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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
In The Supreme Court

On Petition for Writ of Certiorari to the Court of Common Pleas
Appeal from Spartanburg County
Honorable Heath P. Taylor, Post-Conviction Relief Judge
Honorable Roger Couch, Trial Judge

Appellate Case No. 2025-000338

DARIUS T. CATHCART, #303063,

RESPONDENT,

v.

STATE OF SOUTH CAROLINA,

PETITIONER.

APPENDIX

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STATE OF SOUTH CAROLINA	**COURT OF GENERAL SESSIONS**
COUNTY OF SPARTANBURG	**2010-GS-42-02874 to 02876** **2010-GS-42-02926 to 02928**

THE STATE of SOUTH CAROLINA

-vs-

DARIUS CATHCART &
RASHAWN REEDER,

Defendants.

TRANSCRIPT OF RECORD

March 28, 2011
Spartanburg, South Carolina

Ordered: March 30, 2012
Delivered: June 8, 2012

B E F O R E:

THE HONORABLE ROGER COUCH, Presiding Judge.

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Circuit Court Reporter

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March 29, 2011 2:00 P.M.

(Off-the-Record Comments)

(Whereupon, State's Exhibit Numbers 1 and 2 were marked for identification.)

THE COURT: All right. We're on the record in the case of *The State of South Carolina vs. Darius Cathcart and Rashawn Reeder.*

My understanding is that there are some pre-trial matters that we need to take up?

MR. GRAY: Yes, sir. I think primarily it's going to be *Jackson v. Denno* matters. I know part of it falls under that purview, but I wanted to present it to the Court for the Court to decide, Your Honor.

THE COURT: All right. Well, there's -- Mr. Poole?

MR. POOLE: Your Honor, I agree. And there are some statements that were made by my client, Mr. Darius Cathcart.

THE COURT: Yes, sir.

MR. POOLE: A couple of them are oral; a couple of them are written.

THE COURT: Uh-huh (affirmative).

MR. POOLE: And that's the scope of the -- the hearing.

THE COURT: So, you're -- you're making a motion for the Court to determine the voluntariness of the

statements?

MR. POOLE: Yes, sir. And there's going to be sort of a hybrid issue as to whether or not *Miranda* was -- was given or -- or not or appropriately or inappropriately.

THE COURT: I see.

MR. POOLE: Thank you.

THE COURT: Mr. Brown, your position in connection with Mr. Reeder's case?

MR. BROWN: Your Honor, there may be some oral statements that were allegedly given by my client in the hospital. So, I would have the same type of concerns.

THE COURT: All right. Does the State wish to call witnesses concerning ---

MR. GRAY: Yes, Your Honor.

THE COURT: --- the matter? All right. You may call your first witness.

MR. GRAY: Thank you, Your Honor. The State calls Deputy Leslie Harrell.

THE COURT: Sir, if you'll come forward to my left and be sworn, please.

(The witness complied with the Court's request.)

(Whereupon,

DEPUTY LESLIE HARRELL

having first been duly sworn, testified as follows:)

THE COURT: have a seat, please, sir. I'd ask that you state your name for the record.

THE WITNESS: Deputy Leslie Harrell.

THE COURT: All right.

MR. GRAY: Thank you, Your Honor.

THE COURT: Your witness.

DIRECT EXAMINATION by MR. GRAY: **2:01 P.M.**

Q. Deputy Harrell, on the night of March 14th, two thousand, nine (2009), were you working?

A. I was.

Q. And where were you working at that time?

A. In 31 Stricken Central (phonetic) in Spartanburg County.

Q. All right. About three o'clock (3:00), four o'clock (4:00), did you get some instructions over 911 or receive over the radio to do something?

A. I did.

Q. What was that, sir?

A. Respond to the hospital for shooting victims.

Q. Which hospital?

A. Spartanburg Regional.

Q. Spartanburg Regional Hospital?

A. Yes.

Q. Did you get any information about any other shooting victims anywhere also?

A. I think before I arrived there they also informed me there were shooting victims at Mary Black Hospital.

Q. So, at the time you arrived at the Spartanburg Regional Hospital, you had shooting victims in your mind?

A. That's right.

Q. Once you arrived there, who did you meet or see?

A. Darius Cathcart and Rashawn Reeder.

Q. The two gentlemen in the orange here at the table?

A. Yes.

Q. Now, what was their condition at the time when -- when you met them?

A. I believe Mr. Cathcart had a graze wound from a bullet. And Mr. Reeder had a -- had a wound. I'm really not sure where it was at, but he was shot by a gun.

Q. All right. At this time, was Mr. Cathcart or Mr. Reeder under arrest for anything?

A. No.

Q. Did you put handcuffs on Mr. Cathcart or Mr. Reeder?

A. I did not.

Q. Did you interrogate them as suspects?

A. No, I did not.

Q. And, again, when you talked with them, what was your intent at that time?

A. My impression they were victims of a crime. I was wanting to find out who were possible suspects that -- that --

you know, responsible for these actions.

Q. At Spartanburg Regional Hospital you thought that both of these gentlemen were the vic -- the potential victims of gunshot wounds, did you talk to Mr. Cathcart about his injuries?

A. Yes.

Q. And what did Mr. Cathcart tell you?

A. He said he got grazed I believe it was under his right arm on his side.

Q. Did he tell you what had happened?

A. He said at a yield sign on Charisma Drive (phonetic).

Q. All right. At that time, did he tell any other possible location?

A. No.

Q. Did you talk to Mr. Reeder also?

A. Yes.

Q. What did Mr. Reeder say?

A. He -- he didn't give me a location. He was very, very short in his answers.

Q. Okay. What type of answers did he give you?

A. Ah ---

Q. What type of questions did you ask him?

A. Just about who possibly did it, where -- the location of where it happened.

Q. What were his responses?

A. Do you mind me looking back at my report?

Q. No, sir.

(Brief pause while witness examines documents.)

A. He stated that he didn't know where they were or who shot them.

(Brief Pause)

Q. Did he tell you who was in the car with him —

A. He said he —

Q. --- and Mr. Cathcart —

A. He said he and Mr. Cathcart and a guy named "Black."

Q. --- or individuals when they were shot?

A. No. He said he and Mr. Cathcart was in the vehicle when he got shot. And the Black subject drove the car away from the hospital.

Q. But you never got this individual's full name ----

A. No.

Q. --- who drove away?

A. No.

Q. Did Mr. Cathcart tell you that Mr. Reeder was in the car with him when he got shot?

A. Can I look at my report one more time?

(Brief pause while witness examines documents.)

A. Yeah, he said that -- that Mr. Reeder was in the car with him.

Q. All right.
A. And that they both left from that location.
Q. Okay. Did he ever identify any potential shooters?
A. No.
Q. And you were talking there was another incident, a potential shooting? I -- I don't want to put words in your mouth, but at the time of this incident?
A. Yes.
Q. About what time did that other shooting occur?
A. Where or what time?
Q. What time?
A. From my understanding, within fifteen (15) minutes of from -- from when this call came in -- I'm sorry, in less than fifteen (15) minutes, the other people arrived at the other hospital.
Q. And who were the other people?
A. I'm not sure.
Q. Okay. You didn't go to that hospital?
A. No, I did not.
Q. You only went to Spartanburg Regional and talked to Mr. Cathcart and Mr. Reeder?
A. That's correct.
Q. As potential victims?
A. That's right.
MR. GRAY: Thank you. Please, answer any questions

that Mr. Poole may have or Mr. Brown may have.

A. Okay.

THE COURT: Mr. Poole, your witness.

MR. POOLE: Thank you, Your Honor.

CROSS EXAMINATION by MR. POOLE: **2:10 P.M.**

Q. Deputy Harrell ---

MR. POOLE: May I approach the witness, please?

THE COURT: You certainly may, uh-huh (affirmative).

Q. --- can I take a look at your report, please?

(Document handed to Mr. Poole.)

A. Sure.

Q. Were -- were you with anyone when you went to talk to Darius Cathcart?

A. There may have been an investigator with me. I'm not -- I'm not -- I can't recall.

Q. Is that person in this room?

A. The two investigators that were on the scene are in this room.

Q. They are?

A. Yes.

Q. Was one of them with you?

A. I don't recall if he was or not.

Q. Okay.

(Brief Pause)

Q. Okay. And, so, you spoke with Mr. Cathcart at the hospital; is that right?

A. Yes.

Q. And, at that point in time, he was, as far as you were concerned, a victim of a shooting?

A. Yes.

Q. And had he already been treated by a physician or staff?

A. They were looking at him at that -- looking at him at the time.

Q. So, you were talking to him while he was being treated?

A. Yes.

Q. And had he been administered any drugs to your knowledge?

A. No.

Q. How do you know?

A. Well, from my knowledge, no.

Q. But he could have been?

A. He could have been.

Q. Okay. And how long had he been at the hospital?

A. He was only there just a few minutes before I got there.

Q. Okay. Did doctors or nurses or any member of the staff tell you what they had done up -- to him up to that

point?

A. No.

Q. And did they tell you what kind of treatment they had provided to him up to that point?

A. No.

Q. Were Mr. Reeder and Mr. Cathcart together?

A. No, they were in separate rooms.

Q. Okay. And did you -- obviously you spoke with them separately?

A. Yes.

Q. And you -- I didn't get the name of the drive that you mentioned when you said Mr. Cathcart gave you a location.

A. Uh-huh (affirmative).

Q. What was the name of that drive?

A. Charisma Drive (phonetic).

Q. Charisma? Do you know where that is?

A. I do.

Q. Were you involved in any other aspects of this investigation?

A. No, sir.

Q. Okay.

(Brief Pause)

Q. And finally, Deputy, did Mr. Cathcart mention "Black"?

A. I don't think he did, but Mr. Reeder mentioned the

name "Black."

Q. Mr. Reeder was the only one?

A. I believe so.

MR. POOLE: Okay. Thank you.

THE WITNESS: Yes, sir.

CROSS EXAMINATION by MR. BROWN: 2:13 P.M.

Q. Investigator, you said Mr. Reeder mumbled something at the hospital?

A. That he mumbled something?

Q. Yes.

A. I don't recall that he mumbled something.

Q. Well, you say you talked to him, right?

A. Yes.

Q. And, when you talked to him, was he clear in his responses?

A. He was clear, yes.

Q. And did you ascertain that he was shot anywhere?

A. I believe he was. If I'm not mistaken, I think it was an arm wound.

Q. Okay. So, you didn't say earlier that he had mumbled his answers?

A. No.

Q. Did you ascertain his state of mind at the time?

A. Yes.

Q. And what did you determine that to be?

A. At that time, he was -- I'm not sure if he was administered any medication, but he was talking just fine to me.

Q. And, so, when you talked to him, how soon after would another officer have a chance to talk to him?

A. Within fifteen (15) or twenty (20) minutes.

Q. And no one was there with you?

A. I don't think so. I -- I don't recall.

Q. So, you don't know if an officer -- another officer talked to him immediately?

A. The only other officer, a uniformed officer, would be Deputy Driggers (phonetic), but an investigator didn't shortly after I was there.

Q. Okay. Do you know if he had received any type of treatment for his gunshot wound?

A. I do not.

Q. Could you -- could you see his gunshot wound?

A. Yes.

Q. Was it covered up?

A. I -- I believe it was.

Q. Was it bandaged?

A. I believe so.

Q. And was he -- did he have any IVs?

A. No.

Q. Didn't have any IVs?

A. I don't think so.
Q. Do you know if he received any shots?
A. No, sir.
Q. Any medication?
A. No, sir.
Q. At what point in your conversation did he mention Black?
A. When I was talking about how he got to the hospital.
Q. And, in regards to Black, he said Black drove?
A. Yes, that's right.
Q. And that's the only thing he said in regards to Black?
A. Yes.

MR. BROWN: Okay. No more questions.

THE COURT: Yes, Mr. Gray?

MR. GRAY: Yes, sir, briefly.

REDIRECT EXAMINATION by MR. GRAY: **2:15 P.M.**

Q. You said earlier ---
A. Uh-huh (affirmative).
Q. You said that Mr. Reeder was short -- gave you short answers, correct?
A. That's correct.
Q. And you said he -- he didn't know where he was —
A. Yes, sir.
Q. --- when he was shot? He didn't know who shot him?

A. Uh-huh (affirmative).
Q. And he stated it was he and Mr. Cathcart who got shot at?
A. Uh-huh (affirmative), that's right.
Q. And that they were in a Nissan when they got shot?
A. That's correct.
(Brief Pause)
MR. GRAY: Thank you.
THE COURT: Anything further, Mr. Poole?
MR. POOLE: No recross.
THE COURT: Mr. Brown?
MR. BROWN: No, Your Honor.
THE COURT: You may step down, sir.
(The witness complied with the Court's request.)
THE COURT: Mr. Gray, you may call your next witness.
MR. GRAY: Thank you, Your Honor. I call Investigator Chris Durham.
THE COURT: Come forward and be sworn, sir.
(The witness complied with the Court's request.)
(Whereupon,
DEPUTY CHRIS DURHAM
having first been duly sworn, testified as follows:)
THE COURT: Have a seat, please. And, once your

seated, please, state your full name.

THE WITNESS: Jack Christopher Durham.

THE COURT: Mr. Gray, your witness.

MR. GRAY: Thank you, Your Honor.

DIRECT EXAMINATION by MR. GRAY: **2:18 P.M.**

Q. On March 14th at approximately four (4:00) a.m., did you get involved in a shooting call from communication with someone?

A. Yes, sir. I received a phone call in the middle of the night telling me that a sergeant on uniformed patrol wanted me to give him a call.

At which point I called him. He said it looked like there have been two shootings at two separate locations and the victims were at two separate hospitals.

Q. And -- and the two separate hospitals which were...?

A. Regional and Mary Black.

Q. All right. So, which hospital did you go to first?

A. I went to Regional. I -- I didn't go to Mary Black.

Q. Once you got to Spartanburg Regional, did you talk to any -- any potential victims?

A. I spoke to -- I was directed to Mr. Reeder's room.

Q. Uh-huh (affirmative).

A. I -- I briefly spoke to him. It looked like he was on pain medication. He was -- he was slurring his words.

He -- he couldn't give me any information but I kind

of, you know, understood because he was slurring his words and he -- he was saying he didn't know what had happened it happened so fast.

So, I left his room and went and talked to Mr. Cathcart.

Q. At that time did he say anything about himself?

A. No, sir. I asked him if he knew who shot him; he said no. He kept -- he kept saying he was blacking it out and didn't know anything.

Q. Did he say that he was right handed or left handed to you?

A. Well, I -- I put in my notes Mr. Reeder is left handed. And I can only -- I don't -- I don't remember which hand he was shot in, so, I think that's why I put he was left handed because I think I asked, you know, what handed are you or something to that effect.

Q. All right. Did you also talk to Mr. Cathcart?

A. I did.

Q. I want to show you what's been marked as State's Exhibit Number 1 and see if you recognize it.

A. Right. This wasn't done at the hospital. That was done at the sheriff's office.

Q. Okay.

A. A couple of hours later.

Q. All right.

A. But, yes, I do recognize it. It's a pre-interrogation waiver form that I read to Mr. Cathcart on the 14th at 8:47 a.m. at the sheriff's office.

It was -- I witnessed it. And Detective C. Calhoun (phonetic) notarized it. He was also in the room with me when I advised him of these rights.

Q. Okay. It's important and I wanted to ask you about that piece of paper and the hospital —

A. Okay.

Q. --- the difference be -- between them. At the hospital, when you talked to Mr. Reeder -- excuse me, Mr. Cathcart, was he a suspect at that time?

A. At that -- at that time I thought he was a victim. I really didn't know what was going on.

I walked into his room and he -- and I was advised he was grazed; they said it didn't enter the body cavity.

And I talked to him, basically just wanted to know what's going on. You know, just, you know, did he know you shot him, things of that nature.

Q. Trying to gather information?

A. Yes, sir.

Q. From the victim?

A. That's correct.

Q. And what did Mr. Cathcart tell you?

A. He said he did not remember much of the -- that

everything went so fast. He -- he gave a -- a description of the location. He said it happened right down the street from Club Dreams.

He said that he drove himself and Mr. Reeder to the hospital and Black took off with the vehicle.

Q. Did he say what kind of vehicle he was driving in?

A. Let's see if he...

(Brief pause while witness examines documents.)

A. He said he was driving his girlfriend's green Nissan.

Q. All right.

A. And -- and he said, once he got to the hospital, Black took off in his -- in his vehicle.

Q. And did he give you the location of the incident where he was injured?

A. At the hospital, he said it happened just right down the street from Club Dreams.

Q. Right down the street from Club Dreams?

A. Yes.

Q. All right. Did you question him any more at the hospital about the incident?

A. No, I did not.

Q. Did he say anything more about this Black person?

A. No. He -- he actually said Black was Reeder's friend and he doesn't really know him.

Q. Did he say anything about who was with him in the car when this incident happened?

A. He said that he drove him and Reeder to the hospital after they got shot, so...

Q. All right. Now, you also have a piece of paper there, State's Exhibit Number 1 ---

A. Yes.

Q. --- for identification. Again, that is a standard pre-interrogation waiver form submitted by you?

A. It is.

Q. Is it used by the sheriff's department?

A. Yes, yes, sir.

Q. What time was it when you talked to Mr. Cathcart after this incident?

(Brief pause while witness examines documents.)

A. I got the call at my house about four (4:00) a.m. in the morning. So, I probably got to the hospital an hour later or within the hour. So, I'd say around five o'clock (5:00) in the morning.

Q. What time ---

A. So...

Q. --- did you do that second interview?

A. That was at 8:47 a.m.

Q. At that time, where was Mr. Cathcart?

A. At the sheriff's office.

Q. And was he detained at the sheriff's office at that time?

A. Well, he -- he was -- I don't know how he got down there either. I don't know if we brought him down there. I think we did. I'm not sure. Or he was asked -- or he came on his own. I'm not sure.

Q. Uh-huh (affirmative).

A. But, you know, since he's not free to roam free at the sheriff's office -- you know, we -- we put him in an interview room, you know, I -- I -- I do pre-interrogation waiver forms at any time like that.

Also, too, when Detective Lorin Williams and I got together, because he went to Mary Black, we found out that -- we had a feeling that these two incidents were now involved because they're both at Club Dreams.

So, that's another reason why we took him down to the sheriff's office because I wanted to read him his rights to find out what's going on with this case.

Q. At that point, did you have any different information besides the Club Dreams similarity ---

A. Yeah. Ah -

Q. --- between the two situations?

A. I think Lorin Williams had told me -- he came to the sheriff's office -- actually, he came to the hospital and told me that it -- it looks like these are going to be involved

because they both -- both parties were at Club Dreams.

Also, I was advised by Sergeant Cockrell (phonetic) they found the -- I guess the scene, one scene at Mt. Pleasant Road but they couldn't find the other scene.

Q. The one on Mt. Pleasant Drive?

A. That's correct.

Q. So, the Mt. Pleasant and Burns intersection ---

A. That's correct.

Q. --- they had found a crime scene?

A. That's correct.

Q. Now was this -- did you have this information before you issued -- you issued that second piece of paper -

A. Yes, sir.

Q. --- to fill out?

A. Yes, sir.

Q. Did you talk to Mr. Cathcart about needing that pre-interrogation waiver form after receiving this additional information?

A. I'm sorry?

Q. Did you give him that form after you received this additional information?

A. Yes, sir. I gave him this one at the sheriff's office. When I -- when I got done speaking to him at the hospital -- that was the last time I spoke to him, at the hospital.

Q. Okay.

A. I spoke with him that one time. And, then, that's when Detective Williams shows up and we start talking about the similarity of these cases. And that's when I find out that one scene was found, not the other.

So, I think -- I think Mr. Williams advised the officers on duty could they bring them on down to the sheriff's office. I'm not sure how they got down there.

But they -- they did get down to the sheriff's office.

Q. Okay.

A. And that's when I read him this pre-interrogation waiver form.

Q. Could you read it, please?

A. It says, "Spartanburg County Sheriff's Department, Spartanburg, South Carolina Pre-interrogation Waiver Form." The name is "Cathcart, Darius, Travorus" (phonetic).

Address is "230 Carlton Drive," (phonetic) "Age 23." The date is "3/14/09." The time was "8:47 a.m."; location "SCO" -- "SCS" -- I sorry -- "SPSO," that's Spartanburg County Sheriff's Office, "8045 Howard Street" (phonetic).

Do you want me to read the -- the rights?

Q. As you would read that form to him, yes.

A. Okay. It says, "I have the right to remain silent. Anything I say can and will be used against me in a Court of

Law;

"I have the right to talk to a lawyer and have him present with me while I'm being questioned. If I cannot afford to hire a lawyer, one will be appointed to represent me for any questioning if I so wish.

"I can stop answering questions at any point during the questioning. The above rights have been read to me by C. Durham. I've read and understand my rights fully." Then, I read him the second part.

"I waive or give up my rights as explained above and agree to talk with Officer C. Durham in reference to crimes in Spartanburg County. And I understand any statement that I may make is of my own free will without fear, threat, promise of favor or reward of any kind.

"I'm able to read and write the English language and I've finished eleven (11) years in school."

Q. And is there any place on there for you to sign or for Mr. Cathcart to sign?

A. Yes, sir. There's a witness -- Mr. Cathcart signed that he understood these rights and he understood that he -- and, then, he also signed the part where it says he wishes to talk to me.

Q. So, he signed it not once but twice?

A. Two places, yes, sir. And, then, I signed as a witness and Detective Steve Calhoun, who was in the room with

us at the time, he notarized it.

Q. Now, at any time after he signed this, did you ask Mr. Cathcart questions about the shooting?

A. Yes, I did.

Q. What kind of questions did you ask Mr. Cathcart?

A. Pretty much I -- I asked him to explain what happened. And he advised us he was the driver of a grey [sic] Nissan that belonged to his girlfriend.

He said that he drove his two friends, Rashawn Reeder and another guy he knows as Black, he was driving them home from Club Dreams.

He left Club Dreams and went to Waffle House on Asheville Highway next to Kentucky Fried Chicken. He left Waffle House and went across the street to the Sunoco.

They were sitting in the parking lot at Sunoco. No one went inside. He said they left and went around the Circle to exit right as if they were getting onto I-85 Business.

Prior to getting on I-85, he said they were -- there was a vehicle that came up beside them and started shooting at them while still on the ramp.

He said the suspect vehicle continued on I-85 Business northbound as he made a right onto I guess I-85 -- yeah.

Q. And all these statement were made to you voluntarily?

A. He -- he was talking -- you know, I'm -- I'm asking him -- you know, he's -- he's telling me what happened.

Q. There were no promises made to Mr. Cathcart?

A. No, not at all.

Q. Any deals?

A. No.

Q. Any threats?

A. No.

Q. Did you investigate that on ramp or find any shots fired that Mr. Cathcart was talking about?

A. I was told later on that there were officers at Heron Circle that night because of -- I guess there was a swarm of cars.

Q. Uh-huh (affirmative).

A. And, you know, there were officers there at the time at Heron Circle and they didn't hear any gunshots that went onto I-85 on that on ramp.

Q. All right.

A. You want me to continue with what he was telling me?

Q. Yes, please.

A. Okay. He said that he and Mr. Reeder were shot. He said they drove to Church's Chicken across the street from Spartanburg Regional Medical Center.

They got out and went inside the hospital. The unknown man, by the name of Black, then took the vehicle and

drove off.

Mr. Cathcart doesn't know Black, so, he said that Mister -- that -- he said that was Mr. Reeder's friend. The current -- the vehicle's current whereabouts were unknown.

I asked him if he wanted to write this down. I gave him a -- a statement form, said, "You can write it down."

Me and Detective Calhoun, we -- we left the room to give him, you know, time to -- to write. And I -- I came back and he hadn't written -- written anything.

MR. GRAY: Thank you. Please, answer any questions that Mr. Poole or Mr. Brown would have.

THE COURT: Mr. Poole, your witness.

MR. POOLE: Thank you, Your Honor.

THE COURT: Yes, sir.

CROSS EXAMINATION by MR. POOLE: 2:29 P.M.

Q. Investigator Durham –

A. Yes, sir.

Q. --- it's my understanding -- and I think you're probably going by your incident report that you have in front of you ---

A. My write-up, yes, sir.

Q. Okay. And, so, it's my understanding that a brief synopsis of your version of your involvement was essentially on the 14th you went to the hospital. And that's when you spoke with Darius Cathcart?

A. Yes, sir.
Q. Okay. And he was being treated —
A. Yes, sir.
Q. --- at the time you saw him?
A. Yes, sir.
Q. Okay. Was Deputy Harrell there?
A. You know, I don't know. I do know that -- well, in my report I wrote that Deputy Talanges was there. And there could have been other officers behind me.

But Deputy Harrell, he was there before I got there. So, I don't know if he was behind me in the room or he was out doing his report at the nurses' station.

Q. All right. When you saw him there at the hospital, was he was being treated?
A. Mr. Cathcart?
Q. Yes, sir.
A. When I saw him at the hospital, he was laying in the bed. So, I -- I guess he was being -- in the process of being treated, that is correct.
Q. Okay. And you don't know what had been administered to him by way of medication —
A. No, sir.
Q. --- do you?
A. No, sir, I do not.
Q. And you don't know the nature of the treatment that

he was receiving?

A. No, sir, I do not.

Q. And you did not know what the nature of the wound was except that it wasn't told to you; is that right?

A. Let me read this.

(Brief pause while witness examines documents.)

A. I wrote in there that I was apprised that he was grazed and the bullet did not enter the body cavity.

Q. Okay. And, then, basically you said he said what his girlfriend's name was, gave you her phone number ---

A. Yes, sir.

Q. --- all that sort of thing?

A. Yes, sir.

Q. And, then, you did not see him until the next day?

A. No, sir, it was later -- it was later on that same day, on the 14th.

Q. Okay.

A. A few hours later.

Q. Okay. On the 14th?

A. Yes, sir.

Q. Is that the incident report too?

A. Yes, it is. That's when I -- I read him his rights, his waiver, Mister -- Mr. Cathcart.

Q. Uh-huh (affirmative).

A. He -- he came to the sheriff's office. I -- I don't

know how he got there, but...

Q. That was at the sheriff's office? What's the date on the waiver form?

A. The 14th.

Q. At what time?

A. Eight -- 8:47 a.m.

Q. Okay. And that was early in the morning then?

A. That was.

Q. And what time did you see him at the hospital?

A. It was about five -- five (5:00) or six o'clock (6:00) in the morning.

Q. So, just about three or four hours afterwards?

A. Yeah.

Q. Okay.

A. A little over -- yeah, about two or three hours afterwards, yes.

Q. He had not had any sleep, had he?

A. Not that I know of.

Q. Okay. And, so, you -- you don't know how he got there, but it was there at the sheriff's office?

A. I -- yeah. I -- I should maybe -- he was transported, but I'm not sure.

Q. Okay. Okay. And, then, by that time, at 8:48 on the 14th, a.m. -- at that time, he was no longer a victim or a witness, but you considered him a suspect?

A. I didn't really know what he was. It -- it sort of -- we -- we felt like now both parties were -- were -- this is connected because they're at the -- at the Club Dreams or whatever.

Q. Uh-huh (affirmative).

A. And I guess I -- I guess you could say, yeah, I -- we did consider him a suspect to the extent where we found one crime scene and not the other.

And that's -- you know, that was one of the reasons why we read him his rights on the waiver form.

Q. All right. But —

A. So, he knows what's going on.

Q. You -- you would not have him sign the pre-interrogation waiver form unless he was a potential suspect; is that a fair statement?

A. Not just that. If -- if no one is in custody, and I want to ask them questions, of course I'm going to do it.

Q. Okay. And he gave you some information and you testified about what that information was. And, then, you left him alone to write it down?

A. Yes, sir.

Q. And -- and, then, when you came back in, that's when he asked for an attorney?

A. Yes, sir. He -- I -- I -- I saw that he hadn't write -- written anything ---

Q. Uh-huh (affirmative).

A. --- and I said, "Is there a problem?" And he -- he said he would rather have his attorney present before he writes anything.

Q. Okay. So, did you take that to mean that he didn't really want to convey this information to you ---

A. Oh, yes.

Q. --- to start with unless he had an attorney with him?

A. No, no, unless you tell me you don't -- you want an attorney, you know, I -- I gave him -- he said he wanted to talk and he gave me this statement.

And, then, I asked him if he wanted to write it down. When I came back, he said he would rather have an attorney before he writes anything down.

(Brief Pause)

Q. Okay. And, so, this was like -- again, this was just a few hours after you saw him at the hospital?

A. Yes, sir.

Q. After he had been treated, right?

A. Yes, sir.

Q. And you don't know what kind of medication --

A. I have no idea.

Q. --- or treatment he received?

A. No, sir.

Q. And he talked to you and gave you some information?
A. Yes, sir.
Q. And, then, said he wanted an attorney?
A. After -- after I went back in there, he said he'd rather have an attorney present before he writes anything down. And in which case I escorted him down to the lobby.
Q. Well, let me ask you this: Did you ask him, as is usually done I think, if you leave somebody alone and you come back in, do you ask him, "Hey, is there anything you want to change about your story?"
A. Well, I -- I came in and he hadn't written anything down. He -- I -- I said, "Well, I'll write it down if you want to dictate it to me," And he goes, "I'd rather not write anything down."
Q. But, at any point in time, did you ask him -- you know, whether he had written it down or not, you left the room?
A. Right.
Q. And, then, you came back in. I mean, did it ever occur to you to ask him, "Is there anything you wanted to change about your story"?
A. No, sir, because right when he said he'd -- he'd rather have his attorney present, I didn't ask any more questions.
Q. Okay. All right.

(Brief Pause)

MR. POOLE: That's all the questions I have. Thank you.

THE COURT: Mr. Brown, your witness.

CROSS EXAMINATION by MR. BROWN: 2:35 P.M.

Q. Investigator, when you spoke to Mr. Reeder, you spoke with him at Spartanburg Regional?

A. Yes, sir.

Q. And, at the onset of your conversation with him, you determined that he was under the influence of something?

A. From my write-up, I -- I -- I could tell he was under the influence of pain -- of pain medication. He was slurring his words and I -- I can say he looked drowsy and mumbled answers to questions.

Q. And, in fact, your statement says you could tell he was under the influence of pain medication?

A. Right.

Q. He was drowsy and he mumbled some answers to questions that were asked of him?

A. Right.

Q. You knew he wasn't necessarily all the way there?

A. Right.

Q. And, at some point, you said he stated he was left handed?

A. Yeah. I ---

Q. Did you ask him that or did he tell you?

A. I think I asked him that.

Q. Okay. So, it's possible that, based upon him being kind of drowsy, he could have agreed with you if you asked that question to him directly?

A. I don't know what -- how my -- how I questioned it.

Q. How you what?

A. I don't know what -- if I said, "What handed are you," or -- because I knew he was shot in the hand or wrist or something to that effect. And I can't remember which one he had up or which one he had bandaged.

Q. Well, let me ask you this: What -- what hand do you know him having been shot in?

A. I mean, I can't remember. I -- I actually think it was the right hand, but I'm not sure.

Q. Okay. So, if he was shot in his left hand, is it possible that your question could have been, "Which hand did you get shot in?"

A. Pardon me?

Q. If he was shot in his left hand, is it possible that your question could have been, "Which hand did you get shot in?"

A. No, sir because I remember I -- I wrote he said he was left-handed. So, I wouldn't have asked what hand he got shot in.

Q. And that was based upon the questions you were asking him directly about which hand are you?

A. Right.

Q. And you don't know, based upon the state he was in, that he could have misinterpreted your question?

A. No, sir. I'm -- I'm -- I'm not qualified to determine what he was thinking, no, sir.

Q. But you do recognize that he was under the influence ---

A. Yes, sir.

Q. --- of medication ---

A. Yes, sir.

Q. --- and was the equivalent of not all the way there?

A. Yes, sir. That's why I wasn't getting any answers. I thought he was going in and out. So, I just walked off and went and talked to Mr. Cathcart.

Q. All right. And, on the following day, on the 15th at ten, twenty-seven (10:27), you went back to see him again?

A. I think Detective Lorin Williams and I at the hospital did.

Q. Okay. And, at that point, you determined that he was -- he was definitely on pain medication; his words were still slurred?

A. That's -- that's -- I think that's what we put down.

Q. Okay. You didn't present to him an opportunity to

sign a waiver of his rights on an affidavit form --

A. No, sir.

Q. --- at that point?

A. No, sir. I don't -- I don't -- you know, I don't think we asked him any --

Q. And this was the second time of coming to talk to him?

A. Right. I didn't go -- we didn't get a waiver form signed.

Q. And -- but, even under those circumstances, you say in your report that he said that he was there -- the second to the last page?

A. Okay. Thank you.

(Brief pause while witness examines documents.)

A. Next to the last page?

Q. Uh-huh (affirmative), Paragraph 2.

A. Okay. Yes, sir; he said he was with Darius.

Q. Okay. Again, was that based upon a question that you suggested or did he come out directly and say it?

A. Yes, sir. I -- I just said that he said he was with Darius. So, I -- I don't know if me or Investigator Williams asked him what -- you know, "Who were you with," or I don't know how the question was -- was posed.

Q. Is it possible that someone could have said, "You were with Darius, right?"

A. I -- I'm not sure. I guess it's possible. I don't remember how it was posed.

Q. Okay. But it's clear that you stated that he said that he doesn't -- possibly he doesn't remember anything about that happened?

A. Yes, sir.

Q. Because he was, indeed, under pain medication and his words were still slurred?

A. Yes, that's -- that's what I put.

MR. BROWN: That's all the questions I have.

THE COURT: Yes, sir, Mr. Gray?

MR. GRAY: Just briefly, Your Honor?

THE COURT: Yes, sir.

REDIRECT EXAMINATION by MR. GRAY: 2:39 P.M.

Q. Regarding Mr. Reeder, the difference between Mr. Cathcart's and Mr. Reeder's second interview was Mr. Cathcart was interviewed where the second time?

A. At the hospital -- oh, Mr. Cathcart. I'm sorry, I got them confused. Mr. Cathcart was interviewed the second time at the sheriff's office.

Q. Mr. Reeder was interviewed the second time where?

A. At the hospital.

Q. He was not in detention at that time?

A. Not that I know of.

Q. Did you place any handcuffs on Mr. Reeder at that

time?

A. No, I hadn't, no. I don't know if he has.

Q. Was he told he was under arrest for anything at that time?

A. I'm not sure. No, not that I know of.

Q. I mean by you?

A. No, not by me.

Q. So, did you read him his rights at that time?

A. I didn't put in here that I did.

Q. Did you see any need to read him his rights at that time at the hospital?

A. No. I mean, no, he wasn't -- I guess he wasn't being detained or anything like that.

Q. Did you tell Mr. Reeder he -- he wasn't free to leave the hospital?

A. No, huh-uh (negative).

Q. Did you tell Mr. Reeder that he was a suspect at that time?

A. Not that -- I didn't -- I didn't say anything like that, no, sir.

Q. Okay. At that time, again, when you were at the hospital, were you just gathering information at that time?

A. I went with Investigator Lorin Williams. I think he did most of the talking, but I was with him.

But, yeah, he -- I think we cut the whole thing

short because we could still see -- tell he was under the influence of something. And we just walked out.

Q. He never inter -- attempted to interrogate him at that time?

A. We went in there to question him. But, you know, I don't think -- there was no reason to go in there to see how he was doing, you know, just -- you know, kind of went into his room.

MR. GRAY: Thank you very much.

THE COURT: Any other questions, Mr. Poole?

MR. POOLE: None here, Your Honor.

THE COURT: Mr. Brown?

MR. BROWN: No, Your Honor.

THE COURT: You may step down, sir.

(The witness complied with the Court's request.)

THE COURT: You may call your next witness.

MR. GRAY: Thank you. The State calls Detective Lorin Williams.

THE COURT: Sir, if you would, step up and be sworn.

(The witness complied with the Court's request.)

(Whereupon,

DETECTIVE LORIN WILLIAMS

having first been duly sworn, testified as follows:)

THE COURT: Have a seat, please, sir.

(The witness complied with the Court's request.)

THE COURT: Once you're seated, state your name for me.

THE WITNESS: Lorin Williams.

THE COURT: Mr. Gray, your witness.

MR. GRAY: Thank you, Your Honor.

THE COURT: Yes, sir.

DIRECT EXAMINATION by MR. GRAY: 2:41 P.M.

Q. Detective Williams, were you also called out on the night of March 14th ---

A. Yes, I was.

Q. --- two thousand, nine (2009) regarding some shootings in Spartanburg County?

A. Yes, sir, I was.

Q. What did you do once -- once you were notified of these shootings?

A. I was originally notified by Investigator Durham that he had two shooting victims at Spartanburg Regional Medical Center.

Once I had gotten ready and left -- left my residence, I spoke to Investigator Durham again. And he, at that time, advised me that we, in fact, had two separate incidents.

We had two sets of shooting victims; one at

Spartanburg Regional Medical Center and one at Mary Black.

Q. And which hospital did you respond to?

A. Due to the fact that there was a -- a death involved in the shooting incident that had occurred at Mary Black, Investigator Durham told me the he had spoken with Sergeant Wood, who advised for me to take the -- the -- the death and for him to respond to Spartanburg Regional to that -- to deal with that -- that set of victims.

Q. Once you got to Mary Black Hospital, who was the individual who was dead?

(Brief pause while witness examines documents.)

A. The deceased victim was identified as a Duncan Geter (phonetic), otherwise known as "AJ"

Q. Were there any other individuals with the decedent when he was injured?

A. At -- at the time that I arrived at the hospital, there were actually three individuals that were pointed out to me by uniformed officers that were on the scene.

There was the decedent. There was another young man; the last name is Miller. I'm not -- Bryant Miller (phonetic). And, then, the decedent's brother.

Q. Was it Dwight Geter (phonetic)?

A. Yes, sir.

Q. Did you *Mirandize* the individuals, Mr. Miller or Mr. Geter?

A. No, sir, not at all.

Q. Did you talk to Mr. Geter or Mr. Miller?

A. I did.

Q. And what was the point of not *Mirandizing* these two individuals?

A. They were -- they were victims. At that point, everything that I had, all the information that I had at that point, they were victims.

And I was there to try to find out where the incident had occurred and who may have been responsible for the incident.

Q. Did you have any idea these two -- this situation was linked to the two victims at Spartanburg Regional and the victims at Mary Black?

A. No, sir, not at that time.

Q. Okay. Did you continue to talk to Mr. Geter and Mr. Miller?

A. I spoke with Mr. Miller. He was being treated for his injuries. I spoke to the decedent's brother, and at -- at some point -- bear with me one second.

(Brief pause while witness examines documents.)

A. Mr. Miller had given a possible location of the crime scene. So, I had asked that uniform patrol go there and, then, have Mr. Geter transported to the sheriff's office where I could talk to him further.

Q. And where was the crime scene location?

A. The -- the location that -- that Mr. Miller had -- had stated they were at was leaving Lakeview Manor (phonetic). Patrol units went up to that area and actually located the crime scene in the area of Burns Road (phonetic) and Mount Pleasant Road.

It is a -- an intersection just down from Lakeview Manor.

Q. At that point, did you -- did you interview Mr. Geter further or go over to Spartanburg Regional Hospital?

A. No. I went over to Spartanburg Regional, went over to the hospital and spoke to Investigator Durham at that point.

Q. And I guess you guys shared information. Did you develop any potential single crime scene or numerous crime scenes?

A. Well, based on what Investigator Durham had told me at that point, that the two victims at the hospital were telling him that they had been shot there at the exit ramp on Heron Circle and I-85 Business, and due to the fact there had been no reported shots fired or any type of -- of other things to substantiate, you know, what they were claiming; at that point, I believe we began at that point to feel that both incidents were going to be related.

Q. Did you gather any information from Mr. Geter or Mr.

Miller that they had difficulties with any individuals at Club Dreams earlier that night?

A. They -- they did. Mr. Geter -- Dwight Geter had indicated that they had originated -- that they had -- the events that led up to the shooting had originated from Club Dreams.

Q. And what -- and, again, did you talk to Detective Durham about the identical information about Club Dreams and a later shooting?

A. That's correct.

Q. Is that when you believed that these two incidents were related and had occurred at the same time?

A. Once -- once -- once it was discovered that both of the incidents allegedly had -- or both of the sets of -- the two sets of individuals had been at Club Dreams, we began to realize, at that point, this was probably going to be a related situation and not two separate incidences.

Q. Did Mr. Geter and Mr. Miller ever identify anybody, either Mr. Cathcart or Mr. Reeder, as being involved?

A. Mr. Geter did.

Q. Who had been involved?

A. He identified Mr. Darius Cathcart as the individual that his brother had gotten into an altercation with at the club.

Q. All right. And did he tell you about the shooting

that happened later?

A. Yes, he did.

Q. What did he say?

A. He stated that they had gotten into an altercation; that it had gone into the parking lot, at which point everybody had broken up and left in -- in separate vehicles.

He went on to tell me about going to the Sunoco and to the Waffle House. At some point, the sheriff's office was notified of the crowd that was gathering at the Waffle House. The sheriff's office came in to disperse the crowd.

They had left the Waffle House and were going to -- excuse me -- to Lakeview Manor. While they were in Lakeview Manor, they had -- he observed a vehicle that was following them.

They actually went into Lakeview. And I believe, if I remember correctly, he was going to see someone by the name of I think it was Marty.

But, anyway, they -- they had been in Lakeview for a very brief period of time. When they came back out, as they approached the intersection at Mount Pleasant and Burns Road, he observed a vehicle coming up behind him with no headlights on.

He went on to say that the vehicle pulled along side of him and that was when the shots started to be -- to be fired.

Q. Did he describe the vehicle?

A. I believe he described it as a...

(Brief pause while witness examines documents.)

A. He described it as a small car. And he thought that it could have been green.

Q. All right. Did he say anything -- who shot first or they shot first?

A. He stated that they shot first.

Q. Did this information sound similar to the information that Mr. Cathcart had given to Detective Durham?

(Brief pause while witness examines documents.)

A. I don't recall exactly what -- at that point, what Mr. Cathcart had told Investigator Durham.

Q. Did you -- did you go talk with Mr. Cathcart?

A. No, no, I did not.

Q. Did you talk with Mr. Reeder?

A. No, sir, I did not.

Q. At any time, did you talk to Mr. Cathcart or Mr. Reeder?

A. Not -- not during the initial part of this, no.

Q. Not on March 14th?

A. No, sir.

Q. On March 15th, did you go talk to Mr. Cathcart?

A. On March the 15th, I did talk to Mr. Cathcart.

Q. I show you what's been marked as State's Exhibit

Number 2 and ask you if you recognize that?

(Documents handed to the witness.)

A. Yes, sir, I do.

Q. What is that document?

A. It is a pre-interrogation waiver form used by the Spartanburg County Sheriff's Office.

Q. And did you use that pre-interrogation waiver form with Mr. Cathcart when you were talking to him?

A. I did.

Q. Where did that discussion take place?

A. At the Spartanburg County Sheriff's Office.

Q. When Mr. Cathcart was at the sheriff's office at that time, was he considered a suspect?

A. He was under arrest at that point on a search warrant I believe.

Q. On a bench warrant?

A. Yes, sir.

Q. Did you discuss with Mr. Cathcart anything involving the death of Mr. Duncan Geter?

A. No, sir. At this point, I -- we had already found the vehicle that had been burned. And I wanted to speak to Mr. Cathcart in regards to the -- the burning of that -- of that car.

Q. The vehicle that you thought had been involved in the shooting?

A. Well, we didn't know at that point.

(Brief Pause)

Q. Did Mr. Cathcart, after being advised of his rights, tell you anything about a shooting that happened?

A. Well, once -- once I had *Mirandized* him, and told him that I needed to speak to him about the -- the car being burned, I asked him if he would just give a statement in regards to that.

He stated that he would. I provided him with a voluntary statement form, filled out the top of it. And I gave him the -- the pad and -- or the statement form and a pen. And I left the room.

Q. All right. And, on the interrogation form, would you read that, please?

A. "Pre-interrogation Waiver Form, Spartanburg County Sheriff's Office"; "Darius Cathcart"; the address is "336 Crestview Drive"; "age: 23".

The date, "3/15/09"; Time, "5:45 p.m."; Location, "Spartanburg County -- or "The sheriff's office, CID." (Phonetic)

"You have the right -- "I have the right to remain silent. Anything I say can and will be used against me in a court of law.

"I have a right to talk to an attorney and have him present while I'm being questioned. If I cannot afford to

hire an attorney, one will be appointed to represent me before any questioning if I so wish.

"I have the right to stop answering questions at any point in the questioning. My rights have been read to me by L. Williams. I have read the same and understand my rights fully."

Q. Did he sign that?

A. He did. He actually -- he actually signed it in the witness slot. And I showed him -- he printed it in the witness slot, and then, signed it in the -- in the correct place.

Q. Did you -- were there any other information on it related to him?

A. The second part to the form is, "I waive or give up my rights as explained above and agree to talk to Officer Williams in reference to crimes in Spartanburg County." And, then, I rotated that it was a vehicle, in reference to a vehicle.

"And my statement -- and my statement that I may make is of my own free will without fear, threat, promise, favor, or award of any kind. And I'm able to read and write the English language." And he stated to me that he had completed eleven (11) years in school.

Q. All right. And did he also sign that one?

A. Yes, sir, he did.

Q. Was it witnessed?

A. It was. It was witnessed by myself and notarized by Investigator Jason Bryant (phonetic).

Q. Okay. Also attached to State's Exhibit Number 2 I believe -- is there a written statement attached?

A. Yes, sir, there is.

Q. Who wrote that statement?

A. Mr. Cathcart.

Q. Did he write that statement in your presence?

A. He wrote the statement. And, then, I came back in and asked him if it was his statement. He acknowledged that it was.

At the end of it, I write "End of Statement" and cross out any additional lines, fill out the date and the time and the number of pages that the statement consists of. And, then, have him sign it in my presence and witness and notarize the statement.

Q. Okay. And what did Mr. Cathcart tell you about the shooting?

A. Well, in his statement, he said that, "...around three-thirty (3:30) or four (4:00) an incident happened involving Rashawn and I getting shot. I drove to Church's Chicken and went to the hospital.

"A guy named Black was to drop my car off in Park Hills. When I was released, I went to look for my car. It

was nowhere in Park Hills."

He went on to Rashawn's mother -- do you want me to read it verbatim or just ---

(Brief Pause)

Q. You can just -- was this statement given in relation to the shooting or something else?

A. No, sir. I had explained to him -- when -- when he first came in the interview room, he wanted to talk about the shooting.

And I told him that, since he had asked for -- asked for an attorney in regards to the shooting, that I -- I had nothing to talk to him about with that; that I was merely inquiring about the vehicle being burned and to see what knowledge, if any, he had about how his car wound up being set on fire.

And this was the statement that he provided to me as to the whereabouts of his car and the last time he knew where his car was, who would have had his car, and things such as that.

Q. And based, on you interviewing him, did you find out about if the same car that was burned was the car he was in with Mr. Reeder when the shot -- the shooting occurred?

A. Correct.

Q. And the ascertain -- what you were asking him about was a car?

A. Well, about the car and -- and the fact that we knew that or we felt that the car had been intentionally set afire; the fire Department felt that it was an arson, things such as that.

So, it -- it was merely trying to figure out what was going on with the vehicle.

Q. Did Mr. Cathcart at any time say that car that was burned was not the car that he was driving that night ---

A. No, sir.

Q. --- of the shooting?

A. No, sir.

Q. And -- never mind. Did you ever give Mr. Cathcart any deal regarding the car or the shooting situation?

A. Absolutely not.

Q. Any promises?

A. No, sir.

Q. Any threats?

A. No, sir, none at all.

Q. And this I guess about one page statement that he gave about the shooting says he and Mr. Reeder were involved in the shooting; is that correct?

A. It -- it gives an -- an approximate time. "An incident happened involving Rashawn and I getting shot."

Q. And that was the same as the situation involving Mr. Geter being shot and killed, correct?

A. That's correct.

MR. GRAY: Okay. Are those questions are finished. I have no more questions. Please, answer any questions Mr. Poole may have or Mr. Brown may have.

THE COURT: Mr. Poole?

MR. POOLE: Thank you, Your Honor.

THE COURT: Yes, sir.

CROSS EXAMINATION by MR. POOLE:: 2:57 P.M.

Q. Detective Williams, basically -- I mean, the long and short of what you're saying is that, as far as any statement, we're talking about that Mr. Cathcart gave you, was the one on March 15th; is that right?

A. Yes, sir, that's correct.

Q. So, for purposes of this hearing, we could just limit this to that statement; is that right, the -- the one you just mentioned?

A. That was the only -- the only opportunity that I had at that point to -- to interview him.

Q. Okay. So, you never did talk to him about this case except for these two dates or -- or right around the time this initial -- the gunfire happening between these two vehicles occurred on March 14th?

A. If -- are -- if you're asking me did I have an opportunity to interview him at the hospital, no, sir, I did not.

Q. Okay. But, within let's say a seventy-two (72) hour period after the incident of the shooting, we're confined to this statement that you're just talking about, right?

A. Yes, sir. This -- this is the -- the very first time that I personally had contact with Mr. Cathcart.

Q. And this was on March 15th at six, ten (6:10)?

A. No, sir. The -- the -- the statement was completed at 6:10 p.m. And he was actually picked up -- I'm not sure what time the car stop was initiated. But he was -- he was brought to the sheriff's office and given *Miranda* at 5:45 p.m.

Q. Okay. Yeah. Well, that's what I'm talking about. I mean, we're talking about an incident that occurred in the early morning hours of March 14th. That's the shooting?

A. That's correct.

Q. And, then, on six -- five (5:00) -- or six o'clock (6:00) on the 15th is the only contact you had with -- direct contact you had with Darius Cathcart?

A. Yes, sir.

Q. And that was basically for the purpose of talking about a car burning?

A. That's correct.

Q. Is that right?

A. That's correct.

Q. And let me ask you this: Did you check out what he said in this statement?

A. (No response)
Q. Did you follow up on it ---
A. Yes, sir.
Q. --- to ensure its accuracy?
A. After -- after the fact, yes, sir.
Q. Okay. Did what he tell you -- was it accurate?
A. As far as dropping -- getting dropped off?
Q. As far as you know?
A. At...
(Brief Pause)
A. Yes, yes. As far as that goes, I mean, he ---
Q. Okay. The -- the contents of his statement?
A. Yes, sir.
Q. So, you have no reason to believe that he was saying anything untruthful in that statement?
(Brief Pause)
A. Well, at that point, I didn't know.
Q. Okay. Well, at any point later, did you determine that what he was saying was untruthful?
(Brief Pause)
A. At -- as far as the ---
MR. GRAY: Excuse me, Your Honor. I -- I understand this is a pre-trial hearing. And I understand what his hang up is on this situation.
For the Court's edification, I believe Mr. Cathcart

was subjected to a lie detector test; is that correct –

A. Yes, sir.

MR. GRAY: --- at a later time, Your Honor, as far as this officer answering this question truthfully. But I'm telling the Court that there were lie detector tests and the results were ---

THE WITNESS: Well, Your Honor, if I may ---

THE COURT: Well, this is a pre-trial hearing ---

MR. GRAY: Yeah.

THE COURT: --- so, you can -- you can testify about that.

MR. GRAY: Thank you, Your Honor.

THE COURT: You -- you can testify about any kind of lie detector test or whatever effect that had on your questioning. So, testify freely about that.

THE WITNESS: Okay.

THE COURT: Now, at the trial, that will be different matter. But this -- when the jury is present. Go ahead.

THE WITNESS: How should I address prior counsel?

Q. (By Mr. Poole) Well, I'm -- I'm just -- I'm just trying to get a couple of things clear. We're just talking about this statement that I'm showing you?

A. Right, the March 15th statement.

Q. Dated 6:10 p.m.?

A. Yes, sir.
Q. And did you write this statement out?
A. No, sir, I did not.
Q. Okay. He wrote it out?
A. That's correct.
Q. All right. Now, as far as these facts are concerned, did you talk to anybody he mentioned in this statement such as his aunt or anybody else?
A. Yes, sir.
Q. Okay. And by all those -- all those things regarding the prior burning, did they pan out?
A. No, they did not as far as -- as far as his truthfulness as to this information ----
Q. Uh-huh (affirmative).
A. --- no, not -- not at this point. Now later on in - when -- when Mr. Turnipseed represented him and -- and we had some of those meetings and motions ---
Q. Uh-huh (affirmative).
A. --- you know, I mean definitely none of this was the way that it actually happened.
Q. Okay. See, I wasn't there ---
A. Right.
Q. Uh-huh (affirmative).
A. And I just don't know how in depth we need to go right now for this. But, I mean, he indicated who Black was.

He indicated, you know, that Black had -- had burned the car; that he had full knowledge of everything that, you know, had gone on there.

That -- so, you know, if you're asking me was this -- this statement truthful, no, it wasn't.

Q. Okay. That's what I'm asking.

A. Right.

Q. All right. So, you're saying this statement is not truthful?

A. No, sir.

Q. Okay. So, it's fake?

A. I mean, you asked me did I follow up on it.

Q. Uh-huh (affirmative).

A. Do I know that it's not truthful now? Yes.

Q. Are you -- okay. So, it's not truthful?

A. Based on his own statements it's not.

Q. Okay. That's what I wanted to know.

(Brief Pause)

Q. Now this interview occurred at the sheriff's department; is that right?

A. Yes, sir.

Q. And you were aware that earlier he had asked for an attorney?

A. That's correct.

Q. And, so, we're talking about a car that was

associated with the shootout and wherein a murder occurred?

A. Not -- that's correct. That's correct.

Q. And you knew that at the time you started asking him questions?

A. Well, at the time, based on the statements that he had given to Investigator Durham, he had no idea who had his car or where his car would have been.

And I was trying to ascertain who would've -- who would've burned his car; why would -- how would his car wind up on the railroad tracks in Una on fire?

Q. Okay. But you knew that this car was a -- probably the car that was involved in the shootout between two vehicles?

A. That's correct.

Q. And you knew that he had been in that car?

(Brief Pause)

A. That -- yes, sir, yes, sir.

Q. Okay. And you further knew that earlier that day he had invoked his right for an attorney with regard to him being viewed as a suspect in a murder?

A. That's correct.

MR. POOLE: Okay. Thank you.

THE COURT: Mr. Brown?

MR. BROWN: Very briefly.

THE COURT: Yes, sir.

CROSS EXAMINATION by MR. BROWN: 3:05 P.M.

Q. You didn't talk to Mr. Reeder?

A. Not until we went to the hospital, no, sir.

Q. And, based upon your report, once you went to the hospital, were you advised by Investigator Durham as it relates to Mr. Reeder's condition?

A. I -- I don't understand your question. Mr. Durham was with me when we went to the hospital.

Q. Specifically I draw your attention to the second page of your report, the first paragraph.

(Brief pause while witness examines documents.)

Q. Does it state that Mr. Reeder was taken to surgery and that he was shot in the left arm?

A. Yes. But you asked me when I had -- when I went to the hospital and met with him. The first time I went was when he was already upstairs in the -- was the first encounter that I actually had with Reeder.

Q. All right. And based upon that, did you ascertain any information from Mr. Reeder?

A. Based on what?

Q. When you first met with him?

A. No, sir, I did not.

Q. All right. And, so, that would be consistent that you knew he was shot in the left arm and he went to surgery and you didn't get anything else from him?

A. No, sir. When I -- we -- we went to the hospital to talk to him. And he was -- he was under the influence of pain medication.

At that point, warrants were signed on him. And I did not -- did not try to elicit any information from him whatsoever at the hospital.

Q. Based upon his being under the influence?

A. That's correct.

MR. BROWN: That's all the questions I have.

MR. GRAY: Your Honor —

THE COURT: Mr. Gray?

MR. GRAY: --- briefly.

THE COURT: Yes, sir.

REDIRECT EXAMINATION by MR. GRAY: 3:06 P.M.

Q. Investigator Williams, as far as Mr. Cathcart's written statement saying he and Mr. Reeder were together when the shooting occurred, that -- that part you believe is truthful or not?

A. That part is -- is truthful, yes, sir.

Q. But the part related to any of the burning of the car, disposal of the car, you -- you say that's not true?

A. That's correct.

MR. GRAY: Okay. Thank you. Nothing further.

THE COURT: Mr. Poole?

MR. POOLE: Nothing further, Your Honor.

THE COURT: You may step down.

(The witness complied with the Court's request.)

THE COURT: The State may call its next witness.

MR. GRAY: We would have no more witnesses at this time, Your Honor, subject to testimony related to State's Number 1 and Number 2 shall be admitted.

THE COURT: All right. Describe what those -- what is State's Number 1 and Number 2? Is that the ---

MR. GRAY: State's Number 1, Your Honor, ending -- testimony regarding these two. State's Number 1 is the sheriff's department's pre-interrogation waiver form. State's number 2 is a pre-interrogation waiver form also by Mr. Cathcart by Mr. Williams;

Any testimony -- any testimony given by officers -- statements given by Mr. Cathcart and Mr. Reeder be admitted against their interest as true subject to their testimony at this time, Your Honor.

THE COURT: All right.

MR. GRAY: And we're resting at this time.

THE COURT: I understand. Does the Defense wish to call witnesses?

MR. POOLE: Yes, sir. Your Honor, I'd call Darius Cathcart.

THE COURT: Come forward, sir, to my left and be sworn. Right over here (indicating).

(The witness complied with the Court's request.)

(Whereupon,

DARIUS CATHCART

having first been duly sworn, testified as follows:)

THE COURT: Once you're seated, state your name.

THE WITNESS: Darius Cathcart.

MR. POOLE: May it please the Court?

THE COURT: Your witness.

DIRECT EXAMINATION by MR. POOLE: **3:08 P.M.**

Q. Mr. Cathcart, do you know the reason you're here today?

A. Yes, sir.

Q. Do you know that this is a limited hearing?

A. Yes, sir.

Q. And you know the issues; what we're talking about?

A. Yes, sir.

Q. We're talking about these statements?

A. Okay. Yes, sir.

Q. Do you understand that?

A. Yes, sir.

Q. And that's all we're limited to?

A. Yes, sir.

Q. Do you further understand -- were you present in the courtroom when we heard these three (3) State's witnesses?

A. Yes, sir.

Q. Do you remember the testimony of Deputy Harrell, the first witness?

A. Harrell? Oh, yes, sir, yes, sir.

Q. Okay. All right. Do you remember talking to him?

A. Yes, sir.

Q. On the 14th of March?

A. Yes, sir.

Q. Tell us the circumstances of that conversation.

A. The only thing he was really asking me was what happened, where did the shooting take place. And I told him I don't recall.

And I think him and Brad James (phonetic) was -- I told them it was like after the club; I would tell him the location, but they kept on saying Charisma Drive (phonetic). I never told them Charisma Drive.

Q. Okay. Well, where did this conversation take care -- take place?

A. It took place in the emergency center -- room.

Q. Had you been shot?

A. Yes, sir.

Q. What was the nature of your wound?

A. I mean, I was in pain. They gave me a pill.

Q. Did you have a bullet entry wound?

A. No, sir, just blood.

Q. Okay. What kind of treatment did you receive?
A. I don't know what kind of medicine they gave me.
Q. Okay. Were you under the influence of drugs when you talked to ----
A. Yes, sir.
Q. --- Deputy Harrell?
A. Yes, sir.
Q. All right. What kind of -- do you recall the treatment they gave you?
A. No, sir.
Q. How long were you in the hospital?
A. From the time the incident occurred till the time an officer took me to the sheriff's office.
Q. How long was that?
A. I think I was in the hospital I'd say probably about -- about three (3) hours I want to say.
Q. Did you get any sleep?
A. No, sir.
Q. How were you taken to the sheriff's Department from the hospital?
A. The sheriffs told me I had to come into the sheriff's office.
Q. Okay.
A. I can't recall what sheriff it was.
Q. Do you remember your conversations either at the

hospital or at the sheriff's office with Investigator Chris Durham?

A. Which one Durham?

Q. Number two (2).

A. Yes, sir.

Q. Okay. Tell us about the circumstances surrounding that interview.

A. Well, he was just -- he basically asked me what happened. And I told him I want my -- an attorney present. And, so, he left out of the room.

He never came back. And, then, another officer told me -- I kept on asking him can I leave; am I being arrested. And I said, "Can I leave?" He said no, I'm on investigative detention or something like that.

Q. Okay. Well, did you give Investigator Durham -- did you recite to him a factual circumstance surrounding the shooting ---

A. No, sir.

Q. --- before you -- I haven't finished my question.

A. Okay. Sorry about that.

Q. Did -- well, when did you ask for an attorney is what I'm asking you —

A. Well, he was asking me ---

Q. --- when you were talking to Investigator Durham?

A. He was asking me everything that happened. And I

told him I wanted my attorney present.

But he had a -- another officer come in and sign a paper that said I wanted an attorney present.

Q. Okay. Well, did you talk to Investigator Durham about what happened?

A. I just told him it was a shootout.

Q. Okay.

A. Yes, sir.

Q. All right. Were you under the influence of drugs?

A. Yes, sir.

Q. Had you been given a prescription?

A. Yes, sir.

Q. How many -- let me ask you this: What kind of drugs were they?

A. Lortabs.

Q. How many had you been given?

A. I don't know. They gave me about -- I think they gave me two (2). And, then, they gave me a prescription to take home with me.

Q. Okay. And you didn't fill that prescription before you went to the sheriff's department?

A. No, sir.

Q. Okay. So, my question to you is, do you remember when you asked for an attorney when you were talking to Investigator Durham?

A. Yes, sir.

Q. Do -- you do remember talking to him?

A. Yes, sir.

Q. When was that?

A. At the sheriff's office.

Q. No, when during the course of your interview with Investigator Durham, did you ask for an attorney?

A. Well, I had told him -- he asked -- he really asked me what happened, and I told him there was a shootout. And, then, I told him -- he asked me do I want to write a statement and I told him I wanted to see an attorney. I would feel comfortable if I had my attorney present.

Q. Okay. Did he leave the room and ask you to write the statement?

A. Yes, sir, he did.

Q. And you did not?

A. Yes, sir. Then he had another officer come in and sign off.

Q. Okay. Do you remember your ---

THE COURT: He had another officer come in and do what?

THE WITNESS: I think he had another officer come in and sign off on the paper that was saying that I wanted my attorney present.

THE COURT: Okay. Go ahead.

Q. (By Mr. Poole) Do you remember speaking with Detective Lorin Williams?

A. Yes, sir.

Q. And under what circumstances were those discussions?

A. When I -- when I arrested on a Sunday.

Q. So, you were actually arrested?

A. Yes, sir.

Q. Were you taken to the sheriff's department?

A. Yes, sir.

Q. Was it around five, forty-five (5:45)?

A. Yes, sir.

Q. Okay. And did he tell you that he wanted to talk to you just about the car?

A. Yes, sir. Well, he told me -- he was asking me about the car. And, then, I was explaining to him about the car, but then he told -- he wanted me to write a statement;

But he said, "You got bigger problems you need to worry about; let's talk about this shooting." And, then, he told me that I was going to be charged with murder.

Q. Okay. Did you give a written statement to him?

A. Yes, sir.

(Brief Pause)

A. Because he basically said that the shooting -- I mean the car fire that -- that wasn't important. He was basically asking something about the shooting; let's talk

about the shooting because that's -- that's what -- that's more import -- important.

Q. Had you been to bed that day?

A. No, sir.

Q. Had you been taking your Lortab?

A. Yes, sir.

Q. Had you gotten your prescription filled?

A. Yes, sir.

(Brief Pause)

Q. Were you under the influence of drugs when you had an interview with Lorin Williams?

A. Yes, sir, I had ---

Q. Had you taken Lortab?

A. Yes, I had taken one earlier.

(Brief Pause)

MR. POOLE: Answer any questions that the State or Mr. Brown may have for you.

THE COURT: Mr. Brown, you wish to ask any questions?

MR. BROWN: No, I don't have any questions.

THE COURT: Mr. Gray?

MR. GRAY: Thank you, Your Honor.

CROSS EXAMINATION by MR. GRAY: 3:16 P.M.

Q. Mr. Cathcart, the second -- the second day, when you were under arrest, you wrote a statement?

A. Yes, sir.

Q. The first day, the first statement, you weren't under arrest, but you gave him that statement?

A. Yes, sir.

Q. So, when you knew you were handcuffed and properly charged with the arson of a car or murder, you decided to write a statement?

A. Yes, sir.

Q. And, when you weren't considered a suspect at the sheriff's office, you didn't want to write a statement then?

A. Well, it sure seemed like they was trying to make me out as a suspect the first day when I went to the sheriff's office.

Q. Answer -- answer my question.

A. Yes, sir.

Q. When you were -- you knew you were a suspect on the second time; that's when you decided, "Let me write this down"?

A. Well, the main focus was my -- he was talking about my car at first, and then, it switched into the murder, the shooting.

Q. And that's why -- is that why the first page you said on here in the statement is, "An incident happened involving Rashawn and I getting shot"?

A. Yes, sir.

Q. That's why the first thing you said about -- was about a shooting when you think the detective was asking you about the car?

A. Well ---

Q. Why would you say anything about a shooting if you just testified that the detective was asking you about a burned car?

A. Well, it led up to it. I mean, you got to go through "A" to "B." It led up to it.

Q. I understand -- yes, sir, I agree with you. But you started with "B," ---

A. Right.

Q. --- correct?

A. Well, the shooting happened first.

Q. All right.

A. So, after the shooting, the car was burnt.

Q. Thank you very much. All right. Now, you were in the hospital. Did any of these officers come to talk to you ---

A. Yes, sir.

Q. --- at the hospital?

A. Yes, sir.

Q. Okay. Did any of these officers give you any *Miranda* rights or anything like that at the hospital?

A. No, sir.

Q. Did they tell you, you were under arrest for a potential crime?

A. No, sir.

Q. Did they tell you that they were -- they would investigate your shooting as a victim?

A. Yes, sir.

Q. They did tell you that? And that's when you first talked to this officer (indicating)?

A. Yes, sir.

Q. So, you weren't a suspect at that time?

A. No, sir.

Q. You knew that, correct?

A. Yes, sir.

Q. All right. And, then, the second time, when you were at the sheriff's office, and you knew you were not a suspect, you talked to Officer Durham; is that correct?

A. Yes, sir.

Q. And the third time, when he told you, then, that you were a suspect, you gave him a written statement?

A. Well, he was asking about the car; that's all.

Q. No, but he said you were a suspect in a crime. And you -- of course, you knew that was a shooting, correct?

A. No, he didn't tell me I was a suspect. He didn't say I was a suspect.

Q. All right. Excuse me, sir. Let me show you State's

Number 2.

MR. GRAY: May I approach, Your Honor, the witness?

THE COURT: Yes.

Q. (By Mr. Gray) Sir, I want to show you a document here. And I was going to ask you -- and I'll ask you: Is that your signature?

A. Uh-huh (affirmative).

Q. And right here, what is this? Would you read this part of this statement?

A. "I waive my rights."

Q. No, "...in..."

A. "In reference to..."

Q. And what does it say right there (indicating)?

A. "...crimes in Spartanburg County, a vehicle."

Q. "Crimes in Spartanburg County..."

A. "A vehicle."

Q. "...a vehicle."

A. Uh-huh (affirmative).

Q. So, you knew you were talking about some vehicle crime?

A. Yes, sir.

Q. In Spartanburg County?

A. Uh-huh (affirmative).

Q. The burning of a car would be a vehicle crime in Spartanburg County?

A. Yes, sir.
Q. And you talked about a car getting burned that you didn't know anything about?
A. Yes, sir.
Q. Okay. You said it at the end of the statement, not at the beginning?
A. Well, I didn't know nothing about my vehicle got burnt until after it got burnt.
Q. But you knew about the shooting that you and Mr. Reeder were part of, correct?
A. Yes, sir.
Q. And that's what you put first?
A. Yes, sir.
Q. Now, did they ever threaten you with anything?
A. No, sir.
Q. Did they make any promises to you?
A. No, sir.
Q. At any time, any of these three gentlemen (indicating)?
A. No, sir.
Q. Never made you any promises about the charges or arrest charges or any stuff that had to do—with the solicitor's office or anything like that?
A. No, sir.
Q. About any possible sentencing, did they make any

promises to you?

A. No, sir.

Q. And Mr. Cathcart, I don't mean to be indelicate here, but this isn't your first rodeo, is it?

A. No, sir.

Q. So, you understand what *Miranda* warnings really mean, correct?

A. Yes, sir.

Q. So, let's see, in two thousand, three (2003) you were arrested?

A. Yes, sir.

Q. For public disorderly conduct?

A. Uh-huh (affirmative).

Q. You were convicted of that, correct?

A. Yes, sir.

Q. Also, in two thousand, five (2005), you were arrested and convicted of —

MR. POOLE: Your Honor, may it please the Court?

THE COURT: Yes, sir?

MR. POOLE: I -- I think we're getting a little bit further off the path of a *Jackson vs. Denno* hearing with his prior record recitation.

MR. GRAY: Your Honor, I'm going to education, knowledge, and ability in this situation. If you can't -- if he had never been arrested at all, he wouldn't have

known anything about *Miranda* warnings.

THE COURT: I'm going to overrule the objection. The Court can sift through this. Go ahead.

MR. GRAY: Thank you, Your Honor.

Q. (By Mr. Gray) Also, you had one, two, three charges in two thousand, four (2004) for petit larceny, correct?

A. Yes, sir.

Q. Let's see, two thousand, six (2006) a weapons charge, correct?

A. Yes, sir.

Q. So, it looks like you've been arrested at least seven (7) to ten (10) times, correct?

A. Yes, sir.

Q. And every time you were *Mirandized* and understood your *Miranda* warnings?

A. Well, I didn't understand then; I was just charged with them. I mean, like I was convicted of other crimes like three years after they happened.

Q. Three years after they happened?

A. Most of these charges happened in two thousand, three (2003), but I was enrolled at SCDC in two thousand, five (2005) roughly to the end of two thousand, seven (2007).

Q. Okay.

A. So, I was brought back to plead on criminal charges.

Q. You were driving under suspension in two thousand,

eight (2008), did you not understand it then?

A. No, because I -- I mean, I wasn't no suspect. And I wasn't convicted of that. I wasn't convicted of it.

MR. GRAY: May I approach, Your Honor?

THE COURT: You may.

MR. GRAY: Thank you.

(Mr. Gray approaches the witness and shows him document.)

Q. (By Mr. Gray) Mr. Cathcart, would you look at this, please?

(The witness complied with the request.)

Q. Do you see that name right there (indicating)?

A. Yeah.

Q. That's your name, correct?

A. Yeah.

Q. And what does that say?

A. That's a pending charge.

Q. What else does it say, sir?

A. I wasn't convicted of it. I never came to the court on it.

Q. What does that say?

A. "Convicted."

Q. Okay.

A. I've never been to court on it.

Q. For driving under suspension?

A. I've never been to court on it.

Q. Okay. So, that's your understanding, if you don't go to court on stuff, that's not a conviction?

A. Well, it's a pending charge.

Q. It's a pending charge?

A. Uh-huh (affirmative).

Q. But your understand your arrest rights —

A. Uh-huh (affirmative).

Q. --- all of them?

A. Yeah.

Q. So, Mr. Cathcart, you were interviewed by officers; this officer (indicating), and this officer (indicating). And, when you were interviewed by this officer (indicating), you knew exactly what was going with regard to your *Miranda* rights, sir?

A. Uh-huh (affirmative).

MR. GRAY: Thank you. Nothing further, Your Honor.

THE COURT: Anything further, Mr. Poole?

MR. POOLE: No redirect, Your Honor.

THE COURT: You may step down. I assume, Mr. Brown, you have no other questions?

MR. BROWN: None, Your Honor.

THE COURT: All right.

(The witness complied with the Court's request.)

THE COURT: Any other witnesses, Mr. Poole?

MR. POOLE: No, sir.

THE COURT: Mr. Brown, do you wish to call any witnesses?

MR. BROWN: Your Honor, we call Rashawn Reeder.

THE COURT: Come forward, sir, and be sworn.

(The witness complied with the Court's request.)

(Whereupon,

RASHAWN REEDER

having first been duly sworn, testified as follows:)

THE COURT: Have a seat, please.

DIRECT EXAMINATION by MR. BROWN: 3:24 P.M.

Q. Mr. Reeder, if you would, state your name.

A. Rashawn Lamar Reeder (phonetic).

Q. Mr. Reeder, you understand why you're here today?

A. I believe so, sir.

Q. Well, you know you've been charged with murder and two additional counts?

A. Yeah.

Q. And you're charged with Mr. Cathcart there?

A. Yes, sir.

Q. Mr. Reeder, you heard from Investigator Harrell in this case. And you also heard from Investigator Durham and you've also heard from Investigator Williams?

A. Yes, sir.

Q. You heard their testimony here today?

A. Yes, sir.

Q. And tell me, when you saw or potentially saw these three individuals, were you in Spartanburg Regional Medical Center?

A. Uh-huh (affirmative) -- I only remember really one of them, seeing one of them, or either talking to one of them.

Q. All right. Which person was that?

A. I ain't sure of his name right here (indicating), what's his name right here (indicating)? Yeah, there you go.

Q. Investigator Lorin Williams?

A. Yeah, that's -- that's the one I'm sure -- I'm sure about right now.

Q. Okay. And you've heard Mr. Williams' testimony today in court?

A. Uh-huh (affirmative), yes, sir.

Q. And you -- you heard him say that he didn't have a conversation with you based upon the fact that you were out of it or he understood that you were under some -- some kind of medication?

A. I heard him say that; I know he said it.

Q. And, at the time you had been upstairs in that -- in that room at the hospital, is it true what you heard in the courtroom today, that you were out of it?

A. Yeah. Yeah, I pretty well -- the whole time, yeah.

Q. You were on some kind of medication?
A. Yes, sir.
Q. And you heard some discussion, based upon their testimony, that you were shot somewhere?
A. No, I don't -- I don't -
Q. Well, let me -- let me clarify my question. Were you shot in the arm?
A. Oh, yeah.
Q. Which arm?
A. That would be my left arm.
Q. And what type of injury was it to your left arm?
A. A shot -- a shot from a gunshot wound.
Q. And were you taken to surgery based upon that?
A. Yes, sir.
Q. And were you in the hospital for a few hours?
A. I'm not real sure of the time, but I do know I was upstairs and quick I know.
Q. How long did you stay in the hospital?
A. About five (5) days.
Q. Okay. And, so, you had a pretty serious injury?
A. Yeah, pretty serious. They didn't want to release me.
Q. Okay. So, in essence, you really don't remember talking to or giving any type of statement to these officers (indicating)?

A. No, sir.

Q. So, you say that you were out of it or under medication during that time period?

A. Yes, sir.

Q. And you would imagine it would have to be some serious pain killers of some sort?

A. Yeah. I believe it was Lortab that they -- they had gave me when I went to the County Jail.

Q. Okay. And that was later on after you were transported from the hospital?

A. Yeah. I -- I remember he -- he tried to talk with me, when they -- when they released me from the County Jail when I came to the -- no, when they released me from the hospital and I came to the County Jail.

Q. Okay. And, at that time, they had already served warrants on you?

A. Yeah, yeah, they had already served the warrants.

Q. So, you advised them you wanted an attorney at that point?

A. Yeah, I had -- yeah.

MR. BROWN: Please, answer any questions Mr. Gray might have.

THE COURT: Let me check and see if -- Mr. Poole, do you have any questions?

MR. POOLE: No, sir, I do not.

THE COURT: Now you may proceed, Mr. Gray.

MR. GRAY: Thank you, Your Honor. I apologize.

THE COURT: That's all right.

CROSS EXAMINATION by MR. GRAY: **3:27 P.M.**

Q. Mr. Reeder, at any time when any of these officers while talking to you, were you under arrest at the hospital?

A. Was I under arrest?

Q. Yes, sir. Did somebody come in and handcuff you, while you were in the hospital, and put you under arrest and start talking to you at the hospital?

A. They didn't put me in handcuffs when I as at the hospital. They just -- they shipped me to another room or something I believe.

I think that they did; they kept moving me around. That's all I remember.

Q. So, you didn't talk to any one of these officers?

A. No. I remember talking with Mr. Lorin Williams. I don't remember talking to the other two.

Q. You don't remember talking to the other two?

A. Huh-uh (negative).

Q. Do you remember telling Mr. Williams that you're left handed?

A. Nah, I don't remember saying anything like that.

Q. Do you remember telling this officer here (indicating), Mr. Harrell, that Mr. Cathcart and you were in

-- in a car that had been shot up to this investigator?

A. No, I -- I -- I never said a statement, huh-uh (negative).

Q. Okay. Which is it, you didn't give a statement or you don't remember?

A. I don't remember. I ain't state nothing. I don't know; it's the same thing.

Q. You don't remember making a statement or you didn't make a statement?

A. I ---

Q. Because I'm lost because Mr. Brown asked you if ---

A. That's the same thing you're asking me.

THE COURT: Well, I'm going to ask the witness to wait until he finishes the questions. And, then, answer the question.

You have the right to explain your answer but, if both of you are talking at the same time, the court reporter cannot take that down.

So, I'm going to ask the witness to wait until the question is finished, then, answer the question. Now, Mr. Gray, ask a question.

Q. (By Mr. Gray) Do you know what you were under the influence of in the hospital?

A. It had to be Lortabs or something. I know I was on some serious pain medication.

Q. Do you know exactly what it was?

A. From -- from what I was given from the hospital, it had to be Lortab because that's what they gave me.

Q. All right.

A. So, I'm pretty sure it was the same thing because whatever it was, it kept having me out.

Q. Okay. From the day of March 14th, what was your first clear day after March 14th, two thousand, nine (2009)?

A. Laying in the hospital bed.

Q. So, while you were still in the hospital, you had a moment of clarity?

A. I mean, I don't know if it was clear, but I know I was still -- I be -- I might be up for one day and, then, I'm back to sleep.

Q. You remember Officer Harrell?

A. I just told you I didn't remember. The only one I remember is Lorin Williams. You're asking me the same question over and over.

THE COURT: I'm going to ask the witness not to argue with Counsel. Answer the questions and I'll see that he moves on.

THE WITNESS: Okay.

THE COURT: Thank you.

MR. GRAY: Thank you, Your Honor.

Q. (By Mr. Gray) But, as far as you knew at that time

in the hospital, you were not under arrest, were you? If you made any statement, you were not under arrest at the hospital; is that correct?

A. Yeah, I was.

Q. Who arrested you?

A. I think Lorin Williams came in there and said, "You're under arrest."

Q. Okay. What day was this?

A. I'm not really sure, but I believe it was on Sunday or Monday or something like that. I don't know.

Q. Do you know if it was March 15th or 16th?

A. I'm not really sure.

Q. So, he came in and told you, you were under arrest

A. Yeah.

Q. Detective Williams came in and told you, you were under arrest?

A. Yeah.

Q. What were you under arrest for?

A. I think the charges -- the charge I'm -- I'm being held on right now.

Q. You can remember that, but you don't remember making any statement to the officers?

A. No.

Q. And you don't remember on what day you were under arrest by Mr. Williams?

A. Sunday or Monday.

MR. GRAY: All right. Nothing further, Your Honor.

THE COURT: Redirect?

MR. BROWN: That's all the questions.

THE COURT: You may step down.

(The witness complied with the Court's request.)

THE COURT: Any other witnesses from the Defense?

MR. POOLE: No, sir.

MR. BROWN: No, Your Honor.

THE COURT: All right. Mr. Poole, I'll hear from you concerning -- I assume the State has no reply testimony?

MR. GRAY: No, sir.

THE COURT: All right.

MR. POOLE: May it please the Court?

THE COURT: Yes, sir.

ARGUMENTS OF COUNSEL

MR. POOLE: Your Honor, on behalf of Mr. Cathcart, we're talking about statements that were issued to Deputy Harrell, Investigator Durham, and Detective Williams.

And, within the context of *Jackson vs. Denno*, I want to go over the testimony that's been presented by our only witness, Mr. Darius Cathcart.

While the Court has already heard that, I would just point out that what we have is an incident that occurs in

the early morning hours of March 14th. And Mr. Cathcart is wounded.

He has -- is at the hospital. He has received medical treatment. And, during the course of that treatment, he has been given medication.

Under these circumstances -- and furthermore later on, as he is transported to the sheriff's department, he is still under the influence of medication; that is drugs, probably Lortab.

And he engages in a conversation, an interview, an interrogation with Investigator Durham.

So, we have a continuum here of -- of -- of confinement, under the influence, restricted movement, and all the other factors that go into *Jackson vs. Denno*.

Now, when we get to Invest -- Detective Williams, we have a little -- a little change. But you still have *Jackson v. Denno* concerns such as lack of sleep, continued use of meds, whether the free and voluntariness of a statement under *Jackson v. Denno*.

By that time, we have what's happening on the outside world is warrants had been asked for murder, assault and battery with intent to kill, and assault with intent to kill by law enforcement before he gets picked up at a traffic stop I believe the testimony was for bench warrants, taken to the sheriff's department —

THE COURT: Well, that was a little bit unclear. He -- he left the hospital on his own?

MR. POOLE: I -- I think so.

THE COURT: And, then, he was later ---

MR. CATHCART: May I, sir?

THE COURT: You're going to have to -- consult with your client, Mr. Poole.

(Off-the-Record Discussion)

MR. POOLE: I was -- I'm under the impression that the -- that in the morning he talked to Deputy Harrell; he was taken to ---

(Off-the-Record Discussion)

MR. POOLE: I think there was testimony that he was taken to the sheriff's department. And that's the statement that's on March 14th around 8:47 under Investigator Durham.

Then, he's released from custody, okay? And, then, he's picked up. Now, while he's released, warrants are obtained for murder, assault and battery with intent to kill, and assault with intent to kill.

Well, then, he's picked up by Investigator Calhoun and Durham observed him driving. And, then, he's picked up by I believe Detective Williams said on bench warrants, which just happened to be driving is what I do believe.

Well, then, he's taken into custody again. And I'm not sure if he's served with these warrants or not, but an interrogation begins.

And Detective ---

THE COURT: Now, that was when *Miranda* rights read and sign that day, isn't it?

MR. POOLE: That's right. Detective Williams is aware that earlier that day Mr. Cathcart has invoked his right to have an attorney present.

And -- but nothing has really changed. It's still the same case; we've got questioning -- giving Detective Williams the benefit of the doubt, he does tell him, "I don't want to talk about the murder or the assaults with intent to kill and all of that. I just want to talk about the fire burning, the car burning."

But the problem is, we're talking about the same car that was involved in the alleged murder and the assault. And the Defendant has invoked his right to counsel on that very point already earlier that day.

He did not initiate contact with law enforcement. He did not tell them that he wanted to speak with them. This was a -- an interrogation that led to the taking of a statement, after he had already invoked his right to an attorney with regard to the murder and assault and necessarily the car;

Which has bullet holes in it, which evidence was taken from, which I -- which will be presented I assume, or attempted to be presented later on in this case, involving the murder.

So, that's the argument; not necessarily under *Jackson*, but under the whole area of *Miranda*. And, so, I make all these motions on behalf of Mr. Cathcart.

THE COURT: Thank you. Mr. Brown?

MR. BROWN: May it please the Court, Your Honor?

THE COURT: Yes, sir.

MR. BROWN: You've heard directly from Mr. Reeder as well as the testimony of Investigators Harrell, Durham, and Williams.

Clearly two out of the three officers directly stated that they recognized my client was under the influence of medication based upon the serious injury that he received.

Mr. Reeder also testified, in regards to that, to be consistent with what he heard from those officers. Recognizing also, Your Honor, the fact that he was in the hospital for a substantial period of time.

And, at some point, even at the original admission moment -- and I think the admission moment came and it may have been around the time period in which we heard that Investigator Williams came to the hospital to serve

my client with the warrant placing him under arrest to have him transported by officers to the County Detention Facility.

Secondly, Your Honor, based upon the testimony you heard involving both sides, my client, under the auspices of *Jackson v. Denno*, didn't have the opportunity to give a free and voluntary statement due to being under the influence of very powerful narcotics at the time, Lortab.

And that may be legal, but we do understand that he was taken to surgery and the Court -- the Court does have an understanding of Lortab -- Lortab to a person to be taken into surgery right around the same time period in which he was under and being treated at the hospital.

For those reasons, Your Honor, any inference of any type of statement that is linked to, with regards to Mr. Reeder, we ask that it be suppressed.

THE COURT: Yes, sir?

MR. GRAY: Thank you, Your Honor. Firstly ---

THE COURT: Well, let me get one thing clear.

MR. GRAY: Yes, sir.

THE COURT: He's -- this gentleman was released?

MR. GRAY: Mr. Cathcart?

THE COURT: Yes.

MR. GRAY: He was.

THE COURT: And, then, later picked up on a -- on a

driving charge?

MR. GRAY: Yes, sir.

THE COURT: What was the length of time that he was released?

(Off-the-Record Discussion)

MR. GRAY: About a day, no less than a day, Your Honor.

THE COURT: Well, are we talking about twenty-four (24) hours or are we talking about less than twenty-four (24) hours?

(Off-the-Record Discussion)

MR. GRAY: A little over twenty-four (24) hours, Your Honor.

THE COURT: A little over twenty-four (24) hours?

MR. GRAY: Yes, sir, Your Honor. Apparently one statement was taken at eight (8:00) a.m., it was taken. And, then, the second statement was taken at five (5:00) p.m.

THE COURT: The next day?

MR. GRAY: The next day.

THE COURT: Okay. Do you disagree with that time line, Mr. Poole?

MR. POOLE: No, sir. I think -- I think that's right. And I -- I could have been mistaken during the questioning.

THE COURT: And he invoked his right to counsel at the first meeting?

MR. POOLE: That's right.

THE COURT: Okay. I'm sorry. Go ahead. I -- I just wanted to be sure I had it clear.

MR. GRAY: Yes, sir, Your Honor.

THE COURT: It's a little confusing since there was a break in custody.

MR. GRAY: Yes, sir.

THE COURT: All right. Go ahead.

MR. GRAY: As far as Mr. Reeder, at no time was he in custody as a suspect in this situation in that he was in the hospital the entire time. Every report says he was coming in and out.

He would tell the officer, when he had moments of clarity, "Myself and Mr. Cathcart were in the car when I got shot." "I am left handed," and things of that nature.

There were no written statements taken from Mr. Reeder. And the right to caution by the officers, when they thought he might be under the influence of something; they didn't know.

They didn't place him under arrest. There was no investigative detention. He was arrested after he got out of the hospital. I think after five (5) days.

THE COURT: Uh-huh (affirmative).

MR. GRAY: Your Honor, his -- his inference that he was under arrest or became in some way is disingenuous in this situation because in the first conversation he was never even thought of as a suspect; he was a victim, especially initially ---

THE COURT: So, he was released from the hospital. He wasn't arrested immediately, was he? Or was he?

MR. GRAY: The -- yes, sir.

THE COURT: He was arrested at the hospital? He never left the hospital?

MR. GRAY: Yes, sir.

THE COURT: All right. Go ahead.

MR. GRAY: So, any statement that was given before the arrest, Your Honor, when he was not in investigative detention, did not deny him an opportunity to have his *Miranda* warnings being read.

THE COURT: Well, like was his room under guard or was somebody standing guard outside his door?

(Off-the-Record Discussion)

MR. GRAY: There was a guard outside his door.

THE COURT: Okay. Well, all right.

MR. GRAY: Yes, sir, Your Honor. And any statements to the officers anyway, Your Honor, were freely and voluntarily given by Mr. Reeder. He was never

interrogated or questioned.

And as far as Mr. Cathcart ---

THE COURT: Now, the only statement you're trying to get in are the ones that were made the very first night when he was in the emergency room?

MR. GRAY: Yes, sir, Your Honor.

THE COURT: And nothing after that while he was in ---

MR. GRAY: No, sir.

THE COURT: Okay. Go ahead.

MR. GRAY: The statement he made to the officer was that he and Mr. Cathcart were together during the shooting.

Now, as far as Mr. Cathcart, when he was first, for lack of a better word interviewed, he was considered a victim at that time by Officer Harrell.

The second time, when he was interviewed by Investigator Chris Durham, he was advised of his rights. He signed the waiver form that's in State's Exhibit Number 1, Your Honor.

And second the statement was verbal at the hospital and he was a victim at that time.

And the third statement I believe was the one that he -- excuse me. That's the fourth (4th) statement. The third statement was to Officer Durham. The fourth (4th)

statement, after he was released, he was arrested again, Mirandized again.

And he signed a waiver form again, Your Honor.

THE COURT: Just -- just one second. Let me talk to my law clerk.

(Off-the-Record Discussion)

THE COURT: Go ahead. I'm sorry.

MR. GRAY: Thank you, Your Honor. And, so, the officer that actually cautioned him -- the first time, they believed he was a victim of a shooting and they talked to him as such.

The second time, Your Honor, the statement was verbal. At that time, he was still a victim at the hospital.

The third was he was arrested -- in investigative detention. Excuse me, Your Honor.

THE COURT: He was brought from the hospital to the police station ---

MR. GRAY: Yes, Your Honor.

THE COURT: --- by the police?

MR. GRAY: He was in detention, Your Honor.

THE COURT: All right.

MR. GRAY: That was verbal. "I'm not writing anything down." He understands that. "I'm not going to write it down, but I'm going to tell you what I'm going

to say."

THE COURT: Now, when he got to the police station under those circumstances, he got his *Miranda* warnings?

MR. GRAY: Yes, sir.

THE COURT: Made a statement?

MR. GRAY: Yes, sir.

THE COURT: But, when he was asked to write it down, he said, "I want to see a lawyer"?

MR. GRAY: Yes, sir, Your Honor.

THE COURT: Go ahead.

MR. GRAY: He was released. On the following day, he was arrested again. He was *Mirandized* again.

THE COURT: Now, at that time, was he arrested on the murder warrants?

MR. GRAY: No, sir. He was arrested ---

THE COURT: Just for the driving offense?

MR. GRAY: --- on the driving warrants, yes, sir. And the officer said to him, "I want to talk to you about this burned car." The first thing on his statement is, "Mr. Reeder and I got shot, at three –

THE COURT: Now, he was re-*Mirandized* at that point in time?

MR. GRAY: Yes, sir, Your Honor. He signed it. Based on their crimes about -- Spartanburg County crimes, regarding a vehicle, he signed that *Miranda* form; nothing

about the murder or a shooting.

The officers wanted to talk to him about the vehicle crime. At that time, the first statement he writes is about the shooting.

We believe that all these statements are voluntarily given. There was no cautious (phonetic). There is nothing here to -- that was tantamount to interrogation or threats or bargain given to this individual. As a matter of fact, they said they were given their medication.

If that is so, it would be tantamount to threat and harm if they withheld their medication and they did not get it, if what they're saying is true at this time, Your Honor.

So, there was no threat or harm. There's no threat of harm. Everything voluntarily given from Mr. Reeder and Mr. Cathcart to all three of the officers, Your Honor.

(Brief Pause)

THE COURT: Anything further, Gentlemen?

MR. POOLE: Briefly, Your Honor?

THE COURT: Yes, sir.

MR. POOLE: It's my understanding that he was picked up in the late afternoon on the 15th on -- due to bench warrants or for a traffic stop.

Prior to that, it's my understanding the warrants had been sought for these felonies pursuant to ---

THE COURT: But they weren't served?

MR. POOLE: They had not been served. That's my understanding. But, when he invoked his right to counsel, on the morning of the 14th ---

THE COURT: Yes, sir.

MR. POOLE: --- it's our position that, that basically served to insulate him from any further questioning relating to any aspect of the felonies.

And the car is part of -- if I use the word correctly -- part of the corpus delicti or the body of the crime that is associated with the murder and the assault. So, it's the same thing.

THE COURT: Well, I'm -- I'm just looking at cases. And I'm going to go back and read them just to be sure.

Once -- once -- my understanding of law is, once someone invokes their right to counsel, it's not offense specific.

In other words, you can't turn around and start inquiring about some other offense and say that -- that invocation of my right of counsel doesn't apply to the other offense.

So, I don't -- I don't think that holds a bit of water as far as I'm concerned as to whether or not they

were just asking him about the car or asking him about the murder.

Once he invokes his right to counsel, he's invoked his right to counsel period.

Now, there is a concern on the Court's part where there is a break in custody, where custody has been given up by the police and he's out on his own and, then, he's re-arrested.

And there's a case that I'm getting right now, *Maryland vs. Shatzer* (phonetic), a 2010 case, last year, a U.S. Supreme Court case, that addresses that issue. I'm going to read it and see what it says.

But it specifically addresses, when someone has been in custody and invoked their right to counsel, and later on is re-arrested and re-interrogated on something else.

Now, in that case, the break in time was about a week -- excuse me, two weeks between the release and arrest. Here it was twenty-four (24) hours.

I don't know what effect that might have on that because I haven't read that case, but I'm going to read that.

But I understand the arguments. I understand the position that you're in.

Now, let me ask you to comment on one thing for me, Mr. Gray.

MR. GRAY: Yes, sir.

THE COURT: The original conversations with Mr. Reeder ---

MR. GRAY: Yes, sir.

THE COURT: --- I'm not sure from the testimony that I got the timing down exactly the way I should have. So, I want to be sure I understand and you folks can -- can correct me if I'm wrong.

But my understanding is they present themselves to the hospital; in other words, they -- they didn't come in by ambulance. They walk in ---

MR. GRAY: That's correct, Your Honor.

THE COURT: They walked in, or however they got in, they -- they got there. And, once they got there, the -- it went out that there was a shooting.

MR. GRAY: Yes, sir.

THE COURT: And there were two victims at the hospital ---

MR. GRAY: At Spartanburg Regional.

THE COURT: --- two people who had been wounded were at the hospital.

MR. GRAY: Yes, sir.

THE COURT: The uniformed officer arrives, talks to both individuals.

MR. GRAY: Yes, sir.

THE COURT: I think what he said was there was a break in time before the other investigators got there. And it might have been like a half an hour or something, but I'm not sure what -- I think that's what he said.

MR. GRAY: About a half hour to an hour, yes, sir.

THE COURT: All right. Between the time that -- and he said he got there shortly after they presented themselves.

MR. GRAY: Yes, sir.

THE COURT: Hadn't been there very long.

MR. GRAY: Yes, sir.

THE COURT: Now that's my understanding of what the testimony was that I've heard.

MR. GRAY: Yes, sir, Your Honor.

THE COURT: Mr. Brown, do you disagree with what I -- the -- the -- what I've heard about the testimony?

MR. BROWN: The only thing that I would -- I would advise the Court is Mr. Reeder says that he was taken via wheelchair upstairs that was waiting for him ---

THE COURT: Oh, I don't doubt -- once someone comes in shot, I bet they do put them in a wheelchair.

MR. BROWN: And based upon -- based upon the -- the time period from which he came in up until the time period he was questioned, he was in -- in an actual room, after being photographed.

THE COURT: All right. They just -- I think they said they saw him in the emergency room, didn't they? They said there were two different rooms in the emergency room.

MR. GRAY: Yes, sir.

THE COURT: That's where the officer said he saw him.

MR. BROWN: But, again, he already begun to receive treatment. And based, upon his injuries, he had already received -- because he was already ----

THE COURT: Oh, I -- I understand. The question in my mind, though, is whether that treatment had begun to take hold just yet.

MR. BROWN: Well ---

THE COURT: Because the testimony of the police officer was that he appeared to be okay and not under the influence by the first one. Now, the second one said he was slurring his words and couldn't talk.

MR. BROWN: Well, I -- I know we have it right, Your Honor, based upon the investigative reports of the officer. Obviously the whole testimony will give a plausible -- without being substantiated from his report -- that he was okay, that my client was fully capable of even remembering having a conversation with him based upon the seriousness of his injury.

THE COURT: And the question I've got to determine at this point in time by -- by -- I believe the test is the preponderance of the evidence is whether or not it appears that there was a -- a valid statement that was taken. And I'm -- I'm looking into it.

But, again, I think the testimony of the uniformed officer was -- and his report indicates that Mr. Reeder was able to talk to him.

Now, the second gentleman who came in, the other next investigator, indicated he was slurring his words and he wouldn't take a statement from him because he was obviously under the influence of drugs at that point in time.

And that was about thirty (30) minutes later after the first officer got there and before the second officer got there. That's the way I believe I heard the testimony, Mr. Brown.

All right. I'm going to take a short recess. I'll be back. Court is in recess at this time.

(Whereupon, a recess was taken for the Court to review documents from 3:51 p.m. till 4:11 p.m.)

(Off-the-Record Comments)

COURT'S RULING

THE COURT: All right. As to the motion made by Mr. Cathcart, first of all, an -- an invocation of a

Fifth Amendment right to counsel before giving a statement is not offense specific.

So, once an accused invokes the right to counsel for interrogation regarding one offense, he may not be approached regarding any offense unless counsel is present.

As to the statements that he made at the hospital, I find that they were not custodial in nature. I also find that the testimony of the officers is sufficient to establish, by the greater weight of the evidence, that he was not so under the influence of any drugs that he may have taken as to render his statements involuntary.

So, as to the statements made at the hospital, I'm going to allow those to come in.

As to the statements made at the police station, up until the time that he exercised his right to counsel, I will find that they also were voluntarily given and were given after having received *Miranda* warnings.

I do not find that at that time he was under the influence of drugs to the point that it removed his independent thinking.

Also, he did not appear to be so tired from his lack of sleep, or any other outside influence, as to rob him of his ability to make decisions because he did make the decision to invoke his right to counsel;

He understood the rights that had been read to him. And he ultimately did decide not to proceed with any further interrogation and -- unless he had spoken to counsel.

Now, as to his re-arrest and being brought back into custody some twenty-four (24) hours later, I find that that would violate the rules set down in *Maryland v. Shatzer*, last year, a U.S. Supreme Court case.

That indicates that the time frame in which -- for which someone to overcome the influence of a custodial investigation to have an opportunity to talk to friends, family, or counsel, is two weeks, fourteen (14) days.

And, in this particular case, the length of time was some twenty-four (24) hours.

So, I will find that his previous invocation of his right to have counsel present would still apply and anything that was received as a result of that interrogation would be excluded under that particular case.

Now, as to Mr. Reeder, I find the testimony of the officer who first interrogated him to be very persuasive. And that Mr. Reeder was answering questions and answering them appropriately at the time that he spoke to him.

The responses that he gave -- gave were responsive to the questions that were asked. It is clear to me that

the evidence establishes that he had arrived only recently at the hospital and any treatment that he was receiving had only just begun at that point in time.

Also, I find that Mr. Reeder, in his testimony today, I find him not to be a credible witness. Some of his answers appear to me to be contrived and argumentative.

And, as a result of my finding concerning his testimony, I find that the initial statements made to the first officer will be allowed to -- to come in.

Now, of course, I don't believe he made any further statements after that time for which there was any challenge. And, so, therefore, it would not be necessary for me to rule on those.

I find that the time he was talked to by that officer, he was not in custody at that point in time. There was not a custodial interrogation; therefore, the *Miranda* warnings would not have applied at that point in time.

It was simply an investigate -- an investigative discussion concerning someone that the officer believed to have been a victim rather than the perpetrator of any crime. So, I'm going to allow that to come in.

Now, any other pre-trial motions that I need to address?

(Brief Pause)

THE COURT: From the Defense?

(Both Mr. Poole and Mr. Brown shake their heads and respond in the negative.)

THE COURT: From the State?

MR. GRAY: Not at this time, Your Honor.

THE COURT: All right. Now, I will -- I will be meeting concerning the first case on the docket in the morning concerning trial in absence. In that case, depending on my ruling, this case may be coming up fairly soon tomorrow. So, I'll just make you aware of that.

We will have a hearing on that at nine o'clock (9:00). And we'll proceed accordingly. Thank you very much. Court is in recess at this time.

MR. POOLE: Thank you, Your Honor.

THE COURT: Yes, sir.

(Whereupon, the proceeding concluded at 4:19 p.m.)

REPORTER'S CERTIFICATE

I, the undersigned **PAMELA FAUCETTE**, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that I acted as the Court reporter at the foregoing proceeding; that the foregoing pages, numbered 1 through 113, were transcribed by me and represent a complete and accurate transcription of said proceeding to the best of my knowledge and belief.

I do further certify that I am not of counsel for or in the employment of either of the parties to this action, nor am I interested in the results of this action.

June 7, 2012



Pamela S. Faucette
Official Court Reporter
Seventh Judicial Circuit

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	COURT OF GENERAL SESSIONS
STATE OF SOUTH CAROLINA, PLAINTIFF, vs. DARIUS CATHCART and RASHAWN REEDER, DEFENDANTS.	TRANSCRIPT OF RECORD 2010-GS-42-2874 - 2876 2010-GS-42-2926 - 2928

May 9th - 12th, 2011
Spartanburg, South Carolina

B E F O R E:

THE HONORABLE ROGER L. COUCH, Judge, and a jury.

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

ABEL GRAY AND PRINA TAILOR
ASSISTANT SOLICITORS
Attorneys for the State

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ASSISTANT PUBLIC DEFENDER
Attorney for the Defendant Cathcart

MICHAEL BROWN
ESQ.
Attorney for the Defendant Reeder

PAMELA E. GREEN
Circuit Court Reporter
Seventh Judicial Circuit

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P R O C E E D I N G S

THE COURT: All right. We're gonna take about a ten minute break and then we'll be ready to go.

Are your clients ready to start?

MR. POOLE: Yes, sir.

MR. BROWN: Yes, sir.

THE COURT: All right. There was one thing.

Are you ready to go on the record?

COURT REPORTER: Yes, sir.

THE COURT: You want to call the cases for me, Mr. Gray?

SOLICITOR GRAY: Yes, sir, Your Honor.

May it please the Court.

The State is pursuing charges against Mr. Darius Tavarious Cathcart, Cathcart on Indictment 10-GS-42-2874. That's assault with intent to kill.

10-GS-42-2875, that's murder.

10-GS-42-2876, that's assault and battery with intent to kill.

Also are pursuing cases against Mr. Rashawn Lamar Reeder on Indictment 10-GS-42-2926. That is for assault with intent to kill.

10-GS-42-2927, that's for murder.

10-GS-42-2928, assault and battery with intent to kill.

THE COURT: Pass those up please.
SOLICITOR GRAY: Yes, sir.
Now, Mr. Poole, is your client been arraigned -- you represent I believe Mr. Cathcart, is that right?
MR. POOLE: Yes, sir.
THE COURT: Has be been arraigned on these charges?
MR. POOLE: Yes, sir.
THE COURT: All right. So, he is -- he's pled not guilty?
MR. POOLE: He's pled not guilty, yes, sir.
THE COURT: And he wants a trial by jury, is that correct?
MR. POOLE: He wants a trial by jury, Your Honor.
THE COURT: And, Mr. Reeder, has he also been arraigned on the charges?
MR. BROWN: He has, Your Honor.
THE COURT: And is he pleading still not guilty?
MR. BROWN: That's correct, Your Honor.
THE COURT: And he wishes to be tried by a jury?
MR. BROWN: He does, Your Honor.
THE COURT: All right. Now, as soon as they -- are they prepared to bring them into the courtroom?
BAILIFF: They are, Your Honor.
THE COURT: Well, what I'm gonna do is I'm gonna take about a five, ten minute break. When we come back in we'll

put on the record the motion that you had and the response, and I don't know if there's anything else that needs to go on the record other than that, is that correct?

SOLICITOR GRAY: No, sir.

THE COURT: We had other hearings earlier. So --.

SOLICITOR GRAY: Yes, sir.

THE COURT: All right. We'll be in recess for about five to ten minutes.

(WHEREUPON, a short recess was taken at this time, and the following takes place within the presence of the entire jury panel.)

THE COURT: All right. Ladies and gentlemen of the jury panel, we're about to begin the trial of the, of the case of The State of South Carolina versus Darius Cathcart, and The State of South Carolina versus Rashawn Reeder.

Now, there's going to be some questions that I'm going to ask you concerning these particular cases, and it will be necessary, again, that you be sworn concerning the answers that you're about to give to the questions that I'm going to ask.

So, at this time, I'm going to ask that the clerk please swear the prospective jury panel for me.

(WHEREUPON, the jurors were placed under oath at this time.)

THE COURT: Now, if there was any member of the jury

panel who either failed or refused to take the oath just administered by the clerk, I'd ask that you now please stand.

(No response.)

THE COURT: The record will reflect that all prospective jurors have been sworn for purposes of the trial.

Now, before we begin the questioning, there's some information that I'm going to go over with you that will help you better answer the questions that I'm about to ask. The first thing I'm going to do is ask that the attorneys that are involved in the trial of this case that they introduce themselves to you.

First of all, for the State.

SOLICITOR GRAY: Thank you, Your Honor.

My name is Able Gray. I'm assistant solicitor here in Spartanburg County. This is Prina Tailor, co-counsel.

THE COURT: Thank you very much.

And the attorneys for the defense, I'd ask that you introduce yourselves please.

MR. POOLE: I am Roger Poole of the Seventh Judicial Circuit Public Defender's Office.

THE COURT: And?

MR. BROWN: Michael Brown, attorney here in Spartanburg County.

THE COURT: I'd ask that you also introduce your clients.

Mr. Poole, if you'll introduce your client.

MR. POOLE: Yes, I represent Mr. Darius Cathcart.

MR. BROWN: I represent Mr. Rashawn Reeder.

THE COURT: Thank you very much.

Now, ladies and gentlemen of the jury, at this time I'm going to go over some documents with you. The documents that I'm going to go over with you are the indictments in this case.

Now, the indictments are documents that are handed to this Court and they inform this Court of the charge that's to be tried. They inform the defendants of the charges that have been brought against them. Also, the indictments will contain some information concerning when the particular events that are alleged to have occurred, and also the alleged victims of the events.

First of all, in the case of Mr. Cathcart, the first, the first indictment that I will go over with you is the indictment in Case Number 2874, 2010-GS-42-2874. That particular indictment is for the offense of assault with intent to kill.

The indictment states that Darius Tavarious Cathcart did, in Spartanburg County, on or about March 14 of 2009, unlawfully attempt to commit a violent injury to the person

of another with malice aforethought accompanied by a present ability to complete the act. To wit, by shooting into the victim, Dwight Jamar Jeter's vehicle with a gun. All in violation of the common law of the State of South Carolina in Code Section 17-25-30 of the Code of Laws of South Carolina, 1976 as amended, against the peace and dignity of the State, and contrary to the statute in such case made and provided.

The next indictment that I will go over with you is in Case Number 2010-GS-42-2875. The indictment is for the offense of murder.

The indictment states, in the body, that Darius Tavarious Cathcart did, in Spartanburg County, on or about March 14 of 2009, felonious, willfully, and with malice aforethought kill Duncan Geter by shooting him with a gun and he died as a proximate result thereof. All in violation of Section 16-3-10 and 20 of the Code of Laws of South Carolina, 1976 as amended, against the peace and dignity of the State, and contrary to the statute in such case made and provided.

The third indictment in this particular, for this particular defendant is in Case Number 2010-GS-42-2876. That indictment is for the offense of assault and battery with the intent to kill.

That indictment states that Darius Tavarious Cathcart

did, in Spartanburg County, on or about March 14 of 2009, with malice aforethought, commit an unlawful act of violent injury upon the victim, Bryant Miller, by shooting the victim in the neck causing the victim to require medical attention. All in violation of the laws of the State of South Carolina in Section 16-3-620 of the Code of Laws of South Carolina, 1976 as amended, against the peace and dignity of the State and contrary to the statute in such case made and provided.

Now, the first indictment I read you was for assault with intent to kill. That indictment that I just read you was assault and battery with intent to kill.

Now, as to the other defendant, there are also three indictments before this Court. The first indictment that I will go over with you is in Case Number 2010-GS-42-2926. That is for assault with intent to kill.

The indictment states, in the body, that Rashawn Lamar Reeder did, in Spartanburg County, on or about March 14 of 2009, unlawfully attempt to commit a violent injury to the person of another with malice aforethought accompanied by a present ability to complete the act. To wit, by shooting into the victim, Dwight Lamar Jeter's vehicle with a gun. All in violation of the common law of the State of South Carolina and Code Section 17-25-30 of the Code of Laws of South Carolina, 1976 as amended, against the peace and

dignity of the State, and contrary to the statute in such case made and provided.

The next indictment that I will go over with you is in Case Number 2010-GS-42-2927. This indictment is for the offense of murder.

The indictment states that Rashawn Lamar Reeder did, in Spartanburg County, on or about March 14 of 2009, feloniously, willful, and with malice aforethought, kill Duncan Geter by shooting him with a gun and he died as a proximate result thereof. All in violation of Code Section 16-3-10 and 20 of the Code of Laws of South Carolina, 1976 as amended, against the peace and dignity of the State, and contrary to the statute in such case made and provided.

The final indictment in this case is in Case Number 2010-GS-42-2928. That indictment is for the offense of assault and battery with intent to kill.

This indictment states that Rashawn Lamar Reeder did, in Spartanburg County, on or about March 14 of 2009, with malice aforethought, commit an unlawful act of violent injury upon the victim, Bryant Miller, by shooting the victim in the neck causing the victim to require medical attention. All in violation of the laws of the State of South Carolina in Section 16-3-620 of the Code of Laws of South Carolina, 1976 as amended, against the peace and dignity of the State and contrary to the statute in such

case made and provided.

Now, ladies and gentlemen, those are the indictments in this case. Indictments can not be used by a jury in any fashion in determining the guilt or the innocence of a defendant brought before the Court. Again, it is simply the document that informs this Court of the charges to be tried and informs the defendant of the charges that have been lodged against him, the defendant.

Now, ladies and gentlemen, I'm going to go over with you again a series of questions. We will follow the same procedure that we followed earlier during jury qualification. If you have a answer to any of the questions, I'll ask that you stand. I will need to get your name and juror number before I proceed with receiving the answer in this case.

Now, has any member of this jury panel ever been related by marriage or have you been or are you related by blood to the defendants, Darius Tavarious Cathcart or Rashawn Lamar Reeder, if that's true, please stand.

(No response.)

THE COURT: Has any member of the jury panel ever had a close personal or a social relationship with either of the defendants, Darius Tavarious Cathcart, or Rashawn Lamar Reeder, if that's true, please stand.

(Jurors respond.)

THE COURT: Yes, ma'am, I need your name and number.
JUROR: Michelle Tareze. I'm Number 32.
THE COURT: Yes, ma'am.
JUROR: And I know Mr. Darius.
THE COURT: You know who?
JUROR: Darius.
THE COURT: All right. And can you tell me how you know, might know him?
JUROR: Neighbor for years.
THE COURT: All right. Ma'am, would that affect your ability to be fair and impartial in the trial?
JUROR: Yes, it would.
THE COURT: I'll excuse you from the trial of the case. Please be seated. Thank you.
Name and number please, sir.
JUROR: Antonio Lynch, 104.
THE COURT: Yes, sir.
JUROR: I know Darius.
THE COURT: All right.
JUROR: We went to school together.
THE COURT: You went to school with him?
JUROR: Yes, sir.
THE COURT: Well, I don't know how many years ago that was.
Have you had contact with him since that time?

JUROR: No, it's not been a minute.

THE COURT: All right. Would it affect your ability to be fair and impartial in this trial?

JUROR: No, sir.

THE COURT: All right, sir. You can be seated.

Anyone else?

(No response.)

THE COURT: Now, has any member of the jury panel ever been related by blood, or excuse me, ever been related by marriage or are you related by blood or have you ever had a close personal or a social relationship with any of the individuals that were named as alleged victims in this case and, in particular, that would be Dwight Jamar Geter, Duncan Geter, Bryant Miller. Let me be sure I've got them all.

All right. If you -- again, if you, if you've ever been related by marriage or you're related by blood or have you had a close personal or social relationship with any of those individuals that I named as alleged victim in this case, if that's true, please stand.

(No response.)

THE COURT: Now, has any member of this jury panel ever been represented by any of the attorneys that are involved in this case or have they ever appeared on the other side of some legal matter from you, if that's true, please stand.

(Juror responds.)

THE COURT: Yes, sir, name and number.
JUROR: 148. I've had cases with---
THE COURT: And I need your name.
JUROR: I'm Chad Pye.
THE COURT: Thank you.
JUROR: I, of course, had cases with Mr. Poole and Mr. Brown.
THE COURT: All right. Would that affect your ability to be fair and impartial in this trial?
JUROR: No, sir.
THE COURT: Thank you. You can be seated.
Anyone else?
(No response.)
THE COURT: Now, has any member of the jury panel ever been related by marriage or are you related by blood or have you had a close personal or a social relationship with any of the attorneys that are involved in the trial of this case, if that is true, please stand.
(Jurors respond.)
THE COURT: Name and number please, ma'am.
JUROR: Mary Thomas, 179.
THE COURT: Yes.
JUROR: And I know, I know Michael. Just grew up, and, Roger, through family.
THE COURT: All right. Would that affect your ability

to be fair and impartial in the trial?

JUROR: No.

THE COURT: Thank you. You can be seated.

Name and number please.

JUROR: Mike Bell, Number 4.

THE COURT: Yes.

JUROR: I know Mr. Brown as a fraternity brother.

THE COURT: All right. Would that affect your impartiality in this trial?

JUROR: No.

THE COURT: Thank you. You can be seated.

Ma'am, name and number.

JUROR: Terry Smith, 171.

THE COURT: Yes.

JUROR: I have a daughter that's go to school with him or I did.

THE COURT: Mr. Gray, you were indicating?

JUROR: Yes.

THE COURT: The gentleman from the State?

SOLICITOR GRAY: She's at the school where my daughter is at.

THE COURT: Oh, okay.

JUROR: And I'm social with him, but not just around him.

THE COURT: Well, would that affect your impartiality

if you were selected on the jury?

JUROR: No, sir. No, sir.

THE COURT: Thank you. You can seated.

Now, ladies and gentlemen, I'm going to go over quite a list of witnesses. These are people that have been identified to me as potential witnesses in the case. Now, I don't know if any of them are in the courtroom. In fact, most of them are not. I'll identify them, if possible, as to where they might live, or excuse, me, where they might work for those that I've been given that information for. Listen carefully because it is a long list, and then I'm going to ask you some questions about these individuals.

Heather Forrester with the Spartanburg County Sheriff's Office.

Matt Davis with the Spartanburg County Sheriff's Office.

Shawn Cape.

Doctor James Carter with the Mary Black Hospital.

Lorin Williams with the Sheriff's Office.

Chris Durham with the Sheriff's Office.

Leslie Harrell with the Sheriff's Office.

Ruth Lanford.

Tom Lanford.

William Dendy.

Elizabeth Pennington with the Sheriff's Office.

Robert Schaffer with the Sheriff's Office.
Mike, it's Julazadeh.
Did I say that right?
Is that correct?
SOLICITOR GRAY: Yes, sir.
Bryant Miller.
Dwight Geter.
Karen Geter.
Rodney Jamichael Hutchins.
Michael Crossley.
Tarny Morris.
Steve Calhoun.
Christian Nash.
Keith Sims.
Patrick Cockrell.
David Hogsed.
Tim Davis.
Robert Shaffter.
Lieutenant Lestage with the Sheriff's Office.
S. Nix with the Sheriff's Office.
Robert Talanges with the Sheriff's Office.
Barbara Waddell.
Zimmerman Owens.
Kamilla Jones.
Doctor David Wren with the Spartanburg Regional

Hospital System.

Mike Shaw with the Coroner's Office.

Randy Bogan with the Coroner's Office.

Dwayne Corn with the Coroner's Office.

Dickie Mason with the Coroner's Office.

Robin S. Forest with the Coroner's Office.

Kenneth A. Whitler with the State Law Enforcement Division.

Catherine Leisy, L-E-I-S-Y, with the State Law Enforcement Division.

Ila Simmons with the State Law Enforcement Division.

Tim Grambow with the State Law Enforcement Division.

Lisa McReynolds with the State Law Enforcement Division.

Nikki Perry with the State Law Enforcement Division.

Selena Kinard with the State Law Enforcement Division.

Tenisha Cathcart.

Toria Keenan.

Denise Shaw.

Chasity Booker, Booker.

Samone Winn.

Christian Nash.

Monique Brown.

Keith Meadows.

Edward, Edward Robinson.

Twan Mack.

Terren Morris.

Deangelo Miller.

Patricia Cathcart.

Braylin Morris.

Now, as to those individuals that I just named as potential witnesses in the trial of this case, has anyone ever been related by marriage or are you related by blood or have you had a close personal or a social relationship with any of the individuals that I just named as potential witnesses in the trial, if that's true, please stand.

(Jurors respond.)

THE COURT: Ma'am, I'll need your name and number.

JUROR: Hello, my name is Keisha Lanford. My Number is 96.

THE COURT: Yes, ma'am.

JUROR: Ruth Lanford is my mother-in-law.

THE COURT: Yes, ma'am, so, she is a relative of yours?

JUROR: She's my mother-in-law, yes, sir.

THE COURT: I'm gonna excuse you from service on the case. If you'll have a seat please.

JUROR: Tom Lanford is my husband also.

THE COURT: All right. That's another reason I would excuse you.

Name and number please, ma'am.

JUROR: Okay. Emily Kennedy, and my Number is 93.
THE COURT: Yes, ma'am.
JUROR: And I played basketball with some of the men---
THE COURT: All right. Ma'am, the fact that you -- well, I don't know how long ago that was.
JUROR: It was three or four years ago.
THE COURT: All right. Would that affect your ability to be fair and impartial in the trial?
JUROR: No, sir.
THE COURT: You can be seated. Thank you.
Name and number please, sir.
JUROR: Grady Branson, 131.
THE COURT: Yes, sir.
JUROR: I played, I played football with a number of guys.
THE COURT: All right. Well, again, I don't know how long ago that was. I suspect several years ago.
Would that affect your impartiality in the trial?
JUROR: No, sir.
THE COURT: Thank you. You can be seated.
Anyone else?
(No response.)
THE COURT: Has any member of the jury panel ever been arrested for, charged or, with, or convicted of any crime involving any type of violence in any State Court such as

General Sessions Court, the Family Court, Magistrate Court, or a City Court, if that's true, please stand.

(No response.)

THE COURT: Does any member of the jury panel have any member of your immediate family or a close personal friend that's been arrested for, charged with, or convicted of any crime of violence in any State Court, Family Court, Magistrate Court, or City Court, if that's true, please stand.

(Juror responds.)

THE COURT: Name and number please, sir.

JUROR: Thomas Lynch, Number 4.

THE COURT: Yes, sir.

JUROR: My uncle got convicted of murder.

THE COURT: Would that affect your impartiality in this trial?

JUROR: No, sir.

THE COURT: Thank you, sir. You can be seated.

Anyone else?

(Juror responds.)

THE COURT: Name and number please, ma'am.

JUROR: Cheryl Stepp, 332.

THE COURT: Yes.

JUROR: And my stepfather was convicted.

THE COURT: All right. Would that affect your

impartiality in the trial, ma'am?

JUROR: No.

THE COURT: Thank you. You can be seated.

Is there any member of the jury panel or a member of your immediate family who is currently or has been prosecuted by the Solicitor's Office or the Attorney General's Office in this state and county, if that's true, please stand.

(No response.)

THE COURT: Has any member of the jury panel ever been arrested by the Spartanburg County Sheriff's Department or the Spartanburg City Police Department, if that's true, please stand.

(Jurors respond.)

THE COURT: Name and number please, sir.

JUROR: Donald Smith, 168.

THE COURT: Yes, sir.

JUROR: DUI.

THE COURT: Would that affect your impartiality in this trial, sir?

JUROR: No, sir.

THE COURT: You can be seated.

Name and number please, sir.

JUROR: David Wells, 188.

THE COURT: Yes, sir.

JUROR: DUI.
THE COURT: Would that affect your impartiality in the case?
JUROR: No, sir.
THE COURT: You can be seated. Thank you.
Name and number please, sir.
JUROR: James Franklyn, 59. My father was arrested.
THE COURT: All right.
JUROR: It would not affect my---
THE COURT: It wouldn't affect your impartiality in the case?
JUROR: No, sir.
THE COURT: Thank you. You can be seated.
Name and number please, sir, gentleman on the front, yes, sir.
JUROR: Thomas Lynch, 104.
THE COURT: Yes, sir.
JUROR: Simple possession.
THE COURT: I'm sorry?
JUROR: Simple possession.
THE COURT: Would that affect your impartiality in this case?
JUROR: No, sir.
THE COURT: Thank you.
Name and number please, sir.

JUROR: I'm Justin Sims, 165.
THE COURT: Yes, sir.
JUROR: Underage possession of alcohol, but that was a couple of years ago.
THE COURT: Well, I understand that, but would that affect your impartiality in this trial?
JUROR: No, sir, I was arrested in Greenwood a year ago for disorderly conduct.
THE COURT: Okay. Would that affect your, your view in this case?
JUROR: No, sir.
THE COURT: Thank you, sir.
JUROR: Anthony Shappell, 33.
THE COURT: Yes, sir.
JUROR: I was arrested for DUI in 1991.
THE COURT: Would that affect your impartiality in this case, sir?
JUROR: No, sir.
THE COURT: Thank you, sir.
Now, has any member of this jury panel gathered any information from any source whatsoever outside of this courtroom such that it would have caused you to form or express an opinion about any matter or any issue that might be involved in the trial of this case, if that's true, please stand.

(No response.)

THE COURT: Is there any member of this jury panel who is aware of any bias or prejudice that you might have either for or against the State or the defense in the case, if that's true, please stand.

(No response.)

THE COURT: Is there any member of the jury panel who may have been a member of the Grand Jury which issued the indictments in these cases, if that's true, please stand.

(No response.)

THE COURT: Is there any member of this jury panel which is a member of or a contributor to any group which has as its primary concern the promotion of law enforcement or victims rights?

These groups would include, but not be limited to, such groups as Mothers Against Drunk Driving, Students Against Drunk Driving, Citizens Against Violent Crime, the South Carolina Sheriff's Association, the South Carolina Troopers Association, or other similarly oriented organizations, if that's true, please stand.

(Juror responds.)

THE COURT: Name and number please, sir.

JUROR: Number 67, David Graymont, and the county domestic violence board.

THE COURT: All right. Would that affect your

impartiality in this trial, sir?

JUROR: No, sir.

THE COURT: Thank you. You can be seated.

Anyone else?

(Juror responds.)

JUROR: I guess I should stand, Mary Thomas, 179.

THE COURT: Yes, ma'am.

JUROR: Anything that, you know, we're -- my foundation -- our foundation is all about promoting good will.

THE COURT: Uh-huh. (Affirmative).

JUROR: And, so, I just have to---

THE COURT: Are you talking about the Spartanburg County Foundation?

JUROR: Yes, sir.

THE COURT: All right, ma'am. Would that affect your impartiality in this case?

JUROR: I don't think so.

THE COURT: All right. Well, I have to be sure.

JUROR: No.

THE COURT: Okay. Thank you.

Does any member of the jury panel know of any reason whatsoever why he or she should not serve as a juror in this case with particular emphasis being placed upon your ability to be both fair and impartial to both the State and the

defense, if that's true, please stand.

(No response.)

THE COURT: Are there additional questions from the State?

SOLICITOR GRAY: No, sir, Your Honor.

THE COURT: Additional questions from Mr. Poole?

MR. POOLE: No, sir.

THE COURT: Mr. Brown.

MR. BROWN: No, sir.

THE COURT: All right. Now, at this time, ladies and gentlemen, I'm going to ask that the clerk prepare a list of potential jurors.

Madam Clerk, if you'll stand up for just a second.

(Pause.)

THE COURT: All right. Ladies and gentlemen of the jury, let me explain what we're doing at this time.

All of you who remain in the jury pool at this time, your name is in the computer system here, and the, the clerk is preparing a list of jurors. I tell people that back when I first started practicing law we pick juries, jurors by putting names in a barrel and we spin it around and the law required that a blind, legally blind person had to select the names out of the barrel. Now we do it by random selection on the computer. So, it will list the names as it selects them on a sheet of paper. We'll be calling your

names shortly according to that list to come forward.

Now, how we go through jury selection in this courtroom is that, when your name is called, you'll come down the center aisle. They'll be a bailiff standing right in front of the clerk. When you get to that point, we'll ask that you stop and face the back of the courtroom. At that time the attorneys that are involved in the trial of this case will be in a position to exercise their strikes.

Now, if you are selected to serve on the jury, you will be going directly to the jury box over here to my left. So, if you have a pocketbook or other personal belongings that you've brought into the courtroom, bring it with you down front because, if you're selected, you won't be going back to your seat. You'll be going over here into the jury. So, be sure you bring anything with you that you would like to have.

I'm gonna ask that the attorneys approach briefly.

(WHEREUPON, a bench conference was held out of the hearing of the jury at this time.)

THE COURT: Madam Clerk, do you have the list for me?

CLERK: Yes, sir.

THE COURT: Thank you.

All right. Madam Clerk, at this time you can begin the jury selection process.

(WHEREUPON, a jury panel was selected at this time.)

THE COURT: All right. We are now selecting the Alternate Number One, Alternate Number One.

(WHEREUPON, Alternate Number One was selected at this time.)

THE COURT: Selecting Alternate Number Two.

(WHEREUPON, Alternate Number Two was selected at this time.)

THE COURT: That completes the jury selection process.

Any objections to the process from the State?

SOLICITOR GRAY: Yes, sir, Your Honor.

THE COURT: All right. Ladies and gentlemen of this jury, I'm gonna ask you to step back into the jury room. Do not discuss this case at all among yourselves at this point in time. I'll give you further instructions later.

If you'll take them back to the jury room please.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: And I'll ask the bailiffs to return the remainder of the jury panel to the assembly room please.

(WHEREUPON, the remaining jurors leave the courtroom at this time.)

THE COURT: All right. I'll hear the State's objection.

SOLICITOR GRAY: Thank you, Your Honor.

I hate to, hate to bring this up. I was reviewing the

strikes by the defense team. It seems they had 15 strikes used. Ten of those were white females, Your Honor. The remainder were white males. They only struck one black female out of the entire group, Your Honor.

THE COURT: All right. Any -- are you challenging all of the strikes of females?

SOLICITOR GRAY: Well, I'm challenging the fact they struck, they struck one, ten of the fifteen were white females, that the majority of the strikes were white people in general, and that the -- and I would guess the number of females additionally that they struck.

THE COURT: All right. So, again, I'm trying to narrow it down, the scope again.

SOLICITOR GRAY: Yes, sir.

THE COURT: You know, according to the cases, you need to tell me which one's you're challenging.

SOLICITOR GRAY: Well, I need---

THE COURT: I need to know which ones you're challenging.

All the white females?

SOLICITOR GRAY: Yes, sir, Your Honor.

THE COURT: All right. Now, I need to know a, the reasons why you struck those white females.

MR. POOLE: Well, Your Honor, of course, we were pooling our strikes together, and Mr. Brown and I were going

over the jury list, and I was here for jury qualification, and I had made some notes on all the jurors. All those that were stricken and all those that were seated. In fact, all the jurors in the pool.

And I have an old fashion way of putting, assigning certain numbers to names, which is on a scale of like one to three. Three is somebody I like off the bat. One is somebody I, I don't want on the jury because of some sort of, over the years, it's my been my experience that, and I can be very wrong on this, I'm dealing with first impressions. I'm not exactly sure -- I can't look at this list and say who are the white females. I just know that---

THE COURT: Well, I can, I can go down the list and tell you the ones that are the white females.

MR. POOLE: Okay.

THE COURT: And I need a, a reason why you exercised each strike, and it's got to be something other than a race based reason. There's got to be some reason why you exercised that strike.

MR. POOLE: Yes, sir.

THE COURT: First white female stricken was Jamie Lowe, Number 102.

MR. POOLE: Your Honor, I, I just had her, just a number two besides her and we struck her because we had enough strikes in order to exercise a strike to try to get

to the number three's on the list.

THE COURT: Is that your reason?

MR. POOLE: Well, Your Honor, there was no reason why we would go out striking white females because---

THE COURT: Well, you know, I'll -- let's just look at the strikes. They, they've raised the issue, and the strikes that you did exercise, you gave me the figures. Go over those figures again.

Did you write them done?

SOLICITOR GRAY: Yes, sir, I believe ten out of the fifteen strikes used were for white females.

THE COURT: Two-thirds of your strikes were for white females. I think that establishes that there appears to be a possibility that these were based on either sex or race when two-thirds of the strikes are of white females. Now you have to give me a reason that is not a pretext as to why they were stricken, some specific reason why they were stricken in that fashion. Just can't exercise your strike -- Batson doesn't allow you to pick all the white females and strike them.

MR. POOLE: Uh-huh. (Affirmative).

Well, that---

THE COURT: There's got to be a non, a, either not based on race, not based on gender. There has to be like that person's been involved in criminal activity before,

that person is done -- there's, there's got to be some non-pretextual reason, and, you know, given the numbers, it does appear to be that there is a, somewhat of a pattern when two-thirds of the strikes appear from one racial and sexual group. Batson requires now that I get from you a non-pretextual reason as to why those strikes were given, and if the -- if that's your reason, that's fine. Then I've got to make a ruling.

MR. POOLE: Your Honor, I don't think I give you a better reason than what I've already given that it was based on a first impression and the way that I was using my numbers.

THE COURT: All right.

MR. BROWN: And, Your Honor, I can simply say, with my ability to assent on some numbers, if Mr. Gray does recall on the number of jurors that I did assent to, in fact, the females that are on the jury that are white, in all instances I'm the one -- I spoke up in regards to those as well as the majority of the pool that was involved. I think we look at the overall numbers. That may answer something in terms of what was available to us. In an alternating pattern between our strikes, Mr. Poole utilized some and I utilized some.

But I did assent to, to the white females that are actually on the jury, Your Honor. So, I don't think race

came into any type of consideration. Of course, if the Court had a chance to review my posture, my, my head was simply down. In the course of looking at the list, involving employment factors, community factors, number of years in school, as well as what they have been located in the county, in addition to any potential possible relation to anyone involved. So, they're a number of factors I, I looked at in my sheet reviewing simply the numbers that were presented to us, Your Honor, excluding any factors of race.

THE COURT: Well, I, I can go over all of these, but if I'm wasting my time, tell me.

I mean are there any of the ones, the white females that were stricken, and I've got Jamie Lowe or Lowe, 102, Tracy Pressley, 146, 106, Katelyn Mabry, 167, Stephanie Sizemore, 151, Kathryn Russell, 84, Elizabeth Hyland, 41, Patricia Cothran, 180, Joyce Towe or Towe, 80, Carol Hornbuckle.

Are you objecting to the jury itself or the ones, ones -- there was one strike of a female on the alternates, a white female?

SOLICITOR GRAY: The jury itself, Your Honor.

THE COURT: All right.

MR. BROWN: I would ask the Court to, in lieu of the jurors that were stricken, if the Court could apprise us to who would replace that juror just so we'll know at this

point.

THE COURT: Well, the issue is whether or not there is, there's been, on the face of it, there appears to---

MR. BROWN: Yes, sir.

THE COURT: ---have possibly been some discrimination in the exercising of your strikes. If, on the face of it it appears that, then you're required to give me a race neutral or a gender neutral reason for having exercised each of those strikes when that's been questioned. And thus far, the reason is that, on your scoring system, they didn't score very well. That could be because of their race or their color. I don't know -- or their gender. I don't know how you got there. You haven't given me a race neutral reason other than it didn't score well on your scoring system. That probably won't work.

MR. POOLE: Well, Your Honor, I, I will say this. It just never crossed my mind, you know, in talking about all of these jurors that have been enumerated here, that when they were picked that they were all, you know, I was intentionally, I was intentionally striking jurors that happened to be white females. I mean I would have no reason to start, to think like that at the beginning of the jury selection process because I don't know how that would factor into this case at all.

THE COURT: Well, I don't know how it factors into

this. We don't look at how it relates to the case. We look at whether or not there is a race neutral reason for having exercised the strike, and that can be any number of things. You know, the person's unemployed, the person is had a family member arrested before, the person has -- you know, any number of reasons what is the race neutral reason. But when, on the face of it, when you look at two-thirds of your strikes are white females, that---

MR. POOLE: Well---

THE COURT: ---looks a little, that looks a little strange.

MR. POOLE: Your Honor, okay. Well, maybe we can proceed with -- I think the last number was 80, and let me try to enunciate a reason for each one.

Okay?

THE COURT: Just one second before you do that.

(Pause.)

THE COURT: All right. Let me go over the procedure we have to follow in this case.

First of all, I'm required to hold a hearing, according to Batson, when members of a cognizable racial group are struck and the opposing party requests a hearing. Based on my findings thus far, there is a -- two-thirds of the strikes exercised were of white females.

Is that correct, Mr. Gray?

That's your position?

SOLICITOR GRAY: Yes, sir, Your Honor.

THE COURT: That does appear that there's, there's a cognizable racial group that was struck. Therefore, I'm required to hold a hearing.

Once that occurs, I have to give you an opportunity to give a race neutral reason for having exercised those strikes. Once that occurs, once you've given that, then the State has the right to show that that reason given is a pretext.

So, at this time we're at the point where I have found that there's a cognizable group in your strikes. So, therefore, you have to give to me a race neutral reason for having exercised the strikes that have been questioned.

So, we'll start again with Jamie Lowe or Lowe, 102.

MR. POOLE: Yes, sir, she had some college education, Your Honor.

THE COURT: Anything else?

MR. POOLE: No, sir.

THE COURT: The next one is Tracy Pressley.

MR. POOLE: What number would that be?

THE COURT: She is Number 146.

MR. POOLE: Your Honor, the -- her occupation was one of manufacturing. Her husband was one of a warehouseman. They're both workers that require a great deal of

responsibility and a great deal of, I'm assuming, education behind that.

THE COURT: The next one stricken in the group would of been 106, Katelyn Mabry.

MR. POOLE: Your Honor, she is a current college student, and I may have her confused with someone else. But it was brought to my attention that they, they were graduating or getting ready to graduate, and I was thinking that maybe if that was the case with her, then she would be thinking or preoccupied with her studies for exams or whatever would end up here at the end of the year.

THE COURT: The next one is Stephanie Sizemore, Number 167.

MR. POOLE: Your Honor, she's technically educated and she was dressed in her work clothes as I remember, and I thought that likewise she may be preoccupied with her occupation.

THE COURT: The next one is Kathryn Russell, 155.

MR. POOLE: Your Honor, she stated that she was not now employed, but had been employed with the Department of Health in Florida. Her educational level was, therefore, a post-nursing school. So, she was stricken for that reason.

THE COURT: The next one is Elizabeth Hyland, Number 84.

MR. POOLE: She, in her jury information, the

information she said that she had, her ex-husband was involved in a car accident, involved in a lawsuit against the company, and that she also had some technical college education.

THE COURT: The next one is Patricia Cothran, Number 41.

(Pause.)

THE COURT: All right. Excuse me. Go ahead.

MR. POOLE: Your Honor, she was born in 1951 and she was the mother of two children.

THE COURT: Which one are we talking about now?

I've been interrupted. I'm sorry.

MR. POOLE: Number 41.

THE COURT: Thank you. Go ahead.

MR. POOLE: The mother of two children, which could very well be the ages of the victim in this case or victims.

THE COURT: All right. Next one is Joyce Towe, Number 180.

MR. POOLE: Your Honor, she had previously served on a criminal jury. She was the older mother of two children also.

THE COURT: Next is Carroll Hornbuckle, Number 80.

MR. POOLE: Her husband's -- her husband was an engineer and she has a Bachelor of Science in Nursing, and she is employed currently at Greenville Tech.

THE COURT: The next one is Deidre or Deidre Bonds, Number 18.

MR. POOLE: She was the interior designer with a Bachelors in Fine Arts, and her husband was an industrial systems engineer.

THE COURT: All right. I believe that covers them, is that right?

SOLICITOR GRAY: Yes, sir, Your Honor.

THE COURT: Anything?

MR. BROWN: And just very briefly, Your Honor. I know, in terms of our, of our colloquy here, I just wanted to reiterate, as relates to two of them, besides the medical occupations involved in 155 and Number 80, Number 84 obviously has a previous lawsuit, and there was a jury service, served that Mr. Poole's indicated with another.

THE COURT: Uh-huh. (Affirmative).

MR. BROWN: 106, there wasn't a lot of information there besides the fact we knew she was a college student. She really didn't fill out the questionnaires involved.

167, St. Luke's, I know both Doctor Snyder as well as the actual founders of St. Luke's. My understanding is this trial could go on for more than one day, and maybe the possibility for some form of discussion or mentioning my involvement with the case with the employer or someone associated with there.

But a few others, besides their education, I did take into consideration the ages of the potential jurors, and, in particular, the fact that they had two or more children that possibly could of been the age of Mr. or the Jeter's involved in this case.

THE COURT: All right. The State's opportunity to show that the reasons given for strikes are pretext.

SOLICITOR GRAY: Yes, sir, Your Honor.

We do have a very diverse jury. I want to acknowledge that. It's troubling that age is a factor, as Mr. Brown says, in determining these. Seemingly, seemingly situated strikes at and seated jurors in this situation, the only difference I can really see between the majority of these people that Mr. Brown and Mr. Poole struck is their ages. Education levels are similar across the board.

THE COURT: Well, you're gonna have to be specific now. You've got to show---

SOLICITOR GRAY: All right.

THE COURT: ---me that there were jurors who were seated who it appears to me -- and be specific as a lot of the reasons given were too much education.

SOLICITOR GRAY: Okay.

THE COURT: A lot of the -- some of the reasons were given that their work might interfere with their service on the jury. So, you got to be able to show me that there were

people who were seated from other racial groups that also had too much education or may have, you know -- you follow what I'm saying?

SOLICITOR GRAY: Yes, sir, I do.

THE COURT: So, you need to show me how the, the people that got seated would of fit the same criteria upon which they have stricken these individuals.

SOLICITOR GRAY: Yes, sir, Your Honor.

THE COURT: They didn't strike those.

SOLICITOR GRAY: Yes, sir, Number 93, a white female student at Clemson.

THE COURT: Is that one that was seated?

SOLICITOR GRAY: Yes, sir.

THE COURT: All right.

SOLICITOR GRAY: We also have I believe Number 119 is seated. Strayer University. 109---

THE COURT: Let's see. 119 was a black female who had completed college?

SOLICITOR GRAY: Yes, sir.

THE COURT: Go ahead.

SOLICITOR GRAY: Number 109 was a student. She was a single white female, full-time student.

THE COURT: Now, she's of the same racial group.

SOLICITOR GRAY: Yes, sir, there was a -- and also I understand they're in the same racial group and they were

seated. There's -- as, as far as the---

THE COURT: In other words, you're saying they didn't use the same criteria for all of them.

SOLICITOR GRAY: Yes, sir.

THE COURT: Go ahead.

SOLICITOR GRAY: Yes, sir, Your Honor.

Also, as far as dedication I'm assuming to work, there was the custodian, black female custodian who was seated, and her husband was a custodian. But they're saying cause one lady wore a uniform up here she was too dedicated to her job. I don't understand that.

And Number 41 she stated was a homemaker. In this situation, they seated a homemaker, 105. I don't see the differentiation between that homemaker and this homemaker.

THE COURT: All right. Let me find 105, Kimberly Lynch.

All right. Go ahead.

SOLICITOR GRAY: We also have a couple white men out here who were, who were students or educated, recent grad. Looks like here, Your Honor, that most of these individuals, whether be a black female, or specific age, Number 20, 93, a white female who is a student at Clemson. 156, a black female at Wal-Mart. 89, a student at -- he's just a white male. Number 77, a warehouseman I believe it was stated, and, and Number 11 also black female of the age who could be

a mother.

But there, as I was saying, under 77, they said 157 was educated, work clothes again. I don't understand how the warehouseman, Number 77, was seated, but she is differently situated somehow in the white female who was in her work clothes. How he is -- basically I don't understand the, their reasons in differentiating.

THE COURT: All right. Let's, let's talk specifics.

SOLICITOR GRAY: Yes, sir.

THE COURT: I want you to specifically tell me a name of a person who was stricken, but someone then who was seated from another racial group that would of had the same qualifications or reasons why they said they struck someone else.

SOLICITOR GRAY: White male seated Number 11.

THE COURT: All right. Number 11.

SOLICITOR GRAY: Was seated.

THE COURT: Juror Number 11 is Sarah Barksdale.

SOLICITOR GRAY: Sorry, Your Honor. Number 25, Your Honor, 25. My mistake. First juror seated, Your Honor. Number 25.

THE COURT: I've got that one.

You say she is a --?

SOLICITOR GRAY: He is a white male.

THE COURT: He is a white male.

SOLICITOR GRAY: Yes, sir.

THE COURT: College student?

SOLICITOR GRAY: Recent grad.

THE COURT: All right.

SOLICITOR GRAY: Number 106 was stricken and the reason given was she's a white female, she's a student, won't pay attention.

THE COURT: All right. Other specific instances, someone who is seated from a different racial group that had the same reasons, same qualification, or same circumstances as someone who is was stricken from the white female group.

SOLICITOR GRAY: I would say 120, a recent grad, white male, was seated, and Number 18, college graduate, engineer. I believe the reason was too much education. Both college graduates.

Number 11, custodian, a black female, and Number 41. They had a, struck Number 41 because she was of age to have children. So, that's, that would be similar to the victim. So is Number 11 in this case. She was born in 1968. Those are my specific examples, Your Honor.

THE COURT: All right. Your opportunity, then in the words of the case I'm reading, which is State versus Edwards, to explain the inconsistencies that he's pointed out.

MR. POOLE: The first number was Number 25 I believe?

THE COURT: Yes, sir.

MR. POOLE: Your Honor, he was the first juror that stood up. My jury information was he was a high school graduate. No reason to strike him. He was the first juror. We had plenty of strikes. We have, you know, no, no need to strike.

THE COURT: Well, I think he's pointing out though that you, you -- one of the indications you gave was someone who was a student that you were concerned that they wouldn't be, take their, I guess, their duties responsibly because --.

MR. POOLE: I was looking at the information that was employed by Michelin, and that this, that he had graduated from high school?

THE COURT: On Bryson?

MR. POOLE: Yes, sir.

THE COURT: Number 25.

All right. Go ahead.

MR. POOLE: Is the next one 120?

THE COURT: The next one you pointed out was what number, Mr. Gray?

SOLICITOR GRAY: I believe he's correct, Your Honor, 120.

THE COURT: All right. He's a white male.

What was his situation?

MR. POOLE: Your Honor, at that point in time that was

near, near the end. We had exercised several strikes by that time.

THE COURT: I have you down as having exercised 14 up to that point in time.

MR. POOLE: Yes, sir, and just didn't want to exercise a strike that could be used more discretionally.

THE COURT: All right. What's the next one?

Of course, Mimms was the last one seated. So, there wasn't any need to have other strikes once he was seated. That was the 12th juror. You wouldn't be saving strikes once the jury is selected.

MR. POOLE: Yes, sir, I wasn't -- I'm, I might not of been paying attention to who was sat, but I -- this is a male, isn't it?

THE COURT: Well, I think you pointed out that he was similarly situated to some of the white females as far as the reasons that you gave. Specifically -- you want to refresh my memory, Mr. Gray, Ms. Tailor.

SOLICITOR TAILOR: It was Number 106, Your Honor.

THE COURT: 106 was stricken. That's Katelyn Mabry. She was a college student. You said she might be graduating. You were concerned about that. And Mr., let me get his name again, Mimms was apparently similarly situated with her, but white male.

MR. POOLE: Also, on his, on Number 120, his occupation

was listed as unemployed.

THE COURT: Now, 120 is, is -- he's, he was seated?

MR. POOLE: Yes, sir.

THE COURT: Uh-huh. (Affirmative).

I think he---

MR. POOLE: And they're drawing comparison with selection of, against 106, is that right?

THE COURT: They were comparing that one to 106, Katelyn Mabry.

Let me ask the State, Mr. Mimms had finished school, right, but was unemployed?

SOLICITOR GRAY: I believe that's correct, Your Honor.

THE COURT: Whereas Ms. Mabry was an active student?

SOLICITOR GRAY: Yes, sir.

THE COURT: Okay. All right. Whose the next one you want us to examine?

SOLICITOR GRAY: Sir?

THE COURT: Any others you want me to examine with him?

SOLICITOR GRAY: No, sir.

THE COURT: All right. I'll hear from the State.

SOLICITOR GRAY: Your Honor, I guess we reiterate our earlier, earlier arguments specifically, especially as it has to do with Number 11 and Number 41 specifically, Your Honor. The, the black female who was a custodian, of age to have children, the defendant's age of, the victim's age, and

plus the pattern. On its face, it seems to be not racially neutral for fifteen, ten, fifteen picks to be white females. Particularly on Mr. Brown's statement that they were of a certain age additionally, Your Honor. So, we believe---

THE COURT: Well, one thing that concerns me about this situation is that in -- we've picked the jury out of the first 28 jurors called.

SOLICITOR GRAY: Yes, sir.

THE COURT: Of that 28, let me get it right, be sure I'm correct -- wait a second. Nine of them are male.

SOLICITOR GRAY: Yes, sir.

THE COURT: So, we had -- the majority of the jurors presented were female.

SOLICITOR GRAY: That is correct.

THE COURT: So, I'm -- it's not terribly surprising to me that the majority of the strikes exercised would of been female.

Do you follow what I'm saying?

SOLICITOR GRAY: Yes, sir, I do.

THE COURT: Just statistically they were more opportunities to strike female than they were males.

SOLICITOR GRAY: Yes, sir, Your Honor.

THE COURT: Now, as to the -- and, and I'm not sure how---

SOLICITOR GRAY: And I understand your reasoning here,

Your Honor. It's just when I saw the numbers, facially---

THE COURT: Yes, sir.

SOLICITOR GRAY: ---it's just a little, a little wierd to me as far as the strike. I'm not saying where you don't have a racially diverse jury. We do.

THE COURT: We do have a racially diverse jury.

SOLICITOR GRAY: Yes, sir, we do, and I'm not as---

THE COURT: And, and gender was fairly diverse.

SOLICITOR GRAY: Yes, sir, absolutely. But, on its face, it, to me, it looked to not be racially neutral, the strikes that the defense exercised.

THE COURT: All right. Well, it says here I'm to determine this issue based on the totality of the facts and circumstances in the record including the credibility of the strikes proponent and the plausibility of the neutral and otherwise unpervasive, pervasive reason.

In this particular -- unpersuasive reason.

In this particular case, it appears most of the strikes were executed with, sounds like, on educational basis.

Were there people with, with high levels of, of education that were seated?

I haven't reviewed it from that. There aren't that many high level education people that were seated.

SOLICITOR GRAY: No, sir, Your Honor.

THE COURT: So, I mean I think they're consistent in

that regard as, as far as the people who---

SOLICITOR GRAY: And some, some of the strikes, yes, sir.

THE COURT: All right. I'm gonna find that, based on the totality of the circumstances that I have reviewed, that a violation of Batson has not occurred in this case, and I'll allow the case to go forward with the jury that we have.

Anything further from the State?

SOLICITOR GRAY: Did you want the third party, Your Honor, record now or---

THE COURT: Let's put that on the record now.

You had made a motion concerning third party guilt. We discussed that in chambers.

SOLICITOR GRAY: Yes, sir.

THE COURT: During the chambers discussion, both defendants' attorneys indicated that they did not intend to offer any evidence that would be considered to be evidence concerning a third party's guilt in the case.

Is that a correct statement, Mr. Poole?

MR. POOLE: That is a correct statement, Your Honor.

THE COURT: And, Mr. Brown, is that your --?

MR. BROWN: One moment, Your Honor.

THE COURT: Yes, sir.

(Pause.)

MR. BROWN: Your Honor, my client -- as the Court's having a conversation with Mr. Reeder in regards to other matters that may or may not come before this Court. So, there are no objections as relates to third party guilt, Your Honor.

THE COURT: Okay. So, you don't intend to offer any evidence on that point either?

MR. BROWN: No. No, sir.

THE COURT: All right. So, at this point in time, I would be -- since they indicated they don't intend to offer any such evidence, I won't make a ruling.

SOLICITOR GRAY: Yes, sir.

THE COURT: However, if it does appear that that type of evidence is later brought before the Court, I will consider it at that time.

SOLICITOR GRAY: Yes, sir, Your Honor.

THE COURT: All right. Anything further that the State would like to bring up---

SOLICITOR GRAY: No, sir.

THE COURT: ---before we go forward?

SOLICITOR GRAY: No, sir.

THE COURT: Defense?

MR. POOLE: No, sir.

MR. BROWN: No, Your Honor.

THE COURT: All right. We're, we're to the point at

one o'clock. I'm just gonna bring the jury in. I am going to swear them, but I am going to release them to come back after lunch once we have sworn the jury, and then we'll proceed after, at that time.

All right. Let's bring the jury in.

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: All right. Ladies and gentlemen of the jury, at this point in time I'm going to be asking the clerk to administer your oath concerning your duties and responsibilities as jurors in this case.

Madam Clerk, please swear the jury panel.

(WHEREUPON, the jury panel was placed under oath at this time.)

THE COURT: All right. Ladies and gentlemen, I'm, I'm not unmindful of the fact that we've reached one o'clock in the afternoon. And, so, we're gonna not start the case until after you've had a chance to go get lunch. I do want to go over some things with you though and instruct you concerning certain matters as you leave the courthouse for the first time during this trial.

You have been sworn as jurors in this case. And as such, I'm going to ask you that you not attempt to gather any information outside of this courthouse concerning this case. That includes from media reports. That includes from

Internet sources. That includes from family, friends, or any other source. You have just taken an oath to decide this case based upon the law and the evidence.

Now, the only place that you're going to hear the law and the evidence is gonna be in this courtroom during this trial. The only evidence that will be presented during the trial will be the testimony of witnesses who have been sworn to tell the truth and will be testifying from this witness stand during the trial of the case and whatever, whatever evidence comes into the record through that testimony. The only law that you're going to hear in this case will come from me, the judge. I will charge you concerning the law in this matter.

Therefore, it would be highly improper for you to attempt to gather any information about this matter from any other source outside of the courtroom. In fact, it would be a violation of your oath as jurors to do so.

For that reason, I'm going to ask that you not discuss the case with anyone. Don't, again, don't attempt to gather any information outside of the courthouse. Don't allow anyone to discuss the case with you. Should anyone attempt to contact you concerning your service on this jury, please report that to the Court.

I've already explained to you, jury tampering is a felony in this state. I take it seriously. And I'll see to

it that the proper investigations are begun should anyone attempt to contact you concerning your service on this jury during our break.

I hope you realize that you've been chosen as fair and impartial jurors with an open mind about this case. If you begin to discuss even what the case is about or what the charges are about with someone else, you may begin to formulate opinions about this case, and lose that open mindedness and fairness that you have. I want you to keep an open mind throughout the case during the arguments made by the lawyers, during the presentation of evidence, even during my charge concerning the law and not to begin any discussions about this case until I've asked you to do that and then only with your fellow jurors in the jury room during the deliberations.

So, don't discuss the case with anyone. If a family members says, well, you've gotten selected on a jury, say yes, and that's the end of the discussion. Tell them you'll discuss it with them when it's over. At that time I'll give you instructions at to how you will proceed. But, again, during breaks and when you leave the courthouse, I'm going to ask you not to discuss the case with anyone, and, again, don't attempt to gather any information outside of the courthouse.

Now, if you are present and you hear a media report,

television, radio, that sort of thing, either turn it off, leave the room, don't listen to it because those sources of information, quite often, contain information that should not be considered by a jury in reaching a verdict in this case. In fact, that information, quite often, would violate the rules of evidence under which courts operate and proceed. And, again, for that reason, don't listen to, watch, or read any media reports concerning this case during our break.

All right. I'm going to ask that you be back in the jury room -- now, it's 1:00, it's five minutes after 1:00. I'll ask that you be back in the jury room at 20 minutes after 2:00.

Now, they'll show you where the jury room is that's in use for this case. You come back to that jury room. Don't go back to the assembly room. Come back to that jury room. We should be in a position to begin the case shortly thereafter.

At this time you're free to go to lunch. Have a good lunch.

Thank you.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: All right. Anything further from the State before we break for lunch?

SOLICITOR GRAY: No, sir, Your Honor.
THE COURT: Anything from the defense?
MR. POOLE: No, sir.
MR. BROWN: No, Your Honor.
THE COURT: All right. Defendants remain in custody. Thank you very much.
Court's in recess.
(WHEREUPON, Court was in recess for the lunch hour.)
THE COURT: I wanted to be sure I didn't -- I don't know that I got that far.
Your objection was the Batson motion, is that right?
SOLICITOR GRAY: That's correct, Your Honor.
THE COURT: I didn't hear any objections from the defense to the jury selection process.
Were there any objections?
MR. POOLE: No, sir.
MR. BROWN: None.
THE COURT: Okay. Just wanted to be sure.
All right. Is there anything before we bring the jury back from the State?
SOLICITOR GRAY: No, sir, Your Honor.
THE COURT: From the defense?
MR. POOLE: No, sir.
THE COURT: Mr. Brown.
MR. BROWN: None, Your Honor.

THE COURT: All right. Let's bring the jury in.

(Whereupon, the following takes place within the presence of the jury.)

THE COURT: All right. The record will reflect that the jury has returned to the courtroom.

If any of you had any difficulty in following my instructions to you before the lunch break, I'd ask that you now please stand.

(No response.)

THE COURT: It appears that everyone was able to follow my instructions.

Before we begin this trial, there's some matters that I want to go over with you.

Probably, for most of you, this is your first experience in actually being selected and serving on a jury in the trial of a case, and for those of you for whom this is your first experience in serving on a jury, probably most of what you know about the jury system that, that exists in our justice system you would of learned from such sources as television shows you've watched or movies that you've seen or perhaps books that you've read, perhaps something from your schooling.

And while those sources of information are all interesting, they're entertaining, they have good story lines and interesting plots, they keep your attention, you

have to realize that those sources of information are intended for your entertainment. I think that's obvious when, in the case of television, you can have a, a crime committed, the case tried and completed in the space of an hour, and they still have time for commercials during that time.

So, it's obviously that they take what's known as literary license with what goes on in the courtroom. Again, because it's intended to entertain you.

What you're engaged in today is something that is for, is anything but your entertainment. What you're engaged in is a search for the truth. It's an effort to see that justice is done between the parties that are before this Court. In this case, the State of South Carolina that has, has brought charges against some, two of its citizens. And you can expect that a search for the truth and an effort to see that justice is done between the parties will be slow, it will be deliberate, sometimes it will be repetitive. And I would think that that's just what you would expect from a search for the truth. That it be slow, repetitive, and deliberate.

Now, the -- this courtroom is a place of honor. It's dedicated to the preservation of citizen's rights through this system of justice that we have, our jury system. It's a system that many believe to be one of the greatest systems

ever devised on the face of this earth. It's not a perfect system. No system devised and operated by man would ever be perfect. But it does allow for direct participation by citizens such as yourselves in the important decision making matters that go on in your courtrooms. If you look around the world today, most justice systems don't allow for direct participation by citizens in the important decisions that take place in this case, in a case brought by the State against two of its citizens.

Now, the attorneys that will appear before you in this case are here to represent their client's interest, and I'm sure that they're going to do an admirable job in presenting their client's position to you in connection with this case. But first and foremost, those attorneys are also officers of this Court. At some point in time they have appeared before this Court and they've taken an oath to assist you in your search for the truth. And, for that reason, you can expect that they'll act in a reasonable, professional, and ethical manners in the presentation of their client's cases before you during this trial.

I'm gonna remind you that you come before this Court as well. You've taken an oath. You're expected to decide this case based upon the law and the evidence that's presented during the trial. You also have a responsibility to act in a reasonable, an ethical, and a professional manner in the

discharge of your duties as jurors in this Court. Again, I want to thank you very much for your willingness to come forward and serve and to assume this responsibility that you've assumed as jurors in this case.

What I'm telling you now is not intended to be an instruction concerning the law in this case. You'll find that once all the evidence has been presented and all the arguments have been made, at that time I will charge you concerning the law that you're to apply in this case. I am going to go over with you the roles and responsibilities that we all have in the trial of this case and the responsibilities that you, in particular, have as jurors serving in this case.

Now, I started this case earlier today by going over with you the indictments in this case, and I'm going to read those indictments to you again. Both defendants are charged with assault with intent to kill, assault and battery with intent to kill, and with the crime of murder.

Now, again, the indictment is simply the charge that brings the case before this Court. It's the document that brings the charge to this Court's attention as to what charges are to be tried. It informs the defendants of the charges that have been lodged against the defendant.

Now, the defendants in this case have pled not guilty to each and every one of those indictments, and, under the

law and the Constitution of this state and the, of the United States, that not guilty plea places the burden upon the State to prove the defendant's guilt of the indictments by proof beyond a reasonable doubt. And at the close of the trial I will discuss with you the burden of proof that the State has, but suffice it to say, it will be your responsibility, at the close of the trial, to determine whether or not the State has met its burden of proof in this case.

For that reason, it will be your purpose and your purpose as jurors only to determine the facts in this case. You will be the sole judges of the facts in this case. You are to determine those facts from the testimony that you will hear and from other evidence that's introduced during the trial of the case, and it's up to you to determine which evidence you feel may be, and what, what inferences and what conclusions can be drawn from the evidence that is presented before this Court.

It's especially important that you, the jury, perform your duties as the fact finders in this case diligently and conscientiously because, under our system of justice, ordinarily there's no means by which an erroneous determination of facts made by a jury can ever be corrected.

Now, the same law that makes you the sole judges of the facts in this case will make me the sole judge of the law in

this case. You will take the law as I give it to and apply it to the facts as you find them to be at the close of the trial, and that should put you in a position to render a just and a true verdict in this case.

Now, I am the presiding officer in this case, and as the presiding officer, it will my additional responsibility to rule on questions concerning the admissibility of evidence or the appropriateness of questions that might have been asked during the trial. I will tell you now that you should not take from anything that I say or that I do in the discharge of my duties as the presiding officer of this trial to, to indicate to you that I have an opinion one way or the other as to how you should determine the facts in this case. You see, the law doesn't allow me an opinion concerning the facts, and I can assure you I have no opinion as to how you determine the facts in this case.

Now, just as the law doesn't allow me to disagree with you concerning the facts that you find in this case, that same law doesn't allow you to disagree with me concerning the law to be applied in this case. It's your responsibility, at the close of the trial, to take the law exactly as I give it to you and apply it to the facts as you determine those facts to be.

Now, if you came into this courtroom with an idea or a notion as to what the law is or what it ought to be, those

notions and ideas should be left outside of the jury room before you begin your deliberations. Again, you are to take the law as I give it to you at the close of the trial, apply it to the facts as you determine them to be, and that should put you in a position to render a just and a true, a true and a fair verdict in this case.

Now, I've already told you, but I'm gonna tell you many times, until I advise you to begin your deliberations in this case, you should not begin any discussions concerning any matter involved in this case or anything about this case. Because, you see, the only time that you're going to have all of the information that you will need to make that decision and to begin to make decisions will be after you've heard all of the arguments made by the lawyers, you've heard all of the evidence to be presented by the parties, you've heard me charge you concerning, with, with the law in the case, and then and only then will you have all of the facts necessary to begin to make an intelligent decision or discussion as to what decision should be made in this case.

Again, I'll caution you not to attempt to gather any information from any other source other than the information that's supplied during this trial in this courtroom.

In a few minutes I'm going to begin the trial, and I'm going to allow the attorneys to make an opening statement. Now, an opening statement is just that. It's a statement

made by the lawyers involved in this case. They will tell you what the case is about or perhaps what they, they expect to prove or what they think the trial might show you as the trial goes along.

At the close of the trial I will allow the attorneys to make a closing or summation, a closing argument or a summation argument at the close of the trial. At that time, they will sum up the evidence that you've heard from their client's prospective.

I will tell you now that statements made by attorneys during the trial do not constitute evidence in this case, and can't be used by a jury directly in determining the guilt or the innocence of a defendant. Again, the arguments simply are the statements made by the lawyers. They tell you, at the beginning of the trial, what the case is about. They'll tell you, at the close of the trial, their client's position concerning the evidence, but those statements are not evidence in and of themselves. The only evidence that you will hear, again, is the testimony of witnesses sworn to tell the truth who will testify from the witness stand, and whatever comes into the record through that testimony.

Now, as the sole judge of the facts, it's going to be your responsibility and your obligation to determine the credibility and the believability of the witnesses that you hear during the trial, and in making that decision, as to

credibility or believability, I'm going to tell you to use your own good common sense that you brought into the courtroom. Each of you, every day, make common sensical decisions as to what you choose to believe and what you choose not to believe, and determining credibility is your sole responsibility in this case as the finders of the facts.

As the sole judges of the facts, you have the right to believe all of what a witness tells you, part of what a witness tells you, or none of what a witness tells you. You can believe one witness against all the others. You can believe all the others against one. You're the sole judges of the facts. Therefore, you're the sole judges of the credibility or the believability of the witnesses.

You have the right to take into consideration such factors as whether or not a witness has a stake in the outcome of the trial, whether or not the witness might be biased or prejudiced for or against the State or the defense in the case, whether or not the witness had the ability to know the facts about which the witness testifies, and I would ask you to observe the witnesses as they testify, the way they speak. Take all of the factors that I just discussed with you again. Use your own good common sense and make determinations as to credibility or believability of the witnesses as they testify. Then and only then, at

the close of the trial, will you be in a position to discuss all of the facts presented during the trial.

So, try to pay close attention to what goes on. Try not to let your thoughts wonder during the case. But pay attention to what is said. That will put you in a position to be able to deliberate with your fellow jurors at the close of the trial.

Now, I do not appoint a foreperson of the jury until the end of the trial during my charge on the law. I know, on television, they appoint the foreperson at the beginning. But I don't do it that way. So, I'll appoint that person at the close of the trial, and one of the reasons I do that is because I want to emphasize to you that, of the 12 members of the jury, each and every one of you has an equal say in the outcome of the case.

I will tell you, at the close of the trial, before the jury can reach a verdict, it must be unanimous. Each and every one of you must agree upon that verdict before it is the verdict of the jury. For that reason, each and every one of you has an equal say in the outcome of the case.

The foreperson's only responsibility will be to preside over deliberations, to submit questions to the Court during deliberations, and to write the verdict once the verdict has been reached, and I'll discuss that with the foreperson once I make that appointment, again, at the close of the trial.

So, I don't appoint a foreperson at this time. I'll do that at a later time during the trial at, during the trial, during the charge.

Now, I want to be sure that my opening comments did not violate anyone's rights.

Is there an objection from the State?

SOLICITOR GRAY: No, sir, Your Honor.

THE COURT: From the defense, Mr. Poole?

MR. POOLE: No, sir.

THE COURT: Mr. Brown.

MR. BROWN: None, Your Honor.

THE COURT: All right. Now, I've already explained to you that the plea in this case is not guilty. Therefore, the burden and the only burden of proof rests upon the State. For that reason, we allow the State to go first when we do our arguments at the beginning of the trial. Also, the State will be allowed to present its evidence first during the trial. So, the State will be going first during opening arguments.

Mr. Gray, are you going to offer the argument for the State?

SOLICITOR GRAY: Yes, sir, Your Honor.

THE COURT: You may proceed.

SOLICITOR GRAY: Thank you.

Counsel.

Good afternoon, ladies and gentlemen. I work for the Seventh Circuit Solicitor's Office. Some are called solicitors, prosecutors. We prosecute cases. And what we really do is we present cases to, to juries, and it's for you to decide whether or not somebody is guilty. We don't.

In this case, Mr. Cathcart and Mr. Reeder are charged with some very serious offenses. March 14th, 2009, about 3:00 in the morning, maybe 3:30, they lay in wait for a car filled with Mr. Dwight Deter, Mr. Bryant Miller, and another individual who's not here, Mr. Dwight Geter's little brother went by A.J. named Duncan Geter.

They lay in wait, and on a strip of road, pulled in behind the car filled with these three young men, pulled up beside it, and started blasting. It's something, as Judge Couch said, a TV show. But what we have, what the State has to prove is was it done on purpose, was it intentional, and with malice aforethought.

It's not exactly premedication. But they did it with an evil intent. They shot at this vehicle, these three young men with an evil intent.

You're gonna hear some testimony from these two survivors of the incident about how, what led up to this shooting. You'll have some paper evidence, some other types of evidence, but mainly it's testimony you're gonna hear, and you're gonna have to decide who's telling the truth in

this situation, the victims in this case and the victim who's not here.

Basically we have to prove that some type of weapon was used in this situation. In this case, a gun. We do not have the gun or guns that were used in this situation.

They were fired upon a number of times from close range. Mr. Dwight Geter was not struck. That's assault with intent to kill. They shot at him a number of times, but they missed.

Assault and battery with intent to kill, Mr. Miller. He was in the back seat. He got struck in the neck, and the bullet went in his neck and came out the back of his neck. It's a miracle he's alive.

And there's Duncan Geter. He also was shot in the neck. He wasn't as fortunate. He died as a direct result of their actions. Murder.

Three charges arising out of one incident. Three for Mr. Cathcart, three for Mr. Reeder. We're not gonna say who shot the gun just yet, who pulled the trigger. But it was a common scheme in the situation. Somebody was driving. Somebody was shooting. They acted together. The driver lay in wait with the lights off, pulled behind them. Once he saw them again, pulled up beside of them, the shooting occurred, flipped his lights on, took off.

Ladies and gentlemen, in the State of South Carolina,

if those facts are proven beyond a reasonable doubt, which I think we can do that, those two men are guilty of assault and battery with intent to kill, assault with intent to kill, and murder.

Thank you.

THE COURT: Mr. Poole.

MR. POOLE: May it please the Court?

THE COURT: Yes, sir.

MR. POOLE: Good afternoon.

Again, I'm Roger Poole. I represent Darius Cathcart, the young man over there in the blue shirt and tie. Mr. Cathcart lives here in Spartanburg. He's a young man who's in his twenties.

He is charged, as the State has told you and as the Court has told you, with three very very serious offenses, assault with intent to kill, assault and battery with intent to kill, and murder. He's charged with assault with intent to kill in shooting into the vehicle of Dwight Geter. He's charged with assault and battery with intent to kill by shooting Bryant Miller in the neck. And with murder with regard to killing Duncan Geter with a gun.

Those are the words of the indictment, and those are the crimes that he's charged with. Judge Couch will instruct you on what constitute the elements of each and every one of these offenses. But the Court, before you get

to that place, you will have to do what the State's attorney is said, a search for the truth. You will have to conduct that search, and that search will consist of you listening to and looking at the evidence that the State will be presenting, and the evidence that the State will be presenting will be a lot of law enforcement officers, and the testimony of some of the people that were familiar with the circumstances then and there prevailing before, after, and during the alleged shooting.

Now, this search is not gonna be very easy for you because it's more complicated than you would think on the surface. What we have here is a case where there are two automobiles being used with gunfire being exchanged between the two automobiles. The questions that you will need to answer will be where the shots came from, who initiated the shots, who was shooting, who were the victims, who were the incident ones.

Now, the State, before they can prove its case against my client and against Mr. Reeder, has to prove each one of those elements, in your search for truth, beyond a reasonable doubt. And I contend that, in the case of The State versus Darius Cathcart, on these three indictments, the State will not be able to do so because, number one, a lot of questions are gonna be unanswered. Number two, the State will fail to meet the burden of proof that it needs to

meet to make these cases stick.

Now, you've heard it mentioned that there were some injuries inflicted by some of the people that are going to testify. Well, Mr. Reeder and Mr. Cathcart were injured also.

And guess what?

They were injured by gunfire.

So, I ask that you listen to the evidence very carefully because it's important. We have young men that are charged with the most serious crimes that can be brought against someone in this state.

I thank you for your time. I thank you for your patience and your willingness to put what is going to be a necessary task to, at work to bring justice to them.

Thank you.

THE COURT: Mr. Brown.

MR. BROWN: Thank you, Your Honor.

May it please the Court?

THE COURT: Yes, sir.

MR. BROWN: Good afternoon, ladies and gentlemen.

You heard both from the State as well as co-counsel, Mr. Roger Poole, and I won't belabor the information that you already have before you except to state that my client is being charged with the exact same offenses as assault and battery with intent to kill, both two counts, and one count

of murder.

And as my co-counsel has brought to your attention, they're few elements that you will have a chance to search for indeed the truth as to relates to what will come before you by way of testimony as well as information that will allude to paperwork that was taken in regards to this case. Some form of investigation occurred, and just remember that some form of investigation happened, and you will have a chance to hear, throughout the entire course of this trial, what that investigation may or may not have entailed.

I'm here representing the interest of Mr. Rashawn Reeder, the other gentleman seated at that table. And as we search for the truth, you will be empowered, at the very conclusion of this case, to render a verdict.

Now, obviously, as lawyers, we learn different things through the course of our legal careers as well, in particular, through law school, and one of the things I, I have heard time and time again and remember so vividly is the concept of veredicto. Veredicto is the Latin word for a verdict. It means literally to, to speak the truth, and that's ultimately what we're asking you to do in regards to all the factors related to this case.

You'll have a chance to hear the testimony. You'll have a chance to observe the evidence as it's presented throughout the course of this trial. Because it's so very

important what you do here today. I want to thank you for your service. I know it's a process involved in terms of being selected for the jury, and ultimately being seated. It's very important for the State, and everyone associated with this case, and it's also very important to the gentleman seated at this table.

So, please, please give us your undivided attention, and I look forward to speaking with you at the conclusion of this trial, and having the opportunity to speak with you again in particularly as to how it relates to what the prosecution has the burden to meet, and ultimately what the defense will show in regards to Mr. Reeder and the lack thereof in terms of that allegations they have been raised against him, and I would simply ask you to entertain the opportunity to speak with you again as we relate to what has not been proven in regards to this case. Indeed, the three charges against my client, Mr. Rashawn Reeder.

Thank you for your service.

THE COURT: All right. The State may call its first witness.

SOLICITOR GRAY: Thank you, Your Honor.

State calls Mr. Bryant Miller.

THE COURT: Come forward, please, over here to my left and be sworn.

BRYANT MILLER, having been first duly

sworn, testified as follows:

THE COURT: Have a seat please. Pull as close to the microphone as you can, and state your name.

WITNESS: Bryant Miller.

THE COURT: Mr. Gray---

SOLICITOR GRAY: Thank you, Your Honor.

THE COURT: ---your witness. Yes, sir.

DIRECT EXAMINATION

BY SOLICITOR GRAY:

Q Mr. Miller, how old are you?

A Twenty-two.

Q Could you --

A This one?

Q No, not that one. That one. Just tilt, just tilt it back a little for us.

A (Witness complies.)

Q There you go.

How old are you?

A Twenty-two.

Q And March 14th, 2009, how old were you then?

A Twenty.

Q Now, March 14th, 2009, were you hanging out with Mr. Dwight Geter?

A Yes, sir.

Q Where were you when you were hanging out at?

A Club of Dreams.
Q Where is Club Dreams located?
A Off of Asheville Highway.
Q Is it near the circle or near the college?
A Yeah, near the college.
Q Is that big club from 585 that you see down the hill? That's Club Dreams?
A Yes, sir.
Q Is that still opened?
A No, sir.
Q All right. Who else were you hanging out with that night at Club Dreams?
A Me, Dwight, his brother, and another friend, Mark.
Q Now, what is his brother's name?
A Duncan.
Q Duncan?
A Yes, sir.
Q You, Duncan, Dwight, and Marty you said hanging out?
A Yes, sir.
Q Who did you ride there with?
A All of us.
Q Okay. Who was driving?
A Dwight.
Q Do you remember what kind of car Dwight had?
A It's a red Crown Vic.

Q Now, when you got to the club, how long did you guys stay at the club?
A Probably about an hour.
Q Why did you only stay an hour?
A They had got into a fight.
Q Who got into a fight?
A Dwight -- Dwight, Duncan, and Mark.
Q With each other?
A No.
Q Who were they fighting against?
A Cathcart and them.
Q Please -- Mr. Cathcart and some others?
A Yes, sir.
Q All right. Did you participate in the fight?
A No, sir, I was at the bar.
Q You were at the bar, and they were fighting?
A Yes, sir.
Q Did you ever help them in the fight?
A No, sir.
Q Now, about what time did Club Dreams usually close?
A Three or four o'clock.
Q But you didn't stay that long, did you?
A No, sir.
Q Why not?
A They had got put out for fighting.

Q All of you?
A Yes, sir.
Q You and Dwight and Duncan and Marty?
A Yes, sir.
Q And Mr. Cathcart and his friends also, is that correct?
A I don't, I don't know if they had got put out or not.
Q All right. But you guys, you guys got thrown out of---
A Yes, sir.
Q ---Club Dreams?
Well, where did you go after you left Club Dreams?
A We had left and went to the Waffle House.
Q Okay. I know you're in Spartanburg.
Which Waffle House?
A On Asheville Highway.
Q On Asheville Highway?
The one near the circle.
A Yes, sir.
Q Did you go into the Waffle House?
A No, sir.
Q What did you do?
A We just sat in the parking lot.
Q And you and Mr. Geter and his brother and this Marty person all sat in the parking lot?
A Yes, sir.
Q Now, did you ever see Mr. Cathcart and his people?

A No, sir.
Q Not at that, not at that Waffle House?
A No, sir.
Q How long did you stay at that Waffle House?
A About 30 or 45 minutes.
Q And why did you leave there?
A Police had pulled up.
Q So, what kind of cars were they pulling, police cars? Do you remember the colors?
A I say it was a black and white and like a Durango with a K-9 unit.
Q Did you -- were you the only ones to leave or did other people leave too?
A It was more, a lot of people leaving.
Q So, you were hanging out in the parking lot, the cops show up, and everybody scattered?
A Yes, sir.
Q Now, where did you guys go after you left the Waffle House?
A We went around the circle and got on 85 headed towards 221.
Q Okay. Why 221?
A We was going to Lakeview Manor.
Q Who lives in Lakeview Manor?
A I was living out there then at the time.

Q Well, was anybody else living out there?
A No, sir.
Q Just you?
A Yes, sir.
Q All right. Were, were they taking you home to Lakeview Manor?
A Yes, sir.
Q Did they take you home to Lakeview Manor?
A We rode -- we went out there and then we had left.
Q Okay. You have to explain it to me.
You went to Lakeview Manor?
A Yeah, we went to Lakeview Manor, we went to my house, and then we pulled out, and we fixing to take Duncan home.
Q Gonna take Duncan home?
A Yes, sir.
Q Why were you gonna take Duncan home?
A It was late.
Q But all, all four of you are out.
Is Duncan the youngest?
A Yes, sir.
Q How old was Duncan?
A Sixteen.
Q So, the plan was to take Duncan home?
A Yes, sir.
Q Now, did you -- after you left Lakeview Manor, where

did you go?
A When we left out the neighborhood, we pulled up at the four way, and that's when the car pulled up behind us and started shooting.
Q What kind of car was it if you remember?
A It was like a dark green Nissan.
Q All right. Did you remember anything else about that car, anything unusual?
A I believe it had like some rims on it tinted with some rims and the tinted windows.
Q All right. How did you know the car was pulling up beside you?
A Sir?
Q How did you know a car was pulling up behind you or beside you or what?
A We didn't know it was pulling up behind us, but we just heard the gunshot, and that's when I looked to my left and I seen the car was beside us.
Q Were you driving?
A No, sir, I was behind in the back seat behind the driver's seat.
Q Behind the driver's seat.
Did you ever see any headlights behind you?
A No, sir.
Q You, you guys were taught, caught totally by surprise?

A Yes, sir.
Q The dark green Nissan pulls up and what happens?
A We heard a gunshot and it was completely gunshot going off.
Q Where was Duncan located in the car?
A Behind the passenger seat.
Q You and he were in the back seat?
A Yes, sir.
Q Now, how many times did this dark green Nissan shoot at this red car?
A I don't know how many times it was.
Q Did it break any glass, the gunfire?
A Yes, sir.
Q Did you see the people who were shooting at you?
A No, sir.
Q Okay. About what time was this?
A It was around about four o'clock.
Q Did anybody in your car shoot back at the green Nissan?
A Yes, sir.
Q Who was that?
A Me.
Q What type of gun did you shoot back with?
A A .40 cal.
Q Did you see Mr. -- excuse me.
Did you see A.J. get shot?

A No, sir.
Q Did you get shot?
A Yes, sir.
Q When did you realize you were shot in the neck?
A Like after the shots first went off, and then I, I just got like a little stiff, and then I realized I was shot.
Q Now, which car -- did -- which car pulled off first, the dark green Nissan or the red car you were in?
A The Nissan pulled off first.
Q So, the Nissan pulled up, started shooting, pulled off?
A No.
Q Is that correct?
A When he pulled up started shooting. After I realized I was shot, and I was stiff for a little minute, then I was back able to move, they was still shooting and that's when I started back shooting.
Q All right.
A And then they pulled off.
Q Was anybody in the car shot besides you?
A Duncan.
Q He was sitting right beside you?
A Yes, sir.
Q Where was he shot?
A In the neck.
Q After the car left, what did you guys do?

Where did you go?
A We had pulled off and went on Bryant Road.
Q Okay. After you pulled off on Bryant Road, where did you go?
A We went to Mary Black.
Q Mary Black Hospital?
A Yes, sir.
Q Where -- and what was Duncan's condition like when you got to Mary Black Hospital?
A He was already dead.
Q Was he -- did you -- you're not a doctor, correct?
A No, sir.
Q Were you trying to help him at all during this time?
A Yes, sir.
Q But you had your own injury, correct?
A Yes, sir.
Q Well, actually -- begging the Judge's pardon.
May I approach?
THE COURT: Yes, sir.
Q Could you do me a favor and lift your hair out of the way for a second?
A (Witness complies.)
Q Where is the entry wound?
A Right here.
Q Let me see. Put your hand down.

That big block spot on the back of your neck?
A Yes, sir, there.
Q Is that where it came out?
A No, it went in right there.
Q Went in right there?
A It came out on this side.
Q Came out on that side.
(WHEREUPON, a photograph was marked as State's Exhibit No. 1 for identification purposes only at this time.)
Q I want to show you what's been marked as State's Exhibit No. 1, and see if you recognize that.
Do you recognize that, sir?
A Yes, sir, that's me.
Q Those are about four pictures.
What are those pictures of, sir?
A Me in the hospital.
Q It shows your injury?
A Yes, sir.
Q And I doubt you know -- that's you in the photograph?
A No, that's me.
Q It shows your injury to your neck?
A Yeah, but you can't really see it.
Q All right. Did -- was any surgery performed on you?
A No, sir.
Q Was the bullet still inside you?

A No, sir.
Q It passed through your neck and out---
A And it hit Duncan in the neck.
Q Hit Duncan?
A Yes, sir.
SOLICITOR GRAY: State asks to move Exhibit No. 1 into evidence.
MR. POOLE: No objection here.
MR. BROWN: No objection, Your Honor.
THE COURT: Without objection, it will be received as marked.
(WHEREUPON, State's Exhibit No. 1 was received into evidence at this time.)
SOLICITOR GRAY: Request permission to publish, Your Honor.
THE COURT: You may.
Ladies and gentlemen, by publishing, what that means is I'm gonna let you pass the photo among you. I'd ask that you not let it detract from what you're listening to as the trial goes on. We'll continue with the testimony. It will give you an opportunity to take a look at the exhibit more closely.
You may proceed.
SOLICITOR GRAY: Thank you, Your Honor.
Q Now, I just want to make, make it clear cause it looks

like you got hit sort of in the left side and came out the right.

Which side of the car, of your car was the dark green Nissan?

A On the left side.

Q So, the dark green Nissan had the passenger side facing the driver's side of your car, correct?

A Yes, sir.

Q All right. And that's when the bullets came from your left?

A Yes, sir.

Q Once you got to the hospital and got treated, did you ever see Duncan again?

A No, sir.

Q Did you find out what had happened to Duncan?

A Yes, sir.

Q Was Duncan also shot?

A Yes, sir.

Q Where was Duncan shot?

A In the neck also.

Q And later, what happened to Duncan?

A He, he passed away.

SOLICITOR GRAY: One moment, Your Honor.

THE COURT: Yes, sir.

(Pause.)

(WHEREUPON, 13 photographs were marked as State's Exhibit Nos. 2 through 14 for identification purposes only at this time.)

Q I'm also gonna show you some pictures marked Exhibits 2 through 14.

I believe you guys have seen these.

Look through those and I want to ask you a couple of questions, Mr. Bryant.

A Yes, sir.

Q During this shoot-out I guess, was your window down or was it up?

A No, sir, it was, it was shattered and I just knocked it on out.

Q So, the driver's side passenger window was up?

A Sir?

Q The driver's side, driver's side window was up, the back seat?

A Yes, sir.

Q So, you didn't shoot it out, did you?

A No, sir.

Q All right. What, what about the rest of the windows on the car, were they up or down?

A I believe they were -- I believe all the windows was up.

Q So, you're sitting at the stop sign when all of that

happens to the car and to the windows?
A Yes, sir.
Q You -- did you ever get a chance to let your window down to return fire?
A No, sir, I just -- it was already kind of shattered. So, I just knocked it out.
Q Did those picture accurately reflect the condition of the car after the shooting?
A Yes, sir.
SOLICITOR GRAY: At this time, Your Honor, I'd like to move exhibits 2 through 14 into evidence.
THE COURT: Objections, Mr. Poole?
MR. POOLE: None here.
MR. BROWN: No objection, Your Honor.
THE COURT: They'll be received into evidence as they've been marked.
(WHEREUPON, State's Exhibit Nos. 2 through 14 were received into evidence at this time.)
Q Now, you said this occurred at Mt. Pleasant Road?
A Yes, sir, at the four way stop sign.
Q At the four way stop sign.
Near Lakeview Manor?
A Yes, sir.
Q That's still here in Spartanburg County, right?
A Yes, sir.

Q Thank you. No further questions.

Request permission to publish these, Your Honor.

THE COURT: You may.

Q Please answer any questions that Mr. Poole or Mr. Brown may have for you.

THE COURT: Mr. Poole, your witness.

MR. POOLE: Thank you.

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. POOLE:

Q Mr. Miller, let me ask you a few questions about the going ons of that night.

Okay?

A Yes, sir.

Q This was in March, two, two years ago, 2009, March 14, is that right?

A Yes, sir.

Q And that you began your testimony with saying that you went to Club Dreams on Asheville Highway along with Dwight Duncan and Marty?

A Yes, sir.

Q And that you rode there with those three individuals in a red Crown Victoria automobile?

A Yes, sir.

Q And that you were there for about one hour?

A Yes, sir.
Q And Dwight Duncan and Mark got into a fight, is that right?
A Yes, sir.
Q With whom were they fighting?
A Cathcart and the people that was with him.
Q Well, who were they?
A I don't know who all was with them.
Q Okay. You say there was a fight between Cathcart and the people that he was with?
A Yes, sir.
Q And you do not know who they were?
A No, sir.
Q You did not participate in the fight?
A No, sir.
Q But these were three individuals who were friends of yours?
A Yes, sir.
Q And you just kept yourself out of it?
A No, sir, I was at the bar.
Q Pardon me?
A I was at the bar.
Q But you didn't get involved in the altercation?
A I didn't see it, no, sir.
Q Pardon me?

A No, sir, I didn't see it.
Q You didn't see the altercation?
A No, sir.
Q Well, how do you know who were the participants in it?
A Cause my cousin ran up to me at the bar and told me who was fighting.
Q So, you got your information about who was fighting from what somebody told you?
A Yes, sir.
Q And you didn't see the altercation at all?
A No, sir.
MR. POOLE: Your Honor, I have a matter of law I think I need to take up with the Court.
THE COURT: All right. Ladies and gentlemen of the jury, at this point in time I'm gonna ask you to step back to the jury room. Don't begin any discussions until such time as I've advised you to do so. You may retire to the jury room. Just leave those on the counter there.
Thank you.
(WHEREUPON, the following takes place outside the presence of the jury.)
THE COURT: Yes, sir, Mr. Poole.
MR. POOLE: May it please the Court, Your Honor.
THE COURT: Uh-huh. (Affirmative).
MR. POOLE: What we have a -- this could be a

participating, a precipitating event, this fight that occurred. It's critical to have the right information in this case for the jury to hear.

THE COURT: Yes, sir.

MR. POOLE: Now, this witness testified, under direct examination, that he knew who individuals were. At least that were my impression. Now he testifies that the only way he knows who the participants were was through hearsay and hearsay only.

THE COURT: Yes, sir.

MR. POOLE: So, we've got a real problem here in that, at the very least, I'm gonna ask for a curative instruction from the Court to disregard any testimony from this witness about the participants of a fight that happened at Club Dreams for he does not know.

THE COURT: So, you're asking that I strike that testimony?

MR. POOLE: Yes, sir.

THE COURT: Mr. Gray.

SOLICITOR GRAY: Yes, sir, Your Honor.

I don't believe that testimony should be stricken in this situation. He is said he knew about it. I never asked him how he knew about it. Mr. Poole asked him how he knew about it, and he opened that door, Your Honor. He said he knew the participants. He rode with some of the

participants, and I don't see any need for a curative instruction much less striking his testimony up to this point. He was under oath and Mr. Poole asked him a question and he told him the truth.

THE COURT: Mr. Brown, any position?

MR. BROWN: Your Honor, I would join, join in the request for a curative instruction based upon testimony you heard that seems to be completely that of hearsay, and just because Mr. Poole went into that line of questioning, he was able, because of his cross-examination, to ascertain what the prosecution had an opportunity to know before even putting this witness on the stand, Your Honor.

THE COURT: Anything further, Mr. Poole?

MR. POOLE: No, sir.

THE COURT: All right. I'm gonna take the matter under advisement briefly. We'll take a short break.

I'm gonna ask the witness not to discuss his testimony with anyone during the break.

Court's in recess briefly.

Defendants remain in custody.

(WHEREUPON, a short recess was taken at this time.)

THE COURT: Mr. Gray, do you want to step outside and see if you can find your witness?

SOLICITOR GRAY: Yes, sir.

THE COURT: Thank you.

(Pause.)

THE COURT: Sir, if you'll come back to the witness stand.

(Witness complies.)

THE COURT: All right. I'm gonna ask the witness just a couple questions here on the, my own information.

Sir, you were testifying concerning the fact that someone had told you that these individuals were engaged in some type of an argument or fight, is that right?

WITNESS: Yes, sir.

THE COURT: Who told you that?

WITNESS: My cousin. He was at the club too.

THE COURT: Is that person got a name?

WITNESS: Yeah.

THE COURT: What's -- who is it?

WITNESS: His name is Brandon Glenn.

THE COURT: Mr. Glenn told you that.

When did Mr. Glenn tell you that?

WITNESS: Like right, right after the fight was over with. He came to the bar and told me what was going on.

THE COURT: All right. So, right after the fight had ended he came into the bar and told you what was going on?

WITNESS: Yes, sir.

THE COURT: All right. Do you wish to ask any other questions?

SOLICITOR GRAY: No, sir, Your Honor.
THE COURT: Mr. Poole.
MR. POOLE: Your Honor, I didn't get the name of the person that told him.
THE COURT: Mr. Glenn.
WITNESS: Brandon Glenn.
THE COURT: Brandon Glenn.
MR. POOLE: Okay. Was it an hour, an hour after?
THE COURT: No, sir, right after.
MR. POOLE: I could not hear the witness.
THE COURT: Okay. Speak into the, speak into the microphone and tell him what happened.
WITNESS: Yeah, it was right after.
THE COURT: He says right after the fight.
MR. POOLE: Okay.
THE COURT: All right. Now, do you wish to argue your objection?
MR. POOLE: Your Honor, same objection, same reasons.
THE COURT: Well, now, I don't know. Exceptions to the hearsay rule, there's a present sense impression by another person or even res gestae if he was in, in watching a fight.
MR. POOLE: But we don't know -- well, I understand, Your Honor.
THE COURT: Well, you can ask some more questions if you'd like, but I'm, I'm just saying -- let me, let me go to

what I'm talking about, and I'll tell you what I'm talking about. I didn't think we had gone far enough with our inquiry earlier as to exactly how, but I didn't want to do that in front of the jury either.

But in looking at the -- a statement describing or explaining an event or condition made while the, the declarant is perceiving the event or condition or immediately thereafter. That's Rule 803(1) is the exceptions to the hearsay rule.

So, if the person who makes the statement makes the statement immediately after the event occurred, then it's not considered to be hearsay, and here he's saying Mr. Glenn told him right after the fight happened what happened.

MR. POOLE: I see the rule, Your Honor.

THE COURT: Yes, sir.

MR. POOLE: I'm familiar with the rule, and I would submit to the Court that, given this being the possibility, if not the probability of being a precipitating event, that is still within the Court's discretion to determine whether it's prejudicial effect outweighs its probative value.

THE COURT: Well, on that point, Mr. Poole -- but the problem -- the problem I've got is the testimony is already been put into the record in direct testimony.

MR. POOLE: Uh-huh. (Affirmative).

THE COURT: And, at that time, the defense made no

objection as to a foundation, requiring a foundation for that information or what foundation it might be based upon. Now, I realize that may not have been an issue at that time until all of a sudden he said somebody told him about it. But at the time there was not a foundation requested. So, it's already in the record and in front of the jury unobjected to.

Then we get down to the fact that it does appear to be a present sense impression after reading the rule, and I thought, given the proximity of the events, that it couldn't have been very long after the fight happened that he learned the fight had happened. So, that's the reason I came back and asked the questions that I asked.

I do not find that the prejudicial effect would outweigh its probative value. I do find that the statement, as described by this witness, would constitute a present sense, present sense impression by the declarant, and, therefore, immediately after a fight, not time for anybody to make up a story or anything like, it seems to be that the Courts have said that is reliable enough to avoid the pitfall of the hearsay rule.

MR. POOLE: Okay.

THE COURT: So, I'm gonna deny the objection, and allow the witness to testify.

MR. POOLE: Deny my objection and disallow---

THE COURT: And---
MR. POOLE: ---a curative instruction.
THE COURT: Right. Exactly.
MR. POOLE: Yes, sir.
THE COURT: Now, if, if you wish to go into this witness about the fact that it was based on what someone told him and the reliability of that person, you certainly have the right to cross-examine on that point --
MR. POOLE: Yes, sir.
THE COURT: -- and argue whether or not the information is accurate or not. But, at this point in time, I'm, I'm denying the motion and the objection will go forward.
Bring the jury in.
(WHEREUPON, the following takes place within the presence of the jury.)
THE COURT: The two alternates will always sit in the back two chairs on that row, and you can sit -- are those the two alternates?
Are those the alternates?
BAILIFF: Yes, sir.
THE COURT: That will work fine.
There's no other assigned seats. Those folks just have to sit back there. I understand.
Now, ladies and gentlemen of the jury, let me explain to you a little bit about the process that we just went to

because I didn't mention it to you earlier.

From time to time, if there are objections made during the process of the trial, and it's my belief that the discussion that I must have with the attorneys concerning that objection might involve a discussion of matters that would be perhaps not admissible or something that shouldn't be considered by you, I may ask you to step into the jury room while I consider those objections. That's what we just did. It's simply me doing my job to see to it that only properly admissible evidence, under the rules, is considered by you.

Now, in this case, I have considered the arguments. I have denied the objection or overruled the objection.

Mr. Poole, you may proceed with your cross-examination.

MR. POOLE: Thank you, Your Honor.

THE COURT: Yes, sir.

CONTINUED CROSS-EXAMINATION

BY MR. POOLE:

Q Mr. Miller, your last testimony was along the lines that you were told that there was an altercation there at Club Dreams?

A Yes, sir.

Q And who told you that?

A My cousin, Brandon Glenn.

Q Your cousin?

And what was his name?
A Brandon Glenn.
Q Is he here?
A No, sir.
Q Okay. And did he come with y'all on that evening?
A No, sir.
Q Were you suppose to meet up with some other folks that evening?
A No, sir.
Q And after the altercation, you were asked to leave?
A Yes, sir.
Q Is that right?
A They was -- Dwight and them was asked to leave. I just went ahead and left with them cause I rode with them.
Q That's Dwight Duncan and Mark were asked to leave?
A Yes, sir.
Q Okay. And then where did you go?
A To the Waffle House.
Q Did you go inside?
A No, sir.
Q I believe there were testimony that you sat in the parking lot for 30 to 35 minutes, is that right?
A Yes, sir.
Q What was the purpose of sitting in the parking lot for 30 to 35 minutes?

A We just sitting out there chilling.
Q Okay. And then I think is your testimony that you left because the police pulled up?
A Yes, sir.
Q Why did you leave when the police pulled up?
A Everybody was leaving. So, we just went ahead and left.
Q Who's everybody?
A Everybody was in the parking lot.
Q I mean does everybody just swarm out of the parking lot when the police pull up?
A Something like that, yeah.
Q Were y'all having conversations with somebody in other cars or anything like that?
A Yes, sir.
Q You were?
A Yes, sir.
Q You were talking to others?
A They were standing out there in the parking lot.
Q So, it was a crowd --
A Yes, sir.
Q -- of people that all left in different cars when the police pulled up?
A Yes, sir.
Q Is that a fair statement?

I'm not trying to put words in your mouth. I'm just asking you if that's a fair statement.
A Yes, sir.
Q All right. Then you went to Lakeview Manor?
A Yes, sir.
Q And who lives there?
A I do.
Q Who?
A Me.
Q You do.
A (Witness nods affirmatively.)
Q And then why did you go there to Lakeview Manor to your home?
A I went out there to my house to chill.
Q Somewhere else to chill?
A Yes, sir.
Q Okay. How long did you stay there?
A Not long, about like ten minutes, and then we left right back out.
Q And the purpose for leaving then was to take Duncan home?
A Yes, sir.
Q You stayed at Lakeview Manor for about ten minutes?
A Yes, sir.
Q Did you pick anything up there, Mr. Miller?

A No, sir.
Q You sure?
A I'm positive.
Q Then it was your further testimony that you pulled up to the four way stop and then this, this gunfire ensued, is that right?
A Yes, sir.
Q Now, who was the driver of the car?
A Dwight.
Q Dwight would be the driver say up in the upper, would be under the wheel, right?
A Yes, sir.
Q And you were in the passenger's side, right?
A No.
Q The passenger seat?
A No, I was behind Dwight.
Q You were behind Dwight?
A Yes, sir.
Q On the driver's side?
A Yes, sir.
Q Okay. And was Duncan right beside you?
A Yes, sir.
Q Who was up here?
Who was in the passenger seat?
A Marty.

Q Marty?
A Yes, sir.
Q So, Marty was with you during the whole time?
A Yes, sir.
Q Okay. All right. And now we're talking about 3:30 or, or four o'clock in the morning, is that right?
A Yes, sir.
Q You had a .40 caliber firearm with you, didn't you?
A Yes, sir.
Q Did it have a magazine, a clip?
A Yes, sir.
Q How many clips did you have?
A I only had one clip.
Q Okay. And what kind of ammunition did you have in the clip?
A I'm not for sure what kind of bullets it was.
Q You don't know?
It was a .40 caliber, right?
A Yeah. Yeah.
Q Okay. Did you have this gun with you the entire night?
A Yes, sir.
Q Were you carrying it around with you on your person the entire night?
A Yes, sir.
Q And you had a clip in it the entire night?

A Yes, sir.
Q Do you know whether or not the ammunition that you had was manufactured by Winchester?
A I'm not for sure.
Q Who was the manufacturer of the .40 caliber?
A It was Taurus.
Q Taurus?
A Yes, sir.
Q What's the difference between a .40 caliber and a 9-millimeter Luger?
A .40 cal is a little bigger.
Q Pardon me?
A .40 cal is bigger.
Q What's the Taurus look like?
Not, not -- we don't know what a Taurus looks like. We know what a Taurus car looks like.
What does a firearm, a Taurus with a clip in it look at, look like?
A It's a small -- look like, to me, like a Glock.
Q Like a Glock?
Okay. What does a 9-millimeter Luger look like?
A I don't know.
Q You ever seen one?
A No, sir.
Q Do you know -- who, who else had a gun in your car that

night, in the car you were riding in?
A Just me.
Q That's your testimony?
A Yes, sir.
Q You're the only one that had a gun?
A Yes, sir.
Q Then it's your testimony further that, after the fire fight, gunfire fight, you pulled off Bryant Road and went to Mary Black Hospital?
A Yes, sir.
Q Did you not stop at the Jeter home?
Wasn't there a stop made there?
A Yes, sir.
Q You didn't mention that a while ago?
A I said we stopped on Bryant Road.
Q You stopped on Bryant Road?
A Yes, sir.
Q Is that where the Geter home is?
A Yes, sir.
Q What was the purpose of the stop at the Geter home?
A We had let Marty out.
Q Let Marty out?
A Yes, sir.
Q He didn't live there, did he?
A No, sir.

Q Why was he let out?
A We was going to the hospital.
Q Would it not have been more important to get to the hospital before you let somebody out of a car if you'd been shot in the neck through and through?
A Yes, sir.
Q So, what was the real reason for stopping at the Geter house?
A To drop Marty off.
Q Okay. Just one final question.
Do you know the difference between the projectile, a component, and a bullet for a .40 caliber Taurus?
Do you know the difference between copper and lead?
A I don't know, sir.
Q You don't?
A No, sir.
Q Okay. Thank you. Answer any questions Mr. Brown may have for you.
THE COURT: Mr. Brown, your witness.

CROSS-EXAMINATION

BY MR. BROWN:

Q You said y'all let Marty out?
A Yes, sir.
Q That was at 150 Gower Road?
A Yes, sir.

Q Where is that located?
Is that in Lakeview Manor?
A No, sir.
Q It's not in Lakeview Manor?
A No, sir.
Q But you live in Lakeview Manor?
A Yes, sir.
Q You didn't let Marty out at your house?
A No, sir.
Q So, where's Gower Road at?
A Off Bryant Road.
Q How far is Bryant Road from Lakeview Manor?
A About a, about a good mile and a half.
Q So, you went to Bryant Road.
Is that close to Mary Black or is that farther away from Mary Black?
A Bryant Road is closer.
Q Closer, closer to Lakeview Manor?
A Yes, sir.
Q And you said y'all were chilling at your house for about ten minutes?
A Yes, sir.
Q Did you go inside the Geter house?
A No, sir.
Q Did y'all stay at the Geter house more than thirty

seconds?
A Probably like five minutes.
Q Five minutes.
So, in being at the Geter house, what did you do for those five minutes?
A We pulled up, let Marty out, and we was checking on Duncan.
Q Check on Duncan?
A Yes, sir.
Q And how was Duncan at that point?
A He wasn't responding.
Q So, five minutes y'all were there.
Did anyone else get out, besides Marty, and go inside the house?
A No, sir.
Q Did Dwight go inside the house?
A No, sir.
Q Did anybody come from inside the house out to where y'all were?
A No, sir.
Q Did anyone have a conversation with y'all besides people that was in the car?
A I believe Duncan mama came to the door once we pulled up.
Q Okay. And she came to the door.

Did she talk to you?
A Yes, sir.
Q And you had a conversation with her?
A I really didn't say much. I ain't say much. She had to know what was going on.
Q You told her what was going on?
A Hu huh. (Negative).
Q You didn't?
A No, sir.
Q You refused to talk to her?
A Yes, sir.
Q Why did you refuse to talk to her?
A I didn't want to let her know what was going on.
Q Did Dwight talk to her?
A I can't remember.
Q Anybody else inside the house come to the door and talk to y'all?
A No, sir.
Q Let me clarify -- help me clarify something.
Mr. Gray asked you a question earlier about a bullet that, as he pointed to both sides of your neck, he had you remove your hair, to the left side of your neck.
A Yes, sir.
Q And he also talked about the right side of your neck.
Were you grazed on the right side as well?

A No, I mean it went in the left side and came out the right side.
Q Went in the left side and came out the right side.
It passed through your entire neck?
A Yes, sir.
Q Went through your skin and everything?
A Yes, sir.
Q You were released from the hospital on that same evening?
A Yes, sir.
Q Didn't have to have any surgery?
A No, sir.
Q Did you have any major stitches?
A No, sir.
Q Didn't hit any bone going through your neck?
A No, sir.
Q And in saying that, you're saying that bullet was the bullet that passed through you and struck Mr. Duncan Geter?
A Yes, sir.
Q And you know that for sure?
A That's what the doctors told me.
Q And you say that you were seated behind Dwight in the vehicle?
A Yes, sir.
Q And, so, you were seated on the driver's side behind

Dwight in the vehicle?
A Yes, sir.
Q Not on the passenger side in the back?
A No, sir.
Q And definitely not on the passenger side in the front of the car?
A No, sir.
Q The Waffle House, you were out having conversations with people.
Was it a bunch of people out at the Waffle House?
A Yes, sir.
Q You said you were there for about 30 minutes?
A Yes, sir.
Q Just chilling?
A Yes, sir.
Q And the police pulled up and you say people pulled off?
A Yes, sir.
Q Was anything going on that would of caused you to want to pull off when the police pulled up?
A No, sir, we just left.
Q Were you doing anything wrong?
A No, I just -- I had a gun on me.
Q And you got in the club with that gun?
A No, sir.
Q Where was the gun when you went inside the club?

A In the car.
Q Where in the car?
A I'm not sure. I believe it was in the dashboard.
Q So, if the gun was in the dashboard of the car, you got in the car, as you sat in the back seat of the car, how did you get the gun?
A I told them to hand me, hand me my gun.
Q Told who?
A Marty.
Q Why would you tell Marty to hand you your gun?
A He was in the passenger seat.
Q Okay. But why would you tell him to hand you your gun if your gun was inside the dashboard?
A Just to keep it on me.
Q If you were sitting in front of the, the car in the passenger side, and he's gonna reach in that dashboard though, right?
A Say what?
Q You would agree with me it would of been much easier for you if you were sitting in the front passenger seat of that car to reach in the dashboard and get it yourself if you were seated in that seat?
A Yes, sir.
Q Does Marty live near anyone, near the Geter's?
A No, sir.

Bryant Miller - Cross-examination
by Mr. Brown

Q Does Marty live anywhere near you or where you lived at that time in Lakeview Manor?
A No, sir.
Q Was there a problem with Marty staying at your house in Lakeview Manor?
A No, sir.
Q But instead y'all drove to the Geter's house?
A Yes, sir.
Q And you only let Marty out?
A Yes, sir.
Q Did you take your, your gun to the hospital with you?
A No, sir.
Q What happened to your gun?
A I threw it out.
Q Where?
A On the way to the hospital.
Q And you shared this with law enforcement?
A Sir?
Q You shared this with law enforcement?
A No, sir.
Q You didn't leave it at the Geter's house?
A No, sir.
Q You didn't leave it at your house?
A No, sir.
MR. BROWN: That's all the questions I have.

THE COURT: Redirect.

SOLICITOR GRAY: No redirect, Your Honor.

THE COURT: You may step down, step down.

SOLICITOR GRAY: We're done with this witness, Your Honor.

THE COURT: You want to excuse him?

SOLICITOR GRAY: Yes, sir.

THE COURT: Any objection to the witness being excused?

MR. POOLE: No, sir.

MR. BROWN: None, Your Honor.

THE COURT: You're free to go if you'd like, sir. State may call it's next witness.

SOLICITOR GRAY: Doctor James Carter.

THE COURT: Come forward, sir, to my left and be sworn.

JAMES CARTER, having been first duly sworn, testified as follows:

THE COURT: Have a seat please. Once you're seated, I'd ask that you state your name.

WITNESS: James W. Carter, M.D.

THE COURT: Mr. Gray, your witness.

SOLICITOR GRAY: Thank you, sir.

THE COURT: Yes, sir.

DIRECT EXAMINATION

BY SOLICITOR GRAY:

Q Doctor Carter, how long have you been a doctor?

A Oh, about 35 years.
Q Hold on. I need you to speak into---
A About 35 years.
Q Thank you, sir.
Do you have any specialties?
A Emergency medicine.
Q How long have you been doing emergency medicine?
A Including the moonlighting on my residency, probably 23 years.
Q On March 14th, 2009, were you in, in the emergency room at Mary Black Hospital?
A I was.
Q And speak up please.
A I was.
Q Thank you.
Do you remember anything -- well, I won't say anything unusual.
Did you have a shooting victim come in?
A We did.
Q All right. Do you know who that shooting victim was?
A Yes.
Q What was his name?
A I'd have to look. It's a Mr. Geter, Duncan Geter.
Q When Mr. Geter arrived, arrived at Mary Black Emergency Room, where was he located?

Was he in an ambulance?
A No, sir.
Q What kind of car was it?
A It was a private vehicle that had been driven up into the ambulance bay. The driver had jumped out and come in saying that he had someone that had been shot in the car.
Q Now, did you go out to that private vehicle?
A I did.
Q Did you see the individual that had been shot?
A I'm sorry?
Q Did you see the individual that had been shot?
A I did.
Q Was there one individual that had been shot or two?
A There were two shot, but there was only one in the car when I went out there.
Q Okay. What was his condition in the vehicle?
A He appeared to be dead. He was laying on his right side with a lot of shards of glass all around him. It was unresponsive to any verbal stimuli or tactile stimuli, touching him, and we literally had to pick him up out of the back of the seat and put him on a gurney and bring him inside.
Q Once he was inside, did you perform any motions, movements, tests, or anything to resuscitate him?
A We took him into ER Room 6 and attached him to the, the

monitor. He had no spontaneous respirations. He had no spontaneous cardiac activity. He was not responding in any way whatsoever.

Q What type of injury did he have?

A The only injury I found was the gunshot wound entering the left side of the neck about four centimeters below the ear, and on the opposite side of the neck you could palpate what was probably a projectile.

Q Went in the left side, did not come out the right side?

A Did not come out the right side.

Q Did Duncan Geter ever revive?

A No, sir.

Q Did you pronounce him dead?

A I pronounced him dead on arrival.

Q About what time was that, sir?

A Around four o'clock. I would have to look at my papers to see exactly, but they got there around four o'clock.

Q One moment.

(Pause.)

Q When you extracted Mr. Duncan, Mr. Geter out of the vehicle --

A Uh-huh. (Affirmative).

Q -- did you have any gloves on at that time?

A Pretty sure I did, yeah.

Q That---

A I typically would have.
Q Did you go through the vehicle looking for anything?
A No, sir.
Q What was your job at that moment?
A My job at the moment was to extract the patient, get him into the ER and see what was going on with him, see what could be done for him.
Q You didn't do any investigation of the vehicle or anything?
A No, sir.
Q Did you remember what the inside of the vehicle even looked like?
A It was dark, and, of course, it was in an ambulance bay, four o'clock in the morning. The lights were on. But what I mainly remember is most all the glass was shot out, appeared to be shot out.
Q Yes, sir.
Thank you for your time. Please answer any questions these two gentlemen may have, Mr. Poole and Mr. Brown.
A Okay.
THE COURT: Mr. Poole, your witness.
MR. POOLE: Yes, sir. Just bear with me for just a minute, Your Honor.
THE COURT: Yes, sir.
(Pause.)

MR. POOLE: No questions here, Your Honor.
THE COURT: Mr. Brown.
MR. BROWN: None, Your Honor.
THE COURT: Sir, you may step down.
Do you wish to have the witness excused?
SOLICITOR GRAY: Yes, sir, Your Honor.
THE COURT: Any objections?
MR. POOLE: None.
THE COURT: You're free to go. Thank you for coming, sir.
WITNESS: Thank you, sir.
THE COURT: State may call its next witness.
SOLICITOR GRAY: Thank you.
State calls Shawn Cape.
THE COURT: Come forward to my left and be sworn please, sir.
SHAWN CAPE, having been first duly sworn, testified as follows:
THE COURT: Have a seat. Once you're seated, sir, I'd ask that you state your name.
WITNESS: My name is Shawn Cape.
THE COURT: Mr. Gray, your witness.
SOLICITOR GRAY: Thank you, sir.
DIRECT EXAMINATION
BY SOLICITOR GRAY:

Shawn Cape - Direct examination
by Solicitor Gray

Q May -- March 14th, 2009, Mr. Cape, where were you working?
A I was working in the ER parking lot at Mary Black.
Q What were your duties and responsibilities at that time?
A To help patients up that needed to be, make sure everything was secure in the parking lot and just patrol as needed in that area of the ER.
Q You're a security guard?
A Yes, I was.
Q How long had you been a security guard for Mary Black?
A For Mary Black, I'd say a little over a year.
Q All right. But you weren't -- you didn't have police powers or investigative duties or anything like that, correct?
A No, my job was to make sure everything was secure for the, that area that I was in.
Q All right. March 14th, 2009, did a red Crown Vic come to the ER?
A Yes, it did.
Q At Mary Black Hospital?
A Yes, it did.
Q What did you do or see in and around this red Crown Vic?
A Can you clarify please?

Q Yes, sir.
When it came -- when the car went to the, the emergency bay area --
A Uh-huh. (Affirmative).
Q -- what did you see in the car?
A I saw the, I don't know their names, but I saw the one that been shot in the neck sitting in the back seat, the one that had passed away was laying in the back seat, and the driver. I immediately -- they both jumped out, of course, wanting to get help for him, and I immediately took them in the front to be, to get some help for them.
Q All right. I show you what's been marked as Exhibits 2 through 14. See if you recognize these. Just look through those real quick please.
A Yes, I recognize this.
Q What is that?
A That is the Crown Vic --
Q Where---
A -- sitting in the bay.
Q In the bay where?
A In the ER bay at Mary Black.
Q That's the car that you saw that night?
A Yes, sir.
Q That's the car you saw with the deceased in the back seat?

A Yes, sir.
Q Okay. Did you do anything else to, to assist these gentleman or the doctors?
A No, sir, I did not assist them in any way other than take them in to see the receptionist to try to get help per my protocols at the time.
Q Did you go inside the car to investigate at all?
A No, sir.
Q Did you touch the inside of the car at all?
A No, sir.
Q Did you keep other people from touching the car?
A That was my duty, to secure the, the area and to make sure that nobody touched the car, yes.
Q Did anybody touch that car or investigate inside that vehicle before the Sheriff's Office arrived?
A Not to my knowledge.
Q Thank you. Please answer any questions that Mr. Brown or Mr. Poole may have.
A All right.
THE COURT: Mr. Poole, your witness.
MR. POOLE: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. POOLE:

Q Mr. Cape, you gave a statement in this case on the same, on March 14th of 2009, didn't you?

A Yes, I did.
Q Okay. And you basically testified just now as to what you had containing your statement, didn't you?
A Pretty much that's it, yes.
Q Okay. You stated that two guys came in with one, with you, one wearing a black shirt, the driver of the car, and a guy that had been shot wearing a reddish pink shirt?
A To my knowledge, yes, that's correct.
Q And he went back without permission, is that right?
A Yes, I stopped him before he got into the ER. That being I, if I remember correctly, it was a, the one that had been shot in the neck.
Q Was that Bryant Miller?
A I think so. The -- I don't know their names. I apologize.
Q Was he the individual who testified a moment ago?
A Yes, he was.
Q That was him?
A Yes.
Q He was the one that went in without permission?
A Yes, he went through right back behind the receptionist and I stopped him.
Q Okay. Thank you.
THE COURT: Mr. Brown.
MR. BROWN: No questions, Your Honor.

THE COURT: Anything on redirect?
SOLICITOR GRAY: No, sir, Your Honor.
THE COURT: You may step down, sir.
Do you wish to excuse the witness?
SOLICITOR GRAY: Yes, sir.
THE COURT: Without any objections?
MR. BROWN: No objection.
MR. POOLE: None.
THE COURT: Without objection, sir, you're free to go. You may stay if you'd like.
WITNESS: Thank you.
THE COURT: State may call its next witness.
SOLICITOR GRAY: State calls Karen Geter.
THE COURT: Come forward, ma'am, to be sworn.
KAREN GETER, having been first duly sworn, testified as follows:
THE COURT: Have a seat, ma'am, and once you're seated, state your name.
WITNESS: Karen Geter.
THE COURT: Mr. Gray, your witness.
SOLICITOR GRAY: Thank you.

DIRECT EXAMINATION

BY SOLICITOR GRAY:

Q Ms. Geter, are you the mother of Dwight Geter?
A Yes, sir.

Q You're also the mother of Duncan Geter?
A Yes, sir.
Q What was Duncan's nickname?
A A.J.
Q How old was Duncan May 14th, 2009?
A Sixteen.
Q I want to ask you about that night, Ms. Geter.
Did you know where Duncan and Dwight were going that night?
A No, he just told me that he was going out with his brother, but he didn't say where they were going.
Q So, Duncan was tagging along with his older brother?
A Right, they were close.
Q They were close brothers?
A Yeah.
Q So, what time did they leave the house?
A I don't know. I had -- I don't know. I had went to bed before they left. So, I don't know what time they left.
Q Now, where did you live at that time?
A 150 Gower Road right off of Bryant Road.
Q How far from Bryant Road?
A Just right across from the elementary, Chapman Elementary School.
Q All right. You say you were asleep.
With anybody else in the home with you when you were

asleep at that time?
A Yes.
Q Who else was there?
A At the time my boyfriend, Zimmerman Owens.
Q All right. Were you awakened from your sleep by anyone?
A Yes, I was.
Q Who did that?
A I heard a banging on the door, and I sit straight up in the bed. And when I went to the door, I saw Bryant standing in the, on my walkway.
Q Is that Mr. Miller?
A Bryan Miller, uh-huh. (Affirmative).
Q And what did -- did you talk to Mr. Miller?
A Yes, I could hear my oldest son screaming, and I asked him what was wrong. He said A.J. had got shot, and I guess -- Bryant was the one that knocked on the door. I don't remember him saying anything. I just heard D.J. screaming.
Q What did you do?
A I lost it I guess. I mean just went hysterical and started screaming and hollering and yelling and stuff, and I really can't remember what I did right at that time.
Q All right.
A I just went back in the house and I think I tried to

find some clothes to put on, and told them to just take him to the hospital, take A.J. to the hospital.
Q You told Dwight to do that?
A Yeah, I told him y'all just go on and take him to the hospital.
Q And which hospital is closer to Gower Road?
A Mary Black.
Q Did they leave at that time?
A Yeah, they did.
Q And what did you do, ma'am?
A I think I went in the house and put some clothes on and I left right behind them.
Q Did you ever look in the car while they were there at your home?
A No, sir.
Q Why not?
A I just chose not to. I mean I guess I was too hysterical at the time.
Q All right. Once you got to the hospital, what did you do or see?
A What did I do?
Q Yes, ma'am.
A Well, when they did let me back, they took me in this little room and told me just sit there, and, you know, someone would talk to me in a little bit, and then I guess

it was like five minutes later maybe, seemed, seemed like an hour, and I saw the doctor or doctor and the nurse coming down the hall cause I kept getting up going back and forth to the door. And when he came in, he told me to sit down, and I told him I didn't want to sit down, just let me know what happened to my son. And my boyfriend at the time told me to sit down and I sit down, and he told me that it had been a shooting, and A.J. didn't survive.

Q Did you talk to Dwight at the hospital?

A He wasn't really talking. He wasn't really saying much cause he was kind of upset hisself.

Q That was the night A.J. died?

A Yes, sir.

Q No further questions. Please answer any questions Mr. Poole or Mr. Brown may have.

THE COURT: Mr. Poole, your witness.

MR. POOLE: No questions at this time.

THE COURT: Any---

MR. BROWN: No questions, Your Honor.

THE COURT: Ma'am, you may step down.

WITNESS: Thank you.

THE COURT: Any objections to this witness being excused?

SOLICITOR GRAY: She probably wants to stay, Your Honor.

THE COURT: All right. Mr. Gray, you may call your next witness.

SOLICITOR GRAY: Okay. Zimmerman Owens.

THE COURT: Come forward, sir, to be sworn.

ZIMMERMAN OWENS, having been first duly sworn, testified as follows:

THE COURT: Have a seat, sir.

(Witness complies.)

THE COURT: State your name please.

WITNESS: Zimmerman Owens.

THE COURT: Mr. Gray, your witness.

DIRECT EXAMINATION

BY SOLICITOR GRAY:

Q Mr. Owens, do you know the Geter family?

A Yes, I do.

Q How long have you known the Geter family?

A About six years.

Q March 14th, 2009, were you in the Geter home?

A Yes.

Q Did something happen that day that you remember?

A All I remember saying A.J. told me he was going out with his brother that night, and I told him, and I asked him, I said are you sure you want to go. He said yeah, man, I been sitting in the house all this long. I been playing basketball. It's time to get out on the weekend to have

sone fun with my brother. And, so, he asked his mama could he go out with him. You know, he went out and he never did come back home.

Q Did Dwight ever come back home?

A Dwight come back, but he didn't, A.J. didn't.

Q Were you there when Dwight and Mr. Miller first came by the house after the shooting?

A Yes, I was.

Q What did you see?

A Bryant come to the door, knocked on the door, and told, told, told A.J. mother A.J. had been shot, and she probably couldn't remember, but I can remember when he asked -- he said A.J. had been shot. She said why come y'all didn't take him on to the hospital right then and there. So, me and her got and put our clothes on and went to Mary Black and --

Q I think we know the rest. That's all, Mr. Zimmerman. Please answer any questions they may have for you.

MR. POOLE: No questions.

THE COURT: Mr. Brown.

CROSS-EXAMINATION

BY MR. BROWN:

Q Mr. Owens, you saw, you saw the boys leave and go to the hospital?

A Yes, sir.

Q Did you see---
A We followed -- we didn't follow right then and there, but we got really -- we put our clothes on and went on to the hospital behind them.
Q You saw Mr. Miller get in the back seat where A.J. was?
A No, we -- I did not see anybody in the car cause we never did look in the car.
Q Okay. And, so, did you see them drive off?
A No.

MR. BROWN: Okay. That's all the questions I have, Your Honor.

THE COURT: Redirect?

SOLICITOR GRAY: No, sir, Your Honor.

THE COURT: You may step down.

Wish to excuse the witness?

SOLICITOR GRAY: Oh, yes, sir, Your Honor.

THE COURT: Any objection?

MR. POOLE: None.

MR. BROWN: No objection.

THE COURT: You're free to go, sir.

State may call its next witness.

SOLICITOR GRAY: Can we approach, Your Honor?

THE COURT: You may.

(WHEREUPON, a bench conference was held out of the hearing of the jury at this time.)

THE COURT: Come forward, sir, to my left and be sworn.

CHRIS DURHAM, having been first duly sworn, testified as follows:

THE COURT: Have a seat please, sir. Once you're seated, state your name.

WITNESS: Jack Christopher Durham.

THE COURT: Mr. Gray, your witness.

SOLICITOR GRAY: Thank you.

DIRECT EXAMINATION

BY SOLICITOR GRAY:

Q Please state -- sorry.

Where do you work, sir?

A Spartanburg County Sheriff's Office.

Q How long have you worked there?

A Ever since '90.

Q What kind of jobs have you had since you've been there?

A I been a road deputy. I worked in forensics, and I'm currently in investigations.

Q On March 14th, 2009, what were your duties and responsibilities?

A I was on call that night for violent crimes.

Q You were an investigator at the time?

A Yes, sir.

Q As an investigator of violent crimes, what did you do?

A Just investigate crimes of person, someone gets hurt or

someone gets shot, robbery, things of that nature.
Q So, a regular deputy will be on the scene or something and you will be called in?
A Yes, sir, I'd be called in after it is, after they've discovered that it's needed, an investigation is needed --
Q Okay.
A -- they called me.
Q On the evening in question for Mr. Duncan's shooting, excuse me, Mr. Geter's shooting, were you called in as a violent crimes investigator?
A Yes, sir, got called approximately four o'clock in the morning. They told me that they were, been shooting victims at two different hospitals. One was at Spartanburg Regional. The other one's at Mary Black.
Q And which location did you go to?
A I went to Spartanburg Regional.
Q All right. Were any of the officers there at Spartanburg Regional?
A Yes, sir, there was.
Q Who -- do you remember who, who was there?
A I don't really remember who was there.
Q All right.
A I just remember officers were there because that's when they directed me to the rooms that the, the shooting victims were, were in.

Q Do you know the names of the shooting victims?
A I was advised that a Mr. Reeder and a Mr. Cathcart had been shot.
Q That Mr. Cathcart and Mr. Reeder, is that them in the courtroom seated here today?
A Yes, sir.
Q Did you investigate Mr. Reeder and Mr. Cathcart as victims or suspects?
A At, at first victims. I mean they, they were shot. So, I just pretty much wanted to find out what was going on, you know, get a cursory investigation, an overview of what happened.
Q So, you didn't go in with the mind set that something else had happened, just that they had been shot?
A Right.
Q Now, did you talk to either of these individuals?
A Yes.

MR. BROWN: Your Honor, we have a matter, matter of law.

THE COURT: All right. Ladies and gentlemen of the jury, at this point in time I'll ask you to step back to the jury room. Don't begin any discussion until I've asked you to do so. You may retire.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: Yes, sir, Mr. Brown.

MR. BROWN: Your Honor, I know that we had a number of pretrial motions, and, in particular, three officers during the course of the Jackson v. Denno hearing, questioning, in particular, the chief investigator here. The Court gave specific instructions as related to any testimony being taken from Mr. Durham having the opportunity as well as any type of conversation he may of may not have had with my client. I think this line of questioning could lead to a presumption if he's not allowed to go into the fact that he never spoke with me or he didn't have the ability to speak with my client based upon what was happening.

He could give some form of impression to the jury potentially that just because of that, Your Honor, I strongly object to this line of questioning as it may, as if there's something that the defense may or, may be trying to hide. And, so, of course, I would direct this to the Court's attention and remind Mr., Mr. Gray.

SOLICITOR GRAY: Yes, sir, I have an outline here specifically for that hearing you had, and my---

THE COURT: I'm sorry. I couldn't hear you. Somebody coughed.

What did you say?

SOLICITOR GRAY: I'm sorry, Your Honor. I have an outline for that hearing when you had on the Jackson v.

Denno.

THE COURT: Uh-huh. (Affirmative).

SOLICITOR GRAY: My understanding specifically was that Mr. Reeder merely said he was left-handed and no other statements were admissible. It's not that I'm trying to say that Mr. Reeder was trying to withhold anything. I believe the officer testified under oath last time that they thought that he was under too much medication and anesthesia and that's why he didn't say anything. Not that he was exercising his Fifth Amendment rights.

MR. BROWN: I understand that, based upon that ruling, Your Honor---

(WHEREUPON, Defendant Reeder stands up at this time.)

THE COURT: Sir, have a seat.

(Defendant Reeder complies.)

THE COURT: Thank you. Go ahead.

MR. BROWN: Your Honor, based upon that ruling, any information that would of come out of any type of conversation that Mr. Durham and Mr. Reeder, in terms of any, any potential conversation, should not be allowed to come in through this witness. I thought that was the Court's ruling, any information, any conversation.

SOLICITOR GRAY: No, my understanding was that, that---

THE COURT: What, what's the purpose in even going into this, Mr. Gray?

SOLICITOR GRAY: With Mr. Reeder, the purpose of this situation, Your Honor, is that statements were taken from Mr. Cathcart orally.

THE COURT: Yes, sir.

SOLICITOR GRAY: So, initially he didn't talk to them. Eventually he did talk to them. I'm building up to that, trying to lay the foundation of the Jackson v. Denno, Denno statements, and also Mr. Reeder did tell him he was left-handed. No more statements were taken from him because of his condition. He was not interrogated. He was not questioned because of his condition. Mr. Cathcart was and that was already ruled upon previously that Mr. Cathcart, two of his statements could come in, a third one can not.

THE COURT: That's right.

SOLICITOR GRAY: Is -- so, I would -- so, he kind of derailed me before I even---

THE COURT: And you represent Mr. Reeder, Mr. Brown, and, so, you say that you shouldn't even mention the fact that he had a conversation with Mr. Reeder.

MR. BROWN: That's correct, Your Honor, and to direct the Court's attention to a prior ruling, ruling, the first thing that I think the Court said directly would have been potentially admissible and that related to Detective, Deputy Harrell. Two other conversations that were had were by Investigator Chris Durham as well as Investigator Williams.

And, so, those two the Court directly stated that they could not come in. So, any conversation even with the attempt of Mr. Gray to just want to get in that he was left-handed, we feel that that information should not be allowed.

THE COURT: I'll sustain the objection. Let's not do that there.

Anything further?

MR. BROWN: (Nods negatively.)

MR. POOLE: Your Honor?

THE COURT: Do you want to talk to your client?

I don't know why he's standing up or what he wants. So -- sir, talk to your lawyer. You've got a lawyer.

(Pause.)

THE COURT: Mr. Brown, are we ready to go forward?

MR. BROWN: We are, Your Honor.

THE COURT: Mr. Poole.

MR. POOLE: While we're here, Your Honor, may it please the Court?

THE COURT: Yes, sir.

MR. POOLE: I would like, at this point in time, to renew my objection that was made pretrial---

THE COURT: Yes, sir.

MR. POOLE: ---so I won't need to do that at the hearing in front of, in front of the jury, renew my prior

Jackson v. Denno objection.

THE COURT: I understand.

MR. POOLE: We had a hearing and my notes indicate that the ruling was, as applied to my client, what he said at the hospital, since it was not custodial in nature --

THE COURT: Uh-huh. (Affirmative).

MR. POOLE: -- was, was allowed, and the police station was okay up until when he invoked his right to counsel --

THE COURT: Yes, sir, that's right.

MR. POOLE: -- and anything thereafter is not to come in.

THE COURT: Exactly.

MR. POOLE: And I just wanted to make my understanding is on the same page as everybody else.

THE COURT: Is that, that your understanding, Mr. Gray?

SOLICITOR GRAY: Absolutely, Your Honor.

THE COURT: The fact that he invoked his rights can't come in either.

MR. POOLE: Right. Right.

SOLICITOR GRAY: Exactly right, Your Honor.

THE COURT: All right. Let's bring the jury in.

Mr. Poole, my ruling would be the same as to the renewed objections.

MR. POOLE: Yes, sir.

(WHEREUPON, the following takes place within the

presence of the jury.)

THE COURT: All right. During the break I have renewed the previous rulings made by the Court.

Mr. Gray, you may proceed.

SOLICITOR GRAY: Thank you, Your Honor.

CONTINUED DIRECT EXAMINATION

BY SOLICITOR GRAY:

Q Once you initiated your investigation of this shooting that had occurred where Mr. Reeder and Mr. Cathcart were the victims, did you talk to anyone in law enforcement?

A You mean when I got to the hospital, sir?

Q Yes, sir.

A Yes, sir, I spoke to the officer that was there, and he, he directed me to, to where the people were, and, you know, they were shot, gave me the overview of where they were shot.

Q What kind of injuries did Mr. Cathcart and Mr. Reeder have?

A I was advised that Mr. Reeder got shot in the hand or the wrist of some sort, and I was advised that Mr. Cathcart has a, a grazing injury I think to his side.

Q Do you remember which side?

A No, sir.

Q Okay.

A On the right side, yes, sir, I wrote it down.

Q Do you remember which hand Mr. Reeder was injured in?
A I don't really remember what.
Q That's fine.
A No, sir.
Q After investigating, did you talk with Detective Lorin Williams?
A Yes, sir, he, he showed up at Regional -- well, let me, let me digress. When I was advised there were, there were two, I guess you could say, hospital, at Mary Black and at Regional, I called Mr. Williams and directed him to go to Regional, I mean to Mary Black and I went to Regional. So, both of us were at different hospitals.
Q So, two violent crime investigators --
A Yes, sir.
Q -- at two -- were you investigating this as two separate incident?
A At first, yes, sir, I was advised by Deputy Cockrell or Sergeant Cockrell, when I first got a call, they were two victims at two different hospitals. So, one at Mary Black and one was at Regional.
Q Now, did you speak with Mr. Cathcart?
A Yes, sir, I did.
Q At this time, was Mr. Cathcart a suspect in anything?
A No, sir.
Q Was he under arrest for anything?

A No, sir.
Q The -- if he would of wanted to, he could of got up and walked out of the hospital?
A I'm not sure about that.
Q Okay.
A But I wasn't holding him.
Q You weren't holding him?
A I'm talking about not medically, no. I wasn't holding him, I don't believe the officers there were. But I don't know about his medical.
Q All right. When you spoke to Mr. Cathcart, you were speaking to him as a suspect or a victim?
A As a victim, wanted to know what's going on, what, what happened, how he got shot.
Q What did he tell you?
A He said he was at the Dreams Nightclub, him and Mr. Reeder and a guy named Black. He said that he was driving his girlfriend's Nissan. He said he didn't remember much. Everything went so fast. He said it happened just right down the street from the club.
Q Did he say how he got to the hospital?
A That -- he said he did not see the suspect vehicle or the suspect. He could not give a description. He drove himself and Mr. Reeder to the hospital and the, the Black, that's what they call him, that's what, his nickname, Black

took off in the vehicle. He said he didn't know Mr. Black, that was Reeder's friend.

Q All right. Did you relay this information to, to anyone?

A To Deputy William when he come to the, to the hospital.

Q Now, when Deputy Williams came to the hospital and you two spoke, did it still seem like two separate incidents?

A I think Deputy, Deputy Williams is, victims are also at Club Dreams, and because of the connection with Club Dreams prior to the shootings, we kind of connected the, the shooting.

Q You connected the shooting victims, at this point in time, at Spartanburg Regional Hospital to the shooting victims at Mary Black Hospital?

A Yes, sir, just based on the fact they were both at Club Dreams just prior to the shootings.

(WHEREUPON, the waiver form was marked as State's Exhibit No. 15 for identification purposes only at this time.)

Q Show you what's been marked State's Exhibit No. 15 for identification and ask you if you recognize that.

A Yes, sir. It's a Spartanburg County Sheriff's Department pre-interrogation waiver form.

Q Now, what is that form used for?

A It's for questioning people who are, I guess you can

say, in custody.
Q And was Mr. Cathcart in custody at this time?
A No, sir, this was done at the Sheriff's Office.
Q It was done at the Sheriff's Office?
A Yes, sir.
Q Okay. Is -- was that after Mr. Cathcart was released from the hospital?
A Yes, sir.
Q And after you spoke to Detective Williams?
A That's correct. After Detective Williams and I spoke, you know, considering, I guess, both sides say it happened, they were at Club Dreams prior to the shooting, both of them involved in shootings in cars, we kind of knew that we would be talking about the same thing. So, we, we asked our officers to bring Mr. Cathcart to the Sheriff's Office when he gets released from the hospital.
Q Was he officially arrested at this point?
A No, sir.
Q Well, he couldn't leave if he wanted to?
A We, we brought him to the Sheriff's Office and put him in, in one of those questioning, interrogation rooms, and at which point we controlled his, his movements. So, that's why we did the pre-interrogation waiver form.
Q But he wasn't charged with---
A No, sir.

Q ---anything at this time?
A No, sir.
Q Did you know that Mr. Geter was deceased at this time?
A Yes, sir, I did. Mr. Williams told me that when he got to the hospital. But what, what, you know, I asked him what's going on over there, and that's when he tells me about the Club Dreams, they were also involved in shooting involving two cars, and one of the, one of the victims were, was deceased.
Q Now, when you go through this waiver form, how do you do that?
If you can read that for me?
A I asked him to read along with me.
Q Uh-huh. (Affirmative).
A And I placed it in front of him, and I just go through, get their name, their address, their age, date of birth, and actually the date, the time, the location. And it just says Spartanburg County Sheriff's Office, 8045 Howard Street, and then I read it to him. You have the right to remain silent. Anything you say can and will be used against you in a Court of law. You have the right to talk to a lawyer and have him present with me while I'm being questioned. If I can not afford to hire a lawyer, one will be appointed to represent me before any questioning if I so wished. I have the right to stop answering question at any point during questioning.

The above rights have been read to me by C. Durham, and that is, that is me, and I've read the same and I understand my rights fully. And then there's a second part of this that says I waive, and in parenthesis, give up, my rights as explained above and agree to talk to C. Durham in reference to crimes in Spartanburg County, and my statement that I may make is of my own free will without fear, threat, promise, or favor of reward of any kind. I'm able, able to read and write the English language and I finished eleven years in school.

And I asked him first if he understood his rights, and if he does, to sign where it says and it says -- and I usually -- I X it and I did in this case where it's a signature, and I asked him if he wants to talk to me in reference to this crime to sign where it says signature, and I witnessed both and Detective Steve Calhoun notarized, who is in the interrogation room with us.

Q And you got all that done before you started asking him any questions?

A Yes, sir.

SOLICITOR GRAY: I'd like to move State's 15 into evidence, Your Honor.

THE COURT: Any objections?

MR. POOLE: Subject to our prior objections, Your Honor.

MR. POOLE: Is that your position as well, Mr. Brown?
MR. BROWN: May I approach, Your Honor?
THE COURT: You may.
MR. BROWN: No, no objection, Your Honor.
THE COURT: All right. The Court will make the same ruling. It will be admitted and marked.
SOLICITOR GRAY: Thank you, Your Honor.
(WHEREUPON, State's Exhibit No. 15 was received into evidence at this time.)
Q Now, after he signed this, you went through his rights, how did the interrogation process go?
A You know, I just reminded him we talked at the hospital, and if wished to, you know, tell me again what happened, just, you know, to, I guess, to reiterate what he said at the hospital.
Q What did he say this time?
A It's pretty much the same thing. He said that -- I'd have to read what I put in my notes. He said he was the driver of the gray Nissan, which belonged to his girlfriend. He said that he, that he drove his two friends, Rashawn Reeder, and another guy known as Black, he was driving them home from Club Dreams. He left Club Dreams and went to the Waffle House on Asheville Highway next to the Kentucky, next to the Kentucky Fried Chicken. He left the Waffle House and went across the street to Sonoco.

They were sitting in the parking lot at Sonoco and no one went inside. He said they left and went around the circle and exit right. As they were getting onto I-85 business, and prior to getting on to I-85, he said there was a vehicle that came up beside and started shooting at them while they were on the ramp.

Q Okay.

A He said the suspect vehicle continued on I-85 business northbound as he made a right onto 585. He said that he and Mr. Reeder were shot. He drove -- he said he drove to Church's Chicken across the street from Spartanburg Regional Medical Center. They got out and went to the hospital, and an unknown man by the name is, known as Black and took the vehicle and drove off, drove off.

Q So, they---

A And, again, he said he didn't know who Black was.

Q They went to the hospital and somebody else took the car away?

A Yes, sir.

Q Okay. What happened to that car?

A We were notified that they found the vehicle in flames at Casey Avenue on the railroad tracks, and that vehicle was later identified, not by me personally, but identified as a vehicle that Mr. Cathcart was in control of or owned it.

Q All right. Now, this story about this I-85 shooting,

Business 85 I believe, is that correct?
A I -- it's like the -- when he was talking about the on-ramp right at the circle getting on Business 85.
Q Okay. Is that where Mr. Cathcart told you this shoot-out, shooting took place?
A That's where he was talking, he was talking about at the hospital. Yeah, I mean at the Sheriff's Office, yes.
Q Now, were there any calls at all about any shooting in that area that Mr. Cathcart told you about?
A No, sir, also I was advised that officers were in the Hearon Circle area at the time and not, not, no officer said that he heard anything or, or got any calls for shooting, shots fired on the, the ramp.
Q Did, for this date, this March 14th, was a scene found that looked like a shooting had occurred?
A Sergeant Cockrell notified us---
MR. POOLE: Objection to any hearsay, Your Honor.
THE COURT: I'll sustain the objection if he's about to give hearsay.
SOLICITOR GRAY: Thank you. Yes, sir.
WITNESS: I apologize.
It was determined that it was a, a scene found at Mt. Pleasant and Burns.
Q Is that near Bryant Road?
A Yes. Well, no. Well --.

Q Go ahead.
A I mean a few miles from Bryant Road.
Q A few miles from Bryant Road?
A Yeah.
Q Is that the Lakeview Manor neighborhood?
A Yes, sir.
Q But there was no crime scene shoot-out located where Mr. Cathcart told you he had gotten shot?
A I didn't find any crime scene. I didn't -- I don't know if anything was searched on that road just based on the fact that---
Q Uh-huh. (Affirmative).
A ---officers didn't hear any shots fired while they were present.

SOLICITOR GRAY: All right. One moment, Your Honor.

(Pause.)

Q Just briefly.

Both of your statements from Mr. Cathcart, did you write any of these down for Mr. Cathcart?
A No, sir.
Q Did you write the first interview down and have him sign it --
A No, sir.
Q -- or the second one?
A Neither one. It was -- both of them were verbal

statements.
Q He gave the statements freely, correct?
A Yes, sir.
Q Why weren't they written?
A He, he didn't write them down.
Q All right. Thank you. Please answer any questions that Mr. Poole or Mr. Brown may have.
THE COURT: Mr. Poole, your witness.
MR. POOLE: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. POOLE:

Q Investigator Durham, your testimony's essentially this, that you went to Spartanburg Regional Medical Center and you spoke with Darius Cathcart and he had been injured?
A Yes, sir.
Q And he gave you some information?
A Yes, sir.
Q Okay. And then, at a later date, you spoke with him at the Sheriff's Department?
A Later on that day, yes, sir.
Q Okay. And he gave you some information?
A Yes, sir.
Q And it's your testimony that that information was pretty much the same?
A Pretty much the same other than the fact it might of

been more detailed that what he said the first time at the hospital happened right down the street from Club Dreams and this one he, he---

Q Okay.

A ---sort of detailed is on, on the on-ramp of Business 85.

Q So, he had been treated for an injury and he been at the hospital for some period of time before he gave you the statement, right?

A Yes, sir.

Q And the second -- the first statement, you did not ask him to sign a pre-interrogation waiver form?

A That's correct.

Q Is that right?

A Yes, sir.

Q The second one you did?

A Yes, sir.

Q Because he was there at the Sheriff's Department?

A Yes, sir.

Q In custody?

A Yeah, he was -- custody being that he couldn't roam freely, yes, sir. I was in charge of his movements, yes, sir.

Q Okay. And you don't know what kind of treatment he received at the hospital, do you?

A No, I did not.
Q You don't know what kind of medication he had been taking, do you?
A No, I do not.
Q You don't know the extent of his injuries other than what you observed of him, do you?
A Only the fact that he was ambulatory when he got to the Sheriff's Office.
Q Okay. And these places we're talking about, Bryant Road, you know, and 85, and I don't, I don't know where all these places, places are.

Do you know where they are?

A Yes, sir.
Q You do?

Is it a fair assumption to say it's easy to not know where they are?

I mean we're talking about such different variety of places.

A If you're not from this area I can see how you could say, you know --.
Q Uh-huh. (Affirmative).
A But if you're from the area, I think everyone in Spartanburg knows where Hearon Circle is.
Q What about three o'clock at night if you're unexperienced and don't know the area that well?

A I couldn't testify to that.
Q Okay. You're saying you're---
A I pretty much, if I was knocked out right now and woke up somewhere in Spartanburg County, I would know exactly where I was within five minutes, but---
Q You're suppose to know, aren't you?
A Yeah.
Q Okay. But you don't know whether or not -- you have no way of knowing what is inside Darius Cathcart's head when he tells you locations?
A That's correct.
Q Whether he's, you know, telling you the exact place or not?
A No, sir.
Q And you don't know whether or not he's telling one place he really believes that he is at that place?
You don't know that, do you?
A I couldn't testify to that, no, sir.
Q Okay. Or if he does mention he's at a particular place that he's hiding any information from you, do you?
A I couldn't testify to that, no, sir.
Q Okay. You were involved pretty much in this investigation along with Lorin Williams?
A I think we only worked together that, at the hospital.
Q Okay.

A He, he had me go off and do other stuff and I was reporting back to him, yes, sir.
Q Okay. Was he the lead investigator?
A Yes, sir.
Q Okay. And you were helping him?
A A support role, yes, sir.
Q Okay. And there was a lot of law enforcement involved, right?
A There is. There was.
Q In fact, that night afterwards more and more law enforcement became involved.
Is that a fair statement?
A Yes, sir.
Q Okay. And as a result of your investigation, is it fair to characterize this incident when there were shots fired from two vehicles that it was a shoot-out?
A I guess you could say that. You can, you can categorize it that way if two people shoot back and forth at each other, yes.
Q Thank you.
THE COURT: Mr. Brown, your witness.

CROSS-EXAMINATION

BY MR. BROWN:

Q Officer Durham, you stated there was information about a gray Nissan?

A I spoke to Mr. Cathcart and he claimed that he was in his girlfriend's gray Nissan.
Q You said there was another car involved in this, this incident based upon any information that you received?
A Based upon information I received that there were two cars.
Q But there was, wasn't any other description from any conversation you had at that time---
A At that time---
Q ---based upon a description?
A No, sir.
Q Do you know of any other description of any other vehicle was ever involved in the entirety of this case?
A I was just involved in one, locating of Mr. Cathcart's girlfriend gray Nissan, which we did---
Q Okay.
A ---and it didn't have any holes in it.
Q All right. That's not my question.
My question is, based upon your involvement in this case and from, you know, in terms of dealing with other investigators and members of law enforcement, are there any other descriptions of the vehicles potentially related in this case?
A I'm not sure. I'm not sure if anyone told me to look for a specific vehicle or not.

Q And is it your testimony that you said officers in the area didn't hear any gunshots of I-85?
A That's what I was told. They're officers in the Hearon Circle area and they didn't report any shots fired.
Q What officers were in the area?
A I, I couldn't tell you.
Q But you were told that?
A Yes, sir, I was told.
Q But you don't know which officers---
A No, sir.
Q ---were in the area?
A No, sir, I couldn't, I couldn't say I knew this officer was there.
Q So, you can't say you talked to any officers that potentially may have been in the area directly yourself?
A That is correct.
Q And, so, you can't rule out that there was any type of gunshots that could of potentially went off in that area because upon that portion of your investigation?
A I can just tell I was told there are, they didn't hear anything.

MR. BROWN: That's all the questions I have.

THE COURT: Redirect.

SOLICITOR GRAY: Yes, sir, Your Honor.

THE COURT: Yes, sir.

REDIRECT EXAMINATION

BY SOLICITOR GRAY:

Q Did Mr. Cathcart give you specific street names during your interview?

A I don't believe he did. Well, no, sir, I don't believe he did. I think the first time he told me at the hospital it happened just right down the street from Club Dreams, and then the second time he was talking about the Waffle House on Asheville Highway next to Kentucky Fried Chicken, which---

Q He said---

A ---then he was talking about---

Q He said Asheville Highway?

A Well, I wrote Asheville Highway, and then he was talking about getting on to the I-85---

Q On ramp?

A ---and we do have a Waffle House right there at I-85.

Q And there was no crime scene established at that location?

A No, sir.

Q And the vehicle that Mr. Brown was asking you about, was it the same vehicle that Mr. Cathcart described?

Did you ever find that vehicle?

You said you found it.

A Found his girlfriend's vehicle.

Q Oh, okay. You found that one?
A Yes, sir.
Q And where was that?
A That was at -- we talked to her at her, at her job.
Q What is her name?
MR. POOLE: Your Honor, I object to this. I don't think this is proper redirect.
THE COURT: Is this some new matter that was brought out on cross-examination?
SOLICITOR GRAY: This is a matter talked about different cars, any cars that, that were otherwise investigated by Mr. Brown. He asked about it.
THE COURT: I'm gonna allow you to go into it. Overruled.
Q What's her name?
THE COURT: He can ask the question.
A It was Ms. Morris, a Terrin Morris, and we located her at her job at 111 Corporate Drive.
Q You said there was no damage to that vehicle?
A We didn't see any damage.
Q Thank you.
THE COURT: Now -- recross?
MR. POOLE: No, sir.
THE COURT: Mr. Brown, recross?
MR. BROWN: No, Your Honor.

THE COURT: You may stay down.

All right. Ladies and gentlemen of the jury, we're inside of ten minutes till five o'clock. Let me go over something with you at this point in time.

This week is a little unusual in that tomorrow is an official South Carolina State holiday, and, for that reason, we will not be holding Court tomorrow. That means we resume the trial of this case on Wednesday morning at nine o'clock.

During the break, I'm going to give you the same instructions that I gave you when you left the court house at lunch. That is not to attempt to gather any information about the case, not to discuss the case with anyone. Don't allow anyone to discuss it with you. Don't listen to, watch, or read any media reports concerning the case. And I'll ask you to be back in the jury room that's in use for this case at nine o'clock on Wednesday morning.

I regret the fact we have this break. But this is the only week of the year where we have a State holiday in the middle, in the middle of the week. So, we'll be breaking for tomorrow and then Wednesday morning we'll resume at nine o'clock.

I hope everyone has a good break. We'll see you on Wednesday morning. You're free to go at this time.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: All right. Court's in recess until nine o'clock on Wednesday morning.

Defendants remain in custody. Thank you very much.

(WHEREUPON, Court was in recess at this time.)

Wednesday, May 11th, 2011

(WHEREUPON, State's Exhibit Nos. 16 through 38 were marked for identification purposes at this time.)

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

SOLICITOR GRAY: Yes, sir, Your Honor.

THE COURT: Defense ready to proceed?

MR. POOLE: Yes, sir.

MR. BROWN: Yes, Your Honor.

THE COURT: All right. In chambers I had informed counsel that I had received a report from the Clerk's Office that Juror Number 93 had called in and indicated she was ill this morning and was unable to go forward. I instructed the clerk to advise that juror that they were released from the case. That means that we'll go forward with selecting an alternate from the two that remain.

Any objection to my proceeding in that fashion from the State?

SOLICITOR GRAY: None, Your Honor.

THE COURT: Any from the defense, Mr. Poole?

MR. POOLE: No, sir.

THE COURT: Mr. Brown.

MR. BROWN: No, Your Honor.

THE COURT: All right. I'd ask the clerk then to write the numbers of the two alternates on a slip of paper and

fold those and mix them up.

(WHEREUPON, the clerk complies.)

THE COURT: If you'll pass that over to the bailiff Mr., over here and let them hold them, shake them up, and then I'll ask the clerk to pull one of the slips of paper.

(WHEREUPON, the clerk complies.)

THE COURT: Number 10. Number 10 will be seated as a regular juror.

Any objection from the State?

SOLICITOR GRAY: No, sir, Your Honor.

THE COURT: Any from the defense?

MR. POOLE: No, sir.

MR. BROWN: None, Your Honor.

THE COURT: All right. Let's bring the jury panel in.

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: The record will reflect the jury has returned to the courtroom.

If any juror had any difficulty in complying with my instructions of Monday, please stand.

(No response.)

THE COURT: It would appear that all jurors have been able to comply with my instructions.

This morning I have released Juror Number 93, Anna Layne Kinsley, Kinsley. She was ill this morning and unable

to continue. As a result of release of that juror, Juror 10, Mr. Ballard, you are now on the regular jury panel.

Do you understand that, sir?

JUROR: Yes, sir.

THE COURT: All right. Now, at this point in time the State is still in the process of presenting its evidence.

You may call your next witness.

SOLICITOR GRAY: Thank you, Your Honor.

The State calls Dwight Geter.

THE COURT: Sir, come forward to my left and be sworn.

DWIGHT GETER, having been first duly sworn, testified as follows:

THE COURT: Have a seat please.

(Witness complies.)

THE COURT: State your name.

WITNESS: Dwight Geter.

THE COURT: Mr. Gray, your witness.

SOLICITOR GRAY: Thank you, Your Honor.

DIRECT EXAMINATION

BY SOLICITOR GRAY:

Q Mr. Geter, how old are you?

A Twenty.

Q On the night of March 14th, 2009, how old were you?

A Eighteen.

Q When that day started, what were your plans for the

evening?
A We were gonna go out, me and my brother.
Q Okay. What time did you and your brother go out?
A We left about 11:30 to 12:00.
Q Where did you leave from?
A My house, Lawson Fork, Bryant Road.
Q Lawsons Fork, Bryant Road?
A Yes, sir.
Q Okay. Lawsons Fork is a subdivision?
A Yes, sir.
Q Now, is that Lakeview Manor or near Lakeview Manor?
A Yes, it's near Lakeview Manor.
Q Okay. When you and your brother left, 12:00, 11:30, 12:00, did you pick anybody up?
A No, they was already in the car with us.
Q And who was that?
A They came to pick us up.
Q Okay. Who was that?
A Bryant and Marty.
Q Bryant Miller?
A Yes, sir.
Q And that was a red Crown Victoria?
A Yes, sir.
Q Now, were you the driver that night --
A Yes, sir.

Q -- even though they came to pick you up?
A Yes, sir.
Q When they left the house, where did you guys go?
A The Dreams.
Q Is that a club?
A Yeah.
Q And where is that club located?
A Off Asheville Highway.
Q Off of Asheville Highway.
Is, is it near the circle or near 585, Pine Street, or---
A I mean---
Q Let me help you. Hold on a second. Excuse me one minute.
Q I have for you what's been marked State's Exhibit 16.
Okay. Then I ask you real briefly, what are these pictures of, the overhead pictures?
A Say what these are pictures of?
Q Yes, sir.
Do you recognize any of the landmarks in that?
A It's 85.
Q Uh-huh. (Affirmative).
All right. Is -- in this photo, I guess you're saying off 85 right in this area?
A Yes, sir.

Q All right. After you went to Club Dreams, what happened at Club Dreams?
A We got in, we got into an altercation.
Q Got into an altercation.
Who did you get into an altercation with?
A With Darius Cathcart and them.
Q Okay. I'm sorry. I'm gonna have to ask you to be a little, more specific.
Is Darius Cathcart?
A That's the only one.
Q That's the only one you remember?
A Yeah.
Q Okay. Who was actually in the fight?
A Me, my brother, and Marty.
Q You, your brother, and Marty?
A (Witness nods affirmatively.)
Q Do you recognize Mr. Cathcart?
A Yes, sir.
Q Can you point him out please?
A The blue shirt.
Q All right. Let the record reflect---
THE COURT: Well, there's two blue shirts.
Are you talking about the dark blue or the light blue?
WITNESS: The dark blue.
THE COURT: Dark blue shirt.

SOLICITOR GRAY: Dark blue.

THE COURT: All right. Thank you.

The record will reflect that he's indicated Mr. Cathcart.

SOLICITOR GRAY: Thank you, Your Honor.

Q So, you, your brother, and another individual, Marty, got into a fight at Club Dreams.

Now, after you left Club Dreams, where did you go?

A We went to the -- we went to Waffle House.

Q At Waffle House, what happened?

A No, we were just sitting there and the police came. So, we left.

Q Okay. After you left there, where did you go?

A Got on 85 and went to Lakeview.

Q At Lakeview, did you do anything there, pick somebody up, drop somebody off?

A We dropped Marty off.

Q Okay. After you dropped off Marty, what happened then?

A We left out. We turned right at, come out of the neighborhood.

Q Uh-huh. (Affirmative).

A We came to a stop sign, and a car just pulled up beside us and started shooting.

Q You remember what road you were on?

A I forgot the name of the road.

Q Mt. Pleasant Road, Mt. Pleasant Road and Burns Road?
A Yeah, I think that's it.
Q You think so.
Now, show me -- tell me again what happened when you pulled out into the street.
Exactly what happened during the incident?
A We pulled up to the stop sign. We pulled up to the stop sign, a car went over, with the lights off, pulled up beside us and just started shooting into the car.
Q The car had its lights off?
A Yeah, not our car. The other car.
Q The other car had the headlights on?
The other car---
A Yeah.
Q ---that pulled up beside you had the headlights off?
A Yeah.
Q And then once they pulled up beside you, what happened then?
A Started shooting.
SOLICITOR GRAY: Okay. Your Honor, I'd like to enter these into evidence.
MR. POOLE: No objection.
THE COURT: Let the defense take a look at them.
SOLICITOR GRAY: Yes, sir.
THE COURT: Any objection?

MR. BROWN: No objection, Your Honor.
THE COURT: Any objection, Mr. Poole?
MR. POOLE: No, sir.
THE COURT: All right. Without objection, then they'll be admitted.
Are they already marked?
SOLICITOR GRAY: Yes, they are.
THE COURT: All right. They'll be admitted as they've been marked.
(WHEREUPON, State's Exhibit No. 16 was received into evidence at this time.)
THE COURT: You may proceed.
SOLICITOR GRAY: Thank you.
Q Okay. Mr. Cathcart -- excuse me. I'm sorry. Mr., Mr. Geter, said you was off Asheville Highway when all this occurred. This is Hearon Circle, Asheville Highway.
I guess Club Dreams would be somewhere in here, is that correct?
A Yes, sir.
Q Is that Club Dreams came down to the circle, to the Waffle House, that's about right here on Asheville Highway, is that correct?
A Yes, sir.
Q Now, when you left that club, excuse me, Waffle House, did you get on Business 85 going south or north?

A I think south.
Q Well, where is Lakeview Manor located?
Is it up near 221?
A Yes, sir.
Q So, it's 85 north. So, you got 85 north.
Now, you got off on which exit?
Did you get off at 221?
A We got off on 221.
Q You got off on 221.
Okay. Once you got off on 221 -- this is 85 up 221 to, to 221.
Once you got off 221, how did you get to Lakeview Manor from there?
A You turn left at the light to get on 221.
Q Okay.
A We made a right beside McDonald's on Mt. Pleasant.
Q Right beside McDonald's?
A Yes, sir.
Q So, as soon as you get off the exit, it's right beside the McDonald's, you take that up to your destination?
A Yes, sir.
Q Did you notice anybody behind you from the Waffle House parking lot?
A No, sir.
Q Okay. So, you went, dropped somebody off, went down,

went down Mt. Pleasant Road to the Lakeview Manor area, dropped Marty off?
A Yes, sir.
Q Come back down Mt. Pleasant -- okay. Come back down and right here is a business called -- well, you come by here and right about here is where the incident happened?
A At the four way.
Q At the four way near that red A right there?
A Yes, sir.
Q Now, at anytime between leaving Club Dreams, going to the Waffle House, going to Lakeview Manor, did you see anybody following behind you?
A No, sir.
Q Did you get into any incidents between Club Dreams and coming back from Lakeview Manor until the shooting occurred?
A No, sir.
Q Now, when the shooting situation happened, where were you in the car?
A I was the driver.
Q Did the car pull up on your right side or your left side?
A My left side.
Q So, the right side of the other car would of been facing you, the passenger side of the other car?
A Yes, sir.

Q Now, did you have a chance to look into the other car, see, see who was in it?
A No.
Q Okay. I, I don't know -- how instant or slowly was the attack?
I mean please describe it to me.
A It was bad. I couldn't see nothing.
Q So---
A As soon as they started -- I mean as soon as they started shooting, I just laid, laid down.
Q You lay down?
A Yeah.
Q Did you have a weapon?
A No, sir.
Q So, you didn't just shoot back---
A No, sir.
Q ---at all?
A No, sir.
Q Did you have an opportunity to see what happened to your brother during the shooting or after the shooting?
A Afterward.
Q And how long did the gunfire last?
A About like---
Q How long?
A Seemed like---

Q How long did it seem to last?
A It seemed like, like five minutes, but it was probably like two, like two minutes.
Q Was anybody in your car shooting back?
A Yes, sir.
Q Who was that?
A Bryant.
Q But there's no doubt that the car that pulled up beside you began shooting first, is that correct?
A Oh, yeah. Yeah, they---
Q Were your windows up or down?
A All the windows was up.
Q Did you have any special tint on your windows or anything?
A Yeah, I think it was tint on the windows.
Q So, at that intersection -- and did they -- did you see the car pull out behind you?
A No, sir.
Q You didn't.

When's the first time you noticed there was another car on that road when you were leaving Lakeview Manor?

A They started shooting.

THE COURT: Bring the lights back up.

You're not gonna use those?

SOLICITOR GRAY: No, I'm done that with, yes, sir.

THE COURT: Okay. Bring the lights back up.
(Bailiff complies.)
THE COURT: Thank you.
Go ahead.
Thank you.
SOLICITOR GRAY: Thank you, Your Honor.
Q After the shooting, which car left first?
A The other car pulled off.
Q Did you get an idea of what color the other car was?
A I just know it was a dark car.
Q Dark car.
Now, when you left the scene, where did you go first?
A We went to, went to my house.
Q You went to your house?
A Bryant Road.
Q On Bryant Road.
Why would you go to your house if you knew your brother was shot?
A I don't know. I just went to tell my mama.
Q The first thing incident (sic) was to tell your mother?
A Yeah.
Q Once you got there, did you, in fact, tell your mother what had happened?
A Yes, sir.
Q How long did you stay at your mother's house before you

went to the hospital?
A It wasn't that long. Like, about like four or five minutes. Not even that long.
Q How long did it take you to get to the hospital?
A About probably five minutes.
Q Once you got to the hospital, what did you do?
A I ran in and told them my, my brother was shot.
Q Did you ever see your brother again after you went to the hospital?
A No, sir.
Q Did you help bring him out of the car?
A No, sir.
Q Did you go into the room where he was being treated?
A They wouldn't let nobody in the room.
Q And when did you find out your brother was dead?
A Like a couple minutes later after we got to the hospital.
Q And the reason he died is because of a shooting from this other dark car?
A Yes, sir.
Q Like I say, this car followed, this car followed you from Club Dreams or from the Waffle House?
A I guess from the Waffle House.
Q And you said one of the participants in that fight that night you recognized was a Mr. Cathcart, is that correct?

A Yes, sir.
Q I show you what's been marked as State's Exhibit No. 30. I ask if you, if you recognize this, sir.
A Yes, sir.
Q What is that, sir?
What is that?
A A lineup.
Q A lineup?
A Yes, sir.
Q In that lineup, did you identify the person -- did you identify somebody in that lineup?
A Yes, sir.
Q Who did you identify?
A Darius Cathcart.
Q And on the other side, I believe, if you'll flip that over, who did you identify Mr. Cathcart as?
A The one that we was fighting with---
Q At Club---
A ---at the club.
Q At Club Dreams?
A Yes, sir.
SOLICITOR GRAY: Your Honor, I'd like to, I'd like to, like to move Exhibit No. 30 into evidence, Your Honor.
MR. POOLE: No objection, Your Honor.
THE COURT: Any objection?

MR. BROWN: Your Honor, I'd like to take a look at that.

THE COURT: Yes, sir, please do.

(Pause.)

THE COURT: Any objection, Mr. Brown?

SOLICITOR GRAY: We have a matter, Your Honor.

MR. BROWN: Your Honor, we have a matter of law.

THE COURT: All right. Ladies and gentlemen of the jury, at this time I need to discuss something with the attorneys. I'll ask you to step back to the jury room. As always, I'll instruct you not to begin any discussions until I've advised you to do so.

You may retire.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: Yes, sir.

MR. BROWN: Your Honor, specifically the assistant solicitor directly examined Mr. Geter as relates to the affidavit of the photo identification by Mr. Geter identifying Mr. Cathcart, and from the testimony we heard on the stand as well as the direct questions coming from Mr. Gray, he specifically asked about the club. However, the affidavit of the photo identification by the penmanship goes just a little bit further, Your Honor. In particular, it says I think the person who was involved in the fight at

the club and shooting was my brother.

We've not heard any testimony or any presentation in Court as relates to and shooting my brother, Your Honor. I think that goes just a little bit too far in terms of what's been presented thus far especially at the point in which Mr. Gray was attempting to enter this. So, I would object to that portion. Not the entirety of the affidavit, but I would ask the Court to have this redacted just for the line that says and shooting my brother.

SOLICITOR GRAY: No disagreement, Your Honor. We understand he did not identify Mr. Cathcart or Mr. Reeder during the shooting, Your Honor. He said he laid down once the bullets started flying.

THE COURT: All right. So, you wish to -- this is an original.

Do you wish to make a copy and do a redaction?

MR. BROWN: Have the copy presented to the jury in terms of---

THE COURT: Get the copy presented for the jury. This will be marked for identification purposes---

MR. BROWN: Yes, sir.

THE COURT: ---and put in the record for identification purposes. It is the original.

MR. BROWN: Yes, sir.

THE COURT: And, of course, the law requires the

original generally. But now if you -- unless you, you wanted to, want to go ahead and offer the original. I don't know if you want to do that or not.

MR. BROWN: I don't have a problem with that, Your Honor. The prosecution does.

THE COURT: Well, I'm asking him now.

SOLICITOR GRAY: I don't have a problem with it, Your Honor.

THE COURT: All right. Well, I'm gonna pass it down.

Somebody got a magic marker or something we can redact it?

MR. BROWN: But as long as -- I know Mr. Poole definitely have a problem with my ability for the jury to see any whiting out.

THE COURT: All right. Well, why don't we -- let's -- we can make a copy and, and, and take it off.

MR. POOLE: Yes, I'm just concerned that the jury might see white-out.

THE COURT: And I'm concerned also about the quality of the copy because what it looks -- the document is a photo lineup. On one side it has the photos that were used in the lineup. On the other side is the affidavit in question. And obviously the quality of the photos may be, come into question. And, so, the original has some importance in the case.

MR. POOLE: Yes, sir.

THE COURT: But you can't split a paper in that direction. So, I'll -- so, I'll let you attorneys talk about it, see how you want to work it out. If you want to make copies and see how the copy turns out, maybe you want to look at that. So, we'll take a moment and let you see what you can do with it. We've got a copy machine right here if you want to try to make a copy.

(Pause.)

SOLICITOR GRAY: Your Honor, I think we have a solution. It's gonna take a few minutes.

THE COURT: Okay. Well, we'll take about a five minute recess at this point in time.

I'll instruct the witness not to discuss his testimony with anyone during the break. You may step down from the witness stand and move about the courtroom.

Court will be in recess for about five to ten minutes.

Just let us know when you're ready, Mr. Gray.

SOLICITOR GRAY: Yes, sir.

THE COURT: Thank you.

(WHEREUPON, a short recess was taken at this time.)

THE COURT: All right. Has the exhibit been repaired?

SOLICITOR GRAY: Yes, sir, Your Honor.

THE COURT: Been redacted?

SOLICITOR GRAY: Yes, sir.

THE COURT: Any objection to, objection to the redacted version?

MR. POOLE: No, sir.

MR. BROWN: No, sir.

THE COURT: All right. Has it been marked?

SOLICITOR GRAY: Yes, sir.

THE COURT: All right. It will be admitted as it's marked.

SOLICITOR GRAY: Thank you, Your Honor.

(WHEREUPON, State's Exhibit No. 30 was received into evidence at this time.)

THE COURT: All right. State ready for the jury?

SOLICITOR GRAY: Yes, sir, Your Honor.

THE COURT: Defense ready?

MR. POOLE: Yes, sir.

MR. BROWN: Yes, sir.

THE COURT: Bring the jury in.

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: The jury has returned to the courtroom. The State may proceed with this witness.

SOLICITOR GRAY: Thank you, Your Honor.

CONTINUED DIRECT EXAMINATION

BY SOLICITOR GRAY:

Q I had just asked you about the lineup, and moved it

into evidence.

At this time, Your Honor, State has no further questions of this witness.

THE COURT: All right.

Q Please answer questions Mr. Poole or Mr. Brown may have.

THE COURT: Mr. Poole.

MR. POOLE: Thank you.

CROSS-EXAMINATION

BY MR. POOLE:

Q Mr. Geter, it was your testimony just a moment ago that you left around 11:30 or twelve o'clock with your brother, Marty, and Bryant Miller?

A Yes, sir.

Q What's Marty's last name?

A Jackson.

Q Jackson.

Okay. And that you were the driver of the car?

A Yes, sir.

Q And that y'all went to Dreams --

A Yes, sir.

Q -- is that right?

And then there was an altercation?

A Yes, sir.

Q Were y'all thrown out of that club?

A Yes, sir.
Q Okay. Who was thrown out?
A Just us three, for the fight.
Q That was us three being whom?
A Me, my brother, and Marty.
Q Okay. You, your brother, and Marty?
A Yes, sir.
Q Okay. And it was -- you further testified that it was actually you, your brother, and Marty that was involved in the altercation, is that true?
A Yes, sir.
Q And you stated that Darius Cathcart was involved in the altercation, is that right?
A Yes, sir.
Q And then you-all went to the Waffle House, is that correct?
A Yes, sir.
Q The police came and you left?
A Yes, sir.
Q And then you dropped off Marty?
A Yes, sir.
Q And then a car pulled up beside you and shot at you?
A Yes, sir.
Q And that you had no weapon?
A No, I didn't.

Q You testified that you had no weapon a while ago.
A Yes, sir.
Q Is that right, you had no weapon?
A Yes, sir.
Q Okay. And that -- I believe that was the important parts of, as I got my notes, of your testimony today, is that right?
A Yes, sir.
Q Let me take you back to the evening or early morning of March 14th, 2009.
Do you remember talking to Investigator Lorin Williams?
A Yes, sir.
Q He's been a detective here for a long time in Spartanburg County?
A Yes, sir.
Q Do you remember talking to him?
A Yeah.
Q Do you remember telling him that your brother had gotten into an altercation with some guys that he didn't know?
A Yes, sir.
Q That you didn't know?
A Yes, sir.
Q You remember telling him that?
A Yes, sir.

Q And that you stated that you had never seen them before?
A Yes, sir.
Q You remember telling him that?
A Yeah.
Q And why is your testimony changing from what you told Detective Williams and what you're testifying today?
A What changed?
Q You testified, under direct examination just a moment ago, that who was in the fight was me, my brother, and Marty and Darius Cathcart?
A Yes, sir.
Q Just a while ago.
A Yes, sir.
Q The very night of this incident, you told Lorin Williams that your brother had gotten into an altercation with some guys that you didn't know.
Explain the inconsistency.
A Cause I recognized them now. I ain't know who it was at the time.
Q You stated that you had never seen them before.
A I didn't know them.
Q You stated, on that night, that you had never seen them before.
Explain the inconsistency.

A (No response.)
Q Can you?
A No.
Q So, you're lying?
A No, I ain't lying.
Q Explain the inconsistency then.
A Can't explain it.
Q You were being evasive -- well, let me, let me ask you this.

You had a further conversation with Investigator Lorin Williams and you told him some more, gave him some more information that's inconsistent with your prior testimony today and let me ask you about this.

Didn't you tell the detective that you heard the gunshots, we're talking about the shoot-out now, laid over in the seat and removed the gun from the console and returned fire?
A Yes, sir.
Q Yet you testified under oath today that you had no weapon?
A Yes, sir.
Q Explain the inconsistency.
A The reason I said that the first, the first cause I ain't want, I ain't want nobody else to go down for that, the shooting, me shooting back. But on the testimony I give

here today is the truth.
Q So, on the very date of this shoot-out, you told the law enforcement that you laid over in the seat and removed a gun from the console and returned fire?
You admit that?
A Yes, sir.
Q Let me show you a document here which is dated 11, let's see, 11:47 a.m. on the 14th of March.
Is that your signature?
A Yes, sir.
Q Could you -- and did you give this statement?
A Yes, sir.
Q And who did you give it to?
A The officer.
Q All right. Would you read it to the jury?
A We got into it at the club.
Q Could you speak up a little please?
A We got into it at the club, left. They followed us and we got to the four way and then we -- we, we got to the four way. They pulled up and started shooting. When I seen that my brother was shot, I started shooting back. I said that.
Q You said you started shooting back?
A Yes, sir.
Q So, on March 14th you gave an oral statement stating that you laid over in the seat, removed a gun from the

console, and returned fire, right?
A Yes, sir.
Q You gave a written statement when you, you admitted that you were shooting back, right?
A Yes, sir.
Q And you testified under oath today that you had no weapon?
A Yes, sir.
Q Again, I ask you to explain the inconsistencies.
A I can't explain them.
Q Are you lying?
A No, I'm not lying. I just told you what I said about it.
Q Well, I think one of the things you said that you didn't want anybody else to get in trouble.
Who are you covering up for?
A Nobody. But at the time I was. I was just gonna -- I -- at the time I was covering up for Bryant. But now I'm telling the truth.
Q At the time you were covering up for Bryant?
A Yeah.
Q So, at the time, at the time was the night that this happened?
A Yep.
Q So, at that time you were lying?

A Yep.
Q And you're telling the truth now?
A Yes, sir.
Q Why should you expect this jury to believe you now when you stated that you were lying then?
A Cause I'm telling you that I was lying.
Q Did you not also say to, on this very night, to Detective Williams that you threw the gun out of the car on Floyd Road?
A Yes, sir.
Q Can you explain the inconsistency in that statement?
A No, that was where we threw the gun --
Q Pardon me?
A -- on the way to Mary Black.
Q Pardon me?
A On the way to Mary Black, that's where we threw the gun.
Q We threw the gun?
A Well, he threw the gun.
Q He threw the gun?
A Yeah.
Q Didn't you tell Lorin Williams --
A After.
Q -- that you threw the gun out of the car on Floyd Road?
A Yeah.

Q Now it's we threw the gun out on Floyd Road.
Can you explain that?
A Nope.
MR. POOLE: State's Exhibit No. 30, is that, Mr. Gray, right here?
SOLICITOR GRAY: Yes, sir.
MR. POOLE: May I approach the witness, Your Honor?
THE COURT: You may.
Q Mr. Geter, this is been introduced into evidence as State's Exhibit No. 30. It is an affidavit of photo, photograph identification along with a lineup and circled on the lineup, I think you've testified, is a photo of Darius Geter, is that right?
A Huh?
Yeah.
Q Did you circle that?
A Yes, sir.
Q Okay. Is that a photo of Darius Geter?
A Darius Geter?
Q Yes, sir.
A No.
Q I'm sorry. I am misusing -- I'm getting my names confused. I apologize.
Darius Cathcart, is that a photo, photograph of Darius Cathcart?

A Yeah.
Q Did you circle it?
A Yeah.
Q Now, read what you stated in your affidavit.
A I think was involved in the fight at the club.
Q You -- I think was involved in the fight at the club?
A I ain't write that.
Q But you told -- you made a statement I think was involved in the fight at the club, right?
A Yeah.
Q And this is a sworn document, isn't it?
A Yeah.
Q So, you made that statement under oath?
A Yes, sir.
Q I think was involved in the fight at the club, right?
A Yeah.
Q And now you're stating that you know he was involved in the fight at the, at the club, right?
A Yeah.
Q And then one more time, back to what you told Detective Williams, you told him that your brother had gotten into an altercation with some guys, some guys that you didn't know.
Which statement should we believe now?
A The one I just gave you.
Q Pardon me?

A The one -- whatever statement you want to believe.
Q Whatever statement we want to believe.
A The statement I just gave you.
Q Which one is that?
Help us out.
A The last statement I just gave you.
Q The last statement?
A Yeah.
Q Not the one you gave right just a few hours after all---
A Nope.
Q ---this went down?
A Nope.
Q Right.
Don't believe anything that you say -- you don't want us to believe anything you said just a few hours after all this went down?
A Nope.
Q Did you ever tell Lorin Williams that there was a Monty that was dropped off, off out of the, the car, not a Marty?
A He might of thought I said Monty, but---
Q Was Marty dropped out of the car before or after the shooting?
A Before.
Q Before?

A Yeah.
Q Were you in the courtroom when Mr. Miller testified yesterday?
A Yeah.
Q Do you remember what he said about when Marty was dropped off?
A Yeah.
Q What did he say?
A He said we dropped him off first.
Q He didn't say---
A No, he said we -- I, I really don't remember what he said.
Q Did he not say that y'all let Marty out after the shooting?
A Yeah.
Q So, which is -- which case is true?
A We dropped him off before. We dropped him off at Lakeview Manor.
Q You dropped him off before the shooting?
A Yes, sir.
Q And not after?
A Nope.
Q So, you're saying -- well, your testimony is inconsistent with Mr. Miller's, isn't it, on that point?
A (No response.)

Q Can you explain it?
A No, sir.
MR. POOLE: Ask the Court bear with me just a minute please.
THE COURT: Yes, sir.
(Pause.)
Q Okay. At least one thing we've gotten fairly clear is that there was a gun in the, in the car you were in, right?
A Yes, sir.
Q What kind of gun was it?
A I don't know.
Q Where did it come from?
A I don't know. Bryant had the gun.
Q Pardon me?
A I guess he had it the whole time. I don't know.
Q He had it on him?
A Yeah.
Q What kind of gun was it?
A I don't know.
Q He's a friend of yours?
A Yes, sir.
Q Y'all go out a lot?
A Yes, sir.
Q Has he carried a gun with him before?
A Yes, sir.

Q You've never seen it?
A I seen it, but I don't know what kind of gun it is though.
Q What did it look like?
A I don't know. It was black.
Q Black.
Is that the gun that was thrown out?
A Yes, sir.
Q Any other guns in the car?
A No, sir.
Q Whose car was, did, did the Crown Victoria belong to?
A It was Marty's car.
Q I'm sorry.
Who?
A It was Marty's car.
Q Marty's car?
A Yeah.
Q Marty who was dropped off before or after --
A Yeah.
Q -- the shooting we don't know, right?
A Yes, sir.
Q That's Marty.
Okay. Do you know what a Luger is?
A No, sir.
Q You know what it looks like?

A I don't know what it is.
Q Okay. All right.
Just a moment please.
THE COURT: Yes, sir.
(Pause.)
MR. POOLE: That's all the questions I have of this witness, Your Honor.
THE COURT: Mr. Brown, your witness.
MR. BROWN: Thank you, Your Honor.
THE COURT: Yes, sir.
MR. BROWN: Very briefly.

CROSS-EXAMINATION

BY MR. BROWN:

Q Mr. Geter, you said me, my brother, and Marty, y'all were the only ones that got kicked out of the club?
A Yes, sir.
Q So, the people that your brother got into, they didn't get kicked out as far as you know?
A I don't know if they got -- I don't know if they got kicked out.
Q But you know you got kicked out?
A Yeah.
Q Did you enjoy getting kicked out?
A No.
Q You was upset about that?

A No, I wasn't upset.
Q So, did you enjoy getting kicked out?
A I didn't enjoy it, but I was ready to go home anyway. So --.
Q So, you were mad about getting kicked out?
A No, sir.
Q Were you mad about getting into it with anybody?
A Yes, sir.
Q So, that made you mad?
A Yes, sir.
Q Do you know Brandon Glenn?
A No, sir.
Q Do you know Bryant Miller?
A Yes, sir.
Q You wouldn't know Brandon Glenn if you saw him?
A I don't know that name.
Q Did you ever see anybody come up and speak with Mr. Miller at the bar?
A We got kicked out and he was still in there. So, I don't know.
Q Were you at the bar with Mr. Miller?
A No, sir.
Q Did you ever go to the bar that night?
A No, sir.
Q After you got kicked out, where did you go?

A To the Waffle House.
Q How long did you stay at the Waffle House?
A Probably like thirty minutes.
Q And then you left?
A Yes, sir.
Q Talk to anybody at the Waffle House?
A Yeah, I think we talked to a couple peoples.
Q Talked to anybody at the Waffle House about what happened at the club?
A No, sir.
Q Talked to anybody at the Waffle House about the fact that you said someone jumped on your brother?
A No, sir.
Q So, you had let it go at that point?
A Yes, sir.
Q Y'all didn't even talk about it?
A No, sir.
Q You, your brother, and no one else?
A No, sir.
Q You just let it go, getting kicked out of the club?
A Yeah, basically.
Q Any, any ladies at the club that night?
A Yes, sir.
Q When you go to the club, if you're rolling, then how many cars would you take, more than one?

A If you what?
Q If you had more than five people with you, would you just take one car or would you take two?
A More than one car.
Q And if friends were meeting at the club, coming from different places, you would agree with me that you would take more than one car to a club?
A Yes, sir.
Q And that's been the situation with you on a few times?
A Yes, sir.
Q If you had some friends coming to the club, they didn't come at the same time you did, they would come in a different car?
A Yes, sir.
Q All right. Do you know what a banana clip is?
A A clip.
Q Yes.
SOLICITOR GRAY: Objection, Your Honor. Relevance.
THE COURT: He's on cross-examination. He can ask him if he's familiar with that.
Q Have you heard---
THE COURT: Overruled.
Q You've heard the term Chiquita?
A No, sir.
Q You've never heard the term Chiquita.

You ever heard the term banana clip?
A Yes, sir.
Q You've heard the term .40 cal?
A Yeah.
Q What's a .40 cal?
A It's a gun.
Q Were you present in the courtroom during the time when Mr. Miller took the stand?
A Yes, sir.
Q Did you hear him talk about the .40 cal?
A Yeah.
Q What do you know a .40 cal to be?
A A gun.
Q And in particular, the .40 cal that relates to Mr. Miller, what does that mean to you?
A Say that again?
Q As it relates to Mr. Miller and the .40 cal, what does that mean to you?
A Nothing.
Q Did you hear Mr. Miller say he possessed a .40 cal on this evening?
A Yes, sir.
Q Do you know what a .40 cal is?
A Yeah.
Q And you knew what a .40 cal was before coming here?

A Yeah.
Q Do you know what a Glock is?
A A gun.
Q Do you know what a 9-millimeter is?
A A gun.
Q Do you know what a Chopper is?
A Yeah.
Q How do you know what a Chopper is?
A It's a -- just know the guns.
Q So, you do know what guns are?
A Yeah.
Q So, when Mr. Poole asked you about your knowledge of weapons, you did have some understanding of weapons?
You would agree with me on that?
A Yeah.
Q Okay. Now, it's your, it's your testimony here today, almost some two years after this incident, that you didn't shoot any gun on that evening?
A No, sir.
Q But in the time period very close to when this incident occurred, you told Investigator Williams that you did shoot that evening, correct?
A Yes, sir.
Q And you're saying you're covering up today for Bryant?
A Yeah, I was.

Q You was.
But you're not today?
A No, sir.
Q Why aren't you covering up for Bryant today?
A Cause he told me I would help him.
THE COURT: That's all the questions I have, Your Honor.
THE COURT: Redirect.
SOLICITOR GRAY: Yes, sir, Your Honor. Briefly.
THE COURT: Yes, sir.
REDIRECT EXAMINATION
BY SOLICITOR GRAY:
Q On the night of the shooting, which car shot first?
A The car that pulled beside us.
Q Thank you.
Nothing further, Your Honor.
THE COURT: Anything further, Mr. Poole?
MR. POOLE: No, sir.
THE COURT: Mr. Brown?
MR. BROWN: No, sir.
THE COURT: You may step down, sir.
The State may call its next witness.
SOLICITOR TAILOR: The State calls Heather Forrester.
THE COURT: Come forward please, ma'am, to my left to be sworn.

HEATHER FORRESTER, having been first duly sworn, testified as follows:

THE COURT: Have a seat please, ma'am. Once you're seated, state your name.

WITNESS: Heather Forrester.

THE COURT: Ms. Tailor, your witness.

SOLICITOR TAILOR: Thank you, Your Honor.

DIRECT EXAMINATION

BY SOLICITOR TAILOR:

Q Can you tell us where you work, ma'am?

A Spartanburg County Sheriff's Office.

Q And how long have you worked there?

A Since August of '05.

Q Okay. On the night of March 14th of 2009, were you working?

A I was.

Q And where were you around midnight that night?

A Around midnight?

Q Or during that night.

A I was working. About 4:00 a.m. Deputy Davis and I were working off of Skylyn Drive in Spartanburg County.

Q And did you receive a call?

A I did.

Q What was that call in reference to?

A I got called. Dispatch called me at approximately,

approximately 4:06 and said that there were two gunshot victims at Mary Black Hospital.

Q And what did you find when you went to Mary Black Hospital?

A When I arrived on scene, I saw a red Crown Ford Vic parked in the EMS ramp where they were doing construction. No one was in the car and I observed Mr. Dwight Geter on the, I guess, the ramp.

Q Okay. Did you find out what happened?

A When I first tried to speak with Mr. Geter, he, he wouldn't talk to me. It appeared to me maybe, you know, he was in shock. When his mother arrived on scene and started speaking with him, then he told me what had happened.

Q What did you---

A Briefly what had happened.

Q What did you observe on that Crown Victoria, the vehicle that was there?

A I really didn't. I was more focused on Mr. Geter. So, I really didn't look at the car at all. Deputy Davis was securing the vehicle.

Q And then what else did you do that day?

A I spoke with Mr. Geter briefly.

Q What did he tell you?

A He told me that earlier in the night he and his brother and a friend, the friend's name that he gave me was Bryant

Miller, they were at the Club Dreams in, in Spartanburg County, and they got into an altercation with two black males that they did not know. He stated that he was on Burns Road and Mt. Pleasant Road and came to a stop. A green vehicle pulled up to the side and began shooting.

Q Did you report that information back to your, your boss or your, or your---

A Yes, to my supervisor.

Q Did you speak with anyone else that night or observe any other people at the hospital that night?

A As far as?

Q As far as any other victims or any other people who arrived in relation to, to that incident.

A I know that there was a victim who was being, being treated at the hospital. The only victim I spoke to was, was Mr. Geter, Dwight Geter.

Q Okay. Please answer any questions Mr. Poole and Mr. Brown may have for you.

THE COURT: Mr. Poole, your witness.

MR. POOLE: Thank you.

CROSS-EXAMINATION

BY MR. POOLE:

Q How are you doing, Ms. Forrester?

A I'm good.

How are you?

Q Fine.

Just one question.

Dwight Geter told you on that very evening that he got into a fight with two black males that he did not know?

A He told me that he and his friends, his brother, and his friend got into an altercation at Club Dreams with, with several unknown black males.

Q With several?

A Yes, sir.

Q Not two, but several?

A Several.

Q Several.

Thank you.

A You welcome.

THE COURT: Mr. Brown.

MR. BROWN: No questions, Your Honor.

THE COURT: Redirect?

SOLICITOR TAILOR: No, Your Honor.

THE COURT: Ma'am, you may step down. Thank you very much.

State may call its next witness.

SOLICITOR TAILOR: Call Matt Davis.

THE COURT: Come forward and be sworn please.

MATT DAVIS, having been first duly sworn, testified as follows:

THE COURT: Have a seat please on the witness stand, and once you're seated I'd ask that you state your name.

WITNESS: Matthew Davis.

THE COURT: Ms. Tailor, your witness.

DIRECT EXAMINATION

BY SOLICITOR TAILOR:

Q Mr. Davis, where do you work?

A Spartanburg County Sheriff's Office.

Q And approximately how long have you worked there?

A Been there since July of '08. Before that I was at Spartanburg City Police Department.

Q On the night of March 14th, 2009, were you working?

A I was.

Q And could you please explain to us what happened that day?

A That night I was, met up with Deputy Forrester, and we were just having a small talk conversation when a call come out that needed to respond to Mary Black. We were just down the road from Mary Black and responded over to Mary Black, arrived on scene the same time. Once we got there, I was advised by security that the red Ford Crown Vic that we observed right there in the EMS bay, cause they were having construction, they had pulled up in that area that was actually not being utilized at that time, that there had been a shooting. They had pulled one person out, the

medical personnel, and one was inside, one was to the side. And they pointed just down a little walkway where he was standing there and that's the only thing he was doing. He was later identified as Mr. Geter. And I, at that time, secured the vehicle to ensure that no one or nothing came in or out of that little area.

Q So, when you say you secured the vehicle, did you tape it off?

Did you just stand there---

A I did.

Q ---and observe it or what did you do?

A It's our practice, when we refer to secure something, is to, to tape off the scene. Taped it off around the entrance to allow for that cause they had construction so that way people could still walk out to go to their cars. I was able to tape it off to a manner to where people could still walk to get to their vehicles and not have to go to the other side of the building, then walk all the way back in the parking lot. It was taped off. And then I observed it to make sure that no one touched anything, took anything, that if they were coming by the crime scene tape, the only thing they could do was just look at it with their eyes as they walked by because I make, if there's any shift change, that everybody just kind of kept the pace of moving out, not getting near the vehicle, just keep on walking.

Q Okay. Did you stay with the vehicle until what time?
A I stayed with it till 7:20 hours. The only time I had to do anything out of the ordinary other than watching it is when I observed a female who identified herself as the mother of Mr. Geter. She pointed and said I'm his mother. She was coming up to make sure she wasn't gonna penetrate that area of the crime scene, which I listened to the statement she made to her son.
Q When you said his mother, are you talking about Mr. Geter?
A Yes, she pointed to Mr. Geter and said I'm his mother. So, I allowed her to walk over there to where he was at.
Q All right. But she still did not touch the vehicle or go near the vehicle?
A No, ma'am.
Q Did you hear her say anything---
A I did.
Q ---as she walked up?
What, what did her demeanor appear to be?
A She appeared to be very concerned, upset. She said that -- she asked, I guess it'd be her son, the older brother, younger brother, the brother said, you know, what, what's basically you know how his, what's his -- basically referred to his physical status, is he okay, you know what are they saying about him. He was at a loss for words. Do

not recall him saying anything.

Before he could really mumble anything, she asked him, she said why did you come to the house first, why didn't you just come here to the hospital. And during that time I maintained a crime scene log. So, it'd be documented who was there in that area with us as far as our --.

Q Okay. And what time did you -- did you release that vehicle to anyone within your department?

A I did. ID Officer Shawn Nix, he arrived with a search warrant at that time. He was going to take over the scene, security, processing. Him and the coroner had arrived around the same time, which was Mike Shaw. And it was released to him. Paperwork was given to them.

Q Please answer any questions that Mr. Brown or Mr. Poole may have.

THE COURT: Mr. Poole, your witness.

MR. POOLE: No questions, Your Honor.

THE COURT: Mr. Brown.

CROSS-EXAMINATION

BY MR. BROWN:

Q Are you Brian T. Davis?

A No, I'm Matthew B. Davis.

Q But you're familiar with Officer Davis, Brian T. Davis?

A There's a lot of Davis'.

Q Or T. Davis?

A T. Davis?
Q Yes.
A Yes, I believe so.
Q Did you ever speak with that officer on this evening?
A If I would of spoken with him it would of had to of been by telephone.
Q Okay. And you didn't make any type of identification of any materials or items associated with the vehicle that you observed at the hospital?
A The only thing I did was ensure that, that nothing went in, nothing come out of that area. Did not make any, as far as no, no physical identifications as far as where things were located, no, sir.
Q Okay. And during, during that time period, did you see anyone return to the vehicle?
In particular, either Mr. Geter or Mr. Miller?
A No, sir, no one returned. I wouldn't even allow the security officer anywhere near it. His job was done. I told him he needed to write a statement. He was at the side doing that. I didn't even get to see his statement. It was given to Deputy Forrester. I just made sure no one else touched that vehicle once we got there to the scene so everything would be preserved.
Q Thank you, officer.
That's all the questions I have, Your Honor.

THE COURT: Redirect?

SOLICITOR TAILOR: No further questions, Your Honor.

THE COURT: You may step down, sir.

State may call its next witness.

SOLICITOR GRAY: Thank you.

State calls Tim Davis.

THE COURT: Come forward, sir, to be sworn.

TIM DAVIS, having been first duly sworn, testified as follows:

THE COURT: Have a seat please, sir. Once seated, if you would state your name.

WITNESS: Tim Davis.

THE COURT: Your witness, Mr. Gray.

SOLICITOR GRAY: Thank you.

DIRECT EXAMINATION

BY SOLICITOR GRAY:

Q Deputy, first of all, Mr. Davis, where do you work?

A At the Spartanburg County Sheriff's Office.

Q Did you respond on March 14th, 2009, in regards to the shooting incident?

A I did.

Q What did you do that night, sir?

A I was asked to respond to a location on the roadway along Mt. Pleasant and Burns in reference to a, collecting a swab of possible blood that was seen in the roadway.

Q All right. Did you ever go to Mary Black Hospital?
A Not that I recall.
Q Okay. Did you ever go back to your county tow shop? Well, what's it called when you guys get cars and bring them in?
A Yes, it's the county impound or, or county shop.
Q Did you go there then?
A Not that night I didn't.
Q Okay. But you did go eventually concerning this case?
A I may have. If I did, it was simply to assist Deputy Talanges. I wasn't directly the one in charge of processing any of the vehicles.
Q Okay. Did you take any pictures?
A It's possible.
Q I want to show you some pictures, ask you if you recognize them. It's State's Exhibit 17.
A I do recognize the photos.
Q Uh-huh. (Affirmative).
A Most of which were taken by Deputy Talanges.
Q Most of the ones taken by Deputy Talanges?
A Yes, sir.
Q And did you -- standard procedure in this case would be to follow this car back from Mary Black to the county impound?
A It's usually secured in some manner. A lot of times

it's actually followed by an officer to that, to that location quite often.

Q And were you with Officer Talanges when he took these pictures?

A Through most of them, yes, sir.

Q Have these pictures been altered in any way?

A No, sir.

Q And is this a correct representation of what the car was and what was found in the car?

A That is correct.

Q Thank you.

At this time we move State's 17 into evidence, Your Honor.

MR. POOLE: No objection.

THE COURT: Any objections?

MR. BROWN: No objection, Your Honor.

THE COURT: All right. The pictures will be received as marked.

(WHEREUPON, State's Exhibit No. 17 was received into evidence at this time.)

SOLICITOR GRAY: Thank you, Your Honor. No further questions of this witness. Please answer any questions Mr. Brown or Mr. Poole may have.

THE COURT: Mr. Poole, any questions?

CROSS-EXAMINATION

BY MR. POOLE:

Q How are you doing today, deputy?

A Good, sir.

MR. POOLE: May I approach the witness, Your Honor?

THE COURT: You may.

Q Are you familiar with this diagram here, deputy?

A No, sir, not really. I realize it's related to the case due to the information on it.

Q Okay. It had your name on it. I didn't know if you were the originator of it.

A I was the first one that went to that location.

Q Okay. So -- and what -- when you say this location, what location are you talking about?

A That location on, at Mt. Pleasant and Burns.

Q Is that a four way stop?

A There's one close by.

Q One close by?

A Yes, sir.

MR. POOLE: Okay. May I approach again, Your Honor?

THE COURT: Yes, you may.

Q On this diagram, could you mark for me please where the four way stop is if it's on there?

A I believe that's gonna be Mt. Pleasant and Burns if I'm not mistaken.

Q You believe it's Mt. Pleasant and Burns?

A Yes, sir.
Q Okay. Now, so, you went to this scene at some point in time?
A Yes, sir.
Q Is that right?
It would of been on March 15?
A That's quite possible.
Q And did you collect some shell casings?
A No, sir, I did not.
Q Okay.
A I was asked to respond to that location in advance of Deputy Talanges and Deputy Shawn Nix, who arrived at the scene to completely process that area.
Q Okay. Well, I might be looking at something.
May I approach again, Your Honor?
I'm sorry.
THE COURT: You may.
Q Let me just ask you this.
Are you the originator of this document?
A Yes, sir. Yes, sir, I am. I do believe shell casings, yeah.
Q So---
A I was thinking that was all I collected was something else, but yeah.
Q Okay.

A Yes, sir.
Q So, you did collect some shell casings --
A Yes, sir.
Q -- from the scene we're talking about?
A Yes, sir.
Q And I'll leave that with you right there and could you tell us---
A This, this was actually at another location on Gower Road. That's what that's from looking at the report.
Q Okay.
A This is at 168 Gower Road.
Q Okay. Is that related to this case?
A To my knowledge it is, yes, sir.
Q And, so, you collected some shell casings?
A It says I did collect a shell casing with a head stamp of Winchester 40SW and one bullet. It simply means the whole thing with a head stamp of Winchester 9-millimeter Luger from the end of the roadway and turn around section near 168 Gower Road.
Q Okay. So, you collected a shell casing of a Winchester 40 S&W, Smith & Wesson?
A That's correct.
Q And the shell casing -- that .40 refers to a caliber, is that correct?
A Yes, sir.

Q And one bullet?
A Yes, sir.
Q From the head of the roadway at the turnaround section?
A Uh-huh. (Affirmative).
Q Near 168 Gower Road?
A That's correct.
Q Okay. Now, what -- that's the full entire unfired bullet, is that right?
A That is correct.
Q Okay. And that was a Winchester 9-millimeter?
A That was a Winchester 9-millimeter.
Q And then you say Luger?
A Yes, sir.
Q Okay. So, these -- the shell casings and the entire bullet had to go to two guns, did they not?
A Two different firearms, that's correct.
Q Okay. All right. Thank you.

THE COURT: Mr. Brown.

MR. BROWN: No questions, Your Honor.

THE COURT: Redirect.

REDIRECT EXAMINATION

BY SOLICITOR GRAY:

Q Those two bullets, were they fired or unfired?
A One was a shell casing, the .40, and it was a spent round. The one that had been fired and spits the casing out

of the firearm. The 9-millimeter bullet was the entire bullet that you could put into a gun to fire it.

SOLICITOR GRAY: Nothing further, Your Honor.

THE COURT: Anything further, Mr. Poole?

MR. POOLE: No, sir.

THE COURT: Mr. Brown.

MR. BROWN: None, Your Honor.

THE COURT: You may step down. Thank you, sir.

WITNESS: Thank you.

THE COURT: State may call its next witness.

SOLICITOR GRAY: Yes, sir, Your Honor.

State calls Patrick Cockrell.

THE COURT: Come forward and be sworn please, sir.

PATRICK COCKRELL, having been first duly sworn, testified as follows:

THE COURT: Have a seat please. Once you're seated, state your name.

WITNESS: Patrick Cockrell.

THE COURT: Mr. Gray, your witness.

SOLICITOR GRAY: Thank you, Your Honor.

DIRECT EXAMINATION

BY SOLICITOR GRAY:

Q Mr. Cockrell, where do you work?

A Spartanburg County Sheriff's Office.

Q How long have you worked there?

A Almost 13 years now, next month.
Q What are your primary duties and responsibilities, sir?
A I'm a patrol supervisor on the uniform patrol division on night shift.
Q On May 14th, excuse me, March 14th, 2009, what were your duties and responsibilities?
A The, the same. I was performing as patrol supervisor for uniform patrol.
Q Did you get a call about a shooting that night or, or early in the morning?
A Yes, sir, I did.
Q What were you tasked with doing in relation to the shooting?
A Basically to assist the other officers on, on the call to make sure that they had everything they needed to assist them in, in locating witnesses or evidence, crime scenes, anything and everything that the other officers needed.
Q Let's talk about the crime scenes.
Did you go to different locations in the county looking for crime scenes that night, that night?
A Yes, sir, I did.
Q Where did you go?
A One of the places I went was Spartanburg Regional Hospital. I also went to an area around Mt., Mt. Pleasant Road and Burns Road, in those areas.

Q Did you go near Charisma Drive?
A Charisma Drive, yes, sir. I did go there as well.
Q Did you go to anywhere near the Hearon Circle Waffle House?
A I, I can't recall, sir.
Q All right. But the Charisma Drive, did you find a crime scene?
A I, I didn't personally find one, no, sir.
Q All right. You said that Mt. Pleasant Road and --
A Burns Road.
Q -- Burns Road.
What did you find there?
A At that location we found several spent shell casings in and around the roadway and the intersection there.
Q And what did you do at that scene?
A I have some orange cones in my, in the trunk of my patrol car that I used to mark and identify, locate evidence for the ID technicians when they arrive on scene.
Q Did you call the ID technicians?
A Yes, sir.
Q I want to show you what's been marked as State's Exhibit No. 18.
MR. POOLE: No objection.
MR. BROWN: No objection, Your Honor.
THE COURT: Without objection, it will be, be -- are

those photographs, is that right?

SOLICITOR GRAY: Yes, sir.

THE COURT: They'll be received in evidence as they have been marked.

(WHEREUPON, State's Exhibit No. 18 was received into evidence at this time.)

THE COURT: You may proceed.

SOLICITOR GRAY: Thank you, Your Honor.

Q If you look over those real quickly please.

A Yes, sir.

Q Now, does that accurately reflect what you said you do at this scene?

A Yes, sir, it does.

Q Now, was it raining that day?

A Yes, sir, it was raining quite heavily at times.

Q Now, what did you do to secure that particular scene?

A We kept the, the area clear from, from traffic. Basically shut down the roads right around that area, and, again, as I said earlier, I put the, the cones out to mark that evidence, and that way, when the ID officers arrived on scene, and I could go through it and point out to them and tell them exactly where everything was that we had located.

Q And what things did you locate?

A Mostly just spent shell casings.

Q Spent shell casings?

A Yes, sir.

SOLICITOR GRAY: All right. Your Honor, I'd like to publish these to the jury.

THE COURT: You may.

SOLICITOR GRAY: One moment, Your Honor.

THE COURT: Yes, sir.

(Pause.)

Q No further questions of this witness. Please answer any questions Mr. Poole or Mr. Brown may have for you.

A Yes, sir.

THE COURT: Mr. Poole, your witness.

CROSS-EXAMINATION

BY MR. POOLE:

Q Deputy, you said you found some spent shell casings there at the scene?

A Yes, sir.

Q Could you describe them in detail?

Do you know what they were?

A No, sir, not in detail. All I remember was it was spent, spent shell casing brass colored with, with no bullets attached to them as if they had been fired.

Q About how many were there?

A I don't remember the exact number. I'm guessing it was probably in the neighborhood of, of four to six if I remember correctly. But I'm not certain of that, the

number.
Q Thank you.
A Yes, sir.
THE COURT: Mr. Brown.
MR. BROWN: No questions, Your Honor.
THE COURT: You may step down, sir.
State may call its next witness.
SOLICITOR GRAY: Thank you, Your Honor.
The State calls David Hogsed.
THE COURT: Come forward, sir, to my left and be sworn.
DAVID HOGSED, having been first duly sworn, testified as follows:
THE COURT: Have a seat please, sir, and once you're seated, I'd ask that you state your name for the record.
WITNESS: David Hogsed.
THE COURT: Mr. Gray, your witness.
SOLICITOR GRAY: Thank you, sir.
DIRECT EXAMINATION
BY SOLICITOR GRAY:
Q Deputy Hogsed, how long have you worked for the Sheriff's Department?
A I started with the Sheriff's Office in August of 2005.
Q What are your primary duties and responsibilities?
A Currently the supervisor of the night shift with the crime scene unit.

Q I've heard reference to ID a couple times.
What is that exactly?
A ID basically with the Sheriff's Office is an old term and it means identification cause it's job actually -- right now, if you see any of our cars, you actually see the crime scene unit across our cars. That's basically a crime scene unit, but a shorter acronym is ID for identification.
Q Spartanburg CSI?
A Pretty much.
Q All right. When there's ever a scene, you guys respond?
A Yes, anytime that a patrol officer or a detective, basically any officer within the Sheriff's Office or any town, we also assist municipalities within Spartanburg County. If they think that they, they need us to process a crime scene, we respond and process that scene.
Q Now, on this incident, did you assist in processing anything involved with this case?
A I actually did not become involved in this case until the following day, which is on March 15th of 2009 where I responded to our county shop, which is where our fleet maintenance shop is, where a red colored Ford Crown Victoria had placed there to, secured there with crime scene tape and I executed a search warrant that had been given to me on that vehicle.

Q Now, that vehicle was secured --
A Yes.
Q -- when you arrived at it?
A Usually what happens is one of us was not able to follow -- usually one of us follows the car to the shop. We, we actually watch it from Point A to Point B. That car is then lowered into the building, and one of us, if we can, you know, will literally put crime scene tape around that car telling everybody pretty much to stay off of it, stay away from it, and then the car's then looked up within that building overnight.
Q All right. Show you what's been marked as State's Exhibit No. 17, it's in evidence, a series of photographs.
A All these were taken by me when I executed the warrant.
Q Thank you, sir.

Now, in those photographs are some numbered different things.

What did you do to process the victim's vehicle?
A The first thing we started doing is taking exterior and interior photographs of the vehicle as we see it when we approach it without putting anything to it or whatever. We take photographs as you see it. And then I went back and there were several what I call impact marks, a lot of people refer to them as bullet holes, on the vehicle, and those were marked with stickers, numbered stickers, and then after

all those were done, I -- the evidence was gonna be taken out of the car. I used an alphabet placard to mark those items of evidence to photograph prior to collecting those to show the location within the vehicle.

Q Did you do anything else?

A No. Once the -- all the photographs, the photography work was done, the projectile marks were marked, and those -- there were dowel rods put into the car. What I mean by dowel rods, dowel rods, excuse me, wooden dowel rods basically put in to show estimated trajectory of, of the path that was taken prior to striking the car. Once all that was done and all the evidence collected, that was, was pretty much it.

Q And the majority of the impact marks, were they on the left side of the vehicle or the right side?

A On the driver's side.

If I may refer to my report?

I marked ten impact marks of bullets and projectiles on the driver's side of the vehicle. Two were at the bottom area of the driver's side of the windshield, six to the driver's door, and two to the left side rear door of the vehicle.

Q Did you find anything, anything inside of the car?

A Yes, there was actually several items of evidence, physical evidence, that was collected out, out, from within

the vehicle.

Would you like me to read them off my report?

Q Yes, sir.

A As I stated, I used an alphabet marker, and that was because, during the investigation, what happens is we try to keep all of our evidence chronological, and at the time I was doing this, I had no clue what evidence item number to start with. So, I used the alphabet and then went back and gave it an evidence number.

So, there was a lead projectile fragment recovered from the top of the dashboard on the driver's side, a Winchester .40, when I say .40, I mean .40 caliber, Smith & Wesson cartridge casing on the top of the dashboard on the passenger's side, a Winchester .40 Smith & Wesson cartridge case on the right side of the floorboard, a red colored New York ball cap on the right side of the floorboard, a Winchester 9-millimeter Luger, unfired bullet on the right side rear seat, a projectile from the left side rear seat, a Winchester .40 Smith & Wesson cartridge case from the front center console, a Winchester .40 S&W cartridge case from the driver's seat, lead projectile from inside the driver's door after we removed the interior door panel, copper projectile fragments from inside the driver's door, projectile from inside the driver's door, lead projectile fragments from inside the driver's door, and then there was an additional

items taken that was not marked with placards.

We actually took the entire driver's door interior panel because it had impact marks where the bullets came through, it struck the panel, pushed it out, but did not actually penetrate, a partially smoked cigar from the ashtray, a blood swab from the back rest of the left side rear seat. When I said left side rear seat, that would of been if you're sitting in the car would be on the driver's side, and a blood swab from the seat cushion on the right side, which would be the passenger side seat.

Q Okay. Let me ask you about some of the projectiles, casings, and bullets you found. Show you State's Exhibits Nos. 21, 22, 23, 24, 25, and 26.

A All of these were collected by me.

Q And are those some of the items that you were talking about before as far as projectiles and such?

A That's correct.

Q Now, could you give me, briefly, which number corresponds to each item that you found?

A Okay. If you look at the evidence items, I wrote on the evidence envelope, this is actually evidence Item Number 50. But when I'm photographing it for collection purposes and documentation on the car, it actually represents Item Number A within the car. 51 would be Number B. 52 is C. 53, D. And so forth. It was done that way because, at the

time, I did not know what, which item numbers to put down. So, I went to an alphabet system and then correspond them with the numbers.

Q All right. So, 50 would be the lead projectile fragment?

A Right, 50 is the lead projectile fragment, which came from the top of the dashboard on the driver's side. 51, which is a Smith & Wesson .40 cartridge casing is actually B in the photographs, and it would be the cartridge casing from the right side front floorboard, which is basically your passenger side front floorboard.

C, which is Number 52, is a .40 Smith & Wesson cartridge casing. I'm sorry. B came from the top of the dashboard on the passenger. C came from the right side front floorboard. So, 52 actually was on the, on the top of the dash. 51 and 52 was in the floorboard.

This is Number 55, which is F in the photos, and it was on the left side rear seat, and, and so forth. This is 56, which is photographed as G, and this is a cartridge casing from the front center console, and this is 57, which is H, cartridge casing from the driver's seat.

Q I apologize. I forgot one. That's State's Exhibit No. 31.

A And this is Number 54, which is photographed as E. It's a 9-millimeter Luger unfired bullet from the right side

rear seat.
Q Sir, all these items were recovered from the red Crown Victoria?
A Yes, that was the only -- that -- the red Crown Victoria was the only thing I did that day when I was involved with this case.
Q And it was shot up pretty good?
A Yes, actually all the car windows were out and had -- were busted out, and the right front door window was actually laying inside. It was pretty much held together because of the window tint. I pretty much tried to put it back in place and photograph it as best I could, but --.
SOLICITOR GRAY: Your Honor, at this time, State would moves State's Exhibit 21, 22, 23, 24, 25, 26, and 31 into evidence, Your Honor.
THE COURT: Any objections?
MR. POOLE: No objections.
THE COURT: Any objections?
MR. BROWN: No objections, Your Honor.
THE COURT: They're received into evidence as marked.
(WHEREUPON, State's Exhibit Nos. 21 through 26 and State's Exhibit No. 31 were all received into evidence at this time.)
Q Did you do anything else regarding this car, these projectiles or anything you had in evidence?

A Once I bag and tag them, and that's a law enforcement term, but once they're put into evidence -- each one is put into its own evidence envelope and all that, I then submitted it to evidence. Investigator Talanges, Investigator Nix worked the major crime scene. They were basically what we refer to in our unit as the leads on the case. My documentation report was given to them, and then they would of worked on then sending those down to SLED, and I can tell by the evidence envelope, just by looking at them, several of them had gone to SLED for analysis.

Q All right. Now, you said that's all you did on that vehicle?

A Yes, on that vehicle, yes, sir.

Q Do -- did you ever process another vehicle?

A Two days later I went to the county, back to the county shop with Investigator Talanges to help him and, with the, with searching of another vehicle. I can tell that I think it was a Nissan, and that it had been burnt pretty much to the framing.

Q And what did you do in that situation?

A Basically was photograph and to take -- and I just assist, assist Investigator Talanges in searching through the debris from the fire looking for cartridge casings, and actually I did find a cartridge casing inside the driver's seat. And once I found it, I just backed away and let them

know so photography could be done, photography work could be done on it and Investigator Talanges actually collected that cartridge casing.

Q You didn't collect anything from that burned vehicle?

A I did not. Once I found it, I said I backed up, said we got a cartridge casing, and, and they, you know, photography work was done to show the documentation, and then actually Investigator Talanges actually did the physical collection of that item.

Q And you didn't photograph the vehicle either?

A No.

Q Show you Exhibit 19. Ask you if you recognize those photographs.

A Yeah, that's the car -- this is the vehicle that I assisted just by searching.

Q The next day?

A Well, I think I was out the 15th. I think this was actually done on the 17th.

Q All right.

A Like two days after I was on the red Crown Vic.

Q Thank you very much, sir. No further questions at this time. Please answer questions Mr. Poole and Mr. Brown may have.

THE COURT: Mr. Poole, your witness.

MR. POOLE: Thank you, Your Honor.

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. POOLE:

Q Sergeant, is that right?

A Yes, sir.

Q Sergeant Hogsed, just a few questions --

A Yes, sir.

Q -- about what you found inside the Crown Vic. I want to talk about the, the cartridge casings, and the unfired bullet.

A Uh-huh. (Affirmative).

Q 51-B, by your notes, was a cartridge casing from the top of the dashboard?

A That's correct.

Q And just for -- of course, we don't have a car here, but let's say this is the dashboard of the car.

Okay?

A Uh-huh. (Affirmative).

Q And where I'm standing would be where a driver would be.

Okay?

A Be to your right?

Q Okay.

A The cartridge casing would be to your right on the passenger side.

Q Okay. That Winchester .40 caliber Smith & Wesson cartridge was on top of the dashboard, right, in the vehicle?
A On the passenger side. I don't know how -- without the photograph I can't tell you the exact area---
Q Sure.
A ---on the passenger side, but it was on the, more to the passenger side.
Q If this were the dashboard it would be right over here?
A Yes, it would be on that top of the dashboard.
Q Okay. And the next .40 caliber would be on the right side front floorboard, which would be right down here?
A Correct.
Q All right. And the 9-millimeter Luger unfired bullet, that's an in tact bullet?
A Unfired bullet.
Q Okay. Would be on the right side rear seat back here?
A That's correct.
Q Is that right?
A That's correct.
Q And the .40 caliber, another .40 caliber casing from the front center console --
A Uh-huh. (Affirmative).
Q -- which would be right here?
A That's correct.

Q And then a .40 caliber casing from the driver's seat---
A Correct.
Q ---which would be right here?
A Correct.
Q So, does that sort of demonstrate where they were found?
A Yes.
Q Okay. Now, are you familiar with a Taurus?
A A Taurus?
Q A Taurus, a handgun?
A It's a brand of handgun made, yes.
Q Okay. Are you familiar with it?
A I mean I know they make them. I've never owned one, wouldn't own one.
Q Okay. Why wouldn't you own one?
A I just don't like them.
Q Okay. Well, does it have a clip?
A Some do. Depends. I mean they make various calibers in all handguns.
Q Okay. Do they make a .40 caliber?
A Yes.
Q Okay. And the -- after the gun is fired, it's -- the casing is ejected, isn't it?
A That's correct.
Q And if the gun's being held in the right-hand, from

which side of the gun is the casing ejected?
A It wouldn't matter which hand it was held in, it's always gonna---
Q Well---
A I'm not a firearms expert, but you -- most automatic weapons or semiautomatic weapons, when they fire -- okay.
Do you all understand what a clip is?
Feeds up into the weapon. Slide will come back, after the weapon's fired, the slide comes back, it ejects the cartridge casing, loads a fresh round. Most handguns made today will eject the round up, back, and to the right.
Q Okay. So, if it's held by either hand --
A It's gonna go up and to the right.
Q -- it ejects the same way?
So, it's up, back, and to the right?
A Somewhat to the back. It can be -- I mean it just depends on how it flips it. How -- you know, if you ever get a chance to watch law enforcement practice, we'll be practicing, and some will go behind us and some will actually go straight out to the side. It just depends on how the weapon is cycled at that time.
Q Okay. And, of course, it's angled too?
A That's right. It's angled and---
Q All right. Now, what is a 9-millimeter Luger?
A Nine millimeter is basically just a, a smaller round

than a .40 caliber is. It's just, when you look, rounds are made in calibers. Start at .22, .25, .38, .32, and, and 9-millimeter is actually a smaller round than a .40 caliber round, and I can't tell you the millimeters. I'm not a firearms expert. But it's a smaller round and it's based on the millimeter. That's why I call it 9-millimeter. The casing is -- the bullet is 9-millimeter wide.

Q Okay. All right. So, a -- but is it true that a 9-millimeter bullet can not be used in a .40 caliber?

A No, it's not true.

Q It can be?

A It can. A .40 caliber can fire a 9-millimeter, but a 9-millimeter can not fire a .40 caliber.

Q Okay. Okay. Thank you very much.

THE COURT: Mr. Brown, your witness.

CROSS-EXAMINATION

BY MR. BROWN:

Q Sergeant, very briefly.

You say you found a 9-millimeter in the right side passenger side?

A That's correct.

Q And what is an A-F-I-S report?

A A.F.I.S.?

Q Yes, sir.

A It's an Automated Fingerprint Identification System.

Q In regards to any rounds that you've identified, did you conduct that type of analysis?
A You don't have an A.F.I.S. report unless you're actually doing fingerprints and turn it in to perform a fingerprint analysis.
Q As far as you know---
A Were these, were these processed by me, is that what you're asking, for latent fingerprints?
Q Yes.
A No.
Q Okay. Can we mark this Defense Exhibit 1?
Did you submit a supplemental narrative?
A Here's my report on the vehicle.
(WHEREUPON, a report was marked as Defendant Exhibit No. 1 for identification purposes only at this time.)
Q Okay. And you're employed by the Spartanburg County Sheriff's Department?
A Uh-huh. (Affirmative).
Q And you're familiar with reports that are taken often times as relates to latent fingerprints?
A Uh-huh. (Affirmative).
Q As well as any type of report that was done in conjunction to this case?
A Uh-huh. (Affirmative).
Q And what I'd like to show to you right now is

identified from the Spartanburg County Sheriff's Office. It's a supplemental narrative.

And, in particular, it says that it was submitted by?

A It was submitted by me.

Q Okay. In regards to this particular document I'm showing you, what does it refer to?

A I don't, I don't remember. I don't have no clue what it came off of.

Q My question to you, sir, in regards to this document, which was submitted by you, what does it refer to in the narrative?

A It says one latent print submitted that had, had sufficient ridge detail to enter into A.F.I.S. The latent prints or that print was entered into A.F.I.S. with negative results. It was compared to Rashawn Lamar Reeder and to Darius Tavarious, I'm assuming that's right, Cathcart with negative results. And whatever the latent print was, it was not a match for Mr. Cathcart or Mr. Reeder.

Q Okay. And this was done by you?

A Yes.

Q And you're just now remembering this?

A I don't remember fingerprinting anything on this case to be honest with you.

Q But this, this was submitted by you?

A Yes.

Q Okay.
A At least that's what the report says.
THE COURT: Are you offering that into evidence?
MR. BROWN: I'm not, Your Honor.
THE COURT: Oh, okay.
MR. BROWN: I'll move on.
THE COURT: All right.
Q And one final question, sergeant.
Did you have a chance to go to the actual scene as relates to Mt. Pleasant, Burn Road, and Burns Road?
A No, sir, I never seen that.
Q Thank you. That's all the questions I have.
THE COURT: Redirect.

REDIRECT EXAMINATION

BY SOLICITOR GRAY:

Q Deputy Hogsed, well -- in association with this, you say you can't remember where this fingerprint analysis came from?
A I have no clue. I don't remember fingerprinting anything for this.
Q You didn't fingerprint the car?
A If I -- usually if I fingerprint something, it's, there's a documentation recorded on it.
Q Or the bullets?
A No.

Q Or the fragments?
A No.
Q So, that---
A Those are not, those are -- we did not fingerprint the shell casings. We, we actually rarely ever fingerprint shell casings.
Q Okay. Did you fingerprint the victim's car?
A Not that I recall.
Q All right. Thank you very much.
THE COURT: Anything further?
MR. BROWN: Nothing further, Your Honor.
THE COURT: You may step down.
WITNESS: Am I released, judge?
THE COURT: Beg your pardon?
WITNESS: Am I released?
THE COURT: Any objection to this witness being excused?
SOLICITOR GRAY: No, sir, Your Honor.
MR. POOLE: No, sir.
MR. BROWN: No, Your Honor.
THE COURT: You're free to go. Thank you, sir.
Ladies and gentlemen of the jury, we're gonna take about a five to ten minute break at this time. I'll ask you to step back to the jury room. Don't begin any discussions, as always, until I've advised you to do so.

You may retire.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: All right. Court will be in recess for about five to ten minutes.

Thank you.

(WHEREUPON, a short recess was taken at this time.)

THE COURT: All right. State ready to proceed?

SOLICITOR GRAY: Yes, sir, Your Honor.

THE COURT: Defense ready?

MR. POOLE: Yes, sir.

MR. BROWN: Yes, Your Honor.

THE COURT: Bring the jury in.

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: The jury has returned to the courtroom.

The State may call its next witness.

SOLICITOR GRAY: Yes, sir, Your Honor.

State calls Robert Talanges.

THE COURT: Come forward, sir, to my left and be sworn.

ROBERT TALANGES, having been first duly sworn, testified as follows:

THE COURT: Have a seat please, sir, and once seated, state your name for the record.

WITNESS: Robert Charles Talanges.

THE COURT: Mr. Gray, your witness.

SOLICITOR GRAY: Thank you, sir.

THE COURT: Yes, sir.

DIRECT EXAMINATION

BY SOLICITOR GRAY:

Q Deputy Talanges, what do you do at the Sheriff's Department?

A I'm assigned to the forensics division, Spartanburg County Sheriff's Office.

Q Again, Spartanburg CSI basically?

A Correct. We do all, any and all crime scenes that we're called to respond to.

Q Now, on March 14th, 2009, or thereabouts, did you respond to a crime scene or different crime scenes?

A Yeah, received a call from Deputy Davis, Tim Davis, that a shooting had taken place. Had one victim was deceased at Mary Black. There were several, two -- at the time, all I know is we even have victims. Victims were at Spartanburg Regional and crime scene was over on Mt. Pleasant.

Q All right. Did you respond to Mt. Pleasant Drive at all?

A I first responded to Spartanburg Regional Medical Center where I took photographs of two individuals, and I collected three GSR kits as well as Buccal swabs.

Q Please explain what a GSR kit is.
A GSR kit is a gunshot residue kit. What it is is a swab as well as a blotter type system. Anybody who has either fired a gun, recently fired a gun, we take the GSR from left and right-hand, both palms, side and backside, and we look, for testing, we look for the gunshot or the powder and the components of the powder coming from the cartridge casing.
Q Is this a, some type of chemical which you have lying around or is this a kit?
A It's a kit.
Q And what's in the kit usually?
A The kit contains swabs, acetic acid. For the swabs, it contains little samples with -- in the inside, once you take it apart, it's got little like sticky tape on it there that you dab the hand with to collect any and all the particles from it.
Q Now, you say you collect, how do you actually swab the hand?
A Basically they're the sterile swabs that, your little Q-tip swabs. You apply the acetic acid inside the kit and it all comes with it. You apply a little bit of the moisture to it and basically you wipe the hand, both sides, back and front.
Q I show you what's been marked State's Exhibit 33, 34, and 35. I ask you if you recognize what's inside. Please

open those and look inside please.
A No. 19 is marked GSR kit, Evidence No. 19. It's from Mr. Cathcart. It was taken about 5:50 in the morning. Okay. These are the little blotters that I was referring to that you take the subject, like a two sided sticky tape on the inside. Swabs that were taken for analysis. SLED has removed those as well as all the paperwork. But this is for Mr. Cathcart. I also have one from a -- second subject was a Reeder. Yeah, same blotters on the inside.

Also took one from, at the request of the detective that was up there, Crossley, Michael Crossley. He had no injuries, but he was at the hospital with the other two subjects. Yeah, each kit -- well, this is what they contained when you get them back from SLED.
Q Okay. Now, when you complete a GSR kit, a swabbing, do you seal it?
A Yeah, that's what the back side is. Evidence tape is sealed on it. That's -- it's actually glued on top. You moisten the glue, seal it, and then you put actually evidence sealing tape and sign it.
Q You put tape -- you signed it---
A Yeah, you initial---
Q ---on each form?
A You initial the back side of it.
Q I see something yellow on there.

What is that?
A That's a SLED number.
Q So, that would be the number?
A This is, this is where SLED would take custody of that.
Q SLED would take custody of it.
All right. Now, once you seal it, what do you do with it?
A Envelope, resealed again, and then it goes for testing.
Q And do you deposit it in evidence?
A Yes, sir.
Q How do you deposit it in the evidence---
A Oh.
Q ---or give it to evidence?
A This would be -- these items here were at, placed on evidence property sheet and it was all turned in in one large sum because that's the type of case it is.
Q All right. Now, I notice on the outside there's, there's some writing, the different time you took these GSR swabs.
What times were those?
A This one here -- Reeder was taken at 5:10. I have Cathcart at 5:50, and a Crossley at 6:24 a.m.
Q Do you know approximately when this situation occurred?
A I just, according to the report when I got called, we're looking at approximately -- I got 4:20 hours when I

got, when I responded.
Q You took these swabs rather quickly.
Why is that?
A Went from straight to the location where they were at.
Q Okay.
A So, you're looking at about an hours time from when they were at the hospital until I arrived.
Q All right. Is there any reason that you took these swabs so quickly?
A You have an expiration time. It's usually six hours on a GSR kit because of, on a, on a live individual, you perspire, sweat, and that would, brakes down the components of the gun powder or gun, GSR kit, the items that you're trying to collect. On a deceased individual, since they don't sweat, they don't perspire, we have an unlimited window.
Q Now, do you ask any other questions of these individuals, if they're left-handed or right-handed or anything of that nature?
A Yes, you do, and that's -- the question's on it are is there any type of debris in the hand, which is blood, grease, oils, any, anything of that nature. If they have -- let's see. We had a hand -- if they're right or left-hand, how they would sign, and that's basically all -- and what type of profession that they're in.

Q Now, on this case, did, did you do that for each individual?
A Yes, sir.
Q Do you have those results?
A I do not have those, no.
SOLICITOR GRAY: One moment, Your Honor.
THE COURT: Yes, sir.
A Let me check the main file here.
Yes, I do have them.
Q All right. And what's that sheet called?
A This is the gunshot residue analysis information form.
Q Okay.
A And that's what we're looking at here. It---
Q Now---
A Mr. Reeder.
MR. BROWN: Your Honor, we have a matter of law.
THE COURT: Ladies and gentlemen of the jury, I'll ask you to step to the jury room. Don't begin any discussions until I've asked you do so.
You may retire.
(WHEREUPON, the following takes place outside the presence of the jury.)
THE COURT: Yes, sir, Mr. Brown.
MR. BROWN: Your Honor, I don't know where the investigator may go, but based upon Mr. Gray's questioning,

it seems that one of the particularly, particular identifiers, as it relates to the gunshot residue, he wants to talk about which hand, and I'm just trying to ascertain, prior to this line of questioning, how he was able to ascertain that information without questioning my client, which, again, would fall under our same objection that we had the previous, which was in camera, the previous testimony we heard from other officers associated with anything that happened at the hospital in terms of type of information that was ascertained.

So, for this officer to present any information in terms of which hand he was, that seems to be some type of information he would of had to receive from directly having some form of conference with my client.

SOLICITOR GRAY: Your Honor, you can answer that without---

THE COURT: Well, why don't you just ask him if he knows what handed he was.

Q How do you know which hand he was?

A What is it is a standardized form that they have with the kits, and when we take their information, that's name, date of birth, it says is any debris on the hands, and I can physically see if there is or not, occupation, and it says, you know, it says right here, subject wash his hands during the shooting, yes or no. It's a question that we ask when

we talk to them.

MR. BROWN: Officer, you have the form in your hand. Clearly the form asked is the subject right-handed or left-handed or unknown.

WITNESS: Right.

MR. BROWN: And you have that marked in relation to Mr. Reeder which hand he was, correct?

WITNESS: Correct.

MR. BROWN: And my question or the prosecutor's question directly to you is how did you get the information to know which hand he was?

WITNESS: Asked him at the scene cause I had to do it on him.

THE COURT: Okay.

MR. BROWN: Well, again, Your Honor, based upon what we've heard, with the prior testimony from officers that arrived at the scene, if this information was gathered from my client, I think he still would have the same type of infirmities that would of caused anything that came from him potentially to be tainted, and if he answered this officer's question, I would simply say that falls under the same line of questioning we've heard previously.

THE COURT: Well, the issue is not the weight of the evidence, but the---

MR. BROWN: I understand.

THE COURT: ---admissibility of the evidence.

MR. BROWN: Yes, sir.

THE COURT: Is that objection go to the weight of the evidence or to its admissibility?

MR. BROWN: Well, for me, it goes to the admissibility based upon the officer's testimony here today by saying that he asked him. He's asking him is the same issue that I've had, that we've had with another officer asking which hand are you. That information was not allowed to come in. And I think it would simply apply to the same officer who came at a later time even after the first investigator that spoke with him, which was after the initial officer who came to the scene. So, this person was further in time.

SOLICITOR GRAY: No, Your Honor. I think, in this situation, it was non-custodial, not an interrogation. It's just a matter of a procedure to perform a test, Your Honor. He's not asking him do you consent, do you not consent. He was not, of custodial in nature. He merely asked him to perform this procedure.

THE COURT: Where, where did this take place?

SOLICITOR GRAY: At the hospital.

THE COURT: All right.

MR. POOLE: Your Honor, I join -- for the record, Darius Cathcart joins in the same objection.

THE COURT: Oh, I understand.

THE COURT: Well, are you saying he was in custody at that time?

MR. BROWN: I'm saying that the same manner in which the information was obtained with my client not only being obviously in great pain, but under the type of medication he was under and experiencing, he didn't have the ability to fully engage this officer to provide the type of answers that ultimately could of been to his detriment as we're seeing being presented here today.

SOLICITOR GRAY: We've heard no testimony about his condition at 5:00 p.m, I mean 5:00 a.m. or 6:00 a.m. when this was done, Your Honor. It---

THE COURT: Well, maybe you ought to lay a foundation for that because help me with -- the previous interrogation took place---

SOLICITOR GRAY: Well, almost immediately.

THE COURT: ---almost immediately after the incident.

SOLICITOR GRAY: Yes, sir, Your Honor, where he said he was in great pain.

THE COURT: There was no question he was under pain medication---

SOLICITOR GRAY: Yes, sir, Your Honor.

THE COURT: ---at this, that, and he was okay. So, now, how much longer, later was this done?

SOLICITOR GRAY: What time was it?

WITNESS: I got -- I received a call at 4:20, and I responded, and I took these at 5:10 and then 5:50.

SOLICITOR GRAY: Two to three hours later. Two hours later. Okay.

WITNESS: So, we're looking at getting ready. So, we're looking at about 40 minutes, 45 minutes.

SOLICITOR GRAY: All right.

THE COURT: Well, if he has some independent knowledge as to what handed he was, I don't know, he may of observed him, what he was doing. I can watch people and tell whether their right-handed and left-handed without talking to them.

SOLICITOR GRAY: Yes, sir, Your Honor.

THE COURT: I, I -- depending on what they're doing.

MR. BROWN: And based upon what we just heard, Your Honor, to not give him a chance to rehabilitate his previous answer to the Court, he said yes, if Mr. Williams came two minutes afterwards, 5:10, I don't see what the great difference would be in time.

THE COURT: Well, I don't either. So, I'm gonna, I'm gonna exclude it just like I did the other, anything that he said to him.

SOLICITOR GRAY: Yes, sir, Your Honor.

THE COURT: So, I believe it was a previous finding was he was under the influence of drugs at the time.

MR. BROWN: And what -- this relates to the

introduction of the gunshot residue analysis form in itself, Your Honor?

SOLICITOR GRAY: Well, we're not intending to introduce the form.

THE COURT: He says he's not gonna offer it.

SOLICITOR GRAY: Can't offer the form if we can't say---

MR. BROWN: Any, any evidence about which hand.

THE COURT: Well, I -- again, I'm not gonna prevent him from testifying as to what he observed.

MR. BROWN: Yes, sir. Yes, sir.

THE COURT: So, I'm not -- I haven't ruled on that.

MR. BROWN: Yes, sir.

THE COURT: I have ruled on any statement that your client might of made at that time, and I don't know what that's gonna reveal. We'll see what that reveals, but---

MR. BROWN: Yes, sir.

THE COURT: ---again, I'm not -- I've ruled that he can't use his statement.

MR. BROWN: Yes, sir.

SOLICITOR GRAY: Yes, sir.

THE COURT: That's all.

Bring the jury back.

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: The jury has returned to the courtroom. I have sustained the defense objection.

You may proceed, Mr. Gray.

SOLICITOR GRAY: Thank you, Your Honor.

CONTINUED DIRECT EXAMINATION

BY SOLICITOR GRAY:

Q After you proceed with the different GSR kits, you seal them on, in the inside of each of those envelopes, is that correct?

A That's correct.

Q And what information do you put on the outside of the envelope?

A Case number, date, time, where it was collected at, who it was from, and victim, type of offense.

Q Okay.

A Standard evidence form.

Q Now, were these the only three GSR kits done to your knowledge?

A No, they were not. Those are the three that I collected.

Q The three that you collected?

A Correct.

Q I show you this. You were talking about earlier sending them, sending these GSR kits down to SLED at one time.

A Correct.
Q Is that how it would normally be done?
A SLED repackaged this and it's been sent back to --
Q Okay.
A -- Spartanburg County, and it's got list of all the GSR, who the names on the envelope or the forms or on the packages are and signed, sealed, and that's how I received it.
Q That's how you get it back?
A Correct.

SOLICITOR GRAY: All right. At this time, Your Honor, I would move State's Exhibits 34, 35, and 33 into evidence.

THE COURT: Objections?

MR. BROWN: No, sir.

MR. BROWN: Well, like to see it.

THE COURT: You can see it.

MR. BROWN: No objection, Your Honor.

THE COURT: They'll be admitted into evidence as marked.

(WHEREUPON, State's Exhibit Nos. 33 through 35 were received into evidence at this time.)

SOLICITOR GRAY: Those are all the questions we have at this time, Your Honor, for this witness. We reserve the right to recall him, this witness.

THE COURT: All right.

Q Please answer any questions Mr. Brown or Mr. Poole may have.

MR. POOLE: No questions here.

MR. BROWN: None, Your Honor.

THE COURT: You may step down, sir.

Ask the attorneys to approach briefly.

(WHEREUPON, a bench conference was held at this time.)

THE COURT: All right. Ladies and gentlemen, given the length of the next witness, and we're about five minutes till 12:00, I'm gonna go ahead and stop for lunch at this time. I'll ask you to be back in the jury assembly room at 15 after 1:00. That will be 1:15.

During the break, same instructions I've given you everytime you leave the court, court house, not to listen to, watch, or read media reports. Don't attempt to gather any information outside the court house. Don't discuss the case with anyone. Don't allow anyone to discuss it with you. Be back in the jury room, 1:15.

Have a good lunch. Thank you very much.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: All right. Court will be in recess until 1:15.

Defendant's still in custody.

Thank you very much.

(WHEREUPON, Court was in recess for the lunch break.)

THE COURT: All right. Is the State ready to proceed, Mr. Gray?

SOLICITOR GRAY: Yes, sir, Your Honor.

THE COURT: Defense ready?

MR. POOLE: Yes, sir.

MR. BROWN: Yes, Your Honor.

THE COURT: Let's bring the jury in.

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: All right. The record will reflect that the jury has returned to the courtroom.

The State is in the process of presenting its evidence, and, Mr. Gray, you may call your next witness.

SOLICITOR GRAY: Thank you, Your Honor.

SOLICITOR TAILOR: Leslie Harrell.

THE COURT: Sir, come forward to my left, sir, and be sworn in please.

LESLIE HARRELL, having been first duly sworn, testified as follows:

THE COURT: Have a seat.

(Witness complies.)

THE COURT: State your name for the record please.

WITNESS: Deputy Leslie Harrell.

THE COURT: Ms. Tailor, your witness.

DIRECT EXAMINATION

BY SOLICITOR TAILOR:

Q Where do you work?

A Spartanburg County Sheriff's Office.

Q And what do you do there?

A I work uniform patrol.

Q And for how long have you been working with the Sheriff's Office?

A Almost three years.

Q In March of 2009, what were your duties and responsibilities?

A I was working uniform patrol at night, and responded to the hospital for a shooting.

Q Okay. Which hospital did you, did you respond to?

A Spartanburg Regional.

Q Okay. And what was the call that you got?

A Once I got there I found out I had two shooting victims at the hospital.

Q Okay. And did you later find out the names of those victims?

A Yes.

Q What were they?

A It was Darius Cathcart and Rashawn Reeder.

Q At that time did you obtain any information from Mr. Cathcart?

A Yes.
Q What did -- how did you do that?
A I spoke with him when he was in his room receiving medical attention.
Q And when you spoke with him, what, what did you ask him?
A Asked him about the shooting, how he got shot.
MR. POOLE: May it please the Court, this is subject to our previous objection.
THE COURT: Prior objections are noted, and the Court would make the same rulings.
You may proceed.
A Asked him about where he got shot, the location of where he got shot. Mr. Cathcart stated -- the information that was given was kind of vague. Said he got shot near, leaving Club Dreams at a yield sign. Said a vehicle pulled up beside him, three black males got out of the vehicle, shot about ten rounds into the vehicle. He said Rashawn Reeder was in the car with him. They drove near the hospital, stopped the car, and ran to the hospital receiving medical attention.
Q Did he tell you what type of car they were in?
A I believe he said a Maxima.
Q Okay. Do you know what color the car was?
A If you'll give me one second I'll refer to my report.

Q He said it was a gray Nissan Maxima four door.
Q Okay. Was there anything else that you did while you were at the hospital?
A I spoke with Mr. Reeder.
Q And did any investigators respond to the scene?
A Yes, there was actually two investigators that responded, Lorin Williams and Chris Durham.
Q And did you leave at that time?
A No, I still stood there a good while after they got there.
Q What time did you get to the hospital?
A 4:15 in the morning.
Q Okay. So, what time did you end your patrol that day?
A Seven o'clock that morning.
Q Did you go back to work the next day?
A Yes.
Q And what happened the next day?
A The next evening I actually recovered a vehicle that was on fire on Case Avenue.
Q Okay. And what type of vehicle was that?
A It was a Nissan Maxima.
Q Was it -- could you tell the color?
A I could tell the color and I could also read the tag on it.
Q Okay. What did you do with the information that you

obtained from those tags?
A I immediately gave it to dispatch, and I was actually sitting within about a hundred yards of the vehicle when it was started on fire. There responding Una Fire Department out there, gave them the vehicle description, also the tag information.
Q You said you were sitting near the vehicle.
Why were you---
A I was actually watching a narcotic house.
Q Okay. I'm gonna hand you what's been marked as State's Exhibit No. 19, these photos.
Do you, do you recognize these?
A I do. I recognize the car, yes.
Q Is that the vehicle you found on fire that day?
A It was.
Q And is that the car that you later found to be involved in a shooting?
A Yes, there's actually -- I can see bullet holes inside the car while it was still beside the tracks after it was put out.
SOLICITOR TAILOR: Your Honor, we would move to, move that State's Exhibit No. 19 into evidence.
THE COURT: Any objections, Mr. Poole?
MR. POOLE: No, sir.
THE COURT: Mr. Brown.

MR. BROWN: None, Your Honor.
THE COURT: All right. It will be received into evidence as marked.
(WHEREUPON, State's Exhibit No. 19 was received into evidence at this time.)
SOLICITOR TAILOR: Permission to publish to the jury, Your Honor?
THE COURT: You may.
Q Deputy Harrell, were -- this vehicle that was found on fire the next day, was it found to be linked as part of the investigation of the shooting that occurred the day before?
A Yes, we were looking for the gray Nissan Maxima, which is the one that was set on fire the next evening.
Q And that was the shooting that occurred on Mt. Pleasant Road investigation?
A That's correct.
Q Did you find out who owned the vehicle?
A Mr. Williams. I have his information here. Dendy Williams or William Henry Dendy is the way the vehicle came back to.
Q Okay. And you obtained information from when you read the license tag?
A Yes, ma'am.
Q Please answer any questions that Mr. Poole or Mr. Brown may have for you.

THE COURT: Mr. Poole, your witness.

MR. POOLE: Thank you.

CROSS-EXAMINATION

BY MR. POOLE:

Q Deputy Harrell, just a couple of questions.

You, you said you spoke with the victims, Darius Cathcart and Rashawn Reeder, about 4:15 in the morning, is that right?

A Yes, sir.

Q And Mr. Cathcart had been treated for a gunshot wound?

A Yes.

Q And how far was he, he in his treatment when you talked, spoke with him?

A When I was speaking with him, it was a graze wound under his arm. There was no puncture in the arm or in his body, and he was there, I'm sure, probably 15 minutes before I go there.

Q Did you talk to his treating doctor?

A No, I did not.

Q Do you know if he was under the influence of drugs --

A I did not.

Q -- or whether he had been administered any drugs?

A No.

Q And was he -- how was he dressed?

Did he have a, a hospital garb, garments on?

A Yeah, he was sitting in a pair of pants and didn't have a shirt on --
Q Okay.
A -- if I recall.
Q All right. And he told you that there was a gray Nissan Maxima --
A Yes.
Q -- that he was driving, is that right?
A Yes.
MR. POOLE: Okay. That's all the questions I've got.
THE COURT: Mr. Brown.
MR. BROWN: No questions, Your Honor.
THE COURT: Redirect.
SOLICITOR TAILOR: No, Your Honor.
THE COURT: You may step down, sir. Thank you very much.
The State may call its next witness.
SOLICITOR GRAY: State calls Mr. William Dendy.
THE COURT: Come forward please.
WILLIAM DENDY, having been first duly sworn, testified as follows:
THE COURT: Have a seat please, sir.
(Witness complies.)
THE COURT: State your name.
WITNESS: William Dendy.

THE COURT: Mr. Gray, your witness.

SOLICITOR GRAY: Thank you, sir.

DIRECT EXAMINATION

BY SOLICITOR GRAY:

Q Mr. Dendy, are you related, in any way, to either one of the defendants?

A Darius Cathcart.

Q How are you related to Mr. Cathcart?

A I'm his uncle. He's my nephew.

Q Okay. Mr. Dendy, it's been testified to that you owned a gray Nissan that was involved in some type of shoot-out?

A Yes. Yes.

Q Did you own that vehicle?

A No, it was in my name, but it had belonged to Darius.

Q It belongs to Darius?

A Yes.

Q Okay.

A Darius were buying the car, but it was in my name.

Q You signed for the vehicle?

A Right.

Q Darius made the payments on it?

A Made the payments.

Q Who drove the car?

A He did.

Q He drove the car?

A All the time. I never did drive it.
Q You never were in that vehicle---
A Never.
Q ---at all?
There's been also testimony that there was a fire to the car?
A Yeah, I heard that.
Q Were you -- how were you notified about the fire?
A Well, there was an officer that came by looking for Darius, and he told me that car had been burned. Then I saw it on TV, but I never did see it in person.
Q All right. Mr. Dendy, were you ever in the car with these gentlemen---
A No.
Q ---the night of March 14th, 2009.
A Hu huh. (Negative).
Q So, you don't know anything about the shoot-out or anything?
A Except what I heard on the media.
Q I understand.
And you didn't set your own car on fire, did you?
A No.
Q You didn't had nothing to do with that car being set on fire?
A No.

Q As a matter of fact---
A Cause.
Q ---did you receive anything from your insurance company?
A Yeah.
MR. POOLE: Objection, Your Honor. I think we're getting into the area of hearsay. Anything from the insurance company, I don't know what the next question's going to be.
THE COURT: Well, I don't know what the question is, but he hasn't asked for anything at this point in time.
Overruled.
Let's see what the next question is.
Q Did you receive a check from the insurance company?
A Not -- after I went through the process of letting them know what had happened --
Q Right.
A -- then they paid it off. Not the full amount. But to their value.
Q And that way -- you had nothing to do with the fire?
A Uh-huh. (Negative).
Q Thank you.
Nothing further, Your Honor.
Please answer any questions these gentlemen may have.
THE COURT: Mr. Poole.

MR. POOLE: No questions.
THE COURT: Mr. Brown.
MR. BROWN: No questions, Your Honor.
THE COURT: Sir, you may step down.
The State may call its next witness.
SOLICITOR TAILOR: Michael Nix.
THE COURT: Come forward, sir, to be sworn.
MICHAEL NIX, having been first duly sworn, testified as follows:
THE COURT: Have a seat please, sir.
(Witness complies.)
THE COURT: State your name.
WITNESS: Michael Shawn Nix.
THE COURT: Your witness, Ms. Tailor.

DIRECT EXAMINATION

BY SOLICITOR TAILOR:

Q Mr. Nix, where do you work?
A Spartanburg County Sheriff's Office.
Q And what do you do there?
A Crime scene unit.
Q And for how long have you worked there?
A I've worked at the Sheriff's Office for ten years.
Q And back in March of 2009, what were your duties and responsibilities?
A Crime scene unit.

Q And that's what we call the Spartanburg CSI, correct?
A Yes, ma'am.
Q Okay. Did you respond to Mt. Pleasant and Burns Road?
A Later in the day, yes, ma'am, I did.
Q Okay. And while you were there, what did you do?
A I assisted Investigator Talanges with the, anything that he needed.
Q Okay. I'm gonna hand you what's been marked as State's Exhibit 20.
Do you recognize this?
A Yes, ma'am, I do.
Q And what are they?
A It appears to be approximately four of various types of cartridge casings that are shell casings.
Q Okay. And where did you find those?
A They were collected at, on Mt. Pleasant Road.
SOLICITOR TAILOR: Okay. Your Honor, at this time State would move to move State's Exhibit No. 20 into evidence.
MR. POOLE: No objection, Your Honor.
MR. BROWN: No objection, Your Honor.
THE COURT: Without objection, they'll be received into evidence as marked.
(WHEREUPON, State's Exhibit No. 20 was received into evidence at this time.)