

VOLUME I OF III

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Appeal from Calhoun County
Carmen T. Mullen, Circuit Court Judge

S.C. Supreme Court

WILLIE PELZER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-000731

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF CALHOUN) FIRST JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,)
))
PLAINTIFF,)
) 09-GS-09-0022
VS.)
))
WILLIE PELZER,)
))
DEFENDANT.) VOLUME 1
))
_____)

DECEMBER 1-4, 2009
ST. MATTHEWS, SOUTH CAROLINA

B E F O R E:

THE HONORABLE JAMES C. WILLIAMS, JR., JUDGE AND A JURY

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

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CIRCUIT COURT REPORTER

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1 THE COURT: Ladies and gentlemen, my name is Jimmy
2 Williams. I'm a circuit court judge for the state of South
3 Carolina. I'm one of about 50 judges who travel around the
4 state holding court. I actually live in the little town of
5 Norway, and I used to be assigned to this circuit;
6 Orangeburg, Dorchester and Calhoun, but I retired last
7 January. So they -- I still work three weeks a month, but
8 they send me all over the state now. Well, I went all over
9 the state previously, but I've not had to very much court in
10 the low-country since I retired. Mostly in the up-country,
11 but I've been brought back this week to preside over this
12 week of general sessions or criminal court. This is court
13 where individuals who have been charged with violating the
14 criminal laws of our state and have come to seek their day
15 in court.

16 You have been brought in to serve this week as jurors.
17 We have to qualify you to serve. The legislature has passed
18 certain requirements for jury service. The first thing we
19 are going to do is call the roll to see who is here. The
20 clerk of court will tell you the information he needs from
21 you when he calls the roll. It is absolutely imperative
22 that you speak loudly and clearly. This is a beautiful old
23 courtroom, but the acoustics is not very good at all. And
24 even if you are seating on the front row, if we are not able
25 to hear you we will have to ask you to please say that

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1 again. So please speak very loudly when you answer the
2 questions.

3 Once he's called the roll then I have some additional
4 questions to ask you based on your statutory requirements
5 for jury service. All of the information you need to
6 furnish to the court today you need to furnish under oath.

7 So would you please stand at this time and raise your
8 right hand.

9 (The jury panel is sworn.)

10 THE COURT: Thank you. You may be seated.

11 All right, Mr. Clerk.

12 This is Mr. Ken Hasty, ladies and gentlemen. He is the
13 clerk of court for Calhoun County.

14 You may proceed.

15 MR. HASTY: Thank you, Your Honor.

16 Good morning, ladies and gentlemen.

17 (Roll was called.)

18 THE COURT: All right. Was anyone else's name not
19 called?

20 (No response.)

21 THE COURT: I have questions to ask you concerning
22 your qualifications. It is necessary that if the question
23 applies to you that you furnish that information to the
24 Court. If it is of a personal or private nature or
25 something you would prefer not to share with everyone, then

1 you may come up and speak with me privately about the
2 matter. You may wait until I have asked all of the
3 questions and then come up and speak to me about a matter,
4 but please do not withhold any information that might be
5 required by any of these questions.

6 First, was each of you summoned by your proper name.
7 If you were not summoned by your proper name would you
8 please stand at this time.

9 (No one stands.)

10 THE COURT: Ladies and gentlemen, we have three
11 lists from which we get the names of prospective jurors.
12 You only have to be on one of these three, but if you're not
13 on at least one of them, then we need to find out how you
14 got here. You could be in the wrong court or this could be
15 the wrong term.

16 The first is the list of all persons who have a drivers
17 license, the second is a list of all persons who are
18 registered to vote, and the final is the list of all persons
19 who have a photo ID card from the Highway Department.

20 So if your name would not be on one of those three
21 lists would you please stand.

22 (No one stands.)

23 THE COURT: Is any member of the jury panel who is
24 no longer a citizen and resident of Calhoun County. If you
25 no longer live in Calhoun County would you please stand.

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1 (No one stands.)

2 THE COURT: Is any member of the jury panel who is
3 not a United States citizen. If you're not a US citizen,
4 please stand.

5 (No one stands.)

6 THE COURT: Is any member of the jury panel who is
7 not yet 18 years old. If you are younger than 18, would you
8 please stand.

9 (No one stands.)

10 THE COURT: Is any member of the jury panel unable
11 to read, write, speak, or understanding the English
12 language. If you have difficulty reading, writing or
13 speaking English, would you please stand.

14 (No one stands.)

15 THE COURT: Is any member of the jury panel who has
16 less than a sixth grade education or its equivalent, would
17 you please stand.

18 (No one stands.)

19 THE COURT: Is any member of the jury panel
20 incapable by reason of any physical or mental infirmity of
21 rendering jury service this week. If so would you please
22 stand.

23 (One juror stands.)

24 THE COURT: Yes, sir, your name and number?

25 JUROR NO. 74: Kenneth Macmillian, 74.

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1 THE COURT: Yes, sir.

2 JUROR NO. 74: May I approach the bench?

3 THE COURT: Yes, sir, you may. Come right around
4 over here.

5 Yes, ma'am, your name and number?

6 JUROR NO. 106: Nancy Stevenson, No. 106.

7 THE COURT: All right. Come on around, please
8 ma'am.

9 (Off the record bench conference with Juror No. 74, counsel
10 and the Court.)

11 THE COURT: This juror is transferred for medical
12 reasons. He's going to get a medical excuse to Mr. Hasty,
13 and if he does he will be excused.

14 I forgot his number. What was his number?

15 THE STATE: No. 74.

16 THE COURT: All right.

17 Yes, ma'am.

18 (Off the record bench conference with Juror No. 106,
19 counsel, and the Court.)

20 THE COURT: Okay. Juror No. 74 that was
21 transferred. Ms. Stevenson is going to remain with us.

22 Sheriff, you will have to provide transportation for
23 her if she's selected on the jury.

24 SHERIFF SUMMERS: Yes, sir.

25 THE COURT: Has any member of the jury panel served

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1 on the grand jury in Calhoun County within the past five
2 years. If you've served on the grand jury in the past five
3 years, would you please stand.

4 (No one stands.)

5 THE COURT: Has any member of the jury panel served
6 on the petit jury panel for a one week term of court just as
7 we are having this week within the last three years or so,
8 would you please stand.

9 (No one stands.)

10 THE COURT: Has any member of the jury panel ever
11 been convicted either by a plea or a trial of any criminal
12 offense in any court where you could have received a
13 sentence in excess of one year and have not had your civil
14 rights restored by pardon or amnesty. I need you to come up
15 and speak with me about that. It does not mean that you
16 have served any time at all or that you received a sentence
17 in excess of one year, but if you were found guilty or pled
18 guilty to any criminal offense where you could have received
19 a sentence in excess of one year I need you to come forward
20 and speak with me about that.

21 (Juror stands.)

22 (Off the record bench conference with Juror No. 88, counsel
23 and the Court.)

24 THE COURT: Juror No. 88 is excused.

25 Anyone else?

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1 Does any member of the jury panel have a commission as
2 a law enforcement officer, if so, would you please stand.

3 (No one stands.)

4 THE COURT: Is any member of the jury panel
5 employed with the South Carolina Department of Corrections,
6 if so, would you please stand.

7 (No one stands.)

8 THE COURT: Is any member of the jury panel a clerk
9 of court, deputy clerk of court, constable, probate,
10 sheriff, commissioner, magistrate or any other county
11 officer. If so, would you please stand.

12 (No one stands.)

13 THE COURT: Is any member of the jury panel
14 employed within the four walls of any courthouse, if so,
15 would you please stand.

16 (No one stands.)

17 THE COURT: Is any member of the jury panel a
18 student or teacher who needs to be in school this week, if
19 so, would you please stand.

20 (Jurors stand.)

21 THE COURT: Yes, ma'am, on the left, your name and
22 number?

23 JUROR NO. 72. My name is Sughitte McKenzie, and
24 I'm Juror No. 72. And I have class this week.

25 THE COURT: And where are you a student?

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1 JUROR NO. 72: At OC Tech.

2 THE COURT: All right. I'll excuse you. You're
3 free to leave. Thank you, ma'am.

4 Yes, ma'am, your name and number?

5 JUROR NO. 68: Dana Mack, I'm Juror No. 68, and
6 I'm a First Grade teach at Elementary School in Pelion, and
7 we have school for three more weeks.

8 THE COURT: And you would like to be excused?

9 JUROR NO. 68: Yes. If I can be submitted for a
10 later time, probably in the summer.

11 THE COURT: I can transfer you to June.

12 JUROR NO. 68: Okay.

13 THE COURT: Transfer this lady to June, Mr. Hasty.

14 Yes, ma'am. Your name and number?

15 JUROR NO. 76: My name is Thelma Miles. I'm Juror
16 No. 76. I attend OC Tech, and I have school this week.

17 THE COURT: What days do you have class?

18 JUROR NO. 76: On Mondays and Wednesdays.

19 THE COURT: All right. I'll excuse you. You want
20 to be transferred or do you want to be excused?

21 JUROR NO. 76: You can transfer me to a later time.

22 THE COURT: I'll transfer you to June. Thank you,
23 ma'am.

24 JUROR NO. 76: Thank you.

25 THE COURT: Anyone else?

1 Ladies and gentlemen, is there any member of the juror
2 panel who is 65 years or older and would like to be excused,
3 if so, would you please stand. If you're over 65 or over
4 you can serve. You've qualified to served, but you don't
5 have to serve, according to our legislature. So if you're
6 65 or over and would like to be excused, would you please
7 stand.

8 (No one stands.)

9 THE COURT: Is there any member of the jury panel
10 who has a small child or children under the age of seven.
11 You do not work outside the home but you stay at home and
12 take care of that child or children, and you have legal
13 custody of that child or children, and you would like to be
14 excused for those child care reasons I can excuse you for
15 that reason. If that applies to you and you would like to
16 be excused, please stand.

17 Sometimes we find these ladies want a break and would
18 rather serve on the jury.

19 (No one stands.)

20 THE COURT: All right. If you are the sole care-
21 giver for an elderly or disabled person I can possibly
22 excuse you for that reason. If that applies to you, would
23 you please stand.

24 (Juror stands.)

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

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1 JUROR NO. 51: Diane Hook, No. 51. I take care of
2 a 88-year old in my home.

3 THE COURT: Do you work outside the home?

4 JUROR NO. 51: Yeah. I take care of her in my
5 home.

6 THE COURT: Do you work other than taking care of
7 her?

8 JUROR NO. 51: Oh, no. I take care of her.

9 THE COURT: And who is this lady?

10 JUROR NO. 51: Miss Annie --

11 THE COURT: Is that your job?

12 JUROR NO. 51: Yeah.

13 THE COURT: All right. I can't excuse you for that
14 reason. If that's your job, I can't excuse you. Thank you,
15 ma'am.

16 Anyone else?

17 (No response.)

18 THE COURT: Ladies and gentlemen, even though you
19 are qualified to serve, if this is a particularly difficult
20 week for you to serve on the jury because of some previous
21 commitment that you have, or some obligation you have at
22 home or at work, I can possibly transfer you to a week later
23 in the year. If that applies to you and you would like for
24 me to consider transferring you, please stand.

25 (Juror stands.)

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

2 JUROR NO. 19: Amber Crider, No. 19. The lady that
3 I share responsibilities with is on vacation this week.
4 Transfer of term, can you explain that?

5 THE COURT: All right. I'll transfer you to
6 January or February. You'll be getting another notice.

7 JUROR NO. 19: Thank you.

8 THE COURT: Yes, ma'am. Now, you cannot be
9 transferred more than one time, so when you get that notice
10 be sure no one else is taking vacation.

11 JUROR NO. 19: I'll let them know that.

12 THE COURT: All right. Thank you, ma'am.

13 Anyone else want me to consider transferring you. Does
14 anyone need to respond?

15 (Juror stands.)

16 THE COURT: Yes, ma'am. Your name and number?

17 JUROR NO. 119: My name is Mary Yandle. I am a
18 cafeteria manager for Sandy Run Elementary School. And I
19 would prefer to transfer to summer-time if at all possible.
20 I have to cook for about 600 kids and it's kind of hard for
21 me to be here.

22 THE COURT: All right. I'll transfer you to June.
23 Make that note, Mr. Hasty.

24 MR. HASTY: Yes, sir.

25 THE COURT: Okay. Anyone else?

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1 Ladies and gentlemen, does anyone else need to respond
2 to any of the questions I've asked previously and need to
3 speak to me privately about any of those matters, if so,
4 would you please come forward at this time.

5 (No juror stands.)

6 THE COURT: Does any member of the jury panel know
7 of any reason that you would not be qualified to serve on
8 the jury, whether it's something I've mentioned or something
9 I've not mentioned. If you know of any reason you would not
10 be qualified would you please stand.

11 (No one stands.)

12 THE COURT: All right. There are several
13 individuals that I need to come forward to speak to me.

14 Mr. Darryl Brown, Mr. Paul Billy Centek, Ms. Shavonda
15 Hair, Mr. Alexander Owens.

16 If you would please come and stand right there until I
17 can get to you.

18 (Jurors come forward.)

19 (Off the record bench conference with Mr. Brown, counsel and
20 the Court.)

21 THE COURT: All right, Mr. Brown, have a seat.

22 Next -- Ma'am. Are you Ms. Hair?

23 JUROR NO. 41: Yes, I am.

24 (Off the record bench conference with Ms. Hair, counsel and
25 the Court.)

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1 THE COURT: Thank you, Ms. Hair.

2 Yes, sir, Mr. Centek?

3 JUROR NO. 13: Yes, sir.

4 (Off the record bench conference with Mr. Centek, counsel
5 and the Court.)

6 THE COURT: Juror No. 13 is excused.

7 Yes, sir?

8 (Off the record bench conference with Mr. Owens, counsel,
9 and the Court.)

10 THE COURT: Juror No. 83 is excused.

11 All right, ladies and gentlemen, those of you who
12 remain, I find qualified to serve as jurors.

13 In just a few minutes we're going to select the jury
14 for our first case. Ladies and gentlemen, we're never able
15 to predict with real accuracy how court is going to run
16 because we're dealing with people. Things come up that
17 change our plans, even very well made plans, but our plans
18 are to try a case starting very quickly this morning and
19 that case may take the rest of this week. If it finishes
20 early then we'll probably have another case to try after
21 that. We just don't know, yet, but right now we think that
22 first case may take right on into Friday.

23 Now, it's -- if you're not selected on that case, I'll
24 excuse you and you'll be given a telephone number to call
25 back in. We won't keep you here waiting. We'll let you go

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1 home and you call back here every afternoon after 6:00
2 o'clock so that if we do need you we can get you back to try
3 the next case, but if you're selected on the first case, we
4 expect that case is probably going to take the balance of
5 the week, but like I say, a lot of things change about that.

6 I wanted to introduce you to some folks that you might
7 see in the courtroom.

8 Mr. Leiendecker, you and Mr. Banks may be excused.

9 MR. LEIENDECKER: Yes, sir.

10 THE COURT: Before I excuse Mr. Leiendecker, let me
11 introduce you to him.

12 Ladies and gentlemen, the gentleman in the dark suit is
13 Mr. Mark Leiendecker. He is the public defender for the
14 First Judicial Circuit. The First Judicial Circuit is
15 Orangeburg, Calhoun and Dorchester Counties. And only in
16 the last year or so have there been circuit-wide public
17 defenders, and Mr. Leiendecker is the first person to serve
18 as the public defender. He is in charge of all of the
19 public defenders for Orangeburg, Calhoun, and Dorchester
20 Counties, and he is assisted in Calhoun County by Mr. Martin
21 Banks, who is a local attorney who has been serving as the
22 public defender here for some time.

23 That's the two gentlemen who are standing before you at
24 this time.

25 All right, now you may be excused.

1 Ladies and gentlemen the person who is charged with
2 prosecuting individuals charged with committing crimes in
3 the First Judicial Circuit is called a circuit solicitor.
4 There are 16 judicial circuits in South Carolina. As I
5 said, Orangeburg, Calhoun, and Dorchester Counties comprise
6 the First Judicial Circuit. Your elected solicitor for this
7 circuit is Mr. David Pasco, who happens to be from Calhoun
8 County, although he is the solicitor for all three counties.

9 Mr. Pasco, would you stand, please, and introduce the
10 members of your staff who are present.

11 MR. PASCO: Yes, Your Honor.

12 Good morning, ladies and gentlemen. My name is David
13 Pasco. Present with me to day is my assistant solicitor,
14 Don Sorenson. Also, sitting with me are my staff assistants
15 and Detective Riley Godwin from the Calhoun County Sheriff's
16 Office.

17 THE COURT: Thank you, sir.

18 Ladies and gentlemen, most states call prosecutors a
19 state's attorney or the US Attorney or district attorney or
20 something like that, but South Carolina uses an old English
21 term called the solicitor. It means the same thing. It
22 means the prosecutor.

23 Mr. Hasty, I introduced Mr. Hasty to you a few minutes
24 ago. He is the Clerk of Court for Calhoun County.

25 Mr. Hasty, would you introduce the members of your

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1 staff who are present?

2 MR. HASTY: Yes, sir. We have Ms. Claudia
3 Pauling, who is my deputy clerk. We our staff coordinator
4 and we have a Bailiff in the back, Mr. Garcia.

5 THE COURT: All right, thank you.

6 We are pleased to have Sheriff Summers with us, the
7 Sheriff of Calhoun County.

8 Mr. Summers, would you introduce the members of your
9 staff who are present.

10 SHERIFF SUMMERS: Riley Godwin is sitting at the
11 table with the solicitor, Captain (inaudible) at the back
12 door. Lt. Stanley Graham and Chief Herbert Green.

13 THE COURT: All right. Mr. Eric Weed from the
14 probation office. Would you introduce the members of your
15 staff that are present?

16 MR. WEED: Good morning. This is Agent Kenneth
17 (inaudible) and our office coordinator Ms. Andrea Fogle.

18 THE COURT: Thank you, sir.

19 Ladies and gentlemen, sitting to my right is Ms. Hilda
20 Jordan. She is the court reporter. This is a court of
21 record. That means that every word that is spoken in this
22 court has to be recorded and that's what she's doing by
23 speaking into this little mask. As you answer questions she
24 puts down your answers, and if we need to produce a record
25 of the proceedings in this courtroom she can do that.

1 If you notice your magistrate's court, which is a lower
2 level court are referred to as summary courts, and that
3 means they are not courts of record. The official record in
4 a proceeding in a magistrate's court is a summary prepared
5 by the magistrate. Sometimes they do have court reporters
6 there and they take the verbatim record, they're not
7 required to do so, but we are required to do so. And I
8 frequently tell people that there are two indispensable
9 figures in this courtroom that we cannot have court without,
10 and that's me -- you can't have court without a judge, and
11 the court reporter. You can't have court without a court
12 reporter. If either one of us is not here there is no
13 court. Everybody else you can replace or get a substitute
14 for, but the two of us we can't, and we're right scarce.
15 There are not a lot of judges and not a lot of court
16 reporters.

17 She does a great job. She has worked with me in a
18 number of counties.

19 Usually, I have sitting by me a law clerk who would
20 assist me in administrative matters and research and that
21 type of thing, but when I retired they took my law clerk and
22 my secretary and said you'd just going to have to do your
23 work now without them. So I don't have anybody else.

24 I enjoy what I do and that's why I have chosen to stay
25 on the bench and work three weeks a month, they give me a

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1 little supplement to my retirement to do that.

2 We're going to take a few minutes. We do have a case
3 to try in a few minutes, but the lawyers are talking with
4 their client. We're trying to get everything shaped up with
5 that.

6 So we're going to take about 15 minutes. If you need
7 to stir around there's restrooms downstairs. There's not
8 any canteen, I don't think, in the courthouse.

9 You can complain to your County Council about that if
10 you think you need that here, and they'll raise your taxes
11 and put in the canteen.

12 We're going to take about 15 minutes. So please be
13 back about 20 minutes after 11:00, and we'll try to be ready
14 to get started at that time.

15 Thank you very much. Court will be in recess.

16 (Court in recess for break at 11:01 a.m.)

17 (Court in session after break at 11:21 a.m.)

18 THE COURT: Thank you very much. You may be
19 seated.

20 Ladies and gentlemen, I complained about not having a
21 law clerk, and now I have a law clerk. How about that.

22 Actually, this is Leah Blackwell. She is the law clerk
23 for Judge Dickson, who was elected to fill my vacancy in
24 Orangeburg County. They've having a kind of slack week, and
25 she heard I might need somebody, so she came over.

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1 All right, solicitor, are you ready to call your case.

2 MR. PASCO: Yes, Your Honor.

3 THE COURT: All right.

4 MR. PASCO: At this time the state of South
5 Carolina calls the case of the State of South Carolina
6 verses Willie Pelzer on one court of murder. Indictment
7 number 2009-GS-09-0022.

8 THE COURT: All right, can I have the indictment,
9 please.

10 Ladies and gentlemen, the state has called their case
11 against Mr. Willie Pelzer, III. The state has charged Mr.
12 Pelzer in this indictment with the crime of murder. To the
13 charges contained in this indictment Mr. Pelzer has pled not
14 guilty. That makes the burden of proving him guilty beyond
15 a reasonable doubt on the state. A person charged with
16 committing a criminal offense is never required to prove
17 themselves guilty. The burden is always on the state.

18 Both the state and the defense in this case are
19 entitled to what we call a fair and impartial jury. By
20 that, we mean a jury which has based its decision in this
21 case solely on the testimony and the evidence that you hear
22 in this courtroom. It means the jury would not be
23 influenced by something that you know about this case that
24 you've heard outside the courtroom or some experience that
25 you might have had. Some friend of yours, some

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1 acquaintance, some relative of yours, anything that would
2 effect your ability to be a -- to base your decision in this
3 case solely on the testimony and evidence that you heard in
4 the courtroom would be what would disqualify you from being
5 on this jury.

6 So I'm going to ask you some questions, ladies and
7 gentlemen, to determine your ability to serve a fair and
8 impartial jurors in this case. It is absolutely imperative
9 that you provide me with answers to the questions that might
10 apply to you. Again, if it is of a personal or private
11 nature and something that you would prefer not to share with
12 everyone else you can come forward and speak with me
13 privately about it, but please don't disclose any
14 information that might be required by any of these
15 questions. If you're not sure whether you should respond or
16 not, come up and speak with me about it, and let me decide
17 whether that's important information.

18 The first thing I'm going to do ladies and gentlemen is
19 I'm going to read you the indictment so that you will know
20 what the charges are, remember as I read you the indictment
21 that the indictment itself is not evidence. It is simply a
22 document drawn up that provides the charges -- the defendant
23 of the charges he is facing.

24 The state alleges that in Calhoun County, on or about
25 March 5, 2009, with malice aforethought, the defendant,

1 Willie Pelzer, III., did kill one Jason Rivenburg by means
2 of shooting him with a gun, and the victim died as a result
3 of that gunshot in violation of the laws in the state of
4 South Carolina, and, as I said, to these charges Mr. Pelzer
5 has pled not guilty.

6 Mr. Pelzer, would you stand, please, and face the jury
7 panel so they can identify you.

8 Ladies and gentlemen, this is Mr. Willie Pelzer, III.

9 Thank you. You may be seated.

10 Any member of the jury panel related by blood,
11 connected by marriage, close personal friend, have any
12 knowledge of or acquaintance with Mr. Pelzer?

13 If you know Mr. Pelzer in any capacity whatsoever,
14 would you please stand.

15 (Jurors stand.)

16 THE COURT: All right come on around here to the
17 left. Your name and number, please.

18 JUROR NO. 101: Last name is Snider.

19 THE COURT: All right. How do you know Mr. Pelzer?

20 JUROR NO. 101: I went to high school, and I've
21 seen him around from time to time.

22 THE COURT: You've known him a long time?

23 JUROR NO. 101: Not a long time. I've seen him a
24 few times in high school and the area.

25 THE COURT: All right. The fact that you know him,

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1 would that have any ability on your -- any effect on your
2 ability to be a fair and impartial juror for both the state
3 and the defendant?

4 JUROR NO. 101: No, sir.

5 THE COURT: You can put all -- what you know about
6 it aside and make your decision based solely on the
7 testimony and the evidence as you heard it in this
8 courtroom?

9 JUROR NO. 101: Yes, sir.

10 THE COURT: All right. Thank you, sir. You are
11 qualified. Please be seated.

12 THE COURT: Yes, sir, your name and number?

13 JUROR NO. 87: Joshuaway Pondexter, Juror No. 87.

14 THE COURT: Yes, sir?

15 JUROR NO. 87: I'm pretty close with the family
16 members, with his close family members. I know them real
17 well.

18 THE COURT: All right, sir. Do you think that
19 might effect your ability to be a fair and impartial juror?

20 JUROR NO. 87: Well, I don't think it would hinder
21 my decision, but I'm still in communication with the family.
22 So, to know that I would be on the jury, and then with them
23 afterwards is kind of awkward.

24 THE COURT: So you think it could have some effect
25 on your ability to serve?

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1 JUROR NO. 101: Yes, sir.

2 THE COURT: All right, sir. I understand that. I
3 appreciate you from serving on this case, but you need to
4 remain with us for right now.

5 JUROR NO. 87: Yes, sir.

6 THE COURT: Thank you.

7 Yes, ma'am, your name and number?

8 JUROR NO. 41: My name is Shavonda Hair. I forgot
9 my number, but me and him went to school together.

10 THE COURT: And would that effect your ability to
11 be a fair and impartial juror both to the defendant and to
12 the state?

13 JUROR NO. 41: No, sir.

14 THE COURT: You think you could put aside with you
15 know about him and base your decision solely on the
16 testimony and the evidence you hear in the courtroom?

17 JUROR NO. 41: Yes, sir.

18 THE COURT: Thank you, ma'am. You're qualified to
19 serve.

20 Yes, sir, your name and number.

21 JUROR NO. 120: My name is Felton Zeigler. I don't
22 remember my number.

23 THE COURT: All right.

24 JUROR NO. 120: I know Mr. Pelzer.

25 THE COURT: And do you think that might effect your

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1 ability to be a fair and impartial juror?

2 JUROR NO. 120: No. Not at all.

3 THE COURT: Not at all. Thank you, sir. You're
4 qualified to serve.

5 Yes, ma'am, your name and number?

6 JUROR NO. 69: Bonnie Martin. I worked with Mr.
7 Pelzer when I was employed with the Department of
8 Transportation.

9 THE COURT: And would that effect your ability to
10 be a fair and impartial juror in this case?

11 JUROR NO. 69: No, sir.

12 THE COURT: Thank you, ma'am.

13 Yes, sir -- yes, ma'am. I can't see you back there..

14 JUROR NO. 26: Tina Dukes, 26.

15 THE COURT: Yes, ma'am.

16 JUROR NO. 26: I've know them since elementary
17 school. I don't feel right to be here.

18 THE COURT: So you think that would effect your
19 ability to be a fair and impartial juror.

20 JUROR NO. 26: Yes.

21 THE COURT: I understand that fully. I will excuse
22 you from serving on this case. Just remain with us for
23 right now.

24 JUROR NO. 26: Okay.

25 THE COURT: I'll tell you what, you are excused.

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1 You're free to leave. You just call back after 6:00 o'clock
2 this afternoon, and follow whatever instructions you find on
3 that recording.

4 JUROR NO. 26: Okay.

5 THE COURT: I don't know whether we'll need you
6 tomorrow or not, but you call back after 6:00 o'clock, and
7 you're free to leave.

8 The gentlemen I excused over here, you're free to
9 leave, also.

10 All right. Mr. Pelzer is being represented by Mr.
11 Leiendecker and Mr. Banks. Both gentlemen, would you stand,
12 please. Thank you, you may be seated.

13 Ladies and gentlemen, is any member of the jury panel
14 related by blood, connected by marriage, close personal
15 friends, have any knowledge or acquaintance with Mr.
16 Leiendecker or Mr. Banks or if you are now or have ever been
17 represented by either of these attorneys or if you are
18 acquainted with the assistants sitting at the table with
19 them would you please stand at this time.

20 (Juror stands.)

21 JUROR NO. 103: Mr. Banks handled some affairs when
22 my father passed away.

23 THE COURT: All right, ma'am, I'll need your name
24 and number?

25 JUROR NO. 103: Cynthia Spires. I do not remember

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1 my number.

2 THE COURT: All right. Will that effect your
3 ability to be a fair and impartial -- remember the court
4 reporter has to write it down, so we're both talking at the
5 same time and we do that all the time, we nod -- but we
6 can't do that in court. So would that effect your ability
7 to be a fair and impartial juror in this case?

8 JUROR NO. 103: No, sir.

9 THE COURT: Thank you, ma'am.

10 Yes, ma'am, your name and number?

11 JUROR NO. 23: Sheryl Davis, number 23. Mr. Banks,
12 I believe has been my attorney.

13 THE COURT: All right, would that effect your
14 ability to be a fair and impartial juror in this case?

15 JUROR NO. 23: No.

16 THE COURT: All right.

17 Yes, ma'am, your name and number?

18 JUROR NO. Tina Carson, No. 11. He has handled
19 cases for us.

20 THE COURT: Would that effect your ability to be a
21 fair and impartial juror?

22 JUROR NO. 11: No, sir.

23 THE COURT: Thank you, ma'am.

24 Yes, sir.

25 JUROR NO. 12: Richard

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1 Carson, No. 12. He's handled cases for us.

2 THE COURT: Would that effect your ability to be a
3 fair and impartial juror?

4 JUROR NO. 12: No, sir.

5 THE COURT: Thank you, sir. You are qualified to
6 serve.

7 Ladies and gentlemen, the case is being prosecuted by
8 Mr. Pasco and Mr. Don Sorenson.

9 If you gentlemen will please stand. Thank you. You
10 may be seated.

11 Is there any member of the jury panel connected by
12 blood, connected by marriage, close personal friend, have
13 any knowledge of Mr. Pasco or Mr. Sorenson. If you know
14 these gentlemen in their capacity or any other member of the
15 staff of the solicitor's office would you please stand.
16 (Jurors stand.)

17 THE COURT: All right, yes, ma'am, in the gold
18 sweater. Your name and number, please.

19 JUROR NO. 116, Lynell Williamson.

20 THE COURT: Yes, ma'am. You know Mr. Pasco?

21 JUROR NO. 116: I'll need to speak to you.

22 THE COURT: All right. Come around. Come over this
23 way, please, ma'am. While you're doing that --

24 Yes, sir, in the back. Your name and number, please.

25 JUROR NO. 93: Jeff Roediger. Close friends with

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1 Dave Pasco.

2 THE COURT: Would that effect your ability to be a
3 fair and impartial juror for both the state and the defense
4 in this case?

5 JUROR NO. 93: No, sir.

6 THE COURT: Thank you, sir. You're qualified to
7 serve.

8 (Off the record bench conference with Juror No. 116, counsel
9 and the Court.)

10 THE COURT: The juror is qualified to serve.

11 Yes, ma'am, Ms. Carson?

12 JUROR NO. 11: Our kids go to school together with
13 Mr. Pasco.

14 THE COURT: Would that effect your ability to be a
15 fair and impartial juror in this case?

16 JUROR NO. 11: No, sir.

17 THE COURT: Thank you.

18 Yes, sir?

19 JUROR NO. 12: Just friends with David.

20 THE COURT: Will that effect your ability to be a
21 fair and impartial juror?

22 JUROR NO. 12: No, sir.

23 THE COURT: Thank you, sir.

24 All right, ladies and gentlemen --

25 MR. LEIENDECKER: Your Honor, may I approach with

1 the solicitor?

2 THE COURT: Yes, sir.

3 (Off the record bench conference with counsel and the
4 Court.)

5 THE COURT: All right, ladies and gentlemen, I'm
6 going to read you the names of some individuals who may
7 testify as witnesses in this case. They may or may not
8 testify, but they are going to have some information about
9 this case or they would not be listed as prospected
10 witnesses.

11 When I call their names please don't wait until I
12 finish this list of 40 names. When I call their name, if
13 you know this person or think you may know this person, I
14 will ask you to stand at that time and divulge whatever
15 information you have about the witness.

16 If the witness is in the courtroom, I will ask that
17 that witness stand when I call their name, but most of them
18 are not going to be here because most of them will not
19 testify today, at least not this morning, but if you know
20 this person or think you might know this person, please
21 stand when I call their names.

22 Investigator Riley Godwin with the Calhoun County
23 Sheriff's Office.

24 Thank you, sir. You may be seated.

25 (Juror stands.)

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

2 JUROR NO. 55: 55 is my number. I am acquainted
3 with Riley.

4 THE COURT: And would that effect your ability to
5 be a fair and impartial juror in this case?

6 JUROR NO. 55: No, sir.

7 THE COURT: Thank you, ma'am.

8 Yes, ma'am. We'll start on the front row.

9 Yes, ma'am?

10 JUROR NO. 69: Bonnie Martin, No. 69. Just known
11 him for a long time.

12 THE COURT: Would that effect your ability to be a
13 fair and impartial juror in this case?

14 JUROR NO. 69: No.

15 THE COURT: Thank you, ma'am.

16 Ms. Carson?

17 JUROR NO. 11: We just know Riley as a friend of
18 ours.

19 THE COURT: Would that effect your ability to be a
20 fair and impartial juror in this case?

21 JUROR NO. 11: No, sir.

22 THE COURT: Thank you, ma'am.

23 Mr. Carson.

24 JUROR NO. 12: Just known Riley a long time. No,
25 sir, will not effect.

1 THE COURT: Thank you, sir.

2 Yes, sir?

3 JUROR NO. 40: Robert Haigler, number 40. Riley is
4 a neighbor of mine in Cameron.

5 THE COURT: Will that effect your ability to be a
6 fair and impartial juror?

7 JUROR NO. 40: No, sir.

8 THE COURT: Thank you.

9 Yes, ma'am.

10 JUROR NO. 55: I've known Riley -- Lori Jackson,
11 number 55. I've know he and his family a long time.

12 THE COURT: Would that effect your ability to be a
13 fair and impartial juror?

14 JUROR NO. 55: No, sir.

15 THE COURT: Thank you, ma'am.

16 Investigator Stanley Graham, and ladies and gentlemen,
17 all of these first five or six are with the Calhoun County
18 Sheriff's Office. Investigator Stanley Graham.

19 (No one stands.)

20 THE COURT: Lt. Pat Regalis.

21 (No one stands.)

22 THE COURT: Maj. Tim Stephenson.

23 (No one stands.)

24 THE COURT: Sgt. Mike Headden.

25 (No one stands.)

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1 THE COURT: Deputy A.W. Troutman.

2 (Jurors stand.)

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

4 JUROR NO. 55: Is that Aaron Troutman?

5 THE COURT: A.W.

6 JUROR NO. 55: He's my cousin.

7 THE COURT: Your name and number?

8 JUROR NO. 55: Lori Jackson, number 55.

9 THE COURT: Will that effect your ability to serve
10 on this jury as a fair and impartial juror?

11 JUROR NO. 55: No.

12 THE COURT: Thank you, ma'am.

13 Yes, ma'am?

14 JUROR NO. 116: Number 116, Lynell Williamson.

15 Aaron and my daughter know each other.

16 THE COURT: Would that effect your ability to be a
17 fair and impartial juror?

18 JUROR NO. 116: No, sir.

19 THE COURT: Thank you, ma'am.

20 Ladies and gentlemen, Dr. Michael Panella from the
21 Newberry Medical Associates.

22 (No one stands.)

23 THE COURT: Aaron Walton.

24 (No one stands.)

25 THE COURT: Dana Brown.

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1 (No one stands.)

2 THE COURT: Willie Reed, Jr.

3 (No one stands.)

4 THE COURT: Jimmy Haygood, Jr.

5 (No one stands.)

6 THE COURT: Aaron Briggman.

7 (No one stands.)

8 THE COURT: Greg Mack.

9 (No one stands.)

10 THE COURT: Willie clay Haygood.

11 (No one stands.)

12 THE COURT: Bryant Haygood.

13 (No one stands.)

14 THE COURT: Carl Schultz with the Orangeburg
15 Department of Public Safety. Sgt. Carl Schultz.

16 (No one stands.)

17 THE COURT: Ladies and gentlemen, the following
18 witnesses are presently employed with the South Carolina
19 Department of -- South Carolina Law Enforcement Division,
20 SLED, or they were formerly employed with SLED and have some
21 knowledge about the case.

22 Renee Strickland.

23 (No one stands.)

24 THE COURT: Jennifer Stoner.

25 (No one stands.)

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1 THE COURT: John Roberts.

2 (No one stands.)

3 THE COURT: Ken Whitler.

4 (No one stands.)

5 THE COURT: Betty Butler.

6 (No one stands.)

7 THE COURT: Ladies and gentlemen, from the
8 Schoharie, New York County Sheriff's Office, Investigator
9 Nelson Armlin.

10 (No one stands.)

11 THE COURT: Other witnesses, Jerry Dubin.

12 (No one stands.)

13 THE COURT: Yes, sir. Oh, all right. Thank you
14 for standing. That's Mr. Dubin, ladies and gentlemen.

15 (No one stands.)

16 THE COURT: Derrick Glisson.

17 (No one stands.)

18 THE COURT: From Woody's Pawn Shop in Orangeburg,
19 Chan Holman.

20 (Juror stands.)

21 THE COURT: Yes, sir, Mr. Carson.

22 JUROR NO. 12: I just know Chan.

23 THE COURT: Will that effect your ability to be a
24 fair and impartial juror?

25 JUROR NO. 12: No, sir.

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1 THE COURT: Also from Woody's, Charles Garrick.

2 (No one stands.)

3 THE COURT: Darrell Murph.

4 (No one stands.)

5 THE COURT: Carolyn Pelzer. Ms. Pelzer is
6 present. If any of these are present, please stand.

7 (No one stands.)

8 THE COURT: Danny McDaniel.

9 (Juror stands.)

10 THE COURT: Yes, ma'am. This is Ms. Pelzer in the
11 back, ladies and gentlemen. I think this is the defendant's
12 mother.

13 MS. MURPH: Murph.

14 THE COURT: Ma'am?

15 MS. MURPH: Murph.

16 COURT: Thank you, ma'am. You may be seated.

17 Oh, this is Ms. Murph.

18 MR. SORENSON: Her name is Carolyn Murph.

19 (Jurors stand.)

20 THE COURT: Yes, ma'am, your name and number.

21 JUROR NO. 117: I don't remember my number. Annie
22 Wise.

23 THE COURT: Ms. Wise?

24 JUROR NO. 117: Yes. I know Ms. Carolyn Murph
25 real well.

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1 THE COURT: Ms. Murph?

2 JUROR NO. 117: Yes.

3 THE COURT: All right. And would that effect your
4 ability to be a fair and impartial juror in this case?

5 JUROR NO. 117: Yeah, I think so.

6 THE COURT: All right. I'll excuse you from
7 service in this case. You are free to leave, but please
8 call back after 6:00 o'clock.

9 JUROR NO. 117: Thank you.

10 THE COURT: Yes, sir.

11 JUROR NO. 120: That's someone I know.

12 THE COURT: You name and number?

13 JUROR NO. 120: My name's Paul Zeigler, I don't
14 know my number.

15 THE CLERK: No. 120.

16 THE COURT: No. 120?

17 THE CLERK: Yes, sir.

18 THE COURT: All right. You say you know her?

19 JUROR NO. 120: Yes, sir.

20 THE COURT: Would that effect your ability to be a
21 fair and impartial juror?

22 JUROR NO. 120: No, sir.

23 THE COURT: Thank you, sir. You are qualified to
24 serve.

25 Anyone else?

1 (No one stands.)

2 THE COURT: Ladies and gentlemen, have you or a
3 close member of your family, a close relative, ever been the
4 victim of a violent crime, if so would you please stand.
5 (Jurors stands.)

6 THE COURT: All right. I want you to tell me
7 whether it was you that was the victim. If not, tell me
8 what relationship the victim was to you. Then, I want to
9 know if the matter is still pending, and if anything about
10 that experience would effect your ability to serve as a fair
11 and impartial juror in this case.

12 All right, sir, your name and number.

13 JUROR NO. 101: I don't know my number, Cedrick
14 Snider, but my dad was killed when I was a little boy.

15 THE COURT: All right, sir, and is that matter
16 still pending?

17 JUROR NO. 101: No, sir.

18 THE COURT: If -- would anything about that
19 experience effect your ability to be a fair and impartial
20 juror in this case?

21 JUROR NO. 101: No, sir.

22 THE COURT: Thank you, sir. You are qualified to
23 serve.

24 Yes, sir, your name and number?

25 JUROR NO. 21: Marshall Dantzler.

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1 THE COURT: Yes, sir.

2 JUROR NO. 21: Son murdered.

3 THE COURT: How long ago?

4 JUROR NO. 21: A few years ago, but we just got
5 rid of the case.

6 THE COURT: All right, sir, you came up and told
7 me you thought that -- that case was just tried last week, I
8 think you said. It would be very difficult for you to
9 serve. I understand that, and I'll excuse you from serving
10 on this case. So you are also free to leave, but please
11 call back after 6:00 o'clock this afternoon.

12 JUROR NO. 21: All right, sir.

13 THE COURT: Yes, sir, in the orange?

14 JUROR NO. 120: Felton Zeigler (inaudible).

15 THE COURT: I can't hear you. Speak a little
16 louder.

17 JUROR NO. 120: My name is Felton Zeigler.

18 THE COURT: Yes, sir, Mr. Zeigler, 120, I think.

19 JUROR NO. 120: I'm sorry, number 120. I had a
20 cousin that was killed.

21 THE COURT: How long ago?

22 JUROR NO. 120: Last year.

23 THE COURT: Is that matter still pending or has it
24 ended?

25 JUROR NO. 120: It's ended.

1 THE COURT: Would that effect anything about --
2 would anything about that experience effect your ability to
3 be a fair and impartial juror in this case?

4 JUROR NO. 120: No, sir.

5 THE COURT: Thank you, sir.

6 Yes, ma'am, your name and number?

7 JUROR NO. 86: Linda Perrow, number 86. My
8 sister-in-law was held at gunpoint in a bank robbery.

9 THE COURT: Is that matter still pending?

10 JUROR NO. 86: No, sir.

11 THE COURT: Would anything about that experience
12 effect your ability to be a fair and impartial juror in this
13 case?

14 JUROR NO. 86: No, sir.

15 THE COURT: Thank you, ma'am.

16 Yes, sir, in the blue.

17 JUROR NO. 115: My son about five years ago was
18 attacked by knife-point, armed robbery. He went to trial
19 and --

20 THE COURT: I don't need you to go into any more
21 detail. Your name and number?

22 JUROR NO. 115: Williams.

23 THE COURT: Would anything about that experience
24 prevent you from being a fair and impartial juror in this
25 case?

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1 JUROR NO. 115: No.

2 THE COURT: Thank you, sir.

3 Yes, ma'am, your name and number.

4 JUROR NO. 116: No. 116, Lynell Williamson. 15
5 years ago my son was murdered.

6 THE COURT: And that matter has ended, I take it?

7 JUROR NO. 116: Yes.

8 THE COURT: And would anything about that
9 experience effect your ability to be a fair and impartial
10 juror in this case?

11 JUROR NO. 116: No, sir.

12 THE COURT: Thank you, ma'am. You are qualified
13 to serve.

14 Yes, ma'am, your name and number?

15 JUROR NO. 55: Lori Jackson, No. 55. My husband's
16 wife was murdered in 2005.

17 THE COURT: And is that matter still pending?

18 JUROR NO. 55: No.

19 THE COURT: Would anything about that experience
20 effect your ability to be a fair and impartial juror in this
21 case?

22 JUROR NO. 55: No.

23 THE COURT: Thank you, ma'am.

24 Yes, sir.

25 JUROR NO. 8: Darrell Brown, juror number 8. I

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1 have a relative convicted of murder about 10 years ago.

2 THE COURT: Would that effect your ability to be a
3 fair and impartial juror in this case?

4 JUROR NO. 8: No, sir.

5 THE COURT: Thank you, sir. You are qualified to
6 serve.

7 Yes, sir, your name and number?

8 JUROR NO. 78: Lawrence Mitchell, number 78. I
9 had a nephew about two weeks ago convicted of murder.

10 THE COURT: All right. And would that effect your
11 ability to be a fair and impartial juror in this case?

12 JUROR NO. 78: No, sir.

13 THE COURT: Thank you, sir. You are qualified to
14 serve.

15 Ladies and gentlemen, is any member of the jury panel
16 who is a member of or contributor to either now or in the
17 past any organization which has as its prime goal to support
18 of victims rights or law enforcement, any organization such
19 as: CAV, CADRE, MADD, SADD, South Carolina Law Enforcement
20 Officers Association, Troopers Association? Any such
21 organization that you or a close member of your family have
22 ever been a member of or contributed to any such
23 organization, would you please stand.

24 (Jurors stand.)

25 JUROR NO. 47: Any law enforcement association,

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1 like the Sheriff's Association?

2 THE COURT: Yes, sir.

3 JUROR NO. 47: Yes, sir, I contribute.

4 THE COURT: Your name?

5 JUROR NO. 47: Bruce Hodges, number 47.

6 THE COURT: Would that effect your ability to be a
7 fair and impartial juror in this case?

8 JUROR NO. 47: No, sir.

9 THE COURT: Thank you, sir. You're qualified to
10 serve.

11 Yes, sir. Name and number?

12 JUROR NO. 115: My wife has been active on a
13 fund-raiser to assist the family of the deceased.

14 THE COURT: All right, and would that effect your
15 ability to be a fair and impartial juror on this case?

16 JUROR NO. 115: No.

17 THE COURT: All right.

18 Ladies and gentlemen, as I said, the allegations are
19 that Mr. Pelzer shot and killed the victim, Mr. Jason
20 Rivenburg, and this happened on March 5, 2009. Mr.
21 Rivenburg was a truck driver who was passing through Calhoun
22 County when this was alleged to have occurred. There is no
23 question that Mr. Rivenburg was killed as a result of that.
24 And I do understand that there has been an effort to raise
25 money for the family of Mr. Rivenburg.

1 So if any member of the jury panel, other than Mr.
2 Williams, who just stood, contributed to that fund, or if
3 you are employed by a company that you think has contributed
4 to that fund would you please stand.

5 (Jurors stand.)

6 THE COURT: All right, Ms. Carson, would that
7 effect your ability to be a fair and impartial juror in this
8 case?

9 JUROR NO. 11: No, sir.

10 THE COURT: Thank you, ma'am.

11 Mr. Carson.

12 JUROR NO. 12: No, sir.

13 THE COURT: Have no effect?

14 JUROR NO. 12: No, sir. We sent a package up the
15 road from Food Lion.

16 THE COURT: All right.

17 Yes, sir, your name and number?

18 JUROR NO. 40: Robert Haigler, No. 40. I
19 participated in that fund raiser. I did contribute.

20 THE COURT: Would that effect your ability to be a
21 fair and impartial juror in this case?

22 JUROR NO. 40: No, sir.

23 THE COURT: Thank you, sir.

24 Yes, sir.

25 JUROR NO. 47: Bruce Hodges, No. 47. We also had

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1 church fund-raisers for the family.

2 THE COURT: All right. Would that effect your
3 ability?

4 JUROR NO. 47: No.

5 THE COURT: Thank you, sir.

6 Yes, sir.

7 JUROR NO. 10: Robert Carroll, Jr., juror number
8 10, and I worked for Food Lion warehouse. We sent a
9 package.

10 THE COURT: Would that effect your ability to be a
11 fair and impartial juror?

12 JUROR NO. 10: No, sir.

13 THE COURT: Thank you, sir.

14 Now, ladies and gentlemen, obviously the case has
15 received some publicity in Calhoun County. If you have
16 heard anything about this case from any source whatsoever, I
17 want you to stand at this time. Whether that was in the
18 newspaper, radio, television, beauty shop, barber shop. Any
19 source whatsoever.

20 (Jurors stand.)

21 THE COURT: I want to know, ladies and gentlemen,
22 if there's anything that you've heard about this case -- of
23 course, the first thing I need is your name and number, and
24 I want to know if you have formed an opinion in this case
25 about the guilt or innocence of the defendant. If you have

1 formed an opinion I want to know that. If you have heard
2 anything about this case. If you have not formed an opinion
3 and you have heard anything about this case whatsoever that
4 might effect your ability to be a fair and impartial juror
5 in this case I want you to tell me that. There's nothing
6 wrong with that whatsoever, but it's very important that we
7 know that. That is you have any information that you cannot
8 put out of your mind and forget about it so that you can
9 make a decision in this case solely on the testimony and the
10 evidence that you hear in this courtroom, that you would not
11 be influenced by anything else that you have heard outside
12 of this courtroom or any knowledge that you gained outside
13 of this courtroom -- that is very important, ladies and
14 gentlemen. I think you can understand how important that
15 is.

16 So, ma'am, we'll start with you on the first row. Your
17 name and number.

18 JUROR NO. 4: Molly Hane, No. 4. Just from
19 publicity; television, newspaper. Things of that nature.

20 THE COURT: Have you formed an opinion about the
21 case?

22 JUROR NO. 4: No.

23 THE COURT: Can you put aside everything that
24 you've heard about this case and base your decision solely
25 on the testimony and evidence that you hear in this

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1 courtroom?

2 JUROR NO. 4: Yes.

3 THE COURT: Thank you, ma'am. You're qualified to
4 serve.

5 Yes, ma'am, your name and number?

6 JUROR NO. 18: Rhonda Cox, No. 18. I vaguely
7 remember a program about it.

8 THE COURT: Have you formed an opinion about the
9 case?

10 JUROR NO. 18: No.

11 THE COURT: Can you put aside everything that
12 you've heard about this case prior to today and based your
13 decision solely on what you hear in this courtroom?

14 JUROR NO. 18: Yes.

15 THE COURT: Yes, ma'am.

16 JUROR NO. 112: Vernice White, juror number 112.
17 I've heard about it on the news.

18 THE COURT: And have you formed an opinion about
19 the case?

20 JUROR NO. 112: No.

21 THE COURT: Can you put aside what you have heard
22 about the case and base your decision solely on the
23 testimony and the evidence that you hear in this courtroom?

24 JUROR NO. 112: Yes, sir.

25 THE COURT: Yes, ma'am.

1 JUROR NO. 113: Cynthia Spires, number 113.

2 THE COURT: And have you formed an opinion about
3 the case?

4 JUROR NO. 113: No.

5 THE COURT: Can you put aside what you have heard
6 about the case and base your decision solely on what you
7 hear in this courtroom?

8 JUROR NO. 113: Yes.

9 THE COURT: Thank you, ma'am. You are qualified
10 to serve.

11 Yes, ma'am.

12 JUROR NO. 41: Shavonda Hair. I don't remember
13 the number, but I seen it on the news and read about it in
14 the newspaper.

15 THE COURT: Have you formed an opinion about the
16 case?

17 JUROR NO. 41: NO.

18 THE COURT: Can you put aside what you have heard
19 about the case and based your decision solely on what you
20 hear in this courtroom?

21 JUROR NO. 41: Yes, sir.

22 THE COURT: Thank you, ma'am.

23 Yes, sir.

24 JUROR NO. 101: I heard it on the video -- I mean,
25 not video, TV and newspaper.

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1 THE COURT: All right. Have you formed an opinion
2 about the case?

3 JUROR NO. 101: No, sir.

4 THE COURT: Can you put aside what you have heard
5 about the case and base your decision solely on the
6 testimony and evidence you hear in this courtroom?

7 JUROR NO. 101: Yes, sir.

8 THE COURT: Thank you, sir. You're qualified to
9 serve.

10 Yes, sir. Your name?

11 JUROR NO. 120: Felton Zeigler.

12 THE COURT: Mr. Zeigler.

13 JUROR NO. 120: Juror No. 120.

14 THE COURT: Yes, sir.

15 JUROR NO. 120: Just read it in the newspaper and
16 some people on the street.

17 THE COURT: All right. Have you formed an opinion
18 about the case?

19 JUROR NO. 120: No, sir.

20 THE COURT: Can you base your decision in this
21 case solely on the testimony and the evidence you hear in
22 this courtroom?

23 JUROR NO. 120: Yes, sir.

24 THE COURT: Thank you, sir. You are qualified to
25 serve.

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1 Yes, ma'am, your name and number?

2 JUROR NO. 86: Linda Perrow, number 86, and I read
3 about it in the newspaper.

4 THE COURT: Have you formed an opinion about the
5 case?

6 JUROR NO. 86: I have not.

7 THE COURT: Can you base your decision in this
8 case solely on the testimony and the evidence you hear in
9 this case?

10 JUROR NO. 86: Yes, sir.

11 THE COURT: Thank you. You're qualified to serve.
12 Yes, ma'am, your name and number?

13 JUROR NO. 23: Sheryl Davis, number 23. I heard
14 about it on TV.

15 THE COURT: Have you formed an opinion about the
16 case?

17 JUROR NO. 23: No, I haven't.

18 THE COURT: Can you based your opinion in the case
19 based solely on the testimony and evidence that you hear in
20 this courtroom?

21 JUROR NO. 23: Yes, sir.

22 THE COURT: Thank you, ma'am. You're qualified to
23 serve.

24 Yes, ma'am.

25 JUROR NO. 69: Bonnie Martin, juror number 69. I

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1 was all over the newspaper and TV.

2 THE COURT: And have you formed an opinion about
3 the case?

4 JUROR NO. 69: No, sir.

5 THE COURT: Can you base your decision in the case
6 solely on the testimony and the evidence that you've heard
7 in this courtroom?

8 JUROR NO. 69: Yes, sir.

9 THE COURT: Thank you, ma'am. You're qualified to
10 serve.

11 Yes, ma'am.

12 JUROR NO. 11: Tina Carson. Newspapers and TV and
13 hearing it at Food Lion, because he was coming to Food Lion.

14 THE COURT: And have you formed an opinion about
15 this case?

16 JUROR NO. 11: No, sir.

17 THE COURT: Can you base your decision in this
18 case based solely on the testimony and the evidence you hear
19 in this courtroom?

20 JUROR NO. 11: Yes, sir.

21 THE COURT: Thank you, ma'am. You're qualified to
22 serve.

23 Yes, sir.

24 JUROR NO. 12: Richard Carson. I just heard it
25 from talking to people and newspapers and TV.

1 THE COURT: Have you formed an opinion about the
2 case?

3 JUROR NO. 12: No, sir, Your Honor.

4 THE COURT: Can you base your decision in this
5 case based solely on the testimony and the evidence you hear
6 in this courtroom?

7 JUROR NO. 12: Yes, sir, Your Honor.

8 THE COURT: Thank you, sir.

9 Yes, sir.

10 JUROR NO. 58: Juror No. 58, Rucker Jones. Saw it
11 on television.

12 THE COURT: Have you formed an opinion about the
13 case?

14 JUROR NO. 58: No.

15 THE COURT: Can you base your decision in the case
16 solely on the testimony and the evidence that you hear in
17 this courtroom?

18 JUROR NO. 58: Yes, sir.

19 THE COURT: Thank you, sir.

20 Yes, sir.

21 JUROR NO. 40: Robert Haigler, number 40. Just
22 the publicity that I've heard.

23 THE COURT: Have you formed an opinion about the
24 case?

25 JUROR NO. 40: No, sir.

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1 THE COURT: Can you base your decision in this
2 case based solely on the testimony and the evidence that you
3 hear in this courtroom?

4 JUROR NO. 40: Yes, sir.

5 THE COURT: Thank you, sir.

6 Yes, sir.

7 JUROR NO. 8: Darryl Brown, juror number 8.
8 Newspaper, television, and I have formed no opinion.

9 THE COURT: No opinion. Can you base your
10 decision solely on what you hear in this courtroom?

11 JUROR NO. 8: Yes, sir.

12 THE COURT: Thank you, sir.

13 Yes, sir.

14 JUROR NO. 47: Bruce Hodges, No. 47. Just
15 newspaper and media outlets for information.

16 THE COURT: Have you formed an opinion about the
17 case?

18 JUROR NO. 47: No, sir.

19 THE COURT: Can you base your decision solely on
20 the testimony and the evidence you hear in this courtroom?

21 JUROR NO. 47: Yes, sir.

22 THE COURT: Thank you, sir.

23 Yes, ma'am.

24 JUROR NO. 66: Rosemary Lykes, juror number 66.
25 Read it in the newspaper.

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1 THE COURT: And have you formed an opinion?

2 JUROR NO. 66: No.

3 THE COURT: And can you base your decision in this
4 case based solely on the testimony and the evidence that you
5 hear in this courtroom?

6 JUROR NO. 66: Yes.

7 THE COURT: Thank you, ma'am.

8 Yes, sir.

9 JUROR NO. 115: Newspaper, television and oral
10 conversation.

11 THE COURT: Name and number?

12 JUROR NO. 115: Pat Williams, 115.

13 THE COURT: And have you formed an opinion about
14 the case?

15 JUROR NO. 115: Perhaps leaning in one direction,
16 but I have not formed a definite opinion, and I don't think
17 I've been influence by it.

18 THE COURT: And the big question; even if you were
19 leaning, you maybe leaning in the wrong direction. Do you
20 -- can you make your decision in this case, if you are
21 selected on this jury, based solely, totally on the
22 testimony and evidence you hear in this courtroom and my
23 instruction to you on the law?

24 JUROR NO. 115: I believe I can.

25 THE COURT: All right, sir. Thank you, sir.

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1 Yes, ma'am, your name and number?

2 JUROR NO. 55: Lori Jackson, number 55.

3 Television and the newspaper.

4 THE COURT: And have you formed an opinion about
5 the case?

6 JUROR NO. 55: No.

7 THE COURT: And can you base your decision on the
8 case based solely on the evidence you hear in this
9 courtroom?

10 JUROR NO. 55: Yes, sir.

11 THE COURT: Thank you, ma'am.

12 Yes, ma'am, your name and number?

13 JUROR NO. 116: Lynell Williamson, number 116. I
14 read it in an article in the newspaper in Calhoun County.

15 THE COURT: And have you formed an opinion?

16 JUROR NO. 116: No, sir.

17 THE COURT: Can you base your decision solely on
18 the testimony and the evidence that you've heard in this
19 courtroom?

20 JUROR NO. 116: Yes, sir.

21 THE COURT: Thank you, ma'am, you're qualified.

22 JUROR NO. 39: Jacqueline Guinyard. Newspapers,
23 radio and TV and conversations and I drive that route every
24 day.

25 THE COURT: All right. Radio, newspapers,

1 conversations and what else?

2 JUROR NO. 39: And the route where this took
3 place, I drive it every day.

4 THE COURT: Where this happened?

5 JUROR NO. 39: Yes.

6 THE COURT: All right. Have you formed an opinion
7 about this case; the guilt or innocence of this defendant?

8 JUROR NO. 39: Right now I honestly cannot say.

9 THE COURT: Can you base your decision in this
10 case based solely on the testimony and the evidence that
11 you hear in this courtroom?

12 JUROR NO. 39: (No response.)

13 THE COURT: Can you put aside everything else that
14 you've heard about this case outside of this courtroom, can
15 you put all that aside, forget about that completely, and
16 base your decision solely on the testimony and the evidence
17 that you hear in this courtroom?

18 JUROR NO. 39: Honestly, I have family members
19 that are truck drivers.

20 THE COURT: You have what?

21 JUROR NO. 39: That are truck drivers.

22 THE COURT: So you think you might be influenced by
23 that?

24 JUROR NO. 39: That's what I'm saying. I can't
25 honestly say that I wouldn't be.

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1 THE COURT: That's fine. I'll excuse you from
2 serving on this case. I understand that, and I appreciate
3 you sharing that with us. You are free to leave. Call back
4 after 6:00 o'clock this afternoon and follow what your
5 instructions are.

6 Thank you, ma'am.

7 Yes, ma'am.

8 JUROR NO. 110: Hannah Walker. I don't know my
9 number.

10 THE COURT: All right.

11 JUROR NO. 110: The local news and newspaper.

12 THE COURT: And have you formed an opinion about
13 the case?

14 JUROR NO. 110: No.

15 THE COURT: Can you make your decision in the case
16 solely on the testimony and the evidence you hear in the
17 courtroom?

18 JUROR NO. 110: Yes, sir.

19 THE COURT: Thank you, ma'am. You're qualified to
20 serve.

21 Yes, ma'am.

22 JUROR NO. 29: Katrina Franklin, juror number 29.

23 THE COURT: And have you -- where did you get your
24 information?

25 JUROR ON 29: Television and the newspapers.

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1 THE COURT: Have you formed an opinion about the
2 case?

3 JUROR NO 29: No, sir.

4 THE COURT: Can you base your decision in the case
5 solely on the testimony and the evidence you hear in this
6 courtroom?

7 JUROR NO. 29: Yes, sir.

8 THE COURT: Thank you, ma'am. You're qualified to
9 serve.

10 Yes, ma'am?

11 JUROR NO. 75: Juror number 75. I'm Kimberly
12 Middleton, through local media.

13 THE COURT: And have you formed an opinion about
14 the case?

15 JUROR NO. 75: No, I have not.

16 THE COURT: Can you base your decision in the case
17 solely on the testimony and the evidence you hear in this
18 courtroom?

19 JUROR NO. 75: Yes, I can.

20 THE COURT: Thank you, ma'am.

21 Yes, sir?

22 JUROR NO. 78: Lawrence Mitchell, juror number 78.
23 I heard it by television. Also, being a truck driver
24 myself, we have discussed it, somewhat. I don't think it
25 would in any way --

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1 THE COURT: All right. You said you've discussed
2 it somewhat and then you trail off and I can't hear you.

3 JUROR NO. 78: Yes, Your Honor. I don't think it
4 would effect me in any way.

5 THE COURT: All right. Have you formed an opinion
6 about the case?

7 JUROR NO. 78: No, sir, I haven't.

8 THE COURT: And while you have heard discussions
9 about the case you can put that aside and make your
10 decisions solely on the testimony and evidence you hear in
11 this courtroom?

12 JUROR NO. 78: Yes, sir.

13 THE COURT: Thank you, sir.

14 Yes, sir?

15 JUROR NO. 73: John Mclauchlin.

16 THE COURT: Where was the source of your
17 information?

18 JUROR NO. 73: TV and newspapers.

19 THE COURT: And have you formed an opinion about
20 the case?

21 JUROR NO. 73: No, sir.

22 THE COURT: And can you based your opinion in this
23 case based solely on the testimony and the evidence you will
24 hear in this courtroom?

25 JUROR NO. 73: Yes, sir.

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1 THE COURT: Thank you, sir. You are qualified to
2 serve.

3 Yes, sir.

4 JUROR NO. 9: James Brown, nine. I heard about it
5 on the television and the newspaper.

6 THE COURT: And did you form an opinion about the
7 case?

8 JUROR NO. 9: No, sir.

9 THE COURT: Can you base your decision in this
10 case based solely on the testimony and the evidence that you
11 hear in this courtroom?

12 JUROR NO. 9: Yes, sir.

13 THE COURT: Thank you, sir.

14 Yes, ma'am.

15 JUROR NO. 35: Janet Glover, juror number 35. I
16 heard from friends and from television.

17 THE COURT: Have you formed an opinion about the
18 case?

19 JUROR NO. 35: No, sir.

20 THE COURT: Can you base your decision in this
21 case based solely on the testimony and the evidence that you
22 hear in the courtroom?

23 JUROR NO. 35: Yes, sir.

24 THE COURT: Thank you, ma'am.

25 Yes, ma'am, in the red dress?

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1 JUROR NO. 89: Arietta Ramey, juror number 89, and
2 I read about it in the newspapers, heard it on the news.

3 THE COURT: Have you formed an opinion about the
4 case?

5 JUROR NO. 89: No, I haven't.

6 THE COURT: Can you based your decision on this
7 case based solely on the testimony and the evidence that you
8 hear in this courtroom?

9 JUROR NO. 89: Yes, sir.

10 THE COURT: Thank you, ma'am.

11 Yes, ma'am?

12 JUROR NO. 104: Bernardean Starks, juror number
13 104. I heard on the news and newspaper.

14 THE COURT: Have you formed an opinion about the
15 case?

16 JUROR NO. 104: No.

17 THE COURT: Can you put aside what you've heard and
18 base your decision solely on the testimony and the evidence
19 that you hear in this courtroom?

20 JUROR NO. 104: Yes, sir.

21 THE COURT: Thank you.

22 Yes, ma'am.

23 JUROR NO. 106: Nancy Stevenson, number 106. I
24 heard it also on the --

25 THE COURT: You're on the jury --

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1 JUROR NO. 106: Pardon?

2 THE COURT: Come on up here and sit with the rest
3 of the jury. Come on down, please ma'am. Just have a seat
4 there or stand up on the front row. Either way.

5 JUROR NO. 106: Okay.

6 THE COURT: You say you've heard about it in the
7 newspaper?

8 JUROR NO. 106: On the TV. Yes, sir.

9 THE COURT: All right, and have you formed an
10 opinion about the case?

11 JUROR NO. 106: No, I haven't.

12 THE COURT: Can you base your decision in the case
13 based solely on the testimony and the evidence you hear in
14 the courtroom?

15 JUROR NO. 106: Yes, sir.

16 THE COURT: Thank you, ma'am. Thank you, very
17 much.

18 Ladies and gentlemen, the case may involve testimony of
19 the use of illegal drugs. I don't know whether it will or
20 not. It could. If it does, would that in itself effect
21 your ability to be a fair and impartial juror. If just the
22 use of illegal drugs or just the discussion of that by any
23 person, would that effect your ability to be a fair and
24 impartial juror or if that would, would you please stand.
25 (No one stands.)

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1 THE COURT: Now, ladies and gentlemen, I think you
2 understand how important that the Court feels it is that we
3 have a fair and impartial jury. That's why we've taken this
4 time to ask all these questions and get your answers on
5 these questions.

6 If you know of any reason whatsoever that you might not
7 be able to give the defendant in this case, and the state in
8 this case, a fair and impartial trial, and that means that
9 you can base your decision in this case based solely on the
10 evidence and the testimony that you hear in this courtroom,
11 that you will consider all of the testimony and evidence
12 that you hear in this courtroom, and if you can follow my
13 instructions to you on the law, even if you disagree with
14 what the law is your oath would require you to put aside
15 your opinion on the law and accept the law as I charge it to
16 you and make your decision based on that law and the facts
17 as you find them. If there's anything whatsoever that would
18 effect your ability to do that I want you to please come
19 forward and share that with me. Even though you've already
20 stood up and said I can put it all aside and make a fair
21 decision, if you're having second thoughts about that for
22 any reason whatsoever that you think you might not be able
23 to be a fair and impartial juror please come down and share
24 that with me privately.
25 (No one stands.)

1 THE COURT: Thank you so much.

2 Anything else from the state?

3 MR. PASCO: No, Your Honor.

4 THE COURT: From the defense?

5 MR. BANKS: Your Honor, we will have a matter to
6 take up outside of the jury's presence.

7 THE COURT: All right.

8 MR. PASCO: We're going to take a break now,
9 anyway?

10 THE COURT: Yeah, we're going to take a break
11 anyhow.

12 All right, ladies and gentlemen, the clerk has to
13 prepare the jury list, for one thing. I need to discuss the
14 matters in the chambers with the attorneys. So we're going
15 to take a short break at this time and we'll be ready to
16 select our jury I think about 12:25 or 12:30. That's about
17 10 to 15 minutes. I don't think it will take any longer.
18 Say 12:30. So if you need to stir around, please do not
19 talk about this case. Don't mention this case with each
20 other or anybody else out there. Do not talk about this
21 case whatsoever, and we'll be starting back up about 12:30
22 and get our jury selected in the case.

23 We will be at recess until that time.

24 Let me see the lawyers in my chambers.

25 (Court at recess at 12:16 p.m.)

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1 (Court in session at 12:30 p.m.)

2 THE COURT: Thank you. You may be seated.

3 Is the state prepared to strike a jury?

4 MR. PASCO: Yes, Your Honor.

5 THE COURT: All right. We have some matters that
6 we will take up after we strike the jury.

7 All right, ladies and gentlemen, our clerk is preparing
8 a list here. The computer has generated this list instead
9 of pulling them out. We used to pull them out like we were
10 playing Bingo, but now they have a more sophisticated way to
11 do that.

12 Now, if your name is on this list the clerk is going to
13 call your name, and when he does, I would ask that you come
14 up and, come all the way through these swinging doors, come
15 all the way down in front of the clerk. Turn around and
16 look at that exit sign back there. Don't break for the exit
17 sign. Just stay there so they can get one last look at you.

18 Both the state and the defense has a right to excuse a
19 certain number of people from serving on the jury, and they
20 can do that for any reason whatsoever. They do not have to
21 give a reason. So you will come up, and they will look at
22 you, and they will either -- both sides will have to express
23 their opinions and you'll either be seated on the jury or
24 you'll be going back out there. So if you have a hat or a
25 coat or umbrella or something. Please bring that with you

1 when you come.

2 Please don't be offended when you get excused.
3 You can never figure out, really, what's going on, as far as
4 that's concerned, but that's our law and each has a right to
5 do that.

6 All right, Mr. Clerk, if you're ready you may
7 proceed.

8 THE CLERK: Thank you, Your Honor.

9 Juror No. 1, Diane Hook.

10 THE COURT: Come all the way down, ma'am. You can
11 show us how it's done. Come right down and turn around and
12 look back in the back.

13 THE CLERK: What says the state?

14 MR. PASCO: Please present Ms. Hook.

15 MR. LEIENDECKER: Please seat the juror.

16 THE CLERK: Okay. Have a seat.

17 THE COURT: Have a seat in the jury box; yes,
18 ma'am.

19 THE CLERK: Juror No. 2, Bonnie R. Martin.

20 What says the state?

21 MR. PASCO: Please present Ms. Martin.

22 MR. LEIENDECKER: Please seat the juror.

23 THE CLERK: Ms. Martin.

24 Juror No. 3, John E. Mclauchlin, Jr.

25 What says the state?

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1 MR. PASCO: Please present Mr. Mclauchlin.

2 MR. LEIENDECKER: Please excuse the juror.

3 THE CLERK: No. 4, Calvin Mosley.

4 What says the state?

5 MR. PASCO: Please excuse Mr. Mosley.

6 THE CLERK: Juror No. 5, Robert L. Cox.

7 What says the state?

8 MR. PASCO: Please present Ms. Cox.

9 MR. LEIENDECKER: Please excuse the juror.

10 THE CLERK: Juror No. 7. Jeffery J. Roediger.

11 Pronounce your name for me, again, sir?

12 JUROR NO. 7: Roediger.

13 THE CLERK: Roediger. I'm sorry.

14 What says the state?

15 MR. PASCO: Please present Mr. Roediger.

16 MR. LEIENDECKER: Please excuse the juror.

17 THE CLERK: Juror No. 8, Tina E. Carson.

18 What says the state?

19 MR. PASCO: Please present Ms. Carson.

20 MR. LEIENDECKER: Please excuse the juror.

21 THE CLERK: Juror No. 9, Katrina S. Franklin.

22 What says the state?

23 MR. PASCO: Please present Ms. Franklin.

24 MR. LEIENDECKER: Please seat the juror.

25 THE CLERK: Juror No. 10, Sheryl B. Davis.

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1 What says the state?

2 MR. PASCO: Please present Ms. Davis.

3 MR. LEIENDECKER: Please seat the juror.

4 THE CLERK: Juror No. 11, Nancy D. Stevenson.

5 THE COURT: That's Juror No. 106, Mr. Clerk.

6 THE CLERK: Okay. Okay, yeah, I'm using the wrong

7 -- okay. Juror No. 106. Okay..

8 What says the state?

9 MR. PASCO: Please present Ms. Stevenson.

10 MR. LEIENDECKER: Please excuse the juror.

11 THE CLERK: Juror No. 14, Diane S. Coker.

12 What says the state.

13 MR. PASCO: Please present Ms. Coker.

14 MR. LEIENDECKER: Please seat the juror.

15 THE CLERK: Juror No. 43, Marie Haynes.

16 What says the state?

17 MR. PASCO: Please present Ms. Haynes.

18 MR. LEIENDECKER: Please seat the juror.

19 THE COURT: Juror No. 89, Arietta C. Ramey.

20 What says the state?

21 MR. PASCO: Please present Ms. Ramey.

22 MR. LEIENDECKER: Please seat the juror.

23 THE CLERK: Juror No. 41, Shavonda F. Hair.

24 What says the state?

25 MR. PASCO: Please excuse Ms. Hair.

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1 THE CLERK: Juror No. 56, Geraldine Johnson.

2 What says the state?

3 MR. PASCO: Please excuse Ms. Johnson.

4 THE CLERK: Juror No. 9, James E. Brown, Jr.

5 What says the state?

6 MR. PASCO: Please present Mr. Brown.

7 MR. LEIENDECKER: Please excuse the juror.

8 THE CLERK: Juror No. 40, Robert B. Haigler.

9 What says the state?

10 MR. PASCO: Please present Mr. Haigler.

11 MR. LEIENDECKER: Please excuse Mr. Haigler.

12 THE COURT: I have three and seven.

13 THE CLERK: Juror No. 55, Lori W. Jackson.

14 What says the state.

15 MR. PASCO: Please present Ms. Jackson.

16 MR. LEIENDECKER: Please excuse the juror.

17 THE CLERK: Juror No. 110. Denise Hannah Walker

18 -- I'm sorry, Hannah Denise Walker.

19 What says the state?

20 MR. PASCO: Please excuse Ms. Walker.

21 THE CLERK: Juror No. 75, Kimberly S. Middleton.

22 What says the state?

23 MR. PASCO: Please present Ms. Middleton.

24 THE CLERK: Defense?

25 MR. LEIENDECKER: Please seat the juror.

1 THE CLERK: Juror No. 52, Rudine Hughes.
2 What says the state?
3 MR. PASCO: Please present Ms. Hughes.
4 MR. LEIENDECKER: Please seat the juror.
5 THE CLERK: Juror No. 60, Shirley G. Joyner.
6 What says the state?
7 MR. PASCO: Please present Ms. Joyner.
8 MR. LEIENDECKER: Please seat the juror.
9 THE CLERK: Juror No. 10, Robert M. Carroll, Jr.
10 What says the state?
11 MR. PASCO: Please present Mr. Carroll.
12 MR. LEIENDECKER: Please excuse the juror.
13 THE CLERK: Juror No. 94, Joe D. Royals, Jr.
14 What says the state?
15 MR. PASCO: Please present Mr. Royals.
16 MR. LEIENDECKER: Please excuse the juror.
17 THE CLERK: Juror No. 30, Nathaniel Frederick.
18 What says the state?
19 MR. PASCO: Please excuse Mr. Frederick.
20 THE CLERK: Juror No. 63, Leslie J. Kennerly.
21 What says the state?
22 MR. PASCO: Please present Ms. Kennerly.
23 MR. LEIENDECKER: Please seat the juror.
24 THE CLERK: Juror No. 45, Jeffrey A. Hill.
25 What says the state?

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1 MR. PASCO: Please present Mr. Hill.

2 MR. LEIENDECKER: Please seat the juror.

3 THE CLERK: Juror No. 35, Janet W. Glover.

4 THE COURT: All right, let's get two alternates,
5 please. The strikes will be one and two for each alternate.

6 What says the state?

7 MR. PASCO: Is this Ms. Glover?

8 THE CLERK: Yes, sir. Janet W. Glover, Juror No.
9 35.

10 MR. PASCO: Please present Ms. Glover.

11 MR. LEIENDECKER: Please seat the juror.

12 THE CLERK: Juror No. 53, James A. Hutton.

13 What says the state?

14 MR. PASCO: Please present Mr. Hutton.

15 MR. LEIENDECKER: Please seat the juror.

16 THE COURT: Are there any matters regarding jury
17 selection from the state?

18 MR. PASCO: Beg the Court's indulgence?

19 THE COURT: Yes.

20 MR. PASCO: Yes, sir. We will have a motion for
21 the Court. We might be able to settle it just up at the
22 bench.

23 THE COURT: Anything from the defense?

24 MR. LEIENDECKER: No, sir, Your Honor.

25 THE COURT: Okay, y'all approach the bench.

1 (Off the record bench conference with counsel and the
2 Court.)

3 THE COURT: Ladies and gentlemen, we need to take
4 up a matter of law, and we need to do that outside the
5 presence of the jurors, so we're going to ask you to retire
6 to your jury room. Please do not talk about this case. Do
7 not say anything at all about this case. This will probably
8 take us between 15 and 20 minutes or so to do what we need
9 to do. Make yourselves comfortable in the jury room, and,
10 again, do not discuss this case.

11 (Jury out at 1:01 p.m.)

12 THE COURT: Ladies and gentlemen who were not
13 selected on the panel, but who are members of the jury pool,
14 I'm going to have to ask you to step outside the courtroom.
15 We do not have anywhere else we can go to take up this
16 matter that I need to take up, and you cannot be present
17 while I deal with this legal issue. I'm going to have to
18 ask you to go outside and go downstairs. There's no place
19 for you to sit unless you can find one or two chairs around
20 there. We will move as quickly as we can and as soon as we
21 can resolve this legal issue I will bring you back upstairs.
22 Please be patient with us, and do not discuss the case. Do
23 not say anything at all about this case.

24 All of the remaining jurors go downstairs in the
25 courthouse.

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1 (Jury panel out at 1:02 p.m.)

2 THE COURT: All right. The jury has left the
3 courtroom.

4 The jury that was chosen is in the jury room and the
5 rest of the panel is outside of the courtroom and has been
6 moved downstairs in the courthouse.

7 I'll be glad to hear from you, solicitor?

8 MR. SORENSON: May it please the Court, Your
9 Honor.

10 THE COURT: Yes, sir.

11 MR. SORENSON: I'll point out, Your Honor, the
12 defense in this case exercised all 10 of its peremptory
13 challenges, and the 10th strike they used during the
14 selection of the initial 12 jurors were all Caucasians that
15 were struck. In looking through that, Your Honor, we have
16 an objection, Your Honor, to make with six of those 10
17 strikes.

18 THE COURT: So there's six of 10 -- four of the 10
19 to which you do not object?

20 MR. SORENSON: Yes, sir. There's four of the 10
21 that I see clearly the reason why they were --

22 THE COURT: All right. Which of those four, and
23 please identify them by the juror number.

24 MR. SORENSON: Yes, sir.

25 The first one would be number 73, Mr. Mclauchlin.

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1 THE COURT: Okay.

2 MR. SORENSON: He stood up and said he knows the
3 solicitor well.

4 THE COURT: Okay. All right.

5 MR. SORENSON: Juror 11, Ms. Tina Carson. Several
6 times when she stood up that could be a basis for them
7 striking her.

8 Juror 40, Robert Haigler --

9 THE COURT: All right.

10 MR. SORENSON: -- also stood up several times. I
11 think he would be appropriate to be struck. And Juror 55,
12 Ms. Lori Jackson, had a relative that was murdered a couple
13 of years ago.

14 So we would not have any challenge with regards to
15 those four strikes, Your Honor, but the other six, quite
16 frankly, those people basically never stood up, I don't
17 think at all, most of them.

18 THE COURT: All right. Thank you, sir.

19 Counsel, I believe he's made a prima facie case. I
20 believe you did strike 10 out of 10. All 10 were white.
21 The defendant is black, the victim, I understand, was white
22 in the case. So I'll ask you to give your racially neutral
23 reasons on the six remaining jurors.

24 We'll start with No. 23. No, no -- You'll start with
25 juror No. 18.

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

2 THE COURT: That's a white female, Ms. Cox.

3 MR. LEIENDECKER: Ms. Rhonda Cox. Two reasons,
4 Your Honor, and I have a note in my file concerning her
5 discussion of the publicity. It was impossible to strike
6 everybody who said that they were effected by the publicity,
7 but some hesitancy in her answers to questions regarding
8 that and the fact that she had discussed it with people, not
9 just heard about it, as my notes reflect. Also, it's been a
10 general practice of mine in 26 years of practice, she's
11 married to an engineer and those kind of relationships, and
12 even people that are engineers they are very lineal and
13 logical thinking people. They can fact and problem solve.
14 I know that because I'm married to one, myself. And I make
15 a practice of if I can ever avoid placing someone who is or
16 is married to an engineer to not place them on my jury.

17 THE COURT: Are there any engineers seated on the
18 jury?

19 MR. LEIENDECKER: I do not believe so, Your Honor.
20 I was careful to try to go through that and check all of
21 those.

22 THE COURT: All right. No. 93.

23 MR. LEIENDECKER: Mr. Roediger. Mr. Roediger was
24 the gentlemen in the blazer sitting up front. He said he's
25 taken a leave to work on some dissertation or something

1 doing research during the voir dire questioning and other
2 things -- our client had a very uncomfortable feeling with
3 him because not only of his position and the way he was
4 there, but the way he looked at our client, during a couple
5 of questions our client would look away and turn back and he
6 was -- he felt like he was giving him the stink eye.

7 MR. BANKS: Your Honor, for the record, he sat
8 straight in front of my client. And earlier nobody sat
9 right in front --

10 THE COURT: Well, there were five or six other
11 people sitting back there, too.

12 MR. LEIENDECKER: Yes, sir, Your Honor, but none
13 of them gave him that kind of feeling other than that
14 particular individual.

15 THE COURT: All right. No. 106. White female, Ms.
16 Stevenson.

17 MR. LEIENDECKER: Ms. Stevenson, Your Honor,
18 during the time that this matter was on-going for some
19 reason left her spot up front and was seated in the back
20 with the victim's family. I don't know what went on back
21 there, but certainly out of an abundance of caution when she
22 finally did stand up to talk about the publicity you made
23 her move back down forward. I was concerned in large part,
24 not only because of her answers concerning that, but because
25 she had been sitting in the back right beside the victim's

1 family.

2 THE COURT: Well, I don't think she got up and
3 moved back there. I think after the break I think she just
4 sat back there on the first vacancy she saw.

5 MR. LEIENDECKER: I don't know why her motivation
6 or why she was there, Your Honor, we didn't have a chance to
7 examine that, but in trying to be careful in selecting the
8 jury I certainly felt that she was not somebody I wanted on
9 my jury.

10 THE COURT: All right. No. 9, Mr. Brown. White
11 male.

12 MR. LEIENDECKER: Mr. Brown's wife works in the
13 probate court within the courthouse, and I was worried about
14 what things she may have heard or picked up in publicity
15 around the courthouse, and Mr. Banks knows her from working
16 the court and felt uncomfortable in seating him on the jury
17 because of his wife.

18 THE COURT: Mr. Carroll, juror No. 10. White
19 male.

20 MR. LEIENDECKER: Mr. Carroll had been involved
21 with fun-raisers and was working, also, at the Food Lion --
22 through his church, I believe, and was working at the Food
23 Lion Warehouse.

24 MR. SORENSON: Your Honor, I had missed that. I
25 would withdraw the objection to that juror.

1 THE COURT: All right. No. 94.

2 MR. LEIENDECKER: No. 94.

3 THE COURT: Joe Royals.

4 MR. LEIENDECKER: Yes, sir.

5 That one dealt strictly with the fact concerning his
6 wife's employment in Dr. Williams office here in town, and
7 because of the nature of the injuries and medical conditions
8 contained therein, I'm uncomfortable and avoid seating
9 anyone if they have medical knowledge or think they have
10 medical knowledge because of who they hang out with and who
11 they talk to.

12 THE COURT: His wife is employed at a doctor's
13 office?

14 MR. LEIENDECKER: Yes, sir. Dr. Ed Williams
15 office. And also his answer to questions concerning that
16 process -- he didn't say anything other than that, Your
17 Honor, that just gave us cause to try to eliminate the
18 medical personnel.

19 THE COURT: All right, solicitor.

20 MR. SORENSON: May it please the Court, Your
21 Honor. If I could just maybe go backwards and address that
22 last one first.

23 Mr. Royals, I mean, he's a welder. He doesn't have any
24 medical background himself. I'll also point out the first
25 juror they sat, Diane Hook, is a nurse.

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1 THE COURT: What about that?

2 MR. SORENSON: She's a black female.

3 THE COURT: A black female nurse.

4 MR. LEIENDECKER: Yes, sir, Your Honor, as I
5 understood Ms. Hook's answer was that she worked at a
6 nursing home and was an assistant there.

7 THE COURT: That's right. She did say she worked
8 at a nursing home, and she was certified nurses assistant
9 and she had nurses training herself.

10 MR. LEIENDECKER: That was my oversight then, Your
11 Honor, on that one, because my notes reflect that she worked
12 at a nursing home.

13 THE COURT: All right. Go ahead.

14 MR. SORENSON: In going to Mr. Royals, he's not
15 going to be going home and talking to his wife about the
16 case, I mean, not to do that. I don't see how -- I mean,
17 he's a welder. He doesn't have any medical background, that
18 I see.

19 Your Honor, as to Mr. James Brown. The reason they
20 gave as to Mr. James Brown as to his wife -- in all these
21 they don't focus on the juror, they focus on the juror's
22 spouses and employment, basically. His wife works in the
23 probate court and Martin knows her and therefore would feel
24 uncomfortable on the jury, but at the same time he felt
25 comfortable putting Ms. Sheryl Davis, juror No. 23 on the

1 jury who was his client. I mean, who therefore -- who -- I
2 just don't see how there's any credibility to that
3 explanation given by the defense.

4 MR. LEIENDECKER: Your Honor, credibility to that
5 is, he had personal knowledge as to both of those
6 individuals. He know this person works in the probate
7 court, 20 feet from the clerk's office, and he's more
8 comfortable with the personality of the person who stood up
9 and said she'd been in his office than he is with --

10 THE COURT: Well, what would working 20 feet from
11 the clerk's office have to do with this case?

12 MR. LEIENDECKER: Within the courthouse, Your
13 Honor. I'm talking about if she had been here she couldn't
14 have served because she works within the courthouse, and I
15 believe that if there's a discussion that goes around every
16 courthouse concerning the cases that are pending and
17 certainly in the clerk's office they knew the case was
18 pending. And again it's a personality thing, and Mr. Banks
19 knows both of the personalities, and I relay on his
20 judgement being the expert on Calhoun County.

21 THE COURT: And it's Mr. Brown's wife who works in
22 the probate court?

23 MR. LEIENDECKER: Yes, sir.

24 MR. SORENSON: I believe Mr. Brown stood up and
25 said he had knowledge from the media. I don't think he said

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1 he had knowledge from talking to his wife, you know --
2 hearing about the case in the courthouse.

3 MR. LEIENDECKER: Your Honor, we also know that
4 that -- that he had publicity knowledge, but we can't strike
5 everybody that has that. We have to have reasons to make us
6 uncomfortable regarding other --

7 MR. SORENSON: You can't just turn around and
8 strike all the white people.

9 Your Honor, next would be juror No. 106, Nancy
10 Stevenson. The reason they gave for her was the fact that
11 she had sat in the back of the courtroom when she came back
12 from the break by the victim's family. The jurors were
13 seated all around the victim's family on the front row, the
14 row beside them. We'll also point out that at no point in
15 time were the people in that second to the last row ever
16 identified by anybody as being Jason Rivenburg's family. I
17 don't know that there's anything that she did improper other
18 than the fact that she took the first available seat when
19 she came in. I don't think otherwise there was anything to
20 her answers that would suggest that she had some improper
21 motive for that.

22 I do not think that is a race neutral reason because I
23 submit to you that there was an African-American that had
24 done that, I do not believe they would have struck her or
25 him. I just don't believe that would be the case that they

1 would have used the strike if that would be -- you know
2 Katrina Franklin, juror No. 29, if she sat there.

3 MR. LEIENDECKER: Your Honor, I'm not certain how
4 the solicitor knows what I could have or would have done,
5 but that aside, I probably did not put on the record that
6 she also came up and asked Your Honor to be excused and was
7 denied that excuse and sent back to the jury, but those
8 things combined, but again, Your Honor, I'm just worried
9 about what the appearance is and out of an abundance of
10 caution to gain a fair jury, which is what I'm supposed to
11 be doing for my client.

12 THE COURT: What about 93?

13 MR. SORENSON: I mean, 93, Your Honor, my client
14 had a bad feeling that the guy was staring at me. I mean,
15 that would just give you the ability to -- if all he had to
16 say was I didn't like the way he was looked at me sitting
17 out there. I don't think that anybody -- maybe Your Honor
18 knows something about him sitting out there, but from my
19 observation and, I believe, the solicitor's observation, we
20 didn't see him, I mean, do anything out of the ordinary. I
21 mean, I just don't see how that could be a reason -- my
22 client had a bad feeling about him. Again, that would just
23 allow us to -- we could choose that reason and give it to
24 any juror we wanted to.

25 MR. LEIENDECKER: Your Honor, in a panel of only

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1 42 individuals, that's the only person my client said that
2 about, and I also pointed out that he's now involved in some
3 dissertation research, and I'm concerned about putting a
4 researcher on this jury. But it was mostly based on Mr.
5 Pelzer's feeling that he was giving him the eye throughout
6 the entire process. I think that's certainly reason.

7 THE COURT: All right. No. 18.

8 MR. SORENSON: Ms. Cox, Your Honor, is -- Mr.
9 Leiendecker mentioned two issues as to her. She's married
10 to an engineer and also something about knowledge of the
11 case. Maybe I didn't write something down. She said she
12 vaguely remembered it from television. I don't see how that
13 makes her -- I mean, if anything she knew less about it than
14 a lot of the other jurors who stood up. I just don't see,
15 you know, how that makes a reason to strike her when they --
16 I mean, obviously, I realize they couldn't strike every
17 juror that stood up, but at the same time they can't just
18 pick and choose in a non-racial neutral manner which ones
19 they're going to strike.

20 Again, I just don't see how the marriage to an
21 engineer, how that -- I mean, focus on the jurors. Half of
22 his strikes focus on jurors spouses.

23 MR. LEIENDECKER: Your Honor, it's obvious the
24 state of South Carolina considers that an important issue
25 because it's something we ask every juror whether they're

1 sitting in magistrate's court right up to this court, what
2 their spouse does, because it can have an influence, and I
3 -- certainly it does have an influence in the way people
4 think and act is influenced by the person they live with.
5 Again, I reiterate, I try not to sit engineers or engineers
6 spouses on my jury. In large part, it's because I have that
7 experience myself in over 20 years of marriage to an
8 engineer.

9 THE COURT: All right. The client of Mr. Banks
10 that was put on the jury, was that Ms. Coker?

11 MR. SORENSON: No, I believe it was Juror 23, Your
12 Honor.

13 THE COURT: Well, she was also a white female.

14 MR. SORENSON: Yes, sir, but they're using that as

15 --

16 MR. LEIENDECKER: That's Bonnie Martin, who was
17 the first white juror seated.

18 MR. SORENSON: Sir?

19 MR. LEIENDECKER: As was Ms. Martin, who is No.
20 69, the first white juror that was seated.

21 THE COURT: All right. I accept the defense
22 reasons for striking Juror Nos. 18, 93, 106 and 9. I find
23 that those are racially neutral reasons.

24 I reject the reasons for striking Juror No. 94. No. 94
25 was a white male, W.M. Royals, who is a welder, who's wife

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1 is employed with a physician, and that was the reason given
2 for striking him is that his wife was employed with a
3 physician, and yet the state -- I mean, the defense seated a
4 black juror who works as a CNA -- what number was she?

5 MR. SORENSON: Juror No. 51, Your Honor.

6 THE COURT: Diane Hook who works as a CNA and has
7 some medical training and experience, even though it's
8 rather limited.

9 So I find I reject defense's reason for striking Juror
10 No. 51 and No. 94. I also note by agreement of the parties,
11 the -- both the state and the defense were given a computer
12 printout showing the random selection of the jurors by the
13 court clerk's computer. And it's obvious Mr. Royals, the
14 10th juror seated -- no, he was the 10 strike exercised, not
15 seated. He was the 10th strike to exercise. He would have
16 been the 11th juror. Then three out of the next four people
17 on the list, according to the list printed, were black
18 individuals.

19 So it was pretty obvious that by striking Mr. Royals,
20 he was going to be replaced by a black juror, and, in fact,
21 he was. So I reject that reason given by the defense.

22 So I will order a new jury drawn.

23 All right, anything else from the state or the defense
24 on this issue?

25 MR. LEIENDECKER: No, Your Honor.

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1 MR. SORENSON: No, Your Honor.

2 THE COURT: All right. Sheriff, will you bring
3 the jury back upstairs.

4 SHERIFF SUMMERS: Yes, sir.

5 (First jury selected enters courtroom from jury room 1:20
6 p.m.)

7 (Jury panel enters courtroom from downstairs 1:21 p.m.)

8 THE COURT: All right, ladies and gentlemen on the
9 jury, y'all need to have a seat back out front instead of
10 the jury box. Just have a seat right out there.

11 MR. COURT: Mr. Clerk, you've got to print another
12 list.

13 THE CLERK: Yes, sir. We're working on that now.

14 THE COURT: All right, there are no other jurors
15 outside?

16 SHERIFF SUMMERS: No, sir.

17 THE COURT: All right. Ladies and gentlemen, we're
18 going to reselect this jury. We're going to start over from
19 scratch. I have discarded the jury we selected, though no
20 fault of your own, but a legal decision that I have made.
21 That jury is going to be set aside, and we are going to
22 start over just as soon as the clerk can print us a new
23 list.

24 (Pause for computer printing issues with clerk's office.)

25 Ladies and gentlemen, we've got a little problem

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1 with the computer. I like the old fashioned system. I was
2 trying to get this done so I could excuse you and some of
3 you wouldn't have to come back after lunch, but I can't do
4 that. So I ask all of you to be back in the courtroom at
5 3:00 o'clock.

6 Please do not talk about this case. That is very
7 important because each of you is a potential juror in this
8 case.

9 When we come back at 3:00 o'clock, as I said, we'll
10 start over from scratch selecting the jury in this case.
11 Please do not discuss this case among yourselves. Don't
12 discuss this case with anybody you go to lunch with whether
13 it's your wife or your husband or anybody else. Do not go
14 out and try to find some research on this case. Everybody's
15 got internet access and that is a violation of your oath for
16 you to go on the internet or drive out to the scene where
17 this occurred. I'm telling you. As I explained to you very
18 carefully, your decision in this case has to be based
19 solely, totally on the evidence and the testimony that you
20 hear in this courtroom. Any discussion that you have with
21 anybody outside of this courtroom, if it's just you talking
22 and them listening would be a violation of my instruction to
23 you. Any attempt by you to find out any information about
24 this case would disqualify you from the ability to serve on
25 this jury. It's real easy. You have to do nothing.

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1 concerning this case. So it's very important that you
2 follow those instructions, and please be seated back in this
3 courtroom at 3:00 o'clock this afternoon.

4 Thank you very much. You are excused. Everybody else
5 remain seated until the jury leave.

6 (Jury panel exits courtroom at 1:27 p.m.)

7 THE COURT: All right. Everybody else in this
8 courtroom, it is very important that no contact be made with
9 any of these jurors, either inadvertently and certainly on
10 purpose would be a horrible violation of this court's
11 instructions, but if you see a juror when you go to lunch
12 turn your back and move away. Do not talk about this case
13 when you go to lunch, because you might not recognize one of
14 these jurors, and if you're standing there talking about
15 this case and one of these persons is a juror can cause more
16 problems when we come back after lunch. Please, everybody
17 in here, don't talk about this case, unless you know
18 everybody in the room you're talking to, and let's don't
19 take any chances and contaminate our jury pool.

20 We will be in recess until 3:00 o'clock.

21 Mr. Clerk, we determined that there was one juror who
22 was qualified this morning who was not included on the
23 computer printout by some error, but you be sure you have
24 everybody on that printout, this jury list that you're
25 printing me, everybody that's qualified to serve as a juror.

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1 THE CLERK: Yes, Your Honor.

2 THE COURT: All right. Anything else from the
3 state?

4 MR. PASCO: No, Your Honor.

5 THE COURT: From the defense?

6 MR. BANKS: No, Your Honor.

7 MR. LEIENDECKER: If we're working on the database
8 can we remove the three that have been removed by consent?

9 THE COURT: We can do that.

10 MR. LEIENDECKER: And they won't show on the
11 printout.

12 THE COURT: By consent, after discussion of the
13 matters in Chambers, both the state and the defense agreed
14 to remove from the jury pool, Juror No. 8, Darryl J. Brown,
15 Juror No. 115, Patrick J. Williams, and Juror No. 120,
16 Felton Zeigler. Those three were removed from the jury pool
17 by agreement of the parties.

18 Is that right, Mr. Pasco?

19 MR. PASCO: Yes, sir.

20 THE COURT: Mr. Leiendecker?

21 MR. LEIENDECKER: It is, Your Honor, but I'd like,
22 for purposes of the record, if you could make it clear what
23 the discussion at the bench was with Mr. Brown and what we
24 ultimately found out through the research of the solicitor's
25 office and the Court.

1 THE COURT: All right. Mr. Brown's juror return
2 that he sent to the clerk of court where he was asked the
3 question, have you ever been a party to a civil law suit.
4 He said no. Have you ever been convicted of a crime other
5 than a minor traffic offense. He said no. The state had a
6 rap sheet showing that Mr. Brown was charged, I think, 2000
7 with 2 offenses. One in violation of the noise ordinance
8 and one for giving false information, and the records show
9 he was convicted on both of those charges. I called Mr.
10 Brown up to the bench and spoke with him privately. He
11 admitted he was -- has a conviction for the noise ordinance,
12 but said it was so old he didn't think it would apply. He
13 denied having any conviction for giving false information,
14 and for that reason, both the state and the defense agreed
15 to excuse him from the jury.

16 MR. LEIENDECKER: That is correct, Your Honor,
17 after I understood that we confirmed that he had been, in
18 fact, convicted of both of those offenses.

19 THE COURT: He had been convicted. The solicitor
20 called the magistrate's office and determined that he was
21 shown as convicted of both of those offenses.

22 MR. LEIENDECKER: Yes, sir, Your Honor.

23 THE COURT: And he denied, of course, on the
24 document that he had the conviction and he denied to me that
25 he had a conviction for false information.

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1 All right. Anything else we need to put on the record
2 at this time?

3 MR. PASCO: No, Your Honor.

4 THE COURT: You want to make your motion at this
5 time?

6 MR. LEIENDECKER: No, Your Honor.

7 THE COURT: You don't?

8 MR. LEIENDECKER: If we can come back at 2:00
9 o'clock, 2:30 or something, I'd like --

10 THE COURT: We can come back at 2:30.

11 MR. LEIENDECKER: Yeah. I'd like to get a little
12 bit of a break.

13 THE COURT: All right, then, we'll be at recess
14 until 2:30. The jury -- we're expecting them back at 3:00
15 o'clock.

16 MR. LEIENDECKER: Thank you.

17 (Court at recess for lunch break at 1:35 p.m.)

18 (Court in session after lunch at 2:40 p.m.)

19 THE COURT: All right. I have a copy of the jury
20 strike list that I used and made my notes on when this jury
21 was stuck prior to lunch. I'm giving that to the court
22 reporter and making that Court's Exhibit No. 1. And I
23 indicated on the bottom of that sheet that the Batson Motion
24 was granted and that the jury was set aside. I'm sure the
25 clerk's records will reflect the same thing, but I want that

1 in the record.

2 (Court's Exhibit No. 1, Judge's
3 notes, 1st strike sheet, was marked and entered.)

4 THE COURT: All right. I understand we have some
5 motions prior to the selection of this second jury?

6 MR. BANKS: Yes, Your Honor, if I may -- Please the
7 Court. First of all, I'd like to introduce into evidence,
8 the T and D, it's an abstract of the T and D article written
9 about this case, The Times and Democrat of Orangeburg. They
10 emailed me an abstract without pictures, but this is their
11 abstract and I ask that that be admitted for the purposes of
12 this motion.

13 COURT REPORTER: Defendant's One?

14 THE COURT: All right. I think we need to make
15 that a Court's Exhibit. It's not an exhibit in the trial.
16 So I think we need to make it --

17 MR. BANKS: You can mark it as Court's Exhibit No.
18 2.

19 COURT REPORTER: Yes, sir.

20 THE COURT: All right, that will be marked Court's
21 Exhibit No. 2.

22 (Court's Exhibit No. 2, Times and
23 Democrat article, was marked and entered.)

24 THE COURT: Yes, sir.

25 MR. BANKS: All right. Thank you.. Your Honor, at

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1 this time we'd move for a change in venue. Part of the
2 basis for that is, of course, the exhibit I just filed. The
3 level of pretrial publicity, and, Your Honor, I've done some
4 pretty extensive research on fund raising or contributions
5 to a victim's family and how that might effect the jury or
6 jury pool, and there's nothing. I can't find a South
7 Carolina case that has any mention of that situation. So
8 that in and of itself is unique. And I point that out.
9 Being so unique and unusual and being combined with the -- I
10 counted 31 of the jury pool, I counted 31 who had exposure
11 at some level to advertising, to the news media about this
12 article about this incident. And in addition, I counted six
13 members of the jury pool that told the Court that they had
14 -- in fact, I believe five of them actually were fund
15 raisers through Food Lion. I think there are at least three
16 -- I can't remember, now. One, a Mr. Williams' wife and
17 then the others were just contributors. And, again, when
18 that -- when 31 people stood up in that jury pool of -- I
19 believe there were 46 or 47 at the time, I literally were
20 shocked. I had submitted to the Court some voir dire that
21 was fairly basic, not expecting to see quite that high
22 percentage of publicity in the pre-trial. So based on that
23 shock, I would have A -- and the level that they exposed
24 themselves to, you know, Your Honor, jurors want to be fair
25 and they tell the Court they're going to be fair, and it's

1 difficult for them to say that they are going to be unfair,
2 and especially with members of the victim's family in the
3 courtroom, who were there the whole time and who some of
4 these jurors sat amongst. Your Honor, based on that I think
5 we are deserving of a change of venue. In the alternative,
6 I'd ask for a second level of voir dire based on, again, the
7 surprise that they afforded us with that level of exposure
8 to the media, and, for example, some of the questions I'd
9 ask would be to follow up with the questions you asked about
10 the -- in fact, one of the questions I have on my voir dire
11 was had they ever expressed an opinion. Not just formed an
12 opinion but had they ever expressed an opinion, and I think
13 that's important because there's a matter of timing there.
14 Today having formed an opinion might have been different
15 than -- and, of course, the pressure of being in the
16 courtroom with the victim's family and what not, and this
17 procedure, would be different than if they were at home in
18 the quiet of their homes, maybe on their computer sending an
19 email to their friend, saying, wow, did you hear about this
20 case. And so forth, and then maybe expressed an email or
21 verbally in church or at home. I didn't do a specific
22 count, but a fair number of 31 people who had exposure to
23 the news media in this case, also talked about having talked
24 with people about it, and I think that deserves further
25 exploration in specific to having expressed -- I think

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1 that's very important.

2 Your Honor, it's slightly complicated at this point to
3 say, all right, let's do this or do that, when you combine
4 the fact that you just had a Batson Challenge and now we're
5 bringing the jury pool in for a second review of them, and
6 combine that with me asking the Court for a second level, a
7 second tier of specific voir dire from the witness stand, I
8 think that's going to further complicate matters in this
9 case and cause a little more difficult or prejudice towards
10 my client. As the solicitor's office said in chambers, they
11 made a motion and it's going to be evidence from the results
12 of that Batson Challenge that they won that motion and that
13 does I think cause some slight prejudice at this juncture.

14 THE COURT: What about the solicitor, now?

15 MR. BANKS: The change -- I think Mr. Sorenson
16 made a comment, and it might have been in jest, but they
17 made a Batson Motion and by the results of them having to
18 come in and do that over again, they actually won that
19 motion and again, generally conventional wisdom is previeved
20 as prejudicial to my client, that we made some error -- that
21 we made some error in this -- that we lost a motion and we
22 made an error. I think, again, conventional wisdom is
23 prejudice to my client.

24 THE COURT: The fact that I granted the Batson
25 Motion is that what you're saying is prejudicial?

1 MR. BANKS: Your Honor, I'm not questioning the
2 wisdom of your granting --

3 THE COURT: I understand that.

4 MR. BANKS: What I'm saying is that when you
5 combine the Batson Motion with the fact that I am requesting
6 also a second tier of voir dire, that's going to sort of
7 exacerbate the situation on our side as prejudicial to our
8 client. We're going to have to go and dig deeper and cause
9 them a little more harm or shame or embarrassment. So I
10 think that would be the voir dire -- I mean, I think the
11 change of venue is more appropriate than even the second
12 level. Like I say, I'm asking that in the alternative.

13 Third way out, the third alternative would be to change
14 the -- you know, disqualify this entire jury and go to a
15 later term. I know that wouldn't be -- well, that's an
16 option to go to a later term because this jury has been sort
17 of dealt with other irregularities like the missing juror
18 off of the random generator.

19 I think that's all I have, Your Honor.

20 THE COURT: All right. Mr. Sorenson, Mr. Pasco,
21 you have any response to that?

22 MR. SORENSON: Just very briefly, Your Honor. I
23 think case law, Your Honor, I'll point out two cases that
24 are fairly recent, at least in the last couple of years that
25 deal with change of venue. One, State verses Parker, 671

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1 S.E. 2d. 619. The second was Evins, E-v-i-n-s at 645 S.E.
2 2d. 904. A 2007 case. Both deal with pre-trial publicity
3 and change of venue motions. And, Your Honor, basically,
4 what they both come down to is mere exposure to pre-trial
5 publicity does not automatically disqualify a prospective
6 juror.

7 The relevant question is not whether the community
8 remembered the case, but whether the jurors has such fixed
9 opinions that they can not judge impartially the guilt of
10 the defendant. The burden is on the defendant to actually
11 demonstrate the actual prejudice. And then Evins says, Your
12 Honor, when jurors have been exposed to pre-trial publicity
13 and denied a change of venue is not err when jurors have
14 found to have the ability to set aside any impressions or
15 opinions and render the verdict based on the evidence
16 presented at trial. I think you covered that; Your Honor,
17 when you had them stand up and you went through that litany
18 of questions with each one of those jurors to find out where
19 they had learned their information about a case and whether
20 they can set that aside, whether they had formed any
21 opinions and whether they can judge the case based on what
22 they heard in the courtroom. I think every one of those
23 jurors said -- but one said they could and the one that
24 didn't you excused. If you just kind of put the numbers in
25 perspective in the Evins case they had a jury pool of 68

1 people and 39 of those jurors had heard something about the
2 case, and they were still able to pick a jury that was fair
3 and impartial in that case. I think we've shown that we've
4 already picked one, but for the Batson issue that came up,
5 would have otherwise been a fair and impartial jury. So I
6 just don't see how they have shown any actual prejudice. I
7 mean, obviously, there's been pre-trial publicity, this is a
8 small county. Any type of violent crime you're going to
9 have that situation where the majority of the jurors are
10 going to have heard something about the case, but that's not
11 the issue. The issue is whether they can put that aside and
12 not form an opinion and render a verdict based on what they
13 hear in this courtroom. And I submit to you those jurors,
14 those 30-some-odd jurors that stood up, all but the one that
15 you excused, indicate they could and are therefore
16 qualified.

17 THE COURT: All right. Now, let me be certain I
18 understand your request to this second level of voir dire.
19 What is it you want me to ask the jury?

20 MR. LEIENDECKER: Judge, Martin's having a little
21 trouble with that because that was what I was talking about.

22 THE COURT: I'll listen to you.

23 MR. LEIENDECKER: Please the Court. It's been my
24 experience in cases that we had knowledge ahead of time that
25 it was going to be this kind of publicity issue, that the

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1 Court's have allowed or participated in a form of direct
2 voir dire of the individual parties concerning pre-trial
3 publicity as part of the jury selection process.

4 Most recently, my case in 2004, I heard a case in
5 Dorchester County which was a 14 year-old murder. It was so
6 vivid in people's minds and in the media and had been in the
7 press off and on all those years. And at that time we had
8 direct questioning of the individual people that came
9 forward and it was more extensive than the normal questions
10 at that time. Here we didn't have that opportunity because
11 I think we were also somewhat surprised by the number of
12 individuals who stood up. And, secondly, at this point, I
13 think it would be prejudicial to go back and do that with
14 these people who we've already questioned and picked a jury
15 once. It makes it look like -- which I think there is a
16 problem, but it makes it look like it's a problem with then,
17 and I don't have a problem with them. I believe we probably
18 could have fleshed this out if we'd done this at the outset,
19 and we could probably flesh this out and make a
20 determination whether there is actual prejudice or not if we
21 did it with the jury panel from the beginning, but we didn't
22 do that. We'd have to bring another jury panel in here and
23 start from that point.

24 The situation -- and I agree with Mr. Sorenson. If you
25 look at the Parker case and if you go back before that,

1 before Evins and Parker and go back to the Shepherd case.
2 Every case that gets reported is a case where the judge has
3 not granted a change of venue. But we all know there are a
4 number of cases throughout the time that we've practiced law
5 where judges have granted changes of venue, and we've gone
6 to other counties to select juries. Those don't get
7 appealed. So we don't get appellate decisions on those.
8 And, as Your Honor will understand having been on both sides
9 of the issue, it really is the judge's discretion, whether
10 he believes there was or is prejudice in the selection
11 because of the jury understanding through the media or
12 other exposure to gossip in the community that would be
13 unfair or prejudicial to our client. And so you're not
14 going to find cases out there in support of our position
15 because they don't wind up on appeal, but where I am at this
16 point, Your Honor, is that I believe that we should change
17 the venue, as Martin has argued, but in the alternative if we
18 don't we should have some expanded voir dire concerning
19 publicity, since it's obviously such a hot-button issue.

20 I'm concerned, Your Honor, honestly that there are a
21 number of people out here who say through their church,
22 work, and other places they've raised money for this family.
23 She was pregnant at the time and has had children. I think
24 that it's great that the community binds together and does
25 that, but these people have poured their money and their

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1 heart into this victim's family, yet they think they can be
2 fair. And I think we should have an opportunity to further
3 examine that issue on the record, and it wouldn't be
4 appropriate to do it with this panel. You're going to have
5 to bring another panel if you deny our venue change.

6 THE COURT: All right. I understand that.

7 So short of me granting a change of venue, are you
8 requesting any additional voir dire of this panel?

9 MR. LEIENDECKER: No, sir, Your Honor, unless at
10 the absolute outright you denied dismissing this panel and
11 bringing another Calhoun County panel in.

12 THE COURT: All right.

13 MR. LEIENDECKER: In that case, my alternative
14 would be a continuance of the trial at this time, so that
15 we, for the next term of court, can select another jury
16 panel.

17 THE COURT: All right. Well, I certainly recognize
18 that we could have conducted individual voir dire of the
19 jury panel as to their knowledge about this case. And so
20 it's a little late. I agree with you. We could not go back
21 and do that very effectively with this jury panel.

22 The question is whether we can get a jury panel out of
23 this group that remains in this courtroom that can base
24 their decision on the evidence and the testimony that they
25 hear in this courtroom. And we all agree with that. We all

1 agree that's what the law is; whether we can get a jury that
2 will not be influenced by what they have heard, see, been
3 told, or done outside this courtroom. That is the question.

4 I specifically questioned each juror as to whether or
5 not they had formed an opinion about the case. One juror in
6 the whole crowd said that -- I think he was leaning towards
7 an opinion, but that he could base his decision solely on
8 what he heard in this courtroom. That juror has been
9 excused by consent of the parties. So that juror is not an
10 issue. Every other juror specifically when asked -- not the
11 whole group, but asked each juror specifically, had they
12 formed an opinion, they replied, no, they had not formed an
13 opinion. It would look kind of silly for me to ask them,
14 have you expressed an opinion after they told me they hadn't
15 formed an opinion. You could certainly form an opinion
16 without expressing the opinion. I don't think you could
17 express an opinion without having formed an opinion. So the
18 fact that I didn't ask that question specifically, have you
19 ever expressed an opinion, I don't think is significant.

20 I did not ask the jurors had anybody every expressed an
21 opinion to them about this case. And I don't have an
22 objection to asking that question of this panel, had anybody
23 expressed an opinion to them or had they heard anybody else
24 expressed an opinion about the case. I did not specifically
25 cover that.

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1 After each juror replied that they had not formed an
2 opinion, then I questioned specifically, can you put aside
3 -- and this was a little bit differently phrased to
4 different jurors, but every one of them I asked, can you
5 base your decision in this case based solely on your
6 testimony and the evidence that you give in this courtroom.
7 And, of course, I was watching those jurors and they were
8 watching me. And I looked into the face of each of those
9 jurors that answered that question and every one of them
10 answered that question in the affirmative. Yes, I can make
11 my decision in this case based solely on the testimony and
12 the evidence presented in this courtroom. I did not have
13 reason to be concerned about the answer of a single juror,
14 and I was watching very closely for that, because I
15 understand jurors want to please the Court. What answer I
16 want to hear -- not necessarily what answer I want to hear,
17 but what would be the proper answer under the circumstances,
18 and so I looked very closely to see if I could see any juror
19 that I thought was showing a hesitancy in answering that
20 question that would concern me, even though the answer to
21 the question was the right answer, that that juror in their
22 heart might now be able to do what they say they can do. I
23 did not detect that in a single juror in this courtroom.

24 I do not have the slightest hesitation in concluding
25 that we have a jury panel in this courtroom that can give

1 the defendant a fair and impartial verdict in this case.

2 Now, in regarding the fun raising. That is a little
3 unusual. That is a new wrinkle, but that is not directly
4 directed in an antagonistic or an adversarial manner towards
5 the defendant. That is showing natural expression of
6 sympathy for the victim in the case. I have expressed to
7 the jury on the record that they have to base their decision
8 on the facts and the circumstances in this case and they
9 have to follow my instructions on the law whether they agree
10 with it or not.

11 As you all know, that would be further instructions
12 that I make to the jury at the proper time, that they cannot
13 be effected by prejudice, by passion, by unfair sympathy, by
14 public opinion, by any other arbitrary fact. I think this
15 is a jury that can follow that instruction regardless of
16 their sympathy for the victims in this case. I have every
17 confidence that this jury panel can base their decision in
18 this case based on the testimony and the evidence put up in
19 this courtroom and a jury that will follow my instructions
20 on the law.

21 So for those reasons I will deny the motion to change
22 venue. I have no hesitation in denying that motion.

23 Now, as I said, I am willing to ask the panel again,
24 and I don't think there's been anything done or said in this
25 courtroom up to this point that could lead to the jury that

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1 there's any fault on their part of us having to reselect
2 this jury. I just don't think there's anything that they
3 could read between the lines or anywhere else to draw that
4 conclusion. I'm certainly willing to ask the jury, if you
5 want me to do so, has anybody ever expressed an opinion to
6 them about this case, and I will follow that up
7 appropriately if I get an answer that yes, they've had an
8 opinion expressed to them.

9 MR. LEIENDECKER: No, sir. We wouldn't ask for
10 that, and just as a matter of record, I would not that part
11 of where we're coming from, although this is not a death
12 penalty case, it's the same type of reason that's contained
13 in Morgan verses Illinois, where the United States Supreme
14 Court specifically said there mere fact that a juror says
15 they will listen to the judge, follow the court's
16 instructions and do what the court asked in regard to the
17 law is not sufficient to determine whether that juror is, in
18 fact, properly qualified to serve as a juror in a death
19 penalty case concerning their views on death. I think it's
20 applicable to these kinds of things concerning pre-trial
21 publicity and that's why, out of an abundance of caution, we
22 felt that it would be appropriate to strike another jury
23 panel that could be a more extensive voir dire just as you
24 would in the case when you are seeking death penalty
25 qualification concerning that important issue.

1 That's all. Just for the record.

2 THE COURT: If there was any question in my mind
3 as to whether or not we had a jury that could make the
4 decision under the proper basis of the law I would grant
5 that, but there is no question in my mind based on, not only
6 the answers but the demeanor of the jury, my personal
7 observation of the jurors as they were asked the questions
8 and as they answered.

9 So for that reason I will deny your motion to change
10 venue. I will deny your motion to set the panel aside and
11 start over.

12 MR. BANKS: Your Honor, would you make our voir
13 dire question Court's Exhibit Three.

14 THE COURT: Sure.

15 (Court's Exhibit No. 3, voir dire
16 question, was marked and entered.)

17 THE COURT: All right. Anything else from the
18 defense?

19 MR. LEIENDECKER: No, Your Honor.

20 THE COURT: Anything else from the state?

21 MR. PASCO: No, Your Honor. Thank you.

22 THE COURT: All right. You both have by the
23 agreement of parties, and this is something I've never done
24 before and that is give the attorneys the computer printout
25 prior to the names being called. I have no problem doing

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1 that. Both the state and defense requested me to do it.
2 You have that list in front of you for the first jury. Both
3 of you have the list furnished by the clerk of court and
4 have had an opportunity to review that list.

5 Is that right, Mr. Pasco?

6 MR. PASCO: Yes, sir.

7 THE COURT: Mr. Leiendecker?

8 MR. LEIENDECKER: Yes, Your Honor.

9 THE COURT: Anything else you want before I bring
10 in the jury panel?

11 MR. PASCO: No, sir.

12 MR. LEIENDECKER: No, sir, Your Honor.

13 THE COURT: All right. Bring in the jury panel,
14 please.

15 (Jury panel in courtroom at 3:05 p.m.) .

16 THE COURT: Everybody on this side sitting on the
17 back row, fill up the back row first and then the second
18 row, and only if it's necessary, the third row.

19 I'll ask the jurors to come all the way down to the
20 front row. Fill up the front rows, first.

21 All right, ladies and gentlemen, as I told you earlier
22 we're going to select a new jury in this case.

23 Now, as I explain to those of you who serve on the jury
24 more fully later on, in this case, you're sitting on this
25 jury you are to be the judges of the facts in this case.

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1 You are to determine what the truth is about the matters
2 which have been testified to at the time you begin your
3 deliberation. You are the only judges of the facts. You
4 are the only persons who determine the truth about the
5 matters which you are going to hear during this trial. As
6 you are the judges of the facts, I am the judge of the law.
7 I am the only judge of the law, and as I referred to it
8 earlier, at the proper time you will be instructed as to
9 what the law is, and you will be instructed and if your
10 opinion of what the law is or should be differs from what I
11 tell you the law is you must put aside your position of the
12 law, because I'm the only judge of the law.

13 Now, the reason that we're selecting another jury is a
14 legal matter. That is a matter for the Court. It is a
15 matter of law. That is my decision. It does not concern
16 you at all. It is not something you should speculate about,
17 it is not something you should wonder about. It's certainly
18 nothing that has anything to do with you folks. It is
19 purely a legal issue. It does not concern you, so please
20 don't even think about that. It's just a legal matter, a
21 decision that I have made that necessitates us drawing
22 another jury.

23 It's nothing these lawyers have done, it's nothing the
24 defendant has done, it's nothing the victims have done.
25 It's a legal matter solely in my hands and I've made that

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1 decision.

2 So, please, I don't want you worrying about. I don't
3 want you talking about that. I don't want you to be
4 concerned about that in the least. Just turn the clock back
5 and starting over from scratch.

6 Is the state ready to draw the jury?

7 MR. PASCO: Yes, Your Honor.

8 THE COURT: Is the defense ready?

9 MR. BANKS: Yes, Your Honor.

10 THE COURT: All right. Mr. Clerk, you may
11 proceed.

12 THE CLERK: Yes, sir.

13 When I call your name, just come down front, turn
14 around and face the defense and the prosecutor.

15 Juror No. 89: Arietta C. Ramey.

16 What says the state?

17 MR. PASCO: Please present Ms. Ramey.

18 THE CLERK: Defense?

19 MR. LEIENDECKER: Please seat the juror.

20 THE CLERK: Juror No. 11. Tina E. Carson.

21 What says the state?

22 MR. PASCO: Please present Ms. Carson.

23 THE CLERK: The defense?

24 MR. LEIENDECKER: Please dismiss the juror.

25 THE CLERK: Juror No. 43. Marie Haynes.

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1 What says the state?

2 MR. PASCO: Please present Ms. Haynes.

3 THE CLERK: The defense?

4 MR. LEIENDECKER: Please seat the juror.

5 THE CLERK: Juror No. 103. Cynthia B. Spires.

6 What says the state?

7 MR. PASCO: Present Ms. Spires.

8 THE CLERK: The defense?

9 MR. LEIENDECKER: Please excuse the juror. Thank
10 you.

11 THE CLERK: Juror No. 101. Cedrick Snider.

12 What says the state?

13 MR. PASCO: Please excuse Mr. Snider.

14 THE CLERK: The defense?

15 MR. PASCO: He's excused.

16 THE CLERK: Oh.

17 Juror No. 41. Shavonda F. Hair.

18 What says the state?

19 MR. PASCO: Please excuse Ms. Hair.

20 THE CLERK: Juror No. 63. Leslie Kennerly.

21 What says the state?

22 MR. PASCO: Please seat Ms. Kennerly.

23 THE CLERK: The defense?

24 MR. LEIENDECKER: Please seat the juror.

25 THE CLERK: Juror No. 55. Lori W. Jackson.

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1 What says the state?

2 MR. PASCO: Please present Ms. Jackson.

3 THE CLERK: The defense?

4 MR. LEIENDECKER: Please excuse the juror.

5 THE CLERK: Juror No. 16. Kevin D. Coleman.

6 What says the state?

7 MR. PASCO: Please present Mr. Coleman.

8 THE CLERK: The defense?

9 MR. LEIENDECKER: Please seat the juror.

10 THE CLERK: Juror No. 75. Kimberly S. Middleton.

11 What says the state?

12 MR. PASCO: Please present Ms. Middleton.

13 THE CLERK: The defense?

14 MR. LEIENDECKER: Please seat the juror.

15 THE CLERK: Juror No. 14. Dianne S. Coker.

16 What says the state?

17 MR. PASCO: Please present Ms. Coker.

18 THE CLERK: The defense?

19 MR. LEIENDECKER: Please seat the juror.

20 THE CLERK: Juror No. 52. Rudine Hughes.

21 What says the state?

22 MR. PASCO: Please present Ms. Hughes.

23 THE CLERK: The defense?

24 MR. LEIENDECKER: Please seat the juror.

25 THE CLERK: Juror No. 58. E.E. Rucker Jones.

1 What says the state?

2 MR. PASCO: Please present Mr. Jones.

3 THE CLERK: The defense?

4 MR. LEIENDECKER: Please seat the juror.

5 THE CLERK: Juror No. 10. Robert M. Carroll, Jr.

6 What says the state?

7 MR. PASCO: Please present Mr. Carroll.

8 THE CLERK: The defense?

9 MR. LEIENDECKER: Please excuse the juror.

10 THE CLERK: Juror No. 94. Joe D. Royals, Sr --
11 correction, junior.

12 What says the state?

13 MR. PASCO: Please present Mr. Royals.

14 THE CLERK: The defense?

15 MR. LEIENDECKER: Please seat the juror.

16 THE CLERK: Juror No. 51. Dianne Hook.

17 What says the state?

18 MR. PASCO: Please excuse Ms. Hook.

19 THE CLERK: Juror No. 23. Sheryl B. Davis.

20 What says the state?

21 MR. PASCO: Please excuse Ms. Davis.

22 THE CLERK: Juror No. 86. Linda F. Perrow.

23 What says the state?

24 MR. PASCO: Please present Ms. Perrow.

25 THE CLERK: The defense?

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1 MR. LEIENDECKER: Please excuse the juror.

2 THE CLERK: Juror No. 104. Bernardean Starks.

3 What says the state?

4 MR. PASCO: Please excuse Ms. Starks.

5 THE CLERK: Juror No. 47. Bruce A. Hodges.

6 What says the state?

7 MR. PASCO: Please present Mr. Hodges.

8 THE CLERK: The defense?

9 MR. LEIENDECKER: I'm sorry, Your Honor. I've
10 lost my place. Can you give me the strike numbers?

11 THE COURT: Five and five are the strikes I have.

12 MR. LEIENDECKER: Five and five.

13 Please excuse the juror.

14 THE CLERK: Juror No. 45. Jeffrey A. Hill.

15 What says the state?

16 MR. PASCO: Please present Mr. Hill.

17 THE CLERK: The defense?

18 MR. LEIENDECKER: Please seat the juror.

19 THE CLERK: Have a seat.

20 Juror No. 106. Nancy D. Stevenson.

21 What says the state?

22 MR. PASCO: Please present Ms. Stevenson.

23 THE CLERK: The defense?

24 MR. LEIENDECKER: Please excuse the juror.

25 THE CLERK: Juror No. 9. James E. Brown, Jr.

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1 What says the state?

2 MR. PASCO: Please present Mr. Brown.

3 THE CLERK: The defensé?

4 MR. LEIENDECKER: Please excuse the juror.

5 THE CLERK Juror No. 93. Jeffery J. Roediger.

6 What says the state?

7 MR. PASCO: Please present Mr. Roediger.

8 THE CLERK: The defense?

9 MR. LEIENDECKER: Please excuse the juror.

10 THE CLERK: Juror No. 116. Lynell C. Williamson.

11 What says the state?

12 MR. PASCO: Please present Ms. Williamson.

13 THE CLERK: The defense?

14 MR. LEIENDECKER: Please seat the juror.

15 THE CLERK: Juror No. 78. Lawrence Mitchell.

16 What says the state?

17 MR. PASCO: Please present Mr. Mitchell.

18 THE CLERK: The defense?

19 MR. LEIENDECKER: Please seat the juror.

20 THE COURT: Give us two alternates, please. The
21 strikes will be one and two, each.

22 THE CLERK: Yes, sir.

23 Juror No. 18. Rhonda L. Cox.

24 What says the state?

25 MR. PASCO: Please present Ms. Cox.

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1 THE CLERK: The defense?
2 MR. LEIENDECKER: Please excuse the juror.
3 THE CLERK: Juror No. 96. Allen B. Shuler.
4 What says the state?
5 MR. PASCO: Please present Mr. Shuler.
6 THE CLERK: The defense?
7 MR. LEIENDECKER: Please seat the juror.
8 THE CLERK: Juror No. 79. Calvin Mosley.
9 What says the state?
10 MR. PASCO: Please excuse Mr. Mosley.
11 THE CLERK: Juror No. 4. Molly R. Hane.
12 What says the state?
13 MR. PASCO: Please present Ms. Hane.
14 THE CLERK: The defense?
15 MR. LEIENDECKER: Please excuse the juror.
16 THE CLERK: Juror No. 40. Robert B. Haigler.
17 What says the state?
18 MR. PASCO: Please present Mr. Haigler.
19 THE CLERK: The defense?
20 MR. LEIENDECKER: Please excuse the juror.
21 THE CLERK: Juror No. 56. Geraldine G. Johnson.
22 What says the state?
23 MR. PASCO: Please -- beg the Court's indulgence.
24 THE COURT: Yes.
25 MR. PASCO: Did I use all my strikes. Yes.

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1 Please seat the juror. Thank you.

2 THE CLERK: The defense?

3 MR. LEIENDECKER: Please seat the juror.

4 THE COURT: Are there any jury selection matters
5 from the state?

6 MR. PASCO: No, Your Honor.

7 THE COURT: From the defense?

8 MR. LEIENDECKER: No, Your Honor.

9 THE COURT: All right.

10 Ladies and gentlemen, it's going to be about 10 to 15
11 minutes before we start the trial of this case. So I'm
12 going to ask you to retire to your jury room. Please do not
13 talk about the case and we will get started pretty quickly.

14 Please follow the bailiff out to the jury room.

15 (Jury out at 3:22 p.m.)

16 THE COURT: Ladies and gentlemen, if you were not
17 selected on this jury I'm going to excuse you at this time.
18 I'm going to ask you to call back after 6:00. Probably the
19 message you're going to get is to call back after 6:00
20 tomorrow, but you might not. You might get a message that
21 says to be in here at 9:30 in the morning. If I knew, I
22 would tell you now, but I don't know. So you call back
23 after 6:00 o'clock, please, and follow whatever instructions
24 you find in that message.

25 If you would like to remain in the courtroom and

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1 observe the rest of the proceedings today you are welcome to
2 do that, but if you would like to leave you are free to do
3 that at this time.

4 Thank you very much.

5 (Remaining jury panel out at 3:24 p.m.)

6 THE COURT: All right. Any pre-trial matters from
7 the state?

8 MR. PASCO: No, Your Honor.

9 THE COURT: Any pre-trial matters from the
10 defense?

11 MR. BANKS: No, Your Honor. We'd ask to sequester
12 the witnesses. I'd just as soon ask that now as later.

13 THE COURT: We'll sequester all fact witnesses.

14 Well make opening statements and -- who do you
15 anticipate your first witness will be?

16 MR. SORENSON: We've got Jerry Dubin and Det.
17 Armlin.

18 THE COURT: How long do you think that will take?

19 MR. SORENSON: Neither one of them is very long.
20 We have one other potential short witness. Probably three
21 we can do today.

22 THE COURT: All right. Let's do that. Let's take
23 about five minutes, then, and we'll be ready to roll.

24 (Court in recess for short break at 3:35 p.m.)

25 (Court in session after short break at 3:41 p.m.)

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1 THE COURT: All right. Can we have our two
2 alternates on the back row. It doesn't matter for today,
3 just both of you sit back there. Ordinarily the alternates
4 sit on the back row. You can take any of those seats back
5 there. Everybody else just fills in.

6 All right. If you would stand at this time and the
7 clerk will administer to you the jurors oath. Please stand.

8 (WHEREUPON, the jury is sworn.)
9 (Jury sworn at 3:42 p.m.)

10 THE COURT: You may be seated.

11 Ladies and gentlemen, ordinarily we run court from 9:30
12 to about 5:00 or 5:30. Both the lawyers have work to do
13 before they come in and preparation to do after they leave
14 here in the afternoon.

15 Now, this is a very important case, and we don't rush
16 through anything. We take whatever time both sides take.
17 We don't waste any time. You might think we've been wasting
18 some time today, but I assure you we've not wasted a minute.
19 We try to keep moving pretty closely. The lawyers in the
20 case would like to finish this case Thursday. To do that we
21 may have to stay late tomorrow and so I wanted to know if
22 you know now that we're going to stay until maybe 8:00 or
23 8:30 tomorrow night to try to finish Thursday. Of course,
24 if we finish Thursday we will not be bringing you back in on
25 Friday. We have some other matters we can do Friday.

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1 Would it be a very hard or difficult for anybody if we
2 stay 'til 8:00 or 8:30 tomorrow night? If it would just be
3 honest with me and we'll make arrangements. Well, kind of
4 plan on that. As I told you, our plans frequently get
5 changed, but let's kind of plan on doing that, and we'll
6 take a break late in the afternoon and I'll try to have some
7 little extra snack for you instead of just the sodas and
8 crackers back there, and we'll try to stay until 8:30
9 tomorrow night or so. It depends on how we're running. We
10 might make more progress tomorrow, but we think we will be
11 able to finish the case on Thursday, but as I said, it's too
12 important a matter to hurry this case or to hurry your
13 deliberations in the case. We're not going to do that.
14 Everybody's going to have all the time they need to do what
15 they think they need to do in the case. And when you begin
16 your deliberations you will not be under any time
17 constraints. If we're in here Saturday morning, if that's
18 what it takes to do this case right, we'll be here Saturday
19 morning or Sunday, if that's what it takes.

20 Now, I don't know if any of y'all have ever served on a
21 jury or not. I know you've all watched a lot of court TV.
22 You get exposed to it. Let me tell you, Judge Judy or Judge
23 Brown would not be allowed to serve on the bench the way
24 they conduct court. So don't think anything about those
25 programs or any other programs. This is not TV. TV is

1 movies. They write the script. They put in there what they
2 want to put in there. And they know the answer they want so
3 they just plot it all out. It doesn't work that way. This
4 is real life. This is the real thing. This is a serious
5 case for all the parties involved in this case.

6 The state has charged the defendant in this case with
7 murder. He has pled not guilty. That places the burden on
8 the state to prove him not guilty beyond a reasonable doubt.
9 He is presumed to be innocent and he does not have to prove
10 himself innocent. The state, having the burden of proof,
11 goes first.

12 In a few minutes you're going to have the opening
13 statements made by the lawyers. One for the state and one
14 for the defendant. They will be brief. They will kind of
15 give you a brief outline of what they think the evidence in
16 this case might show, so you kind of know what to expect as
17 we move through this case. Once we have heard the opening
18 statements, then the state will put up it's evidence.
19 Evidence usually takes the form of testimony of witnesses
20 who take the stand under oath and testify, and exhibits that
21 will be introduced by the parties that you will have those
22 exhibits with you in the jury room when you begin your
23 deliberations. And so the state ups up it's case.

24 Once the state finishes the defendant has an
25 opportunity to do so, but he does not have to offer any

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1 witnesses. He does not have to testify. He does not have
2 to offer any evidence. As I told you, the burden is on the
3 state to prove him guilty beyond a reasonable doubt. He
4 doesn't have to offer any proof whatsoever. But if he
5 chooses to put up a defense then he would do that, of
6 course, when the state finishes.

7 Once you've heard all the testimony and the evidence
8 that you're going to hear in this case the attorneys will
9 come back to you and try to persuade you to see the facts in
10 this case in favor of their respective positions of the
11 case.

12 You are the judges of the facts in the case, as I
13 mentioned earlier. You determine what the truth is. What
14 really happened about the matters about which you are going
15 to hear testimony. That's your job. You are the only
16 judges of the facts. You are the only ones who can mediate
17 -- deliberate back there in the jury room and make your
18 decision in this case.

19 I am the judge of the law, as I told you. One of my
20 duties is to preside, to keep order in the courtroom, to
21 keep things moving, to rule on the evidentiary questions, if
22 there's some question as to whether some evidence can come
23 in or not come in, that's my job. It's not yours to be
24 concerned about.

25 Occasionally, a legal matter might come up, I might

1 have to ask you to step out into the jury room, as I did
2 today, to let me take up a legal matter and deal with that,
3 and then bring you back in where you can continue your job.
4 Don't be offended by that. That's just the rules under
5 which we operate and everybody understands those rules.
6 It's a lawyers job to make an objection if he thinks he
7 should make an objection. You don't hold that against the
8 lawyer. I'll deal with that. They would be not doing their
9 duty if they don't make an objection when one thinks that
10 one needs to be make. Those are legal matters which I will
11 take up.

12 Once you have heard the legal arguments, then I will
13 charge you on the law. That's one of my duties also. I
14 will tell you what the law is in South Carolina that might
15 apply to this case. And why do I say might apply? Because
16 whether or not it applies depends on what you find to be the
17 facts in this case.

18 Once I have explained to you the law, then you can
19 begin your deliberations. I don't know how many times I've
20 told you today that you must make your decision in this case
21 based solely on the evidence and the testimony that you hear
22 in this courtroom. In other words, you know nothing about
23 this case now that you could consider in your deliberations.
24 You will start hearing that information pretty quickly. You
25 cannot be governed or guided by anything outside this

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1 courtroom and you must follow my instructions on the law.

2 The law also provides that you must consider everything
3 that you hear in this courtroom. All of the testimony, the
4 first witness, the last witness. The first opening
5 statement, the last closing statement. Everything in
6 between and my instructions to you on the law. So it stands
7 to reason that you have to consider all of that that you
8 should not begin discussing this case until you have
9 received all of that information. If you start talking
10 about this case tonight when you go home to your significant
11 other you'll start forming an opinion about this case. It
12 would be like you putting a cake in the oven and you hadn't
13 put everything in that pan that you needed and that cake is
14 going to be a flop. And so you just don't talk about the
15 case. If you go to lunch tomorrow and start talking about
16 the case or go out with friends tonight somebody will tell
17 you something about this case, and that would disqualify you
18 from serving on this case, because you've heard information
19 outside of this courtroom, and that would not be proper. We
20 prevent all of those risks just by not talking about the
21 case. You don't talk about it in that jury room, among
22 yourselves, don't talk about it when you go home and you
23 won't have any problems at all once you have received your
24 instructions from me after all the evidence is in, then
25 you'll have all time you need to talk about the case and

1 make your deliberations. Please remember those rules and
2 remember the reasons for those rules. They are very
3 important reasons and a very important part of our system.

4 You probably notice those two gentlemen over there with
5 those big old cameras. One of them, I think is from the
6 radio and TV stations. You will not be on TV. You will not
7 be on the radio. I don't know if you're disappointed about
8 that or made happy about that, but the rules are that jurors
9 cannot be shown on TV or in the newspapers or anything, so
10 don't let that worry. They are just doing their jobs. They
11 have a right to be there. They are professionals. They
12 will not disturb us in any way whatsoever. You don't have
13 to worry about your name or your picture will be in the
14 paper or on TV tomorrow. That's not going to happen.

15 All right. That's all of my instructions at this time.
16 We will have our opening statements at this time. First by
17 the prosecution and then by the defense.

18 All right, Mr. Sorenson, you may proceed.

19 MR. SORENSON: Thank you. May it please the
20 Court, Your Honor.

21 THE COURT: Yes.

22 MR. SORENSON: Thursday night, March 5, 2009, 35
23 year-old Jason Rivenburg parked his tractor trailer at an
24 abandoned gas station for the night. Exhibit 136 off of
25 I-26, here in Calhoun County. When about cleaning some

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1 gauges on his dashboard, got a phone call from a friend of
2 his from up north. He was 900 miles from home from upstate
3 New York delivering a load of milk to the Food Lion
4 Distribution Center in Elloree, South Carolina. He was
5 waiting for them to open in the morning. At 10:43, he
6 received a phone call from one of his best friends back
7 home, Jerry Dubin. Chatted with him about what was going
8 on. Little did he know, 15 minutes later he would be dead,
9 15 minutes later he would be shot two times on the left side
10 of his head and left to die inside of that tractor trailer
11 that day at an abandoned gas station.

12 I submit to you, ladies and gentlemen, the person
13 responsible for firing those two shots, for killing Jason
14 Rivenburg is here in the courtroom today. His name is
15 Willie Pelzer. He's seated over at the defense table.

16 As His Honor introduced you to us earlier, my name is
17 Donald Sorenson. Seated with me is Solicitor David Pasco.
18 We represent the people of Calhoun County in the prosecution
19 of Mr. Pelzer.

20 As you've been told, Mr. Pelzer has been charged with
21 one count of murder. Murder is one of the most serious
22 crimes we have here in our state. We also have the most
23 simple definition. Very simply, the unlawful killing of
24 another person with malice aforethought. The unlawful
25 killing of another person with malice aforethought.

1 I submit to you, ladies and gentlemen, it doesn't get
2 any more malicious than the facts you're going to hear from
3 this witness stand over the next couple of days. It doesn't
4 get any more malicious.

5 It is our job to prosecute Mr. Pelzer, okay, and as
6 part of that, the burden, as His Honor told you, rests
7 solely on the state of South Carolina, as it does in every
8 criminal case. Not only in South Carolina, but also in our
9 country. Very simply what the burden of proof means is that
10 we have the burden to prove to you beyond a reasonable doubt
11 Mr. Pelzer's guilt. What that means, ladies and gentlemen,
12 is after you've heard all the witnesses testify, received
13 all the evidence in the case, if you are firmly convinced of
14 his guilt, under your oath, you have a duty to return a
15 verdict of guilty. If there is a real possibility that we
16 have not proven to you his guilt, just like you have that
17 duty to return a verdict of guilty, you have a duty to
18 return a verdict of not guilty.

19 Ladies and gentlemen, prosecuting a criminal case is
20 often a lot like putting together a jigsaw puzzle. Each
21 piece of evidence, each witness that you hear from is just a
22 piece of that puzzle, okay. A lot of times the picture of
23 it doesn't become clear until you've heard every piece of
24 evidence. The situation in this case is probably more so
25 like that than any other case you'll ever deal with.

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1 What I want to do is just take a few minutes of your
2 time and keep it brief or I'll lose my voice, here, and just
3 kind of outline for you a little bit of what you're going to
4 hear from the witness stand over the next couple of days.
5 Give you a little bit of the frame work of the evidence is
6 going to present to you.

7 This afternoon, you're going to hear from Jason's
8 friend, Jerry Dubin, who was on the phone with him. You
9 will hear how -- as I indicated to you, had called him at
10 10:43 that evening. Talked with him for about 15 minutes
11 and heard a loud noise. Heard a noise that sounded like two
12 gun shots or two car backfire or a tire blowing out. Two
13 loud noises, and then Jason wasn't there any more. You'll
14 hear how he stayed on the line for five minutes or so and
15 could hear some rustling around in the background and
16 ultimately ended up cutting off the phone and trying
17 repeatedly that night and then the following morning to get
18 back in touch with Jason. He didn't know exactly where he
19 was. He knew where he was going, ultimately, but didn't
20 know where he was. He was never able to get in touch with
21 him again. To hear how he ultimately filed a missing
22 person's report with Det. Nelson Armlin, up in Schoharie
23 County New York, upstate New York, just a little west of
24 Albany where Jason was from. On that Friday, March 6th of
25 this year. You'll hear how timely they got Jason's cell

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1 phone records. Ultimately traced him to the calls pinging
2 off the tower here in St. Matthews off of Cartwright Road
3 (sp), which narrowed down, at least the area where he was.
4 They got in touch with the Calhoun County Sheriff's Office
5 that Friday and had them check multiple struck stops and
6 local hospitals and no sign of Jason. You'll hear that on
7 that Saturday morning on March 7th, at about 5:00 o'clock in
8 the morning a concerned citizen drove by that abandoned gas
9 station for now the second day in a row and saw a tractor
10 trailer parked there by itself out in the open with the
11 interior light on about 5:00 or so in the morning and
12 thought that was kind of odd. Odd the first day but real
13 odd when she saw it the second day. Ultimately called the
14 sheriff's office and unfortunately when they showed up out
15 there a little after 5:00 that Saturday morning they found
16 Jason slumped over between the two seats in the tractor
17 trailer and he had been shot two times in the left head.
18 You'll hear how they called the State Law Enforcement
19 Division who processed the scene, found shell casings out
20 there around the truck. Six of them were ultimately located
21 belonging to a .45 caliber pistol. That pistol was the
22 first break they got because low and behold one of the
23 officers out there at the scene that morning, that Saturday
24 morning remembered the day before on that Friday not a mile
25 away, going out and taking a burglary report where two young

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1 men, young men by the names of Willie Reed and a young man
2 by the name of Jimmy Haygood filed a report with the Calhoun
3 County Sheriff's Office indicating a .45 caliber pistol that
4 they had bought and they were keeping at Mr. Haygood's home
5 had been stolen. When they arrived out there they found they
6 had the box the gun came in and they had a test fired shell
7 casing that came with the gun. The Sheriff's Office went
8 and got that casing. That Saturday afternoon, about 3:00
9 o'clock in the afternoon, they had taken out -- the State
10 Law Enforcement Division had a firearms expert met them out
11 there and matched up that test fired shell casing with the
12 shell casings at the scene. They knew that the gun that was
13 reported stolen was the gun that was used to kill Jason
14 Rivenburg.

15 You're going to hear from Mr. Haygood and Mr. Reed.
16 The two of them were brought in that Saturday and Sunday and
17 questioned by the Sheriff's Office. You're going to hear
18 that they basically, ultimately told the Sheriff's Office
19 that afternoon they had been hanging out over on Merrybell
20 Lane, which is a road you're going to hear a lot about.
21 Less than a mile away from the abandoned gas station.
22 That's where Jimmy Haygood house is. And you're going to
23 hear how they were hanging out that afternoon at Mr.
24 Haygood's house, unfortunately, a place where a lot of
25 people hang out, drink, do drugs and basically just hang

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1 out, up to no good. They were out there that afternoon, and
2 the defendant, Willie Pelzer was also out there. Late that
3 afternoon, that Thursday afternoon, March 5th. You're going
4 to hear how ultimately Mr. Reed and Mr. Haygood left the
5 home that night to go take a cousin and you'll hear from
6 that cousin Bryant Haygood another uncle whose house they
7 stopped by late that evening around 10:00 o'clock that
8 evening. You'll hear how later on that evening they got
9 multiple phone calls from Willie Pelzer looking for a ride.
10 He was trying to get somebody to come pick him up. And
11 they'll tell you how they ultimately got up with him a
12 little after 11:00 o'clock that Thursday night, he told both
13 of them that he had killed a man, a truck driver. He had
14 taken the .45 caliber gun from Jimmy Haygood's father's
15 house and shot and killed a truck driver over \$7. Then
16 you'll hear how ultimately he threatened Willie Reed, and
17 how they had ultimately given him a ride to see a girl down
18 in Charleston in the early morning hours of Friday, March
19 5th. You'll hear how they got down there and she wouldn't
20 meet with them. And how Mr. Pelzer ended up throwing that
21 .45 caliber pistol in a dumpster in an apartment complex
22 down in Charleston. Then they all came back.

23 Now, the Sheriff's Office didn't stop there. They
24 ultimately ended up getting warrant and arresting Mr. Pelzer
25 that Saturday night, but they didn't stop there. They went

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1 about trying to corroborate what Mr. Haygood and Mr. Reed
2 had told them. They got cell phone records, and you'll hear
3 extensively about cell phone records from Mr. Haygood, Mr.
4 Pelzer. We got text message records from Mr. Pelzer.
5 You'll hear about all that stuff that ultimately
6 corroborated and not only proved his guilt beyond a
7 reasonable doubt, but ultimately proving his guilt beyond
8 any shadow of a doubt.

9 The one thing I'm going to ask you, ladies and
10 gentlemen, before I sit down and I kind of touched on it a
11 little while ago, and this is like putting together a big
12 puzzle, okay. The one thing I ask you, ladies and
13 gentlemen, I know you're going to pay attention, but the one
14 thing I ask you to do is to keep an open mind, okay. At the
15 close of the case when you've heard all the evidence -- and
16 there's some you may not initially understand. What's the
17 significance of that? If you keep an open mind and give the
18 solicitor an opportunity to come back and we can tie it all
19 together. I think at that point in time you'll find that
20 there is not only no reasonable doubt, but no doubt
21 whatsoever that Willie Pelzer is guilty of murder.

22 Thank Your Honor.

23 THE COURT: Thank you.

24 Mr. Banks.

25 MR. BANKS: Thank you, Your Honor.

1 I'm Martin Banks. I'm Willie Pelzer's attorney. This
2 is Mark Leiendecker. You've been introduced to us
3 previously, but he's the circuit solicitor (sic) who also
4 represents Willie Pelzer today and the rest of this week.

5 We -- you've heard Willie is accused of crime that's
6 been described by the assistant solicitor. You will find
7 through the evidence in this case that they don't have one
8 solid piece of physical evidence that ties Willie Pelzer to
9 this case. The only thing that links Willie Pelzer to this
10 case is the testimony of two young men that the solicitor
11 just mentioned to you. Those two guys are friends. You'll
12 hear that they are also liars. They have lied -- they have
13 lied throughout this case and previously, about the gun and,
14 in fact, they certified on written documents things that are
15 not true. So it's going to become your job -- your whole
16 job is going to be to determine are they lying to you this week
17 about Willie Pelzer. In fact, one of their lies, in fact,
18 several of their lies were to trained police officers. They
19 filed a false police report about a burglary. Now nobody
20 has ever been charged with the burglary. They've been -- a
21 trained police officer took a statement from them that was a
22 complete and utter lie, and he believed it. So your job
23 this week is to decide whether you should believe these
24 guys. They've lied about lesser things. They've lied about
25 little things. They've lied about big things, but nothing

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1 bigger than keeping their own skins out of jail, and because
2 of that -- and they have been charged with crimes, as well.
3 Accessory after the fact of murder. And with those charges
4 they were dealt very gratuitously by the police department
5 and the solicitors office. They will be here this week
6 testifying and I'm going to ask them about what their deal
7 is, if they have some deal they have struck with the
8 solicitor's office in order to get their testimony against
9 Mr. Pelzer. So, again, noting to link him directly to the
10 scene of the crime in the death of this young man except for
11 the testimony of two guys you will find have lied repeatedly
12 and can you tell the difference of what's true and what's
13 lie in this case.

14 You've heard mention, you know, reasonable doubt, and
15 an innocent until proven guilty. My client sits there an
16 innocent man today. Willie is a good guy, and we've had a
17 great time working on this case with him. He is an innocent
18 man. They have to overcome that burden of reasonable doubt.
19 And what is reasonable doubt? Reasonable doubt is -- it's
20 not -- some people are very quantitative and they like to
21 say, well, something on the scale of one to 10. Reasonable
22 doubt is not 51 percent, if you want to quantify reasonable
23 doubt. It's not having 51 percent of what you need in your
24 mind and your heart to find someone guilty. It's beyond
25 that. Again, it's that thing that causes you to doubt

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1 reasonably. It's self-evident, but it's just -- it's not --
2 there's another standard of proof called preponderance of
3 the evidence. That's 51 percent. This is beyond that.
4 This is a heavy burden for the solicitor to meet, and
5 they've got to meet it based on the testimony of those two
6 guys, Wille Reed and Jimmy Haygood.

7 I agree with the solicitor. Wait until the very in
8 because I actually do -- my case begins after theirs ends,
9 and so there's plenty back in my side of the case that
10 you'll have to wait for. That's just the way the system
11 works. So again, please keep an open mind and wait for it,
12 as they say. If the case ended based simply on what the
13 solicitor's case was, obviously this system would be skewed.
14 Somebody had to go first. They have the burden, they have
15 to go first. And, of course, they want you to believe
16 everything those two main witnesses will say. And I contend
17 that there's plenty -- you don't have to believe everything
18 they say, and you don't have to believe anything they say,
19 but I believe that you'll find enough problems with what
20 they say. Now, honesty -- they'll present in this
21 courtroom, difficulties that you'll find reasonable doubt
22 being based on that testimony to convict my client. I think
23 it would be difficult for y'all do that. Now, your job is
24 to render a fair and just verdict. You've got to be fair and
25 you can't do that without waiting until the end, but let me

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1 tell you there can't be any justice without truth. You've
2 got to seek the truth. That's what verdict means. You find
3 that truth. Find the truth in this case, and when it comes
4 out, you must find according to you findings you must find
5 whether he's guilty or not guilty based on what you believe
6 the truth to be in this case. Again, there are no witnesses
7 to this incident, only the testimony of those two young men.
8 And they'll say he confessed and all this other stuff.
9 We'll be able to show quite a different story. Again, wait
10 for it. You'll hear, as Paul Harvey says, the rest of the
11 story, and you'll find that -- we feel that you will find my
12 client, Willie Pelzer not guilty.

13 Thank you very much.

14 THE COURT: All right. Thank you, sir.

15 All right, you may call your next witness -- your first
16 witness.

17 MR. SORENSON: Jerry Dubin.

18 THE COURT: Come around, please. Come on down this
19 way, please, sir.

20 (WHEREUPON, Jerry Dubin, was sworn
21 to tell the truth.)

22 THE CLERK: Thank you. State your full name for
23 the record, please.

24 MR. DUBIN: Jerry Dubin.

25 THE CLERK: Thank you.

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1 THE COURT: Could you spell your last name for us?

2 MR. DUBIN: D-u-b-i-n.

3 THE COURT: Thank you, sir.

4 All right, counsel.

5 MR. SORENSON: Thank you, Your Honor.

6 JERRY DUBIN - DIRECT EXAMINATION

7 BY MR. SORENSON:

8 Q Mr. Dubin, would you tell the jury, please, where do
9 you live?

10 A In Schoharie, New York.

11 Q And just where is that?

12 A Upstate New York.

13 Q What do you do for a living?

14 A Tractor trailer driver.

15 Q Okay, how long have you done that?

16 A It would be almost 14 years, now.

17 Q And the victim in this case, Jason Rivenburg, did you
18 know Jason?

19 A I did.

20 Q How long did you know Jason?

21 A At least 15 years.

22 Q And if you would tell the jury what your relationship
23 was with Jason?

24 A We were real good friends, working as well as personal.

25 Q Okay. And were you aware of back in March of this year

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1 what Jason did for a living?

2 A Yes, sir.

3 Q What was he doing for a living back in March of this
4 year?

5 A He actually just got laid out. He finally got out of
6 trucking and got a job with the union, but it didn't work
7 out, working with construction and stuff like that. He
8 started back in trucking when they laid him off.

9 THE COURT: Can you folks hear?

10 You're going to have to speak a little bit louder.

11 BY MR. SORENSON:

12 Q Make sure you keep your voice up nice and loud for us,
13 please.

14 A Okay.

15 Q All right, now, when he started -- when he got a
16 trucking job, who was he driving for back in March of this
17 year.

18 A Vander-Veen Trucking.

19 Q Okay. And I want to turn your attention, if I could,
20 Jerry, to Thursday evening, March 5th of this year. Where
21 were you at that night?

22 A Well the first time he called me that night I was in
23 New Jersey.

24 Q Okay, now, what were you doing?

25 A Getting fuel, food for the road.

1 Q Okay. So you were out driving your truck that night.
2 You indicated -- did there come a time that evening that
3 Jason called you?

4 A Yes.

5 Q Do you know what time that was?

6 A I'd say roughly around 9:00 o'clock or a quarter after.

7 Q Okay. And obviously you had a cell phone back then?

8 A (Nods head affirmatively.)

9 Q Do you remember what your cell phone number was?

10 THE COURT: You need to say yes or no where she
11 can write it down.

12 A Okay. Yes.

13 THE COURT: Thank you, sir.

14 A At the time, I believe it was .

15 Q Okay. What's the area code in upstate New York?

16 A 518.

17 Q 518?

18 A Yes, sir.

19 Q Okay. So ?

20 A Yes, sir.

21 Q You indicated that Jason had called you that night a
22 little after 9:00 o'clock or somewhere after 9:00 o'clock?

23 A Yes, sir.

24 Q And did you talk to him at that time?

25 A For a few minutes. I had received a call from home. I

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1 was going to take that because it was going to be my
2 girlfriend, she was putting the kids to bed. I told her to
3 call me back later.

4 Q Okay. And were you aware of where Jason was at that
5 point in time when he called you a little after 9:00
6 o'clock?

7 A He said he had a Food Lion delivery that he was heading
8 south. I'm pretty sure he said he made his first drop in
9 Virginia, and that he was heading for South Carolina or that
10 he was in South Carolina. I'm not 100 percent certain at
11 that time.

12 Q Okay. Did he appear to be still driving when you
13 talked to him at 9:00 o'clock or so that evening?

14 A Yes.

15 Q Did there come a time that you were then able, after
16 you talked to your girlfriend to then call Jason back that
17 night?

18 A Yes. I actually returned the call -- I want to say
19 about 10:30 or so.

20 Q And was he still driving at that point in time?

21 A No.

22 Q Okay. Did he tell you where he was?

23 A He had just mentioned his had pulled over for the
24 night. He was real close to his second stop.

25 Q Okay.

1 A That he was down for the night?

2 Q Okay. Did you know where that second stop was?

3 A No, sir. I just assumed -- he said Food Lion. I
4 wasn't sure exactly where.

5 Q Okay. All right, and did he indicate to you what he
6 was doing at that point in time when he was talking to you
7 on the phone?

8 A Yes, he did. He was cleaning the dashboard of the
9 truck. He said the driver that originally drove was a
10 smoker and he wanted to get it cleaned up. He was
11 definitely a neat freak.

12 Q Okay. So that didn't surprise you when you told you
13 that?

14 A No, not at all.

15 Q All right. Y'all just making small talk, just talking
16 on the phone?

17 A Yes, sir.

18 Q Okay. About how long do you think you talked to him
19 that evening, that second time?

20 A I'd say a good 15 to 20 minutes or so.

21 Q And did something happen then when you were on the
22 phone with him?

23 A He -- I thought I'd lost the call. You get down to
24 silence, you don't hear anything at all and when he had come
25 back on the next thing I heard was, Oh, my God, and sounded

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1 like the phone dropped.

2 Q And after it sounded like the phone dropped, did you
3 hear anything else at that point in time?

4 A No, sir. There was a little bit of a period maybe five
5 minutes. Just heard -- started to hear like rustling,
6 breathing. Then I heard bang, and another one repeatedly
7 after that.

8 Q All right. And from the time you heard him say, Oh, my
9 God, when the phone dropped how long do you think you were
10 on the phone with him after that?

11 A I'd say at least five minutes.

12 Q Five minutes. Did you have any conversation with him
13 after that, at all?

14 A No.

15 Q Okay. Did you ever hear Jason say anything that you
16 could tell was him at that time?

17 A No, just the rustling and breathing. But I figured at
18 that time he -- I figured when he said on the phone, Oh, my
19 God. Maybe the phone dropped, dropped in the truck. Maybe
20 he thought he lost his call.

21 Q You said you hear what sounded like two loud noises?

22 A Right.

23 Q Did you know at that point in time what they were?

24 A No, sir.

25 Q All right. Now, you said you stayed on the line for at

1 least five minutes. Did you ultimately end up trying to
2 call him back that night?

3 A Yes. I hung and tried to call back and send a few text
4 messages.

5 Q And were you ever able to get back through to him that
6 night?

7 A No. No response.

8 Q Okay. Let me ask you, the following morning, that
9 Friday morning, March 6th, did you make any further attempts
10 that next morning to try to get in touch with Jason?

11 A I did.

12 Q Tell the jury --

13 A Telephone and text messages.

14 Q And that following morning, that Friday morning, were
15 you ever able to get back in touch with him?

16 A No, sir.

17 Q Okay, where were you at this whole time, now?

18 A I believe it Lawrenceville, Pennsylvania.

19 Q Okay. And did you ultimately end up later on that
20 Friday, that following day hearing from anybody in Jason's
21 family.

22 A The phone rang, I'd say about noon or maybe 1:00
23 o'clock. It said Jason was calling. I didn't notice that
24 little icon for the house. It was actually Hope calling me,
25 looking for Jason.

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1 Q Okay. Who is Hope?

2 A His wife.

3 Q Okay. And did you talk to her at that point in time?

4 A I did.

5 Q And what was she calling about.

6 A She said that Mr. Vander-veen and his wife had
7 contacted her that he never made his second delivery. She
8 asked me if I'd heard from him.

9 Q Did you tell her what had happened the night before,
10 that Thursday night?

11 A No, sir. I told her I had spoke with him, but I didn't
12 want to create any panic, because I didn't really know what
13 had happened. I knew that she was pregnant and really close
14 to her due date, and no sense in getting somebody worked up
15 over something that might now be --

16 Q All right. Did you ultimately learn that following
17 day, that Saturday that Jason had been found?

18 A Yes.

19 Q Okay. And did you come in and talk with law
20 enforcement up in New York?

21 A Correct.

22 Q Okay. Jerry, you drove down here to testify?

23 A Yes.

24 Q How far is it from upstate New York, where y'all live,
25 to St. Matthews?

1 A Just under 900 miles.

2 MR. SORENSON: That's all I have, Your Honor.

3 THE COURT: Cross-examine.

4 JERRY DUBIN - CROSS-EXAMINATION

5 BY MR. BANKS:

6 Q Mr. Dubin, you said you called him sometime after 10:00

7 -- what time do you think that night?

8 A That's easily a quarter after 10:00, 10:30.

9 Q Okay. Could it have been later than that?

10 A I don't really think so, no.

11 Q Okay. And your phone records would indicate exactly

12 what time?

13 A Correct.

14 Q Okay. And you said you stayed on the phone about 15 to

15 20 minutes, in your mind?

16 A That's correct.

17 Q Okay. Could it have been longer than that?

18 A Very well could be.

19 Q Okay. And you said after you heard -- was it after the

20 phone drop or after he said those words at the end of the

21 conversation you said you stayed on the phone for about five

22 more minutes and heard things?

23 A After I heard him say, Oh, my God, it sounded like the

24 phone dropped. I stayed on the phone for a little while.

25 Q Maybe -- You said at least --

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1 A At least five minutes.

2 Q During that time, I think you said breathing and, like,
3 rustling?

4 A Uh-huh (affirmative). Yes.

5 Q Did you hear any talking?

6 A No, sir.

7 Q Are you certain?

8 A I am certain.

9 Q No talking whatsoever?

10 A No, sir.

11 Q Any whispering?

12 A No, sir.

13 MR. BANKS: One moment, Your Honor.

14 No further questions.

15 THE COURT: Redirect.

16 MR. SORENSON: Just real briefly, Your Honor.

17 JERRY DUBIN - REDIRECT EXAMINATION

18 BY MR. SORENSON:

19 Q Mr. Dubin, your phone records and Jason's phone records
20 indicate that second call was at 10:23 in the evening would
21 you have any reason to dispute that?

22 A No, sir.

23 Q Obviously, you weren't looking at your watch?

24 A No, sir. It was a very long night. I was just
25 shutting down for the evening when I called him back.

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1 Q Thank you, Mr. Dubin.

2 A All right.

3 THE COURT: Recross.

4 MR. BANKS: None, Your Honor.

5 THE COURT: Thank you, sir. You may step down.

6 State call your next witness.

7 MR. SORENSON: State calls Nelson Armlin.

8 May he be excused, Your Honor?

9 THE COURT: Yes, sir, he may be excused.

10 THE CLERK: Raise your right hand, put your left
11 hand on the Bible, please.

12 (WHEREUPON, Nelson Armlin, was
13 sworn to tell the truth.)

14 THE CLERK: Please state your full name for the
15 record, please.

16 MR. ARMLIN: Nelson Armlin.

17 THE CLERK: Have a seat, please.

18 THE COURT: Sir, will you spell your last name for
19 us?

20 MR. ARMLIN: Yes, sir. A-r-m-l-i-n.

21 THE COURT: Thank you, sir.

22 All right, counsel.

23 NELSON ARMLIN - DIRECT EXAMINATION

24 BY MR. SORENSON:

25 Q Good afternoon, Investigator Armlin. If you would tell

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1 the jury where it is that you are employed?

2 A I'm employed with the Schoharie County Sheriff's
3 Department.

4 Q And where is Schoharie County?

5 A It's in upstate New York, just outside of Albany, the
6 capitol.

7 Q Okay, and how long have you been employed there?

8 A Since January of 2001.

9 Q And what -- could you tell the jury kind of what your
10 duties are with the sheriff's office there?

11 A Currently, I'm a criminal investigator.

12 Q All right. I'll turn your attention, Investigator, if I
13 could, back to Friday, March 6th of this year. Did you have
14 -- were you assigned that day to follow up on a missing
15 person's report?

16 A Yes.

17 Q Let me ask you, prior to March 6, 2009, did you know
18 the victim, Jason Rivenburg?

19 A No.

20 Q Okay. Did you know some of his family?

21 A Yes.

22 Q Okay. Who was it that you knew?

23 A His wife. His father-in-law, his mother-in-law.

24 Q Okay. Who was it that contacted you that Friday, March
25 6th of this year?

1 A It was Butch Savage, Jason's father-in-law.

2 Q Okay. And did they -- Mr. Savage file a missing
3 persons --

4 A Yes.

5 Q -- report in reference to his son-in-law?

6 A Yes, sir.

7 Q And you provided -- were you provided that Friday
8 afternoon, were you provided any information about when the
9 last time anybody had spoken with Jason was?

10 A Yes.

11 Q When was that information that was provided to you?

12 A Well, Mr. Savage stated that his friend, Jerry Dubin,
13 had spoke to him the night before, the 5th, about 10:45 p.m.

14 Q All right. Were you aware or did you become aware that
15 afternoon when you were kind of beginning your
16 investigation, what Jason did for a living?

17 A Yes, sir.

18 Q Okay, and what was that that he was doing at that time?

19 A He was a truck driver.

20 Q And did you learn also what his destination was that
21 day?

22 A Yes.

23 Q And where was he supposedly going that Friday?

24 A Elloree, South Carolina.

25 Q What kind of vehicle was he driving?

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1 A I believe it was a 1997 vehicle.

2 Q And that was a tractor trailer?

3 A Yes, sir.

4 Q All right. You indicated a few minutes ago, you became
5 aware that Jason's friend Jerry had spoken to him on the
6 phone?

7 A That's correct.

8 Q Did you also become aware that Jason had a cell phone
9 that was with him?

10 A Yes.

11 Q And did you do anything with regards to Jason's cell
12 phone and those records?

13 A Yes. It was stated that when they contacted Verison
14 Wireless and they would not provide information -- they
15 would only provide information as far as law enforcement, as
16 far as what time Jason's cell phone was used and where.

17 Q Okay. As a result of that did you then make contact
18 with Verison Wireless?

19 A I did.

20 Q Okay. And did they provide you with any records about
21 where -- when the last call was made to and from Jason's
22 cell phone?

23 A Yes, they did.

24 Q And also what cell tower it would have been pinging off
25 of when that occurred?

1 A Yes, sir.

2 MR. SORENSON: I'd like to mark this as a state's
3 exhibit.

4 (State's Exhibit No. 1, cell phone
5 records, was marked for ID.)

6 COURT REPORTER: State's one, ID.

7 BY MR. SORENSON:

8 Q Investigator Armlin, if I could show you what's been
9 marked as State's Exhibit No. 1. Do you recognize those
10 five pages there?

11 A Yes, sir.

12 Q And what are those items?

13 A When I first contacted Verison they stated they would
14 fax me this Immediate Threat Public Safety Form, which I
15 needed to fill out the general information on what I was
16 looking for and fax it back to them and they would fax me
17 back the information that I was looking for.

18 Q And is that ultimately the information they sent you
19 with regards to the last call to and from Jason's phone and
20 also the cell site information that it was pinging off of?

21 A Yes, sir.

22 MR. SORENSON: Your Honor, at this time, I'd offer
23 State's One into evidence.

24 THE COURT: That's State's No. 1?

25 MR. SORENSON: Yes, sir.

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1 THE COURT: State's No. 1, admitted without
2 objection.

3 (State's Exhibit No. 1, cell phone
4 records, were marked and entered.)

5 BY MR. SORENSON:

6 Q Now, did that indicate as far as the cell site
7 information, did that provide an address for the cell site
8 that Jason's phone had been pinging off of?

9 A Yes, sir.

10 Q And where was that address?

11 A in St. Matthews.

12 Q And when you received that information -- this is all
13 happening that Friday afternoon?

14 A Yes, sir.

15 Q At that point in time, nobody had heard from Jason
16 again, had they?

17 A No, not to my knowledge.

18 Q What did you then do when you received that information
19 from Verison Wireless; what did you do, Investigator Armlin?

20 A Myself and another deputy went online on the computer
21 on Google Earth and we looked up that particular address and
22 we located a truck stop that was -- I don't know the exact
23 distance, but relatively close to that tower site. So at
24 that point it was determined that it was in Calhoun County.
25 So we contacted Calhoun County dispatch. Just gave them the

1 general information that we had and requested that maybe
2 somebody could go and check out that location and see if he
3 was, in fact, there.

4 Q And did you learn whether the truck was found at that
5 truck stop?

6 A Yes, we did.

7 Q Was it?

8 A It wasn't.

9 Q The following day, that Saturday March 7th, did you
10 ultimately learn that morning that Jason -- that his truck
11 and also Jason had been found?

12 A Yes, sir.

13 Q And what time were you notified about that?

14 A I was notified from dispatch about 5:00 a.m.)

15 Q Okay. And did you provide them with any information
16 that morning that might assist them in identifying Jason?

17 A Yes, sir, I did.

18 Q What was that information that you provided?

19 A A tattoo information and that he had a scar, I believe,
20 over his left eye.

21 Q Do you remember what the tattoo was?

22 A It was unfinished, like a tribal feather.

23 Q Do you remember where Jason had that on his --

24 A On one of his arms. I'm not sure which one.

25 MR. SORENSON: I beg the Court's indulgence.

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1 That's all I have, Investigator.

2 THE COURT: Cross-examine.

3 MR. BANKS: Thank you, Your Honor.

4 NELSON ARMLIN - CROSS-EXAMINATION

5 BY MR. BANKS:

6 Q Detective Armlin, when you -- did your investigation
7 uncover an approximate time that the victim had arrived at
8 that scene?

9 A No.

10 Q No. All right. Did the records you found on his
11 phone, did you find where the start and end dates are; I
12 mean, does that indicate the start of a call and the end of
13 a call?

14 A I'm not sure without looking.

15 Q Okay.

16 A You mean the actual phone calls?

17 Q Yes.

18 A I believe it has a generating time and not an ending
19 time.

20 Q Okay. And also, are you -- do you know enough about
21 those records to indicate whether the time is rounded, if
22 you follow me --

23 A No.

24 Q -- it's just chopped off at whatever minute or do you
25 know?

1 A I don't --

2 MR. BANKS: One moment, Judge.

3 Nothing further.

4 THE COURT: Redirect.

5 MR. SORENSON: No, sir.

6 THE COURT: Any objection to excusing this
7 witness?

8 MR. BANKS: No.

9 MR. SORENSON: No, sir.

10 THE COURT: Thank you, sir, you may step down and
11 you may be excused. Thank you for coming down.

12 Call your next witness please.

13 MR. SORENSON: Sgt. Mike Headden.

14 MR. SORENSON: Thank you, Investigator.

15 MR. ARMLIN: Thank you.

16 THE CLERK: Place your left hand on the Bible and
17 raise your right hand.

18 (WHEREUPON, Mike Headden, was sworn
19 to tell the truth.)

20 THE CLERK: Please state and spell your name for
21 the record, please.

22 MR. HEADDEN: Mike Headden.

23 THE COURT: Have a seat, please, sir.

24 All right, counsel.

25 MR. PASCO: Thank you, Your Honor.

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1 MIKE HEADDEN - DIRECT EXAMINATION

2 BY MR. PASCO:

3 Q . Good afternoon, Sergeant.

4 A Good afternoon.

5 Q Where do you currently work, sir?

6 A Calhoun County Sheriff's Office.

7 Q And how long have you been with the Sheriff's Office in
8 Calhoun County, and in law enforcement all together.

9 A Eighteen years.

10 Q What are your duties at Calhoun County Sheriff's
11 Department?

12 A Sergeant Road Patrol.

13 Q What all does being on road patrol entail?

14 A Answer calls.

15 Q All right. So if I call 911 and ask for a police
16 officer in Calhoun County, who's going to be the first
17 officer at the scene?

18 A I would be.

19 Q You or another road patrol officer?

20 A Yes, sir.

21 Q All right. And these were your duties back in March of
22 this year, Sargent?

23 A Yes, sir.

24 Q And Sergeant were you working the morning of Saturday,
25 March 7, 2009?

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1 A Yes, sir, I was.

2 Q What shift were you working?

3 A Night shift; 7:00 to 8:00. 7:00 p.m to 8:00 a.m.

4 Q So you would have started at 7:00 p.m. on Friday and
5 you were supposed to get off at 7:00 a.m. on Saturday, March
6 7th?

7 A Yes, sir.

8 Q Okay. What did you do at approximately 4:53, that
9 Saturday morning of March 7?

10 A I was dispatched to check out a tractor trailer that
11 the complainant said the dome light was on for two nights in
12 a row. Q Did you go to the scene?

13 A Yes, I did.

14 Q And where was that scene?

15 A It was -- it used to be Brake field's BP Station across
16 from Brake field's Exxon on Caw Highway.

17 Q How far is that from here?

18 A Probably about four miles, four or five miles.

19 Q And is that in Calhoun County?

20 A Yes, sir.

21 Q Okay. And tell the jury what you discovered when you
22 got to the scene about 4:53 that morning?

23 A I pulled up to the passenger side of the truck and got
24 out, and I went to the passenger side door and looked
25 through the small porthole window I saw a deceased person.

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1 Q What did you do after you saw a deceased person in the
2 truck?

3 A I called my supervisor.

4 Q What else did you end up doing at the scene?

5 A I stood by and helped secure the scene until
6 investigators got there?

7 Q Tell the jury, when you say secure the scene what does
8 that mean?

9 A Make sure nobody comes in or out.

10 Q Okay. Is it your job as a patrol officer to actually
11 investigate murder cases?

12 A No, sir.

13 Q Okay. Who does that?

14 A That's the investigators.

15 Q And they were called out to the scene, as well?

16 A Yes, sir.

17 Q Detective Godwin for Calhoun County, and other
18 detectives?

19 A Yes, sir.

20 Q Did you have any other involvement in the case after
21 that morning of March 7th?

22 A No, sir.

23 (State's Exhibit No. 2, photograph,
24 was marked for ID.)

25 (State's Exhibit No. 3, photograph,

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1 was marked for ID.)

2 (State's Exhibit No. 4, photograph,

3 was marked for ID.)

4 (State's Exhibit No. 5, photograph,

5 was marked for ID.)

6 COURT REPORTER: State's 2 thru 5, ID, photographs.

7 THE COURT: All right.

8 BY MR. PASCO:

9 Q Let me show you what's been marked as State's Exhibit
10 Nos. 2 and 3. Okay. Tell me if you recognize those two
11 photographs?

12 A Yes, sir, I do.

13 Q And what are those two photographs depict?

14 A That's the tractor trailer truck that was parked at the
15 service station.

16 Q And it depicts how you found the truck that morning of
17 March 7th?

18 A Yes, sir.

19 MR. PASCO: I'd ask that State's 2 and 3 be
20 admitted into evidence, Your Honor.

21 THE COURT: Any objections.

22 MR. BANKS: No, Your Honor.

23 THE COURT: Two and three admitted without
24 objection.

25 (State's Exhibit No. 2, photograph,

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1 was marked and entered.)

2 (State's Exhibit No. 3, photograph,

3 was marked and entered.)

4 BY MR. PASCO:

5 Q Let me show you what's been marked as State's Exhibit

6 No: 4; do you recognize that?

7 A Yes, sir.

8 Q And what is that a picture of?

9 A That's the driver's side window that was broken.

10 Q Does that depict the way the window was when you found
11 it on March 7, 2009?

12 A Yes, sir.

13 Q It isn't actually the window that's broken, it's the
14 vent that was damaged?

15 A Yes, sir.

16 Q Okay.

17 MR. PASCO: I'd ask that State's Exhibit No. 4 be
18 moved into evidence, Your Honor.

19 MR. BANKS: No objection.

20 THE COURT: Admitted without objections.

21 (State's Exhibit No. 4, photograph,
22 was marked and entered.)

23 BY MR. PASCO:

24 Q Do you recognize State's Exhibit No. 5?

25 A Yes, sir.

1 Q What do you recognize that to be?

2 A That the person I found in the truck.

3 Q Do it accurately depict the way you found the victim on
4 the morning of March 7, 2009?

5 A Yes, sir.

6 Q And would it assist the jury in seeing how you found
7 the victim on the morning of March 7, 2009?

8 A Yes.

9 MR. BANKS: Objection, Your Honor.

10 THE COURT: Question?

11 MR. BANKS: It's calling for him to make a legal
12 conclusion.

13 THE COURT: Well, I sustain the objection. I'd
14 have to see it.

15 MR. PASCO: I'd ask that State's Exhibit No. 5 be
16 admitted into evidence, Your Honor.

17 THE COURT: Any objection?

18 MR. BANKS: Yes.

19 THE COURT: Ladies and gentlemen, how about step
20 outside in the jury room for just a minute. I'm going to
21 take up a legal matter. Please do not talk about the case.
22 (Jury out at 4:31 p.m.)

23 THE COURT: All right. Let me see all the
24 photographs that you intend to offer that might show the
25 deceased body.

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1 MR. PASCO: Yes, sir.

2 'And while he's doing that, can I point out to the
3 Court this will be our last witness. If that's okay. This
4 was going to be our last witness. We told our witness from
5 Columbia not to come because she was going to be pretty
6 lengthy. Is that all right. So we're going to finish
7 before 5:00 o'clock.

8 THE COURT: Well, I guess there's nothing I can do
9 about that at this point in time.

10 MR. PASCO: Okay.

11 THE COURT: The jury is not going to understand
12 why we're leaving early today and staying late tomorrow.

13 All right. We need to take care of all the photographs
14 right.

15 MR. PASCO: I'm passing up State's Exhibit Nos. 6
16 thru 9.

17 (State's Exhibit No. 6, photograph,
18 was marked for ID.)

19 (State's Exhibit No. 7, photograph,
20 was marked for ID.)

21 (State's Exhibit No. 8, photograph,
22 was marked for ID.)

23 (State's Exhibit No. 9, photograph,
24 was marked by ID.)

25 THE COURT: All right. I have State's Exhibit

1 Nos. 5 thru 9. Which of these do you object?

2 MR. BANKS: All of them.

3 THE COURT: All of them?

4 MR. BANKS: Yes, sir.

5 THE COURT: All right. Solicitor, you take the
6 exhibits, take them one at a time --

7 MR. PASCO: Yes, sir.

8 THE COURT: -- explain why you want it in, and hand
9 it to the defense, and let him tell me why it should not be
10 admitted and then hand it to me.

11 MR. PASCO: All right.

12 State's Exhibit No. 5, Your Honor. State asks that
13 this be admitted into evidence because it shows the position
14 of the body after the homicide. It shows how the body was
15 discovered. It shows it in relation to other articles inside
16 the truck. It's one of the least graphic photographs we've
17 ever put in of a homicide victim.

18 THE COURT: All right, what's your objection?

19 MR. BANKS: Your Honor, it's clearly intended to
20 inflame --

21 THE COURT: You've got to look at me when you're
22 talking.

23 MR. BANKS: I'm sorry. It's clearly intended to
24 inflame the passions of the jury. He can testify -- this
25 witness here can testify to what he saw. He didn't take

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1 those pictures. That picture shows a dead body, at this
2 stage of the game. If this was a sentencing phase of a
3 death penalty case, it's coming in, but at this stage of
4 this trial, it's not.

5 THE COURT: All right. No. 6?

6 MR. PASCO: State's Exhibit No. 6, Your Honor --
7 Now 6 thru 9 can come in through other witnesses. But we're
8 --

9 THE COURT: I want you to tell me right now.

10 MR. PASCO: Yes, sir.

11 THE COURT: Can you verify and authenticate it?

12 MR. PASCO: Yes, sir. State's Exhibit No. 9,
13 probative value is again the position of some of the
14 victim's items. Most importantly the cell phone which fell
15 to the floor. Again, the only thing you can see of the
16 victim in that photograph is his knee.

17 MR. BANKS: Your Honor, I'd repeat the same
18 objection, but with this -- this was a murder case and
19 there's nothing at issue about the arrangement of items on
20 the floor, or the cab of a tractor trailer. There's
21 nothing at issue there.

22 THE COURT: All right.

23 MR. PASCO: State's Exhibit No. 7, depicts the
24 victim's shirt, Your Honor, which is ripped. We believe it
25 shows -- it's probative during the course of this

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1 investigation.

2 THE COURT: Show what?

3 MR. PASCO: That it's probative through another
4 witness, the fact that the shirt was ripped.

5 THE COURT: All right.

6 MR. BANKS: Your Honor, I repeat the same objection
7 as to the picture before. I would say that if you look at
8 that picture. I actually couldn't tell what it was until it
9 was blown up and confusing.

10 THE COURT: All right.

11 MR. PASCO: We just explained why --

12 THE COURT: All right.

13 MR. PASCO: State's Exhibit No. 8 depicts the
14 position of the body, the ripped shirt where it is on the
15 victim's body and also the gauges and the other items in the
16 vehicle that are going to end up being probative in this
17 case.

18 MR. BANKS: Your Honor, that's clearly -- again,
19 the same objection that I've repeated. That's clearly one
20 of the more graphic pictures that he's trying to put in.
21 And I think that is clearly beyond -- there's plenty of
22 gauge pictures. In fact, there's two or three that are
23 excellent.

24 THE COURT: What?

25 MR. BANKS: He talked about those having the

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1 gauges in them. There's several excellent gauge pictures.

2 MR. PASCO: None that are not on the truck:

3 THE COURT: All right. No. 9?

4 MR. PASCO: And State's Exhibit No. 9, shows a
5 bruise to the victim, Your Honor.

6 MR. BANKS: Your Honor, that appears to be a
7 bullet hole. I repeat my same objections.

8 MR. PASCO: It's not a bullet hole.

9 MR. BANKS: It appears to be a bullet hole.

10 THE COURT: Same objection?

11 MR. BANKS: Yes, sir.

12 THE COURT: Okay. I needed to see all the
13 pictures to see if any of them were repetitious or anything
14 of that nature before I could rule on any one photograph
15 alone.

16 As to photograph number five that's been offered by the
17 state at this time. I would deny defense objection. It
18 does show the position of the victims's body in the truck.
19 It does not show any blood, it does not show the victim's
20 face, it does not show his head. It certainly if of value
21 to the jury to understand that exact position of the body
22 and where it was found in the truck, and there's nothing
23 inflammable about it. There's nothing sensational or gory
24 about that photograph whatsoever.

25 On the other four photographs, since they don't

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1 duplicate that, I note your objections, and I'll not rule on
2 those pictures since they're not duplicates of -- they're
3 not showing the same scene that was showing in the first
4 photograph. And I will hear your objections at the time
5 they are offered. I will note, that photograph 6, 7, and 9,
6 are not inflammatory, at all. And I will hear these when
7 the witnesses make these relevant. Number 8 shows a portion
8 of the victim's face, with a small amount of blood and I
9 will hear the relevance of that photograph at the time. I
10 needed to see them all to see if there were any duplications
11 and that might effect my decision in regard to all the
12 pictures instead of just one, but there's nothing of that
13 nature that effects the admissibility of the photographs No.
14 5, so I'll overrule your objection.

15 Bring the jury back, please sir.

16 COURT REPORTER: No. 5, entered. Nos. 6, 7, 8, 9,
17 for ID.

18 (State's Exhibit No. 5, photo, was
19 marked and entered.)

20 (Jury in at 4:42)

21 THE COURT: All right, counsel, we're ready to
22 continue your examination.

23 I overrule your objection on admissibility of the
24 photographs.

25 MR. PASCO: Thank you, Your Honor. I'd ask if I

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1 can publish State's Exhibit Nos. 2 thru 5 to the jury?

2 THE COURT: Yes.

3 MR. PASCO: That's all I have sergeant. Thank you.

4 THE COURT: Cross examine.

5 MR. BANKS: Yes, Your Honor.

6 MIKE HEADDEN - CROSS-EXAMINATION

7 BY MR. BANKS:

8 Q Deputy Headden, you're a partol officer, I mean -- what
9 did you call it, a road officer?

10 A Yes, sir.

11 Q So you ride the roads all the time?

12 A Yes.

13 Q Are you familiar with Brakesfield's?

14 A Yes.

15 Q What type of gas do they sell there, the brand?

16 A It depends on which station you're talking about.

17 Q Deputy Headden, you said you've got 18 years?

18 A Yes, sir.

19 Q You -- and do you ride the north end or the south end
20 or both?

21 A I've done both.

22 Q Done both. Are you more familiar with the north end or
23 the south end?

24 A I'm very familiar with both of them.

25 Q Okay. Over 18 years?

1 A Yes, sir.

2 Q All right. You -- we were talking about Brakesfield's.
3 I need to know what brand of gasoline do they sell at Brake
4 field; do you know?

5 A Okay. Are you talking about where the vehicle was?

6 Q I'm talking about Brakesfield's. Isn't Brakesfield's
7 right across from this scene?

8 A I consider both places Brakesfield's.

9 Q You do?

10 A Brake field PB and Brakesfield Exxon. They sell
11 regular -- Q So they sell Exxon?

12 A Yes.

13 Q So are the places owned by the same Brakesfield guy?

14 A They were. They sold them. We still call them
15 Brakesfield's.

16 Q All right. Well, for the sake of our discussion, let's
17 call Brakesfield's the one that operating and we'll call the
18 place across the road the scene. Is that okay?

19 A Yes, sir.

20 Q You said Brakesfield's the one across the road, they
21 sell Exxon gas?

22 A Yes.

23 Q All right. And that is directly across the road from
24 the scene of this scene; is that right?

25 A Actually, it's kind of catty-cornered.

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1 Q Okay. But it's very close; is that correct?

2 A Yes, close. Yes.

3 Q Okay. If you were at Brakesfield's, could you -- if
4 you were standing in the front door of Brakesfield's would
5 you be able to see this tractor trailer from the front door
6 of Brakesfield's?

7 A Yes.

8 Q Easily?

9 A Yes.

10 Q Because -- was the tractor trailer parked out near the
11 road or back some in the woods? Where was it parked?

12 A It was pretty close to the road.

13 Q Okay. So was it near light -- you came there in the
14 early morning hours, was it lit up there?

15 A No, it's not lit up there.

16 Q But the dome light was on?

17 A Yes, sir.

18 Q All right. Across the street at Brakesfield's; is that
19 lit up?

20 A Yeah, they have some lighting. Yes, sir.

21 Q And they have lighting out towards the street, don't
22 they?

23 A A little bit, yes, sir.

24 Q Being a road officer, are there -- where would you --
25 could you tell me where the closest Exxon station is to that

1 Exxon, Brakesfield's?

2 A I would say St. Matthews.

3 Q In St. Matthews?

4 A Yes, sir.

5 Q So there's none out -- Brakesfield's is what, six or
6 seven miles out of town; is that right?

7 A Yes, sir. Somewhere in there.

8 Q Okay, so if you were on Merrybell Lane and you said you
9 were going to the Exxon, the closest Exxon would be --

10 A Right there --

11 Q -- Brakesfield's?

12 A -- at Brakesfield's.

13 Q Okay. I'm going to show you State's No. 2, and this is
14 the tractor trailer. As you're looking at the tractor
15 trailer to your left, that's a paved parking lot; is that
16 right?

17 A Yeah.

18 Q To the right what do you have; grass?

19 A There's a few feet of pavement and then grass.

20 Q In fact that would be better shown on State's No. 3; is
21 that right?

22 A Yes, sir.

23 Q What is behind the tractor trailer; is that grass or --

24 A There's a portion of pavement and then it goes to
25 grass.

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1 Q Okay. Are you familiar with that site, that place?

2 A Yes, sir.

3 Q Okay. And you've been familiar with it for how many
4 years now; it's been there for what, now?

5 A Ever since I've been working.

6 Q Thank you. Is there an access road of some kind back
7 behind this place?

8 A It's off to the side. It would be on the interstate
9 side. It would be -- if you're facing -- the vehicle would
10 be on the left-hand side. If you're facing there
11 (indicating) it would be on the left-hand side.

12 Q Okay, so there's some sort of access road to the
13 station, you said?

14 A It runs along the side of the station. It's not
15 connected to the station.

16 Q Okay, it's a frontage road?

17 A Frontage road.

18 Q But that's paved; is that right?

19 A Yes, sir.

20 Q Is there some sort of dirt or grass -- you know,
21 rutted, sort of access road, not county or highway, but sort
22 of an easement type road; is there one back behind this
23 place?

24 A No. When I've patrolled I've driven back behind it.

25 Q So you can just drive your vehicle all the way around

1 this building?

2 A Yes, sir.

3 Q And have you see other people do that?

4 A No, sir.

5 Q Ever seen tracks back there?

6 A Probably from other deputies. Other deputies or the
7 owners.

8 Q Do the owners go there very often?

9 A I don't know. I know when Mr. Brake field had it, he
10 did.

11 Q And this place has basically been out of business
12 basically -- a couple three years or something?

13 A Yes, sir.

14 Q So it's not an operating business?

15 A No.

16 Q The scene of this crime has been basically boarded up
17 for -- like I said, is three years about accurate?

18 A Yes, sir. At least.

19 Q Okay, so during March of this year --

20 A It was not open.

21 Q And when you ride by there you ride by there how many
22 times a day when you're working?

23 A Many times.

24 Q Okay. Do you often see people over there doing
25 anything?

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1 A Sometimes people will stop over there to rest. Pull up

2 --

3 Q Like this guy did?

4 A Yes, sir.

5 MR. BANKS: One moment, Your Honor.

6 No further questions, Your Honor.

7 THE COURT: Redirect?

8 MR. PASCO: No, Your Honor.

9 Thank you, sargent.

10 THE COURT: Thank you, sir. You may step down.

11 You may be excused.

12 Ladies and gentlemen, I'm informed that the next
13 witness is going to be a rather lengthy witness and rather
14 than start that witness and interrupt and have to start back
15 in the morning, we're going to quit here this afternoon.
16 We'll start back in the morning at 9:00 o'clock in the
17 morning.

18 When you come back in the morning you come back to this
19 end of the hall and come up the back steps, those little
20 narrow back steps. The bailiff will be waiting on you
21 upstairs and you will go in the jury room. Do not come back
22 in the courtroom. When come back to the courthouse do not
23 hang around downstairs or outside. You come straight
24 upstairs and straight to your jury room.

25 Please do not talk about the case. As I've told you,

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1 we've had at least two news reporters in here today. I'm
2 quite certain there will be news in the paper, the
3 Orangeburg paper. I don't know about any other paper.
4 Probably on Channel 10. Don't know about any other TV. You
5 should not read anything in the newspaper, you should not
6 watch any news reports about this case. If your wife or
7 girlfriend or boyfriend reads the newspaper and watches the
8 news, do not discuss it with them. You do not want to know
9 anything that's in the newspaper or the TV about this case.
10 That would be highly improper especially when the news
11 people were in the courtroom when I excluded you. So they
12 have information that you are not exposed to at this stage
13 of the game. So please do not read any newspapers and watch
14 any television, and we'll see you at 9:00 o'clock in the
15 morning.

16 Thank you very much. You are excused.

17 Everybody else please remain in courtroom until the
18 jury leaves. I don't want anybody talking to the jury.

19 Sheriff, would you see to that?

20 SHERIFF SUMMERS: Yes, sir.

21 (Jury out for the evening at 4:49 p.m.)

22 THE COURT: All right, anything from the state
23 before we recess?

24 MR. PASCO: No, Your Honor.

25 THE COURT: From the defense?.

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MR. BANKS: No, Your Honor.

THE COURT: I'll be here at 8:30 if there's any matters we need to take up before we bring the jury in. If you have any other exhibits that you're going to introduce, solicitor, how about get them this afternoon or in the morning before the jury gets here.

MR. PASCO: Yes, sir.

THE COURT: We'll be at recess until 9:00 o'clock in the morning.

(Court at recess for the evening at 4:52 p.m.)

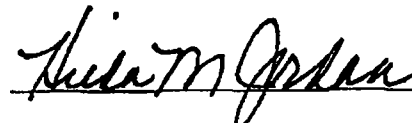
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CERTIFICATE

I, THE UNDERSIGNED HILDA M. JORDAN, CVR, OFFICIAL COURT REPORTER FOR THE FIRST JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS, CALHOUN COUNTY, SOUTH CAROLINA, ON THE 1ST DAY OF DECEMBER, 2009.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.



HILDA M. JORDAN, CVR

COLUMBIA, SOUTH CAROLINA

JANUARY 6, 2011

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) FIRST JUDICIAL CIRCUIT
COUNTY OF CALHOUN)

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
) 09-GS-09-0022
 VS.)
)
 WILLIE PELZER,) VOLUME 2
)
 DEFENDANT.)

DECEMBER 1-4, 2009
ST. MATTHEWS, SOUTH CAROLINA

B E F O R E:

THE HONORABLE JAMES C. WILLIAMS, JR., JUDGE AND A JURY

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

DAVID PASCO, ESQUIRE
DON SORENSON, ESQUIRE
ATTORNEYS FOR THE STATE

MARK LEIENDECKER, ESQUIRE
MARTIN BANKS, ESQUIRE
ATTORNEYS FOR THE DEFENDANT

HILDA M. JORDAN, CVR
CIRCUIT COURT REPORTER

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1 (Court in session at 9:00 a.m.)

2 (By agreement State's Exhibits 10 through 87 were marked
3 for ID.)

4 THE COURT: Anything we need to take up?

5 MR. PASCO: No, sir.

6 MR. LEIENDECKER: No, sir.

7 THE COURT: All right, bring in the jury.

8 (Jury in at 9:10 a.m.)

9 THE COURT: You've got the witness in the
10 courtroom?

11 MR. SORENSON: Yes, sir.

12 THE COURT: Good morning, ladies and gentlemen. I
13 hope you didn't get wet coming in this morning. We're ready
14 to roll at this time.

15 Solicitor, you may call your witness.

16 MR. SORENSON: Please the Court. State calls
17 Renee Strickland.

18 THE COURT: Come around, please ma'am.

19 THE CLERK: Place your left hand on the Bible and
20 raise your right hand.

21 (WHEREUPON, Renee Strickland was
22 sworn to tell the truth.)

23 THE CLERK: Please state your full name for the
24 record.

25 MS. STRICKLAND: Marsha Renee Strickland.

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1 THE CLERK: Ma'am, you'll have to speak louder than
2 that.

3 THE COURT: Adjust that microphone and state your
4 full name, please?

5 MS. STRICKLAND: Marsha Renee Strickland.

6 THE COURT: All right, counsel.

7 RENEE STRICKLAND - DIRECT EXAMINATION

8 BY MR. SORENSON:

9 Q Investigator Strickland, tell the jury where you're
10 currently employed?

11 A I'm currently employed with the Lexington County
12 Sheriff's Department as a crime scene investigator.

13 Q And when did you start working with Lexington County?

14 A on the 16th of November.

15 Q So a couple weeks ago?

16 A Yes.

17 Q All right, prior to going with Lexington County, where
18 did you work before that?

19 A I worked for the Cayce Department of Public Safety as
20 well as that SLED, the State Law Enforcement Division,
21 commonly known as SLED.

22 Q Okay. Specifically, with SLED, how long did you work
23 with SLED?

24 A I was with SLED from November of 2007 until April of
25 2009, so approximately a year and a-half.

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9

1 Q Okay. What was your capacity when you worked with
2 SLED?

3 A I was a latent print examiner and a crime scene
4 investigator.

5 Q And turning your attention back to March of 2009, were
6 you at that time employed as a crime scene person --

7 A I was. Yes.

8 Q -- with the State Law Enforcement Division?

9 A Yes.

10 Q All right. I want to turn your attention specifically
11 to the Saturday morning, March 7, 2009. Were you called out
12 to process a crime scene that morning?

13 A I was, yes, sir.

14 Q Okay, and what time did you receive the call that
15 morning?

16 A I received the call at approximately 5:47 a.m., around
17 that time.

18 Q Okay. And did you then respond to that scene?

19 A I did. Yes, sir.

20 Q And where was it that you responded to?

21 A I responded to Palmetto Petrol gas station, an
22 abandoned gas station that is off of Exit 136 on Caw Caw
23 Highway, I believe.

24 Q That's here in Calhoun County?

25 A Yes, sir.

1 Q Okay. About what time did you arrive at that scene?

2 A At 7:00 a.m.

3 Q And, if you would, describe when you arrived at that
4 abandoned gas station, would you kind of describe what the
5 scene was when you got there?

6 A When I arrived on the scene the representatives from
7 the sheriff's department were out there. The scene had been
8 secured and roped off with crime scene tape. When I arrived
9 I saw the red truck facing the roadway. If you're facing
10 the gas station that was just to the right, and I was taken
11 through the crime scene by Investigator Riley Godwin, who
12 briefed me on what they had discovered when they arrived on
13 the scene.

14 Q Let me show you State's Exhibit Nos. 2 and 3 in
15 evidence. Do you recognize those photographs?

16 A I do. Yes, sir.

17 Q Who took those photographs?

18 A I took those photographs.

19 Q And do they accurately represent the scene when you got
20 there that morning?

21 A They do.

22 Q And that is the truck that you were talking about?

23 A That is the truck.

24 Q Okay. And the tape that's around, that's the crime
25 scene tape that you were referring to?

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1 A It is. Yes, sir.

2 Q And then, also, this is State's Exhibit No. 10; what
3 does that depict?

4 A That's the truck.

5 Q Is that just kind of a close-up?

6 A A close up.

7 Q A little more close up showing the company name and all
8 that?

9 A Yes.

10 MR. SORENSON: Your Honor, at this time, we'd
11 offer State's 10 into evidence.

12 MR. BANKS: No objection.

13 THE COURT: Admitted without objection.

14 (State's Exhibit No. 10,
15 photograph, was marked and entered.)

16 BY MR. SORENSON:

17 Q Now, you indicated that there were representatives of
18 the sheriff's office at the scene when you got there that
19 morning, ma'am?

20 A Yes, sir.

21 Q All right. Who was it that you were put in contact
22 with to kind of brief you on what was going on that morning?

23 A That would have been Investigator Riley Godwin.

24 Q That's Investigator Godwin sitting at the state's
25 table?

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1 A That is. Yes, sir.

2 Q Now, did you have an opportunity -- well, tell the jury
3 how you went about -- let me kind of back up a second.

4 Did you learn when you arrived at the scene whether --
5 what was the nature of the call, I guess, that you responded
6 out to that morning?

7 A The call was that there had been a truck driver who had
8 been fatally shot inside his truck at a gas station.

9 Q When you got there at the scene that morning was the
10 victim still inside the truck?

11 A He was, yes, sir.

12 Q Tell the jury how you went about kind of assessing that
13 crime scene in determining what steps you were going to take
14 in processing that crime scene that morning?

15 A Well, I approached it as I would any other crime scene
16 of that nature, which is initially a walk through with the
17 investigator from the agency who was on the scene.
18 Investigator Godwin basically briefed me on what they had,
19 that they had received a call and went out to investigate
20 and discovered the victim inside his truck and determined
21 that he was deceased. At which point they called for SLED
22 to send a crime scene investigator out.

23 So once I did the initial walk through, they had
24 located cartridge cases and so I went through -- I do
25 general photographs, which is basically photographs, 360, of

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1 the crime scene itself. The truck and the area surrounding
2 it. Then I go further, look for evidence first outside the
3 truck. We didn't go in the truck quite yet. Labeled the
4 cartridge cases that we had located with yellow marker
5 numbers, which I take a general shot to show the relation
6 one to another in relation to the truck. A medium range,
7 which is a little more close up and then a very close up
8 that shows the cartridge cases in detail. From then I move
9 to the truck, the exterior of the truck and process that for
10 latent prints with black powder and basically what I'm
11 looking for is any fingerprints left behind by anybody who
12 would have touched the truck. I did that. I did not get
13 any results with that. That's not uncommon depending on
14 environmental situations, condition of the person touching
15 the surface and things of that nature.

16 Q Let me kind of stop you right there, if I can, for a
17 second. I'm going to kind of go back to some of the other
18 stuff, but you're talking about fingerprints, so -- where
19 did you process looking for fingerprints on the truck?

20 A On the driver's side, on the door, the door handle, the
21 pull bar, which is where somebody would grab to pull
22 themselves up into the truck, on the passenger side door, as
23 well, and the gas cap. That's usually a normal place that I
24 would process for latent prints.

25 Q So processing all three of those areas, did you find

1 any fingerprints that were usable at all?

2 A I did not. No, sir.

3 Q Not even anything that could be matched up to the
4 victim in this case, Mr. Rivenburg?

5 A No, no ridge detail at all.

6 Q And you indicated that's not unusual?

7 A Not uncommon. The truck had been there for a few days.
8 It depends on whatever kind of surface that you touch,
9 whether it's rough, whether it's smooth, whether there's any
10 kind of debris on it like a layer of dust or dirt on it,
11 where a person if they make contact are going to make
12 contact with that dust or dirt and not necessarily leave
13 their prints behind. That's not an uncommon thing, and we
14 find that quite often.

15 Q And, of course, a person has to actually touch an
16 object to leave a print on it, also?

17 A Exactly. And it would depends on whether they touched
18 it, whether or not they're wearing gloves or used their
19 hands.

20 Q How about clothing; can you leave a fingerprint on a
21 shirt; like a flannel shirt?

22 A You could. It would take, you know, advanced
23 processing to find that, and I have never found fingerprints
24 on a piece of clothing. It's usually a hard surface or
25 paper or something of that nature to get a print off of.

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1 Q Clothing has got a lot of fibers and weaves to it?

2 A It does and texture. Textured surfaces are very
3 difficult to develop fingerprints off of.

4 Q Okay, now, let me kind of back you up, if I could,
5 Agent Strickland. You had indicated that when you first
6 began to process the scene you were kind of focused more on
7 doing general walk through the exterior of the truck?

8 A Yes.

9 Q Documenting any evidence that was found out there?

10 A Right.

11 Q Put markers down and photographed it, and did all that.
12 Let me show you what's been marked as State's Exhibit Nos.
13 11 thru 22. If you will just look through those and see if
14 they fairly and accurately represent the items that you
15 documented on the exterior of the truck that morning?

16 A Yes, sir.

17 MR. SORENSON: At this time we'd offer State's
18 Exhibit Nos. 11 thru 22 into evidence.

19 THE COURT: Any objections?

20 MR. SORENSON: Nos. 11 thru 22?

21 MR. BANKS: No, Your Honor.

22 THE COURT: Admitted without objection.

23 MR. SORENSON: Thank you.

24 (State's Exhibit No. 11,
25 photograph, was marked and admitted.)

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1 (State's Exhibit No. 12,
2 photograph, was marked and entered.)

3 (State's Exhibit No. 13,
4 photograph, was marked and entered.)

5 (State's Exhibit No. 14,
6 photograph, was marked and entered.)

7 (State's Exhibit No. 15,
8 photograph, was marked and entered.)

9 (State's Exhibit No. 16,
10 photograph, was marked and entered.)

11 (State's Exhibit No. 17,
12 photograph, was marked and entered.)

13 (State's Exhibit No. 18,
14 photographs, was marked and entered.)

15 (State's Exhibit No. 19,
16 photograph, was marked and entered.)

17 (State's Exhibit No. 20,
18 photograph, was marked and entered.)

19 (State's Exhibit No. 21,
20 photograph, was marked and entered.)

21 (State's Exhibit No. 22,
22 photograph, was marked and entered.)

23 MR. SORENSON: Your Honor, may I have Investigator
24 Strickland step down in front of the jury?

25 THE COURT: You may.

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1 BY MR. SORENSON:

2 Q May sure you keep your voice up nice and loud, so
3 everybody on the jury and the court reporter can hear you,
4 too.

5 I've got photographs of the truck. I'll give you
6 State's Exhibit No. 3.

7 If you would, kind of orient the jury as to where that
8 truck was located in that parking lot.

9 A Okay. Well, back over here will be your exit ramp --
10 will be your exit ramp from I-26. The road runs this way
11 out in front of the truck, the Caw Caw Highway. The truck
12 was facing the roadway. To the left of the truck going back
13 towards St. Matthews -- if you're facing the truck --
14 there's a gas station that's over to the left and back. So
15 the truck was a little closer to the roadway. Off the
16 roadway, but a little bit closer to the right of the parking
17 lot. As you can see, there's not much asphalt on this side.
18 Then there's the grassy area and the tree line right beside
19 it.

20 Q You indicated you had kind of searched the area around
21 the truck?

22 A Yes.

23 Q All right. And I guess kind of initially -- State's
24 Exhibit No. 2 essentially shows the other side, the
25 passenger side of the truck?

1 A Yes, sir.

2 Q Did you find any physical evidence on the ground around
3 the passenger side of the vehicle?

4 A No, sir. I did not.

5 Q Any shell casings?

6 A No, sir.

7 Q Any projectiles, anything that appeared to be from the
8 truck that had been dropped or anything?

9 A No. Not on the left side.

10 Q How about on the driver's side, depicted in State's No.
11 3; did you find items there?

12 A Yes, sir, there were items there.

13 Q Showing you State's Exhibit No. 11; what's depicted in
14 State's Exhibit No. 11?

15 A What's depicted in this are the markers that I laid
16 down. On the items of evidence you've got to make sure of
17 bullet fragments as well as cartridge cases located in the
18 picture.

19 Q And that just kind of orients, I guess, all the vast
20 majority of the markers to each other, there?

21 A Right.

22 Q All right. And then I want you to kind of go through
23 these as you get to them I'm going to pull out the items of
24 evidence. If you'll just identify the number on the back,
25 too?

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1 A This is my Marker No. 1, which is a cartridge case, a
2 Winchester .45 auto is what it was head stamped. It was
3 head stamped on that part of the bullet right there.

4 Q I'm showing you State's Exhibit No. 45. Is that that
5 shell casing that you collected at the scene that morning?

6 A It is. Yes, sir.

7 MR. SORENSON: Your Honor, at this time we'd offer
8 State's No. 45 into evidence.

9 THE COURT: Any objection?

10 MR. BANKS: No, Your Honor.

11 THE COURT: Admitted without objection.

12 (State's Exhibit No. 45, shell
13 casing, was marked and entered.)

14 BY MR. SORENSON:

15 Q All right, go on to this one?

16 A All right. Marker No. 2, is also a fired cartridge
17 case. Head stamp is a Winchester .45 auto, as well.

18 Q I'll show you State's 43; do you recognize that item?

19 A I do.

20 Q What is that?

21 A That is a cartridge case as depicted in this picture.

22 MR. SORENSON: Your Honor, I'd offer State's 43.

23 THE COURT: Any objection?

24 MR. BANKS: No, Your Honor.

25 THE COURT: Admitted without objection.

1 (State's Exhibit No. 43, cartridge
2 case, was marked and entered.)

3 BY MR. SORENSON:

4 Q All right, let me just kind of stop you for a second.
5 Going back to State's Exhibit No. 11, so that's Markers 1
6 and 2, there?

7 A Exactly. Yes, sir.

8 Q And they were how far away from the truck when you
9 located them?

10 A I'm not certain -- I did document their distance, but I
11 would have to double check that.

12 Q Is that the document you would use to do that?

13 A It is. The first cartridge case at Marker No. 1 is 10
14 feet and three inches away and I measured using a range
15 meter from the cartridge, the location of the cartridge case
16 to the door of -- the driver's side door of the truck. So
17 that's how far it was from there to the door of the truck.

18 Q Let me ask you about the shell casings. How heavy are
19 these?

20 A They're not very heavy at all. They are very light.

21 Q And when a semi-automatic handgun is used, what happens
22 when you fire that semi-automatic handgun?

23 A It ejects the cartridge case out of the gun.

24 Q The bullet comes out and the casing also comes out?

25 A Uh-huh (affirmative response). The bullet goes out from

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1 the force of the slug -- it ejects the cartridge case.

2 Q And those cartridge casings, is there any real rhyme or
3 reason as to where they tend to end up?

4 A It varies. A lot of them are generally to the right
5 and rear, but it depends on if your shooter is on the move,
6 which means are they shooting and moving at the same time.
7 Once they land, of course, they have velocity of their own.
8 They strike the surface, then bounce and roll. It also
9 depends, you know, the amount of gunpowder, which can vary
10 slightly in each cartridge, so the velocity of the bullet in
11 each cartridge is not exactly the same all the time,
12 therefore there is a little bit of variance there. If they
13 land on any kind of grade they can roll. So where a
14 cartridge case lands, there's a variety of factors that
15 effect that.

16 Q Obviously, if they land on concrete they are going to
17 bounce?

18 A Bounce, right.

19 Q And then, also, if that gun would be fired a day and
20 a-half before potentially the elements of wind and such
21 possibly could effect them?

22 A Right. Depending on where they are, if they're not
23 secure in where they're sitting they can be effected by
24 that, as well.

25 Q Okay. All right, you can go on.

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1 A Okay. This is Marker No. 3, and as you can see right
2 here, this is the bullet fragments, which the bullet had
3 impacted something and it had fragmented the core and that's
4 part of the projectile that you see.

5 Q I believe that's in State's Exhibit No. 49?

6 A Yes.

7 Q And that's a part of a bullet, basically?

8 A Uh-huh (affirmative response). Part of the lead core
9 of a bullet.

10 MR. SORENSON: Your Honor, at this time, we'd
11 offer State's No. 49 into evidence.

12 MR. BANKS: No objection.

13 THE COURT: Admitted without objection.

14 (State's Exhibit No. 49, bullet
15 fragment, was marked and entered.)

16 BY MR. SORENSON:

17 Q And once again that was found right at the truck?

18 A Absolutely, and that will happen if the bullet strikes
19 a hard metal surface or something like that will cause the
20 bullet to fragment.

21 Q Well, come back to that -- actually, I guess while
22 we're at that; did you find any evidence on the truck that
23 any bullet had impacted and possibly fragmented on the
24 truck?

25 A Yes, sir. There was a bullet that was in what they

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1 call the vent window on the driver's side. It's the window
2 that you can push out. That window was shattered and also
3 some damage to the bottom of the window.

4 Q Let me show you State's Exhibit No 4, which I believe
5 is already in evidence. Does that kind of show what you're
6 talking about?

7 A It does. You can see the window was shattered, and
8 right here was where the impact was made.

9 Q I'm showing you State's Exhibit No. 37, does that kind
10 of show a close up of where you're talking about?

11 A That is.

12 MR. SORENSON: At this time we'd offer State's 37
13 into evidence.

14 THE COURT: Any objection?

15 MR. BANKS: No, Your Honor.

16 THE COURT: What about the other one?

17 MR. SORENSON: This is already in evidence, Your
18 Honor.

19 (State's Exhibit No. 37,
20 photograph, was marked and entered.)

21 BY MR. SORENSON:

22 Q So I'm going to get you to show the jury a little more
23 of a close up.

24 A This right here, shows where a bullet impacted and, of
25 course, shattered the window. There was glass on the

1 ground, and that's where that glass came from right there,
2 and that's would have caused a bullet to fragment in the
3 manner that you see it in that picture there.

4 Q All right. Go on to item four.

5 A Okay. Marker No. 4 is also a bullet fragment. I
6 believe this is a fragment of a hollow jacket, which is a
7 surround for the bullet and when it impacts something hard
8 like metal it can separate from that copper jacket and
9 that's what you find when that happens.

10 Q And that item was just a short distance from the truck?

11 A Right. Yes, sir.

12 Q I'll show you State's 42; is that the copper jacket?

13 MR. SORENSON: Your Honor, at this time we'd offer
14 State's 42 into evidence.

15 THE COURT: Any objection?

16 MR. BANKS: No, Your Honor.

17 THE COURT: Admitted without objection.

18 (State's Exhibit No. 42, copper
19 jacket, was marked and entered.)

20 MR. SORENSON:

21 Q And by indicating that when a bullet strikes a hard
22 object it can fragment, could those both, 49 and 42, come
23 from that same bullet impact?

24 A They could have, yes, sir.

25 Q And the next one. Marker No. 5 is another cartridge

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1 case that is stamped Winchester .45 hollow.

2 Q I'll show you State's 48; is that that item?

3 A Yes, sir, it is.

4 MR. SORENSON: Your Honor, we'd offer State's 48.

5 MR. BANKS: No objection.

6 THE COURT: Admitted without objection.

7 (State's Exhibit no. 48, cartridge
8 case, was marked and entered.)

9 BY MR. SORENSON:

10 Q And again that's just another shell casing right off of
11 the concrete into the grass area?

12 A Yes, sir.

13 Q All right. Go on to the next one.

14 A Marker No. 6, we have another cartridge case that's
15 stamped Winchester .45, also.

16 Q I'll show you State's No. 44. Is that that one?

17 A Yes, sir.

18 MR. SORENSON: We offer No. 44, Your Honor.

19 MR. BANKS: No objection.

20 THE COURT: Admitted without objection.

21 (State's Exhibit No. 44, cartridge
22 case, was marked and entered.)

23 BY MR. SORENSON:

24 Q That Marker 6, that's a little farther into the grassy
25 area?

1 A Yes, sir.

2 Q All right. No. 7?

3 A No. 7, another cartridge case Winchester .45 auto, as
4 well.

5 Q I'm showing you State's No. 40?

6 A Yes, it is.

7 MR. SORENSON: Your Honor, we'd offer State's No.
8 40.

9 MR. BANKS: No objection.

10 THE COURT: Admitted without objection.

11 (State's Exhibit No. 40, cartridge
12 case, was marked and entered.)

13 BY MR. SORENSON:

14 Q Marker 7 is kind of right off into the grassy area,
15 also?

16 A Yes.

17 Q All right.

18 A Marker No. 11 is another bullet fragment, a fragment of
19 the lead core as we saw earlier. A different fragment.

20 Q I'll show you State's Exhibit No. 47?

21 A Yes.

22 MR. SORENSON: Your Honor, we'd offer State's No.
23 47.

24 MR. BANKS: No objection.

25 THE COURT: Admitted without objection.

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1 (State's Exhibit No. 47, bullet
2 fragment, was marked and entered.)

3 BY MR. SORENSON:

4 Q Is that item is Marker 11, again, a kind of a short
5 distance from the truck?

6 A Yes.

7 Q All right.

8 A No. 12 is a smaller piece bullet fragment. Again, a
9 copper fragment, a fragment of the copper jacket.

10 Q I'll show you State's No. 41, and that would be that
11 very small piece?

12 A Yes, sir.

13 Q Actually, it's right in front there.

14 A Yes, sir.

15 MR. SORENSON: Your Honor, we'd offer State's 41.

16 MR. BANKS: No objection.

17 THE COURT: Admitted without objection.

18 (State's Exhibit No. 41, bullet
19 fragment, was marked and entered.)

20 MR. LEIENDECKER: Your Honor, I know it gets
21 difficult to get into routine, but if counsel and the
22 witness would keep their voice up so we can hear back here
23 as well.

24 THE COURT: Sir? All of you need to speak a little
25 louder. This is a big old courtroom and your voices get

1 swallowed up in here.

2 MR. SORENSON: Yes, sir.

3 BY MR. SORENSON:

4 Q All right, go on to the next photograph, State's
5 Exhibit No. 21. Does that kind of show the relationship of
6 the -- that you've already spoken about?

7 A That does. It shows the orientation and the
8 orientation to Marker No. 13, which is not in these other
9 photographs.

10 Q Okay. What was found in these other photographs?

11 A Marker 13 is a chrome gauge, and there were chrome
12 gauge covers inside the truck that were identical to this
13 gauge cover. Q Is that pretty much the items that were
14 collected outside of the vehicle.

15 A Yes, sir.

16 Q Let me ask you, was there another projectile found that
17 actually impacted, was still impacted inside the exterior of
18 the truck?

19 A There was a bullet fragment that was wedged in the -- I
20 believe it's called the exhaust housing, which is the --

21 Q Let me show you State's 10. Does that show about the
22 area where that would be located in?

23 A Right. Right.

24 Q I'm showing you State's Exhibit No. 38, does that show
25 a close up of that?

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1 A That's a close up. You can see it's packed in and
2 wedged in, it probably ricocheted from another impact and
3 wedged itself in there.

4 MR. SORENSON: We'd offer State's 38.

5 MR. BANKS: No objection.

6 THE COURT: Admitted without objection.

7 (State's Exhibit No. 38, bullet
8 fragment, was marked and entered.)

9 BY MR. SORENSON:

10 Q Investigator Strickland are there any other items that
11 you recovered outside of the vehicle?

12 A No, sir.

13 Q Let me ask you, this area around the truck were there
14 any areas around the truck where you were able to locate any
15 footwear impressions?

16 A No, sir.

17 Q The surfaces that were around the truck be conducive to
18 -

19 A No, sir.

20 Q -- footwear impressions being found?

21 A No, sir, the asphalt does not -- is not conducive to
22 that, nor -- there is a lot of gravel and rock. The surface
23 that would be most conducive would be dirt or something of
24 that nature, soft dirt for that.

25 Q And along the same vein, I mean, any tire impressions

1 that were found where maybe a car had pulled up along side
2 the truck or anything like that?

3 A No, sir.

4 Q All right. You indicated after you had gotten done
5 with that exterior kind of walk through and documenting and
6 collecting that evidence, what did you then move on to?

7 A I moved on to the interior of the truck, and basically
8 what I did was take, again, the general photographs of the
9 condition of the inside of the vehicle as well as the
10 victim. From then I moved to documenting specific evidence
11 that I found inside the truck.

12 Q And if I could get you to -- Agent Strickland to come
13 over here, I'm going to give you a series of photographs
14 just to initially look through. Don't show them to the
15 jury. This is State's Nos. 25 thru 36. If you would just
16 look through them and see if they fairly and accurately
17 represent the scene that you found and processed that
18 morning?

19 A Yes, sir.

20 Q And additionally State's Exhibits 5 thru 9?

21 A Yes, sir.

22 MR. SORENSON: Your Honor, at this time we're
23 going to offer State's Exhibit Nos. 5 thru 9 and 25 thru 36
24 into evidence. I know there was an objection yesterday as
25 to several of them.

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1 MR. BANKS: Your Honor, we would renew our
2 objection on Nos. 5 thru 9.

3 THE COURT: All right. I'll overrule your
4 objection. I think that each one of those photographs
5 demonstrates some particular aspect of this case, there's no
6 duplication there. None of them are particularly
7 inflammatory or gory in that regard, so I'll overrule your
8 objection.

9 (State's Exhibit No. 5, photograph,
10 was marked and entered.)

11 (State's Exhibit No. 6, photograph,
12 was marked and entered.)

13 (State's Exhibit No. 7, photograph,
14 was marked and entered.)

15 (State's Exhibit No. 8, photograph,
16 was marked and entered.)

17 (State's Exhibit No. 9, photograph,
18 was marked and entered.)

19 BY MR. SORENSON:

20 Q Agent Strickland, if you would just initially kind of
21 describe to the jury when you got up to the truck what you
22 found inside the truck?

23 A When I opened the driver's side door I immediately saw
24 the victim laying off the seat somewhat. He feet on the
25 floorboard and up on what I would call the console area. On

1 his side, right side, sort of facing towards the passenger
2 door.

3 Q Let me show you State's Exhibit No. 5.

4 A That's it, yes, sir.

5 Q That's how he was found when you got there?

6 A Yes, sir.

7 Q Go on.

8 A Also, what I found -- what I located when I first
9 looked inside the vehicle there was a large degree of high
10 velocity blood splatter, and high velocity blood splatter is
11 like if you would take a spray bottle and spray it. All
12 that liquid gets iodized and it's less -- approximately
13 about a millimeter in diameter droplets. That what I was
14 looking at on the windshield, steering wheel, and located
15 other places in the vehicle. There was a pool of blood in
16 the passenger seat indicated at some point there had been
17 blood letting over the seat. There --

18 Q Let me kind of stop you there just briefly. When you
19 found Mr. Rivenburg, you indicated he was kind of in
20 between, I guess, it was two seats in the kind of center
21 area?

22 A Center area, yes, sir.

23 Q And he was kind of slumped down in between the two
24 seats?

25 A Yes, sir.

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1 Q Was his upper area, his head area, shoulder area, any
2 of that on the passenger seat when you found him?

3 A He was not on the passenger seat, no. He was kind of
4 propped up.

5 Q I'll show you State's Exhibit No. 8, does that kind of
6 depict what you're talking about, his upper body area?

7 A Exactly, yes, sir.

8 Q And also you talked about the kind of the pooling of
9 blood on the passenger seat; can you kind of point that out
10 to the jury?

11 A That's right here. That happens, it just due to the
12 force of gravity. You know, blood -- gravity will act on it
13 and it will pool out.

14 Q It appears his head area had been over that seat area
15 after he had been shot?

16 A Yes, sir.

17 Q Okay. Go on.

18 A There was also, in the passenger side floorboard, I
19 found a cell phone, an open cell phone that had an obvious
20 defect in it, probably from a projectile, a bullet of some
21 sort. Also a ball cap hat, khaki in color that had the same
22 kind of defect to the brim, and there was blood on the cap,
23 as well.

24 Q I'll show you State's Exhibit No. 6.

25 MR. BANKS: Your Honor, I do have an objection to

1 one picture. I didn't catch the number. It's State's 31
2 and it would be the same objection from before, and it's
3 also duplicative. They have a picture of the gauges. They
4 know what the gauges are based on that other more innocuous
5 picture. This one --

6 THE COURT: Let me see the one that you think is
7 duplicitous.

8 MR. BANKS: State's 25. I believe that's what
9 that is. Yes. And he also has a gauge picture outside of
10 the truck that shows what the gauge is and the gauge color.

11 THE COURT: Why do you need this --

12 MR. SORENSON: Your Honor --

13 THE COURT: No. 31?

14 MR. SORENSON: -- basically, you've heard testimony
15 from an earlier witness that the victim was cleaning gauges
16 when he was on the phone, and that would corroborate that.
17 There are gauge covers that are off the dashboard, that are
18 on the seat next to him.

19 MR. BANKS: Your Honor, that's how we proposed
20 that the gauge that's on the ground outside got there.

21 MR. SORENSON: It corroborates that he's cleaning
22 other gauges.

23 THE COURT: I'll overrule your objection. I don't
24 see anything objectionable to the photograph.

25 BY MR. SORENSON:

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1 Q Okay, so we were talking about kind of the passenger
2 side floorboard?

3 A Yes, sir, this is the passenger side floorboard. And
4 as you can see here's the cell phone right here, and here is
5 the hat. You can kind of see the defect to the hat right
6 here. This is a more close up picture of the hat. See the
7 blood on the hat. And you can also see the damage to the
8 brim of the hat.

9 Q Is there another item that's --

10 MR. LEIENDECKER: Sorry, Your Honor, just as a
11 matter of record when we're talking about the photos, if we
12 could identify the number. I know it says this shows the
13 phone, this shows the hat, but for the purposes of the
14 record could we please have the number.

15 THE COURT: Please refer to the number when you're
16 talking about the photographs, and please talk a little
17 louder.

18 MR. SORENSON: Yes, sir. These were State's
19 Exhibit's 6 thru 29, Your Honor. Six thru 29.

20 THE COURT: All right.

21 BY MR. SORENSON:

22 Q And looking at State's Exhibit No. 6, is there also
23 another item that's also on the floorboard, kind of in
24 relation to the hat?

25 A There's a book right here. I think that's a log book.

1 Q How about kind of underneath the hat, sticking out
2 underneath the hat?

3 A Oh, it's a piece of paper. I'm not sure if it

4 Q How about right here?

5 A Oh, the phone, yes. I pointed that out, that's the
6 cell phone.

7 Q I'm sorry. And showing you State's Exhibit No. 28, is
8 that kind of a close up of the phone after it was removed
9 from the truck?

10 A That is. This is a close up photograph of the cell
11 phone, and I don't know if you can see, this on the phone
12 right here is blood splatter. This is also the damage to
13 the phone that I referred to earlier.

14 Q Now, going back to kind of seat there, you indicated --
15 what else besides the pooling of the blood on the seat
16 there, what other items were located on that passenger seat?

17 A There was an Atlas book, a roadmap book, I believe.
18 Some paper work in reference to his work, trucking company
19 log book, something of that nature, and the gauge covers. I
20 believe there were three gauge covers in that seat.

21 Q I'm showing you State's Exhibit No. 31. Is that a
22 close up of those three gauge covers that were found on that
23 seat?

24 A It is, yes, sir.

25 Q Were they consistent with the gauge covers that were

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1 located on the dashboard in State's Exhibit No. 25?

2 A They are.

3 Q Now, did you have an opportunity to ultimately remove
4 that stuff off of the passenger seat there?

5 A Yes, sir, I did.

6 Q Okay. Did you find any items underneath those books
7 and those gauge covers on that passenger seat?

8 A Yes, sir. There was an amount of money. I believe it
9 was \$200 and a credit card paper clipped together in the
10 seat.

11 Q I'll show you State's Exhibit No. 32; is that what was
12 found?

13 A Yes, sir.

14 Q That was underneath all these items shown in State's
15 No. 8 on that passenger seat?

16 A Yes, sir.

17 Q Tell me, Agent Strickland, what was the condition of
18 the victim's clothing when you --

19 A The victim's clothing was not intact. What I mean by
20 that, it appeared to have been pulled on. He was wearing a
21 flannel over shirt over a black t-shirt, jeans, work boots.
22 The black shirt was torn in the middle. There were some
23 buttons missing from the flannel shirt which were located in
24 the seat, and there was also a belt loop that had been torn
25 off of his jeans.

1 Q I'm showing you State's Exhibit No. 8. Again, does
2 that kind of show the tear into the black undershirt?

3 A Yes, sir.

4 Q State's Exhibit No. 7; is that a close up?

5 A That is a close up picture of the t-shirt, yes, sir.

6 Q Does it appear to be torn, ripped?

7 A Yes, sir.

8 Q All right, and you also indicated there were a couple
9 of buttons that were found?

10 A They were buttons that were missing from the flannel
11 shirt; yes, sir.

12 Q Okay. And where were those buttons located?

13 A In the seat.

14 Q I'm showing you State's Exhibit No. 26; is that the
15 buttons?

16 A Those are the buttons; yes, sir.

17 Q They were underneath Mr. Rivenburg?

18 A Underneath -- well, he was --

19 Q He's leaning --

20 A -- yes, he's over to the right and they were in the
21 seat.

22 Q I got you. And you also indicated there was a belt
23 loop located?

24 A Yes, sir.

25 Q And where was that located?

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1 A That was over towards the passenger side. There was a
2 Windex bottle that he apparently was using and that's where
3 -- the carpeted area, kind of in the middle over to the
4 passenger side.

5 Q I'm showing you State's No. 30; does that depict that
6 belt loop that was found?

7 A It does, yes, sir.

8 Q And is that belt loop off -- the belt loop missing on
9 his jeans?

10 A Yes, sir.

11 Q Let me ask you; in processing the interior of that
12 vehicle you indicated that there was that \$200 and credit
13 card that was paper clipped on the passenger seat. Was
14 there any other money that was found on Mr. Rivenburg?

15 A There was some money that was found in his pocket and
16 that was removed by the coroner.

17 Q Do you remember what pocket that was in or --

18 A I cannot recall what pocket it was in. I did not
19 remove it from his pocket.

20 Q Did you document that in your notes?

21 A Let's see -- Yes, sir, the victim's right pants
22 pocket.

23 Q Do you remember if that was back or front?

24 A I'm not certain. I want to say the front, but I'm not
25 certain.

1 Q It was on the right side of his body?

2 A Yes.

3 Q Let me ask you, in searching Mr. Rivenburg and also the
4 interior of that vehicle was his driver's license ever
5 found?

6 A No, sir.

7 Q Okay. Were there any other identification cards found
8 inside his vehicle?

9 A Yes, sir. Further back in the sleeper cab of the truck
10 there was a green, like overnight type bag, and inside that
11 bag we were able to find a photo identification as well as a
12 hazmat card or something of that nature.

13 Q I'll show you State's 35; does that show that
14 identification card that you did find inside the vehicle?

15 A It does, yes, sir.

16 Q And do those all belong to the victim, Jason Rivenburg?

17 A Yes, sir, they all had Jason Rivenburg's name.

18 Q Now, in searching inside of that vehicle, did you find
19 any bullet, either shell casings or bullet fragments or
20 projectiles inside the vehicle?

21 A No, sir, we did not recover anything from inside the
22 vehicle, however, I did locate an area where a bullet may
23 have impacted up in headliner, kind of in the middle, just
24 in front of where the sleeper cab is.

25 Q I'll show you State's Exhibit Nos. 34, 35, and 36.

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1 A This is the inside of the truck here. Back here is the
2 sleeper cab. It was right in the middle. It's a little bit
3 blurry, but you can see what appears to be a hole in the
4 middle. This is a close up picture of it so that you can
5 better see that it is indeed a hole. Investigator Godwin
6 and I did cut that part of the headliner out and this is a
7 picture of that. We were not able to locate the projectile.
8 We believe it was somewhere in the interior of the vehicle
9 but we could not reach it. This is a picture of the actual
10 -- where the bullet impacted the headliner.

11 Q Now, you had indicated that you found evidence of high
12 velocity blood splatter inside the vehicle?

13 A Yes, sir.

14 Q Let me ask you; if somebody had been in close proximity
15 to Mr. Rivenburg when they fired the gun would it be
16 possible that they could gotten a little bit of that blood
17 spatter on their clothes, also?

18 A They could have, yes, sir.

19 Q Obviously, Mr. Rivenburg was ultimately removed from
20 the inside of that tractor trailer?

21 A He was.

22 Q Did you do anything as far as testing on him once you
23 got him out of the vehicle?

24 A Once he was removed from the cab of the truck, I did a
25 -- what they call a GSR kit on his hand. A gunshot residue

1 kit, and what that does is collect evidence from his hands
2 as to whether there was any gunshot residue on his hands
3 that would indicate that he had fired a weapon. You often
4 times have gunshot residue is on your hands if you were shot
5 from close range.

6 Q So you collected -- what did you ultimately do with
7 that gunshot residue kit; are you the person that analyzes
8 that kit?

9 A No, sir. That goes to the trace department at SLED and
10 they analyze the gunshot residue kit.

11 Q While you were at the scene that morning did there come
12 a time when another shell casing was turned over to you that
13 morning?

14 A Yes, sir.

15 Q I'll show you State's Exhibit No. 46; is that the item
16 that was turned over to you?

17 A It is.

18 Q And taking State's Exhibit No. 46, and all the other
19 items that you recovered, the other shell casings and
20 projectiles, what did you do with those items that day?

21 A That day I made contact with my Lieutenant who arranged
22 for me to meet with Special Agent Ken Whitler who works in
23 the firearms division at SLED. He met me at the lab when we
24 were finished processing the scene. I processed the
25 cartridge cases for latent prints. I did not get any latent

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1 prints or ridge details. Once I was done with that I turned
2 them directly over to Ken so he could perform his
3 examination on those cartridge cases and this cartridge case
4 that was turned over to me.

5 Q Did you process these at all before you turned them
6 over to Agent Whitler?

7 A Yes, sir.

8 Q And did you find any latent prints on any of them?

9 A No, sir.

10 Q Okay. As far as shell casings go is that consistent,
11 in consistent or --

12 A That is not common. When cartridge cases are ejected
13 they are extremely hot, they're hot to the touch.
14 Fingerprint is primarily moisture. So the heat can, you
15 know, do away with that moisture. Also, they had been on
16 the ground a couple days, so that can also effect that. So
17 it's not uncommon not to find any latent fingerprint on the
18 fired cartridge cases.

19 Q So you turned over ultimately --

20 MR. SORENSON: Your Honor, we offer at this time,
21 State's Exhibit No. 46 into evidence.

22 MR. BANKS: Yeah, subject to being verified from
23 where it came from.

24 MR. SORENSON: Well, that will be another witness
25 down the road.

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1 THE COURT: Well, you better offer it when you get
2 the other witness.

3 MR. SORENSON: All right.

4 BY MR. SORENSON:

5 Q State's Exhibit No. 46, along with the other shell
6 casings that you recovered out there, State's 45, 43, 40,
7 48, and 44. I guess there were five of them that morning
8 that you recovered out there?

9 A There were five, yes, sir.

10 Q Those five, along with this other one that was turned
11 over to you that morning, you turned them all over to Agent
12 Whitler that afternoon, that Saturday afternoon out at State
13 Law Enforcement Division?

14 A Yes, sir.

15 Q Let me ask you, did there come a time a couple of days
16 later when you were called back out there to the crime
17 scene?

18 A Yes, sir.

19 Q Okay, and what was the purpose of that?

20 A The Investigator Stanley Graham with the Calhoun County
21 Sheriff's Office placed a call to me saying that they had
22 found an additional cartridge case, and I came out to the
23 scene -- over further down in the grass. I came out there
24 and documented that and collected that, as well.

25 Q Okay. And let me show you State's Exhibit Nos. 23 and

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1 24. Is that where that was located?

2 MR. SORENSON: Your Honor, I believe without
3 objection, we'd offer 23, 24 and 39 into evidence?

4 THE COURT: Any objection?

5 MR. BANKS: No, Your Honor.

6 THE COURT: Admitted without objection.

7 (State's Exhibit No. 23,
8 photograph, was marked and entered.)

9 (State's Exhibit No. 24,
10 photograph, was marked and entered.)

11 (State's Exhibit No. 39, cartridge
12 case, was marked and entered.)

13 BY MR. SORENSON:

14 Q If you'll kind of show the jury State's 23. Again is
15 that just a kind of grassy area right off of where the truck
16 was located?

17 A It is. It is. And that's Marker No. A, letter A.

18 Q And State's 24, is that just a close up then of that
19 marker?

20 A It is. You can see the cartridge case right there.

21 Q And State's 39. This is what?

22 A That's it. Cartridge case, Winchester .45 auto
23 collected from Marker A.

24 Q All right. You can have a seat Agent Strickland.
25 Thank you.

1 Let me ask you, I think a day or so later on March 12th
2 Agent Strickland, did you have an opportunity to process a
3 1987 Mercury Cougar?

4 A Yes, sir.

5 Q And what were you processing that vehicle for, looking
6 for?

7 A Well, I was looking for any evidence that would link
8 the car to the original scene. Any sort of weapon,
9 projectile, cartridge cases, latent prints, blood; anything
10 of that nature.

11 Q Let me just show you State's Exhibit Nos. 58 and 59; is
12 that two pictures of that vehicle you processed?

13 A Yes, sir, that's the vehicle.

14 MR. SORENSON: Your Honor, at this time we'd offer
15 those two pictures, Nos. 58 and 59.

16 MR. BANKS: No objection, Your Honor.

17 THE COURT: Admitted without objection.

18 (State's Exhibit No. 58,
19 photograph, was marked and entered.)

20 (State's Exhibit No. 59,
21 photograph, was marked and entered.)

22 BY MR. SORENSON:

23 Q All right. Now, in searching that vehicle, did you
24 find any weapons in that vehicle?

25 A No, sir.

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1 Q Any ammunition?

2 A No, sir.

3 Q Any shell casings?

4 A No, sir.

5 Q Projectiles?

6 A No, sir.

7 Q Now, did you find any blood evidence inside the
8 vehicle?

9 A No, sir.

10 Q How about did you also process that vehicle looking for
11 fingerprints?

12 A I did, yes, sir.

13 Q Did you find any usable fingerprints that you were able
14 to match up to anybody?

15 A Well, I did lift a usable latent print from the
16 passenger side door, as well as the driver's side door,
17 however, I did not match them to anyone.

18 Q Okay. Did you attempt to compare them to Mr. Pelzer?

19 A I did. Yes, sir.

20 Q They did not match Mr. Pelzer's prints?

21 A And they were also submitted to SLED AFIS.

22 Q And that's a fingerprint data base, I guess?

23 A Right. Yes, sir.

24 MR. SORENSON: Beg the Court's indulgence.

25 That would be all I have, Your Honor.

1 THE COURT: Cross-examine.

2 MR. BANKS: Thank Your Honor.

3 RENEE STRICKLAND - CROSS-EXAMINATION

4 BY MR. BANKS:

5 Q Agent Strickland, how are you?

6 A I'm good. How are you?

7 Q You processed -- you're the crime scene person, right?

8 A Yes, sir.

9 Q Anything about that crime scene that directly links
10 Willie Pelzer to the crime scene, to this death?

11 A I can't say that. No, not in my processing, that's not
12 something that I determine. So, no.

13 Q So the materials that you gathered, you gathered or
14 helped gather blood -- would you call it a bloody crime
15 scene?

16 A Not very bloody, no, but yes, there was blood there,
17 but not as bloody as some I've seen. No, sir.

18 Q Did you try to collect some sort of DNA samples?

19 A No, sir.

20 Q No DNA whatsoever?

21 A No, DNA.

22 Q Fingerprints; you talked about fingerprints?

23 A Yes, sir.

24 Q You didn't find any -- you don't examine fingerprints,
25 right?

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1 A I do examine fingerprints, yes, sir.

2 Q Okay. Did you find any of Willie Pelzer's fingerprints
3 at the scene?

4 A No, sir, I did not recover any latent prints from the
5 scene.

6 Q Did you find other prints that you could identify?

7 A No, sir.

8 Q All right. You didn't find Rivenburg's fingerprints?

9 A No, sir.

10 Q Did you find partial prints that if you had a sample
11 you might have been able to identify?

12 A No, sir.

13 Q Okay. Does that indicate to you that the person may
14 have been wearing gloves or something of that nature?

15 A Possibly. Yes, sir.

16 Q Gunshot residue. I heard you mention that. You test
17 for that, too, right?

18 A I collect what we call the GSR kit. I do not do the
19 examination on it.

20 Q All right. And did you -- does your investigation
21 reveal any gunshot residue to tell you the proximity of a
22 shot or something like that?

23 A I don't know what the results from that department at
24 SLED were, so I cannot testify to that.

25 Q All right. From your examination of the scene, how many

1 time was a gun or guns fired?

2 A There were in total six fired cartridge cases recovered
3 at the scene. That's the five on the first say, and then
4 the one later. So that's six. So at least six times.

5 Q At least six. So there could be another casing out
6 there is that what you're saying?

7 A That's all that we recovered, so that's all that I can
8 testify to. Definitely six.

9 Q Six casings were found?

10 A Yes, sir.

11 Q In fact, I think five were found that night?

12 A Yes, sir.

13 Q Is that right?

14 A That morning.

15 Q I'm sorry. Early that morning. One wasn't found until
16 when?

17 A The 11th when they called me back.

18 Q And that was found where?

19 A Over in the grassy area, off the asphalt between the
20 asphalt and the wood line.

21 Q And this is actually a photograph of that?

22 A Yes, sir, that's it.

23 Q And it's in the grassy area?

24 A Yes, sir.

25 Q Is it possible that casing could have been fired --

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1 were all the casings fired from the same gun; were you able
2 to test them to determine that they were all fired from the
3 same gun?

4 A Special Agent Whitler would have to testify to that.

5 Q Okay. Did -- this wasn't found until six days, by your
6 count, after the shooting; is that right?

7 A Well, from the 7th to the 11th; yes, sir.

8 Q Seventh to the 11th. And is it possible that one could
9 have been fired after the date of the crime?

10 A It's possible. I can't tell you when they were fired.

11 Q Yeah --

12 A I can just tell you that they were there.

13 Q Yeah, you can't tell me when any of the bullets -- any
14 of the shell casings were fired --

15 A That's correct.

16 Q -- were the result of a gunshot. But having found this
17 one several days later it could have been any of those days
18 after you found the other five?

19 A It could have.

20 Q Now, the deputies, how many deputies were out there
21 when you arrived?

22 A I am not certain.

23 Q Handful?

24 A Yeah. Four, five.

25 Q And they had secured the crime scene?

1 A They had.

2 Q And did any of them indicate to you that they combed
3 the area?

4 A They had performed a, you know, a search of the area.
5 They advised me of where they had seen cartridge cases. Of
6 course, approaching the truck they were right there as you
7 would go through. So they did advise me that they had, you
8 know, performed a search of the area.

9 Q And I heard you indicate a while ago that you were not
10 -- you did not have the opportunity to inspect some tire
11 tracks or footprints leading to the scene in that grassy
12 area?

13 A Right.

14 Q You weren't given that opportunity?

15 A Well, no. I just did not locate any.

16 Q Okay. And did any of the other officers locate any?

17 A To my knowledge, no.

18 Q Okay. Are you party to the report, their reports for
19 you to check to kind of see if yours -- to kind of see if
20 you've missed something; do you get copies of their reports?

21 A No. I've got a copy of the initial report that was
22 done on the day of, but as far as follow up investigation,
23 no, sir.

24 Q Okay. Have you -- so you never saw a report from
25 Deputy Stephenson?

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1 A No, sir.

2 Q Did you ever talk with Deputy Stephenson?

3 A I talked with -- I talked with him the day of, and I
4 believe it was in reference to the cartridge case that was
5 turned over to me from the Sheriff's Office, but beyond
6 that, no, sir.

7 Q Okay. We've seen these pictures of impacts -- I guess
8 -- what would you call it where a bullet --

9 A An impact.

10 Q Okay. And you found how many impacts?

11 A I found the one impact that was right here underneath
12 the vent window and the one on the interior of the vehicle.
13 We could not recover the projectile but we did find that
14 impact and, of course, the impacts to the victim himself.

15 Q So that's how many impacts, in all, four?

16 A Four.

17 Q Six casings, four impacts.

18 A (No response.)

19 Q Now --

20 THE COURT: Yes?

21 A Yes, sir. Yes.

22 BY MR. BANKS:

23 Q And are you certain that all four impacts, and I'm
24 primarily interested in the ones outside of the vehicle,
25 under the window and I think there was another one -- I

1 couldn't tell exactly what it was a picture of, but outside
2 the vehicle there were two, right?

3 A Right.

4 Q Are you certain that those were both made by a
5 projectile instead of, say, a rock from the highway?

6 A I'm certain of that. I don't think that a rock would
7 have damaged the metal to that extent.

8 Q But something else could have?

9 A It could have.

10 Q All right. Let's go back for a second. You said the
11 casings -- all the casings fired from the same gun?

12 A I can't say that.

13 Q Oh, that's right. I'm sorry. You filed a report
14 yourself in this matter, right?

15 A Yes, sir.

16 Q And, in fact, on March 10th, I believe you went to
17 someone's house to check out the gun that had been fired --

18 A The yard.

19 Q The yard.

20 A Yes, sir, the yard.

21 Q And what did you find there?

22 A I didn't find anything. What I did was run the metal --

23 Q Whose yard was that; who lived there?

24 A I believe it's Willie Reed, if I'm not mistaken. It
25 was his parents home where he lived.

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1 Q So you went on the 10th, which is about four or five
2 days later, you went to Willie Reed's house with some of the
3 deputies. Who was there?

4 A Investigator Graham was there, Investigator Godwin, I
5 believe, was there.

6 Q That's good. That's enough. And it was based on
7 Willie Reed's statement that y'all had -- that he had fired
8 that gun in his own back yard?

9 A Right. Yes, sir.

10 Q And y'all were there for what purpose?

11 A To see if we could recover any cartridge cases in the
12 yard that would indicate that the gun had been fired there.

13 Q And y'all found nothing?

14 A No, sir.

15 Q So y'all have nothing to establish the truth of the
16 statement of Willie Reed that he had fired that gun in his
17 yard?

18 A I did not find any cartridge cases there. I don't
19 know, as far as the Sheriff's Department, what else they
20 have, but as far as on my end, no, I did not find anything
21 there that day.

22 Q Did y'all look for bullets, I mean, obviously, if he
23 shot a gun there --

24 A Right.

25 Q -- he had to shoot it at something and there had to be

1 a bullet somewhere.

2 A We used the metal detector and we dug up lots of stuff,
3 but it wasn't any projectiles or cartridge cases.

4 Q No bullets and no cartridge cases at Willie Reed's
5 house?

6 A No, sir.

7 Q All right. Now, this telephone, it showed signs of
8 damage, correct?

9 A Yes, sir.

10 Q The damage was consistent with a gunshot wound -- a
11 gunshot impact, I suppose?

12 A Consisted with an impact of a gunshot?

13 Q Could it have been something else?

14 A It could have been something else. I don't -- I can't
15 speculate as to what.

16 Q Did you take possession of the phone, who took the
17 phone?

18 A I turned the phone over to the Calhoun County Sheriff's
19 Office.

20 Q Okay. Now, when y'all were at the scene did you handle
21 the phone?

22 A I did.

23 Q Did other people handle the phone?

24 A I handled the phone and then I turned it over to -- I
25 don't recall anyone else handling the phone until I turned

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1 it over to --

2 Q Did you attempt to turn it on to see if it worked?

3 A I believe I did. I think it was still operable, if I'm
4 not mistaken. I don't really recall.

5 Q You don't recall?

6 A I don't recall if it was operational. I don't know if
7 it was operational and the battery was dead. I --

8 Q Now, you were given the opportunity to check this car.
9 That's State's 58 and 59, I believe?

10 A Yes, sir.

11 Q And this is a -- looks like a pretty older model car.
12 Do you remember from your records how old this car was?

13 A I don't remember exactly how -- I know it's a Mercury
14 Cougar, and it's not what I would call a late model car. I
15 know it's older.

16 Q Does it look well kept, though, would you agree?

17 A Oh, yes, sir.

18 Q I noted in there how shiny it is. It looked pretty
19 shiny, didn't it, in both those pictures?

20 A Uh-huh (affirmative response.)

21 Q And that was about five or so days after the -- this
22 incident?

23 A I believe it was on the 12th; yes, sir.

24 Q And whose car is that?

25 A I believe it's the uncle of --

1 Q Jimmy Haygood?

2 A I believe so. Yes, sir.

3 Q And that's the car that was taken to Charleston,
4 correct?

5 A Allegedly, yes. That was what I was told.

6 Q Okay. And looks pretty clean to me?

7 A Yes, sir.

8 Q Did it look like it had been cleaned?

9 A I can't say. I possibly may have. The interior didn't
10 appear to have been cleaned to me, vacuumed or anything like
11 that.

12 Q Were you ever given the opportunity to check or test or
13 anything like that or do any of what you did on this car to
14 a white Chevy Lumina owned by Willie Reed?

15 A No, sir.

16 Q So you weren't offered that opportunity. I want to
17 show you a diagram. Are you familiar with this diagram?

18 A Yes, sir.

19 Q Did you draw this diagram?

20 A I did. It's a sketch of the scene.

21 Q If you would, I'll -- in fact, if you'll -- you're
22 familiar with it.

23 A Yes.

24 Q Let me ask you, if you would go through the lines that
25 you've drawn and what they are, I'd appreciate it.

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1 A Okay. Basically, the lines are where I measured, M
2 would be the marker number and CC is for cartridge case.

3 Q So that's a cartridge case?

4 A Right.

5 Q That one that stopped real short?

6 A Uh-huh (affirmative response.)

7 Q Okay.

8 A Um -- and then that's the distance from that to the
9 driver's side door.

10 Q Gotcha. And what's number one?

11 A A cartridge case.

12 Q That's a cartridge case, as well.

13 MR. SORENSON: Your Honor, is he offering that into
14 evidence?

15 MR. BANKS: I'm about to.

16 MR. SORENSON: I don't have any objection, but
17 he's showing it to the jury.

18 MR. BANKS: Your Honor --

19 BY MR. BANKS:

20 Q You drafted this; this represents accurately what you
21 found at the scene when you drew this up?

22 A It was a sketch to orient where everything was.

23 THE COURT: Well --

24 MR. BANKS: Your Honor, I'll go ahead and put it
25 in. I'd offer this into evidence.

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1 THE COURT: Any objection?

2 MR. SORENSON: No objection.

3 THE COURT: Defense one, without objection.

4 (Defendant's Exhibit No. 1, sketch,
5 was marked and entered.)

6 BY MR. BANKS:

7 Q Now, let me ask you about -- when you draw a diagram
8 like that did you -- you can't honestly say exactly where
9 someone may have been standing when they fired the weapon;
10 is that correct?

11 A No, sir. That's correct.

12 Q And that's because, you know, things tumble and fly and
13 all of that?

14 A Yes, sir.

15 Q And -- but you've got two -- I'll call them projectiles
16 that seem to be stopped short of the rest of these other
17 things; is that correct?

18 A Yes, sir.

19 Q Now, could something have been in the way, like, say
20 there was a tree and it would stop some -- a projectile --
21 I'll call it a projectile. It's not necessarily a bullet,
22 but a casing comes flying out like a projectile -- To stop
23 it short of a spot that it might otherwise roll to or fly
24 to?

25 A That could happen.

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1 Q And in this case, you can't tell me for certain there
2 wasn't something there at the time that would have stopped
3 those things short like that, an obstruction?

4 A No, sir. There was nothing there --

5 Q When you were there.

6 A -- but I can't speak to what was there that night. No,
7 sir.

8 Q At the scene. So there could have been two people
9 standing there where these two things stopped short; is that
10 correct?

11 A That's correct. If there were two people there I would
12 have expected to see some blood on the ground, which there
13 was not.

14 Q Blood on the ground?

15 A If somebody had --

16 Q No, not fired at each other, just standing there. One
17 may have fired a gun and the other watching.

18 A Oh, you're talking about blocking the casing --

19 Q Yeah.

20 A -- itself.

21 Q Exactly.

22 A Absolutely.

23 MR. BANKS: One moment, Your Honor.

24 BY MR. BANKS:

25 Q Detective -- is it detective?

1 A Investigator. Whatever.

2 Q Investigator Strickland, what is a crime of
3 premeditation?

4 A That would be a crime that somebody has thought out and
5 made plans to execute before they do so.

6 Q Isn't it true when you have a premeditated crime you
7 have to have a target before you can premeditate -- before
8 you can meditate on attacking a target; isn't that right?

9 A I would think so. Yes.

10 Q And --

11 MR. SORENSON: Objection. Relevancy.

12 THE COURT: How is she qualified to answer that
13 question?

14 MR. BANKS: Your Honor, she's a --

15 THE COURT: She's a crime scene investigator.

16 MR. BANKS: And she knows very well --

17 THE COURT: Well, you need to qualify her if you're
18 going to start asking her legal questions.

19 MR. BANKS: That's not a legal question, Your
20 Honor, it's a logical question.

21 THE COURT: What was your question?

22 MR. BANKS: The question is if you have -- you
23 can't plan a crime until you have a target for that crime.
24 My illustration was going to be if there's a bank and you
25 want to rob a bank you've got to have a bank as a target

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1 before you can rob it. That's not a legal question.

2 THE COURT: It's certainly not a question for a
3 crime scene investigator. I don't know what kind of
4 question it is. I sustain the objection on the grounds of
5 relevancy.

6 MR. BANKS: All right.

7 No further questions, Your Honor.

8 THE COURT: Redirect.

9 MR. SORENSON: Just a couple of things, Your
10 Honor.

11 RENEE STRICKLAND - REDIRECT EXAMINATION

12 BY MR. SORENSON:

13 Q Investigator Strickland, the kind of crime scene
14 diagram that you did --

15 A Yes, sir?

16 Q -- not only that, but just looking at the overall
17 scene, is there anything that tells you how many suspects
18 were involved?

19 A No, sir. Not at all.

20 Q Could have been more than one?

21 A Could have been one, could have been two, could have
22 been five.

23 Q Could have been 10?

24 A Yes, sir.

25 Q There's nothing from the location of the shell casings

1 that would give you an answer to that question?

2 A Right. That's correct.

3 Q And Mr. Banks had asked you about going out on March
4 10th to Willie Reed's house over on Columbia Road, here in
5 St. Matthews?

6 A Yes, sir.

7 Q Okay, and I believe -- what did you say you were going
8 out there to do?

9 A I'm going out there to look for projectiles and
10 cartridge cases that I believe that Willie Reed had told the
11 investigators that they had been target shooting in the
12 backyard on the day and so we were going to go out there and
13 see if we could recover some. He advised us that they had
14 picked up the cartridge cases.

15 Q And that's what I was going to get at.

16 A Right.

17 Q So he had already told law enforcement that they had
18 fired the gun out back, but also had told them before you
19 went out there that they had cleaned up, had picked up the
20 cartridge cases?

21 A Right.

22 Q And do you have documented notes why he said they did
23 that?

24 A Because he didn't want his parents to know that -- his
25 parents did not know that he had a weapon, and they,

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1 apparently, were out of town when they fired this gun. So
2 he didn't want his parents to know. We went to far as to
3 take the lattice work off of the back deck and search
4 underneath the deck. There was a plowed field next to the
5 house that ran behind the house, and we went into the plowed
6 field with the metal detector to try to locate the
7 projectiles, but with the velocity and the velocity that the
8 projectiles traveled, specially, you know, they were high
9 powered, we didn't find anything.

10 Q And the last thing --

11 MR. SORENSON: Okay, I have 12 photographs. I'm
12 just going to mark as one exhibit and bind them together.

13 THE COURT: All right.

14 MR. SORENSON: And then I'll show them to her.

15 This is Exhibit No. 74.

16 BY MR. SORENSON:

17 Q Now, Mr. Banks had shown you those couple of
18 photographs outside of the Mercury Cougar and kind of
19 emphasized how clean the vehicle was.

20 A Yes, sir.

21 Q Let me show you State's Exhibit No. 24, (sic) which I
22 believe is 12 photographs all bound together. Can you just
23 kind of initially look through those?

24 A (Witness complies.)

25 Q Those are interior photographs taken at the time you

1 processed this Mercury Cougar in State's 58 and 59?

2 A Yes, sir.

3 MR. SORENSON: Your Honor, at this time, we'd
4 offer State's Exhibit No. 74 into evidence.

5 MR. BANKS: No objection.

6 THE COURT: Admitted without objection.

7 MR. SORENSON: If I can just briefly have her step
8 down.

9 THE COURT: Well, just have her indicate on the
10 back 24-1, 24-2, 24-3, 24-4, 24-5, just so we'll know what
11 she's talking about.

12 MR. SORENSON: Then we'll just number them
13 separately, Your Honor.

14 THE COURT: Any way you want to do it, but you've
15 got to identify it.

16 MR. SORENSON: Okay.

17 (State's Exhibit No. 74, 12 photos,
18 was marked and entered.)

19 BY MR. SORENSON:

20 Q These 12 photographs marked State's Exhibit Nos. 74.1
21 thru 74.12, do they depict the interior of that Mercury
22 Cougar?

23 A Yes, sir, they do.

24 Q Okay. I'm showing you 74.1, does that appear to be
25 clean inside of that vehicle?

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1 A No, sir. There was some trash on the floor and other
2 debris.

3 Q Point 2, showing kind of the driver's floorboard?

4 A Yes, sir.

5 Q There's dirt and debris on the floorboard?

6 A Yes, sir.

7 Q And that number -- that would kind of show dirt along
8 the windshield?

9 A Right.

10 Q Back seat, back floorboard?

11 A Back seat, back floorboard, yes, sir.

12 Q That's .4?

13 A Yes, sir.

14 Q And .5?

15 A Yes, sir.

16 Q Point 6, again more garbage and debris in the vehicle?

17 A That's actually the truck, I believe.

18 Q And point 7 and point 8, also the same, more debris in
19 the trunk of the vehicle?

20 A Yes.

21 Q Point 10, more garbage?

22 A That's just on the floorboard.

23 Q Point 11, more kind of debris in the trunk of the
24 vehicle.

25 A Right.

1 Q And point 12, is that the same thing?

2 A Yes, sir.

3 Q Needless to say, this is not a clean vehicle?.

4 A No, not to my standard of clean, anyway.

5 Q Thank you, Agent Strickland.

6 THE COURT: Recross?

7 MR. BANKS: Thank Your Honor, briefly.

8 RENEE STRICKLAND - RECROSS EXAMINATION

9 BY MR. BANKS:

10 Q Ms. Strickland, you have no -- was anybody there --
11 when you went to Reed's house to check for casings and
12 bullets and whatnot, who -- you took two deputies or they
13 met you there, and who else was there? Reed?

14 A He was there.

15 Q And Haygood?

16 A I don't recall him being there. I believe his father
17 was there.

18 Q His father was there?

19 A I -- I'm not sure who.

20 Q Okay.

21 A I know that Willie Reed was there and there were other
22 people there besides Investigator Graham and Investigator
23 Godwin.

24 Q You mean they were residents of the household?

25 A No. There were other people out there.

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1 Q Neighbors?

2 A And then there were two people who were residents of
3 the house. I believe it was Willie Reed and his father.

4 Q Were there neighbors there, did they have neighbors?

5 A I don't believe there were neighbors.

6 Q What's the closest houses to that, right there?

7 A I'm not really familiar with that area. I was a
8 wide-open space to me. I'm not sure --

9 Q Okay.

10 A -- how close the neighbors were.

11 Q But Reed's story is he fired a gun at his parent's
12 house and didn't want his parent's to know?

13 A Right. That's what I was told, yes, sir.

14 MR. BANKS: No further questions.

15 THE COURT: Thank you, ma'am, you may step down.
16 Call your next witness.

17 MR. SORENSON: State calls Aaron Walton.

18 THE COURT: Where is that person?

19 MR. SORENSON: He's right here.

20 Aaron Walton.

21 THE COURT: Come on down, please, sir. All the way
22 down the front.

23 THE CLERK: If you will place your left hand on
24 the Bible and raise your right hand.

25 (WHEREUPON, Aaron Walton was sworn

1 to tell the truth.)

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

4 MR. WALTON: My name is Aaron Elisha Walton.

5 THE CLERK: Thank you, sir. Please have a seat.

6 AARON WALTON - DIRECT EXAMINATION

7 BY MR. SORENSON:

8 Q Good morning, Mr. Walton.

9 A Morning.

10 Q If you would, tell the jury where you're employed?

11 A Verizon Wireless.

12 Q And how long have you been employed by Verizon
13 Wireless?

14 A Over three and a-half years.

15 Q Okay, and what are you current duties with Verizon
16 Wireless?

17 A Right now I'm an assistant manager with a retail
18 location.

19 Q Okay, with regards to this case have you been
20 designated by your employer to come testify as a records
21 custodian?

22 A I have.

23 Q Okay, and let me ask you this, obviously Verizon
24 Wireless is a cell phone company?

25 A Yes.

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1 Q And as part of your -- the regular course of business
2 do y'all keep records of cell phone calls that are made?

3 A We do.

4 Q And additionally also text messages that are made by
5 one of your customers?

6 A Yes.

7 Q Okay. And those are something that are kept in the
8 regular course of business?

9 A Correct.

10 Q I want to show you several items, if I could, Mr.
11 Walton. Let me start off with State's Exhibit No. 68, and
12 ask you if you recognize that document?

13 A Yes, I do.

14 Q All right, and State's Exhibit No. 68, are they cell
15 phone records for a Verizon Wireless cell phone?

16 A Yes.

17 Q Okay, and what is the phone number that those records
18 are for?

19 A These are for -- excuse me, I apologize.

20 . Yeah, that's good.

21 Q Okay. And those are kept in the regular course of
22 business by Verizon Wireless?

23 A Yes.

24 Q Okay. Do those records cover the time period of March
25 5th, around March 5, 2009?

1 A Yeah, that's in here.

2 Q Okay.

3 MR. SORENSON: Your Honor, at this time we'd offer
4 State's Exhibit No. 68 into evidence.

5 MR. BANKS: Let me see.

6 MR. SORENSON: Let me take care of one more item,
7 Your Honor, and that will take care of any possible
8 objection.

9 BY MR. SORENSON:

10 Q Let me show you State's Exhibit No. 67, is that a
11 document provided by Verizon Wireless as to the ownership of
12 the cell phone that you just indicated these records were in
13 State's Exhibit No. 68?

14 A Yes.

15 Q Okay, and who do they show , that cell
16 phone, who is that -- the owner or whose account is that?

17 A Carolyn Pelzer.

18 Q Carolyn Pelzer?

19 A Uh-huh. (Affirmative response.)

20 MR. SORENSON: Your Honor, at this time we'd offer
21 State's 67 and 68 into evidence.

22 THE COURT: Any objection?

23 MR. BANKS: No, Your Honor.

24 THE COURT: Admitted without objection.

25 (State's Exhibit No. 67, Verizon

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1 documents, was marked and entered.)

2 (State's Exhibit No. 68, Verizon
3 record, was marked and entered.)

4 BY MR. SORENSON:

5 Q Let me show you State's Exhibit No. 65, and ask you if
6 that's also another set of Verizon Wireless phone records?

7 A Yes.

8 Q Okay, and what cell phone are those records for?

9 A This is -- I'm sorry.

10 Q Okay, and do those also cover that same time period
11 around March 5, 2009?

12 A They do.

13 MR. SORENSON: Your Honor, at this time we'd offer
14 State's Exhibit No. 65 into evidence?

15 THE COURT: Any objection?

16 MR. BANKS: Your Honor, I don't see the relevance
17 of phone records to that phone number. I mean who --

18 THE COURT: Why --

19 MR. BANKS: We don't have any evidence to know who
20 that is.

21 THE COURT: -- how is it relevant?

22 MR. SORENSON: The witness is going to testify.
23 The problem is I've got to put the records in before he can
24 testify about the records, so I've got to call one before
25 the other.

1 THE COURT: Well, I think you might want to
2 identification so you can relate it to this case.

3 MR. SORENSON: 65 has been identified, and is
4 Marked for ID at this time; is that correct?

5 THE COURT: That's right. It's been identified as
6 the records from that telephone number.

7 MR. SORENSON: Yes, sir.

8 THE COURT: All right. Okay.

9 (State's Exhibit No. 65, Verizon
10 records, was marked for ID.)

11 BY MR. SORENSON:

12 Q We'll show you now State's No. 66, is that one page
13 from another Verizon Wireless phone record?

14 A Yes.

15 Q Okay, and what cell phone is that record related to?

16 A This is for 8 -- I'm sorry,

17 Q Okay.

18 MR. SORENSON: Your Honor, at this time we'd offer
19 that into evidence.

20 MR. BANKS: Same objection.

21 MR. SORENSON: There's been testimony about this
22 phone being the victim's phone. That's already in evidence.

23 THE COURT: That's in evidence, and I overrule your
24 objection.

25 (State's Exhibit No. 66, Verizon

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1 phone records, was marked and entered.)

2 BY MR. SORENSON:

3 Q I'll show you State's Exhibit No. 69, and ask if you
4 recognize that document?

5 A I do.

6 Q And what is that document?

7 A This is a record of text massaging.

8 Q Okay. Related to what phone number.

9 A It's . That's the one sending the text
10 messages.

11 Q That's the one sending the messages.

12 A Yes.

13 Q Which one -- go through and look at all the common
14 denominator that shows who's records those are, that's both
15 sent and received text messages; is that correct?

16 A That's correct. The message is going to

17 Q Okay. Good.

18 A That's the receiver.

19 Q Okay. Is that who's records those are, then, those
20 relate to those messages sent and received by that

21 that you --

22 A That's it.

23 Q -- And does that cover the same period days right
24 before and right after March 5, 2009?

25 A Before and right after; that's correct.

1 MR. SORENSON: I'm going to, just for the time
2 being leave this marked for identification.

3 THE COURT: All right.

4 MR. SORENSON: Your Honor, may I have Mr. Walton
5 step down?

6 THE COURT: Yes, sir.

7 BY MR. SORENSON:

8 Q All right. What I want to have you do, Mr. Walton is
9 get you to kind of explain what some of these all mean.
10 Here's a blown up page off of , right?

11 A That is correct.

12 Q And it has multiple columns, right?

13 A Uh-huh. (Affirmative response.)

14 Q I want to make sure you're turned so that everybody can
15 see you, okay. And make sure you keep your voice up nice
16 and loud.

17 A Okay.

18 MR. BANKS: Your Honor, defense counsel would like
19 the opportunity to see what -- this demonstration.

20 THE COURT: Sir?

21 MR. BANKS: We'd like the opportunity to be able
22 to see this and --

23 THE COURT: Take that over there.

24 Mr. Walton, please keep your voice up because you have
25 your back to the court reporter. Talk loud enough so she

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1 can hear you and take down what you're saying.

2 MR. WALTON: Yes, sir.

3 THE COURT: Thank you.

4 Yes, sir.

5 BY MR. SORENSON:

6 Q Let me show you what's also been marked as State's
7 Exhibit No. 70; is that a blow-up of another page that is
8 basically contained in all those cell phone records?

9 A Exactly.

10 Q What is the page in Exhibit No. 70, what is that?

11 A Just a description of what the item is, just explaining
12 what it is and what it does.

13 Q How do you relate this to this as far as describing
14 what each column is?

15 A Yes.

16 Q Okay. The far left-hand column, what is that column?

17 A That column is representing the switch for Verizon
18 Wireless as to routing and routing of all phone calls
19 received and sent.

20 Q Okay. And I noticed, like on this page here, all these
21 pinging off of a Columbia switch.

22 A Yes, sir.

23 Q Where are the other switches located?

24 A The switches of the main center that routs all phone
25 calls. There's probably about three total in all of South

1 Carolina. So this marks the areas of St. Matthews,
2 Orangeburg, Columbia, Spartanburg, Greenville. There's not
3 many -- it's not like a cell phone tower itself, it's like
4 it reads -- it registers the calls and sends the records
5 wherever they need to go to. So yeah, that's in the
6 Columbia market area.

7 Q So if I made a phone call from St. Matthews here, I'm
8 going to hit off of that -- Columbia switch back to -

9 A That's towards Charleston so you're possibly hitting
10 the Columbia circuits.

11 Q Once I get down into Charleston, is there another
12 switch in Charleston?

13 A Yes.

14 Q What's that one do -- the Charleston switch?

15 A Yeah. Charleston.

16 Q What's the second column?

17 A Just the date it reflects.

18 Q All right, that would be the date of the call. What's
19 the third column?

20 A That's the time in military time.

21 Q All right. That's the time the call began or ended?

22 A That's the time the call started.

23 Q Okay. Start time. Well, what are these next two
24 columns here, the fourth and fifth column?

25 A These next two columns represent cell sites. Okay. It

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1 would be -- see this right here, that would mean it went
2 directly into his voice mail. The phone call was received,
3 and so when it was received it went to local forwarding.
4 That's right here. This is irrelevant cause that just means
5 the call wasn't picked up. He's receiving a call or he's
6 making a call. This number 97, that means the call was made
7 to somebody. Okay. 97 is an actual cell site. So if you
8 make a call it registers to that tower and this just the
9 person making the call. This is just the binary code just
10 saying that a call was made in this case. When you see --
11 the towers on this side, the side would represent the call
12 received.

13 Q All right. Just to make sure I understand, let's kind
14 of go to this next column here, and that's the one, two,
15 three, four, five, sixth column?

16 A Yes.

17 Q And that is noted out here on the -- one, two, three,
18 four five -- Is that directory, I guess?

19 A Direction.

20 Q All right, and then there's a -- there's a two letter
21 code there, and what does the code MO stand for?

22 A That's outbound calling. That's for anybody making a
23 call.

24 Q So if it's an MO that means that placed the
25 call?

1 A Right.

2 Q How about MT?

3 A That's a mobile return. So that means that person was
4 receiving a call.

5 Q So MT means that this phone received that call?

6 A That's correct.

7 Q How about MF?

8 A MF is mobile forwarding, which I mentioned earlier.
9 Tower zero means he never picked up his voice mail.

10 Q That means the phone could have been turned off?

11 A Could have been turned off.

12 Q And how about - I know they're not on this record, but
13 are on some of the others. How about MM?

14 A That means you've called another Verizon customer.

15 Q And how about LL; what does that mean?

16 A That's internal. LL would be through our networking
17 team and just based on routing calls.

18 Q If you saw a line that had LL does that line really
19 have anything to do with our looking at the records?

20 A No.

21 Q The next line here -- I notice it's all the same
22 number.

23 A Correct.

24 Q And the MM, that's the target number. That's who's
25 phone records in that first left-hand with those phone

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1 numbers?

2 A Yes.

3 Q What about -- the third from the right, here?

4 A This one right here is the person -- that's the number
5 being dialed.

6 Q Okay. So like on this top line here, that's the target
7 -- that he was being called?

8 A That's right. That number was dialed.

9 Q I guess that's consistent then with the MF showing that
10 it went straight to his voice mail; is that correct?

11 A Yes, sir.

12 Q All right, then the next column -- you look at in your
13 situation it's an MT and incoming call right, so that's
14 showing who called him, that's the number that is placing
15 the call?

16 A Right.

17 Q And then the target number obviously who's receiving
18 the call?

19 A Exactly.

20 Q And MO would show the target number, the number dialed
21 and that would be the number that received the call?

22 A Yes, sir.

23 Q Correct?

24 A Correct. Yes, sir.

25 Q And the situation that shows mobile to mobile; you

1 would look at who's placing the call and who's receiving the
2 call?

3 A Exactly.

4 Q Let me make sure I understand as far as the towers.
5 When you're looking at the person placing the call -- this
6 is my phone and I'm placing the call, you look at this first
7 column here to determine --

8 A That's right.

9 Q In this situation that call was placed by the target
10 number and he was hitting off of Tower 97?

11 A Yes, sir.

12 Q And then you go down to the one below that where he
13 received a call showing that he was pinging off of tower 97
14 on the second call?

15 A That's right. Yes.

16 Q All right. Let me -- as to that tower 97, let me show
17 you what's already in evidence as State's No. 1. The last
18 page of State's Exhibit No. 1, does that indicate where cell
19 tower 97 is for Verizon Wireless?

20 A Yes.

21 Q Where is that cell tower 97 located at?

22 A Cartwright Road, St. Matthews, South Carolina
23 29135.

24 Q Okay. The cell tower, just explain to the jury just
25 real briefly how that works; when I place a call and it

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1 pings off the cell tower. Explain to the jury what that
2 means and how that works.

3 A Well, what it means when you hit a cell tower it means
4 that you're receiving a call and the call is in the vicinity
5 of that tower. So when it hits that tower, it then goes to
6 the switch I told you and that's the routing system that --
7 it goes to that switch on to the next tower and the phone
8 gets another call. So regardless of the person it goes
9 through the same process over and over.

10 Q Let me just show you just real briefly. They are just
11 marked for ID now. State's No. 65 is records for the phone
12 number . Are they set up as far as the same
13 columns?

14 A Yes.

15 Q They actually have the description at the top?

16 A Yes.

17 Q All right, and then -- you've indicated that cell tower
18 97 is located on Cartwright Road here in St. Matthews?

19 A Yes.

20 Q Let me show you State's Exhibit No. 75; does that
21 indicate the address of Verizon Wireless of their cell tower
22 50?

23 A Yes.

24 Q Okay.

25 MR. SORENSON: Your Honor, we'd offer State's 75

1 into evidence.

2 THE COURT: Any objection?

3 MR. BANKS: No objection, Your Honor.

4 THE COURT: Entered without objection.

5 (State's Exhibit No. 75, Verizon
6 records, was marked and entered.)

7 BY MR. SORENSON:

8 Q Where does that show that cell tower 50 is located?

9 A 124 (inaudible) Drive, Orangeburg, South Carolina.

10 Q We marked for ID a bunch of text messages that belong
11 to ; do you remember that?

12 A Yes.

13 Q I'll show you State's Exhibit No. 73. Is that just an
14 enlargement of the one with the text messages?

15 A It is.

16 Q And would that help you as far as describing to the
17 jury what some of these lines mean?

18 A Yes.

19 MR. SORENSON: Do you have any objection to this.
20 I'm not going to necessarily offer it, but just for
21 demonstrative purposes.

22 MR. BANKS: No objection, Your Honor.

23 THE COURT: Without objection.

24 (State's Exhibit No. 73, enlarged
25 text message, was marked and entered.)

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1 BY MR. SORENSON:

2 Q Okay, this is just one of the entries of probably
3 hundreds that are in this document; is that correct, Mr.
4 Walton?

5 A Yes.

6 Q Okay. If you would, explain to the jury kind of how if
7 I send a text message to you, and I'm a Verizon Wireless
8 subscriber, how that works?

9 A Well, what happens is when you send your message, this
10 right here, it will come to the Verizon switch. When it
11 comes to the switch Verizon takes it in and they process it
12 and they send it to the other person. So you can see this
13 lag in time. When a text message is made, as you can see
14 right here, it was received by the Verizon network on 13 --
15 same time in seconds, right here, the difference is one
16 second. That means it went through immediately. So when it
17 arrived at Verizon it went through this point, that's the
18 final disposition, and the final time is written. You know
19 it's a valid text message from the fact that it was
20 authenticated. It's a three step process in which a text
21 message is sent it is authenticated, then it's checked to
22 see if this phone can accept a text message and then it
23 authorised and it's not blocked --

24 Q Just to make sure the jury understands, Mr. Walton.
25 All right, the middle line right here, the message arrived

1 that date and that time. Again, that's hours, minutes,
2 seconds?

3 A Correct.

4 Q That is when -- if I was sending to you this text, that
5 would be when my text message got to Verizon Wireless?

6 A Yes.

7 Q And Verizon processes it and sends it on to you, you're
8 the recipient, right, and in this case, you said it went
9 straight through, so you're getting it literally in second?

10 A Correct.

11 Q What would happen if I sent you this text message and
12 your phone was off, your phone was turned off; what would
13 happen then?

14 A You would see a lag in time. You would see this number
15 would be the same, almost simultaneously, but this number
16 would be greater.

17 Q Okay. So if I sent a text message to you at 10:32 and
18 13 seconds and your phone was off and you turned it on 20
19 minutes later what would be the time that would show up in
20 the log as delivered?

21 A Roughly 20, 25 minutes later.

22 Q All right. Let me ask, is there anything that can kind
23 of help corroborate that in your tower?

24 A Right here. It says numbers of attempts. This
25 summarizes how many times Verizon tried to send that message

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1 to you. So you see it says zero, it went right away. So
2 had it been like you say the phone being off, you can see
3 this number increases. Verizon keeps pushing that text to
4 you until you receive it.

5 Q Let me ask you -- do any of these other things have
6 anything to do with us reading?

7 A No, that's binary codes and systems for our networking.

8 Q And the only other thing, I guess, as far as over here
9 there's somewhere that indicated what phone was sending the
10 text message and what phone was receiving the text message?

11 A You have this right here. This is the originator, this
12 is the directory number, that's just their -- that's just
13 your ID number. Most people don't know this, but most
14 people have two cell phone numbers in their cell phone.
15 That's just reports to the carrier. Some time you have the
16 same number and it reports to somebody else. This is just
17 who it's sending it to.

18 Q So that's to the originating number and the terminating
19 number?

20 A Yes.

21 Q That's who sent the text message and who received the
22 text message; is that correct?

23 A Correct.

24 Q All right, and then length of message is how many
25 characters that is, I guess?

1 A That's right.

2 Q And then the brackets at the bottom, that is the
3 substance of the text message?

4 A Text message.

5 Q You can have a seat, Mr. Walton.

6 A Okay.

7 MR. SORENSON: That's all I have for Mr. Walton,
8 Your Honor.

9 THE COURT: Cross-exam?

10 MR. BANKS: Thank Your Honor.

11 AARON WALTON - CROSS-EXAMINATION

12 BY MR. BANKS:

13 Q You have a cell number --

14 A Yes.

15 Q -- tied to a cell phone?

16 A Correct.

17 Q But you can't tell the Court or this jury who made the
18 call?

19 A Correct.

20 Q Okay. So anybody could have somebody else's cell phone
21 and send a text message; is that right?

22 A Yeah, I can only get the record of the phone call
23 itself, not the person.

24 Q You know the phone, the time, and in this case what a
25 message may say?

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1 A Yes.

2 Q Now, I think you talked about -- where is Cartwright
3 Road; do you know?

4 A I'm not familiar with the location. My first time in
5 St. Matthews.

6 Q Welcome. And the one in Orangeburg, where is that do
7 you know, the tower in Orangeburg?

8 A I know that the tower number is 50 and I have that
9 because of my maps, any tower I need to find I can. I have
10 never been to any of those towers.

11 Q Can you tell me how far apart those two towers are?

12 A Miles.

13 Q Miles?

14 A Yes.

15 Q In fact, generally, how many miles are cell towers
16 apart?

17 A It depends on the area. Let's say for example Columbia
18 they could be just a few miles. Some could be 10 to 15, 20
19 miles apart.

20 Q Okay, and it depends on terrain and other things?

21 A Exactly.

22 Q And so if you've got a cell tower sitting there
23 transferring calls, that's all it does it take and send
24 calls out, right?

25 A Well, that's what the switch does.

1 Q Yeah. The tower receives it, I guess?

2 A Yes.

3 Q If that tower is busy, in other words, it can only hold
4 so many incoming calls; right?

5 A Um -- there really isn't a limit. I mean, you'd be
6 surprised how many people can call on one tower.

7 Q Then is it the switch that gets too full?

8 A The switch doesn't actually get full because, you know,
9 it runs so many calls a day. What happens is sometimes it's
10 overloaded and can't go down, and that's when you see you
11 can't make a phone call or something like that, but it
12 doesn't really ever get limited, you know, too many calls.

13 Q So you're saying that every call that I make from St.
14 Matthews, day, night, wet -- doesn't matter, weather or a
15 million people calling at the same time, every one of my
16 calls is going to go to the same tower every time I'm
17 calling?

18 A Not to the same tower but the same switch.

19 Q That's my point. Why does it now use the same tower
20 every time?

21 A It depends on what area you're in. For example, let's
22 say you've got one tower here and one tower here, let's just
23 say. And you're here -- it just depends on how strong the
24 signal is or if there's any kind of interference. For
25 example if you're in your home and you go upstairs it might

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1 ping off another tower because of that, but it's all radio
2 waves so it's not necessarily that it's too full, I'm going
3 to go to this one. It's just strength of signal.

4 Q So there are times when different towers would take --
5 would take the same call, just different conditions?

6 A Yes.

7 Q For different reasons?

8 A Yes.

9 Q Technical reasons?

10 A Yes.

11 Q Now, does your system round the time or chop the time
12 off?

13 A No. It's exact.

14 Q To the second; is that right?

15 A That is correct.

16 Q Are you familiar -- you're the records custodian and
17 you're familiar with these records. Are you familiar with
18 cell phones in general. I think you said you were the
19 district retail manager?

20 A Absolutely. Yes.

21 Q Have you had an opportunity to see this cell phone that
22 was used by Mr. Rivenburg?

23 A I haven't.

24 Q All right.

25 MR. BANKS: Bear with me, Your Honor.

1 BY MR. BANKS:

2 Q I'll show you a picture of State's 28; is that -- do
3 you recognize that model of telephone?

4 A It's a little beat up, but I can kind of recognize it.

5 Q Is that one of y'all's phones that y'all at one time
6 sponsored or sold?

7 A I'm pretty sure, and the reason why I say that is,
8 because other carriers make the same models or similar
9 models to this, so I think that's one of ours.

10 Q Have you ever dealt with one of those that's damaged
11 like that; do you see the damage on that phone?

12 A Yes.

13 Q Have you ever dealt with the technical aspects of a
14 phone in that condition?

15 A Worse condition.

16 Q I'm sorry.

17 A I've dealt with worse.

18 Q Okay. Does that phone look operable to you?

19 A Yes.

20 Q Do you know if it was actually operable?

21 A I don't.

22 Q Okay.

23 MR. BANKS: No further questions, Your Honor.

24 THE COURT: Redirect?

25 MR. SORENSON: Just real briefly.

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AARON WALTON - REDIRECT EXAMINATION

BY MR. SORENSON:

Q Of course, by operable the phone could still work, but the screen could be damaged where you wouldn't be able to see what was on the screen, right?

A That's correct.

MR. SORENSON: That's be all I have, Your Honor.

THE COURT: Re-cross?

MR. BANKS: Thank Your Honor.

AARON WALTON - RE-CROSS EXAMINATION

BY MR. BANKS:

Q In a damaged phone similar to that, could it make noises that wouldn't otherwise be explained, in other words, somehow the damage could cause it to make sounds?

A Yes.

Q Would these sounds be of various -- I mean, of a wide variety or is that a specific type of sound it might make?

A I would say wide variety.

MR. BANKS: Thank Your Honor.

THE COURT: Thank you, sir. You may step down.

Ladies and gentlemen, we're going to take our morning break at this time. Please retire to your jury room. Please do not talk about the case. We'll take about 10 to 15 minutes.

Everybody else remain seated until the jury leaves the

1 courtroom.

2 (Jury out at 10:55 a.m.)

3 THE COURT: All right. We'll take about 10
4 minutes.

5 (Court in recess for morning break at 10:56 a.m.)

6 (Court in session after morning break at 11:17 a.m.)

7 THE COURT: Is state ready to proceed?

8 MR. PASCO: Yes, sir.

9 THE COURT: Bring the jury, please.

10 (Jury in at 11:18 a.m.)

11 THE COURT: All right, all the jury is present.
12 You may call your next witness.

13 MR. SORENSON: State's call Dr. Michael Panella.

14 THE COURT: Come around, please.

15 THE CLERK: Please place your left hand on the
16 Bible and raise your right.

17 (WHEREUPON, Michael Panella was
18 sworn to tell the truth.)

19 THE CLERK: Please state your full name for the
20 record.

21 MR. PANELLA: Michael Joseph Panella.

22 THE CLERK: Thank you.

23 MICHAEL PANELLA - DIRECT EXAMINATION

24 BY MR. SORENSON:

25 Q Good morning, Dr. Panella.

1 A Good morning.

2 Q If you would, please tell the jury where it is that
3 you're employed?

4 A I'm currently employed as a forensic pathologist at
5 Newberry Pathology Associates, Newberry, South Carolina.

6 Q And if you would, just kind of briefly give the jury
7 your educational background.

8 A Sure. I received my undergrad at the University of
9 Michigan. Medical college was the Medical College of
10 Pennsylvania, and I also received a law degree from the
11 University of Pittsburg. I completed post-medical training
12 in both pathology, internal medicine internship and also
13 dermatopathology and a forensic pathology fellowship. I
14 have currently been practicing pathology for 14 years, three
15 years of those have been forensic pathology. I've performed
16 approximately 1,000 autopsies, and, of those, about 140 of
17 those have been homicide related autopsies. I'm board
18 certified both in anatomical and clinical pathology, and
19 also in forensic pathologic. I also have medical licenses
20 not only in South Carolina, but also in Pennsylvania, Ohio,
21 Virginia, and Tennessee.

22 Q When did you start working here in Newberry?

23 A I began September, 2008.

24 Q Okay, and where were you employed prior to that?

25 A Prior to that I was an associate medical examiner in

1 Pittsburgh, Pennsylvania.

2 Q And how long did you work there in Pittsburgh?

3 A In Pittsburgh, I did the fellowship for one year and
4 then was the associate medical examiner for eight months.

5 Q Okay, and over the last 14 years you said you conducted
6 approximately 1,000 or so autopsies; is that correct?

7 A That's correct.

8 Q Have you had an opportunity to testify in court before
9 with regards to your findings on any of those autopsies?

10 A I have, approximately 10 times at the Allegheny Common
11 Pleas Court in Pittsburgh.

12 Q Okay, and were qualified on those 10 occasions as an
13 expert in the field of forensic pathology?

14 A Yes, I was.

15 MR. SORENSON: Your Honor, at this time, we'd
16 offer Dr. Panella as an expert in that field, forensic
17 pathology.

18 MR. BANKS: No objection..

19 THE COURT: All right. I find him qualified to
20 testify as an expert to testify in the field of forensic
21 pathology.

22 Ladies and gentlemen, let me tell you what that means.
23 Ordinarily a witness cannot give you an opinion. Ordinarily
24 a witness can only tell you what they know of their own
25 first-hand knowledge and experience. But certain persons,

1 because of that knowledge and experience, their training,
2 their education, and their background can be qualified in
3 that particular field in order to give you an opinion, and
4 we call those people expert witnesses.

5 You judge the credibility and believability of an
6 expert witness just like to do any other witness, but I find
7 he's qualified to testify as an expert witness in the field
8 of forensic pathology.

9 All right, sir.

10 MR. SORENSON: Thank you, Your Honor.

11 BY MR. SORENSON:

12 Q All right, Dr. Panella, if you would, just start off by
13 telling the jury what the field of pathology consists of?

14 A Well, pathology is basically the examination of
15 tissues, management of a laboratory. Forensic pathology in
16 particular is basically medical legal autopsies and that
17 consists of autopsies in which there is either a violent
18 death, an unexplained death, infant death. Those are the
19 cases that forensic pathology is most -- is the primary role
20 in performing an autopsy and, of course, testifying in court
21 if need be.

22 Q So as far as the field of forensic pathology, I guess,
23 it's kind of a sub-field of pathology?

24 A Correct.

25 Q Okay. And if you would describe for the jury what --

1 when a deceased person is presented to you for the purposes
2 of you conducting an autopsy; what are the steps that you go
3 through to do that?

4 A First thing is the body has to be identified. After
5 the body is identified, we then look over -- what's called
6 an outer examination, looking over the outer surface of the
7 body. We document clothing. We document any evidence of
8 any injuries, any natural disease processes that may
9 manifest itself with external findings on the outside of the
10 body. Photographs are taken as part of evidence. In
11 addition to shooting victims, we also perform x-rays,
12 looking for bullets that need to be retrieved as part of the
13 evidence collection. After the external examination is
14 done, at that point, then we will actually go and do an
15 internal examination where the internal organs are observed.
16 Any pathology of the internal organs is documented. Any
17 internal evidence is then collected, and in addition, part
18 of the internal examination includes drawing specimens for
19 toxicology, drug tests.

20 Q I'm going to turn your attention, Dr. Panella back to
21 -- looks like the afternoon of March 7, 2009. Did you
22 perform an autopsy that afternoon on a young man by the name
23 of Jason Rivenburg?

24 A I did.

25 Q Okay, and what time was that that he was presented to

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1 you in Newberry?

2 A Approximately 12:30 p.m.

3 Q Okay, and were you able to identify Mr. Rivenburg?

4 A Yes. Identification was made with the help of the
5 coroner.

6 Q Okay. As far as in that initial external examination,
7 let me ask you, were you able to determine a height and
8 weight for Mr. Rivenburg?

9 A Yes. Mr. Rivenburg was approximately 74 inches and
10 also approximately 224 pounds in body weight.

11 Q Okay, 74 inches, if my math is correct, that's be six
12 foot, two?

13 A Six foot, two.

14 Q And how old was he at the time he died?

15 A His age was 35.

16 Q Okay, 35. Indicated on the initial, the initial thing
17 you mentioned as far as external examination was an
18 examination of his clothing?

19 A Correct.

20 Q In what condition was Mr. Rivenburg's -- first of all,
21 was he clothed when he was presented to you?

22 A Yes, he was. Mr. Rivenburg had on a flannel
23 long-sleeve shirt, also a black t-shirt, blue jeans, gray
24 underwear briefs, a pair of socks and a pair of tan boots.
25 There were scattered bloodstains that was present on the

1 shirts and also on the jeans, and there was also a tear
2 along the left side of the t-shirt.

3 Q Okay. After noting all of that, did he have -- did he
4 have any personal items still on him?

5 A He had on a gold-colored ring on the left ring finger.
6 There was also a -- I believe two receipts that were present
7 in one of the pants pockets. I believe that was the extent
8 of what we found..

9 Q Where -- did you note in your report where those two
10 receipts were found?

11 A The receipts were basically in the -- within the pocket
12 of his shirt, pocket of his shirt.

13 Q Okay. Did you note if it was the front pocket of the
14 red flannel shirt?

15 A I believe that is correct.

16 Q Did you note on there when those receipts were dated
17 from?

18 A They were dated March 5, 2009.

19 Q Okay. And did you note, also, where they were from?

20 A I believe they were from Hardee's, a fast-food
21 restaurant in North Carolina, although, I don't have that
22 formally in the report.

23 Q Okay. All right. Now, after -- after the external
24 examination, as far as the clothing, was he undressed so you
25 could further your external examination at that time?

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1 A Before we did that we did x-rays --

2 Q Okay.

3 A -- to document any internal bullets or other fragments.
4 After the x-ray was performed there was indeed bullet
5 fragments that were noted within the cranial cavity. At
6 that point, then, we started to undress the body.

7 Q Okay. And what was the results of your external
8 examination of Mr. Rivenburg?

9 A The external examination basically confirmed that there
10 was -- after we -- there was quite a bit of blood that was
11 noted on the head. We had to clean the blood and what we
12 found was two gunshot wounds to the head that were present.
13 There was also minor abrasions. One that was on the right
14 upper back of the arm, there was also two abrasions that
15 were noted on the left anterior knee and also an abrasion
16 that was on left anterior leg or the shin that were present.
17 The left anterior shin abrasion was crusted. It looked like
18 it was an older lesion while the other two -- three
19 abrasions looked like they were recent.

20 Q Okay. And by abrasions, is that kind of --

21 A Scratches.

22 Q -- scratches. All right, you indicted there appeared
23 to be two gunshot wounds to Mr. Rivenburg's head?

24 A Correct.

25 Q Okay, if you could kind of describe -- taking them one

1 at a time --

2 A Sure.

3 Q -- and kind of describe for the jury where they were
4 located, maybe kind of show it on your self?

5 A Right. There was what we call an atypical entrance
6 gunshot wound. If you think about the normal entrance
7 gunshot wound you think about it being a round circle that's
8 present. But there was instead a cluster of crescent shaped
9 to round, pin-point wounds that were present over his left
10 temple, scalp, just in front of the ear. The wounds, within
11 the crescent shaped wound there was actual pieces of bullet
12 jacket, copper colored bullet jacket that were retrieved and
13 present. The edges of the wounds were dried in nature. I
14 did not see any evidence of what we call stippling, which is
15 the -- if a gun is fired in roughly two to three feet you
16 may see particles, little abrasions from the gunpowder
17 residue striking the skin. There was no evidence of that.

18 The second gunshot wound was also on the left side --

19 Q Dr. Panella, if I can stop you.

20 A -- sure.

21 Q As far as that first one, you indicated a moment ago,
22 that in the wound you could observe some copper jacketing?

23 A Right.

24 Q Okay. Showing you what's in front of you right there,
25 State's Exhibit No. 50 --

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1 A Sure.

2 Q -- did you recover that copper jacket?

3 A Yes. Yes.

4 Q Is that what you recovered from that first gunshot
5 wound that you just described on Mr. Rivenburg?

6 A Yes, I did.

7 MR. SORENSON: All right, at this time we'd offer
8 State's 50 into evidence.

9 MR. BANKS: No objection, Your Honor.

10 THE COURT: Admitted without objection.

11 (State's Exhibit No. 50, bottle
12 with fragments, was marked and entered.)

13 BY MR. SORENSON:

14 Q And that was basically just right -- I mean, you can
15 see that with your naked eye?

16 A Right. Protruding slightly out of the wound.

17 Q That was kind of out of this area here?

18 A Right.

19 Q Okay. Go on now to the second gunshot wound?

20 A The second gunshot wound was also on the left side of
21 the head. It was right -- it was on the left forehead just
22 slightly above the eyebrow. That one was more round. What
23 you would expect for an entrance gunshot wound.

24 Q Okay.

25 A And that wound edges was also dry.

1 Q Let me ask you, going back to that first one, you said
2 that that was -- I mean, it was an atypical wound. It
3 wasn't your typical round hole. What, in your experience,
4 would cause a projectile to end up doing that, causing that
5 kind of wound that you found; that first one that you
6 described?

7 A The bullet would have to -- it hit an intermediary
8 target. In other words, some other object and then the
9 bullet fragmented. And then pieces of the bullet and or
10 pieces of the object carried on, traveled onward and struck
11 Mr. Rivenburg in the head.

12 Q I'll show you State's Exhibit No. 37, the damage that
13 was done to that window on that truck. Would that be the
14 type of intermediary object that you might be referring to?

15 A That would be. That would be consistent, absolutely.

16 Q Cause that bullet to basically fragment --

17 A Right.

18 Q -- and then strike in, basically, not as one projectile
19 but --

20 A Multiple pieces.

21 Q -- in multiple pieces?

22 A Correct.

23 Q All right. Now, did you find any injuries to Mr.
24 Rivenburg besides those abrasions that you talked about in
25 those two gunshot wounds?

1 A The only other wounds were the exit -- there was an
2 exit wound that was present. There was -- on the right side
3 of the head on the right temple, there was a stellate wound,
4 looks like a star-burst pattern that would be consist with
5 an exit wound. That would is from the first gunshot wound I
6 described right in front of the ear that had fragmented.
7 Either a piece of the bullet or pieces of bone were pushed
8 out through the skin forming that exit wound on the right
9 temporal region of the head.

10 Q Okay. Now, the other, the second wound you described
11 that was up above the left eyebrow, did you find a
12 corresponding exit wound to that?

13 A No. There was no exit wound, however, once the -- when
14 we did our internal examination of the head, there was a
15 bullet, a markedly deformed, copper colored jacket, lead
16 colored bullet that was retrieved right in the -- almost in
17 the midline of the back of the head. And that bullet was
18 coming from the gunshot wound of the left forehead going
19 straight back, slightly downward, and slightly to the right.

20 Q All right. Now, let me ask you before I go on further
21 into the internal examination, did you find any other, as
22 far as the external examination, any other natural disease
23 that could have contributed to Mr. Rivenburg's death that
24 you noted?

25 A No, sir.

1 Q Okay. As far as the internal examination do you
2 actually go in and kind of observe and be able to tract the
3 paths of those --

4 A Correct.

5 Q -- those two bullets?

6 A That's correct.

7 Q All right. And you indicated earlier that you had
8 taken x-rays. How many projectiles were you able to recover
9 from Mr. Rivenburg?

10 A There was a total of three projectile pieces. One was
11 the deformed bullet that had gone through the left forehead
12 that we retrieved from the back of the scalp, back of the
13 head.

14 Q And that is what you noted as gunshot wound two?

15 A That would be gunshot wound No. 2.

16 Q Let me show you State's Exhibit No. 51; do you
17 recognize that item?

18 A I do.

19 Q What is that?

20 A This is the bullet that was retrieved from the back of
21 the head.

22 MR. SORENSON: Your Honor, we'd offer State's 51
23 into evidence.

24 MR. BANKS: No objection.

25 THE COURT: Admitted without objection.

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1 (State's Exhibit No. 51, bottle
2 with bullet, was marked and entered.)

3 BY MR. SORENSON:

4 Q That was actually found --

5 A Right.

6 Q -- when you opened up Mr. Rivenburg's skull. That was
7 found inside?

8 A Correct.

9 Q How about I'll show you State's Exhibit No. 52.

10 A There was also, as I mentioned, three projectile
11 particles that we found. These are the final two. These
12 were found, basically, in the front part of the brain.
13 Those are consistent with the bullet -- the first gunshot
14 wound I just described, just in front of the ear on the left
15 side. It had traveled, basically, on the front of the brain
16 and the bullet pieces either fragmented as they hit the
17 skull or they fragmented as they hit the border of the truck
18 window, and these two items were found in the front part of
19 the brain tissue, itself.

20 MR. SORENSON: Your Honor, at this time, we'd
21 offer State's Exhibit No. 52 into evidence.

22 THE COURT: Any objection?

23 MR. BANKS: No, Your Honor.

24 THE COURT: Admitted without objection.

25 (State's Exhibit No. 52, bottle

1 with fragments, was marked and entered.)

2 BY MR. SORENSON:

3 Q Dr. Panella, if you would you describe for the jury the
4 damage that was done from these two bullets, the paths they
5 took through his brain?

6 A There was pretty extensive cavitory gunshot wounds,
7 abrasions, partial destruction of the front part of the
8 brain, also on the left side of the brain that was coming
9 from the second gunshot. There was also tearing of what we
10 call the brain stem, the brain stem portion of the brain.
11 That area of tearing is something that would lead to fairly
12 instant incapacitation and for all intents and purposes
13 would just be a devastating wound that would cause rapid
14 loss of consciousness and unawareness and just no
15 significant purposeful movements.

16 Q Now, when you're describing these two gunshot wounds,
17 you're describing No. 1, and No. 2?

18 A Right.

19 Q Is there any way you can tell from them which one
20 occurred first?

21 A There would be real way of telling.

22 Q You'd obviously have to describe one before the other.

23 A Right.

24 Q Just kind of arbitrary which one was one and which one
25 was two?

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1 A Right.

2 Q Now, you've indicated that Mr. Rivenburg would have
3 lost consciousness rapidly?

4 A Immediately.

5 Q Immediately. Would either of those wounds done that?

6 A Either one.

7 Q So if he had just received gunshot No. 1, he would have
8 lost consciousness immediately?

9 A Right. There might have been seizure activity, but it
10 would not have been purposeful movement.

11 Q Let me ask you this, when you describe your external
12 examination of Mr. Rivenburg, did you note any kind of
13 defensive wounds or anything of that nature on either of his
14 hands, arm, upper arm, lower arm area?

15 A No. No defensive wounds at all.

16 Q And you indicated that one of the -- as far as the
17 internal examination, part of that also was taking
18 toxicology samples to be submitted for analysis?

19 A Correct.

20 Q Was that done in this case?

21 A It was.

22 Q Specifically, there was blood --

23 A There's blood --

24 Q -- urine --

25 A -- urine, portions of brain, portions of liver, gastric

1 -- we ran gastric contents, also. Collected it and it was
2 submitted to SLED for analysis.

3 Q Okay, and did you get back those results?

4 A I did.

5 Q And did they -- as far as -- did they examine the blood
6 sample that was taken?

7 A Yes, they did.

8 Q What do they do, I guess, an alcohol and drug screen on
9 them?

10 A Right.

11 Q And what were the results of that alcohol and drug
12 screen on Mr. Rivenburg?

13 A For the drugs that were tested, there was no evidence
14 of any of those drugs present.

15 Q And they would test for cocaine?

16 A There was besides ethanol, there was amphetamines,
17 benzodiazepine, methamphetamine, oxycodone, marijuana,
18 cocaine and opiates.

19 Q And those were all negative?

20 A They were all negative.

21 Q Along with alcohol?

22 A Right.

23 Q Let me ask you as far as you had indicated as far as
24 the internal examination, do you take samples of Mr.
25 Rivenburg's various different organs and examine them also?

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1 A We do. We do, but in a case such as this, the sections
2 that were basically gross sections. There was no evidence
3 of any gross pathology and it was fairly obvious what the
4 cause of death was so microscopic sections were not
5 obtained.

6 Q Nothing you observed, like his heart or lungs --

7 A No.

8 Q -- suggested that contributed at all to his death?

9 A None.

10 Q What about stomach contents?

11 A Stomach contents, there was -- the stomach did have
12 evidence of recent eating. There was about 625 cc's of some
13 brown/tan semi-solid mushy liquid, and occasional pieces of
14 recognizable beef particles that were present.

15 Q And by recent eating, what would recent be?

16 A Well, gastric contents can vary in terms of how long it
17 takes for the stomach to digest. They can go anywhere from
18 an hour or two -- if somebody has been in a prolonged coma,
19 it's not unusual for them to be present three days later,
20 but he had certainly had eaten within probably the last hour
21 or so.

22 Q All right, and doctor, I think this is probably the
23 last thing I have. Did you, looking at all your findings
24 and taking everything into consideration, within a
25 reasonable degree of medical certainty have you come to an

1 opinion as to cause and manner of death of Mr. Rivenburg?

2 A I do.

3 Q Would you tell the jury what your opinion is now?

4 A The cause of death would be gunshot wounds to the head.
5 The manner would be homicide.

6 MR. SORENSON: Beg the Court's indulgence.

7 BY MR. SORENSON:

8 Q Thank you, doctor, that's all I have.

9 A You're welcome.

10 THE COURT: Cross-exam.

11 MICHAEL PANELLA - CROSS-EXAMINATION

12 BY MR. BANKS:

13 Q Doctor --

14 A Yes, sir.

15 Q -- in your examination, you can't determine how many
16 people might have been involved in the homicide?

17 A Correct.

18 Q Your examination can't tell you who committed the
19 homicide?

20 A Correct.

21 Q Your examination can't tell if -- in fact, the science
22 that you administer; that can't lie, can it?

23 A No.

24 Q And you have, I guess room for interpretation, but --

25 A You have room for interpretation, sure.

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1 Q -- but it can't lie to you can it?

2 A No.

3 Q Your examination, can it tell roughly the distance from
4 which the gun was fired that caused this?

5 A Well, that's what I was trying to mention that the
6 wounds were dry, the edges of the wounds were dry. When we
7 do the interpretation for distance from a gunshot wound,
8 basically we look at three important things. One would be a
9 muzzle imprint, the barrel of the weapon pressed against the
10 head or body part, as it fires it abrades the skin and leave
11 the muzzle imprint. That would be a tight contact wound.
12 Then as you get further on out, you start to get the soot,
13 the burnt gun powder starts to be deposited either into the
14 wound or along the edges of the wound. That's what we call
15 an intermediate -- I'm sorry -- a close range wound, and
16 then the gun gets further on back you get, as I mentioned
17 the stippling, the abrasions that are present. In this
18 particular case the wounds were dried, which would obscure
19 if there was actual soot that was present, but there was no
20 evidence of any soot within the wound itself. We looked
21 very carefully along the outer part of the skull for soot.
22 There was no evidence of soot, and no evidence of stifling.
23 But with the wound edges it makes it difficult to completely
24 exclude a close range gunshot wound. So at this stage I'd
25 probably put the wounds at more of an indeterminate distance

1 just because of the obscuring by the drying of the wound.

2 Q So -- but you can tell it defiantly wasn't a close
3 proximity, can you exclude say four feet or something like
4 that?

5 A Certainly, four feet, but what I'm saying by close,
6 there would be soot that would be present along the outer
7 edge of the wound, and that would roughly be about six
8 inches, because that wound was so dried there was -- and
9 there was a lot of bleeding that was present. There was --
10 if there was soot present it would have been obscured by the
11 tissue drying or by the bleeding, so I can't exclude that
12 distance.

13 Q You cannot exclude four feet?

14 A I can exclude four feet.

15 Q Can you exclude six feet?

16 A No. Because as I said, once you get past stifling --
17 I'm sorry, if I didn't say it -- once you get past the
18 stifling at two to three feet, you know, a gun can be four
19 feet and leave no soot and no stifling. It could be 10
20 feet, it could be 20 feet. So no, I could not exclude that
21 distance.

22 Q All right. But -- but you could include 10 feet?

23 A Sure.

24 Q You could include, I guess, even farther than that?

25 A Sure.

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1 Q But you certainly could exclude -- could you exclude
2 five feet?

3 A Sure.

4 Q Okay. So somewhere, maybe, between five and who knows,
5 right?

6 A Infinity.

7 MR. BANKS: One moment, Your Honor.

8 No further questions.

9 THE COURT: Any redirect?

10 MR. SORENSON: No, sir.

11 THE COURT: Thank you sir --

12 DR. PANELLA: Thank you.

13 THE COURT: -- you may be excused. Thank you for
14 coming.

15 DR. PANELLA: Thank you.

16 THE COURT: Call your next witness, please.

17 MR. PASCO: Willie Reed, Your Honor.

18 THE COURT: Come on down, please, sir. Right
19 around here. If you'd place your left hand on the Bible and
20 raise your right.

21 (WHEREUPON, Willie Reed was sworn
22 to tell the truth.)

23 THE COURT: Have a seat right there, sir. State
24 your full name for us.

25 MR. REED: My name is Willie Reed, Jr.

1 THE COURT: All right, sir, thank you. Keep your
2 voice up so everybody can hear you.

3 All right, Mr. Pasco.

4 MR. PASCO: Thank you, Judge.

5 WILLIE REED, JR. - DIRECT EXAMINATION

6 BY MR. PASCO:

7 Q Good morning, Mr. Reed.

8 A Good morning.

9 Q And as the Judge said, speak up so everybody can hear
10 you, okay?

11 A Yes, sir.

12 Q How old are you, Mr. Reed?

13 A Twenty-two years old.

14 Q Speak up a little bit louder than that.

15 A I'm 22 years old.

16 Q There you go. Where do you live?

17 A

18 Q And who do you live with?

19 A My mother and father.

20 Q And is that in the St. Matthews/Calhoun area?

21 A Yes, sir.

22 Q Okay, right off of 21?

23 A Yes, sir.

24 Q Okay. How long have you lived there with your parents?

25 A For approximately 13 years.

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1 Q Okay. Where did you go to high school?

2 A Calhoun County.

3 Q How far did you go at Calhoun County High School?

4 A I graduated.

5 Q Did you go anywhere after you graduated from Calhoun
6 County?

7 A Yes, sir, OC Tech.

8 Q Okay. And what kind of degree did you get from OC
9 Tech?

10 A Machine Tool Technology.

11 Q When did you get that degree?

12 A The end of '09, I believe.

13 Q This is '09?

14 A I'm sorry, '08.

15 Q All right.

16 A November of '08.

17 Q And obviously the economy is kind of tough out there,
18 but are you working anywhere right now?

19 A No, sir.

20 Q Okay. Do you do any type of work on weekends or
21 anything?

22 A Yes, sir. I do security.

23 Q Security work?

24 A Yes, sir.

25 Q Okay. Do you know the defendant, Willie Pelzer, in the

1 red shirt over there?

2 A Yes, sir.

3 Q And how long have you known and how well do you know
4 the defendant, Willie Pelzer?

5 A For approximately 13 years. Long as I've been down
6 here.

7 Q And how did you know him?

8 A He went to my church. We went to school together,
9 also.

10 Q Okay, and how far did Willie Pelzer live from you and
11 where you were living with your parents back in March of
12 this year?

13 A About a mile.

14 Q Was he a friend of yours back in March?

15 A Yes, sir.

16 Q How often would you see Willie Pelzer back in January,
17 February and March of this year?

18 A Maybe three or four days out the week?

19 Q Three or four times, how much?

20 A Out the week, sir.

21 Q Of the week. And what sorts of things in those three
22 or four days a week, what sorts of things would you and
23 Willie Pelzer do?

24 A Sometimes we played dominoes. Mostly just like we had
25 some friends who had some dogs. We fed some dogs every day.

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1 Just stuff like that.

2 Q Okay. Just kind of hanging out?

3 A Yes, sir.

4 Q Was the defendant in pretty good shape back in March?

5 A Yes, sir.

6 Q Did he work out a lot?

7 A Yeah.

8 Q And you worked out, too?

9 A Yes, sir.

10 Q Okay. Now, you testified -- what street did the
11 defendant live on?

12 A From what I understand Wash Lane, I believe.

13 Q About a mile from your house?

14 A Yes, sir.

15 Q Did -- was there other property that he had, as well,
16 or his family had?

17 A Yes, sir. There was also a trailer on Merrybell Lane.

18 Q Okay. Let me show you what's been marked as State's
19 Exhibit No. 77; do you recognize that trailer?

20 A Yes, sir.

21 Q And whose trailer is that?

22 A The defendant, sir.

23 Q The defendant, Willie Pelzer?

24 A Yes, sir.

25 MR. PASCO: I'd ask that 77 be admitted into

1 evidence.

2 THE COURT: Any objection?

3 MR. BANKS: One moment, Your Honor.

4 No objection, Your Honor.

5 THE COURT: Admitted without objection.

6 (State's Exhibit No. 77, photo
7 mobile home, was marked and entered.)

8 BY MR. PASCO:

9 Q Keep that mic good and close to you. Thank you.

10 This was the defendant's trailer on Merrybell, Mr.
11 Reed?

12 A Yes, sir.

13 Q Do you know anybody by the name of Jimmy Haygood?

14 A Yes, sir.

15 Q And how long have you known Jimmy Haygood, Mr. Reed?

16 A Also approximately 13 years.

17 Q Okay. That's when you moved to the St. Matthews area?

18 A Yes.

19 Q And how did you know Mr. Haygood?

20 A Mr. Haygood, he was friends -- and I think he went to
21 church for a little bit, but I met him at school.

22 Q And where was Jimmy Haygood living back in March of
23 2009?

24 A He was staying with his mother, but he also came down
25 to Merrybell.

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1 Q Where did Jimmy's mother live back in February, March
2 of 2009?

3 A I'm not sure of the name of the road, but it was a
4 community right off of (Inaudible) Bellview/Belton Road.

5 Q And what county?

6 A That was Orangeburg County.

7 Q Orangeburg County.

8 A Yes, sir.

9 Q And where -- you mentioned about Merrybell, Jimmy
10 staying at Merrybell, Jimmy Haygood -- who lived at
11 Street?

12 A ?

13 Q

14 A Jimmy's father.

15 Q His parents were split up, at that time they were split
16 up?

17 A Yes, sir.

18 Q Okay. How far was Jimmy's father's house at
19 from the defendant's trailer in State's Exhibit
20 No. 77?

21 A A quarter mile or less.

22 Q Okay. Whose house was closer to the frontage road that
23 leads you to Highway 6, the trailer or Jimmy's house?

24 A The trailer.

25 Q Now, Mr. Reed, how often would you, Jimmy Haygood, and

1 the defendant, Willie Pelzer hang out back in January,
2 February, and March of this year?

3 A Well, all three of us?

4 Q Yes.

5 A Maybe two -- one time a week, maybe. Whenever Jimmy
6 was down from his mother's house, because he was staying
7 there. He just come to visit his father.

8 Q And did you have a car back in March of this year?

9 A Yes, sir.

10 Q What kind of car did you have?

11 A A '96 Lumina.

12 Q Okay, and did the defendant Willie Pelzer have a car
13 back then?

14 A No, sir.

15 Q Did Jimmy Haygood have a car back then?

16 A No, sir.

17 Q So if the three of you were hanging out and driving
18 somewhere, who's driving?

19 A Me.

20 Q Do you have a cell phone today?

21 A Yes, sir.

22 Q Did you have a cell phone back in March of 2009?

23 A No, sir.

24 Q Did the defendant Willie Pelzer have a cell phone back
25 in March of 2009?

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1 A Yes, sir.

2 Q Okay. Had you seen his cell phone when you were
3 hanging out with him?

4 A Yes, sir.

5 Q I'm going to show you, just for ID, State's No. 76. Do
6 you recognize that type of phone?

7 A Yes, sir.

8 Q Whose phone does that look like?

9 A The defendant's.

10 Q And that's the same type of phone Willie Pelzer had?

11 A Yes, sir.

12 Q Same type of phone you've seen him use many times?

13 A Yes.

14 Q Did Jimmy Haygood have a cell phone back in March of
15 2009?

16 A Yes, sir.

17 Q And do you know whose cell phone number is

18 ?

19 A No, I'm not familiar with the number, sir.

20 Q Okay. You just don't know off the top of your head?

21 A No, sir.

22 Q Mr. Reed, I want to ask you some questions about Jimmy
23 Haygood's dad's house off of Merrybell Street.

24 A Yes, sir.

25 Q How often did you and other people hang out there?

1 A That just happened to be a spur of the moment thing. I
2 used to go hang out there all the time. Maybe two to three
3 times a week.

4 Q Okay. Is there another name for that street, that
5 area?

6 A Merrybell Lane?

7 Q Uh-huh. (Affirmative response.)

8 A It used to be called Smoke Street.

9 Q And what do people do on Merrybell Lane or what used to
10 be called Smoke Street?

11 A People do smoke drugs there.

12 Q That's what I'm getting at. Did people do drugs around
13 ?

14 A Yes, sir.

15 Q What kind of drugs?

16 A Crack cocaine.

17 Q People drink, also, drinking alcohol, people playing
18 games?

19 A Sometimes, like dominoes, cards.

20 Q Dominoes, cards.

21 A Yes, sir.

22 Q Now, did everybody that hung out at , and
23 that area, was everybody doing drugs?

24 A No, sir.

25 Q Okay. And you testified to the jury you used to hang

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1 out a couple days a week at ?

2 A Yes, sir.

3 Q Did the defendant, Willie Pelzer, ever hang out at
4 ?

5 A Round about the same amount of time as I did.

6 Q And, of course, Jimmy would be there because of his
7 dad's house?

8 A Yes, sir.

9 Q And Mr. Reed, did you purchase a gun on February 17,
10 2009?

11 A Yes, sir.

12 Q Okay. Where did you purchase that gun from?

13 A Woody's Pawn Shop.

14 Q Woody's Pawn Shop in Orangeburg?

15 A Yes, sir.

16 Q What type of gun did you purchase?

17 A A .45 caliber handgun.

18 Q And who was with you when you went to go purchase the
19 handgun?

20 A The defendant and Jimmy Haygood.

21 Q Say that again. I couldn't hear?

22 A The defendant and Jimmy Haygood.

23 Q The defendant, Willie Pelzer and Jimmy Haygood were
24 with you. Anybody else?

25 A No.

1 Q And who drove to Woody's?

2 A Me.

3 Q Who else -- who else was supposed to buy a gun that
4 day?

5 A Jimmy Haygood.

6 Q Jimmy Haygood. And why didn't Jimmy Haygood buy a gun
7 that day?

8 A He didn't have his state ID.

9 Q Okay. Where had Jimmy come back from in November 2008?

10 A From Virginia.

11 Q Why Virginia, what was he doing?

12 A He was in the Navy.

13 Q In the Navy?

14 A Yes, sir.

15 Q So who purchased a gun on February 17, 2009?

16 A I did.

17 Q But where was the gun kept after February 17, 2009?

18 A It was kept at Jimmy Haygood's house.

19 Q Okay, on ?

20 A Yes, sir.

21 Q And that would be his dad's house where Jimmy --

22 A Yes, sir.

23 Q Why didn't you keep the gun at your house?

24 A Because I had little nephews running around the house
25 and my mother and father wouldn't allow weapons in the

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1 house. So I understood that.

2 Q Okay. Did you ever fire the .45 caliber handgun that
3 you bought from Woody's after February 17th?

4 A After February 17th, yes.

5 Q Where would you fire the gun?

6 A I fired it one time at my parents house from the back
7 porch.

8 Q Did Jimmy Haygood ever fire the gun in your presence?

9 A Yes.

10 Q Where would he fire the gun?

11 A He fired it from my back porch also, but he also fired
12 it at his house.

13 Q You guys lived, basically out in the country. There's
14 a lot of land out there?

15 A Yes, sir. Corn fields and cotton fields.

16 Q Did the defendant, Willie Pelzer, ever fire the gun?

17 A Yes, sir.

18 Q In your presence?

19 A Yes, sir.

20 Q And where would he fire the gun?

21 A At that -- in my presence would have been at my house,
22 but another other time I wouldn't know.

23 Q Okay. The only time you saw him was at your house?

24 A Yes, sir.

25 Q I need you to speak up, all right, Mr. Reed.

1 Do you know exactly where Jimmy Haygood would keep the
2 gun at ?

3 A No, sir, not exactly.

4 Q Let me ask you this, back in 2007 and 2008, who did you
5 hang out with more Jimmy Haygood or Willie Pelzer?

6 A Willie Pelzer.

7 Q Why is that?

8 A Jimmy just came back from the Navy and he was mostly
9 staying with his mother, so -- the defendant stayed closer
10 to me, so we were together most of the time, more than
11 Jimmy.

12 Q So that was even after Jimmy got out of the Navy you
13 were hanging out with the defendant more than Jimmy?

14 A No, it was more, about the same.

15 Q About the same. After Jimmy got back?

16 A Yes, sir.

17 Q But obviously in '07 and '08, you were hanging out with
18 the defendant --

19 A Yes, sir.

20 Q -- because Jimmy was in the Navy?

21 A Yes, sir.

22 Q All right, now, Mr. Reed, I want to ask you about
23 Thursday, the night of Thursday, March 5, 2009. What did
24 you do that Thursday afternoon?

25 A Thursday afternoon I went to pick up Bryant Haygood

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1 probably that morning or afternoon, went to the store. Jimmy
2 was with us also. We went and got a bottle of Hennessy.

3 Q Let's back up for just a second. Who's the first
4 person you went and picked up late morning or early
5 afternoon on Thursday, March 5th, --

6 A Jimmy Haygood.

7 Q Okay. Where did you pick up Jimmy on March 5th?

8 A At his father's house on

9 Q Okay. Where did y'all go -- where did you -- was
10 anybody else with you and Jimmy Haygood?

11 A No, sir.

12 Q Where did you and Jimmy Haygood go after you picked up
13 Jimmy?

14 A We went to Bryant Haygood's.

15 Q And who is Bryant Haygood?

16 A Bryant Haygood is one of Jimmy's cousin and one of my
17 friends.

18 Q How long have you know Bryant Haygood?

19 A For about almost 10 years. About the same amount of
20 time I've been down here.

21 Q And tell the jury where Bryant Haygood lives. ,

22 A Bryant lives off of Shillings Bridge Road in
23 Orangeburg.

24 Q How long would it take or did it take for you to get
25 from to Bryant Haygood's house off of Shillings

1 Bridge?

2 A Approximately 20, 25 minutes.

3 Q Now, after you picked up Bryant, where did y'all end up
4 going?

5 A Stopped by the County Line Store.

6 Q Okay. Tell the jury where the County Line Store is?

7 A It's the County Line right between St. Matthews and
8 Orangeburg on the county road, it's the county line.

9 Q Okay. Now, anybody else with you and Bryant at that
10 time?

11 A No, sir, other than Jimmy. Me, Bryant and Jimmy.

12 Q Oh, that's right. And what did you and Bryant Haygood
13 and Jimmy Haygood do at the County Line Store; what'd you
14 get?

15 A We got a bottle of liquor.

16 Q A bottle of liquor.

17 A Yes, sir. Hennessy.

18 Q And where did you end up going with the bottle of
19 liquor after you left the County Line Store?

20 A To Merrybell Lane.

21 Q Did you have money back in March of 2009?

22 A Yes, sir.

23 Q And where -- how'd you have money?

24 A Tax return.

25 Q Tax return?

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1 A Yes, sir.

2 Q You'd worked almost all of 2008?

3 A Yes, sir.

4 Q Where were -

5 MR. PASCO: Beg the Court's indulgence.

6 BY MR. PASCO:

7 Q And who drove back from County Line to ?

8 A I did.

9 Q Approximately, what time -- just approximately. I
10 noticed you weren't looking at your watch.

11 A That was around 3:00 o'clock in the afternoon, sir.

12 Q Around 3:00 o'clock, approximately?

13 A Yes, sir.

14 Q You weren't looking at your watch, though, right?

15 A No, sir.

16 Q Okay. Now, when you got to at
17 approximately 3:00 o'clock, who all was at -- when I say
18 Street, I mean the area, you know, in the yard, in
19 the house. Who all was there right after 3:00 o'clock?

20 A Right after 3:00 o'clock? A couple of my friends from
21 around the corner stopped by. It was like -- we were just
22 having like -- not a party, but just a little get together.
23 Some friends came that I went to school with. Do I need to
24 be specific?

25 Q No. You know some names, were there any other names?

1 A Yeah. Just some friends. Andre and Aaron.

2 Q Let me ask you this, what was the weather -- it was
3 March, March 5th; what was the weather like that afternoon?

4 A I don't think you needed a jacket. I think it was
5 getting cold at nighttime, but it was rather warm during the
6 day. It wasn't that bad during the daytime.

7 Q And did people come and go at all
8 afternoon?

9 A No, not really.

10 Q Did the defendant, Willie Pelzer, ever come to
11 ?

12 A Yes, sir.

13 Q Tell the jury how he arrived at and
14 approximately, if you know what time you think he got there?

15 A He arrived on foot about 4:30 or 4:00 o'clock,
16 somewhere in that area. I'm not sure exactly what time, but
17 it was in the afternoon.

18 Q Was he running?

19 A Yes, sir.

20 Q And how far, approximately, do you think Walsh Lane is
21 to ?

22 A It's approximately, maybe two miles.

23 Q Maybe two miles?

24 A Yes, sir.

25 Q Is that the direction Willie Pelzer was running from,

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1 Walsh?

2 A Uh -- I really -- it had to be. I'm not sure, but he
3 came from that direction, though.

4 Q All right, so let me ask you, so definitely sometime
5 around 5:00 o'clock that afternoon, March 5th, is Jimmy
6 Haygood at ?

7 A Yes, sir.

8 Q You're at ?

9 A Yes, sir.

10 Q Is Bryant Haygood at ?

11 A Yes, sir.

12 Q Was the defendant, Willie Pelzer, at ?

13 A Yes, sir.

14 Q Was there any trouble at all at 5:00, 6:00 o'clock that
15 afternoon?

16 A No, sir.

17 Q Nobody causes any trouble at that time?

18 A No, sir.

19 Q And where exactly were you guys hanging out at
20 ?

21 A At the front yard at

22 Q Okay. What about the defendant, Mr. Pelzer, what was
23 he doing?

24 A He was in the house.

25 Q And if you're outside, do you know what he's doing

1 inside the house?

2 A No, sir.

3 Q Did the defendant have his cell phone that afternoon?

4 A Yes, sir.

5 Q Was there any point in time, in the early evening,
6 sometime after 6:00 that you left to go
7 somewhere?

8 A Yes, sir.

9 Q Okay, and where did you go?

10 A Me and Bryant Haygood went to the County Line.

11 Q Back to the County Line Store?

12 A Yes, sir.

13 Q Anybody else go with you and Bryant Haygood?

14 A No, sir.

15 Q Why did you go back to the County Line Store?

16 A To get something to eat.

17 Q That was it, just to get food?

18 A Yes, sir.

19 Q Where was Jimmy Haygood when you left?

20 A Jimmy Haygood was at Merrybell.

21 Q At Merrybell. Where was Willie Pelzer when you left to
22 go to the store?

23 A He was also at

24 Q Approximately, how long do you think you were gone
25 after 6:00 o'clock?

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1 A Uh -- 15 to 20 minutes. Not that long.

2 Q So after you left for 15 to 20 minutes, you came back
3 to Merrybell?

4 A Yes, sir.

5 Q Was Jimmy Haygood at ?

6 A Yes, sir.

7 Q Was the defendant, Willie Pelzer, at ?

8 A Yes, sir.

9 Q How much interaction did you have with the defendant
10 Willie Pelzer, at 5:00 o'clock, 6:00 o'clock, 7:00 o'clock
11 that night?

12 A Not much.

13 Q Okay, and why is that?

14 A He was on his phone. I mean, he was just talking --

15 Q Speak up, okay, Mr. Reed.

16 A Yes, sir.

17 Q Did you ever end up leaving Jimmy's house sometime
18 around 10:00 o'clock that night?

19 A Yes, sir.

20 Q Okay, and who left with you when you left Jimmy
21 Haygood's house at about 10:00 o'clock that
22 night?

23 A Jimmy Haygood and Bryant Haygood.

24 Q Jimmy Haygood and Bryant Haygood?

25 A Yes, sir.

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1 Q Where was the defendant, Willie Pelzer, when you left
2 at 10:00 o'clock that night?

3 A Still at the house.

4 Q At ?

5 A Yes, sir.

6 Q And where were you, Bryant and Jimmy Haygood going
7 right after around 10:00 o'clock that night?

8 A To get gas at the gas station.

9 Q Okay, and where were you going to go after you got gas
10 from the gas station?

11 A To take Bryant home.

12 Q Which is where?

13 A Shillings Bridge Road.

14 Q Okay. Now, after you left Road, you,
15 Jimmy Haygood and Bryant Haygood, what gas station did you
16 first go to?

17 A The Exxon.

18 Q And tell the jury which Exxon you went to sometime
19 around 10:00 o'clock that night?

20 A The one right there on Highway 6. I don't know the
21 address.

22 Q And is that Brakesfield's Exxon?

23 A Yes, sir.

24 Q Right across from where there used to be -- there's now
25 like a closed BP?

1 A It's called Palmetto, now, I believe.

2 Q Okay. Were you able to get gas at the Exxon at
3 Brakesfield's?

4 A No, sir.

5 Q And why not?

6 A It was closed. They close a little early, maybe like
7 at 9:45. We didn't catch them.

8 Q Okay, and there was somebody there telling you they
9 were closing up?

10 A Yes, sir.

11 Q Okay, if you'd had a card could you have gotten gas at
12 the Exxon?

13 A Yes, sir.

14 Q But how were you going to pay for your gas?

15 A Cash.

16 Q Cash. When you were at the Exxon sometime between 9:45
17 and 10:00; correct?

18 A Yes, sir.

19 Q Do you remember if you saw a truck across the street at
20 the -- at the vacant gas station?

21 A No, sir. I didn't -- I not sure. I can't be positive
22 it was there, but I didn't look and see one.

23 Q Okay. After the lady told you they were closing the
24 Exxon and you couldn't pay for the gas with cash, where did
25 you end up going at that time?

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1 A To the Shell station on 21 and 22.

2 Q And that's Columbia Road?

3 A Columbia Road and 22, yes, sir.

4 Q And how did you end up paying for the gas at the Shell
5 station?

6 A Cash.

7 Q And after you left the gas station off of Columbia
8 Road, the Shell station, where did you go from there?

9 A To Shillings Bridge Road.

10 Q Okay. And who lived at Shillings Bridge Road?

11 A Bryant Haygood.

12 Q And you got Bryant Haygood home?

13 A Yes, sir.

14 Q After you took Bryant Haygood home where did you and
15 Jimmy Haygood go from there?

16 A To Willie Clay's house, his uncle, Jimmy's uncle.

17 Q Okay. Would that be Willie Clay Haygood?

18 A Yes, sir.

19 Q First of all, why did you go to Clay Haygood's house?

20 A Because he called Jimmy Haygood and he asked us to
21 stop. It was on the way back so --

22 Q Okay. So after Clay Haygood calls Jimmy, who is with
23 you, y'all go to Clay Haygood's house. Where does Clay
24 Haygood live?

25 A He lives in the Sweet Water community. I'm not sure

1 exactly what the address, but he lives in the Sweet Water
2 community.

3 Q Okay. And who drove to Clay Haygood's house?

4 A I did.

5 Q How long did it take you to get from Shillings Bridge
6 Road to Clay's house?

7 A Round 15 to 20 minutes.

8 Q And did you go in the house?

9 A No, sir.

10 Q Did Jimmy go in the house? -

11 A Yes, sir.

12 Q How long did y'all or he end up staying at Clay
13 Haygood's house?

14 A Anywhere from five to 10 minutes. Not that long.

15 Q Where did you end up going after you left Clay
16 Haygood's house in the Sweet Water community?

17 A Started back towards

18 Q Okay, and what happened as you were heading toward
19 ?

20 A That's when we received another phone call.

21 Q From who?

22 A The defendant.

23 Q Willie Pelzer?

24 A Yes, sir.

25 Q And as a result of that phone call where did you end up

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1 going?

2 A We was on Murph Mill when we received the phone call,
3 at the stop sign there at 21 where Murph Mill meets --

4 Q Uh-huh. (Affirmative response.)

5 A -- he told us to meet him at the end of Murph Mill. At
6 the end of Bridle Wreath and Murph Mill.

7 MR. PASCO: Your Honor, if I can have him step
8 down for just a minute.

9 BY MR. PASCO:

10 Q You're going to have to really speak up, now.

11 A Okay.

12 THE COURT: All right.

13 BY MR. PASCO:

14 Q Step down for me. I'm going to -- I'll be right back
15 --

16 A Okay.

17 Q -- I'm going to show you what's been marked as State's
18 Exhibit 83, okay. Take a good look at the area, and tell me
19 if you recognize the area. I hope your eyes are better than
20 mine.

21 Do you recognize the area; that's my first question?

22 A Yeah.

23 Q What area is this?

24 A This?

25 Q Yes.

1 A This is Calhoun County.

2 Q Calhoun County, and does it encompass the Sweet Water
3 Lakes area you testified about?

4 A I believe so, sir.

5 Q And Columbia Road and Brakesfield's -

6 A Yes, sir.

7 Q -- And Merrybell?

8 A Yes, sir.

9 Q Would it help you maybe to kind of show the jury where
10 these areas are, where you went that night.

11 A Yes, sir.

12 Q If you could use --

13 A I'm not sure where Shillings Bridge is --

14 Q I'm not worried about Shillings Bridge at the moment.
15 I want you to stand over here.

16 A Yes, sir.

17 Q Turn around and face me so Hilda can hear you and speak
18 up to the jurors, so they can hear you. Okay?

19 A Yes, sir.

20 Q Is this Sweet Water Lakes subdivision or area that you
21 were talking about?

22 A Yes, sir.

23 Q Okay. Back up. Who lives here?

24 A Willie Clay.

25 Q Willie Clay?

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1 A Yes, sir.

2 Q Haygood?

3 A Yes, sir.

4 Q That's Jimmy Haygood's uncle?

5 A Yes, sir.

6 Q And that's where y'all went sometime that night?

7 A Yes, sir.

8 Q Now, where were you going when you left Willie Clay's
9 house?

10 A Back toward Merrybell. That would be in this
11 direction.

12 Q Which is right here, . Okay, which is
13 right here.

14 Did you end up going straight to ?

15 A No, sir.

16 Q Why not?

17 A We got a call from the defendant when we got right
18 here.

19 Q Okay. And where did you end up going as a result of
20 the call you got from Willie Pelzer?

21 A Right here.

22 Q Okay. Is that this area right here?

23 A Yes, sir.

24 Q And basically you were on Murph Mill when you got the
25 call and then went to the end of Bridal Wreath?

1 A Yes, sir.

2 Q And would that be at approximately 10:49 p.m. that you
3 got that phone call from the defendant, Willie Pelzer?

4 A Yes, sir.

5 Q Why did you go to the end of Bridal Wreath and Murph
6 Mill?

7 A I'm not sure. He just called and said he needed a
8 ride.

9 Q Okay, and did you go to that location?

10 A Yes, sir.

11 Q Did the defendant show up?

12 A No, sir.

13 Q What did y'all end up doing; what did you and Jimmy
14 Haygood do?

15 A Go back to

16 Q How long do you think you stayed at the end of Bridal
17 Wreath and Murph Mill Road?

18 A Approximately 10 to 15 minutes -- five to 10 minutes.

19 Q If that long, right?

20 A Right.

21 Q Okay. I'll let you sit back down

22 (Witness returns to witness stand.)

23 MR. PASCO: I'd ask Your Honor that State's
24 Exhibit No. 83 be admitted into evidence.

25 MR. BANKS: No objection.

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1 THE COURT: Admitted without objection.

2 (State's Exhibit No. 83, map, was
3 marked and entered.)

4 BY MR. PASCO:

5 Q So you waited for the defendant. He didn't show up and
6 you went back to ?

7 A Yes, sir.

8 Q What did you -- tell the jury what happened after you
9 got back to ?

10 A That's when we received another call from the
11 defendant.

12 Q Willie Pelzer?

13 A Yes, sir.

14 Q And what did he want in that call?

15 A To come pick him up from his house on Merrybell Lane.

16 Q And that would be his house in State's Exhibit No. 77?

17 A Yes, sir.

18 Q And how far is the defendant's house from ?

19 A Less than -- about a quarter mile.

20 Q Whose house is closest to the frontage road which leads
21 to Brakesfield's?

22 A The house right there.

23 Q The defendant, Willie Pelzer's?

24 A Yes, sir.

25 Q And was that the phone call that you and Jimmy Haygood

1 got at about 11:07 and 59 seconds, p.m.?

2 A Yes, sir.

3 Q Did you go right then after that call --

4 A No, sir.

5 Q -- to the defendant's -- Were you in any hurry to go
6 there?

7 A No, sir.

8 Q What happened next while you were at ?

9 A Another phone call.

10 Q And another phone call from who?

11 A The defendant.

12 Q And was that a phone call that he placed to y'all at
13 11:13 p.m.?

14 A Yes, sir.

15 Q And what did he want to know?

16 A Where we were at.

17 Q Okay. And you actually talked to the defendant during
18 that call?

19 A Yes, sir.

20 Q Okay, and what did you do after that phone call?

21 A Went down there to his house on Merrybell Lane.

22 Q So sometime after 11:13 p.m. you went to the
23 defendant's house on Merrybell Lane?

24 A Yes, sir.

25 Q I want you to tell the jury, and speak up so they can

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1 hear you, exactly what happened when you got to the
2 defendant's trailer at ?

3 A I got to the trailer at Merrybell Lane. I pulled in
4 the back.

5 Q Why?

6 A Because the defendant asked me to.

7 Q Okay. Go ahead.

8 A When I saw him he placed the .45 caliber weapon on the
9 car. My first question was where did you get that. He said
10 that wasn't important. Then he asked me if he was shot. I
11 told him no. Then I stated again, where did you get that
12 weapon from and he told me again, that wasn't important.
13 Then he told me that he had killed someone and I -- talked
14 to him like, are you serious, and he was like yeah.

15 Q He asked you -- you testified he asked you whether he
16 was shot?

17 A Yes.

18 Q And did you look at him to see if he'd been shot?

19 A Yes, sir.

20 Q Was there anything different about his clothes or his
21 appearance after 11:13 p.m. from when you were with him
22 earlier in the evening?

23 A Yes. He was missing a shirt.

24 Q A what?

25 A Shirt.

1 Q Okay, and what else was the defendant doing in his
2 backyard?

3 A I assume he was burning clothes. I didn't see him burn
4 the clothes, but I assumed because he didn't have a shirt
5 and there was a fire.

6 Q And this is an assumption, but was he burning something
7 in the back yard?

8 A Yes, sir.

9 Q In your presence you saw something burning?

10 A Smoking --

11 Q Okay, and he wasn't wearing a what?

12 A Shirt.

13 Q I'm going to show you State's Exhibits 78 through 82,
14 all right. Now, you just look at those on your own. Look
15 at each one.

16 A (Witness complies.)

17 Q Do you recognized those photographs, that area depicted
18 in those photographs?

19 A Yes, sir.

20 Q All right. Where are these photographs taken?

21 A From behind the house on Merrybell Lane.

22 Q The defendant's house on Merrybell?

23 A Yes, sir.

24 Q Do they accurately depict the pit and where the fire
25 was that you were talking about --

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1 A Yes, sir.

2 Q -- on the night of March 5, 2009?

3 A Yes, sir.

4 MR. PASCO: I'd ask that State's Exhibits 78
5 through 82 be admitted into evidence.

6 MR. BANKS: Without objection, No. 78, Your Honor.
7 We'd object to the rest of these photographs on several
8 reasons. He never testified he looked into the pit, so he
9 can't tell you what was in the pit. He said he saw smoke.
10 And so he can't tell you what these represent. Plus, that
11 was at night and this was in day.

12 THE COURT: Solicitor?

13 MR. PASCO: Pictures of the pit, Your Honor.

14 I'll tell you what, we'll put these in through the
15 officers, okay.

16 Thank you.

17 THE COURT: All right. That's 78?

18 MR. PASCO: Yes, sir. No. 78.

19 THE COURT: No. 78 is in without objection.

20 (State's Exhibit No. 78,
21 photograph, was marked and entered.)

22 BY MR. PASCO:

23 Q And what was happening in the defendant's backyard in
24 State's Exhibit No. 78; what was this?

25 A That's the pit, sir.

1 Q And what was going on in the pit when you got there?

2 A It was smoking.

3 Q Something's on fire?

4 A Yes, sir.

5 Q And the defendant's not wearing his shirt?

6 A No, sir.

7 Q Did he have another shirt on, though, other than the
8 one he had on earlier that day?

9 A Yes, sir. He had on a Wife Beater.

10 Q Okay. Is that what he had on earlier in the day?

11 A No, sir.

12 Q And when you say wife beater, what is a wife beater?

13 A Undergarment.

14 Q It's one of the shirts without sleeves?

15 A Yes, sir.

16 Q Okay. What else happened or transpired at the
17 defendant's trailer on -- after 11:15 on March 5th, between
18 you and the defendant?

19 A After that conversation we went back to

20 Q Okay. Was anybody else with you when you were having
21 your conversation with the defendant at his trailer on
22 Merrybell?

23 A No, sir.

24 Q And when you got back to with the
25 defendant, what did y'all do?

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1 A The defendant stepped off with Jimmy Haygood.

2 Q And did they have a conversation outside your presence?

3 A Yes, sir.

4 Q Okay. How were you and the defendant, Willie Pelzer,
5 getting along after 11:15, 11:13 on the night of March 5th?

6 A Not good at all.

7 Q Tell the jury what was going on between you and Mr.
8 Pelzer?

9 A Arguments. Almost came to physical.

10 Q Why were you arguing with him?

11 A Because he didn't have permission to use my weapon or
12 have it.

13 Q And who was in possession of the weapon as of -- after
14 you picked him up at 11:13?

15 A The defendant.

16 Q What did you end up doing at with the
17 defendant and Jimmy Haygood?

18 A We got into an argument. Me and the defendant was
19 about to fight. Jimmy broke it up.

20 Q Okay. And where did you end up going from there?

21 A Later on we went to Willie Clay's house.

22 Q And the gun the defendant put on your hood, that was
23 your gun that you bought?

24 A Yes, sir.

25 Q Now, why did y'all go to Willie Clay's house sometime

1 late that night or early that morning?

2 A That's where the defendant wanted to go.

3 Q Okay.

4 A I really didn't want to go, myself, but -

5 Q Why did you go there?

6 A To get rid of the defendant, sir.

7 Q To get rid of the defendant?

8 A Yes, sir.

9 Q And who drove to Willie Clay's house?

10 A I did.

11 Q And who else, who was with you?

12 A Jimmy.

13 Q And who else; just the defendant, nobody else?

14 A Jimmy Haygood, me and the defendant.

15 Q what was the plan as of around Midnight, March 5th?

16 A Plan? There wasn't really a plan. A plan would be
17 something everyone comes up with. The defendant's idea, he
18 wanted to go to Charleston or something like that.

19 Q That's what I'm getting at. The idea was for him to go
20 to Charleston?

21 A Yeah.

22 Q And how was he going to get to Charleston?

23 A By some means, I guess, he wanted to use Willie Clay's
24 car.

25 Q Why wouldn't you let him use your car to go to

1 Charleston?

2 A Because I really didn't want to get into the situation
3 after that and my car wouldn't went to Charleston anyway.

4 Q So when you get to Willie -- were you planning on going
5 to Charleston when you drove the defendant and Jimmy Haygood
6 to Willie Clay Haygood's house?

7 A No, sir.

8 Q Tell the jury what happened when you were at Willie
9 Clay Haygood's house?

10 A Willie Clay said that we could get -- well, they could
11 get the car but I would have to go.

12 Q Okay, in fact -- because who would have to drive?

13 A I would have to drive.

14 Q And did y'all borrow Willie Clay Haygood's car?

15 A Yes.

16 Q And what did y'all do with Willie Clay Haygood's car?

17 A Proceeded to ride to Charleston. I'm sorry, we stopped
18 at the Shell station.

19 Q Okay. Which Shell station?

20 A The one at Columbia Road and 22.

21 Q Okay. Why did you stop there?

22 A To put gas in.

23 Q Okay. Who paid for the gas?

24 A Jimmy Haygood.

25 Q Who ended up driving after you left the shell station

1 and stopped at another stop before getting on the
2 Interstate. Who ended up driving to Charleston?

3 A Jimmy Haygood.

4 Q Okay. Who was directing Jimmy Haygood on where to
5 drive to Charleston?

6 A The defendant.

7 Q Okay. Where were you sitting?

8 A In the backseat.

9 Q Where was the defendant, Willie Pelzer, sitting in Clay
10 Haygood's car?

11 A In the passenger seat.

12 Q Okay. And where did you end up going in Charleston?

13 A I'm not sure of the area. I'm not familiar with
14 Charleston like that, but I know it was after Ashley
15 Phosphate.

16 Q Okay. Who was directing y'all on where to go?

17 A The defendant.

18 Q And did y'all go to an apartment complex?

19 A Yes, sir.

20 Q Did you know anybody that lived at that apartment
21 complex?

22 A No, sir.

23 Q To your knowledge, did Jimmy Haygood know anybody that
24 lived at that apartment complex?

25 A No, sir.

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1 Q Who is the only person that knew somebody that lived at
2 that Charleston apartment complex right after this murder?

3 A The defendant.

4 Q Tell the jury what happened after you got to the
5 Charleston apartment complex?

6 A We got to the Charleston apartment complex, the
7 defendant was arguing on the phone with somebody. I'm not
8 sure who. And that's when I believe he got rid of the
9 weapon.

10 Q Okay, and where did he get rid of the weapon?

11 A I assume in the dumpster. I didn't technically see him
12 throw it in there, but --

13 Q Okay, just tell the jury what you did see and what you
14 do know.

15 A Okay. He stepped out the vehicle and went walking.
16 When he came back he no longer had the weapon.

17 Q Did the defendant, Willie Pelzer, ever meet up with the
18 girl, the person he was trying to meet with in the apartment
19 complex?

20 A No, sir, not that I know of.

21 Q Okay. And you testified that the plan was for the
22 defendant to stay in Charleston, correct?

23 A Yes, sir, from my knowledge.

24 Q Did he get to stay in Charleston?

25 A No, sir.

1 Q What ended up happening after y'all got to the
2 apartment complex and nobody came out to meet him?

3 A He ended up coming back with us, less the weapon.

4 Q And who drove back from the apartment complex back to
5 the St. Matthews area?

6 A The defendant.

7 Q And where did y'all go first when y'all got back into
8 town; where is the first place that y'all went?

9 A The defendant drove himself home.

10 Q On Walsh Lane?

11 A Yes, sir.

12 Q And then where did you go from there?

13 A Back to Clay's house.

14 Q Okay. Why did you go back to Clay's house?

15 A To pick up my vehicle.

16 Q And to drop his car back off?

17 A Yes, sir.

18 Q And did y'all have to have his car back by that
19 morning/

20 A Yes, sir.

21 Q And was that because he was going to work that morning?

22 A Yes, sir.

23 Q Now, of course, now we're into early Friday morning,
24 March 6, right?

25 A Yes, sir.

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1 Q Approximately, what time do you think you got home
2 after the defendant dropped himself off at Walsh Lane and
3 you went back to Clay's --.

4 A Around 4:00 in the morning, sir.

5 Q Okay. Around 4:00 in the morning?

6 A Yes, sir.

7 Q And did you take Jimmy Haygood home --

8 A Yes, sir.

9 Q -- after picking up your car at Clay's?

10 A Yes, sir.

11 Q And the you went home?

12 A Yes, sir.

13 Q Did you go back to Jimmy Haygood's house at
14 sometime after 10:00 o'clock that Friday morning,
15 March 6th?

16 A Yes, sir.

17 Q Okay, now, tell the jury why you went back to his house
18 on that Friday morning?

19 A I went back to his house on to
20 report the weapon stolen.

21 Q Okay. Why did the two of you report that the weapon
22 was stolen?

23 A Technically, it was stolen.

24 Q Okay. Technically, but why did you go that?

25 A Because I felt like I was too far incriminated in the

1 situation by that being my handgun, and I felt like what
2 needed to be done.

3 Q And you realize now that by doing that you weren't
4 giving the police all the information that you did, right?

5 A Yes, sir.

6 Q And you told the police that morning that the gun had
7 been stolen from Jimmy Haygood's house?

8 A Yes, sir.

9 Q Did you tell them that you knew about the murder at
10 Brakesfield's?

11 A No, sir.

12 Q Did you tell them that you knew that Willie Pelzer
13 killed a truck driver?

14 A No, sir.

15 Q Did you tell them how the defendant, Willie Pelzer, had
16 y'all drive to Charleston to throw the gun away?

17 A No, sir.

18 Q Do you regret not doing that?

19 A Yes, sir.

20 Q How much contact did you have with the defendant that
21 Friday after the murder?

22 A A phone call.

23 Q A phone call?

24 A Yes, sir.

25 Q Okay. Where did you hang out and spend time on Friday,

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1 March 6th?

2 A I was at the house with family.

3 Q Okay, and now let me ask you about Saturday, 4:30

4 Saturday, March 7th; did you meet with people at the Calhoun
5 County Sheriff's Office?

6 A Yes, sir.

7 Q Might have been a Detective Graham with the Sheriff's
8 Office?

9 A Yes, sir.

10 Q And some others. You voluntarily went to the Sheriff's
11 Office?

12 A Yes, sir.

13 Q Did anyone from the Sheriff's Office mistreat you in
14 any way?

15 A No, sir.

16 Q In fact, did they read you your right, your Miranda
17 rights?

18 A Yes, sir.

19 Q You knew you had the right to remain silent?

20 A Yes, sir.

21 Q Did you, again, tell the police about how the gun was
22 stolen?

23 A No, sir.

24 Q I mean, this is Saturday, now?

25 A Yes, sir. I apologize.

1 Q Did you again tell them on Saturday that the gun was
2 stolen?

3 A Yes, sir.

4 Q Did you tell them then that you knew who committed the
5 murder?

6 A No, sir.

7 Q After you gave your statement on Saturday, March 7th,
8 you were free to go back home?

9 A Yes, sir.

10 Q You went home?

11 A (Nods head affirmatively.)

12 Q Did you voluntarily again go back to the Sheriff's
13 Office on Sunday, March 8th, that afternoon?

14 A Yes, sir.

15 Q And by then everybody knows that a body has been
16 discovered at Brakesfield's -

17 A Yes, sir.

18 Q -- right, and that there had been a murder?

19 A Yes, sir.

20 Q Did you have any contact with Jimmy Haygood Saturday
21 after you gave your statement at 4:30?

22 A No, sir.

23 Q Until Sunday when you met with the police?

24 A No, sir.

25 Q Did you have any contact after you talked to Willie

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1 Pelzer from Saturday night until Sunday afternoon?

2 A No, sir.

3 Q What was your phone number back in March of this year;
4 your parents phone number, actually?

5 A .

6 Q And if the defendant called your house at 11:50 p.m. on
7 Saturday night, did you speak to him?

8 A No, sir.

9 Q Now, after you went to the Sheriff's Office on Sunday
10 March 8th, that afternoon, you were arrested weren't you?

11 A Yes, sir.

12 Q Arrested for accessory after the fact of murder.

13 A Yes, sir.

14 Q At that point in time did you tell Detective Brown and
15 Detective Goodwin everything you knew?

16 A Yes, sir.

17 Q And sir, you now have an attorney, Byron Gipson, I
18 believe is in the courtroom in the back?

19 A Yes, sir.

20 Q Is that Mr. Gipson in the back; he's your lawyer?

21 A Yes, sir.

22 Q On these charges for accessory after the fact of
23 murder?

24 A Yes, sir.

25 Q Has anyone from the Sheriff's Office, Sheriff Summers,

1 Detective Godwin, me or anyone from my office, any of my
2 assistants promised you anything for your testimony today?

3 A No, sir.

4 Q Offered you any deal whatsoever for your testimony
5 today?

6 A No, sir.

7 Q Even hinted to you that you're going to get a deal for
8 your testimony here today?

9 A No, sir.

10 Q Has your lawyer, Mr. Gipson hinted or told to you that
11 you're going to get some kind of a deal for your testimony?

12 A No, sir.

13 Q And you're aware that you have a right not to testify
14 don't you?

15 A Yes, sir.

16 Q Because you're charged with a crime?

17 A Yes, sir.

18 Q But you're still willing on your own to come in here
19 and tell the jury what happened on March 5th?

20 A Yes, sir.

21 Q And Mr. Reed, do you fully admit that you assisted the
22 defendant, Willie Pelzer, in trying to get away with a
23 murder?

24 A Yes, sir.

25 Q You took him to Charleston?

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1 A Yes, sir.

2 Q Helped him essentially get rid of the gun?

3 A Yes, sir.

4 Q And didn't disclose this information to the police for
5 two or three days?

6 A Yes, sir.

7 Q You admit that?

8 A Yes, sir.

9 MR. PASCO: Beg the Court's indulgence.

10 BY MR. PASCO:

11 Q Mr. Reed, the person that told you he killed the truck
12 driver and put your .45 caliber handgun on the hood of your
13 car, do you see him in the courtroom today?

14 A Yes, sir.

15 Q Point him out for the jury?

16 A The defendant right there.

17 Q The defendant wearing the red shirt next to his lawyer?

18 A Yes, sir.

19 Q Answer any questions defense counsel might have.

20 THE COURT: Cross-exam.

21 MR. BANKS: Thank Your Honor.

22 WILLIE REED - CROSS-EXAMINATION

23 BY MR. BANKS:

24 Q Mr. Reed, let's talk about lying for a second. How
25 many lies do you think you've told in association with this

1 case?

2 A At first, at lot, sir.

3 Q At first a lot?

4 A Yes, sir.

5 Q When did you decide to stop lying?

6 A I decided to stop lying when I realized that I didn't
7 have anything to do with the murder of the fellow that got
8 murdered, so I mean, just didn't feel like protecting that
9 person any more.

10 Q Let's go through a couple of these lies?

11 A Yes, sir.

12 Q The first one that we can document is the lie you told
13 to the guy who sold the gun to you. When you filled out
14 that form -- do you remember filling out a form to purchase
15 the .45 caliber that killed Mr. Rivenburg?

16 A Yes, sir.

17 Q Do you remember filling out that form, where was that,
18 Woody's Pawn Shop?

19 A Yes, sir.

20 Q At Woody's Pawn Shop when you filled out that form you
21 signed on that form underneath an oath where you certified
22 that you wouldn't give that gun to anybody. That would be
23 your gun.

24 Now, didn't you give that gun to somebody?

25 A No, sir, not give.

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1 Q Who kept the gun?

2 A Jimmy Haygood, sir.

3 Q Jimmy Haygood kept it?

4 A Yes, sir.

5 Q All the time?

6 A Yes, sir.

7 Q But you still claim it's yours?

8 A Yes, sir.

9 Q And he kept not only the gun, but he kept the box, too?

10 A Yes, sir.

11 Q The whole package, the bag and everything it came in?

12 A Yes, sir, all that stayed together.

13 Q How quickly did you give Jimmy Haygood that gun after
14 you bought it?

15 A How quickly? After I got it I knew I couldn't bring it
16 home, so I gave it to Jimmy and told him to keep it
17 somewhere safe.

18 Q And he kept it all the time?

19 A Yes, sir.

20 Q And you're saying that's not his gun?

21 A No, sir.

22 Q When y'all left that evening around, you know, 10:00
23 o'clock to go get gas and take Bryant Haygood home --

24 A Yes, sir.

25 Q -- didn't -- doesn't the report say that Haygood left

1 the gun on the couch, not you left the gun on the couch?

2 A He put the gun in the back.

3 Q I'm sorry?

4 A He put the gun in the back room before we left.

5 Q So he had possession of the gun?

6 A Yes, sir.

7 Q And when y'all go out in the car together do you carry
8 the gun?

9 A No, sir.

10 Q He carries the gun?

11 A No, sir.

12 Q Y'all keep it at the house?

13 A Most of the time, yes, sir.

14 Q All right. I'm going to show you the form that you
15 filled out -- Mr. Reed, I'm going to show you something. I
16 want you to tell me if you can identify that; what is that
17 document?

18 A This is the form that I filled out, I believe, at
19 Woody's Pawn Shop.

20 Q That's the form you filled out at Woody's Pawn Shop?

21 A Yes, sir.

22 Q To purchase the .45 caliber handgun?

23 A Yes, sir.

24 Q That was used to kill Mr. Rivenburg?

25 A Yes, sir.

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1 Q And is that your signature right at the top there --
2 oh, that's Page 2. I'm sorry. Is that your signature
3 there, near the top?

4 A Yes, sir.

5 Q All right.

6 MR. BANKS: Your Honor, I'd ask that this be
7 admitted into evidence.

8 THE COURT: Any objections?

9 MR. PASCO: No objection, Your Honor.

10 THE COURT: All right. Admitted without
11 objection, Defendant's No. 2.

12 (Defendant's Exhibit No. 2, forms,
13 was marked and entered.)

14 BY MR. BANKS:

15 Q Mr. Reed, I want you to read Question 11. I want you
16 to read a portion of both the highlighted portions and those
17 two highlighted portions for me, please.

18 (Mr. Reed reading.)

19 A Answer questions. Are you the actual transferring
20 buyer of the firearm listed on this form. If you are not
21 the actual buyer, if you are acquiring the firearm on behalf
22 another person. If you are not the actual buyer the dealer
23 cannot transfer the firearm to you. Exception. If you are
24 picking up a repaired firearm for another person you are not
25 required to answer Question No. 11A and may proceed to

1 question under B.

2 Read that also?

3 Q Yes, sir.

4 A All right. Are you under indictment for information in
5 any court for a felony or any crime for which the judge
6 could imprison you for more than one year. Have you ever
7 been convicted in any court of a felony or any other crime
8 for which the judge could not imprison you for more than one
9 year even if you receive a shorter sentence including
10 probation.

11 (End Mr. Reed reading.)

12 Q All right. So the first part you read there, you
13 checked which block?

14 A Yes.

15 Q You checked yes, which is indicated that you were going
16 to be the person that keeps that gun, as the owner of that
17 gun?

18 A Yes, sir.

19 Q And how long after you checked that block and signed
20 your name to that application -- I know it took a couple of
21 days to get the gun. I think there's a law to that effect,
22 but when you got that gun in your hand how long before it
23 was in Jimmy Haygood's position?

24 A About a day.

25 Q About a day?

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1 A Yes, sir.

2 Q So you had your mind made up, you were going to give it
3 to Jimmy Haygood --

4 A Just to keep.

5 Q Just to keep, all the time?

6 A It couldn't come to my house, sir.

7 Q Now, I'd like you to read the portion above where you
8 signed your name. Just read as much of it as you can. I
9 know it's got some --

10 (Mr. Reed reading.)

11 A I certify that -- I certify that -- I can't make that
12 word out -- answers to Section A are true and correct and
13 legal, and I've read and understand the --

14 Q Just skip to definitions --

15 A -- definitions on the ATF Form 4473. I understand that
16 answering yes to questions I am not the neutral buyer --

17 Q Actual buyer.

18 A -- actual buyer is -- and I can't make that out --
19 felony under federal law and state -- also -- violate state
20 and or local law. I understand a person who answers yes to
21 Eleven K is prohibited from purchasing or receiving a
22 firearm. I -- unless -- the person --

23 (End Mr. Reed reading.)

24 Q That's enough, Mr. Reed. You certified again that you
25 weren't going to lie about that.

1 A Yes, sir.

2 Q And you, but you content that you didn't violate the
3 law by giving Haygood your gun?

4 A No, sir.

5 Q Now, let's move on to your first statement that you
6 gave the offices on March 7th, and this is specifically
7 about the handgun itself, the incident and the handgun. I
8 want you to have a moment to look at that.

9 A I know what this is.

10 Q You don't think you need to read it?

11 A No, sir.

12 Q Okay. Now, you wrote this yourself, right?

13 A Yes, sir.

14 Q So there's no misinterpretation?

15 A No, sir.

16 Q What you wrote is what you intended to write?

17 A Yes, sir.

18 Q And that was on March 7th, I think, in front of Officer
19 Graham. Was somebody else there as well?

20 A I believe Officer Riley was there, also.

21 Q Mr. Godwin, Officer Godwin?

22 A Yeah, I'm sorry. Mr. Godwin.

23 Q And where was this statement taken?

24 A In the -- I believe the Sheriff's Office right behind
25 the Annex back there.

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1 Q Okay. And basically, it says -- summarize it for me,
2 would you?

3 A What --

4 Q Summarize your statement for me?

5 A It basically stated was said what I did on Thursday
6 morning with the -- and drinking and after that to summarize
7 it I went -- it didn't say anything about the murder of
8 Jason Rivenburgor that the gun was stolen. I mean, it did
9 said the gun was stolen, but it didn't have anything about
10 this case.

11 Q So when you signed this statement you were supporting
12 your police report that you had filed; is that right?

13 A No, sir. Not that statement.

14 Q This is just saying that you bought the gun?

15 A That statement there, no, sir.

16 Q It says, Woody's Pawn Shop purchased the gun?

17 A That was just where I purchased the gun at and -- so I
18 guess it would be supporting the statement.

19 Q All right. Now, you called the cops -- actually, it
20 wasn't just you that called the cops to -- to
21 when the gun was reported stolen. Who was there -- who all
22 was there when that happened?

23 A Me and Jimmy Haygood.

24 Q So you and Jimmy Haygood were together on -- I guess
25 that was --

1 A Friday morning.

2 Q -- yeah, Friday morning, the 6th, and how long had
3 y'all been together that morning to come up with that story?

4 A We wasn't together that morning. We just decided to do
5 that.

6 Q Well, I mean, y'all were both there together when the
7 police got there?

8 A Yes, sir.

9 Q How long were y'all there together prior to the police
10 getting there?

11 A Look at the logs -- he called me around -- look at the
12 phone log -- he called me around 9:00 and we reported the
13 gun stolen at 9:05.

14 Q So he called you to come over to report the gun stolen?

15 A Yes, sir.

16 Q And did -- and when you went over there had you already
17 thought of that idea or did he put that idea in your head?

18 A No. We thought about the idea.

19 Q He thought it?

20 A Yes, sir.

21 Q It was your gun, you were the one that was all upset --

22 A I said we, sir, not he.

23 Q Sir?

24 A We thought that.

25 Q Y'all together thought of that?

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1 A Yes, sir.

2 Q All right. Did y'all discuss that over the telephone
3 when he called you about coming over?

4 A No, sir.

5 Q He just said come on over?

6 A No. He said someone stole the gun, come on over and
7 report it stolen.

8 Q Okay. So how long were y'all there -- I guess you came
9 on immediately?

10 A Yes, sir.

11 Q All right. And how long were you there before you
12 called the cops?

13 A Not long. A minute or two.

14 Q All right, so when the police got there who did most of
15 the talking, you or Haygood?

16 A Me, mostly, and Jimmy. Yes, sir.

17 Q All right, and you told him -- you told them there was
18 a burglary; isn't that correct?

19 A Yes, sir.

20 Q A burglary --

21 A Someone stole the gun. I guess you could say -- yes,
22 sir.

23 Q There's two reports. There's one for a stolen gun?

24 A Yes, sir.

25 Q And a burglary. Do you remember reporting a burglary?

1 A No, sir. Just a stolen gun. We reported the gun
2 stolen that morning.

3 Q All right. Then describe for me what you told the cop
4 -- the police.

5 A That the gun had been stolen.

6 Q Did somebody enter the house?

7 A Yes, sir.

8 Q Must have entered the house between this time and this
9 time?

10 A Yes, sir.

11 Q And what time-frame did you give; do you remember?

12 A No, sir.

13 Q You don't remember how wide a time-frame it was?

14 A No, sir.

15 Q So you didn't pin it down to anything, any time?

16 A No, sir.

17 Q All right, and so when they asked you the question; who
18 do you think did it or -- you know, they surely thought --
19 there's a time or a person they would have asked you that?

20 A Well, sir, I wasn't sure who they was talking to
21 because they was talking to both of us at the same time,
22 sir.

23 Q Uh-huh, and you both corroborated each other's story;
24 correct?

25 A No, sir.

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1 Q His dad lived there; correct?

2 A Yes, sir.

3 Q Did anybody else say, yeah, I know this to be true?

4 A No, sir.

5 Q And so based on that you had a police incident report
6 filed; is that right?

7 A Yes, sir.

8 Q And that whole thing is also a lie, isn't it?

9 A Yes, sir.

10 Q And you and Haygood conspired together to lie, didn't
11 you?

12 A Yes, sir.

13 Q Now, who does that help; that helps you, doesn't it?

14 A It helps the case.

15 Q It helps you. You said that earlier, because it's your
16 gun that you already knew had been committed a crime with,
17 and you reported it stolen to absolve yourself didn't you?

18 A Not to absolve myself, sir, because I reported the gun
19 stolen.

20 Q Well, you certainly didn't report it to indicate that
21 Willie Pelzer did something wrong, you reported it to help
22 yourself, didn't you?

23 A I'm not sure what question you're trying to ask, sir.
24 Say it again, sir?

25 Q Why did you report the gun stolen, ultimately, to help

1 yourself?

2 A Yes, sir.

3 Q And was it also to help Jimmy Haygood?

4 A Yes, sir.

5 Q Now, you're a pretty smart guy. You did well in
6 school, didn't you?

7 A Yes, sir.

8 Q Graduated, went to OC Tech?

9 A Yes, sir.

10 Q Did you make good grades at Tech?

11 A Yes, sir.

12 Q And if you don't mind me asking; how tall and how much
13 do you weigh?

14 A I'm five ten, approximately 230.

15 Q Two thirty.

16 A Yes, sir.

17 Q Did you play football?

18 A A little bit. I mostly played baseball.

19 Q Baseball?

20 A Yes, sir.

21 Q High school. Did you play beyond high school?

22 A Yeah. I played Legion ball.

23 Q Really, with who?

24 A Post 12.

25 Q All right. So you liked baseball?

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1 A Yes, sir.

2 Q So you have a baseball gloves -- I mean, batting
3 gloves?

4 A No, sir.

5 Q You don't own a batting glove?

6 A I haven't played baseball since '07 was the last time I
7 played baseball.

8 Q Did you own a batting glove in March of this past year?

9 A Of this past year, no, sir. I wasn't playing any kind
10 of sports.

11 Q Okay, but you didn't have any left-over equipment?

12 A No, sir, no gloves.

13 Q All right. Now, I heard you say that Merrybell Lane,
14 they do a little smoking or whatever, in fact, that's why
15 they call it smoke street; is that right?

16 A No, sir. It used to be called Smoke Street.

17 Q Oh, it was actually called Smoke Street?

18 A Yes, sir.

19 Q And you said that there was some people smoking some
20 drugs around there?

21 A Yes, sir.

22 Q Marijuana and crack?

23 A Yes, sir.

24 Q And is that more of an on-going, sort of -- not
25 on-going as in 25-hours-a-day, kind of thing, but pretty

1 much any day you go out there you could find somebody out
2 there with some drugs?

3 A I'm not sure. I don't think so, no, sir.

4 Q All right. So Merrybell Lane has about how many houses
5 on it?

6 A About three or four in the area.

7 Q Three or four?

8 A Yes, sir.

9 Q Fairly close together there?

10 A Yes, sir.

11 Q In fact, isn't it true that all three of those places,
12 they're all relatives of the people that live out there and
13 they are all closely knit?

14 A Yes, sir.

15 Q And you say one of the places is ?

16 A I'm not sure --

17 Q -- what's the address of the unit that you say that
18 Mr. Pelzer lived at?

19 A I don't know the address, sir.

20 Q Okay, but it's not ?

21 A No, sir.

22 Q Okay. So is it next door to ?

23 A ?

24 Q Yes.

25 A No, sir. It's within a quarter mile.

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1 Q But it's on that same --

2 A Block --

3 Q -- yeah.

4 A Yes, sir.

5 Q And is there power to that address that you indicate
6 that Mr. Pelzer lived at?

7 A No, sir.

8 Q And was there power in March of that year?

9 A No, sir.

10 Q February of that year?

11 A No, sir.

12 Q January of that year?

13 A I'm not sure about that, sir.

14 Q So how could he live there if there wasn't any power?

15 A Defendant didn't stay there.

16 Q I'm sorry?

17 A The defendant didn't stay at that house. It was stated
18 that defendant stayed at Walsh Lane.

19 Q I thought you said that it was his place?

20 A He used to stay there -- that was his residence.

21 Q So he stayed there --

22 A Before that.

23 Q -- many months before that, before the power went off?

24 A Yes, sir.

25 Q All right. So but no where near up to March?

1 A No --

2 Q He didn't live there then?

3 A No, sir.

4 Q And is it true that the door is not even secure on that
5 place?

6 A I'm not sure.

7 Q You've never been in that place?

8 A Yes, sir.

9 Q Were you aware -- have you ever had that door locked
10 and you couldn't open it?

11 A I never had that opportunity. I mean, I didn't go --

12 Q Okay. But you contend that he lived there at the time
13 or not?

14 A He didn't stay there at the time. He lived on Walsh
15 Lane at the time, but that was his trailer. He used to stay
16 there.

17 Q But well before this incident?

18 A Yes, sir.

19 Q All right. Mr. Pelzer -- when was the last time you
20 were in that address, in that building, in that trailer,
21 prior to March 7th?

22 A Sir, I can't be positive, sir, but it was later on in
23 the year before --

24 Q Weeks or months?

25 A The year before, sir?

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1 Q A year?

2 A That was like February or March that this took place --

3 Q Yeah.

4 A -- so it was the year right before that so, that was
5 what --

6 '08?

7 Q So at least a year before. So you don't know what's in
8 that place?

9 A No, sir.

10 Q There could have been gold bullion that unit and you
11 wouldn't know it?

12 A No, sir.

13 Q Okay. Now, you see people come and go from that unit?

14 A No, sir.

15 Q You know, a place that might be vacant with no power,
16 people like to go smoke in there; have you seen that occur
17 in that unit?

18 A No, sir.

19 Q Okay. You see Willie around the 7th of March come and
20 go, come and go in that unit?

21 A No, sir.

22 Q So where does he really live?

23 A He stays on Walsh Lane.

24 Q That's -- and on March 7th, 6th, 5th, 4th, he was
25 living on Walsh Lane?

1 A Yes, sir.

2 Q With his mother and whoever else?

3 A Yes, sir.

4 Q So he came down that day, the day that Mr.

5 Rivenburg died, if he came down on that day, did -- he would

6 have come from Walsh Lane, not ?

7 A Yes, sir.

8 Q All right. Now, let's talk for a minute about the burn
9 pits.

10 A Yes, sir.

11 Q Is there a burn pit behind ?

12 A Not a pit, no, sir.

13 Q What do they have, a little trash pile they burn?

14 A Yes, sir.

15 Q Why do people have those places?

16 A Sometimes in the country you just burn like household
17 garbage instead of going to the garbage dump.

18 Q That's right. They don't have a garbage pick-up
19 service?

20 A Right.

21 Q So people kind of burn it and get it down and all that?

22 A Yes, sir.

23 Q And that's what happens at ?

24 A Yes.

25 Q That's what happens at ?

1 A Yes, sir.

2 Q And in fact, dug out a little pit to make it safer;
3 is that right?

4 A Yeah.

5 Q And are you familiar with Walsh Lane, his address at
6 Walsh Lane?

7 A Sort of, not really.

8 Q Do they have a burn pit back there?

9 A I don't think so, sir. I'm not sure.

10 Q You don't think so?

11 A I'm not sure, sir.

12 Q Okay. So it's not unusual to have a burn pit?

13 A No, sir.

14 Q And it's not unusual to burn an assortment of things in
15 any of these burn pits?

16 A No, sir.

17 Q Even clothes?

18 A (Nods head affirmatively.)

19 Q All right. Now, on this day, you said you arrived
20 there, you know, 3:00, 4:00 o'clock to ; is that
21 right?

22 A Yes, sir.

23 Q In your car?

24 A Yes, sir.

25 Q In fact, all that day y'all were driving your car,

1 y'all never got the uncle's car until late that night?

2 A Yes, sir.

3 Q Did the police ever ask to test your car for hairs,
4 fibers, blood, fingerprints?

5 A No, sir.

6 Q Never?

7 A No, sir.

8 Q And that's the car you were riding around in at 10:30,
9 11:00 o'clock that night?

10 A Yes, sir.

11 Q And that's the car y'all had been riding in until --
12 what time do you think you picked up, roughly, what time you
13 picked up the uncle's car?

14 A That would have to have been maybe 12:00. I'm not sure
15 of the time.

16 Q Definitely, say after 11:30?

17 A Yes, sir.

18 Q So if you were in a car prior to 11:30, at least 11:30,
19 it was your car?

20 A Yes, sir.

21 Q And that's a white Chevy Lumina?

22 A Yes, sir.

23 Q What year?

24 A '96.

25 Q Okay. Now, you said you got no deal whatsoever --

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1 A No, sir.

2 Q -- with law enforcement or the solicitor's office?

3 A No, sir.

4 Q Never discussed one?

5 A No, sir.

6 Q Do you know if your lawyer's ever discussed one?

7 A No, sir.

8 Q Okay. You don't have a deal, but you're charged with
9 accessory after the fact of a crime, right?

10 A Yes, sir.

11 Q The crime of murder. Do you know how much time that
12 carries?

13 A Yes, sir.

14 Q How much?

15 A The maximum is 15 years, sir.

16 Q And you could be doing 15 years in prison after this
17 day?

18 A Yes, sir.

19 Q All right, but no deal, when you went to your bond
20 hearing --

21 A Yes, sir.

22 Q -- how much was your bond set at?

23 A \$50,000.

24 Q \$50,000.

25 A Personal recognizance bond.

1 Q I'm sorry.

2 A \$50,000 personal recognizance bond, sir.

3 Q Oh, so it's a personal recognizance bond?

4 A Yes, sir.

5 Q And that means that they just let you out right then?

6 A Yes, sir.

7 Q Charged with a serious crime like this?

8 A Yes, sir.

9 Q All right, you don't think the sheriff's office -- I
10 don't the solicitor was involved in that -- did the
11 sheriff's office say, hey, you're starting to help us a
12 little bit, we're going to cut you some slack here?

13 A No, sir.

14 Q They never discussed it?

15 A I'm not familiar with like how things are supposed to
16 go. I've never been in trouble before.

17 Q Well, let me ask you this, at your bond hearing, wasn't
18 there a deputy right there and did he contest the bond --
19 did he say, no, we want the maximum bond or anything like
20 that?

21 A No, sir.

22 Q So he just let the magistrate post whatever he wanted
23 and he didn't put up a fight about that bond?

24 A I don't know how to answer that question. I'm not
25 sure.

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1 Q I understand. But then you appreciate being out on the
2 street the whole time instead of being locked up?

3 A Yes, sir.

4 Q Now, this report, I know you content you haven't
5 violated a crime, but if you violated the law and
6 transferred a gun to someone else in violation of what
7 you've sworn on this document here in State's -- I mean, in
8 Defense No. 2 -- they haven't charged you with that crime.
9 Has anybody charged you with a crime related to that?

10 A No, sir.

11 Q And you appreciate that fact, too, don't you?

12 A Yes, sir.

13 Q But that's not part of any organized deal?

14 A No, sir.

15 Q Let's talk about your report of a stolen gun. Are you
16 aware that that's a crime?

17 A Yes, sir.

18 Q Filing a false police report?

19 A Yes, sir.

20 Q Have you been charged with that crime?

21 A No, sir. I'm not sure.

22 Q You don't think you've been charged with that crime?

23 A No, sir.

24 Q And if you haven't you appreciate the fact that they
25 haven't done that to you either?

1 A Yes, sir.

2 Q And that's both the solicitor's office and the
3 sheriff's office, you appreciate that?

4 A Yes, sir.

5 Q But that's not a part of any organized deal?

6 A No, sir.

7 Q But you feel like you've benefitted with your help to
8 them all ready, don't you?

9 A Yes, sir.

10 Q In your mind, what's the most important thing you've
11 lied about in relation to this case?

12 A That I didn't tell the truth on my first statement.

13 Q Okay, and when you lied to them, how did that make you
14 feel?

15 A Made me feel bad. I felt stupid. I shouldn't have
16 lied.

17 Q But you were helping yourself.

18 A No, sir.

19 Q You said earlier when you reported the gun stolen that
20 it was helping you and Jimmy Haygood.

21 A The question you asked --

22 Q That made you feel bad or good?

23 A It didn't make me feel good at all, sir.

24 Q Helping yourself and helping Jimmy Haygood made you
25 feel bad?

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1 A I mean, because it wasn't the truth.

2 Q Well, I mean -- you're right it wasn't the truth, and
3 neither was when you filled for the gun, and we're trying to
4 get to the truth today. So I ask you again, I mean, you
5 lied to protect yourself, didn't you?

6 A Yes, sir.

7 Q And when you lied to protect yourself that was actually
8 sort of a minor thing, that was a stolen gun, right?

9 A Yes, sir.

10 Q You're not lying here today to sort of keep yourself
11 out of prison for a lot longer than 15 years?

12 A No, sir.

13 Q All right, the day that this happened, y'all were at

14 --

15 A Yes, sir.

16 Q -- y'all arrive first --

17 A Yes, sir.

18 Q -- before Mr. Pelzer did?

19 A Yes, sir.

20 Q When he arrived, what was he wearing?

21 A I can't be exact, I think it was sweat pants and some
22 boots. But I'm not sure of the shirt. I don't know if it
23 was a colored shirt or a t-shirt.

24 Q Sweat pants. Do you know what color they were?

25 A I can't be positive, sir.

1 Q And boots. You said boots?

2 A Yes, sir.

3 Q Like Timberland or something like that?

4 A I'm not sure of the type of boots. I didn't know that.
5 I'm sorry.

6 Q And so what kind of top was he wearing?

7 A Like a t-shirt type, sir.

8 Q Like you described something as a wife beater?

9 A That's what he had on after.

10 Q Afterwards, all right. So a t-shirt, sweat pants.
11 What color t-shirt, do you remember?

12 A No, sir.

13 Q And while y'all were there, let's just say from 4:00 or
14 whatever time, while y'all were there -- In fact, was he
15 invited or do you know?

16 A Yes, he was invited.

17 Q By Jimmy?

18 A I'm not sure which one. I wouldn't know. I don't have
19 a phone, so I wouldn't know.

20 Q Right. So somebody invited him down there. Was the
21 invitation for drinking purposes.

22 A Yeah.

23 Q I think somebody had gotten a bottle --

24 A All of us was together, all of us went to school
25 together. We was just having a good time.

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- 1 Q And y'all had how many bottles of liquor?
- 2 A Just one.
- 3 Q Just one. What was it?
- 4 A A gallon of Hennessy, sir.
- 5 Q How big? A gallon, a gallon?
- 6 A Yes, sir.
- 7 Q And that's six or seven people; how many people?
- 8 A Around eight. Some people just stopped by there.
- 9 Q And were there illegal drugs there as well?
- 10 A No, not that day.
- 11 Q Not that day?
- 12 A I didn't see any, sir.
- 13 Q I'm talking about marijuana and cocaine?
- 14 A I didn't see any, sir.
- 15 Q All right. Never saw anybody using any?
- 16 A No, sir.
- 17 Q Was anybody smoking anything, any -- anything?
- 18 A Not that I seen, sir.
- 19 Q None of them smoked cigarettes?
- 20 A I'm pretty sure they did, but not any drugs. You said
- 21 marijuana or cocaine.
- 22 Q But did you see any cigars?
- 23 A No, sir.
- 24 Q And were you inside or outside most of that time?
- 25 A I was outside.

1 Q Outside. Was Willie inside or outside most of that
2 time?

3 A He was inside.

4 Q All right. So you really didn't observe Willie much.
5 I heard you say earlier you really didn't have much
6 interaction with him while y'all were at the house?

7 A No, sir.

8 Q Who was in there with him?

9 A Like I said, Jimmy's father was maybe in the house, but
10 other than that, I'm not sure.

11 Q So Jimmy's father --

12 A Maybe was in the house.

13 Q Okay.

14 A I'm not positive, though.

15 Q And were the rest of you kind of in and out or were you
16 just out?

17 A No, we was out.

18 Q Okay. Were people coming and going down Merrybell Lane
19 in cars or anything else?

20 A Not -- just like my friend, they live around the
21 corner, they stopped through, but if you want to call it in
22 and out they wasn't coming back and forth. No more traffic
23 than usual.

24 Q What were you wearing at that time?

25 A Sir, I'm not for sure. I mean, that was a long time

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1 ago. I can't be for sure. I can't be positive.

2 Q Well, how --

3 A Jeans or something.

4 Q You had jeans?

5 A Yes, sir.

6 Q You're pretty sure of that?

7 A Yes, sir.

8 Q How can you be so sure what Willie was wearing, but you
9 don't know what you were wearing?

10 A I wasn't exactly positive about what the defendant was
11 wearing. I said he had on a t-shirt and sweat pants.

12 Q Well, you've given a better description of him than
13 yourself; how do you explain that?

14 A I pay attention to people.

15 Q I'm sorry?

16 A Pay attention, you know.

17 Q What was Jimmy Haygood wearing?

18 A I believe he had on jeans and a t-shirt, also, sir.

19 Q You said maybe?

20 A I mean, I can't be positive about the colors and
21 everything.

22 Q All right.

23 A That was a year ago.

24 Q That day, I think y'all left around -- well, it had to
25 be around 10:00 or so because Brakesfield's closes?

1 A Right.

2 Q And you don't dispute the fact that it could have been
3 just after 10:00, but I think you said it might have been a
4 little bit before and they were closing early?

5 A Yes, sir.

6 Q But, you know, it was a Thursday night. Do they
7 usually close early on Thursday?

8 A Yes, sir, they usually close early every night around
9 9:45, they begin to shut it down, but I mean, if you can
10 catch it before they close --

11 Q Right.

12 A -- you can get gas before she take her drawer up.

13 Q Right. And so it was you and Bryant and Jimmy --

14 A Yes, sir.

15 Q -- driving your car?

16 A Yes, sir.

17 Q You were driving your car, and, again, y'all went to
18 Brakesfield's somewhere in that time-frame?

19 A That's the closest gas station where you can get gas.

20 Q Sure, and it's the only Exxon in the whole vicinity?

21 A Yes, sir.

22 Q And you spoke to the person at Brakesfield's, correct?

23 A Yes, sir. Oh, I didn't speak to the person. I went to
24 the door she shook her head.

25 Q I got you. I got you.

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1 A Yes, sir.

2 Q So she indicated that no, I'm not opening --

3 A Yes, sir.

4 Q All right. So y'all had pulled up to the front or
5 pulled up to the pumps?

6 A Pulled right up to the pumps.

7 Q So you might go in and pay. You were paying?

8 A Yes, sir.

9 Q So the pumps are out near the street, right?

10 A Yes, sir.

11 Q In fact, you pull in at Brakesfield's, you pull in --
12 and when you pull out you're actually are going still a
13 little bit away from the way you came --

14 A Yes, sir.

15 Q -- out toward the street --

16 A Yes, sir.

17 Q -- closer to the scene where the tractor trailer was;
18 isn't that right?

19 A The way it is set up, the Exxon is here and the
20 Palmetto is across this way.

21 Q Yeah, it's diagonally across?

22 A Yeah, it's a little further across.

23 Q But you still pull in that direction when you come out?

24 A When I come out?

25 Q Yeah, because you gotta come around those pumps?

1 A No, I came into the pump on the right side of the gas
2 station --

3 Q Yep.

4 A -- all I did was make a U-turn and go out to the left.

5 Q So when you get out to the road, you're going to turn
6 left again to go back the way you came, right?

7 A Yes, sir.

8 Q So when you pull out to the road, you're 60 -- 50 yards
9 from that truck or less?

10 A Approximately, sir. Yes, sir, but like I said, I
11 wasn't sure the truck was there. I didn't look, because, I
12 mean, I had no intentions, I didn't look. I mean, that
13 station is closed.

14 Q Well, let me ask you, you looked both ways before you
15 pulled out, right?

16 A Yes, I mean, it was dark. I mean I didn't see any
17 light.

18 Q And when you looked to the right of -- 50 yards
19 restraining or so away -- you couldn't see a silver truck
20 like that?

21 A I didn't see it. I wasn't looking for it.

22 Q But you did look to the right.

23 A Yes, sir.

24 Q That truck would have been 50 yards to the right?

25 A It would have been there, yes, sir.

1 Q Are you saying you don't remember seeing it or you're
2 sure you didn't see it?

3 A I don't remember seeing it, sir.

4 Q And there are lights at Brakesfield's out by the pump
5 and, in fact, a little further than that. They've got a
6 security light out by the road, don't they?

7 A Yes, sir.

8 Q In fact, I think they've got another one out on the
9 other end of the property down towards where this truck is,
10 but across the road?

11 A I'm not positive, but yes, sir.

12 Q So there's light out there?

13 A Yes, sir.

14 Q All right. Let's go back to the house. So you're not
15 really sure what was going on inside of the house that
16 evening, because you were kind of outside?

17 A Yes, sir.

18 Q All right, but they had -- where was the bottle, was it
19 inside or outside?

20 A It was outside.

21 Q I'm sorry?

22 A It was outside at first. I think they did go in the
23 house and went in the freezer.

24 Q It went in the freezer?

25 A Yes, sir.

1 Q Do you know if they had any other type of alcohol or
2 drugs inside the house?

3 A Not that I saw, no, sir.

4 Q But they could have?

5 A Yes, sir.

6 Q Now, when you left that evening to take Bryant, you
7 know, home --

8 A Yes, sir.

9 Q Actually, you left before, you left at 6:00 to go get
10 something to eat?

11 A Yes, sir.

12 Q And that didn't take very long?

13 A No, sir.

14 Q And you went nowhere else but to get something to eat
15 at that time?

16 A Yes, sir.

17 Q All right. When you left to take Bryant home you
18 dropped him off?

19 A Yes, sir.

20 Q And you were gone -- did you say you left
21 approximately, you know, like I said about 10:00 o'clock,
22 ran by Brakesfield's, back all the way to the Shell station
23 on 21?

24 A Yes, sir, at 21 and 22, yes, sir.

25 Q Okay. And at the Shell station you, what, just got

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1 five or \$6.00 worth of gas, right?

2 A Yes, sir.

3 Q So what five minutes, and then on to Bryant's?

4 A Yes, sir.

5 Q And then what took you so long to get back to
6 Merrybell?

7 A Well, after we dropped Bryant off we stopped by Willie
8 Clay's house on the way back.

9 Q Why did you go to Willie Clay's?

10 A Because Jimmy had a cell phone and his uncle called him
11 and said he wanted to see him.

12 Q He wanted to see him?

13 A Yeah.

14 Q Well, let me ask you was that to arrange, at that
15 point, to go to Charleston?

16 A No, sir.

17 Q I mean, isn't it true that y'all had, at least loosely
18 talking about going to Charleston since two days before all
19 this?

20 A No, sir.

21 Q I'm talking with Willie. Willie said, hey, we've got
22 some girls down in Charleston, let's go.

23 A Well, he said something about did I want to ride down
24 there to Charleston, but --

25 Q And that was before this night?

1 A Yes, sir.

2 Q In fact, he said it more than once did he not. He
3 actually called you on the phone a couple of times and said,
4 hey are we going to try to do this thing with these girls
5 down in Charleston?

6 A I'm not sure.

7 Q You only remember one --

8 A I remember his saying something about some females in
9 Charleston, but I knew I wasn't going down there.

10 Q You weren't interested --

11 A No, sir.

12 Q -- so you didn't pay any attention?

13 A No, sir.

14 Q But he did talk about going to Charleston that weekend
15 prior to the killing?

16 A Yes, sir.

17 Q Now, you said that Jimmy Lee was outside with you
18 before this --

19 A Yes, sir.

20 Q Are you and Jimmy Lee a little bit closer friends than
21 you are with Willie Pelzer?

22 A At the time we was all about the same, sir.

23 Q But you weren't in there hanging out with Willie Pelzer
24 that night?

25 A I mean, he was just off by himself, sir.

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1 Q But you were with Jimmy Lee that evening more than you
2 were with Willie?

3 A Yes, sir.

4 Q Okay. Now, -- now, you say that -- when you left, did
5 you go inside before you left?

6 A Inside the house; no, sir.

7 Q So you were pretty much outside the house the whole
8 time?

9 A No, sir, I probably went back inside the house to get
10 something to drink out the bottle, but as far as being in
11 the house the whole time, no, sir.

12 Q Okay. And the whole time you were there did you see
13 the gun?

14 A No, sir.

15 Q That night?

16 A No, sir.

17 Q All right. And starting in the afternoon, did you ever
18 see that gun?

19 A In the afternoon?

20 Q Yeah. Well, you got there around 4:00 or 2:00 or 3:00;
21 you never saw the gun?

22 A No, sir.

23 Q That's your gun?

24 A Yes, sir. I mean, it wasn't something you just had out
25 all the time. I mean, it was just kept there. I didn't ride

1 around with it like that.

2 Q You just trusted that Jimmy Lee was taking good care of
3 your gun?

4 A Yes, sir.

5 Q Did you even ask him about the gun?

6 A From time to time.

7 Q No, I mean, that day?

8 A No, sir.

9 Q And what is your understanding as to where he keeps
10 that gun?

11 A Hidden in the back.

12 Q Hidden in the back?

13 A Yes, sir.

14 Q All right. And does Willie Pelzer know where that
15 gun's kept?

16 A I don't think so.

17 Q And that day did you ever see the gun laying on the
18 couch or laying around anywhere inside that house?

19 A It was on the couch.

20 Q On the couch. Now, didn't a minute ago, didn't I say
21 did you see that gun any time that day you said no.

22 A I didn't see it on the couch, but I knew it was on the
23 couch.

24 Q No, did you see it --

25 A Okay.

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1 Q -- my question is did you see that gun --

2 A No, sir.

3 Q -- anytime that day, and you said no. Now, is it
4 customary -- in that kind of neighborhood that you're
5 talking about is it customary for you guys, for Jimmy Lee to
6 leave that gun just laying around in the open like that?

7 A No, sir.

8 Q In fact that would be rather foolish would it not?

9 A Yes, sir.

10 Q And if it was your gun, and you saw it laying around or
11 knew he just kept it laying around?

12 A Yes, sir.

13 Q And wouldn't you take it back if it was your gun?

14 A Yes, sir.

15 THE COURT: We'll stop here for lunch, Mr. Banks.

16 Ladies and gentlemen, we'll stop here for lunch. We'll
17 try to start back about 20 after 2:00. Please do not talk
18 about the case and try to be back in the jury room about
19 2:20 or 2:25, or something like that.

20 Everybody else remain in the courtroom until the jury
21 leaves the court house.

22 (Jury out for lunch at 1:07 p.m.)

23 THE COURT: All right, Mr. Reed, you can step
24 down. Do not talk with any of the attorneys about any --
25 don't talk with anybody about your testimony at all.

1 Nobody.

2 MR. REED: Yes, sir.

3 THE COURT: You be sure you're back here when we
4 get ready to get started.

5 Anything from the state before we recess?

6 MR. PASCO: No, sir.

7 THE COURT: From the defense?

8 MR. BANKS: No, Your Honor.

9 THE COURT: All right. How about let the jury get
10 out of the courthouse before we let anybody down the steps
11 there, please.

12 We'll be in recess until 2:20.

13 (Court in recess for lunch 1:08 p.m.)

14 (Court in session after lunch at 2:28 p.m.)

15 THE COURT: Anything from the state before we
16 bring in the jury?

17 MR. PASCO: No, Your Honor.

18 THE COURT: Anything from the defense?

19 MR. BANKS: No, Your Honor.

20 THE COURT: Bring in the jury, please.

21 (Jury in at 2:29 p.m.)

22 THE COURT: All right. We have all our jurors
23 present. You may call your next witness.

24 MR. PASCO: Mr. Reed was on the stand, Your Honor.

25 THE COURT: Sir?

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1 MR. PASCO: Remember Willie Reed was still on the
2 stand?

3 THE COURT: Oh, that's right.

4 Come on around, Mr. Reed. Come on around, Mr. Reed,
5 we're ready to get rolling.

6 All right, Mr. Banks.

7 MR. BANKS: Thank Your Honor.

8 WILLIE REED - CONTINUED CROSS EXAMINATION

9 BY MR. BANKS:

10 Q I believe when we last were at this, Mr. Reed, we were
11 talking about several things and one of the last things was,
12 you know, Merrybell Lane and I have a question. Did you --
13 you were talking about your statement at Merrybell about
14 -filing the false police report?

15 A Yes, sir.

16 Q And when you talked about that I think you expressed
17 that you wish that you had told them about what was really
18 going on?

19 A Yes, sir.

20 Q And isn't it true that you didn't tell them that Pelzer
21 had committed another crime involving that gun, because you
22 hadn't thought of that, yet?

23 A Hadn't thought of it yet?

24 Q Yeah.

25 A Could you repeat or rephrase that?

1 Q Isn't it true that you didn't know, you didn't think
2 that Pelzer had done that crime at that point?

3 A No, sir, that's not true.

4 Q When your car, you had that white Lumina, correct?

5 A Yes, sir.

6 Q And you said the cops have never come to clean that --
7 to look at that car, to test that car?

8 A No, sir.

9 Q Did you have that car cleaned between the night of the
10 killing and, let's say, the night of the 10th?

11 A No, sir.

12 Q Didn't have it cleaned inside or out?

13 A No, sir.

14 Q When you went to -- I think when y'all finally left to
15 go to Charleston, y'all finally stopped to get gas?

16 A Yes, sir.

17 Q And what station was that?

18 A The Shell station on 22 and 21.

19 Q I'm sorry?

20 A The Shell station on 21 and 22 on Columbia Road.

21 Q Okay. And when y'all stopped, who was driving?

22 A I was, sir.

23 Q You were driving?

24 A Yes, sir, at the gas station.

25 Q And when you got out did y'all change drivers?

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1 A Yes, sir, eventually, sir.

2 Q I'm sorry?

3 A Eventually, yes, sir.

4 Q Right then at the station y'all changed drivers?

5 A No, sir.

6 Q When did y'all change drivers?

7 A We stopped further up the road and changed drivers,
8 because I wasn't driving.

9 Q Why did you do that?

10 A Because I didn't want to drive. I didn't want to go in
11 the first place.

12 Q But you promised his uncle that you -- you promised his
13 uncle that you would drive because you were the only one
14 with a license, right?

15 A His uncle said -- I didn't to go in the first place,
16 but his uncle said --

17 Q Did you promise his uncle that you would drive?

18 A I didn't promise him, but yeah, I said I would drive.

19 Q He didn't -- he gave you the car under the condition
20 that you would drive.

21 A Yes, sir.

22 Q And you assured him that you would drive?

23 A Yes, sir.

24 Q And you didn't end up driving did you?

25 A No, sir.

- 1 Q So you lied to the uncle?
- 2 A Yes, sir.
- 3 Q And Haygood was there?
- 4 A Yes, sir.
- 5 Q Haygood assured the uncle that you would drive?
- 6 A He can't be positive of that, sir.
- 7 Q So he wasn't there when you were discussing that?
- 8 A He was there. I mean, I didn't remember the question
- 9 and I didn't want -- I'm not exactly sure is what I want to
- 10 say.
- 11 Q Okay. Were you the only one that assured him that you
- 12 would drive or did Haygood also assure him that you would
- 13 drive?
- 14 A I'm not sure, but he may have -- I'm not sure.
- 15 Q Okay, so basically you and Haygood were there together,
- 16 promising the uncle, assuring the uncle that you would
- 17 drive?
- 18 A The defendant, also.
- 19 Q I'm sorry?
- 20 A The defendant, also.
- 21 Q Yeah. But my -- Mr. Pelzer didn't agree to any -- to
- 22 who was driving that car did he?
- 23 A Yeah --
- 24 Q He was just there?
- 25 A Yeah, he agreed also.

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1 Q Wasn't his car.

2 A Didn't matter.

3 Q Wasn't his uncle's car?

4 A It's --

5 Q He was just standing there wasn't he?

6 A No.

7 Q Are you saying that Willie Pelzer told --

8 A Well, sir, it was his idea to go to Charleston. He had
9 -- he asked me and Clay said he wouldn't let them get the
10 car unless I was driving.

11 Q But you -- are you saying that Jimmy Lee Haygood's
12 uncle asked Willie if Willie would make sure that you drove?

13 A No, he didn't ask Willie to make sure that I drove, but
14 I know that he asked to drive the car, he said if Willie was
15 getting the car that he couldn't drive it, I would have to
16 drive it. I didn't go with them when they was talking to
17 him. I was outside there, but I didn't discuss any deal
18 with his uncle. He said I would have to drive.

19 Q So my question is --

20 A Yes, sir.

21 Q -- I understand that Willie Pelzer was present --

22 A Yes, sir.

23 Q -- but you and Mr. Haygood agreed together, both of you
24 agreed together in front of that uncle that you would drive
25 that car?

1 A Not both of us together, sir.

2 Q Y'all -

3 A It was stated. Jimmy was talking to him. I think
4 Jimmy and Willie went up to him and they were like we need
5 to borrow the car or something like that. And he was like
6 I'm not letting y'all get the car unless Willie drives.

7 Q All right. So you -- after getting gas --

8 A Willie meaning me. I'm sorry.

9 Q Yes. So after getting gas y'all stopped specifically
10 to change drivers?

11 A Yes, sir.

12 Q On the interstate?

13 A No, sir. I think we went up to the gas station up the
14 road, the Wilco.

15 Q Okay.

16 A I didn't drive to Charleston.

17 Q All right. Now, you said after the morning y'all got
18 back from Charleston --

19 A Yes, sir.

20 Q Y'all got back early in the morning, right?

21 A Yes, sir.

22 Q Y'all returned the car, correct?

23 A Yes, sir.

24 Q All right. Where did you -- I guess your car was at
25 the uncles house?

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1 A Yes, sir.

2 Q So you dropped -- who did you drop off when and where?

3 A Willie drove all the way back. He dropped himself off.
4 I drove from Willie's house on Wash Lane back to back to
5 Clay's house.

6 Q Okay, and did you stay at Clay's house?

7 A No, sir.

8 Q You went home then?

9 A Yes, sir.

10 Q Did you go to bed?

11 A Yes, sir.

12 Q Next -- after you got up later that day did you talk to
13 Willie Pelzer?

14 A Later that day on Friday, right?

15 Q That was Friday.

16 A I think there was a phone conversation Friday.

17 Q All right. And did you see Willie Pelzer Friday,
18 Saturday or Sunday?

19 A No, sir.

20 Q Monday?

21 A Monday? No.

22 Q Didn't you take him to a job interview?

23 A No, sir.

24 Q You didn't take him to a job interview in those later
25 days --

1 A No, sir.

2 Q -- right in that time-frame?

3 A No, sir.

4 Q Have you ever head Mr. Pelzer ask Mr. Haygood for that
5 gun?

6 A Not in front of me, sir.

7 Q Have you ever heard Mr. Pelzer ask you for that gun?

8 A No, sir.

9 Q Merrybell Lane, you said, had a lot of various people
10 using drugs; is that right?

11 A I guess you could say that, sir.

12 Q And is there any drug dealing going on there?

13 A Not I seen, sir.

14 Q When you left the house on Merrybell to go drop the
15 cousin off that evening around suppertime, or a little after
16 supper -- 9:30 or 10:00 o'clock or whatever, when you left
17 to go take the cousin home you left -- how many people
18 approximately back at the house?

19 A The only person that was there that I knew of because I
20 didn't go back in the house, was Willie Pelzer, because he
21 didn't come with us, and I knew he was still there.

22 Q What about the owner of the house?

23 A Jimmy may have been there, but I can't be positive, I
24 didn't see him.

25 Q And you mean Jimmy Senior?

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1 A Yes, sir.

2 Q Jimmy Haygood's dad?

3 A Yes, sir.

4 Q And that's -- and you don't know he was there because
5 you were kind of unfamiliar with who was inside the house;
6 is that right?

7 A Yes, sir.

8 Q Okay. Could there have been others inside the house?

9 A Yes, there could.

10 Q Could there have been more than just Jimmy and Willie
11 and one or two others?

12 A I didn't see any others, but, I mean, there could have
13 been.

14 Q And outside the house, did you leave anybody outside
15 the house?

16 A No, sir.

17 Q So the party was basically -- the get-together was
18 breaking up?

19 A Yes, sir. It was late, it was getting dark.

20 Q Now, does Mr. Pelzer have the use of a car?

21 A No, sir.

22 Q He has no vehicle that he can use?

23 A No, sir.

24 Q Let's go back to the burn pit. He never actually said
25 I'm burning my shirt?

- 1 A No, sir.
- 2 Q He never said what he was burning?
- 3 A No, sir.
- 4 Q He never said he was burning anything?
- 5 A No, sir.
- 6 Q He never said what he was burning?
- 7 A No, sir.
- 8 Q He never said he was burning anything?
- 9 A No, sir.
- 10 Q But there was some smoke, you said?
- 11 A Yes, sir.
- 12 Q Now, did that smoke look like it was billowing from a
13 flame; did you see a flame?
- 14 A No, sir. I just knew something was on fire with smoke.
- 15 Q But you didn't see any flames?
- 16 A No, sir.
- 17 Q But you can't tell how long before that something had
18 been set aflame in that burn pit; is that right?
- 19 A No, sir.
- 20 Q It could have been an hour?
- 21 A It was stated earlier that no one stayed there, the
22 electricity wasn't on there.
- 23 Q But there are neighbors, right?
- 24 A But they are further down the road, sir.
- 25 Q And people pass by?

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1 A Yes, sir.

2 Q And you don't have any idea that Mr. Pelzer would have
3 been there for any length of time?

4 A No, sir.

5 Q Did he have a lighter on him?

6 A I wouldn't know, sir?

7 Q Did he have a match on him; did you see anything that
8 he could have had that would have caused a flame?

9 A No, sir.

10 Q Any lighter fluid?

11 A No, sir.

12 Q Any gasoline?

13 A No, sir.

14 Q Did you smell anything like that?

15 A Other than the smoke burning, no, sir.

16 Q Isn't it true that Willie owns at least one gun?

17 A I guess, I'm not sure.

18 Q You don't know if Willie Pelzer owns a gun?

19 A Legally, I'm not sure, sir.

20 Q You don't know?

21 A No, sir.

22 Q You ever seen him with a gun?

23 A A few times, sir.

24 Q Okay. Prior to this date?

25 A Yes, sir.

1 Q And you don't know whose gun that was?

2 A No, sir.

3 Q All right. Do you know if Willie would have any need
4 for a gun?

5 A No, sir.

6 MR. BANKS: No further questions, Your Honor.

7 THE COURT: Redirect?

8 MR. PASCO: Thank you, sir.

9 WILLIE REED - REDIRECT EXAMINATION

10 BY MR. PASCO:

11 Q What kind of gun did Willie Pelzer own?

12 A Maybe a shotgun, maybe. I seen some shotguns.

13 Q It was just a shotgun, it wasn't a pistol?

14 A No, sir.

15 Q You don't even know if the shotgun was operable or not?

16 A No, sir.

17 Q Okay. I've got just a few more questions for you,
18 okay.

19 'Mr. Banks asked you a bunch of questions about the
20 purchase of the gun on February 17th?

21 A Yes, sir.

22 Q I'll show you State's Exhibit No. 2?

23 A Yes, sir.

24 Q And back on February 17th you legally could buy a gun
25 couldn't you?

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1 A Yes, sir.

2 Q As you said on here, didn't have any crimes?

3 A No, sir.

4 Q Never been convicted of a crime?

5 A No, sir.

6 Q You were above the age of 18?

7 A Yes, sir.

8 Q You could legally possess a gun?

9 A Yes, sir.

10 Q You could legally buy a gun?

11 A Yes, sir.

12 Q Mr. Banks made another good point that I was sure to
13 write down. was the defendant's property?

14 A Yes, sir.

15 Q No power to it on March 5th?

16 A No, sir.

17 Q Nobody was living in it on March 5th?

18 A No, sir.

19 Q No reason for him to be there on the night of March 5th
20 at 11:07?

21 A No, sir.

22 Q No reason to be burning anything in the back yard on
23 March 5, 2009?

24 A No, sir.

25 Q But when you went to go get the defendant was something

1 burning in the back yard?

2 A Yes, sir.

3 Q Are you here to lie about Willie Pelzer?

4 A No, sir.

5 Q Why didn't you just go ahead and say to the jury that
6 he had a lighter on him on that night that you saw him?

7 A I didn't see it so I can't tell them I did.

8 Q Why don't you lie and say that you saw that there was a
9 shirt in that pit, you know it was the shirt?

10 A Because I wasn't positive. I'm telling the truth.

11 Q Mr. Banks asked you about any promises for your
12 testimony, and remember he asked you about getting a PR
13 bond, a personal recognizance bond?

14 A Yes, sir.

15 Q Was anybody from my office at your bond hearing?

16 A No, sir.

17 Q Did anybody promise you a PR bond?

18 A No, sir.

19 Q Did the Sheriff's Office promise you a PR bond?

20 A No, sir.

21 Q Did the magistrate set your bond?

22 A Yes, sir.

23 Q And when he set your bond, did he ask, did he find out
24 if you were a flight risk?

25 A Yes, sir.

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1 Q. And did he take into consideration that you've never
2 been charged with a crime before?

3 A Yes, sir.

4 Q Mr. Banks asked you -- well, you haven't been charged
5 with filling a false police report have you?

6 A Yes, sir.

7 Q What crime is more serious to you, a crime that carries
8 15 years or 30 days?

9 A 15 years.

10 Q And you were charged with accessory after the fact of
11 murder which carries 15 years?

12 A Yes, sir.

13 Q You can get anywhere from zero to 15 years, can't you?

14 A Yes, sir.

15 Q Because you helped that man; do you regret it?

16 A Yes, sir.

17 Q And Mr. Banks asked you -- well there are two more
18 areas I want to cover with you, just to clarify. He went to
19 go borrow the car from Willie Clay Haygood?

20 A Yes, sir.

21 Q Which is State's Exhibit No. 59?

22 A Yes, sir.

23 Q And after y'all borrowed the car, did y'all go out and
24 clean it?

25 A No, sir.

1 Q Does it even look clean and washed to you?

2 A No, sir.

3 Q And see these pictures of the inside of the car?

4 A Yes, sir.

5 Q And is that clean on the inside of Willie Clay
6 Haygood's car after March 5, 2009?

7 A No, sir.

8 Q If you did you've done a pretty bad job of it, huh?

9 A Yes, sir.

10 Q And to clarify, I think that it came out, but I want to
11 clarify. Jimmy Haygood was asking his uncle to borrow his
12 car; correct?

13 A Yes, sir.

14 Q And it was Willie Clay Haygood who told Jimmy Haygood
15 that you had to drive the car?

16 A Yes, sir.

17 Q He didn't tell you that, he told his nephew that?

18 A Yes, sir.

19 Q But you were part of that promise. When they came back
20 to you they said you had to drive, right?

21 A Yes, sir.

22 Q But as you testified to you didn't want to drive to
23 Charleston?

24 A No, sir.

25 Q Who told y'all how to get to State's 53, Bridgeview

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1 Apartments that night in Charleston?

2 A The defendant.

3 Q The defendant, Willie Pelzer. Did you know Dana Brown?

4 A No, sir.

5 Q Did you know anybody living at Bridgeview Apartments in
6 Charleston?

7 A No, sir.

8 Q Were you trying to lie to the police on March 5, 2009?

9 A No, sir.

10 Q Was the plan for you to even stay in Charleston that
11 night?

12 A No, sir.

13 Q What were you going to do after dropping Willie Pelzer
14 off?

15 A Go home.

16 Q And where is home?

17 A

18 Q In the St. Matthews area, Calhoun County?

19 A Yes, sir.

20 Q And finally, sir, Mr. Banks asked you, are you lying
21 today to stay out of prison for more than 15 years; do you
22 remember that?

23 A Yes, sir.

24 Q Are you lying today to stay out of prison for more than
25 15 years.

1 A No, sir.

2 Q I'm going to come right out and ask you. I'm going to
3 ask you the question because we know what carries more than
4 15 years. Did you kill Jason Rivenburg?

5 A No, sir.

6 Q Did you do that to Jason Rivenburg in State's Exhibit
7 No. 8?

8 A No, sir.

9 Q Who told you he killed a truck driver?

10 A The defendant.

11 Q Point him out for the jury.

12 A (Witness complies.)

13 Q Willie Pelzer?

14 A Yes.

15 Q And who did you help in those two or three days after
16 this murder almost get away with this murder?

17 A The defendant.

18 Q And your lie to the police on March 6th, that Friday, I
19 mean, you were --

20 A Yes, sir.

21 Q -- you shouldn't have lied, right?

22 A Yes, sir.

23 Q Anything good come from that lie?

24 A No, sir. Well, something did come good -- they found
25 out the killer, they wouldn't have found out anything about

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1 the case if we hadn't reported the gun stolen.

2 Q Had you never lied, this murder may never have been
3 solved?

4 A Yes, sir.

5 Q And on March 8, 2009, after you were arrested for
6 accessory after the fact of murder --

7 A Yes, sir.

8 Q -- did you tell Detective Graham and Detective Riley
9 that Willie Pelzer killed the truck driver?

10 A Yes, sir.

11 Q Did you tell the police about how he was burning
12 something in his backyard?

13 A Yes, sir.

14 Q Thank you, Willie, Mr. Reed. Take care.

15 THE COURT: Recross?

16 MR. BANKS: No. No further questions, Your Honor.

17 THE COURT: Thank you, sir, you may step down.

18 Thank you for coming. You may be excused.

19 MR. REED: Yes, sir.

20 THE COURT: Call your next witness.

21 MR. SORENSON: State calls Dana Brown.

22 The next witness is in the restroom, Your Honor.

23 THE COURT: Well, tell them who your next witness
24 is so they can have them prepared.

25 MR. SORENSON: I did that, Your Honor. He's

1 standing outside the door.

2 THE COURT: Come on down, please, ma'am. All the
3 way down the front, down this side.

4 THE CLERK: Please place your left hand on the
5 Bible and raise your right hand. Ma'am, place your left
6 hand on the Bible and raise your right hand.

7 (WHEREUPON, Dana Brown, was sworn
8 to tell the truth.)

9 THE CLERK: State your full name for the record,
10 please, ma'am.

11 MS. BROWN: Dana Brown.

12 THE CLERK: Okay, please have a seat.

13 DANA BROWN - DIRECT EXAMINATION

14 BY MR. SORENSON:

15 Q Ms. Brown, I need you to make sure you keep your voice
16 up nice and loud. So either slide your chair up or slide
17 that microphone up to you.

18 Can you tell the jury, ma'am, where it is that you
19 live?

20 A In Charleston,

21 Q Okay, keep up -- pull that up. Okay. What's the
22 address?

23 A

24 Q Okay, is that a house or an apartment?

25 A An apartment.

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1 Q And what is the name of that apartment complex?

2 A Bridgeview Village Apartments.

3 Q Okay, and how long have you lived in that apartment
4 complex?

5 A For about seven months.

6 Q Okay, and back in March of this year were you living in
7 Bridgeview Apartments at that time?

8 A Yes.

9 Q Let me ask you, when did you move into the apartments?

10 A In November --

11 Q Last year of '08?

12 A -- Uh-huh. (Affirmative response.)

13 Q Okay, now the apartment that you live in now, is that
14 the same apartment that you lived in --

15 A No.

16 Q -- back in the beginning of the year?

17 A No, sir.

18 Q I want to show you these pictures. State's 53 through
19 57. If you can just kind of flip through those and see if
20 you recognize those photographs?

21 A Yes.

22 Q Are those all of your apartment complex?

23 A Yes, it is.

24 MR. SORENSON: Your Honor, we'd offer State's 53
25 through State's 57 into evidence.

1 THE COURT: Any objection?

2 MR. BANKS: No, Your Honor.

3 THE COURT: Admitted without objection.

4 (State's Exhibit No. 53,
5 photograph, was marked and entered.)

6 (State's Exhibit No. 54,
7 photograph, was marked and entered.)

8 (State's Exhibit No. 55,
9 photograph, was marked and entered.)

10 (State's Exhibit No. 56,
11 photograph, was marked and entered.)

12 (State's Exhibit No. 57,
13 photograph, was marked and entered.)

14 BY MR. SORENSON:

15 Q And these are all just various pictures of your
16 apartment complex?

17 A Yes, it is.

18 Q And that one there just shows the entrance with the
19 Bridgeview -

20 A Right.

21 Q -- Apartment sign?

22 A Right.

23 Q Okay. Let me ask you, Ms. Brown, back in March of this
24 year, did you have a cell phone at that time?

25 A Yes, I did.

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1 Q And what -- do you remember what the phone number was
2 that you had back in March of this year?

3 A

4 Q Okay, and since you were living in Charleston, you had
5 an area code?

6 A , yes.

7 Q Okay. ?

8 A Yes.

9 Q Let me ask you, you indicated that you moved to that
10 apartment complex back in November of last year, November of
11 '08?

12 A Right.

13 Q Where had you moved from?

14 A Rochester, New York.

15 Q Okay, and how long had you lived up in Rochester?

16 A Eight years.

17 Q Let me ask you, the defendant in this case, Willie
18 Pelzer; do you know Mr. Pelzer?

19 A Yes.

20 Q Okay. When did you first meet Mr. Pelzer, well, first
21 of all, how did you meet Mr. Pelzer?

22 A On local space it's online through your phone, and
23 that's where I met him at.

24 Q Is that like a chat room?

25 A A chat room, yes.

1 Q And when was that that you met him on that chat room?

2 A I believe it was in December.

3 Q That was December of last year --

4 A Last year.

5 Q -- of 2008?

6 A Yes.

7 Q And initially that was just over your phone or the
8 internet?

9 A Right.

10 Q Did there come a time when you ever actually met him in
11 person?

12 A Yes, I did.

13 Q Okay, when did that occur?

14 A Maybe about a month after contact with him.

15 Q Sometime maybe January of 2009?

16 A January.

17 Q Let me ask you, how many times did you actually meet
18 Mr. Pelzer in person, face-to-face?

19 A One time.

20 Q And what name did you know him by?

21 A Jody.

22 Q Jody.

23 Q And did there come a time in talking with him that you
24 ever learned what his real name was?

25 A Yes.

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1 Q What did he tell you his real name was?

2 A He told me Willie. I'm not sure of the last name.

3 Q And you said you met him one time, and that occurred
4 sometime in January?

5 A Right.

6 Q And where and how -- tell the jury what the
7 circumstances were, how that came about?

8 A He just -- we really just wanted to see one another
9 because we were going back and forth with the text messages,
10 and he said he was going to come down to see me, and he came
11 down that night.

12 Q Did you know -- had he told you where it was that he
13 lived?

14 A He said Orangeburg.

15 Q Orangeburg. So he came down one night. Did he bring
16 anybody with him?

17 A No.

18 Q And where did he come to?

19 A To the Bridgeview Village Apartments.

20 Q Okay. Now did he come up to the apartment that you
21 lived in at that time?

22 A No, he didn't.

23 Q Okay. Where did you meet him at?

24 A I met him in the front of the apartment complex.

25 Q Okay. Let me ask you, that person that came down that

1 you had been talking with over the year and text messaging
2 with that came and met with you that one time in January, do
3 you see him in the courtroom?

4 A Yes, I do.

5 Q Can you point him out to the jury?

6 A (Witness complies.) He's over there.

7 Q The guy in the red shirt sitting at the defense table?

8 A The burgundy shirt.

9 Q Okay. All right, now, after you met with him that one
10 time in January did you continue to keep up with him --

11 A Through text messages and on the phone.

12 Q You talked to him on the phone also?

13 A Yes.

14 Q How would you characterize your relationship with him
15 at that point in time in January into February and into the
16 early part of March 2009?

17 A He was just someone that I knew. He wasn't a friend.

18 Q You didn't consider him your boyfriend or anything --

19 A No.

20 Q All right. Now, I want to turn your attention, ma'am,
21 to March 4th -- I'm sorry, March 5, 2009, and I'll show you
22 what's been marked as State's Exhibit No. 84. Do you
23 recognize that, that series of papers there?

24 A Yes, I do.

25 Q Have you had a chance to review those --

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1 A Yes, I did.

2 Q -- text messages listed on there, and do those
3 accurately represent the text messages back and forth
4 between you and Mr. Pelzer on March 5, 2009 into March 6,
5 2009?

6 A Yes, sir.

7 MR. SORENSON: Your Honor, at this time, we'd
8 offer State's 84 into evidence.

9 THE COURT: Any objection?

10 MR. BANKS: No objection, Your Honor.

11 THE COURT: Admitted without objection.

12 MR. SORENSON: Thank Your Honor.

13 (State's Exhibit No. 84, text
14 messages, was marked and entered.)

15 BY MR. SORENSON:

16 Q All right, now, we'll turn your attention to that
17 Thursday evening. Did there come a time when you were
18 contacted by Mr. Pelzer that night via text messages?

19 A Yes.

20 Q Okay, what was it that he was asking for, what was the
21 nature of those initial contacts you had with him that
22 evening?

23 A When he first contacted me he asked me if I could give
24 -- if I could lend him \$20. He wanted me to send it to him
25 Western Union.

1 Q Okay. What was your response to that?

2 A I told him that \$20 would cost me \$35, and that I
3 really didn't have that type of money to send to him.

4 Q And if we could really just go through these first four
5 pages or so. Do they kind of lay out those text messages
6 back and forth between y'all?

7 A Yes, sir.

8 Q Okay. That first message here says, what you doing, I
9 need a favor.

10 A Yes.

11 Q A favor, f-a-v-a.

12 A Yes.

13 Q Who was that texting who?

14 A He was texting me.

15 Q Okay. What was your response to that, when he says
16 what you doing, I need a favor?

17 A I told him I was on my way to Wal-mart with my brother
18 and his wife.

19 Q Okay. I think you said, what's up or something like
20 that?

21 A Yes.

22 Q Okay, and his response to that was you going to let me
23 hold something with a bunch of question marks?

24 A Right.

25 Q And what was your response to that?

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1 A Hold something like what?

2 Q And what was his response when you asked him hold
3 something like what?

4 A Money.

5 Q And with a couple question marks to it?

6 A Exclamation and question marks.

7 Q All right, and when he responds that to you what did
8 you respond back?

9 A What kind of money and how would you get it?

10 Q What kind of money and how would you get it, is your
11 response back?

12 A Right.

13 Q Looking up at the top left-hand corner, what time are
14 we talking about that all these initial text are kind of
15 going back and forth between the two of y'all?

16 A It was going on 8:00 o'clock, around 8:00 o'clock.

17 Q Around 8:00 o'clock that evening?

18 A Yes.

19 Q Okay. All right, so you respond back to him what kind
20 of money and how would you get it?

21 A Yes.

22 Q Okay, and what is his response back to you, ma'am?

23 A He says, so fuck it.

24 Q Oh, back up, back up to the top of the third page, you
25 said what kind of money and how would you get it, and his

1 response is?

2 A And he said, \$20 Western Union.

3 Q And what do you say about the \$20 that you said
4 earlier?

5 A You know that \$20 will cost me \$35. I have the \$20,
6 but not the \$35. My money is on my card and it's at my
7 Mom's house.

8 Q And what's his response when you tell him basically
9 that you're not going to send the money?

10 A So fuck me, then, huh?

11 Q So what is your response -- did that kind of take you
12 by surprise?

13 A Yes, it did.

14 Q Okay. What is your response back to him after saying
15 that to you?

16 A Wow, it's not that -- my card is on James Island with
17 my mom, because I spend money every day and I'm trying to
18 move, and I don't get more money until tomorrow.

19 Q And this was all happening right around 8:00 o'clock
20 that evening.

21 A Yes, sir.

22 Q It's about 8:14 that you respond?

23 A Right.

24 Q Then what's his response back after you basically tell
25 him why you can't send him the money?

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1 A Check it. I want to take something from a nigger and
2 come down there with my brother. That's cool with you? You
3 got a home girl he can get with?

4 Q So what was the first part of that, again?

5 A Check it, I want to take something from a nigger and
6 come down there with you.

7 Q When you got that message from him that night at 8:18
8 in the evening, what did you think that meant?

9 A Pretty much thought he was about to rob someone.

10 MR. BANKS: Objection, Your Honor. Calls for
11 speculation. She wasn't talking to him, it's a text
12 message.

13 THE COURT: I'll overrule your objection.

14 MR. BANKS: Your Honor, she can't say what he
15 thought.

16 MR. SORENSON: I mean, it's her interpretation of
17 this conversation between the two of them.

18 THE COURT: That's her opinion of the conversation.
19 I'm going to allow it.

20 BY MR. SORENSON:

21 Q So in that point in time -- let me ask you, after those
22 series of text messages did there come a time that evening
23 when you had some phone conversations with him that evening?

24 A Yes.

25 Q What was the nature of those phone conversations that

1 you had?

2 A He was telling me he was coming down. He wanted to
3 come down to Charleston.

4 Q All right. Did there come a time later on that evening
5 when you had sent him another text message kind of finding
6 out what was going on?

7 A Yes.

8 Q Okay. I'll kind of turn you to the next page. That's
9 at 11:21 -- 23:21, so 11:21 or so in the evening?

10 A Yes.

11 Q Okay. What is that text message that you sent him
12 around 11:21 in the evening?

13 A Are you okay?

14 Q Why did you send him a text message at 11:21 asking him
15 if he was okay?

16 A Because earlier during the conversation it was like he
17 was arguing with someone while he was on the phone with me.

18 Q Okay. So he seemed agitated earlier in the evening?

19 A Yes.

20 Q And were you under the impression that he was supposed
21 to be on the way down there already by that point in time?

22 A No.

23 Q So you're still waiting to hear back from him with
24 regards to that?

25 A Yes.

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1 Q Okay. Let me ask him, when you send him are you okay,
2 what is his response to that at 11:24 in the evening?

3 A K.

4 Q K? All right, and then does he also send another
5 message right after that to you?

6 A Yes, he did.

7 Q And what is that?

8 A Yeah, babe, no, I'll call you from a different number.

9 Q Okay. Then that is at 11:27 in the evening; is that
10 correct?

11 A Yes.

12 Q Okay. The next message on here, I believe, is from you
13 to him at 12:05 in the morning. What did you sent to him?

14 A I'm not hearing from you. Is everything okay.

15 Q Okay, and that's at 12:05 a.m.?

16 A Yes, it was.

17 Q Now, have you heard from him in between there, when he
18 says, no, I'll call you from a different number, do you hear
19 from him at that time?

20 A At that time, yes.

21 Q Okay, well in between 11:27 and 12:05 when you say I'm
22 not hearing from you, is everything okay. Did you hear from
23 him in between those two --

24 A No.

25 Q -- text messages? Okay. All right. So you say I'm

1 not hearing from you, is everything okay at 12:05 in the
2 morning?

3 A Yes.

4 Q What is his response to that text that you sent him at
5 12:05 in the morning?

6 A I'm going to call you. Shit with my bitch hit the fan.
7 Dig. My battery is dead. Call you at my brother's house.

8 Q He said shit hit the fan, basically?

9 A Right.

10 Q Okay, and what is your response to that at 12:08 in the
11 morning?

12 A Okay.

13 Q And did you ultimately hear from him from another phone
14 number that you didn't recognize that morning, then?

15 A Yes.

16 Q Okay, and what was the subject of that conversation
17 when you heard from him?

18 A He wanted to know then if he could come down to
19 Charleston?

20 Q And did you tell him that was okay?

21 A Yes, I did.

22 Q And did you think he was coming by himself?

23 A Yes.

24 Q Let me ask you, did you know whether he had a car back
25 in March of 2009?

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1 A No. No I don't.

2 Q You didn't know if he had one or --

3 A No, I don't.

4 Q All right. Now, ultimately, over the next several
5 hours, next couple of hours, do you have a series of text
6 messages back and forth between you and Mr. Pelzer?

7 A Yes.

8 Q Okay, and specifically turning in the next page to that
9 stack there about 1:30 in the morning do you send him a text
10 message?

11 A Yes, I did.

12 Q And what was that message that you sent him?

13 A I have to make a run with my cousin. It will take
14 about 45 minutes. You can still come. It will take about
15 that time for you to get here.

16 Q Okay. Were you under the impression at that point in
17 time that he was on his way down there?

18 A Yes.

19 Q And coming somewhere from the Orangeburg area to --

20 A Yes.

21 Q -- and where is that apartment that you were living at?

22 A It's in Charleston.

23 Q Okay, is it pretty much, almost in downtown Charleston?

24 A It's in downtown Charleston.

25 Q Okay. All right, and what is his response to that text

1 that you sent him at 1:32?

2 A Okay.

3 Q And what -- does he sent you another text a minute or
4 so later at 1:33?

5 A Yes.

6 Q And what is that text that he sends you?

7 A Make sure you got tree, okay?

8 Q And what does he mean by make sure you got tree, okay?

9 A Marijuana.

10 Q So he's asking you to make sure you have some marijuana
11 at your house?

12 A Yes.

13 Q And what is your -- do you send a text back to him?

14 A Yes, I did.

15 Q All right, and what is your text back to him?

16 A His door was kicked in. We can't fuck around like
17 that. When are you leaving?

18 Q Okay. What did you mean by that first part of that,
19 his door was kicked and --

20 A The person that had the marijuana door was kicked in
21 prior to that night.

22 Q So did he know from when he came down there in January
23 that you had somebody you could get marijuana from?

24 A Yes.

25 Q Was that from his prior visit?

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1 A Yes.

2 Q All right, and the you ask him, when are you leaving?

3 A Yes.

4 Q Let me ask you, at that point in time, he was -- when
5 you had talked with you that evening and he was kind of in
6 route down there to Charleston, what was your understanding
7 on how long he was coming down there for?

8 A It really wasn't an understanding. I just thought
9 really he was just coming down there for a couple of hours
10 to hang out.

11 Q Okay. Was it your intention to have him come spend the
12 night with you?

13 A No.

14 Q All right. When you asked him when are you leaving
15 what is his response?

16 A Tomorrow evening.

17 Q Tomorrow evening. Okay, and that's at 1:35 in the
18 morning?

19 A Yes, it was.

20 Q And does he send you another text right after that,
21 also?

22 A Yes.

23 Q And what does that text say?

24 A No bud?

25 Q And what was that meaning?

1 A Meaning that there was no marijuana around.

2 Q All right, and what -- did you send him a text message
3 back kind of in response to those two texts that he had just
4 sent you about tomorrow evening?

5 A Yes, I did.

6 Q And what is that text that you sent him?

7 A I'll have to talk to my niece. See, I didn't know. I
8 thought you was coming for a couple of hours. Remember I
9 don't have my own place yet.

10 Q Who were you living -- back in March of 2009, who were
11 you living with at that time?

12 A I was living with my cousin.

13 Q And have you since then moved into your own apartment?

14 A Yes, I have.

15 Q Okay. So back then, so basically, you didn't have the
16 say-so as to whether somebody was going to come spend the
17 night?

18 A Exactly.

19 Q Okay. All right. And he sends you -- these next two
20 are kind of backwards here, but at 1:38 he sends you a text,
21 okay, babe see what you can do and let me know in a minute.
22 Is that correct?

23 A Yes.

24 Q And going back to the middle one on that page you
25 respond, I will.

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1 A I will.

2 Q And then does he ultimately giving you some updates on
3 where they are as they're driving down there?

4 A Yes, he did.

5 Q Where does he say at 1:39 in the morning they are?

6 A He said, okay babe, we're passing the Florence exit
7 now.

8 Q The Florence exit would be, I assume, I-95?

9 A Yes.

10 Q All right, you sent him several text basically -- he's
11 keeping you updated when they pass Exit 180-something.

12 A Right.

13 Q When they're at Exit 190?

14 A Yes.

15 Q Okay. And let me ask you this, when you told him you
16 were going to see what you could do about checking with your
17 niece; did you ever actually do that?

18 A No, I didn't.

19 Q Did you tell him that you are doing that?

20 A Yes, I did.

21 Q All right, if you'll go forward a couple of pages kind
22 of at the top there's a message where it just has the
23 message at the top where you send him a text that says I
24 still ain't back with my cuz yet, so it's going to be a
25 minute; do you see that?

1 A Yes.

2 Q Okay. All right, now, does he send you a couple text
3 right after that at 1:58 in the morning?

4 A Yes.

5 Q Okay, and what are those text that Mr. Pelzer sends you
6 at 1:58 in the morning?

7 A But you can make something happen, though, right?

8 Q And what's his next one?

9 A I ain't coming down here for nothing, right?

10 Q All right, what is your response that to him?

11 A It's just a matter of when my cousin comes home, he's
12 only supposed to get something. If anything, it can be for
13 a couple of hours.

14 Q Okay, did you tell him it's okay for him to come hang
15 out for a couple of hours, but still not good to stay the
16 night, right?

17 A Right.

18 Q What's his response to that at 2:01 in the morning?

19 A That ain't good enough. I need to chill until I get
20 word from my brother tomorrow. What you thinking?

21 Q So he tells you at 2:00 o'clock in the morning that he
22 needs a place to chill until he gets word from his brother
23 tomorrow --

24 A Right.

25 Q -- correct? And what is your response back to him?

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1 A I want to call you, but he has the music blasting and I
2 can't hear.

3 Q Let me ask you, during the time period of all these
4 text messages are going back and forth from 1:30 in the
5 morning until after 2:00 or so, 2:00, 2:30; did you talk to
6 him on the phone at all, do you recall?

7 A Not that I remember.

8 Q Do you recall if he was trying to call you during that
9 period of time?

10 A I believe so.

11 Q Okay. All right. You tell him I want to call you but
12 he has the music blasting and I can't hear. Was that the
13 truth?

14 A Yes, it was.

15 Q Okay. All right. And his response to you was turn it
16 down. I'm going to use my brother's phone and call you.

17 A Yes.

18 Q Okay, and what do you tell him about that?

19 A He's not going to let me do that. Remember I don't
20 have my own place and money is tight for a room. I can't
21 answer you.

22 Q What does he respond back to you at 2:06 in the
23 morning?

24 A What happens with rooms out there. How much is the
25 cheapest?

1 Q And he's asking now about motel rooms?

2 A Yes.

3 Q And what is your response to that?

4 A I haven't been to a room since I came back, but in
5 North Charleston on Rivers is a Siesta Hotel that I'm down
6 the street from, and they don't look to be that expensive.

7 Q Okay. What does he ask you to do?

8 A Call and check it out. Why can't you answer your
9 phone?

10 Q Is that indicating that he's trying to call you at that
11 point in time?

12 A Yes.

13 Q All right. What's his next text to you after that?

14 A What happened, you cut your phone off?

15 Q That's at 2:14 in the morning?

16 A Yes, it is.

17 Q Do you have any further conversation with him through
18 text messages or on the phone with him that night or that
19 early morning?

20 A No.

21 Q So you basically, I guess, at some point in time,
22 decided that you didn't want to see him that night?

23 A Yes.

24 Q Yet, again, he knew from January what apartment complex
25 you lived in?

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1 A Yes.

2 Q Did he know what apartment you were living in?

3 A No, he didn't.

4 Q Let me ask you, do you know Willie Reed?

5 A No, I do not.

6 Q Do you know a young man by the name of Jimmy Haygood?

7 A No, I do not.

8 Q Ever met either one of them or have any conversations
9 with them?

10 A No, I haven't.

11 Q Now, I'm going to turn your attention to that next
12 morning, when you get up that next morning did there come a
13 time about 10:00 o'clock or so about 10:17 and then about
14 10:20 to Mr. Pelzer?

15 A Yes.

16 Q And what were the nature of those texts that you sent
17 him?

18 A I know I'm the last person you want to hear from but I
19 truly do apologize for that. My other niece car flipped
20 over three times last night. I'm at the hospital.

21 Q Was that true?

22 A Yes.

23 Q Was that something that happened?

24 A Yes, she did. Yes.

25 Q Okay. At 10:20 what other text did you send him?

1 A You don't want to hear that, but I couldn't help that,
2 and my phone died. My cousin just brought my charger. I
3 know you're mad and I do apologize. If I never hear from
4 you.

5 Q Okay. That's at 10:20 or so in the morning. Did you
6 hear right back from him?

7 A No.

8 Q Did there come a time later that day when you got
9 another text message back from him?

10 A Yes.

11 Q What time was that?

12 A 14:48, so I'm not sure what that --

13 Q So that would be 2:48 in the afternoon?

14 A Yes.

15 Q Okay, and what was his text to you at 2:48?

16 A Hey, you.

17 Q And what is your response back to that hey you?

18 A Hey. Are you mad at me?

19 Q And what does he reply back?

20 A I need a favor.

21 Q Okay, what do you say with regards to I need a favor
22 again?

23 A What's that?

24 Q And what does he say?

25 A I'm going to call you, okay?

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1 Q Okay, and that's at 2:55 or 14:55 in the afternoon?

2 A Yes, it was.

3 Q At 14:55 there's another text from him. What's that?

4 A Pick up.

5 Q And did you ultimately hear from him that afternoon?

6 A Yes, I did.

7 Q And what, if anything -- what was that favor that he
8 needed from you at --

9 A He told me that if anyone was to be in contact with me
10 to tell them that he was with me the night before.

11 Q Of course, that wasn't true was it?

12 A No, it wasn't.

13 Q You never saw him that night before did you?

14 A No, I didn't.

15 Q Let me turn your forward to almost 6:00 o'clock in the
16 evening at 17:57 or 5:57. Do you send him a text at 5:57?

17 A Yes, I did.

18 Q And what's that text you sent him?

19 A Hey you, am I supposed to be expecting a phone call?

20 Q Okay, and why did you send him that?

21 A Because of the conversation that we had.

22 Q And nobody had contacted you at that point in time had
23 they?

24 A No.

25 Q Let me ask you, did he tell you, did he tell you who

1 might be calling you?

2 A No, he didn't.

3 Q Did he tell you why he needed you to basically -

4 A No, sir.

5 Q -- give him an alibi?

6 A No, sir.

7 Q All right. So then you say, hey you, am I supposed to
8 be expecting a phone call. What is his reply back to that?

9 A It was a question mark.

10 Q And then what do you reply back to that question mark
11 that he sends?

12 A What you told me today?

13 Q And what's his reply to that?

14 A Just in case.

15 Q And what do you reply back to that?

16 A Okay, just want to keep my head up, that's why I asked.

17 Q Okay, and what does he say in regards to that?

18 A Thank you.

19 Q Okay. What do you reply back?

20 A Any time, babe, any time. I got your back, don't know
21 why but I got you, believe that.

22 Q Was his reply back to that, for sure?

23 A Yes.

24 Q And what is your reply back to him at 6:10 in the
25 evening?

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1 A Can you call me later. I want to hear from you and
2 that's because I owe you, that I wasn't here for you last
3 night.

4 Q All that's happening right around 6:00 o'clock or so in
5 the evening, that second series of text messages --

6 A Yes.

7 Q -- there that afternoon?

8 A Yes.

9 MR. SORENSON: Beg the Court's indulgence.

10 BY MR. SORENSON:

11 Q Just one last question, Ms. Brown. The person that
12 called you over the phone that you'd been conversating with
13 over the several months before that that asked you to lie
14 for them and say that you were with them that night before,
15 is he here in the courtroom?

16 A Yes, he is.

17 Q And who is that?

18 A Willie Pelzer.

19 Q The defendant?

20 A Yes.

21 Q Is he seated over here?

22 A Yes.

23 Q Thank you, Ms. Brown.

24 THE COURT: Cross exam?

25 MR. BANKS: Thank Your Honor.

DANA BROWN - CROSS-EXAMINATION

1

2

BY MR. BANKS:

3

Q Ms. Brown, he asked you for money in a series of text messages, right?

4

5

A Yes, he did.

6

Q Has he done that before?

7

A No, he hasn't.

8

Q Never done that before?

9

A No.

10

Q Did you feel like he was just kind of playing a little game with you, sort of like flirting, I guess?

11

12

A No, not really.

13

Q You thought he was serious?

14

A Yes.

15

Q Now, the text message that you talked about at 8:18 that talks about I'm going to take something from somebody with my brother and come down there with to, I mean, to see you?

16

17

A Yes.

18

Q When he said that, did you know exactly what he meant by that?

19

20

A No, I didn't.

21

Q But it didn't mean he was going to rob anybody did it?

22

A No, but I mean -- I'm not slow.

23

Q But it could have meant that he was going to get a car

24

25

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1 from his friend's uncle or a car to come see you, right?

2 A Yeah, he mentioned that.

3 Q And when he says brother, who is he talking about?

4 A I guess his brother. I don't know.

5 Q Could it be a term for anybody or do you even know if
6 he has a brother?

7 A No, I don't know if he has a brother.

8 Q He was planning on coming down there with somebody
9 according to your 8:18 email right?

10 A Right.

11 Q Now, that was on a -- I believe that was on the 5th,
12 which was a Thursday at 8:00 o'clock at night. Didn't he
13 send you a text or a phone call or maybe more than one phone
14 call prior to that about maybe coming to see you recently?

15 A No.

16 Q Ms. Brown, I'm going to show you another text message
17 that you hadn't seen this morning. If you'll just take a
18 moment to look at it and make sure that's your phone number
19 and you can verify that that was one text that you received
20 from Willie Pelzer?

21 A (Witness complies.)

22 Q Have you had a chance to look at it?

23 A Yes.

24 Q And does that reflect that phone number receiving that
25 text?

1 A Yes, it is..

2 Q And could you read that text to the jury?

3 A If I could I would -- it would be a little minute
4 before I can get back down there, but just know I'm coming
5 back down there.

6 Q And what day was that?

7 A That was 3/4/09.

8 Q Which was the Wednesday, the day before these other
9 ones you were talking about, right?

10 A Yes.

11 Q Okay. And it's about 7:00 o'clock, 7:30 at night?

12 A Yes, it was.

13 Q Thank you. Now, you described, I think you overheard
14 part of a phone call where there was some kind of argument?

15 A Yes.

16 Q Now, could you tell if Mr. Pelzer was arguing with
17 someone or they were arguing with him?

18 A I only heard Mr. Pelzer arguing?

19 Q What did he say?

20 A I'm not exactly sure. He said a lot of things. He was
21 really cursing and just acting like, you know, he was real
22 mad.

23 Q Well, did it sound like he was defending himself or
24 trying to offend someone else, I suppose?

25 A It was more like he was trying to offend someone else.

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1 Q Did you hear the whole conversation?

2 A No, I didn't.

3 Q You kind of -- your phone rang and actually got
4 answered in the middle of it?

5 A Yes.

6 Q Okay, so you didn't hear what transpired prior to?

7 A No, I didn't.

8 Q And how many seconds, approximately?

9 A About five or ten --

10 Q And then who hung up?

11 A I think we hung up together.

12 Q So you don't know what happened before, immediately
13 before or immediately after that conversation?

14 A No, I don't.

15 Q Okay. And you couldn't -- you heard one voice, two
16 voices, three voices?

17 A One.

18 Q So you didn't hear anything in return?

19 A No.

20 Q Okay. You talked about this text message about -- they
21 called it an alibi about him saying he was with you. Did he
22 say he with you or he needed somebody to verify that he and
23 his friends were with you?

24 A No, he just wanted me to tell if someone called that he
25 was with me that night.

1 Q And he didn't mention his friends?

2 A No, he didn't.

3 Q Are you certain -- you're doing this from memory from
4 eight months ago?

5 A Right.

6 Q And you don't remember him mentioning the friends?

7 A No. I knew he said someone was bringing him down here.

8 Q And the brother that he was talking about --

9 A Right.

10 Q -- so was he including the brother or not?

11 A No.

12 Q Are you sure?

13 A Yes.

14 Q Ms. Brown, just to clarify and to follow up with the
15 text that I showed you from the 4th around 7:35, you
16 remember that now, don't you?

17 A Yes.

18 Q That's your testimony, that he was planning on coming
19 down there soon prior to even the 5th, but on the 4th?

20 A Right.

21 Q All right.

22 MR. BANKS: No further questions, Your Honor.

23 THE COURT: Redirect?

24 MR. SORENSON: Just real briefly, Your Honor.

25 DANA BROWN - REDIRECT EXAMINATION

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1 BY MR. SORENSON:

2 Q That text message that Mr. Banks showed you on the 4th,
3 he just said he hoped to get back down there, it wasn't
4 saying he was planning on, he was coming on the 4th or the
5 5th or any day?

6 A Right. He was just saying he'll get back down here
7 soon.

8 Q Okay. Thank you.

9 THE COURT: Recross?

10 MR. BANKS: Nothing.

11 THE COURT: Thank you, ma'am, you may step down.

12 MR. SORENSON: May she be excused, Your Honor?

13 THE COURT: She may be excused.

14 Call your next witness, please.

15 MR. PASCO: Bryant Haygood.

16 THE COURT: Come on down this way, please, sir.

17 THE CLERK: Could you place your left hand on the
18 Bible -- Mr. Haygood, place your left hand on the Bible,
19 raise your right hand.

20 (WHEREUPON, Bryant Haygood was
21 sworn to tell the truth.)

22 THE CLERK: Please state your full name for the
23 record?

24 MR. HAYGOOD: Bryant Haygood.

25 THE CLERK: Have a seat.

1 MR. PASCO: Thank Your Honor.

2 BRYANT HAYGOOD - DIRECT EXAMINATION

3 BY MR. PASCO:

4 Q Speak up for us as loud as you can in that microphone,
5 okay, Mr. Haygood.

6 A Okay.

7 Q Let me hear you?

8 A Hello.

9 Q All right. Good afternoon, Bryant, are you doing all
10 right?

11 A Yes, sir.

12 Q Okay. How old are you?

13 A Twenty-nine.

14 Q And where do you live?

15 A On Main Trail in Orangeburg, South Carolina.

16 Q Where in Orangeburg?

17 A Main Trail.

18 Q Main Trail. Tell the jury where Main Trail is, where
19 is it off of?

20 A Off the Cannon Bridge Road, the Shilling Bridge Road.

21 Q Shilling Bridge Road. How long does it take to get
22 from your place at Shilling Bridge Road to the Courthouse
23 today?

24 A To the courthouse it would take about 25 minutes to 30
25 minutes.

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- 1 Q Okay. How long have you lived there?
- 2 A Seven to eight years.
- 3 Q And that's in Orangeburg County, off the North Road?
- 4 A Yes, sir.
- 5 Q And where are you originally from?
- 6 A I'm from here, Calhoun County.
- 7 Q Okay, and where did you go to high school?
- 8 A Calhoun County High.
- 9 Q And what area did you grow up in?
- 10 A Off of 21 and 6.
- 11 Q In the Columbia Road area, 21 and 6?
- 12 A Yeah.
- 13 Q And are you related to a Jimmy Haygood, Jr?
- 14 A Yes, sir.
- 15 Q And how are you related to Jimmy Haygood?
- 16 A He's my first cousin. His father and my father are two
- 17 brothers.
- 18 Q Okay. And who is Willie Clay Haygood?
- 19 A That's my uncle.
- 20 Q Your uncle. Is he Jimmy Haygood's uncle also?
- 21 A Yes, sir.
- 22 Q I'm going to ask you some questions about Thursday,
- 23 March 5, 2009, okay?
- 24 A Yes, sir.
- 25 Q Who were you hanging out with that afternoon, early

1 afternoon?

2 A Well, all of us, me, Jimmy, Willie and a few --

3 THE COURT: All right, you're letting your voice
4 down. Keep it up so we can hear you.

5 BY MR. PASCO:

6 Q Yeah, keep it up.

7 A Okay. Me, Willie, Jimmy and a few more of my family
8 members and their friends.

9 Q Okay, before you even get into that, where were you
10 hanging out late that afternoon?

11 A At my uncle house, Jimmy.

12 Q And is that at , your uncle Jimmy's house?

13 A Yes, sir.

14 Q Jimmy Haygood, Jr's dad?

15 A Uh-huh. (Affirmative response.)

16 Q Okay. How did you get to ?

17 A With Willie and Jimmy. They came and picked me up
18 earlier that day.

19 Q Okay. Willie who?

20 A Willie Reed.

21 Q Willie Reed and who else?

22 A Jimmy Haygood.

23 Q Willie Reed and Jimmy Haygood picked you up; anybody
24 else with them when they came and picked you up?

25 A No, sir.

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1 Q Okay. And after they picked you up do you remember
2 where you went?

3 A We went -- I think we probably stopped by a store. We
4 stopped by a store and got a bottle of liquor and then we
5 went straight on Merrybell?

6 Q Okay to ?

7 A Uh-huh. (Affirmative response.)

8 Q In Willie Reed's car?

9 A Yes, sir.

10 Q Did you know the defendant, Willie Pelzer, back in
11 March of 2009?

12 A Yes, sir.

13 Q And how long had you known the defendant?

14 A Since he was younger, since a child, since he was a
15 kid.

16 Q And he was younger than you, right?

17 A Yes, sir.

18 Q Was he a friend of yours, though, back in March of
19 2009?

20 A Yes, sir.

21 Q You consider him a friend?

22 A Uh-huh. (Affirmative response.)

23 Q And late that afternoon, I'm talking about 5:00, 6:00
24 o'clock, are you still at ?

25 A Yes, sir.

1 Q Okay, and who all, as best you can remember, are you
2 hanging out with at at 5:00, 6:00 o'clock that
3 afternoon?

4 A Who was all there?

5 Q Yes, sir.

6 A It was all of us; me, Willie --

7 Q Willie who?

8 A Willie Reed, Willie Pelzer, my cousin Jimmy and my
9 uncle, and I think a few more of my cousins had been around.

10 Q Okay, so Willie Pelzer was at ?

11 A Yes, sir.

12 Q Along with you and a number of other people?

13 A Yes, sir.

14 Q Okay. And what all were you doing at in
15 the late afternoon and early evening?

16 A Just drinking and talking. I think we had a few
17 playing cards. A couple card games and what not.

18 Q Any trouble at 5:00, 6:00 o'clock?

19 A No, sir.

20 Q Four o'clock, whenever you were there?

21 A No, sir.

22 Q Had you done this before at , hung out with
23 friends?

24 A Yes, sir.

25 Q Okay. Anyone acting out that early -- late afternoon

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1 or evening?

2 A No, sir.

3 Q Did there come a point in time at
4 sometime between 6:00 and 7:00 that you left for a little
5 while?

6 A Yes, sir.

7 Q Where did you go?

8 A We went to the store.

9 Q Who went with you?

10 A Me and Willie.

11 Q Willie Reed?

12 A Yeah.

13 Q Who drove?

14 A Willie Reed drove.

15 Q Okay, and you went?

16 A Yeah.

17 Q And did you come back from the store?

18 A Yeah.

19 Q Back to ?

20 A Yes, sir.

21 Q And did you end up leaving -- did you spend the night
22 at that night?

23 A No, sir.

24 Q Where did you end up going from ?

25 A I went home.

- 1 Q Okay. Now, who took you home later that night?
- 2 A Willie and Jimmy took me home later that night.
- 3 Q Okay. Willie who and Jimmy?
- 4 A Willie Reed and Jimmy.
- 5 Q Willie Reed and Jimmy Haygood. You got to clarify
- 6 that. I've got too many Willies in this case.
- 7 A All right. Yes, sir.
- 8 Q And when you left , with them to go home
- 9 sometime that evening were you looking at your watch?
- 10 A No, I wasn't looking at my watch.
- 11 Q Where did you first go?
- 12 A We went to the store, Brakesfield's Exxon store.
- 13 Q Okay, and why did y'all go to the Brakesfield Exxon?
- 14 A Because that's the closest store to our residence so we
- 15 went there first.
- 16 Q And what were you getting at the Brakesfield Exxon?
- 17 A I was going to get me something to eat, buy me some
- 18 chips to snack on, something like that.
- 19 Q Okay. You get some gas for the car, Willie Reed was?
- 20 A Uh-huh. (Affirmative response.)
- 21 Q And were y'all able to go inside the store?
- 22 A No, they were closed.
- 23 Q They were closing up?
- 24 A Yes, sir.
- 25 Q So did you leave the Brakesfield Exxon?

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- 1 A Uh-huh. (Affirmative response.)
- 2 Q And where did you go from there?
- 3 A We went to the Shell station.
- 4 Q And where is the Shell station located?
- 5 A That's right down from 21, a little further down.
- 6 Q On Columbia Road?
- 7 A On Columbia Road, about three miles from where we was
- 8 at.
- 9 Q And got some gas from the car?
- 10 A Yes, sir.
- 11 Q Did you get something to eat?
- 12 A Yeah.
- 13 Q And where did you go from the Shell station after you
- 14 got your gas and something to eat?
- 15 A I went home.
- 16 Q Okay, and who took you home?
- 17 A Willie Reed and Jimmy.
- 18 Q Left the Columbia Road Shell to your house, which is on
- 19 Shillings Bridge?
- 20 A Uh-huh. (Affirmative response.)
- 21 Q And approximately how long would it take,
- 22 approximately, to your home off of Shillings Bridge?
- 23 A About 20 minutes.
- 24 Q Okay, and after you got home about 20 minutes later,
- 25 did Willie Reed and Jimmy Haygood come in the house?

1 A No, sir..

2 Q What did they do?

3 A They left.

4 Q And after that did you have any more contact with them
5 that night?

6 A No, sir.

7 Q Just a few more questions for you, okay. Do you
8 recognize the trailer on State's Exhibit No. 77?

9 A Yes, sir.

10 Q And whose trailer is that?

11 A That's Willie Pelzer's.

12 Q Willie Pelzer?

13 A Uh-huh. (Affirmative response.)

14 Q And that's his trailer off of Merrybell down the street
15 from Jimmy Haygood's father?

16 A Yes, sir.

17 Q And that's closer to the frontage road?

18 A Uh-huh. (Affirmative response.)

19 MR. PASCO: Beg the Court's indulgence one second.

20 BY MR. PASCO:

21 Q Let me ask you; were you aware that Willie Reed had
22 purchased a gun back in February 2009, and that it was at
23 Jimmy Haygood's house?

24 A I wasn't really aware that he purchased it. I knew it
25 as Jimmy's.

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- 1 Q It was at Jimmy's house, too?
- 2 A Uh-huh.. (Affirmative response.)
- 3 Q Where -- did you see the gun on March 5, 2009?
- 4 A Yes, sir.
- 5 Q Where did you see the gun that night?
- 6 A It was at my uncle house on the couch, like from the
7 pillow or something like that.
- 8 Q Okay. So you saw the gun -- anybody in Jimmy Haygood's
9 house that night at would have seen the gun on
10 the couch?
- 11 A Yes, sir.
- 12 Q And Mr. Haygood have you come here and told the truth
13 to the jury?
- 14 A Yes, sir.
- 15 Q And you admit that back in 2001, you got convicted of a
16 possession of crack charge, right?
- 17 A Yes, sir.
- 18 Q Those charges are good and gone now?
- 19 A Yes, sir.
- 20 Q But you were convicted then?
- 21 A Uh-huh. (Affirmative response.)
- 22 Q And despite that conviction you have cooperated with
23 law enforcement?
- 24 A Yes, sir.
- 25 Q And you've come in here and you're willing to tell the

1 truth?

2 A Yes, sir.

3 Q Okay. One final question. The person that you know as
4 Willie Pelzer that you saw that night at Jimmy Haygood's
5 house -- A Yes, sir.

6 Q -- do you see him in the courtroom?

7 A Yes, sir, right there.

8 Q That's the defendant in the red shirt right there?

9 A Yes, sir.

10 Q Thank you. Answer any questions that Mr. Banks has for
11 you. I appreciate you coming.

12 A Yes, sir.

13 THE COURT: Cross exam, please?

14 MR. BANKS: Yes, Your Honor.

15 BRYANT HAYGOOD - CROSS-EXAMINATION

16 BY MR. BANKS:

17 Q Hey, Mr. Haygood, how you doing?

18 A All right.

19 Q First let's talk about Smoke Street. Why do they call
20 it Smoke Street?

21 A That was the name they give it before my time.

22 Q All right. That's Merrybell Lane; is that right?

23 A Uh-huh. (Affirmative response.)

24 Q There's -- does Jimmy Lee smoke a little bit?

25 A Who?

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1 Q Jimmy Lee -- Haygood?

2 A My uncle?

3 Q Yes.

4 A Yeah, he smokes.

5 Q Does he smoke cocaine and -- I mean, crack and
6 marijuana?

7 A I don't know about that. I know about cigarettes.

8 Q All right. What about his son?

9 A What about him?

10 Q Does he smoke marijuana?

11 A I ain't sure.

12 Q You're not sure. Well, he's your cousin. You hung out
13 with him all day that day?

14 A Uh-huh. (Affirmative response.) We ain't did no
15 smoking that day.

16 Q They didn't do any that day. Does he?

17 A Huh?

18 Q Does he smoke?

19 A He probably have. He probably have.

20 Q And what about Mr. Reed, Willie Reed; does he smoke?

21 A Probably so.

22 MR. PASCO: Objection, Your Honor. A, it's
23 irrelevant, B, he can ask Willie Reed that.

24 THE COURT: Well, unless it's tied in with this
25 case or in this incident, I sustain the objection.

1 MR. PASCO: Thank you.

2 BY MR. BANKS:

3 Q Mr. Haygood, you were or weren't there when the gun was
4 bought, the .45 caliber?

5 A Wasn't.

6 Q All right. Have you ever seen Willie Reed with the .45
7 caliber?

8 A Have I ever seen him with it; yes.

9 Q When?

10 A I think it was one time he was getting it -- well, they
11 had left it in the house --

12 Q What house?

13 A My uncle house.

14 Q Jimmy Lee Haygood's house?

15 A Yes, sir.

16 Q He left it there or does he keep it there?

17 A He left it there. My cousin tell him to go get it. He
18 got it out of there.

19 Q Isn't that where it's been kept, though?

20 A Yeah, that's where it been kept. Yeah.

21 Q All ways?

22 A Most of the time.

23 Q And so he carried it -- where did he carry it to; do
24 you remember?

25 A We took it with us when we was riding, we went to go

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1 somewhere.

2 Q So you and Jimmy Lee and Willie -- anybody else?

3 A No. This was on a different occasion. It wasn't the
4 same day.

5 Q Right. I'm not saying that either.

6 A Uh-huh. (Affirmative response.)

7 Q I'm saying he -- who was carrying it when they carried
8 it?

9 A Willie.

10 Q Jimmy Lee didn't carry it?

11 A Jimmy Lee is my uncle. No, he didn't carry it.

12 Q I'm talking about Jimmy Haygood, then, Jimmy Haygood,
13 that would be the son, right.

14 A Oh, yeah, he had it.

15 Q How often did Jimmy carry it?

16 A Most of the time.

17 Q In fact, isn't it true he carried it almost all of the
18 time?

19 A Most of the time.

20 Q And he carried it in his car?

21 A He don't have -- well, he has a car, but -- I don't
22 think he was driving at this time.

23 Q Did he carry it on his person?

24 A Huh?

25 Q Did he carry it on his body?

1 A Yeah. He had it on his body, yeah.

2 Q Even when Willie Reed was around did Jimmy Haygood
3 carry that gun?

4 A Uh-huh. (Affirmative response.)

5 Q So if it was Willie Reed's gun you'd expect him to
6 carry it wouldn't you?

7 A I didn't know it was his gun.

8 Q You thought it was Jimmy's gun?

9 A Yes, sir.

10 Q Who else thought it was Jimmy's gun?

11 A Everybody.

12 Q Now, you gave a statement to the police regarding what
13 you knew about all this, right?

14 A Uh-huh. (Affirmative response.)

15 Q You remember that?

16 A Yes, sir.

17 Q And I think Stanley Graham was there, Detective Graham,
18 right?

19 A Uh-huh. (Affirmative response.)

20 Q And was anybody else in the room at that time?

21 A No, just me and him.

22 Q Just you and Stanley. And when you gave that statement
23 was anybody there with you?

24 A (Shakes head negatively.)

25 Q Just you and him there alone?

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1 A Uh-huh. (Affirmative response.)

2 Q All right. Was the door open?

3 A We was outside. We was in his car, matter of fact.

4 Q You mean y'all wrote this in the car?

5 A Yes.

6 Q And looks like there was some drinking going on,
7 because you admit to having some drinks. Did anybody else
8 have drinks?

9 A Everybody had drinks.

10 Q All right. And how many bottles were there?

11 A We had one bottle.

12 Q Just one?

13 A Uh-huh. (Affirmative response.)

14 Q And were you inside or outside?

15 A When?

16 Q The day of this --

17 A In and out, in and out.

18 Q I'm sorry?

19 A In and out. Both.

20 Q You were mostly in the house?

21 A Mostly inside -- it was about half and half.

22 Q Okay. So when you were inside who else was mostly
23 inside?

24 A My uncle. Like all us. When I was inside all us was
25 inside.

1 Q Okay, did you see Willie Pelzer inside?

2 A Yes, sir.

3 Q Do you remember what he was wearing?

4 A I think he had on -- I'm not sure.

5 Q You're not sure?

6 A No.

7 Q At all?

8 A No.

9 Q Even what kind of footwear?

10 A No.

11 Q Okay. Do you remember what Willie Reed was wearing
12 that day?

13 A I don't remember what anybody was wearing.

14 Q Do you remember what your cousin Jimmy was wearing that
15 day?

16 A No, sir, I couldn't tell you.

17 Q Now, Jimmy's your cousin, y'all are pretty close. Do
18 y'all see each other often?

19 A Yes, sir.

20 Q Do you hang together a lot?

21 A Yes, sir.

22 Q Do you -- I mean, I guess you love him as a blood
23 relative, right?

24 A Yes, sir.

25 Q First cousin, right?

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1 A Yes, sir.

2 Q All right. This statement you gave included a series
3 of questions and answers, and they had you write everything,
4 right.

5 A They had me to answer. He wrote.

6 Q He wrote the questions you wrote the answers?

7 A Yes, sir.

8 Q And when Detective Graham wrote these questions, that
9 was only two or three weeks after this -- between two and
10 three weeks after the event happened, right?

11 A Yes, sir.

12 Q And now we're what eight month later, aren't we?

13 A Uh-huh. (Affirmative response.)

14 Q Eight or nine months down the road.

15 A Uh-huh. (Affirmative response.)

16 THE COURT: Please say yes or no.

17 A Yes, sir.

18 THE COURT: It's a lot easier for her to write
19 that down.

20 BY MR. BANKS:

21 Q So do you think you remember things better now or then?

22 A I remember it better then. I don't remember too much
23 now.

24 Q Right. So if I ask you what somebody was wearing you'd
25 have a better chance of remembering it then that now?

1 A Uh-huh. (Affirmative response.)

2 THE COURT: Yes.

3 BY MR. BANKS:

4 Q But in your statement when they asked you, you know,
5 what time you got to the house you said 2:30 or 3:00 in your
6 statement. Do you need to have a look at it?

7 A What time I left my house.

8 Q No. Question number two. Just have a moment to look
9 at that.

10 A (Witness complies.) It said what time you arrived at
11 Merrybell.

12 Q That's right. That's what I'm saying. You lived at
13 Merrybell?

14 A No.

15 Q Okay. So that says -- you said back in March that you
16 arrived at Merrybell at what time?

17 A At 3:00.

18 Q About 3:00?

19 A Yeah, about 3:00.

20 Q And then you also said that Mr. Pelzer was already
21 there. That was the next question, right?

22 A No, sir, he wasn't there.

23 Q Just read number three out loud for me, please?

24 A Number three?

25 Q Yes, sir.

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1 A On March 5, 2009, what Mr. Willie Pelzer, III -- was
2 Mr. Willie Pelzer, III at Merrybell Lane?

3 Q And your answer?

4 A Yes.

5 Q All right. Let me hold that. And I think the next
6 question you said he was drinking, of course, everybody was
7 drinking. Was anybody not drinking?

8 A Anybody not drinking?

9 Q Yeah.

10 A Not anybody that was there.

11 Q Was Mr. Willie Pelzer intoxicated?

12 A No.

13 Q What about your uncle?

14 A No, sir.

15 Q Did anybody get pretty bad ripped?

16 A Feel pretty good, but it was nobody really --

17 Q Okay. Now, did you see any drugs; any marijuana, or
18 crack or cocaine?

19 A No, sir.

20 Q All right. You didn't see anybody doing any of that?

21 A No, sir.

22 Q All right, question five when you gave this statement
23 back in March, question five -- and again, you've had a
24 chance to review it, you said that you left Merrybell around
25 8:30 or 9:00 is that right?

1 A Yes, sir.

2 Q And you said you were with Willie Reed and Jimmy
3 Haygood; do you remember that?

4 A Yes, sir.

5 Q And remember that was just weeks after this and here
6 today you're saying it was what time?

7 A I'm saying it was around 9:00 or 10:00.

8 Q Now, you're saying it was around 9:00 or 10:00 --

9 A Yes, sir.

10 Q -- but two or three weeks after you're saying it's 8:30
11 or 9:00. Did you have a chance to -- somebody help you
12 change your mind about that time?

13 A No. What it is is I remembered that the store was
14 closing during the same time, we went to the store and that
15 what time it usually close about 10:00.

16 Q But you didn't remember that just two or three weeks
17 prior -- after the incident? You couldn't remember it then?

18 A No, sir.

19 Q And question six, you answered yes to did Mr. Haygood
20 buy a gun, and you're talking about this Willie Reed gun,
21 aren't you?

22 A Huh?

23 Q You answered yes to the question --

24 A Yes.

25 Q -- do you know if Mr. Haygood --

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- 1 A Yes, sir.
- 2 Q -- bought a gun?
- 3 A Yes, sir.
- 4 Q You're talking about the gun used in this crime here,
- 5 the .45 caliber?
- 6 A Yes.
- 7 Q You're not talking about some other gun he bought some
- 8 other time. He's never bought another gun has he?
- 9 A No, sir.
- 10 Q So you considered this as Mr. Haygood's gun?
- 11 A Yes, sir.
- 12 Q And you said as to question eight, they asked you if
- 13 you'd ever seen Mr. Pelzer with a handgun and you said no,
- 14 right?
- 15 A Uh-huh. (Affirmative response.)
- 16 Q Does he own some kind of shotgun or anything?
- 17 A Did he own a shotgun?
- 18 Q Uh-huh. (Affirmative response.)
- 19 A Not that I know of.
- 20 Q Okay. But you've never seen him -- you said not on
- 21 that day you didn't see him with a gun?
- 22 A No.
- 23 Q Did you see a gun that day?
- 24 A Yes, sir.
- 25 Q What gun, the .45 caliber?

1 A (Nods head affirmatively.)

2 Q Where did you see it?

3 THE COURT: Yes or no?

4 A Yes, sir.

5 BY MR. BANKS:

6 Q Where did you see that gun?

7 A It was on the couch.

8 Q All right. When was it on the couch, all day?

9 A Not all day but dang near. While I was there.

10 Q And it was just laying on the couch with people coming
11 in and out?

12 A It was up under the cushion?

13 Q And who put it there?

14 A Jimmy put it there, I believe.

15 Q And is that where he usually keeps it?

16 A Uh-huh. (Affirmative response.)

17 THE COURT: Yes.

18 A Yes, sir.

19 BY MR. BANKS:

20 Q I thought he kept it under his bed or hidden away?

21 A No, he kept it under the couch -- he didn't have no bed
22 there. He wasn't staying there.

23 Q Does he have a need for it to be handy and available
24 like that?

25 A No, sir.

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- 1 Q Do you know if he keeps it loaded?
- 2 A Probably so. I wasn't sure.
- 3 Q And your uncle was okay with all that?
- 4 A I assume.
- 5 Q The car you left in that night was the white Chevy
- 6 Lumina?
- 7 A Yes, sir.
- 8 Q Y'all left from there at whatever time and went to
- 9 Brakesfield's Exxon; is that correct?
- 10 A Uh-huh. (Affirmative response.)
- 11 Q And at Brakesfield's it was already closed?
- 12 A Yes, sir.
- 13 Q What time does Brakesfield's close?
- 14 A It was closing down about 10:00 during that time.
- 15 Q So y'all were there around 10:00?
- 16 A Yes, sir.
- 17 Q Could it have been slightly after?
- 18 A I wouldn't think so.
- 19 Q All right, but it was closed, right?
- 20 A Uh-huh. (Affirmative response.)
- 21 Q And y'all pulled up to the pump?
- 22 A Uh-huh. (Affirmative response.)
- 23 Q Were you in the passenger seat?
- 24 A I was in the back seat.
- 25 Q Okay. When you pulled out to the road to leave,

1 because you couldn't get gas, did you happen to look to see
2 if the big tractor trailer truck parked across the road?

3 A No, sir.

4 Q You didn't see it?

5 A No, sir.

6 Q Could it have been there and you just missed it?

7 A It could have.

8 Q All right. You didn't --

9 MR. BANKS: One moment, Your Honor.

10 THE COURT: Yes, sir.

11 MR. BANKS: No further questions, Your Honor.

12 THE COURT: Redirect?

13 MR. PASCO: Thank you, Judge.

14 BRYANT HAYGOOD - REDIRECT EXAMINATION

15 BY MR. PASCO:

16 Q Mr. Haygood, do you have your watch on today?

17 A No, sir.

18 Q Don't even wear a watch usually?

19 A No, sir.

20 Q And were you looking at a watch to get the times down
21 on what you were doing at exact times on March 5th?

22 A No, sir.

23 Q And when Mr. Banks asked you -- remember you gave a
24 statement to the police?

25 A Uh-huh. (Affirmative response.)

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- 1 Q And remember when he asked you and you told the police
2 that Mr. Pelzer was there when you got to and
3 you said no.
- 4 A I said, no he wasn't.
- 5 Q And that's true, he wasn't there was he?
- 6 A Huh-Uh. (Negative response.)
- 7 Q And that's not what you told the police is it?
- 8 A No.
- 9 Q In fact the question that they asked you was --
- 10 A Was he there that day.
- 11 Q -- exactly. Was Mr. Pelzer there that day at
12 and your answer was --
- 13 A Yes.
- 14 Q -- yes. Do you remember when Mr. Banks was trying to
15 imply -- he asked you, he asked you this question. Mr.
16 Pelzer, never had a handgun, you never saw him with a
17 pistol, you just saw him with a shotgun. That's not true is
18 it?
- 19 A No, sir, it isn't.
- 20 Q Didn't the police ask you have you ever seen Mr.
21 Pelzer, III with a handgun?
- 22 A Yeah.
- 23 Q And what was your answer to the police?
- 24 A Yes, but not that day.
- 25 Q Yes, but not that day, but you had seen the defendant

1 with a handgun before hadn't you?

2 A Yeah.

3 Q And let me ask you something, if you're here to lie
4 against the defendant why didn't you just tell this jury and
5 why didn't you just tell the police back in March, yeah, I
6 saw the defendant on that day?

7 A (No response.)

8 Q Because it wouldn't have been true, right?

9 A That's right.

10 Q Did you see Willie Pelzer with a handgun at 6:00
11 o'clock that night?

12 A No, sir.

13 Q Did you see him with a handgun at 7:00?

14 A No, sir.

15 Q 8:00, 9:00 or 10:00 when you left?

16 A No, sir.

17 Q But you don't know what Willie Pelzer was doing after
18 you left Merrybell at 9:45, 10:00 o'clock that night, do
19 you?

20 A No, sir.

21 MR. PASCO: That's all I have.

22 THE COURT: Recross?

23 BRYANT HAYGOOD - RECROSS EXAMINATION

24 BY MR. BANKS:

25 Q When you left Merrybell that night, how many people did

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1 you leave in the place?

2 A How many?

3 Q How many people were remaining at ?

4 A A few. I know my uncle who lives there and a few more
5 of my family members.

6 Q So a couple more people, about four?

7 A Yeah.

8 Q And they were all there in the house?

9 A Uh-huh. (Affirmative response.) Yes, sir.

10 MR. BANKS: That's all I have.

11 MR. PASCO: One clarification question?

12 THE COURT: Yes, sir.

13 BRYANT HAYGOOD - FURTHER REDIRECT EXAMINATION

14 BY MR. PASCO:

15 Q You said Willie, Willie Pelzer?

16 A Yes, sir.

17 MR. PASCO: Thank you.

18 THE COURT: Thank you, sir, you can step down.

19 MR. PASCO: We call Jimmy Haygood, Your Honor.

20 Thank you, Mr. Haygood.

21 He's excused, Your Honor.

22 THE COURT: Come on down.

23 Yes, sir, he's excused.

24 Come on down, please, sir. Come on down this way.

25 Right around here.

1 THE CLERK: Please place your left hand on the
2 Bible and raise your right hand for me.

3 (WHEREUPON, Jimmy Haygood was sworn
4 to tell the truth.)

5 THE CLERK: Will you please state your full name
6 for the record.

7 MR. HAYGOOD: Jimmy Haygood, Jr.

8 THE CLERK: Thank you. Have a seat.

9 THE COURT: Mr. Haygood, please speak loud enough
10 so everybody can hear you. Pull that mic around. It
11 doesn't help very much, but you need to talk loudly. That's
12 the biggest thing.

13 MR. HAYGOOD: Yes, sir.

14 THE COURT: Try to say yes or no, instead of
15 Uh-huh and huh-Uh because this lady has to write it down,
16 and it's a lot easier for her to write it down that way.

17 All right. Thank you, sir.

18 All right, counselor.

19 MR. PASCO: I just need one minute, Your Honor, to
20 get some stuff organized.

21 JIMMY HAYGOOD - DIRECT EXAMINATION

22 BY MR. PASCO:

23 Q Good afternoon, Mr. Haygood.

24 A Good afternoon, sir.

25 Q How old are you, Mr. Haygood?

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- 1 A Twenty-two, sir.
- 2 Q Where'd you go to high school?
- 3 A I went to high school at Calhoun County High.
- 4 Q And did you graduate?
- 5 A Yes, sir.
- 6 Q And when did you graduate from CC High?
- 7 A In 2005, sir.
- 8 Q And what did you do after high school?
- 9 A I joined the Navy in 2006.
- 10 Q In fact, when did you actually go into the Navy?
- 11 A February 18th.
- 12 Q February 18, 2006?
- 13 A Yes, sir.
- 14 Q Where were you stationed after February, 2006?
- 15 A Newport News, Virginia.
- 16 Q And were you discharged from the Navy in November of
- 17 '08?
- 18 A Yes, sir.
- 19 Q And what was your discharge?
- 20 A It was a general under honorable conditions, sir.
- 21 Q You shattered your knee in the Navy?
- 22 A Yes, sir.
- 23 Q And where are you from, Jimmy?
- 24 A St. Matthews, sir.
- 25 Q And how long have you lived in the St. Matthews area?

1 A All my life, sir.

2 Q Where were you living when you got back from the Navy
3 in November, December of 2008 into 2009?

4 A I was staying at my mother's house, sir, in Orangeburg.

5 Q And where does she live?

6 A In Orangeburg.

7 Q What address in Orangeburg?

8 A

9 Q Okay. What does your mother do?

10 A She was a correctional officer at Lieber and now she's
11 a security officer.

12 Q And your mother was stabbed at Lieber?

13 A Yes, sir.

14 Q And she is currently working as a security guard?

15 A Yes, sir.

16 Q And was your mother's phone number back then ?

17 A Yes, sir.

18 Q Did you ever stay at your father's house at

19 ?

20 A Yes, sir. I would come down for like three days and go
21 back to my mother's house.

22 Q Okay, and that was between December of '08 and March of
23 '09?

24 A Yes, sir.

25 Q Okay. Do you know the defendant, Willie Pelzer?

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1 A Yes, sir.

2 Q How long have you known the defendant?

3 A I grew up with the defendant, sir.

4 Q Okay.

5 A And was he a friend of yours back in January, February,
6 and March of 2009?

7 A Yes, sir.

8 Q And how often would the two of you hang out together?

9 A Every time he would come to my father's house, sir.

10 Q And how often do you think that would be, just roughly
11 every week?

12 A Well, if I'll be down there for three day, he'll be
13 down there for three days.

14 Q Just about every time you're at your dad's house at
15 Merrybell he'd be there?

16 A Yes, sir.

17 Q Where was the defendant, Willie Pelzer, living back in
18 March of 2009?

19 A He stayed at his mother -- his grandmother's house,
20 sir.

21 Q And where is that?

22 A Like two miles up the road, sir.

23 Q And in what direction from Merrybell was his
24 grandmother's house?

25 A Up 21 and on a road called Wash Lane, sir.

1 Q Okay. Did you know Willie Reed?

2 A Yes, sir.

3 Q Okay. How well do you know Willie Reed?

4 A I grew up with him, too, 'sir.

5 Q And you were good friends with him back in February and
6 March of 2009?

7 A Yes, sir.

8 Q How often would you and Willie Reed hang out back in
9 March of 2009?

10 A The same amount of time. Every time I was down there
11 he was down there.

12 Q Where does Mr. Reed live in relation to
13 where your dad's house is?

14 A Come out and go up 21 and it's like a quarter of a
15 mile.

16 Q And is it going up towards 6?

17 A Yes, sir.

18 Q Did you have a car back in March of 2009?

19 A No, sir.

20 Q Did Mr. Pelzer, to your knowledge, have a car in 2009?

21 A No, sir.

22 Q Did Willie Reed have one?

23 A Yes, sir.

24 Q Did you have a cell phone number back in March of 2009?

25 A Yes, sir.

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1 Q And is that phone number ?

2 A Yes, sir.

3 Q Let me show you what's been marked as State's Exhibit
4 No. 65. Are these your phone records from Verizon from the
5 time period of March 5, 6, 2009?

6 A Yes, sir.

7 MR. PASCO: I'd ask at this time that State's
8 Exhibit No. 65 be admitted into evidence, Your Honor.

9 MR. BANKS: No objection.

10 THE COURT: Admitted without objection.

11 (State's Exhibit No. 65, phone
12 records, was marked and entered.)

13 BY MR. PASCO:

14 Q And did the defendant have a cell phone back in March
15 of 2009?

16 A Yes, sir.

17 Q What about Willie Reed, did he have a cell phone back
18 then?

19 A No, sir.

20 Q Now, you testified that the defendant lived off of Wash
21 Lane at his grandmother's house. Did he have any property
22 off of Merrybell?

23 A Yes, sir.

24 Q Okay, and that's depicted in State's Exhibit No. 77?

25 A Yes, sir.

1 Q How far is that from your dad's house on Merrybell?

2 A Like a quarter of a mile, sir.

3 Q Okay, and is it headed towards the frontage road?

4 A Yes, sir.

5 Q Had you been to that trailer before?

6 A Yes, sir.

7 Q Jimmy, I want to ask you some questions now about that
8 area on Merrybell and your dad's house, okay. Do a lot of
9 people hang out there during the day?

10 A Usually, sir. Sometimes.

11 Q And what do some of them do?

12 A They did drugs, sir.

13 Q And what type of drugs do people do when they hang out
14 at your dad's house?

15 A Usually crack.

16 Q Now, did everybody do drugs when they're hanging out at
17 your dad's house?

18 A No, sir.

19 Q And, of course, you would hang out there?

20 A Yes, sir.

21 Q The defendant, Willie Pelzer, hung out there?

22 A Yes, sir.

23 Q Willie Reed hung out there?

24 A Yes, sir.

25 Q Now, did you purchase a gun -- did you want to purchase

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1 a gun on February 17th of this year?

2 A Yes, sir.

3 Q In fact, did you go to Woody's Pawn Shop to purchase
4 that gun?

5 A Yes, sir.

6 Q Were you able to purchase a gun?

7 A No, sir, I didn't have my state ID.

8 Q Okay. And you were 18 years old?

9 A I was 21.

10 Q 21, and you could have purchased one, but you didn't
11 have a state ID?

12 A Yes, sir.

13 Q Because you had just gotten back from the Navy?

14 A Yes, sir.

15 Q Did someone else purchase a gun that February 17th?

16 A Yes, sir.

17 Q And who purchased the gun?

18 A Willie Reed, sir.

19 Q Was that the .45 caliber handgun?

20 A Yes, sir.

21 Q Whose gun was it?

22 A It was Willie Reed's, but I was trying to buy it off of
23 him, sir.

24 Q And it was kept at whose house?

25 A My house, sir.

1 Q Okay. Why was it kept at your house?

2 A His parents wouldn't allow him to have a gun at his
3 house, sir.

4 Q And what did you do with the gun in February and March
5 of 2009?

6 A I put it in the back room, sir.

7 Q And did you fire the gun back then in February, March
8 of '09?

9 A Yes, sir.

10 Q And where would you fire the gun back then?

11 A I would fire it off the back of my uncle Henry house,
12 sir.

13 Q And he lived how close to ?

14 A Life 15 feet, sir.

15 Q Okay. And did Willie Reed ever fire the gun back in
16 February, March of '09?

17 A Yes, sir.

18 Q Okay. Did the defendant, Willie Pelzer, ever fire a
19 gun, that specific gun?

20 A Yes, sir.

21 Q In fact, when y'all went to go purchase that gun in
22 February who did you go with?

23 A I went with Willie Reed and Willie Pelzer, sir.

24 Q Let me ask you now about March of 2009. Where did you
25 spend the night on Wednesday, March 4th.

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1 A At my father's house, sir.

2 Q What did you do when you got up that next morning and
3 early afternoon on Thursday, March 5th?

4 A That next morning I waited on Willie to come over since
5 I figured he was coming over.

6 Q Willie who?

7 A Willie Reed, sir.

8 Q Okay.

9 A And when he came over like a little while later my
10 cousin Bryant Haygood called and asked him to come pick him
11 up. We went to go pick him up and we stopped by the County
12 Line and I bought a bottle of Hennessy, sir. And then we
13 went back over to my father's house and started drinking.

14 Q And approximately what time do you think it was when
15 you, Bryant Haygood and Willie Reed got back to your
16 father's house at , approximately?

17 A Around 3:30.

18 Q Okay, and where does Bryant Haygood live?

19 A Shilling Bridge.

20 Q And that's in Orangeburg County?

21 A Yes, sir.

22 Q How long did it take approximately for you to get to
23 his place from with Willie Reed?

24 A About 20 to 30 minutes, sir.

25 Q And he's your cousin, Bryant is?

1 A Yes, sir.

2 Q And what exactly did you, Bryant, and Willie Reed do
3 when you got back to ?

4 A We started drinking, sir.

5 Q Okay. And who else was hanging out with the three of
6 you during the course of the afternoon?

7 A Willie Pelzer came over like a little after we got
8 there. It was just the rest of the family and some of the
9 old classmates, sir.

10 Q Approximately what time did Willie Pelzer get to your
11 house?

12 A Around 4:00.

13 Q Definitely sometime after 4:00?

14 A Yes, sir.

15 Q You'd already been there a while before he got there?

16 A Yes, sir.

17 Q How did he get to your house?

18 A He ran over, sir.

19 Q And did you literally see him come to the house?

20 A He came jogging up the road, sir.

21 Q And what did the defendant do after he got to
22 that afternoon?

23 A Well, first, he asked me could he borrow \$20.

24 Q And what did you do?

25 A I lent him \$20.

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1 Q And that's as soon as he got to Merrybell after 4:00,
2 4:30 that afternoon?

3 A Yes, sir.

4 Q Okay. And then what happened?

5 A Then he just started drinking with the rest of us and
6 went in the house and got on the phone, sir.

7 Q And did he own a phone, a cell phone back then?

8 A Yes, sir.

9 Q Did it look like one of these Blackberries?

10 A Yes, sir.

11 Q And how long was he staying in the house, just staying
12 on the phone?

13 A He was in there the whole time, sir.

14 Q And what part of the house was he hanging out in?

15 A It was in the front room, sir.

16 Q Was the defendant, Willie Pelzer, at at
17 6:00 o'clock that evening?

18 A Yes, sir.

19 Q 7:00 o'clock that evening?

20 A Yes, sir.

21 Q 8:00 o'clock?

22 A Yes, sir.

23 Q 9:00 o'clock?

24 A Yes, sir.

25 Q Up to before you left with Bryant at 10:00 o'clock?

1 A Yes, sir.

2 Q And where in the house did you keep the .45 caliber
3 handgun?

4 A I kept it in the spare bedroom at my father's house.

5 Q Okay. Did anyone take the gun out that afternoon, late
6 afternoon, Thursday night?

7 A Yes, sir, I did.

8 Q Why did you do that?

9 A I just went and shot behind my uncle house.

10 Q About what time was that?

11 A About 6:15 or 6:20.

12 Q Still daylight, sometime after 6:00?

13 A Yes, sir.

14 Q Did anybody else fire the gun?

15 A No, sir.

16 Q Did Willie Pelzer fire the gun; he was at your house,
17 did he fire the gun?

18 A No, sir, he didn't fire it that day.

19 Q And how many times did you fire it that day?

20 A Two times, sir.

21 Q And what did you do with the gun after you fired it?

22 A I just put it on the couch in my daddy's house.

23 Q Now, was Willie Reed present or Bryant Haygood when you
24 fired the gun?

25 A No, sir.

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1 Q Do you know where they went?

2 A They went to the County Line, sir.

3 Q Was the defendant, Willie Pelzer present when you fired
4 the gun?

5 A Yes, sir.

6 Q Was he present when you put the gun in the sofa of your
7 dad's house?

8 A Yes, sir.

9 Q And in what room was the defendant hanging out in most
10 of the night on his phone?

11 A Right there on the sofa area.

12 Q Were any rounds left in the magazine of the gun?

13 A Yes, sir.

14 Q And what type of gun was it, was it a revolver,
15 semi-automatic?

16 A It was a semi-automatic, sir.

17 Q And it had a clip and there was ammunition in the clip?

18 A Yes, sir.

19 Q Do you remember how many rounds the clip held?

20 A It held 13, sir.

21 Q Did you touch the gun again after you had put it down
22 on your dad's couch?

23 A Yes, sir. I put it back in the spare bedroom.

24 Q Okay. Who had access to the gun on that night, March
25 5, 2009?

- 1 A Anybody who was in the house; my father, Willie Pelzer.
- 2 Q Did anyone ask you for the gun that night?
- 3 A Yes, sir. Willie Pelzer asked for the gun that night.
- 4 Q And when did he ask you if he could borrow your gun?
- 5 A It was about an hour before we took Bryant home.
- 6 Q And did you let him borrow the gun?
- 7 A No, sir, I told him no.
- 8 Q Did he tell you why he wanted to borrow the gun?
- 9 A No, sir.
- 10 Q And you're saying it was approximately an hour before.
- 11 you took Bryant back home?
- 12 A Yes, sir.
- 13 Q And did you -- which is the next questions.
- 14 Approximately when did you leave your dad's that night?
- 15 A Around 10:00, sir.
- 16 Q And why did you leave at 10:00 o'clock?
- 17 A Because Bryant baby mother wanted him home, so I just
- 18 rode with Willie Reed, sir.
- 19 Q And you took Willie Reed's car? Who was in Willie
- 20 Reed's car while going to Bryant's house off Shillings
- 21 Bridge Road?
- 22 A Me, Bryant and Willie Reed, sir.
- 23 Q Just the three of you?
- 24 A Yes, sir.
- 25 Q And where did you first go when you left ?

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1 A At first we went to Brakesfield's to get gas, but they
2 was closing up, and so we left Brakesfield's and went to the
3 Shell station, sir.

4 Q And do you remember if you saw a truck across the
5 street from the Brakesfield's Exxon?

6 A I don't remember seeing any truck, but I wasn't paying
7 any attention, sir.

8 Q It could have been there?

9 A It could have been.

10 Q And it might not have been there?

11 A Yes, sir.

12 Q And you ended up getting gas at the Shell station on
13 Columbia Road. Where did you go from there?

14 A Went to Shilling Bridge Road to take Bryant home.

15 Q And did you stay at Bryant's house after you took him
16 home?

17 A No, sir.

18 Q Where did you go not long after you dropped Bryant off?

19 A Well, my uncle had called me so I went to my uncle
20 house over on Meyers Lane.

21 Q And you said your uncle called you?

22 A Yes, sir.

23 Q Do you remember whose phone number is ?

24 A Yes, sir, that's my uncle's phone.

25 MR. PASCO: These phone records are already in,

1 Your Honor, State's Exhibit No. 71, just for demonstrative
2 evidence, these are already in.

3 BY MR. PASCO:

4 Q Did he call you at 10:25 p.m. on March 5th?

5 A Yes, sir. I believe that was --

6 Q And that's your uncle Clay, , that's the call
7 you're talking about to the jurors?

8 A Yes, sir.

9 Q Let me ask you this, why are you pinging off of an
10 Orangeburg tower at 10:25?

11 A Because we had -- I had just dropped Bryant off and we
12 was still on the way from dropping Bryant off.

13 Q So you're in Orangeburg County at 10:25?

14 A Yes, sir.

15 Q And you went to your uncle Clay's house, where does he
16 live?

17 A He stays on Meyer Lane, back in St. Matthews.

18 Q Okay. How long did you stay at your uncle Clay's
19 house?

20 A About five or 10 minutes, sir.

21 Q Did you receive any phone calls on the way to your
22 uncle Clay's house?

23 A Yes, sir, from the defendant, Willie Pelzer.

24 Q And did you take that call?

25 A I didn't answer the first call, sir.

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1 Q And that's at 10:28 p.m.

2 A Yes, sir.

3 Q From ?

4 A Yes, sir.

5 Q And you didn't pick up the call, you just let it go to
6 voice mail?

7 A Yes, sir. Well, it didn't get to the voice mail, it
8 just hung up before it got to voice mail.

9 Q Okay. Did you receive another call from the defendant,
10 Willie Pelzer, at 10:49 p.m. and 21 seconds --

11 A Yes, sir.

12 Q -- after you left your uncle Clay's house?

13 A Yes, sir.

14 Q Okay. And what happened, why did the defendant call
15 you at 10:49?

16 A He was telling me to tell Willie Reed to meet him on
17 the end of Bridal Wreath and Meyer -- Bridal Wreath and
18 Murph Mill.

19 Q Where were you when you got that phone call?

20 A By the church right there on Murph Mill, right there
21 where Murph Mill intersects between 21.

22 Q Do you recognize the area depicted in State's Exhibit
23 No. 83?

24 A Yes, sir.

25 Q Can you find where you were on that map, and if you do

1 I'll turn it.

2 A Okay. I was right here, sir.

3 Q Okay, let me turn it. Go ahead and point for the jury
4 where you were?

5 A Right there.

6 Q Right there?

7 A Yes, sir.

8 Q What area is that, again, and speak up?

9 A That's Murph Mill and where 21 intersects right there.
10 He told us to come down to where Murph Mill meet Bridal
11 Wreath.

12 Q Which is right here?

13 A Yes, sir.

14 Q And interestingly what does Bridal Wreath connect Murph
15 Mill with?

16 A It connects it with 6, Highway 6.

17 Q Highway 6 where Brakesfield's is. And that was at
18 10:49?

19 A Yes, sir.

20 Q Did you know why he wanted you to pick him up at Bridal
21 Wreath and Murph Mill?

22 A No, sir.

23 Q Did he tell you why during that conversation?

24 A No, sir.

25 Q In fact, the last time you saw him he was at your

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1 house?

2 A Yes, sir.

3 Q At ?

4 A Yes, sir.

5 Q What did you end up doing after he asked you to pick
6 him up?

7 A We went to the place where he said to pick him up from.
8 He wasn't there. We waited a while, and then I called him
9 back, sir.

10 Q I'm going to jump ahead for just a second. Did you
11 tell all this to the police on that Saturday March --

12 A Yes, sir.

13 Q -- I think it's the 7th?

14 A Yes, sir.

15 Q About the phone calls?

16 A Yes, sir.

17 Q Did anybody have any phone records to see if you were
18 lying or telling the truth?

19 A No, sir.

20 Q Well, we've got them now, right?

21 A Yes, sir.

22 Q Did you call the defendant at 11:07 p.m.?

23 A Yes, sir.

24 Q On Thursday, March -- excuse me, not 11:07, at 10:56,
25 10:56 p.m. on March 5, 2009?

1 A Yes, sir. I asked him where he was.

2 Q And did that call go to his voice mail?

3 A The first call, yes, sir.

4 Q At 10:56, the first call?

5 A Yes, sir.

6 Q So he didn't pick up at 10:56?

7 A Yes, sir.

8 Q Hey, did you cut your phone at 10:30?

9 A No, sir.

10 Q Did you cut your phone off at 10:40?

11 A No, sir.

12 Q Did you have calls going to voice mail at the time
13 Jason Rivenburg was being murdered?

14 A Yes, sir.

15 Q Did you have calls going to voice mail?

16 A I don't know about going to voice mail.

17 Q Did you cut your phone off at 10:55?

18 A No, sir.

19 Q Did you cut your phone off at 11:00?

20 A No, sir.

21 Q How long did you and Willie Reed stay at the end of
22 Murph Mill and Bridal Wreath waiting on Willie Pelzer?

23 A We was there for about 10, 11, 12 minutes.

24 Q And where did you go when you left there?

25 A We went back to my father's house?

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1 Q At ?

2 A Yes, sir.

3 Q And did you receive a phone call from the defendant,
4 Willie Pelzer?

5 A Yes, sir.

6 Q And was that phone call at 11:07 p.m.

7 A I guess, sir.

8 Q I'll refresh your memory. At 11:07 p.m. did you
9 receive a phone call --

10 A Yes.

11 Q -- from Willie Pelzer, ?

12 A Yes, sir.

13 Q And did you talk to the defendant, Willie Pelzer, at
14 11:07 p.m?

15 A Yes, sir.

16 Q And what did he tell you then?

17 A He told me to tell Willie Reed to meet him at his
18 house, to come pick him up from his house.

19 Q And what house was that?

20 A His house on Merrybell, sir.

21 Q Right down the street from your dad's?

22 A Yes, sir.

23 Q Closer to the frontage road than your house?

24 A Yes, sir.

25 Q And did Willie Reed immediately leave to go pick up the

1 defendant at that time?

2 A No, sir.

3 Q Okay. In fact, what happened next?

4 A Well, we just sat there for a while and Willie Pelzer
5 called back and told me to put Willie Reed on the phone,
6 sir.

7 Q And that phone call is at 11:13 and 54 seconds, p.m.?

8 A Yes, sir.

9 Q A 32 second call? And did Willie Reed, after that
10 call, eventually go down to the defendant's trailer at
11 Merrybell?

12 A Yes, sir.

13 Q At that time, at 11:15, did you know that a murder had
14 happened?

15 A No, sir.

16 Q Did the defendant say anything about a murder at that
17 time?

18 A No, sir.

19 Q What did you do when Willie Reed went to go pick up the
20 defendant?

21 A I just sat in the house, sir.

22 Q Was there a time when Willie Reed and the defendant,
23 Willie Pelzer, came back to ?

24 A Yes, sir.

25 Q Was anybody else with him when they got back?

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1 A No, sir.

2 Q What, if anything, did you notice about the defendant,
3 Willie Pelzer's appearance when he got to the house at
4 Merrybell?

5 A Well, he didn't have on his original shirt, sir, he had
6 on a Wife Beater.

7 Q Okay. Did you learn anything from the defendant soon
8 after they go to your house at ?

9 A Yes, sir.

10 Q Tell the jury exactly what Willie Pelzer told you that
11 night of March 5th?

12 A He said he'd just murdered a guy, and that if I don't
13 get Willie Reed to go along with it there's going to be two
14 dead bodies instead of one.

15 Q And what had been going on between Willie Reed and
16 Willie Pelzer?

17 A They was arguing, sir.

18 Q Did the defendant tell you how he killed the truck
19 driver?

20 A Later on that night, yes, sir.

21 Q Go ahead and tell the jury the details of how he went
22 about killing this truck driver?

23 A He said he crossed the interstate and went up under the
24 bridge, and went behind the closed gas station. At first he
25 was sitting in the woods, then he moved under the trailer of

1 the truck and he waited until the guy was on the phone, and
2 tried to rob him. He thought the guy was reaching for the
3 gun, so he started shooting, sir.

4 Q Did the defendant, Willie Pelzer, tell you what, if
5 anything, he took?

6 A \$7, sir.

7 Q Did he tell you how he left the scene?

8 A He told me he just ran back the same way he came,
9 across the interstate, sir.

10 Q And you testified the defendant jogged to your house
11 that day?

12 A Yes, sir.

13 Q He was in pretty good shape back then?

14 A Yes, sir.

15 Q What did you, the defendant, Willie Pelzer, and Willie
16 Reed do at your house at that evening, during
17 the course of the evening after you learned that he murdered
18 a truck driver?

19 A Well, sir, I just wanted to get him from around my
20 family, so I called my uncle and asked him could I just
21 borrow the car to go see a girl. He told me I couldn't use
22 the car unless Willie Reed was driving it.

23 Q Your uncle trusted Willie Reed?

24 A Yes, sir.

25 Q He had a driver's license?

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1 A Yes, sir.

2 Q Who was in possession of the .45 caliber pistol at that
3 time?

4 A Willie Pelzer, sir.

5 Q Who was?

6 A Willie Pelzer, sir.

7 Q And where did you end up going -- from
8 where did you go?

9 A We went to Meyers Lane to get my uncles car, sir.

10 Q And you went and got the keys from your uncle Clay
11 Haygood?

12 A Yes, sir. He put them in Willie Reed hand, though,
13 sir.

14 Q Okay. And what were the agreements -- the agreement
15 that you had with your uncle Clay about how you could use
16 the car and why; what did you have to do?

17 A Willie Reed had to drive. I had to put in gas, and I
18 had to bring it back before 6:00 o'clock.

19 Q And tell the jury why you had to have that car back by
20 6:00 o'clock the next morning?

21 A My uncle had to go to work the next morning, sir.

22 Q Okay, and did he have any idea that you were going to
23 Charleston?

24 A No, sir.

25 Q Where did he think you were going?

1 A Just to a female's house in Orangeburg, sir.

2 Q And approximately what time do you think it was when
3 you got the car at your uncle Clay Haygood's house and went
4 to Charleston?

5 A It was around Midnight, sir.

6 Q Where did you first go after you left your uncle Clay's
7 house?

8 A We went to a Shell station, sir.

9 Q Okay, and that's the one on Columbia Road where you had
10 gotten gas before?

11 A Yes, sir.

12 Q Who paid for the gas?

13 A I did, sir.

14 Q And you had money back in March of 2009?

15 A Yes, sir.

16 Q What had you just gotten?

17 A I just received my taxes.

18 Q Did you work all of '08?

19 A Yes, sir.

20 Q And eventually after leaving the Shell station did
21 Willie Reed drive to Charleston?

22 A No, sir. Willie Reed didn't want to drive, so we
23 exchanged drivers. Like, I started driving and we stopped
24 at the Wilco Hess and I drove from there.

25 Q Where did Willie Reed sit?

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- 1 A He sat in the back, sir.
- 2 Q He didn't even want to go?
- 3 A No, sir.
- 4 Q Where did Willie Pelzer sit?
- 5 A Willie Pelzer sat in the passenger seat, sir.
- 6 Q And who was directing you on where to drive?
- 7 A Willie Pelzer, sir.
- 8 Q Did you know where you were going other than the
- 9 directions he was giving you?
- 10 A No, sir.
- 11 Q Did you know Dana Brown back then?
- 12 A No, sir.
- 13 Q Had you ever been to Bridgeview Apartments in State's
- 14 Exhibit No. 53 before that night?
- 15 A No, sir.
- 16 Q Who was supposed to stay in Charleston that night?
- 17 A Willie Pelzer was planning on staying in Charleston
- 18 that night, sir.
- 19 Q Well, what were you and Mr. Reed going to do that
- 20 night?
- 21 A Just leave him down there, sir.
- 22 Q And go where?
- 23 A Go home, sir.
- 24 Q Where was the gun during this time that you're going
- 25 down to Charleston?

1 A On Willie Pelzer, sir.

2 Q I'm going to show you, just to refresh your memory,
3 State's Exhibit 65. You testified that you were heading
4 down to Charleston. Is that why starting around 2:00
5 o'clock in the morning you're pinging off of Charleston
6 towers?

7 A Yes, sir.

8 Q Your calls?

9 A Yes, sir.

10 Q And when you got to Charleston, tell the jury what
11 happened?

12 A The female he was calling wouldn't answer the phone
13 anymore. So we was just out there waiting for her to answer
14 the phone at first.

15 Q Okay. How long did you end up waiting for this female
16 to answer the phone that you didn't even know?

17 A Like 15 minutes, sir.

18 Q And at some point did you even let the defendant use
19 your phone to try to call that female?

20 A Yes, sir.

21 Q Because she didn't know your number?

22 A Yes, sir.

23 Q Did she pick up?

24 A No, sir.

25 Q And again how long do you think you waited at the

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1 apartment complex?

2 A 15 minutes, sir.

3 Q Did the defendant stay in Charleston that night?

4 A No, sir.

5 Q Okay, what did y'all end up doing?

6 A Well, we ended up going back home, sir.

7 Q Before -- who had the gun when you went back home?

8 A No one, sir. I told him before he could get in the car
9 to throw the gun away, sir.

10 Q Okay, and what did he do?

11 A He threw the gun in the trash can, sir.

12 Q Did you see where he threw the gun?

13 A Yes, sir.

14 Q Do you recognize State's Exhibits 57 and 56?

15 A Yes, sir.

16 Q Okay. What are those?

17 A That's the trash can where he threw the gun.

18 Q On the early morning hours of March 6, 2009, and where
19 did you and Willie Reed and Willie Pelzer head from the
20 Charleston apartment complex?

21 A Willie Pelzer drove back to his grandmother's house.
22 He got out there. Me and Willie Reed drove to my uncle
23 house, and got his car, dropped off my uncle keys and went
24 home.

25 Q Approximately what time did you get back to St.

1 Matthews, approximately?

2 A Like around, 4:00, sir.

3 Q Okay. And I forgot to ask you, you had to have the car
4 there by what time?

5 A 6:00, sir.

6 Q In fact, did your uncle Clay call you at one point at
7 1:38 in the morning?

8 A Yes, sir.

9 Q Why did he call you at 1:38?

10 A Asked me was I coming back there and reminding me that
11 I had to have it back by 6:00.

12 Q Mr. Haygood after you got home that early morning and
13 you awakened the defendant why didn't you just call the
14 police and just tell them what you knew and what had
15 happened?

16 A Well, I was still in shock, sir. I wish I would have
17 done it, but I was still in a state of awe, shock.

18 Q Do you regret it, do you regret lying to the police?

19 A Yes, sir.

20 Q Do you regret helping Willie Pelzer almost get away
21 with this murder?

22 A Yes, sir.

23 Q In fact, that morning, approximately 10:17, and I'm
24 talking about Thursday morning, Friday morning, Friday
25 morning on March 6th, at 10:17, about six hours after you

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1 got back from Charleston, did you call the Calhoun County
2 Sheriff's Office?

3 A Yes, sir.

4 Q And why did you call the Sheriff's Office that Friday
5 at 10:17 a.m.?

6 A To report the gun stolen, sir.

7 Q And did the Sheriff's Office come out and take a
8 statement from you and make a report?

9 A Yes, sir.

10 Q And you admit that was not the full truth?

11 A Yes, sir.

12 Q Who had taken your gun on Thursday night, March 5th?

13 A Willie Pelzer, sir.

14 Q Did the Calhoun County Sheriff's Office, and
15 specifically Detective Graham and Detective Troutman, did
16 they come back to your house the next morning on Saturday,
17 March 7th?

18 A Yes, sir.

19 Q And why did they come back to your house on the morning
20 of Saturday March 7th?

21 A They came back to get the ballistic bullet and the gun
22 case I had, sir.

23 Q And explain that to the jury. When Willie Reed
24 purchased this gun and it was kept at your house, what came
25 with the gun box?

1 A It came with a holster, extra clip and a pamphlet
2 saying how to use the gun and cleaning utensils.

3 Q And a test fired shell casing?

4 A Yes, sir.

5 Q That was fired from that gun?

6 A Yes, sir.

7 Q And do you recognize State's Exhibit No. 46, and you
8 can read the package?

9 A Yes, sir.

10 Q What is that?

11 A That's the ballistic bullet, sir.

12 Q And is that the one that Detective Graham came and got
13 on the morning of Saturday, March 7th?

14 A Yes, sir.

15 Q And did you cooperate with Detective Graham on Saturday
16 morning?

17 A Yes, sir.

18 Q Did you give him the shell casing?

19 A Yes, sir.

20 Q Did he try to get anything else?

21 A No, sir.

22 Q Did he try to get any information from you?

23 A No, sir.

24 Q Did he tell you there had been a murder down the
25 street?

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1 A No, sir.

2 Q Did he tell you they had discovered a body?

3 A Yes --

4 Q That morning, Saturday morning?

5 A No, sir.

6 Q Now, tell the jury what happened later that afternoon
7 or early evening on Saturday --

8 THE COURT: Let's take a little break.

9 MR. PASCO: Yes, sir. Thank you.

10 THE COURT: Ladies and gentlemen, we've got some
11 sandwiches coming in about 5:30, but we've been going about
12 two hours. We're going to take a short break and let
13 everybody get a stretch and then we'll go to about 5:30 or
14 6:00 o'clock and then we'll have our break at that time. So
15 please retire to the jury room. Please do not talk about
16 this case.

17 (Jury out for break at 4:23 p.m.)

18 THE COURT: You may step down, but don't talk to
19 anybody. Nobody. Not your mama, your daddy, and no lawyers.

20 (Court at recess for break at 4:23 p.m.)

21 (Court in session at 4:35 p.m.)

22 THE COURT: All right, we've got everybody. Let's
23 bring the jury.

24 (Jury in at 4:36 p.m.)

25 THE COURT: All right, counselor, you may

1 continue.

2 MR. PASCO: Thank you, Judge Williams.

3 JIMMY HAYGOOD - CONTINUED DIRECT EXAMINATION

4 BY MR. PASCO:

5 Q Jimmy, I'd asked you about the morning the police came
6 and they took the shell casing from you, and you totally
7 cooperated with them that morning?

8 A Yes, sir.

9 Q All they wanted was the shell casing?

10 A Yes, sir.

11 Q And this was the shell casing?

12 A Yes, sir.

13 MR. PASCO: I'd ask that State's Exhibit 46 be
14 admitted into evidence?

15 THE COURT: Any objection?

16 MR. BANKS: No, Your Honor.

17 THE COURT: Admitted without objection.

18 (State's Exhibit No 46, shell
19 casing, was marked and entered.)

20 BY MR. PASCO:

21 Q Now, did you have more contact with the Sheriff's
22 Office later that afternoon, that Saturday?

23 A Yes, sir.

24 Q Okay, tell the jury about that?

25 A They called me and told me they needed me to come back

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1 to the house and talk to the officer, I believe his name was
2 Officer Graham.

3 Q And what did you do?

4 A I came back to the house and talked to him.

5 Q Okay, were you under arrest?

6 A No, sir.

7 Q Did you go anywhere with him?

8 A Yes, sir.

9 Q Where did you go?

10 A We came to St. Matthews to the police station.

11 Q To the Sheriff's Office right over there?

12 A Yes, sir.

13 Q Okay, and did you go voluntarily?

14 A Yes, sir.

15 Q Were you read your rights?

16 A Yes, sir.

17 Q Were you free to go at any time?

18 A Yes, sir.

19 Q And were you under arrest at that time?

20 A No, sir.

21 Q And did Detective Graham tell you you weren't under
22 arrest?

23 A Yes, sir.

24 Q I'm going to show you what's been marked as State's

25 Exhibit No. 85. A copy of a document; do you recognize that

1 document?

2 A Yes, sir.

3 Q What do you recognize that to be, Mr. Haygood?

4 A Miranda rights -- and I waived my rights.

5 Q And are those the exact same rights, and other than
6 that being a copy, the same form that Detective Graham used
7 with you and Detective Stephenson back on Saturday, March 7,
8 2009?

9 A Yes, sir.

10 MR. PASCO: Any objection to State's Exhibit 85
11 being put into evidence? It's just his Advice of Rights.

12 MR. BANKS: That's Miranda?

13 MR. PASCO: Yeah.

14 MR. BANKS: No objection.

15 THE COURT: Without objection.

16 (State's Exhibit No. 85, Miranda,
17 was marked and entered.)

18 BY MR. PASCO:

19 Q And it says here that you were read your Miranda --
20 it's a bad copy, but around 9:31 was when you talked to the
21 police?

22 A Yes, sir.

23 Q Were you under arrest?

24 A No, sir.

25 Q If you had kept your mouth shut where would you have