the lower forearm. It was on the front part of the
23 portion of the forearm.

24 Q Did you actually examine the wound or did you
25 just see the bandages?

C. DUFFIE -- DIRECT BY MR. JOHNSTON

1 A He pulled -- he pulled the bandage that was on
2 the top of the forearm and showed it to me.

3 Q What did it look like?

4 A It looked like a cigarette burn, actually, is
5 what it looked like. It was round -- round. It looked
6 sort of like a cigarette burn.

7 Q And where were you, again, when you had this
8 conversation?

9 A We were in -- at my mother's house. And she
10 lives at [REDACTED] White Horse Court in Spartanburg, which
11 is -- Ronnie was living at Blanchard Road, which is
12 right down the road from where her house is at.

13 Q All right. Did you later learn that Mr.
14 Swofford had been charged with some fairly serious
15 crimes?

16 A About three weeks later, yeah. Two or three
17 weeks later.

18 Q In which it was alleged that he had been shot?

19 A Yes.

20 Q Were you convicted of failure to stop for a
21 blue light back in 2002?

22 A Yes, I was.

23 Q And assault and battery of a high and
24 aggravated nature?

25 A Yes, I was.

C. DUFFIE -- CROSS BY MS. HODGE

1 Q Were you convicted of shoplifting back in 2002?

2 A Yes.

3 Q Were you convicted of financial transaction
4 card fraud?

5 A Yes, I was.

6 Q Back in 2001?

7 A Yes.

8 Q Were your convicted of forgery back in 2000?

9 A Yes, I was.

10 **MR. JOHNSTON:** Please answer any other questions.

11 CROSS EXAMINATION BY MS. HODGE:

12 Q Forgery means lying or putting your name on
13 something that's not your name, correct?

14 A Actually it was -- it was -- it was a personal
15 check that was on my account. The account has been
16 closed out, so I was charged with forgery.

17 Q Oh, so you were innocent of that?

18 A I didn't say that I was innocent of it.

19 Q How about using someone's name -- financial
20 transaction card in a fraudulent way, isn't that
21 dishonest?

22 A That was -- yeah, it is.

23 Q And --

24 A You can say that.

25 Q You were convicted of that?

C. DUFFIE -- CROSS BY MS. HODGE

1 A Yeah.

2 Q And then when the police tried to stop you, and
3 you don't stop, does that show disregard or disrespect
4 --

5 MR. JOHNSTON: Your honor, I would object. That
6 is not proper impeachment. He has admitted to what --

7 THE COURT: Okay. All right. I'm going to
8 sustain that.

9 BY MS. HODGE:

10 Q Shoplifting, you are taking things that don't
11 belong to you, that's dishonest?

12 MR. JOHNSTON: Your Honor, the same objection.
13 He's admitted --

14 MS. HODGE: That's a crime of dishonesty, Your
15 Honor.

16 MR. JOHNSTON: And he's admitted.

17 THE COURT: Right. And he's -- you can -- that
18 would be proper for argument to the jury.

19 BY MS. HODGE:

20 Q And you were convicted of assault and battery
21 of a high & aggravated nature, correct?

22 A Yes.

23 Q And you and the Defendant are real close, is
24 that right? Your words, real close?

25 A Yes.

C. DUFFIE -- CROSS BY MS. HODGE

1 Q So you knew after he was arrested what he had
2 been accused of doing, almost killing two people?

3 A Yes.

4 Q And you knew that at some point, you learned
5 that the injury on his arm was of some importance to
6 the police, correct?

7 A Yes.

8 Q When did you learn that that was of an
9 importance, how long ago?

10 A Actually it was right after he was arrested
11 that I learned that that was of importance.

12 Q So back in 2009, right?

13 A Yes.

14 Q You did not think that being his real close
15 friend, you should go tell the police that you knew he
16 had that before this incident occurred? You didn't
17 think that was important?

18 A I asked him what he would prefer me to do,
19 whether he would prefer me to go -- and there was some
20 question as to whether or not that incident actually
21 happened during what he was accused of now, as far as
22 the wound on his arm. Because the wound on his arm,
23 was explained to me --

24 Q Well, you don't have -- don't tell me what he
25 said to you about it.

C. DUFFIE -- CROSS BY MS. HODGE

1 A Okay.

2 Q Did you go to the police and tell them, I saw
3 him with an injury before he's accused of doing this
4 crime?

5 A No, I didn't.

6 Q And in the last almost three years, have you
7 thought I should probably tell the police he had that,
8 he's getting ready to go to trial on this; did you
9 think that?

10 A No.

11 Q You didn't think that would be helpful to you?

12 A I didn't know -- I don't know the particulars
13 of this case.

14 Q You are his real close friend?

15 A Yes.

16 Q You don't know the particulars of his case?

17 A I don't know -- all I know is what is
18 alleged -- that he was alleged to do. He tells me he
19 didn't do it. So as far as I'm concerned, what would I
20 go to the police for?

21 Q Because you might have evidence that could be
22 helpful to him, that the police might want to know
23 about, you didn't think that you would do that for your
24 real close friend?

25 A If I don't think it's related to the case, how

1 am I -- why should I go report it?

2 Q You knew prior to today, that they -- the
3 police were very interested in that injury, didn't you?

4 A Yeah. I knew that that -- there was -- they
5 were alleging that that injury occurred during the
6 commission of what he is being charged with, yes.

7 Q And you knew, you are saying to this jury, that
8 you knew it didn't, isn't that correct?

9 A He also knew that I knew, and he had obtained
10 counsel. And I figured it was irrelevant whether I
11 come to the police or not. If they had questions for
12 me, that they would come to me concerning the incident.

13 Q So you didn't think you should do that on your
14 own?

15 A No, not without the advice of his counsel.

16 Q All right. And you don't know where the
17 Defendant was on July 27th of 2009 at 2:42 a.m., do
18 you?

19 A No.

20 **MS. HODGE:** Thank you.

21 **MR. JOHNSTON:** No other questions, Your Honor. We
22 would ask for him to be excused.

23 **THE COURT:** All right. Any objection?

24 **MS. HODGE:** No objection.

25 **THE COURT:** All right. You may stand down. Thank

1 you.

2 **MS. HODGE:** Do you want to approach the bench?

3 **THE COURT:** I tell you what, why don't we just
4 take a short -- let's take a morning break. I usually
5 try to go about this long before we break in the
6 morning. Thank you very much.

7 (Whereupon, the jury left the courtroom at
8 10:46 a.m.)

9 **THE COURT:** All right.

10 **MS. HODGE:** Your Honor, Investigator Grounsell, in
11 my office, has been out in the hall and kind of running
12 back and forth and doing some things for me today.

13 And after Mr. Duffie testified, he observed
14 Ms. Lawter speaking to Mr. Duffie, saying something to
15 the effect of how did it go and they started talking.
16 He couldn't hear the particulars. I would ask the
17 court to inquire whether she and Mr. Duffie --

18 **THE COURT:** All right. Come on up, Ms. Duffie, is
19 she here?

20 **MS. HODGE:** Ms. Lawter.

21 **THE COURT:** Ms. Lawter.

22 **MS. HODGE:** And Charlie Duffie.

23 **THE COURT:** One at a time though.

24 **THE CLERK:** Ms. Lawter, please place your left
25 hand on the Bible and raise your right hand.

1 SHANNON LAWTER, having been first
2 duly sworn, testified as follows.

3 THE COURT: All right, if you would, state your
4 name into the record, please, ma'am.

5 THE WITNESS: Shannon Lee Lawter.

6 THE COURT: Just hold him outside please. I'm
7 sorry. Go ahead.

8 THE WITNESS: Shannon Lee Lawter.

9 THE COURT: All right. Ma'am, you're here to
10 testify on behalf of the defense, is that correct?

11 THE WITNESS: Yes, sir.

12 THE COURT: And you have been out in the hall
13 sequestered, is that right?

14 THE WITNESS: Yes, sir.

15 THE COURT: Did you have a conversation with Mr.
16 Duffie?

17 THE WITNESS: No, sir.

18 THE COURT: No?

19 THE WITNESS: Uh-uh.

20 THE COURT: You didn't say anything to him?

21 THE WITNESS: No.

22 THE COURT: No greeting, no questions, no nothing?

23 THE WITNESS: When he left the courtroom?

24 THE COURT: Yeah.

25 THE WITNESS: No, sir.

1 **THE COURT:** All right. You can stand down. Thank
2 you very much. Bring Mr. Duffie on in.

3 **MS. HODGE:** I'm not sure if Mr. Duffie is --

4 **THE COURT:** He's still here. They've got him out
5 there.

6 **MS. HODGE:** That was -- that was the last witness,
7 I'm sorry -- that's --

8 **THE COURT:** Was that not him? Oh, bring him back.
9 I'm sorry.

10 **MS. HODGE:** Hunter Smalley. Ask about Mr.
11 Smalley.

12 **THE COURT:** All right. Come up, bring -- what was
13 her name?

14 **THE CLERK:** Shannon Lawter.

15 **THE COURT:** Ask Ms. Lawter to come back. All
16 right. You can stand right there, ma'am. Let me just
17 ask you the same questions with respect to Hunter
18 Smalley; did you have a conversation with him when he
19 left the courtroom?

20 **THE WITNESS:** Yeah. I asked him to -- he asked me
21 for the keys because that's where his medicine is, in
22 the car. So that's why I gave him the keys to my car.

23 **THE COURT:** Did you talk about his testimony?

24 **THE WITNESS:** No, sir.

25 **THE COURT:** Any other discussion you had?

1 **THE WITNESS:** No, sir.

2 **THE COURT:** Okay. All right. Thank you very
3 much. I presume Smalley has gone?

4 **MS. HODGE:** Yes.

5 **THE COURT:** Anything else?

6 **MS. HODGE:** You can bring him back -- we proffer
7 Keith Grounsell.

8 **THE COURT:** All right. Come on around. I'll tell
9 you, just sit right there. Raise your right hand.

10 KEITH GROUNSELL, having been
11 first duly sworn, testified as follows:

12 **THE COURT:** Just speak up for us. State your name
13 for the record.

14 **THE WITNESS:** Keith Phillip Grounsell.

15 **THE COURT:** And where do you work?

16 **THE WITNESS:** I work for the Solicitor's Office.

17 **THE COURT:** All right. Did you observe a
18 conversation between Hunter Smalley and Shannon Lawter?

19 **THE WITNESS:** Yes, I did.

20 **THE COURT:** Tell us what you observed.

21 **THE WITNESS:** I observed, as he exited the
22 courtroom after he testified, he went into the room
23 with the rest of the witnesses in there. I didn't hear
24 what type of conversation went on in there. I observed
25 them two both exit together, Ms. Lawter and

1 Mr. Smalley. As they were walking down the hall, she
2 asked him, so how did it go. And he started to
3 conversate back with her.

4 I tried to act like I wasn't following them. I
5 came up, as I got closer, they started whispering.
6 Then she was like, oh, well, okay, well, I'll just talk
7 to you later. And then he went to the elevator and
8 left.

9 **THE COURT:** Okay. That's fine. Thank you. You
10 know, when they leave the courtroom, they should not
11 have any contact with witnesses who are about to
12 testify. Mr. Johnston, will you make sure that that
13 occurs?

14 **MR. JOHNSTON:** Your Honor, I want to assure you
15 that I have been doing that to the best of my ability,
16 but I will renew my efforts --

17 **THE COURT:** You tell them that they are going to
18 go to jail.

19 **MR. JOHNSTON:** Yes, sir.

20 **THE COURT:** Okay. We'll take a short break.

21 (After a recess, court reconvened.)

22 **THE COURT:** All right.

23 (Whereupon, the jury entered the courtroom at
24 11:01 a.m.)

25 **THE CLERK:** Ma'am, please place your left hand on

S. LAWTER -- DIRECT BY MR. JOHNSTON

1 the Bible and raise your right hand.

2 SHANNON LEE LAWTER, having been
3 first duly sworn, testified as follows:

4 THE CLERK: Be seated. Please state your name for
5 the record.

6 THE WITNESS: Shannon Lee Lawter.

7 DIRECT EXAMINATION BY MR. JOHNSTON:

8 Q Ms. Lawter, do you know this gentleman here in
9 the yellow tie?

10 A Yes, sir.

11 Q How do you know him?

12 A He's the father of my two and a half year old
13 son.

14 Q And is it fair to say that you all have had a
15 relationship?

16 A Yes, sir.

17 Q Describe the relationship for us. How long has
18 it been going on?

19 A Six years. And it's been rocky for the past
20 three pretty much.

21 Q Okay. When you say "rocky", that means what?

22 A Just pretty much on me, on that side, because
23 what we're going through is just a lot because it hurt
24 financially, and then -- I went through some, you could
25 say anger issues after I went back and returned after

S. LAWTER -- DIRECT BY MR. JOHNSTON

1 -- my hormones from having a baby. So, you know,
2 really, pretty much it was me, you know so...

3 Q Now, I believe that you found out that you were
4 pregnant just at about the time that this whole
5 situation in this case occurred?

6 A Yes.

7 Q Tell us about that.

8 A I was two months pregnant when they came to my
9 house and --

10 Q You are talking --

11 A Looking for Mr. Swofford.

12 Q You're talking about "they" being the...?

13 A Investigators.

14 Q The police?

15 A The police. I don't know about 20 cars maybe.

16 Q Okay. And you had just found out that you were
17 pregnant?

18 A Yes, sir.

19 Q Now, were you with Mr. Swofford when he was
20 arrested?

21 A No.

22 Q Okay. Do you know when his birthday is?

23 A I do.

24 Q When is his birthday?

25 A July 25th.

S. LAWTER -- DIRECT BY MR. JOHNSTON

1 Q Do you remember his birthday, July 25th of
2 2009?

3 A I do.

4 Q What do you recall about his birthday?

5 A On his birthday, we actually went out to eat
6 and -- that night. We went home and --

7 Q Where did you all go out to eat?

8 A Kanpai.

9 Q I beg the court's indulgence one moment.

10 **MR. JOHNSTON:** Please mark this for
11 identification.

12 BY MR. JOHNSTON:

13 Q I'm showing you now what has been marked for
14 identification as Defendant's Exhibits Nos. 18 and 19,
15 and I ask you to look at those two items and tell me if
16 they look familiar to you.

17 A They do.

18 Q What is their significance?

19 A It was on his birthday. And they --

20 Q Now, --

21 A -- sang happy birthday to him.

22 Q Hold on. What year?

23 A What year?

24 Q Yes.

25 A Oh, 2009.

S. LAWTER -- DIRECT BY MR. JOHNSTON

1 Q All right. Where are those pictures taken?

2 A At Kanpai of Tokyo in Spartanburg.

3 Q Do they fairly and accurately reflect the
4 events that occurred on July 25, 2009?

5 A Yes, sir.

6 MR. JOHNSTON: Your Honor, at this time we offer
7 them into evidence.

8 MS. HODGE: Without objection.

9 THE COURT: All right. No objection.

10 (DEFENDANT'S EXHIBITS NOS. 18 AND 19 RECEIVED IN
11 EVIDENCE.)

12 BY MR. JOHNSTON:

13 Q Tell me about the evening at Kanpai.

14 A Well, we went out to eat and we was with his
15 brother and his wife and it was his birthday, so we was
16 out. And then we went back home and that's where we
17 just stayed around the house. And it was -- I'm trying
18 to think about what time it was. It has been a long
19 time, so it is kind of hard to remember. And, you
20 know, we were at home on his birthday.

21 Q All right. Now, long about this time, had you
22 noticed that Mr. Swofford had suffered some sort of
23 injury to his arm?

24 A I did.

25 Q Which arm was it?

S. LAWTER -- DIRECT BY MR. JOHNSTON

1 A His left arm.

2 Q Tell me when you first noticed -- and I don't
3 want you to tell me what people said -- but I want you
4 to tell me about when you first noticed it and what you
5 saw?

6 A I first noticed it around the 22nd.

7 Q And how do you remember that you first noticed
8 it around the 22nd?

9 A Well, it was -- I was pregnant and I was 37, so
10 it was kind of a weird situation, so I remember a lot
11 because it was just --

12 Q You mean, you were sort of older --

13 A Yes, sir.

14 Q -- for a pregnancy?

15 A Right. It was a high risk pregnancy. But, any
16 way, I had asked him what had happened. And he --

17 Q Wait a minute. Don't tell us what he said. I
18 told you, don't tell us what he said. I asked you to
19 tell us about what you saw?

20 A What I saw--

21 Q And what you noticed and when and where?

22 A Okay. Well, I noticed that he had a wound on
23 his left arm.

24 Q Where were you when you -- when this caught
25 your notice?

S. LAWTER -- DIRECT BY MR. JOHNSTON

1 A I was at home.

2 Q Okay. What were y'all doing?

3 A We were just -- we were just at home, I mean.

4 Q Okay. Well, did you look over at his arm and
5 see something and make a comment?

6 A I did.

7 Q Tell me about it.

8 A I asked him what had happened. And he said --

9 Q And don't tell us what he said.

10 A Okay.

11 Q Did you notice --

12 A I noticed a place on his arm.

13 Q Okay. What did it look like?

14 A It looked like a burn maybe or like something
15 had grazed it. You know, that's what it looked like to
16 me.

17 Q All right. Did you ask -- I'm not asking you
18 to tell me what he said. I'm merely asking you, did
19 you ask him?

20 A I did.

21 Q I'm showing you what's been marked as State's
22 Exhibit No. 75; do recognize that to be Ronnie's arm?

23 A I do.

24 Q Look at that picture, does that look like what
25 you saw?

S. LAWTER -- DIRECT BY MR. JOHNSTON

1 A Yes, sir.

2 Q And are you confident that you saw it before
3 his birthday?

4 A Yes, sir.

5 Q Do you also recall the early morning hours of
6 the 27th of July? The 25th was a Saturday, right?

7 A Yes, sir.

8 Q The early morning hours of the 27th would be,
9 of course --

10 A Monday. Monday.

11 Q All right. And let me ask you about Sunday as
12 well, what happened on the day after his birthday.
13 Let's do it that way. Tell us what you did on Sunday,
14 the 26th.

15 A I was at -- I was at home. And he was -- he
16 was at work.

17 Q Okay. Now, when you are saying "he", who are
18 you talking about?

19 A Ronnie.

20 Q And what type of work was he doing at that
21 time?

22 A Pressure washing.

23 Q And how did his business work?

24 A He would work a lot, all hours pretty much.
25 And he would actually work at -- where he was working

S. LAWTER -- DIRECT BY MR. JOHNSTON

1 that night, he had an account with them, so he would do
2 it regularly on a regular basis.

3 Q Is it fair to say that he had commercial
4 accounts for pressure washing?

5 A Yes, sir.

6 Q Where all did he have commercial accounts?

7 A One was Strange Brothers. The Kangaroo. And
8 then a lot of times he would just do it as they needed.
9 There is list of them, but off the top of my head --

10 Q That's fine. He had some that were commercial
11 accounts and some that he just did --

12 A He had some that he just did periodically and
13 then he had a lot that he did regularly.

14 Q Do you know where he had his job -- where he
15 was doing his work on Sunday, the 26th?

16 A That was Strange Brothers.

17 Q And where is Strange Brothers?

18 A In Greer.

19 Q What kind of business is Strange Brothers, if
20 you know?

21 A They deliver gravel, so they have dump trucks.
22 And some -- sometimes machinery.

23 Q Okay. And is it unusual for him, when he works
24 at Strange Brothers, to work -- I'll say something
25 other than bankers hours, 9:00 to 5:00, Monday through

S. LAWTER -- DIRECT BY MR. JOHNSTON

1 Friday?

2 A No, he would normally work after everybody got
3 home and finished their deliveries. And a lot of times
4 it would be anywhere from 1:00 to 3:00 or sometimes
5 later in the morning before he ever got home.

6 Q All right.

7 A Just according to when he started.

8 Q So would it be unusual for him to be working at
9 10:00 at night?

10 A No, sir.

11 Q 12:00 at night?

12 A No, sir.

13 Q 2:00 in the morning?

14 A No, sir.

15 Q All right. Do you know what time he left to go
16 to the Strange Brothers on Sunday?

17 A Maybe 3:00 or so, maybe, in the afternoon. I'm
18 not really sure the actual time.

19 Q Okay.

20 A It was before dark definitely.

21 Q All right. And that was in July, so it doesn't
22 get dark until late?

23 A Right.

24 Q Do you know what time it was?

25 A It -- no.

S. LAWTER -- DIRECT BY MR. JOHNSTON

1 Q If you don't know, that's fine.

2 A He worked from 3:00 maybe to 6:00. I really
3 don't know the exact time, but I do know it was still
4 daylight when he left.

5 Q All right. He left to go to Strange Brothers.
6 When is the next time that you saw him?

7 A It was after 1:00 in the morning. Because he
8 was actually later than, you know, he said he would be,
9 so I, you know.

10 Q What time did he say he would be home?

11 A He said he would be there about 11:00. But
12 normally he's always late, so.

13 Q Okay. So he arrived at what time?

14 A Around 1:30.

15 Q Now, what residence did you and he occupy at
16 that time?

17 A [REDACTED] Blanchard Road.

18 Q Is that in Spartanburg County?

19 A Yes, sir.

20 Q What part of Spartanburg County is it in?

21 A Near the Roebuck area.

22 Q All right. So, that is southern Spartanburg
23 County, somewhat south western Spartanburg County?

24 A I would say southern, towards more of the
25 country.

S. LAWTER -- DIRECT BY MR. JOHNSTON

1 Q How long does it -- would you say it takes to
2 get from Strange Brothers in Greer to your residence at
3 that time near the Roebuck area?

4 A Probably about -- anywhere from 30 to 45
5 minutes depending on traffic.

6 Q It wouldn't be much traffic at that time of the
7 day, though, would it?

8 A No, sir.

9 Q All right. How do you recall what time it was
10 when he arrived home?

11 A Actually that night, I was driving him crazy by
12 calling him, telling him I was wanting something to
13 eat. And when he came home --

14 Q Is that part of the pregnancy thing?

15 A Oh, yeah. Definitely. And when he got home, I
16 wanted him to take me to get something to eat. And, of
17 course, he didn't want to go because he was tired. So
18 I ended up just staying at home and not going to Waffle
19 House.

20 Q All right. And this, again, was in the early
21 morning hours of...?

22 A The 27th.

23 Q Which would be what day of the week?

24 A Monday.

25 Q What did he do after he got home and y'all

S. LAWTER -- DIRECT BY MR. JOHNSTON

1 decided you weren't going to go out to eat?

2 A He took a shower, because he was real wet
3 because -- where he pressure washes and the mud on the
4 truck and stuff. He was real dirty. So he took a
5 shower. And then laid down with my 11 year old at the
6 time, which he's now 14. And they was watching some --
7 some kind of basketball game on TV.

8 Q What's the 11 year old's name?

9 A JP [REDACTED].

10 Q Did he leave during that time?

11 A No, sir.

12 Q Would you -- do you believe you would have
13 known --

14 A Yes, sir.

15 Q -- if he had left during that time -- what time
16 did he go to bed -- to go to sleep, I should say?

17 A Probably around 3:00 or so maybe -- no, around
18 2:30 or so. It's -- the time is kind of off because it
19 has been so long, but I do know it was pretty late. It
20 was early in the morning on the 27th.

21 Q All right. And, again, he didn't leave --

22 A No, sir.

23 Q -- after he arrived home?

24 A No, sir.

25 Q Did you and he go to bed together?

S. LAWTER -- DIRECT BY MR. JOHNSTON

1 A Yes, sir.

2 Q And did he have to go somewhere the next day?

3 A He did.

4 Q Where was that?

5 A He had to go and pick up motorcycles in
6 Charlotte.

7 Q And for whom was he doing that?

8 A For my brother, for Quick Times Sales.

9 Q All right. What time was he supposed to be in
10 Charlotte?

11 A Before 8:00 in the morning, so he probably left
12 about 6:00 or 6:30 in the morning.

13 Q So he wasn't asleep for very long?

14 A No, sir. He doesn't never sleep long.

15 Q Did the police come and talk to you at a later
16 time?

17 A They did.

18 Q When?

19 A Maybe a couple of weeks later.

20 Q Did they ask you -- what -- what did they ask
21 you?

22 A They asked me if Ronnie was home. And I told
23 them no. They asked if they could go in and look. And
24 I told them that my twins was there with friends and,
25 also, my son had friends over.

S. LAWTER -- DIRECT BY MR. JOHNSTON

1 Q Well, I'm really not too concerned about --

2 A Okay.

3 Q Those sorts of details.

4 A Okay.

5 Q What I'm asking you is, did they ask you what
6 knowledge you might have about --

7 A They did.

8 Q -- about Ronnie that would have a bearing on
9 this case?

10 A Yes, sir.

11 Q Tell me what they asked you about?

12 A They asked me had Ronnie been shot.

13 Q What did you tell them?

14 A No.

15 Q Why did you tell them no --

16 A Because --

17 Q -- because you had seen the wound --

18 A I had seen the wound --

19 Q Hang on. Because you had seen what was here in
20 State's No. 75, hadn't you?

21 A Yes, sir.

22 Q So, why did you tell them he hadn't been shot?

23 A Well, it doesn't look like a shot to me.

24 Q It didn't look like a gunshot to you?

25 A No, sir.

S. LAWTER -- CROSS BY MS. HODGE

1 Q Did you tell the truth of what you believed at
2 that time?

3 A Yes, sir.

4 Q Were you convicted of filing a false police
5 report in 2011?

6 A Yes, sir.

7 **MR. JOHNSTON:** Please answer other questions.

8 CROSS EXAMINATION BY MS. HODGE:

9 Q Ms. Lawter, what did you do and the Defendant
10 do on his birthday in 2008?

11 A 2008? Um, probably went out to eat, but I'm
12 really not sure.

13 Q You don't know where?

14 A No, ma'am.

15 Q How about in 2010, do you know where you went
16 for his birthday then?

17 A We went to Kanpai two years in a row.

18 Q And how about 2007?

19 A I don't remember.

20 Q 2011?

21 A No, because at that time that's when we were
22 separated so...

23 Q Are y'all together today?

24 A We're not living together.

25 Q You are not living together. You have a child

S. LAWTER -- CROSS BY MS. HODGE

1 together?

2 A We do.

3 Q Did you ever get married?

4 A No, ma'am.

5 Q Were you ever engaged?

6 A Yes, ma'am.

7 Q Did you give the ring back?

8 A No, ma'am.

9 Q You kept it?

10 A Yes, ma'am.

11 Q And you said you had a high risk pregnancy at
12 that time?

13 A Yes, ma'am.

14 Q And you were up at 1:30, 2:30, 3:00 in the
15 morning on July 27th?

16 A Yes, ma'am. That was pretty much a ritual
17 because I couldn't sleep that much. Because being
18 pregnant, I was real sick.

19 Q So you were up a lot is what you're saying?

20 A Yes, ma'am.

21 Q And you could be off on your times, though, is
22 that correct?

23 A No, ma'am.

24 Q You just said that in your direct, that you
25 could be off on your times some since it's been almost

1 three years, correct?

2 A I could be off, but I'm not on the questions
3 that you're asking me.

4 Q You're not because you know it is very, very,
5 very important that you have your times exactly right
6 today, correct?

7 A No, ma'am.

8 Q Who took these pictures?

9 A Jamie Swofford.

10 Q And is it a digital camera?

11 A I don't remember if it's a digital camera or
12 not.

13 Q So it's not a photograph that was printed out,
14 right? Because this is pretty big, correct?

15 A Uh-huh.

16 Q So that would probably be a digital camera.

17 A It could be.

18 Q Are you familiar that digital cameras have time
19 stamps on them?

20 A Um...

21 Q Time and date stamps?

22 A Yes.

23 Q Okay. These don't have any time and date
24 stamps, do they?

25 A No, ma'am.

S. LAWTER -- CROSS BY MS. HODGE

1 Q So we don't know exactly when these were taken
2 per a time stamp, correct?

3 A No, ma'am.

4 Q Which would be an independent unbiased thing,
5 correct?

6 A No, ma'am.

7 Q A time stamp would be biased?

8 A Well, a lot of times, I do that, you know, it
9 could have been messed up on the camera. But, you
10 know, what you are saying, yes, ma'am.

11 Q Okay. And you're saying it is not possible at
12 all that those pictures could have been taken a few
13 days after his birthday?

14 A No.

15 Q After his birthday instead of on his birthday?

16 A No, ma'am.

17 Q You're absolutely 100 percent certain about
18 that?

19 A Yes, ma'am.

20 Q And that he had some injuries on him, on his
21 arm bandaged up on July 25, 2009? You're absolutely
22 100 percent accurate on that?

23 A Yes, ma'am.

24 Q You would not lie in here --

25 A No, ma'am.

S. LAWTER -- CROSS BY MS. HODGE

1 Q -- in a court of law?

2 A No, ma'am.

3 Q Because that's pretty serious, isn't it?

4 A Yes, ma'am.

5 Q You can get into trouble for lying under oath
6 in a case, can't you?

7 A Yes, ma'am.

8 Q You can be charged criminally?

9 A Yes, ma'am.

10 Q And you are willing to take that risk?

11 A Yes, ma'am.

12 Q All right. Back in 2007, you guys lived at [REDACTED]
13 Blanchard Road, is that right?

14 A No, ma'am. [REDACTED]

15 Q [REDACTED] my -- my bad. I'm sorry, [REDACTED] And the
16 Defendant, you had met him through him working with
17 your -- is it your uncle or your brother, Bud?

18 A That's my brother, yes, ma'am.

19 Q That's your brother. And is he part of the
20 cycle shop?

21 A It's his shop, yes, ma'am.

22 Q His shop. All right. And did the Defendant
23 use to work with him transporting bikes down from Texas
24 up to Greenville or Spartanburg?

25 A He went everywhere, so yes. He done

S. LAWTER -- CROSS BY MS. HODGE

1 periodically when he needed help.

2 Q When did you and the Defendant break up?

3 A It was after the baby was born, so probably --
4 I think maybe -- about close to a year after the baby
5 was born.

6 Q What day was your baby born?

7 A February 15, 2010.

8 Q Okay. And after y'all broke up, did y'all get
9 -- kind of get back together or see each other or --

10 A We always saw each other for the baby. I mean,
11 we was trying to be, you know, friendly for the baby.

12 Q Have y'all been living in separate residences
13 over the last several months?

14 A Yes, ma'am.

15 Q He still drives you to and from your job, is
16 that correct?

17 A Yes, ma'am.

18 Q Every day?

19 A Yes, ma'am.

20 Q So he's got pretty close tabs on you?

21 A Well, he keeps our baby while I work. And then
22 when he's at work, I keep the baby. That way, he's not
23 being kept by just anybody.

24 Q So he is helping take care of your son?

25 A Yes, ma'am.

S. LAWTER -- CROSS BY MS. HODGE

1 Q All right. Is he providing financial support
2 also?

3 A Yes, ma'am.

4 Q So without him in your life, that would be a
5 significant hardship to your son?

6 A Definitely, yes, ma'am.

7 Q Somebody else would have to help take care of
8 him, somebody else would have to give some financial
9 support or it would all be on you, right?

10 A Yes, ma'am.

11 Q Let's go back to July of 2009, July the 28th,
12 so the day after this incident was to have occurred.
13 Chris Miller called you and talked to you on the phone.
14 He's an investigator with Greenville, correct?

15 A Yes, ma'am.

16 Q Where was the Defendant that day?

17 A Working.

18 Q Where?

19 A He was out of town, Atlanta I think.

20 Q You're not sure?

21 A Not exactly, but I know he was out of town
22 because he stayed out of town a lot sometimes.

23 Q Where did he stay in Atlanta?

24 A Well, I'm not -- he -- I'm not sure where he
25 stayed.

S. LAWTER -- CROSS BY MS. HODGE

1 Q When he did he leave?

2 A Leave Atlanta?

3 Q Uh-huh.

4 A Probably a couple -- couple of weeks after I
5 talked to him. Maybe a week or so, I'm not really --
6 about a week -- in between a week and two weeks.

7 Q So he stayed a week to two weeks in Atlanta?

8 A Yes, ma'am.

9 Q All right. Did you -- I'm assuming the police
10 called and wanted to speak to him. Did you call him
11 and tell him Chris Miller has called and he wants to
12 talk to you?

13 A I did leave him a message and told him, but it
14 was a lot of times I didn't get him. Because the
15 machine is actually really loud, so he didn't hear the
16 phone ring. And then he would call me later on or the
17 next day.

18 Q So within a day, you relayed to him the police
19 want to talk to you, here's the man's number, he wants
20 you to call him?

21 A Yes, ma'am.

22 Q And did you ask him what that was about, why
23 are the police looking for him?

24 A I did.

25 Q All right. And what did he say?

S. LAWTER -- CROSS BY MS. HODGE

1 A He said he wasn't sure.

2 Q Okay. And you're saying at that time, there
3 was an injury on him to his arm?

4 A On what date?

5 Q On the 28th, when the police had come looking,
6 wanted to talk to him, you knew he had an injury on his
7 arm, correct?

8 A Yes, ma'am.

9 Q It's your testimony it had been there since at
10 least July 22nd, correct?

11 A Yes, ma'am.

12 Q How do you know it was July 22nd again?
13 Because Mr. Smalley said it was July 22nd?

14 A No, ma'am, because I know.

15 Q Because you just know?

16 A Yes, ma'am.

17 Q You just have that date in your head?

18 A Yes, ma'am. We had an ultrasound on the 17th
19 actually, so -- and I put -- it's easy to kind of
20 remember dates especially when we're having a baby and
21 it's his first child. So it was kind of -- he was very
22 involved so, you know, he would go to doctors with me
23 and stuff. So, it's kind of easy to put dates together
24 when I know what was going on the whole pregnancy,
25 which was actually kind of worried -- I was worried

S. LAWTER -- CROSS BY MS. HODGE

1 that the pregnancy wouldn't go full term.

2 Q Okay.

3 A For a few reasons.

4 Q Okay. So you're saying you can probably
5 account for every day during your pregnancy, right?

6 A No, ma'am.

7 Q You just told me it was very important stuff,
8 you remember these things?

9 A It was around the date that we had an
10 ultrasound and --

11 Q But you're telling me, the ultrasound is on the
12 17th. How do you know this wasn't the 18th, the 19th,
13 the 20th, the 21st, the 22nd, the 23rd?

14 A Because the incident happened on the 21st, and
15 I noticed it on the 22nd.

16 Q The incident happened on the 21st?

17 A Yes, ma'am.

18 Q Okay. What incident is that?

19 A The incident on his arm.

20 Q Okay. So go ahead tell us, what incident?

21 A Well, he had told me that he had gotten hurt on
22 a lawn mower.

23 Q He told you he got hurt on a lawn mower?

24 A Yes, ma'am.

25 Q Okay. He didn't tell you he had been shot by

S. LAWTER -- CROSS BY MS. HODGE

1 Curt Wooten in the arm?

2 A No, ma'am.

3 Q On accident or anything like that?

4 A No, ma'am.

5 Q Okay.

6 A Not at that time.

7 Q So he gave you a different story?

8 A Yes, ma'am.

9 Q So he lied to you?

10 A Pretty much.

11 Q All right. And you were contacted by the
12 police again on July 31st; do you remember that?

13 A They contacted me a few times, so if that's the
14 date they called, then yes --

15 Q But you know these dates --

16 A No --

17 Q I mean, you were pregnant and you remember the
18 stuff because they showed up to your house -- Chris
19 Miller showed up to your house?

20 A On the 31st.

21 Q Do you know that? Do you know that date for
22 sure?

23 A Yeah.

24 Q Are you sure it was the 31st?

25 A I'm not sure exactly what date it is, but they

S. LAWTER -- CROSS BY MS. HODGE

1 showed up to my house not long after his birthday, yes.

2 Q Okay. So on the 31st, Chris Miller comes to
3 your house, correct, and he wants to talk to the
4 Defendant, correct?

5 A Yes, ma'am.

6 Q He's not there?

7 A No, ma'am.

8 Q And you state at that time that he was working
9 out of town, and you tell them Columbia, correct?

10 A I -- I could have been wrong at that time.

11 Q Now, you just told us --

12 A Because he has a lot of jobs and -- in all
13 areas, so...

14 Q Well, that was at the time. Now, three years
15 later, you're saying he was in Atlanta for one to two
16 weeks, so which would be right?

17 A He was in Atlanta.

18 Q So, he wasn't in Columbia like you told them at
19 this time?

20 A No, ma'am.

21 Q So you lied to them about that?

22 A No, I didn't lie. That's just what I was made
23 to believe. But, you know, because he had worked a
24 couple of weeks before, so he -- it was just getting
25 the areas mixed up. That's all.

1 Q Oh, it was on him -- he was getting the areas
2 mixed up?

3 A I was.

4 Q You were?

5 A Uh-huh.

6 Q It was that day, you didn't know where he was
7 working that day, on July 31st?

8 A Well, it was -- I was actually caught off guard
9 by so many people coming with guns and stuff. It was
10 kind of devastating. So you know, I could easily, you
11 know, miss -- you know, really misthink something. But
12 you know, I know when they came because it was pretty
13 embarrassing.

14 Q Right. And they were there because the crime
15 that had been committed, that they were investigating,
16 was really serious, right?

17 A Yes, ma'am.

18 Q Really violent, right?

19 A The crime They were alleging, yes, ma'am.

20 Q Okay. The crime that were investigating?

21 A Yes, ma'am.

22 Q Two people almost being murdered?

23 **MR. JOHNSTON:** Your Honor, I would object to
24 relevance. The manner of their approach is really not
25 --

S. LAWTER -- CROSS BY MS. HODGE

1 **THE COURT:** Overruled. I'm going to let her do
2 it. It's cross. Go ahead.

3 BY MS. HODGE:

4 Q At that time, you are stating that you are
5 home, your two twin daughters, **AL** and **JL**, and
6 your son, **JP**, is that right?

7 A **JP**.

8 Q **JP**. And was a friend -- did you say a
9 friend?

10 A They all had friends over that night.

11 Q Okay. So you had a lot of children?

12 A Yes.

13 Q And your twins were 15 at the time?

14 A Yes, ma'am. They're 15, yes, ma'am.

15 Q At that point, they're again wanting to talk to
16 you about an incident that occurred on July 27th,
17 correct?

18 A Yes, ma'am.

19 Q And did they tell you the exact time that the
20 incident had happened, or did they just say we want to
21 ask about this?

22 A No. They did say something about the time
23 so...

24 Q And at that time, you're stating -- you stated
25 to them that he was with you and he was home from work

S. LAWTER -- CROSS BY MS. HODGE

1 about 1:30, is that correct?

2 A Yes, ma'am.

3 Q Okay. And that y'all stayed up until 3:00 or
4 3:30?

5 A Yes, ma'am.

6 Q Correct -- and were your daughters at home on
7 that night as well? The night of the incident?

8 A What night is that?

9 Q July 27th, when you know exactly where you were
10 and what time you were awake and asleep; were your
11 daughters there?

12 A On the 27th?

13 Q Yes.

14 A Yes, ma'am.

15 Q Were they awake or asleep?

16 A They was awake.

17 Q Okay. How about your son, was he awake or
18 asleep?

19 A Awake.

20 Q And the police are there, this big show of law
21 enforcement wanting to know about Ronnie Swofford, and
22 where he was roughly at this time, and you didn't bring
23 either of your daughters forward to say, they know he
24 was here, he was here, too?

25 A No, ma'am.

S. LAWTER -- CROSS BY MS. HODGE

1 Q So, no AL?

2 A No.

3 Q No JL?

4 A No, ma'am.

5 Q No JP?

6 A No, ma'am.

7 Q No friends that may have been over?

8 A No, ma'am.

9 Q That was it. You had an opportunity right then
10 and there, and you didn't think that was important to
11 do?

12 A No, ma'am.

13 Q Did you tell the police -- excuse me -- did you
14 tell Mr. Swofford that the police came to the house and
15 wanted to talk to him again on July 31st or within the
16 next day?

17 A July 31th was the first visit. So that's when
18 I told them -- that's when I left him a message and
19 told him that.

20 Q You had been called on July 28th. And you're
21 saying you called him after that and left a message,
22 correct?

23 A I talked to him every day so...

24 Q Right.

25 A Maybe every other day.

S. LAWTER -- CROSS BY MS. HODGE

1 Q Right. Every day. So did you tell him after
2 the first phone call, the police want to talk to you?

3 A I did.

4 Q All right. And did you tell him after July 31,
5 the police wanted to talk to him?

6 A I did.

7 Q That they, in fact, have even shown up at the
8 house and were curious about his whereabouts and that
9 kind of thing?

10 A Yes, ma'am.

11 Q And at that point, did they not ask you about
12 him having an injury on his arm?

13 A They asked me had he been shot.

14 Q Okay. And did you say no?

15 A I said no.

16 Q Did you say, but by the way, he has something
17 here. He's got an injury here?

18 A No, ma'am.

19 Q They said gunshot, that's all you were going to
20 answer?

21 A Yes.

22 Q Have you ever seen a gunshot wound before?

23 A Yes, ma'am.

24 Q All right. When did you see that?

25 A Not up close and personal, no. But just on --

S. LAWTER -- CROSS BY MS. HODGE

1 like on TV and stuff, but not -- but I have never -- I
2 feel like a gunshot would be like a big old gaping hole
3 and that's not what I saw.

4 Q So you've never seen a real gunshot wound,
5 correct? You have seen it on TV?

6 A Yes, ma'am.

7 Q Okay. So you don't know that the gunshot
8 wound, in fact, look a whole lot like this; is that
9 correct?

10 A No.

11 Q They have a little small entrance, round and
12 then when they exit, they exit in the mushroom fashion,
13 have a larger wound; you don't know that, do you?

14 A No, ma'am.

15 Q So that could possibly be a gunshot wound,
16 couldn't it?

17 A If I'm looking at it, it doesn't look like one
18 to me.

19 Q But it's possible?

20 A I --

21 Q In real life, not TV, right?

22 A That's what you think, but I don't think so.
23 To me, I've always thought a gunshot wound is where you
24 have a big -- just someone gets --

25 Q Where someone gets blown away?

S. LAWTER -- CROSS BY MS. HODGE

1 A Not really.

2 Q Like with a shot gun or something?

3 A A lot of people have been shot before, and they
4 don't get blown away.

5 Q Right. They can have little injuries like
6 that, can't they?

7 A I have one on my arm, and it didn't -- it
8 actually looks like the kind, similar to what's on his
9 arm.

10 Q Oh really. So you've had a gunshot wound?

11 A No.

12 Q On your arm?

13 A I said an injury. I said I had an injury.

14 Q I'm sorry, I thought you said you had a gunshot
15 wound, since we're talking about gunshot wounds.

16 A No, ma'am.

17 Q Since we were talking about gunshot wounds.

18 A No, ma'am.

19 Q Okay. That would have been very interesting,
20 wouldn't it? All right. Now, you never went and gave
21 a formal statement to the police, is that correct?

22 A Yes, ma'am.

23 Q All right. Mr. Swofford got arrested on
24 August 18th, 2009; you did not go, call Chris Miller --
25 you had his number -- you met him in person. You

S. LAWTER -- CROSS BY MS. HODGE

1 didn't go to him, did you?

2 A No, ma'am.

3 Q You didn't say, I have got to tell you, he was
4 with me on these times and you need to know that; did
5 you tell him that?

6 A No, ma'am.

7 Q You didn't say, here is my daughter, A L [REDACTED].
8 She was home, too. You need to know that. You have
9 got the wrong guy. You didn't do that, did you?

10 A No.

11 Q You didn't do it with J L [REDACTED]?

12 A No, ma'am.

13 Q You didn't do it with JP [REDACTED]?

14 A No, ma'am.

15 Q Didn't you think it was important that now
16 four, maybe even five people, could say that you have
17 got the wrong guy, he was with us? You didn't think
18 that was important?

19 A Yeah. It's important.

20 Q But you didn't do it?

21 A No, ma'am.

22 Q Ma'am, you've lied to the police before?

23 A To the police?

24 Q Yes, ma'am.

25 A Yes, ma'am.

S. LAWTER -- CROSS BY MS. HODGE

1 Q So you're trying to tell us what you're saying
2 today is the truth --

3 MR. JOHNSTON: Your Honor, I object, that's --

4 Q But you lied to the police?

5 MR. JOHNSTON: I object, Your Honor. That's
6 improper impeachment. She's admitted it --

7 THE COURT: Yeah, she's admitted it. That's
8 argument for the jury.

9 BY MS. HODGE:

10 Q You know, you are supposed to tell the truth
11 today?

12 A Yes. I'm under oath so, yes, ma'am.

13 Q All right. And the truth really is the
14 Defendant wasn't with you at 2:42 in the morning on
15 July 27th, isn't that the truth?

16 A No, ma'am.

17 Q The truth is he was not at the house with you
18 and your daughters, he was, in fact, out and he was in
19 Greer?

20 A No, ma'am.

21 Q Isn't that true -- and he was over at Curtis
22 Wooten's house, isn't that true?

23 A No, ma'am.

24 Q And that he actually shot Mr. Wooten, isn't
25 that true?

S. LAWTER -- CROSS BY MS. HODGE

1 A No, ma'am.

2 Q And that he told you that he shot Mr. Wooten?

3 A No, ma'am.

4 Q And that he told you and tried to make you
5 think it was some kind of a pill deal gone bad, isn't
6 that true?

7 A No, ma'am.

8 Q And that he actually was buying some pills from
9 Mr. Wooten, and Mr. Wooten kind of passed out, and that
10 he went to shake him and Mr. Wooten reacted and shot
11 him, and then he turned around and shot Mr. Wooten in
12 self defense, isn't that what he told you?

13 A No, ma'am.

14 Q All right. Do you know a woman named Deborah
15 Martinez?

16 A I do.

17 Q And she lived in the house next to your house
18 when you were at [REDACTED] is that correct?

19 A Yes, ma'am.

20 Q So a little bit down the hill from your home at
21 that time?

22 A Right.

23 Q And she -- you have known her since high
24 school, correct?

25 A No, ma'am. I have known her since I lived on

S. LAWTER -- CROSS BY MS. HODGE

1 Blanchard Road.

2 Q Okay. And when was that?

3 A I lived there almost ten years, let's see about
4 12 or 13 years.

5 Q Okay. So you have known her a good little
6 while?

7 A Yes.

8 Q And she has a son named Stephen -- is it Parker
9 or Parham?

10 A I think it's Parham.

11 Q Stephen Parham. And he's like 25 or something?

12 A I'm not sure of his age, but he's over 20 I
13 know. I have known him ever since he was kind of in
14 his teens, so...

15 Q All right. And she -- Ms. Martinez, she is
16 married and her husband is Puerto Rican?

17 A Yes, ma'am.

18 Q And is she disabled also?

19 A Yes, ma'am.

20 Q And, in fact, that she has been a friend to
21 you, isn't that true?

22 A No, ma'am.

23 Q She's not been a friend of yours?

24 A No, ma'am.

25 Q You didn't go to her house in February of this

S. LAWTER -- CROSS BY MS. HODGE

1 year, after you and the Defendant either had a fight or
2 some kind of falling out, and talk to her at her
3 kitchen table in her house?

4 A No, ma'am.

5 Q You didn't do that?

6 A No.

7 Q All right. You didn't tell her, then, that you
8 couldn't believe how the Defendant is treating you
9 because you can bury him; you didn't tell her that?

10 A No, ma'am.

11 Q And you didn't tell her that he admitted to you
12 that he shot a man in Greer?

13 A No, ma'am.

14 Q And then went on to tell you details about the
15 shooting, making it sound like it might have been an
16 accident; you didn't tell her that?

17 A No, ma'am.

18 Q Then, in fact, didn't you tell her that you
19 were going to come in here and lie, and you were going
20 to lie for the Defendant, isn't that true?

21 A No, ma'am.

22 Q Because you have a son with him and you don't
23 want your son to grow up without a daddy; isn't that
24 true?

25 A No, ma'am.

S. LAWTER -- CROSS BY MS. HODGE

1 Q So you're going to tell this court right now,
2 you didn't say any of those things?

3 A I did not.

4 Q All right. Isn't it true that you would let
5 your daughters come in here and tell that lie too,
6 isn't that true?

7 A No, ma'am.

8 Q How about your son, you're putting him on the
9 witness list and let him come in here and lie too?

10 A No, ma'am.

11 Q Did you send some text messages to Stephen
12 Parham last night?

13 A Letting him know to be here at 9:30 in the
14 morning.

15 Q Something like you better be here or he's going
16 to get revoked, something like that?

17 A No, ma'am.

18 Q No?

19 A No, ma'am.

20 Q How many times have you and the Defendant
21 talked about what you're going to say today?

22 A None.

23 Q None? Really?

24 A I mean, we -- we discuss a lot of things, but
25 we haven't sat down and said to each other what we are

S. LAWTER -- REDIRECT BY MR. JOHNSTON

1 going to say. I'm -- when I speak today, I speak the
2 truth.

3 MS. HODGE: Thank you.

4 THE COURT: Redirect.

5 REDIRECT EXAMINATION BY MR. JOHNSTON:

6 Q I'm going to ask you about Defendant's Exhibit
7 No. 19. Look at Mr. Swofford's arm, do you see
8 anything in that photograph that is unusual?

9 A Yes.

10 Q What is that?

11 A That's a bandage.

12 Q And what arm is it on?

13 A It's on his left arm.

14 Q Mr. Swofford originally told you that he had
15 injured his arm with a lawn mower, is that right?

16 A Yes, sir.

17 Q Did you believe him though?

18 A Yes, sir.

19 Q Why did you believe him?

20 A It just -- it looked like a little -- it didn't
21 look like it was a big wound. It was just like a graze
22 to me, like a scratch pretty much. So, I mean, of
23 course, I believed him.

24 Q Did he come clean with you later?

25 A He did.

S. LAWTER -- REDIRECT BY MR. JOHNSTON

1 Q What did he tell you?

2 A He told me that -- he told me -- what he told
3 me is to protect me so I -- I wouldn't get upset
4 because I was pregnant.

5 Q It was lie? He told you a lie?

6 A Yes, sir.

7 Q Okay.

8 A Because he knew what I would do if he did tell
9 me the truth.

10 Q Okay. So, what did he ultimately tell you
11 happened?

12 A After the fact?

13 Q Yes. After the police began their
14 investigation and all of that, did you all talk about
15 it?

16 A Yes.

17 Q What did he tell you happened?

18 A He told me that he had -- that Curt had shot
19 him.

20 Q Did he tell you under what circumstances Curt
21 had shot him?

22 A He did.

23 Q What were those circumstances?

24 A That it was an accidental shooting.

25 Q All right. And what did he tell you happened?

S. LAWTER -- REDIRECT BY MR. JOHNSTON

1 Where was it -- where was the accidental shooting?

2 A It was at Curt's house.

3 Q Okay. Do you know when it was? Did he tell
4 you when it was?

5 A He did.

6 Q And when did he tell you it was?

7 A The 21st.

8 Q Of July of 2009?

9 A In July.

10 Q Okay. What -- did he describe the accident to
11 you?

12 A He said that Curt was messed up on something
13 and that he --

14 Q Messed up, what do you mean?

15 A He was on drugs of some sort.

16 Q Okay. And he was --

17 A He was falling asleep and, you know, he was
18 trying to, you know, help him so he wouldn't hurt
19 anybody.

20 Q Okay.

21 A And then he said that --

22 Q Now, you are using the pronoun "he"?

23 A Ronnie said that --

24 Q Hang on. I want you to use the names so we
25 will know who you are talking about.

S. LAWTER -- RECROSS BY MS. HODGE

1 A Ronnie said that Curt accidentally almost
2 dropped -- almost dropped the gun or something and it
3 went off and shot Ronnie in the arm.

4 Q Okay. Did Ronnie go the hospital?

5 A He did not.

6 Q Did you ask him why he didn't go to the
7 hospital?

8 A I did.

9 Q What did he tell you?

10 A He didn't because Curt would have went to --
11 went to jail for a gun charge of some sort. He was
12 trying to protect Curt.

13 Q Did Curt ask -- did he tell you that Curt asked
14 him not to report it?

15 A He did.

16 Q Why didn't you go to the police and tell them
17 what you have told us here today?

18 A Because I just don't trust the police.

19 **MR. JOHNSTON:** Please answer other questions.

20 RECROSS EXAMINATION BY MS. HODGE:

21 Q Okay. I'm confused. You don't talk about this
22 case, correct?

23 A I don't talk?

24 Q Yeah, to the Defendant. You and the Defendant
25 didn't talk about this case?

S. LAWTER -- RECROSS BY MS. HODGE

1 A We talked about it a lot. It wasn't a case at
2 that time.

3 Q After he was arrested, which is exactly what
4 his attorney just asked you, y'all talked about his --
5 now that you know -- gunshot wound to his arm?

6 A Yes. Because he had to tell me the truth and
7 tell me why he told me a lie.

8 Q So you talked about it. And at that point, you
9 knew -- he said to you, Curt Wooten shot him?

10 A Yes, ma'am.

11 Q Even though he said it was an accident, he told
12 you it was in the living room, right?

13 A He didn't really tell me that.

14 Q Okay. And you didn't go to the police with
15 that?

16 A No, ma'am.

17 Q They had come and asked you, if he had a
18 gunshot wound, you said no. Because at that time, you
19 are saying, I don't know what they look like and it
20 didn't look like a gunshot to me. But then you learned
21 that it was, and you said, oh, I'm just not going to go
22 tell them that. The one specific question they asked
23 you, you did not go back and tell them?

24 A No, ma'am.

25 Q You don't care for the police, do you?

J. [REDACTED] -- DIRECT BY JOHNSTON

1 A I -- I -- it's not that I don't care for them,
2 I just don't trust anybody like that.

3 **MS. HODGE:** Okay. All right. Thank you.

4 **THE COURT:** All right. You may stand down.

5 **MR. JOHNSTON:** I ask for her to be excused as a
6 witness.

7 **THE COURT:** Any objection?

8 **MS. HODGE:** No objection.

9 **THE COURT:** All right.

10 **THE CLERK:** Please place your left hand on the
11 Bible and raise your right hand.

12 **JL [REDACTED]**, having been first
13 duly sworn, testified as follows:

14 **THE CLERK:** Thank you. Please be seated. Please
15 state your name for the record.

16 **THE WITNESS:** **JL [REDACTED]**.

17 DIRECT EXAMINATION BY MR. JOHNSTON:

18 Q Do you know this gentleman here, in the yellow
19 tie?

20 A Yes, sir. He is my step dad.

21 Q And how long have you known him -- well, you
22 say he is your step dad --

23 A He's more like my dad.

24 Q Is he legally your step dad?

25 A No, sir.

J. L. [REDACTED] -- DIRECT BY JOHNSTON

1 Q What is the relationship?

2 A He and my mom have been together for over six
3 years.

4 Q And how old are you now?

5 A Nineteen.

6 Q And so you would have been 13 when he first
7 came into your family's life?

8 A Yes, sir. He and my mom were together in the
9 past, so he knew me as a child. But I knew him -- he
10 has been more like my dad than my real dad.

11 Q Back in July of 2009, how old were you?

12 A 2009, I would be 15 or 16.

13 Q Have you had occasion to try to remember seeing
14 Mr. Swofford, being around Mr. Swofford in the early
15 morning hours of Monday, July 27th of 2009?

16 A Yes, sir.

17 Q And why has that been significant?

18 A The reason why I remember it more is because my
19 mom stressed to me about hanging out with him and
20 spending time with him as him being a father role model
21 for me. So it was important for me to be there and
22 spend time with him for his birthday, because his
23 birthday is the 25th.

24 Q All right. What were you doing Sunday night
25 into -- Sunday night into Monday morning?

J. L. [REDACTED] -- DIRECT BY JOHNSTON

1 A I was at home.

2 Q I guess school wasn't in session at that time?

3 A No, sir. But I was at home, because I was
4 living at home and I had a curfew.

5 Q Okay. What time were you supposed to be in?

6 A We had to be in by 12:00, no later than 12:00.

7 Q All right. And where were you guys living at
8 that time?

9 A [REDACTED] Blanchard Road in Spartanburg.

10 Q And who all was present on this occasion?

11 A At the house?

12 Q Yes.

13 A My mother, my little brother, JP [REDACTED]. He had
14 just gotten home. My twin sister and my friend,
15 Michelle.

16 Q And was your friend, Michelle, was going to
17 spend the night with you?

18 A Yes, sir. She was in my sister's room.

19 Q And you and your sister are twins, is that
20 correct?

21 A Yes, sir.

22 Q Do you remember Mr. Swofford coming home?

23 A Yes, sir.

24 Q What do you remember about that?

25 A I remember because I got a text message from my

J. L. [REDACTED] -- DIRECT BY JOHNSTON

1 friend Katie, the next morning after he was home, that
2 we were going to take bikes to Charlotte. And I had
3 went in there to -- like in our house, where the house
4 is set up -- their bedroom, you can see all the
5 bedrooms in the hallway --

6 Q Now, when you say "their bedroom", who are you
7 talking about?

8 A My mother and him. And so like if he's -- if
9 you look out of the bedroom, if you look in the
10 direction, you can see what's in your path. And so
11 when I seen that he was in there, I went to ask him
12 what time we were leaving. Because the next we were
13 supposed to be going because Katie wanted to go to bed,
14 but she was still going.

15 Q Okay. What time about was that?

16 A It was about 2:20. Because he told me, you
17 know, it was like, you know, what time is it. He was
18 like it's 2:30. I looked at my phone it was only 2:20
19 or something. And then I was like, it's not 2:30. I
20 will be okay, because we had to get up at 6:00.

21 Q Okay. Did you go to bed subsequently?

22 A Not right after, but I did go back in my room.

23 Q Okay. Did you get up early the next day?

24 A Yes, sir.

25 Q I want you to speak slowly for me. This lady

J. [REDACTED] -- DIRECT BY JOHNSTON

1 here is taking down what we say.

2 A Okay.

3 Q So, I just want you to just speak slowly and
4 clearly. Okay?

5 A Okay. We got up a little bit before 6:00 or
6 right at 6:00. We got everything together and we drove
7 straight to Charlotte after we picked Katie up.

8 Q Who went to Charlotte?

9 A Me and Ronnie, and her name is Katie [REDACTED].

10 Q And what did y'all do in Charlotte?

11 A We got bikes for my Uncle Bud, and we got the
12 paper work and everything.

13 Q What kind of bikes?

14 A Motorcycles. He owns a motorcycle company, so
15 we were picking up bike models. I'm not sure if they
16 were all together or if they were running, but they
17 were all parts for him to build new bikes and parts for
18 bikes he already had, new bikes.

19 Q How long were you guys in Charlotte?

20 A I'd say a good two hours. We didn't get home,
21 I'd say, maybe 2:00 or 3:00 in the afternoon.

22 Q On Monday?

23 A Yes, sir.

24 Q Was your -- did you find out if the police were
25 looking for your stepfather after he got arrested a few

J. L. [REDACTED] -- CROSS BY MS. HODGE

1 days after that?

2 A Yeah. And I don't understand why, but...

3 Q I didn't ask you that. Just do you remember
4 that happening after this?

5 A Yes, sir. I mean, he was in a -- I remember
6 the cops busting up in my house when I --

7 Q That's fine.

8 A -- with guns stuck in our face --

9 Q How long -- how long after your trip to
10 Charlotte was that roughly?

11 A A few days.

12 Q Okay.

13 **MR. JOHNSTON:** Please answer any other questions.

14 CROSS EXAMINATION BY MS. HODGE:

15 Q Ms. L [REDACTED], you don't live with your mom right
16 now, do you?

17 A No, ma'am.

18 Q You don't live with your sister right now, do
19 you?

20 A No, ma'am.

21 Q You don't live with friends right now, do you?

22 A No, ma'am.

23 Q You live with the Defendant right now, don't
24 you?

25 A He stays sometimes, yes, ma'am. He works all

J. L. [REDACTED] -- CROSS BY MS. HODGE

1 the time.

2 Q But you live with him, correct?

3 A Yes.

4 Q Just you and him?

5 A Yes, ma'am.

6 Q And it's fair to say that he pays bills --

7 A No. We split -- we split everything.

8 Q You split that up. All right. So you see him
9 on a real regular basis, isn't that right?

10 A Yes, ma'am.

11 Q How many times have you talked about this case
12 what you're going to say today?

13 A We are not allowed to talk about anything.
14 That's all he has ever told me. We are not allowed to
15 talk about anything. You say nothing but the truth.
16 If you remember, you remember. If you don't, you
17 don't.

18 Q Okay. So you remember three years ago almost,
19 exactly what time on July 27th of 2009, the Defendant
20 came home? You remember that just because it's been in
21 your brain?

22 A I remember because my mother had stressed to me
23 to make him feel like he is wanted -- like he is the
24 father of my life, so I remembered when it comes down,
25 you know, to something being remembered, I remember

J. L. [REDACTED] -- CROSS BY MS. HODGE

1 going to Charlotte. I remember, you know, calling
2 Katie to make sure she still wanted to go. I remember
3 waking up with -- well, asking if we are still going so
4 she can go to sleep --

5 Q Okay.

6 A I remember waking up that morning.

7 Q Okay. Y'all went to Charlotte more than one
8 time, haven't you?

9 A We went like multiple places to pick up bikes,
10 with my Uncle Bud, we have been to Charlotte. We have
11 been to Mississippi. We have been to Georgia. We have
12 multiple places.

13 Q Okay. But you have been to Charlotte more than
14 one time, is that right?

15 A Yes, ma'am.

16 Q Okay. What other day -- give me the exact day.

17 A We went -- I know for a fact we went -- I think
18 it was last year in, probably May, like May 14th or
19 May 15th. And on May 13th as well, because that's our
20 real dad's anniversary with his ex-wife. We went that
21 day. Because I remember calling him and telling him,
22 you know, we went. And I probably said happy
23 anniversary, stuff like that.

24 Q What day did you go to Mississippi?

25 A Maybe two or three months before that. The

J. L. [REDACTED] -- CROSS BY MS. HODGE

1 only reason I'm being honest -- the only reason I
2 remember this is before it was the day after his
3 birthday -- not the day after, but like 2:00 the
4 next -- in the morning of the 27th. His birthday is
5 the 25th. I didn't have time to spend with him. I had
6 to work the day of his birthday and they went to Kanpai
7 for his birthday. So I wasn't able to be there for
8 everybody going out to eat. So I wanted to go with him
9 to spend time with him.

10 Q And you're saying there's no way possible you
11 could get confused on what day it is -- maybe it could
12 have been another day in July of 2009?

13 A No, ma'am. Because his birthday is the only
14 day here.

15 Q I understand that.

16 A That's the only reason --

17 Q But you don't go to Charlotte on his birthday,
18 right?

19 A No. We went the next day.

20 Q Right. And the 27th isn't his birthday, right?

21 A No, on the 25th.

22 Q Okay. And he was working -- where was he
23 working that night, of the 27th, where was he working?

24 A I don't know -- I don't keep up with where he
25 works.

J. L. [REDACTED] -- CROSS BY MS. HODGE

1 Q But you would know, right? You would know when
2 he would be in town, out of town, where he might be
3 working?

4 A He works at a lot of places. He used to work
5 at the Kangaroo. He would be in Georgia one day and
6 Charlotte the next day. And there's no telling where
7 he would be.

8 Q So you don't know where he was on July 27th?

9 A I don't know exactly where he was, but I know
10 he was at home when I went in there to ask him if we
11 were still going the next morning.

12 Q Positive -- or possible that he was working
13 actually in Greer before he came home?

14 A I have no clue where he was working --
15 specifically where he was working. I just know the
16 time that he was home, when I seen him, to ask him if
17 we was still going the next morning.

18 Q Okay. And it's real important that you know
19 the exact times today, isn't it? When he came home,
20 when you went to bed, when he went to bed, it is real
21 important today that you know that, isn't it?

22 A I guess so if that's what -- that's what we're
23 here for.

24 Q That's what you're here for, right?

25 A Yes, ma'am.

J. L. [REDACTED] -- CROSS BY MS. HODGE

1 Q To give some exact dates and times?

2 A That's what y'all need to know and I'll be more
3 than happy to give it to you.

4 Q Okay. Did you -- did you see an injury on his
5 arm when y'all went to Charlotte?

6 A No, ma'am.

7 Q You didn't see an injury on his arm when y'all
8 went to Charlotte the next day?

9 A I remember him having a bandage on his arm.

10 Q That's not an injury?

11 A I mean, I don't -- I didn't really even ask
12 about it.

13 Q Okay. So he had a bandage on his arm when
14 y'all went to Charlotte?

15 A I remember a thing on his arm that's...

16 Q You knew how he got that?

17 A No, ma'am.

18 Q All right. And isn't -- do you remember the
19 police coming to your house, like you said busting up
20 in there?

21 A Yes, ma'am.

22 Q Right. And you were there?

23 A I had my -- some of my friends there as well,
24 yes, ma'am.

25 Q Okay. And you know that they were taught --

J. L. [REDACTED] -- CROSS BY MS. HODGE

1 they are to talk to you or your mom or whoever about
2 the Defendant, correct?

3 A I was 15 at the time. All I know is I was --
4 we had a big sleepover the night before. I look out of
5 my window and I hear a bunch of stuff outside. There
6 is SLED all around the fence and guys holding guns.
7 And my mom's in the hallway. All I heard is can I go
8 in there first. They just bust up in there.

9 Q Uh-huh.

10 A With the guns in our faces.

11 Q So that's -- that's pretty serious, right?
12 Major? Major deal?

13 A It was pretty embarrassing as well.

14 Q A lot of people -- a lot of police officers
15 there, correct?

16 A Yes, ma'am.

17 Q And they're there because they want Mr.
18 Swofford, they want to talk to Mr. Swofford about
19 possibly shooting two people, correct?

20 A Yes, ma'am.

21 Q All right. And you know the day that they're
22 saying that this happened, correct? You know the day
23 that this -- the shooting of these two people happened,
24 right?

25 A It's --

J. L. [REDACTED] -- CROSS BY MS. HODGE

1 Q Because it's in here?

2 A This was the day that I --

3 Q July 27th of 2009, you know that day, you --
4 you knew at 2:42 in the morning, you know that?

5 A Yes, ma'am.

6 Q And all of these police officers show up, and
7 they're wanting him because they think he did something
8 at 2:42 on July 27th and you know he didn't do that,
9 right?

10 A I know for a fact that he was there because I
11 seen him with my own eyes.

12 Q So you didn't go to your mom or to the police
13 when they showed up and say, whoa --

14 A I was in my bedroom. They -- we were still
15 sleeping when they came in.

16 Q But you woke up, didn't you?

17 A They woke us up with the guns in our faces.

18 Q You woke up. And the police officer was
19 standing right there?

20 A This was one --

21 Q You can look over there if you want. Yes.
22 Were the police officers right there in your face?

23 A There was multiple cops in our house.

24 Q Did you say to any one of the multiple cops,
25 you have got the wrong guy, he was here?

J. L. [REDACTED] -- CROSS BY MS. HODGE

1 A I didn't talk to anybody.

2 Q You didn't -- don't you think that would have
3 been important?

4 A My mom was sitting there trying to tell them,
5 you know, can I go wake them up first. I'm not going
6 to sit there and talk to cops, you know, they are not
7 here for me. I was -- you know, I'm not going to sit
8 there and just talk to him, hey, you have got the wrong
9 guy and I don't even know what they are here for.

10 Q But you love this man like your dad?

11 A Right, I do.

12 Q And you want to help him, don't you?

13 A I want him to be here for my two year old
14 little brother. And dang right, I want him there.

15 Q You want him there and you don't want him gone,
16 right?

17 A No. I don't want him anywhere, but at my
18 house.

19 Q And you will do what you need to do to help
20 him, right?

21 A I'll do whatever I can for him.

22 **MS. HODGE:** Thank you.

23 **THE COURT:** Any redirect?

24 **MR. JOHNSTON:** No, Your Honor. We would ask for
25 her to be excused if she wishes.

O. PULLEN -- BY MR. JOHNSTON

1 **THE COURT:** All right. Any objection?

2 **MS. HODGE:** No objection.

3 **THE COURT:** All right. Thank you, ma'am. All
4 right. Call your next witness.

5 **THE CLERK:** Mr. Pullen, please come forward. If
6 you'll pause at the end of the bench and place your
7 left hand on the Bible and then raise your right hand.

8 OTIS PULLEN, having been first
9 duly sworn, testified as follows:

10 **THE CLERK:** Thank you. Please be seated. Please
11 state your name for the record.

12 **THE WITNESS:** Otis Pullen.

13 DIRECT EXAMINATION BY MR. JOHNSTON:

14 Q Where do you live, Mr. Pullen?

15 A At [REDACTED] Emmment (ph) Drive.

16 Q Do you know this gentleman here in the yellow
17 tie?

18 A Yes, sir.

19 Q Who is he?

20 A Ronnie.

21 Q Do you know his last name?

22 A Swofford.

23 Q How long have you guys known one another?

24 A About 12 or 13 years, maybe a little longer.

25 Q And do you have occasion to remember the night

O. PULLEN -- BY MR. JOHNSTON

1 of Sunday, July 26th into the early morning hours of
2 Monday July 27th of 2009?

3 A Yes, sir.

4 Q Tell us what you were doing and what you
5 remember about that?

6 A Me and some friends was at Chiefs on Regal Road
7 (ph) --

8 Q Yes. And what kind of establishment is Chiefs?

9 A It's a sports bar, restaurant.

10 Q And where it is located?

11 A Off Reidville Road.

12 Q What part of Reidville Road though?

13 A Near the Good Will -- the Salvation Army.

14 Q Okay.

15 A As a matter of fact, it is right beside the
16 Salvation Army.

17 Q All right. And is it kind of down there near
18 Fuddruckers?

19 A Yeah.

20 Q Okay. And does that road intersect with
21 Southport Road?

22 A Yes.

23 Q What time were you at Chiefs?

24 A I was at Chiefs -- we arrived at Chiefs about,
25 oh, 11:15 or 11:30. Me and about three friends of

O. PULLEN -- BY MR. JOHNSTON

1 mine.

2 Q And what did y'all do at Chiefs?

3 A We -- they drink. I don't drink. We had been
4 working and unwinding so-to-speak. And, you know, we
5 ate a little bit, watched a little TV. We got ready to
6 leave.

7 Q What time did you get ready to leave?

8 A We was preparing to leave about 1:15 in the
9 morning.

10 Q And how do you remember the time?

11 A Because I said it was late and I had to go.

12 Q Okay. Did you have something to do the next
13 day?

14 A Yes, I did.

15 Q What was that?

16 A I had a doctor's appointment.

17 Q What happened as you left?

18 A Well, we was going to my car and a friend of
19 mine was going to his car. And we heard pipes coming
20 down the road --

21 Q Now, when you say "pipes", what do you mean by
22 that?

23 A Like on a vehicle, pipes. Sound, loud pipes.

24 Q Like a muffler or exhaust system?

25 A Exhaust system.

O. PULLEN -- BY MR. JOHNSTON

1 Q Does Mr. Swofford have a vehicle with an
2 unusual or loud exhaust system?

3 A Well, he did. He had a big old red F150.

4 Q Okay. Does it have a distinctive exhaust --

5 A Uh-huh. It had some nice pipes on it.

6 Q Okay. Pretty loud?

7 A Yes.

8 Q Okay. So you heard a vehicle coming with some
9 pipes, as you say?

10 A Uh-huh.

11 Q What did you do?

12 A I was like, well, let me start my car up and
13 you listen to my pipes. I'm fascinated by that for
14 some reason, but...

15 Q Okay.

16 A So, we --

17 Q So you've got some big pipes on yours too?

18 A Oh, God, yes.

19 Q So what happened next?

20 A So they was coming to my car. And as he was
21 going by, I looked. I said I know that's not Ronnie.
22 Just like that. So I got my phone out and I called
23 Ronnie.

24 Q What did you -- when you saw someone go by and
25 you said to yourself, I know it's not Ronnie?

O. PULLEN -- BY MR. JOHNSTON

1 A Uh-huh.

2 Q Did you think it was Ronnie?

3 A Yes, I did.

4 Q Okay.

5 A Because number one, he pulled a tank.

6 Q What kind of a tank?

7 A He's got a pressure washing business and he
8 pulls a tank, but like when he was --

9 Q Let's back up -- is the tank part of the truck
10 or is -- does it have its on trailer?

11 A Yes, it has it's own trailer. So I called him
12 and he answered --

13 Q You saw the vehicle go by?

14 A Right.

15 Q You thought it was Ronnie because of the pipes?

16 A But I knew that was his truck, but his brother
17 drives that truck a lot because he pressure washes too.

18 Q So you thought it might be the brother?

19 A Right.

20 Q So what did you do?

21 A So I called Ronnie's phone. And I said Ronnie,
22 I said --

23 Q Did he answer the phone?

24 A Yes, he did.

25 Q Did you speak with him?

O. PULLEN -- BY MR. JOHNSTON

1 A Yes, I did.

2 Q And based on that, did you believe that he was
3 the one driving the truck?

4 A I asked him and he verified it. And he -- I
5 asked him, I said, did you just pass Chiefs. He said,
6 yeah, man, I'm tired. I'm going home. I said, well,
7 come back. I'll buy you something to eat. He said,
8 no, I just --

9 MS. HODGE: I'm going to object to anything that
10 the Defendant is saying.

11 THE COURT: Yeah. Don't do --

12 MS. HODGE: -- his conversation.

13 BY MR. JOHNSTON:

14 Q Don't tell us what he said, tell us what you
15 said.

16 A I told him, come back, and I'll buy him
17 something to eat.

18 Q Okay. Did he come back?

19 A No.

20 Q All right. Did you say anything else to him?

21 A I asked him, you know, is he sure he don't want
22 to come back. You know, he said he was tired. He was
23 going home.

24 Q All right. Subsequently, did you know what
25 time that phone call was made?

OTIS PULLEN -- BY MS. HODGE

1 A That phone call was made between 1:30 and 1:35.

2 Q How much time had elapsed between you seeing
3 the red truck with the pressure washer on the back, and
4 the time that you made the call? How much time went
5 by?

6 A About three minutes.

7 Q Okay.

8 A Just enough to get my phone out and dial the
9 number.

10 Q Where was -- where did the vehicle go as it
11 passed by Chiefs?

12 A It was going towards Fuddruckers.

13 Q Okay. Did you see the vehicle turn?

14 A No, I didn't.

15 Q Do you know if it turned?

16 A No, I didn't -- don't.

17 **MR. JOHNSTON:** Please answer any other questions.

18 CROSS EXAMINATION BY MS. HODGE:

19 Q Mr. Pullen, how are you -- do you have a
20 receipt from that night at Chiefs that shows that it
21 was July 27th of 2009?

22 A No, ma'am.

23 Q Do you have a phone log that you can verify
24 that was the exact day that you called him?

25 A Well, at that time I had a phone I called

OTIS PULLEN -- BY MS. HODGE

1 Simple Mobile. They don't -- the only way you can get
2 the phone card -- the phone log is if somebody
3 subpoenaed those records. I have got a new plan now so
4 --

5 Q But back in 2009, you couldn't have pulled that
6 and saved that?

7 A No, ma'am.

8 Q Under the plan. Okay. And you're saying three
9 years ago, you think on July 27th, you think you saw
10 the Defendant about 1:30, correct?

11 A No, I know I saw his truck.

12 Q Saw his truck? I'm sorry. Saw his truck
13 because he had a loud truck and you saw the truck?

14 A Uh-huh.

15 Q All right. That was three or -- almost three
16 years ago, you're absolutely certain it was July 27th,
17 it couldn't have been the 25th or 26th, 28th, 29th?

18 A The 26th. It was the 26th, early morning the
19 27th.

20 Q And you know that for a fact?

21 A Yes, I do.

22 Q Okay. When is the -- do you recall the next
23 time you saw that truck?

24 A The next day. I worked with Ronnie sometimes.

25 Q Y'all worked together?

OTIS PULLEN -- BY MS. HODGE

1 A I have -- I have a shop myself, so we help each
2 other.

3 Q Okay.

4 A I saw Ronnie the very next day.

5 Q All right. Did you just know -- how do you
6 know? I'm trying to figure how you know exactly,
7 July 27th of 2009 at 1:30 a.m.; how do you know that
8 exactly?

9 A Because I recall calling him after I seen what
10 was going on.

11 Q What do you mean, "what was going on"?

12 A With this situation.

13 Q So, you talked to him about this case?

14 A No. I didn't talk to him about the case.

15 Q About the situation?

16 A I didn't talk to him about it, period. I
17 talked to my fiance' after I seen him in the newspaper.

18 Q Okay. You are saying then that you thought
19 back on it?

20 A Yes, ma'am.

21 Q Okay. And you're saying that was at 1:30 or
22 35, all right. And did you then -- after you saw him
23 in the newspaper, did you go to Investigator Chris
24 Miller or anyone involved in the investigation of this
25 case, and say, hey, I saw his truck and I even called

S. PARHAM -- DIRECT BY MR. JOHNSTON

1 him on this date in time in question?

2 A No, I didn't.

3 Q And you don't know where he was at 2:42 a.m. on
4 July 27th, 2009?

5 A No, I don't.

6 MS. HODGE: Thank you. That's all I have.

7 MR. JOHNSTON: I have nothing else for him. I ask
8 for him to be excused if he desires.

9 THE COURT: Any objection?

10 MS. HODGE: No objection.

11 THE COURT: All right. Thank you. You may step
12 down.

13 MR. JOHNSTON: Stephen Parham.

14 THE CLERK: Mr. Parham, please come forward. If
15 you'll pause at the end of the bench. Please place
16 your left hand on the Bible and raise your right hand.

17 STEPHEN PARHAM, having been first
18 duly sworn, testified as follows:

19 THE CLERK: Thank you. Please be seated. Please
20 state your name for the record.

21 THE WITNESS: My name is Stephen Parham.

22 DIRECT EXAMINATION BY MR. JOHNSTON:

23 Q Where do you live, Mr. Parham?

24 A I live on [REDACTED] Reidville Road, Spartanburg,
25 South Carolina, 29301.

S. PARHAM -- DIRECT BY MR. JOHNSTON

1 Q Where is that in relationship to where Ronnie
2 Swofford lived at one time?

3 A I used to live on the actual same road as him.
4 My mother still lives there.

5 Q Okay. So you don't live where you did at the
6 time of the incident in this case?

7 A No, sir.

8 Q You live somewhere else?

9 A Yes.

10 Q Okay. Do you know Ronnie Swofford?

11 A I do.

12 Q How do you know him?

13 A He was a neighbor ever since my 10th grade
14 year.

15 Q Okay. How old are you now?

16 A I'm 24, going on 25.

17 Q And are y'all friends?

18 A Yeah, in a way. We had our -- you know, just
19 like any neighbor, we had our hard times, we had our
20 good times.

21 Q Okay. But y'all are overall friends?

22 A Right.

23 Q Now, describe the area over on Blanchard Road
24 where you lived vs where Mr. Swofford lived? What kind
25 of place is this?

S. PARHAM -- DIRECT BY MR. JOHNSTON

1 A Well, where I lived at, it was -- it was a very
2 open spot.

3 Q Are these houses, apartments; what?

4 A It's all trailers in there.

5 Q Mobile homes?

6 A Yeah.

7 Q Okay.

8 A On our particular side, there was my mother's
9 mobile home and then there was two in behind. And
10 Ronnie had, you know, a fenced in yard and everything.
11 His was just a house.

12 Q Okay. How close was where you lived to where
13 he lived? How much distance?

14 A I'd say within a few steps walking distance.

15 Q Okay. So well within sight and sound?

16 A Right.

17 Q Did -- were you working back in July of 2009?

18 A No, sir.

19 Q Going to school?

20 A No, sir.

21 Q Just kind of hanging out?

22 A Yes, sir.

23 Q A lot of time on your hands?

24 A Yes. I was taking care of the house for my
25 mother.

S. PARHAM -- DIRECT BY MR. JOHNSTON

1 Q Did you ever have occasion to see Mr. Swofford
2 coming and going?

3 A I did.

4 Q What kind of vehicle did he have?

5 A He had a red Ford F150. It was -- had rims on
6 it and chromed out.

7 Q It had what on it?

8 A Rims.

9 Q Rims. Okay. Anything distinctive about the
10 engine or the exhaust?

11 A His truck was very loud.

12 Q Okay. The exhaust system?

13 A Yeah.

14 Q Could you hear it coming?

15 A I could. I could actually hear him coming
16 before he even turned onto the road.

17 Q Do you know anything about the type of work
18 that Mr. Swofford did?

19 A He did a mobile detailing.

20 Q Was there anything associated with his truck
21 that had something to do with that mobile detailing?

22 A He had the logo on his truck.

23 Q Okay.

24 A And he always carried -- every time I saw him,
25 he carried the pressure washing equipment with him on

S. PARHAM -- DIRECT BY MR. JOHNSTON

1 the trailer.

2 Q Okay. And what sort of equipment is the
3 pressure washer as far as you know?

4 A As far as I know, he had the actual pressure
5 washer. He had, I think it was a 50-gallon tank on the
6 back. And he had a sprayer and stuff.

7 Q Would you have occasion to speak to him or he
8 would speak to you when he would come home?

9 A Yes, sir.

10 Q I'm going to call your attention to a
11 particular occasion, the early morning hours of Monday,
12 July 27th, 2009; do you recall that?

13 A I do.

14 Q What do you recall about it?

15 A I remember that on that day, I was actually
16 outside on the porch, you know, around -- started about
17 12:00. And I didn't go in until about 3:00. I was
18 talking on the phone when my girlfriend and her cousin
19 --

20 Q Now, when you're talking 12:00 and 3:00, can
21 you be -- in the afternoon or --

22 A 12:00 at night.

23 Q 12:00 midnight. So, you went -- where were you
24 at 12:00 midnight?

25 A I was sitting on my mom's front porch.

S. PARHAM -- DIRECT BY MR. JOHNSTON

1 Q Okay. And does that have a view of the
2 Swofford residence?

3 A It does.

4 Q Okay.

5 A I could see almost to the -- to the front door.

6 Q And can you see cars that go back and forth to
7 the Swofford residence?

8 A Yes, I can.

9 Q From where you were?

10 A Yes, sir.

11 Q Okay. So what were you doing?

12 A I was talking on the phone with my girlfriend
13 and her cousin.

14 Q On three way?

15 A Yeah.

16 Q How long did you talk?

17 A I talked from 1:30 on to 3:00 in the morning
18 because her cousin didn't get off until about 3:00 in
19 the morning.

20 Q And how do you remember that?

21 A Because I remember the conversation between me
22 and my girlfriend before her cousin came on the phone.
23 And I said, well, you know, if we're wanting to go to
24 the beach, we need to talk to your cousin. And she
25 said, well, she don't get off until 1:30. Can you wait

S. PARHAM -- DIRECT BY MR. JOHNSTON

1 until then. I said, yes. I'll call you back then.

2 Q All right. While you were out on the porch
3 during this time, did you hear Mr. Swofford come home?

4 A I did.

5 Q What did you hear?

6 A I heard him come down the road. And I didn't
7 pay much attention. I knew Ronnie was coming home.
8 But, you know, it was just like any other day.

9 Q Now, what time of day or night was this?

10 A This was 1:36 in the morning.

11 Q Okay. On July 27th?

12 A Yes.

13 Q What did Mr. Swofford do?

14 A He pulled in. He took the driveway adjoining
15 to his drive way. He backed his truck up to the -- to
16 the building he had out there and got out. He went
17 over to where his 50-gallon tank was. And he turned on
18 the valve so the water could drain out of the tank for
19 that night. And I proceeded to talk to him.

20 Q What did you say to him?

21 A I asked him, I said, man, you are getting home
22 late. And he said --

23 Q Don't say what he said. Just tell us what you
24 said.

25 A Okay. And I just asked him, you know, why are

S. PARHAM -- DIRECT BY MR. JOHNSTON

1 you coming home so late? And I asked him also --

2 Q What happened next? What happened next?

3 A I asked him if he was going to keep the valve
4 open all night because that would wash away some of the
5 driveway that my grandpa had put down.

6 Q Okay. Where did Mr. Swofford go?

7 A He walked inside of his fence. And after that
8 I can't say.

9 Q Did you see him any more that evening?

10 A I did not.

11 Q Did you hear those -- that distinctive exhaust
12 again that evening?

13 A I did not. I didn't hear it again until the
14 previous -- 6:00 in the morning.

15 Q Did you -- do you believe that if the -- in the
16 position where you were, that if that vehicle had
17 started off and driven away, Mr. Swofford's red truck,
18 you would have heard it?

19 A Exactly.

20 Q Who is your mother?

21 A My mother is Deborah Martinez-Ruiz.

22 Q Tell us about your mother.

23 A She's a -- she's a pretty good mother.
24 She's -- she's had her hard times. After my stepfather
25 had passed away, she had mental issues that she's had

S. PARHAM -- DIRECT BY MR. JOHNSTON

1 to go through.

2 Q What kind of mental issues?

3 A Bipolar. PTSD. She's got depression problems
4 real bad. And they found out that she was mildly
5 schizophrenic.

6 Q Does she like to be in the middle of things?

7 A She does.

8 Q Have you known her to exaggerate?

9 A I have known her to, you know. You know, if
10 the situation calls for it.

11 Q Have you known her not to tell the truth?

12 A I have.

13 Q Would you believe your mother's testimony under
14 oath?

15 **MS. HODGE:** Objection, Your Honor.

16 **THE COURT:** Yeah. Well -- no, you're asking him
17 to -- no. Go ahead.

18 BY MR. JOHNSTON:

19 Q Have you been threatened or coerced in any
20 fashion to come here to testify today?

21 A No, sir.

22 Q Did you, in fact, come to my office on
23 Saturday?

24 A I did.

25 Q Because of my convenience?

S. PARHAM -- CROSS BY MS. HODGE

1 A I did.

2 **MR. JOHNSTON:** Answer any other questions.

3 CROSS EXAMINATION BY MS. HODGE:

4 Q Mr. Parham, you got some kind of text message
5 from Shannon Lawter last night?

6 A Yes, ma'am.

7 Q What did it say?

8 A At first I had thought it said that I had been
9 suspended, that if I didn't come up here to the
10 courtroom, that Greenville County would issue a
11 warrant.

12 And then I later found out that it was that I
13 had been subpoenaed and that I needed to come up. She
14 was just letting me know that I needed to come to
15 court. And it was the defense's place to call their
16 witnesses.

17 Q And was there some reason you didn't want to
18 come?

19 A No, I didn't -- I -- my uncle had passed away.
20 And I was supposed to go to -- actually plan his
21 funeral. And my girlfriend, she's been having to work
22 double shifts, so I didn't have a way to get up here.

23 Q Okay. And who brought you?

24 A Shannon Lawter.

25 Q Shannon Lawter. All right. And when she went

S. PARHAM -- CROSS BY MS. HODGE

1 out from testifying, did she just ask you if you had
2 been talking to the prosecution?

3 A She did.

4 Q Was she happy about that?

5 A Well, she was -- she was kind of calm. I
6 wouldn't say happy or mad. She was just, you know,
7 asking me about it.

8 Q Okay. And investigators from my office, the
9 Solicitor's Office, came and spoke to you probably in
10 the last week or two, is that correct?

11 A Right.

12 Q And you -- you -- do you have a learning
13 disability of some kind?

14 A I do.

15 Q Okay. And did you take special classes and
16 stuff in school?

17 A I did.

18 Q And you are at your mom's house maybe last week
19 when my investigators came and talked to you?

20 A I did. I was at her nextdoor neighbor's house.

21 Q Okay. And isn't it true you told them you
22 couldn't be 100 percent certain if Ronnie went into the
23 house that night?

24 A Exactly.

25 Q Okay. And isn't it true that Mr. Swofford

1 actually took you to his defense attorney's office?

2 A Yes.

3 Q He drove you there?

4 A Yeah, because I didn't have a ride.

5 Q Okay. And he, what, bought you breakfast that
6 day?

7 A Yeah, because, you know, I was hungry.

8 Q Okay. And then he told you when all this was
9 over, if he got out of this, you would get -- he would
10 buy you a gym membership?

11 A No, I did not.

12 Q You could work out --

13 A He said he would -- he would hang out -- you
14 know, we would hang out together, catch up on lost
15 time. So he would get a gym membership and show me how
16 to, you know, work out a little bit and get myself back
17 into shape.

18 Q Okay. And he showed you his entire case file,
19 didn't he?

20 A He did.

21 Q And he basically said to you, all I need for
22 you to say, was that you saw me walk in my house at
23 this time, isn't that correct?

24 A That's correct.

25 Q And your mom and your stepdad, they do some

S. PARHAM -- CROSS BY MS. HODGE

1 nice things for people, don't they? They are not bad
2 people, are they?

3 A Well, it's a very rare occasion that they do
4 something nice for someone.

5 Q Like once a month, don't they feed people that
6 are homeless?

7 A They have not done that in over six years.

8 Q They don't go up to Saluda in the summer?

9 A They haven't done that for a while because they
10 don't have the money to.

11 Q They were doing that in 2009, because that's
12 where they were, when you were at their house in July,
13 right?

14 A Exactly.

15 Q Okay. And they had taken in kids that are --
16 maybe foster kids or kids that have --

17 **MR. JOHNSTON:** Your Honor, I would object on the
18 ground of relevancy.

19 **THE COURT:** Overruled. Go ahead.

20 BY MS. HODGE:

21 Q Have they taken in anybody that's had hard
22 times or issues?

23 A Well, the only one they did take in, he was
24 only here because he was staying with one of my mom's
25 friends.

S. PARHAM -- CROSS BY MS. HODGE

1 Q But they --

2 A They took him in and --

3 Q And let him live with them. All right. And is
4 that the basis for your mom's disability, mental health
5 issues for -- is that why she's on disability?

6 A She's on disability not only for her mental
7 state, but her physical state as well.

8 Q Okay. How about your step dad, is that your
9 step dad?

10 A Yes.

11 Q He's not on disability, is he?

12 A He's trying to get disability.

13 Q So is he working right now anywhere?

14 A No.

15 Q How about you, where are you working?

16 A I work at the Shoe Department in the mall.

17 Q Where?

18 A Shoe Department in WestGate Mall.

19 Q In WestGate. Okay. In Spartanburg?

20 A Uh-huh.

21 Q All right. And -- so your testimony is you saw
22 or heard the defendant's truck come in at 1:36 a.m.?

23 A Yes, ma'am.

24 Q Okay. The Defendant had other cars at this
25 residence, didn't he, other than that big red truck?

S. PARHAM -- CROSS BY MS. HODGE

1 A If I'm not mistaken, he had an Explorer, but I
2 can't -- I can't be for sure what -- what the name of
3 the vehicle was.

4 Q You can't be sure about the name of the vehicle
5 -- also a convertible or a black Mustang of some kind,
6 do you remember that?

7 A I do remember the black Mustang.

8 Q Okay. Was there ever a Jeep Cherokee or
9 anything like that during that time?

10 A I can't recall if he ever had a Jeep Cherokee
11 over there.

12 Q Did you call Investigator Keith Grounsell in my
13 office last week night and have a conversation with him
14 about 11:30?

15 A I did.

16 Q And in that conversation, did you state that
17 Shannon had contacted you and you felt threatened and
18 you wanted this over?

19 A I told him that I wanted the case to be over
20 with, because, you know, I'm -- with me, I can't stand
21 being in front of anybody, trying to put somebody away,
22 not knowing what the person may or may not do. And I
23 told him that I was -- I was scared.

24 Q That you were feeling threatened and you wanted
25 this over, is that accurate?

1 A Right.

2 Q Okay. And that you also were feeling like you
3 had been possibly manipulated by Ronnie, saying what he
4 needed you to say?

5 A Through what my mother said, yes.

6 Q Through what your mother said?

7 A Through what my mother has explained to me,
8 yes.

9 Q Okay. Not of your own, you didn't feel that
10 way of your own?

11 A Well, I didn't know at the time until my mother
12 had spoke to me. And then I started putting two and
13 two together. And that's when I had -- told him last
14 night.

15 **MS. HODGE:** Thank you.

16 **THE COURT:** Any redirect?

17 REDIRECT EXAMINATION BY MR. JOHNSTON:

18 Q Did you tell the truth when you testified
19 today?

20 A I did.

21 **MR. JOHNSTON:** No other questions.

22 **THE COURT:** All right. You can stand down.

23 **MR. JOHNSTON:** Your Honor, may we approach?

24 **THE COURT:** All right.

25 (Whereupon, a bench conference was held in the

1 presence of the jury, but outside of the hearing of the
2 jury.)

3 **THE COURT:** All right. Mr. Foreman, ladies and
4 gentlemen of the jury, it's probably a good time to
5 break. And so we will go ahead and break for lunch.
6 We have got some things we have got to deal with while
7 y'all are gone.

8 So I'll ask you to be back at 2:15 please.
9 Okay. Thank you very much. Remember, don't talk about
10 the case.

11 (Whereupon, the jury left the courtroom at 12:28
12 p.m.)

13 **THE COURT:** Okay. I understand --

14 **MR. JOHNSTON:** Yes, sir, Your Honor.

15 **THE COURT:** -- the next witness you intend to call
16 is Mr. Swofford?

17 **MR. JOHNSTON:** That is correct, Your Honor. And
18 something I want to bring to the court's attention.
19 The Solicitor earlier this morning had indicated the
20 offenses with which she intended to impeach him or that
21 she felt were impeachable offenses. And I wanted to
22 bring a couple of points to the court's attention.

23 Your Honor, it would be the defense's position
24 that the armed robbery and the financial transaction
25 card fraud or theft, whichever it was, that those are

1 crimes indicating dishonesty or false statement. The
2 manslaughter, the kidnapping, the resisting arrest, or
3 whatever it was, those do not indicate false
4 statements.

5 If the court -- before those sorts of offenses
6 can be used for impeachment, it would be our position
7 that the court must conduct a balancing analysis
8 pursuant to State V. Colf, C-o-l-f, 525 SE 2nd 246, a
9 2000 South Carolina Supreme -- South Carolina Supreme
10 Court case. And it pretty much, in that case, lays out
11 the analysis.

12 There are five different points, but the
13 ultimate -- which the court is trying to reach -- is
14 whether or not the probative value of a prior
15 conviction, outweighs it's prejudicial effect. And
16 there are five factors listed there.

17 **THE COURT:** I tell you right now, the impeachment
18 value of the prior crime is very, very high of these
19 crimes you're talking about. The point in time of the
20 conviction and subsequent history, yeah. They are
21 within the ten year period. I don't have -- you know,
22 there is no question about that.

23 The similarity of the past crime and the charged
24 crime, are well --

25 **MR. JOHNSTON:** Actually, they are not within the

1 ten year period, but --

2 **THE COURT:** They are under the rule.

3 **MR. JOHNSTON:** But he has a certain --

4 **THE COURT:** That's right. And similarity, they
5 are exactly the same offenses, except that one of the
6 prior ones involved death. I don't know the importance
7 of the defendant's testimony, because I don't know what
8 he's going to testify to.

9 And then without question, credibility is the
10 central issue in this case. I presume he is going to
11 get up and testify to the defense -- my sense is you're
12 going to request a defense of accident, is what I'm
13 guessing. I'm just guessing. That's what I have heard
14 from some other people, testimony.

15 **MR. JOHNSTON:** That's -- I understand what you
16 have heard, and I understand why you might think that.
17 But the issue of accident isn't -- isn't --

18 **THE COURT:** Okay. Well, you -- so tell me, you
19 don't think that these are probative in this case?

20 **MR. JOHNSTON:** Your Honor, they may be probative,
21 but the prejudice effect --

22 **THE COURT:** So you want a 403 analysis?

23 **MR. JOHNSTON:** Yes, sir, Your Honor.

24 **THE COURT:** Well, let's say I don't -- we don't
25 say --

1 **MR. JOHNSTON:** May I make a suggestion?

2 **THE COURT:** We don't say what the specific crimes
3 are.

4 **MR. JOHNSTON:** That was going to be my suggestion.

5 **THE COURT:** All right. I want to hear from the
6 the State first.

7 **MS. HODGE:** Your Honor, I understand that it's
8 been the practice in the last several cases that I have
9 been in, when the crimes are extremely similar to the
10 one charged, the court has instructed the prosecutor to
11 say either felony or violent crime, whatever, we have
12 already gotten into the record, that he has been
13 convicted of a crime of violence in the past. And I
14 understand the rationale of that. And I'm certainly
15 not here to have any issue that may cause unfair
16 prejudice to the Defendant. I don't want that.

17 **THE COURT:** Well, we don't want to try it again.

18 **MS. HODGE:** Exactly. I don't want to try this
19 thing again. So I would be in agreement with
20 obtaining -- using credit card by fraud, the armed
21 robbery being specifically disclosed. Then there are
22 three or four other felony charges. That's, I think,
23 how it's been --

24 **THE COURT:** Felony charges also classified as
25 violent crimes.

1 **MS. HODGE:** Violent. And they have already heard
2 that piece, so that is already out there.

3 **MR. JOHNSTON:** That would be our preference, Your
4 Honor.

5 **THE COURT:** Okay.

6 **MR. JOHNSTON:** And that would be satisfactory with
7 us.

8 **THE COURT:** All right.

9 **MR. JOHNSTON:** I need to know how many.

10 **MS. HODGE:** Well, the armed robbery, the
11 kidnapping, the resisting, the assault on an officer --

12 **MR. JOHNSTON:** Are those two separate, or an
13 existing --

14 **MS. HODGE:** It's an assault while resisting
15 arrest. Kidnapping, voluntary manslaughter. ABWIK
16 times two. So there's five violent felony, an armed
17 robbery and credit card fraud.

18 **MR. JOHNSTON:** Five felonies --

19 **THE COURT:** Why is the kidnapping?

20 **MR. JOHNSTON:** Sir?

21 **THE COURT:** I'm sure if kidnapping would be -- why
22 that wouldn't be appropriate to name that specific
23 charge. It's not --

24 **MS. HODGE:** It's not --

25 **MR. JOHNSTON:** It's not -- it's not a crime of

1 dishonesty or false statement.

2 **THE COURT:** Well, that's not the sole reason not
3 to do it. This case didn't involve kidnapping.

4 **MR. JOHNSTON:** Yes, sir. I understand that.

5 **MS. HODGE:** We would love to say the kidnapping.

6 **MR. JOHNSTON:** We would object to that. But the
7 court, of course, will instruct us. I would submit
8 that -- that impeaching him with a prior conviction of
9 kidnapping would be very prejudicial under the facts of
10 this case.

11 **THE COURT:** Oh, yeah. No question. Every one of
12 them is prejudicial.

13 **MR. JOHNSTON:** Yes, sir. But if we handle it the
14 way that has been suggested, and handle all of them as
15 five felonies, which are all violent crimes -- four of
16 which are also violent crimes, and then the armed
17 robbery and the FTC card fraud, I would submit that
18 that would be --

19 **THE COURT:** Well, since the State has kind of, I
20 guess conceded, that the kidnapping, we'll just -- keep
21 it the way it was.

22 **MS. HODGE:** Yes, sir.

23 **MR. JOHNSTON:** Yes, sir.

24 **THE COURT:** What else? Anything else we need to
25 talk about?

1 **MR. JOHNSTON:** That is all that we have at this
2 time, yes, sir.

3 **THE COURT:** All right. Mr. Swofford, you are
4 still under oath. Your attorney has indicated to me
5 that you want to -- that you intend to testify; okay.

6 **MR. SWOFFORD:** Yes, sir.

7 **THE COURT:** Is that your decision?

8 **MR. SWOFFORD:** Yes, sir, it is.

9 **THE COURT:** All right. Has anybody forced you in
10 any way to do that?

11 **MR. SWOFFORD:** No, sir.

12 **THE COURT:** Have they coerced you in any way?

13 **MR. SWOFFORD:** Absolutely not.

14 **THE COURT:** Have you had sufficient time to
15 discuss the pros and cons of this with your attorneys?

16 **MR. SWOFFORD:** Yes, sir, I have.

17 **THE COURT:** Do you have any other questions you
18 want to ask the court with respect to this decision?

19 **MR. SWOFFORD:** No, sir, I don't.

20 **THE COURT:** Okay. All right. Okay. You can
21 please be seated. All right. I told them 2:15.

22 Do y'all have any proposed charges? I was
23 thinking defensive accident, but I guess that's not --

24 **MR. JOHNSTON:** We're not asking for that, Your
25 Honor.

1 **THE COURT:** Are you -- let me ask you this. How
2 about the malice, maybe inferred from the use of a
3 deadly weapon?

4 **MR. JOHNSTON:** Your Honor, I believe the courts
5 have now -- I have to consult the law book here, but I
6 don't believe that --

7 **THE COURT:** The State v. Belser. 685 802 SE 2nd.

8 **MS. HODGE:** Your Honor, I believe that was
9 applicable when a person was claiming self defense.

10 **THE COURT:** Yeah, but -- or -- I think it's a
11 little -- that's what is kind of nebulous about it,
12 because it's whatever there are circumstances which
13 mitigate --

14 **MS. HODGE:** I understand --

15 **THE COURT:** So, we'll just have to see where the
16 testimony goes.

17 **MS. HODGE:** Right.

18 **THE COURT:** It's not automatically you don't
19 charge it.

20 **MR. JOHNSTON:** Yes, sir.

21 **THE COURT:** So, okay. I guess we'll argue about
22 that later. Any other charges that you can think of --
23 identification, statement of the witness.

24 **MR. JOHNSTON:** Your Honor, we would request a
25 charge that -- on the appropriate use of prior

1 convictions and confirming the person's credibility.
2 And specifically we would request one which has to do
3 with something to the effect of the -- because the
4 Defendant has been convicted of prior crimes, that that
5 is not evidence --

6 **THE COURT:** I got that one.

7 **MR. JOHNSTON:** All right, sir.

8 **THE COURT:** And I guess we will deal with all
9 these witnesses and their criminal histories, we will
10 have to put that in there too. Okay. Anything else?

11 **MR. JOHNSTON:** No.

12 **THE COURT:** Do you want -- yesterday you said you
13 wanted direct and circumstantial evidence.

14 **MR. JOHNSTON:** Yes, sir, that is correct.

15 **THE COURT:** How about anything with respect to the
16 statement by the Defendant? I mean, there is no --

17 **MR. JOHNSTON:** Your Honor, I think they have to --
18 I would ask the court's instructions that before they
19 consider it, that they have to determine that it was
20 given freely and voluntarily.

21 **THE COURT:** All right. It's there. So I will do
22 it. Okay. Well, just -- so the main argument, I guess
23 will be about the malice. We will have to wait until
24 all the testimony is in before we do that. Okay. See
25 y'all at 2:15.

J. SWOFFORD -- DIRECT BY MR. JOHNSTON

1 (After a recess, court reconvened.)

2 **THE COURT:** All right. Let's get them.

3 (Whereupon, the jury entered the courtroom at
4 2:33.)

5 **THE COURT:** All right. Mr. Johnston.

6 **MR. JOHNSTON:** The defense calls Jamie Swofford.

7 **THE CLERK:** Please place your left hand on the
8 Bible and raise your right hand.

9 JAMIE SWOFFORD, having been first
10 duly sworn, testified as follows:

11 **THE CLERK:** Please be seated. Please state your
12 name for the record.

13 **THE WITNESS:** James B. Swofford.

14 DIRECT EXAMINATION BY MR. JOHNSTON:

15 Q Where do you live, Mr. Swofford?

16 A Boiling Springs, South Carolina.

17 Q This gentleman over here in the yellow tie, do
18 you know him?

19 A Yes, sir.

20 Q Who is he?

21 A That's my brother, Ronnie Swofford.

22 Q Are you older or younger than he is?

23 A Younger.

24 Q Younger?

25 A Younger.

J. SWOFFORD -- DIRECT BY MR. JOHNSTON

1 Q By how many years are you younger than him?

2 A Five.

3 Q Where do you work?

4 A Marlow Trucking (ph).

5 Q What type of work do you do there?

6 A Truck driver.

7 Q And, in fact, I believe you had to come back
8 today from Atlanta?

9 A Yes, sir.

10 Q Just made it back?

11 A Just made it back.

12 Q Do you know Ronnie Swofford's birthday?

13 A July 25th.

14 Q Do you recall his birthday July 25th of 2009?

15 A Yes, sir.

16 Q Were you with him at any time on his birthday?

17 A Yes, sir, that evening.

18 Q All right. About what time?

19 A I want to say it was around 7:00. The sun
20 hadn't gone down yet, so it was still a little bit
21 light outside.

22 Q Did you all go anywhere?

23 A We went to Kanpai of Tokyo to eat for his
24 birthday.

25 Q Who all went?

J. SWOFFORD -- DIRECT BY MR. JOHNSTON

1 A It was me and my wife, him and Shannon, a buddy
2 of mine, Austin, Lisa; and another guy that lives above
3 me and his wife.

4 Q How long were y'all there?

5 A About an hour.

6 Q During the course of the time that you were
7 there, did -- were there some photographs made?

8 A Yes, sir.

9 Q I'm showing you what has been marked as
10 Defendant's Exhibits Nos. 18 and 19.

11 A Yes, sir.

12 Q Have you seen those before, those images?

13 A Yes, sir.

14 Q Where?

15 A At Kanpai.

16 Q Did you take those pictures?

17 A Yes, sir, I did.

18 Q I want to call your attention specifically to
19 19; is there something on Ronnie's arm?

20 A A bandage.

21 Q Do you recall that bandage being on his arm the
22 night that you all went to Kanpai?

23 A Yes, sir.

24 Q Did you have any discussion with him about it?

25 A I asked him what happened to his arm. He told

RONNIE SWOFFORD -- DIRECT BY MR. JOHNSTON

1 me --

2 Q No, you don't need to tell us what he said.

3 Did you notice it enough to make an inquiry about it?

4 A Yes, sir. I asked him what it was.

5 **MR. JOHNSTON:** Please answer any other questions.

6 CROSS EXAMINATION BY MS. HODGE:

7 Q You took those pictures?

8 A Yes, ma'am.

9 Q Did you have a digital camera or --

10 A It was a cell phone.

11 Q A cell phone?

12 A Yes.

13 **MS. HODGE:** That's all. Thank you.

14 **THE COURT:** Anything else?

15 **MR. JOHNSTON:** No, sir. We would ask for him to
16 be excused if he desires.

17 **THE COURT:** Okay.

18 **MR. JOHNSTON:** We would call the Defendant, Ronnie
19 Swofford.

20 **THE CLERK:** Sir, please place your left hand on
21 the Bible and raise your right hand.

22 RONNIE SWOFFORD, having been first
23 duly sworn, testified as follows:

24 **THE CLERK:** Thank you. Please be seated. Please
25 state your name for the record.