

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Marion County

Honorable George M. McFaddin, Circuit Court Judge

BLATON W. SMITH,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001590

APPENDIX

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STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	TWELFTH JUDICIAL CIRCUIT
COUNTY OF MARION	)	CASE NO. 2013-GS-33-97
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	TRANSCRIPT OF RECORD
	)	
	)	
SHAHEED HAYES AND BLATON	)	
WAKEEM SMITH,	)	
	)	
Defendants.	)	
	)	

August 6-8, 2014
Marion, South Carolina

B E F O R E:

THE HONORABLE D. CRAIG BROWN, Judge; and a jury

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

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KRYSTAL J. SMITH
Court Reporter

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1 AUGUST 6, 2014

2 (WHEREAS this matter was scheduled for a trial, the
3 defendants appeared along with their counsel of record.
4 The hearing began at 9:37 a.m.)

5 THE COURT: All right. We are on the record with regards
6 to Indictment Number 2013-GS-33-97, wherein we are getting
7 ready to bring a jury into the courtroom for purposes of jury
8 selection in the case of the State of South Carolina versus
9 Shaheed Hayes and Blaton Wakeem Smith, each of which are
10 charged in a seven-count indictment.

11 The first count being -- or Count I being murder; Count
12 II being discharging a firearm into a dwelling; Count III
13 being possession of a weapon during the commission of a
14 violent crime; Count IV, attempted murder; Count V, attempted
15 murder; Count VI, attempted murder; and Count VII, attempted
16 murder.

17 And note for the record, please, that Mr. Smith and Mr.
18 Hayes are present in the courtroom with their respective
19 attorneys, Mr. Bailey and Mr. Deberry. Prior to us coming
20 into the courtroom today before the defendants were brought in
21 here, each of the defendants from my understanding had a stun
22 belt placed around their waist underneath -- I want to make it
23 abundantly clear that they are underneath their clothing,
24 which is no way visible to any potential jurors that may serve
25 in this case.

1 With regards to this particular case, this matter came
2 before Judge Seals I believe last year for a bond hearing.
3 The defendants that are involved in this case -- and for the
4 record, there are two additional defendants named in this
5 indictment which are not on trial. That is Jamie Williams and
6 Willie O'Brian Bethea.

7 But the defendants came before Judge Seals for purposes
8 of a bond hearing. The bond hearing -- at the bond hearing,
9 Judge Seals denied such bond. Whether it was directly related
10 to these two particular defendants or all four defendants or
11 one or the other, so to speak, after Judge Seals denied bond,
12 within a very short period of time -- I was not here, but Mr.
13 Clements can probably enlighten the Court on it -- there was a
14 bomb threat threatening to blow up the courthouse as well as
15 Judge Seals, if I remember correctly. Is that right, Mr.
16 Clements?

17 MR. CLEMENTS: Your Honor, that's correct. The voice on
18 the recording said that if Judge Seals didn't give my cousin
19 bond, I'm going to blow the courthouse up and blow his behind
20 up right now.

21 THE COURT: Okay. Furthermore, I have requested -- prior
22 to coming out here today and beginning the trial of this case,
23 I requested that the solicitor provide me with copies of each
24 of the defendant's prior criminal record.

25 With regards to Mr. Shaheed Hayes, he has a prior arrest

1 in 2007 for lynching, which I do not see a disposition. A
2 2008 arrest for lynching, which I do not see a disposition.
3 In 2008, an arrest for armed robbery, which was subsequently
4 pled down it looks like to a common law strong-arm robbery.
5 What appears to be a violation -- I'll take that back. He was
6 sentenced under the Youthful Offender Act not to exceed six
7 years apparently on the strong-arm robbery.

8 In 2010, he was charged with assault and battery --
9 simple assault and battery. In 2011, he was charged with
10 armed robbery and possession of a firearm, which appears to
11 have resulted in a non-conviction. In 2011, pointing and
12 presenting a firearm, discharging a firearm, which were non-
13 convictions. And now the current charges, which have been
14 stated on the record as it relates to this indictment.

15 Now, with regards to Mr. Smith, there's a prior -- what
16 appears to be a juvenile record for carrying a weapon on
17 school property. In addition, he has a 2008 arrest for armed
18 robbery, which appears to have been pled down to a strong-arm
19 robbery, whereupon he received what appears to be five years
20 provided upon the service of 13 months and probation for 18
21 months. That was in 2008 -- May of '08.

22 A drug charge, which appears to be a manufacturing,
23 possession with intent to distribute, whereupon he received a
24 30-month sentence suspended upon probation. In 2011,
25 accessory after the fact of a felony, which appears to have

1 been a non-conviction. 2012, assault and battery by a mob,
2 third degree, which is not a disposition. And then the
3 resulting charges that bring him into this court today.

4 Prior to coming into court today, it was brought to my
5 attention I believe that Mr. -- is it Mr. Smith? Excuse me.
6 Mr. Hayes that you represent?

7 MR. BAILEY: This is Mr. Smith, Your Honor.

8 THE COURT: All right. That Mr. Smith in this courtroom
9 had thrown his feet up on counsel's table and there was a
10 concern by law enforcement of each of their -- each of the
11 defendants acting out based upon their prior record. It was
12 brought to my attention I believe that Mr. Smith also had
13 given -- he is currently in A Pod Max Pod out at Marion County
14 Detention Center for purposes of ensuring that Mr. Smith is
15 separated from other defendants, but that he had given some
16 problems to the transport officer.

17 I say all that to say that I believe that based upon the
18 current charges and based upon the defendants' prior records
19 that stun belts would be appropriate in this case.
20 Furthermore, such is in no way, shape or form visibly apparent
21 to anybody in this courtroom, much less jurors. So I am going
22 to order that the stun belts remain on these defendants.

23 Furthermore, I am going to advise each of the defendants
24 at this time as a matter of precaution -- and I have spoken
25 with their lawyers. Each of you have a right to be in this

1 courtroom during the process of this trial. However, if you
2 in any way attempt to disrupt the proceedings that are going
3 to take place here today, you will be removed from this
4 courtroom and taken downstairs. The case will be tried in
5 your absence. If you're convicted, you'll be brought right
6 back up here and sentenced. But you are not going to in any
7 way, shape or form disrupt the proceedings in this courtroom.
8 Have I made myself clear, Mr. Smith?

9 THE DEFENDANT SMITH: May I say something?

10 THE COURT: Stand up. I'll be happy to hear from you.
11 Yes, sir?

12 MR. BAILEY: Your Honor, Court's indulgence just for one
13 moment.

14 THE COURT: Okay.

15 (Whereupon, the defendant Smith and his counsel confer.)

16 THE DEFENDANT SMITH: No, sir. I'm all right.

17 THE COURT: Okay. Mr. Smith, do you understand what I've
18 explained to you?

19 THE DEFENDANT SMITH: Yes, sir.

20 THE COURT: Okay. Do you have any questions about what
21 I've explained to you?

22 THE DEFENDANT SMITH: No, sir. But --

23 MR. BAILEY: Stand.

24 THE DEFENDANT SMITH: I had asked my -- my attorney to
25 ask for a continuance because we didn't --

1 THE COURT: I'm going to -- and he asked me about that
2 back in chambers, and I told him what we were going to do.

3 THE DEFENDANT SMITH: So --

4 THE COURT: Let me talk. Let me finish. I'm going to
5 answer your question. Okay? He had talked to me about that
6 back in chambers, but what I told him we were going to do is
7 we were going to pick this jury first and then I will address
8 that issue. Okay?

9 THE DEFENDANT SMITH: Yes, sir. So when that come about,
10 if Bailey don't say, like, what I think he should be saying or
11 what I feel that he should say, can I speak up?

12 THE COURT: You can consult with your lawyer. I'll give
13 you an opportunity to consult with your lawyer. He's your
14 lawyer. He represents you. He's your mouthpiece, so to
15 speak. Now, he makes a decision as to what -- he's a skilled
16 lawyer, been doing it a long time. Okay? You might not agree
17 with everything he does or everything he says, but that's his
18 job, not your job. If you want to represent yourself, we'll
19 go down that road and make a whole nother issue of it, but
20 he's your lawyer. Okay?

21 THE DEFENDANT SMITH: All right.

22 THE COURT: But you're not going to interject and carry
23 on if you don't agree with what he's doing. Yes, sir?

24 THE DEFENDANT SMITH: I mentioned some things to him, but
25 he don't mention to you that I think is right -- one of my

1 rights.

2 THE COURT: Well, he has an ethical responsibility to do
3 everything within his legal -- or everything that he can do as
4 an officer of the court to protect and ensure that your rights
5 are protected. Do you understand?

6 THE DEFENDANT SMITH: Yes, sir.

7 THE COURT: He may not agree with what you want to bring
8 up, but that's his decision. Do you understand?

9 THE DEFENDANT SMITH: Yes, sir.

10 THE COURT: So I'll leave it at that. Okay? Mr. Hayes,
11 do you understand what I've explained to you, sir?

12 THE DEFENDANT HAYES: Yes, sir.

13 THE COURT: Do you have any questions about what I've
14 explained to you?

15 THE DEFENDANT HAYES: No, sir.

16 THE COURT: Okay. All right. We will stand down while
17 the jury is brought into the courtroom and then as soon as
18 they're checked in, please let me know, and I'll come out here
19 and qualify the jury and select a jury for this case.

20 (Whereupon, there is a break in the proceedings from 9:51
21 a.m. until 10:18 a.m.)

22 THE COURT: Good morning, ladies and gentlemen.

23 THE JURY PANEL: Good morning.

24 THE COURT: I appreciate you all being here when I asked
25 you all to be here this morning. Madam Clerk, have you

1 scanned in all the jurors?

2 THE DEPUTY CLERK: Yes, sir.

3 THE CLERK: Yes, sir, we have.

4 THE COURT: It was brought to my attention back in
5 chambers that there were 13 jurors that did not return today;
6 is that correct?

7 THE CLERK: Twenty-five.

8 THE COURT: Well, I want a list provided to the Sheriff's
9 Department. I want those jurors found. All right?

10 THE CLERK: Yes, sir.

11 THE COURT: Now, is the State ready to proceed with the
12 trial of this case, Mr. Clements?

13 MR. CLEMENTS: Your Honor, regarding the number of
14 strikes that we have between all of the parties --

15 THE COURT: There's a total of 84 jurors here -- a total
16 of 84 jurors. Ten strikes for the State, ten for each
17 defendant, one, two and two on the alternates. So that still
18 should give us more than enough jurors to serve in this
19 particular case. I've already run the numbers back here, but
20 I appreciate your concern.

21 MR. CLEMENTS: Then we're okay, Your Honor.

22 THE COURT: All right. Mr. Bailey, are you ready to
23 proceed at this time with jury selection?

24 MR. BAILEY: At this time, Your Honor, we are.

25 THE COURT: Mr. Deberry?

1 MR. DEBERRY: Yes, sir, Your Honor.

2 THE COURT: All right. If you would, Mr. Clements, call
3 your case.

4 MR. CLEMENTS: Your Honor, we'd call Indictment Number
5 2013-GS-33-97, the State of South Carolina versus Shaheed
6 Hayes and Blaton W. Smith.

7 THE COURT: All right. All right. Ladies and gentlemen,
8 the State of South Carolina has called the case of the State
9 versus Blaton Wakeem Smith and the State of South Carolina
10 versus Shaheed Hayes. Each of these individuals have been
11 indicted in a seven-count indictment.

12 The indictment, ladies and gentlemen, that I hold in my
13 hand is not evidence in this case. It's not evidence in this
14 case. It is simply the charging document by which this case
15 is brought into this court.

16 In this seven-count indictment, Count I of the indictment
17 alleges that Blaton W. Smith and Shaheed Hayes did in Marion
18 County on or about April 13, 2012, willfully, feloniously, and
19 intentionally kill the victim, Christian James Drawhorn, with
20 malice aforethought, either express or implied, by means of
21 shooting, and the victim did die as a proximate result thereof
22 on or about April 13th, 2012, in Marion County in violation of
23 Section 16-3-10 of the South Carolina Code of Laws.

24 Count II is a charge of discharging a fire --

25 MR. CLEMENTS: Your Honor, may we approach the bench,

1 please?

2 THE COURT: All right.

3 (Whereupon, a bench conference is held in the presence of
4 the jury panel but out of the hearing of the jury panel
5 off the record.)

6 THE COURT: All right. Count II of the indictment,
7 ladies and gentlemen, is a charge of discharging a firearm
8 into a dwelling. It alleges that Mr. Blaton W. Smith and
9 Shaheed Hayes did in Marion County on or about April 13th,
10 2012, discharge or cause to be discharged unlawfully a firearm
11 at or into the dwelling, house or other building or enclosure
12 regularly occupied by persons located at [REDACTED] North Highway
13 501 in violation of Section 16-23-440 of the South Carolina
14 Code of Laws.

15 Count III of the indictment is a charge of possession of
16 a weapon during the commission of a violent crime, and this
17 respective count alleges that Blaton W. Smith and Shaheed
18 Hayes did in Marion County on or about April 13th, 2012,
19 possess a firearm or visibly displayed what appeared to be a
20 firearm or visibly displayed a knife during the commission or
21 attempted commission of a violent crime in violation of
22 Section 16-23-490 of the South Carolina Code of Laws.

23 Count IV of the indictment is a charge of attempted
24 murder, which alleges that Blaton W. Smith and Shaheed Hayes
25 did in Marion County on or about April 23 -- excuse me --

1 April 13th, 2012, with malice aforethought attempt to murder
2 one Derrick Lamont Wilson by shooting into dwelling causing
3 great bodily injury and substantial risk of death in violation
4 of Section 16-3-29 of the South Carolina Code of Laws.

5 Count V is another charge of attempted murder, which
6 alleges that Blaton W. Smith and Shaheed Hayes did in Marion
7 County on or about April 13th, 2012, with malice aforethought
8 attempt to murder one Darrell Antonio Davis by shooting into
9 dwelling causing great bodily injury and substantial risk of
10 death in violation of Section 16-3-29 of the South Carolina
11 Code of Laws.

12 Count VI is another charge of attempted murder, which
13 alleges that Blaton W. Smith and Shaheed Hayes did in Marion
14 County on or about April 13th, 2012, with malice aforethought
15 attempt to murder one Gavin Graves by shooting into dwelling
16 causing great bodily injury and substantial risk of death in
17 violation of Section 16-3-29 of the South Carolina Code of
18 Laws.

19 Count VII is another charge of attempted murder, which
20 alleges that Blaton W. Smith and Shaheed Hayes did in Marion
21 County on or about April 13th, 2012, with malice aforethought
22 attempt to murder one Christopher Kollock -- I hope I'm
23 pronouncing that correctly, K-o-l-l-o-c-k -- by shooting into
24 dwelling causing great bodily injury and substantial risk of
25 death in violation of Section 16-3-29 of the South Carolina

1 Code of Laws.

2 Now, ladies and gentlemen, what I have read to you are
3 the allegations in this indictment which charges these
4 defendants with various counts, seven counts here which I've
5 read to you. Let me remind you -- I've already said this, but
6 let me remind you again. The allegations in this indictment
7 are not evidence in this case. They are not evidence in this
8 case. They are simply the charging document by which this
9 case is brought into this court.

10 Each of these defendants has pled not guilty to each of
11 these charges. Therefore, the State -- the State of South
12 Carolina bears the burden of proving their guilt beyond a
13 reasonable doubt as to each of the allegations contained in
14 the indictment.

15 Now, before we move forward in selecting a jury, there
16 are several questions that I must ask of you. Please listen
17 very carefully.

18 Is there any member of the jury panel that has ever been
19 related by blood, connected by marriage, had a close personal,
20 business or social relationship with Mr. Blaton W. Smith, Mr.
21 Shaheed Hayes, Christian James Drawhorn, Derrick Lamont
22 Wilson, Darrell Antonio Davis, Gavin Graves or Christopher
23 Kollock? If so, please stand.

24 (Whereupon, no one stands.)

25 THE COURT: The following, ladies and gentlemen, is a

1 list of potential witnesses in this case. They include:
2 Martin Bell, Marion County Sheriff's Office; Charlie Watson,
3 Darlington Police Department; Greg Pike, Marion County
4 Sheriff's Office; Marion Richardson, Marion County Sheriff's
5 Office; Clemson Legette, Marion County Sheriff's Office;
6 Samantha Jackson, Marion County Sheriff's Office; Eddie
7 Sawyer, Marion County Sheriff's Office; Reggie Hotaling,
8 Marion County Sheriff's Office; Kristal Moore, Latta Police
9 Department; Dr. Cynthia Schandl --

10 MR. CLEMENTS: Schandl, Your Honor.

11 THE COURT: -- Schandl, MUSC, Medical University;
12 Michelle Eichenmiller, SLED; Derrick Wilson, AKA Eyebrows;
13 Gavin Graves; Jamie Williams, AKA Lil Boosie; Willie Bethea,
14 AKA Boo Boo; David Graves, AKA Charlie B; Darrell Antonio
15 Davis, AKA Goo Baby; Leon Bethea, AKA Rush.

16 Is there any member of the jury panel that has ever been
17 related by blood, connected by marriage, had a close personal,
18 business or social relationship with any of the potential
19 witnesses in this case? If so, please stand.

20 (Whereupon, several people stand.)

21 THE COURT: All right. In the yellow shirt to my right,
22 yes, sir, your name and number?

23 POTENTIAL JUROR NUMBER 157: 157, Jerry Jackson.

24 THE COURT: All right. Who off that list do you know?

25 POTENTIAL JUROR NUMBER 157: Marion Richardson. I work

1 with him.

2 THE COURT: You work with him now?

3 POTENTIAL JUROR NUMBER 157: I have previously.

4 THE COURT: When was that, sir?

5 POTENTIAL JUROR NUMBER 157: Probably been twelve --
6 thirteen years ago now.

7 THE COURT: All right. Since you last worked with him
8 twelve to fifteen years ago, have you engaged in any social
9 activities between the last time you worked with him and now?

10 POTENTIAL JUROR NUMBER 157: No. I've run across him a
11 few times and just spoke, but that was it.

12 THE COURT: All right. The fact that you know him and
13 worked with him twelve to fifteen years ago, if you were
14 selected as a juror in this case, would that in any way affect
15 your ability to be fair and impartial to both the State and
16 the defense?

17 POTENTIAL JUROR NUMBER 157: I think it could, Your
18 Honor, because I know him well.

19 THE COURT: All right. I'll set you aside for the trial
20 of this case. Thank you for standing. Your name and number,
21 please?

22 POTENTIAL JUROR NUMBER 300: Ron W. Taylor, Number 300.

23 THE COURT: Okay. Who off of that list do you know, sir?

24 POTENTIAL JUROR NUMBER 300: Officer Legette. Clemson
25 Legette.

1 THE COURT: In what capacity do you know him?

2 POTENTIAL JUROR NUMBER 300: He is a friend of mine.

3 THE COURT: Do you all engage in social activities
4 together?

5 POTENTIAL JUROR NUMBER 300: Yes, sir. I saw him
6 yesterday.

7 THE COURT: I understand you saw him, but did you -- do
8 you all engage in social activities?

9 POTENTIAL JUROR NUMBER 300: Yes, sir.

10 THE COURT: Do you all go out to dinner? Go to different
11 events together? I mean --

12 POTENTIAL JUROR NUMBER 300: Yes, sir.

13 THE COURT: -- I know a lot of people and as I'm well --
14 as I'm sure you do as well, but I'm trying to get at how close
15 the relationship is.

16 POTENTIAL JUROR NUMBER 300: It's fairly close.

17 THE COURT: Would it affect -- if you were selected as a
18 juror, would it affect your ability to be fair and impartial
19 to both the State and the defense?

20 POTENTIAL JUROR NUMBER 300: Yes, sir. I believe so.

21 THE COURT: All right. Then I'll set you aside for the
22 trial of this case. Thank you. Yes, ma'am, in the back, your
23 name and number, please?

24 POTENTIAL JUROR NUMBER 274: Kelsey Samuel, 274.

25 THE COURT: All right. Who off of that list do you know,

1 ma'am?

2 POTENTIAL JUROR NUMBER 274: Clemson Legette.

3 THE COURT: In what capacity do you know Mr. Legette?

4 POTENTIAL JUROR NUMBER 274: He was my stepdad.

5 THE COURT: All right. I'm not even going to ask you the
6 next question. I'm going to set you aside for the trial of
7 this case. Okay? Tell me your name and number, please, sir,
8 to my right? To my right?

9 POTENTIAL JUROR NUMBER 309: David Turner, 309.

10 THE COURT: Who off that list do you know, sir?

11 POTENTIAL JUROR NUMBER 309: Kristal Moore.

12 THE COURT: In what capacity do you know Ms. Moore?

13 POTENTIAL JUROR NUMBER 309: Kin to her.

14 THE COURT: First cousin? Second cousin? Related by
15 marriage or what?

16 POTENTIAL JUROR NUMBER 309: Cousin.

17 THE COURT: What cousin?

18 POTENTIAL JUROR NUMBER 309: That would actually be my
19 second cousin.

20 THE COURT: All right. I'm going to set you aside for
21 the trial of this case. Yes, sir, your name and number?

22 POTENTIAL JUROR NUMBER 289: Mark Smith, 289.

23 THE COURT: Who off that list do you know, sir?

24 POTENTIAL JUROR NUMBER 289: I know Charlie Watson and
25 Reggie Hotaling.

1 THE COURT: In what capacity do you know them?

2 POTENTIAL JUROR NUMBER 289: We work out at the same gym.

3 THE COURT: You work out together or you just see them at
4 the gym?

5 POTENTIAL JUROR NUMBER 289: I just see them at the gym.

6 THE COURT: All right. The fact that you see them at the
7 gym, is that -- would that in any way affect your ability to
8 be fair and impartial to both the State and the defense if you
9 were selected as a juror?

10 POTENTIAL JUROR NUMBER 289: No, sir.

11 THE COURT: All right. Thank you. You may be seated.
12 Yes, sir, your name and number?

13 POTENTIAL JUROR NUMBER 163: Henry Johnson, 163.

14 THE COURT: Yes, sir, Mr. Johnson?

15 POTENTIAL JUROR NUMBER 163: Clemson Legette.

16 THE COURT: In what capacity do you know Mr. Legette?

17 POTENTIAL JUROR NUMBER 163: Me and him used to work
18 together at Country Mills in Mullins.

19 THE COURT: How long ago?

20 POTENTIAL JUROR NUMBER 163: About 18 -- 20 years ago.

21 THE COURT: Do y'all engage in social activities
22 together?

23 POTENTIAL JUROR NUMBER 163: No, sir. But we -- when we
24 see one another, we just have a little cordial conversation.
25 That's about it.

1 THE COURT: All right. If you were selected as a juror
2 in this case, do you believe that you could be fair and
3 impartial to both the State and the defense?

4 POTENTIAL JUROR NUMBER 163: Yes, sir.

5 THE COURT: Thank you. You may be seated. Yes, sir,
6 your name and number, please?

7 POTENTIAL JUROR NUMBER 153: Jamie Hughes, 153.

8 THE COURT: Hold on a minute. Speak up, please, sir?

9 POTENTIAL JUROR NUMBER 153: Jamie Hughes, 153.

10 THE COURT: Okay. Yes, sir. Mr. Hughes, who do you know
11 off of that list?

12 POTENTIAL JUROR NUMBER 153: Clemson Legette.

13 THE COURT: In what capacity do you know Mr. Legette?

14 POTENTIAL JUROR NUMBER 153: A relation.

15 THE COURT: Sir?

16 POTENTIAL JUROR NUMBER 153: We're related.

17 THE COURT: You're related?

18 POTENTIAL JUROR NUMBER 153: Yes.

19 THE COURT: How closely related?

20 POTENTIAL JUROR NUMBER 153: I think second cousins.

21 THE COURT: You think second?

22 POTENTIAL JUROR NUMBER 153: Yeah.

23 THE COURT: Can the lawyers approach for just a minute?

24 (Whereupon, a bench conference is held in the presence of
25 the jury panel but out of the hearing of the jury panel

1 off the record.)

2 THE COURT: All right. Hold it down, please. Sir, I'm
3 going to set you aside for the trial of this case. Thank you
4 for standing.

5 All right. At this time, I'm going to ask the lawyers if
6 they'll stand and introduce themselves, first the State and
7 then each defense counsel.

8 MR. CLEMENTS: Thank you, Your Honor. May it please the
9 Court. Good morning, ladies and gentlemen of the jury. My
10 name is Ed Clements. I'm the solicitor for Marion County and
11 Florence County, which is referred to as the Twelfth Judicial
12 Circuit. Seated here with me is Assistant Solicitor Rick
13 Hoefer with my office and he will be assisting me in trial.
14 Also, Investigator Gary Street and our victim witness
15 advocate, Ms. Vicky Singletary. Thank you.

16 THE COURT: Mr. Bailey?

17 MR. BAILEY: Good morning, ladies and gentlemen. My name
18 is Josh Bailey. I'm in private practice. Our office is
19 located in Florence here in the Twelfth Circuit. Here with me
20 today is my client, Blaton Smith, who resides in Latta.

21 THE COURT: Mr. Deberry?

22 MR. DEBERRY: Thank you, Your Honor. Ladies and
23 gentlemen, I'm Steven Deberry. I practice law by myself. I
24 have an office in Florence and in Pamplico. This is Shaheed
25 Hayes and he's from Latta and he's who I represent here this

1 week. Thank you.

2 THE COURT: All right. Ladies and gentlemen of the jury,
3 is there any member of the jury panel that has ever been
4 represented by the -- by any of the attorneys involved in this
5 case or have you ever been related by blood, connected by
6 marriage, had a close personal, business or social
7 relationship with any of the attorneys involved in this case?
8 If so, please stand.

9 (Whereupon, two people stand.)

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

11 POTENTIAL JUROR NUMBER 218: Cherri Morell, 218.

12 THE COURT: Yes, ma'am. Ms. Morell, by whom have you
13 been --

14 POTENTIAL JUROR NUMBER 218: Mr. Bailey. I did a real
15 estate transaction with him and his wife.

16 THE COURT: All right. He handled it for you?

17 POTENTIAL JUROR NUMBER 218: I handled it for them.

18 THE COURT: Are you a realtor?

19 POTENTIAL JUROR NUMBER 218: I am, sir.

20 THE COURT: When was that?

21 POTENTIAL JUROR NUMBER 218: It's probably been three
22 years.

23 THE COURT: All right. Would that in -- if you were
24 selected as a juror in this case, would that in any way affect
25 your ability to be fair and impartial to both the State and

1 the defendants?

2 POTENTIAL JUROR NUMBER 218: No, sir.

3 THE COURT: Thank you. You may be seated. Yes, sir,
4 your name and number, please?

5 POTENTIAL JUROR NUMBER 324: Scott Webster, 324.

6 THE COURT: Yes, sir, Mr. Webster?

7 POTENTIAL JUROR NUMBER 324: I was a claim rep with State
8 Farm from '92 to 2000 and I would do claims with a couple of
9 the lawyers involved in this case.

10 THE COURT: Hadn't had any interaction with them since
11 then?

12 POTENTIAL JUROR NUMBER 324: No, sir.

13 THE COURT: If you were selected as a juror in this case,
14 would that in any way affect your ability to be fair and
15 impartial to both the State and the defense?

16 POTENTIAL JUROR NUMBER 324: No, it would not.

17 THE COURT: Thank you, sir. You may be seated. All
18 right. Has any member of the jury panel formed or expressed
19 an opinion about any issue or matter involved in this case?
20 If so, please stand.

21 (Whereupon, no one stands.)

22 THE COURT: All right. Is any member of the jury panel
23 aware of any bias or prejudice toward either the State or the
24 defendant in this case? If so, please stand.

25 (Whereupon, no one stands.)

1 THE COURT: All right. Is there any member of the jury
2 panel who is a member of or contributor to any group which has
3 as its primary concern the promotion of law enforcement or
4 victims' rights? These groups might include but certainly are
5 not limited to MADD, SADD or CAVE, Citizens Against Violent
6 Crime.

7 (Whereupon, no one stands.)

8 THE COURT: All right. Does any member of the jury panel
9 know of any reason -- any reason whatsoever why he or she
10 should not serve as a juror in this case with particular
11 emphasis being placed upon your ability to be fair and
12 impartial to both the State and the defendants in this case?
13 If so, please stand.

14 (Whereupon, one person stands.)

15 THE COURT: Your name and number, please, sir?

16 POTENTIAL JUROR NUMBER 252: My number is 252. My name
17 is Jonathan Roberts.

18 THE COURT: Okay. Sir, if you would, come down here,
19 please. Come down here. The lawyers may approach over here.

20 (Whereupon, a bench conference is held in the presence of
21 the jury panel but out of the hearing of the jury panel
22 as follows.)

23 THE COURT: It's Jonathan Roberts? Jonathan Roberts?
24 Come around here and step into the witness box, Mr. Roberts.
25 Step through that door there for me. All right. You're

1 Number 252?

2 POTENTIAL JUROR NUMBER 252: I think so.

3 THE COURT: Jonathan Roberts?

4 POTENTIAL JUROR NUMBER 252: Right.

5 THE COURT: All right. You stood when I asked if you
6 knew of any reason why you couldn't be fair and impartial to
7 both the State and the defense; is that correct?

8 POTENTIAL JUROR NUMBER 252: Correct.

9 THE COURT: Tell me why.

10 POTENTIAL JUROR NUMBER 252: In -- in my family, I have
11 law enforcement.

12 THE COURT: Okay. All right. Well, I'm going to set you
13 aside for the trial of this case. Okay? I'm going to set you
14 aside for the trial of this case. I just didn't want you to
15 say anything out --

16 POTENTIAL JUROR NUMBER 252: Okay.

17 THE COURT: -- in front of all the jurors that would
18 potentially taint my jury pool.

19 POTENTIAL JUROR NUMBER 252: Okay.

20 THE COURT: That's why I called you up here. I didn't
21 know if you had any personal experience or something. Okay.
22 You can go back out there and be seated, but don't tell them
23 why I excused you or why you can't be fair and impartial. But
24 I will set you aside for the trial of this case. Okay?

25 POTENTIAL JUROR NUMBER 252: Okay.

1 THE COURT: Thank you, sir.

2 POTENTIAL JUROR NUMBER 252: Thank you.

3 THE COURT: Madam Clerk?

4 THE CLERK: Yes, sir.

5 THE COURT: I'm going to set him aside for the trial of
6 this case.

7 (Whereupon, the bench conference with the juror ends and
8 a bench conference is held with the attorneys off the
9 record.)

10 THE COURT: All right. Ladies and gentlemen --

11 (Whereupon, one person stands.)

12 THE COURT: Yes, ma'am, tell me your name and number.
13 I'm sorry.

14 POTENTIAL JUROR NUMBER 22: I don't know my number.
15 Yolanda Bethea.

16 THE COURT: Bethea?

17 POTENTIAL JUROR NUMBER 22: Yes.

18 THE COURT: Okay. Hold on a minute, please, ma'am.

19 THE CLERK: Yolanda Bethea, Number 22.

20 THE COURT: All right. Ms. Bethea, I'm going to do with
21 you as I did with Mr. Roberts. If you would, come down here
22 for just a minute, please, ma'am.

23 (Whereupon, a bench conference is held in the presence of
24 the jury panel but out of the hearing of the jury panel
25 as follows.)

1 THE COURT: I didn't see you stand initially.

2 POTENTIAL JUROR NUMBER 22: Yes.

3 THE COURT: You had that camouflage on.

4 POTENTIAL JUROR NUMBER 22: I just don't feel comfortable
5 being in here period. My brother caught 30 years in here. I
6 wouldn't be fair on nobody's side.

7 THE COURT: Okay. I'm going to -- I appreciate you
8 bringing that to my attention.

9 POTENTIAL JUROR NUMBER 22: Okay.

10 THE COURT: I'm going to set you aside for the trial --
11 hold on a minute. Hold on.

12 POTENTIAL JUROR NUMBER 22: Okay.

13 THE COURT: I'm going to set you aside for the trial of
14 this case. I'm going to ask you to stay with us in the
15 courtroom right now. Okay?

16 POTENTIAL JUROR NUMBER 22: Okay.

17 THE COURT: And do not discuss why I set you aside.
18 Okay?

19 POTENTIAL JUROR NUMBER 22: Okay.

20 THE COURT: Thank you. Anything?

21 MR. CLEMENTS: No objection.

22 THE COURT: Mr. Bailey? Mr. Deberry? Anybody? Okay.
23 I've set her aside.

24 (Whereupon, the bench conference ends.)

25 THE COURT: All right. Ladies and gentlemen, a minute

1 ago I had the lawyers introduce themselves to you. They asked
2 if they could be allowed to go a little further than that and
3 that is name the lawyers that are involved or work in their
4 office or whom they work with. So at this time, I am going to
5 ask Mr. Clements to stand and identify those individuals,
6 followed by Mr. Bailey and Mr. Deberry, whom I don't think he
7 has anybody else in his office.

8 MR. CLEMENTS: Thank you, Your Honor. May it please the
9 Court. In addition to myself and Mr. Hoefer, we have John
10 Jepertinger, Todd Tucker, David Richardson, Fitzlee McEachin,
11 Catherine Wyse, and Angel Daniels. Thank you.

12 THE COURT: Mr. Bailey?

13 MR. BAILEY: Ladies and gentlemen, I practice, as I said,
14 in Florence. The firm I am with is the Finklea Law Firm. My
15 partners are Gary Finklea, Charlie Blake, and Jonathan Greg
16 Hendrick.

17 THE COURT: All right. All right. Is there any member
18 of the jury panel that's ever been related by blood, connected
19 by marriage, had a close personal, business or social
20 relationship with any of those attorneys? If so, please
21 stand.

22 (Whereupon, one person stands.)

23 THE COURT: Tell me your name and number, please?

24 POTENTIAL JUROR NUMBER 161: 161, Glen Jeter.

25 THE COURT: Who do you know, Mr. Jeter?

1 POTENTIAL JUROR NUMBER 161: Fitzlee McEachin.

2 THE COURT: In what capacity?

3 POTENTIAL JUROR NUMBER 161: I was represented by him a
4 couple years ago.

5 THE COURT: Not currently being represented by him?

6 POTENTIAL JUROR NUMBER 161: No, sir.

7 THE COURT: All right. He's not involved in this case,
8 but he works in Mr. Clements's office. Let me ask you this
9 question. If you were selected as a juror in this case, do
10 you believe that you could be fair and impartial to both the
11 State and the defendants in this case?

12 POTENTIAL JUROR NUMBER 161: Yes, sir.

13 THE COURT: Thank you. You may be seated. All right.
14 Does the State have any additional voir dire, Mr. Clements?

15 MR. CLEMENTS: Your Honor, if you would, inquire of the
16 jury panel if anyone has been prosecuted by the Twelfth
17 Circuit Solicitor's Office or anyone in their immediate family
18 prosecuted by the Twelfth Circuit Solicitor's Office, whether
19 it revolved around a dismissal or anything from guilty to
20 dismissal.

21 THE COURT: All right. Anything further, Mr. Bailey?

22 MR. BAILEY: Court's indulgence for one moment, Your
23 Honor.

24 THE COURT: All right.

25 MR. BAILEY: Your Honor, after consulting with Mr.

1 Deberry, we would ask the Court to inquire of the jury panel
2 if anyone has been a victim of any type of crime.

3 THE COURT: All right. Ladies and gentlemen, has any
4 member of the jury panel or their immediate family ever been
5 prosecuted by the Twelfth Circuit Solicitor's Office, whether
6 such prosecution resulted in a conviction or a dismissal? If
7 so, please stand.

8 (Whereupon, several people stand.)

9 THE COURT: All right. Tell me your name and number,
10 please, ma'am?

11 POTENTIAL JUROR NUMBER 107: Annette Fling, Juror Number
12 107.

13 THE COURT: All right. Would that -- the fact that you
14 stood on this -- on that particular question, would that in
15 any way affect your ability to be fair and impartial to both
16 the State and the defense?

17 POTENTIAL JUROR NUMBER 107: Not at all, sir.

18 THE COURT: Thank you, ma'am. You may be seated. Yes,
19 sir, your name and number?

20 POTENTIAL JUROR NUMBER 85: Marty Davis, 85.

21 THE COURT: All right. The fact that you stood on that
22 question, if you were selected as a juror in this case, would
23 that in any way affect your ability to be fair and impartial
24 to either the State or the defendants?

25 POTENTIAL JUROR NUMBER 85: No.

1 THE COURT: Thank you, sir. Juror Number 22, Ms. Bethea,
2 I've already set you aside for the trial of this case. You
3 may be seated. Thank you, ma'am. Yes, ma'am, tell me your
4 name and number.

5 POTENTIAL JUROR NUMBER 290: Rita Smith, 290.

6 THE COURT: All right. Ms. Smith, the fact that you
7 stood in response to that question, if you were selected as a
8 juror in this case, would that in any way affect your ability
9 to be fair and impartial to both the State and the defendants?

10 POTENTIAL JUROR NUMBER 290: It would not at all.

11 THE COURT: Thank you very much. Tell me your name and
12 number, please, sir.

13 POTENTIAL JUROR NUMBER 333: Wallace Wiggins.

14 THE COURT: All right.

15 POTENTIAL JUROR NUMBER 333: I forgot my number.

16 THE COURT: Hold on just a minute. What's his name?
17 Mincey?

18 THE CLERK: Wiggins. Wallace Wiggins.

19 THE COURT: Wiggins? Juror 333. Mr. Wiggins, the fact
20 that you stood in response to that question, if you were
21 selected as a juror in this case, would that in any way affect
22 your ability to be fair and impartial to both the State and
23 the defendants?

24 POTENTIAL JUROR NUMBER 333: Yeah.

25 THE COURT: It would?

1 POTENTIAL JUROR NUMBER 333: Yes, sir.

2 THE COURT: All right. I'm going to set you aside for
3 the trial of this case. Thank you very much. Your name and
4 number, please, ma'am?

5 POTENTIAL JUROR NUMBER 200: Flissa McEachern, 200.

6 THE COURT: All right. The fact that you stood in
7 response to that question, if you were selected as a juror in
8 this case, would that in any way affect your ability to be
9 fair and impartial to both the State and the defense?

10 POTENTIAL JUROR NUMBER 200: No, sir.

11 THE COURT: Thank you, ma'am. You may be seated. All
12 right. Has there any member of the jury panel or their
13 immediate family ever been the victim of a violent crime? If
14 so, please stand.

15 (Whereupon, several people stand.)

16 THE COURT: Tell me your name and number, please.

17 POTENTIAL JUROR NUMBER 308: Amy Turner, 308.

18 THE COURT: All right. The fact that you stood in
19 response to that question, ma'am, if you were selected as a
20 juror in this case, would that in any way affect your ability
21 to be fair and impartial to both the State and the defendants?

22 POTENTIAL JUROR NUMBER 308: No, sir.

23 THE COURT: Thank you. You may be seated. Yes, ma'am,
24 your name and number?

25 POTENTIAL JUROR NUMBER 44: Marilyn Calloway and I forgot

1 my number.

2 THE COURT: All right. Hold on just a minute. Juror 44.
3 Ms. Calloway, the fact that you stood in response to that
4 question, if you were selected as a juror in this case, would
5 that in any way affect your ability to be fair and impartial
6 to both the State and the defendants?

7 POTENTIAL JUROR NUMBER 44: No.

8 THE COURT: Thank you, ma'am. You may be seated. Yes,
9 sir, your name and number?

10 POTENTIAL JUROR NUMBER 282: Billy Sharp, 282.

11 THE COURT: The fact that you stood in response to that
12 question, Mr. Sharp, if you were selected as a juror in this
13 case, would that in any way affect your ability to be fair and
14 impartial to both the State and the defendants?

15 POTENTIAL JUROR NUMBER 282: No, it wouldn't.

16 THE COURT: Thank you. You may be seated. Yes, ma'am,
17 your name and number?

18 POTENTIAL JUROR NUMBER 136: Takeyah Grant, 136.

19 THE COURT: Takeyah Grant?

20 POTENTIAL JUROR NUMBER 136: Yes.

21 THE COURT: Ma'am?

22 POTENTIAL JUROR NUMBER 136: Yes.

23 THE COURT: Is that right? 136 -- Juror 136. Ms. Grant,
24 the fact that you stood in response to that question, if you
25 were selected as a juror in this case, would that in any way

1 affect your ability to be fair and impartial to both the State
2 and the defendants?

3 POTENTIAL JUROR NUMBER 136: Yes.

4 THE COURT: It would? All right. I'm going to set you
5 aside for the trial of this case. Thank you, ma'am.

6 All right. Any further voir dire from the State?

7 MR. CLEMENTS: No, Your Honor. Thank you.

8 THE COURT: Mr. Bailey?

9 MR. BAILEY: Nothing on behalf of Mr. Smith.

10 THE COURT: Mr. Deberry?

11 MR. DEBERRY: No, thank you, Your Honor.

12 THE COURT: All right. Madam Clerk, if you would,
13 generate me a list, please. Ten, ten and ten on the strikes.
14 Two alternates, one, two, and two on each alternate.

15 (Whereupon, there is a pause in the proceedings during
16 which a bench conference is held off the record.)

17 THE COURT: Ms. Jackie Strickland, Juror Number 297,
18 would you come forward, please?

19 (Whereupon, the juror complies and a bench conference is
20 held in the presence of the jury panel but out of the
21 hearing of the jury panel as follows.)

22 THE COURT: Hey, Ms. Strickland.

23 POTENTIAL JUROR NUMBER 297: Hey. How are you?

24 THE COURT: It's been brought to my attention that your
25 son -- do you have a son named Chad --

1 POTENTIAL JUROR NUMBER 297: Mm-hmm.

2 THE COURT: -- who is currently being prosecuted for
3 murder?

4 POTENTIAL JUROR NUMBER 297: Mm-hmm.

5 THE COURT: Any reason you didn't stand when I asked that
6 question?

7 POTENTIAL JUROR NUMBER 297: I was nervous I reckon, but
8 I'm really, really nervous.

9 THE COURT: All right. Did you hear my question?

10 POTENTIAL JUROR NUMBER 297: Yeah, I did, but I couldn't
11 understand it.

12 THE COURT: All right.

13 (Whereupon, the Court and counsel confer off the record.)

14 THE COURT: If you were selected, could you be fair and
15 impartial to both the State --

16 POTENTIAL JUROR NUMBER 297: I believe it would bother
17 me. It would bother me.

18 THE COURT: All right. I'm going to set you aside for
19 the trial of this case. Okay? Thank you.

20 (Whereupon, the bench conference ends.)

21 THE COURT: Bear with us, ladies and gentlemen.

22 (Whereupon, there is a pause in the proceedings until the
23 jury list is drawn.)

24 THE COURT: Madam Clerk, are you ready?

25 THE CLERK: Yes, sir. We're going to call by the juror

1 numbers. Number 32, Diamond A. Brown.

2 THE COURT: Please, as she calls your name, please, if
3 you have any belongings, bring them down front with you.

4 (Whereupon, a black female comes forward.)

5 THE CLERK: Ms. Brown, if you'll just stand right in
6 front of this little box over here. Thank you. What say the
7 State?

8 MR. CLEMENTS: Please present Ms. Brown.

9 THE CLERK: What say the defense, Mr. Bailey?

10 MR. DEBERRY: Please seat Ms. Brown.

11 THE CLERK: Mr. Bailey?

12 MR. BAILEY: Please seat Ms. Brown.

13 THE CLERK: Ms. Brown, if you'll have a seat in the jury
14 box, please. Number 325, Janice M. Weeks.

15 (Whereupon, a black female comes forward.)

16 THE CLERK: What say the State?

17 MR. CLEMENTS: Please present Ms. Weeks.

18 THE CLERK: What say the defense, Mr. Bailey?

19 MR. DEBERRY: Madam Clerk, I'll just be doing it for each
20 of us.

21 THE CLERK: You mean answer jointly or --

22 THE COURT: If they so choose, that's fine.

23 THE CLERK: Mr. Bailey, are you going to -- he's going to
24 answer for you? Okay. What say you to Ms. Weeks?

25 MR. DEBERRY: Please seat Ms. Weeks.

1 THE CLERK: Ms. Weeks, if you'll have a seat in the jury
2 box, please. Number 332, Aimee Wiggins Martin.

3 (Whereupon, a white female comes forward.)

4 THE CLERK: What say the State?

5 MR. CLEMENTS: Please present Ms. Martin.

6 THE CLERK: What say the defense?

7 MR. DEBERRY: Strike the juror, please.

8 THE CLERK: You're excused from the trial of this case.
9 Thank you. Number 161, William G. Jeter III.

10 (Whereupon, a white male comes forward.)

11 THE CLERK: What say the State?

12 MR. CLEMENTS: Please present Mr. Jeter.

13 THE CLERK: What say the defense?

14 MR. DEBERRY: Please excuse Mr. Jeter from this trial.

15 THE CLERK: Number 58, Billy W. Coleman Jr.

16 (Whereupon, a white male comes forward.)

17 THE CLERK: What say the State?

18 MR. CLEMENTS: Please present Mr. Coleman.

19 THE CLERK: What say the defense?

20 MR. DEBERRY: Please seat Mr. Coleman.

21 THE CLERK: Number 228, Takesa S. Owens.

22 (Whereupon, a black female comes forward.)

23 THE CLERK: What say the State?

24 MR. CLEMENTS: Please present Ms. Owens.

25 THE CLERK: What say the defense?

1 MR. DEBERRY: Please seat Ms. Owens.

2 THE CLERK: Ms. Owens, if you'll have a seat in the jury
3 box, please. Thank you. Number 298, Amy Thomas Stroud.

4 (Whereupon, a white female comes forward.)

5 THE CLERK: What say the State?

6 MR. CLEMENTS: Please present Ms. Stroud.

7 THE CLERK: What say the defense?

8 MR. DEBERRY: Please seat Ms. Stroud.

9 THE CLERK: Ms. Stroud, if you'll have a seat in the jury
10 box, please. Number 284 William Harlee Shelley.

11 (Whereupon a white male comes forward.)

12 THE CLERK: What say the State?

13 MR. CLEMENTS: Please present Mr. Shelley.

14 THE CLERK: What say the defense?

15 MR. DEBERRY: Please excuse Mr. Shelley from this trial.

16 THE CLERK: You're excused from this trial, Mr. Shelley.

17 Thank you. Number 289, Mark O. Smith.

18 (Whereupon, a white male comes forward.)

19 THE CLERK: What say the State?

20 MR. CLEMENTS: Please present Mr. Smith.

21 THE CLERK: What say the defense?

22 MR. DEBERRY: Please strike Mr. Smith from this trial.

23 THE CLERK: You're excused from this trial, Mr. Smith.

24 Thank you. Number 31, Rosetta D. Brooks.

25 (Whereupon, a black female comes forward.)

1 THE CLERK: What say the State?

2 MR. CLEMENTS: Please present Ms. Brooks.

3 THE CLERK: What say the defense?

4 MR. DEBERRY: Please seat Ms. Brooks.

5 THE CLERK: Ms. Brooks, if you'll have a seat in the jury

6 box. Number 343, Shalice Wilson.

7 (Whereupon, a black female comes forward.)

8 THE CLERK: What say the State?

9 MR. CLEMENTS: Please present Ms. Wilson.

10 THE CLERK: What say the defense?

11 MR. DEBERRY: Please excuse Ms. Wilson from this trial.

12 THE CLERK: You're excused from this trial, Ms. Wilson.

13 Thank you. Number 263, Thomas C. Rogers Jr.

14 (Whereupon, a white male comes forward.)

15 THE CLERK: What say the State?

16 MR. CLEMENTS: Please present Mr. Rogers.

17 THE CLERK: What say the defense?

18 MR. DEBERRY: Please excuse Mr. Rogers from this trial.

19 THE CLERK: Thank you, Mr. Rogers. You're excused.

20 Number 132, Crystal L. Godbolt.

21 (Whereupon, a black female comes forward.)

22 THE CLERK: What say the State?

23 MR. CLEMENTS: Please excuse Ms. Godbolt from the trial

24 of this case only.

25 THE CLERK: Thank you, Ms. Godbolt. Number 163, Henry

1 Johnson.

2 (Whereupon, a black male comes forward.)

3 THE CLERK: What say the State?

4 MR. CLEMENTS: Please present Mr. Johnson.

5 THE CLERK: What say the defense?

6 MR. DEBERRY: Please excuse Mr. Johnson from this trial.

7 THE CLERK: Thank you, Mr. Johnson. You're excused from
8 this trial. Number 323, Rosa Ann Weaver.

9 (Whereupon, a black female comes forward.)

10 THE CLERK: What say the State?

11 MR. CLEMENTS: Please present Ms. Weaver.

12 THE CLERK: What say the defense?

13 MR. DEBERRY: Please seat Ms. Weaver.

14 THE CLERK: You may have a seat in the jury box, Ms.
15 Weaver. Thank you. Number 258, Russell L. Rodes.

16 (Whereupon, a white male comes forward.)

17 THE CLERK: What say the State?

18 MR. CLEMENTS: Please present Mr. Rodes.

19 THE CLERK: What say the defense?

20 MR. DEBERRY: Please seat Mr. Rodes.

21 THE CLERK: Mr. Rodes, you may have a seat in the jury
22 box. Thank you. Number 6, Johnny C. Anderson.

23 (Whereupon, a white male comes forward.)

24 THE CLERK: What say the State?

25 MR. CLEMENTS: Please present Mr. Anderson.

1 THE CLERK: What say the defense?

2 MR. DEBERRY: Please excuse Mr. Anderson from this trial.

3 THE CLERK: You're excused from this trial, Mr. Anderson.

4 Thank you. Number 201, Lindsey C. McElveen.

5 (Whereupon, a white female comes forward.)

6 THE CLERK: What say the State?

7 MR. CLEMENTS: Please present Ms. McElveen.

8 THE CLERK: What say the defense?

9 MR. DEBERRY: Please excuse Ms. McElveen from this trial.

10 THE CLERK: Thank you, ma'am. Number 95, Reginald Doyle

11 Jr.

12 (Whereupon, a white male comes forward.)

13 THE CLERK: What say the State?

14 MR. CLEMENTS: Please present Mr. Doyle.

15 THE CLERK: What say the defense?

16 MR. DEBERRY: Please seat Mr. Doyle.

17 THE CLERK: Mr. Doyle, have a seat in the jury box, sir.

18 Number 110, Deloris M. Fore.

19 (Whereupon, a black female comes forward.)

20 THE CLERK: What say the State?

21 MR. CLEMENTS: Please present Ms. Fore.

22 THE CLERK: What say the defense?

23 MR. DEBERRY: Please excuse Ms. Doyle -- Ms. Fore from

24 this trial.

25 THE CLERK: Thank you, ma'am. Number 181, Pecolia

1 Legette.

2 (Whereupon, a black female comes forward.)

3 THE CLERK: What say the State?

4 MR. CLEMENTS: Please present Ms. Legette.

5 THE CLERK: What say the defense?

6 MR. DEBERRY: Please seat Ms. Legette.

7 THE CLERK: You may have a seat in the jury box, Ms.

8 Legette. Thank you. Number 197, Patricia A. McCollough.

9 (Whereupon, a black female comes forward.)

10 THE CLERK: What say the State?

11 MR. CLEMENTS: Please excuse Ms. McCollough from the
12 trial of this case only.

13 THE CLERK: Thank you, ma'am. Number 176, Gloria T.
14 Larrimore.

15 THE COURT: Hold on. I'm sorry. Go ahead.

16 (Whereupon, a white female comes forward.)

17 THE CLERK: What say the State?

18 MR. CLEMENTS: Please present Ms. Larrimore.

19 THE CLERK: What say the defense?

20 MR. DEBERRY: Please excuse Ms. Larrimore from this
21 trial.

22 THE CLERK: Thank you, ma'am. Number 205, Lisa T.
23 Meares.

24 (Whereupon, a white female comes forward.)

25 THE CLERK: What say the State?

1 MR. CLEMENTS: Please present Ms. Meares.

2 THE CLERK: What say the defense?

3 MR. DEBERRY: Please excuse Ms. Meares from this trial
4 only.

5 THE CLERK: Thank you, Ms. Meares. Number 44, Marilyn W.
6 Calloway.

7 (Whereupon, a black female comes forward.)

8 THE CLERK: What say the State?

9 MR. CLEMENTS: Please present Ms. Calloway.

10 THE CLERK: What say the defense?

11 MR. DEBERRY: Please excuse Ms. Calloway from this trial
12 only.

13 THE CLERK: You're excused from this trial, Ms. Calloway.
14 Number 321, Kenneth G. Watson.

15 (Whereupon, a white male comes forward.)

16 THE CLERK: What say the State?

17 MR. CLEMENTS: Please present Mr. Watson.

18 THE CLERK: What say the defense?

19 MR. DEBERRY: Please excuse Mr. Watson from this trial.

20 THE CLERK: Thank you, Mr. Watson. You're excused from
21 this trial. Number 272, Zerrina L. Rowell.

22 (Whereupon, a black female comes forward.)

23 THE CLERK: What say the State?

24 MR. CLEMENTS: Please excuse Ms. Rowell from the trial of
25 this case.

1 THE CLERK: Thank you, Ms. Rowell. Number 77, James M.
2 Cullipher.

3 (Whereupon, a white male comes forward.)

4 THE CLERK: What say the State?

5 MR. CLEMENTS: Please present Mr. Cullipher.

6 THE CLERK: What say the defense?

7 MR. DEBERRY: Please seat Mr. Cullipher.

8 THE CLERK: Mr. Cullipher, you may have a seat in the
9 witness box. Thank you. I mean in the jury box. Number 114,
10 Gregory J. Foxworth.

11 (Whereupon, a black male comes forward.)

12 THE CLERK: What say the State?

13 MR. CLEMENTS: Please excuse Mr. Foxworth from the trial
14 of this case only.

15 THE CLERK: Thank you, Mr. Foxworth. Number 189, Lynn E.
16 MacGillivray.

17 (Whereupon, a white female comes forward.)

18 THE CLERK: What say the State?

19 MR. CLEMENTS: Please present Ms. MacGillivray.

20 THE CLERK: What say the defense?

21 MR. DEBERRY: Please excuse the juror from this trial.

22 THE CLERK: You're excused from this trial. Thank you,
23 ma'am. Number 336, Rachel Williams.

24 (Whereupon, a black female comes forward.)

25 THE CLERK: What say the State?

1 MR. CLEMENTS: Please present Ms. Williams.

2 THE CLERK: What say the defense?

3 MR. DEBERRY: Please seat Ms. Williams.

4 THE CLERK: Ms. Williams, if you'll have a seat in the
5 jury box, please. For our alternates, Number 107, Annette N.
6 Fling.

7 (Whereupon, a Hispanic female comes forward.)

8 THE CLERK: What say the State?

9 MR. CLEMENTS: Please excuse Ms. Fling from the trial of
10 this case only.

11 THE CLERK: Number 337, Tanya D. Williams.

12 (Whereupon, a black female comes forward.)

13 THE CLERK: What say the State?

14 MR. CLEMENTS: Please present Ms. Williams.

15 THE CLERK: What say the defense?

16 MR. DEBERRY: Please seat Ms. Williams.

17 THE CLERK: Ms. Williams, if you will, just have a seat
18 on the bench there, please, ma'am. Number 184, Donna R.
19 Leonard.

20 (Whereupon, a black female comes forward.)

21 THE CLERK: What say the State?

22 MR. CLEMENTS: Please present Ms. Leonard.

23 THE CLERK: What say the defense?

24 MR. DEBERRY: Please excuse Ms. Leonard from this trial.

25 THE CLERK: Ms. Leonard, you're excused from this trial.

1 Thank you. Number 89, Mark P. Deering.

2 (Whereupon, a white male comes forward.)

3 THE CLERK: What say the State?

4 MR. CLEMENTS: Please present Mr. Deering.

5 THE CLERK: What say the defense?

6 MR. DEBERRY: Please seat Mr. Deering.

7 THE CLERK: Mr. Deering, if you will, just have a seat on
8 the bench. Thank you, sir. Thank you.

9 THE COURT: All right. Are there any matters of law that
10 we need to take up with regards to jury selection from the
11 State?

12 MR. CLEMENTS: I beg the Court's indulgence for just a
13 moment.

14 THE COURT: All right.

15 (Whereupon, there is a pause in the proceedings.)

16 THE COURT: Yes, sir?

17 MR. CLEMENTS: Nothing from the State, Your Honor.

18 THE COURT: Thank you. Any matters of law that we need
19 to take up with regards to jury selection from defense
20 counsel?

21 MR. DEBERRY: Not from us, Your Honor.

22 THE COURT: Mr. Bailey?

23 MR. BAILEY: Nothing.

24 THE COURT: I know you struck jointly, but I wanted to
25 hear from both of you on that issue. Okay? All right. Can

1 the lawyers approach for scheduling purposes, please, real
2 quick? Just come around here.

3 (Whereupon, a bench conference is held in the presence of
4 the jury but out of the hearing of the jury off the
5 record.)

6 THE COURT: All right. Ladies and gentlemen, you all
7 have been selected as fair and impartial jurors in this case.
8 Okay? What we are going to do at this time is I'm going to
9 give you a little bit early break for lunch. There's some
10 additional matters of law that I need to deal with here before
11 we start the trial of this case. Okay?

12 So what I am going to do is I am going to excuse you all
13 -- you all for lunch at this time. I'm going to ask that you
14 be back here at two o'clock -- at two o'clock and we will
15 start the trial of this case as promptly at that time as
16 possible.

17 Now, during your break -- during your break and during
18 the trial of this case, I'm going to instruct you throughout
19 that you are not to discuss this case at all with anyone --
20 with anyone until you are instructed to do so. Do not do any
21 independent investigation on your own. You are to decide this
22 case based solely -- based solely upon the testimony that you
23 hear in this courtroom and any evidence or -- of exhibits that
24 may be introduced during the course of this trial. That's
25 what you're to decide this case based upon, not anything else

1 -- not anything else.

2 At this time, I'm going to excuse you for lunch. Please
3 be back up here at two o'clock and we will start the trial of
4 this case. Everybody else remain seated while this jury exits
5 the courtroom.

6 (Whereupon, the jury exits the courtroom at 11:47 a.m.)

7 THE COURT: All right. Those of you jurors that remain
8 in the courtroom, you all were not selected to serve on this
9 particular jury. However, that does not mean that you might
10 not be selected on another jury.

11 What I am going to do at this time is I am going to
12 excuse you all for the balance of today -- for the balance of
13 today. Make sure you call that number back after six o'clock
14 tonight and it will give you instructions as far as what you
15 are to do concerning tomorrow and possibly the remainder of
16 this week.

17 Anything else from the State at this time before I
18 release this panel?

19 MR. CLEMENTS: Nothing at this time, Your Honor.

20 THE COURT: All right. Defense counsel, Mr. Deberry or
21 Mr. Bailey?

22 MR. DEBERRY: No, Your Honor.

23 MR. BAILEY: Nothing, Your Honor.

24 THE COURT: All right. Thank you all for being here
25 today. You all are free to go.

1 (Whereupon, the jury panel exits the courtroom at 11:49
2 a.m.)

3 (Whereupon, there is a break in the proceedings from
4 11:53 a.m. until 12:05 p.m.)

5 THE COURT: All right. It's my understanding that Mr.
6 Bailey has some pre-trial motions. I'd be happy to hear from
7 you, Mr. Bailey, as it relates to your client, Mr. Smith.

8 MR. BAILEY: Thank you, Your Honor. May it please the
9 Court.

10 Judge, the first issue that I need to address deals with
11 a request for a continuance of this trial. Judge, one of the
12 witnesses that is going to be called to testify for the State
13 is named Jamie Williams. He's named in the indictment that
14 you noticed earlier. Judge, it's my understanding that the
15 Sheriff's Department along with Mr. Street and Mr. Clements's
16 office interviewed Jamie Williams last week. It looks like it
17 was on July the 30th.

18 Mr. Williams has made a number of statements that
19 implicate Blaton Smith in this case. Judge, I received a copy
20 of the typed transcript of the interview that was conducted of
21 Jamie Williams. I got a copy of this Monday when we were here
22 for jury qualification. I've had to look over the interview
23 and I've had the opportunity to look over the interview and,
24 Judge, there's a lot of issues that have been raised in this
25 interview that have not been raised previously.

1 I will inform the Court that Mr. Williams has provided I
2 think two previous statements closely -- more closely related
3 to when he was arrested, which were very short and non-
4 informative. However, Your Honor, this case or this interview
5 that he gave last week -- I mean it brought out -- it brings
6 out a tremendous amount of information that I think Mr. Smith
7 and myself should be afforded the opportunity to conduct
8 further investigation. I know there was no discovery
9 scheduling order put in place in this case. We had most of
10 our discovery relatively early on in the process; so it hasn't
11 been an issue.

12 But, Judge, there are issues in here that could possibly
13 weigh on the guilt or innocence of Mr. Smith that I think we
14 should be allowed to investigate and possibly obtain witnesses
15 to bring to trial on our own behalf.

16 THE COURT: All right. Mr. Deberry, you got anything
17 with regards to that?

18 MR. DEBERRY: Your Honor, I would just put on the record
19 that we would join in with Mr. Bailey's motion for all the
20 same reasons.

21 THE COURT: Is there anything pertaining to your client?

22 MR. DEBERRY: Well, it's the same. It -- we have the
23 exact same argument as Mr. Bailey. I mean they -- the -- it
24 implicates both of them.

25 THE COURT: All right. Mr. Clements?

1 MR. CLEMENTS: Your Honor, previously when Jamie Williams
2 spoke to law enforcement, it's just as Mr. Bailey said. It
3 was non-informative and he didn't really wish to cooperate at
4 all. I was -- I knew I couldn't try all three defendants in
5 this courtroom at the same time; so I told Mr. Hank Anderson
6 that I planned on trying Shaheed Hayes and Jamie Williams
7 unless his guy decided he was going to cooperate with the
8 State and wished to talk to us.

9 And Mr. Anderson said, well, his feeling was that his man
10 was going to cooperate and did wish to talk with us, but he
11 was going to go see him to make sure, and I told him time was
12 running out and that if he -- if his client did cooperate and
13 testify, then I would be trying Mr. Hayes and Mr. Smith
14 together.

15 So he went to Marion with Mr. Fitzlee McEachin and talked
16 to people at the jail about pleas for this term of court.
17 Then he went and talked to Mr. Williams. He contacted us back
18 and said Mr. Williams talked with him and he did wish to
19 cooperate with the State. No promises were made. No plea
20 negotiations were done. He just said he would cooperate and
21 he would -- he would talk to us.

22 So he talked to Investigator Street in my office and
23 Martin Bell on Wednesday, Your Honor, and --

24 THE COURT: Wednesday of last --

25 MR. CLEMENTS: -- I was tied up --

1 THE COURT: Wednesday of last week?

2 MR. CLEMENTS: Yes, sir. And then I was tied up with
3 some other matters and then I came over here Thursday for
4 grand jury and then Hank said Mr. Williams can go ahead and
5 talk with you without me being present. So I talked with Mr.
6 Williams and Mr. Street, and he compiled some notes. I think
7 Mr. Bailey referred to it as a transcript. I want to clear
8 that up for the record. It is not a transcript. It was
9 basically notes that Mr. Street took that he typed up and I
10 have them right here, Your Honor. They are three pages of
11 notes; so you can look at them. I'd like to pass them up to
12 the Court if I may approach the bench.

13 THE COURT: Yes, sir.

14 MR. CLEMENTS: Your Honor, I talked to Mr. Bailey when I
15 was moving my son to Charleston on Friday -- I think it was
16 late Friday -- and told him basically what was in those notes
17 and that we would be getting them to him and to Mr. Deberry.
18 There is nothing contrary to what has been given in a previous
19 statement to my knowledge. To my understanding, it has been
20 given in a previous statement by the co-defendant, Mr. Bethea,
21 other than things about Jamie personally about how he felt
22 about things, about he came to know Adrian Smith, and some
23 other issues that -- that are related to how this all broke
24 out and occurred and happened in the first place.

25 And we've been communicating those theories to -- to the

1 defense the whole time. You know, I have made no -- no effort
2 to hide what my theory of the case is. And what Mr. Williams
3 has told us has corroborated what we felt was the theory of
4 the case. And so there's nothing of any new information and
5 nothing that would -- I think would require any further
6 investigation or any continuance.

7 Mr. Bailey had asked Mr. Anderson if he could interview
8 Mr. Anderson's client, and I don't think that ever took place,
9 but I did interview him and Mr. Street interviewed him and the
10 notes we took we presented to Mr. Deberry and Mr. Bailey
11 Monday. I don't think there's any grounds for a continuance
12 whatsoever.

13 THE COURT: Anything else, Mr. Bailey?

14 MR. BAILEY: Your Honor, we -- I mean in regards to the
15 continuance, no, sir. Your Honor, we just think that --

16 THE COURT: Well, let me ask you this.

17 MR. BAILEY: Sure.

18 THE COURT: Mr. Clements didn't hit on it, but let me ask
19 you this. I mean this is the Court looking at Rule 5 in the
20 Rules of Criminal Procedure under Rule 5(a)(2), which says
21 information not subject to disclosure. Statements made by
22 prosecution witness or prospective prosecution witness, if
23 provided that after prosecution witness has testified on
24 direct examination, the Court shall on motion of the defendant
25 order the prosecution to produce any statement of the witness

1 in the possession of the prosecution which relates to the
2 subject matter as to which the witness has testified.

3 My point is the rule provides that he doesn't even have
4 to give it to you until after that witness testifies. Okay?
5 And tell me how he has violated the rule, so to speak, if at
6 all, or how this particular situation doesn't apply to the
7 rules.

8 MR. BAILEY: Well, Your Honor -- and my rule book is in
9 my briefcase, but I think Rule 5 also provides that the State
10 has to provide me with a copy of any statements made by my
11 client.

12 THE COURT: Well --

13 MR. BAILEY: And, Your Honor, they're --

14 THE COURT: -- we're not talking about a statement made
15 by your client.

16 MR. BAILEY: Well, no, Your Honor. That -- there are
17 statements in this interview by Jamie Williams that are
18 attributed to my client.

19 THE COURT: That's different. The Court views that as
20 different. I understand where you're coming from, but the
21 Court views that as different and not -- this is a prosecution
22 witness and the rules -- according to this Court's reading of
23 those rules, the prosecution doesn't even have to give them to
24 you until after that witness testifies. And I'm just trying
25 to find where the difference may be and I think you hit on

1 what you think it may be. This Court views the reading of
2 those rules different than you do and different than defense
3 counsel does here.

4 I'm not saying I'm right, but that's the way that the
5 Court rules -- that's the way that the Court reads the rule
6 and, therefore, I am going to respectfully deny your motion
7 for a continuance on that issue. Mr. Clements?

8 MR. CLEMENTS: Your Honor, just for the record, if I
9 might state that I believe that Mr. Bailey is referring to
10 Rule 5(a)(1)(a), statement of the defendant.

11 THE COURT: Correct.

12 MR. CLEMENTS: And it says any oral statement which the
13 prosecution intends to offer into evidence at the trial made
14 by the defendant whether before or after arrest in response to
15 interrogation by any person then known to the defendant to be
16 a prosecution agent.

17 None of these statements that were attributed to Mr.
18 Blaton Smith are a response to any interrogation made by Jamie
19 Williams. And certainly, Jamie Williams would not be known to
20 Mr. Blaton Smith as an agent for the prosecution. Now, he was
21 a co-conspirator and a co-defendant; so we don't think that it
22 applies -- that particular part of the rules applies because
23 it wasn't in response to any interrogation by a prosecution
24 agent.

25 THE COURT: All right. Well, I understand your argument

1 as well and I've hit on what the Court is basing its ruling
2 on. I certainly respect what Mr. Bailey has argued on behalf
3 of his client, but that is my ruling. The Court is denying
4 the motion for a continuance based upon Rule 5(a)(2) and
5 that's the ruling.

6 Now, anything else at this time, Mr. Bailey?

7 MR. BAILEY: Court's indulgence for one moment, Your
8 Honor.

9 THE COURT: All right.

10 (Whereupon, the defendant Smith and counsel confer.)

11 MR. BAILEY: Your Honor, the next issue that we need to
12 bring to the Court's attention is after having opportunities
13 to meet with my client leading up to trial and particularly
14 this morning, Judge, I think it was evidence between Mr. Smith
15 and myself that there has been a fundamental breakdown in the
16 attorney/client relationship. Mr. Smith has requested of me
17 as his attorney to request the Court to allow him to have new
18 counsel appointed and me be relieved as his attorney.

19 THE COURT: How many times have you met with him, Mr.
20 Bailey?

21 MR. BAILEY: Judge, over about a two-and-a-half-year
22 period, probably --

23 THE COURT: And I'm not going to hold you to the number.
24 I'm just --

25 MR. BAILEY: You know, six to ten, somewhere in that ball

1 park.

2 THE COURT: Okay.

3 MR. BAILEY: That includes going out to the jail and
4 having him brought to court. I know he was brought over to
5 court, you know, a handful of times to meet with me.

6 THE COURT: Have you had any problems communicating with
7 him?

8 MR. BAILEY: There have been, Your Honor.

9 THE COURT: I mean as far as you communicating with him
10 what I mean is any problem that you perceive in him
11 understanding what you're telling him? He doesn't have to
12 like what you tell him.

13 MR. BAILEY: No, Your Honor. I mean there's no
14 competency issue or --

15 THE COURT: Okay.

16 MR. BAILEY: -- him not understanding what I'm conveying.
17 I do believe that there is a problem between him and I on the
18 procedure of the case and what to present in court, and I
19 believe he feels that he's not going to get a fair trial by me
20 based upon my opinion of the evidence.

21 THE COURT: All right. Well, let me hear from -- thank
22 you, Mr. Bailey. Mr. Smith, how about stand up, please, sir?

23 (Whereupon, the defendant Smith complies.)

24 THE COURT: Raise your right hand as much as you can. Do
25 you swear to tell the truth, the whole truth, and nothing but

1 the truth, so help you God?

2 THE DEFENDANT SMITH: Yes, sir.

3 THE COURT: Mr. Bailey, your lawyer, has brought to my
4 attention that it is your desire to have him relieved as your
5 counsel. Is that correct?

6 THE DEFENDANT SMITH: Yes, sir.

7 THE COURT: Can you tell me why?

8 THE DEFENDANT SMITH: Because I feel like my case ain't
9 in his best interest, sir.

10 THE COURT: What has he done or failed to do that you
11 think he should have done?

12 THE DEFENDANT SMITH: Well, he -- he don't -- I just feel
13 like he don't represent me to his full ability, like, and at
14 one of my bond hearings I felt like he ain't represent me to
15 his full ability then, like. He just basically don't provide
16 enough information to convince me that he is -- my case is in
17 his interest -- his best interest.

18 THE COURT: What do you mean he doesn't provide you with
19 enough information?

20 THE DEFENDANT SMITH: Like, as in working on it. He
21 don't try to perform no strategy or, like, how he going to
22 attack -- how he going to attack the witnesses and the jury
23 and it's just -- it's just a whole lot, sir, and I just feel
24 like -- I just don't feel I will get a fair trial with him.
25 There's a whole lot going on, but I just can't explain it

1 because this is --

2 THE COURT: Well, I mean for me to make a decision and
3 relieve him as your counsel, you've got to explain it on the
4 record for me for me to make an informed decision here.

5 THE DEFENDANT SMITH: Well, I just feel like this case
6 ain't in his best interest, sir.

7 THE COURT: All right. Anything else you --

8 THE DEFENDANT SMITH: I can't --

9 THE COURT: -- want to tell me?

10 THE DEFENDANT SMITH: -- because I might -- might go to
11 trial and Clements -- he might could use it against me. I
12 ain't going to give him nothing to use against me; so I ain't
13 going to say exactly why my reasons for it.

14 THE COURT: I mean you could say some stuff on the record
15 here that could possibly be used against you.

16 THE DEFENDANT SMITH: That's why I don't want to.

17 THE COURT: And that's what you got a lawyer for.

18 THE DEFENDANT SMITH: That's why I don't want to say
19 right now the reason why I don't feel like my case is not in
20 his best interest.

21 THE COURT: All right. Anything else?

22 THE DEFENDANT SMITH: No, sir.

23 THE COURT: Mr. Clements, any -- you may be seated, Mr.
24 Smith. Anything in response, Mr. Clements?

25 MR. CLEMENTS: Your Honor, we're ready to go. Mr.

1 Bailey, as far as I know, has filed every motion he can file.
2 I've been open about discovery. He's free to go through my
3 file if he wants to before we start. He knows that I haven't
4 hidden anything from him. He appears to be well prepared to
5 me. I don't see what the problem is. The fact that, you
6 know, there might be things that I relate and say that I have
7 evidentiary and what I'm going to do I conveyed to Mr. Bailey
8 and I imagine that he conveys that to Mr. Smith and Mr. Smith
9 doesn't like hearing it. That's what I think the problem is.

10 I think he's got a good attorney and he sure seems to be
11 prepared to me. He challenges me, which a lot of attorneys
12 don't, and we're ready to go forward and I think a continuance
13 or granting another attorney at this time would just delay
14 justice and be a travesty of justice for the other defendants
15 in this case that are involved and also to the victims in this
16 case that all need closure.

17 Mr. Smith was to be given a bond if we didn't try him
18 this week and I think he's just trying to delay this procedure
19 and get out on bond and skedaddle or whatever -- whatever he
20 thinks he can do to get away. I just think he's just trying
21 to put this off.

22 THE COURT: All right. Anything else, Mr. Bailey?

23 MR. BAILEY: Nothing further, Your Honor.

24 THE COURT: All right. How -- let me ask you this, Mr.
25 Bailey. How long have you represented him? Since he was

1 arrested on the charge? Sometime close thereafter?

2 MR. BAILEY: Don't hold me to it, Judge, but I'm sure I
3 got appointed back somewhere towards the -- he was arrested
4 around April the 30th of 2012. I was probably appointed a
5 handful of months after that. I've been his only attorney in
6 this case, Judge.

7 THE COURT: All right. Based upon what I've heard here
8 today, I want to note for the record that Mr. Bailey has
9 represented this defendant for approximately two years, give
10 or take a month or so, but he has been the only attorney for
11 Mr. Smith over the course of the time that he has been
12 incarcerated on this particular charge -- on these charges.
13 During this period of time he's been incarcerated -- Mr. Smith
14 has been incarcerated, there have been no prior motions by
15 this defendant, nor Mr. -- Mr. Bailey, to be relieved as
16 counsel in this case.

17 While Mr. Bailey certainly brought it to the Court's
18 attention this morning prior to jury selection, the jury panel
19 was already in the courtroom and I told him we were going to
20 select a jury before rather than run approximately 90 jurors
21 out of here to hear this motion. That I was going to -- we
22 were going to select a jury this morning and then I would take
23 up these motions.

24 The only thing -- the only thing that Mr. Smith has
25 conveyed to this Court after having inquired of Mr. Smith is

1 that he essentially does not like Mr. Bailey's trial strategy.
2 While he may or may not like Mr. Bailey's trial strategy, it's
3 up to Mr. Bailey to determine what the trial strategy is going
4 to be as his lawyer.

5 Mr. Smith certainly has a right to counsel and he has had
6 counsel in this case for approximately two years, and the
7 untimeliness without specificity as to why Mr. Bailey should
8 be relieved, the Court is going to deny his motion to relieve
9 Mr. Bailey as his counsel. Whether Mr. Smith cooperates with
10 Mr. Bailey is up to him entirely. It is up to him entirely.
11 If he chooses not to, that is his choice, but I am -- the
12 Court is respectfully denying the motion to be relieved at
13 this time.

14 All right. It's my understanding and Mr. Deberry brought
15 this to my attention back in chambers as well about his
16 concern about his client receiving a fair trial. I told him
17 I'd give him an opportunity to put whatever he so desired on
18 the record after we selected a jury in this case as well for
19 me to make a decision on that issue.

20 MR. DEBERRY: Thank you, Your Honor. I have spoken with
21 my client and I would make a motion for a severance. Your
22 Honor, at this point in time, my client has made a decision
23 and I told him that it could go either way, you know, that it
24 could -- it could be a help to him to go to trial with this
25 co-defendant or it could be a hindrance to his case, and

1 there's just no way of knowing.

2 So we've decided to stay on the case, Your Honor, and not
3 to make a motion for severance at this time, although I am
4 requesting that the Court -- if the Court would give a jury
5 instruction that just says that our cases are totally
6 independent of each other and that --

7 THE COURT: When I charge -- I'm sorry. Go ahead. I'm
8 sorry.

9 MR. DEBERRY: Well, I just would say even though we're --
10 they're indicted together and they're charged together in the
11 same crime, that they are individuals and that -- you know,
12 just something that clears that up for the jury. I know they
13 saw us pick the jury together. That just made the most
14 logical sense to us as far as the way the striking process
15 went and so forth, but, you know, that we do have individual
16 cases and --

17 THE COURT: All right.

18 MR. DEBERRY: -- that sort of thing, and I just want that
19 to be clear to them.

20 THE COURT: Absolutely. And in my final charge -- in my
21 final -- in my charge on the law to this jury, this Court on
22 more than one occasion actually clarifies that to the jury.
23 That even though they are charged with the same charges, that
24 the State has to prove beyond a reasonable doubt the charges
25 as it applies to each of these defendants -- as to each of

1 them. That they can find one of them guilty and find the
2 other not guilty and vice versa. Okay?

3 MR. DEBERRY: Yes, sir.

4 THE COURT: So I will make that abundantly clear for
5 them.

6 MR. DEBERRY: And I would just ask if -- if it's
7 appropriate if the Court could include any demeanor or actions
8 during trial that either one may have made or may not have
9 made --

10 THE COURT: Well --

11 MR. DEBERRY: -- that those are their private actions and
12 not to be held against each other.

13 THE COURT: Well, I understand that and you have brought
14 to my attention back in the chambers that the two of them --
15 Mr. Smith was talking to him out here, which gave you some
16 concern. And certainly I will instruct both of them that
17 you're not to -- that you communicate with your lawyer, but
18 you're not to communicate with each other while you're in the
19 courtroom here.

20 All right. Anything else?

21 MR. DEBERRY: No, Your Honor.

22 THE COURT: Mr. Bailey?

23 MR. BAILEY: Nothing at this time, Your Honor.

24 THE COURT: Anything further, Mr. Clements?

25 MR. CLEMENTS: No, Your Honor.

1 THE COURT: All right. We're going to stand down. We
2 will resume -- we will start at two o'clock with the trial of
3 this case. We will start at two o'clock. Mr. Clements, let
4 me hand this back to you, please, sir.

5 MR. CLEMENTS: Thank you, Your Honor.

6 THE COURT: All right.

7 (Whereupon, there is a break in the proceedings from
8 12:29 p.m. until 2:01 p.m.)

9 THE COURT: All right. Is the State ready to proceed?

10 MR. CLEMENTS: We are ready, Your Honor. We have to --
11 right before the jury comes out, we have two things we'd like
12 to put on the record.

13 THE COURT: All right.

14 MR. CLEMENTS: Mr. Bailey asked me and I want to be sure
15 we have an understanding of exactly what this is. First is he
16 wanted to move to sequester. I told him I didn't have any
17 problem with sequestration even though I thought the only ones
18 it really -- he was concerned about are separated from each
19 other and incarcerated right now, but he wants to sequester
20 all of them. I have no problem with that as long as any
21 potential defense attorney -- defense witnesses are
22 sequestered, but I don't know that there is any. That's
23 number one.

24 Number two is we would stipulate about -- he was worried
25 that I was going to bring in gang activity, that this was some

1 kind of gang thing. And I want to assure the Court and Mr.
2 Bailey that I'm not going to bring up anything about gangs as
3 far as Bloods and Crips or anything else. They've got a
4 little gang, but it's not a gang. It's a little family group
5 out of Latta, but we're not calling that a gang. We don't
6 intend on calling that a gang. So we're not bringing up
7 Bloods, Crips, Folk Nation, any of that stuff.

8 THE COURT: All right. Mr. Bailey?

9 MR. BAILEY: Your Honor, that is my understanding of our
10 stipulation that there be no reference to any type of gang or
11 gang activity outside of those parameters.

12 THE COURT: All right. Anything else? Anything, Mr.
13 Deberry?

14 MR. DEBERRY: No, sir.

15 MR. CLEMENTS: Your Honor, I think we have some witnesses
16 in the court here and they're not victims. The other
17 witnesses we have in our court right now is -- he used to be
18 the investigator. Now, he's defected to Darlington Police.
19 SRO Charlie Watson and Lt. Eddie Sawyer and Greg Pike. Greg
20 Pike is going to be my first witness. So I'd ask the other
21 two, Your Honor, to step outside pursuant to the
22 sequestration. But, Your Honor, I think my victims have a
23 right to be here.

24 THE COURT: Any objection to that?

25 MR. BAILEY: Your Honor, under the Victims' Rights bill,

1 I think they have a right to be here.

2 THE COURT: All right. I just wanted to give you an
3 opportunity to put on the record whatever you so desired on
4 that issue. All right. I think they certainly have a right
5 to be in here. All right. The others will exit the
6 courtroom.

7 (Whereupon, the witnesses comply.)

8 THE COURT: All right. Madam Clerk, the jurors who were
9 late, you can bring them in. There are a couple of -- a few
10 jurors who were late who were not back here when I asked them
11 to be back here this morning.

12 MR. CLEMENTS: Yes, sir.

13 THE COURT: I'm going to bring them in here and they're
14 going to sit this afternoon and watch the trial of this case.

15 MR. CLEMENTS: Yes, sir. I just need to get Mr. Deberry
16 and Mr. Bailey -- do y'all have any objection to the diagram
17 of the trailer not to scale? I've got it upside down. And
18 this is just a portion of the map showing 501 North. They've
19 been marked State's 41 and 42.

20 (Whereupon, counsel confer regarding exhibits.)

21 MR. CLEMENTS: Your Honor, the State is ready to proceed.

22 MR. BAILEY: May we approach just briefly, Judge?

23 THE COURT: Yes, sir.

24 MR. CLEMENTS: Your Honor, also I didn't see -- Mr.
25 Reggie Hotaling is also on my witness list, but I am not going

1 to call him.

2 THE COURT: Okay.

3 MR. CLEMENTS: And Investigator Bell is my chief lead
4 investigator; so, Your Honor, I think he has the right to be
5 in the courtroom as well.

6 THE COURT: I'll allow him to remain. Yes, sir, come up.

7 (Whereupon, a bench conference is held off the record.)

8 THE COURT: All right. Anything else before I bring the
9 jury out?

10 MR. CLEMENTS: I don't have anything else, Your Honor.

11 THE COURT: Mr. Bailey?

12 MR. BAILEY: No, sir.

13 THE COURT: Mr. Deberry?

14 MR. DEBERRY: No, Your Honor.

15 THE COURT: All right. If you'll bring me the jury,
16 please. I'm going to have the two alternates sit in the
17 farthest two seats over here in the jury box and the regular
18 jurors seated in the remaining ten and these two red chairs
19 seated in the front.

20 MR. CLEMENTS: Thank you, Your Honor.

21 (Whereupon, the alternate jurors enter the courtroom at
22 2:06 p.m.)

23 THE COURT: Mr. Mark Deering and Ms. Tanya Williams?

24 JUROR DEERING: Yes, sir.

25 THE COURT: Mr. Deering, you and Ms. Williams will sit in

1 one of the two final chairs in the jury box back there.

2 JUROR DEERING: Okay.

3 THE COURT: In front and back. One of you sit in the
4 front on the front chair and one of you sit in the back chair.
5 Okay?

6 JUROR DEERING: Yes, sir.

7 THE COURT: Thank you. You two -- you don't have to
8 specifically sit in that chair, Mr. Deering, and you don't
9 specifically have to sit in that chair, Ms. Williams, but it
10 needs to be one of those two chairs. Okay? If Mr. Deering
11 wants to sit behind you or you want to stay there during the
12 course of this trial, but you two -- those are y'all's two
13 seats. Okay? Can you bring everybody else in the courtroom,
14 please, sir?

15 (Whereupon, the remainder of the jury enters the
16 courtroom.)

17 THE COURT: You all can be seated. As you come in,
18 please be seated.

19 All right. For the record, please make sure it's noted
20 that all jurors that have been selected for this case are
21 seated in the jury box along with the two alternates. Madam
22 Clerk, I will at this time recognize you to please swear the
23 jury.

24 THE CLERK: Thank you, sir. Ladies and gentlemen, I'm
25 going to administer the oath to you and when I get through

1 quoting the oath, if you will, say "I will" afterwards and you
2 will be sworn. I need you to stand and raise your right hand,
3 please.

4 You shall well and truly try and a true deliverance make
5 between the State of South Carolina and the prisoner at the
6 bar, whom you shall have in charge, and a true verdict give
7 according to the law and evidence, so help you God.

8 THE JURY: I will.

9 THE CLERK: Thank you. You may be seated.

10 THE COURT: All right. Ladies and gentlemen of the jury,
11 we are about to try the case of the State of South Carolina
12 versus Mr. Blaton W. Smith and Mr. Shaheed Hayes.

13 Before we begin the trial of this case, I want to tell
14 you that this trial probably will be different from what you
15 might expect. Many people do not have the chance to attend
16 actual court sessions as you are doing now and may think from
17 watching television or movies or reading books that trials are
18 always full of high drama, intense action, and riveting
19 circumstances.

20 Now, while all of these things may be true at times, this
21 trial is not for entertainment. It is a fundamental part of
22 our democracy, a search for the truth in an effort to make
23 sure that justice is done between the parties before the
24 Court. Searching for the truth and making sure that justice
25 is done is often slow, deliberate, and repetitive, the

1 opposite of what you may have seen on television or in movies
2 or read in books.

3 This courtroom is a place of honor dedicated to the
4 protection and preservation of citizens' rights through what
5 many have called the greatest justice system ever created.
6 The attorneys appearing before you are advocates for the
7 parties that they represent, but first and foremost, they are
8 officers of the court sworn to uphold the integrity and
9 fairness of our judicial system and to help you in the search
10 for the truth. You should expect them to be professional,
11 competent, and ethical in the representation of their clients'
12 interest.

13 Now, what I will now say is intended to serve as an
14 introduction to the trial of this case. These remarks are not
15 a charge on the law in this case. I will instruct you on the
16 law applicable to this case at the end of the trial before you
17 retire to consider your verdict. This is merely an
18 explanation of the procedure that we will follow in the trial
19 of this case so that you may better understand what may be
20 happening.

21 The defendants, ladies and gentlemen, in this case are
22 charged by an indictment filed in this court with the crimes
23 of murder, discharging a firearm into a dwelling, possession
24 of a weapon during the commission of a violent crime, and four
25 counts of attempted murder, the elements of which will be

1 explained to you later. The indictment as I told you earlier,
2 ladies and gentlemen, is simply the charging document by which
3 this case is brought into this court and it is not in any
4 sense evidence of any of the allegations that it contains.

5 The defendants, ladies and gentlemen, have pled not
6 guilty to the indictment. The State, therefore, has the
7 burden of proving each of the elements of the indictment
8 beyond a reasonable doubt, and it will be your duty to decide
9 whether the State has met that burden.

10 Your purpose as jurors is to find and determine the
11 facts. You are the sole judges of the facts. If at any time
12 I make any comment regarding the facts, you must disregard it.
13 You are to determine the facts from the testimony you hear and
14 the other evidence introduced into court -- in court. It is
15 up to you to determine the inferences which you feel may
16 properly be drawn from the evidence. It is especially
17 important that you perform your duty of determining the facts
18 diligently and conscientiously because ordinarily there is no
19 way to correct an erroneous determination of the facts by a
20 jury.

21 On the other hand and with equal emphasis, the same law
22 that makes you the judge of the facts makes me the judge of
23 the law. The law as given by the Court is the only law that
24 you may consider. You must accept and follow it, even though
25 you may disagree with it. I cannot tell you all what the

1 facts are and you cannot disagree with me about what the law
2 is or should be.

3 Your job is to take the law as I give it to you and apply
4 it to the facts as you find them from the testimony of the
5 witnesses and any other evidence that is introduced. After
6 doing that, you will render your verdict, a true and just
7 verdict, under the solemn oath that you just took as jurors.

8 Now, until I tell you to begin your deliberations, you
9 must not discuss this case with anyone, including your fellow
10 jurors, friends, family members, and anyone involved in the
11 case. The attorneys and parties in this case have been
12 advised that they are not to talk to you at all. So if you
13 see anyone involved in the case and they do not speak to you
14 or say hello, they are not being unfriendly; they are simply
15 following this Court's instructions.

16 Now, during your deliberations, you may only -- you may
17 only discuss the case in the jury room with your fellow jurors
18 because they have seen and heard the same evidence that you
19 have. However, you must not discuss the case with anyone
20 other than your fellow jurors until you have returned a
21 verdict and the case is at the end.

22 I remind you that you must decide this case based solely
23 on the evidence presented here in this courtroom. This means
24 that during the trial, you must not conduct any independent
25 research about the case, the facts of the case, the evidence

1 presented in the case or the people or organizations involved
2 in any way in the case.

3 Please do not try to find out information from any source
4 outside of this courtroom. In other words, you must not look
5 at dictionaries or other reference materials, search the
6 internet, websites or blogs, or use any other electronic tools
7 to get information about this case to help you decide the
8 case. You may not use computers, telephones, cell phones,
9 smart phones, tablets, the internet or other tools of
10 technology with communication capabilities at any time while
11 you are in the courtroom or during your deliberations.

12 During your breaks for meals or overnight, if necessary,
13 you may use these devices. However, you must not use these
14 devices to communicate with anyone about the case until the
15 case is over. This means you must not use phone calls,
16 emails, texts, instant messages, Twitter, or any blog, chat
17 room or website, including Facebook, Google Plus, Myspace,
18 Linked, YouTube, or any social media websites to send or
19 receive information about this case. This includes
20 information about a party, a witness, an attorney or a court
21 officer, news accounts about this case, research on topics
22 raised, any topic you may think would be helpful in deciding
23 the case, or any testimony presented by any witness.

24 During the trial, do not read, listen to, or watch any
25 news reports about the case. This includes anything that may

1 be in the newspapers or on the internet, radio, or television.
2 You must not consider anything that you may have read or heard
3 about the case outside the courtroom, whether before or during
4 the trial. Information on television, radio, the internet, or
5 from other sources might be wrong or incomplete.

6 In our judicial system, it is important that you are not
7 influenced by anything or anyone outside of this courtroom.
8 If you become aware of another juror's violation of these
9 instructions, please inform me immediately.

10 It is important, ladies and gentlemen, that you keep an
11 open mind and not decide any issue in the case until all of
12 the evidence has been presented, the parties have made their
13 closing arguments, and I have instructed you on the law in
14 this case. It is your solemn responsibility to determine the
15 guilt or innocence of each of the defendants, and your verdict
16 must be based solely on the evidence as it is presented to you
17 in this trial and on the law as I instruct you during and at
18 the close of the trial.

19 Now, in just a moment, the solicitor will make what is
20 called an opening statement in which the solicitor will
21 explain to you the issues in this case or at least what he
22 thinks the issues are in this case. The attorneys for the
23 defendants may also make an opening statement, although they
24 are not required to do so.

25 Now, what the attorneys tell you during their opening

1 statements is not evidence in this case. It is only their
2 contention as to what the issues are. The evidence in this
3 case, ladies and gentlemen, will be presented to you by the
4 testimony of sworn witnesses from the witness stand and/or by
5 exhibits that may be introduced into evidence.

6 Now, from time to time during the trial, you may hear one
7 the attorneys say something like, "Your Honor, I believe that
8 we have a question of law or a matter of law to discuss with
9 you," or, "Your Honor, may we approach the bench?" or
10 sometimes I myself might find it necessary to excuse you from
11 the courtroom for a short while so the attorneys and I can
12 discuss a matter of law. The reason for this is because you
13 are the judges of the facts in this case, and sometimes when I
14 am discussing matters of law with the attorneys, it may be
15 necessary for me to make some comment as to the facts in
16 connection with ruling whether or not a particular law
17 applies. I am not supposed to tell you what I think the facts
18 are so I will excuse you from the courtroom while these
19 discussions take place so that in no way will you be
20 influenced by anything that I might say or do in connection
21 with the facts.

22 In determining what the true facts in this case are,
23 ladies and gentlemen, you must decide whether or not the
24 testimony of the witnesses is believable. It will be my
25 responsibility to rule as a matter of law as to whether

1 certain testimony is admissible or not, but once the testimony
2 is admitted, whether or not you believe it is solely for you
3 to determine. Now, in deciding whether to believe a witness,
4 you have the right to consider the interest of any witness,
5 the bias of any witness, the prejudice of any witness, the
6 opportunity for the witness to have seen the matters and
7 things about which the witness may testify, and the way the
8 witness acts on the witness stand.

9 You have the right to consider anything that is in the
10 record that will help you evaluate the testimony of the
11 witnesses. That means that it is your duty to pay close
12 attention to these witnesses, to observe the witnesses, to
13 listen to the witnesses, and to pay close attention to the
14 attorneys and to the Court. Please don't let your thoughts
15 wander, but give strict attention to the testimony in this
16 case so that at the end of all the testimony, after the
17 arguments of counsel and my charge on the law, you will then
18 be in a position to determine what the true facts are and to
19 apply the law to those facts and thus render a true and just
20 verdict.

21 Now, later in this case, ladies and gentlemen, a
22 foreperson will be selected to preside over deliberations in
23 the jury room. It will be the foreperson's added
24 responsibility to preside in the jury room and be the jury's
25 spokesperson here in court. It will also be the foreperson's

1 responsibility to write the verdict, but I will give the
2 foreperson further instructions about that at the conclusion
3 of the case.

4 Now, in order to preserve everyone's rights, I will give
5 the parties an opportunity to object to anything that I have
6 said. Any exception or objection to anything that I have said
7 to the jury by the State?

8 MR. CLEMENTS: No, Your Honor.

9 THE COURT: Mr. Deberry?

10 MR. DEBERRY: No, Your Honor.

11 THE COURT: Mr. Bailey?

12 MR. BAILEY: No, Your Honor.

13 THE COURT: All right. Ladies and gentlemen, we are now
14 going to begin the trial. I will recognize the solicitor for
15 opening statements. You're so recognized.

16 MR. CLEMENTS: Thank you, Your Honor. May it please the
17 Court.

18 THE COURT: Yes, sir.

19 OPENING STATEMENT ON BEHALF OF THE STATE

20 MR. CLEMENTS: Mr. Bailey, Mr. Deberry. Ladies and
21 gentlemen of the jury, on April 12th, 2012, out here on Highway
22 501 North right close to the Dillon County line, a group of
23 young men got together and were hanging out, drinking some
24 beer, playing some cards, and looking at pictures on the --
25 off the computer on the TV screen. And those young men were

1 gathered together in their home that they lived in the trailer
2 of Gavin Graves, and he was one of those young men.

3 Also, there was a young man by the name of Christopher
4 Kollock and a young man by the name of Darrell Antonio Davis
5 and a young man by the name of Derrick -- let me make sure I
6 don't get all my names mixed up -- Derrick Lamont Wilson and
7 one other gentleman by the name of Christopher Drawhorn. They
8 were there chilling out and had some other people that had
9 come and gone that evening.

10 And all of a sudden, they hear a pow, pow. And then they
11 hear a pow, pow, pow, pow, pow, pow, pow, pow, and it turns
12 crazy inside the trailer and bullets are flying and they're
13 coming through the wall and exiting the back wall and hitting
14 things in-between and everybody hits the floor. And they
15 start crawling around, the furniture is turned over, and it is
16 nuts in that trailer for a few seconds.

17 And then when the bullets stop flying and you stop
18 hearing the gunshots, they begin to check to see if everybody
19 is okay. And everybody is fine, they're not hit, except one
20 person, and one of them says Christian has been hit and he's
21 gasping for air. And they check him and he is hit in two
22 places.

23 And you're going to hear from the pathologist on the
24 witness stand that's going to testify as to what exactly his
25 wounds were, but I believe that she's going to tell you that

1 he had a perforated wound to the left arm, which means it went
2 through and through, and he had a penetrating wound in the
3 back shoulder, which means the bullet went in and stayed, and
4 that shot ended the life of Christian Drawhorn. And the
5 pathologist at MUSC took out that projectile from that bullet
6 that killed Christian and submitted it to SLED for testing.

7 And you're going to hear from the young men who were in
8 that trailer when all that chaos was going on and they're
9 going to testify as to what they did after it happened. They
10 called 9-1-1 immediately. Two of them called 9-1-1 and the
11 ambulance came, but Christian's life could not be saved. And
12 then immediately on the scene with the ambulance was also law
13 enforcement came and you're going to hear from Officer Pike
14 and Richardson and Legette, who were out there on patrol, and
15 they all arrived at the scene and secured the scene. And the
16 investigators proceeded there. That included Investigator
17 Martin Bell and Investigator Charlie Watson, and they came and
18 they processed the crime scene and collected what little bit
19 of evidence they could collect.

20 And I want to pause right here and tell you, as the judge
21 has told you, this is real life. This is not Hollywood. This
22 is not TV. This is not CSI. I want you to understand that.
23 You know, this was a drive-by shooting and they collected the
24 evidence that was there and all it was was a few projectiles
25 that were spent and many, many shell casings. There was

1 nobody on the scene with any guns that were used in this
2 murder and attempted murder and discharging a firearm into a
3 dwelling, but they get -- they got a gun there that belonged
4 to Derrick.

5 Derrick gave it to them and they tested that gun at SLED
6 and, as you're going to hear from the investigators, as they
7 investigated and came up with leads that they executed a
8 search warrant and seized another gun and they sent it to SLED
9 and it was tested, but neither of those guns were used. They
10 didn't match any of those shell cases.

11 And so the guns were never found, but they worked and
12 they worked and they worked with Latta Police Department.
13 They discovered what beefs anyone might have had with someone
14 else and they followed those leads and they developed some
15 suspects and they developed the suspects of Willie "Boo Boo"
16 Bethea and Jamie Williams, who you're going to hear from both
17 of them, and also, Blaton Smith and Shaheed Hayes.

18 And you're going to hear testimony that those four
19 gentlemen pulled up on Highway 501 right in front of where
20 Gavin's trailer was and they opened fire, and that Blaton was
21 the driver of the car and he was in control and he was the
22 boss that night as to what was going on. And you're going to
23 hear testimony that Shaheed Hayes was in the back seat on the
24 passenger side and he was shooting out the window and shot
25 that trailer up. And that Willie Bethea was sitting in the

1 front seat passenger side unarmed. And that Jamie Williams
2 was on the back behind the driver and he shot over the top of
3 the car.

4 That's what I believe the evidence is going to be
5 presented by the witnesses that are going to testify before
6 you. And when we present our testimony and we present our
7 exhibits and we present the pictures and the diagrams, we're
8 going to submit it to you and we're going to ask you to weigh
9 the testimony that you hear because, as the judge is going to
10 inform you, he's the judge of the law, but you are the judge
11 of the facts and that you are the persons that will judge the
12 credibility of the people that take this witness stand, and
13 when I say credibility, that just makes a word for
14 believability.

15 And I ask you to judge their demeanor. Watch them and
16 listen carefully to them and weigh what they say, each and
17 every witness from that stand, because these gentlemen, Mr.
18 Smith and Mr. Hayes -- they deserve your full attention as you
19 listen to whatever is presented. And the State of South
20 Carolina also deserves your full attention. This is a serious
21 matter. And Christian Drawhorn's mother and the other victims
22 in this case that were in that trailer -- they deserve your
23 full attention. Weigh the evidence we present and bring back
24 a verdict.

25 I think verdict comes from the Latin term -- it's two

1 terms I believe. I never took Latin, but I've been told this.
2 Veredicto means to speak the truth and to tell the truth.
3 Veredicto is the Latin phrase that we get our word verdict
4 from.

5 And this is a serious, serious matter and we appreciate
6 y'all being here and bringing your common sense, your wisdom,
7 your good judgment, and your insight in listening to all the
8 evidence, all of the evidence, and at the end of all of the
9 evidence to reach a verdict that speaks the truth.

10 And the charges that are before you are murder, the
11 murder of Christian Drawhorn, and I believe when the judge
12 charges you on that law, he's going to tell you that murder is
13 when you take the life of a person with malice aforethought.
14 And malice is an evil intent of the heart and aforethought
15 just means ahead of time.

16 Someone with malice took Christian Drawhorn's life and I
17 would submit to you that the facts you're going to hear from
18 this witness stand, when somebody comes and shoots up a
19 trailer with no reservation, no consideration whatsoever for
20 anyone in that trailer or behind that trailer or in that
21 neighborhood, that that is evidence of malice, and that
22 Christian Drawhorn died because of that malice and that malice
23 is what caused that trigger to be pulled and that bullet to go
24 on its way through that trailer. That's one charge.

25 The other charge is discharging a firearm into a

1 dwelling, and that's real simple. Somebody decides to shoot
2 into a building where someone lives and dwells, and that was
3 done multiple times on that night. I believe it was somewhere
4 right around midnight April 12th -- April 13th, right in that
5 time change, that date change.

6 And then you're also going to have to decide on four
7 counts of attempted murder. There are four people that walked
8 out of that trailer by the grace of God when those bullets
9 finished flying through there, and that each one of those
10 people that it was an attempt to murder them, and you've got
11 to judge that. Attempted murder of Derrick, of Gavin, of
12 Darrell, and of Christopher Kollock.

13 And the last charge is possession of a weapon during the
14 commission of a violent crime, and I believe the judge is
15 going to instruct you on the law that murder is classified as
16 a violent crime. Attempted murder is classified as a violent
17 crime. And if you use a weapon and you have it in your
18 possession while committing those crimes, that you are guilty
19 of possessing a weapon during the commission of a violent
20 crime.

21 Those are your counts that you have to determine, seven
22 of them, and I ask you if you consider the facts on each one
23 of them and reach your unanimous verdict that tells the truth,
24 and I believe that you will find that the State will reach its
25 burden. And what is my burden? My burden is beyond a

1 reasonable doubt. Everybody has heard that at some point in
2 time in civics class or somewhere that beyond a reasonable
3 doubt is the burden of proof that the State has to make on
4 these charges. It's not a fanciful doubt, not a ridiculous
5 doubt, but a reasonable doubt.

6 And until you determine what that verdict is, Mr. Smith
7 and Mr. Hayes are clothed with the presumption of innocence.
8 What that means is they've got, like, a cloak of innocence,
9 like I've got this jacket on that they've got a cloak of
10 innocence that covers them because in our country everybody
11 that's accused is presumed to be innocent until it's proven
12 beyond a reasonable doubt, and that's the way it should be.

13 Right now, they're just accused and I'm getting ready to
14 meet my burden so that you can take those facts and you can
15 take that evidence and you can go back in that jury room and
16 you decide that we have met that burden beyond a reasonable
17 doubt and you will come back with a verdict that speaks the
18 truth, and that verdict is going to be that Blaton Smith and
19 Shaheed Hayes are guilty of murder and they're guilty of
20 discharging a weapon into a dwelling and they're guilty of
21 possessing a weapon during the commission of a violent crime
22 and they're guilty of four counts of attempted murder.

23 And you may say, well, we just heard that Blaton Smith
24 was in control and he was driving. We don't hear him shooting
25 anybody. We didn't hear anybody say that Blaton Smith shot

1 anyone and you're not going to hear that from the evidence we
2 present, but what you are going to hear is that the judge is
3 going to tell you about the law in South Carolina that is
4 called accomplice liability. And another way of saying that
5 that might be more familiar to you is to say that the hand of
6 one is the hand of all. And he's going to tell you what that
7 law means and I submit to you -- and I'm telling you what I
8 think he's going to say.

9 Don't take my word. Take it as the judge tells you, but
10 I believe he's going to tell you that if Mr. Hoefer and I
11 decided we're going to go knock off a liquor store and we go
12 to rob the liquor store and I pull out a gun and shoot the
13 clerk and kill him that I may be guilty of murder, but so is
14 Mr. Hoefer because we did it together and the hand of one is
15 the hand of all.

16 And I submit to you if you drive people up there, provide
17 them guns, and say shoot, let's do it, let's get them, and the
18 people that are with you shoot because you drove them up there
19 and they kill somebody, that you are just as guilty as they
20 are because the hand of one is the hand of all. That, ladies
21 and gentlemen, you're going to decide about Mr. Blaton Smith
22 and I believe you'll decide he's guilty.

23 It's time to move on. It's time for you to hear
24 testimony. I want to thank you for your attention. I want to
25 thank you for your wisdom and I want to thank you for your

1 time. Give the State of South Carolina and Christian
2 Drawhorn's family and Derrick and Gavin and Darrell and Mr.
3 Kollock, who is not here -- give them a fair trial.

4 And also give Blaton Smith a fair trial and Shaheed Hayes
5 a fair trial. If I don't meet my burden, your sworn duty is
6 to find them not guilty, but once you hear the evidence and
7 you hear the testimony, you will understand that burden has
8 been met and you'll speak the truth, which is guilty. Thank
9 you.

10 THE COURT: All right. Mr. Deberry, you're recognized on
11 behalf of your client for opening statements.

12 OPENING STATEMENT ON BEHALF OF DEFENDANT HAYES

13 MR. DEBERRY: Thank you, Your Honor. Mr. Bailey, Mr.
14 Clements. Ladies and gentlemen, first of all, I'd like to
15 just tell you I understand you probably don't want to be here.
16 It's been a long week probably for you already with this jury
17 selection and the process. I know we were here a long time
18 Monday morning.

19 I'll tell you that it's a result of where we live, the
20 fact that we all live in the greatest nation that there ever
21 was. The fact that anybody can be accused of a crime, but
22 everybody who is has their right to their day in court. Okay?
23 And as Mr. Clements said earlier, when you're charged with a
24 crime, you're innocent until you're proven guilty, and I just
25 ask that you keep an open mind.

1 Mr. Clements has already asked you to convict my client.
2 He's already asked you to convict Mr. Smith, but there's been
3 no evidence entered into this record at all so far and it's
4 only speculation as to what evidence will come into this
5 record. And what evidence that does come into this record is
6 the only thing and the only evidence that legally you can use
7 to determine whether or not our clients are guilty or not
8 guilty.

9 Now, just like Solicitor Clements said just before he sat
10 down, he said you'll take a -- you've taken a sworn oath that
11 if he hasn't met his burden at the end of this trial that you
12 have to find the defendants not guilty. And the judge is
13 going to tell you that it doesn't necessarily mean that you
14 find them not guilty. It could mean that you're just not sure
15 that they're guilty. It could mean that you just have a
16 reasonable doubt as to what took place. And if you have a
17 reasonable doubt as to what happened, then you have to find
18 them not guilty. It doesn't mean they're not guilty. It just
19 means that you're not satisfied beyond a reasonable doubt that
20 they are guilty.

21 Now, I want to tell you that just because Mr. Smith and
22 Mr. Hayes appear before you in a joint trial as they are,
23 that's not by their decision. It was called that way by the
24 solicitor and the law says that they can be tried this way,
25 but I'll tell you and I think the judge will tell you later

1 that their cases are totally independent of each other. You
2 can find one guilty of one crime and the other not guilty of
3 another crime. You can find them all not guilty of any crimes
4 or you can find them guilty of all crimes.

5 It's up to you and that's why we live in the greatest
6 nation that there ever was is because we get the opportunity
7 to pick twelve people from the community, twelve common people
8 of our peers, to decide what happened back on the night in
9 question, April 13th, 2012. So that's why why we're here is so
10 important.

11 And the solicitor -- he did ask you for a fair trial for
12 everybody and we're not disputing the fact that Mr. Drawhorn
13 lost his life and that that's a terrible tragedy. We're not
14 disputing that that house got riddled with a whole bunch of
15 bullets. We're not disputing that at all.

16 What is in dispute is who did it and how did it happen.
17 Why did it happen and who was there? Okay? They have their
18 theory, but I suggest to you that the evidence will bring
19 about other theories. Okay? And if any other theory comes
20 into your mind that gives you a reasonable doubt or a
21 hesitation to act or that leaves you not with the feeling that
22 you're firmly convinced of the State's theory, you have to
23 find them not guilty.

24 Again, it may not mean that they're not guilty and I'm
25 not saying that they are guilty. I'm just telling you that's

1 the way the law is in this country.

2 Now, if you're sitting here in judgment in a civil case,
3 the burden of proof is totally different. It's what we call a
4 preponderance of the evidence. It just means that after you
5 hear the evidence that it's more likely than not, that you
6 probably think something happened. That -- you know, the
7 scales of justice, if they're tilted ever so slightly, then
8 you can find somebody responsible, but not here, not in a
9 criminal trial, not in a criminal case where somebody's
10 liberty is at stake. You have to be firmly convinced.

11 And I just want to suggest to you and ask you for that
12 fair trial. I'll ask you for a fair trial for the victims,
13 for Mr. Drawhorn, for the State of South Carolina, for law
14 enforcement. They do a good job. They're the ones that
15 protect us when we need them, but they're not perfect. Okay?
16 I also want to ask for a fair trial for Mr. Blaton Smith and,
17 most importantly and because I'm an advocate for him, my
18 client Shaheed Hayes.

19 We just want you to listen to the evidence. You have the
20 almighty power to judge what happened on the day in question.
21 And at the end of all the evidence if you have any doubt at
22 all, like I said, you have to acquit. I mean that's what the
23 judge is going to tell you.

24 So we just ask you to pay attention and we promise not to
25 waste any of your time. I know there's thousands of places

1 you would rather be. I know people are depending on you to do
2 other things. You probably have jobs and other things and
3 other commitments that you need to be doing. All of us do.
4 But I promise you that this is part of the reason that we live
5 in the best nation, the greatest nation that there ever was,
6 is because in a time like this, this country is going to
7 afford people who have been accused of crimes their day in
8 court, and this is just the very example of that system.

9 So I ask you just to pay attention and give everybody a
10 fair trial. Thank you for being here.

11 THE COURT: Mr. Bailey?

12 MR. BAILEY: Thank you, Your Honor. May it please the
13 Court.

14 THE COURT: Yes, sir.

15 OPENING STATEMENT ON BEHALF OF THE DEFENDANT SMITH

16 MR. BAILEY: The most dangerous thing in a world of lies
17 is the truth, and that's why we're here. What's the truth?
18 You twelve are going to hear the evidence in this case, the
19 testimony, and you will be asked to render the truth.

20 The solicitor stood before you a few minutes ago and told
21 you what he thought his case was going to show was the truth.
22 I agree with that to one extent. Everything that brought us
23 into court here tonight or today started on April the 13th,
24 2012. There was a shooting on Highway 501 near the Dillon
25 line. Okay?

1 But the problem is outside of the two witnesses that he
2 plans to call here today, there's not one piece of evidence
3 that links Blaton Smith to the shooting. You're not going to
4 hear about fingerprints. There aren't any. They have no
5 guns. They can't find them. You're going to hear testimony
6 about this car that was there. They never went and got the
7 car.

8 But what they do have is they have two people who were
9 charged with the exact same crimes that my client, Blaton
10 Smith, was charged with. Okay? This happened on April the
11 13th, 2012. They were arrested about April the 30th -- May the
12 1st, 2012, about 18 days later. But in that 18-day period,
13 neither one of them came forward. They didn't talk until they
14 got arrested.

15 Once they got arrested and law enforcement, Detective
16 Bell, says here's what I'm going to charge you with, they
17 started talking, and that's all the State is going to be able
18 to prove to you is that those two people, Willie Bethea and
19 Jamie Williams, are the only people who are going to say that
20 Blaton Smith had anything to do with this.

21 And you're going to hear from the State that Willie
22 Bethea and Jamie Williams -- they have everything to lose.
23 They're charged with murder and four counts of attempted
24 murder. You're going to hear him say he doesn't want to go to
25 prison. Okay? He's going to -- you're going to hear him say,

1 yes, I'm cooperating with the State. I need his help. I need
2 the government's help. I don't want to go to prison.

3 My theory of what I plan to bring out from Willie Bethea
4 and Jamie Williams is that they completely lied. Blaton Smith
5 was not in that car that night and Blaton Smith was not at
6 that house that night. He had nothing to do with this
7 shooting.

8 When Willie Bethea comes up here and testifies, he's
9 going to go through his statement. He gave one statement back
10 when he was arrested, and his statement was video-recorded.
11 Everybody who was interviewed by Detective Bell in this case
12 -- one video recording. That's it. One video recording. His
13 video was about an hour long, and I think, if I recall
14 correctly, Detective Bell had Willie Bethea go through his
15 story three times and each time Willie goes through it,
16 another inconsistency pops up.

17 Because what happens when you tell a lie? You have to
18 tell another one to cover it up. And then you tell another
19 lie and then you tell another lie and at some point you can't
20 keep track of all your lies.

21 Jamie Williams -- similar situation. He's going to
22 testify that he got arrested at the end of April or early May.
23 He didn't voluntarily come in and say this is what happened.
24 I need to get this off my conscience. No. He only talked
25 because he got caught. You'll hear his statement. You'll

1 hear him testify to it. He puts himself and Willie and Blaton
2 and Shaheed all in this car, and his statement as to what
3 happened will completely contradict what Willie Bethea's
4 statement was. They butt heads. The facts are completely
5 inconsistent. Okay?

6 Jamie Williams gives a couple more statements, some
7 smaller statements. Last week -- he's going to tell you he
8 got scared. Last week -- he's going to tell you he got scared
9 and he decided to cooperate. He wants help too. Jamie
10 Williams is going to tell you he don't want to go to prison.

11 And what you're going to hear from this testimony is that
12 Jamie Williams's new version of the last week is nearly
13 identical to what Willie Bethea said two-and-a-half years ago.
14 It's not a coincidence, folks. It's not a coincidence.

15 Blaton comes here before you an innocent man. He and I
16 are going to expose all the lies in this case. And in doing
17 so, we're going to expose the truth, and that truth is going
18 to be that Blaton Smith had nothing to do with this.

19 If we're lucky enough, Solicitor Clements may call a
20 gentleman by the name of David Graves. I hope he does because
21 David Graves knows more about this case than probably
22 Solicitor Clements, myself, and Mr. Deberry. He's got facts
23 that nobody knew about. Okay? His first statement to law
24 enforcement was the day after the shooting and his first
25 statement places Willie Bethea at the scene of the shooting.

1 So not only that, he goes into detail to say what Willie
2 Bethea was wearing that night when he was shooting that house.

3 Now, ultimately, he changes his story. Okay? And if
4 Solicitor Clements comes in -- brings him in front of you all
5 this week, I anticipate his story is going to be in line with
6 what Willie Bethea and Jamie Williams talk about because David
7 Graves is in prison right now. He's in jail for another
8 shooting after that. He's in prison, but he needs help.

9 You're going to hear him say he's got one pending charge
10 here in Marion County being prosecuted by Solicitor Clements
11 for which he could get -- I believe it's an additional ten
12 more years, plus the time that he's doing in prison right now
13 can be reduced based on his cooperation. So he has all the
14 incentive in the world to come in here and say Blanton Smith
15 orchestrated or master-minded this entire shooting.

16 It's not going to come together for Solicitor Clements at
17 the end of this case, ladies and gentlemen. The testimony is
18 going to be too inconsistent. And as Mr. Deberry told you,
19 when y'all begin your deliberations at the end of this case,
20 if you have a question as to what happened that night, that is
21 reasonable doubt. And, as Judge Brown will instruct you, that
22 little bit of reasonable doubt requires a finding of not
23 guilty.

24 Once you hear all the lies and the incentives that these
25 people are going to get for their testimony, you're going to
26

OFFICER GREG PIKE - DIRECT BY MR. CLEMENTS

1 ask yourself what's the truth, and I'm going to come back up
2 here at the conclusion of this case and I'm going to tell you
3 the evidence presented by Solicitor Clements against Blaton
4 Smith is not sufficient to find him guilty of anything that
5 they have said he has done.

6 I thank you all for your time and I hope that you will
7 give everyone here a fair trial in this case. Thank you.

8 THE COURT: All right. Mr. Clements, call your first
9 witness.

10 MR. CLEMENTS: Your Honor, we'd call Officer Greg Pike.

11 THE CLERK: Put your left hand on the Bible and raise
12 your right hand. Do you solemnly swear or affirm the
13 testimony you are about to give in the trial of this case will
14 be the truth, the whole truth, and nothing but the truth, so
15 help you God?

16 THE WITNESS: I do.

17 THE CLERK: Thank you.

18 OFFICER GREG PIKE, being first duly
19 sworn, testifies as follows:

20 DIRECT EXAMINATION

21 BY MR. CLEMENTS:

22 Q: Will you please state your name for the record and tell
23 the jury where you work and what you do?

24 A: My name is Greg Pike and I'm a detective with the Marion
25 County Sheriff's Office.

OFFICER GREG PIKE - DIRECT BY MR. CLEMENTS

1 Q: And how long have you been a detective with Marion
2 County?

3 A: Just a couple months now.

4 Q: Where were you working in April 2012?

5 A: I was with the Sheriff's Office. I was a road deputy. I
6 worked the roads for patrol.

7 Q: Okay. How many years' experience do you have in law
8 enforcement?

9 A: Military, 20, and then civilian side since 2006.

10 Q: All right. Where did you work before you came to work in
11 Marion County Sheriff's Office?

12 A: The City of Mullins.

13 Q: Okay. Now, do you recall being dispatched out around
14 April the 12th -- April 13th, 2012, to Highway 501 North?

15 A: Yes, sir.

16 Q: Can you please tell this jury what kind of call you got
17 and where you went?

18 A: It was out near General Road. The trailer is on the
19 corner of General Road and 501 North. It was a shots fired
20 call and we got out there and that's what the call was for.

21 Q: Okay. When you said "we" got out there, who went out
22 there with you?

23 A: I was the first officer on the scene and then Sergeant
24 Legette and Corporal Richardson were pretty much right behind
25 me.

OFFICER GREG PIKE - DIRECT BY MR. CLEMENTS

1 Q: Okay. And how many people did you have on shift during
2 the nighttime?

3 A: That was it, us three.

4 Q: So all three of y'all responded?

5 A: Yes, sir.

6 Q: Okay. All right. And who got there first?

7 A: I did.

8 Q: Okay. And they came right after you?

9 A: Pretty much, yeah.

10 Q: When you got there, can you tell this jury what -- what
11 did you find there when you got there?

12 A: When I got there, I pulled towards the back of the
13 trailer where a driveway is. When I got there, there was a
14 crowd of people outside, probably five or six maybe, and they
15 had Mr. Drawhorn kind of outside and they were trying to help
16 him and he had -- you could see blood on his shirt. And
17 that's when we got there and we called for EMS.

18 Q: All right. How -- did EMS respond quickly?

19 A: Yeah. They were real quick.

20 Q: Okay. Now, you saw Mr. Drawhorn and saw the other people
21 there and you called EMS. What else did you do there on the
22 scene?

23 A: Well, right there, you know, we're to secure the crime
24 scene, make sure there's, you know, no weapons around that can
25 harm us or anybody else or EMS, and preserve the crime scene.

OFFICER GREG PIKE - DIRECT BY MR. CLEMENTS

1 That's our main job and call the detectives out.

2 Q: So it wasn't your job actually to gather up evidence?

3 A: No, not -- normally, no.

4 Q: Okay. All right. That would be someone else's job?

5 A: Usually, the detectives.

6 Q: Okay. All right. Did you see -- can you tell us -- what
7 did you observe out there, if anything, on the scene that you
8 thought would have been evidence?

9 A: Saw a bunch of bullet holes in the trailer.

10 Q: Okay.

11 A: We were inside the trailer and you could tell that they
12 were playing cards and video games and stuff inside the
13 trailer, but then they had come outside.

14 Q: Okay. All right. Did you see anything else? Any other
15 evidence outside?

16 A: Not that I recall.

17 Q: Okay. Out on the highway?

18 A: Shell casings out on the highway.

19 Q: Okay. And what did you do with those shell cases, if
20 anything, yourself?

21 A: I just looked at them. I didn't -- I was waiting for the
22 detectives to arrive.

23 Q: Okay. And who else observed those with you?

24 A: Corporal Richardson was out there when I was out there.

25 Q: Okay. All right. I'm going to show you what's been

OFFICER GREG PIKE - DIRECT BY MR. CLEMENTS

1 marked State's Exhibit 38 and 37, and I'm going to ask if you
2 can identify State's Exhibit 38. Does that look familiar to
3 you?

4 A: Yes. That's the -- that's the trailer.

5 Q: Okay. Let's don't show it yet. I've got to move it into
6 evidence.

7 A: Okay.

8 Q: All right. And State's Exhibit 37, is that --

9 A: Yeah. That's an aerial view.

10 Q: Aerial view of the same place?

11 A: Mm-hmm.

12 Q: Okay.

13 MR. CLEMENTS: Your Honor, at this time, I would move
14 State's Exhibit 37 and 38 into evidence I believe without
15 objection.

16 THE COURT: Any objection, Mr. Deberry?

17 MR. DEBERRY: No, Your Honor.

18 THE COURT: Mr. Bailey?

19 MR. BAILEY: No, sir, Your Honor.

20 THE COURT: 37 and 38 admitted into evidence without
21 objection.

22 (Whereupon, State's Exhibit Number 37 and State's Exhibit
23 Number 38, both color photographs, are admitted into
24 evidence.)

25 MR. CLEMENTS: I would ask permission for Investigator

OFFICER GREG PIKE - DIRECT BY MR. CLEMENTS

1 Pike to step down, Your Honor.

2 THE COURT: All right. You may step down.

3 (Whereupon, the witness complies.)

4 BY MR. CLEMENTS:

5 Q: I'm going to ask you, if you can, can you describe
6 State's Exhibit 38 to the jury, please?

7 A: That is the 501 view of the trailer. That's the front
8 door. I think they may have used the back door, which you
9 can't see.

10 Q: And is that up on a rise or down low?

11 A: It's kind of down low.

12 Q: Down -- you have to go down from the roadway to it?

13 A: Yeah. General Road is right out here and you kind of go
14 down and the driveway goes down a little bit also.

15 Q: Okay. All right. I'm going to show you State's Exhibit
16 37 and ask if you can describe that and explain that to the
17 jury?

18 A: That's an aerial view of it and there's 501. Heading
19 that way is going to like you're going to Latta and that's
20 General Road right there.

21 Q: And where did y'all pull around to?

22 A: I pulled into the driveway into the back, not far in
23 there, but I pulled into the back.

24 Q: Okay. Do you recall how many cars were there, if any?

25 A: Yeah. There was a few. I don't recall how many.

OFFICER GREG PIKE - DIRECT BY MR. CLEMENTS

1 Q: Okay. All right. Thank you. You can have a seat back
2 up there.

3 (Whereupon, the witness complies.)

4 Q: How did y'all secure the crime scene?

5 A: We just made sure, you know, people were outside of the
6 trailer and made sure nobody could go back in the trailer
7 until the detectives arrived, but they were pretty quick also.

8 Q: They were pretty quick as well?

9 A: Yes, sir.

10 Q: Is there anything that you put up at a crime scene?

11 A: Crime scene tape normally. I didn't put it up. I don't
12 know who did. I know I did not.

13 Q: Okay. It could have been Richardson or Legette?

14 A: Yes, sir.

15 Q: Okay. And what color was that crime scene tape?

16 A: Yellow with some black markings on it, just --

17 Q: Okay.

18 A: -- you know, "Sheriff's Line, Do Not Cross."

19 Q: All right. So what else did you do there at the scene
20 after you made sure the crime scene was secure?

21 A: Pretty much by then the detectives were arriving and I
22 helped Detective Bell take some photos of the front of the
23 trailer of the bullet holes in the front of the trailer.

24 Q: Okay. And you assisted him in that or you --

25 A: Yeah.

OFFICER GREG PIKE - DIRECT BY MR. CLEMENTS

1 Q: -- did that yourself? You assisted? Who did you assist
2 in that?

3 A: Detective Bell.

4 Q: Okay. All right. Just -- you were just another set of
5 eyes for him?

6 A: Yeah.

7 Q: Okay. Is there anything else that you did that night at
8 that crime scene?

9 A: Besides typing up the report, no, I don't think so.

10 Q: Okay. So you did a report?

11 A: Yes, sir.

12 Q: Okay. And after you left that crime scene -- about how
13 many hours were you out there?

14 A: I think it was around 4:30 and we got there right after
15 midnight.

16 Q: Okay. And so a little over four hours?

17 A: Yes, sir.

18 Q: After you left that crime scene and did your report, did
19 you have any other duties in this investigation?

20 A: No.

21 Q: Okay. Please answer any questions defense counsel may
22 have.

23 THE COURT: Mr. Deberry?

24 MR. CLEMENTS: Thank you.

25 MR. DEBERRY: Thank you, Your Honor.

OFFICER GREG PIKE - CROSS BY MR. DEBERRY

CROSS EXAMINATION

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BY MR. DEBERRY:

Q: Detective now?

A: Yes.

Q: All right. And how long have you been a detective?

A: About two months.

Q: Okay. And you said you had been on with Marion County
how long at the time of the incident?

A: I started in February of 2012; so about three months.

Q: So -- okay. When you arrived at the -- at the shooting
location -- and you said you were there first; is that
correct?

A: Yes.

Q: How many -- and you said approximately how many people
were there?

A: Are you talking beside law enforcement? Like I say, I
was the first law enforcement there. There was, you know,
probably -- it seemed like there was five or six people there.

Q: Five or six people? Do you know their names?

A: No, I do not.

Q: What did you -- when you arrived, you must have been
concerned that -- that it was a -- I mean what was your -- you
-- did they just call it out as a shooting? Shots fired?

A: Mm-hmm. As far as I recall, yeah.

Q: So when you arrived, you weren't concerned with maybe

OFFICER GREG PIKE - CROSS BY MR. DEBERRY

1 violence still being -- still going on there?

2 A: Yeah. I was concerned. I called for my supervisor. He
3 was on his way.

4 Q: Okay. So -- but did you find any violence still ongoing
5 when you got there?

6 A: No.

7 Q: Had anybody left there that you knew of?

8 A: Not that I know of, sir.

9 Q: Did any -- what type -- what kind of cars were there?

10 A: I -- I don't recall. There was a -- I know there was a
11 -- there was a white SUV, a big SUV. I don't recall what
12 kind.

13 Q: And where was it parked?

14 A: I think it was on the -- in the back on the side.

15 Q: Can you -- where are those pictures? Can you just show
16 me about where it would have been parked?

17 A: Right over where that black vehicle is, maybe a little
18 farther up.

19 Q: Okay.

20 A: I guess that's a black vehicle.

21 Q: Could you show that to the jury?

22 A: It was probably right about here. It was -- I guess
23 that's a black vehicle. It was right around in here.

24 Q: Okay. All right. Now, when -- you said crime scene tape
25 eventually got put up before you; is that correct?

OFFICER GREG PIKE - CROSS BY MR. DEBERRY

1 A: Mm-hmm.

2 Q: Can you just give me an idea about where it was put up?

3 A: I'm sure it just covered the whole -- the whole area. I
4 mean I'm not sure where whoever put it up put it up. They
5 probably went out to the road. I just -- I don't recall.

6 Q: Were you the ones -- how did you know about the shell
7 casings in the road?

8 A: I saw them. I mean I went out there and I was looking
9 around.

10 Q: Before anybody got there?

11 A: No. No. The detectives were on their way. My other two
12 officers on patrol were with me too.

13 Q: Exactly where was Mr. Drawhorn when you got there?

14 A: In the back by the -- on the concrete. It was like a
15 sidewalk. It would have been right there.

16 Q: All right. So he was --

17 A: That comes up to an L. Yeah, right there.

18 Q: So he was a decent amount away from the house?

19 A: Six to ten feet maybe.

20 Q: Okay. Was -- was it apparent -- I mean what -- what was
21 your first reaction as to what had happened?

22 A: I could see blood on his shirt.

23 Q: Okay. So you assumed that he had been shot?

24 A: Yeah.

25 Q: All right. And by seeing that blood, was there any blood

OFFICER GREG PIKE - CROSS BY MR. DEBERRY

1 on the ground?

2 A: I don't recall. I just remember seeing it on his shirt.

3 Q: Was there any blood inside the house?

4 A: I don't recall any.

5 Q: Was there any shell casings in the back yard?

6 A: I don't believe so, but as far as I can tell, I don't
7 recall that.

8 Q: Did you look for any?

9 A: No, I did not.

10 Q: How about -- did you come in down General Road?

11 A: Yes.

12 Q: Did that ever become part of the crime scene?

13 A: No, I don't -- not to my knowledge, but I'm not sure.

14 Q: Is that a dirt driveway that comes off of General in
15 there?

16 A: Mm-hmm.

17 Q: Did you check for any footprints over there?

18 A: Well, I --

19 Q: Any shell casings?

20 A: I didn't, but I parked my car right about there.

21 Q: And that's where you left it?

22 A: Mm-hmm. While I was there the whole time.

23 Q: Did anybody do any investigation behind your car?

24 A: I -- they didn't tell me if they did I mean.

25 Q: Okay. And you didn't think it would -- what was in your

OFFICER GREG PIKE - CROSS BY MR. DEBERRY

1 -- what did you put in your report?

2 A: About?

3 Q: Well, we don't have your report. We're just -- I'm just
4 curious as to what -- what you put in it.

5 A: I put that, you know, that I arrived on scene and we
6 called for investigators. My shift was right behind me.

7 Q: All right. You said you went in the house?

8 A: Yeah. Eventually, yeah.

9 Q: You didn't go -- did you go in the house before anybody
10 else arrived?

11 A: Before the detectives did? No.

12 Q: You testified earlier that you -- that you made sure
13 everybody stayed outside of the house?

14 A: Mm-hmm.

15 Q: Why -- what -- why did you do that?

16 A: In case there was any kind of evidence inside.

17 Q: Well, couldn't there have been evidence outside?

18 A: Yeah, there could have been.

19 Q: Okay. So when -- when did you go in the house?

20 A: Like how many minutes after I arrived? It was after the
21 detectives got there.

22 Q: All right. Did you notice any drugs inside of the house?

23 A: I didn't see any.

24 Q: Okay. What did you do inside of the house?

25 A: I was helping them look for, you know, drugs or anything

OFFICER GREG PIKE - CROSS BY MR. DEBERRY

1 like that. About all I could see was, like I said, they had
2 been playing video games and cards and stuff like that, and
3 that's what they had told us they were doing.

4 Q: So you -- so were the people that were there -- were they
5 treated as victims -- or you said you went inside looking for
6 drugs. Were they detained at that time?

7 A: I didn't say I went inside looking for drugs. I said I
8 was inside and we were looking for stuff, but they were
9 treated, you know, as victims.

10 Q: Okay. Did you take any of their statements?

11 A: No, I did not.

12 Q: All right. So did you just say you went in looking for
13 drugs or not?

14 A: We went in looking for everything.

15 Q: Okay. But you didn't find any?

16 A: I did not, no.

17 Q: What were the license plate or the tag numbers of the
18 vehicles that were there?

19 A: I could not tell you.

20 Q: Okay. Did you allow any of the individuals that were
21 outside to get in their cars or go in their cars or do you
22 know?

23 A: Not while we were there. Not -- you know, not before the
24 detectives got there, no.

25 Q: Okay. Which way did you come from?

OFFICER GREG PIKE - CROSS BY MR. DEBERRY

1 A: I came from the Marion city side.

2 Q: Okay. So you were traveling down old Highway 501 North
3 from Marion towards Latta?

4 A: Yes.

5 Q: Okay. And upon your arrival you didn't see -- did you
6 see any vehicles at all that were running or leaving or going
7 any direction?

8 A: No, sir.

9 Q: All right. And how soon do you think you arrived after
10 the call came out?

11 A: It was -- it shouldn't have been more than a couple
12 minutes.

13 Q: That would be in your report?

14 A: Yes, sir.

15 Q: Do you have your report?

16 A: I don't have a copy of it.

17 Q: Have you looked at it recently?

18 A: No.

19 Q: You -- you testified earlier that you helped Detective
20 Bell take some pictures of some bullet holes?

21 A: Yes, sir.

22 Q: Where did it -- where were those bullet holes?

23 A: On the 501 side of the trailer.

24 Q: Okay.

25 A: The part of the trailer you could see from 501.

OFFICER GREG PIKE - CROSS BY MR. DEBERRY

1 Q: Could you tell if they were all entrance holes or exit
2 holes or what kind of bullet holes they were?

3 A: No. All the pictures we took were all entrance holes.

4 Q: How do you know that?

5 A: The way the hole was. It was curved in.

6 Q: So did you do any testing as to which way those bullets
7 were coming from?

8 A: I did not, no. Like I said, I just helped him with the
9 photos.

10 Q: Okay.

11 MR. DEBERRY: All right. I don't have any further
12 questions. Thank you.

13 THE COURT: Cross examination, Mr. Bailey.

14 CROSS EXAMINATION

15 BY MR. BAILEY:

16 Q: What was your position with the Marion Sheriff's
17 Department on April 13th, 2012?

18 A: I was the private on my shift. I had a corporal and a
19 sergeant that I worked for.

20 Q: Okay. On the hierarchy, where does private fall in? Is
21 that the lowest rank as a deputy?

22 A: The bottom, yes, sir.

23 Q: Okay. As a private, you were the first responder?

24 A: Yes.

25 Q: Okay. You were probably the closest to 501 North?

OFFICER GREG PIKE - CROSS BY MR. BAILEY

1 A: Yes, sir.

2 Q: Okay. Do you know how long or how much time transpired
3 between the shooting and the 9-1-1 call?

4 A: No, sir, not at all.

5 Q: Or you -- and I'm assuming you don't recall how much time
6 transpired between the 9-1-1 call and your call to respond to
7 the scene?

8 A: You mean by the time 9-1-1 dispatched it to us?

9 Q: Yeah, dispatched it to you.

10 A: No.

11 Q: Okay. When you arrived, you saw a group of people
12 gathered around the back porch on the cement block; correct?

13 A: Yes, sir.

14 Q: You said there was about five or six individuals?

15 A: It seemed like that, yes.

16 Q: Okay. When you arrived on the back side of the trailer
17 on 501, were you by yourself?

18 A: Yes.

19 Q: Okay. Have your weapon drawn?

20 A: No.

21 Q: So you weren't concerned too much about the shooting that
22 you just got a call on?

23 A: Yeah, I was, but I did not have my weapon drawn.

24 Q: Okay. Is that standard operating procedure for
25 responding to a shooting call?

OFFICER GREG PIKE - CROSS BY MR. BAILEY

1 A: I don't know if it's standard, but I mean I was -- I was
2 prepared for anything I mean.

3 Q: Now, you went to the back and you saw Mr. Drawhorn laying
4 on the concrete block I'm assuming?

5 A: Yeah.

6 Q: Okay. What was your first act when you got there to that
7 group of people and Mr. Drawhorn?

8 A: I think I asked what was going on and then I saw him and
9 then I called for EMS I believe.

10 Q: Okay.

11 A: And told my super -- and called my supervisor also on the
12 radio.

13 Q: Okay. Are you trained in CPR?

14 A: No.

15 Q: You're not trained in CPR? That's not a requirement of
16 the Marion County Sheriff's Department?

17 A: (Whereupon, no verbal response.)

18 THE COURT: Is that -- I need a verbal response from you,
19 sir.

20 THE WITNESS: No, sir.

21 THE COURT: Thank you.

22 Q: So you performed no CPR on Mr. Drawhorn?

23 A: No. No, sir.

24 Q: Okay. Now, you said you would have responded within a
25 couple minutes of the dispatch call; correct?

OFFICER GREG PIKE - CROSS BY MR. BAILEY

1 A: Yeah. It should be in the report I mean.

2 Q: How long after you arrived did the next officer arrive on
3 scene?

4 A: It seemed like he was right behind me a minute or two
5 maybe.

6 Q: Okay. Did you ask the group of people who were gathered
7 around Mr. Drawhorn to step away from the property?

8 A: No. To step away from the property, no. To step away
9 from him, not to the property. No, sir.

10 Q: How far away did they step away from Mr. Drawhorn laying
11 on the ground?

12 A: Just a couple feet until when EMS got there. They
13 allowed EMS to, you know, pick him up and everything.

14 Q: Okay. How long did it take for those individuals to be
15 removed from the crime scene?

16 A: I couldn't tell you. I don't know.

17 Q: Okay. You've been in law enforcement for 20 years prior
18 to coming to the Marion County Sheriff's Department?

19 A: Yes.

20 Q: Okay. And did I hear correctly that was in the military?

21 A: Yes. Twenty of it was, yes.

22 Q: Okay. Did you have to go to crime scenes in the
23 military?

24 A: Mm-hmm.

25 Q: Okay.

OFFICER GREG PIKE - CROSS BY MR. BAILEY

1 A: Yes, sir.

2 Q: So this wasn't your first crime scene that you had ever
3 been to?

4 A: No. The first one with the county, but --

5 Q: But you've got experience with crime scenes?

6 A: Mm-hmm.

7 Q: Okay.

8 THE COURT: Is that a yes? I need a --

9 THE WITNESS: Yes.

10 THE COURT: -- verbal yes or no, please.

11 THE WITNESS: Yes, sir.

12 Q: Do you know what evidence is?

13 A: Yes.

14 Q: Okay. There's some evidence that you cannot see;
15 correct?

16 A: Of course.

17 Q: Okay. When you come on the scene, didn't you think that
18 these people could be contaminating evidence on the back of
19 the house?

20 A: Yes, but at the time there was only one of me. So --

21 Q: But you couldn't instruct them, hey, y'all, just back up
22 for me?

23 A: Well, I did.

24 Q: But they only backed up two feet?

25 A: Yes.

OFFICER GREG PIKE - CROSS BY MR. BAILEY

1 Q: Okay. So -- so you really didn't secure the crime scene
2 yourself?

3 A: No.

4 Q: Okay. The next officer who arrived -- who was he?

5 A: I believe that was Sergeant Legette.

6 Q: Legette? Okay. What did you observe Legette do when he
7 arrived?

8 A: He was just, you know, making the crowd get back also.

9 Q: Okay. Was EMS there by the time Legette arrived?

10 A: I don't recall. They were there pretty shortly
11 afterwards.

12 Q: Okay. Well, did -- did you observe Officer Legette
13 perform any CPR?

14 A: No, I did not.

15 Q: Okay. So, Mr. Pike, I want to make sure I understand
16 this. You arrived to the crime scene; correct?

17 A: Yes.

18 Q: And one of your first observations is a body laying on
19 the ground; correct? Verbal answer, please?

20 A: Yes. Yes, sir.

21 Q: Okay. And you noticed blood on the shirt?

22 A: Yes, sir.

23 Q: And it was a shooting call?

24 A: Yes, sir.

25 Q: And you didn't clear the crime scene; correct?

OFFICER GREG PIKE - CROSS BY MR. BAILEY

1 A: Yes.

2 Q: Okay. So did you and the other individuals there just
3 stand there and look at Mr. Drawhorn laying on the ground?

4 A: No, sir.

5 Q: Well, who was doing what at the scene?

6 A: We were -- we were trying to get the people away from Mr.
7 Drawhorn.

8 Q: Okay. Now, your report indicates other detectives showed
9 up; correct?

10 A: Yes, sir.

11 Q: Did you call Martin Bell yourself?

12 A: No, sir.

13 Q: Okay. Do you know who called Martin Bell?

14 A: It should have been Sergeant Legette.

15 Q: Okay. In your experience for a shooting call, is it
16 normal for all the detectives in the department to show up?

17 A: Yes.

18 Q: Even in the middle of the night?

19 A: Yes.

20 Q: Now, you testified about taking -- or assisting Detective
21 Bell with taking some photographs; correct?

22 A: Yes, sir.

23 Q: Okay. And those photographs were taken at night;
24 correct?

25 A: Yes, sir.

OFFICER GREG PIKE - CROSS BY MR. BAILEY

1 Q: Not like the photos introduced already showing the
2 daytime?

3 A: Correct.

4 Q: Okay. It was pretty dark out there. You would agree?

5 A: Yes.

6 Q: Not a lot of street lights shining light on that trailer?

7 A: I think there was one street light near there.

8 Q: Okay.

9 A: But it wasn't, like, bright. No, sir.

10 Q: Okay. But it was visible enough for you to see bullet
11 holes in the front of the trailer?

12 A: We had flashlights.

13 Q: Okay. And that's what you used? You just shined your
14 flashlights on the -- on the trailer?

15 A: Mm-hmm.

16 Q: Okay. And Detective Bell was the one who took those
17 photographs or you did?

18 A: Detective Bell did.

19 Q: Okay. And I want to -- and I just want to make sure you
20 did not see any blood on that concrete slab behind that --

21 A: I just don't recall any.

22 Q: Okay. And you don't recall about seeing any blood coming
23 into the house?

24 A: No. No, sir.

25 Q: Okay. And there's one door that goes into the back of

OFFICER GREG PIKE - CROSS BY MR. BAILEY

1 the house; correct?

2 A: As far as I, you know, remember, yes.

3 Q: Okay. Would you have been the first officer who went
4 into the house?

5 A: Probably not.

6 Q: Okay. Had there been blood leading into the back of that
7 house, somebody would have stepped in it; correct?

8 A: I would have thought so, yes.

9 Q: You would have stepped in it; correct?

10 A: I --

11 Q: You weren't looking for the blood on the floor, were you?

12 A: I might would have been looking for it, but I wouldn't
13 have stepped in it if I would have seen it, no.

14 Q: Okay. And you would have documented it if you found
15 blood; correct?

16 A: Yes, sir.

17 Q: But you don't recall finding blood?

18 A: No, sir, I do not.

19 Q: Okay.

20 MR. BAILEY: Please answer any questions that the State
21 may have on redirect.

22 THE COURT: Any redirect?

23 REDIRECT EXAMINATION

24 BY MR. CLEMENTS:

25 Q: Was it or was it not your job to process the crime scene?

OFFICER GREG PIKE - REDIRECT BY MR. CLEMENTS

1 A: It was not my job.

2 Q: It was not? So all Mr. Bailey was asking you about
3 finding blood and that kind of stuff, that wasn't your job,
4 was it?

5 A: No, sir.

6 Q: All right. And he kept asking you about performing CPR.
7 Did Mr. Drawhorn -- did he appear to be in need of CPR? He
8 was breathing, wasn't he?

9 A: Yeah, he was breathing.

10 Q: Okay. Okay. He wasn't -- didn't act like his -- you
11 know, cardiac arrest?

12 A: No, sir, not at all.

13 Q: Okay. And he asked about destroying evidence on the
14 back. From the information you got, where was all the
15 shooting coming from? The front or the back?

16 A: From the front, the 501 side --

17 Q: Okay.

18 A: -- of the trailer and I was on the opposite side.

19 Q: And you were on the back?

20 A: Yes, sir.

21 Q: So the evidence would have been in front; right?

22 A: Yes, sir.

23 Q: Okay. All right. I just wanted to clear that up.

24 MR. CLEMENTS: No further questions.

25 THE COURT: Mr. Deberry, anything further?

OFFICER GREG PIKE - RECROSS BY MR. DEBERRY

1 MR. DEBERRY: Just one question, Your Honor.

2 RECROSS EXAMINATION

3 BY MR. DEBERRY:

4 Q: Detective, were you aware that there was a bullet hole in
5 the -- in the white Suburban that was in the back yard?

6 A: Now I recall that, yeah.

7 MR. DEBERRY: Thank you.

8 A: It was in the door I believe.

9 THE COURT: Mr. Bailey? Mr. Bailey, anything?

10 MR. BAILEY: Judge, I have no further questions.

11 THE COURT: All right. Sir, you may step down. Thank
12 you.

13 MR. CLEMENTS: We'd call Corporal Marion Richardson.
14 Your Honor, can Investigator Pike be released from his
15 subpoena and his sequestration order?

16 THE COURT: Any objection, Mr. Deberry?

17 MR. DEBERRY: No, Your Honor.

18 THE COURT: Mr. Bailey?

19 MR. BAILEY: No, Your Honor.

20 THE COURT: Yes, sir, he may be. Sir, you're relieved
21 from any further responsibility which relates to your
22 subpoena. You're free to go if you so desire.

23 MR. CLEMENTS: Step up and be sworn, please, Corporal
24 Richardson.

25 THE CLERK: Do you solemnly swear or affirm the evidence

CORPORAL MARION RICHARDSON - DIRECT BY MR. CLEMENTS

1 you'll give in the trial of this case shall be the truth, the
2 whole truth, and nothing but the truth, so help you God?

3 THE WITNESS: I do.

4 THE CLERK: Thank you.

5 CORPORAL MARION RICHARDSON, being
6 first duly sworn, testifies as follows:

7 DIRECT EXAMINATION

8 BY MR. CLEMENTS:

9 Q: Can you please state your name for the record and tell
10 this jury what you do for a living?

11 A: My name is Marion Richardson and I work for the Marion
12 County Administration Office. I handle the code enforcement
13 issues throughout the county which deals with the civilians
14 and the businesses in Marion County.

15 Q: And how long have you been so employed?

16 A: I've been employed with Marion County for probably around
17 five years now, three-and-a-half years with the Sheriff's
18 Office on patrol and about a year-and-a-half with the Marion
19 County Administration Office.

20 Q: All right. So April 2012, where were you working?

21 A: I was working with the Marion County Sheriff's Office.

22 Q: In what capacity?

23 A: As a patrol officer, corporal.

24 Q: Okay. And were you on patrol the night of April 12th and
25 morning of April 13th?

CORPORAL MARION RICHARDSON - DIRECT BY MR. CLEMENTS

1 A: I was.

2 Q: 2012?

3 A: I was.

4 Q: Okay. And who was on patrol with you?

5 A: Our sergeant was Clemson Legette and we also had -- at
6 that time, Greg Pike was our private.

7 Q: Okay. And did you get a call to respond to a shooting?

8 A: We did. All three of us responded to that location.

9 Q: All right. Where was that location?

10 A: It was on 501 North Business. I can't relate --
11 recollect the exact address, but it was right there at the end
12 of 501 and 501 Bypass North in Marion.

13 Q: Okay. And what type of dwelling was it?

14 A: It was a mobile home.

15 Q: All right.

16 A: Single family.

17 Q: Single wide or double wide?

18 A: Single wide.

19 Q: Single wide? I'm going to show you what's been marked as
20 State's Exhibit 38. Does that look familiar to you?

21 A: Yes, sir.

22 Q: What is that?

23 A: That's the mobile home, a single wide.

24 Q: Okay. That's where you responded?

25 A: Yes, sir.

CORPORAL MARION RICHARDSON - DIRECT BY MR. CLEMENTS

1 Q: All right. And when you pulled up on the scene there,
2 who was on the scene?

3 A: They were -- when I pulled up, I observed three
4 individuals, one of them being the victim, at the rear of the
5 residence. And at that time, I was giving orders to EMS to
6 proceed as soon as possible.

7 Q: Okay. And you say one was the victim. One was the
8 gentleman who had been shot?

9 A: Yes.

10 Q: And where was he exactly and what position was he in?

11 A: He was on the outside of the residence and he was -- he
12 was down in a laying down position and his -- I guess it was
13 his friends that was trying to pick him up.

14 Q: Okay. And was that on the front or the back of the
15 mobile home?

16 A: That was at the rear of the residence, the back of the
17 mobile home.

18 Q: Okay. All right. And who -- what other officer was
19 there?

20 A: By that time -- it's been so long ago I can't really
21 remember, but it was a lot of officers responded to that
22 location. I want to say -- I can't remember if Greg Pike or
23 Sergeant Legette -- I can't remember which two had arrived,
24 you know, right shortly thereafter I got there.

25 Q: Okay.

CORPORAL MARION RICHARDSON - DIRECT BY MR. CLEMENTS

1 A: We all arrived there pretty quickly.

2 Q: All right. All about the same time?

3 A: Yes, sir.

4 Q: What did you do in regards to securing the scene?

5 A: Well, I -- I just made sure that there was no other
6 people in the area. I kind of held my position until the --
7 until the shift supervisor got there so we could -- so we
8 could secure the scene.

9 Q: Okay.

10 A: I didn't really do a whole lot else. Like I say, we all
11 were out there pretty close to the same time.

12 Q: Okay. Do you know who put up the crime scene tape?

13 A: I have -- I don't remember. I don't really recall.

14 Q: Could it have been you?

15 A: I don't think I did.

16 Q: Okay. All right. Do you recall whether you walked
17 around the front or out to the roadway on 501?

18 A: I remember walking. I did not -- I did not do a lot of
19 walking around the crime scene area because I -- just as soon
20 as EMS loaded the victim up, I escorted them out to the Marion
21 County Medical Center and I was there with the victim until I
22 was ordered to leave.

23 Q: Okay. Did you -- did you go out to the road and see any
24 -- anything out there of any evidentiary value?

25 A: Only from what -- I didn't actually go out to -- I went

CORPORAL MARION RICHARDSON - DIRECT BY MR. CLEMENTS

1 out to the road later after the crime scene had started, but I
2 didn't get involved in the crime scene.

3 Q: Okay. You didn't move any shell casings out of the
4 roadway?

5 A: No. I didn't move them. No.

6 Q: Okay. All right. But did you see any shell cases out
7 there?

8 A: I observed some out there, but that was documented as a
9 crime scene so we -- we stayed away from that area --

10 Q: Okay.

11 A: -- for the detectives to investigate.

12 Q: Okay. All right. Is there anything else you did out
13 there on the scene?

14 A: Not other than assist EMS in following them back to the
15 Marion County Medical Center.

16 Q: Did you follow them back to the medical center?

17 A: Mm-hmm.

18 Q: Okay. All right.

19 MR. CLEMENTS: I beg the Court's indulgence.

20 Q: You didn't get involved in talking with anybody or
21 anybody that was there? Did you count how many people were
22 actually in the trailer or anything like that?

23 A: No, sir.

24 Q: You didn't look at any of the vehicles in the back or do
25 any of that?

CORPORAL MARION RICHARDSON - DIRECT BY MR. CLEMENTS

1 A: No, sir. It was my job to secure the victim at the
2 hospital.

3 Q: Okay.

4 A: Make sure nobody tampered with him.

5 Q: All right.

6 MR. CLEMENTS: Please answer any questions that Mr.
7 Bailey or Mr. Deberry may have.

8 THE COURT: Mr. Deberry, cross examination.

9 CROSS EXAMINATION

10 BY MR. DEBERRY:

11 Q: Can you tell me -- you testified earlier that there was
12 about three people there when you pulled up; is that right?

13 A: I said there was three subjects there, yes, one including
14 the victim -- you know, including the victim as one of them --
15 being one of them.

16 Q: So what do you -- what do you refer to when you say a
17 subject?

18 A: There was the two other occupants. It was the two other
19 guys that -- I'm speaking in terms of subjects as the ones
20 that has -- that was friends maybe, not getting shot or
21 anything. The victim -- I'm speaking in terms of the victim
22 because he was the one that had suffered the bullet wounds.

23 Q: Okay. But sometimes subjects get arrested, don't they?

24 A: Sometimes they do.

25 Q: So you didn't know who they were. In other words, they

CORPORAL MARION RICHARDSON - CROSS BY MR. DEBERRY

1 were just three subjects?

2 A: Right. I did not ask any questions of them. Like I
3 said, we assisted EMS in, loaded the victim up, and I escorted
4 them back to the Marion County Medical Center.

5 Q: Why wouldn't it have been logical to search those
6 subjects and make sure they weren't armed?

7 MR. CLEMENTS: Objection. Calls for speculation, Your
8 Honor.

9 THE COURT: Rephrase your question.

10 BY MR. DEBERRY:

11 Q: Did you search any of the subjects?

12 A: No.

13 Q: And at that point in time, you didn't know what sort of
14 subjects they were?

15 A: At that -- I did not -- I did not know. Yes, sir.
16 Apparently, they appeared to be friends to my knowledge.

17 Q: Okay.

18 A: They were trying to help the victim.

19 Q: Okay. Where was the victim when you pulled up?

20 A: They were all three at the rear of the residence, the
21 back of the residence, behind the mobile home.

22 Q: All right. Where -- do you have any idea where the rest
23 of the people were that were there?

24 A: Uh-uh.

25 Q: Did you observe anybody leaving that -- the area?

CORPORAL MARION RICHARDSON - CROSS BY MR. DEBERRY

1 A: No.

2 Q: How many cars were there when you got there?

3 A: I cannot -- I can't remember that now. I mean I know
4 there were some vehicles there. I can -- I can -- I think
5 there -- at that time, to the best of my knowledge, I think
6 there were two vehicles there.

7 Q: You knew you had pulled up to a shooting scene; right?

8 A: That is correct.

9 Q: You weren't concerned about your safety with maybe a
10 shooter being inside the home?

11 A: That's why I waited for the other officers to secure the
12 residence.

13 Q: But -- so how close to the victim were you?

14 A: The closest I got to the victim was I would say at least
15 25 yards.

16 Q: You never went any closer?

17 A: Uh-uh.

18 THE COURT: Is that a no?

19 THE WITNESS: No, sir.

20 THE COURT: Thank you.

21 BY MR. DEBERRY:

22 Q: Is this -- State's Exhibit 38. Is this what Mr.
23 Solicitor showed you earlier?

24 A: That is correct.

25 Q: Can you see what -- where is that picture taken from?

CORPORAL MARION RICHARDSON - CROSS BY MR. DEBERRY

1 A: From Highway 501.

2 Q: And that's --

3 A: From the front side of the residence.

4 Q: 501 North?

5 A: 501 North, front side of the residence.

6 Q: Can you tell in this picture what's behind that mobile
7 home?

8 A: No.

9 Q: Okay. Where did you park when you pulled up there?

10 A: When I pulled up to the residence and my other deputies
11 -- or the other deputies on that shift that night, we pretty
12 much pulled up there pretty close to the same time, and I
13 staged right here on this street right here. I did not pull
14 any closer to the -- into the residence. I just pulled right
15 up in here --

16 Q: Okay.

17 A: -- and staged with the high light beams shining back at
18 the rear of the residence.

19 Q: Is all that out there -- that General Road and that
20 driveway and all, is that dirt?

21 A: Yeah.

22 Q: It was -- it's impressionable if you would have stepped
23 on it or tire tracks and such?

24 A: I -- I cannot answer that due to the weather. I mean I
25 don't know what -- it's possible.

CORPORAL MARION RICHARDSON - CROSS BY MR. DEBERRY

1 Q: How was the weather?

2 A: It was -- I can't remember. It was probably -- I can't
3 remember if it was wintertime or summertime.

4 Q: It was in April.

5 A: It was in April? It was probably pretty cool. It was at
6 night. It was in the -- it would have been early in the
7 morning.

8 Q: Does the temperature make a difference with tire tracks?

9 MR. CLEMENTS: Objection, Your Honor. I don't know if he
10 has any expertise to answer those type questions.

11 THE COURT: Objection sustained.

12 BY MR. DEBERRY:

13 Q: Did you -- did you notice any tire tracks or footprints?

14 A: I wasn't observant of that. At that time, I was pretty
15 much focused on the individuals behind the residence.

16 Q: You testified -- you must have returned to the scene
17 after you left the hospital. Is that what happened?

18 A: Later on.

19 Q: Later on? Could you just outline where the crime scene
20 tape was?

21 A: I have no idea. I couldn't -- I'm secure -- I'm pretty
22 sure it's secured around the residence. I'm not exactly
23 positive where the crime scene tape would have been at.

24 Q: Where did you park when you returned?

25 A: When I returned, I parked out here at the edge of the

CORPORAL MARION RICHARDSON - CROSS BY MR. DEBERRY

1 road.

2 Q: On General Road?

3 A: Yes, sir.

4 Q: Did you park on the dirt or where?

5 A: We was all lined up out here on the dirt road because the
6 whole area right there was a crime scene.

7 Q: Okay. So you're testifying that -- how many cars were
8 there at that point in time? A lot of law enforcement?

9 A: Yes. Lots of law enforcement.

10 Q: A dozen vehicles maybe?

11 A: Probably more.

12 Q: Probably more than a dozen vehicles? And they were all
13 parked on General Lane?

14 A: They was parked in that area right there up and down that
15 road.

16 Q: Okay. Do you know if any shell casings were moved?

17 A: I have no idea.

18 Q: And you testified that you just stayed at your vehicle
19 and you never walked up to the -- to the body?

20 A: Right. I never -- I never approached it. I assisted the
21 EMS back to Marion County Medical Center.

22 Q: And you're saying that you may have been the first one
23 there?

24 A: I'm not sure if I was the first one there. Like I said,
25 all three of us got there pretty much at the same time.

CORPORAL MARION RICHARDSON - CROSS BY MR. DEBERRY

1 Q: And did you write a report?

2 A: No, sir.

3 Q: All right. Is it customary for you to write a report?

4 A: Whoever is handling the crime -- whoever is handling the
5 crime scene and the officer that's taking charge of that crime
6 area normally do the report who handles the case. Not whoever
7 receives the case, no.

8 Q: Okay. So you didn't write a report?

9 A: I was not involved in the report.

10 Q: Did you write any -- have any notes?

11 A: No.

12 Q: So if you'd have had some notes, you may remember better
13 today what happened two years ago?

14 A: Can you repeat that, please?

15 Q: Had you -- had you written some notes at the time of the
16 incident, you probably would have been in a better position to
17 remember today what happened at the -- at the time of the
18 shooting; right?

19 A: I -- I'm not -- I'm -- yes. If I'd have wrote some
20 notes, yes, maybe, but it was -- that wasn't the way the
21 incident was laid out --

22 Q: Thank you.

23 A: -- to me.

24 Q: I appreciate it.

25 THE COURT: Mr. Bailey?

CORPORAL MARION RICHARDSON - CROSS BY MR. BAILEY

1 CROSS EXAMINATION

2 BY MR. BAILEY:

3 Q: Mr. Richardson, how long were you on the scene before EMS
4 arrived?

5 A: I'm not sure. At the time, you know, it was pretty
6 hectic and every -- with the calls and all. I'm not sure how
7 long I was on scene. I can't -- I can't -- I think EMS was
8 standing back waiting for our arrival. So I'm not sure how
9 long I was on scene before we made it safe to enter to
10 approach.

11 Q: Okay. So they were there before you got there?

12 A: No. No. They were standing by before I got there.

13 Q: Okay. When EMS arrived, they were in an ambulance;
14 correct?

15 A: Yes, sir.

16 Q: Where did they pull up to? Would it help if I showed you
17 the picture?

18 THE COURT: For the record, tell me what exhibit number
19 that is.

20 MR. BAILEY: Judge, this is State's Exhibit 37.

21 THE COURT: Thank you.

22 BY MR. BAILEY:

23 Q: Can you demonstrate for the jury where the ambulance
24 pulled into?

25 A: I didn't give the call on that. I was securing the road

CORPORAL MARION RICHARDSON - CROSS BY MR. BAILEY

1 out here, but I think --

2 Q: I'm sorry. Can you hold the picture up and show what
3 road you were securing?

4 A: I was -- I was out here securing this side of the
5 property. So I think -- I think the ambulance kind of pulled
6 up back there to where the victim might have been laying at.

7 Q: Okay.

8 A: And then I was -- and then from that point on, I was
9 there to escort the ambulance back to the medical center.

10 Q: Okay. When you went back to -- well, let me ask this
11 question. When you refer to the medical center, was that
12 Marion County?

13 A: Yeah. Marion County Medical Center.

14 Q: Okay. You followed the ambulance to the hospital?

15 A: Right.

16 Q: They pulled into the emergency department?

17 A: Yes.

18 Q: Did you pull into the emergency department as well?

19 A: I stayed alongside the emergency department close to it,
20 yes.

21 Q: Okay. Did you exit your vehicle and enter the hospital?

22 A: Sir?

23 Q: Did you exit your vehicle and enter the hospital?

24 A: Yes.

25 Q: Okay.

CORPORAL MARION RICHARDSON - CROSS BY MR. BAILEY

1 A: Directly.

2 Q: Did you go into any medical room with Mr. Drawhorn?

3 A: No. I stood outside the medical room.

4 Q: Okay. How long were you at the hospital before any other
5 officers came to the hospital?

6 A: I don't recall.

7 Q: Okay. If you had some notes, you might have recalled
8 that for us today; correct?

9 A: I -- I don't recall. Yeah. I mean I don't recall
10 documenting how long that was possibly. I was there a while.

11 Q: Okay. Did you collect any evidence from Mr. Drawhorn's
12 body at the hospital?

13 A: I don't remember.

14 Q: Let me ask you this. Do you know if a GSR kit was
15 performed on Mr. Drawhorn?

16 A: I don't remember. I can't recollect that.

17 Q: Do you recall any hospital staff giving you any
18 belongings of Mr. Drawhorn?

19 A: If it were -- if it were the case, they would have been
20 secured in an evidence bag. If that were the case, but like I
21 said again, I don't recall. It's been so long ago.

22 Q: Okay. Was there anyone that would have responded to the
23 hospital that would have collected that evidence were there
24 any?

25 A: I can't -- I can't recall. I don't remember that.

CORPORAL MARION RICHARDSON - CROSS BY MR. BAILEY

1 Q: Do you recall who went to the hospital while you were
2 there, law enforcement-wise?

3 A: Not really. Not really because I contacted my shift
4 supervisor. Once the performance or whatever was performed at
5 the hospital to try to save this gentleman's life, you know, I
6 contacted my shift supervisor and advised him and I waited for
7 further instructions, but I can -- I don't quite remember what
8 I had to do at that time.

9 Q: And are you still with the Sheriff's Department?

10 A: No. I'm with the Marion County Administration Office.

11 Q: Why did you leave the Marion County Sheriff's Department?

12 A: It was for a better job.

13 Q: More pay?

14 A: Well, better hours.

15 Q: Better hours? Okay. Now, I know you testified for Mr.
16 Deberry that typically only the officer who gets the case
17 number does a report?

18 A: Well, it's -- we usually -- we normally meet up and
19 discuss what all took place and our actions that we took and
20 usually -- they usually have one general person doing the
21 report, whoever -- whoever assigns the case number on that
22 particular incident, and we discuss it, you know, and then the
23 report is set up at that point.

24 Q: Okay. Did you go to the police academy?

25 A: Yes.

CORPORAL MARION RICHARDSON - CROSS BY MR. BAILEY

1 Q: Or the criminal justice academy?

2 A: Yes.

3 Q: And you went to the one that's in Columbia, South
4 Carolina; correct?

5 A: Yes.

6 Q: And at the academy, they pretty much teach you how to be
7 a police officer; correct?

8 A: They do their best, yes.

9 Q: Okay. Did they teach you how important it is to make
10 notes when you're on a crime scene?

11 A: Absolutely.

12 Q: Okay. Is it a policy decision that y'all don't take
13 notes at the Marion County Sheriff's Department?

14 A: We all take notes. Yes, we do.

15 Q: But you elected not to take notes on a murder case?

16 A: Well, I wasn't involved in the actual -- I wasn't
17 involved in the actual investigation of the case. My notes
18 was pretty simple. That was to escort the gentleman to the
19 Marion County Medical Center and I did take notes at times,
20 recorded times. I referred all that information back to the
21 shift supervisor at that time.

22 Q: And the shift supervisor was who?

23 A: And the shift supervisor at that time was Clemson Legette
24 I think.

25 Q: Okay. Do you know what Officer Legette did with your

CORPORAL MARION RICHARDSON - CROSS BY MR. BAILEY

1 records?

2 A: That's where we had our meeting at and discussed all our
3 numbers and stuff, and mine was more -- mine was more set to
4 times than anything as far as the deceased and all that, time
5 of the arrival at the hospital, deceased time, stuff like
6 that.

7 Q: And since you don't have your notes, you can't tell me
8 what time you arrived at the hospital?

9 A: No, I cannot.

10 Q: Okay.

11 MR. BAILEY: Please answer any questions that Solicitor
12 Clements might have for you.

13 THE COURT: Any redirect?

14 MR. CLEMENTS: No, Your Honor. I ask if he can be
15 released from his subpoena.

16 THE COURT: All right. Any objection, Mr. Deberry?

17 MR. DEBERRY: No, Your Honor.

18 THE COURT: Mr. Bailey?

19 MR. BAILEY: Nothing, Your Honor. I mean no objection.

20 THE COURT: Sir, you may step down. You're free to go.
21 You have no further responsibility under your subpoena. Thank
22 you for being here.

23 MR. CLEMENTS: We'd call Sergeant Clemson Legette.

24 THE COURT: Not right now. Ladies and gentlemen, we're
25 going to take a break. You've been out here about an hour and

1 a half. We're going on about that. We typically run court --
2 I told you when I qualified you we'd sit for about an hour and
3 a half to two hours between breaks.

4 I'm going to let you step to the jury room and take a
5 break. I'll get you back out here in a few minutes. Do not
6 -- do not discuss the case. I'll get you back out here as
7 quickly as possible.

8 (Whereupon, the jury exits the courtroom at 3:41 p.m.)

9 THE COURT: All right. I'm going to address something
10 right now. I have seen various people during the course of
11 this trial texting and carrying on with their phones and it's
12 obvious -- obvious that it's not work-related. It is very
13 unprofessional and I will not tolerate it in this courtroom.
14 Am I clear on that? Anybody have any questions about how
15 clear I'm trying to be on that?

16 MR. CLEMENTS: I certainly don't, Your Honor.

17 THE COURT: Anybody else? I will confiscate those phones
18 and the sheriff can come down here and get them. Am I clear
19 on that? I don't tolerate anybody out there doing it and
20 nobody up front here is going to do it. All right. We'll
21 stand down for about ten minutes.

22 (Whereupon, there is a break in the proceedings from 3:41
23 p.m. until 3:43 p.m.)

24 THE COURT: I was informed by the bailiff that one of the
25 jurors brought it to his attention about the law enforcement

1 texting in the courtroom. Again, I'm not going to tolerate
2 that. Am I clear on that? Thank you.

3 (Whereupon, there is a break in the proceedings from 3:43
4 p.m. until 3:58 p.m.)

5 THE COURT: Mr. Clements, is the State ready to proceed?

6 MR. CLEMENTS: We are, Your Honor.

7 THE COURT: Mr. Deberry, are you ready to proceed?

8 MR. DEBERRY: Yes, sir.

9 THE COURT: Mr. Bailey, are you ready to proceed?

10 THE COURT: Yes, sir, Your Honor.

11 THE COURT: Call your next witness, please. Excuse me.
12 After we bring the jury in. Thank you.

13 (Whereupon, the jury enters the courtroom at 3:59 p.m.)

14 THE COURT: All right. Mr. Clements, you're recognized.

15 For the record, note that all jurors are back and present in
16 the courtroom. Please call your next witness. Thank you.

17 MR. CLEMENTS: Thank you, Your Honor. We'd call Sergeant
18 Clemson Legette.

19 THE COURT: Okay.

20 THE CLERK: Come around so I can swear you in, please,
21 sir. Place your left hand on the Bible and raise your right
22 hand. Do you solemnly swear or affirm the evidence you're
23 about to give shall be the truth, the whole truth, and nothing
24 but the truth, so help you God?

25 THE WITNESS: I do.

SERGEANT CLEMSON LEGETTE - DIRECT BY MR. CLEMENTS

1 THE CLERK: Thank you.

2 SERGEANT CLEMSON LEGETTE, being first
3 duly sworn, testifies as follows:

4 DIRECT EXAMINATION

5 BY MR. CLEMENTS:

6 Q: Could you please state your name for the record and tell
7 this jury what you do for a living and who you work for?

8 A: Yes, sir. My name is Clemson Legette II and I'm a
9 sergeant with the Marion County Sheriff's Office, a road
10 patrol deputy.

11 Q: And how long have you worked in law enforcement, Sergeant
12 Legette?

13 A: Eighteen years.

14 Q: And have you worked with the Marion County Sheriff's
15 Office the entire 18 years?

16 A: No, sir.

17 Q: Where else have you worked?

18 A: I worked for three years with the Marion Police
19 Department and about a year and a half with the state troopers
20 of South Carolina.

21 Q: Okay. And you're a native of Marion County?

22 A: No, sir.

23 Q: Where are you from?

24 A: New Jersey.

25 Q: New Jersey? Okay. How long have you lived in Marion?

SERGEANT CLEMSON LEGETTE - DIRECT BY MR. CLEMENTS

1 A: Thirty years.

2 Q: Okay. All right. And were you out and was it your shift
3 that was patrolling the night of April 12th and the early
4 morning of April 13th, 2012?

5 A: Yes, sir.

6 Q: Did you get a call to respond to Highway 501 North?

7 A: Yes, sir.

8 Q: Can you please tell this jury when you got that call what
9 you did and what you found and where you went?

10 A: Yes, sir. We received a call of shots fired at a
11 residence. I was located on Highway 501 South near the Rains
12 community on patrol. I came up on scene after the other
13 officers. We noted -- saw the victim, Mr. Drawhorn, and
14 family members and we tried to take control of the scene.

15 Q: And you were where? Where do you recall that being? 501
16 North or 501 South?

17 A: The call was 501 North. I was located on 501 South.

18 Q: Okay. Down in Rains?

19 A: In Rains, yes.

20 Q: So it took you a little bit of time to get there, did it
21 not?

22 A: Yes, sir.

23 Q: Who else was on patrol with you?

24 A: I had Corporal Marion Richardson and Patrolman Gregory
25 Pike.

SERGEANT CLEMSON LEGETTE - DIRECT BY MR. CLEMENTS

1 Q: Okay. And that was all on patrol?

2 A: Yes, sir.

3 Q: All right. Do you know who got there first?

4 A: Patrolman Gregory Pike.

5 Q: Okay. And who got there second?

6 A: Corporal Marion Richardson.

7 Q: All right. Who got there third?

8 A: I did.

9 Q: Okay. And was that within minutes or seconds or how

10 close together was it?

11 A: Corporal -- Corporal Richardson and Patrolman Pike was

12 within seconds of each other and I came in within about --

13 within two minutes after they arrived.

14 Q: Okay. And how soon after you arrived did EMS get on

15 scene?

16 A: They arrived approximately 30 seconds after I came on

17 scene.

18 Q: Thirty seconds after you?

19 A: Yes, sir.

20 Q: And where do you get those times from?

21 A: We got it from the dispatch.

22 Q: Okay. CAD report?

23 A: Yes, sir.

24 Q: Okay. And when you got there on the scene, can you

25 please tell the jury what you found and what you saw?

SERGEANT CLEMSON LEGETTE - DIRECT BY MR. CLEMENTS

1 A: We came on the scene and we saw the family members, you
2 know, upset within reason. I saw Mr. Drawhorn trying to, you
3 know, stay calm, that he was shot.

4 Q: Where was he located?

5 A: He was in the back yard.

6 Q: Okay. All right. Who was out there with him?

7 A: I'd say -- I assumed that's his family members, possibly
8 some friends that was outside the residence.

9 Q: Okay. Do you recall about how many people there were?

10 A: Not clearly, but I'd take a guess. It probably would
11 have been five to seven. That's about right.

12 Q: Five? That's a guess? You don't --

13 A: Yes, that's a guess.

14 Q: It's been a couple years, hasn't it?

15 A: Yes, sir.

16 Q: Okay. All right. When you got there, what did you do
17 after you got out of your car with the people that were there
18 and your officers? What did you do?

19 A: As I recall, when we were clear, EMS got there and they
20 took Mr. Drawhorn.

21 Q: Okay.

22 A: Like I said, it was -- everybody was upset; so we were
23 trying to, you know, control the situation as much as we could
24 talking to the people about what they witnessed or what they
25 heard.

SERGEANT CLEMSON LEGETTE - DIRECT BY MR. CLEMENTS

1 Q: Okay. So the people that were there were witnesses?

2 A: Right.

3 Q: Okay. Were they upset? Did you have to calm them down?

4 A: We tried to talk with them, calm them down, trying to
5 get, you know --

6 Q: Okay.

7 A: -- make sense what took place.

8 Q: All right. And about how soon after you got there did
9 the investigators get there?

10 A: The investigators got there. If I recall, I had to call
11 Detective Bell.

12 Q: Did you call Detective Bell?

13 A: Yes, sir.

14 Q: Was he the on-call detective at that time?

15 A: He was the on-call detective at the time.

16 Q: Okay. And did he respond?

17 A: He responded.

18 Q: And now on this type of situation where you got a
19 shooting and a death, how many investigators do y'all call
20 out?

21 A: Well, we usually have all the investigators.

22 Q: All of them? Okay. Did you do anything to secure the
23 crime scene?

24 A: Well, I instructed Patrolman -- Patrolman Pike to see if
25 he could find any evidence because there was only three of us

SERGEANT CLEMSON LEGETTE - DIRECT BY MR. CLEMENTS

1 --

2 Q: Yeah.

3 A: -- out there. I kept my eye on the back to make sure
4 nobody was going in and out of the residence.

5 Q: And he went to look around?

6 A: Right. Well, along with Corporal Richardson.

7 Q: Okay. Along with Corporal Richardson?

8 A: Yes, sir.

9 Q: Did they go out to the roadway?

10 A: Yes, sir.

11 Q: Was anything moved?

12 A: Well, according to Patrolman Pike, I found after the fact
13 that Corporal Richardson moved -- moved the shellings.

14 Q: From where to where?

15 A: From the road -- I want to say from the road probably to
16 the --

17 Q: Out of the roadway?

18 A: Out of the roadway.

19 Q: So they wouldn't get run over?

20 A: Yes, sir.

21 Q: What -- if it was you, what would you have done? Would
22 you have moved the shells or done something else?

23 A: I would have left it alone.

24 Q: All right.

25 A: You don't touch evidence.

SERGEANT CLEMSON LEGETTE - DIRECT BY MR. CLEMENTS

1 Q: Stopped the traffic?

2 A: Stopped the traffic.

3 Q: Closed the lane off?

4 A: Yes, sir.

5 Q: Okay. Now, is Corporal Richardson still working with you
6 in law enforcement?

7 A: No, sir.

8 Q: Where is he?

9 A: He's with the code enforcement.

10 Q: Okay. All right. Now, did you put any or did anybody
11 else put any crime scene tape up? Who put that up?

12 A: After investigators came, I put the crime scene tape up.
13 I wasn't sure -- it was one of the investigators. I wasn't
14 sure who was with me at the time that set it up.

15 Q: Okay. So you waited on the investigators?

16 A: Right.

17 Q: And then you and an investigator put it up?

18 A: Yes, sir.

19 Q: Do you recall which investigator it was?

20 A: No, sir.

21 Q: Okay. But before they got there, did you have enough
22 manpower to look at everything and keep your eye on everything
23 and put the tape up?

24 A: No, sir. Like I said, there was only three of us.

25 Q: All right. Once the investigators got there, y'all had

SERGEANT CLEMSON LEGETTE - DIRECT BY MR. CLEMENTS

1 more manpower?

2 A: We had more manpower. Yes, sir.

3 Q: Okay. All right. What else did you do on the scene, if
4 anything?

5 A: I basically assisted the investigators. I just looked
6 for any additional evidence.

7 Q: Okay. So when they came on the scene, the control of the
8 scene went from you to them?

9 A: Yes, sir.

10 Q: Okay. All right. And you just assisted with whatever
11 they asked you to do?

12 A: Yes, sir.

13 Q: All right. Now, how long did you stay at that scene, if
14 you recall?

15 A: I'd say, if I could recall, approximately over an hour.
16 We had another call.

17 Q: You got another call you had to respond to?

18 A: Yes, sir.

19 Q: Where? Somewhere else in the county?

20 A: Yes, sir.

21 Q: Okay. Do you recall where that was?

22 A: It was located in west Marion.

23 Q: Okay.

24 A: Lachlan Road.

25 Q: All right. So you left the scene out there at 501 North

SERGEANT CLEMSON LEGETTE - DIRECT BY MR. CLEMENTS

1 and went to --

2 A: Yes, sir.

3 Q: -- that other scene?

4 A: Yes, sir.

5 Q: All right. Did you have any other duties other than
6 helping prepare a report in this case?

7 A: No, sir.

8 Q: Okay. And who -- who prepared the report?

9 A: It was Patrolman Pike.

10 Q: All right. Did you have to review that and approve it?

11 A: Yes, sir.

12 Q: Okay. All right.

13 MR. CLEMENTS: I beg the Court's indulgence. Sergeant
14 Legette, thank you. Please answer any questions Mr. Bailey or
15 Mr. Deberry may have.

16 THE COURT: Mr. Deberry, cross examination.

17 CROSS EXAMINATION

18 BY MR. DEBERRY:

19 Q: Good afternoon, Sergeant Legette.

20 A: Good afternoon.

21 Q: You testified when the call came in you were over in the
22 Rains community?

23 A: Yes, sir.

24 Q: Which way would you go from Rains to -- to 501 North?

25 A: From Rains, I probably was traveling northbound. I was

SERGEANT CLEMSON LEGETTE - CROSS BY MR. DEBERRY

1 southbound at that time.

2 Q: How far -- how far would you have been away from the
3 crime scene?

4 A: It would have been within ten miles.

5 Q: About ten miles?

6 A: Within ten miles, yes.

7 Q: So you're sure that -- that Deputy Pike arrived first?

8 A: Yes, sir.

9 Q: Okay. Where did you park when you arrived?

10 A: I parked in the back yard.

11 Q: In the back yard?

12 A: Yes, sir.

13 Q: All right. I'm going to show you what's into evidence as
14 State's Exhibit 37. Do you recognize that?

15 A: This would be the area --

16 Q: Is that --

17 A: -- where it took place.

18 Q: That's where the shooting occurred?

19 A: Yes, sir.

20 Q: Okay. How did you get into the back yard? Well, I'll
21 ask you does the driveway come in off of General Road?

22 A: It come off of -- I want to say I came from the highway.

23 Q: What -- what are you -- what came from the highway?

24 A: The road -- the driveway to the -- to the back yard.

25 Q: Let me show you. Let me point out something to you.

SERGEANT CLEMSON LEGETTE - CROSS BY MR. DEBERRY

1 This is Highway 501 North here. This is General Road, this
2 gravel dirt road.

3 A: Yes, sir.

4 Q: And this is the driveway. It looks to be off of General
5 Road. Are you testifying that you drove in off of 501 North?

6 A: Parked off of General Road. It has been a while. It
7 seems like there was, like, a road in the driveway forward.

8 Q: Okay. Do you agree that General Road is a dirt road?

9 A: Yes, sir.

10 Q: Okay. Would you agree that that driveway that goes to
11 the back of that residence is dirt?

12 A: Yes, sir.

13 Q: Okay. Whereabouts did you park behind that residence?

14 THE COURT: Hold it up, please, for the jury to see.

15 A: I'm sorry. I'd say in this area possibly.

16 Q: Okay. And did you then walk up to Mr. Drawhorn?

17 A: At the time, EMS had got there. I walked up to -- like I
18 say, his family members was trying to --

19 Q: So did -- you walked up amongst what you're calling
20 family members. Did you know them individually?

21 A: No, sir.

22 Q: What were their names?

23 A: Like I say, I didn't know them.

24 Q: Did -- you knew that there had been a shooting there?

25 A: From what the call came through, yes, sir.

SERGEANT CLEMSON LEGETTE - CROSS BY MR. DEBERRY

1 Q: All right. So were you not concerned that they may be
2 subjects?

3 A: Yes, sir.

4 Q: You were?

5 A: Yes, sir, but also I guess when we come to the scene, we
6 just want to make sure of the safety of the other people as
7 well.

8 Q: Okay. Do you have any training at all that when you come
9 to a shooting scene that there's evidence that could be there
10 that could -- that could be wiped away or anything like that?

11 A: Yes, sir.

12 Q: Are you familiar with GSR?

13 A: Yes, sir.

14 Q: What is that?

15 A: That's the gun -- gunshot residue.

16 Q: Gunshot residue?

17 A: Yeah.

18 Q: And where does that typically -- where is that typically
19 found?

20 A: On the palms, on the hands of the shooter.

21 Q: Okay. Now, you testified that the people that were there
22 were family members?

23 A: I said possibly family members or -- and friends.

24 Q: Friends?

25 A: Yeah. I can't really say for sure they're family

SERGEANT CLEMSON LEGETTE - CROSS BY MR. DEBERRY

1 members. I don't know.

2 Q: All right. And at the time, did you know where the
3 shooting had -- what had happened?

4 A: No, sir. That's what we were trying to find out, what
5 was going on.

6 Q: That's what you were trying to find out?

7 A: Yes, sir.

8 Q: So did you search the individuals that were there?

9 A: No, sir.

10 Q: Did you pat them down?

11 A: No, sir.

12 Q: Were there -- were they trying to put Mr. Drawhorn into a
13 vehicle?

14 A: When I got there, from what I could understand, they was
15 trying to keep him walking around to keep him awake, keep him
16 up.

17 Q: He was walking around?

18 A: They was keeping him up walking him trying to keep him
19 from -- I guess from passing out.

20 Q: Did anybody, you or your other officers that were there,
21 tell them to get away from Mr. Drawhorn?

22 A: No, sir.

23 Q: You didn't? They didn't?

24 A: At least for my part, I didn't myself. But when I got
25 there, I didn't.

SERGEANT CLEMSON LEGETTE - CROSS BY MR. DEBERRY

1 Q: Was Mr. Richardson up there amongst Mr. Drawhorn and his
2 family members or the subjects or --

3 A: Yes, sir.

4 Q: He was?

5 A: Yes, sir.

6 Q: And how -- and how long after y'all were there did EMS
7 arrive?

8 A: It was I would say within 30 seconds after I arrived on
9 the scene.

10 Q: Thirty seconds after you arrived?

11 A: Within 30 seconds.

12 Q: So what happened to the individuals? I assume that they
13 went ahead and transported Mr. Drawhorn?

14 A: Yes, sir.

15 Q: What happened to the other individuals that were there?

16 A: They stayed on the scene.

17 Q: But you don't -- you didn't take their names?

18 A: As I recall, we took names trying to get names of the
19 victim, Mr. Drawhorn, and who else was in the house to talk
20 with. Like I said, due to the shortage of manpower, we tried
21 to do all we could. Like I said, people were still upset.

22 Q: Are you familiar with a crime scene log-in report or a
23 crime scene report where you take names of individuals who
24 enter the crime scene?

25 A: Yes, sir.

SERGEANT CLEMSON LEGETTE - CROSS BY MR. DEBERRY

1 Q: Where is that report?

2 A: I'm not sure.

3 Q: Are you sure that one was even generated?

4 A: I'm not sure.

5 Q: You're not sure? So who was it from EMS that arrived?

6 A: I'm not sure who was on from EMS.

7 Q: Where did the ambulance come?

8 A: The same way we came in the back yard.

9 Q: The same way you came?

10 A: Yeah.

11 Q: You testified that you sent your two patrolmen out to do
12 some searching for evidence; is that right?

13 A: Yes, sir.

14 Q: And that they found some gun shells?

15 A: Yes, sir.

16 Q: And that they moved them?

17 A: According to Patrolman Pike, Corporal Richardson moved
18 them.

19 Q: Did he pick them up and move them or did he sweep them
20 with a broom or kick them with his feet? How did he move
21 them?

22 A: Probably picked them up.

23 Q: Picked them up?

24 A: All I know is they was removed from the -- from the
25 actual location.

SERGEANT CLEMSON LEGETTE - CROSS BY MR. DEBERRY

1 Q: They were removed from the actual location? What was the
2 actual location?

3 A: I guess it was in the roadway.

4 Q: In the roadway?

5 A: Yeah. In the roadway.

6 Q: In the median?

7 A: In the -- in the highway.

8 Q: There's four lanes of traffic that must be 50 yards wide
9 of highway out there. About where -- where were they?

10 MR. CLEMENTS: Your Honor, I object. He says he heard
11 they were moved. I mean I don't know how he's going to know
12 where they were moved from if he wasn't out there.

13 MR. DEBERRY: I mean he certainly acts like he's about to
14 answer the question.

15 THE COURT: If he knows the answer to the question, he
16 can answer it. Tell me for the record what exhibit that is.

17 MR. DEBERRY: That's State's Exhibit 37.

18 THE COURT: Thank you. If you know the answer, sir,
19 please answer it. If you don't --

20 BY MR. DEBERRY:

21 A: Well, this, like I said, was out front and I was in the
22 rear. From my earlier looking, then I guess it was from the
23 roadway to -- into another location I guess from the highway
24 to keep traffic from flowing over the evidence.

25 Q: Okay. So your understanding and you're testifying that

SERGEANT CLEMSON LEGETTE - CROSS BY MR. DEBERRY

1 they moved the evidence so that traffic could come through?

2 A: I'm not saying anything. I'm saying Corporal Richardson.

3 Q: Corporal Richardson?

4 A: Yes, sir.

5 Q: Okay. It was after midnight?

6 A: Yes, sir.

7 Q: Is there very much traffic out there after midnight?

8 A: You might not have that much traffic, but still -- you
9 still have a few cars. Still vehicles of traffic then.

10 Q: Okay. Is it standard procedure would you say to move
11 that evidence like that?

12 A: You don't move evidence.

13 Q: So that was a mistake?

14 A: That's a mistake.

15 Q: And because it was moved, then we don't have any way to
16 know where it was. Fair?

17 A: If they moved it, yes.

18 Q: Okay. Do you know or do you have any idea if it was down
19 here close to General Road or was it way up here or where was
20 it? Do you have any idea?

21 A: I have no idea.

22 Q: There's been some testimony that as a sergeant -- do you
23 meet with your officers and generate a report?

24 A: As far as doing a report?

25 Q: Mm-hmm.

SERGEANT CLEMSON LEGETTE - CROSS BY MR. DEBERRY

1 A: Check off when necessary. Looking at the reports, yes,
2 sir.

3 Q: Did Mr. Richardson give -- supply you with any notes he
4 had?

5 A: No, sir.

6 Q: Did you meet with Mr. Richardson to help produce a report
7 from that night?

8 A: Actually, it was Patrolman Pike's report. That was his
9 zone. We call it a zone in each area -- each part of the
10 county. So Mr. -- Patrolman Pike was doing the report.

11 Q: Did you review the report?

12 A: Yes, sir.

13 Q: Are you familiar with what the report says?

14 A: At the time, I do -- I did. I am familiar with it.

15 Q: Are you --

16 A: We put on there what took place.

17 Q: When is the last time you took a look at the report?

18 A: I glanced at it this afternoon.

19 Q: Does that report show anything or say anything about the
20 shell casings being moved?

21 A: No.

22 Q: Can you tell me where you wrote it down or where you have
23 it logged in about the specific vehicles that were there?

24 A: No, sir.

25 Q: Do you remember how many vehicles were there?

SERGEANT CLEMSON LEGETTE - CROSS BY MR. DEBERRY

1 A: If I would take a guess, I would say it was probably
2 about two or three.

3 Q: You testified one time that you made sure that nobody
4 went inside and outside of the house, didn't you?

5 A: Yes, sir.

6 Q: Why did you -- why was that a concern?

7 A: Well, that's part of the scene. It's actually a crime
8 scene, like I said.

9 Q: Oh, it was?

10 A: Yes, sir.

11 Q: What gave you that determination?

12 A: We had the drive-by shooting at the residence. The
13 residence is part of the crime scene. So we try to keep
14 people in and out -- I mean try to keep people out of the
15 crime scene as much as possible.

16 Q: What evidence or what -- any -- what gave you any
17 inclination at that point in time when you had just pulled up
18 that it was a drive-by?

19 A: We had a call from -- dispatch had put it out as a drive-
20 by and somebody got shot, so far as I can recall.

21 Q: Did you -- were you aware there was a bullet hole in the
22 car in the back yard?

23 A: I can't recall that.

24 Q: Okay. If there's an individual shot in the back yard, I
25 mean would that not give you some inclination that that might

SERGEANT CLEMSON LEGETTE - CROSS BY MR. DEBERRY

1 be part of the crime scene as well?

2 A: The car was in the area we blocked off as part of the
3 crime scene.

4 Q: Show the jury where you did block off as the crime scene?
5 This is State's Exhibit 37.

6 A: We try to make it as wide as we can at the time so we
7 have to have some trees to -- or poles we can use. Let's see.
8 It was in this area.

9 Q: Right around that area?

10 A: Right that way.

11 Q: Well, Sergeant, we're not sure where the shell casings
12 were; right? I mean they were moved?

13 A: Right.

14 Q: And they were moved to the side of the roadway somewhere;
15 correct?

16 A: Right.

17 Q: You didn't include that area in your crime scene?

18 A: Well, the shell casings were already moved from the
19 highway. We had other vehicles. We had patrolmen, like I
20 said, just -- we had other officers to park there because we
21 did eventually stop the flow of traffic.

22 Q: Okay.

23 A: That we didn't have -- like I say, at that time we didn't
24 have enough manpower.

25 Q: Right. So eventually a lot --

SERGEANT CLEMSON LEGETTE - CROSS BY MR. DEBERRY

1 A: Right.

2 Q: A lot of cars came; is that right?

3 A: And detectives, right.

4 Q: How many cars you think responded?

5 A: Let's see. At the time, we had four or five
6 investigators, along with -- we had some administrative staff
7 to come out as well.

8 Q: So you --

9 A: So I'm going to say possibly about -- I'd say about seven
10 vehicles.

11 Q: At least seven?

12 A: At least seven.

13 Q: Were they parked outside of the crime scene? They
14 wouldn't have parked inside of the crime scene, would they?

15 A: They wouldn't have parked inside of the scene. If they
16 had a log generated, it had their names on it. Possibly had
17 some inside. Some inside, probably had some out. Like I say,
18 they had some at the highway stop the flow of traffic.

19 Q: Do you remember any law enforcement vehicles parked on
20 General Road or right in --

21 A: They might have one or two just, you know, like there.

22 Q: And when you said earlier that you just -- you just taped
23 off right around the house; right?

24 A: Right around -- around the house, yes.

25 Q: Right. You didn't include General Road, did you?

SERGEANT CLEMSON LEGETTE - CROSS BY MR. DEBERRY

1 A: No, sir.

2 Q: And you didn't include out here where you found any shell
3 casings?

4 A: I don't think we had the vehicles on the highway.
5 Possibly one or two vehicles.

6 Q: And you can't say if those shell casings were -- you
7 can't say where they were; right?

8 A: Right.

9 Q: You said that Corporal Richardson probably picked them up
10 and moved them?

11 A: Yes, sir.

12 Q: Do you know anything about fingerprints?

13 A: Yes, sir.

14 Q: Can't they be put on shell casings?

15 A: Depends on how smooth they are I guess.

16 Q: Yeah. Wouldn't it be likely that whoever loaded the gun
17 may have been the shooter of the gun and may have left their
18 fingerprints on the shell casings?

19 A: It's possible.

20 Q: But if somebody puts there fingerprints on top of
21 somebody else's fingerprints, doesn't that kind of mess that
22 up?

23 A: Yeah. They would have smudges.

24 Q: Okay. Do you know if the shell casings were
25 fingerprinted?

SERGEANT CLEMSON LEGETTE - CROSS BY MR. DEBERRY

1 A: I'm not sure.

2 Q: Okay. Did you know if any of those guys out there that
3 are the family members or the subjects or whoever they were --
4 did you know if they washed their hands at all?

5 A: I'm not sure.

6 Q: Did you -- did you see any blood?

7 A: There was blood on Mr. Drawhorn's clothes that he was
8 shot in.

9 Q: Blood on his clothes?

10 A: Yes, sir.

11 Q: And he was outside when you got there?

12 A: Yes, sir.

13 Q: Did you have -- I mean did you look at the -- how far
14 away from the house was he when you got there?

15 A: I'd say probably around -- I'd say a few yards.

16 Q: All right. Did you have a flashlight?

17 A: Yes, sir.

18 Q: Did you -- did you stick your head in the house at all?

19 A: Yes, sir.

20 Q: Did you notice any blood coming out of the house?

21 A: I can't recall at this point. Possibly there was, but I
22 just can't remember.

23 Q: So you can't say if he got shot inside or outside, can
24 you?

25 A: Like I said, when we had enough manpower to go and

SERGEANT CLEMSON LEGETTE - CROSS BY MR. DEBERRY

1 actually check thoroughly, we found bullet holes. There was
2 some bullet holes inside of the house.

3 Q: Did you do any checking on the bullet holes as to which
4 direction they came from?

5 A: Well, we had the investigators to do that.

6 Q: So you didn't do that?

7 A: Like I said, I assisted during that part.

8 Q: I understand. You helped them?

9 A: Yes, sir.

10 Q: Did you see -- did you participate in any sort of
11 trajectory investigation, which means, you know, trying to
12 determine which travel -- which direction bullets were
13 traveling?

14 A: I did the best I could on it.

15 Q: Okay.

16 A: I know they are more, you know, trained for that.

17 Q: Okay.

18 A: But I do the best I can.

19 Q: But you don't have any knowledge of that?

20 A: Not much.

21 Q: Okay. Okay. All right. So when -- did you -- after you
22 went to your -- to your second call about an hour after you
23 were there I guess, by that time investigators and all had
24 come?

25 A: They were already on the scene.

SERGEANT CLEMSON LEGETTE - CROSS BY MR. DEBERRY

- 1 Q: Okay. And so you left. Did you come back?
- 2 A: Yes, sir.
- 3 Q: All right. When you came back, did you sign that crime
- 4 scene log?
- 5 A: I don't recall right now.
- 6 Q: And you didn't start one before you left?
- 7 A: No, sir.
- 8 Q: Yeah. And to your knowledge, is there a crime scene log?
- 9 A: Not to my knowledge.
- 10 Q: Had there been a crime scene log, would the individuals
- 11 who were there when you arrived been put on that log?
- 12 A: I'm not for sure. Like I say, due to the fact that --
- 13 excuse me. Like I said, these are -- you know, so the
- 14 manpower to try to --
- 15 Q: Right.
- 16 A: -- control.
- 17 Q: Right. But you've been to police training and that sort
- 18 of thing?
- 19 A: Right. Yes, sir.
- 20 Q: And you know it's important to note to --
- 21 A: Yes, sir.
- 22 Q: -- secure --
- 23 A: Yes, sir.
- 24 Q: -- the crime scene and that sort of stuff?
- 25 A: Yes, sir. I'm aware of that.

SERGEANT CLEMSON LEGETTE - CROSS BY MR. DEBERRY

1 Q: And you know people who were there would probably be an
2 important thing to know?

3 A: Yes, sir.

4 Q: So it's possible that some of those people left and we
5 don't know who they are?

6 A: It's possible.

7 Q: Yeah. All right. And how about the vehicles? Did you
8 -- any report on the license tags, who owned them, who was
9 driving them, what was in them?

10 A: We did have recording of some license tags.

11 Q: Oh, you did? Who did they report back to?

12 A: It doesn't have it here on our CAD -- the CAD report.

13 Q: What license tags were there?

14 A: Let's see. Must be had four tags.

15 Q: Four tags?

16 A: Four tags.

17 Q: Where were those vehicles?

18 A: It doesn't have the location. Like I said, the ones off
19 this here was, like I say, in the back yard.

20 Q: You say you were on scene --

21 A: Yes, sir.

22 Q: -- within two minutes of anybody else; right?

23 A: Afterwards.

24 Q: Yeah. So I mean you're just guessing they were in the
25 back yard?

SERGEANT CLEMSON LEGETTE - CROSS BY MR. DEBERRY

1 A: Like I say, it has been a while, but that's what I assume
2 because it was in the back yard.

3 Q: So I guess any questions about some specific makes and
4 models, colors and such, you wouldn't know? Or would you know
5 that?

6 A: Not right now, no.

7 Q: You don't have that in your report?

8 A: No, sir. I don't think so. Like I said, I didn't.

9 Q: But you were in charge of --

10 A: I was not in charge. It was just on the report.

11 Q: Did you make any personal notes when you got there? I
12 mean did you write anything down?

13 A: I might have wrote some down. Like I say, I probably
14 gave it to Patrolman Pike for -- for purposes of his report.

15 Q: Did you give them to the solicitor?

16 A: Like I said, I possibly gave it to Patrolman Pike for the
17 -- you know, to assist in his report if there was anything
18 taken.

19 Q: Don't you think it would have been beneficial if you'd
20 have -- if you did write anything down so later, like, if you
21 had to come to court, you might could remember better?

22 A: Right.

23 Q: Right. But that didn't happen? It's been a while;
24 right?

25 A: Yes, sir. It's been a while.

SERGEANT CLEMSON LEGETTE - CROSS BY MR. DEBERRY

1 Q: All right. Well, I appreciate it.

2 A: Yes, sir.

3 MR. DEBERRY: Thank you so much.

4 THE COURT: Mr. Bailey?

5 MR. BAILEY: Thank you, Your Honor.

6 CROSS EXAMINATION

7 BY MR. BAILEY:

8 Q: Sergeant Legette, you said you had the opportunity to
9 review Private Pike's report; correct?

10 A: Yes, sir.

11 Q: You're his supervising officer?

12 A: Yes, sir.

13 Q: Okay. Who's your supervising officer?

14 A: It would be Lieutenant Darren Miles.

15 Q: Okay. When you reviewed Pike's report, you had the
16 opportunity to change it?

17 A: If it have any -- anything missing or lacking.

18 Q: You could have added information to his report?

19 A: Well, you know, unless I found anything and then we would
20 add what I call a supplemental report to it, yes.

21 Q: So you have a specific document labeled supplemental
22 report?

23 A: In our -- in our LawTrack, yes, sir.

24 Q: Okay. And you could have done a supplemental report
25 yourself?

SERGEANT CLEMSON LEGETTE - CROSS BY MR. BAILEY

1 A: Again, if there was anything missing or if I have some
2 other information pertaining to what took place, you know,
3 possibly I could do that.

4 Q: The moving of the shell casings is a pretty significant
5 event, isn't it?

6 A: Yes, sir.

7 Q: I mean you testified for Mr. Deberry that that was a
8 mistake?

9 A: Yes, sir.

10 Q: That's an error; correct?

11 A: Yes, sir.

12 Q: And you reviewed Pike's report; correct?

13 A: Yes, sir.

14 Q: Nowhere in Pike's report does it mention --

15 A: No, sir.

16 Q: -- that those shell casings were moved; correct?

17 A: Correct.

18 Q: And you didn't do a supplemental report for us, did you?

19 A: No, sir.

20 Q: That's important though?

21 A: Yes, sir.

22 Q: You should have did a supplemental report for us; right?

23 A: I should have.

24 Q: And you could have told us that Richardson moved those
25 shell casings; correct?

SERGEANT CLEMSON LEGETTE - CROSS BY MR. BAILEY

1 A: Correct.

2 Q: That's something that would have been included in a
3 supplement report. Would you agree with me?

4 A: Yes, sir.

5 Q: Okay. You were at the trailer on 501 for a couple hours
6 that night?

7 A: Yes, sir.

8 Q: At any point during the time, did you hear the name
9 Blaton Smith?

10 A: Say that name again, sir?

11 Q: Blaton Smith, my client right here. Did you hear his
12 name? Blaton Smith?

13 A: There was a name mentioned.

14 Q: Whose name was mentioned?

15 A: I think Mr. Smith's name was mentioned.

16 Q: It was mentioned?

17 A: Yes, sir.

18 Q: How was it mentioned?

19 A: One of the witnesses.

20 Q: One of the witnesses?

21 A: Right.

22 Q: You interviewed one of those witnesses?

23 A: Talked with -- I talked with some of them.

24 Q: And one of those witnesses mentioned Blaton Smith?

25 A: Yes, sir.

SERGEANT CLEMSON LEGETTE - CROSS BY MR. BAILEY

1 Q: Was he labeled as a possible suspect at that point in
2 time?

3 A: Possible.

4 Q: It was a possible?

5 A: Yes, sir.

6 Q: A possibility of a suspect being named that night?

7 A: Yes, sir.

8 Q: Did you do a supplemental report indicating that?

9 A: No, sir.

10 Q: Did you add that to Private First Class Pike's report?

11 A: No, sir, I didn't.

12 Q: That's a pretty significant event, wouldn't you agree,
13 Sergeant?

14 A: Yes, sir.

15 Q: You had the name of a possible suspect, but you write it
16 down nowhere. That's what you did that night; correct?

17 A: Correct. The officer -- Patrolman Pike also heard the
18 same name mentioned as well.

19 Q: Patrolman Pike did so as well?

20 A: Right.

21 Q: Okay. And again, not in his report; correct?

22 A: Correct.

23 Q: Did you personally collect any evidence from the trailer
24 or from 501 that night?

25 A: No, sir.

SERGEANT CLEMSON LEGETTE - CROSS BY MR. BAILEY

- 1 Q: Now, I know Mr. Deberry asked you a couple questions
2 about going into the house. Did you walk through that house?
- 3 A: Yes, sir.
- 4 Q: You did walk through the house?
- 5 A: Yes, sir.
- 6 Q: Who did you walk through the house with?
- 7 A: I walked with the investigators.
- 8 Q: Okay. Let me -- let me ask you real just briefly what
9 investigators walked through the house with you?
- 10 A: It would be Detective Bell. Possibly Detective Hotaling
11 I think. I want to say afterwards Patrolman Pike was in there
12 as well.
- 13 Q: Okay. So Patrolman Pike went in the house with you?
- 14 A: Yes, sir.
- 15 Q: Okay. At what point in the night did you go into that
16 house?
- 17 A: It was well after what taken place.
- 18 Q: Well, let me ask you -- let me ask you this way. You
19 were there and then you left and you came back; correct?
- 20 A: Yes, sir.
- 21 Q: Did you go in the house on your first hour-long stay?
- 22 A: We went in it. Yes, sir.
- 23 Q: You did?
- 24 A: Yes, sir.
- 25 Q: Okay. Did you find any evidence in that house?

SERGEANT CLEMSON LEGETTE - CROSS BY MR. BAILEY

1 A: I can't recall the first time I went in seeing anything.

2 Q: Were you specifically looking for evidence in that house?

3 A: Yes, sir. Just, like I said, from -- if we had bullet
4 holes to what took place.

5 Q: Okay. And Mr. Deberry asked you this, but you saw no
6 blood inside the house?

7 A: Like I said, I don't recall seeing anything. It's
8 possible that I just -- at this moment, I cannot recall seeing
9 any blood.

10 Q: Did you do a protective sweep of the house, Sergeant?

11 A: Yes, sir. We do that to clear the house.

12 Q: And you did that upon arrival to the scene?

13 A: Well, it was after the victim was -- Mr. Drawhorn was
14 taken away. Also, like I say, getting some information from,
15 you know, what other people -- you're trying to make sense of
16 what happened, and then we went inside just to -- to make it
17 clear.

18 Q: And that protective sweep -- is that when you went in
19 with Detective Bell and Private Pike?

20 A: It actually was with Patrolman Pike. We went in the
21 first time and that's the first time I go in myself.
22 Patrolman Pike went in with me. The second time we went in,
23 like I said, looking for any additional evidence. That's when
24 we had Detective Bell and possibly Detective Hotaling and
25 Patrolman Pike.

SERGEANT CLEMSON LEGETTE - CROSS BY MR. BAILEY

1 Q: So on that first hour-long stint, you went through the
2 house twice; correct?

3 A: Yes, sir.

4 MR. BAILEY: Please answer any questions Solicitor
5 Clements may have for you.

6 THE COURT: Redirect?

7 MR. CLEMENTS: Just briefly.

8 REDIRECT EXAMINATION

9 BY MR. CLEMENTS:

10 Q: These names and other things that Mr. Bailey was getting
11 on you about, were investigators privy to that same
12 information?

13 A: Yes, sir.

14 Q: Okay. And did they follow up on that?

15 A: Yes, sir.

16 Q: You don't as a patrol officer; right?

17 A: Right.

18 Q: Okay. That's not your particular job?

19 A: That's theirs, but I like to help, you know. If there's
20 anything I can help out, I would.

21 MR. CLEMENTS: Okay. No further questions. We'd like to
22 call the next witness.

23 THE COURT: You got any other questions of this witness?

24 MR. CLEMENTS: No, sir.

25 THE COURT: All right. Any recross?

26

SERGEANT CLEMSON LEGETTE - RECROSS BY MR. DEBERRY

1 MR. DEBERRY: Thank you, Your Honor.

2 RECROSS EXAMINATION

3 BY MR. DEBERRY:

4 Q: Sergeant Legette, it is your job when you come on a crime
5 scene to start figuring out who is there, is it not?

6 A: Yes, sir.

7 Q: But you didn't do that, did you?

8 A: Well, I may not have checked it, but I'm not sure who
9 else might have. Like I say --

10 Q: Right.

11 A: -- we had other patrolmen there, like I said.

12 Q: So if you didn't do that, you couldn't have given the
13 names to any investigator, could you?

14 MR. CLEMENTS: Your Honor, I'm not sure this is new
15 matter that I brought up on redirect. I was not asking about
16 names of subjects. That wasn't what I even asked about.

17 THE COURT: Objection sustained.

18 MR. DEBERRY: No further -- nothing further.

19 THE COURT: Mr. Bailey, anything further?

20 MR. BAILEY: Nothing further, Your Honor.

21 THE COURT: Sir, you may step down. Thank you.

22 THE WITNESS: Thank you.

23 THE COURT: As he's stepping down, can I see the lawyers
24 at sidebar, please?

25 (Whereupon, a bench conference is held in the presence of

INVESTIGATOR SAMANTHA JACKSON - DIRECT BY MR. CLEMENTS

1 the jury but out of the hearing of the jury off the
2 record.)

3 MR. CLEMENTS: Your Honor, we'd call Investigator
4 Samantha Jackson.

5 THE COURT: All right.

6 MR. CLEMENTS: Go up there and be sworn, please, ma'am.

7 THE CLERK: Place your left hand on the Bible and raise
8 your right hand. Do you solemnly swear or affirm the evidence
9 you are about to give in this case shall be the truth, the
10 whole truth, and nothing but the truth, so help you God?

11 THE WITNESS: I do.

12 THE CLERK: Thank you.

13 INVESTIGATOR SAMANTHA JACKSON, being
14 first duly sworn, testifies as follows:

15 DIRECT EXAMINATION

16 BY MR. CLEMENTS:

17 Q: Will you please state your name for the record and tell
18 us where you work?

19 A: Samantha Jackson. I work for Marion County Sheriff's
20 Office.

21 Q: And currently you're what?

22 A: I'm a detective.

23 Q: All right. Were you working for the Marion County
24 Sheriff's Office in April of 2012?

25 A: Yes, sir, I was.

INVESTIGATOR SAMANTHA JACKSON - DIRECT BY MR. CLEMENTS

1 Q: Were you an investigator then?

2 A: No, sir, I was not.

3 Q: What was your job duties then?

4 A: I was a private. I worked -- helped out on -- helped to
5 answer calls on the road and I was the victim's advocate.

6 Q: Okay. Did you have occasion to go to MUSC in April of
7 2012?

8 A: Yes, sir, I did.

9 Q: And can you please tell this jury what caused you to go
10 to MUSC, the Medical University of South Carolina in
11 Charleston, and what exactly you did?

12 A: I escorted the body of Christian Drawhorn to MUSC to have
13 an autopsy performed.

14 Q: And were you present there while the autopsy was
15 performed?

16 A: Yes, sir, I was.

17 Q: All right. During and after the autopsy, was there any
18 items to give -- given to you to bring back for possible
19 evidence in a trial?

20 A: Yes, sir, there was.

21 Q: And what did -- how did you receive those items?

22 A: The doctor that performed the autopsy -- Dr. Ennis I'm
23 assuming is how you pronounce her name. She signed -- had me
24 sign a evidence sheet saying that I retrieved -- received the
25 items from her to complete the chain of custody.

INVESTIGATOR SAMANTHA JACKSON - DIRECT BY MR. CLEMENTS

1 I received a brown paper bag with socks and boxer shorts
2 that the victim was wearing upon arrival at the autopsy. I
3 got a bag with three -- excuse me -- two -- two rubber
4 bracelets and a rubber ring, a package of fingernail clippings
5 from his right and left hand, some pulled hair -- scalp hair,
6 a spot of blood for -- to be tested at SLED to make sure
7 that's who it was, and a projectile bullet that was retrieved
8 from his body.

9 Q: Okay. And what did you do with those items?

10 A: Upon arrival back at the Sheriff's Office, I turned the
11 items over to our evidence custodian, Lieutenant Sawyer.

12 Q: All right. What does Lieutenant Sawyer do with them?

13 A: He signed them into our -- our evidence room, which is
14 uptown at the drug unit.

15 Q: All right. And when you retrieve evidence from an
16 autopsy like that, what is the ultimate purpose for that? To
17 submit it where?

18 A: To submit the evidence to SLED for testing.

19 Q: Okay. And to your knowledge, was that done in this case?

20 A: Yes, sir, it was.

21 Q: And particularly the projectile?

22 A: Yes, sir, it was.

23 Q: Okay. All right.

24 MR. CLEMENTS: Please answer any questions that Mr.
25 Deberry or Mr. Bailey -- oh, wait one moment.

INVESTIGATOR SAMANTHA JACKSON - DIRECT BY MR. CLEMENTS

1 Q: Whose body was that you accompanied to MUSC?

2 A: Christian James Drawhorn.

3 Q: Okay.

4 MR. CLEMENTS: Please answer any questions Mr. Bailey or
5 Mr. Deberry have.

6 THE COURT: Mr. Deberry, cross examination.

7 MR. DEBERRY: Thank you, Your Honor. I've got just one
8 question.

9 CROSS EXAMINATION

10 BY MR. DEBERRY:

11 Q: I'm going to show you what's marked -- marked as State's
12 Exhibit Number 38 and it's just a picture of a mobile home.

13 A: Yeah.

14 Q: Do you agree with that?

15 A: Yes, sir.

16 Q: Can you tell what's behind that mobile home?

17 A: No, sir, I don't.

18 MR. CLEMENTS: Your Honor, I'm not sure if she even went
19 to the scene at all.

20 THE COURT: It's cross. I'll allow that question.

21 Q: Can -- can you tell what's behind that mobile home?

22 A: The only thing I can see is behind the mobile home is
23 there's a vehicle to my left of the mobile home.

24 Q: But that -- that's not behind the mobile home. You can't
25 see what's behind that?

INVESTIGATOR SAMANTHA JACKSON - CROSS BY MR. BAILEY

1 A: I cannot see. The mobile home is blocking it.

2 MR. DEBERRY: Thank you. I don't have anything further.

3 THE COURT: Mr. Bailey?

4 MR. BAILEY: Your Honor, just briefly.

5 CROSS EXAMINATION

6 BY MR. BAILEY:

7 Q: Ms. Jackson, when you went down to MUSC, did you ever
8 speak with Dr. Cynthia Schandl?

9 A: Not to my knowledge, no, sir.

10 MR. BAILEY: No further questions.

11 THE COURT: Any redirect?

12 MR. CLEMENTS: All right. I'd like to approach the
13 witness.

14 REDIRECT EXAMINATION

15 BY MR. CLEMENTS:

16 Q: How many times have you been to an autopsy?

17 A: I'm going to say between seven and nine times.

18 Q: Is it true that they have a team there that performs the
19 autopsies or --

20 A: Yes, sir, it is.

21 Q: -- just one person?

22 A: It's a team of several people.

23 Q: Okay. All right. And the name you referred to was a
24 member of that team performing the autopsy?

25 A: Yes, sir, it was.

INVESTIGATOR SAMANTHA JACKSON - RECROSS BY MR. BAILEY

1 Q: Okay.

2 MR. CLEMENTS: Thank you. No further questions.

3 THE COURT: Mr. Deberry?

4 MR. DEBERRY: Nothing further, Judge.

5 THE COURT: Mr. Bailey?

6 MR. BAILEY: Judge, just one quick redirect question.

7 RECROSS EXAMINATION

8 BY MR. BAILEY:

9 Q: Out of that team that Solicitor Clements asked you about,
10 did you speak with any of them besides Dr. Ennis?

11 A: The only person I recall speaking to about any evidence
12 was Dr. Ennis, the person I got the evidence from.

13 Q: Okay.

14 MR. BAILEY: Thank you. No further questions, Your
15 Honor.

16 THE COURT: Thank you. You may step down. All right.
17 Ladies and gentlemen, what we are going to do at this time is
18 we're going to stop for the day. All right? It's getting
19 close to five o'clock and I've been informed that the next
20 witness possibly is quite lengthy and I'm not going to keep
21 you here. I told you I wouldn't try to keep you past six.
22 I'm not going to keep you here at this time.

23 What I'm going to do is I'm going to excuse you for the
24 balance of today. Okay? My instructions remain the same. Do
25 not discuss the case. Do not discuss the case. Do not do any

1 independent investigation on your own. You're to decide the
2 case based solely upon the testimony from this stand and any
3 evidence that's admitted during the course of this trial.

4 I'm going to ask that you be back here at nine o'clock in
5 the morning -- at nine o'clock in the morning and we'll start
6 the trial -- restart the trial as promptly as possible at that
7 time. I will tell you and I probably should have told you
8 when I qualified you all Monday -- I notice this young lady
9 over here put her arms in her shirt. Obviously -- maybe you
10 were cold. I think that's probably why you did so.

11 It's my fault that it's cold in here if it's cold to you.
12 Okay? I sit up here in this -- in a shirt and a tie and this
13 robe and I get quite warm. Okay? I want you to be
14 comfortable while you're in here. Some people are cold-
15 natured; some people are hot-natured. I've got an added -- a
16 little -- I'm hot-natured plus I've got to wear all of this.
17 So I want it cool if I can control that. But please dress
18 where you're comfortable. I want you to be comfortable while
19 you're in here.

20 There is a very good possibility that you will stay here
21 during lunch tomorrow and lunch will be brought in to you as
22 opposed to letting you leave here for an hour or an hour and a
23 half to go eat lunch; so I want you to prepare for that.
24 Also, it may be a situation where we may be here past five
25 tomorrow. So I want to go ahead and advise you of that as

1 well so you can be prepared to do so.

2 We're going to get as -- we're going to work hard
3 tomorrow. All right? So I want to kind of give you a heads
4 up on that before you get back here tomorrow morning. But
5 please be back in your jury room at nine o'clock and we will
6 start the trial as promptly as possible at that time.

7 Thank you. Have a good afternoon. Everybody else remain
8 seated while the jury exits the courtroom.

9 (Whereupon, the jury exits the courtroom at 4:51 p.m.)

10 THE COURT: All right. All right.

11 (Whereupon, the proceedings adjourn for the day at 4:52
12 p.m.)

13 AUGUST 7, 2014

14 (Whereupon, the proceedings resume at 9:03 a.m.)

15 THE COURT: All right. Anything from the State before I
16 bring the jury in, Mr. Clements?

17 MR. CLEMENTS: No, Your Honor.

18 THE COURT: Mr. Deberry?

19 MR. DEBERRY: No, Your Honor.

20 THE COURT: Mr. Bailey?

21 MR. BAILEY: Nothing, Your Honor.

22 THE COURT: All right. Bring me the jury, please.

23 (Whereupon, the jury enters the courtroom at 9:04 a.m.)

24 THE COURT: Good morning, ladies and gentlemen. I hope
25 you all had a nice evening last night and are ready to proceed

CHARLIE WATSON - DIRECT BY MR. CLEMENTS

1 this morning. I told you we were going to start as promptly
2 at nine o'clock as possible and that's exactly what we're
3 doing. At this time, I'm going to recognize the State to call
4 your next witness, please, sir.

5 MR. CLEMENTS: Thank you, Your Honor. If it please the
6 Court, we would call Charlie Watson.

7 THE CLERK: Put your left hand on the Bible and raise
8 your right hand, sir. Do you solemnly swear or affirm that
9 the evidence you shall give in the trial of this case shall be
10 the truth, the whole truth, and nothing but the truth, so help
11 you God?

12 THE WITNESS: I do.

13 THE CLERK: Thank you.

14 CHARLIE WATSON, being first duly
15 sworn, testifies as follows:

16 DIRECT EXAMINATION

17 BY MR. CLEMENTS:

18 Q: Can you fit in there all right?

19 A: Yeah.

20 Q: All right. Can you please state your name for the record
21 and tell this jury where you're working today?

22 A: My name is Charlie Watson. I work for Darlington Police
23 Department.

24 Q: What do you do for the Darlington Police Department?

25 A: I am a patrol officer assigned to Darlington High School

CHARLIE WATSON - DIRECT BY MR. CLEMENTS

1 as an SRO.

2 Q: Okay. And how long have you been employed by Darlington?

3 A: Not even a full week.

4 Q: Okay. And prior to working with Darlington PD, where did
5 you work?

6 A: I worked for the Marion County Sheriff's Office.

7 Q: In what capacity?

8 A: I was a criminal detective.

9 Q: Okay. And why did you move to Darlington?

10 A: Just personal reasons.

11 Q: All right. They got more money in Darlington County than
12 they do in Marion County?

13 A: You said it.

14 Q: Okay. Now, when you worked for Marion County Sheriff's
15 Office as an investigator, how long did you work there?

16 A: I worked for Marion County Sheriff's Office a total for
17 nine years.

18 Q: Prior to that, where did you work?

19 A: I worked for Mullins Police Department for eight and a
20 half years.

21 Q: So what's your total time in law enforcement?

22 A: Altogether, 17 and a half -- almost 18 years total.

23 Q: Okay. Were you working as an investigator on the night
24 of April 12th and early morning of April 13th, 2012?

25 A: I was.

CHARLIE WATSON - DIRECT BY MR. CLEMENTS

1 Q: Here in Marion County?

2 A: Yes.

3 Q: Okay. And did you have occasion to be called out in
4 regards to a shooting?

5 A: Yes.

6 Q: How did you get called out?

7 A: The night in question, I received a telephone call. With
8 an incident of this nature, the standard protocol is for the
9 whole criminal investigating unit to be activated, which means
10 all detectives come out.

11 Q: All right. And were you the on-call investigator?

12 A: No, sir, I was not.

13 Q: Who was?

14 A: Detective Martin Bell.

15 Q: Okay. So who takes over as the lead investigator on
16 these type of cases?

17 A: The on-call detective, which this night in question was
18 Detective Martin Bell.

19 Q: Okay. And -- and when you responded, where did you
20 respond to?

21 A: To the incident location, which was Highway 501 North.

22 Q: Okay. And when you responded, what other investigators
23 responded, if you can recall?

24 A: The whole division was activated. There was Detective
25 James Lee, Neil Rouse, Reggie Hotaling, Martin Bell, and

CHARLIE WATSON - DIRECT BY MR. CLEMENTS

1 myself responded.

2 Q: Okay. And do you know how many officers are on patrol
3 during a shift in Marion County?

4 A: On the average, three.

5 Q: Okay. And so that would have been eight of you to handle
6 that crime scene?

7 A: Yes, sir.

8 Q: Okay. Now, when you got there, who did you find there at
9 the scene?

10 A: When I first initially responded, I touched bases with
11 Detective Bell. He was the lead detective and we started an
12 investigation right away.

13 Q: Okay. And how many civilians were there when you got
14 there?

15 A: Civilians -- there was four victims that were inside the
16 house.

17 Q: Okay. And that weren't shot?

18 A: They were not shot.

19 Q: Okay.

20 A: My understanding --

21 Q: How many shot?

22 A: One was shot and had been taken to the hospital to
23 receive treatment.

24 Q: Okay. So you got there after EMS?

25 A: Yes.

CHARLIE WATSON - DIRECT BY MR. CLEMENTS

1 Q: Okay. All right. Can you recall the four individuals'
2 names that were still there at the house that did not get
3 shot?

4 A: Derrick Wilson.

5 Q: Okay.

6 A: Gavin Graves. I can't remember right offhand the last
7 two guys.

8 Q: Was it Darrell and Kollock?

9 A: Yes. Christopher Kollock and -- unfortunately, we
10 learned a lot about nicknames of the -- the other guy was
11 named Goo.

12 Q: Okay. All right. And they were all still there when you
13 got there?

14 A: Yes.

15 Q: Okay. Now, when you got there, can you tell this jury
16 exactly what you did and who -- who you got up with and what
17 duties you performed?

18 A: Yes. Upon my arrival, I met with Detective Bell, who was
19 the lead detective. The first thing we done -- we went and
20 walked out to the highway to look at all the shell casings
21 that were on the highway. There was a good -- good bit.

22 Q: Okay. And what else did you do after you saw all the
23 shell cases?

24 A: Well, we noticed that some of the shell casings were
25 bent. We had gotten information that one of the patrol

CHARLIE WATSON - DIRECT BY MR. CLEMENTS

1 officers had moved some of the bent shell casings because they
2 were in the roadway and, at the time, he thought he was doing
3 what was right to preserve the shell casings, which if it had
4 been me as a patrol officer, I'd have just shut down the lane
5 of traffic which we ended up doing anyway because there were
6 still shell casings in the roadway getting run over.

7 Q: So he didn't move all of them?

8 A: No.

9 Q: Okay. But he was trying to keep them from getting run
10 over?

11 A: Yes.

12 Q: All right. Now, you went out there and the shell casings
13 were all around and in the highway and on the -- the side of
14 the highway out of the lane of traffic?

15 A: Yes.

16 Q: Were there any shell casings anywhere else other than
17 that general area that y'all found?

18 A: No.

19 Q: Okay. What else did you go and examine?

20 A: Detective Bell and myself walked toward the house. We
21 made entry into the back door. Once we went inside the back
22 door, there was a washing machine and dryer to the right and,
23 of course, almost an 18-year veteran police officer, the first
24 thing that stood out for me was there was a blood smudge that
25 was on the dryer. We later found out that whenever the

CHARLIE WATSON - DIRECT BY MR. CLEMENTS

1 shooting took place, the majority of the victims were in the
2 kitchen and the living room area, and the one, Mr. Christopher
3 Drawhorn, that was actually struck -- when all those bullets
4 started coming into the house, Gavin grabbed him and tried to
5 drag him out of the hallway to get out of the line of fire and
6 that's where they ended up.

7 Q: Okay. Was there a lot of blood or just that one blood
8 smear?

9 A: Just that one blood smidge that was on the dryer because
10 through the investigation I discovered that Gavin actually
11 held Mr. Drawhorn. So --

12 Q: Held him?

13 A: Yeah. Cradled him.

14 Q: Okay. All right. So there was no trail of blood --

15 A: No.

16 Q: -- leading anywhere?

17 A: No.

18 Q: Okay. Now, what else did you see in the trailer and what
19 else did you look for?

20 A: The next thing we did through the detective's division as
21 a whole -- we started looking for bullet fragments. There was
22 a lot of bullet holes in this mobile home. We started looking
23 for fragments, projectiles, anything that we would need to
24 analyze.

25 Q: Okay. Were the bullet holes just on the highway side of

CHARLIE WATSON - DIRECT BY MR. CLEMENTS

1 the trailer?

2 A: Yes.

3 Q: Were there any bullet holes on the back side of the
4 trailer?

5 A; Yes.

6 Q: Were those entrance wounds or exit wounds on the front
7 and the back side?

8 A: The bullet holes that were on the back side of the mobile
9 home would have been what we call through and through. Okay?
10 All of the -- all of the bullets that were fired into that
11 house were from the front part and there were actually holes
12 in the front wall of the home that went through. This is an
13 older model single mobile home, very thin; so these bullets
14 were able to come through the front wall, protrude right on
15 through the back wall, and would have kept on going until
16 something would have stopped them.

17 Q: Okay. All right. So there -- correct me if I'm
18 misstating it. So the wounds -- the wounds -- the holes on
19 the back side of the trailer were exit holes?

20 A: Yes.

21 Q: And the holes on the front side of the trailer were
22 entrance holes?

23 A: Yes.

24 Q: All right. Was anything -- did you discover anything hit
25 by bullets on the back side of the trailer?

CHARLIE WATSON - DIRECT BY MR. CLEMENTS

- 1 A: Yes. We noticed a white SUV that through our
2 investigation we found to be belonging to Mr. Derrick Wilson.
- 3 Q: Okay. And it was hit?
- 4 A: It was hit twice.
- 5 Q: Okay. And that was bullets coming through the trailer?
- 6 A: Yes. I'm not an expert, but where the vehicle was
7 placed, you can go right in front of the vehicle where the
8 back wall of the mobile home is and the holes would almost
9 line up identical.
- 10 Q: Okay.
- 11 A: And they were through and through shots. The shots
12 started at the highway, went through the front of the home,
13 through the back wall of the home into the vehicle. And after
14 we searched the vehicle with two bullet holes in the door, we
15 found a projectile --
- 16 Q: Okay.
- 17 A: -- inside.
- 18 Q: One of them? One projectile?
- 19 A: One.
- 20 Q: Okay. All right. And that projectile was where in that
21 vehicle?
- 22 A: It was in the floorboard, if my memory serves me
23 correctly.
- 24 Q: Okay. All right. What else did y'all do?
- 25 A: We started -- we started interviewing the four remaining

CHARLIE WATSON - DIRECT BY MR. CLEMENTS

1 victims that were in the house.

2 Q: Okay. And what did you do as far as documenting any of
3 the bullet holes and what you found there and what you saw in
4 the trailer? What did you do to document that?

5 A: When I first arrived on the scene, Detective Bell was the
6 lead detective. I partnered up with him. Two sets of eyes,
7 two sets of ears, and two brains. So he did the majority of
8 the documentation, handwritten notes, and stuff like that.

9 Q: How about as far as taking any pictures? Was anything
10 like that done?

11 A: Detective Bell, the lead detective, done all that.

12 Q: He was taking the pictures?

13 A: Yes.

14 Q: Were those pictures taken in your presence?

15 A: Yes.

16 Q: Okay. And you observed the pictures being taken and you
17 were there side by side with him?

18 A: Yes.

19 Q: Okay. I'm going to show you what's been marked for
20 identification as State's Exhibits 1 through 35. And right
21 now, I just want you to look through these pictures and just
22 let me know when you're done -- you're finished looking at
23 them. You can just look at them right down there. Don't show
24 them to anybody yet, but just look at them first.

25 (Whereupon, the witness complies.)

CHARLIE WATSON - DIRECT BY MR. CLEMENTS

1 (Whereupon, counsel confer during the pause in the
2 proceedings.)

3 A: Okay.

4 Q: Do you recognize all of State's Exhibits 1 through 35?

5 A: I do.

6 Q: Are they accurate depictions of what you observed on the
7 scene that night?

8 A: Yes.

9 MR. CLEMENTS: Your Honor, at this time, I think Mr.
10 Deberry might have a point of law that we need to discuss with
11 you.

12 THE COURT: Come right here, please.

13 (Whereupon, a bench conference is held in the presence of
14 the jury but out of the hearing of the jury off the
15 record.)

16 THE COURT: Ladies and gentlemen, I'm going to have to
17 ask you to step to the jury room. Do not discuss the case.
18 Do not discuss the case. Listen to me before you move. Hold
19 on. Hold on.

20 While you're back there while we're taking up this matter
21 of law, I want you all to select a foreperson. I want you to
22 select a foreperson who will preside in the jury room during
23 deliberations. Ms. Williams nor Mr. Deering can serve as your
24 foreperson. Okay? Neither one of them can serve as your
25 foreperson. Please do that and write it on a piece of paper

CHARLIE WATSON - DIRECT BY MR. CLEMENTS

1 so when I bring you back out here, you give it to me and I'll
2 know who the foreperson is.

3 Other than selecting a foreperson, do not discuss the
4 case at all -- at all. I'll get you back out here as quickly
5 as possible.

6 (Whereupon, the jury exits the courtroom at 9:20 a.m.)

7 THE COURT: All right. The jury has exited the
8 courtroom. Mr. Clements had provided Officer Watson with a
9 number of photographs, more particularly Exhibits 1 through
10 35. Mr. Deberry has an objection to State's Exhibit Number
11 23, stating that -- for the record, it is a photograph --
12 actually, what appears to be two photographs on one piece of
13 paper. The two photographs are of what appears to be a shirt
14 with blood on it. Mr. Deberry has objected to that saying
15 that he did not -- he had not seen this photograph -- I'm
16 reiterating or stating what was said at sidebar here -- and
17 that it was contrary to his defense and he objects to this
18 photograph coming in.

19 Mr. Clements indicated that a disk of all the photographs
20 was provided to defense counsel. Regardless, let me hear from
21 you, Mr. Deberry. Anything else you want to say? You said
22 it's contrary to the defense you've already raised. Please
23 elaborate on that.

24 MR. DEBERRY: Well, Judge, I've asked everyone so far
25 about blood -- the presence of blood and where blood may have

CHARLIE WATSON - DIRECT BY MR. CLEMENTS

1 been, and it's very easy for the jury to infer that if
2 somebody gets shot that there's going to be some blood. You
3 know, when they get there, the victim is outside, you know,
4 and there's been no evidence thus far that the victim was
5 inside. You know, I'm sure there's some to come, but it's
6 still -- I've already raised the fact that there is no blood
7 that looked to be trailing from inside to outside or anywhere
8 else.

9 Mr. Watson just testified that he did notice a smear of
10 blood on the inside. I'm pretty sure they didn't even have
11 that blood tested. If they did, they haven't provided me with
12 any of that analysis.

13 Judge, you know, I've been working on this case for two-
14 and-a-half years. I'm telling the Court and Mr. Bailey will
15 tell the Court too that we don't have those pictures, and I
16 can't understand also that Mr. Clements is now asking Mr.
17 Watson if he observed those pictures on the scene that night.
18 Well, by the time Mr. Watson got there, there's already
19 testimony in the record that the victim was at the hospital.
20 So in the pictures I have from the hospital, the victim
21 doesn't have a shirt on.

22 So, you know, I don't know where the picture came from
23 and, you know, we've never received any pictures from an
24 autopsy or anything like that. That's it. So, you know,
25 number one, if they've got the shirt, I didn't know it. It's

CHARLIE WATSON - DIRECT BY MR. CLEMENTS

1 in none of the discovery. And number two, they have that
2 picture; I've never had it. Mr. Bailey has never had it.

3 And, you know, I've already started trying the case under
4 one theory and now if they're going to show that, you know,
5 that's not fair.

6 THE COURT: Where was this photograph taken, Mr. Watson?
7 You testified that you were present when Officer Bell was
8 taking pictures and these fairly and accurately depict the
9 pictures that were taken that night. Exhibit 23 is what I'm
10 referring to.

11 THE WITNESS: The pictures were taken of the clothes at
12 the mobile home.

13 THE COURT: Were they taken inside or outside?

14 THE WITNESS: Inside, sir, to the best of my memory.

15 THE COURT: Mr. Clements?

16 MR. CLEMENTS: Your Honor, the victims that are alive are
17 going to testify to the fact that they took his shirt off and
18 took him outside because he was saying he was hot. Mr.
19 Christian Drawhorn was saying he was hot and that's why they
20 took him outside and waited on EMS. And then when EMS didn't
21 come, they were about to put him in their own vehicle and take
22 him because they were worried about EMS coming, and that's
23 when Officer Pike came up and told them to back off and wait
24 and EMS was coming.

25 And the shirt was on the inside. To my understanding

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1 from what we did, we printed all the photographs off of one
2 disk that my records show was submitted to Mr. Bailey and to
3 Mr. Deberry. And I'm not disputing what Mr. Deberry says that
4 he hasn't seen the pictures because it is possible that
5 because this happened before that we've copied stuff on the
6 computer and everything didn't copy and we didn't know it
7 until it was looked at.

8 However, all of the physical evidence was there and in
9 our responses we say that any physical evidence is available
10 for your inspection upon your request. And I don't think we
11 ever received a request to view those, but there was -- there
12 was only blood that was there and there's going to be
13 testimony that the only blood that was there was where he had
14 a little bit of blood and where Gavin Graves had blood on his
15 pants where he was holding and cradling Mr. Drawhorn, and
16 there's pictures of that that I'm not submitting into evidence
17 because it really is not that -- that critical.

18 And I don't know how it affects his defense at all, but,
19 of course, I don't always know what their defense is. The
20 other thing is he says we didn't take blood to be tested. Of
21 course, we didn't take blood to be tested. There's only one
22 person shot. We knew who that was; so that would be a waste
23 of time. SLED is backed up enough for us to submit something
24 to test for DNA that we don't need to do. So there was no
25 test and since there was no test, there was nothing submitted

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1 to Mr. Deberry about that DNA being -- being submitted.

2 Now, they did -- they submitted some blood off of Gavin
3 Graves' pants, but I don't think we ever got that tested
4 either. But the blood on the dryer, the smudge there, we
5 never tested that and submitted that.

6 But I don't know -- you know, he's shot so he's bleeding.
7 You know, I don't know whether there's a big question as to
8 how much. Somebody could bleed internally or they can bleed
9 out, but he didn't bleed much out. I think the pathologist is
10 going to testify how much he bled internally.

11 MR. BAILEY: Judge, if I may just state for the record
12 that I join in Mr. Deberry's argument in this regarding the
13 photograph. The disks that I was provided by the Solicitor's
14 Office -- I never saw that photograph. Again, my photos show
15 the crime scene, the bullet holes, the truck, and then, of
16 course, Mr. Drawhorn's body laying shirtless at the hospital.

17 MR. CLEMENTS: And I don't know how I overlooked it, but
18 I don't recall seeing the picture of Mr. Drawhorn being
19 shirtless, but I don't remember seeing that. But this is not
20 critical to our -- our case -- this one picture. So, Your
21 Honor, if they object to it, I don't have a problem keeping it
22 out, but I just want to clear it up for the record that to my
23 knowledge all of that was submitted to them. I'm certainly
24 not trying to play fast and loose with the evidence in the
25 case and it's not really that big a deal.

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1 THE COURT: Well --

2 MR. CLEMENTS: All I know, Your Honor, is I printed them
3 all off the same disk --

4 THE COURT: Well --

5 MR. CLEMENTS: -- Your Honor, but I'll -- I'll withdraw
6 that one.

7 THE COURT: Well, I mean I don't see -- you can withdraw
8 it, but I do not see how the -- how the photograph, Exhibit
9 Number 23, is overly prejudicial at all in this case, whether
10 you saw it or not. The uncontradicted testimony is that
11 somebody was shot. Somebody was shot and somebody was killed.
12 The shirt has blood on it. Logical conclusion -- when you get
13 shot, there's going to be blood on a shirt. But you're going
14 to withdraw it, so be it.

15 MR. CLEMENTS: All right.

16 MR. DEBERRY: You're going to withdraw it?

17 MR. CLEMENTS: Yeah. But it's marked ID though so she's
18 got to keep it. Your Honor, my -- what number is that?

19 THE COURT REPORTER: 23.

20 MR. CLEMENTS: Your Honor, I am going to attempt to move
21 1 through 22 and 24 through 35 into evidence when the jury
22 comes back out; so I just want to be sure that they don't have
23 any objections to anything else.

24 THE COURT: Any other objections, Mr. Deberry?

25 MR. DEBERRY: No, Your Honor.

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1 THE COURT: Mr. Bailey?

2 MR. BAILEY: Nothing, Your Honor.

3 THE COURT: All right. Mr. Lewis, if you would, bring me
4 the jury back, please.

5 (Whereupon, the jury enters the courtroom at 9:31 a.m.)

6 THE COURT: All right. Mr. James Michael Cullipher?

7 THE JUROR: Yes, sir.

8 THE COURT: I'm going to ask that you and this young lady
9 down here switch seats, if you would. That will be your
10 assigned seat throughout the remainder of this trial.

11 (Whereupon, the jurors comply.)

12 (Whereupon, the jury note is marked as Court's Exhibit
13 Number 1.)

14 THE COURT: Okay. Mr. Cullipher is foreman of our jury.
15 Thank you for doing that. All right. We're going to resume
16 the trial of this case. Mr. Clements, you're so recognized.

17 MR. CLEMENTS: Thank you, Your Honor.

18 CONTINUED DIRECT EXAMINATION

19 BY MR. CLEMENTS:

20 Q: Officer Watson, does State's Exhibits 1 through 22
21 accurately depict what you observed there on the scene that
22 night?

23 A: Yes, it does.

24 Q: Does State's Exhibits 24 through 35 accurately depict
25 what you saw on the scene that night?

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1 A: Yes, it does.

2 MR. CLEMENTS: Your Honor, at this time, we would move
3 into evidence State's 1 through 22 and 24 through 35.

4 THE COURT: Any objection, Mr. Deberry?

5 MR. DEBERRY: No, Your Honor.

6 THE COURT: Mr. Bailey?

7 MR. BAILEY: Nothing on Mr. Smith's behalf.

8 THE COURT: Without objection, those exhibits are
9 admitted into evidence.

10 (Whereupon, State's Exhibits 1 through 22 and 24 through
11 35, all color photographs, are admitted into evidence.)

12 MR. CLEMENTS: Your Honor, I would ask permission to have
13 Mr. Watson step down, please.

14 THE COURT: Yes, sir.

15 (Whereupon, the witness complies.)

16 THE COURT: The defense lawyers can move around if they
17 need to look and observe what is going on --

18 MR. CLEMENTS: You can stand right here.

19 THE COURT: -- and being testified to.

20 BY MR. CLEMENTS:

21 Q: State's Exhibit 1. Can you tell this jury what that
22 depicts and where that was located?

23 A: Okay. This is two separate pictures of shell casings
24 that were located in the roadway in front of the mobile home.
25 If you'll notice in some of the pictures some of the shell

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1 casings are bent and the only conclusion we come up to is that
2 was where vehicles had ran over the shell casings before law
3 enforcement was contacted and responded.

4 Q: All right.

5 MR. CLEMENTS: Your Honor, I would request permission to
6 publish this.

7 THE COURT: All right.

8 Q: State's Exhibit 2. Is that just pictures of more shell
9 casings?

10 A: Yes.

11 MR. CLEMENTS: Request to publish.

12 THE COURT: All right.

13 Q: And they were kind of spread out?

14 A: Yes.

15 Q: State's Exhibit 3?

16 A: Shell casings.

17 Q: Different location a little bit away?

18 A: Yes, sir.

19 Q: Now, when I say it was scattered out, were they scattered
20 out over a small area or just so you couldn't get them all in
21 the focus in one camera picture or were they spread way out in
22 a big area?

23 A: No. They were just spread out where you couldn't get one
24 particular picture of everything together.

25 Q: Because they're too small?

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1 A: Yes.

2 Q: State's Exhibit 4. What is that?

3 A: Those were projectiles.

4 Q: All right. Is that a projectile or is that a shell
5 casing on there?

6 A: Oh, that's a shell casing standing upright; so if you
7 look down, you see the whole side of the shell casing.

8 Q: State's 5?

9 A: More shell casings.

10 Q: State's 6?

11 A: More shell casings.

12 Q: State's 7?

13 A: More shell casings.

14 Q: State's 8?

15 A: More shell casings.

16 Q: State's 9?

17 A: More shell casings.

18 Q: State's 10?

19 A: More shell casings.

20 Q: State's 11?

21 A: More shell casings.

22 Q: State's 12?

23 A: More shell casings.

24 Q: And would this be where at?

25 A: On the side of the highway where the sidewalk is.

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1 Q: About the edge?

2 A: Yes.

3 Q: I guess that's why they got vegetation there.

4 A: Yeah.

5 Q: I guess you call it weeds. State's 13?

6 A: More shell casings.

7 Q: State's 14?

8 A: Shell casings.

9 Q: State's 15?

10 A: Shell casings.

11 Q: How many?

12 A: One.

13 Q: State's 16?

14 A: Shell casing.

15 Q: One?

16 A: Yes.

17 Q: State's 17?

18 A: One shell casing.

19 Q: State's 18? What are those two pictures?

20 A: 18 is a shell casing. The picture at the top that's kind

21 of dark is a poor picture that was taken of the front of the

22 mobile home.

23 Q: Is that -- that from the front of the mobile home from

24 the roadway?

25 A: Yes.

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1 Q: Okay. All right. State's Exhibit 19?

2 A: The top photo here is a state road sign, General Road,
3 just to let you know what was the intersection where the
4 mobile home was sitting. And this was another darkened photo
5 of the roadway from where the shooting -- where the shell
6 casings were located.

7 Q: Was that an attempt to try to get them all in one
8 picture?

9 A: Yes.

10 Q: Okay. Do you recall -- that's a lot of shell casings.
11 Do you recall the exact number or not? If you don't, that's
12 fine. It's been a while.

13 A: There was 20 plus.

14 Q: Okay.

15 A: If I remember.

16 Q: Okay. All right. State's Exhibit 20?

17 A: The top photo is the wall behind the kitchen sink, which
18 would have been facing the highway. The bottom photo is a
19 darkened photo of the white SUV that through our investigation
20 we found that belonging to one of the victims, Mr. Derrick
21 Wilson.

22 Q: All right. The flash didn't work on that one?

23 A: No.

24 Q: Okay. All right. Now, can you tell me -- does that look
25 like that's coming from the outside in or from the inside out

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1 and why?

2 A: If you'll -- if you'll notice in this photo that there's
3 like a mushroom effect where the force of the bullet was
4 coming from the outside. Okay? In layman's terms, if you
5 ever busted a window from the inside of your house, all of the
6 glass would be on the ground. If you're standing outside your
7 home and get locked out of your house, you bust your window to
8 get inside your house, where's all the glass? It's on the
9 inside. It's from the force that's generated. So if you'll
10 notice with these bullet holes, the plaster of the walls are
11 mushroomed inside, which means that the bullet was from the
12 outside coming in.

13 Q: Okay. Now, did you go back when you had better lighting
14 and take some more photos?

15 A: Yes.

16 Q: And who went back to take those photos? You and who?

17 A: Detective Bell, who was the lead detective.

18 Q: And you went with him?

19 A: Yes.

20 Q: Okay. State's Exhibit 21. Can you tell this jury what
21 that is?

22 A: This was a steel charbroil-type grill, like a smoker-type
23 grill. The top photo indicates two bullet holes, which was
24 the front of the grill. The bottom photo dictates two bullet
25 holes and stuff on the back. And if you'll notice on the

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1 bottom picture you can see the metal protruding outward. Just
2 like the plaster inside of the home, you can be able to tell
3 by the bullet holes that the bullet holes entered the front of
4 the grill and exited the rear of the grill.

5 Q: Is that grill in front of the --

6 A: Yes.

7 Q: -- trailer?

8 A: Yes. If you'll notice the way the grill was sitting, the
9 bullets went through the grill, out the grill, and into the
10 home.

11 Q: State's Exhibit 22?

12 A: The night in question when Detective Bell and myself made
13 entry into the mobile home, that's the first thing that I
14 noticed was a blood smudge. Through the investigation, that's
15 where we learned that whenever the bullets started flying into
16 the house, they were trying to get away. They were scared.
17 Christopher Drawhorn had been struck. He was the only one in
18 the house to be struck. And Gavin Graves grabbed him and drug
19 him down this hallway. This is the kitchen table in the
20 bottom photo where they were sitting and that's where they
21 ended up.

22 Q: So is this like a swipe? You say a smudge. Is that like
23 a swipe where you wipe up against something?

24 A: Yeah. Like you brush up against it.

25 Q: Okay. Can you tell us please what's depicted in State's

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1 Exhibit 24?

2 A: The top photo is a white SUV with rims where the two
3 bullet holes in the driver's side rear passenger door. The
4 bottom picture is the same picture except it's enlarged to
5 give better details to the bullet holes.

6 Q: Where -- whose vehicle was this? Did your investigation
7 reveal whose vehicle this was?

8 A: Yes, sir. It was Mr. Derrick Wilson's.

9 Q: And where was it parked at?

10 A: It was parked at the rear part of the mobile home.

11 Q: State's Exhibit 25?

12 A: Again, this is a photo that shows an entry to the mobile
13 home. You can see how the mushroom effect applies as the
14 bullet entered the mobile home.

15 Q: State's Exhibit 26?

16 A: The top photo is an outside photo. This photo was taken
17 of the rear of the home. You can see how the metal protrudes
18 out. And if you remember earlier when I was discussing a
19 through and through, this is one of the holes that we took a
20 picture of to show you that one of the bullets went through
21 the front of the mobile home straight through the mobile home
22 and out the rear of the mobile home. This is just another
23 picture of this steel grill that gives a better shot of the
24 two bullet holes that were inside.

25 Q: State's Exhibit 27. What is that?

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1 A: This is a picture that we took inside the mobile -- no.
2 This was inside of the vehicle, if I'm not mistaken.

3 Q: The white SUV?

4 A: The white SUV. The two bullet holes that was in the rear
5 passenger side door. We searched the vehicle and we found the
6 projectile.

7 Q: Just one of them?

8 A: Yes.

9 Q: And -- but one -- one went through the trailer and all
10 the way through the door?

11 A: Yes.

12 Q: And one went through the trailer and possibly into the
13 door?

14 A: Yes.

15 Q: All right. State's Exhibit 28. Can you tell us what
16 that depicts?

17 A: This is another two photos of bullet entry. If my memory
18 serves me correctly, I think it's going to be the living room
19 area, which the living room and the kitchen were in close
20 proximity. They were right beside each other like one big
21 open room.

22 Q: State's Exhibit 29?

23 A: More bullet holes into the wall of the mobile home.

24 Q: State's Exhibit 30?

25 A: This is a picture of a toothbrush. At the time of the

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1 investigation, we had no reason to believe that the toothbrush
2 was involved, but we could not -- we had to be as thorough as
3 possible; so we took a picture of it and we treated it as
4 potential evidence that later on we just excluded.

5 Q: Okay. And that's out there where the shell casings were
6 found?

7 A: Yes.

8 Q: Okay. How about the bottom picture?

9 A: Just another angle that shows the grill in connection to
10 the mobile home where the bullets went through the grill into
11 the mobile home.

12 Q: State's Exhibit 31?

13 A: More bullet holes into the vinyl siding and underpinning
14 of the mobile home.

15 Q: State's 32. Same thing, just different holes?

16 A: Yeah.

17 Q: Okay. State's 33?

18 A: More bullet holes into the side of the mobile home.

19 Q: State's Exhibit 34?

20 A: The picture down below is a picture of a bullet hole in
21 the living room area, which you can still see was actually
22 mushroomed inward; so the bullet come from the outside in.
23 And the top part was a projectile.

24 Q: And State's Exhibit 35?

25 A: Two more bullet holes.

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1 Q: Thank you. You can have a seat back there.

2 (Whereupon, the witness complies.)

3 MR. CLEMENTS: Your Honor, we would like to give the jury
4 just a few minutes to finish looking at the pictures.

5 (Whereupon, there is a pause in the proceedings.)

6 BY MR. CLEMENTS:

7 Q: Officer Watson, when you approach the trailer where this
8 event occurred from the north coming from Latta towards Marion
9 and you're coming down the road, what can you observe? What
10 can you see about that trailer as far as the yard on either
11 side of the trailer as you approach it from north to south?

12 A: The specific location of the mobile home on the lot that
13 it sits on -- if you're coming down 501 from Latta back toward
14 Marion, you'll notice that that specific area there's, like, a
15 curve, a rounded curve on 501. And the way the angle of the
16 mobile home is sitting, it's sort of kind of angled. You can
17 see clearly all the back yard.

18 Q: As you come from Latta?

19 A: As you're coming from Latta, yes.

20 Q: I'm going to show you State's Exhibit 37, which I believe
21 is already in evidence. Tell me what that depicts related to
22 what you just described for the jury?

23 A: Okay. This is going to be Highway 501. Back this way is
24 going to be back toward Marion. Back that way is going to be
25 back toward the Latta area. This is the mobile home that's in

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1 question where the incident took place. This is a dirt road,
2 which is General Road. If you'll notice what I'm talking
3 about, there's a slight curve here. If you'll notice the
4 angle of the mobile home which I had just explained to you, if
5 you're coming this way, you will be able to see everything in
6 the back yard.

7 THE COURT: Make sure everybody -- I don't know if they
8 can see on the end over here.

9 Q: So -- can you step down again? I'm sorry.

10 (Whereupon, the witness complies.)

11 Q: And I'm going to stand on this side so the court reporter
12 can be sure to hear you. So this is Highway 501; right?

13 A: Yes.

14 Q: Is that north going this way?

15 A: Yes. Back to --

16 Q: South going this way?

17 A: Yeah.

18 Q: So as you go, the road goes up that way. As you're
19 approaching coming down, you can see what on that trailer?

20 A: You can see all of the -- if you'll notice the angle of
21 the mobile home, if you're right here, you can see directly
22 every bit of the back yard.

23 Q: Okay. As you go by?

24 A: Yes.

25 Q: Okay.

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1 MR. CLEMENTS: Your Honor, permission to publish?

2 THE COURT: Yes, sir.

3 BY MR. CLEMENTS:

4 Q: I'm going to show you what's been marked State's Exhibit
5 for ID Number 43. Can you identify that? Yes or no?

6 A: Yes.

7 Q: Okay. And what is that?

8 A: This is the mobile home in question where the incident
9 took place.

10 Q: Looking at it from which direction? From the north of it
11 or the south of it?

12 A: You would be southbound from the north from Latta going
13 back toward Marion. The mobile home would be on the right.

14 Q: Okay.

15 MR. CLEMENTS: Your Honor, we'd move State's Exhibit 43
16 into evidence at this time.

17 THE COURT: Any objection?

18 MR. DEBERRY: No, Your Honor.

19 THE COURT: Mr. Bailey?

20 MR. BAILEY: No, Your Honor.

21 THE COURT: Without objection, State's Exhibit 43
22 admitted into evidence.

23 (Whereupon, State's Exhibit Number 43, a color
24 photograph, is admitted into evidence.)

25 MR. CLEMENTS: All right.

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1 BY MR. CLEMENTS:

2 Q: Now, they just heard you identify this. Let's show them
3 and explain to them what you're saying. Which direction are
4 you coming from? The other picture we just had was a view
5 from where? Above?

6 A: Yes.

7 Q: All right. This is a view from where?

8 A: This is more eye level if you were standing in the
9 highway looking at the mobile home itself. This is -- if
10 you're facing this way, it's going to be back toward Marion.
11 If you're facing the other way, the opposite way, that would
12 be back toward Latta. So if you were standing in the highway
13 looking at the mobile home, to the right you'll notice the
14 angle of it and you can see clearly that you can see
15 everything in the back yard.

16 MR. CLEMENTS: Permission to publish?

17 THE COURT: Could y'all see that down here on this end?
18 Okay. So granted.

19 BY MR. CLEMENTS:

20 Q: Now, one more thing before I let you sit down. I'm going
21 to show you what's been marked as State's Exhibit 41. Can you
22 identify this?

23 A: Yes.

24 Q: What is this?

25 A: It's an aerial map of the general area, including the

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1 incident location mobile home.

2 Q: All right. Like an old-time road map?

3 A: Yes.

4 MR. CLEMENTS: Your Honor, at this time, we'd move
5 State's Exhibit 41 into evidence.

6 THE COURT: Any objection, Mr. Deberry?

7 MR. DEBERRY: No, Your Honor.

8 THE COURT: Mr. Bailey?

9 MR. BAILEY: No, Your Honor.

10 THE COURT: Without objection, State's Exhibit 41
11 admitted into evidence.

12 (Whereupon, State's Exhibit Number 41, a large aerial map
13 on a poster board, is admitted into evidence. The
14 exhibit is then placed on an easel before the jury.)

15 THE COURT: Mr. Deberry and Mr. Bailey, if you all need
16 to get up -- if you want to get up to look and see what
17 they're testifying to, please feel free to do so.

18 BY MR. CLEMENTS:

19 Q: Investigator Watson, I'm going to ask you to stand right
20 there and this is a laser pointer. Are you familiar with
21 that? If you'll stand back a little bit so they can all see,
22 I'm going to hold this up and there is a blue dot. I'm going
23 to ask you to point out the blue dot for the jury and tell us
24 where that would be.

25 A: The blue dot indicates that that is the location of where

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1 the mobile home would be sitting where the shooting took
2 place.

3 Q: And which direction is 501 going towards Latta towards
4 the Old Ebenezer Road?

5 A: This is 501 right here that goes back toward Latta. This
6 is the Latta area. You'll see Latta. This is Old Ebenezer,
7 which ties into 501.

8 Q: All right. And you testified earlier there's a slight
9 curve in the road. Will you show us where that curve is?

10 A: If you'll notice right here with this map, there's a
11 slight curve right here.

12 Q: And is that the curve that you testified to that enables
13 you to see the whole back yard of that trailer?

14 A: Yes.

15 Q: Okay. Thank you. You can have a seat.

16 (Whereupon, the witness complies.)

17 Q: Now, if I recall, I believe before I started asking you
18 about the pictures, you said that you and Investigator Bell
19 began to interview the victims that were there?

20 A: Yes.

21 Q: And began to talk with them?

22 A: Yes.

23 Q: What were some of the questions y'all were asking them?
24 What type of things?

25 A: Well, the most important thing we really wanted to know

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1 was did they have any problem with anybody. Did they have any
2 enemies? Was there somebody they were currently having
3 problems with? Was there people that had it out for them? Et
4 cetera, et cetera.

5 Q: Okay. As a result of that, were you able to develop any
6 suspects?

7 A: Yes, we were. We talked with Mr. Derrick Wilson and Mr.
8 Gavin Graves, and they brought to our attention that the only
9 people that they had problems with was a couple of guys from
10 Latta.

11 Q: Okay. All right. And who did you develop as suspects
12 and what did you do to pursue those leads?

13 A: The names that come up was a Blaton Smith, a Shaheed
14 Hayes, and an Adrian Smith from the Latta area.

15 Q: Okay. And what was the connection between Adrian Smith
16 and Blaton Smith, if any?

17 A: To my under --

18 MR. BAILEY: Your Honor, I'm going to object at this
19 time. That's based on hearsay.

20 THE COURT: Objection sustained.

21 MR. CLEMENTS: Okay. All right.

22 BY MR. CLEMENTS:

23 Q: Did your investigation reveal any type of connection
24 between Adrian Smith and Blaton Smith?

25 A: Yes. They're related.

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1 Q: Related?

2 A: Yes.

3 Q: All right. Does Adrian Smith go by another name?

4 A: His street name is Duke.

5 Q: Okay. All right. And did Blaton Smith have a name that
6 he went by other than Blaton, if you recall?

7 A: Nukie.

8 Q: Okay. All right. Now, to follow up on these particular
9 leads, what did y'all do? Who did y'all go to talk with?

10 A: We knew that -- through the investigation, we knew that
11 these guys were from the Latta area; so Detective Bell and
12 myself decided to go talk with Chief Kristal Moore, who was
13 the police chief in Latta.

14 Q: Okay. All right. And as you began to pursue that line
15 of information, did you pursue any other lines of information?
16 Did you interview any other people or did you just focus on
17 these people to the exclusion of all else and forget
18 everything else?

19 A: Yes.

20 Q: All right. You forgot everything else and you didn't
21 talk to anybody else? Interview any other people?

22 A: We -- Detective Bell got some information about a
23 gentleman that was in Dillon County.

24 Q: Okay.

25 A: And that he had some information about the shooting.

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1 Q: Okay. And did y'all follow up on those other sources of
2 information?

3 A: Yes.

4 Q: Did they lead you anywhere else ultimately other than to
5 the suspects that you named just a moment ago?

6 A: We went and interviewed a David Graves, whose street name
7 was Charlie B. He give us some conflicting stories. He give
8 us several statements. We -- we were able to get at least one
9 name, a Mr. Willie Bethea --

10 Q: Okay.

11 A: -- that might have been involved.

12 Q: Okay. All right. Any -- any other people get pointed to
13 at all at this point in the investigation?

14 A: No.

15 Q: Okay. Now -- so the only people you had from my
16 understanding -- and make sure it's correct -- the suspects
17 you had were Blaton Smith, based on a possible disagreement,
18 Adrian Smith, Shaheed Hayes, and then the name Willie Bethea
19 surfaced?

20 A: Right.

21 Q: Okay. No other names? No other information anywhere
22 else?

23 A: Not at the time, no.

24 Q: Were you able to determine whether or not there was any
25 connection whatsoever between Willie Bethea and Blaton Smith?

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1 A: We were able to find out that they were related as well.

2 Q: Okay. All right. Ultimately, did you ever try to talk
3 to Mr. Smith or find out where he was and who he was?

4 A: The next step that Detective Bell and myself took through
5 Chief Kristal Moore -- that was very cooperative and helped us
6 because she was very familiar with all the gentlemen involved
7 in this.

8 Q: Latta is a small town; right?

9 A: Yes.

10 Q: She pretty much knows everybody?

11 A: Yes. So Chief Moore reached out to Mr. Blaton Smith's
12 mother and explained to her that we really needed to talk to
13 him and see what -- see where he was at and see if he was
14 involved. His mother brought him to Marion County. We sat
15 down to interview him and Mr. Blaton Smith was uncooperative.

16 Q: Okay. And did you pursue talking with anyone else and,
17 if so, who?

18 A: Initially, we followed up with the name Willie Bethea
19 through Chief Moore from the Latta Police Department. We
20 discovered that he lived with his mother and father, which
21 lived behind the IGA in Latta. So we went to the residence.
22 We spoke with the family, who in return got Mr. Willie Bethea
23 to come and meet with Detective Bell and myself at the Marion
24 County Sheriff's Office.

25 Q: Was this immediately after the shooting or was this

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1 several days down the road?

2 A: If my memory serves me, it might have been a day or two
3 after.

4 Q: Okay. All right. Could it have been longer?

5 A: Yes.

6 Q: Okay. Mr. Bethea came and met with y'all here in Marion?

7 A: Yes.

8 Q: Came on his own?

9 A: Yes.

10 Q: Okay. And did y'all talk with him?

11 A: Yes.

12 Q: At that time, was he under arrest?

13 A: No, he was not.

14 Q: Okay. As a result of talking with him, did you get any
15 arrest warrants?

16 A: Yes, we did.

17 Q: Who did you get arrest warrants on?

18 A: We got an arrest warrant on him and several more
19 individuals.

20 Q: Okay. What individuals did you get arrest warrants on?

21 A: Blaton Smith, Shaheed Hayes, and we had a fourth suspect
22 by the nickname of Lil Boosie.

23 Q: Okay. At that point in time, did you know who Lil Boosie
24 was?

25 A: No, I did not.

CHARLIE WATSON - DIRECT BY MR. CLEMENTS

1 Q: Okay. All right. Did Investigator Bell follow up on who
2 Lil Boosie was?

3 A: He did.

4 Q: Okay. Were you involved in that particular aspect?

5 A: No, I was not.

6 Q: Okay. Did -- when you talked to Willie Bethea, did he
7 have a nickname, if you recall?

8 A: I can't recall the nickname.

9 Q: Okay. When you talked to Willie Bethea, can you describe
10 for us what was his demeanor and how did he act?

11 A: Mr. Willie Bethea was very cooperative. Out of all the
12 co-defendants involved in this, he was probably the only
13 person that I can give an honest opinion of 18 years of law
14 enforcement to be sincere and apologetic and remorseful for
15 what happened.

16 Q: Well, then why did you arrest him?

17 A: He admitted to being at the -- he was involved.

18 Q: Okay. All right. Now, ultimately, were others arrested?

19 A: Yes, they were.

20 Q: Who was arrested?

21 A: Shaheed Hayes, Blaton Smith, and after Detective Bell
22 properly identified this gentleman, Lil Boosie, then Jamie
23 Williams from the Riverdale area of Dillon County.

24 Q: Okay. Those were the people that were arrested?

25 A: Yes.

CHARLIE WATSON - DIRECT BY MR. CLEMENTS

1 Q: Okay. Now, the name Adrian Smith had come up. Why
2 didn't you arrest him?

3 A: Through the investigation, the part that he had in all of
4 this was out of my jurisdiction and I can't make an arrest out
5 of my jurisdiction.

6 Q: And out of your jurisdiction would be where?

7 A: Marion County.

8 Q: All right. So you can arrest somebody in Marion County,
9 but you can't arrest them in another county?

10 A: No.

11 Q: If they didn't do something in Marion County?

12 A: Right.

13 Q: If they did something in Marion County, you could arrest
14 them?

15 A: Yes.

16 Q: Okay. So then nothing in your investigation revealed
17 Adrian Smith doing anything in Marion County?

18 A: No.

19 Q: Okay. Now, all these shell casings that you've
20 identified and shown to the jury in the pictures had to come
21 from somewhere; is that correct?

22 A: Yes, sir.

23 Q: Can you please tell this jury what you and Officer Bell
24 did and the Marion County law enforcement did to search for
25 any weapons and did you find any weapons?

CHARLIE WATSON - DIRECT BY MR. CLEMENTS

1 A: The initial night in question, we were interviewing the
2 other four victims, and Mr. Derrick Wilson admitted that he
3 did own a handgun legally and we seized it.

4 Q: What kind of handgun was it?

5 A: It was a .40 caliber black in color --

6 Q: If you don't recall the brand, that's fine. It was a .40
7 caliber?

8 A: It was a .40 caliber, yes.

9 Q: Okay. All right. Is there a lot of .40 calibers? Is
10 that correct?

11 A: Yes.

12 Q: What did you do with that gun after you seized it?

13 A: We seized it and we placed it into evidence where we
14 would later send it to SLED for analysis.

15 Q: And what would you analyze that gun against to compare it
16 to?

17 A: The shell casings that were -- that were taken from the
18 roadway.

19 Q: Okay. And the projectiles?

20 A: Right.

21 Q: Okay. All right. And that was the only gun you had
22 seized at that time?

23 A: That was the first -- that was --

24 Q: That night?

25 A: Yes. That night.

CHARLIE WATSON - DIRECT BY MR. CLEMENTS

1 Q: Okay. Later on, did you get your hands on another
2 weapon?

3 A: Yes.

4 Q: And that was pursuant to what?

5 A: A search warrant that Detective Bell obtained and --

6 Q: For where?

7 A: A residence. I can't remember the specific street name.
8 There was a search warrant for a residence located in the area
9 behind the IGA in Latta.

10 Q: In Latta? Okay. And did you participate in the
11 execution of that search warrant?

12 A: I did.

13 Q: Okay. What was seized pursuant to that search warrant?

14 A: Another black and silver .40 caliber.

15 Q: Do you recall what model that was?

16 A: Not right offhand.

17 Q: Okay.

18 A: But the model that we got from the victim, Mr. Wilson,
19 was a Taurus I believe.

20 Q: A Taurus?

21 A: Yeah.

22 Q: All right.

23 A: A lot of information to remember.

24 Q: All right. And you're sure now that Derrick's gun was a
25 .40 caliber Taurus?

CHARLIE WATSON - DIRECT BY MR. CLEMENTS

1 A: Yes.

2 Q: Was the other one that you seized in Latta -- was it a
3 Taurus or something else?

4 A: It was something else.

5 Q: Okay. All right. What did you ultimately do with that
6 .40 caliber weapon?

7 A: It was sent to SLED for analysis as well -- firearm
8 analysis.

9 Q: And you analyzed it against?

10 A: The shell casings that were located on the roadway.

11 Q: Okay. All right.

12 MR. CLEMENTS: I beg the Court's indulgence a moment.

13 All right.

14 Q: Investigator -- or I guess SRO Watson, you testified
15 about seizing these two guns and submitting them to SLED?

16 A: Yes.

17 Q: And you talked about taking photographs of the shell
18 casings and projectiles. What else did you do with the shell
19 casings and the projectiles?

20 A: They were placed into evidence and they were sent along
21 with the weapons so that they could do a firearms analysis of
22 the weapons versus the shell casings and the projectiles.

23 Q: Okay. And who -- who collected those shell casings and
24 projectiles?

25 A: The detectives division.

CHARLIE WATSON - DIRECT BY MR. CLEMENTS

1 Q: When y'all were out there that night taking pictures, you
2 also collected them at the same time?

3 A: Yes.

4 Q: Okay. Now, when y'all collected them, where do y'all
5 take them back to and who do y'all give them to to preserve
6 them?

7 A: To the evidence custodian.

8 Q: And who is that?

9 A: Eddie Sawyer.

10 Q: And how are they preserved? What does he do with them?
11 Does he lock them up? Set them on the shelf?

12 A: He locks them up in an evidence room that he and one
13 other person only has a key to.

14 Q: Okay. And does he log everything in that y'all give him?

15 A: Yes. Thoroughly.

16 Q: All right. And how do they get to SLED?

17 A: He transports them. He transports the firearms and the
18 shell casings.

19 Q: Okay. All right. Let me ask you this. You ever been to
20 an autopsy?

21 A: Too many.

22 Q: Have y'all -- do y'all collect -- also collect evidence
23 at an autopsy?

24 A: Yes.

25 Q: And what do you -- what's your protocol that you do when

CHARLIE WATSON - DIRECT BY MR. CLEMENTS

1 you leave the autopsy and come back to Marion County Sheriff's
2 Office? What do you do with the items you collected at the
3 autopsy?

4 A: We turn them immediately over to the evidence custodian.

5 Q: That would be Lieutenant Sawyer?

6 A: Yes.

7 Q: Okay. All right. Thank you. I've had you here for a
8 while. I appreciate it.

9 A: No problem.

10 Q: And in a moment, we'll let you go back to Darlington, but
11 first I'm going to ask you to please answer any questions that
12 Mr. Bailey or Mr. Deberry have.

13 A: Sure.

14 THE COURT: All right. Ladies and gentlemen, before we
15 do cross examination, I'm going to take a break. Step to the
16 jury room. Do not discuss the case. I'll get you back out
17 here as quickly as possible.

18 (Whereupon, the jury exits the courtroom at 10:10 a.m.)

19 THE COURT: Mr. Clements, can you get this photograph
20 over here?

21 MR. CLEMENTS: Yes, Your Honor. Thank you.

22 THE COURT: And also Exhibit Number 23 pulled. I don't
23 know if it's still up here on the counter, but go ahead and
24 get that and take that back over to your table so it doesn't
25 get inadvertently mixed in.

CHARLIE WATSON - DIRECT BY MR. CLEMENTS

1 MR. CLEMENTS: We marked it as ID.

2 THE COURT: Okay.

3 MR. CLEMENTS: I thought maybe she might need to keep it
4 segregated away.

5 THE COURT: Okay.

6 MR. CLEMENTS: But I'll be happy to do whatever with it.

7 THE COURT: Well, I mean if she's marked it for
8 identification purposes, that's fine.

9 MR. CLEMENTS: Yes, sir.

10 THE COURT: All right. We're going to stand down for
11 about five or ten minutes.

12 MR. CLEMENTS: Yes, sir.

13 THE COURT: Officer Watson, you can step down, but do not
14 -- do not discuss your testimony with anyone. We'll resume in
15 a few minutes.

16 THE WITNESS: Yes, Your Honor.

17 (Whereupon, there is a break in the proceedings from
18 10:11 a.m. until 10:24 a.m.)

19 THE COURT: All right. Anything from the State before I
20 bring the jury back out? Anything from the State?

21 MR. CLEMENTS: No, Your Honor.

22 THE COURT: Mr. Deberry?

23 MR. DEBERRY: No, Your Honor.

24 THE COURT: Mr. Bailey?

25 MR. BAILEY: Nothing, Your Honor.

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 THE COURT: All right. Bring me the jury, please, sir.

2 (Whereupon, the jury enters the courtroom at 10:25 a.m.)

3 THE COURT: All right. Ladies and gentlemen, we are now
4 going to resume the trial of the case. Mr. Deberry, you're
5 recognized for cross examination.

6 MR. DEBERRY: Thank you, Your Honor.

7 CROSS EXAMINATION

8 BY MR. DEBERRY:

9 Q: Mr. Watson, good morning.

10 A: Good morning.

11 Q: Thank you for being here. So you testified that you've
12 been gone now -- how long have you been gone from Marion
13 County Sheriff's Office?

14 A: A little over a week.

15 Q: A little over a week? So you -- so you were here for
16 most of the entire part of this investigation and almost all
17 the way up to trial; correct?

18 A: Yes.

19 Q: All right. And you -- did you -- would you say that your
20 role assisting Detective Bell was -- was great? I mean you
21 were there helping the whole time?

22 A: Pretty much, yes.

23 Q: Okay. Did you accompany him when you interviewed people
24 --

25 A: Yes.

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 Q: -- or when he interviewed people?

2 A: Yes.

3 Q: All right. When you got to the -- to the scene of the
4 incident that night, was it that night you got there?

5 A: No. It was after midnight; so it would have been the
6 morning.

7 Q: Okay. But it was dark?

8 A: Yes.

9 Q: It was nighttime? It was nighttime?

10 A: Yes.

11 Q: And where did you -- when you first -- how long after the
12 incident took place did you -- would you say that you
13 responded?

14 A: I live right in the city limits; so initially it was
15 probably about ten or 15 minutes after receiving a phone call.
16 I don't have the specific time. I'm sorry.

17 Q: Right. So within 30 minutes you would say? I mean just
18 guessing or would you say it was an hour or --

19 A: Just a rough estimation, probably 20 to 30 minutes.
20 Maybe longer.

21 Q: Do you remember who was there when you arrived?

22 A: Upon my arrival, patrol officers were on the scene.
23 Detective Bell was on the scene. If my memory serves me
24 correctly, I think Detective James Lee and Neil Rouse were on
25 the scene.

CHARLIE WATSON - CROSS BY MR. DEBERRY

- 1 Q: James Lee and Neil Rouse are -- they are both detectives?
- 2 A: They were detectives at the time, yes.
- 3 Q: Okay. Where do they work now?
- 4 A: They're retired.
- 5 Q: They have both since left --
- 6 A: Yes.
- 7 Q: -- the Marion County Sheriff's Office?
- 8 A: Yes.
- 9 Q: What did they do there that night at the scene?
- 10 A: They were there just to assist the lead detective just
- 11 like I was.
- 12 Q: All right. Was there also any emergency personnel there?
- 13 A: There were -- there was no emergency personnel there upon
- 14 my arrival.
- 15 Q: All right.
- 16 A: Because once I arrived, they had already taken Mr.
- 17 Drawhorn to the emergency room.
- 18 Q: So at least an ambulance had come and gone to your
- 19 knowledge?
- 20 A: Yes.
- 21 Q: Was there any other vehicles there? The Coroner's
- 22 Office? Solicitor's Office? Sheriff? Anybody?
- 23 A: There were four -- four vehicles that were located in the
- 24 back yard.
- 25 Q: There was four non-law enforcement related?

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 A: Right.

2 Q: There was four?

3 A: Yes.

4 Q: Okay. When you arrived on the scene, did -- did you sign
5 a log-in -- crime scene log-in sheet?

6 A: I don't remember signing a log-in.

7 Q: Did you know -- do you know if there was one?

8 A: I -- I'm not aware of one, no.

9 Q: So had someone left the scene before you got there, you
10 couldn't say who it was or how many people were there or
11 anything --

12 MR. CLEMENTS: Object to speculation, Your Honor.

13 THE COURT: Let him finish his question. Let me hear the
14 question and then if there's an objection --

15 Q: What is the first --

16 THE COURT: -- I'll entertain it.

17 Q: Okay. What is the purpose of a crime scene log?

18 A: A crime scene log -- the purpose for a crime scene log is
19 -- is a basic log of any and everybody that had went into the
20 potential crime scene.

21 Q: Okay. But you don't remember one? You don't recall one?

22 A: No. I wasn't responsible for one.

23 Q: Okay. Did you ask if there was one?

24 A: No.

25 Q: Okay. When you got there, was there crime scene tape put

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 up?

2 A: Yes.

3 Q: Whereabouts was it?

4 A: It was just to isolate the general area surrounding the
5 house and I don't remember specifically what it was tied off
6 to. It was just generally to isolate the home and the yard
7 that what we thought was potential --

8 Q: Okay. I'm going to show you what's marked as State's
9 Exhibit 37. If you will, show the jury where you remember the
10 crime scene tape to be?

11 A: I don't specifically remember where the crime scene --
12 the crime scene tape was.

13 Q: Okay. Do you remember it extending out to the highway
14 where the shell casings were?

15 A: No, I do not.

16 Q: So you're saying it wasn't out there?

17 A: It was -- it was just something I wasn't -- it was there,
18 but I had other things to focus on, more important things than
19 where the crime scene tape was. Normally, that's something
20 that a patrol officer would put up as protocol.

21 Q: Wouldn't you agree that the actual crime scene would
22 include places from where the shooters may have been?

23 A: Yes.

24 Q: And wouldn't you agree that that's pretty important?

25 A: Yes.

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 Q: So what other things were more important than determining
2 -- trying to gather evidence that you could use to convict
3 people for this crime?

4 A: Pardon me?

5 Q: What was more important than determining where the crime
6 scene was?

7 A: The crime -- we already knew where the crime scene was.
8 My main focus when I first got there -- because I wasn't aware
9 of the shell casings out the highway. Detective Bell briefed
10 me on that and once he briefed me on that, we went out to the
11 highway to look at the shell casings. We immediately realized
12 what we had and that's when we shut down the lane of traffic
13 so we would keep vehicles from running over the shell casings.

14 Q: Okay. Can you tell me or show the jury on State's 37
15 where you parked?

16 A: When I responded, I parked right on the edge right here
17 on the dirt road, which would have been General Road.

18 Q: Were there other vehicles parked on General Road?

19 A: I remember other vehicles in a line right here because we
20 didn't want to drive into the yard.

21 Q: How many?

22 A: If my memory serves me correctly, there was one patrol
23 vehicle that was in the yard, and I think that was the very
24 first person that responded. And once he was made aware of
25 what we had, then everybody else that responded parked out

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 here on the highway because we didn't want to potentially
2 contaminate anything.

3 Q: But wasn't the highway eventually part of the crime
4 scene?

5 A: Yes.

6 Q: So what did you do about that?

7 A: We blocked it.

8 Q: Sir?

9 A: We blocked down the lane of highway -- the highway and
10 then we went out there and collected the shell casings. Once
11 we collected the shell casings, we opened the lane of traffic
12 back.

13 Q: But the shell casings had been moved. Do you agree with
14 that?

15 A: That was my understanding upon my arrival that one of the
16 patrol officers saw some of the shell casings getting run
17 over, just as I had testified earlier, and he picked up some
18 of the shell casings and was moving them out of the way and
19 then he was stopped. By the time we were all responded,
20 that's when we shut down the lane of traffic to process the
21 crime scene. We had to deal with it speedily because of the
22 traffic. So we done what we needed to do and then we opened
23 up the line of traffic.

24 Q: All right. Would you agree that when the calls like this
25 come out -- I mean I think you testified earlier that the

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 entire criminal unit responds. How did you say that?

2 A: The whole criminal investigations unit.

3 Q: The whole criminal investigations unit? And -- and
4 there's also probably duties of other individuals, maybe some
5 solicitors, coroner if that applies, or other agencies, maybe
6 SLED, will come? Is that likely during an investigation like
7 this?

8 A: Yes.

9 Q: Okay. Would you disagree that there may have been up to
10 a dozen cars or so there at any one point in time during that
11 night?

12 A: I couldn't give an honest answer to that. I have no
13 recollection of how many cars were there. I don't think there
14 were twelve.

15 Q: Would it be reasonable to believe seven? Eight? Nine?

16 MR. CLEMENTS: Your Honor, I object. It's speculation.
17 He's already said he didn't know.

18 THE COURT: Objection sustained.

19 BY MR. DEBERRY:

20 Q: Would it be -- I mean there was more -- there was
21 multiple cars?

22 A: I'd say there was more than four.

23 Q: Okay. And -- all right. Any time during your
24 investigation did you learn about a white Cadillac?

25 A: A white Cadillac?

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 Q: Mm-hmm.

2 A: Yes.

3 Q: Tell us about the white Cadillac?

4 A: Through the investigation, we learned that a white
5 Cadillac that may have been the potential vehicle used by the
6 shooters, and we found out through the investigation that Mr.
7 Blaton Smith was known to drive a white Cadillac.

8 Q: All right. At any point in the investigation did anybody
9 lead you to believe that a white Cadillac was parked on the
10 end of General Road?

11 A: I don't recall that.

12 Q: Okay. What -- let's switch back to when you went into
13 the -- into the house. Can you tell the jury what all you
14 found?

15 A: Inside the house?

16 Q: Mm-hmm.

17 A: What I found?

18 Q: Yeah.

19 A: Or what I assisted Detective Bell and found?

20 Q: What did y'all recover from in the house?

21 A: As I testified initially, from our first response when we
22 went inside, I saw the blood stain, the smear on the dryer,
23 and that's when we started doing interviews and we started
24 looking for bullet holes, projectiles, and fragments.

25 Q: Anything else you found inside the house? Maybe some

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 crack cocaine?

2 A: Pardon me?

3 Q: Any crack cocaine?

4 A: I never discovered any cocaine.

5 Q: Any marijuana?

6 A: There was some marijuana that was found inside of the
7 home during the search in the bedroom that belongs to Mr.
8 Gavin Graves, whom immediately claimed it.

9 Q: Any scales?

10 A: I think there were some scales that were -- that were
11 found in the bedroom, yes.

12 Q: Are you testifying that there wasn't any crack cocaine or
13 you don't know about any crack cocaine or what?

14 A: I was not involved in discovering the crack cocaine; so I
15 don't know too much about it. I heard through the talk of the
16 other investigators. I was along with Detective Bell on our
17 hands and knees going through any and everything trying to
18 find bullet fragments and projectiles.

19 Q: All right. You testified that you also found a gun in
20 there?

21 A: No, I did not.

22 Q: Well, you testified that there was a gun on Mr. Derrick
23 Wilson?

24 A: No. There was no gun inside the house. I didn't testify
25 to that.

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 Q: You testified earlier that one of the victims had a legal
2 gun.

3 A: I did.

4 Q: Well --

5 A: But I never once said that it was inside the house.

6 Q: Well, where was it?

7 A: He produced it. I'm not sure where it was at. Detective
8 Bell was the one who took that -- took charge of that, but it
9 was seized immediately.

10 Q: How do you know it was legal?

11 A: How do I know it was legal?

12 Q: Yeah.

13 A: That's what the victim claimed.

14 Q: Oh, that's just what the victim told you?

15 A: Mm-hmm.

16 THE COURT: Is that a yes?

17 THE WITNESS: Yes, sir.

18 THE COURT: Thank you.

19 BY MR. DEBERRY:

20 A: I had no reason to dispute the victim. He's a victim,
21 not a potential suspect.

22 Q: Is it legal to have drugs and guns together?

23 A: Pardon me?

24 Q: Is it legal to have illegal drugs and guns together?

25 A: Not really.

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 Q: Okay. Not --

2 A: My main focus was not the drugs. I'm not a narcotics
3 agent. My main and only concern was four attempted murders
4 and a murder that we later found out when Mr. Drawhorn passed
5 away.

6 MR. DEBERRY: Objection, Your Honor. I just asked the
7 question.

8 THE COURT: He answered the question.

9 THE WITNESS: Thank you, Your Honor.

10 BY MR. DEBERRY:

11 Q: Is it legal to have drugs and -- illegal drugs and guns
12 together?

13 A: Is it illegal --

14 Q: Yeah.

15 A: -- to have them together?

16 Q: Yes.

17 A: Only if you're a convicted felon, and I had no reason to
18 suspect him to be a convicted felon. He had done nothing
19 wrong. He was cooperative.

20 Q: Well, had he done something wrong that night, he wouldn't
21 have been convicted, would he?

22 A: Pardon me?

23 Q: He -- had he been implicated that night for anything, he
24 wouldn't have been already convicted of that, would he?

25 MR. CLEMENTS: Kind of calls for speculation, Your Honor.

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 I object.

2 MR. DEBERRY: If I can ask him another --

3 THE COURT: I'll allow that on cross examination. If he
4 knows the answer to it, he can answer the question.

5 BY MR. DEBERRY:

6 A: Ask me the question again?

7 Q: Did you know their records?

8 A: No, I didn't. I never knew these guys and I never met
9 these gentlemen before that night.

10 Q: Okay. All right. So you don't know whether they were
11 felons or not?

12 A: No, I did not.

13 Q: Okay. You testified earlier that you learned through the
14 investigation of Charlie B that Boo Boo was there or -- do you
15 know who Boo Boo is?

16 A: No. What's his real name?

17 Q: Willie Bethea.

18 A: Yes.

19 Q: All right. And do you know through your investigation
20 that Willie Bethea is Boo Boo?

21 A: If my memory serves me correctly, yes.

22 Q: Okay. Did you -- I mean what kind of information did you
23 have that Boo Boo was there?

24 A: That he was involved.

25 Q: All right. Did you have information that he was inside

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 of the car or that he was on the sidewalk?

2 A: That he was involved and he had information, which
3 Detective Bell and I followed -- quickly followed up on.

4 Q: Did you have information that he was -- just a second.
5 Did you have information that Boo Boo or Willie Bethea was
6 wearing dark blue jeans, burgundy and white Nike Air Force
7 Ones?

8 MR. CLEMENTS: Your Honor, just I think it's a hearsay
9 question. I'd object to hearsay.

10 THE COURT: Objection sustained.

11 BY MR. DEBERRY:

12 Q: Did you ever learn that during your investigation?

13 MR. CLEMENTS: Object to hearsay, Your Honor.

14 MR. DEBERRY: Your Honor, I don't believe it's hearsay.

15 THE COURT: I'll allow that. Go ahead. Answer the
16 question if you know it.

17 BY MR. DEBERRY:

18 A: I do not.

19 Q: All right. Would you agree that that information is very
20 specific information?

21 A: Which information?

22 MR. CLEMENTS: Your Honor, I object. I'm not sure --

23 THE COURT: Restate your question, please.

24 BY MR. DEBERRY:

25 Q: If you learned during your investigation that -- that you

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 got evidence that shows that somebody was on the crime scene
2 that was involved in the crime that was wearing a -- and you
3 got a complete description of their clothes down to what kind
4 of shoes they had on, would you agree that's specific
5 information?

6 MR. CLEMENTS: Your Honor, he's already -- I object.
7 He's already stated he didn't know that and that --

8 THE COURT: What's your grounds for your --

9 MR. CLEMENTS: -- calls for speculation.

10 THE COURT: Your grounds for your objection?

11 MR. CLEMENTS: It calls for speculation. He's already
12 answered he didn't have that information. So now he's asking
13 him to speculate on information he said he didn't have.

14 THE COURT: Come here for a minute, both of you, please.

15 (Whereupon, a bench conference is held in the presence of
16 the jury but out of the hearing of the jury off the
17 record.)

18 THE COURT: All right. Objection overruled. I'll allow
19 the question. Restate your question again for the witness,
20 please, Mr. Deberry.

21 MR. DEBERRY: Thank you, Your Honor.

22 BY MR. DEBERRY:

23 Q: Mr. Watson, my question was: If you had learned that
24 information during your investigation that somebody was
25 involved in the crime scene, that they were there at the crime

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 scene, that they were out on the sidewalk, and that somebody
2 described to a T right down to what kind of shoes they were
3 wearing, that that would be specific information about a
4 crime?

5 A: Yes.

6 Q: All right. And is it your testimony that you didn't
7 learn that information or that you did know that information?

8 A: The only thing that I can think of that that might be one
9 of the statements that was given by David Graves taken by
10 Detective Bell and myself that we later found out to be just a
11 bunch of lies.

12 Q: Okay. So in other words, Mr. Graves later changed his
13 statement?

14 A: Right.

15 Q: Okay.

16 A: We followed up with the information that Mr. Graves gave
17 in his first initial statement and, after investigating, we
18 found out it was a bunch of lies. But if my memory serves me
19 correctly -- I'm trying to pull it out of up here now.

20 Q: Okay. How many times did you interview David Graves?

21 A: Two times.

22 Q: Two times?

23 A: Yes.

24 Q: All right. Well, I see a Miranda -- did you give him
25 Miranda warnings each time you interviewed him?

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 A: Yes, we did.

2 Q: All right. And what -- what is that?

3 A: That's a list of his Miranda rights.

4 Q: And what are Miranda rights? If you -- I mean just in
5 general.

6 A: Just the right to remain silent. He didn't have to
7 cooperate. He could request counsel before any questioning if
8 he saw fit.

9 MR. CLEMENTS: Your Honor, I object to this line of
10 questioning on the grounds of relevance and he's talking about
11 hearsay information. I'm not sure --

12 THE COURT: Hold on a minute. Can y'all step to the jury
13 room for just a minute? I'll get you right back out here. Do
14 not discuss the case.

15 (Whereupon, the jury exits the courtroom at 10:47 a.m.)

16 THE COURT: All right. Mr. Clements, I'd be happy to
17 hear from you.

18 MR. CLEMENTS: Your Honor, I'd --

19 THE COURT: I mean you objected on the grounds of
20 relevance. So --

21 MR. CLEMENTS: Relevance. It's confusing. It's a waste
22 of time. And he's talking about hearsay information. So I
23 object on the grounds of Rule 403. If it is relevant, it's
24 prejudicial, confusing or a waste of time, but also, I don't
25 believe it's relevant.

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 THE COURT: Mr. Deberry?

2 MR. DEBERRY: Your Honor, it's talking about an
3 investigation where there's a witness out there, Charlie B,
4 who gives specific information as to an alternative theory
5 about what might have happened on the night in question. I
6 mean I can't understand how in the world it's not relevant.
7 They interviewed him several times. He's given inconsistent
8 statements and I haven't asked anything that calls for
9 hearsay.

10 THE COURT: Mr. Clements?

11 MR. CLEMENTS: Well, what he's talking about is hearsay
12 information.

13 THE COURT: I mean all he's asked him --

14 MR. CLEMENTS: And that's --

15 THE COURT: Go ahead.

16 MR. CLEMENTS: The line of questioning -- where is he
17 going to go with it except trying to elicit what Charlie B
18 said? If he wants to put Charlie B up as a witness, he can
19 call him if it supports his theory of the case. But he's
20 trying to piggyback onto that right now and that's why I
21 object to this line of questioning. He's trying to piggyback
22 hearsay information and what he's asking is nothing but
23 confusing. What if so and so? What if this? What if that?
24 It's a bunch of speculation. I just think, you know, that's
25 irrelevant. What -- what difference does it make if you

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 interview somebody and he's already said he gave conflicting
2 statements and we moved on? He's trying to elicit --
3 ultimately, he's trying to elicit from this witness what
4 Charlie B said.

5 THE COURT: Mr. Deberry?

6 MR. DEBERRY: My position is the same, Your Honor. It's
7 cross examination. It's a murder trial and there's
8 information that Mr. Watson has that's contrary to the way
9 they're trying to prosecute the case.

10 MR. BAILEY: Your Honor, can I be heard at the
11 appropriate time on this? Because it's going to come up
12 during my cross of Investigator Watson.

13 THE COURT: Well, when you cross examine him, if he wants
14 to object at that point, I'll address it at that point.

15 MR. BAILEY: Okay.

16 THE COURT: All right.

17 (Whereupon, there is a pause in the proceedings.)

18 THE COURT: Well, I understand the objection of relevancy
19 and I understand your concern about hearsay. Without getting
20 into the specifics of what Charlie B said, he can't do that.
21 He can't do that. And if he's trying to tie -- Mr. Deberry
22 and/or Mr. Bailey on his cross examination tries to tie the
23 examples of what he was wearing down to his shoes to Charlie
24 B, that is testimony from you as to what Charlie B may have
25 said to him and I'm not going to allow you to tie that.

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 Now, I think you can give examples and you've established
2 that Charlie B, without going into hearsay, gave inconsistent
3 statements. He's testified to that. He's testified to that.

4 MR. DEBERRY: But, Your Honor, I mean I think that we
5 have the full ability to attack the credibility of their
6 investigation and --

7 THE COURT: And you can do that. You can do that. Now,
8 whether or not he followed up on what whoever told him, that's
9 going in a little bit different scenario. You can attack what
10 they did or what they didn't do in their investigation, but
11 I'm not going to allow you to testify in a sense as to what
12 Charlie B said to show this jury what those inconsistencies
13 were. Does that make sense?

14 MR. DEBERRY: Yes, sir. But I'm not -- but there's also
15 a theory -- I mean there's also a line of thought that says
16 that I need to get this information in as a third party guilt
17 situation because it's very reasonable to infer from what I
18 can get in Charlie B may have been there.

19 THE COURT: Well -- and he may have been and if you can
20 establish that, but I'm not going to allow you to establish or
21 bring out through this witness what Charlie B may have said.
22 I mean is that -- how can that not be hearsay?

23 MR. DEBERRY: Well, I'm not -- I'm not asking him what he
24 said.

25 THE COURT: I --

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 MR. DEBERRY: I can ask him what he learned from the
2 investigation, can't I?

3 THE COURT: In essence, you can, but I'm not going to
4 allow you to testify through -- you learned through your
5 investigation that so and so said this or did --

6 MR. DEBERRY: I understand.

7 THE COURT: Mr. Clements?

8 MR. CLEMENTS: Your Honor, he's already in a fashion
9 asked that question and it's been answered because I believe
10 Mr. Watson said yeah, we talked to him, he gave conflicting
11 statements, and it turned out to be a bunch of lies. They
12 were followed up on. So I think that's been asked and
13 answered. And I think third party guilt is -- now to be
14 admissible, it's got to prove the defendant's innocence and
15 this doesn't at all. This is just -- you know, they talked to
16 several other witnesses too, but they followed up on it and
17 didn't -- didn't reveal anything of any value.

18 THE COURT: Right. Well --

19 MR. CLEMENTS: He's going to have a chance to cross
20 examine Willie Bethea himself. So they followed up and they
21 talked with Willie Bethea.

22 THE COURT: Well, anything else? Anything else, Mr.
23 Deberry?

24 MR. DEBERRY: Your Honor, I just want to be clear on what
25 I can and can't do with what I -- I mean are you saying that I

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 can't ask him what his follow-up led to?

2 THE COURT: Mr. Clements?

3 MR. CLEMENTS: Your Honor, I think he's asked and
4 answered that. He said there were conflicting statements. We
5 didn't believe them to be true and then they moved on.

6 THE COURT: Well, I mean I don't think there is -- to
7 answer your question -- I just wanted to hear whatever
8 argument Mr. Clements had on that. I mean I think you can ask
9 him what he did as a result of his investigation.

10 MR. CLEMENTS: And I don't have a problem with that
11 either. I mean I think he's already asked him. So --

12 THE COURT: Well, I mean -- and I'll allow him to ask
13 that. I mean he's certainly entitled to ask that question.
14 He's certainly entitled to ask that.

15 MR. CLEMENTS: And I don't object to that. I would
16 object to him saying what did you do to follow up
17 investigation about Charlie B saying so and so? That's what I
18 object to.

19 THE COURT: And that would be -- I agree about that would
20 be a problem because that would be testimony as to what
21 Charlie B may have said and which would be hearsay in this
22 case.

23 MR. DEBERRY: But --

24 THE COURT: Hearsay whether it be in this case or any
25 other case.

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 MR. DEBERRY: And I'm not trying to be argumentative, but
2 if he says he learned something through the investigation,
3 then as a result of that I can ask him what happened.

4 THE COURT: I mean if he answers it in that fashion, not
5 subject to the way you ask the question, you know, he opens
6 that door.

7 MR. DEBERRY: I mean, Your Honor, I believe there's case
8 law on point that says that statements are not hearsay in the
9 admission of evidence when I'm attacking the -- an
10 investigation.

11 THE COURT: I mean you find me the case, I'll be happy to
12 look at it.

13 MR. DEBERRY: We got it right here.

14 THE COURT: So you're taking the position that he -- that
15 you can ask him what Charlie B told him and whatever Charlie B
16 says as long as you're, quote unquote, attacking the
17 credibility of their investigation he can say whatever Charlie
18 B told him? Is that your position?

19 MR. DEBERRY: And, Your Honor, I think that the case says
20 that an out-of-court statement is not hearsay if it is offered
21 for the limited purpose of explaining why a government
22 investigation was not effective.

23 THE COURT: I want to see the case. I mean --

24 MR. CLEMENTS: Have you got a copy for me?

25 (Whereupon, there is a pause in the proceedings as the

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 case is provided and read by the Court and counsel.)

2 THE COURT: All right. Mr. Deberry, I'll be happy to
3 hear anything further.

4 MR. DEBERRY: Judge, I mean I believe that the case
5 states pretty clearly that you can get into the -- into the
6 meat of the statements just to explore the reason for
7 investigation. I mean that's what the case says. And that
8 it's not hearsay.

9 THE COURT: Mr. Clements?

10 MR. CLEMENTS: Your Honor, the reason this investigation
11 was going on is because they had a dead body and a shot-up
12 trailer. This case talks about why they began surveillance
13 based on hearsay information. This investigation was not done
14 based on hearsay information given by Charlie B. The
15 investigation was already ongoing. They talked to him, didn't
16 believe his statements to be credible, and moved on. His
17 statements did not cause them to do an investigation.

18 The investigation was because Christian Drawhorn was
19 killed and the trailer was shot up. It's completely
20 distinguishable from this case, which he says is not hearsay,
21 but to state why a government investigation began was under
22 taint. That's not the case here at all. He might be trying
23 to say why an investigation should have been done -- taken of
24 Charlie B, but they dismissed it because it was not credible
25 and it was conflicting statements, which Officer Watson has

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 already testified to.

2 THE COURT: Anything else, Mr. Deberry?

3 MR. DEBERRY: I think that the very nature of a
4 conflicting statement is essential evidence in the -- in the
5 defense of a case.

6 THE COURT: Anything you want to add, Mr. Bailey?

7 MR. BAILEY: Well, Your Honor, in response to Mr.
8 Clements's statement that that case deals with the initial
9 beginning of the investigation for surveillance, well, Your
10 Honor, that case does not distinguish the start of what
11 investigation. They began their investigation -- or their
12 initial investigation based upon the shooting call. Through
13 the course of that investigation, they learned of facts that
14 led them down a different road on a different theory of what
15 happened at the shooting. That's a whole separate
16 investigation.

17 Mr. Deberry and I should be able to cross examine the
18 investigators as to what they heard as non-hearsay. Judge,
19 and this all stems from I guess asking about what Boo Boo was
20 wearing that night with the Virginia Tech colors. Judge,
21 that's not coming in to prove he was wearing that that night.
22 What did you do to investigate it? You learned this
23 information. What did you do to investigate it? It's not
24 hearsay. We're not offering it to prove what he -- what --
25 what he was wearing.

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 Judge, the -- you know, the next thing is David Graves
2 says there were three guys standing on the sidewalk and one
3 guy runs around to the back of the trailer. Okay? We should
4 be able to ask him that as non-hearsay. What did you do to
5 investigate it?

6 You've heard all of our questions leading up. Where's
7 the crime scene? What did you do to investigate it? That's
8 where we're going with this, and the case clearly says it's
9 non-hearsay.

10 MR. CLEMENTS: Your Honor, I don't believe that case says
11 that that is not hearsay at all. If what Mr. Bailey propounds
12 is the truth, we would never have to bring in any witnesses
13 that gave statements ever. We could just say, well, they told
14 you so and so; right? What did you do? That's just rank
15 hearsay. It is -- it's as far-fetched as I've ever heard an
16 argument on hearsay to say that, you know, they can ask him
17 about everything a guy said and they are -- they are asking
18 him because they're trying to say what the guy said was the
19 truth.

20 And so they are presenting it. Their ultimate purpose is
21 to say what you concluded happened isn't what happened. It's
22 what this guy Charlie B told you in his first statement is
23 what happened. So they're offering every bit of that
24 information to be the truth. It's rank hearsay.

25 THE COURT: Well, I do believe that it's hearsay. I've

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 read what you handed up here, State v. Brown, 451 S.E.2d 888,
2 which is a 1994 Supreme Court case. That I do believe that it
3 is hearsay. However, I'll allow you to proffer whatever you
4 want to from him for purposes of protecting the record.

5 MR. CLEMENTS: Also, Your Honor, I want to say one thing.
6 On June the 26th -- or was it 25th? Mr. Charlie B, David
7 Graves, was interviewed and he said that that first statement
8 he gave to Bell and the first statements he gave to Bell and
9 to Watson was a lie. He retracted it. If they want to call
10 him up and put that information in through Charlie B, it's not
11 hearsay then what he said and I can't object to it.

12 THE COURT: Okay. Anything you want to proffer from this
13 witness any further, please do so. Make sure your clients'
14 interests are protected in case I'm wrong.

15 MR. DEBERRY: Thank you.

16 PROFFERED CROSS EXAMINATION

17 BY MR. DEBERRY:

18 Q: Mr. Watson, did you learn through investigation that
19 David Graves testified that he saw three people standing on a
20 sidewalk and one person ran around the back of the house?

21 A: That was in his first statement that he gave Detective
22 Bell and myself that we ruled out. He later retracted it as a
23 lie.

24 Q: Okay. And I'm not introducing this as evidence, but I'd
25 like to --

CHARLIE WATSON - PROFFERED CROSS BY MR. DEBERRY

1 MR. DEBERRY: Can I show this to the witness?

2 THE COURT: Yes, sir, absolutely.

3 Q: I'll just hand you this and ask you did you -- did you
4 write that statement for Mr. Graves?

5 A: I did so.

6 Q: All right. And is --

7 A: Upon the request of Mr. Graves.

8 Q: Okay. And you signed it?

9 A: He signed it and I witnessed it, yes.

10 Q: You signed it as a witness?

11 A: I witnessed it.

12 Q: Okay. All right. And does that -- is that the statement
13 that contains information that Mr. Graves gave you a
14 description of what Mr. Willie Bethea was wearing and that
15 there was --

16 A: This is the information that he give in his first
17 statement that he later retracted as a lie.

18 Q: Okay.

19 A: He admitted that he lied about this.

20 Q: What investigation did you do other than he just said he
21 lied about it to follow up on that information?

22 A: We had started an investigation and he finally came
23 forward and retracted the statement; so that killed the
24 investigation right there, and he gave a second statement.

25 MR. DEBERRY: Just a second. All right. That's it,

CHARLIE WATSON - PROFFERED CROSS BY MR. DEBERRY

1 Judge. And if I could just for clarification purposes when
2 the jury comes back, if I could just -- I just want to be
3 clear on where I can go.

4 THE COURT: Well, Mr. Clements, do you have an objection
5 to what he just asked him?

6 MR. CLEMENTS: Judge, I just think it's all --

7 THE COURT: Well, I mean -- I'm sorry. I didn't mean to
8 cut you off. Go ahead.

9 MR. CLEMENTS: Let me confer one second with the other
10 officer.

11 THE COURT: Well, I mean before you confer, I mean in
12 essence what he asked him is he investigated based on that
13 statement. The second statement was a conflicting statement
14 which killed the investigation or killed that avenue. Is that
15 not what --

16 MR. CLEMENTS: What I objected to --

17 THE COURT: Hold on. Is that not what you just testified
18 to, Mr. Watson?

19 THE WITNESS: The -- the first statement, yes, sir.

20 THE COURT: Your testimony was that when he gave the
21 second statement, which was conflicting, that killed the
22 investigation as far as that goes -- as far as what he said;
23 right?

24 THE WITNESS: Yes, sir.

25 THE COURT: Okay. Now, go ahead.

CHARLIE WATSON - PROFFERED CROSS BY MR. DEBERRY

1 MR. CLEMENTS: Your Honor, what -- what I object to is
2 not him asking him didn't you take a statement from Charlie B.

3 THE COURT: Right.

4 MR. CLEMENTS: Yes, I did. And he retracted it and it
5 was false. What I object to is him saying didn't you take a
6 statement from Charlie B and he said so and so and so and so.

7 THE COURT: Right. And I agree with that, but what he
8 just asked I don't think there was any -- any objection --
9 anything objectionable to that.

10 MR. CLEMENTS: No. He did ask him about people running
11 around the back and three people standing on the road. That I
12 completely object to.

13 THE COURT: I agree with that.

14 MR. CLEMENTS: Yes, sir.

15 THE COURT: I agree with that.

16 MR. DEBERRY: I mean that's what I just asked. So is
17 that --

18 MR. CLEMENTS: That's what he just asked.

19 THE COURT: Okay. All right. Anything else you want to
20 ask him?

21 MR. DEBERRY: Not that I need to proffer. I just need to
22 be clear. I mean I don't want to have any problems, you know.
23 It's kind of confusing.

24 THE COURT: I'm not going to allow you to -- allow what
25 you just proffered with regards to three people and three

CHARLIE WATSON - PROFFERED CROSS BY MR. DEBERRY

1 people running around the house.

2 MR. DEBERRY: Can I ask him through his investigation
3 that he learned that there was three people outside and that
4 one ran behind the house?

5 THE COURT: Mr. Clements?

6 MR. CLEMENTS: If he asks him, he's already said no, he
7 didn't learn that in the investigation. He was told that and
8 found out it was a lie.

9 THE COURT: No, I'm not going to allow you to ask that
10 question. You've proffered it. I sustain the objection on
11 that.

12 MR. DEBERRY: So you're saying I can't ask what he
13 learned during his investigation --

14 THE COURT: I'm not going to allow --

15 MR. DEBERRY: -- if I get away from the statement I mean?

16 THE COURT: Sir?

17 MR. DEBERRY: If I get completely away from Charlie B's
18 statement?

19 THE COURT: It depends on what his answer is. I mean I'm
20 not -- if you ask that -- I mean that's a very open-ended
21 question and if he starts going down that road of, well, I was
22 told so and so and so and so and the State objects to it, I
23 mean I'm not going to allow him to give hearsay testimony from
24 this stand. I mean I think you can certainly ask him what he
25 did as a result of his investigation, but I mean that's a very

CHARLIE WATSON - PROFFERED CROSS BY MR. DEBERRY

1 broad and open-ended question and it will depend on what he
2 answers --

3 MR. DEBERRY: So I can't --

4 THE COURT: -- as to whether or not it's objectionable.

5 MR. DEBERRY: So I can -- so I can ask it? Is that what
6 -- did he learn --

7 THE COURT: You can -- you can ask the question of
8 whether or not -- it depends on what road he goes down. Mr.
9 Clements?

10 MR. CLEMENTS: Judge, he's -- he's trying to get it back
11 to what you already told him he can't get into further.

12 THE COURT: Do you want to ask him that question now and
13 let me hear what he's going to say?

14 MR. DEBERRY: Sure.

15 PROFFERED CROSS EXAMINATION

16 BY MR. DEBERRY:

17 Q: Detective Watson, through the course of your
18 investigation, did you have any knowledge or any evidence that
19 -- or did you learn in any way that three people may have been
20 on the sidewalk in front of the house and that one person ran
21 around behind the house?

22 A: That information was given in a statement by Mr. Graves,
23 Charlie B, that later retracted it as a lie as to his
24 statement, and he give a second statement.

25 THE COURT: Any objection to that, Mr. Clements?

CHARLIE WATSON - PROFFERED CROSS BY MR. DEBERRY

1 MR. CLEMENTS: Still, Your Honor, he's having to give a
2 hearsay response.

3 MR. DEBERRY: He can answer it as a yes or no.

4 THE COURT: All right. Mr. Clements, any objection to a
5 yes or no response?

6 MR. CLEMENTS: Yes, sir, because he's asking him hearsay
7 information.

8 THE COURT: All right.

9 MR. CLEMENTS: He's asking him did you hear this and he
10 learned it through hearsay.

11 THE COURT: I sustain the objection. I believe that
12 that's trying to elicit testimony or statements from a witness
13 that's not here to testify to that effect to give the State a
14 right to cross examine that witness on that issue. I sustain
15 the objection on that, but it's so proffered for the record.
16 If I'm wrong, it's in the record. Okay? Anything else? All
17 right. Let's bring the jury back in.

18 (Whereupon, the jury enters the courtroom at 11:13 a.m.)

19 THE COURT: All right. Thank you for your patience,
20 ladies and gentlemen. We're going to continue the trial of
21 this case at this time. Mr. Deberry, you're recognized.

22 MR. DEBERRY: Thank you.

23 CONTINUED CROSS EXAMINATION

24 BY MR. DEBERRY:

25 Q: Mr. Watson, how -- how many times did you and Mr. Bell

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 interview David Graves?

2 A: Two times.

3 Q: And is David Graves Charlie B?

4 A: Yes.

5 Q: And one of those times, did -- did you have an occasion
6 to actually transcribe or write his statement?

7 A: I did at his request.

8 Q: Okay. Can you testify -- I'm going to show you what's
9 marked as State's 37. To your recollection, do you know where
10 the shell casings were?

11 A: The shell casings were located right here on the edge of
12 the roadway and in the roadway.

13 Q: Can you point to it again?

14 A: Right here.

15 Q: Okay. They were right there? All right. Okay. Can you
16 testify -- you testified earlier when the solicitor was going
17 through the pictures that State's Exhibit Number 26 -- can you
18 testify again as to what that is?

19 A: The top picture or the bottom picture?

20 Q: The bottom picture is the grill?

21 A: Yes.

22 Q: Is that right? The top picture?

23 A: It's the side of the mobile home.

24 Q: It's the side?

25 A: Well, I mean it looks like the wall of it through the

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 design of the --

2 Q: One of the ends? The back? Front?

3 A: No. It was -- it could be either/or -- either the front
4 of the mobile home, the long wall, or the rear long wall, but
5 I'm not really sure.

6 Q: You testified earlier that that was an exit hole in the
7 rear of the trailer. Do you remember?

8 A: I don't know if this was the specific picture I was
9 looking at or not. I don't recall. I may have.

10 Q: Well, I think the testimony was very clear. I wrote it
11 down when you were talking about State's Exhibit 26 that it
12 was the only picture that you said was of the rear of the
13 mobile home and the only picture of an exterior exit hole.
14 Still -- is that still your testimony?

15 A: Like I testified earlier, I'm not an expert, but looking
16 at the picture at the top, it looks like an exit hole.

17 Q: Can you tell us where on the trailer it was?

18 A: No, I cannot.

19 Q: So earlier it was on the back of the trailer, but now it
20 might be --

21 A: From my memory --

22 Q: -- on the front; is that right?

23 A: From my memory to the best of my memory, most of the
24 bullet holes that I observed with the metal protruding outward
25 were on the rear of the mobile home, which would validate me

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 explaining to you the through and through.

2 Q: So you didn't take -- there's more than one that came
3 out?

4 A: I can't testify to that. I can't remember right offhand.

5 Q: How many were in the car? How many bullet holes?

6 A: In the car?

7 Q: Yeah.

8 A: I just seem to remember two that was in the rear
9 passenger door.

10 Q: Okay. But there was only one that you may have taken a
11 picture of coming out of the house?

12 A: I'm not saying to you and I'm not testifying that that's
13 the specific hole that matched up to the vehicle. I can't do
14 that.

15 Q: All right. Well, let me just ask you about this picture
16 and the way it looks and we showed it -- we showed it to the
17 jury earlier.

18 THE COURT: Make sure that -- I think you said it, but
19 State's Exhibit -- what is that, Mr. Deberry?

20 MR. DEBERRY: 26, Your Honor.

21 THE COURT: Okay. Thank you. I'm sorry.

22 BY MR. DEBERRY:

23 Q: Mr. Watson, if you look close, it looks like there's a
24 little piece of metal that's coming out. Do you agree with
25 that?

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 A: Yeah. But it also looks like it's protruding outward to
2 me. That's my personal opinion. His personal opinion may be
3 different.

4 Q: What makes you believe that?

5 A: Because the way I'm looking at it, I look at that and I
6 see the metal folded outward. Do you look at it and see the
7 metal folded inward?

8 Q: Well, it looks like it's going across the hole from the
9 left side looking at it this way; right?

10 A: That's -- that's my opinion, just like that's your
11 opinion.

12 Q: Is that flat metal there?

13 A: Pardon me?

14 Q: Is that flat metal or is it corrugated metal?

15 A: I'm not a metal expert. You're asking the wrong one.

16 Q: I mean this surface is flat and a surface that would
17 have, like, humps in it every so often like you see on, like,
18 on tin roofs and such, that would be corrugated.

19 A: Okay.

20 Q: Does that look flat or corrugated? Hard to tell; right?

21 A: Yeah. It's hard to tell.

22 Q: It's really hard to tell because it's a picture. It's
23 also hard to tell which way that piece of metal is sticking
24 in. Would you agree with that?

25 A: Yes. But I normally testify to my opinion.

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 Q: I understand. I understand. And you showed me this
2 stack of pictures that the solicitor put into evidence and
3 it's all -- and it's all pictures that are into evidence.
4 Could you show me any more of the pictures that contained the
5 back of the house?

6 A: You want me to go through them?

7 Q: I mean if you think there's some in there or however you
8 want to do it.

9 (Whereupon, there is a pause in the questioning for the
10 witness to review the photographs.)

11 A: If some of the -- if some of the pictures are bullet
12 holes from the back of the mobile home, then I can't decipher
13 which one it would be. As I testified earlier, it's still my
14 honest opinion. I distinctly remember seeing some of the
15 holes. I did not go and look at every single hole in the
16 mobile home. The ones that distinctly stood out in my mind in
17 the rear of the home were the ones that the metal was
18 protruding outward, which would have told me common sense that
19 a bullet went through that mobile home out and it potentially
20 could have struck another home in the back part of that area.

21 Q: Any other reports of mobile homes being shot that night?

22 A: No.

23 MR. DEBERRY: Your Honor, may I publish -- republish this
24 to the jury?

25 THE COURT: Yes, sir.

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 BY MR. DEBERRY:

2 Q: And this is State's Exhibit 26 that shows what you
3 testified to with Solicitor Clements of that being an exit
4 hole in the back of the trailer. Mr. Watson, I'm going to
5 show you State's Exhibit Number 20. Can you re-familiarize
6 yourself with the bottom picture on that?

7 A: Yes.

8 Q: All right. Now, what is that?

9 A: It is a poor shot where I guess maybe the flash didn't go
10 off on the camera, but you can tell of the faint silhouette
11 that it's a white SUV and you can see some of the shine off
12 the rim, and there was only one vehicle out there that was a
13 white SUV with shiny rims and that was the vehicle belonging
14 to the victim, Mr. Derrick Wilson.

15 Q: And that was behind the house?

16 A: That was behind the house, yes.

17 Q: All right. And so there's -- and this took place at
18 night; right?

19 A: Yes.

20 Q: And that picture was obviously taken at night?

21 A: Yes.

22 Q: So without a flash, it would show you the lighting
23 conditions, would it not?

24 A: I'm not an expert on photography. Sorry.

25 Q: Well, I understand, but it just looks like a dark

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 picture. You can just barely see that; right?

2 A: Right.

3 MR. DEBERRY: Can I show that -- publish that?

4 THE COURT: Yes, sir.

5 BY MR. DEBERRY:

6 Q: I'll also show you what's State's Exhibit 19. Can you
7 explain what that is again?

8 A: As I explained to the ladies and gentlemen of the jury
9 earlier, the first top picture is a state road sign
10 identifying General Road, which is the dirt road that turns
11 off of Highway 501 that goes past the mobile home. The bottom
12 picture is a large wide-scanned picture of the area where the
13 shell casings were taken. And again, it was not the best
14 equipment, but it's what we had to work with at the time.
15 Maybe the flash didn't go off good enough or -- I'm not an
16 expert in photography.

17 Q: But it looks like these pictures were probably taken with
18 a flash?

19 A: I know the top one was.

20 Q: Okay. There's a little lighted area.

21 A: Mm-hmm.

22 Q: So that may have been the flash on the bottom? I see
23 some blue lights up here is what it looks like. Would that be
24 --

25 A: The blue lights in the highway is whenever we blocked off

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 traffic and we were collecting the shell casings, marking
2 them, and everything else.

3 Q: Can you tell what -- does this point towards the house?

4 A: No, it does not.

5 Q: So it doesn't include the house?

6 A: No. The house would be to the left of the photograph.

7 Q: It would be over here on this side?

8 A: If you're facing -- if you're facing the path of the
9 highway, the mobile home would have been to the left. And
10 there was some illumination because you've got street lights
11 all up and down Highway 501.

12 Q: But that shows the illumination of the area?

13 A: Yes.

14 MR. DEBERRY: Your Honor, I'd like to show this to the
15 jury.

16 THE COURT: Yes, sir.

17 BY MR. DEBERRY:

18 Q: Is -- let's talk about the shell casings that were moved.
19 Do you know how they were moved?

20 A: They were collected. I wasn't part of the collection of
21 those shell casings.

22 Q: With your experience in law enforcement and as a
23 detective, do fingerprints -- are they sometimes found on
24 shell casings?

25 A: Yes, they are.

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 Q: All right.

2 A: Not always.

3 Q: But they can be?

4 A: Yes.

5 Q: All right. So do you know if -- do you know who moved
6 them?

7 A: I can't recall right offhand.

8 Q: It was a deputy?

9 A: I'm not sure.

10 Q: Okay. But you know they were moved?

11 A: They were. They were seized, yes, into evidence.

12 Q: During your investigation, did you question how they were
13 moved?

14 A: I had no reason to.

15 Q: All right. Did you ever think that maybe you should have
16 gotten a fingerprint analysis from the shell casings?

17 A: They were submitted to SLED. When you got a situation of
18 that magnitude, everybody has got a specific job, and the
19 shell casings were collected by somebody else, not me, and
20 they were submitted to SLED. I don't know anything about it.

21 Q: Okay. So you don't know if they were --

22 A: I know they were submitted for the firearm analysis.

23 Q: Do you know if they were submitted for fingerprints?

24 A: I can't testify to that.

25 Q: Is it against the law to tamper with evidence?

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 A: Yes.

2 Q: Okay. The bullet holes that you testified to and with
3 your knowledge about how they come in and go out and all that
4 made great sense -- and I guess you know that from your
5 experience?

6 A: Yes.

7 Q: I mean from -- I mean it's common sense analysis,
8 wouldn't you agree?

9 A: Absolutely.

10 Q: So did you ever -- did you ever match up holes from the
11 outside to holes from the inside?

12 A: Pardon me?

13 Q: Did you ever -- you and Detective Bell -- did y'all ever
14 match up holes from the outside to holes from the inside?

15 A: No.

16 Q: So is it safe to say that we don't know which direction
17 they came from?

18 A: Well, if you have a hole in one wall and you walk
19 directly to the other side of the mobile home and there's
20 another hole, you know, chances are one bullet made that one
21 hole because bullets travel in a straight path unless they hit
22 something and then they ricocheted off something else.

23 Q: Okay. But I mean did you -- did you do any checking as
24 far as -- I mean if -- say there was multiple shooters from
25 multiple angles --

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 MR. CLEMENTS: Objection. It's speculation. I don't
2 think he's an expert in this field.

3 THE WITNESS: I'm not.

4 THE COURT: I'm going to allow him to -- go -- finish
5 your question, please.

6 BY MR. DEBERRY:

7 Q: If there were multiple shots fired -- which there is
8 evidence that multiple shots were fired, you would agree?

9 A: Oh, yes, definitely.

10 Q: You had holes -- multiple holes in the house. Wouldn't
11 you agree that if a bullet comes from one direction, it may
12 hit a wall kind of further down in the trailer as opposed to
13 if it was shot straight through the house as opposed to if a
14 bullet came from another direction it may would end in the
15 wall further down?

16 A: Well, it all depends on where you aim your weapon.

17 Q: Is that where the weapon was fired from? Wouldn't you
18 agree?

19 A: Right.

20 Q: So did you do any checking at all as to which way these
21 holes were headed? Or you just -- or did you take for granted
22 that because there's a hole in the front and a hole in the
23 back it must have been the same bullet?

24 A: It's just my opinion.

25 Q: Have you ever seen or done any investigation where you

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 would stick a dowel rod or some kind of object that's straight
2 in nature through those holes and that would give you an idea
3 of which way that bullet was going?

4 A: Yeah. Like the rods on television shows?

5 Q: Yes, sir.

6 A: Okay. We don't have those. We don't have the budget for
7 those.

8 Q: Mr. Watson, don't you think you could go to the hardware
9 store and buy a wooden rod for maybe a dollar?

10 A: It was my observation that night the majority of the
11 shell casings were in a specific area, and if you looked at
12 where all the bullet holes were going in, it was safe to say
13 my observation that those bullet -- those -- they were
14 standing in a specific place and they shot up the house. End
15 of story.

16 Q: They were standing --

17 A: As far as being an expert in doing what the counselor is
18 asking did I do, no, I did not do that.

19 Q: That's out of y'all's budget?

20 A: Yeah. I'm not trained on that. We didn't have that kind
21 of equipment. We used our common sense.

22 Q: Thank you. You testified earlier that Duke -- that you
23 had some evidence that led you to believe that Duke may be
24 implicated in this crime; is that true?

25 A: We had no evidence, just speculation.

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 Q: Do you have any evidence now?

2 A: Do I have any evidence that Duke was involved?

3 Q: Yes, sir.

4 A: No.

5 Q: You don't have any evidence that Duke ordered the
6 shooting?

7 A: Do I have any evidence that he ordered the shooting?

8 Q: Or do you have any knowledge that that's the case?

9 A: Through -- let me see how I want to put this.

10 Q: I'll remind you that you testified earlier that you
11 didn't arrest him because he wasn't in Marion County.

12 A: He wasn't in Marion County.

13 Q: And that's the reason you didn't arrest him?

14 A: The information that we got that implicated him somewhat
15 is from what was given to us by other co-defendants.

16 Q: Okay. But you couldn't mess with him because he's in
17 Dillon?

18 A: No.

19 Q: But you did go to Dillon and execute a search warrant?

20 A: Yes.

21 Q: How did you get to do that?

22 A: We had the search warrant. It was signed by a judge in
23 Dillon County and we were in the presence of Latta police
24 officers.

25 Q: Okay. The judge in Dillon County can't sign a murder

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 warrant?

2 A: Pardon me?

3 Q: The judge in -- in Dillon County can't sign a murder
4 warrant?

5 MR. CLEMENTS: Your Honor, I object to this line of
6 questioning on relevance.

7 THE COURT: Objection sustained.

8 BY MR. DEBERRY:

9 Q: Where was Charlie B or David Graves when you spoke to
10 him?

11 A: When I spoke with Mr. David Graves, Charlie B, it was at
12 the Dillon County Sheriff's Office, I think like a special
13 unit there.

14 Q: Was he in custody?

15 A: Pardon me?

16 Q: Was he in custody?

17 A: I think so.

18 Q: Do you know what he was in custody for?

19 A: I think he was connected to some charges in Latta.

20 Q: To some murder charges?

21 A: I know eventually he was connected to a murder. At the
22 time of the interviews, I don't know if we knew that yet or
23 not. I don't think he was formally charged at the time we
24 conducted our interviews with them, but I can't -- I can't
25 give you an answer to that.

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 Q: But you later -- you later learned and you now know that
2 he's charged with murder?

3 A: Yes.

4 Q: Or that he was charged with murder in Latta?

5 A: Yes.

6 Q: Do you know any circumstances about that murder?

7 A: No. It was a crime in --

8 Q: Did you ever learn -- did you ever pull the incident
9 reports from Latta?

10 A: No. I had no reason to. That was -- that was a crime
11 committed outside of my jurisdiction.

12 MR. CLEMENTS: Your Honor, I object to this on relevance.

13 A: I'm trying to handle something else --

14 THE COURT: Hold on a minute. Can the lawyers approach a
15 minute, please?

16 (Whereupon, a bench conference is held in the presence of
17 the jury but out of the hearing of the jury off the
18 record.)

19 THE COURT: All right. Please continue, Mr. Deberry.

20 MR. DEBERRY: Thank you, Your Honor.

21 BY MR. DEBERRY:

22 Q: Mr. Watson, I just have I believe just one more question
23 for you. You testified that you knew or that you learned at
24 some point during your investigation that Charlie B, who was
25 David Graves who you interviewed a couple of times in the jail

CHARLIE WATSON - CROSS BY MR. DEBERRY

1 over --

2 A: No. I did not interview him at the jail. You're wrong.

3 Q: Okay. Well, he was in -- it was your testimony he was
4 incarcerated when you interviewed him.

5 A: He was in custody of Dillon County Sheriff's Office.

6 Q: Okay. And you later learned that -- or maybe you didn't
7 learn it -- or did you learn later that he was involved in a
8 murder?

9 A: I did, in fact, learn later, but I can't specifically say
10 at the date and time that we sat down and interviewed him on
11 two separate occasions had he been formally charged.

12 Q: All right. And during your investigation -- I know you
13 can't speak for Detective Bell, but you never -- you never
14 looked at the incident reports in Dillon on that?

15 A: I had no reason to. That's a different jurisdiction.

16 Q: And the final question is did you ever learn through your
17 investigation of the murder of Christian Drawhorn and the
18 involvement or your knowledge of David Graves that the murder
19 in Dillon involved a white Cadillac?

20 A: I can't recall that.

21 Q: All right.

22 MR. DEBERRY: Thank you very much.

23 THE COURT: All right. Mr. Bailey, cross examination.

24 CROSS EXAMINATION

25 BY MR. BAILEY:

CHARLIE WATSON - CROSS BY MR. BAILEY

1 Q: Good morning, Detective Bell.

2 A: Watson.

3 Q: Watson. I apologize.

4 A: Good morning -- well, afternoon.

5 Q: Is it afternoon already?

6 A: It's close enough.

7 Q: Okay. You reached the rank of investigator with the
8 Marion County Sheriff's Department; correct?

9 A: Yes.

10 Q: Okay. And you don't start out as an investigator, do
11 you?

12 A: No, sir.

13 Q: Okay. You went to the criminal justice academy; correct?

14 A: Yes.

15 Q: Okay. And they teach you a number of things at the
16 academy; correct?

17 A: Yes.

18 Q: They teach you how to shoot a gun?

19 A: Yes.

20 Q: Is that correct? They teach you how to drive a car;
21 correct?

22 A: Yes.

23 Q: They teach you how to interview witnesses; correct?

24 A: Somewhat, yes.

25 Q: Okay. They teach you how to investigate a crime to some

CHARLIE WATSON - CROSS BY MR. BAILEY

1 extent?

2 A: Well, they provide you the basic skills for you to start.

3 Q: Okay. And a lot of your training is hands-on; correct?

4 A: Yes.

5 Q: Once you get back to your department; correct?

6 A: Yes.

7 Q: Okay. When you came back to Marion County Sheriff's
8 Office after being promoted to an investigation, who was your
9 trainer?

10 A: Who was my trainer?

11 Q: Mm-hmm. Who provided you with training? You rode with
12 somebody for investigations?

13 A: No.

14 Q: They just cut you loose out there on your own?

15 A: Yes.

16 Q: Have you investigated many homicide cases?

17 A: I've been involved with a few.

18 Q: Involved? What does -- what does involved mean?

19 A: Well, like I testified earlier, most of the time you're
20 going to have a lead detective and then they activate the
21 whole division; so all detectives handle it when it comes to a
22 homicide or a potential homicide.

23 Q: At some point, are you ever the lead detective? You
24 yourself?

25 A: In pending cases, yes.

CHARLIE WATSON - CROSS BY MR. BAILEY

1 Q: You've been the lead detective in homicide cases?

2 A: Pardon me?

3 Q: Have you ever been the lead detective in a homicide case?

4 A: Yes.

5 Q: Okay. What is the Marion County Sheriff's Office policy
6 on their detectives taking notes during an investigation?

7 A: There is no policy about detectives taking notes. It's
8 just smart police work documenting times and dates. It's a
9 good reference tool.

10 Q: Okay. And you would document interviews; correct? Facts
11 that you obtained through interviews?

12 A: Yes.

13 Q: Okay. You testified earlier that you were aware or were
14 made aware that the shell casings were moved in the roadway;
15 correct?

16 A: Yes.

17 Q: And you were made aware of it that night or early morning
18 on April the 13th?

19 A: Yes.

20 Q: Okay. In your opinion, is that a significant fact in
21 this case?

22 A: No.

23 Q: Okay. Prior to you coming in here and testifying here
24 today, Detective Bell -- or Detective Watson, did you review
25 Detective Bell's report?

CHARLIE WATSON - CROSS BY MR. BAILEY

1 A: No.

2 Q: Did you meet with Detective Bell?

3 A: Yes.

4 Q: Talk about this case?

5 A: Yes.

6 Q: Did you meet with the prosecutor's office?

7 A: Yes.

8 Q: Talk about this case?

9 A: Yes.

10 Q: Did you talk with any of the other detectives that
11 responded to the scene that night?

12 A: No, I did not.

13 Q: Okay. You were with Detective Bell throughout most of
14 his investigation in this case; correct?

15 A: Yes.

16 Q: And you had testified for Solicitor Clements that you
17 obtained arrest warrants for the four individuals in this case
18 towards the end of April; is that correct?

19 A: I did, but it was not me specifically because the lead
20 detective would have been the one that would have obtained the
21 official warrants. I was speaking in reference to Detective
22 Bell and myself as a team.

23 Q: As a team? Is that -- did I hear that correct?

24 A: Right.

25 Q: Okay. And you testified earlier that the sole basis for

CHARLIE WATSON - CROSS BY MR. BAILEY

1 obtaining those warrants for those four individuals was the
2 statement of Willie Bethea; correct?

3 A: Yes.

4 Q: Detective Watson, when you went into the trailer, you
5 entered through the back door?

6 A: Yes.

7 Q: And you testified earlier that you immediately spotted
8 the blood that was on the dryer?

9 A: Yes.

10 Q: Readily apparent that it was there?

11 A: Yes.

12 Q: Anyone who walked into that house would have noticed that
13 blood on that dryer?

14 A: I can't testify to that. That's -- that's -- that's me
15 as a person. That would have been the first thing that would
16 have stood out for me. I can't -- I can't say what another
17 officer can do or should do or shouldn't do.

18 Q: Who did you go into the house with the first time?

19 A: Detective Bell.

20 Q: Just the two of you?

21 A: No. There was other people there, but he and I walked in
22 together.

23 Q: Okay. So there were already officers inside the house?

24 A: To the best of my knowledge, yes.

25 Q: Okay. Do you know who collected the blood off of that

CHARLIE WATSON - CROSS BY MR. BAILEY

1 dryer?

2 A: No, I do not.

3 Q: Do you know if that was collected?

4 A: I have no idea if it was collected or not. I don't -- I
5 don't think that the blood was collected simply because of the
6 fact that we only had one person that was shot, one person
7 bleeding. So therefore, it's logic that that was that
8 person's blood. Besides, we had another witness that
9 testified that when the shooting happened --

10 MR. BAILEY: Objection.

11 MR. DEBERRY: Objection.

12 MR. BAILEY: He's --

13 THE COURT: Objection sustained.

14 BY MR. BAILEY:

15 Q: Detective Watson, you just testified for me that nothing
16 was collected off of that dryer; correct? You don't think it
17 was?

18 A: Not to my knowledge.

19 Q: Then you can't even come in here and tell this jury that
20 you know it was blood; correct?

21 A: No, I can't.

22 Q: Now, I know Mr. Deberry talked to you a little bit about
23 the dowel rods and you know what those are?

24 A: Yes.

25 Q: And he questioned you a little bit about the budget for

CHARLIE WATSON - CROSS BY MR. BAILEY

1 Marion County; correct? Yes?

2 A: Yes.

3 Q: Okay. The dowel rods are not in y'all's budget for
4 investigation of crime scenes; correct?

5 A: We don't have them.

6 Q: Okay.

7 A: That's just my conclusion.

8 Q: Okay. Detective Watson, do y'all have some string out
9 there at the department?

10 A: I'm sure we do.

11 Q: Or you can access some string?

12 A: Probably so, yes.

13 Q: Okay. Did you take some string from the holes in the
14 house and match them up to the holes in the truck?

15 A: No, we did not.

16 Q: So when you testified earlier that it was just common
17 sense this hole matched up to this hole in the truck, what --
18 did you get down on your knees and just eyeball it for us?

19 A: No. I --

20 Q: Is that what you did?

21 A: No. I stood and I looked at it and that was my personal
22 observation. If someone shot a gun through those three pews
23 and there's a bullet hole in all three pews and if you stand
24 back and look, you would automatically come up with the
25 assumption that one bullet made all three holes.

CHARLIE WATSON - CROSS BY MR. BAILEY

1 Q: Does the Marion County Sheriff's Office have a crime
2 scene investigator?

3 A: A crime -- specifically crime scene?

4 Q: Mm-hmm.

5 A: No.

6 Q: When a crime scene investigator is required for a scene,
7 who do y'all call?

8 A: Normally, if it -- if we feel that it is needed, our
9 command staff will make the decision and sometimes we will
10 call SLED crime scene unit.

11 Q: And whose decision was it to make about calling SLED in
12 this case? Would it have been Detective Bell's decision as
13 lead investigator?

14 A: I'm sure, yes.

15 Q: Okay. Are you aware of --

16 A: Let me -- let me -- let me correct that. It would have
17 been a decision that the lead detective, Martin Bell, would
18 have made with the command staff, and they are who would have
19 sit down and they'd have made the decision.

20 Q: Are you aware that SLED was contacted in this case?

21 A: I am not.

22 Q: You never had any conversations with SLED agent Stephen
23 Hough through the two years this case has been pending?

24 A: I never had one -- one conversation with Agent Hough.
25 That was primarily Detective Bell.

CHARLIE WATSON - CROSS BY MR. BAILEY

1 Q: Okay. Were you ever present for any interviews with
2 Detective Bell and Agent Hough?

3 A: Yes.

4 Q: Okay. So SLED was contacted in this case?

5 A: I'm sure, yes.

6 Q: And that request would have had to have come from the
7 command staff at the Marion County Sheriff's Office?

8 A: I'm sure, yes.

9 Q: Okay. Was there ever any discussion to your knowledge
10 that a crime scene investigator was needed in this case?

11 A: I'm not aware of it, no.

12 Q: When you interviewed the four occupants of the trailer
13 that night, you had them all write statements for you;
14 correct?

15 A: Yes.

16 Q: Okay. And I know you testified earlier that Derrick
17 Wilson voluntarily handed over his .40 caliber gun; correct?

18 A: Yes, sir.

19 Q: Do you recall if any of the other individuals that night
20 volunteered information that they had guns?

21 A: I don't recall.

22 Q: When you got the call to come out to the scene, you were
23 at home, Detective Watson?

24 A: Yes, sir.

25 Q: Were you sleeping?

CHARLIE WATSON - CROSS BY MR. BAILEY

- 1 A: I was sleeping good.
- 2 Q: What time did you get off the day before?
- 3 A: I would have gotten off around five -- five o'clock --
- 4 five p.m. probably.
- 5 Q: Okay. Do you work a standard set hours?
- 6 A: Yes.
- 7 Q: And what are those?
- 8 A: Normally, eight -- 8:30 to five o'clock.
- 9 Q: How about the --
- 10 A: However I'm needed.
- 11 Q: Okay. How about for the days of the week?
- 12 A: Monday through Friday.
- 13 Q: Monday through Friday? Off on Saturdays and Sundays?
- 14 A: Well, yeah.
- 15 Q: Unless you get a call to come in?
- 16 A: (No verbal response.)
- 17 Q: Okay. Did you and Detective Bell work on this case every
- 18 single day after the initial call?
- 19 A: Pretty much. It consumed both of us.
- 20 Q: Okay. And you said -- or you testified earlier that
- 21 Blaton Smith -- he came in and he gave you a statement?
- 22 A: Pardon me?
- 23 Q: Blaton Smith came in and gave you a statement?
- 24 A: No. I testified earlier he came in for an interview and
- 25 he was uncooperative.

CHARLIE WATSON - CROSS BY MR. BAILEY

1 Q: Were you present for that interview?

2 A: Yes.

3 Q: Did you have him write a statement?

4 A: He was uncooperative. He wasn't wanting to participate
5 whatsoever and answer any questions or anything. He was
6 uncooperative.

7 Q: Do you recall Blaton Smith being asked the question if he
8 had anything to do with this crime?

9 A: Yes.

10 Q: And do you recall Blaton Smith saying I did not have
11 anything to do with this crime?

12 A: Yes.

13 Q: That's cooperative, wouldn't you agree? I mean you asked
14 him a question and he answered the question. That's
15 cooperative; correct?

16 A: It's --

17 Q: It's a yes or no question, Detective Watson.

18 A: Yes.

19 Q: Okay. Did you put him on video for this interview?

20 A: We never got that far. I can't recall if a video was
21 done because it didn't last that long.

22 Q: Who makes the decision to interview witnesses on video?

23 A: We do.

24 Q: Okay. You would agree with me that an interview is more
25 reliable if it's on video; correct?

CHARLIE WATSON - CROSS BY MR. BAILEY

1 A: Yes.

2 Q: Doesn't it make sense to place all your interviews on
3 video?

4 A: Yes.

5 Q: And you had the opportunity to have Blaton Smith sit on
6 video the day he voluntarily came to the Marion County
7 Sheriff's Office?

8 A: Yes. But it didn't last that long. It didn't last long
9 enough to start the video.

10 Q: Do you recall Blaton Smith telling you and Detective Bell
11 that he was at his aunt's house in Dillon the night of the
12 shooting?

13 A: I can't recall that, but I'm not disputing that he may
14 have told Detective Bell that.

15 Q: Okay. And that's a fact that you and Detective Bell
16 received in this case; correct?

17 A: I'm --

18 Q: I mean --

19 A: I don't recall that specific fact. I'm saying that he
20 may have made that statement to Detective Bell because
21 Detective Bell spoke with him more than I did.

22 Q: Now, there's no requirement under the law that Blaton
23 Smith come in and give y'all an interview, is there?

24 A: No, there's not.

25 Q: So he voluntarily came down to Marion from Latta to give

CHARLIE WATSON - CROSS BY MR. BAILEY

1 y'all an interview?

2 A: He was persuaded by his mother.

3 Q: But he came in --

4 A: Voluntarily.

5 Q: -- voluntarily; correct?

6 A: Mm-hmm.

7 Q: You interviewed a number of people -- you and Detective

8 Bell interviewed a number of people in this case; correct?

9 A: Yes, we did.

10 Q: A number of inconsistent statements in this case;

11 correct?

12 A: Pardon me?

13 Q: A number of inconsistent statements in this case?

14 A: I can only recall two inconsistent statements.

15 Q: What two were those? Who gave those?

16 A: Inconsistent?

17 Q: Yeah. Who gave those two inconsistent statements?

18 A: Well, really it was one inconsistent and that was with

19 David Graves, who voluntarily admitted that he lied on his

20 first statement.

21 Q: At the time you issued the arrest warrants in this case,

22 had you already talked to Jamie Williams?

23 A: No. The arrest warrants were issued after we spoke with

24 Willie Bethea and he admitted to the whole thing and disclosed

25 to us everybody's involvement.

CHARLIE WATSON - CROSS BY MR. BAILEY

1 Q: Did you collect the GSR kits in this case, Detective
2 Watson?

3 A: Pardon me?

4 Q: Did you collect the GSR kits in this case?

5 A: I collected a GSR kit from one of the victims in that
6 night. I can't remember specifically which one.

7 Q: Did you keep a log of collecting that GSR kit?

8 A: Did I keep a -- my own personal log?

9 Q: Yeah.

10 A: No, because I was partnered up with Detective Bell. Like
11 I testified earlier, I partnered up with him. He was the lead
12 detective. He was going to be responsible for keeping all the
13 notes.

14 Q: Do you know who collected the other GSR kits in this
15 case?

16 A: I do not.

17 Q: Do you know if any results have been returned from SLED
18 on these GSR kits?

19 A: No. I don't think they were submitted simply because of
20 the fact there was no indication of self-defense and we had no
21 reason to submit them to SLED. Plus, SLED is so back-logged
22 doing a lot of analysis and everything else. If it was really
23 not concrete evidence that we needed, then they wouldn't
24 process it.

25 Q: You testified earlier that you went to Latta and executed

CHARLIE WATSON - CROSS BY MR. BAILEY

1 the search warrant with some other folks?

2 A: I accompanied Detective Bell, who executed the search
3 warrant.

4 Q: Was it just the two of you at that house executing the
5 search warrant?

6 A: I can't remember who all. There was -- there was a pile
7 of police officers, Latta police officers. I think some of
8 the Sheriff's Office responded. It was -- it was a joint
9 jurisdiction.

10 Q: Detective Watson, how did y'all know to go to that house
11 in Latta to -- to execute a search warrant?

12 A: That was information that was gathered by Detective Bell.
13 He would have to elaborate more on that.

14 Q: You weren't privy to that information, Detective Watson?

15 A: Pardon me?

16 Q: You were not privy to that information?

17 A: I don't know anything about that. I was not with him one
18 hundred percent of the time, as I've testified previously.

19 Q: But you testified earlier that y'all were a team;
20 correct?

21 A: Yes.

22 Q: Share information back and forth is how teams work;
23 correct?

24 A: Yes. Yes.

25 Q: But he didn't share this information with you?

CHARLIE WATSON - CROSS BY MR. BAILEY

1 A: He may have, but I can't recall --

2 Q: Okay.

3 A: -- the specifics.

4 Q: And y'all recovered a gun in that house in Latta;
5 correct?

6 A: Yes.

7 Q: Y'all thought that was the smoking gun in this case;
8 correct?

9 A: We had -- we had suspicion and it was submitted to SLED
10 for a firearms analysis.

11 Q: Do you know what the ultimate result of that was?

12 A: That firearm along with the firearm that we got from the
13 victim, Derrick Wilson, come back with a negative analysis to
14 the shell casings and the projectile that we received from the
15 incident location.

16 Q: You testified earlier both on direct and with Mr. Deberry
17 about Adrian Smith, AKA Duke; correct?

18 A: Yes, sir.

19 Q: His name has come up in this case for you and Detective
20 Bell quite a bit; correct?

21 A: Yes.

22 Q: Isn't it your opinion, Detective Watson, that Adrian
23 Smith through the course of your investigation is the one who
24 ordered this shooting?

25 A: All I have is my own personal opinion and that doesn't --

CHARLIE WATSON - CROSS BY MR. BAILEY

1 Q: And that's not based on any evidence --

2 A: That doesn't count.

3 Q: -- in this case?

4 THE COURT: Hold on a minute. Both of you can't talk at
5 the same time. Let him answer your question, please, sir.

6 A: That's my own personal opinion.

7 Q: Okay. When did you and Detective Bell go and interview
8 Adrian Smith?

9 A: We have not.

10 Q: He's a pretty valuable witness in this case, wouldn't you
11 agree?

12 A: From -- from the information we gathered from the other
13 -- two other co-defendants that were in the car, he was not
14 present at the time. He was in another county, which we had
15 no reason to go in.

16 Q: So you're not concerned with who ordered this hit?

17 A: I have a concern, yes, for --

18 Q: Okay.

19 A: -- the welfare of the public, but --

20 Q: Well, in -- and, Detective Watson, you were questioned at
21 length a little bit earlier that the only reason you haven't
22 arrested Adrian Smith is because he's in Latta and you have no
23 jurisdiction; correct?

24 A: Correct.

25 Q: So that means you do have some information that if he was

CHARLIE WATSON - CROSS BY MR. BAILEY

1 in Marion County, you would have arrested him; correct?

2 A: Not necessarily.

3 Q: Well, if you only -- if you did not arrest him only
4 because he's in Latta, that would lead that you could arrest
5 him in Marion County if he was here; correct?

6 A: No, because there's not an arrest warrant.

7 Q: You could have obtained -- obtained an arrest warrant?

8 A: I couldn't.

9 Q: No?

10 MR. CLEMENTS: Your Honor, I object to that. It calls
11 for a legal conclusion.

12 THE COURT: Can the lawyers approach?

13 (Whereupon, a bench conference is held in the presence of
14 the jury but out of the hearing of the jury as follows.)

15 THE COURT: Just ask him if he could have obtained a
16 warrant. Do you have any objection to that?

17 MR. CLEMENTS: He couldn't have. Adrian Smith never did
18 anything in Marion County. What he did was in Dillon County.

19 THE COURT: I understand that. Okay? He's answered that
20 question about his jurisdictional issue, has he not?

21 MR. BAILEY: No, he has, but he refuses to answer the
22 question that he had evidence that, if he was in Marion
23 County, he could have gotten an arrest warrant and arrested
24 him.

25 MR. CLEMENTS: But he can't.

CHARLIE WATSON - CROSS BY MR. BAILEY

1 THE COURT: He answered that question. Has he not
2 answered that question?

3 MR. CLEMENTS: He has, but he can't. If Adrian come in
4 Marion County, he can't arrest him over here. He didn't do
5 anything here. What he did was in Dillon County.

6 MR. DEBERRY: The murder happened here.

7 THE COURT: I know. I know. But he's got to obtain --
8 he would have to get assistance from the adjoining county
9 wherever he is to arrest him.

10 MR. BAILEY: Well, then let me ask him that, Judge.

11 THE COURT: He's not in this county and he can get the
12 assistance of the adjoining -- whatever county they go to and
13 they can have the prosecutor recognize it.

14 MR. CLEMENTS: That would have to prosecute that in
15 Dillon.

16 THE COURT: They wouldn't have to prosecute him, but they
17 would -- they could handle any assistance to arrest him and
18 extradite him back here.

19 MR. DEBERRY: If he came to Marion County, they could
20 arrest him.

21 THE COURT: I mean the question of relevance of it at
22 this point, but ask the question.

23 MR. CLEMENTS: What's the relevance?

24 MR. BAILEY: The relevance --

25 THE COURT: You don't have to explain it to me. Let's

CHARLIE WATSON - CROSS BY MR. BAILEY

1 move on.

2 (Whereupon, the bench conference ends.)

3 THE COURT: Please proceed.

4 BY MR. BAILEY:

5 Q: Detective Watson, as a result of your investigation, do
6 you know how many guns were fired on the night of April the
7 13th?

8 A: Two.

9 Q: Do you know what caliber guns those were?

10 A: Both were .40 caliber weapons.

11 Q: And that is based on the casings that you found at the
12 scene; correct?

13 A: Yes.

14 Q: You testified on direct that a white Cadillac was
15 possibly used in the commission of this crime; correct?

16 A: Yes.

17 Q: Did you ever go seize the Cadillac as evidence?

18 A: No.

19 Q: Did you ever go try to find the Cadillac to seize it as
20 evidence?

21 A: No.

22 Q: Did you execute a search warrant at Adrian Smith's house?

23 A: No.

24 Q: Detective Watson, of the physical evidence that you
25 collected -- you and Detective Bell collected in this case,

CHARLIE WATSON - CROSS BY MR. BAILEY

1 there is nothing that links Blaton Smith to this shooting;
2 correct?

3 A: No.

4 MR. BAILEY: Please answer any questions that Solicitor
5 Clements might have.

6 THE COURT: Any redirect?

7 MR. CLEMENTS: Yes, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. CLEMENTS:

10 Q: You just said "no." Does that mean no, that's not
11 correct?

12 A: On the --

13 Q: The question that Mr. Bailey just asked you.

14 A: About any physical evidence linking Blaton Smith?

15 Q: I'm sorry. I thought he said any evidence linking Blaton
16 Smith. Did he say physical evidence?

17 A: That -- that was my impression, yes.

18 Q: Do you have any evidence linking Blaton Smith to this?

19 A: We have statements.

20 Q: Okay.

21 A: Yes.

22 Q: Now, are you aware or not that Dillon County executed a
23 search warrant on Adrian Smith's home in Latta?

24 A: I'm not aware of that.

25 Q: Okay. All right. And they were asking you about David

CHARLIE WATSON - REDIRECT BY MR. CLEMENTS

1 Graves being involved in a murder in Dillon County. What
2 knowledge do you have about Adrian Smith being also involved
3 in that?

4 A: That Charlie B was actually hired along with another co-
5 defendant by Adrian Smith to go and rob that person who ended
6 up getting killed that night.

7 Q: And what kind of business was that fellow killed in?

8 A: The drug trade.

9 Q: Okay. And what kind of business is Adrian Smith in?

10 A: The drug trade.

11 Q: And to your knowledge, do you know who -- who has
12 ownership or control over that white Cadillac?

13 A: My impression is Adrian Smith may own it, but Blaton
14 Smith is the one who initially drives it the most.

15 Q: Okay. All right. Now, they were asking you --
16 particularly, Mr. Deberry was asking you about dowels and do
17 you have dowels. How wide is a single-wide trailer?

18 A: Fourteen, maybe sixteen feet wide.

19 Q: Okay. So if you got a hole on one side of the trailer,
20 say the front side, and you've got a hole on the back side of
21 the trailer, how big of dowels are you going to have to have?

22 A: You're going to have to have some pretty long ones.

23 Q: Okay. And Mr. Bailey asked you about string. Y'all
24 didn't try to trace the trajectory or anything like that?

25 A: No, we did not.

CHARLIE WATSON - REDIRECT BY MR. CLEMENTS

1 Q: Are you actually trained in crime scene investigation?

2 A: No, I'm not.

3 Q: And you were asked about Agent Stephen Hough. Do you
4 know Stephen Hough?

5 A: I do.

6 Q: Who does he work for?

7 A: He works for SLED.

8 Q: Do you know Andrew Bethea?

9 A: Yes.

10 Q: Who does he work for?

11 A: SLED.

12 Q: And does SLED have investigators like you? Just plain
13 investigators?

14 A: Yes.

15 Q: Do they also have crime scene techs that are different
16 that come to crime scenes?

17 A: Yes.

18 Q: What kind of agent is Stephen Hough and Andy Bethea?

19 A: They are field investigators.

20 Q: They're field investigators, not crime scene
21 investigators?

22 A: No, they're not.

23 Q: Okay. And let me ask you about -- you went through the
24 house and Mr. Bailey was asking you about what was on the
25 dryer. What do you think it is?

CHARLIE WATSON - REDIRECT BY MR. CLEMENTS

1 MR. BAILEY: Your Honor, I'm going to object. That -- I
2 mean what is his thought is irrelevant since it wasn't
3 collected.

4 THE COURT: Rephrase your question, please.

5 BY MR. CLEMENTS:

6 Q: What did it appear to you to be?

7 A: It appeared to me to be blood.

8 Q: What can you say about that conclusively?

9 A: That once I spoke with one of the victims, Gavin, who
10 told us that during the --

11 MR. BAILEY: Judge --

12 A: -- rapid fire --

13 THE COURT: Hold on.

14 MR. BAILEY: He's testifying on hearsay.

15 THE COURT: Can the lawyers approach, please?

16 MR. CLEMENTS: Your Honor, if I rephrase my question, it
17 might answer this.

18 THE COURT: All right. Rephrase your question.

19 Objection sustained.

20 BY MR. CLEMENTS:

21 Q: Can you tell me conclusively whether or not that's blood
22 on that dryer?

23 A: No, I cannot.

24 Q: Okay. What did you observe about the floor, any
25 clothing, anything else that you saw that had blood on it in

CHARLIE WATSON - REDIRECT BY MR. CLEMENTS

1 that trailer that night? Was there anything else?

2 A: Yes. I observed a white-colored t-shirt that had a round
3 circle or pattern of blood -- a big blood stain in the middle
4 of it.

5 Q: And did you determine whose shirt that was?

6 A: Through the investigation, it was reported that it
7 belonged to the deceased victim, Christopher [sic.] Drawhorn.

8 Q: Okay.

9 A: We also noticed that Gavin had on a pair of shorts that
10 night and he had blood in the crotch area, which he was
11 holding Mr. Drawhorn.

12 MR. CLEMENTS: I beg the Court's indulgence. Thank you.
13 That's all.

14 THE COURT: Any redirect [sic.], Mr. Deberry?

15 MR. DEBERRY: Your Honor, very briefly.

16 RECROSS EXAMINATION

17 BY MR. DEBERRY:

18 Q: Detective Watson, are you -- are you aware that .40
19 caliber weapons were used in the murder in Dillon County?

20 A: No, I'm not.

21 Q: Okay. Solicitor Clements asked you just a minute ago
22 about 15-foot dowel rods and it seems like a couple of days
23 ago that you were testifying that -- I think it was just one,
24 but you said that -- that the walls in the single-wide trailer
25 are very thin. Did you -- didn't you testify to that earlier?

CHARLIE WATSON - RECROSS BY MR. DEBERRY

1 A: That's just my personal opinion.

2 Q: I mean --

3 A: It's an older model mobile home and a lot of people have
4 knowledge about '70 to '80 models mobile homes are very thin.
5 The walls are very thin.

6 Q: And I'll agree with you on that. I mean we're just -- I
7 mean I'm just guessing, but would you say they were less than
8 maybe five to ten inches thick? Somewhere in that ball --
9 ball park?

10 A: Maybe, yeah. An estimate.

11 Q: So it probably wouldn't be practical to stick a dowel rod
12 through the entire trailer, but it wouldn't be impractical to
13 stick it through a six inch wall, would it?

14 A: If you're going to -- if you're going to have the rods
15 and you're going to -- when you're going to do what you're
16 saying we didn't do, you would have to go from the through and
17 through, which would have been from the front of the mobile
18 home all the way through the mobile home through the back of
19 the mobile home.

20 Q: Well, wouldn't it make sense though that if you're just
21 checking the bullet holes on one wall, you stick a rod in
22 there so it's pointing over there and there's a hole over
23 there; so let's go stick another rod through that hole and see
24 if they don't line up? That's -- that's a way to figure it
25 out, isn't it?

CHARLIE WATSON - RECROSS BY MR. DEBERRY

1 A: (No verbal response.)

2 Q: Okay. So you don't need one that goes all the way
3 through?

4 MR. CLEMENTS: Your Honor, I would object to him being --
5 I don't know if he's an expert to answer that type of
6 question.

7 THE COURT: He's already answered the question. Move on,
8 please.

9 MR. DEBERRY: Thank you.

10 BY MR. DEBERRY:

11 Q: And you would agree that -- last question. But you would
12 agree or would you not agree that a bullet hole that would go
13 through three of those pews and we can stand over here and
14 look and make sure everything lines up, that's a little
15 different situation than a mobile home and a car and all the
16 other obstacles that were there?

17 A: It's just an example.

18 Q: Right. It's different; right?

19 A: It's just an example.

20 Q: Thank you.

21 THE COURT: Mr. Bailey, anything?

22 MR. BAILEY: One question, Your Honor.

23 RECROSS EXAMINATION

24 BY MR. BAILEY:

25 Q: Detective Watson, did you collect Gavin Graves's shorts

CHARLIE WATSON - RECROSS BY MR. BAILEY

1 that you claim had blood on them?

2 A: I did not. No, I did not.

3 Q: Do you know if they were collected in this case?

4 A: I don't know.

5 MR. BAILEY: Thank you. No further questions.

6 THE COURT: Thank you, sir. You may step down.

7 MR. CLEMENTS: Your Honor, we'd ask that Charlie Watson
8 be released from his subpoena.

9 THE COURT: Any objection?

10 MR. DEBERRY: No objection.

11 MR. BAILEY: No objection, Your Honor.

12 THE COURT: Sir, you are released from your subpoena.

13 You have no further responsibilities. You're free to go.

14 Thank you for being here.

15 MR. CLEMENTS: Your Honor, we'd like to call Lieutenant
16 Eddie Sawyer.

17 THE COURT: All right. Ladies and gentlemen, while this
18 witness is coming in, I will tell you that lunch has been
19 ordered and they've gone to get the lunch. We'll finish this
20 witness and then I'll let y'all eat. Okay? Everybody okay?
21 I know we've been going for a while. Anybody need a bathroom
22 break? Why don't you stand you and stretch your legs for just
23 a minute if you want to -- if you want to.

24 THE CLERK: Stand right there, please. Place your left
25 hand on the Bible and raise your right hand, please. Do you

1 solemnly swear or --

2 THE COURT: Hold on now. Hold on. You need to go? You
3 need a bathroom break?

4 A JUROR: Yes, sir.

5 THE COURT: All right. I'm going to have to ask that all
6 of you step to the jury room. Do not discuss the case. Do
7 not discuss it. That's okay. Do not discuss the case at all.
8 I'll get you back out here as quickly as possible. Go ahead.

9 MR. CLEMENTS: Your Honor?

10 THE COURT: Hold on. Yeah. Just hold on a minute.

11 (Whereupon, the jury exits the courtroom at 12:14 p.m.)

12 THE COURT: All right. We'll stand at ease for just a
13 minute. You can have a seat right over there, please, sir.

14 (Whereupon, there is a break in the proceedings from
15 12:14 p.m. until 12:26 p.m.)

16 THE COURT: All right. Anything from the State before I
17 bring the jury out?

18 MR. CLEMENTS: Nothing, Your Honor.

19 THE COURT: Mr. Deberry?

20 MR. DEBERRY: No, Your Honor.

21 THE COURT: Mr. Bailey?

22 MR. BAILEY: Nothing, Your Honor.

23 THE COURT: All right. Bring me the jury, please, sir.

24 (Whereupon, the jury enters the courtroom at 12:26 p.m.)

25 THE COURT: All right. We've got all the jurors back in

LIEUTENANT EDDIE SAWYER - DIRECT BY MR. CLEMENTS

1 here. Mr. Clements, call your witness, please.

2 MR. CLEMENTS: Your Honor, we'd call Lieutenant Eddie
3 Sawyer.

4 THE CLERK: Place your left hand on the Bible and raise
5 your right hand. Do you solemnly swear or affirm the evidence
6 you're about to give in the trial of this case shall be the
7 truth, the whole truth, and nothing but the truth, so help you
8 God?

9 THE WITNESS: I do.

10 THE CLERK: Thank you.

11 LIEUTENANT EDDIE SAWYER, being first
12 duly sworn, testifies as follows:

13 DIRECT EXAMINATION

14 BY MR. CLEMENTS:

15 Q: Good afternoon.

16 A: How are you doing, sir?

17 Q: Can you tell this jury who you are and what you do?

18 A: I'm Eddie Sawyer. I'm a lieutenant with the Marion
19 County Sheriff's Office over evidence control.

20 Q: All right. How long have you worked in law enforcement?

21 A: Since 1987.

22 Q: Have you been with the Marion County Sheriff's Office
23 that entire time?

24 A: Yes, sir.

25 Q: How long have you been the evidence custodian?

LIEUTENANT EDDIE SAWYER - DIRECT BY MR. CLEMENTS

1 A: Since 2007.

2 Q: 2007?

3 A: Yes, sir.

4 Q: Can you please explain to this jury what an evidence
5 custodian does and why we have an evidence custodian and how
6 you do your job?

7 A: Well, it starts off when the detectives or the officers
8 go to a scene and they have physical evidence or whatnot.
9 They'll take it and they put it in the correct container it
10 needs to be in and label it and everything and bring it to me
11 and I keep up with it. I log it in and keep up with it so
12 nobody can bother it. Then I carry it to SLED and then I'm
13 usually the one that picks it back up. I keep it under lock
14 and key.

15 Q: And why do you send it to SLED?

16 A: To the lab to run tests on.

17 Q: Okay. Did you have occasion to catalog and log in and
18 maintain evidence on the shooting of Christian Drawhorn?

19 A: I did.

20 Q: Okay. What were some of the items that you collected --
21 that were collected and presented to you that you maintained?

22 A: Shell casings, a bullet fragment, things from the autopsy
23 and from the scene.

24 Q: Okay. And did you ever receive anything later and -- do
25 you receive things as a result of search warrants?

LIEUTENANT EDDIE SAWYER - DIRECT BY MR. CLEMENTS

1 A: Yes, sir. Yes, sir. Whatever they get, if they need it
2 to go to SLED or they need it to be preserved, they bring it
3 to me and I keep it.

4 Q: Okay. And did you ever receive anything pursuant to a
5 search warrant in this case?

6 A: Right off, I couldn't tell you if it was on a search
7 warrant.

8 Q: Okay. You just get it from the investigator?

9 A: Sir?

10 Q: You get it from the investigators?

11 A: Right.

12 Q: Okay.

13 A: Yeah.

14 Q: If they don't tell you where it came from, you don't
15 write that down?

16 A: No, sir.

17 Q: Okay. Now, did you say that you received any weapons in
18 this case?

19 A: Yes, sir.

20 Q: How many?

21 A: Two.

22 Q: And do you know what kind they were?

23 A: The only thing I know is they were in sealed boxes and
24 what was wrote on the box.

25 Q: Okay. And that's the way you're supposed to receive

LIEUTENANT EDDIE SAWYER - DIRECT BY MR. CLEMENTS

1 them?

2 A: Yes, sir.

3 Q: And what were on the two boxes? Do you recall?

4 A: One was a Taurus PT140 and the other was a Smith & Wesson
5 .40 caliber.

6 Q: All right. And the Taurus -- was that a .40 caliber as
7 well?

8 A: Yes, sir.

9 Q: Okay. And what happened ultimately to those weapons?

10 A: I carried them to SLED.

11 Q: Okay. And you submitted them for testing there?

12 A: Sir?

13 Q: You submitted them for testing?

14 A: Yes, sir.

15 Q: Now, what else did you receive from the scene in regard
16 to anything with ballistics? What did you receive from the
17 scene?

18 A: Shell casings.

19 Q: Do you recall how many?

20 A: No, sir, not really.

21 Q: Okay. Were there any -- did you know how many or you
22 received them in a package?

23 A: I just received them in a package.

24 Q: All right. How are those packages maintained or marked
25 or labelled so you know what you got?

LIEUTENANT EDDIE SAWYER - DIRECT BY MR. CLEMENTS

1 A: They are -- they generally have what item number it is
2 and how many is in it.

3 Q: Okay.

4 A: Then when I submit it, I have to do each one of them a
5 separate item.

6 Q: And you keep a log on that?

7 A: Yes, sir.

8 Q: And you have that log with you?

9 A: Yes, sir.

10 Q: Okay. Do -- do you recall what you received from the
11 autopsy in regard to anything of a ballistic nature?

12 A: Blood spots, a bullet -- well, I mean a bullet.

13 Q: Okay.

14 A: From the victim.

15 Q: Okay. And what did you do with that victim -- with that
16 victim's bullet?

17 A: I sent it to SLED.

18 Q: And did it have an item number?

19 A: It was Item Number 45.

20 Q: Okay. And that was your number; it wasn't SLED's number
21 given to it?

22 A: No, sir. That was my number.

23 Q: That was your number? Did SLED have a number on it?

24 A: I think their number was 10.

25 Q: Number 10? Okay.

LIEUTENANT EDDIE SAWYER - DIRECT BY MR. CLEMENTS

1 A: I think, you know.

2 Q: Okay. All right. And I want to show you what's been
3 marked as State's Exhibit 39. Can you tell me what type of
4 packaging this is and whether it's familiar packaging to you?

5 A: That's the way SLED usually sends stuff back.

6 Q: Okay.

7 A: It has the case number and the lab number on the package.

8 Q: Okay. And does this got the right case number and lab
9 number --

10 A: Yes, sir.

11 Q: -- for this case?

12 A: Yes, sir.

13 Q: Okay. So without looking inside, can you tell us whether
14 -- whether or not you know what number 39 is?

15 A: Well, by my sheet it says a projectile.

16 Q: Item Number 10?

17 A: Yes.

18 Q: Okay. All right. And how about State's Exhibit 40? Can
19 you tell me anything about that one?

20 A: Only that it goes with this case.

21 Q: Okay. It goes to this case?

22 A: Shell casings.

23 Q: And that would be the shell casings?

24 A: Yes, sir.

25 Q: Okay. All right.

LIEUTENANT EDDIE SAWYER - DIRECT BY MR. CLEMENTS

1 MR. CLEMENTS: At this time, Your Honor, we'd move
2 State's Exhibit 39 and State's Exhibit 40 into evidence.

3 THE COURT: Any objection?

4 MR. DEBERRY: No objection, Your Honor.

5 MR. BAILEY: No objection.

6 THE COURT: Without objection, State's Exhibit 39 and 40
7 admitted into evidence.

8 (Whereupon, State's Exhibit Number 39, a projectile, and
9 State's Exhibit Number 40, shell casings, are admitted
10 into evidence.)

11 BY MR. CLEMENTS:

12 Q: Did -- do you have any other items that were collected?

13 A: Yes, sir.

14 Q: All right. What type of items?

15 A: Personal belongings, clothes, and stuff like that.

16 Q: Of Christian Drawhorn?

17 A: Yes, sir.

18 Q: Okay. All right. Do you know whether you submitted any
19 of that to SLED or not?

20 A: Maybe pieces.

21 Q: Okay. All right. And do you know whether you received
22 any other clothing from any other individuals or not?

23 A: No, sir.

24 Q: Okay. But whatever the investigators collected and
25 submitted it to you, you locked it into evidence?

LIEUTENANT EDDIE SAWYER - DIRECT BY MR. CLEMENTS

1 A: Yes, sir.

2 Q: Now, you're not the person that determines what type of
3 testing you ask for?

4 A: No, sir.

5 Q: Okay. That is already done and you just submit that
6 actual item; is that correct?

7 A: The investigators tell me what they want done and then
8 when I submit it, it's got a place there that I click on for
9 what analysis they want done.

10 Q: Okay. Now, the shell casings and the -- they were
11 submitted for ballistic --

12 A: Yes.

13 Q: -- testing; right?

14 A: Yes.

15 Q: Is that what -- and that was done first; correct?

16 A: Yes, sir.

17 Q: Did you resubmit those shell casings for any reason?

18 A: Yes, sir.

19 Q: For what purpose?

20 A: Latent prints.

21 Q: Okay. And do you -- you don't know what the outcome of
22 that was, do you?

23 A: No, I don't.

24 Q: Okay. All right.

25 MR. CLEMENTS: I beg the Court's indulgence.

LIEUTENANT EDDIE SAWYER - DIRECT BY MR. CLEMENTS

1 Q: Lieutenant Sawyer, you don't participate at all in the
2 collection of any evidence?

3 A: No, sir.

4 Q: You just merely preserved it --

5 A: Yes, sir.

6 Q: -- until it could be tested and then preserved it after
7 it's tested for court?

8 A: Yes, sir.

9 Q: Is that correct?

10 A: That's correct.

11 MR. CLEMENTS: Please answer any questions Mr. Bailey and
12 Mr. Deberry may have.

13 CROSS EXAMINATION

14 BY MR. DEBERRY:

15 Q: Thank you, Mr. Sawyer. Do you know whether or not either
16 of the two guns that's in your custody -- do you know what
17 kind -- you testified what kind of guns they were. What
18 caliber are they?

19 A: .40.

20 Q: .40 caliber?

21 A: That's by what's wrote on it.

22 Q: Okay. Is there any notes on there or any knowledge that
23 you have that either one of them is black and silver in color?

24 A: On the box, it's wrote.

25 Q: One of them is black and silver?

LIEUTENANT EDDIE SAWYER - CROSS BY MR. DEBERRY

1 A: Yes, sir.

2 Q: Thank you. And you said that some -- the shells were
3 resubmitted for fingerprint analysis?

4 A: Yes, sir.

5 Q: When was that?

6 A: They were resubmitted 7/9/2014.

7 Q: Just last month?

8 A: Yes.

9 Q: Okay. And you said there's no outcome?

10 A: I don't know the outcome.

11 Q: You -- so do you know the results or you don't know that
12 there is any?

13 A: I don't know the results.

14 Q: Okay. Do you know if there are results?

15 A: No, sir. I couldn't tell you.

16 Q: Okay. Thank you.

17 THE COURT: Mr. Bailey?

18 MR. BAILEY: Thank you, Your Honor.

19 CROSS EXAMINATION

20 BY MR. BAILEY:

21 Q: Mr. Sawyer, evidence comes into your possession; correct?

22 A: Yes, sir.

23 Q: It remains in your possession throughout the duration of
24 this case?

25 A: Yes, sir.

LIEUTENANT EDDIE SAWYER - CROSS BY MR. BAILEY

1 Q: Do you transport that evidence directly up to SLED
2 yourself?

3 A: Yes, sir.

4 Q: Do you pick it up when they're done testing it?

5 A: Yes, sir.

6 Q: And you only do that once you're notified by the lead
7 investigator to do something with that evidence by sending it
8 to SLED; correct?

9 A: What -- what do you mean? If I want to send it --

10 Q: If the -- I'm sorry. Go ahead.

11 A: To send stuff to SLED?

12 Q: Yes.

13 A: Yes, sir.

14 Q: You just hold it until they tell you to send it; correct?

15 A: If they want to send it, I send it.

16 Q: Okay. How many people have access to the evidence vaults
17 in your possession?

18 A: Just me.

19 Q: Okay. Thank you.

20 THE COURT: Any redirect?

21 MR. CLEMENTS: Nothing further. We ask that Lieutenant
22 Sawyer be released from his subpoena.

23 THE COURT: Any objection, Mr. Deberry?

24 MR. DEBERRY: No, Your Honor.

25 THE COURT: Mr. Bailey?

1 MR. BAILEY: None, Your Honor.

2 THE COURT: Sir, you may step down. You are released
3 from any further responsibilities under your subpoena. Have a
4 nice day. Can the lawyers come up here a minute, please?

5 (Whereupon, a bench conference is held in the presence of
6 the jury but out of the hearing of the jury off the
7 record regarding scheduling.)

8 THE COURT: All right. Ladies and gentlemen, the next
9 witness we have is going to be a little while; so what I am
10 going to do is we're going to stop right now. Okay? Lunch
11 should be here for you in a matter of minutes. Okay?

12 Let me ask this question. Do I have any smokers on my
13 jury? All right. What I can do -- I will allow you to be
14 escorted downstairs with one of the deputies if you want to
15 smoke -- if you want to smoke. They'll bring you right back
16 up here.

17 While you're in there, do not discuss the case. Do not
18 discuss the case at all. I mean what I have told the lawyers
19 is that we're going to try to start back about 1:30 -- about
20 1:30. So that will give you enough time to eat. I know some
21 people eat slower than others and some people eat quite fast.
22 I'm one of those who eats fast. Okay? But anyway, I'll give
23 you about 30 minutes until 1:30 and we're going to resume.
24 Okay?

25 Do not discuss the case. Do not discuss the case. You

1 all please step in the jury room. Do my smokers want to go
2 down now or do you want to wait until after you eat?

3 A JUROR: I'll smoke now.

4 THE COURT: Okay. Bear with me just a minute. Go in
5 there and I'll let -- I'll let somebody come and get you to
6 take you down. Okay?

7 (Whereupon, the jury exits the courtroom at 12:39 p.m.)

8 THE COURT: All right. We'll stand at ease. We'll stand
9 at ease. All right. We'll stand at ease for a few minutes.

10 (Whereupon, there is a break in the proceedings from
11 12:40 p.m. until 1:32 p.m.)

12 THE COURT: All right. Is the State ready to proceed?

13 MR. CLEMENTS: We are, Your Honor.

14 THE COURT: Mr. Deberry, are you ready to proceed?

15 MR. DEBERRY: Yes, Your Honor.

16 THE COURT: Mr. Bailey?

17 MR. BAILEY: Yes, sir, Your Honor.

18 THE COURT: All right. Bring me the jury, please, sir.

19 (Whereupon, the jury enters the courtroom at 1:33 p.m.)

20 THE COURT: All right. Please note for the record that
21 all jurors are present back in the courtroom, including the
22 alternates. I hope you all had a pretty good lunch and are
23 ready to proceed this afternoon. Mr. Clements, you're
24 recognized, sir. Call your next witness.

25 MR. CLEMENTS: Thank you, Your Honor. We would call

AGENT MICHELLE EICHENMILLER - DIRECT BY MR. CLEMENTS

1 Agent Michelle Eichenmiller.

2 THE CLERK: If you would, come around and please let me
3 swear you in. Place your left hand on the Bible and raise
4 your right hand. Do you solemnly -- excuse me. Do you
5 solemnly swear or affirm the evidence you are about to give in
6 the trial of this case shall be the truth, the whole truth,
7 and nothing but the truth, so help you God?

8 THE WITNESS: I do.

9 THE CLERK: Thank you.

10 MICHELLE EICHENMILLER, being first
11 duly sworn, testifies as follows:

12 DIRECT EXAMINATION

13 BY MR. CLEMENTS:

14 Q: Good afternoon. Can you please state your name and spell
15 your name for the court reporter?

16 A: Michelle Eichenmiller, E-i-c-h-e-n-m-i-l-l-e-r.

17 Q: Ms. Eichenmiller, can you please tell this jury where you
18 work and what your job duties are?

19 A: I work for the South Carolina Law Enforcement Division,
20 commonly known as SLED. I work in the forensic laboratory in
21 the firearms department. I'm a firearms examiner.

22 Q: Can you please explain to these jurors what a firearms
23 examiner is and what some of the tasks you do are?

24 A: As a firearms examiner, we examine any evidence that
25 comes from a crime that has to do with a -- with a firearm,

AGENT MICHELLE EICHENMILLER - DIRECT BY MR. CLEMENTS

1 whether it be the firearm itself, the bullets or the cartridge
2 cases. We also do a couple of other examinations related to
3 firearms, such as serial number restorations. If we don't
4 receive a firearm, we can give you a list of possible makes
5 and manufacturers of firearms.

6 Q: So you look at firearms, you look at shell casings, you
7 look at bullets, spent projectiles, that type of thing?

8 A: Correct.

9 Q: What type of training and experience do you have in being
10 a firearms expert for SLED?

11 A: Well, I have a Bachelor's Degree in biology, and in order
12 to be a firearms examiner, you have to go through an
13 apprenticeship program where I sat with several firearms
14 examiners that were already trained and learned what they do.
15 I did a lot of reading on my own. I did a lot of microscope
16 work on my own. So actual practices -- practicals. I took a
17 practical exam as a final and then once they decided I was --
18 I passed, I could do case work on my own. That's
19 approximately a three- to five-year program.

20 Q: And do you have any continuing legal education that you
21 avail yourself of? I mean continuing legal education, that's
22 for me. Continuing education in the field of ballistics and
23 firearms?

24 A: We do. We attend any training that we can. We have our
25 -- the association I belong to, the Association of Firearm

AGENT MICHELLE EICHENMILLER - DIRECT BY MR. CLEMENTS

1 Examiners, has a meeting once a year. We also go to different
2 armorer's courses and then any other training that we can get.

3 Q: And you say armorer's courses. Is that like gun
4 manufacturers that have different courses and stuff?

5 A: Yes. What I take would be how to take a gun apart and
6 put it back together, how to repair it if it were broken.

7 Q: Okay. And have you ever been qualified to testify as an
8 expert in the field of firearms and ballistics in state or
9 federal court?

10 A: In the state courts.

11 Q: The state of South Carolina?

12 A: Yes.

13 Q: Any other states?

14 A: No.

15 Q: Approximately how many times have you been qualified to
16 testify as an expert?

17 A: Approximately 20.

18 Q: Okay.

19 MR. CLEMENTS: Your Honor, we would offer Agent
20 Eichenmiller as an expert in the field of ballistics and
21 firearms examination.

22 THE COURT: Mr. Deberry?

23 MR. DEBERRY: No objection, Your Honor.

24 THE COURT: Mr. Bailey?

25 MR. BAILEY: No objection, Your Honor.

AGENT MICHELLE EICHENMILLER - DIRECT BY MR. CLEMENTS

1 THE COURT: All right. Before you go any further, let me
2 give this instruction to the jury.

3 Ladies and gentlemen, normally a person cannot give
4 opinion testimony. Normally when a person testifies, they
5 must testify as to what they either saw, heard or sensed by
6 smell or something of that nature. However, there is an
7 exception when someone is qualified because of education or
8 experience. They are permitted to give their opinion in
9 certain areas if the Court qualifies them that way.

10 This witness will be qualified in the area of firearms
11 and ballistics to give opinion testimony in that area. That
12 does not mean that you must accept the opinion, but it is
13 evidence for you to use in any way you see fit and give it the
14 weight and credibility you believe is appropriate.

15 Mr. Clements?

16 MR. CLEMENTS: Thank you, Your Honor. If it please the
17 Court.

18 BY MR. CLEMENTS:

19 Q: Agent Eichenmiller, did you have occasion to do any
20 examination on evidence presented on the case that involved
21 the murder of Christian Drawhorn?

22 A: I did.

23 Q: And can you please tell this jury what items were
24 submitted to you and what you did with them and what processes
25 you went through?

AGENT MICHELLE EICHENMILLER - DIRECT BY MR. CLEMENTS

1 A: May I refer to my notes?

2 Q: You may.

3 A: In this case, I received six fired bullets, then one
4 fired bullet and a small jacket fragment. I also received 21
5 fired cartridge cases, two different firearms, and then some
6 unfired ammunition.

7 Q: And can you please tell this jury what you did with the
8 particular items that were submitted to you?

9 A: Generally, when evidence comes into the lab, it comes to
10 the evidence log-in department. I go down there and pick up
11 the evidence for the cases that are assigned to me. I bring
12 it back upstairs, take pictures of the overall packaging to
13 make sure everything was sealed when I got it. Then I do
14 worksheets to take down, you know, visual examinations of how
15 big is the bullet, what the diameter was, how much it weighed.
16 The cartridge cases, I reviewed the head stamps to see what
17 caliber they were. The firearms, we have other worksheets
18 that we write down and check the safety. We check the
19 measurements of that to trigger pull and things like that.

20 Once that's all done, I look at the cartridge cases or
21 bullets by my microscope, which is a comparison microscope.
22 Basically, you have two different stages. I can put one
23 bullet on one side and one on the other and then by
24 manipulating the hands of the microscope, I can look through
25 my binocular eyepieces and see them both at the same time and

AGENT MICHELLE EICHENMILLER - DIRECT BY MR. CLEMENTS

1 try to match up the different microscopic marks that are on
2 there to determine if they were fired by the same firearm.

3 Q: How do you determine -- what exactly do you look for when
4 you're comparing one shell casing to another to determine if
5 they were fired by the same gun or not?

6 A: At first, I look at general characteristics. They're
7 called class characteristics. Is the firing pin shape the
8 same? They could be circular. They could be rectangular.

9 Then I look at the microscopic marks that are present.
10 During firing, the cartridge case would have impacted the
11 firearm at different points and so I look for those marks.
12 The marks that are made by the firearm are unique to that
13 firearm. So if I find marks that correspond, I call them
14 individual marks and I can say that those were fired by the
15 same firearm.

16 Q: Now, you talked about the firing pin mark. How is that
17 made on the shell casing?

18 A: When the gun is -- when you pull the trigger, the firing
19 pin is released. It will hit the primer area of the cartridge
20 case and that's -- it leaves an impression there. Some other
21 marks I look at are striations, which is caused by semi-
22 automatic operation of a firearm whereby the slide opens as
23 the gun cycles and so it will hit in a different spot.

24 Q: And that firing pin will always land on that same spot
25 and make that same shape mark?

AGENT MICHELLE EICHENMILLER - DIRECT BY MR. CLEMENTS

1 A: Yes.

2 Q: Okay. Now, what is -- what kind of marks, if any, are
3 caused by a bullet leaving the shell casing and traveling out
4 of the barrel after it's been fired?

5 A: Bullets pick up rifling from barrels. Gun manufacturers
6 put in different rifling just depending on what their
7 specifications are. They have a certain number and they have
8 a certain twist. As the bullet will travel out of the barrel,
9 it will pick up those marks; so when it comes out, it will
10 have, for example, six lands with a right-hand twist.

11 Q: That's an example that could happen?

12 A: An example, right.

13 Q: Any number of lands with a right-hand or left-hand twist?

14 A: Correct.

15 Q: And are those kind of marks kind of like a person having
16 a fingerprint?

17 A: Yes.

18 Q: Kind of similar?

19 A: They're unique to that firearm.

20 Q: All right. And how do you compare bullets to see if
21 they're fired by the same gun?

22 A: Those also I start off -- in general, I'll look at class
23 characteristics. Are the lands the same number? Is the
24 twists the same number? Then I'll put it under the microscope
25 and, if they are the same number, I compare the ones to each

AGENT MICHELLE EICHENMILLER - DIRECT BY MR. CLEMENTS

1 other to see if we can find marks that are individual.

2 Q: Are you ever unable to compare or analyze a bullet or
3 bullet fragment and, if so, why?

4 A: Sometimes due to damage, we can't get a good view of any
5 of the lands and grooves or they have been obliterated because
6 of the damage it sustained; so we call it an unsuitable item.

7 Q: Okay. On all of the shell casings that were submitted to
8 you in this particular case, were you able to analyze all
9 those shell casings?

10 A: Yes, I was.

11 Q: And how many shell casings were there?

12 A: I had 21 fired .40 S&W caliber cartridge cases.

13 Q: And were you able to compare those to each other?

14 A: Yes.

15 Q: And what were your conclusion as to whether all of those
16 shell casings were fired by the same weapon or different
17 weapons and, if different weapons, how many weapons?

18 A: There were at least two different firearms. Some of the
19 cartridge cases matched to each other and were all the same;
20 so that was one firearm. And then others matched to each
21 other and that was a second firearm.

22 Q: So two firearms?

23 A: Correct.

24 Q: And all these shell casings were what caliber?

25 A: .40 S&W caliber.

AGENT MICHELLE EICHENMILLER - DIRECT BY MR. CLEMENTS

1 Q: Okay. Now, the bullets that you compared, how many were
2 there?

3 A: I have a total of seven fired bullets and then one small
4 jacket fragment.

5 Q: And were you able to compare those to each other?

6 A: Yes.

7 Q: What could you determine regarding whether they were all
8 fired by the same weapon or multiple weapons?

9 A: They were also fired by two different firearms. In this
10 case, the general class characteristics matched two different
11 firearms.

12 Q: Both .40 caliber?

13 A: Correct.

14 Q: Okay. So is it fair to say that to a reasonable degree
15 of certainty in your field of expertise that the shell casings
16 revealed two weapons being used on all those shell casings?

17 A: Yes.

18 Q: And would it be fair to say that your opinion to a
19 reasonable degree of certainty in your field of expertise in
20 regards to the seven bullets including the bullet fragment
21 that you tested that they were all fired by two distinct
22 weapons?

23 A: Yes.

24 Q: Okay.

25 MR. CLEMENTS: I beg the Court's indulgence.

AGENT MICHELLE EICHENMILLER - DIRECT BY MR. CLEMENTS

1 Q: And you said all of the shell casings were what brand?

2 Or were they all the same brand?

3 A: They were two different brands.

4 Q: Two different brands? Okay. And as long as they're .40
5 caliber bullets, they could be fired by any .40 caliber gun
6 regardless of brand?

7 A: Any firearm chambered for .40 caliber, yes.

8 Q: Okay. And these were all fired by two separate guns; is
9 that correct?

10 A: Correct.

11 Q: Okay. Now, that was -- that concluded your testing on
12 the shell casings and the bullets?

13 A: Correct.

14 Q: All right. What else was it that you tested in this
15 case?

16 A: I received two firearms in this case.

17 Q: And what were they?

18 A: I had one Taurus Millennium Pro PT140 in .40 S&W caliber
19 and I had one Smith and Wesson model XW 40 VE also in .40 S&W
20 caliber.

21 Q: Okay. And did either one of these guns fire any of those
22 bullets or expel any of those shell casings that you tested?

23 A: No, they did not.

24 Q: Neither gun?

25 A: Neither one.

AGENT MICHELLE EICHENMILLER - DIRECT BY MR. CLEMENTS

1 Q: All right. Now, let me ask you a question. These guns
2 are called -- they're called semi-automatic guns; right?

3 A: Correct.

4 Q: Can you explain to this jury how they work when you pull
5 the trigger? How the shell casings are ejected?

6 A: Sure. With every pull of the trigger, the gun will
7 cycle. So what that means is it will load one cartridge from
8 the magazine into the chamber, pull the trigger, the firing
9 pin hits it, the bullet comes out the barrel, and as the
10 recoil of the firearm -- the explosion will help the gun
11 cycle. So the slide will open, the cartridge case gets kicked
12 out by an ejector, and goes to either side out of the gun and
13 the gun is ready then. It loads another one from the
14 magazine, you pull the trigger again, and it will fire again.

15 Q: So every time you fire, you pull the trigger, and a shell
16 casing is ejected?

17 A: Correct.

18 Q: Okay.

19 MR. CLEMENTS: I don't have any further questions.

20 Please answer any questions Mr. Bailey or Mr. Deberry may
21 have.

22 THE COURT: Cross examination.

23 MR. DEBERRY: Thank you.

24 CROSS EXAMINATION

25 BY MR. DEBERRY:

AGENT MICHELLE EICHENMILLER - CROSS BY MR. DEBERRY

1 Q: Thank you for being here. I've got just a few questions
2 for you. If you could, just clarify. When you talk about a
3 cartridge and a bullet, a bullet comes out of a cartridge; is
4 that correct?

5 A: Correct.

6 Q: All right. And I'm just going to -- for reference only,
7 State's Exhibit 9. Is that -- what is that?

8 A: Those are fired cartridge cases.

9 Q: So those are fired cartridge cases? And the bullets
10 would be before they're fired in those cartridges?

11 A: Correct.

12 Q: Okay.

13 MR. DEBERRY: Can I --

14 THE COURT: Yes, sir.

15 Q: So that's a cartridge or sometimes referred to as a
16 shell?

17 A: Correct.

18 Q: Okay. So when you testified for Mr. Clements earlier,
19 you said that when you -- when you examined the bullets or the
20 shells -- I think it's when you were talking about the shells
21 at first. You said that at least two weapons were fired?

22 A: Correct.

23 Q: Could there have been more weapons fired?

24 A: No.

25 Q: Just from the shells that you --

AGENT MICHELLE EICHENMILLER - CROSS BY MR. DEBERRY

1 A: Just from the cartridge cases, there were only two
2 firearms present.

3 Q: Okay. So all of the shells that they provided to you,
4 there was definitely only two weapons?

5 A: Correct.

6 Q: Okay. So when you testified that it was at least two,
7 you just misspoke?

8 A: Correct.

9 Q: Okay. All right. And you testified -- and I have the
10 same question about the bullets which were the fragments or
11 the bullets that they recovered that they gave you.

12 A: Right.

13 Q: Were those -- is that your same testimony that exactly
14 two guns fired that?

15 A: Yes. There was only two guns present.

16 Q: All right. Well, you testified that those were -- that
17 that was based on general characteristics?

18 A: In this case, their rifling was different -- different
19 numbers.

20 Q: Right.

21 A: But I also looked at them microscopically and one group
22 matched each other that all had the same number and the other
23 group matched each other with all the same number.

24 Q: And that's just basing it on lands and grooves?

25 A: Well, I did a microscopic examination underneath the

AGENT MICHELLE EICHENMILLER - CROSS BY MR. DEBERRY

1 microscope and found individual characteristics that would say
2 one firearm.

3 Q: Other than lands and grooves?

4 A: Correct.

5 Q: All right. So are lands and grooves -- they're specific
6 to individual firearms or are they specific to individual
7 kinds of firearms?

8 A: They're specific to manufacturers. Different
9 manufacturers have different lands and grooves.

10 Q: Okay. So if we had two .40 caliber pistols that came
11 straight from a manufacturer, they would have the same lands
12 and grooves?

13 A: Correct.

14 Q: Okay. So there could have been more than just the -- the
15 two pistols that you tested? There could have been other
16 pistols or other firearms out there that would leave the same
17 lands and grooves on those bullet fragments or those bullets?

18 A: Depending on the manufacturer, they put what number of
19 lands and grooves they would like to put in there. During the
20 manufacturing process, individual characteristics are imparted
21 to the barrel based on the manufacturing process itself, the
22 tools that they use. Also, due to the wear and tear on the
23 firearm, whether they cleaned it, threw it out in the rain.
24 Was it rusty? They get their own individual characteristics.
25 The corresponding individual characteristics that I use are

AGENT MICHELLE EICHENMILLER - CROSS BY MR. DEBERRY

1 those individual ones that match them to one particular
2 firearm.

3 Q: Okay. Isn't it true that during your investigation you
4 have to -- you have to get a firearm or a fired bullet from
5 the firearms you're testing to be able to determine what those
6 individual characteristics are?

7 A: Yes. We test fire the firearms when we get them in the
8 lab.

9 Q: Okay. So you said you -- you tested seven fired bullets.
10 Did that include what you've test fired?

11 A: Yes. I used the ones I test fired in order to compare it
12 to the ones I received from the -- in evidence.

13 Q: Where did the ones that you test fired come from?

14 A: We use lab-supplied ammunition to provide test fires and
15 then we keep them stored at the lab.

16 Q: So how many did you receive from Marion County?

17 A: In this case -- sometimes it's necessary to use submitted
18 unfired ammunition if it's -- we don't have it in the
19 laboratory. In this case, actually what happened -- I
20 received 13 unfired cartridges from the Sheriff's Office and
21 then I used two of them in one of the pistols that I received.

22 Q: All right. And that's what -- and that's how you did
23 your analysis?

24 A: I used the ones at the lab and the ones that I test fired
25 with the submitted ammo.

AGENT MICHELLE EICHENMILLER - CROSS BY MR. DEBERRY

1 Q: Okay. Is there any way -- with all of your ways that you
2 can experiment and do your testing and things, is there any
3 way to know if a -- if a particular bullet was fired from a
4 particular shell casing?

5 A: No. There's no scientific way to prove that they came
6 out of a certain cartridge case.

7 Q: So along that line, you cannot tell the jury that you're
8 certain or that you have an expert opinion that they were all
9 -- that all of the bullet fragments were fired out of the
10 shell casings that you were given?

11 A: No. We have no way of telling.

12 Q: Okay. Thank you.

13 THE COURT: Mr. Bailey?

14 MR. BAILEY: Thank you, Your Honor.

15 CROSS EXAMINATION

16 BY MR. BAILEY:

17 Q: Agent Eichenmiller, good afternoon. Do you have your
18 laboratory evidence release form with you today?

19 A: I'm not sure what form you're referring to.

20 Q: Where -- do you have a document showing when the evidence
21 was returned to the Marion County Sheriff's Office?

22 A: Oh, a chain of custody?

23 Q: Well, it would list out everything that was submitted to
24 SLED being returned to the Sheriff's Office.

25 A: I don't have a complete chain with me, no.

AGENT MICHELLE EICHENMILLER - CROSS BY MR. BAILEY

1 Q: Do you know what day all the evidence was returned to the
2 Sheriff's Office?

3 A: No. I can check what day mine was returned.

4 Q: Okay. Yeah. What day did yours -- yours return to the
5 Sheriff's Office?

6 A: I had a couple different containers. The container that
7 contained Items 2 and -- I think the container that contained
8 the bullets was returned in 2013 on 3/20.

9 Q: I'm sorry. Was that March 20th, 2013?

10 A: Yes.

11 Q: Okay. Did you receive the casings and the bullets back
12 from the Marion County Sheriff's Office after you returned
13 them?

14 A: No.

15 Q: So there was no submission made to you in July of 2014?

16 A: No.

17 Q: Okay.

18 MR. BAILEY: Thank you. I have no further questions.

19 THE COURT: Any redirect?

20 REDIRECT EXAMINATION

21 BY MR. CLEMENTS:

22 Q: Agent Eichenmiller, things -- when things are submitted
23 to you, it's submitted for what?

24 A: Firearms comparisons.

25 Q: Okay. And you don't get anything submitted to you asking

AGENT MICHELLE EICHENMILLER - REDIRECT BY MR. CLEMENTS

1 for fingerprint analysis, do you?

2 A: No.

3 Q: If something were going to be tested for fingerprint
4 analysis and for ballistics, what has to be done first and
5 why?

6 A: When the contributing agency brings the evidence in, they
7 have to make a request to have latent prints or DNA or
8 firearms done. So there's a little column that they check
9 what they would like done. Firearms generally gets it last
10 because we don't want to -- latent prints would have to get it
11 first before we can get it.

12 Q: Okay. And correct me if I'm wrong. You said latent
13 prints has to get it first before y'all do?

14 A: Correct.

15 Q: Is that because what y'all do makes -- makes any evidence
16 related to prints destroyed?

17 A: Well, I would be touching the evidence myself. I don't
18 generally wear gloves; so if I touched it, my DNA and/or
19 fingerprints would be on it.

20 Q: And you have to put it through a solution too, don't you?
21 Don't you put some of them through a washer solution?

22 A: If it seems to be bio-hazardous, I'll generally
23 decontaminate it because I put it on my microscope where other
24 evidence goes and I don't want to cross-contaminate things.
25 So we generally clean them.

AGENT MICHELLE EICHENMILLER - REDIRECT BY MR. CLEMENTS

1 Q: Does that make fingerprint analysis futile at that point?

2 A: Correct.

3 Q: I'm going to show you State's Exhibit 39. Do you know
4 what this is?

5 A: This is SLED Item 10, which -- if it still was in there,
6 it's a fired bullet.

7 Q: A fired bullet? Now, is that your markings on there?

8 A: Yeah. It still has my seal on it and my initials are on
9 there too.

10 Q: And is that your lab number?

11 A: Correct.

12 Q: Okay. And that was just a fired bullet and do you know
13 if that came from the autopsy or not?

14 A: I believe it did.

15 Q: Okay. And it was not fired by either of the two weapons
16 submitted to you?

17 A: Correct.

18 Q: I'm going to show you State's Exhibit Number 40. Can you
19 identify that and tell us what that is?

20 A: This is another container I received in this case and it
21 has -- actually, this isn't my container.

22 Q: That's not yours?

23 A: I didn't receive this.

24 Q: Okay. All right.

25 MR. CLEMENTS: Please answer any questions that defense

AGENT MICHELLE EICHENMILLER - RECROSS BY MR. DEBERRY

1 counsel may have.

2 THE COURT: Anything else?

3 MR. DEBERRY: Your Honor, I'm sorry. I think I have one
4 or two in follow-up.

5 RECROSS EXAMINATION

6 BY MR. DEBERRY:

7 Q: You testified that you definitely did this analysis
8 before July 2014?

9 A: Yes.

10 Q: Back in March of -- or when did you say it was?

11 A: My report is dated February of 2013.

12 Q: 2013? Okay. Were you aware that in -- is your testimony
13 that what you did would destroy any latent fingerprints on the
14 evidence?

15 A: Correct.

16 Q: Are you aware that the evidence was resubmitted to SLED
17 in July of 2014 for fingerprint analysis?

18 A: I was aware.

19 Q: Okay. And did you have anything to do with that?

20 A: No.

21 Q: All right. And -- but your testimony is is that any
22 fingerprint evidence would be -- would have been destroyed way
23 before then?

24 A: Correct. Because I examined it, I had someone micro-
25 verify it, and we entered it into IBIS; so possibly three

AGENT MICHELLE EICHENMILLER - RECROSS BY MR. DEBERRY

1 people touched it.

2 MR. DEBERRY: Thank you.

3 MR. BAILEY: I have no further questions.

4 THE COURT: Thank you. You may step down.

5 MR. CLEMENTS: We would ask that Agent Eichenmiller be
6 released from her subpoena.

7 THE COURT: Any objection?

8 MR. DEBERRY: No, Your Honor.

9 MR. BAILEY: No, Your Honor.

10 THE COURT: Without objection, you may -- ma'am, you're
11 excused. You have no further responsibilities under your
12 subpoena. Thank you for being here. Call your next witness,
13 please.

14 MR. CLEMENTS: Your Honor, if I can check downstairs and
15 see if my pathologist is here? If not, I have another witness
16 I can call.

17 THE COURT: All right.

18 MR. CLEMENTS: Let me check real quick.

19 (Whereupon, there is a pause in the proceedings.)

20 MR. CLEMENTS: Your Honor, we'd like to call Dr. Cynthia
21 Schandl.

22 THE COURT: All right. Come on around.

23 THE CLERK: Ma'am, if you'll come around and let me swear
24 you in, please? Place your left hand on the Bible and raise
25 your right hand, please, ma'am. Do you solemnly swear or

DR. CYNTHIA SCHANDL - DIRECT BY MR. CLEMENTS

1 affirm to tell the truth, the whole truth, and nothing but the
2 truth in the evidence in this case?

3 THE WITNESS: Yes, I do.

4 THE CLERK: Thank you.

5 DR. CYNTHIA SCHANDL, being first duly
6 sworn, testifies as follows:

7 DIRECT EXAMINATION

8 BY MR. CLEMENTS:

9 Q: Can you please state your name for the record and spell
10 your name for the court reporter, please?

11 A: Cynthia Anna Schandl, S-c-h-a-n-d-l.

12 Q: Dr. Schandl, can you please tell this jury where you
13 work?

14 A: I work at the Medical University of South Carolina in
15 Charleston, South Carolina, within the department of pathology
16 and laboratory medicine in the medical and forensic autopsy
17 section.

18 Q: Now, Dr. Schandl, can you please tell this jury about
19 your educational background?

20 A: Yes, sir. So I am a forensic pathologist. That is my
21 sub-specialty in the field of medicine. In order to become a
22 doctor, you have to first go through college; so I have my
23 Bachelor's Degree from the California State University system.
24 After college, then you go to medical school, which is four
25 years. During my medical school years, I also went through

DR. CYNTHIA SCHANDL - DIRECT BY MR. CLEMENTS

1 graduate school; so I graduated in 1999 with both an M.D.
2 degree and a Ph.D. degree.

3 After medical school, most physicians will choose to
4 specialize. I chose to specialize in the field of pathology,
5 and in order to do that, they have additional training called
6 residency. Pathology residency training is four years, and
7 then I chose to sub-specialize in the field of forensic
8 pathology, which is another year of training in what they call
9 a fellowship. Following the training, there are national
10 board certifications, and I am board-certified in the three
11 areas in which I trained, which are anatomic pathology,
12 clinical pathology, and forensic pathology.

13 Q: Do you have to keep up with the current trends in your
14 field by taking continuing medical training?

15 A: Yes. So in order to maintain just a medical license,
16 they require you to have continuing medical education. In
17 every state you have a medical license and might also take
18 additional on top of what is required, yes.

19 Q: Have you ever been qualified to testify as an expert in
20 the field of forensic pathology in state or federal court?

21 A: Yes. Both state and federal.

22 Q: Approximately how many times?

23 A: Some point over 50.

24 MR. CLEMENTS: Your Honor, at this time I would submit
25 Dr. Schandl as an expert in the field of forensic pathology.

DR. CYNTHIA SCHANDL - DIRECT BY MR. CLEMENTS

1 THE COURT: Mr. Deberry?

2 MR. DEBERRY: No objection, Your Honor.

3 THE COURT: Mr. Bailey?

4 MR. BAILEY: No objection, Your Honor.

5 THE COURT: Ladies and gentlemen, this individual has
6 been qualified as an expert in the field of forensic
7 pathology. My previous charge to you with regards to expert
8 testimony is the same. Mr. Clements, you may continue.

9 MR. CLEMENTS: Thank you.

10 BY MR. CLEMENTS:

11 Q: Dr. Schandl, can you please explain to this jury what the
12 field of pathology is and then the subspecialty of forensic
13 pathology? If you will, define that and explain that for us.

14 A: Yes. So pathology, if you break down the word, is pathos
15 and ology. It's the study of disease. So the field of
16 pathology is obviously quite broad. It encompasses from
17 cancer diagnoses to skin rashes and everything.

18 Well, forensic pathology is more concerned with disease
19 processes and with any injuries that might lead to death and
20 also may have a legal component. So, for example, if two
21 individuals are in a car crash, they may choose to do a
22 forensic autopsy, which is an examination of the body after
23 the person dies in order to determine the cause and the manner
24 of death so that if legal proceedings are -- will become
25 underway, we will have those facts in order. Other cases that

DR. CYNTHIA SCHANDL - DIRECT BY MR. CLEMENTS

1 we would see might be those where one person kills another
2 person, again where medicine or disease processes or injuries
3 are intercepting with legal proceedings.

4 Q: Now, how do you determine cause of death if you are asked
5 to answer that question in the medical/legal field? How do
6 you go about determining that answer?

7 A: The most common way that a forensic pathologist will go
8 about determination of the cause of death is by performing an
9 autopsy examination.

10 Q: And did you have occasion to perform an autopsy on the
11 remains of a Christian Drawhorn coming from Marion County in
12 2012?

13 A: Yes, sir, I did.

14 Q: Can you tell us what day you performed that autopsy?

15 A: The autopsy was performed on the 13th of April in 2012.

16 Q: Now, when you perform an autopsy, do you do that strictly
17 by yourself or do you have a team that does that with you?

18 A: We have a team. So there is the pathologist or the
19 attending pathologist, who was me in this case. If we have
20 trainees -- since we're at the Medical University and we are a
21 training program, we'll have trainees assisting us who are
22 doctors who are training to be subspecialists in pathology.
23 And we also have technical staff and a pathologist assistant
24 to help us.

25 Q: Do you know who was assisting you and attending this

DR. CYNTHIA SCHANDL - DIRECT BY MR. CLEMENTS

1 autopsy with you?

2 A: Yes. What I keep referring to is the report that I
3 generated regarding this autopsy and it has all that
4 information. It's better than my cranium. So our pathologist
5 assistant was a Ms. Awin Corpwin [phonetic], our technician
6 was Raymond Edwards, and we did have a trainee, a Dr. Ashton
7 Ennis, who is now a practicing forensic pathologist in
8 Kentucky.

9 Q: Okay. And when you perform the autopsy, is there usually
10 law enforcement presence there?

11 A: It very much depends upon the case, and in the case where
12 we have evidence for law enforcement, they're much more likely
13 to attend the autopsy in order to take that evidence, such as
14 in this case.

15 Q: And did you submit evidence to law enforcement in this
16 case?

17 A: Yes, sir.

18 Q: Did Dr. Ennis give that to a Marion County officer?

19 A: I can double-check who signed it. We're -- since we work
20 as a team, we're pretty much all in the same room; so it could
21 have been any one of us under my supervision. Yes, that is
22 correct. Dr. Ennis.

23 Q: All right. And can you tell us, when you examined Mr.
24 Drawhorn, what type of wounds did he have and where were they
25 located on his body?

DR. CYNTHIA SCHANDL - DIRECT BY MR. CLEMENTS

1 A: He had gunshot wounds. One was to the left upper arm and
2 it went through and through; so there was an entrance -- what
3 we call an entrance wound and an exit wound. So no bullet.
4 We didn't find a bullet with that one because it went out.
5 And then he had another gunshot wound that was to the right
6 side of his back up by the shoulder and during the process of
7 the examination, which includes x-rays and then followed that
8 by examination of the inside of the body to look for which --
9 where the -- where the bullet went through, we came to find a
10 great deal of blood in his right chest cavity, more than a
11 liter of blood in his chest, and that the bullet had gone in
12 two very large vessels in his chest before lodging in the bone
13 of his left upper arm.

14 Q: So he pretty much bled out on the inside internally?

15 A: That's correct. There was some medical intervention. So
16 somebody had placed a chest tube; so it is likely that there
17 was more blood that he bled than what I found at the time of
18 my examination.

19 Q: But that would have been internally mostly?

20 A: Yes.

21 Q: Okay. Do you have an opinion to a reasonable degree of
22 medical certainty what the cause of death of Mr. Christian
23 Drawhorn was?

24 A: Yes, sir.

25 Q: And what is that opinion?

DR. CYNTHIA SCHANDL - DIRECT BY MR. CLEMENTS

1 A: Penetrating gunshot wound to the thorax at the right
2 upper back.

3 Q: Do you have an opinion to a reasonable degree of medical
4 certainty as to the manner of death?

5 A: Yes, sir. The manner of death in this case is homicide,
6 which means that one person died because of another person's
7 actions or inactions.

8 Q: So that was one person taking another person's life?

9 A: That is correct.

10 Q: Okay.

11 MR. CLEMENTS: I beg the Court's indulgence a moment.

12 THE COURT: Yes, sir.

13 Q: Dr. Schandl, do you have an opinion as to how long
14 someone could stay alive if they sustained the type of wound
15 that Mr. Drawhorn suffered?

16 A: Well, the -- the bullet hit two very large arteries. So
17 arteries are blood vessels that are under pressure; so you're
18 actively pumping blood out of the system. But I can't really
19 tell you how long he would live. There are a lot of other
20 factors that would go into that estimation that -- that I
21 don't know.

22 Q: Now, if he had had a crack team of surgeons right there
23 on site with him when he was injured, what would be the
24 likelihood that he could have survived it?

25 A: Again, I don't know the answer to that, but the injuries

DR. CYNTHIA SCHANDL - DIRECT BY MR. CLEMENTS

1 that I saw would have required a specialist surgeon who was --
2 who was able to repair arteries. It's just -- I just don't
3 know the answer.

4 Q: But it wouldn't be very likely, would it?

5 A: It is not likely that he would have lived.

6 Q: Okay. Did he have any type of substances in his body
7 such as alcohol or any other kind of substances of that
8 nature?

9 A: Let me check. As part of the routine forensic pathology
10 autopsy, we do toxicologic examination. And yes, he does have
11 -- he has delta 9 tetrahydrocannabinol. That's THC; so a
12 cannabis product, marijuana, at a level of 6.2 nanograms per
13 milliliter. He has cocaine at a level of 395 nanograms per
14 milliliter. And then he has breakdown products of both
15 marijuana and cocaine.

16 Q: Okay. Thank you. Please answer any questions that Mr.
17 Bailey and Mr. Deberry may have.

18 A: Thank you.

19 THE COURT: Mr. Deberry?

20 MR. DEBERRY: Thank you, Your Honor. I don't have any
21 questions.

22 THE COURT: Mr. Bailey?

23 MR. BAILEY: Thank you, Your Honor. I have no questions
24 either.

25 THE COURT: You may step down. Thank you.

GAVIN GRAVES - DIRECT BY MR. CLEMENTS

1 MR. CLEMENTS: Your Honor, we would ask Dr. Schandl be
2 released from her subpoena.

3 THE COURT: Any objection?

4 MR. DEBERRY: No, Your Honor.

5 THE COURT: Mr. Bailey?

6 MR. BAILEY: No objection to that.

7 THE COURT: Ma'am, thank you for being here. You are
8 free to go and have no further responsibilities under your
9 subpoena. Thank you.

10 MR. CLEMENTS: Ready for our next witness?

11 THE COURT: Yes, sir.

12 MR. CLEMENTS: Your Honor, we'd call Mr. Gavin Graves.

13 THE COURT: If you need to stand up, ladies and
14 gentlemen, you may do so as this next witness approaches just
15 to stretch your legs at little bit.

16 THE CLERK: Sir, if you'll come around and let me swear
17 you in, please, sir? Place your left hand on the Bible and
18 raise your right hand. Do you solemnly swear or affirm the
19 evidence you give in the trial of this case shall be the
20 truth, the whole truth, and nothing but the truth, so help you
21 God?

22 THE WITNESS: Yes, ma'am.

23 THE CLERK: Thank you. You may have a seat in the
24 witness box.

25 GAVIN GRAVES, being first duly sworn,

GAVIN GRAVES - DIRECT BY MR. CLEMENTS

1 testifies as follows:

2 DIRECT EXAMINATION

3 BY MR. CLEMENTS:

4 Q: Good afternoon.

5 A: Good afternoon.

6 Q: And you are a soft-spoken young man; so, Mr. Graves, I'm
7 going to ask you to get that microphone close to you and keep
8 your head up and speak up loudly for me. Okay?

9 A: Yes, sir.

10 Q: And if you don't understand one of my questions, if
11 you'll ask me, I'll answer it -- I'll ask it again. Okay?

12 A: Yes, sir.

13 Q: Can you please state your name for the record and tell
14 this jury where you live? And if you don't mind, spell your
15 name for the court reporter.

16 A: My name is Gavin Graves. I stay in Marion County. I
17 stay at 5613 North Highway 501.

18 Q: All right. And how long have you lived in Marion County?

19 A: My whole life.

20 Q: Your whole life?

21 A: Yes, sir.

22 Q: Where do you work?

23 A: I work. I'm a delivery driver for Coca-Cola.

24 Q: You work for Coca-Cola?

25 A: Yes, sir.

GAVIN GRAVES - DIRECT BY MR. CLEMENTS

1 Q: Okay. Now, you live on North Highway 501?

2 A: Yes, sir.

3 Q: Do you live at the same place as what we've been talking
4 about?

5 A: Yes, sir.

6 Q: That's the same place?

7 A: Yes, sir.

8 Q: You still live there?

9 A: Yes, sir.

10 Q: All right. I'm going to show you State's Exhibit 38.
11 What is that?

12 A: That's my trailer.

13 Q: That's your trailer right there? All right. Do you
14 recall the night of April the 20 -- April the 12th, 2012?

15 A: Yes, sir.

16 Q: And the morning of April 13th?

17 A: Yes, sir. I still remember it. It was a nightmare.

18 Q: You were where that evening?

19 A: I was inside the trailer.

20 Q: Inside the trailer?

21 A: Yes, sir.

22 Q: And who was inside of that trailer with you?

23 A: It was me, Mr. Christian Drawhorn, Derrick Wilson,
24 Christopher Kollock, and Darrell Davis.

25 Q: All right. And what do you call Darrell Davis?

GAVIN GRAVES - DIRECT BY MR. CLEMENTS

- 1 A: Goo.
- 2 Q: Goo? And what do you call Derrick?
- 3 A: Eyebrows.
- 4 Q: Eyebrows? Now, what do you call Chris Kollock?
- 5 A: Juice Man.
- 6 Q: Juice Man? All right. Were they all there with you?
- 7 A: Yes, sir.
- 8 Q: Who else was with you?
- 9 A: Christian Drawhorn.
- 10 Q: All right. And did any other -- any people people come
- 11 and go that evening? Did you have any other visitors in and
- 12 out?
- 13 A: Yes, sir.
- 14 Q: Okay. Now, in 2012 in April, were you working for Coca-
- 15 Cola at that time?
- 16 A: No, sir.
- 17 Q: Okay. What were you doing to get -- to earn any money
- 18 during that time?
- 19 A: I was running poker games from my house and I was selling
- 20 marijuana.
- 21 Q: Okay. And who lived with you?
- 22 A: Darrell Davis and Derrick Wilson.
- 23 Q: Derrick Wilson?
- 24 A: Yes, sir.
- 25 Q: How long had Derrick Wilson lived with you?

GAVIN GRAVES - DIRECT BY MR. CLEMENTS

1 A: Derrick had really just -- at first in November or
2 December he just was coming there, like, off and on nights,
3 but that's when he moved his clothes in was probably about,
4 like, January or February. So he didn't been there that long.
5 He wasn't there no more than three months.

6 Q: But he was living there with you?

7 A: Yes, sir.

8 Q: Okay. Now, recall back to you -- you were there with
9 those guys and the other people coming and going?

10 A: Yes, sir.

11 Q: Okay. And what were all of y'all doing? What had y'all
12 settled in to do that evening?

13 A: First, we had started playing a little bit of cards.
14 That was when we stopped and that's when we got on the
15 computer. I had got the computer hooked up to my television
16 and we was on Facebook pointing out -- watching Black Biker
17 weekend old videos and we were watching -- pulling up girls
18 that we used to talk to and stuff like that.

19 Q: Okay. On Facebook?

20 A: Yes, sir, on Facebook.

21 Q: Okay. Now, do you recall where everybody was at that
22 evening?

23 A: Yes, sir.

24 Q: Where they were situated?

25 A: Yes, sir.

GAVIN GRAVES - DIRECT BY MR. CLEMENTS

1 MR. CLEMENTS: I beg the Court's indulgence for a minute.

2 THE COURT: Yes, sir.

3 MR. CLEMENTS: I realize now that we have a tripod. Your
4 Honor, may I have permission to have the witness step down?

5 THE COURT: Yes, sir.

6 (Whereupon, the witness complies.)

7 MR. CLEMENTS: Can all of y'all see?

8 BY MR. CLEMENTS:

9 Q: Gavin, I'm going to ask you to stand over here.

10 A: Yes, sir.

11 Q: And this is a laser pointer and you can point and I'm
12 going to ask you to keep your voice up so the court reporter
13 can take down everything you say. Okay?

14 A: Yes, sir.

15 Q: All right. Now, if you would, this is a not-to-scale
16 diagram, which is State's Exhibit 42. Do you recognize what
17 that is a depiction of?

18 A: Yes, sir. That's a picture of the inside -- inside of my
19 trailer.

20 Q: All right.

21 MR. CLEMENTS: Your Honor, I think I might have moved it
22 in, but, if not, I'd move State's Exhibit 42 into evidence at
23 this time.

24 THE COURT: Any objection, Mr. Deberry?

25 MR. DEBERRY: No, Your Honor.

GAVIN GRAVES - DIRECT BY MR. CLEMENTS

1 THE COURT: Mr. Bailey?

2 MR. BAILEY: No objection, Judge.

3 THE COURT: Without objection, 42 admitted into evidence.
4 (Whereupon, State's Exhibit Number 42, a large diagram of
5 the floor plan of the trailer, is admitted into
6 evidence.)

7 BY MR. CLEMENTS:

8 Q: Gavin, if you would, just kind of explain to us how your
9 trailer is set up and what everything is there?

10 A: Okay. This right here is the front room. This right
11 here is where the TV is in the corner kind of catty-corner.
12 That was the table, the end table that we had in the middle of
13 the floor. This was the love seat. This right here was the
14 long chair -- the three-seater chair. This right here was the
15 love seat. This right here was the kitchen table. This was
16 -- this right here -- the hallway started right here. This is
17 the hallway. That right there was Derrick Wilson's room and
18 the back room just was an empty room we kept clothes in.

19 Q: All right. Where was the front door and the back door
20 at?

21 A: The front door was right here and the back door was right
22 here where the -- we had a cement -- it led right here to a
23 big pad of concrete where we used to park. Sometimes we
24 parked our cars there, but not all the time.

25 Q: Okay. And whose cars were parked out back that night, if

GAVIN GRAVES - DIRECT BY MR. CLEMENTS

1 you remember?

2 A: If I can recall correctly, it was -- it was Mr. Derrick
3 Wilson's truck. His truck was -- do I need to show you where
4 it was parked at?

5 Q: If you can remember.

6 A: All right. His truck was parked right up in this area
7 right here and --

8 Q: What type of truck was it?

9 A: It's a white -- it was a white Yukon Denali.

10 Q: Okay.

11 A: The long kind.

12 Q: Did it have any rims?

13 A: Yes, sir. It had rims on it.

14 Q: All right. What kind of vehicle did you have?

15 A: I had a Jimmy Blazer.

16 Q: All right. Where were you parked at?

17 A: I was -- my truck was on the other side probably about
18 four -- four or five -- about four or five -- probably about
19 this wide from Mr. Wilson's truck.

20 Q: Okay.

21 A: And Christopher Kollock -- his -- his truck was parked on
22 the side of the trailer.

23 Q: Okay. All right. Was anybody else there that you
24 remember? Other vehicles?

25 A: That's -- that's about all I can recall. I couldn't --

GAVIN GRAVES - DIRECT BY MR. CLEMENTS

1 if I'm not mistaken, there probably was one more car there,
2 but I can't recall.

3 Q: Okay. Can you tell us -- do you recall where you were
4 sitting when everything broke loose?

5 A: Yes, sir. I was sitting in this chair right here. It's
6 one of the -- it's a toddler chair. It was my son's chair.

7 Q: Yes, sir.

8 A: And I was sitting in that in front of the TV and I was
9 working the -- I was working the mouse because we had a
10 wireless mouse and I was working the mouse controlling the TV.
11 So as they -- as they called the names for me to pull up, I
12 was pulling them up on Facebook.

13 Q: Okay. Now, where was Derrick at?

14 A: Mr. Wilson was laying in this long chair -- three-seater
15 chair. He was laying there with his feet up --

16 Q: Okay.

17 A: -- in that chair.

18 Q: Where was Goo? Darrell -- where was he at?

19 A: Mr. Darrell -- he was at the -- at the chair on the end
20 of the table closest to the door.

21 Q: Okay. And how about Juice Man? Kollock?

22 A: He was set directly in front of Mr. Davis in this chair
23 right here.

24 Q: And where was Christian Drawhorn?

25 A: Mr. Christian Drawhorn -- he was in this chair right

GAVIN GRAVES - DIRECT BY MR. CLEMENTS

1 here. He had his back towards, like, the kitchen area.

2 Q: Okay. Now, where is the kitchen area at?

3 A: This is -- this whole part right here is the kitchen.

4 Q: Right here?

5 A: Yes, sir. All that right there.

6 Q: Where is Highway 501?

7 A: Where is Highway 501?

8 Q: This way or this way?

9 A: Highway 501 is right here.

10 Q: Okay.

11 A: This is Highway 501.

12 Q: All right. Now, were they playing cards or just sitting

13 there?

14 A: We -- we had just got -- well, we -- we done been

15 finished playing cards almost probably about 30 minutes to an

16 hour. So we -- really we was -- we was sitting around smoking

17 weed.

18 Q: Okay.

19 A: And drinking Bud Lights.

20 Q: Now, at some point in time something radically changed.

21 What happened and about what time was it?

22 A: About -- if I can recall, it -- about 12:10, we heard a

23 knock at the door. We thought we heard a knock at the door, a

24 soft knock.

25 Q: Yeah.

GAVIN GRAVES - DIRECT BY MR. CLEMENTS

1 A: So Mr. Darrell Davis that was sitting right here -- he
2 got up and walked down the hallway to the back door. He
3 looked out the door. So we was like, "Man, who is it?" He
4 was like, "Man, I don't see nobody." We was like, "Man, sit
5 your rump down." So that's when he came back and sat down.
6 So that's about three more -- three more minutes went by and
7 we heard something. Pow. So everybody looked around like
8 this and the next thing you know, you could hear the tin --
9 you could hear tin tearing up like ding, ding, ding, ding,
10 ding, ding.

11 So I was like this. I was stood up. I stood up out the
12 little chair. Mr. Wilson grabbed me by the back of my shirt.
13 He done got up off the chair and grabbed me by the back of my
14 shirt and threw me down. Somehow, the chair and everything
15 fell over. We was -- like, you could hear the tin -- the tin
16 off the trailer like ding, ding. You could see the smoke and
17 the -- the smoke coming off the wall. What is it called? The
18 sheetrock.

19 Q: Yeah.

20 A: The sheetrock busting up. It was smoky. The cabinets
21 opening up. Glass that was sitting out that the bullet must
22 have went through. You could hear the glasses breaking. So
23 we was on the ground crawling.

24 Q: Which direction were all the bullets coming from?

25 A: From -- from this direction. Highway 501.

GAVIN GRAVES - DIRECT BY MR. CLEMENTS

1 Q: From the highway?

2 A: Yes, sir.

3 Q: Did any bullets come from the back?

4 A: No, sir.

5 Q: Okay.

6 A: No, sir.

7 Q: All right. So you were covered up on the floor; right?

8 A: Yes, sir.

9 Q: All right. What happened? How many shots did you hear,

10 if you know?

11 A: It was a rain of bullets, like ping, ping, ping, ping,

12 ping, ping, ping, ping, ping, ping, ping, ping, ping, ping,

13 ping. Like -- it was like it wouldn't never stop.

14 Q: How did you feel?

15 A: I was scared. I was scared for my life.

16 Q: All right. What happened when all of the pinging

17 stopped?

18 A: When the pinging stopped, I remember I cussed and said s-

19 h-i-t. I hit the floor. I got up. That's when Juice Man run

20 around running towards the door. We was like, "No, don't go

21 out the door, man. Forget that." He ran out the door and ran

22 around the house and then that's when -- that's when Derrick

23 had -- Derrick -- Derrick had said, "Everybody all right?"

24 Then that's when Goo said, "No, man." He said, "Chris hit."

25 Chris was laying right here. He was laying up in here.

GAVIN GRAVES - DIRECT BY MR. CLEMENTS

1 So that's when he was like (heavy breathing sound) on the
2 floor (heavy breathing sound) gasping for air. So that's when
3 we grabbed him -- grabbed him. So he -- Chris -- Darrell was
4 with Chris at first. So then that's when I had some marijuana
5 sitting right here in front of my chair. So I ran and just
6 threw it in my room and I ran back out and I was on the phone
7 with 9-1-1.

8 So that's when Goo -- Goo had got up so I sat down on the
9 floor with Chris Drawhorn between my legs and I'm holding him
10 like, "Man, you ain't going to die on me now. Shhh. Breathe.
11 Breathe. Breathe." He's like (heavy breathing sound). So he
12 was digging his hands in my -- in my arm and I'm like, "Shhh,
13 just breathe." I'm like, "Take it easy. Take it easy."

14 And so this whole time, he's -- he keeps squirming. He's
15 squirming. He's like (heavy breathing sound) on the floor
16 with me. So as he's squirming, we're moving down the hallway.
17 We're moving down the hallway and so that's when he steps
18 forward and so I'm standing back and I'm like, "Shhh." Still
19 (heavy breathing sound). And he's squeezing.

20 So that's when he was like, "Hot." But he couldn't
21 hardly say it because he kind of breathing like, "Hot," like
22 that. So I was like -- so I went like, "Open the back door."
23 So they opened the back door. So when they opened the back
24 door, then that's when I was on the phone with 9-1-1 the whole
25 time and I'm telling 9-1-1, "Look, just send somebody."

GAVIN GRAVES - DIRECT BY MR. CLEMENTS

1 So, you know, we're panicking and all that. So I'm kind
2 of frustrated with 9-1-1 because they're asking me how tall he
3 is, how old he is. Basically, they're just doing what they're
4 trying to do, but I couldn't -- I didn't know that. So I'm
5 cussing at them and stuff like, "Man, just send somebody." So
6 we hung up on them. So they're like, "We're sending somebody
7 over." So --

8 Q: Did you ever take his shirt off?

9 A: Who? No. He took his own -- he took his own shirt off.
10 He was like, "Hot," but the whole time he's sitting between my
11 legs so he -- but he's squirming. He's like, "Hot." So he
12 took -- he took his shirt off. So now he's bare-backed. He's
13 bare-backed laying -- laying right here in my -- on me.

14 So I'm holding him. "Shhh. Shhh. You're going to be
15 okay. You ain't going to die on me today. You ain't going to
16 die on me today. Just shhh. It'll be all right. We're about
17 to get you some help. We're about to get you some help."

18 So then that's when he -- he grabbed the side of the --
19 of the -- of the dryer and stood up and when he stood up, he
20 grabbed the side of the dryer and stood up. Then that's when
21 I -- I had slid back some. So I was still on the floor as
22 he's getting up so I got up too. So I grabbed him from the
23 back. So he was trying to make it outside.

24 So we made it outside. He was trying to make it down the
25 steps and he kind of, like, fell, but I didn't let him hit the

GAVIN GRAVES - DIRECT BY MR. CLEMENTS

1 ground. You know what I'm saying? I helped. So that's when
2 he was (heavy breathing sound). So he -- that's when he laid
3 across the ground on the -- on the -- on the asphalt -- the
4 little concrete part right here. He laid down. He laid down.
5 So then (heavy breathing sound).

6 So then that's when I was like, "Man." So I was like --
7 I said, "F 9-1-1. Let's put him in the car and we'll go take
8 him to -- we'll go take him to the emergency room." So as we
9 were attempting to put him in the truck, the officer pulled up
10 and said -- he didn't never walk close to us or nothing. He
11 just said, "Hey. You know that's against the law. Y'all need
12 to let him stay here where he at because y'all might be
13 messing up something worser by moving him."

14 So that's when we laid him back across the -- we laid him
15 right across the asphalt. We was like, "Man, where 9-1-1 at?
16 Where the ambulance at? Hurry up. Hurry up." And that's
17 when the ambulance pulled up.

18 Q: Okay. And they took him off?

19 A: Yes, sir.

20 Q: All right. And what happened to the furniture and stuff
21 in there when everything was going crazy?

22 A: This chair right here ended up over here. This chair was
23 basically over here. That table ended up over here in the --
24 in the -- in the kitchen. The kitchen table right there broke
25 in half when somebody -- somebody fell in it. Two chairs --

GAVIN GRAVES - DIRECT BY MR. CLEMENTS

1 the legs were messed up.

2 Q: What about the refrigerator?

3 A: A bullet came through the -- through the top door of the
4 refrigerator and went through it and busted out the side.

5 Q: Busted out the side of the refrigerator?

6 A: Yes, sir.

7 Q: All right. After EMS took -- well, let's let you sit
8 down.

9 (Whereupon, the witness complies.)

10 Q: After EMS took Christian off, that left the four of y'all
11 there --

12 A: Yes.

13 Q: --- with the officer; right?

14 A: Yes, sir.

15 Q: All right. What happened next to the best you can
16 remember?

17 A: If I can recall right, we was outside and I --

18 Q: On the back or the front?

19 A: We was on the back -- the back -- the back part. And my
20 shorts had a -- had a -- had a spot of blood and I was like,
21 "I need to change my shorts." They said, "No. Ain't nobody
22 else going." That's when the -- the black officer that was
23 setting on the stand the other day, he said nobody going in
24 there. He said nobody going back in the house. I said, "I
25 want to change my shorts." He said, "No."

GAVIN GRAVES - DIRECT BY MR. CLEMENTS

1 So that's when I didn't -- I couldn't -- nobody could go
2 back in the house. I think that's when Detective Bell and
3 them came. And Bell -- he had -- he said, "Whose house is
4 this?" I said, "This my house." He said, "I need you in the
5 house." Me, you -- that's when me, Bell, and the big dude
6 that set up here today --

7 Q: Charlie Watson?

8 A: Yeah. They took me back in the house and they set --
9 they set me down because I was trying -- I was attempting to
10 try to go get some shorts. Bell grabbed me and said, "No.
11 You can't. No. We need you to sit right there."

12 Q: All right.

13 A: He said, "You can't change your shorts."

14 Q: You're getting excited now. I want you to talk a little
15 bit slower. How excited or how upset or what was your
16 demeanor that night during that -- during that time when you
17 were there with Bell and Charlie Watson?

18 A: I mean just from the grace of God I was -- I was happy to
19 be alive and plus, like, before that -- before that time my
20 son had just stopped by to get some money to go to Wendy's and
21 he -- but he wanted to stay the night with me. But because I
22 had the marijuana there, I said no. I said no. I said, "No.
23 I'll come get you tomorrow." And he was like, "Well, let me
24 get some money to go to Wendy's." So I gave -- I gave him
25 \$20. That's when they had left and that was just, like, 30 to

GAVIN GRAVES - DIRECT BY MR. CLEMENTS

1 45 minutes before this happened.

2 Q: All right. So you -- you were pretty excited?

3 A: Yeah. I was. By the grace of God, I was happy to be
4 alive.

5 Q: So you went in the house with Martin and Charlie?

6 A: Yes, sir.

7 Q: All right. What did y'all do and what happened next?

8 A: All right. That's when he asked me -- they asked me --
9 they said, "You're sure you didn't shoot no guns?" I said,
10 "No. Nobody shoot no gun." So they got something and wiped
11 my hand. I think he wiped my neck and he made me pull my
12 shirt up and wiped my stomach, if I ain't mistaken.

13 And that's when that sat me there and he said -- that's
14 when he came with a form. He said, "Is it all right for us to
15 search this house?" I said, "Yeah." I said, "Of course." So
16 I signed the form. So that's when he said, "We're going to
17 start at the end of this house and work our way all the way
18 back."

19 So that's when they went in my room. So that's when
20 Detective Bell came out. He said, "I'm going to ask you
21 this." He said, "Is there anything in this house?" I said,
22 "Man, there ain't nothing in this house." He said -- he said,
23 "Listen. I just found something. There's some marijuana in
24 the back. Why you lying to me?" I put my head down. He
25 said, "Listen. We're going to talk and we're going to be

GAVIN GRAVES - DIRECT BY MR. CLEMENTS

1 upfront."

2 I told him. That's when I was upfront with him. I told
3 him I sell marijuana. That's when they went on. That's when
4 they started taking pictures everywhere. There were gunshots,
5 bullet holes. There's -- they started taking pictures of the
6 house. Then they wouldn't -- they wouldn't let me -- they
7 just had -- they had me in there about three hours.

8 Q: All right. And do you know -- do you have any knowledge
9 about any cocaine and crack being in the house?

10 A: No, sir. Well, he showed me. He said, "I asked you was
11 anything else in the house." So he held the crack. I said,
12 "Man." So I -- I explained to Detective Bell that my house is
13 like -- was like the man cave. Anybody came there, eat -- eat
14 good, sleep good. If they got kicked out their house or
15 whatever, they just came and they slept on the floor. Like I
16 explained to Detective Bell, I said plenty of people was in
17 and out this cave. I can't point the finger and say whose it
18 was, but I will confess up to the marijuana because the
19 marijuana was mine.

20 Q: All right.

21 MR. CLEMENTS: I beg the Court's indulgence.

22 Q: You said you talked to 9-1-1 on the phone?

23 A: Yes, sir.

24 Q: Did you talk to anybody else before law enforcement got
25 there on the phone?

GAVIN GRAVES - DIRECT BY MR. CLEMENTS

1 A: No, sir.

2 Q: Was anyone else on the phone while you were on the phone?

3 A: Mr. Wilson.

4 Q: Okay. Now, did anybody else come and go after the
5 shooting before law enforcement came?

6 A: No, sir.

7 Q: Okay. All right. And you don't have any -- you didn't
8 have any weapons, did you?

9 A: No, sir.

10 Q: Did they talk to you ever off your -- off away from your
11 premises? Did they take you anywhere and talk to you some
12 more?

13 A: Yes, sir.

14 Q: Where at?

15 A: About five o'clock that morning, Bell told all of us get
16 in -- get in Mr. Wilson's truck. Two officers got in the
17 front, two officers -- I think two officers got in the back
18 and they followed us all the way up to the -- the police
19 station. We went to -- we went to the police station and they
20 put us in separate rooms and interrogated us for another about
21 -- all of us about an hour and a half -- two hours a piece.

22 Q: Okay. All right. Now, let me ask you this. Back there
23 in April 2012, did you have any enemies yourself that you knew
24 of?

25 A: No, sir. I'm a good dude. I ain't never had no enemies.

GAVIN GRAVES - DIRECT BY MR. CLEMENTS

1 Q: Anybody have a beef with you about anything?

2 A: No, sir.

3 Q: Okay.

4 MR. CLEMENTS: Please answer any questions Mr. Bailey or
5 Mr. Deberry may have.

6 THE COURT: Mr. Deberry, cross examination.

7 MR. DEBERRY: Thank you, Your Honor.

8 CROSS EXAMINATION

9 BY MR. DEBERRY:

10 Q: Mr. Graves, I just give you my sympathies for what
11 happened. I'm sorry that you had to go through that.

12 A: I appreciate it.

13 Q: You testified that y'all were inside watching some --
14 watching a television. Was there any sound coming from the
15 television?

16 A: No sound don't come from Facebook.

17 Q: Right. So you had the television hooked to the computer?

18 A: Yeah.

19 Q: And there's no sound?

20 A: No sound come from Facebook.

21 Q: All right. Can you hear cars going by on Highway 501
22 North?

23 A: Yeah.

24 Q: Okay.

25 A: You can.

GAVIN GRAVES - CROSS BY MR. DEBERRY

1 Q: Do you remember hearing any cars come by that night?

2 A: No, sir. To be honest with you, we was just laughing and
3 playing, having a good time.

4 Q: Right.

5 A: We was just having a good time.

6 Q: Did you ever get arrested for the drugs that were in the
7 house?

8 A: Well, they got a warrant for me right now.

9 Q: For those drugs?

10 A: Yes.

11 Q: You're being prosecuted by Mr. Clements?

12 A: They're -- we're going to take care of that after this
13 trial.

14 Q: Tell me about that?

15 A: What you mean?

16 Q: You got a deal with Mr. Clements?

17 A: No. I ain't got no deal with Mr. Clements.

18 Q: Well, what do you mean you're going to take care of it
19 after the trial?

20 A: Because he said that I'm trying for pre-trial -- pre-
21 trial intervention because I explained to Mr. Clements --
22 because they really wanted to give me the warrant, but I
23 explained to him if they give me the warrant, I'm going to
24 lose my job for having that on my record. So being that I
25 ain't never got in trouble before, he told me I might could

GAVIN GRAVES - CROSS BY MR. DEBERRY

1 get pre-trial intervention.

2 Q: So did he tell you that he would give you pre-trial
3 intervention if you came here and testified for him?

4 A: No. He didn't tell me that. I wanted to testify on my
5 own.

6 Q: What is your opinion of pre-trial intervention? What
7 does that do?

8 A: From -- from what? For -- I mean it's something that --
9 it's something that you take if you ain't want the charge to
10 hit your record.

11 Q: So it keeps charges off your record forever?

12 A: No. No. It don't. Not forever, but from -- from my
13 understanding -- I mean I ain't -- I don't study that.

14 Q: Mm-hmm.

15 A: You know what I'm saying? I don't -- I don't study pre-
16 trial intervention, but from my understanding when you take
17 pre-trial intervention, you take a -- you take a course.
18 Basically, you plead guilty to the charge. Just like I'm
19 telling you all, it was my marijuana.

20 Q: Right.

21 A: But you know --

22 Q: But it doesn't affect you? It's a get out of -- it's a
23 get out of trouble free card; right?

24 A: I mean if you want to call it that.

25 Q: That's in effect what it is; right?

GAVIN GRAVES - CROSS BY MR. DEBERRY

1 A: No. I mean I'm not saying that because that -- that
2 ain't what it is.

3 Q: All right.

4 A: Because I'm pleading. I'm pleading guilty to it.

5 Q: Right. But that was two -- two years ago; right?

6 A: Yeah.

7 Q: Almost getting close to two and a half years ago?

8 A: Yeah.

9 Q: And your charges are still pending?

10 A: But see, I'm keeping it -- I'm keeping it honest with
11 you. I'm going to keep it honest with the Court. I ran for a
12 long time. They done came to my mama's house to try to give
13 the warrant and stuff like that, but I mean I'm never around.

14 Q: All right. You said that Christopher Kollock ran out the
15 door?

16 A: Yeah.

17 Q: Where did he go?

18 A: He ran around the house to make sure nobody wasn't --
19 nobody wasn't outside. He was mad. Somebody was trying to --
20 I mean the house had just got shot up.

21 Q: Yeah. Did he have a gun?

22 A: No. He ain't had no gun.

23 Q: So he just ran outside to confront people with guns?

24 A: Real men don't need guns.

25 Q: What's that?

GAVIN GRAVES - CROSS BY MR. DEBERRY

1 A: Real men don't need guns.

2 Q: Okay. Did you know about the gun in your house?

3 A: What gun? What gun that was in the house?

4 Q: A .40 caliber.

5 A: It wasn't in the house.

6 Q: Where was it?

7 A: That -- you'd have to ask Mr. Wilson where his gun was
8 at, but I'm like -- from my -- from my -- from my -- as I can
9 recall, no gun was in the house.

10 Q: Okay. And let me just ask you one more question. This
11 is State's Exhibit 42. You testified earlier that this is not
12 where Derrick's truck was; right?

13 A: I testified and said that that's where his truck was at.
14 That's what I testified. Plain as day it say Derrick's truck
15 right there, but a Yukon -- a Yukon Denali is not no small
16 car.

17 Q: Mm-hmm.

18 A: It's a long car.

19 Q: Right. Did -- you pointed with the -- with the laser
20 pointer that it was over here?

21 A: No, no, no, no. I pointed in that area.

22 Q: Okay. Did you draw this?

23 A: Did I draw -- did I draw that outline right there?

24 Q: Mm-hmm.

25 A: Yeah. Well, I didn't draw that exact same one. I drew

GAVIN GRAVES - CROSS BY MR. DEBERRY

1 one that was identical to it.

2 Q: Okay. Kollock's truck was over here?

3 A: No. Kollock's truck was -- I'm going to have to show it
4 to you. I'm going to have to point to it.

5 Q: Okay. That would be fine.

6 (Whereupon, the witness exits the stand.)

7 A: Kollock's truck was over here.

8 Q: Okay. Show us where -- where your car was?

9 A: Mr. Wilson's was up in this area.

10 Q: Mm-hmm.

11 A: It's a long truck.

12 Q: Mm-hmm.

13 A: I had a little, short truck. My truck was right there.

14 Q: All right. You can't remember what other cars were
15 there?

16 A: Not that I can recall.

17 Q: Had anybody come by to buy some marijuana that night?

18 A: Yeah. Yeah.

19 Q: Lots of people?

20 A: About -- it wasn't nothing like about -- if I can recall,
21 about two or three people that night.

22 Q: Who were they?

23 A: I can't -- I can't recall names. I can't recall, but I
24 know for sure that I sold marijuana to a couple people.

25 Q: You testified that over here this is a baby chair? A

GAVIN GRAVES - CROSS BY MR. DEBERRY

1 toddler chair?

2 A: It was a little, teeny -- it was a little, teeny chair
3 that I had bought for my son. That's where I was sitting.

4 Q: Is that the son that came by at a quarter to midnight to
5 get food at McDonald's -- Wendy's?

6 A: He came with his mama. He came with his mama to get some
7 money to go to Wendy's.

8 Q: How old is he?

9 A: He was -- at the time, he was six.

10 Q: All right. Did all this furniture get strewn about by
11 the bullets or how did that happen?

12 A: It got -- it got strewn about by us in there squirming
13 for our life.

14 Q: All right. In the statement that you gave law
15 enforcement, you just said that everybody hit the floor.

16 A: Yeah. Everybody hit the floor, but at the same time you
17 ain't just staying still. You didn't know where no bullet was
18 coming from. We was jumping around. When you -- when we hit
19 the floor, we just twisting and turning, covering up, buckling
20 up.

21 Q: Bullets were coming from everywhere?

22 A: Yeah. And then to be honest with you, that -- that's a
23 small house. When you -- when I hit -- matter of fact, when I
24 hit the floor, the table -- the table right here flipped over.

25 Q: Where were you again?

GAVIN GRAVES - CROSS BY MR. DEBERRY

1 A: When -- when you say where was I --

2 Q: Yes.

3 A: -- where was I before or after the shooting or during the
4 shooting?

5 Q: During the shooting.

6 A: During the shooting, I was in this chair right here. Mr.
7 Wilson jumped off this chair and grabbed me by the back of my
8 shirt and threw me down up in this area. While I was -- when
9 I -- when I went down, I hit the edge of this -- this glass
10 table and the table flipped over.

11 Q: All right. Mr. Kollock -- he was outside after
12 everything was over with?

13 A: Mr. Kollock ran outside and run around the house because
14 he was that upset, but then he ran back in the house. He ran
15 around the house and then ran back in the house.

16 Q: Do you know what he did outside?

17 A: He was checking to see was anybody outside.

18 Q: You don't know if he took anything outside with him?

19 A: No. He's a felon. He don't -- he don't carry a gun.

20 Q: Do you know where he is right now?

21 A: Huh?

22 Q: Do you know where Mr. Kollock is right now?

23 A: I can't recall.

24 MR. CLEMENTS: Objection as to relevance, Your Honor.

25 A: I can't recall where he is at.

GAVIN GRAVES - CROSS BY MR. DEBERRY

1 THE COURT: Hold on. I'll overrule the objection. He
2 answered the question.

3 MR. DEBERRY: Can we approach just a second, Your Honor?

4 THE COURT: Yeah.

5 (Whereupon, a bench conference is held in the presence of
6 the jury but out of the hearing of the jury as follows.)

7 MR. CLEMENTS: Christopher Kollock is in jail.

8 THE COURT: All right.

9 MR. DEBERRY: Mr. Kollock is in jail for shooting -- for
10 shooting at --

11 THE COURT: Huh?

12 MR. CLEMENTS: He's in federal prison for shooting at
13 Blaton Smith after this.

14 THE COURT: Shooting at who?

15 MR. CLEMENTS: At Blaton Smith. After this, he went and
16 shot at Blaton Smith.

17 MR. DEBERRY: And -- and I think he opened the door to me
18 asking that question because he just said he don't know
19 anything about guns.

20 THE COURT: What?

21 MR. DEBERRY: I think I should be able to ask him the
22 question if he knows that Blaton -- that Kollock is in prison
23 for shooting at Blaton Smith or for shooting guns.

24 MR. CLEMENTS: How would he know except for hearsay?

25 THE COURT: I mean he's already told you that he didn't

GAVIN GRAVES - CROSS BY MR. DEBERRY

1 know where he was. That was your question.

2 MR. DEBERRY: I can't ask him if he knows he's got any
3 gun charges?

4 MR. CLEMENTS: I object to that.

5 THE COURT: What's your objection? Relevance?

6 MR. CLEMENTS: Relevance. It's got nothing to do with
7 this. He says to his knowledge that he didn't have a gun.
8 He's already answered that.

9 MR. DEBERRY: He also said that he doesn't hang around
10 guns.

11 MR. CLEMENTS: No. He said real men don't have guns.

12 MR. DEBERRY: No, he did.

13 THE COURT: I'm going to sustain the objection. I don't
14 know what the relevance of it is at this point.

15 (Whereupon, the bench conference ends.)

16 BY MR. DEBERRY:

17 Q: When people come to your -- or came to your house to buy
18 or to sell drugs -- do you still sell -- still sell drugs?

19 A: I'm a delivery driver for Coca-Cola and I'm a part-time
20 volunteer coach at the Marion County Recreation Center.

21 Q: I just need to know if you still sell drugs.

22 A: I work for Coca-Cola.

23 Q: Okay. So you switched jobs; is that right?

24 A: No. I just got a new way of feeding my face.

25 Q: Okay. All right. When people came to your house to buy

GAVIN GRAVES - CROSS BY MR. DEBERRY

1 drugs, where would they come to or what would they do? Was
2 there a specific procedure?

3 A: All my clients came to the back door and knocked on the
4 back door. They walked in. Right there in the hallway, I
5 gave them what I gave them and they walked out.

6 Q: All right. Similar to the knock you heard that night
7 right before the shooting started?

8 A: Say that again?

9 Q: Is that similar to the knock you heard right before the
10 shooting started that night?

11 A: I mean a knock is a knock.

12 Q: Right. Thank you. I appreciate it.

13 THE COURT: Mr. Bailey?

14 MR. BAILEY: Thank you, Your Honor.

15 CROSS EXAMINATION

16 BY MR. BAILEY:

17 Q: Mr. Graves, good afternoon.

18 A: How you doing?

19 Q: When Mr. Clements began questioning you a little bit ago,
20 he went through the list of the occupants of the house with
21 you; correct?

22 A: Yes, sir.

23 Q: And he asked you all the nicknames; correct?

24 A: Yes, sir.

25 Q: You didn't give us the nickname for Christian Drawhorn,

GAVIN GRAVES - CROSS BY MR. BAILEY

1 did you?

2 A: That's -- no, I didn't.

3 Q: Okay. How about you tell the jury what Christian

4 Drawhorn's nickname was?

5 A: His nickname was Murder.

6 Q: That's his street name?

7 A: Yeah.

8 Q: Why did y'all call him Murder?

9 A: I just had met him real good. I probably knew him about
10 two months. I don't know why they called him Murder or
11 whatever. We just called him Murder.

12 Q: You never asked him when you met him why people call you
13 Murder?

14 A: No. That's like -- I mean that's like me asking him why
15 you got named what you was named.

16 Q: Well, Murder is a very serious street name, wouldn't you
17 agree?

18 A: You got some people named -- nicknamed Booger. It's just
19 a nickname is a nickname.

20 Q: Mr. Graves, my question -- Murder is a very serious
21 nickname. Would you agree with that?

22 A: If you look at it like that.

23 Q: I'm going to ask you again, Mr. Graves. The street name
24 of Murder is a very serious street name. Would you agree with
25 that?

GAVIN GRAVES - CROSS BY MR. BAILEY

1 A: Not to me. Maybe to you, but not to me.

2 Q: Okay. You would agree with me that it could imply
3 multiple interpretations; correct?

4 MR. CLEMENTS: Your Honor, that calls for speculation. I
5 don't see where that's --

6 THE COURT: Objection sustained.

7 BY MR. BAILEY:

8 Q: You said that the Marion County Sheriff's Office has a
9 warrant for your arrest right now?

10 A: Correct.

11 Q: You've never been arrested on that warrant; correct?

12 A: I've been running for three years.

13 Q: You've been running for three years?

14 A: I mean I've been out of the way for three years.

15 Q: Okay.

16 A: They been came. They came to my -- they came to my
17 mama's house about two times -- a couple times trying to serve
18 the warrant.

19 Q: So, Mr. Graves, you're aware that we've had previous
20 court hearings in connection with this case; correct?

21 A: Yeah.

22 Q: Did you come to those court hearings?

23 A: It's -- no. Oh, to -- I went to a bail -- to a --

24 Q: Okay. So you've come to court in relation to this case
25 over the past two-and-a-half years?

GAVIN GRAVES - CROSS BY MR. BAILEY

- 1 A: Yeah.
- 2 Q: Okay. So you haven't been running completely, have you?
- 3 A: No.
- 4 Q: And you've been in contact with the Solicitor's Office;
- 5 correct?
- 6 A: Ed Clements just got in contact with us. It was in July.
- 7 Q: Okay.
- 8 A: I think that's correct.
- 9 Q: Back when you came to a previous court hearing, how would
- 10 you hear about us coming to court?
- 11 A: I think, if I ain't mistaken, Ms. Vicky -- Ms. Vicky
- 12 would call.
- 13 Q: Okay. And she's with Solicitor Clements's office?
- 14 A: Mm-hmm.
- 15 Q: And she would tell you, Mr. Graves, we have court on this
- 16 day?
- 17 A: Yes. Correct.
- 18 Q: And you would come to court?
- 19 A: To -- not court, but bail.
- 20 Q: You'd come to a hearing in court?
- 21 A: A bail hearing.
- 22 Q: Any kind of hearing that we've had in this case in the --
- 23 in the history?
- 24 A: Yeah. I always came to the hearings.
- 25 Q: Okay. And when you come to court for those hearings,

GAVIN GRAVES - CROSS BY MR. BAILEY

1 Solicitor Clements knew you were here?

2 A: Correct.

3 Q: You never got arrested?

4 A: (No verbal response.)

5 Q: Was that a no, Mr. Graves?

6 A: I said no. No, sir.

7 Q: Okay. Now, you testified earlier that at about five
8 o'clock in the morning you were taken down to the Marion
9 County Sheriff's Office for an interview; correct?

10 A: Correct.

11 Q: And the Marion County Sheriff's Office followed you in
12 Derrick Wilson's truck?

13 A: Correct.

14 Q: And that is the truck that was shot two times that night?

15 A: Correct.

16 Q: Okay. Now, when you got down there for that interview,
17 Mr. Graves, who interviewed you?

18 A: I can't recall at this time. I can't recall, but I know
19 it wasn't -- it wasn't Bell. It was a -- it was a -- it was a
20 big guy.

21 Q: And it wasn't Detective Watson who you saw here earlier
22 today?

23 A: No. It was -- it was the -- if I ain't mistaken, I want
24 to say he said captain or -- I can't recall.

25 Q: Okay.

GAVIN GRAVES - CROSS BY MR. BAILEY

1 A: But I know the guy ain't here.

2 Q: Okay. Did they tell you that that interview was being
3 video recorded?

4 A: I can't recall.

5 Q: Okay. Did they tell you that it was being audio
6 recorded?

7 A: I can't recall.

8 Q: Okay. Now, your first statement in this case -- you
9 wrote one for law enforcement; correct?

10 A: Correct.

11 Q: And you recall writing that statement at about 2:30 in
12 the morning? Do you recall that?

13 A: Yes.

14 Q: Okay. And it was a very short and brief statement. You
15 would agree with me on that; correct?

16 A: Yes, sir. Because if I ain't mistaken, I think I wrote
17 another one. I think I wrote two that night, one while I was
18 at the trailer and I wrote another, if I can recall correctly,
19 at the police department.

20 MR. BAILEY: Court's indulgence for a moment, Your Honor.

21 THE COURT: Yes, sir.

22 BY MR. BAILEY:

23 Q: When you wrote one at the police department, was that
24 when you were taken in at five o'clock in the morning?

25 A: Say that again?

GAVIN GRAVES - CROSS BY MR. BAILEY

1 Q: When you went to the police department at five o'clock in
2 the morning, is that when you wrote that second statement?

3 A: Yeah. Either -- either -- no. If I can recall
4 correctly, either they -- they took a statement -- either he
5 was writing out as I was talking or I wrote a statement. I
6 can't remember, but I do remember handwriting one myself at
7 the trailer.

8 Q: Okay. If you did write a statement at the police
9 department with the detectives who interviewed you, they would
10 have kept that statement? They didn't send you home with it;
11 correct?

12 A: No. They didn't send me home with it.

13 Q: Okay. Derrick Wilson lived with you in this trailer?

14 A: That's correct.

15 Q: I'm sorry?

16 A: That's correct.

17 Q: Okay. Did you ever see him sell drugs?

18 A: A couple times marijuana, but that was it.

19 Q: You never saw him sell any crack?

20 A: Never.

21 Q: You never saw him sell any cocaine?

22 A: Never.

23 Q: Anybody come that night to buy drugs from Derrick Wilson?

24 A: Leon -- Leon Bethea came to buy some marijuana from him,
25 but he told Leon Bethea -- he told me to sell it to Leon

GAVIN GRAVES - CROSS BY MR. BAILEY

1 Bethea; so I sold it to Leon Bethea.

2 Q: Okay. Do you recall seeing a gentleman by the name of
3 Gino Upton come buy drugs?

4 A: Gino? Gino Upton? I can't recall.

5 Q: Okay. How about a gentleman by the name of Fred Frye?
6 You ever see him come buy drugs that night?

7 A: Fred Frye came there that night and he bought -- he
8 bought -- as a matter of fact, he bought -- because I had four
9 ounces of marijuana until Fred Frye came and bought an ounce
10 of marijuana.

11 Q: Okay. How about David Graves? Did he come that night
12 and buy some drugs?

13 A: David Graves? No.

14 Q: Street name Charlie B?

15 A: Charlie B?

16 Q: Yeah.

17 A: No. Charlie B -- I remember -- I can recall Charlie B
18 coming there selling us some socks and drawers.

19 Q: He -- he came that night and sold you all some socks and
20 underwear?

21 A: Well, earlier. It was about nine o'clock. He's a thief.
22 That's what he do. He steals some clothes and come sell it to
23 you. I needed some drawers; I bought some.

24 Q: Did you tell law enforcement that?

25 A: That happened -- that happened around nine o'clock.

GAVIN GRAVES - CROSS BY MR. BAILEY

1 Q: I know, but in any of your interviews did you tell them
2 that David Graves came and sold y'all some underwear?

3 A: I mean to get locked up for receiving stolen goods, uh-
4 uh, no.

5 Q: Okay. But you were willing to admit that the marijuana
6 was yours?

7 A: Yeah.

8 Q: And risk going to jail for that?

9 A: Yeah. Because -- because I mean that -- that was my
10 marijuana.

11 Q: Okay. But it wasn't your underwear?

12 A: Yeah, it was my underwear, but --

13 Q: But you didn't want to go to jail for the underwear?

14 A: No. I mean that's a fine. That's a \$252 fine I think.

15 Q: Okay. At no time that night did you see any person shoot
16 a gun; correct?

17 A: Correct.

18 Q: After the shooting happened, it was pretty chaotic in the
19 house; correct?

20 A: Sir?

21 Q: It was chaotic in the house, yes?

22 A: Yes.

23 Q: Okay. And before you did anything, your first reaction
24 was to throw your marijuana in your bedroom; correct?

25 A: Correct. It was -- because it was sitting -- well, by

GAVIN GRAVES - CROSS BY MR. BAILEY

1 the time I got up off the ground and then that's when the
2 first thing I thought about was my marijuana.

3 Q: Okay.

4 A: So I went over and I grabbed it because I knew the police
5 was coming.

6 Q: Okay. Detectives told you that night that they found
7 crack in the house?

8 A: Correct.

9 Q: Did you get arrested for that crack?

10 A: I owned up to the marijuana.

11 Q: My question, Mr. Graves, is did you get arrested for the
12 crack?

13 A: No, sir.

14 Q: Do you know if Mr. Kollock got arrested for the crack?

15 A: No, sir.

16 Q: Do you know if Mr. Wilson got arrested for the crack?

17 A: No, sir.

18 Q: How about Mr. Davis? Did he get arrested for the crack?

19 A: No, sir.

20 Q: Okay.

21 A: Because they -- they was looking for a murderer. I mean
22 it ain't like they came in there and they bust my house for
23 crack. They came there for a murder -- for a shooting.

24 Q: Okay. How long have you been selling drugs, Mr. Gavin
25 Graves?

GAVIN GRAVES - CROSS BY MR. BAILEY

1 A: Well, to be honest with you, I had just started back. I
2 had just started selling marijuana because my mama had a
3 couple seizures and I had to pay her bills. So I just had
4 started back. And any real man ain't going to watch his mama
5 struggle.

6 Q: Okay. Now, you said you just started back. So when was
7 the first time you sold drugs?

8 A: When I was 16 years old, but when I noticed it wasn't for
9 me, I started working and I've been working ever since until I
10 couldn't find no job. So that's when I started back selling
11 marijuana.

12 Q: And how old are you today?

13 A: I'm 28. I'll be -- I'm 27. I'll be 28 this year.

14 Q: Okay. And when you were 16, you sold drugs for how long
15 before you stopped the first time?

16 A: I mean I bought a little half a bag up. I was in the
17 way. I wasn't really doing nothing big. I just was -- it
18 just was an experience I gained. I didn't like it; so I
19 stopped and --

20 Q: Okay.

21 A: -- went to work.

22 Q: And then you started back again; correct?

23 A: When my mama needed help.

24 Q: Okay. You would agree with me that selling drugs is a
25 dangerous activity; correct?

GAVIN GRAVES - CROSS BY MR. BAILEY

- 1 A: Correct. Especially after an event like this.
- 2 Q: And you don't carry a gun?
- 3 A: I have a gun.
- 4 Q: You have a gun?
- 5 A: I don't -- I don't carry a gun.
- 6 Q: Okay. Did you have a gun back on April the 13th, 2012?
- 7 A: No, sir. But after it happened, I went and got me a gun.
- 8 Q: Okay. Did you see Juice Man have a gun that night?
- 9 A: No, sir.
- 10 Q: Okay. How close of friends are you with Derrick Wilson?
- 11 A: Derrick Wilson? That's my boy.
- 12 Q: Yeah.
- 13 A: That's my -- that's my old lady's brother.
- 14 Q: Okay. So you guys are very close?
- 15 A: Correct.
- 16 Q: Know a lot about one another?
- 17 A: He got his business and I got mine, but you know.
- 18 Q: Okay.
- 19 A: He hangs around.
- 20 Q: How about Mr. Davis? How well do you know Mr. Davis?
- 21 A: I met -- I met every last one of them off of Mr. Wilson.
- 22 Q: Okay. How well do you know Mr. Kollock?
- 23 A: I met every last one of them off of Mr. Wilson.
- 24 Q: How well do you know Mr. Kollock?
- 25 A: So-so.

GAVIN GRAVES - CROSS BY MR. BAILEY

1 Q: Okay.

2 A: I mean I got -- I got cool with all of them during the
3 time.

4 Q: Okay. When's the last time you talked to Mr. Kollock?

5 A: Being I was with -- after the shooting, we barely seen
6 Mr. Kollock.

7 Q: Okay. And it's your understanding that after court this
8 week you're going to plead guilty to a marijuana charge?

9 A: Correct. I'm going to -- I'm going to take pre-trial
10 intervention. Well, I'm going to try to take pre-trial
11 intervention so I can keep my job so I won't have to sell
12 marijuana again.

13 Q: Okay. So your picture has never been published in any of
14 these arrestee magazines that we see in convenience stores?

15 A: I don't read them magazines.

16 Q: Okay. That's a good job with Coca-Cola you would agree?

17 A: That's why I'm trying to keep it.

18 Q: Yeah. Good benefits?

19 A: I mean to be honest with you, that's kind of my personal
20 business.

21 Q: I'm sorry?

22 A: That's kind of my personal business, benefits and stuff.
23 That's my business.

24 Q: Okay. But you have good benefits through Coca-Cola?

25 A: No.

GAVIN GRAVES - CROSS BY MR. BAILEY

1 Q: You don't have good benefits?

2 A: No.

3 Q: Okay. You get paid well through Coca-Cola?

4 A: I do all right.

5 Q: Able to provide for your family?

6 A: Yes. That's the most part.

7 Q: Okay.

8 A: I stay off the streets.

9 Q: Okay. What's the actual charge that you're going to
10 plead guilty to after this trial?

11 A: Being that it was less than 100 grams of marijuana, I
12 think it's a simple possession charge.

13 Q: Okay.

14 MR. BAILEY: Please answer any questions Mr. Clements may
15 have for you.

16 THE COURT: Any redirect?

17 MR. CLEMENTS: No, Your Honor. We would ask that Mr.
18 Graves be released from his subpoena.

19 THE COURT: Sir, you may step down. Thank you. Any
20 objection to him being released?

21 MR. DEBERRY: No, Your Honor.

22 MR. BAILEY: None, Your Honor.

23 THE COURT: You are so released and have no further
24 responsibility under your subpoena. All right. Ladies and
25 gentlemen, we've been going about an hour and a half. I'm

1 going to give you your afternoon break at this time. Please
2 step to the jury room. I'll get you back out here as quickly
3 as possible. Do not discuss the case. There is one juror
4 that needs to make a telephone call and I'll make arrangements
5 to do that. Okay? If you'll step to the jury room right now
6 though.

7 (Whereupon, the jury exits the courtroom at 3:04 p.m.)

8 THE COURT: All right. We'll stand down for just a
9 minute.

10 (Whereupon, there is a break in the proceedings from 3:05
11 p.m. until 3:28 p.m.)

12 THE COURT: All right. Anything from the State before I
13 bring the jury back out, Mr. Clements?

14 MR. CLEMENTS: Your Honor, our next witness is going to
15 be Mr. Derrick Wilson and Derrick is going to talk about the
16 prior -- prior beef he has with the defendants. Your Honor,
17 we might need to explore the situation. I'm not sure this
18 would be the time to do it. Mr. Bailey may have an objection
19 under 404(b).

20 THE COURT: Mr. Bailey?

21 MR. BAILEY: Thank you, Your Honor. May it please the
22 Court.

23 THE COURT: Yes.

24 MR. BAILEY: Judge, I have had a brief opportunity to
25 discuss this with Solicitor Clements about any prior bad acts

1 that he seeks to introduce through this witness against Mr.
2 Smith.

3 THE COURT: Mm-hmm.

4 MR. BAILEY: It's my understanding that Solicitor
5 Clements is only going to elicit testimony from Derrick Wilson
6 that Derrick Wilson previously hit my client with a pool
7 stick. So with that, I mean that's not a prior bad act
8 against my client, but if that's going to be the limitation of
9 it and no prior bad acts committed, I don't have a motion.

10 MR. CLEMENTS: I didn't get to finish what -- he hit him
11 with a pool stick because Blaton Smith and Shaheed Hayes had
12 bumped up against him in the American Legion -- I think it was
13 the American Legion club over in Dillon County and he had --
14 his testimony is he had to get them off of him because they
15 had a long-running situation of bad blood. And I think also
16 that after this incident there was another shooting over at
17 Derrick's aunt's house where they rode by and shot over --
18 over the top of some people there.

19 And I think it fits under Rule 404(b) because it would be
20 admissible as prior bad acts, but it's admissible to show
21 motive, identity, the existence of a common scheme or plan,
22 the absence of mistake or accident or intent. We don't
23 believe it was a mistake or an accident that this particular
24 trailer was shot up. We believe it was shot up intentionally
25 because they saw Derrick's car there when they approached it,

1 they were looking for Derrick, and that these were the guys
2 that had the beef with him and these were the guys that had
3 the motive.

4 So it gives the motive. It identifies them. It exists
5 of a plan, which I think that our other witness is going to
6 testify to. And that it wasn't a mistake or accident. It was
7 an accident that it hit Christian Drawhorn, but it was not an
8 accident that that particular trailer got shot up.

9 THE COURT: What is the time frame within which all of
10 this happened?

11 MR. CLEMENTS: I think this was a couple of months prior
12 to. Maybe as long as three months. I'm not sure. But it
13 caused Derrick to move out of Latta and move. That's why --
14 he's going to testify why he moved in with Gavin. I have some
15 incident reports right here, Your Honor, one where it was
16 Blaton Smith discharging a firearm in the town limits and it
17 was on 3/20 of 2011, and then also the fight at the Legion
18 club on the very same day where the complainant was again
19 Derrick Wilson.

20 MR. BAILEY: Your Honor, I'd like to review a copy of
21 those prior to the Court's submission.

22 (Whereupon, there is a pause in the proceedings.)

23 MR. DEBERRY: Your Honor, if I could?

24 THE COURT: Yeah.

25 MR. DEBERRY: Solicitor Clements indicates that Mr.

1 Wilson may testify that the pool stick incident, which I think
2 Mr. Wilson was ultimately charged with -- there was a warrant
3 drawn out for his arrest -- happened at the American Legion
4 hut. My client wasn't there. He's not -- he's not named in
5 the incident report and -- and he just wasn't there during
6 that incident.

7 MR. BAILEY: Your Honor, as the Court knows, the standard
8 under 404(b) for a prior bad act is that the State has to
9 prove that the prior bad act was committed with clear and
10 convincing evidence. If the State is successful in that, then
11 we have to balance it under 403.

12 Judge, I'm going to read directly from the incident
13 report that deals with the discharge of a firearm in the city
14 limits from March 20, 2011. This is over a year before this
15 shooting incident occurred.

16 Judge, Derrick stated he heard someone scream his name
17 and then heard gunfire, about four to five shots. He stated
18 one bullet hit the tree. At some point, Judge, he says he did
19 not see who was in the car.

20 Mr. Smith was never charged with this by his own report.
21 Derrick Smith -- or Derrick Wilson did not see Blaton Smith in
22 this car. So I don't think the State would be able to prove
23 clear and convincing evidence that Blaton Smith shot Derrick
24 Wilson or shot at Derrick Wilson over a year before the
25 incident happened.

1 And, Judge, the incident at Club Legion with the pool
2 stick -- I mean that was -- that's a criminal act by Derrick
3 Wilson, not Blaton Smith. I would submit to the Court that,
4 again, that -- that's got a date of March 20, 2011; so that's
5 over a year before this happened as well. Judge, there's --
6 there's too much prejudice --

7 MR. CLEMENTS: As I said, Your Honor, that was a long-
8 running series of beefs.

9 THE COURT: I mean I understand what you're saying of a
10 long-running, but if it's long-running, March of 2011 to April
11 2012, what happened between that period of time, if anything?

12 MR. CLEMENTS: There's a lot of incidents, Your Honor,
13 back and forth of stuff being said and things being -- some
14 things that I cannot substantiate that are not as solid as
15 when he says he got bumped around in the Legion Club --

16 THE COURT: When did that happen?

17 MR. CLEMENTS: -- and had to hit him with a pool cue to
18 get him off of him.

19 THE COURT: When did that happen?

20 MR. BAILEY: Both incidents the State seeks to introduce
21 against Blaton Smith happened March 20, 2011.

22 THE COURT: The same day?

23 MR. BAILEY: Yes.

24 THE COURT: Same day?

25 MR. BAILEY: The same day. And, Judge, I mean this

1 incident happened April 13th, 2012. It's what we're here for.
2 And there's no evidence that the State has that they've
3 submitted here today that shows my client or Mr. Wilson had
4 any type of run-in for a year. I mean that is so extremely
5 prejudicial, Judge, that my client would not be able to get a
6 fair trial if that information was to be presented to the
7 jury.

8 THE COURT: All right. Anything else, Mr. Clements?

9 MR. CLEMENTS: I beg the Court's indulgence a second.
10 What he does say and what Mr. Bailey didn't tell you is that
11 he did see Blaton's car over at his aunt's on Legare Street on
12 the side of the road when he heard someone scream his name and
13 he heard gunfire, about four or five shots. He didn't say who
14 he saw the car, but he did say that he saw Blaton's car.

15 And then later he said that -- the officer said he found
16 .380 spent casings in the grass where Derrick had pointed out
17 to me that Blaton's car was sitting just prior to the
18 shooting. So it was a little more than what Mr. Bailey was
19 reading. There was a little more to that.

20 THE COURT: Can I see the reports? I mean y'all keep
21 referring to them and I'd like to see them, please. Thank
22 you.

23 (Whereupon, there is a pause in the proceedings.)

24 MR. CLEMENTS: If we could, Your Honor, we'd offer a
25 proffer and that might be the quickest way to answer all the

DERRICK WILSON - PROFFERED DIRECT BY MR. CLEMENTS

1 questions.

2 THE COURT: You can proffer it. Go ahead.

3 MR. CLEMENTS: Your Honor, we'd call Derrick Wilson.

4 THE COURT: Place your left hand on the Bible and raise
5 your right hand. Do you solemnly swear or affirm the evidence
6 you give in the trial of this case shall be the truth, the
7 whole truth, and nothing but the truth, so help you God?

8 THE WITNESS: Yes, ma'am.

9 THE CLERK: Thank you. You can have a seat in the
10 witness box.

11 DERRICK WILSON, being first duly
12 sworn, testifies as follows:

13 PROFFERED DIRECT EXAMINATION

14 BY MR. CLEMENTS:

15 Q: Speak up and into that microphone. Is your name Derrick
16 Lamont Wilson?

17 A: Yes, sir.

18 Q: Derrick, if you would please, please inform the Court
19 about any incidents between you and Blaton Smith and/or
20 Shaheed Hayes and what's the nature of your bad blood?

21 A: Well, me and Adrian Smith had problems in the past, like,
22 throughout high school -- well, since I've been going through
23 school and after school, and I guess being that that's
24 Blaton's cousin, he took up the beef. Him and Shaheed robbed
25 me one time and --

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1 Q: When was that?

2 A: I don't recall the date.

3 Q: Did you make a police report?

4 A: Yes, sir. I let Kristal know.

5 Q: Okay.

6 A: Officer Moore. They robbed me. Then they broke into my
7 truck and stole my CD player -- it had a TV/radio on it -- and
8 my gun. And then I seen Blaton that night at the American
9 Legion nightclub and he was in there bumping me and that's how
10 he got -- we got into the altercation with the pool stick.

11 Q: Okay.

12 A: Okay. Then me and Shaheed got into an altercation at the
13 nightclub probably, like, that following week when Blaton
14 wasn't out there. It was a scuffle, but both of those guys
15 robbed me before.

16 Q: All right. How do you know it was them that robbed you?

17 A: It was point blank with pistols.

18 Q: Okay.

19 A: No masks. They ain't had no masks.

20 Q: All right. And how do you know -- it was you and Blaton
21 got into a fight at the Legion Club?

22 A: Yes, sir.

23 Q: Okay. What happened after that?

24 A: After that later on that night or later on that day, he
25 came through in his car -- it was a gray Crown Vic -- and he

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1 passed through. We seen him coming through and somebody
2 yelled my name. So we backed away from the road. They passed
3 by my aunt's house slow and then they bent the block which
4 leads to -- they bent the block off of Antonio Street and it
5 leads to Legare Street. It's, like, I think Atkinson Street
6 and then to Woodley Street and then make a right and it will
7 be right back to Legare Street that's facing right across from
8 my aunt's house.

9 And they stopped right there, rolled the back window
10 down, and fired shots out the window. Me and Darrell and a
11 couple more people was standing in the yard and one of the
12 bullets we know hit the tree.

13 Q: Now, how do you know it was Blaton Smith?

14 A: It was his car, and me and him had just had an
15 altercation that night.

16 Q: Okay. And how -- how many hours -- how many minutes was
17 it from the altercation to the shooting?

18 A: Probably a couple hours after.

19 Q: A couple? A couple hours? And do you recall when that
20 was?

21 A: Not exactly.

22 Q: How long ago?

23 A: It was in 2011.

24 Q: Okay. And what happened with Shaheed after that?

25 A: They was together when they had robbed me one time before

DERRICK WILSON - PROFFERED DIRECT BY MR. CLEMENTS

1 and I hadn't seen him since. So I had seen at the -- at the
2 nightclub probably that following weekend. Blaton wasn't out
3 there, but he was out there. Me and him got into a scuffle.
4 Both of us was on alcohol. It was not too severe of a fight.
5 It was just a scuffle. Everybody broke it up and that was it.

6 Q: Okay. And did you have any incidents with him since
7 then?

8 A: No, sir. I got out of the way. I just -- instead of me
9 getting in trouble or they hurting me or I hurting them, so I
10 just moved.

11 Q: All right. When did you -- you took a long time before
12 you moved, did it not?

13 A: Actually, I was back and forth with a few girls instead
14 of being in Latta because I ain't want to be in Latta. So I
15 had a few girls that I'd just go maybe spend the night with or
16 something until I decided I was going to move with Gavin.

17 Q: All right. And you ended up living with Gavin?

18 A: Yes, sir.

19 Q: All right. And they were the reason why you moved?

20 A: Yeah.

21 Q: All right.

22 A: Scared to.

23 Q: What part did Adrian Smith play in this?

24 A: That's his cousin. Him and Blaton robbed me one time
25 before and for some reason Adrian never liked me. For some

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1 reason, I don't know.

2 Q: Okay. All right. Answer any other questions counsel may
3 have.

4 THE COURT: Cross examination, Mr. Deberry?

5 MR. DEBERRY: I don't have any questions.

6 THE COURT: Mr. Bailey?

7 MR. BAILEY: I do, Your Honor.

8 PROFFERED CROSS EXAMINATION

9 BY MR. BAILEY:

10 Q: Mr. Wilson, the first incident you described was a
11 robbery by Blaton Smith and Shaheed Hayes?

12 A: The first robbery -- it was Blaton and Adrian Smith --

13 Q: Okay.

14 A: -- the time before.

15 Q: Okay. So Blaton Smith and Adrian Smith robbed you? That
16 was the first incident you wanted to talk about?

17 A: Yeah.

18 Q: Okay. You know a lot about Adrian Smith; correct?

19 A: He's from Latta. I'm from Latta.

20 Q: Okay. He was in a car wreck; right?

21 A: Yeah.

22 Q: Do you recall when that was?

23 A: Huh?

24 Q: Do you recall when that car wreck was?

25 A: I don't know what year or nothing.

DERRICK WILSON - PROFFERED CROSS BY MR. BAILEY

- 1 Q: Okay. But it's been a long time; correct?
- 2 A: Yeah.
- 3 Q: And he's paralyzed?
- 4 A: Yeah.
- 5 Q: And he's in a bed?
- 6 A: He's in a wheelchair.
- 7 Q: And he's in a wheelchair?
- 8 A: Yeah.
- 9 Q: Okay. So this robbery had to have taken place before
- 10 2009?
- 11 A: Yeah.
- 12 Q: Before his car wreck?
- 13 A: Yeah.
- 14 Q: Okay.
- 15 A: Like I said, we had prior -- since school.
- 16 Q: Okay.
- 17 A: Me and him never --
- 18 Q: All right. And then you said -- or you testified for Mr.
- 19 Clements that Blaton Smith and Shaheed robbed you one time;
- 20 correct?
- 21 A: Yes.
- 22 Q: And that was before 2011?
- 23 A: It had to be in 2011.
- 24 Q: In 2011?
- 25 A: Yeah.

DERRICK WILSON - PROFFERED CROSS BY MR. BAILEY

- 1 Q: Okay. And you didn't file a police report?
- 2 A: I let Office Kristal Moore know.
- 3 Q: You did?
- 4 A: Yes.
- 5 Q: Did she file a police report?
- 6 A: I have no idea.
- 7 Q: Did she make any arrests in the case?
- 8 A: No. I didn't press charges.
- 9 Q: Okay. So outside of your testimony here today, you have
- 10 no proof that these two gentlemen robbed you back in 2011?
- 11 A: I know they robbed me. That don't matter?
- 12 Q: My question: Outside of your testimony, you have nothing
- 13 to support your allegation that they robbed you in 2011?
- 14 A: No. I got witnesses. I got somebody that know.
- 15 Q: Okay. Also in 2011, we have the pool stick incident;
- 16 correct?
- 17 A: Yes.
- 18 Q: And all your allegation is is they gave you some dirty
- 19 looks?
- 20 A: No.
- 21 Q: Bumped into you a little?
- 22 A: That and giving me the eye and came in the pool area
- 23 where I was because I seen him in the bar area so I went to
- 24 the pool area and he came over there where I was --
- 25 Q: Okay.

DERRICK WILSON - PROFFERED CROSS BY MR. BAILEY

1 A: -- bumping me.

2 Q: He bumped into you?

3 A: Yes. I was shooting pool.

4 Q: Okay. And then you hit him with a pool stick?

5 A: I mean we got into a fight. I had the pool stick in my
6 hand.

7 Q: And then later that same day your allegation is that you
8 see his car?

9 A: I was standing in my aunt's yard and his car was stopped
10 there.

11 Q: You see his car? And you don't disagree you told law
12 enforcement back in 2011 that you didn't see who was in the
13 car; right?

14 A: But I knew whose car it was. I knew that.

15 Q: Do you know whose car it was?

16 A: The altercation -- altercation -- altercation from
17 before.

18 Q: Okay. And since 2011 for a year before this shooting
19 happened, nothing has gone on?

20 A: I mean because I was staying out of Latta.

21 Q: My question: nothing has gone on since March of 2011?

22 A: No, because I was staying out of Latta.

23 Q: Okay.

24 MR. BAILEY: Your Honor, I have no further questions.

25 THE COURT: All right. Anything else, Mr. Clements?

1 MR. CLEMENTS: No, Your Honor, not on this issue.

2 THE COURT: All right. All right. Based upon the
3 testimony that I have heard and based upon my review of the
4 incident reports, I am not going to allow you to go into that.
5 First of all, under Rule 404(b), it cites State v. Clasby, C-
6 l-a-s-b-y, 385 S.C. 148. It says to be admissible the bad act
7 must logically relate to the crime with which the defendant
8 has been charged. If the defendant was not convicted of a
9 prior crime, evidence of a prior act must be clear and
10 convincing.

11 While I certainly understand the situation that happened
12 at the American Legion over in Dillon, based upon the Court's
13 review of the incident report that was handed up by the
14 officer -- by Mr. Clements -- excuse me -- wherein the
15 incident report indicates that the complainant, Derrick
16 Wilson, stated he had been in a confrontation with Blaton
17 Smith at the club. He stated that he was playing pool and
18 Blaton Smith walked out of the club and bumped into him.
19 Derrick stated he kept playing pool and when Blaton came back
20 by with a water that he pushed him and he hit him with a pool
21 stick and they started fighting.

22 Based upon my reading of this incident report, Mr. Smith
23 is the one -- excuse me -- Mr. Wilson is the one that further
24 instigated that situation or escalated that situation into a
25 fight.

1 Furthermore, in reading with regards to the discharging
2 of a firearm in the town limits, while I certainly understand
3 that it is his belief that it was Blaton Smith's automobile,
4 he did not -- the testimony nor the incident report here
5 illustrates by clear and convincing evidence that it was
6 Blaton Smith who fired the shots at him. In addition, the law
7 under State v. Martucci, 380 S.C. 232, states that the degree
8 of remoteness between the other crimes and the one charged is
9 one factor to be considered in determining the connection
10 between them.

11 The acid test of admissibility is the logical relevancy
12 of the other crimes. When a criminal -- criminal defendant's
13 prior bad acts were directed toward the same victim and are
14 very similar in nature, those acts are admissible as a common
15 scheme or plan. The incident testified to here today occurred
16 over a year -- over a year prior to what brings us into this
17 courtroom with the charges against Mr. Smith and Mr. Hayes.

18 Furthermore, under State v. Tuffour, T-u-f-f-o-u-r, 364
19 S.C. 497, it states if the Court does not clearly perceive the
20 connection between the extraneous criminal transaction and the
21 crime charged, that is its logical relevancy, the accused
22 shall be given the benefit of the doubt and the evidence
23 should be rejected.

24 Giving the defendants the benefit of the doubt, the Court
25 is not going to allow such testimony to be elicited because I

1 do not -- because of the degree of remoteness as testified to
2 here and not only testified to but as illustrated in the
3 police reports or incident reports handed up by the solicitor.

4 Now, with regards to the other issue that was brought to
5 my attention in chambers before I came back out -- and I'm not
6 sure -- I do not recall which witness it was about pending
7 charges.

8 MR. CLEMENTS: This witness.

9 THE COURT: This witness right here? It was brought to
10 my attention in chambers that this young man has some pending
11 charges against him, and those pending charges -- let me give
12 you these back, Mr. Clements -- against Mr. Wilson -- if you
13 would, tell me what those pending charges are, Mr. Clements?

14 MR. CLEMENTS: Your Honor, they come from August the 15th,
15 2013. He has a possession of cocaine, a possession of a
16 pistol, and possession with intent to distribute, and charged
17 with both possession and PWID.

18 THE COURT: It's PWID -- what's the last one? You said
19 possession of cocaine, pistol, and PWID cocaine?

20 MR. CLEMENTS: Yes, sir.

21 THE COURT: Okay. Well, one of the issues that was asked
22 back in chambers -- it was Mr. Deberry and/or Mr. Bailey's
23 intention to ask him about those pending charges. Mr.
24 Clements made it clear back in chambers that he objected to
25 that, that those -- however, those charges are currently

1 pending. Is that right, Mr. Clements?

2 MR. CLEMENTS: (No verbal response.)

3 THE COURT: Well, under Rule 608(c) -- and I've gone back
4 and looked at Rule 608. If the charges were disposed of in
5 some capacity before, I do not -- there would be more of a
6 questionable issue as to whether or not they could ask him
7 about those charges. I am going to allow Mr. Deberry and/or
8 Mr. Bailey to ask him about the pendency of those charges
9 because I certainly believe when the pendency of those charges
10 rests within the hands of this Solicitor's Office as to how
11 you all proceed in the prosecution of those charges certainly
12 could go to bias and/or prejudice as to his testimony.

13 Now, what I will not allow -- what I will not allow is
14 for you to ask him about the facts pertaining to those
15 particular charges because as he sits here in this witness
16 stand he is presumed innocent. He is presumed innocent of
17 those charges until he is proven guilty in a court of law, but
18 I do think that with the Solicitor's Office in this circuit
19 that if they were in a different circuit, different ballgame.
20 But they are pending within this circuit and that Solicitor's
21 Office holds the strings, so to speak, as to what happens with
22 those charges, and I think it would go to possible bias,
23 prejudice or motive to misrepresent what's being said from
24 this stand. So I will allow that.

25 All right. Anything else?

1 MR. CLEMENTS: Your Honor, if I may just for the record,
2 this is Indictment 2014-GS-33-70. It's -- being the
3 investigator -- the case comes from the Marion County Drug
4 Unit.

5 THE COURT: Okay.

6 MR. CLEMENTS: I will submit to Your Honor that it does
7 not have any connection whatsoever to this situation.

8 THE COURT: I understand that, but he -- on those charges
9 alone -- and I don't know what, if any, kind of criminal
10 record he's got -- he's looking at --

11 MR. CLEMENTS: Zero.

12 THE COURT: Okay. But he's still looking at a
13 substantial amount of time in jail over those charges.

14 MR. CLEMENTS: And, Your Honor, the fact is the only
15 reason -- and I would just -- with all due respect, just for
16 the record, Your Honor, I would take exception to your ruling
17 --

18 THE COURT: I understand.

19 MR. CLEMENTS: -- because of the mere fact that he is a
20 victim in this case. If he was a -- a fact witness or
21 somebody that was going to be verifying, I'd see where he'd
22 have -- where this could possibly bias him, but he is a
23 victim.

24 THE COURT: I understand.

25 MR. CLEMENTS: I think we should exclude him from -- from

1 the bias analysis.

2 THE COURT: Well, unless -- unless I'm going to hear
3 anything different, nobody that was a victim in that mobile
4 home that night can identify either one of these gentlemen as
5 shooting in there that night and so while I understand he's a
6 victim, there is still a possibility of potential bias of his
7 testimony.

8 MR. CLEMENTS: Yes, sir.

9 THE COURT: And -- and while -- I mean he's not going to
10 come in here and identify them and, if he did, that may go to
11 bias, but by the same token there are pending charges against
12 him. And I'm not saying that this is the case at all -- at
13 all, but if they're not allowed to ask him at least about the
14 pendency of those charges, I'm going to allow them to proffer
15 that and the appearance of it -- the mere appearance of it
16 that this office -- the Solicitor's Office holds the strings
17 to what happens in that case. The appearance of it could be
18 that his -- that he may receive favorable treatment based upon
19 his testimony coming in here today and/or simply testifying
20 period in hopes of receiving some preferential treatment from
21 your office for following up because there is a situation on
22 it, as you well know and as I well know, of the victims and/or
23 witnesses refusing to testify or cooperate.

24 MR. CLEMENTS: Yes, sir.

25 THE COURT: And that could be a reasonable inference I

1 believe and I know you understand where the Court is coming
2 from on that issue.

3 MR. CLEMENTS: Yes, sir.

4 THE COURT: So to take out any of that, I'm going to
5 allow them to ask him whether or not those charges are
6 pending. They will not be allowed to ask about any facts
7 whatsoever pertaining to those charges because he has rights
8 just like anybody else does.

9 MR. CLEMENTS: Well, Your Honor, just so I don't misstep,
10 since you're going to allow them to ask about it, I may want
11 to go ahead and ask about it.

12 THE COURT: Well -- and that's fine if you do. That's
13 entirely up to you, but if you don't, I'm going to allow them.
14 Okay?

15 MR. CLEMENTS: And just the fact of me asking about him
16 having pending charges, that won't open the door of getting
17 into any facts, will it?

18 THE COURT: Absolutely not.

19 MR. CLEMENTS: Okay. The other -- the last question I
20 got, Your Honor, to be sure that I proceed as the Court wishes
21 -- am I allowed to not ask him about any specific instances of
22 conduct, but am I allowed to ask him in general if he had bad
23 blood with either of these two defendants in the past?

24 THE COURT: Any objection to that?

25 MR. DEBERRY: Well, Your Honor, I wanted to -- just for

1 the record to be clear that the ruling for Mr. Bailey earlier
2 that included no prior bad acts or the specific acts that were
3 brought up during the proffer protect my client as well; is
4 that correct?

5 THE COURT: Yeah. I mean I didn't hear anything that --
6 that necessarily brought your client into the realm of this --
7 that argument.

8 MR. DEBERRY: Exactly. And I think there's evidence just
9 to show that he might not have been around during that.

10 THE COURT: Okay.

11 MR. DEBERRY: So I wanted to make sure of that. As far
12 as the facts going into Mr. Wilson's charges, is it -- it's
13 unclear to me whether Mr. Clements is going to -- I mean it
14 seems that -- is it the Court's ruling that Mr. Clements is
15 limited in entering any evidence at all or asking him any
16 questions that relates to the charges that he has pending to
17 this case? Because that would be factual in nature too.

18 THE COURT: Say that again?

19 MR. DEBERRY: If Mr. Clements is going to --

20 THE COURT: I mean I thought I was pretty clear.

21 MR. DEBERRY: -- ask Mr. Wilson about the pending
22 charges, is he limited as well in regards to getting into the
23 factual situations like you're limiting us?

24 THE COURT: As it pertains to his pending charges?

25 MR. DEBERRY: Right.

1 THE COURT: Yeah. I mean I'm not -- he has -- who is his
2 lawyer?

3 MR. DEBERRY: I think it's Thurmond Brooker.

4 THE COURT: Well, Mr. Brooker was in here earlier today.
5 I don't see him now, but --

6 MR. CLEMENTS: He's probably downstairs, Your Honor.

7 THE COURT: You know, I'm not going to allow either one
8 of you to get into the facts of his case when he's got pending
9 charges out there. He's got Fifth Amendment rights just like
10 everybody else does.

11 MR. DEBERRY: Right. So that would limit Mr. --

12 THE COURT: Yes.

13 MR. DEBERRY: -- the solicitor --

14 THE COURT: Yes.

15 MR. DEBERRY: -- from --

16 THE COURT: Yes.

17 MR. BAILEY: Your Honor, I want to be heard on Mr.
18 Clements's request about a generalized "they had beefs in the
19 past and problems." Judge, the only rule that allows him to
20 get into that to establish motive, which is exactly what he
21 wants to do, is 404(b) and, Judge, I don't think without being
22 able to prove that any type of prior bad act with clear and
23 convincing evidence is strictly not admissible pursuant to the
24 rule.

25 THE COURT: Hold on a minute.

1 (Whereupon, there is a pause in the proceedings.)

2 THE COURT: I'm going to allow Mr. Clements to ask that
3 question without getting into the specifics of it as to
4 whether or not there was some bad blood there, but I'm not
5 going to allow -- I don't see anything wrong with allowing
6 that, but as far as going back in the specifics of what was --
7 what went on 13 months before this whole thing happened, I'm
8 not going to allow that and I've made my ruling on that.

9 MR. BAILEY: Your Honor, can I just place on the record
10 that my objection is under 404 because what this is --

11 THE COURT: I understand.

12 MR. BAILEY: -- is character evidence and my client's
13 character is not an issue --

14 THE COURT: Well, it's not -- all he's saying -- or at
15 least what I understand Mr. Clements to say is whether or not
16 he and your client I guess like or dislike each other, so to
17 speak; is that right?

18 MR. CLEMENTS: That's correct, Your Honor, and I'm not
19 going to ask --

20 THE COURT: I mean I'm not attacking --

21 MR. CLEMENTS: -- about any specific incident or act.

22 THE COURT: He's not asking about specific instances.
23 He's not asking about your client's character or anything that
24 your client may have done to elicit that -- or result in that
25 bad blood; is that correct?

1 MR. CLEMENTS: Yes, sir. That's correct.

2 THE COURT: All right. So I'm not -- it's not going to
3 his character at all.

4 MR. BAILEY: Well -- and just for the record, that this
5 Court's finding that the probative value outweighs the
6 prejudice to my client?

7 THE COURT: I do find that. Thank you. For the record.
8 Yes, sir, Mr. Deberry?

9 MR. DEBERRY: Your Honor, just for the record, I'd like
10 to make the same objection under 404. I'm assuming that the
11 same thing --

12 THE COURT: I mean I haven't heard anything that even
13 ties your client into that, but my ruling remains the same --

14 MR. DEBERRY: Thank you.

15 THE COURT: -- on that issue, but your objection is -- is
16 noted as well for the record. Anything else?

17 MR. CLEMENTS: I believe that's it, Your Honor, unless
18 you allow me to run back there real fast.

19 THE COURT: All right.

20 MR. CLEMENTS: And, Your Honor, I think he needs to be
21 sworn in front of the jury. If he can step down?

22 THE COURT: Well, he can step down and have a seat right
23 there on that bench, Mr. Wilson, by the solicitor's table.

24 (Whereupon, the witness complies.)

25 (Whereupon, there is a pause in the proceedings.)

1 MR. CLEMENTS: Thank you, Your Honor.

2 THE COURT: Yes, sir. All right. Anything else before I
3 bring the jury out?

4 MR. CLEMENTS: No, sir.

5 THE COURT: And let me say this and you may want to
6 confer with Mr. Wilson so he is clear on what this Court ruled
7 as far -- as well.

8 MR. CLEMENTS: Yes, sir.

9 (Whereupon, there is a pause in the proceedings.)

10 MR. CLEMENTS: Thank you.

11 THE COURT: Could y'all come -- can the lawyers come up
12 here while the jury is coming in? Go ahead and bring me the
13 jury out, please, sir.

14 (Whereupon, a bench conference is held off the record.)

15 (Whereupon, the jury enters the courtroom at 4:06 p.m.)

16 THE COURT: Thank you for your patience, ladies and
17 gentlemen. We were not out here twiddling our thumbs while
18 you all were back there. We were out here handling some
19 matters that we needed to handle outside of your presence. So
20 I appreciate your patience. Mr. Clements, you're so
21 recognized. Call your next witness, please.

22 MR. CLEMENTS: Thank you, Your Honor. We'd call Derrick
23 Lamont Wilson. Derrick, if you will, step over and be sworn.

24 THE CLERK: Mr. Wilson, come forward and let me swear you
25 in, please, sir. Place your left hand on the Bible and raise

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1 your right hand. Do you solemnly swear or affirm the evidence
2 you're about to give in the case in this trial shall be the
3 truth, the whole truth, and nothing but the truth, so help you
4 God?

5 THE WITNESS: Yes, ma'am.

6 THE CLERK: You may have a seat in the witness box.

7 DERRICK WILSON, being first duly
8 sworn, testifies as follows:

9 DIRECT EXAMINATION

10 BY MR. CLEMENTS:

11 Q: Good afternoon. Can you please tell this jury what your
12 name is and where you live?

13 A: My name is Derrick Wilson. I'm from Latta, South
14 Carolina. I live in Latta, but I was residing on Highway 501
15 North.

16 Q: All right. So in April of 2012, where were you living?

17 A: On Highway 501 North in the trailer that got shot up.

18 Q: And you're kind of soft-spoken. I'm going to ask you to
19 speak up as loud as you can.

20 A: I was living on Highway 501 North at the trailer that had
21 got shot up.

22 Q: That's better. Thank you. Now, where were you raised?

23 A: I was raised in Latta, South Carolina.

24 Q: Where did you go to school?

25 A: Latta, South Carolina.

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1 Q: Okay. And I want to go ahead and get this out of the
2 way. Do you have any criminal convictions?

3 A: I don't have no criminal record, but I do have charges
4 pending. But it's not related to this case.

5 Q: And when are they from? What's the date on that
6 incident? In August?

7 A: August the 15th, 2013.

8 Q: 2013?

9 A: Yes, sir.

10 Q: So more than a year after this incident?

11 A: Yes, sir.

12 Q: Okay. All right. And those are pending here in Marion
13 County?

14 A: Yes, sir.

15 Q: In my office?

16 A: Yes, sir.

17 MR. DEBERRY: May I approach, Your Honor, just very
18 briefly if we can approach?

19 THE COURT: All right.

20 (Whereupon, a bench conference is held in the presence of
21 the jury but out of the hearing of the jury as follows.)

22 MR. DEBERRY: He's testifying about the charges not being
23 related.

24 THE COURT: What?

25 MR. DEBERRY: He's testified about the charges not being

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1 related to this case.

2 THE COURT: And you contend they are related to this
3 case?

4 MR. DEBERRY: No. I didn't think we could get into that.

5 THE COURT: You can't get into the facts about the
6 charges that you -- confessed or gave a statement and
7 confessed to it. That's what I meant.

8 MR. DEBERRY: Okay. The facts being -- that's part of
9 the facts.

10 (Whereupon, the bench conference ends.)

11 BY MR. CLEMENTS:

12 Q: Derrick, do you know Darrell Antonio Davis?

13 A: Yes, sir, I do.

14 Q: What do you call him?

15 A: Goo Baby.

16 Q: Do you know Gavin Graves?

17 A: Yes, sir.

18 Q: Does he have a nickname?

19 A: Bullet or G.

20 Q: Okay. Do you know a Christopher Kollock?

21 A: Yes, sir, I do.

22 Q: What do you call him?

23 A: O.J. the Juice Man.

24 Q: Okay. All right. Do you know or did you know Christian
25 Drawhorn?

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1 A: Yes, sir.

2 Q: And did you call him anything?

3 A: Yeah. We called him C-Murder because his favorite rapper

4 was C-Murder Master P.

5 Q: That's a -- that's a singer -- a rapper?

6 A: Yes, sir.

7 Q: Okay. And do you have a nickname?

8 A: Eyebrows.

9 Q: Eyebrows? Okay. Is that what everybody pretty much

10 calls you?

11 A: That's how my homeboys call me.

12 Q: Okay.

13 A: All my friends.

14 Q: All right. Now, Derrick, you were -- where were you

15 living April of 2012?

16 A: I was living on Highway 501 North.

17 Q: And who were you living with?

18 A: Gavin Graves.

19 Q: How long had you lived there?

20 A: Probably three months -- not no longer than three months,

21 if three months.

22 Q: Okay. And prior to that, where were you living or

23 staying at?

24 A: At 110 Antonio Street. That's in Latta, South Carolina.

25 Q: All right. Did you stay there all the time?

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1 A: Yes, sir.

2 Q: All right. Did you ever go anywhere else prior to moving
3 to Gavin's on occasion?

4 A: No. Just bouncing around from a couple of girlfriends,
5 but that's it.

6 Q: Bouncing around there?

7 A: Yes, sir.

8 Q: So you wouldn't stay in Latta all the time?

9 A: No.

10 Q: Okay. Now, do you recall what y'all were doing that
11 evening on the 12th of April?

12 A: Yes, sir.

13 Q: What were you doing?

14 A: I was actually laying on the couch and Gavin had the
15 Facebook and Black Bikers' Week on the big screen TV through
16 his computer.

17 Q: Okay.

18 A: So we were just sitting just -- we had just got finished
19 playing cards and drinking Bud Lights, you know, and smoking
20 weed, but I wasn't smoking. And we were just out because we
21 don't go to the club so we decided we'd start our weekend
22 there so we wouldn't have to go out to the club so we could
23 sit home thinking it was safe.

24 Q: Thinking it was safe?

25 A: Yeah.

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1 Q: Did you used to go to the clubs?

2 A: Yeah. I used to go to the clubs.

3 Q: Okay. All right. Now, do you recall where everybody was
4 sitting or not?

5 A: Yes, sir.

6 Q: Okay. I'm going to ask the judge if he could give you
7 permission to step down.

8 THE COURT: Yes, sir.

9 MR. CLEMENTS: And I'm going to have you stand over here.

10 (Whereupon, the witness complies.)

11 Q: I'm going to show you State's Exhibit 42. Is that how it
12 looked? I know it's kind of roughly drawn, but does that look
13 anything familiar to you?

14 A: Yes, sir.

15 Q: All right. What does that look like to you?

16 A: The inside of the trailer.

17 Q: The inside of the trailer?

18 A: Yes, sir.

19 Q: Whose trailer?

20 A: Gavin's trailer.

21 Q: Gavin's trailer?

22 A: Yes, sir.

23 Q: Now, if you would, take that laser pointer. Do you see
24 how that works?

25 A: Yeah.

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1 Q: Show us where you were sitting?

2 A: Basically, I was laying on this couch right here with my
3 feet up.

4 Q: All right. Where was the TV?

5 A: The TV was right there in the corner like in-between --
6 it was, like, at an angle.

7 Q: A big screen?

8 A: Yeah.

9 Q: Pushed back in the corner?

10 A: Yeah.

11 Q: And where was Gavin?

12 A: Gavin was at this little chair right here.

13 Q: Okay. Where were the other three guys?

14 A: They was at the kitchen table.

15 Q: Where's that at?

16 A: The kitchen table is right there.

17 Q: And do you know who was sitting in what seats?

18 A: Yes, sir.

19 Q: Tell me who was sitting where?

20 A: Christopher Kollock was sitting right here, Christian
21 Drawhorn was sitting right here, and Darrell Davis was sitting
22 right here.

23 Q: Okay. All right. And were y'all having a good time?

24 A: Yes, sir, we was. We was sitting around drinking a few
25 Bud Lights. That's why I was laid out. I'd almost had my

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1 limit.

2 Q: Okay. And had anybody been back and forth from the
3 trailer? Did anybody come up there?

4 A: Yes, sir. A few people came.

5 Q: And what -- what did they come to do -- some of them?

6 A: They came to get some weed from Gavin to smoke. They'd
7 sit down and they smoked and drank a couple beers with us
8 also.

9 Q: Okay. Now, do you know anything or did you have any
10 knowledge at all about any cocaine or crack being there in the
11 --

12 A: I never seen no cocaine. I never seen no cocaine or
13 crack.

14 Q: Okay.

15 A: Nobody never presented it to me, but I heard through what
16 they were saying.

17 Q: Okay.

18 A: So actually I don't know who had it or where it came from
19 or whose all it was.

20 Q: But somebody there had some?

21 A: Yeah.

22 Q: Okay.

23 A: They said they found some.

24 Q: And you don't know who?

25 A: I don't know who had it.

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1 Q: Okay.

2 A: It might have been -- I'd say like -- as far as I can
3 say, Christian Drawhorn and Christopher Kollock kept going
4 back and forth in that area. So I don't know which one of
5 them it was. So I don't know. I can't say.

6 Q: But you didn't do any?

7 A: No.

8 Q: Okay. At some point in time, for lack of any other
9 terminology I guess -- excuse me for saying this -- but would
10 it be fair to say that all hell broke loose?

11 A: Yeah. All hell broke loose.

12 Q: Can you please tell the jury what happened from your
13 perspective and what you did and where you went?

14 A: Okay. Well, I was sitting on this couch -- laying on
15 this couch right here with my feet up and we was looking at
16 something on the TV screen and Gavin was right here and --

17 Q: Was the TV having any noise? Did it have any audio to
18 it?

19 A: No. We had the noise. We had our own noise. The TV was
20 cut down because Facebook don't have none -- no noise to it.

21 Q: But y'all were making noise?

22 A: Yeah. We was like, "Pull up this girl. Pull up that
23 girl." We were laughing and joking like that right there.

24 Q: Okay. And then what happened?

25 A: Then all of a sudden, we heard two shots. So we heard

DERRICK WILSON - DIRECT BY MR. CLEMENTS

1 two shots and I sat up on the couch where I was right there
2 and I was like, "Y'all heard that?" and everybody was like,
3 "Yeah." And then it just -- after two shots, it went pop,
4 pop, and then went pop, pop, pop, pop, pop, pop. So
5 everybody's getting down. I had to snatch Gavin down because
6 he was standing up --

7 Q: Yeah.

8 A: -- and I done turned this chair that I was in and I
9 turned it over and Gavin went up under the table that fell and
10 this chair right here was turned up and those guys, like Boo
11 -- Darrell, ran into the back.

12 Christian -- I guess when Christian turned around to go
13 to the back, that's when the bullet hit him because they was
14 coming from everywhere.

15 Q: They were coming from every direction or from --

16 A: It was coming from the front side of the trailer --

17 Q: Okay.

18 A: -- but the cabinets was moving back and forth. You could
19 see the -- the smoke off the sheetrock and all that, and the
20 cabinets just kept going, and then it was a bullet that came
21 through the cabinet that came through the cabinet, through the
22 refrigerator and out the refrigerator, and it was a -- and it
23 was a hole in the wall going out the back of the trailer.

24 Q: You saw that?

25 A: Yeah. And there was also it came through the

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1 refrigerator and went out this window. It went out of the
2 side of it. It was a wall right there.

3 Q: All right. Where is the front and where is the back?

4 A: What? The front?

5 Q: Yeah. Which is the front?

6 A: This is the front.

7 Q: All right. So did a bullet go this way or go this way?

8 A: It came from the front --

9 Q: Okay.

10 A: -- towards the back side.

11 Q: And went through the refrigerator?

12 A: Yeah.

13 Q: And then where did it go?

14 A: It went -- it was a hole through the wall and it was also
15 a hole through a windowpane.

16 Q: Okay. Do you know how many bullets were shot?

17 A: It sounded like -- man, it sounded like at least 20 --
18 25. It sounded like that to me. It might have been more.

19 Q: Okay. You weren't -- did you have time to count them?

20 A: No. I wasn't trying to count them. I was trying to make
21 sure everybody was getting down and make sure everybody was
22 safe.

23 Q: Okay. Is that trailer -- is it up high or is it down low
24 to the road?

25 A: It sit down low from the road. It's like sloped.

DERRICK WILSON - DIRECT BY MR. CLEMENTS

1 Q: Okay. What did you do and what happened from your
2 perspective when the bullets stopped flying?

3 A: If I remember, when the bullets stopped flying, everybody
4 got up and I asked everybody was they okay. Christopher
5 Kollock went out the door crying trying to see --

6 Q: Crying?

7 A: Yeah. He was, like, emotional.

8 Q: Oh.

9 A: Because of what happened, you know. A lot of people get
10 emotional.

11 Q: Yeah.

12 A: And he went outside and walked around the house, came
13 back in. That's when he discovered that we had Christian
14 Drawhorn. Darrell had Christian Drawhorn on the floor and he
15 was like, "Christian hit." We asked if anybody was hit.
16 Everybody safe. So actually we thought that he had just got
17 hit in the arm. We didn't know it was as serious as it was.
18 We thought he got hit in the arm so we was trying --

19 Q: Why did you think he had got hit in the arm?

20 A: Because that's what he was holding.

21 Q: Okay.

22 A: Like you know what I'm saying?

23 Q: Yeah.

24 A: So we was like, "Oh, he got hit in the arm. He okay."
25 You know? We never knew that it was as bad as it was because

DERRICK WILSON - DIRECT BY MR. CLEMENTS

1 there wasn't a lot of blood.

2 Q: Yeah.

3 A: It was, like, two spots on his shirt. So, you know, we
4 didn't think it was -- on the TV -- I ain't saying this is TV,
5 but from what I seen somebody get shot on TV, it seemed like
6 there'd be a lot of blood. So I didn't see a lot of blood so
7 I didn't know that he was shot as bad as he was.

8 Q: Okay.

9 A: So we're nursing on him and I'm on the phone with 9-1-1.

10 Q: Okay.

11 A: At the same time, Gavin was on the phone with 9-1-1 also.

12 Q: Okay.

13 A: So Darrell had got up. Gavin had got up Chris and he --
14 Gavin was talking to him and I'm steady on the phone with
15 9-1-1 telling them what happened and what road we was located
16 at and all that stuff -- the information that they need.

17 Q: All right. And did -- did you get any other phone calls?

18 A: Yeah. I got a phone call from Leon Bethea and I also got
19 a phone call from David Graves, AKA Charlie B.

20 Q: Okay. All right. And did Leon Bethea -- does he have a
21 nickname?

22 A: Rush.

23 Q: Rush? Okay. Now, you called 9-1-1 and y'all said you
24 were trying to nurse Christian?

25 A: Yes, sir.

DERRICK WILSON - DIRECT BY MR. CLEMENTS

1 Q: How were you trying to nurse him?

2 A: Well, we weren't trying to nurse him. We just was -- he
3 our friend and we don't want to see nobody hurt. So what we
4 were doing was trying to keep him calm --

5 Q: Yeah.

6 A: -- so he wouldn't panic or nothing because we was already
7 all upset. Our hearts was beating fast. We ain't never been
8 in a situation like that. We got in a fight for our lives.
9 It was like it was a no-win situation with him being shot. So
10 we was lucky that nobody else got hit but him.

11 Q: Okay.

12 A: But we was holding on him because he our friend.

13 Q: Well, what did he do, if anything?

14 A: He was gasping for air like (heavy breathing). He
15 couldn't hardly breathe and he kept saying -- you know, he was
16 like, "Hot. Hot." You know -- and so he was, like, hot, and
17 he was, like, trying to come out his shirt. So he came out of
18 his shirt.

19 Q: Where did y'all take him, if anywhere?

20 A: We went down the hall and then opened the back door and
21 walked him down the steps and sat him on this walkway right
22 here.

23 Q: Okay. Was that where EMS got him?

24 A: Yes, sir.

25 Q: Okay. Did y'all stay around him until EMS came?

DERRICK WILSON - DIRECT BY MR. CLEMENTS

1 A: Yes, sir. When I was -- I was standing -- actually, I
2 sat beside him and I was, like, you know, holding him up --

3 Q: Yeah.

4 A: -- trying to make sure he's still stable and everything,
5 just let him know, and Gavin was, like, talking to him. And
6 he had my hand --

7 Q: Yeah.

8 A: -- and we was holding hands, you know, and my hand was
9 sort of getting tighter and I was just rubbing his hand like,
10 "Please just hold on. Just hold on. Just hold on." And by
11 that time, that's when the officer arrived and he was, like,
12 y'all got to just -- you know, we was going to take him in my
13 truck, but I was like, man, it might be something worser than
14 what we think it is --

15 Q: Yeah.

16 A: -- and it could really hurt him. So we just left him
17 right there and EMS came and got him.

18 Q: Okay. Was that Officer Pike that came up?

19 A: Yes, sir.

20 Q: Okay. All right. Where about was your truck? Was it
21 exactly right there or was it in this area? Where exactly was
22 it?

23 A: It wasn't exactly right there. It was, like, parallel to
24 this -- to this --

25 Q: Walkway?

DERRICK WILSON - DIRECT BY MR. CLEMENTS

1 A: Yeah. Walkway. Because there was a hole through this
2 window right there.

3 Q: Okay.

4 A: And there was a hole also through this wall right here.

5 Q: Yeah.

6 A: So I was -- I might be wrong, but I assume one of those
7 bullets that either came through the window or came off this
8 wall went into my truck.

9 Q: How many times was your truck hit?

10 A: Twice.

11 Q: Okay. And one bullet was found in it?

12 A: Yes, sir.

13 Q: Okay. All right. You can have a seat back.

14 (Whereupon, the witness complies.)

15 Q: Eyebrows, when -- when you're coming down Highway 501
16 North from Latta headed towards Marion, as you approach the
17 trailer --

18 A: Yes, sir.

19 Q: -- how much can you see about the trailer and the yard?

20 A: You can see the whole back yard of the trailer and
21 there's another trailer and you also can see -- it's a big
22 block wall that's in front of the other trailer and a tree.
23 You can see basically everything that's in the yard.

24 Q: As you approach from --

25 A: Yeah.

DERRICK WILSON - DIRECT BY MR. CLEMENTS

1 Q: All right. How about from the south? Can you see -- see
2 in the back from the south or not?

3 A: Not too really good because it's a lot of weeds that's
4 grown up, but you can -- you can see most of the back, but not
5 too much of it. You can see the other trailer that's back at
6 an angle from our trailer more than you can see in the back
7 yard of our trailer.

8 Q: Okay. All right. When -- when EMS took your friend to
9 the hospital, how were you feeling?

10 A: I was down because I didn't know what -- how -- like I
11 said, I didn't know how serious it was until I think the
12 detectives had got a call and I overheard them say that they
13 lost him and I just -- I just lost it. Like, I broke down
14 because I never seen nobody, you know, leave here like that in
15 a situation like that and somebody that didn't bother nobody
16 and was an innocent person.

17 Q: Did -- did you ever go back in the house?

18 A: Not that I recall.

19 Q: Okay. Do you remember who you talked to as far as law
20 enforcement? They came up and they -- I'm sure they wanted to
21 talk to you, didn't they?

22 A: Yeah. I talked to Detective Bell and Officer Watson I
23 think.

24 Q: Okay. Do you remember talking to James Lee and Neil
25 Rouse?

DERRICK WILSON - DIRECT BY MR. CLEMENTS

1 A: Yes, sir.

2 Q: Do you remember talking to them?

3 A: I talked to them down at the -- at the Marion County
4 Sheriff's Department.

5 Q: Okay. And what did you do in regards to writing anything
6 for them?

7 A: I wrote a statement at the house that night about what
8 happened. It was a brief statement because I -- really I
9 tried to basically sum it all up in one -- in one sentence,
10 like, in one paragraph to sum it up, you know. The when I got
11 down to the station, I wrote a report.

12 Q: What -- what did you tell them? By either speaking to
13 them or writing, what did you tell law enforcement about
14 anything regarding Christian Drawhorn and the Smith boys?

15 A: I told them that Christian Drawhorn never --

16 MR. BAILEY: Judge, I'm going to object to this.

17 THE COURT: Hold on. State your question again.

18 Q: What, if anything, did you tell or write for law
19 enforcement regarding Christian Drawhorn and the Smith Boys?

20 A: I told them Christian --

21 THE COURT: Hold on a minute.

22 MR. BAILEY: Judge --

23 THE COURT: Can the lawyers approach a minute?

24 (Whereupon, a bench conference is held in the presence of
25 the jury but out of the hearing of the jury as follows.)

DERRICK WILSON - DIRECT BY MR. CLEMENTS

1 MR. CLEMENTS: The answer to the question is he wrote
2 that Christian never had any problems with the Smith boys.

3 THE COURT: Okay. You got any problem with that?

4 MR. BAILEY: I don't have a problem with that. Judge, I
5 was just afraid he was going to --

6 THE COURT: I understand. I understand. I mean I didn't
7 want him to blurt out that the Smith boys or somebody said
8 something to him. Now, with regard to -- and this might fly
9 with regards to your case to go about the facts of that issue.
10 Here's why I allowed it -- to allow the jury to infer --
11 intentionally infer that it's -- that these current charges
12 aren't in any way related to this event for the very reason
13 that he didn't want them to infer that that that incident that
14 happened 13 months beforehand resulted in what brings us here
15 today. So I mean I didn't want to allow the jury to infer
16 something that just was absolutely not so.

17 MR. CLEMENTS: That's fine.

18 (Whereupon, the bench conference ends.)

19 THE COURT: All right. Mr. Clements, I apologize.
20 Please state your question again.

21 MR. CLEMENTS: Thank you, Your Honor.

22 BY MR. CLEMENTS:

23 Q: Eyebrows, what, if anything, did you say or write to law
24 enforcement regarding Christian Drawhorn and the Smith boys?

25 A: I told law enforcement that Christian Drawhorn never had

DERRICK WILSON - DIRECT BY MR. CLEMENTS

1 a problem with the Smith boys. He never --

2 Q: Thank you.

3 A: -- did have a problem with nobody that I know of.

4 Q: Thank you. Christian never had a problem with anybody
5 that you knew of?

6 A: That I knew of.

7 Q: Okay. All right. Had you had any longstanding beef with
8 anyone?

9 A: Yeah. I had problems with Adrian Smith, which is Blaton
10 Smith's cousin. I had problems with Blaton Smith and Shaheed
11 Hayes.

12 Q: Okay. All right. Did law enforcement ask you about that
13 same -- basically the same question I just asked you? Did
14 they ask you something of that same nature?

15 A: Yes, sir.

16 Q: All right. Did you tell them anything different than
17 what you just told --

18 MR. BAILEY: Your Honor, this is been asked and answered.
19 I'll object to it at this time.

20 THE COURT: Overruled. Please restate your -- when you
21 object, let the question finish being answered so that I can
22 hear the question and then if you want to object, object and
23 state your grounds for your objection. Mr. Wilson and any
24 other witness, if an objection is made, let me rule upon it
25 before you answer. Okay? Again, please state your question.

DERRICK WILSON - DIRECT BY MR. CLEMENTS

1 BY MR. CLEMENTS:

2 Q: Did you tell law enforcement anything differently than
3 what you just told us?

4 A: No, sir, I didn't.

5 Q: Okay. Did you tell them the same thing?

6 A: Yes, sir, I did.

7 Q: All right. Now, I asked you about your car and where it
8 was parked and you said it got hit twice. Can you describe
9 your vehicle for this jury?

10 A: I had a white 2001 GMC Yukon Denali XL. It was long-
11 bodied.

12 Q: And did it have anything after-market on it?

13 A: It had some chrome 22-inch rims on it.

14 Q: Okay. I'm going to ask you if you can identify State's
15 Exhibit 24 that is in evidence?

16 A: Yes, sir. That's it.

17 Q: That's your vehicle?

18 A: Yes, sir.

19 Q: And are those the two bullet holes?

20 A: Yes, sir.

21 Q: Are those the rims you're talking about on it?

22 A: Yes, sir.

23 Q: All right. Would you -- let me ask you this. How would
24 you describe your vehicle? Commonplace? Kind of unique?
25 Like every other vehicle? Or how would you describe it as far

DERRICK WILSON - DIRECT BY MR. CLEMENTS

1 as it being different or set apart?

2 A: I think it was just like every other vehicle.

3 Q: All of them got big Yukons with rims like that?

4 A: Oh, no. Well, actually, I bought mine like that.

5 Q: Okay.

6 A: Yes, sir.

7 Q: All right. But that's not normal though, is it?

8 A: No, sir.

9 Q: Okay. Now, did you have a weapon at this time? Did you

10 own a weapon at this time?

11 A: Yes, sir. I had a weapon that I owned that's in my name

12 legally. It was a Taurus .40.

13 Q: A Taurus .40 caliber?

14 A: Yes, sir.

15 Q: Did you shoot that gun at all that night?

16 A: That gun hadn't been shot since -- I might have shot it

17 one time when I bought it, but it hadn't been shot since.

18 Q: All right. And did law enforcement ask you about a gun?

19 A: No. I brought it to them and told them that I had a

20 weapon in my name.

21 Q: All right. What did you do with that weapon?

22 A: Passed it to law enforcement.

23 Q: Passed it to law enforcement?

24 A: Yes, sir.

25 Q: Did they explain to you why they needed it?

DERRICK WILSON - DIRECT BY MR. CLEMENTS

1 A: Yes, sir, they did.

2 Q: Now, did -- did anyone else to your knowledge in that
3 trailer have a weapon?

4 A: No, sir. Nobody else had a weapon.

5 Q: Okay. That you knew of?

6 A: That I know of.

7 Q: Okay. What direction were the bullets coming from?

8 A: The bullets was coming from off of 501 at the front side
9 of the trailer.

10 Q: Did any bullet come from any different direction?

11 A: No. All of them came from the front side of the trailer.

12 Q: Okay. Did you know about marijuana being in the trailer?

13 A: I didn't know how much marijuana was in the trailer, but
14 I knew there was probably some marijuana in the trailer. Like
15 I said, we was -- instead of going out to the club, we were
16 hanging around at the house to sit around and smoke and drink
17 and have a good time.

18 Q: Did you ever sell any bit of marijuana yourself?

19 A: Actually, like, if somebody came for Gavin and he wasn't
20 there, I might sell \$5 worth or something like that.

21 Q: All right. Eyebrows, I appreciate it. If you would,
22 please answer any questions Mr. Deberry or Mr. Bailey may have
23 for you.

24 A: All right. Yes, sir.

25 THE COURT: Cross examination.

DERRICK WILSON - CROSS BY MR. DEBERRY

1 CROSS EXAMINATION

2 BY MR. DEBERRY:

3 Q: How are you doing, Mr. Wilson?

4 A: All right. How are you?

5 Q: I'm good. You testified earlier that you have pending
6 charges in this circuit?

7 A: Yes, I do.

8 Q: Mr. Clements is prosecuting those charges?

9 A: No, he isn't.

10 Q: He's not?

11 A: He isn't.

12 Q: Who's prosecuting them?

13 A: I don't know the solicitor's name.

14 Q: Somebody with Mr. Clements's office is prosecuting them?

15 A: Yes, sir.

16 Q: So they're being prosecuted here?

17 A: Yes, sir.

18 Q: Do you have -- do you know if they carry jail time?

19 A: I --

20 MR. CLEMENTS: Your Honor, I object to that.

21 THE COURT: Objection overruled. Go ahead.

22 Q: Do you know if you're looking at some time on the charges
23 that are pending here in this circuit?

24 A: I mean they're pending. You're innocent until proven
25 guilty.

DERRICK WILSON - CROSS BY MR. DEBERRY

1 Q: I understand that, but you have the potential to go to
2 prison for those charges?

3 A: I guess.

4 Q: Do you know what those charges are?

5 A: Yes.

6 Q: What are they?

7 A: Possession.

8 Q: Possession of what?

9 A: Cocaine, possession of a firearm -- stolen firearm,
10 possession of marijuana.

11 Q: Okay. Is it -- is there a possession with intent to
12 distribute?

13 A: I think it is.

14 Q: Okay. Do you have any deal with the solicitor for your
15 testimony here today?

16 A: I don't have a deal with nobody.

17 Q: Okay. But they're pending for you?

18 A: Huh? The charges?

19 Q: Those charges are still pending?

20 A: Yes.

21 Q: All right.

22 A: They ain't got nothing to do with this case though.

23 Q: I understand. Did Mr. Clements ask you to come here and
24 testify?

25 A: No, he didn't.

DERRICK WILSON - CROSS BY MR. DEBERRY

1 Q: That was your decision?

2 A: Yeah.

3 Q: You testified earlier that you were -- at the time that
4 everything kind of started up happening that you were laid
5 out, that you had almost had your limit. What do you mean by
6 that?

7 A: I mean it don't take much for me. I don't -- I ain't no
8 heavy drinker like that; so a couple beers has me buzzed.

9 Q: So you were drunk?

10 A: No. I said buzzed.

11 Q: Okay. But you were at your limit?

12 A: I said almost.

13 Q: Okay.

14 A: I'm not a heavy drinker.

15 Q: So you were under the influence of alcohol; is that fair?

16 A: I drank a couple beers.

17 Q: Okay.

18 A: Bud Lights.

19 Q: When you talked to -- when you gave your statements to
20 the -- to the investigators and also when you testified here
21 earlier today, you testified that it was pretty quiet other
22 than y'all asking to see different pictures and things; is
23 that right?

24 A: Yes.

25 Q: So there was no noise? There was no music playing?

DERRICK WILSON - CROSS BY MR. DEBERRY

1 A: No.

2 Q: No noise from the TV?

3 A: No noise from the TV.

4 Q: All right. Did you hear a car outside?

5 A: Actually, we stay off of -- on 501 so we hear cars all
6 day.

7 Q: Yeah. Well, did you hear a car that night?

8 A: Not at the -- not as I can remember. Like I said, we was
9 in there laughing and joking.

10 Q: Right.

11 A: I mean clowning around.

12 Q: Did you tell the -- didn't you tell the detectives in the
13 case that you didn't hear any cars?

14 A: No, I never said that. I never -- I didn't hear this car
15 that you're asking me about. I said there's cars that pass by
16 all day long.

17 Q: Mm-hmm. You wouldn't agree that in one of the statements
18 that you wrote that you -- that you wrote that I didn't hear
19 any car outside?

20 A: Yes. I didn't hear a car outside.

21 Q: You --

22 A: I didn't hear a car outside. I hear cars passing through
23 all day long. It's on 501. It's a highway.

24 Q: I understand, but you gave these statements to law
25 enforcement in connection with this case and the shooting;

DERRICK WILSON - CROSS BY MR. DEBERRY

1 right?

2 A: Yes, sir.

3 Q: And so when you said I didn't hear a car outside, you
4 would have meant you didn't hear a car outside at the time of
5 the shooting; right?

6 A: Yes.

7 Q: Okay. So that's -- that is your testimony that you
8 didn't hear a car outside --

9 A: Yeah.

10 Q: -- at the time of the shooting? All right. What color
11 was your gun?

12 A: Black, all black.

13 Q: It was all black?

14 A: Yes, sir.

15 Q: Okay.

16 MR. DEBERRY: I beg the Court's indulgence just one
17 second.

18 THE COURT: Yes, sir.

19 BY MR. DEBERRY:

20 Q: Your gun wasn't black and chrome?

21 A: I mean the inside of it might be chrome at the top where
22 you cock it back, but the rest of it was black as I can
23 remember. I don't remember it being black and chrome.

24 Q: All right. But it was your gun and it may have been
25 black and chrome?

DERRICK WILSON - CROSS BY MR. DEBERRY

1 A: I mean probably at the top where you cock it back. You
2 know, the top when it's up it might be chrome right there at
3 that part, but I don't remember. I don't recall no other
4 parts chrome.

5 Q: How long has it been since you've had that gun?

6 A: Since I had that gun?

7 Q: Yeah. Since the night of the -- of the shooting?

8 A: I had it way before then.

9 Q: No. I mean since you've last had it in your possession.

10 A: Oh, yes, since that night.

11 Q: It's been over two years now?

12 A: Yeah.

13 Q: All right.

14 MR. DEBERRY: Hang on just a second.

15 THE COURT: All right.

16 BY MR. DEBERRY:

17 Q: Does the Sheriff's Office still have your gun in their
18 possession?

19 A: As far as I know.

20 MR. DEBERRY: Thank you. That's all I've got.

21 THE COURT: Mr. Bailey?

22 MR. BAILEY: Thank you, Your Honor.

23 CROSS EXAMINATION

24 BY MR. BAILEY:

25 Q: On the night of April the 12th into the early morning of

DERRICK WILSON - CROSS BY MR. BAILEY

1 the 13th before this shooting occurred, did you sell any drugs
2 to Gino Upton?

3 A: No, sir, I didn't.

4 Q: Did you sell any drugs to Fred Frye?

5 A: No, sir, I didn't.

6 Q: Did you sell any drugs to Charlie B or otherwise known as
7 David Graves?

8 A: No, sir. Charlie B came there with some boxers and socks
9 and he wanted cash because he had a woman with him and he said
10 he was going to a hotel.

11 Q: Okay. How about Leon Bethea, known as Rush? Did you
12 sell any drugs to him that night?

13 A: Gavin Graves did. I referred him to Gavin Graves.

14 Q: You testified earlier that a couple people stopped by and
15 maybe smoked some weed and had some drinks. Do you recall
16 that?

17 A: Yes.

18 Q: Who were those people?

19 A: If I can recall, I know for one it was Leon Bethea. I
20 can't recall who was the other two.

21 Q: Do you recall a big guy coming over to the house that
22 night?

23 A: A big guy? Yeah, I do.

24 Q: Did he come over maybe twice that night?

25 A: A possibility.

DERRICK WILSON - CROSS BY MR. BAILEY

1 Q: Did you ever see Mr. Kollock sell drugs?

2 A: No, sir, I didn't.

3 Q: Do you know where Mr. Kollock is today?

4 A: Yes, sir, I do.

5 Q: Where is Mr. Kollock?

6 A: He's incarcerated.

7 Q: He's incarcerated?

8 A: Yeah.

9 Q: Do you know what he's incarcerated for?

10 A: That's not my business.

11 MR. CLEMENTS: Your Honor, I object to this --

12 THE COURT: He's already --

13 MR. CLEMENTS: -- on relevance.

14 THE COURT: I understand. He's already answered the
15 question. Go ahead.

16 BY MR. BAILEY:

17 Q: Now, you wrote a statement for the detectives at about
18 two -- 2:30 in the morning; correct?

19 A: Yes. Probably.

20 Q: That was your first statement that you had given?

21 A: Yes.

22 Q: Okay. In that statement, do you recall identifying any
23 shooter?

24 A: Did I recall?

25 Q: Mm-hmm. Do you recall writing down any name of the

DERRICK WILSON - CROSS BY MR. BAILEY

1 person who shot at that house?

2 A: I can't recall that.

3 Q: Would you like to look at your statement?

4 A: Yeah.

5 Q: Mr. Wilson, I'm going to ask you to read this statement,
6 please, and read it to yourself and just let me know when
7 you're finished.

8 (Whereupon, there is a pause in the proceedings.)

9 Q: Are you finished reading it?

10 A: Yeah.

11 Q: At the time you wrote this statement, Mr. Wilson, the
12 events were pretty fresh in your mind?

13 A: What you mean?

14 Q: The events that took place that night -- they were fresh
15 in your mind?

16 A: Yes, sir.

17 Q: Okay. Nowhere in your statement did you identify any
18 shooter in this case?

19 A: Say that again?

20 Q: You did not write any name in here as a shooter?

21 A: No. I never wrote a name down.

22 Q: Were you also taken or asked to go down to the Marion
23 County Sheriff's Office later that morning?

24 A: Yes, sir. I was the driver.

25 Q: You were the driver?

DERRICK WILSON - CROSS BY MR. BAILEY

- 1 A: Yes, sir.
- 2 Q: And you drove your truck down there?
- 3 A: Yes, sir.
- 4 Q: The same truck that's got two bullet holes in it?
- 5 A: Yes, sir.
- 6 Q: The Marion County Sheriff's Office didn't take that into
- 7 custody as evidence in a crime?
- 8 A: No. They got evidence out the truck at the scene.
- 9 Q: Okay. And you were interviewed again that morning?
- 10 A: Yes, I was.
- 11 Q: Okay. Was that interview on video?
- 12 A: Not as I can recall.
- 13 Q: Okay. That you don't recall them telling you that we're
- 14 videotaping this interview?
- 15 A: No, not that I recall.
- 16 Q: Do you recall them saying we're going to audio record
- 17 this interview?
- 18 A: Not as I can recall.
- 19 Q: Okay. You were present in the courtroom at the time that
- 20 Gavin Graves testified just a few minutes ago; correct?
- 21 A: Yes, sir, I was.
- 22 Q: Did you hear a knock at the back door?
- 23 A: I didn't. Like I said, I was laying on the couch. I
- 24 didn't.
- 25 Q: You did not hear a knock at the back door?

DERRICK WILSON - CROSS BY MR. BAILEY

1 A: I didn't, but I heard when they said that they think
2 somebody -- that they heard a knock.

3 Q: Okay.

4 A: But me, personally, I didn't hear no knock.

5 Q: Back when you were selling drugs, the little bit that you
6 claim you were selling, did you have your own clientele?

7 A: I never told you I was selling drugs. I said if Gavin
8 Graves was not home and somebody came for \$5, I would get that
9 for him.

10 Q: Did you have people who would contact you back then and
11 say I want some drugs?

12 A: People that when I was smoking weed that might want to
13 get high might call me asking me do I got some weed to smoke
14 or something like that, but not for nothing to sell.

15 Q: Do you smoke marijuana, Mr. Wilson?

16 A: I used to.

17 Q: Used to? When's the last time you smoked marijuana?

18 A: I don't recall that. I work.

19 Q: Where do you work at?

20 A: Tradesman International. I'm an electrician.

21 Q: And what was the name of that company?

22 A: Tradesman Industrial.

23 Q: Okay. Do you work full-time?

24 A: It's on and off work.

25 Q: Off and on?

DERRICK WILSON - CROSS BY MR. BAILEY

1 A: And I've got my own pressure washing business too, sir.

2 Q: Okay.

3 MR. BAILEY: I have no further questions, Your Honor.

4 THE COURT: Any redirect?

5 MR. CLEMENTS: I beg the Court's indulgence for one
6 moment.

7 THE COURT: All right.

8 REDIRECT EXAMINATION

9 BY MR. CLEMENTS:

10 Q: Derrick, with all that shooting, ping-pong, banging, and
11 sheet rock flying everywhere and cabinets shaking, would you
12 have heard a car drive off or not?

13 A: No, we wouldn't. There was too much racket.

14 Q: All right. And after it all was -- all the shots
15 stopped, would you have focused on hearing a car drive off or
16 not?

17 A: I was focused on was everybody in the house safe.

18 MR. CLEMENTS: Thank you.

19 THE COURT: Mr. Deberry?

20 MR. DEBERRY: Nothing further.

21 THE COURT: Mr. Bailey?

22 MR. BAILEY: Nothing further, Your Honor.

23 THE COURT: Sir, you may step down. Thank you.

24 MR. CLEMENTS: Your Honor, I'm going downstairs to get my
25 next witness and bring him right on up.

1 THE COURT: All right.

2 (Whereupon, there is a pause in the proceedings.)

3 MR. CLEMENTS: Your Honor, we'd call Jamie Christopher
4 Williams.

5 THE COURT: All right.

6 THE CLERK: Sir, if you'll come around and let me swear
7 you in, please, sir. Come around here, please, sir. Place
8 your left hand on the Bible and raise your right hand. Do you
9 solemnly swear or affirm the testimony you give in the trial
10 of this case shall be the truth, the whole truth, and nothing
11 but the truth, so help you God?

12 THE WITNESS: Yes, ma'am.

13 THE CLERK: Thank you. You may have a seat in the
14 witness box.

15 MR. BAILEY: Your Honor, I think we have an issue of law
16 that we need to take up prior to this witness testifying.

17 THE COURT: I'm going to ask you to step into the jury
18 room. Do not discuss the case. I'll get you back out here as
19 quickly as possible.

20 (Whereupon, the jury exits the courtroom at 4:51 p.m.)

21 THE COURT: Yes, sir, Mr. Bailey? You said we've got a
22 matter of law. Let's hear it.

23 MR. BAILEY: Your Honor, Mr. Deberry is going to make it.
24 Sorry.

25 MR. DEBERRY: Your Honor, we're going to -- I'm putting

1 on the record my objection to these individuals, Jamie Wilson
2 [sic.] and Willie Bethea, testifying in the clothes that
3 they're wearing without being shackled. They are incarcerated
4 by the Marion County Sherriff's Office and do have pending
5 charges.

6 Your Honor, it's very clear in the law that a criminal
7 defendant has the liberty to be tried in street clothes
8 because there's a -- there's a doubt or there's a presumption
9 of guilt that can be cast over somebody and their credibility
10 is called into question when they're in jail attire and in
11 shackles, and to allow these other defendants to come here and
12 testify not in shackles and not in jail clothes is prejudiced
13 to our clients.

14 And, you know, we brought this issue up earlier and they
15 had time to change their clothes. You know, so if they're
16 going to testify like this, then we're going to put the
17 objection on the record just to raise -- so we can raise it in
18 appeal.

19 THE COURT: Okay. Anything you want to add to that?

20 MR. BAILEY: Your Honor, I'll just join in Mr. Deberry's
21 motion.

22 THE COURT: Well -- and it was -- thank you. And it was
23 brought to my attention back in chambers and I asked the
24 lawyers to try to get it worked out if they could. Obviously,
25 they did not do so. Let me ask this question. Mr. Deberry,

1 suppose he was out on bond?

2 MR. DEBERRY: I think it's a different -- I think it's a
3 different matter if he's not incarcerated, Judge.

4 THE COURT: Have you got a case that says that people
5 that are incarcerated, if they're a cooperating witness, they
6 have to come in here in shackles and a jumpsuit?

7 MR. DEBERRY: No.

8 THE COURT: I mean I'll be happy to look at it and look
9 at it if you want me to, but I don't see -- you know --

10 MR. DEBERRY: I can just tell you for the record, Your
11 Honor, that I've been doing this for a while and I think
12 everybody else has been doing this for a while and I've never
13 seen this happen this way. I know that there is law and that
14 there's protections in force and effect for the criminal
15 defendants, and this is the flipside of that argument.

16 THE COURT: Well, just as your clients as they sit there
17 wear the cloak of innocence, until he's convicted he wears
18 that same cloak.

19 MR. DEBERRY: I understand.

20 THE COURT: And there's a presumption of innocence in
21 what you're wanting me to require that the State do is presume
22 his guilt by parading him in here in shackles and a jumpsuit.

23 MR. DEBERRY: Your Honor, he's going to --

24 THE COURT: You can cross examine him all day long about
25 where his current residence is, which is at the Marion County

1 Detention Center, and when he walks out of here he's going
2 back to the Marion County Detention Center.

3 MR. DEBERRY: I understand.

4 THE COURT: But your objection is so noted for the
5 record. Anything else?

6 MR. BAILEY: Your Honor, I have one other issue and I
7 know this goes back to the 404(b) argument that we made.

8 THE COURT: Yes.

9 MR. BAILEY: I know Mr. Williams was not present in the
10 courtroom. I don't know if Mr. Clements has had the
11 opportunity to explain it, but I know his statement references
12 the beefs and everything that went on between Blaton and Mr.
13 Wilson. So I would just like to make sure that the witness is
14 cautioned not to go to those areas.

15 MR. CLEMENTS: And I think he can go into all the areas
16 of what he had knowledge about, what they discussed, and the
17 mission they were on and all that. It's not alleging any
18 prior acts. He's alleging what they talked about and what
19 they did.

20 MR. BAILEY: Which -- which, Your Honor, I have no
21 objection to what -- about the current events, but there are
22 some statements made about the history between Blaton Smith
23 and Derrick Wilson that the Court's already ruled on.

24 THE COURT: All right. Mr. Clements?

25 MR. CLEMENTS: He's going to talk about -- he's going to

1 talk about how he got involved with Adrian Smith and how he
2 got involved with Blaton Smith and what they were out to do
3 and -- because they had a beef.

4 THE COURT: Okay.

5 MR. CLEMENTS: And he's -- he's not going to talk about
6 any prior incidents or anything else. They had a beef and he
7 may say that -- I'm not trying to put words in his mouth.
8 He's sitting right here, but he may tell me that -- that it's
9 because of drug activity. But he's going to tell me that they
10 have a beef and that they -- they wanted -- that particularly
11 Adrian Smith wanted Derrick Wilson out of the way and gone.

12 THE COURT: Mr. Bailey?

13 MR. BAILEY: Well, Your Honor, if Solicitor Clements
14 plans on eliciting testimony that the beef was over drug
15 activity, obviously that is something that had to have
16 occurred before this shooting, which requires another 404(b)
17 analysis of the prior bad act.

18 MR. CLEMENTS: They keep asking about it already.
19 They've been asking about it through the entire trial. So I
20 don't know which horse they want to ride, but they're going in
21 different directions.

22 THE COURT: Well, I'll allow you to object if you feel --
23 certainly, if you feel it is necessary to object to protect
24 your client's interest and I'll make a ruling on it as we go.
25 All right?

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

1 Sir, if you'll -- one of the bailiffs has brought to my
2 attention that one of the jurors needs to call -- all right.
3 One of the jurors has advised a bailiff that they need to call
4 home and they need to call home before six o'clock. It is
5 five o'clock now. We're going to go ahead and proceed with
6 this witness and we'll see where we get. It may be a
7 situation that we stop after the end of direct and let them
8 call and finish with cross. All right? All right.

9 MR. CLEMENTS: Ready, Your Honor.

10 THE COURT: All right. Bring me the jury, please.

11 (Whereupon, the jury enters the courtroom at 4:58 p.m.)

12 THE COURT: All right. All the jurors are present. Mr.
13 Clements, you're recognized.

14 MR. CLEMENTS: Thank you, Your Honor. May it please the
15 Court.

16 JAMIE WILLIAMS, being first duly
17 sworn, testifies as follows:

18 DIRECT EXAMINATION

19 BY MR. CLEMENTS:

20 Q: Jamie, can you please state your name for the record and
21 tell us how old you are?

22 A: Jamie Christopher Williams and I'm 19.

23 Q: And, Jamie, do you have a nickname you went by?

24 A: Yeah.

25 Q: What -- what's that nickname?

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

1 A: Lil Boosie.

2 Q: Lil Boosie? All right. Where -- where did you grow up,
3 Jamie?

4 A: I stayed in Marion until I turned about seven or eight
5 and moved to Dillon, South Carolina.

6 Q: And you lived there up until you got arrested on these
7 charges?

8 A: Yes, sir.

9 Q: And you're charged along with three other individuals;
10 right?

11 A: Yes, sir.

12 Q: Who are those individuals?

13 A: Blaton Smith, Shaheed Hayes, and Willie Bethea.

14 Q: All right. Do you see Blaton Smith in the courtroom?

15 A: Yeah.

16 Q: Can you point him out for us?

17 A: Right there.

18 Q: In the blue shirt?

19 A: Yes, sir.

20 MR. CLEMENTS: Let the record reflect that he's
21 identified the defendant Smith.

22 THE COURT: So noted.

23 BY MR. CLEMENTS:

24 Q: Can you point out to us if Shaheed Hayes is in the
25 courtroom?

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

1 A: Yeah.

2 Q: Where is he?

3 A: Right there.

4 Q: In the black shirt?

5 A: Yeah.

6 Q: Or is that a navy blue shirt? Can you tell?

7 A: Yeah.

8 MR. CLEMENTS: Let the record reflect that he identified
9 the defendant Hayes.

10 MR. BAILEY: Your Honor, I'm having a terrible time
11 hearing Mr. Williams.

12 THE COURT: I need you to speak up. Okay, Mr. Williams?

13 THE WITNESS: I'll do that.

14 THE COURT: Make sure you speak up, please, sir.

15 THE WITNESS: All right.

16 THE COURT: If you need to, pull that microphone a little
17 closer to you. Is it on? Tap that microphone, Mr. Williams,
18 please.

19 (Whereupon, the witness complies.)

20 BY MR. CLEMENTS:

21 Q: Jamie, where are you presently living and sleeping?

22 A: Talking about a street; right?

23 Q: No, sir. I'm talking about where you slept last night.

24 A: Over in a cell in the Marion County Detention Center.

25 Q: Okay. And you're incarcerated in the county detention

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

1 center pending these charges; is that correct?

2 A: Yeah.

3 Q: All right. Your mama or your people bring you some
4 clothes today?

5 A: Brought them last week.

6 Q: Last week? Okay. In case you were going to trial?

7 A: Yeah.

8 Q: Okay. Now, you know why we're here; is that correct?

9 A: Yeah.

10 Q: Do you recall what you were doing on April the 12th, 2012?

11 A: Yeah.

12 Q: Okay. First, let me ask you this. Do you know Adrian
13 Smith?

14 A: Yeah.

15 Q: How long have you known him?

16 A: A couple years now.

17 Q: Okay. Since you were what age?

18 A: Fifteen.

19 Q: About 15? And when this event happened in April 2012,
20 how old were you?

21 A: Seventeen.

22 Q: Seventeen? Okay. And how do you know Blaton Smith?

23 A: Through Adrian.

24 Q: Through Adrian? How do you know Shaheed Hayes?

25 A: Through Blaton.

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

1 Q: Through Blaton? Okay. Now, did they hang out a lot
2 together a pretty good bit?

3 A: So-so.

4 Q: So-so? Okay. And did you hang out with them a pretty
5 good bit?

6 A: So-so.

7 Q: All right. How did you come to be with them on April the
8 12th, 2012?

9 A: Called my phone.

10 Q: You called them or they called you?

11 A: They called me.

12 Q: They called you? And where did you meet them at?

13 A: End of my stop sign.

14 Q: Stop sign down from your house?

15 A: Yeah.

16 Q: They picked you up?

17 A: Yeah.

18 Q: What were they driving?

19 A: A white Cadillac.

20 Q: A white Cadillac? And who was driving the Cadillac?

21 A: Blaton.

22 Q: Who -- who owned that Cadillac?

23 A: That Adrian's car.

24 Q: That's Adrian's car?

25 (Whereupon, the witness nods his head.)

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

- 1 Q: Now, can Adrian drive?
- 2 A: No.
- 3 Q: Why not?
- 4 A: He's paralyzed.
- 5 Q: He's paralyzed?
- 6 (Whereupon, the witness nods his head.)
- 7 Q: Okay. When he picked you up, was there anybody else in
- 8 the car with him?
- 9 A: Yeah.
- 10 Q: Who?
- 11 A: Willie.
- 12 Q: Willie Bethea?
- 13 A: Yeah.
- 14 Q: And how do you know Willie Bethea?
- 15 A: Because he was in the car.
- 16 Q: You didn't really know him that well?
- 17 A: Not really, but so-so.
- 18 Q: Okay. Did you know Blaton and Shaheed better than you
- 19 knew Willie?
- 20 A: Not Shaheed really.
- 21 Q: But you knew Blaton better?
- 22 A: Yeah.
- 23 Q: Now, Willie was in that car. Where was he sitting?
- 24 A: Passenger side.
- 25 Q: Passenger side? Front seat or back seat?

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

- 1 A: Front.
- 2 Q: Was anybody else in the car?
- 3 A: Yeah.
- 4 Q: Who?
- 5 A: Me, Blaton, Shaheed, and Willie.
- 6 Q: All right. Where was Shaheed sitting?
- 7 A: Back behind the passenger side.
- 8 Q: Back seat passenger side?
- 9 A: Yeah.
- 10 Q: So where were you sitting?
- 11 A: Behind the driver.
- 12 Q: All right. Back seat?
- 13 A: Yes, sir.
- 14 Q: Did you know what y'all were going to go do or not?
- 15 A: Not at the time.
- 16 Q: Not at the time?
- 17 A: No.
- 18 Q: Do you know -- what road were y'all on? Do you know?
- 19 A: Now I know. I didn't know then.
- 20 Q: Now you know, but you didn't know the name of the road
- 21 then?
- 22 A: No.
- 23 Q: What was the name of the road?
- 24 A: It was 501.
- 25 Q: 501?

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

- 1 A: It was Highway 501.
- 2 Q: Okay. And y'all were riding in the car; right?
- 3 A: Yeah.
- 4 Q: Were there any weapons in the car that you could see at
- 5 that time?
- 6 A: Not really. One.
- 7 Q: One? Where was it?
- 8 A: In the back seat.
- 9 Q: On the seat or in the floor?
- 10 A: Floor.
- 11 Q: In the floor? All right. What kind of gun was it?
- 12 A: It was an AK or SK.
- 13 Q: Okay. Was it covered up?
- 14 A: Yeah.
- 15 Q: Or uncovered?
- 16 A: Covered.
- 17 Q: With?
- 18 A: A sheet or something. I don't know.
- 19 Q: A sheet or blanket? Something like that? Okay. Now,
- 20 you were going down 501 heading which direction? Do you know
- 21 where you were going?
- 22 A: No.
- 23 Q: All right. Well, what happened? As y'all were riding in
- 24 that car, what happened?
- 25 A: Shaheed saw Eyebrows' truck.

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

1 Q: Saw Eyebrows' truck? Do you know what kind of truck it
2 is?

3 A: White. A white truck.

4 Q: White? What kind of car? A white car?

5 A: A truck.

6 Q: A truck or SUV?

7 A: SUV.

8 Q: All right. Did it have anything on it --

9 A: I mean I seen it from the back. I ain't really --

10 Q: Okay. So you don't know if it had any after-market
11 things to dress it up or anything like that?

12 A: No.

13 Q: Okay. All right. But you're not -- you just know it's a
14 white SUV?

15 A: Yeah.

16 Q: Okay. I'm going to show you State's Exhibit 24. I don't
17 know if you recognize that or not. Can you?

18 A: Yeah, I see it.

19 Q: Do you know what that is?

20 A: Yeah.

21 Q: What is that?

22 A: Bullet holes.

23 Q: Okay. All right. Do you recognize the vehicle?

24 A: Yeah.

25 Q: Whose vehicle is that?

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

1 A: Eyebrows.

2 Q: Eyebrows' vehicle? Okay. All right. Y'all were riding
3 down 501 you said and y'all saw Eyebrows' truck -- his
4 vehicle. Then what happened and what was said?

5 A: Turned back around.

6 Q: You turned around?

7 A: Yeah.

8 Q: All right. Where did you pull up to?

9 A: I mean, like, when we turned around, I don't know how it
10 happened. Like, I don't know the roads or nothing like that.
11 We turned back around and slowed down.

12 Q: Slowed down in front of the trailer?

13 A: Yeah.

14 Q: Then can you please tell us what happened and who did
15 what?

16 A: Shots fired.

17 Q: All right. Who said anything?

18 A: Blaton.

19 Q: Blaton? What did he say?

20 A: Oh, he was like -- they was like there they go right
21 there.

22 Q: There they go right there?

23 A: Yeah.

24 Q: All right. And who was driving?

25 A: Blaton.

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

- 1 Q: Who was in control in the car?
- 2 A: Blaton.
- 3 Q: Who was in charge in the car?
- 4 A: Blaton.
- 5 Q: All right. So you pulled up and did you see any -- at
- 6 that point in time, did you see any more weapons?
- 7 A: Yeah.
- 8 Q: What kind of weapons?
- 9 A: Three .40s.
- 10 Q: Three .40s?
- 11 A: Yeah.
- 12 Q: Do you know what kind of .40s they were?
- 13 A: Smith & Wesson Hi-Point.
- 14 Q: Smith & Wesson Hi-Point?
- 15 A: Yeah.
- 16 Q: Okay. And where did those guns come from?
- 17 A: Front seat.
- 18 Q: From the front seat? All right. And did you get a gun?
- 19 A: Yeah.
- 20 Q: Who else got a gun?
- 21 A: Shaheed.
- 22 Q: All right. And then what happened?
- 23 A: Shots fired.
- 24 Q: Shots were fired?
- 25 A: Yeah.

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

- 1 Q: Now, who fired shots first?
- 2 A: Shaheed.
- 3 Q: Shaheed? And how was he firing?
- 4 A: Bang, bang.
- 5 Q: Did he have the windows down or up?
- 6 A: Yeah.
- 7 Q: Door shut and the window down?
- 8 A: Yeah.
- 9 Q: Did he stick the gun out of the car or kept it in the
- 10 car?
- 11 A: Out.
- 12 Q: He stuck it out the car?
- 13 A: Yeah.
- 14 Q: And he started shooting?
- 15 A: Yeah.
- 16 Q: Did you shoot?
- 17 A: Yeah.
- 18 Q: How did you put yourself in a position to shoot?
- 19 A: Hung out over top of the car.
- 20 Q: Hung out over the top of the car and shot over the top of
- 21 the car?
- 22 A: Yeah.
- 23 Q: All right. How many shots do you -- did you fire, if you
- 24 know?
- 25 A: I shoot about three to five.

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

1 Q: About three to five?

2 A: Yeah.

3 Q: You ain't sure?

4 A: I ain't sure, but I ain't shoot too many because I kind
5 of like froze up, you know.

6 Q: You froze up?

7 A: Yeah.

8 Q: How many did Shaheed shoot?

9 A: A clip empty.

10 Q: Emptied a clip?

11 A: Yeah.

12 Q: And what's his nickname?

13 A: Yoko.

14 Q: Yoko?

15 A: Yeah.

16 Q: Did anybody tell you to shoot?

17 A: Yeah.

18 Q: Who?

19 A: Blaton.

20 Q: Blaton?

21 A: Yeah.

22 Q: All right. After you stopped shooting and after Shaheed
23 emptied his clip, what happened next?

24 A: We drove back. Everything kind of, like, just quiet
25 like.

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

- 1 Q: What did Willie do?
- 2 A: Nothing.
- 3 Q: Nothing?
- 4 A: Uh-uh.
- 5 Q: He didn't do anything?
- 6 A: No. He didn't do nothing.
- 7 Q: When you say y'all went back, where did y'all go exactly?
- 8 A: We went to Latta. Latta.
- 9 Q: Latta?
- 10 A: Yeah.
- 11 Q: Did you go to anybody's house in particular?
- 12 A: I don't know whose house it was.
- 13 Q: You don't know whose house it was?
- 14 A: No.
- 15 Q: Do you know where it was?
- 16 A: Yeah. I mean, like, I don't know where it was, but I --
- 17 probably, like, if I see it, I'd know what house it is.
- 18 Q: But you don't know the address?
- 19 A: No.
- 20 Q: But you'd know it by sight?
- 21 A: Yeah.
- 22 Q: What -- when you went to that house, what happened? Who
- 23 did what?
- 24 A: Dropped the guns off. Dropped the guns off at the house.
- 25 Q: Who dropped the guns off?

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

- 1 A: Blaton.
- 2 Q: Blaton?
- 3 A: Yeah.
- 4 Q: And he dropped all the guns off?
- 5 A: Yes, sir.
- 6 Q: Okay. Did he go in the house by himself?
- 7 A: Yes, sir.
- 8 Q: What did the rest of y'all do?
- 9 A: Nothing. Just sit in the car.
- 10 Q: Anybody say anything?
- 11 A: No, not as I remember, sir.
- 12 Q: How were you feeling right then?
- 13 A: Kind of paranoid.
- 14 Q: Paranoid? Why?
- 15 A: Nervous, man.
- 16 Q: Okay. And was somebody in the car making you nervous or
- 17 just the situation?
- 18 A: Everything, man.
- 19 Q: All right. When Blaton came back to the car after taking
- 20 the guns in the house, what happened next?
- 21 A: He took me home, man. He took me home.
- 22 Q: He took you home?
- 23 A: He dropped me off.
- 24 Q: He dropped you off where?
- 25 A: At the end of the stop sign.

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

1 Q: Did they say anything to you when they dropped you off?

2 A: Not that -- not at that moment, no.

3 Q: Not at that moment?

4 A: No.

5 Q: When was the next time you saw or talked to Blaton?

6 A: Not that day after, but that day after that.

7 Q: Two days after the shooting?

8 A: Yeah.

9 Q: And what did he say?

10 A: Somebody's dead. Somebody's dead. Somebody died.

11 Q: And what else did he tell you?

12 A: You know what I'm saying? You better not say nothing.

13 Q: You better not say nothing?

14 (Whereupon, the witness nods his head.)

15 THE COURT: Is that a yes?

16 THE WITNESS: Yes.

17 THE COURT: All right.

18 BY MR. CLEMENTS:

19 Q: Sir?

20 A: Yes.

21 Q: Okay. When did you go next to Adrian's house?

22 A: That same day, I got a phone call.

23 Q: The same day?

24 A: Yeah.

25 Q: And what happened there at Adrian's?

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

1 A: Man, they were kind of mad that they hit the wrong person
2 -- they were kind of mad that the wrong person got hit.
3 Q: The wrong person got hit?
4 A: Yeah.
5 Q: Who was supposed to be the right person?
6 A: Eyebrows.
7 Q: Eyebrows?
8 (Whereupon, the witness nods his head.)
9 Q: Did you say anything to anybody at that time?
10 A: Nope.
11 Q: Why not?
12 A: Nervous, man.
13 Q: Nervous? Are there any of these people that you're
14 scared of?
15 A: I mean I'll put it like this. I ain't scared of nobody,
16 but, like, it's their factor out there. You know what I'm
17 saying?
18 Q: Their factor out there?
19 A: Yeah.
20 Q: Okay. All right. I'm not trying to ask you about your
21 courage or anything. I'm not talking about that, but any of
22 them -- any particular person worry you?
23 A: So-so.
24 Q: Who?
25 A: I mean Adrian.

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

1 Q: Well, Adrian is a paraplegic. How can he do anything to
2 you?

3 A: Shoot, man. He got people too.

4 Q: He got people too?

5 A: Yeah.

6 Q: Okay. Anyone else kind of makes you nervous at all?

7 A: No.

8 Q: No? All right. Well, what about Blaton?

9 MR. BAILEY: Judge, he's already asked and answered the
10 question. I'd object.

11 THE COURT: Objection sustained.

12 MR. CLEMENTS: All right.

13 BY MR. CLEMENTS:

14 Q: So nobody else bothers you?

15 A: Not really.

16 Q: Not really?

17 A: No.

18 Q: Okay.

19 MR. CLEMENTS: I beg the Court's indulgence a moment.

20 Q: Now, when you first talked to law enforcement, when was
21 that?

22 A: I can't remember.

23 Q: You can't remember when it was?

24 A: No, sir.

25 Q: Do you remember who it was?

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

1 A: Yeah.

2 Q: Who was it? Investigator Bell?

3 A: Yeah.

4 Q: Anybody else?

5 A: I can't -- Watson.

6 Q: Watson?

7 A: Yeah.

8 Q: Big guy with big arms?

9 A: Yeah.

10 Q: What did you tell them at that time about who was

11 shooting?

12 A: You know what I'm saying? Who I told them was shooting

13 at that time?

14 Q: Yeah. Who did you say was shooting at that time when you

15 talked to them?

16 A: I said Blaton and Shaheed the first time.

17 Q: Blaton and Shaheed the first time?

18 A: Yeah.

19 Q: And was that not true?

20 A: One was true and one wasn't.

21 Q: So Blaton wasn't shooting?

22 A: No.

23 Q: Shaheed was shooting?

24 A: Yeah.

25 Q: Why did -- why did you not want to tell them then that

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

1 you were shooting?

2 A: Because, man, like, I got nervous.

3 Q: Nervous? Okay. And when did you finally decide to tell
4 the truth and why?

5 A: Because, like, I feel like -- you know what I'm saying?
6 Like, I feel that I'm kind of holding it on my chest. You
7 know what I'm saying? Fear not. Right is right and wrong is
8 wrong.

9 Q: Okay. Right is right and wrong is wrong?

10 A: Yeah.

11 Q: It was on your chest? So tell me about Willie. What
12 about him? What about his part in it?

13 A: He was just there.

14 Q: He was just there in the car? Didn't do anything?

15 A: Uh-uh.

16 Q: And you shot? You freely admit that today?

17 A: Yeah.

18 Q: Shaheed shot?

19 A: Yeah.

20 Q: And Blaton was driving and Blaton was in control?

21 A: Yeah.

22 Q: Now, you have several charges pending. Has anybody made
23 any deal with you or your lawyer to testify?

24 A: No.

25 Q: Why are you testifying then?

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

1 A: Because --

2 MR. BAILEY: Judge, asked and answered. Objection.

3 THE COURT: Objection overruled. Go ahead.

4 BY MR. CLEMENTS:

5 Q: Why did you testify?

6 A: Because, like, one of -- one of the victims is, like, my
7 uncle, you know, because -- you know what I mean? Like, my
8 uncle growing up, you know.

9 Q: And who was that?

10 A: Gavin Graves.

11 Q: Did you know that was his trailer when you were shooting
12 at it?

13 A: No. No, sir.

14 Q: You didn't?

15 A: No, sir.

16 Q: If you'd have known that was his trailer, what would you
17 have done?

18 A: Like, the way we was in it -- like, the way I was put in
19 it, I probably would -- like, would have had to.

20 Q: The way it went down you probably had to?

21 A: Yeah.

22 Q: All right.

23 MR. CLEMENTS: I beg the Court's indulgence.

24 (Whereupon, there is a pause in the proceedings.)

25 BY MR. CLEMENTS:

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

1 Q: Did you and other people sometimes do what Adrian asked
2 to be done?

3 A: Yeah.

4 Q: Why was that?

5 A: Because man, like, if we didn't do it, you know, he got
6 people out there, like, to tell you the truth.

7 Q: Now, how did you know that was Eyebrows' truck?

8 A: Because I mean they wanted him dead.

9 Q: What?

10 A: They wanted him dead. Like, I guess an incident happened
11 before, something about a pool stick or something.

12 MR. BAILEY: Judge, I'm going to object at this time.

13 THE COURT: Objection sustained.

14 MR. BAILEY: I move to strike.

15 BY MR. CLEMENTS:

16 Q: I'm not asking you about anything --

17 THE COURT: Hold on a minute.

18 Q: -- other than --

19 THE COURT: Hold on a minute. Restate what you just
20 said.

21 MR. BAILEY: Judge, I just asked the Court -- I move to
22 strike that.

23 THE COURT: All right. Anything, Mr. Clements?

24 MR. CLEMENTS: No, Your Honor.

25 THE COURT: All right. Ladies and gentlemen, based upon

JAMIE WILLIAMS - DIRECT BY MR. CLEMENTS

1 what this witness just said I am going to -- defense counsel
2 has moved to strike that response. The Court hereby orders
3 that such response be stricken and not be considered by you in
4 any way in your deliberations in considering the guilt or the
5 innocence of the defendants charged in this case. You may
6 continue.

7 MR. CLEMENTS: Thank you. Let me rephrase my question.

8 BY MR. CLEMENTS:

9 Q: Did you recognize Eyebrows' truck on your own because you
10 knew what it looked like?

11 A: No. I ain't knew what none of them vehicles looked like.

12 Q: All right. Did anyone tell you that was Eyebrows' truck?

13 A: Yeah.

14 Q: Who?

15 A: Blaton.

16 Q: Thank you.

17 A: To tell you the truth, I ain't -- I ain't knew him.

18 Q: You didn't? You didn't know Eyebrows?

19 A: No.

20 Q: Okay. All right. Please answer any questions Mr.
21 Deberry or Mr. Bailey may have.

22 THE COURT: Cross examination. Mr. Deberry.

23 MR. DEBERRY: Thank you.

24 CROSS EXAMINATION

25 BY MR. DEBERRY:

JAMIE WILLIAMS - CROSS BY MR. DEBERRY

1 Q: Mr. Williams, when you pointed -- when Mr. Solicitor
2 asked you earlier and he showed you that picture of that
3 truck, I believe this was the picture, State's Exhibit 24. Is
4 that what he showed you?

5 A: Yeah. That's what he showed me.

6 Q: Were you told recently that that was Eyebrows' truck?

7 A: No.

8 Q: But you didn't know at the time either?

9 A: I ain't know until they pointed it out.

10 Q: Who pointed it out?

11 A: They was like, "There's Eyebrows' truck right there."

12 Q: Who said that?

13 A: Blaton.

14 Q: Okay. But you were in the back seat and you couldn't see
15 very well; right?

16 A: I mean from the angle of the house, yeah, you could see,
17 like, the truck from the angle we come from. Yeah.

18 Q: It was nighttime outside, wasn't it?

19 A: Yeah, but they got a porch light.

20 Q: Oh, they got a porch light?

21 A: Yeah.

22 Q: You sure about that?

23 A: I'm positive. I know I seen the truck with the back
24 porch light on.

25 Q: How many -- what other cars did you see back there?

JAMIE WILLIAMS - CROSS BY MR. DEBERRY

1 A: All I know is I seen that truck.

2 Q: You didn't see any other cars?

3 A: I wasn't focused on it. Like, I ain't seen no other
4 cars. I seen that truck because that was where -- that was
5 the specific vehicle they pointed out was that truck.

6 Q: And -- but at the time, you testified you didn't know
7 Eyebrows and you didn't know what kind of truck he drives;
8 right?

9 A: Right. Until it was pointed to me that was what kind of
10 truck he drives.

11 Q: All right. And the -- isn't it true when you first told
12 detectives that you were involved in this, you didn't tell
13 them that you were a shooter; right?

14 A: Right.

15 Q: And then later when they came and asked you about it
16 again, isn't it true that you told them you didn't do
17 anything? You didn't have anything to do with it?

18 A: What you mean later? Can you repeat that question?

19 Q: When they later asked you about it again, didn't you tell
20 them -- you recanted your story altogether? You weren't
21 there. You didn't know anything about it?

22 A: At one point in time?

23 Q: Yeah.

24 A: Yeah.

25 Q: After you told them that you were there the first time?

JAMIE WILLIAMS - CROSS BY MR. DEBERRY

1 A: At one point in time, yeah.

2 Q: Y'all came from Latta that night?

3 A: Yeah.

4 Q: All right. And so if you're coming from Latta, the house
5 is going to be on your right or your left?

6 A: It was on our right.

7 Q: It was on your right?

8 A: Yeah.

9 Q: All right. I'm going to show you what's marked as
10 State's Exhibit 42. I'll tell you that Latta would be this
11 way and this is a picture of the house. That's the front
12 door. This is the back door. Okay?

13 A: Yeah.

14 Q: Where did you see Mr. -- Eyebrows' truck?

15 A: It was on the back side of the house. Like, I don't
16 know. If that's the front, it was on the back side of where
17 we was coming from. Like, if I'm coming from the right, it
18 was in the back. Like, you could see the back of his truck.

19 Q: Okay. But you couldn't see any other cars?

20 A: I wasn't focused on other cars.

21 Q: Okay. But you didn't even know what you were looking
22 for?

23 A: No.

24 Q: All right. That makes sense. So after you changed your
25 story the first time, you sit around in the detention center.

JAMIE WILLIAMS - CROSS BY MR. DEBERRY

1 Have you ever -- have you been arrested and incarcerated since
2 -- since this -- since you were arrested to begin with?

3 A: What do you mean?

4 Q: Have you been in jail the entire time?

5 A: Yeah.

6 Q: Almost two years or more than two years now?

7 A: Two years, three months.

8 Q: You've been in -- you've been in jail? Where have you
9 been?

10 A: Marion County Detention Center and Horry County Detention
11 Center.

12 Q: So you've been back and forth between the two?

13 A: Yeah.

14 Q: All right. And are you charged with four counts of
15 attempted murder?

16 A: Yeah.

17 Q: Are you charged with one count of murder?

18 A: Yeah.

19 Q: Are you charged with shooting into a dwelling?

20 A: Yeah.

21 Q: And you're charged with possession of a firearm?

22 A: Yeah.

23 Q: All right. Do you understand that you can go to prison
24 for a long time for that?

25 A: Yeah.

JAMIE WILLIAMS - CROSS BY MR. DEBERRY

1 Q: And why are you here testifying today?

2 A: Because the truth is the truth, man.

3 Q: Just because you want to tell the truth?

4 A: I mean you know what I'm saying? Like, I feel better on
5 my conscience telling the truth and not a lie.

6 Q: Are you here today hoping for a deal from the solicitor?

7 A: No.

8 Q: So you don't want a deal?

9 A: No. I'm telling the truth like -- like it is.

10 Q: You're not looking for anything in return for your
11 testimony?

12 A: No.

13 Q: Have you talked to the solicitor at all about a deal?

14 A: No.

15 Q: Do you plan to go to trial in this case?

16 A: If I got to.

17 Q: Are you -- you're admitting to your guilt now, aren't
18 you?

19 A: Yeah.

20 Q: When you -- when you first gave your statement to the
21 police, where did you say the individuals were in the car?

22 A: I said Willie was driving.

23 Q: Who?

24 A: Willie. That's what I said. Willie was driving and --

25 Q: Willie was driving?

JAMIE WILLIAMS - CROSS BY MR. DEBERRY

- 1 A: Yeah. That's what I said.
- 2 Q: What else did you say?
- 3 A: Blaton was in the back and Shaheed was in the back, but
- 4 that -- I lied about it.
- 5 Q: That was a lie?
- 6 A: Yeah. That's why I tell the truth now.
- 7 Q: So Willie wasn't driving?
- 8 A: No.
- 9 Q: Well, why did you put Willie as the driver to start with?
- 10 A: I don't know, man. I mean I was nervous, man.
- 11 Q: You were nervous?
- 12 A: Yeah.
- 13 Q: And then later you testified that you weren't even there,
- 14 that you just made all that up?
- 15 A: Yeah.
- 16 Q: Okay. And then later, like as in last week, you come up
- 17 with another story; right?
- 18 A: Yeah. I'm telling the truth.
- 19 Q: Is that because -- did you think you were going to have
- 20 to go to trial?
- 21 A: Yeah.
- 22 Q: The trial was coming up then?
- 23 A: Yeah. And I want to tell the truth about it.
- 24 Q: So it was time for you to now tell the truth?
- 25 A: Been going to tell the truth. I was just nervous about

JAMIE WILLIAMS - CROSS BY MR. DEBERRY

1 it.

2 Q: Did you think that if you went to trial and you got
3 convicted then all deals are off the table; right?

4 A: What deal?

5 Q: Okay. Is that why you're testifying today?

6 A: I'm testifying for no deal.

7 Q: You're not testifying for a deal?

8 A: No.

9 Q: So when you -- when you come up with your new story, all
10 the people in the car start switching places; is that right?

11 A: Man, you see I put myself in the back seat, man. I'm
12 telling the truth.

13 Q: You put yourself in the back seat?

14 A: Yeah.

15 Q: You put yourself behind the driver's seat now?

16 A: Yeah. Behind the driver's seat.

17 Q: Okay. But you testified you're coming from Latta; right?

18 A: Yeah.

19 Q: All right. So on State's Exhibit 42, you're coming from
20 Latta. Okay? Latta is this way and Marion is this way.

21 A: Yeah.

22 Q: And that's Highway 501?

23 A: Yeah.

24 Q: Okay. So you testified earlier that you rode -- that
25 y'all rode by the house, everybody saw Eyebrows' truck?

JAMIE WILLIAMS - CROSS BY MR. DEBERRY

1 A: Yeah.

2 Q: And you turned around?

3 A: Yeah.

4 Q: And when you turned around and came back, you slowed
5 down?

6 A: Yeah.

7 Q: Or Blaton slowed down?

8 A: Yeah.

9 Q: And you started shooting?

10 A: I ain't started shooting first.

11 Q: All right. If you were behind the driver's seat, you
12 would have been on the side that the house was on; so why are
13 you shooting over the top of the car?

14 A: Man, look, man, I was shooting over the top of the car.

15 Q: Which way were you headed?

16 A: Man, we came -- I don't know highways that good. I ain't
17 going to lie to you, but I know what I did and I'm admitting
18 to what I did.

19 Q: You're testifying that y'all were heading back towards
20 Latta and that you were behind the driver's seat?

21 A: Yeah.

22 Q: You also told me last week that you were scared that
23 somebody else was going to shoot you, didn't you?

24 A: Yeah.

25 Q: Why was that?

JAMIE WILLIAMS - CROSS BY MR. DEBERRY

1 A: Man, like I said, it's a factor, man.

2 Q: A factor?

3 A: Yeah.

4 Q: You testified that -- or you didn't testify, but you gave
5 a statement to the Solicitor's Office just last week after
6 two-and-a-half years that you were scared that Shaheed was
7 going to shoot you, didn't you? Because he was going crazy?
8 Isn't that what you told them?

9 A: Well, I don't recall saying that he was going to shoot
10 me, but I was kind of nervous of the fact he was going to
11 shoot me.

12 Q: But your testimony puts him across the car shooting the
13 other way from you, doesn't it?

14 A: He was out the window. I was on top of the car.

15 Q: And y'all were shooting in the same direction?

16 A: I was just shooting to tell you the truth. I mean you
17 don't understand, man. I'm going to put it like this towards
18 you since you're asking me these questions. Because I just
19 told you --

20 Q: I just --

21 THE COURT: Hold on. Let him finish.

22 Q: That's not the way it works. I've got to ask you
23 questions.

24 THE COURT: Mr. Deberry, let him finish his answer. All
25 right.

JAMIE WILLIAMS - CROSS BY MR. DEBERRY

1 A: I'll put it like this towards you. When you get in
2 something at a young age, you don't know what to do. You just
3 -- and then you're scared. You don't know what to do.

4 Q: I understand. You were in a bad position and I
5 understand that and I honestly do and I hate it, but we need
6 to know the truth.

7 A: This is the truth.

8 Q: Well, your story just doesn't add up because --

9 THE COURT: Hold on a minute. You ask questions and you
10 answer the questions. Okay? Ask the questions and answer.
11 That's how it works.

12 MR. DEBERRY: Thank you.

13 BY MR. DEBERRY:

14 Q: The cars -- okay. We've been over that. Did you tell
15 the Solicitor's Office last week that there was a black and
16 silver .40 caliber handgun?

17 A: Yeah.

18 Q: Black and silver?

19 A: Yeah.

20 Q: Okay. You testified for Solicitor Clements just a few
21 minutes ago that when you first got in the car and they picked
22 you up that it was just Willie and Blaton?

23 A: Yeah.

24 Q: And then you testified later that it -- that Shaheed was
25 there?