

VOLUME I OF III

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Certiorari to Berkeley County

S.C. SUPREME COURT

Honorable Michael G. Nettles, Circuit Court Judge

DRAKE CAMPBELL,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001342

APPENDIX

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2 STATE OF SOUTH CAROLINA) GENERAL SESSIONS COURT
)
 3 COUNTY OF BERKELEY) CASE NO. 2017-GS-08-0791-0798,
) Mouzon; 2017-GS-08-0799-0806,
 4) Palmer; 2017-GS-08-0765-0772, K.
) Campbell; 2017-GS-08-0783-0790
 5) D. Campbell

6

7 STATE OF SOUTH)
) CAROLINA,
)
 8) Plaintiff,
)

9

vs.)
) Date: 8/27/2018 -
 10) 8/31/2018
)
 11 JACOB MOUZON, SHERROD
) PALMER, KENNETH
) CAMPBELL, DRAKE
 12) CAMPBELL,

12

Defendants.

13

* * * * *

14

15 B E F O R E:

16 The Honorable Deadra Jefferson

17

18

19

20

21 * * * * *

22 Denise J. Lauder, RPR

23 Ninth Judicial Circuit

24 General Sessions Court

25

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1 (The following proceedings were had
2 August 27, 2018, Berkeley County General Sessions
3 Court, State v. Campbell, Junior, State v. Mouzon,
4 State v. Campbell, State v. Palmer, 10:57 a.m.)

5 (State's Exhibits 1 - 172, marked for
6 ID by Solicitor's Office before trial.)

7 (Jury panel was sworn, roll call was
8 had.)

9 THE COURT: Good morning, ladies and
10 gentlemen.

11 THE JURY PANEL: Good morning.

12 THE COURT: Oh, that was kind of slow.
13 I know it's Monday. Good morning.

14 THE JURY PANEL: Good morning.

15 THE COURT: Much better. I'm Deadra
16 Jefferson, and I'm one of your resident circuit
17 judges for the Ninth Circuit which is made up of
18 Charleston and Berkley County.

19 Our purpose this morning is to
20 determine your general eligibility to serve as
21 jurors for this term of criminal court. This term
22 of court will conclude on Friday; and, again, our
23 purpose is to determine your general eligibility to
24 serve.

25 Each one of you is here because you

1 meet one of three criteria; that is, if you're a
2 licensed driver, if you have an ID card from the
3 highway department, or if you're a registered
4 voter, then you are subject to jury service. We
5 understand the inconvenience that jury service
6 poses both to your personal and your professional
7 lives.

8 It is my sincere desire that it will be
9 educational for you, and you will learn that real
10 court is nothing like what you see on television.
11 And I'm referring to Judge Judy, *The People's*
12 *Court*, *Judge Mathis* -- there's so many, I've lost
13 count. I know these shows are very entertaining,
14 but they are what we call binding arbitration. So
15 that just means that two people have agreed to let
16 a third person resolve their disputes.

17 So while it takes on a court type
18 proceeding, it really isn't court; although, again,
19 it's very entertaining and lucrative. I've read
20 recently that Judge Judy sold her catalog of shows
21 of 5,000 hours for \$90 million, and then she signed
22 up for another 45 million for another year of work.

23 So it is very lucrative, however, it's
24 nothing like the real process. So I hope that --
25 although it's impractical for each of you to serve

1 this week, as we will only be selecting one
2 criminal jury, I hope that those who are selected
3 will have an opportunity to learn what the real
4 process is like and in some small way instill --
5 re-instill your faith in the system and that it
6 works because of your willingness to participate in
7 it.

8 Our system is the only kind in the
9 world where 12 ordinary citizens listen to the
10 facts of a case, determine what the facts are,
11 apply a complex set of laws or rules, and then
12 render a verdict. So again, I hope that those who
13 have the ability to serve will find it educational.

14 As you look around the room, there are
15 some people that you should familiarize yourself
16 with. The people that you see with the burgundy
17 jackets on, those are the bailiffs. They're
18 incredibly helpful. If you need anything during
19 the week, please bring it to their attention. They
20 can give you answers or resolve any issues you may
21 have, or they can get to the proper authorities to
22 resolve any issues that you have.

23 Also seated throughout the room are
24 deputies who are here to ensure our safety. Seated
25 to my right and to your left are the deputy clerks

1 of court who are here to assist us in moving cases
2 throughout the system. And seated directly in
3 front of me is my court reporter for this week, Ms.
4 Denise, who is here in her official capacity to
5 take down and preserve the record of the court and
6 the proceedings of the court.

7 And seated immediately behind me is my
8 law clerk. The State is very generous; they
9 provide each of us with a lawyer licensed to
10 practice who assists us in our responsibilities.

11 And then seated throughout the
12 courtroom or in the front of the court are lawyers
13 who are here to observe the jury qualification
14 process.

15 Jury qualification is done in several
16 stages. At the end of this process, I will share
17 with you some guidelines for your service in an
18 effort to make you feel more comfortable in what
19 I'm certain are unfamiliar surroundings.

20 You have already proceeded with roll
21 call and the clerk has already sworn you. The next
22 part of the process requires that I ask certain
23 questions of you. These questions are mandated by
24 State law. Each one of them has a purpose.

25 It is not our intention to embarrass

1 anyone; however, if a question applies to you, I
2 will need for you to stand, and in a loud and clear
3 voice, give me an answer to the questions
4 applicable as well as your name and your juror
5 number.

6 It is not our intention to embarrass
7 anyone. So if you don't feel comfortable answering
8 a question, please make a mental note of it, and
9 when I ask you to, come forward and speak to me
10 privately. It is essential that we have accurate
11 information consistent with your oath.

12 Again, however, I emphasize that we
13 don't want anyone to suffer any embarrassment, so
14 please feel free to come forward and speak with me
15 when I invite you to do so if any question would
16 cause you any embarrassment.

17 Take a moment to look at your tags and
18 familiarize yourself with your juror number in the
19 event that a question applies to you.

20 And here are the questions regarding
21 general eligibility to serve. Is there any member
22 of the panel not now a citizen of the United
23 States? If so, please stand at this time.

24 THE JURY PANEL: (None)

25 THE COURT: Is there any member of the

1 panel not a citizen and resident of the County of
2 Berkley, State of South Carolina? If so, please
3 stand at this time.

4 THE JURY PANEL: (None)

5 THE COURT: Is there any member of the
6 panel unable to read, write, speak or understand
7 the English language? If so, please stand at this
8 time.

9 PROSPECTIVE JUROR: (Standing)

10 THE COURT: Yes, sir. Tell me your
11 name and your juror number.

12 PROSPECTIVE JUROR: 79.

13 THE COURT: And your name?

14 PROSPECTIVE JUROR: Rodolfo Herrera.

15 THE COURT: And, sir, where are you
16 employed?

17 PROSPECTIVE JUROR: Red Carpet.

18 THE COURT: You said carpet?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Do you have a driver's
21 license?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Okay. And you took the
24 test in English? What language did you take the
25 driver's test in?

1 PROSPECTIVE JUROR: I forgot. It was a
2 long time.

3 THE COURT: How long have you had a
4 driver's license?

5 PROSPECTIVE JUROR: For 20 years.

6 THE COURT: Twenty years?

7 PROSPECTIVE JUROR: Probably.

8 THE COURT: So you're able to navigate
9 the streets and read street signs and otherwise?

10 PROSPECTIVE JUROR: Sometimes I'm
11 confused, but not exactly I understand completely.
12 When -- like, when you started, when she started
13 over here with -- I did not understand too much.

14 THE COURT: Okay. How long have you
15 been in the United States? Has it been more than
16 20 years?

17 PROSPECTIVE JUROR: Almost 30 years.

18 THE COURT: Almost 30 years?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: I think that you're
21 qualified, sir. If you have any difficulties, you
22 can just let us know.

23 Does any member of the panel have less
24 than a sixth grade education or its equivalent? If
25 so, please stand at this time.

1 THE JURY PANEL: (None)

2 THE COURT: Is there any member of the
3 panel incapable by reason of mental or physical
4 infirmity to render efficient jury service? I know
5 this is an intensely personal question, and if you
6 don't feel comfortable standing, you can make a
7 mental note to speak with me privately.

8 However, if there is any member of the
9 panel that feels they're incapable due to a mental
10 or physical defect, and you're comfortable in
11 standing, I would invite you to do so at this time.

12 Yes, sir. Do you want to speak to me
13 privately?

14 PROSPECTIVE JUROR: Sure; I would love
15 to.

16 THE COURT: Okay. We'll do that at the
17 end of the process. Give me your juror number.

18 PROSPECTIVE JUROR: 181.

19 THE COURT: One more time?

20 PROSPECTIVE JUROR: 181.

21 THE COURT: And your name, sir?

22 PROSPECTIVE JUROR: Adam Weisberger.

23 THE COURT: Okay. You can take your
24 seat.

25 PROSPECTIVE JUROR: Thank you, Your

1 Honor.

2 THE COURT: You're welcome.

3 Yes, sir -- oh, ma'am, I'm sorry. Tell
4 me your name and juror number.

5 PROSPECTIVE JUROR: Yong Yang, 191.

6 THE COURT: And your name?

7 PROSPECTIVE JUROR: Yong Yang.

8 THE COURT: And do you have a medical
9 issue as well? Okay. So you stood up to tell
10 me --

11 PROSPECTIVE JUROR: Um?

12 MR. SMILEY: She said she wanted to do
13 it privately, Your Honor.

14 THE COURT: Okay. Yes, ma'am, I'll
15 speak with you privately. You can take your seat.

16 Yes, sir.

17 PROSPECTIVE JUROR: Roy Jones, 196.

18 THE COURT: Okay. Do you want to speak
19 with me privately?

20 PROSPECTIVE JUROR: It doesn't matter.

21 THE COURT: Okay. You're comfortable
22 speaking in front of the panel?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Okay. Yes, sir?

25 PROSPECTIVE JUROR: I don't feel good

1 at all.

2 THE COURT: I'm sorry?

3 PROSPECTIVE JUROR: I just don't feel
4 good at all.

5 THE COURT: Oh, you don't feel good
6 today?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Okay. Sir, I need you to
9 hang tight with me for the rest of the
10 qualifications, and then I'll excuse you for the
11 rest of the day so you can seek medical attention.
12 Okay?

13 PROSPECTIVE JUROR: Thank you.

14 THE COURT: You're welcome, sir.

15 Yes, sir; name and juror number.

16 PROSPECTIVE JUROR: Fernando Starks,
17 162.

18 THE COURT: Okay. And, sir, do you
19 want to speak with me privately?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Okay. Remind -- remember
22 to do so when I invite you at the end of the
23 process.

24 Has any member of the panel been
25 convicted by a guilty plea or trial in a state or

1 federal court of record of a crime punishable by
2 imprisonment for more than one year and your civil
3 rights have not been restored by pardon or amnesty?

4 When I say a court of record, that
5 means circuit court, not magistrate court,
6 municipal court, or city court, or federal -- and
7 also included in a court of record would be the
8 federal court, by a crime punishable by more than
9 one year. That means that the maximum penalty
10 could have been a year and a day or more, but you
11 may have received probation.

12 And when I say your civil rights have
13 been restored, that means if you've had all of your
14 civil rights restored, including your right to sit
15 on a jury by a pardon by a federal or state
16 government or some form of amnesty from a federal
17 or state court.

18 If you feel this question applies to
19 you and you're comfortable in standing, I would
20 invite you to do so; however, if you want to speak
21 with the Court privately, please make a mental note
22 to do so when I invite you at the end of the
23 process.

24 Is there anyone who wishes to stand
25 that feels this question applies to them? If so,

1 you may stand at this time.

2 THE JURY PANEL: (None)

3 THE COURT: Is there any member of the
4 panel a clerk of court, a deputy clerk of court,
5 constable, sheriff or other commissioned law
6 enforcement officer, probate judge, county
7 commissioner, magistrate or other county officer or
8 any person employed within the walls of any
9 courthouse? If so, please stand at this time.

10 THE JURY PANEL: (None)

11 THE COURT: Is there any member of the
12 panel who has previously served on jury duty in the
13 circuit court, not city court, magistrate's court,
14 municipal court, or federal court, during this
15 calendar year, which is 2018? If so, please stand
16 at this time.

17 THE JURY PANEL: (None)

18 THE COURT: Is there any member of the
19 panel who has previously served on the Berkeley
20 County grand jury? If so, please stand at this
21 time.

22 THE JURY PANEL: (None)

23 THE COURT: We will now move to
24 exemptions. An exemption does not mean you're not
25 qualified to serve. It simply means in some

1 instances the Court has the ability to excuse your
2 service or to transfer your service.

3 For example, those who are 65 years of
4 age or older may be exempted from jury service. I
5 would encourage you to remain with us if you're
6 inclined to do so because you represent a
7 tremendous pool of talent for jury service;
8 however, if you are 65 years of age or older, and
9 you wish to be exempted, I would ask that you stand
10 at this time.

11 THE JURY PANEL: (None)

12 THE COURT: Another exemption concerns
13 prior jury service. No one is required to serve
14 more than once every three calendar years. Is
15 there any member of the panel who has previously
16 served on a jury trial in the circuit court during
17 the years of 2017 or 2016 and you wish to be
18 exempted?

19 This service -- this does not apply if
20 your service was in magistrate's court, municipal
21 court, city court, or federal court. If you feel
22 this applies and you wish to be exempt, I would ask
23 that you stand at this time.

24 THE JURY PANEL: (None)

25 THE COURT: The next exemption has

1 several parts. Please listen carefully. All parts
2 must apply to you in order for you to be exempted
3 on this basis. This exemption is for stay-at-home
4 parents who do not work outside of the home who
5 cannot make alternate arrangements for the care of
6 your children, and they're under the age of seven.

7 Is there any member of the panel who
8 has a small child, or small children, under the age
9 of seven and you have their legal custody or -- and
10 you have their legal custody, principal care and
11 control, and you are unable to make arrangements
12 for their adequate care while performing jury duty?

13 If all of these requirements apply to
14 you, then you may be exempted on this basis, but
15 only if all of these requirements are present. If
16 you feel this applies and you wish to be exempted,
17 I would ask that you stand at this time.

18 THE JURY PANEL: (None)

19 THE COURT: Is there any member of the
20 panel who is a full-time student, schoolteacher,
21 school crossing guard, school bus driver, or serves
22 in any other school-related function who is unable
23 to serve on jury duty this week as a result of that
24 school involvement?

25 If this applies, we'll transfer you to

1 another term of court which will not conflict with
2 these responsibilities. If you feel this applies
3 to your situation and you wish to be transferred, I
4 would ask that you stand at this time.

5 THE JURY PANEL: (None)

6 THE COURT: Is there any member of the
7 panel who performs services for a business,
8 commercial or agricultural enterprise and whose
9 services are so essential to the operation of the
10 enterprise that the enterprise must close or cease
11 to function if you're required to perform jury
12 duty?

13 If this applies, we'll transfer you to
14 another term of court. This exemption is for
15 seasonal type workers such as agricultural,
16 commercial fishermen, and the like whose business
17 is more busy during certain times of the year than
18 others.

19 If you feel this applies and you wish
20 to seek a transfer, I would ask that you stand at
21 this time.

22 Yes, ma'am, tell me your name and juror
23 number.

24 PROSPECTIVE JUROR: Juror number 121,
25 Erica Montgomery-Levy.

1 THE COURT: And where are you employed,
2 ma'am?

3 PROSPECTIVE JUROR: (Inaudible)

4 THE COURT REPORTER: I can't hear her,
5 Judge.

6 THE COURT: Salon owner and
7 cosmetologist.

8 Ma'am, you're always going to have that
9 problem, aren't you?

10 PROSPECTIVE JUROR: Yes, ma'am.

11 THE COURT: Yeah, I can't exempt you on
12 that basis -- or transfer you on that basis;
13 however, if you're not selected for jury duty,
14 you'll be able to go about your life as you
15 normally do. Thank you, ma'am.

16 The juror is qualified.

17 Yes, ma'am, tell me your name and jury
18 number.

19 PROSPECTIVE JUROR: Jessica Gourdine,
20 juror 66.

21 THE COURT: Yes, ma'am, what is your
22 situation?

23 PROSPECTIVE JUROR: I'm starting a
24 business, and it opens on Thursday.

25 THE COURT: What's the nature of the

1 business?

2 PROSPECTIVE JUROR: It's a food truck.
3 It's starting at the farmer's market.

4 THE COURT: You said it's a food truck,
5 it's opening at the farmer's market?

6 PROSPECTIVE JUROR: Yes.

7 THE CLERK: She'S been transferred.

8 THE COURT: How many times?

9 THE CLERK: Once.

10 (Off the record)

11 THE COURT: Ma'am, were you transferred
12 in April because of you being a full-time student?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: And where are --

15 PROSPECTIVE JUROR: Trident Tech.

16 THE COURT: And were you getting your
17 degree in hospitality?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Or some form of culinary --

20 PROSPECTIVE JUROR: No.

21 THE COURT: What I can do is, I can
22 protect you for Thursday, but I can't exempt you or
23 transfer you because I've already -- we've already
24 transferred you one time.

25 PROSPECTIVE JUROR: Okay.

1 THE COURT: Will that help you out?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Number 66 is protected on
4 Thursday.

5 Is there any member of the panel
6 employed as a guard with the Department of
7 Corrections at a penitentiary? If so, I would ask
8 that you stand because state law exempts you on
9 that basis.

10 THE JURY PANEL: (None)

11 THE COURT: Is there any member of the
12 panel who is the primary caregiver of a person age
13 65 years of age or older or a dis -- or a severely
14 disabled person, either of whom cannot care for
15 themselves, you cannot leave them unattended, you
16 cannot make alternate arrangements for their care
17 and you are not employed outside of the home?

18 If you feel this applies to you in your
19 situation, I would ask that you stand at this time.

20 THE JURY PANEL: (None)

21 THE COURT: Ladies and gentlemen, that
22 concludes the statutory list of qualifications and
23 exemptions for jury service. It may be that you
24 are qualified and that no exemption applies to you,
25 but that jury service this week would constitute an

1 extreme hardship upon you for a particular reason.

2 I cannot permanently excuse a qualified
3 jury from service, but under extreme and compelling
4 circumstances, I may excuse a juror from this term
5 of court and transfer the juror to another term of
6 court, particularly a juror who has not been
7 previously transferred.

8 Please recognize that general
9 inconvenience is not a sufficient basis to transfer
10 your service to another term of court. I will tell
11 you in advance, however, if you have any doctor'S
12 appointments or other like appointments that were
13 scheduled prior to your receipt of your summons or
14 are emergent in nature, that you need to attend to
15 for your health, or for that of a close family
16 member, let me know because I can make alternate
17 arrangements to allow you to meet that obligation.
18 And you can do that when I invite you to come up at
19 the end of the process.

20 Ladies and gentlemen, this is now the
21 opportunity for those who did not respond to any
22 personal questions that were asked or anyone who
23 has a question or concern about a qualification as
24 an exemption and as it may apply to you in your
25 particular situation, or if you wish to seek a

1 transfer to another term of court, as well as the
2 individuals who indicated to me they wanted to
3 speak with me privately about any particular issue,
4 I would ask that you line up in the aisle with the
5 bailiff so that I can speak with you with the court
6 reporter and the clerk of court.

7 I would emphasize this is a
8 particularly good week to satisfy your jury service
9 because we will only be trying one case.

10 THE COURT: All right. Are we ready?

11 BAILIFF: Juror 181.

12 PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: Yes, sir, how are you?

14 PROSPECTIVE JUROR: I'm fine, Your
15 Honor. How are you?

16 THE COURT: I'm doing good. Tell me
17 your name and juror number.

18 PROSPECTIVE JUROR: My name is Adam
19 Weisberger, 181.

20 THE COURT: Yes, sir.

21 PROSPECTIVE JUROR: Ma'am, I cannot sit
22 for extended periods of time. I'm awaiting an
23 epidural next week on Wednesday. I'm a four-time
24 major back surgery recipient, and if you want me
25 fidgeting and standing up every 15 minutes --

1 THE COURT: That's okay. Believe it or
2 not, probably 80 percent --

3 PROSPECTIVE JUROR: That's the only
4 thing I can do.

5 THE COURT: -- of the people on jury
6 duty have back issues, and if you're selected --

7 PROSPECTIVE JUROR: I'm sure they do.

8 THE COURT: -- we can sit you by a
9 bailiff and you can stand up any time you want to.

10 PROSPECTIVE JUROR: Okay. If that's
11 not a problem.

12 THE COURT: Yeah, but we don't -- we
13 take breaks pretty frequently.

14 PROSPECTIVE JUROR: Well, that's fine
15 then.

16 THE COURT: Yeah, just let us know.

17 PROSPECTIVE JUROR: As long as you
18 don't mind me up and down.

19 THE COURT: Not at all.

20 PROSPECTIVE JUROR: Perfect.

21 THE COURT: Not at all.

22 PROSPECTIVE JUROR: Then I don't mind
23 serving.

24 THE COURT: Thank you, sir.

25 PROSPECTIVE JUROR: Thank you, ma'am.

1 THE COURT: Number 181 is qualified.

2 You-all need to have your seat. If
3 there's anything relevant, I'll let you know.

4 BAILIFF: Juror 162.

5 THE COURT: Tell me your name and juror
6 number, sir.

7 PROSPECTIVE JUROR: Fernando Starks,
8 162.

9 THE COURT: Yes, sir, tell me your
10 situation.

11 PROSPECTIVE JUROR: As far as me
12 sitting on a jury here, ma'am, I don't think I
13 could judge anyone.

14 THE COURT: So do you have a -- so
15 that's not a medical issue then?

16 PROSPECTIVE JUROR: No, it's not.

17 THE COURT: Okay. You have a -- what's
18 the word that I'm looking for. You have a
19 philosophical or religious reason?

20 PROSPECTIVE JUROR: Yes, I do, ma'am.

21 THE COURT: Okay. That's not a matter
22 -- you're qualified, sir, but I will ask those
23 questions during voir dire, and I just need you to
24 give me an answer at that time.

25 PROSPECTIVE JUROR: Excuse me?

1 THE COURT: I said you're qualified as
2 a juror, but I will ask those questions during a
3 process we call voir dire, and you can let me know
4 that then.

5 PROSPECTIVE JUROR: Thank you, ma'am.

6 THE COURT: You're welcome, sir.

7 BAILIFF: Juror 89.

8 THE COURT: Good morning, sir. Tell me
9 your name and juror number.

10 PROSPECTIVE JUROR: Jason Ipock, 89.

11 THE COURT: Yes, sir.

12 PROSPECTIVE JUROR: For grade level 12,
13 I didn't -- I don't have a high education.

14 THE COURT: Uh-huh. How far did you go
15 in school?

16 PROSPECTIVE JUROR: I graduated, but
17 I --

18 THE COURT: What do you do for a
19 living?

20 PROSPECTIVE JUROR: I cut grass with --

21 THE COURT: Do you have a driver's
22 license?

23 PROSPECTIVE JUROR: Yes, ma'am.

24 THE COURT: You're qualified.

25 PROSPECTIVE JUROR: All right. I just

1 wanted to make sure.

2 THE COURT: If you have any difficulty,
3 just let us know. Thank you, sir.

4 89 is qualified.

5 BAILIFF: Juror 191.

6 THE COURT: Good morning, ma'am. Tell
7 me your name and juror number.

8 PROSPECTIVE JUROR: Yong Yang, 191.

9 THE COURT: Yes, ma'am.

10 PROSPECTIVE JUROR: There -- the reason
11 I have like a good excuse, like, I went two years
12 English school but I can speak, but writing and
13 reading, I have a little trouble with that. So I
14 don't know if it --

15 THE COURT: How long have you been in
16 the U.S.?

17 PROSPECTIVE JUROR: Over 20 years.

18 THE COURT: Do you have a driver's
19 license?

20 PROSPECTIVE JUROR: Yes, I do.

21 THE COURT: You're qualified. If you
22 have any difficulty just let us know.

23 PROSPECTIVE JUROR: Okay.

24 THE COURT: If you don't understand
25 something, just let us know.

1 PROSPECTIVE JUROR: I have like a
2 little excuse, like, my husband is unemployed, and
3 I'm only working, and it's hard for me to take the
4 whole week off.

5 THE COURT: Well, if you're not
6 selected, you'll be able to go to work every day.

7 PROSPECTIVE JUROR: Okay.

8 THE COURT: Yeah. So if you're not
9 selected, you just call back after 6:00 each
10 evening, but we're only picking one case.

11 PROSPECTIVE JUROR: And I heard what
12 kind of case --

13 THE COURT: We'll go through all that
14 in voir dire.

15 PROSPECTIVE JUROR: Okay. Thank you.

16 THE COURT: Yes, ma'am.

17 191 is qualified.

18 BAILIFF: Juror 152.

19 THE COURT: Yes, sir. Tell me your
20 name and juror number.

21 PROSPECTIVE JUROR: Anthony Sampson,
22 152.

23 THE COURT: Yes, sir.

24 PROSPECTIVE JUROR: I'm self employed.

25 THE COURT: Yes, sir.

1 PROSPECTIVE JUROR: And I'm a
2 self-employed home repairman; and if I don't work,
3 I don't get paid.

4 THE COURT: Yeah. Unfortunately, sir,
5 you're always going to have that problem, and I
6 can't exempt you on that basis. But if you're not
7 selected, you'll be able to go about your day as
8 you normally do.

9 PROSPECTIVE JUROR: Okay.

10 THE COURT: Thank you, sir.

11 Number 152 is qualified.

12 BAILIFF: Juror 11.

13 THE COURT: Yes, sir, tell me your name
14 and juror number.

15 PROSPECTIVE JUROR: Juror number 11,
16 Jacob Bonar.

17 THE COURT: Yes, sir.

18 PROSPECTIVE JUROR: I had a -- I've got
19 two arrests, simple possession of marijuana
20 charges --

21 THE COURT: In magistrate's court?

22 PROSPECTIVE JUROR: Yeah.

23 THE COURT: Yeah, you're qualified.

24 PROSPECTIVE JUROR: All right. I just
25 wanted to make sure.

1 THE COURT: Yes, sir, thank you. I
2 appreciate your candor.

3 Number 11 is qualified.

4 BAILIFF: Juror 189.

5 THE COURT: Good morning, sir. Tell me
6 your name and juror number.

7 PROSPECTIVE JUROR: Sanchez Wright,
8 juror 189.

9 THE COURT: Yes, sir.

10 PROSPECTIVE JUROR: On Wednesday, I
11 have a doctor's appointment at the diabetes center.

12 THE COURT: I can protect you for
13 Wednesday so you can make your appointment.
14 189 is protected Wednesday.

15 PROSPECTIVE JUROR: Thank you.

16 THE COURT: You're welcome, sir.

17 BAILIFF: Juror 56.

18 THE COURT: Good morning, ma'am. Tell
19 me your name and juror number.

20 PROSPECTIVE JUROR: Brandy Fitch, 56.

21 THE COURT: Yes, ma'am, what's your
22 situation?

23 PROSPECTIVE JUROR: I used to be an
24 ex-corrections officer, and I know the gentlemen.

25 THE COURT: Okay. How long ago were

1 you employed there?

2 PROSPECTIVE JUROR: 2016.

3 THE COURT: You mean next door?

4 PROSPECTIVE JUROR: Uh-huh.

5 THE COURT: You just need to disclose

6 that to us in voir dire. Thank you, ma'am.

7 156 is qualified.

8 BAILIFF: Juror 84.

9 THE COURT: Good morning, sir. Tell me
10 your name and juror number.

11 PROSPECTIVE JUROR: David Hughey, 84.

12 THE COURT: Yes, sir.

13 PROSPECTIVE JUROR: My mother has a
14 colonoscopy scheduled at the VA hospital on Friday.

15 THE COURT: I can protect you for
16 Friday.

17 PROSPECTIVE JUROR: Yes, ma'am. Thank
18 you.

19 THE COURT: You're welcome. Number 84
20 is protected Friday.

21 Thank you, ladies and gentlemen. The
22 panel is now qualified.

23 Please permit me to share with you some
24 general guidelines for your service.

25 Please have no interaction with anyone

1 in and about the courthouse. Even an innocent
2 conversation could be easily misconstrued. Please
3 be prompt. It's not fair when we must delay the
4 proceedings because someone is tardy.

5 By the same token, I'll tell you in
6 advance that there will be times when you wait on
7 us, but know that when you're waiting, we're
8 working. Sometimes there are matters of law that
9 we have to discuss that we cannot allow you to be
10 privy to because we have to protect your
11 impartiality.

12 If an emergency occurs at home or work
13 or otherwise, please make us aware of it. We do
14 not want you preoccupied dealing with something
15 when, in most instances, we can render assistance
16 to you.

17 Generally, we begin court around 9 or
18 9:30. We try to break as close to five as
19 possible, knowing that you have other obligations
20 you have to tend to. If you are not selected on
21 today, you will just have to call the jury
22 information line after 6:00 each evening for us to
23 determine if we need you or we've excused you for
24 the week.

25 But as I've indicated, we anticipate

1 calling one case this week; and so once we select
2 this jury, I don't anticipate that we will have
3 need of the remainder of the panel.

4 Number 196, you are excused, sir. Have
5 a good day. I hope you feel better.

6 PROSPECTIVE JUROR: Thank you.

7 THE COURT: Just call back after 6:00
8 this evening.

9 Would Counsel approach for me, please?

10 THE COURT REPORTER: On the record,
11 Judge?

12 THE COURT: No.

13 (Bench conference.)

14 THE COURT: I have a brief matter of
15 law that I need to take up before selecting the
16 jury. I need you all to line up in this aisle way
17 so that the bailiff can take you back to the
18 assembly room until we complete that process. It
19 should be about 15 minutes.

20 We appreciate your patience. If you
21 would follow their directions.

22 (Jury Panel Out, 11:48 a.m.)

23 THE COURT: Mr. Kenneth Campbell is
24 represented by Mr. Archer, correct?

25 MR. ARCHER: Yes, ma'am.

1 THE COURT: Drake Campbell is
2 represented by Mr. -- who is Drake Campbell --
3 Mr. Smaldone?

4 MR. SMALDONE: Yes, ma'am.

5 THE COURT: Mr. Sherrod Palmer is
6 represented by whom?

7 MR. SMILEY: By Jim Smiley, Your Honor.
8 And Ms. Hensley is my second chair.

9 THE COURT: And Mr. Mouzon is
10 represented by Mr. Thrower?

11 MR. THROWER: That's correct, Your
12 Honor.

13 THE COURT: Does Mr. Mouzon wish to
14 have a formal arraignment, Mr. Thrower?

15 MR. THROWER: No, ma'am.

16 THE COURT: Does Mr. Campbell wish to
17 have a formal arraignment, Mr. Archer?

18 MR. ARCHER: Yes, ma'am.

19 THE COURT: Does Mr. Campbell wish to
20 have a formal arraignment, Mr. Smaldone?

21 MR. SMALDONE: Your Honor, we'll waive
22 that.

23 THE COURT: And, Mr. Palmer --
24 Ms. Hensley or Mr. Smiley, does your client wish to
25 have a formal arraignment?

1 MR. SMILEY: No, ma'am.

2 THE COURT: Mr. Archer, are you certain
3 your client wants to have a formal arraignment?

4 MR. ARCHER: This would be in front of
5 the jury, correct?

6 THE COURT: Uh-huh.

7 MR. ARCHER: Yes, I'm certain we would
8 want a formal arraignment.

9 MR. THROWER: Well, Your Honor, at that
10 point, I think you have to do all of them.

11 THE COURT: That's really lengthy. I'm
12 just trying to figure out what -- I mean, what -- I
13 mean, as a practical purpose, what does it serve?

14 I'm going to read the indictments. I'm
15 going to tell the jury they've pled not guilty.
16 I'm just trying to figure out what purpose it would
17 serve.

18 MR. SMILEY: I'm not -- what I'm saying
19 is, I agree with Mr. Thrower; if you do formals,
20 then, I guess, everybody gets it. If not --

21 THE COURT: That's going to take about
22 40 minutes. Are you-all sure you-all want to do
23 that?

24 MR. THROWER: I think we have to.

25 MR. SMILEY: If Mr. --

1 THE COURT: The jury really doesn't pay
2 attention anyway. It all starts sounding like a
3 jumble. I'm just trying to figure out what
4 practical purpose it's going to serve, not that I
5 care one way or the other. I don't have anything
6 but time.

7 MR. SMILEY: Yes, ma'am. Since it's
8 Mr. Kenneth Campbell's right to have the formal, we
9 would waive it, but if he's going to have it, I
10 think that we --

11 THE COURT: Do you-all want to huddle
12 and see what you-all really want to do? I think
13 you test the jury's patience when you read
14 something to them for 40 minutes.

15 They're really not listening. I think
16 they listen when I read the allegations, and I
17 think they listen when I give them the
18 instructions, that, by their appearance, they've
19 pled not guilty to the charge.

20 I don't know that you could get
21 anything appreciable by them -- I don't think the
22 jury -- I think they're tuned out really by the
23 time you read the fifth indictment.

24 MR. SMILEY: Well, we made our --

25 THE COURT: But it's up to you-all. I

1 mean, do you-all want to talk right quick and
2 figure out what we're going to do?

3 MR. SMILEY: We'll be glad to, Your
4 Honor.

5 (Off the record)

6 MR. SMILEY: Your Honor, we all ask for
7 formal arraignment.

8 THE COURT: Everybody wants a formal
9 arraignment? Is that the consensus?

10 MR. SMILEY: Yes, ma'am.

11 MR. SMALDONE: Yes, Your Honor.

12 THE COURT: Is the State going forward
13 on the possession of cocaine in the first
14 indictment with Mr. Palmer, or are not going
15 forward on that?

16 MR. ALFARO: No, Your Honor.

17 THE COURT: I assume then you're going
18 forward on the one, two -- two armed robberies, the
19 attempted murder, the burglary in the first,
20 murder, kidnapping -- and two kidnappings, correct?

21 MR. ALFARO: On the -- there's two
22 kidnappings and also possession of a weapon during
23 the commission of a violent crime.

24 THE COURT: I don't that, possession of
25 a weapon during the commission of a violent crime.

1 THE CLERK: Yes, ma'am, they're all
2 there.

3 (Off the record)

4 THE COURT: And on Drake Campbell,
5 armed robbery, burglary first, murder; 786, armed
6 robbery; 787, attempted murder; 788, kidnapping;
7 789, kidnapping, and 790, possession of a weapon
8 during the commission a violent crime?

9 MR. ALFARO: Yes, Your Honor.

10 THE COURT: We probably need to do them
11 in the order they're sitting. Who's going to do
12 the formal arraignment?

13 THE CLERK: Ollie.

14 THE COURT: You're going to do it in
15 the order they're standing -- sitting, rather. So
16 we'll do Mr. Mouzon first, Mr. Palmer second --

17 MR. SMILEY: Last.

18 THE COURT: No. When we do the formal
19 arraignment, I'm going to do it in the order
20 they're sitting.

21 MR. SMILEY: Yes, ma'am. Yes, ma'am.

22 THE COURT: We're going to
23 Mr. Thrower's client first, who is Mr. Mouzon; then
24 we'll do Mr. Smiley's client, who is Mr. Palmer;
25 and then we're going to do Mr. Smaldone's client,

1 who is Mr. Campbell; and, last, Mr. Archer's
2 client, Mr. Kenneth Campbell.

3 MR. ARCHER: Judge?

4 THE COURT: Yes, sir.

5 MR. ARCHER: We've got a motion to
6 sever. And if my guy gets severed, the rest of
7 them may say they don't want to --

8 THE COURT: Yes. We'll see how that
9 goes.

10 MR. ARCHER: Okay.

11 THE COURT: Armed robbery, armed
12 robbery, burglary first, murder, armed robbery,
13 attempted murder, kidnapping, kidnapping, and
14 possession of a weapon. That's Mr. Campbell; is
15 that accurate?

16 MR. ALFARO: I'm sorry, Your Honor, was
17 that Drake or Kenneth?

18 THE COURT: Oh, I'm sorry, Kenneth.

19 MR. ALFARO: Kenneth. 765 through --

20 THE COURT: 763, 765, 766, 767, 768,
21 769, 770, and 771 is what I have.

22 MR. ALFARO: And 772, Your Honor.

23 THE COURT: I don't have 772, unless I
24 missed -- overlooked something. Oh, I did, that's
25 the possession of the weapon. I'm sorry.

1 And then, Mr. Mouzon, I have 764, 791,
2 792, 793, 794, 795, 796, 797, 798.

3 MR. ALFARO: What's the 764, Your
4 Honor?

5 THE COURT: Armed robbery. And the
6 rest are armed robbery, burglary first, murder,
7 armed robbery, attempted murder, kidnapping,
8 kidnapping, possession of a weapon during the
9 commission of a violent crime.

10 MR. ALFARO: Your Honor, the armed
11 robbery, he has a separate case for the armed
12 robbery.

13 THE COURT: So the 764 is not --

14 MR. ALFARO: That's right. I have him
15 as -- the armed robbery is 791.

16 THE COURT: Then, 792, 793, 794, 795,
17 796 and 797, and 798; is that correct?

18 MR. ALFARO: Yes, Your Honor.

19 THE COURT: Okay. So then we need to
20 set aside 794?

21 MR. ALFARO: Yes.

22 THE COURT: Give these to her. Thank
23 you.

24 Okay. We have motions to sever.

25 MR. ALFARO: Your Honor, before we do

1 that, can we reconfirm on the Kenneth Campbell
2 indictment, because I think he's a co-defendant in
3 that case as well.

4 THE COURT: I'm sorry you lost me.
5 Tell me what you're asking me.

6 MR. ALFARO: The separate case that Mr.
7 Mouzon has, I believe Kenneth Campbell is a
8 co-defendant in that. I just wanted to make sure
9 that we have the right indictment.

10 THE COURT: Okay. I have 763, which is
11 armed robbery; 765, which is armed robbery; 766,
12 burglary in the first degree; 767, which is murder;
13 768, armed robbery; 769, attempted murder; 770,
14 kidnapping; 771, kidnapping; and 772, possession of
15 a weapon during the commission a violent crime.

16 MR. ALFARO: The 763 is a separate
17 incident.

18 THE COURT: Is separate?

19 MR. ALFARO: My indictments for Kenneth
20 Campbell begin at 765.

21 THE COURT: Okay. We've corrected
22 that.

23 Now, we have done that housekeeping.

24 All right. Now, we have a motion to
25 sever which was filed by Mr. Archer. I don't have

1 a file date on it. It's dated 8/23.

2 I have a copy of it, Mr. Archer. If
3 you intend it to be a part of the record, you'll
4 need to file an original. Okay. They were filed
5 on this morning.

6 And a motion to sever was filed by Mr.
7 Smaldone. Do you have a filing date on that, Mr.
8 Smaldone.

9 MR. SMALDONE: I have not filed it yet.

10 THE COURT: Just make sure you get it
11 filed because I have a copy, and I don't file
12 copies.

13 MR. SMALDONE: Okay.

14 THE COURT: Who wants to go first?

15 MR. ARCHER: I'll go first, Your Honor.

16 THE COURT: You may proceed.

17 MR. ARCHER: Your Honor, my client --
18 there are two brothers here. There's Kenneth
19 Campbell and Drake Campbell. All right. My
20 client, Kenneth Campbell, is desirous of calling
21 his brother Drake Campbell as a witness.

22 And for the purpose of -- we believe he
23 would testify that my client was not at the scene
24 of the crime when it was committed. All right.
25 Unfortunately, there's a problem. Drake Campbell

1 cannot testify to that without incriminating
2 himself by putting himself at the scene of the
3 crime. All right.

4 And I talked to Mr. Smaldone, and he's
5 inclined to, one, probably not call his client as a
6 witness, and, two, that if I call him, to have him
7 take the Fifth Amendment.

8 THE COURT: What guarantee do you have
9 he's not going to take the Fifth in a separate
10 trial?

11 MR. ARCHER: Well, I don't have a
12 guarantee, but he's not --

13 THE COURT: Because he'd be under oath,
14 and they could use that against him, whether he's
15 tried separately or jointly.

16 MR. ARCHER: Well, I think, if he's --
17 if he's tried and found not guilty, then --

18 THE COURT: How do you know which one
19 the State's going to call first? They may decide
20 and let everybody else -- cut them loose today and
21 try your client first.

22 MR. ARCHER: Well --

23 THE COURT: In which case, he's going
24 to take the Fifth.

25 MR. ARCHER: Huh?

1 THE COURT: In which case, he'll
2 probably take the Fifth. I can't imagine under any
3 circumstances him incriminating himself.

4 MR. ARCHER: Yes, ma'am. I mean --
5 well, I think --

6 THE COURT: Because he's not going to
7 be able to say --

8 MR. ARCHER: The problem is alleviated,
9 basically, if my client is severed.

10 THE COURT: How?

11 MR. ARCHER: Well, His trial proceeds,
12 he gets a verdict. All right. And if it's a not
13 guilty, there is no problem because there can't be
14 double jeopardy.

15 THE WITNESS: It is a problem because
16 you're saying that Mr. Smaldone's client is going
17 to get on the stand and incriminate himself. I
18 don't see that happening under any scenario,
19 whether they're tried together or separately.
20 Because why would he incriminate himself under oath
21 when they could use it against him? It does not
22 make any sense to me.

23 MR. ARCHER: Well, I think once he's
24 been tried here, it can't be used against him.

25 THE COURT: Who's tried here?

1 MR. ARCHER: When his brother Drake is
2 tried.

3 THE COURT: How do you know who's going
4 to be tried first?

5 MR. ARCHER: I don't, but I would ask
6 my client be severed out. That --

7 THE COURT: But that doesn't mean the
8 State has to go forward on these three. He could
9 try your client first.

10 MR. THROWER: He could, but, I mean, I
11 think you can avoid that problem by simply --

12 THE COURT: I don't know what the State
13 is going to do. That's their prerogative, and I
14 don't think they have to tell you what they're
15 doing to do.

16 MR. ARCHER: Well, I think we could ask
17 them now and --

18 THE COURT: I'm not going to make them
19 tell you because they're going to make a decision
20 based on what I do. It's a strategic one, and they
21 don't have to divulge it to you.

22 MR. ARCHER: Well, certainly, if that's
23 the ruling, then --

24 THE COURT: I haven't made a ruling.
25 I'm just asking a question --

1 MR. ARCHER: Yes, ma'am. Then my
2 client --

3 THE COURT: Because I can't make a
4 decision based on what might happen. I have to
5 make a decision based on what's going to happen,
6 what is likely to happen. And I asked the question
7 based on several different scenarios, which is, if
8 your client is severed and they try him first, how
9 -- you'd have to make an offer of proof that he's
10 actually going to say what you think he's going to
11 say, and that he's not going to take the Fifth.

12 If they do it the other way around,
13 he's still going to take the Fifth. I don't see
14 how, and under any scenario, that he is going to
15 incriminate himself to exculpate your client.

16 MR. ARCHER: Well, I don't see where if
17 he goes to trial first he incriminates himself,
18 because he would have -- there're already -- his
19 guilt would have already been determined at that
20 point.

21 THE COURT: Well, I don't know -- I
22 mean, I don't know how that's going to go.

23 MR. ARCHER: Hmm?

24 THE COURT: I said, I don't know. I
25 mean, I wish I was clairvoyant. I --

1 MR. ARCHER: Well, I know, but there's
2 -- here's the only two possibilities. He goes to
3 trial and is found not guilty. Well, then he can
4 testify to whatever he wants, and he can't be
5 brought back up because then it's double jeopardy.

6 Or, he goes to trial and is found
7 guilty, and he's -- he's not incriminating himself
8 because he's already been found guilty. So I think
9 there's a lot more chance he's willing -- he'd be
10 willing to testify if he's tried first and --

11 THE COURT: If he's found -- if he's
12 tried first, and he is found guilty, he's not going
13 to inculcate himself. He'll have an appeal
14 pending. I would assume, since everything gets
15 automatically appealed.

16 I don't see him getting on the stand
17 and saying, well, I've been found guilty, now I'm
18 going to exculpate my cousin.

19 MR. ARCHER: If my client is not
20 severed, he has no change of calling his brother at
21 all. He does have a chance --

22 THE COURT: Well, that's not -- I can't
23 deal in chances and probabilities. I have to know
24 that there is actually going to be testimony of
25 that kind and that he is going to testify in that

1 way. I can't waste judicial resources on what
2 might happen.

3 MR. ARCHER: Well, you can -- I don't
4 think you can ask him now. If you ask him now,
5 then he has to incriminate himself prior to this
6 trial.

7 THE COURT: I hear a lot of ifs and
8 maybes. I'm not hearing anything where you're
9 telling me he's not going to take the Fifth to
10 insulate himself.

11 MR. ARCHER: Well, I don't have an
12 ability to know that because --

13 THE COURT: I can't sever based on what
14 he might do.

15 MR. ARCHER: Huh?

16 THE COURT: I have to sever based on
17 what I know he's going -- some guaranteed right
18 that's going to be a bridge. And I don't see the
19 point in me severing something where somebody would
20 just take the Fifth. That's a waste of resources.

21 Why have two trials based on the same
22 facts, on what might happen?

23 MR. ARCHER: Okay.

24 THE COURT: I need -- you would have to
25 give me some offer of proof that he is actually

1 going to do that and he is actually going to say
2 that, and he's going to actually inculcate himself
3 and exculpate your client.

4 And I, frankly -- I mean, I'm at a loss
5 as to what motivation he would have to do that.
6 Whether he's tried together or jointly, I don't see
7 him having any motivation to inculcate himself and
8 exculpate somebody else.

9 Yeah. His motivation would be to say,
10 I don't have anything to say, either way, because
11 if he --

12 MR. ARCHER: Well, I sort of --

13 THE COURT: Either way he's inculcating
14 himself.

15 MR. ARCHER: Well, you know, if he --

16 THE COURT: So it seems to me if
17 somebody were someplace else, they should have
18 another reliable alibi witness, other than a
19 co-defendant, to corroborate that they were in fact
20 there, and that you would have given notice to the
21 State of an alibi --

22 MR. ARCHER: Yes, ma'am.

23 THE COURT: It begs the next question,
24 did you do that?

25 MR. ARCHER: No, but I'm not claiming

1 an alibi.

2 THE COURT: Well, that's an alibi when
3 you say somebody wasn't there. They had to be
4 someplace else. Isn't that an alibi? An alibi
5 says, I wasn't there, I couldn't have committed the
6 offense.

7 MR. ARCHER: All right.

8 THE COURT: Mr. Smaldone, I'll be glad
9 to hear from you and then I'll hear from the State.
10 And I need you to address Mr. Archer's argument to
11 the extent that you can without compromising
12 privilege, of course or --

13 MR. SMALDONE: Certainly, Your Honor.
14 And it's just my standing policy, I think every --
15 most competent attorney's standing policy. I'm not
16 going to let him -- I'm not going to let him speak
17 with Mr. Archer.

18 Mr. Archer is a nice fellow, but I have
19 to look out for my client first.

20 THE COURT: Absolutely.

21 MR. SMALDONE: So, unfortunately not,
22 Your Honor, as regards -- I will confirm that we
23 did talk about it last week. I did confirm that I
24 would not, you know, as Mr. Campbell's -- my
25 client, Drake Campbell's, sole decision on whether

1 to testify, whether to not testify, he'll make that
2 decision -- he's thought about it -- he'll make
3 that decision at a later time, but he will not make
4 that decision based upon, you know, his
5 co-defendant's situation. He'll make --

6 THE COURT: He'll make it on what is
7 best for him.

8 MR. SMALDONE: His own decision with
9 my --

10 THE COURT: At the appropriate time and
11 I've advised him of the rights.

12 MR. SMALDONE: Exactly, Your Honor.
13 But that would be the only thought going through
14 his head at the time, what's best for me. So that
15 -- I believe that -- if Your Honor has any more
16 questions about Mr. Archer's motion, I'll be glad
17 --

18 THE COURT: No. That -- that sort of
19 confirms what my -- I just couldn't imagine under
20 any circumstance of someone inculpatating themselves.

21 MR. SMALDONE: Sure. And they're
22 brothers, they love each other, but maybe not quite
23 that much, Your Honor.

24 So -- however, I do have a motion to
25 sever as well.

1 THE COURT: Yes, sir.

2 MR. SMALDONE: And Your Honor said it
3 best, it's tough -- these are tough to argue and
4 I'm sure they're tough for Your Honor to decide,
5 because we're kind of predicting the future here.
6 I will concede that there are no -- I know of no
7 Bruton issues.

8 I've talked to Mr. Alfaro. I don't
9 think there are any Bruton issues in this case
10 because the snitch is being -- is being tried
11 separately or will plead separately. He's not on
12 trial. So they're no Bruton issues --

13 THE COURT: Who is that?

14 MR. SMALDONE: Oh, that is Mr. Darius
15 Hamilton. He's not -- he's not on trial.

16 THE COURT: But he's a witness.

17 MR. SMALDONE: He is a witness.

18 THE COURT: Yeah. That's what I
19 thought.

20 MR. SMILEY: He's the fifth
21 co-defendant.

22 MR. SMALDONE: Right.

23 THE COURT: But he is a cooperating
24 co-defendant.

25 MR. SMALDONE: Correct, not going to

1 trial.

2 THE COURT: His name is Darius --

3 MR. SMALDONE: Hamilton.

4 THE COURT: Okay.

5 MR. SMALDONE: However, I will ask that
6 my client, Drake Campbell's trial be severed
7 because of the possibility and likelihood that
8 antagonistic defenses will present themselves along
9 the line. It's not a Bruton issue; it's a due
10 process issue.

11 THE COURT: Hasn't our supreme court
12 said that antagonistic defenses is not a basis to
13 sever?

14 MR. SMALDONE: Only if -- if I recall
15 correctly, I think they said the possibility of
16 antagonistic defenses, and I think --

17 THE COURT: Doesn't the law presume
18 that when you have co-defendants it's always going
19 to be antagonistic because it will always be
20 everyone's posture that I didn't do it?

21 I mean, that's a -- I'm breaking it
22 down like very simplistically.

23 MR. SMALDONE: Correct, and Your Honor
24 is correct in that. I think just to preserve due
25 process that the amount of evidence, the type of

1 evidence against co-defendants versus my client, I
2 have to preserve it. I have to ask for it.

3 I believe that he should be entitled to
4 a trial by himself to face the accusations, not
5 against each and every individual co-defendant but
6 against Drake Campbell who's on trial.

7 THE COURT: Well, isn't it nullified?
8 Because if it makes it to a jury, the Court always
9 instructs that they're separate defendants,
10 separate elements, separate offenses. The State
11 has to meet the burden as to all of them.

12 You can't just lump them in and find
13 everybody guilty just because -- they could find
14 two people guilty, acquit everybody else, find one
15 person guilty, acquit everybody else. They could
16 acquit everybody.

17 MR. SMALDONE: They can, and we all
18 hope for that.

19 THE COURT: I'm not good at math, so I
20 gave up, like, the probability --

21 MR. SMALDONE: Right -- it's like the
22 amount of Sonic drinks that they have, right.

23 THE COURT: I gave up at two when I
24 knew I was already ahead -- yeah, ahead of my
25 ability.

1 MR. SMALDONE: Correct. And also --
2 That's all I have, Your Honor. I -- it's the
3 likelihood -- the realistic likelihood that
4 antagonistic defenses will present themselves and
5 will deprive Drake Campbell of due process.

6 And, Your Honor, in the alternative, we
7 ask for leave to renew -- if Your Honor is inclined
8 to deny my request, we ask Your Honor for leave to
9 request it again, if -- if that situation may
10 arise.

11 THE COURT: Okay. I'll listen to the
12 State, and then I'll see where we are.

13 MR. SMALDONE: And, Your Honor, may --
14 I don't know -- I have a copy of it. I don't know
15 if I can file it here or I need to go downstairs.

16 THE COURT: I think you need to go
17 downstairs --

18 MR. SMALDONE: That's fine.

19 THE COURT: -- and file the original.

20 MR. SMALDONE: Sure.

21 THE COURT: What I did -- what you-all
22 sent me, I print, but I put it with my notes and I
23 write all over it. So I don't -- I don't like to
24 file it.

25 MR. SMALDONE: Certainly.

1 THE COURT: But I just wanted to make
2 sure you knew that so you could cover your bases
3 and make sure it's in the court record.

4 MR. SMALDONE: I didn't, and I will.
5 Thank you, Your Honor.

6 THE COURT: You're welcome.

7 Mr. Alfaro, I'll be glad to hear from
8 you.

9 MR. ALFARO: Your Honor, based off the
10 -- Mr. Archer's motion -- or regarding Mr. Archer's
11 motion, as you indicated in the colloquy with him,
12 just the possibility that a co-defendant may, in
13 fact, testify or not testify has been established
14 is not an established reason to grant a severance.

15 So in light of that, along with the
16 grounds of judicial economy, it's the same evidence
17 in the case that could be presented against all
18 four co-defendants. Split that into four separate
19 trials, it would be unduly burdensome not only on
20 the victim who would be a witness in each trial,
21 but also to the Court and the State for essentially
22 trying the same case four separate times.

23 So we would ask that you deny
24 Mr. Kenneth Campbell's motion for severance.

25 Regarding Drake Campbell's motion for

1 severance, I believe it has been established that
2 just the possibility of antagonistic defenses, or
3 the fact that there may be some spillover of
4 evidence, or one defendant is less culpable than
5 another co-defendant are not -- in particular not
6 reasons for a severance.

7 So we would ask that you also deny that
8 motion as well and allow the State to proceed with
9 one joint trial of all four defendants.

10 THE COURT: Anything further, Mr.
11 Archer or Smaldone, in that order?

12 MR. ARCHER: Nothing further, Your
13 Honor.

14 THE COURT: Anything further, Mr.
15 Smaldone?

16 MR. SMALDONE: Nothing further, Your
17 Honor.

18 THE COURT: As regards Mr. Archer's
19 client's, that being Kenneth Campbell, motion for
20 severance, the motion for severance is denied. As
21 we know, the case law is very clear that a motion
22 for severance is directed to the discretion of the
23 Court, which is based -- it's only reversible --
24 it's subject to reversal when there is an absence
25 of case law or facts to support the Court's

1 decision.

2 Mr. Archer has based his motion on the
3 fact that he would like to call Kenneth Campbell,
4 who is -- that the Defendant Kenneth Campbell would
5 like to call his brother Drake Campbell as a
6 witness, and that, the essence of what he's
7 proffered to the Court is he believes that Drake
8 Campbell would alibi his client; in other words,
9 exculpate him by saying he was not at the scene of
10 this incident, thereby inculpating himself.

11 I have not heard, however, that to be a
12 certainty. I've heard speculation that he would
13 like to call him, that he may call him, that he
14 could call him, but more importantly and
15 dispositive of the Court's decision in this issue
16 is the fact that Mr. Drake Campbell, although he's
17 the brother of Kenneth Campbell, his lawyer has
18 indicated that under no circumstances would he
19 advise his client to inculpate himself to exculpate
20 his brother, and that no matter what the scenario
21 be, that being joint or several trial, that he
22 would proffer that type of testimony.

23 Therefore, the Court having found no
24 basis in fact to grant the motion to sever, it is
25 denied.

1 As regards Mr. Drake Campbell's motion
2 to sever, it is based basically in essence on
3 antagonistic defenses and some broad strokes
4 regarding the Fifth and Fourteenth Amendment. I
5 have not heard any evidence that there are any
6 statements that are going to be used against each
7 of the individual co-defendants made by other
8 co-defendants thereby denying them the right to
9 confront their accusers.

10 The co-defendant who is testifying as a
11 cooperating co-defendant, which I would have to
12 assume the State has provided the essence of that
13 witness's testimony to counsel, they will also have
14 the ability each to cross-examine and confront that
15 witness, that being Mr. Darius Hamilton.

16 In addition, the fact that there may be
17 antagonist defenses is not a basis to sever. The
18 case law is very clear regarding that issue.

19 If the Court were to grant motions to
20 sever based on what might be or the possibility of
21 an antagonistic defendant or defenses, you would
22 never have co-defendants tried together. In fact,
23 every trial would be severed.

24 So the mere allegation of an
25 antagonistic defense is insufficient, and I have

1 not heard anything specific in nature that would
2 rise to the level of what would be required by case
3 law to grant a severance; and, therefore the motion
4 is denied.

5 I cannot guarantee that I will take up
6 the issue again; however, Mr. Smaldone, you should
7 make any motions contemporaneously that you feel
8 are appropriate, and the Court will take them up at
9 that time and rule on them contemporaneously.

10 All right. Is there anything else we
11 need to take up before we proceed with jury
12 selection, from the State?

13 MR. ALFARO: No, Your Honor.

14 THE COURT: From the defense?

15 MR. ARCHER: Well, Your Honor, I had a
16 motion to -- in limine to determine what --

17 THE COURT: Yeah, that's not relevant
18 if his client testifies -- or he decides to
19 testify. So I'll take that up at the appropriate
20 time.

21 MR. ARCHER: Okay.

22 THE COURT: Yeah, his record isn't
23 relevant until he testifies. So that's the only
24 time it could be used.

25 MR. ARCHER: Well, whether he testifies

1 or not would depend on what they can impeach him --

2 THE COURT: Well, I'll go over that
3 when I advise him of his right so he can make a
4 fully informed decision.

5 MR. ARCHER: Okay. And I've got one
6 little problem, Judge.

7 THE COURT: Yes, sir.

8 MR. ARCHER: From where I sit, I cannot
9 hear.

10 THE COURT: Did you talk to Mr. Marvin
11 about -- oh, you've got your device. Okay.

12 MR. ARCHER: Yeah. From where I'm
13 sitting, I cannot see the witness, which makes it
14 hard for me to observe their --

15 THE COURT: You might have to stand up
16 unfortunately. You know, we're in an older
17 building so we have some challenges we don't have
18 in the other buildings where they were designed for
19 everybody to see the witness.

20 MR. ARCHER: Well --

21 THE COURT: And I'll make sure that
22 they speak directly into the mic and you're able to
23 hear them clearly. And if you have any difficulty
24 hearing, please, like stop me immediately and we
25 can correct that.

1 MR. ARCHER: Right. And if you don't
2 mind, I may be moving around the courtroom --

3 THE COURT: Oh, I have no problem at
4 all.

5 MR. ARCHER: -- to be able to see the
6 witness.

7 THE COURT: No -- yeah. If you need to
8 move to see the witness, that's not a problem.

9 All right. Is there anything else we
10 need to take up before we proceed with jury
11 selection? From Mr. Thrower?

12 MR. THROWER: We had put in some voir
13 dire questions.

14 THE COURT: Yeah, I got them.

15 Mr. Smiley, anything we need to take up
16 before jury selection?

17 MR. SMILEY: Just two things I just
18 need to put on the record is, as to my client, my
19 client made a statement once he was taken into
20 custody --

21 THE COURT: I think they said they're
22 not using any --

23 MR. SMILEY: Well -- well, I was just
24 going to put on the record, Mr. Alfaro and I spoke
25 earlier and agreed that it would not be entered

1 into evidence; and, therefore, I do not have a
2 Jackson v Denno, but wanted to establish we had
3 resolved that --

4 THE COURT: Yeah. I'm going to go over
5 all that stuff after we pick the jury.

6 MR. SMILEY: Oh, okay.

7 THE COURT: Yeah. They're sitting, and
8 I -- I mean, anything that regarded jury -- -

9 MR. SMILEY: I just wanted to put it on
10 the record.

11 THE COURT: Yeah. I'm going to go
12 through all of that --

13 MR. SMILEY: Okay.

14 THE COURT: -- after we pick the jury.

15 MR. SMILEY: And I just need some
16 clarification about the strikes.

17 THE COURT: You-all get ten total.
18 That's what the statue says.

19 MR. SMILEY: No, ma'am, we get 20
20 total.

21 THE COURT: Oh, is it? I might be
22 wrong. It is 20 -- it's 10? I can't remember.
23 Let me look at the statute right quick. I glanced
24 before I came in, and I have to admit I glanced
25 quickly.

1 MR. SMILEY: Yes, ma'am. I believe the
2 statute allows Mr. Alfaro to have twice as many
3 strikes -- to have 10 strikes, and that when there
4 are co-defendants, there's never more than 20.

5 And we'll have to split them up five
6 each because we do not have a joint defense
7 agreement. We'll each have five strikes is my
8 understanding. I just wanted to make it clear
9 before we got started.

10 THE COURT: Yeah. That is an important
11 issue, and I glanced very quickly, and I did not
12 look at closely as I needed to.

13 MR. SMILEY: Of course, we would like
14 --

15 THE COURT: Multiple defendants. My
16 understanding -- 20 and 10 to the State. All
17 right. Everybody in agreement on that? So I guess
18 you-all get five each?

19 MR. SMILEY: Yes, ma'am, and I will --
20 yes, ma'am.

21 THE COURT: Does the State have any
22 exception to the Court's interpretation of
23 14-711-10?

24 MR. ALFARO: No, Your Honor. That was
25 our interpretation as well.

1 THE COURT: Anything else before we
2 bring in the jury? From the State?

3 MR. ALFARO: No, Your Honor.

4 THE COURT: From the defense?

5 MR. THROWER: No, Your Honor.

6 MR. SMILEY: No, Your Honor.

7 MR. SMALDONE: No, Your Honor.

8 THE COURT: Mr. Archer?

9 MR. ARCHER: No, ma'am.

10 THE COURT: Okay. Can we bring in the
11 jury?

12 (Jury panel in, 12:36 p.m.)

13 THE COURT: We got everybody? All
14 right.

15 Madame Clerk, you may proceed when
16 you're ready.

17 THE CLERK: Will the Defendant Jacob
18 Malachi Mouzon, please stand for your arraignment.

19 Indictment No. 2017-GS-08-00791; the
20 State of South Carolina, County of Berkeley v.
21 Jacob Malachi Mouzon, Indictment for armed robbery.
22 The Indictment reads: That on or about July 21st,
23 2016, in Berkeley County, South Carolina, the
24 Defendant, Jacob Malachi Mouzon, while acting in
25 concert with co-defendants, by use of force,

1 threats, or intimidation and while armed with a
2 deadly weapon, or while allegedly -- alleging,
3 either by action or words, he was armed while using
4 a representation of a deadly weapon or any object
5 which a person present during the commission of a
6 robbery reasonably believed to be a deadly weapon
7 did take and carry away goods and all monies from
8 the person or immediate presence of Kadeem Johnson
9 with intent to permanently deprive the defendant
10 (sic) of possession thereof, in violation of
11 16-11-330(A) of the South Carolina Codes of Law,
12 1977, as amended.

13 How do you plead to the charge?

14 THE DEFENDANT: Not guilty.

15 THE CLERK: Indictment No.

16 2017-GS-08-00792, State of South Carolina, County
17 of Berkeley b Jacob Malachi Mouzon, Indictment for
18 burglary, first.

19 The Indictment reads: That in Berkley
20 County, South Carolina, on or about July 21, 2016,
21 the Defendant, Jacob Malachi Mouzon, while acting
22 in concert with co-defendants, did enter the
23 dwelling of Kadeem Johnson without consent, and
24 with the intent to commit a crime therein. That in
25 addition, said entry or remaining occurred in the

1 nighttime, and/or the defendant caused physical
2 injury to a person who was not the participant in
3 the crime, and/or the defendant displayed what was
4 or appeared to be a knife, pistol, revolver, rifle,
5 shotgun, machine gun, or other firearm, and/or
6 defendant was armed with a deadly weapon or
7 explosive in violation of 16-11-311 of the South
8 Carolina Code of Laws, 1976, as amended.

9 How do you plead to those charges?

10 THE DEFENDANT: Not guilty.

11 THE COURT: Indictment No.

12 2017-GS-08-0793, the State South Carolina, County
13 of Berkley v Jacob Malachi Mouzon, Indictment for
14 murder.

15 The indictment reads: That in Berkley
16 County, South Carolina on or about July 21st 2016
17 the Defendant, Jacob Malachi Mouzon, while acting
18 in concert with co-defendants, feloniously,
19 willfully and with malice aforethought, did kill
20 and murder Kadeem Johnson by means of gunshot
21 wound, and Kadeem did die -- Kadeem Johnson did die
22 in Berkeley County as a proximate result thereof on
23 or about July 21st, 2016; in violation of 16-3-10
24 of the South Carolina Code of Laws, 1976, as
25 amended.

1 How do you plead to those charges?

2 THE DEFENDANT: Not guilty.

3 THE CLERK: Indictment No.

4 2017-GS-08-00794, State of South Carolina, County
5 of Berkley v Jacob Malachi Mouzon, Indictment for
6 armed robbery.

7 The indictment reads: That on or about
8 July 21st, 2016, in Berkeley County, South
9 Carolina, the Defendant, Jacob Malachi Mouzon,
10 while acting in concert with co-defendants, by use
11 of force, threats, or intimidation and while armed
12 with a deadly weapon, or while alleging, either by
13 action or words, he was armed while using a
14 representation of a deadly weapon or any object
15 which a person present during the commission of the
16 robbery reasonably believed to be a deadly weapon,
17 did take and carry away goods and all monies from
18 the person or immediate presence of Krystal Snipe
19 with intent to permanently deprive the victim of
20 possession thereof, in violation of 16-330(A) of
21 the South Carolina Code of Laws, 1976, as amended.

22 How do you plead to those charges?

23 THE DEFENDANT: Not guilty.

24 THE CLERK: Indictment No.

25 2017-GS-08-00795, State of South Carolina, County

1 of Berkley v Jacob Malachi Mouzon, Indictment for
2 attempted murder.

3 The indictment reads: That in Berkley
4 County, South Carolina on or about July 21st, 2016,
5 the Defendant, Jacob Malachi Mouzon, while acting
6 in concert with co-defendants, did, with intent to
7 kill and -- kill and malice aforethought, attempt
8 to kill Krystal Snipe. This is in violation of
9 Section 16-3-29 of the South Carolina Code of Laws,
10 1976, as amended.

11 How do you plead to those charges?

12 THE DEFENDANT: Not guilty.

13 THE CLERK: Indictment No.

14 2017-GS-08-00796, State of South Carolina, County
15 of Berkeley v Jacob Malachi Mouzon, Indictment for
16 kidnapping.

17 The indictment reads: That in Berkley
18 County, South Carolina on or about July 21st, 2016,
19 the Defendant, Jacob Malachi Mouzon, acting in
20 concert with co-defendants, unlawfully did seize,
21 confine, inveigle, decoy, kidnap, abduct, or carry
22 away the victim, Kadeem Johnson, without authority
23 of the law; all in violation of Section 16-3-910 of
24 the South Carolina Code of Laws, 1976, as amended.

25 How do you plead to those charges?

1 THE DEFENDANT: Not guilty.

2 THE COURT: Indictment No.

3 2017-GS-08-00979, the State of South Carolina,
4 County of Berkley v Jacob Malachi Mouzon,
5 Indictment for kidnapping.

6 The indictment reads: That in Berkeley
7 County, South Carolina on or about July 21st, 2016,
8 the Defendant, Jacob Malachi Mouzon, while acting
9 in concert with co-defendants, unlawfully did
10 seize, confine, inveigle, decoy, kidnap, abduct, or
11 carry away the victim, Krystal Snipe, without
12 authority of law; all in violation of Section
13 16-3-910 of the South Carolina Code of Laws, 1976,
14 as amended.

15 How do you plead to the charge?

16 THE DEFENDANT: Not guilty.

17 THE CLERK: Indictment No.

18 2017-GS-08-00798, State of South Carolina, County
19 of Berkeley v Jacob Malachi Mouzon, Indictment for
20 possession of a weapon during the commission of a
21 violent crime.

22 The indictment reads: That in Berkeley
23 County, South Carolina on or about July 21st, 2016,
24 the Defendant, Jacob Malachi Mouzon, while acting
25 in concert with co-defendants, did possess a

1 firearm or did visually display what appeared to be
2 a firearm, and did visually display a knife during
3 the commission of -- commission of, or attempted
4 commission of a violent crime, to wit: Murder, in
5 violation of Section 16-23-090 Code of Laws of
6 South Carolina, 1976, as amended.

7 How do you plead to those charges?

8 THE DEFENDANT: Not guilty.

9 THE CLERK: And how do you want to be
10 tried?

11 THE DEFENDANT: By God and my country.

12 THE CLERK: Okay. Thank you.

13 Defendant Sherrod Deon Palmer,
14 Indictment No. 2017-GS-08-00799, State of South
15 Carolina, County of Berkley v Sherrod Deon Palmer,
16 Indictment for armed robbery.

17 The Indictment reads: That on or about
18 July 21st, 2016, in Berkeley County, South
19 Carolina, the Defendant, Sherrod D. Palmer, while
20 acting in concert with co-defendants, by use of
21 force, threats, or intimidation and while armed
22 with a deadly weapon, or while alleging either by
23 action or words he was armed while using a
24 representation of a deadly weapon or any object
25 which a person present during the commission of a

1 robbery reasonably believed to be a deadly weapon,
2 did take and carry away and all monies -- away
3 bills and monies from the person or immediate
4 presence of Kadeem Johnson, with the intent to
5 permanently deprive the victim of the possession
6 thereof; in violation of 16-11-330(A) of the South
7 Carolina Code of Laws, as amended.

8 How do you plead.

9 THE DEFENDANT: Not guilty.

10 THE CLERK: 2017-GS-08-00800, State of
11 South Carolina, County of Berkeley Sherrod Deon
12 Palmer, Indictment for armed robbery.

13 The Indictment reads: That on or about
14 July 21st, 2016, in Berkeley County, South
15 Carolina, the Defendant, Sherrod D. Palmer, while
16 acting in concert with co-defendants, by use of
17 force, threat, or intimidation, and while armed
18 with a deadly weapon, or while alleging either by
19 action or word he was armed while using a
20 representation of a deadly weapon, or an object
21 which a person present during the commission of a
22 robbery reasonably believed to be a deadly weapon,
23 did take and carry away goods and all monies from
24 the person or immediate presence of Krystal Snipe,
25 with the intent to permanently deprive the victim

1 of possession thereof; in violation of 16-11-330(A)
2 of the South Carolina Code of Laws, as amended.

3 How do you plead?

4 THE DEFENDANT: Not guilty.

5 THE CLERK: Indictment No.
6 2017-GS-08-00801, State of South Carolina, County
7 of Berkley v Sherrod Deon Palmer, Indictment for
8 attempted murder.

9 The Indictment reads: That in Berkeley
10 County, South Carolina on or about July 21st, 2016,
11 the Defendant, Sherrod Deon Palmer, while acting in
12 concert with co-defendants, did with intent to kill
13 and malice aforethought, attempt to kill Krystal
14 Snipe. This was in violation of 16-3-29 of the
15 South Carolina Code of Laws, 1976, as amended.

16 How do you plead?

17 THE DEFENDANT: Not guilty.

18 THE CLERK: Indictment No.
19 2017-GS-08-00802, State of South Carolina v Sherrod
20 Deon Palmer, Indictment for burglary, first degree.

21 The Indictment reads: That in Berkeley
22 County, South Carolina on or about July 21st, 2016,
23 the Defendant, Sherrod Deon Palmer, while acting in
24 concert with co-defendants, did enter the dwelling
25 of Kadeem Johnson without consent, and with an

1 intent to commit the crime thereof, that in
2 addition said entry occurred in the nighttime,
3 and/or the defendant caused physical injury to a
4 person who was not the participant in the crime,
5 and/or the defendant displayed what was or appeared
6 to be a knife, pistol, revolver, rifle, shotgun,
7 machine gun or other firearm, and/or the defendant
8 was armed with a deadly weapon or explosive in
9 violation of 16-11-311 of the South Carolina Code
10 of Laws, 1976, as amended.

11 How do you plead?

12 THE DEFENDANT: Not guilty.

13 THE CLERK: Indictment No.

14 2017-GS-08-00803, State of South Carolina, County
15 of Berkley v Sherrod Deon Palmer, Indictment for
16 murder.

17 The Indictment reads: That in Berkeley
18 County, South Carolina on or about July 21st, 2016,
19 the Defendant, Sherrod Deon Palmer, while acting in
20 concert with co-defendants, feloniously, willfully,
21 and with malice aforethought did kill and murder
22 Kadeem Johnson by means of gunshot wound, and
23 Kadeem Johnson did die in Berkeley County as the
24 proximate result thereof on or about July 21st,
25 2016; in violation of 16-3-10 of the South Carolina

1 Code of Laws, 1976, as amended.

2 How do you plead?

3 THE DEFENDANT: Not guilty.

4 THE COURT: Indictment No.

5 2017-GS-08-00804, the State of South Carolina,

6 County of Berkeley v Sherrod Deon Palmer,

7 Indictment for kidnapping.

8 And the indictment reads: That in

9 Berkeley County, South Carolina on or about

10 July 21st, 2016 the Defendant, Sherrod Deon Palmer,

11 while acting in concert with co-defendants,

12 unlawfully did seize, inveigle, decoy, kidnap,

13 abduct or carry away the victim, Kadeem Johnson,

14 without the authority of the law, all in violation

15 of Section 16-3-910 of the South Carolina Code of

16 Laws, 1976, as amended.

17 How do you plead.

18 THE DEFENDANT: Not guilty.

19 THE CLERK: Indictment No.

20 2017-GS-08-00805, State of South Carolina, County

21 of Berkley v Sherrod Deon Palmer, Indictment for

22 kidnapping.

23 The Indictment reads: That in Berkley,

24 South Carolina on or about July 21st, 2016, the

25 Defendant, Sherrod Deon Palmer, while acting in

1 concert with the co-defendants, unlawfully did
2 seize, confine, inveigle, decoy, kidnap, abduct or
3 carry away the victim, Krystal Snipe, without
4 authority of law; all in violation of section
5 16-3-910 of the South Carolina Code of Laws, 1976,
6 as amended.

7 How do you plead.

8 THE DEFENDANT: Not guilty.

9 THE CLERK: Indictment No.

10 2017-GS-08-00806, State of South Carolina, County
11 of Berkley v Sherrod Deon Palmer, Indictment for
12 possession of a weapon during the commission of the
13 violent crime.

14 The Indictment reads: That in Berkeley
15 County, South Carolina, on or about July 21st,
16 2016, the Defendant, Sherrod Deon Palmer, while
17 acting in concert with co-defendants, did possess a
18 firearm, or did visibly display what appeared to be
19 a firearm, or did visibly display a knife during
20 the commission of, or attempted commission of a
21 violent crime, to wit: Murder, in violation of
22 Section 16-23-494, Code of Laws, 1976, as amended.

23 How do you plead?

24 THE DEFENDANT: Not guilty.

25 THE COURT: How do you wish to be

1 tried?

2 THE DEFENDANT: By God and my country.

3 THE CLERK: Defendant Drake Edward
4 Campbell, please stand. 2017-GS-08-00783, in the
5 State of South Carolina, County of Berkeley County
6 v Drake Edward Campbell, Indictment for armed
7 robbery.

8 The Indictment reads: That on or about
9 July 21st, 2016 in Berkeley County, South Carolina,
10 the Defendant, Drake Edward Campbell, while acting
11 in concert with co-defendants, by use of force,
12 threats, or intimidation while armed with a deadly
13 weapon, or while allegedly either by action or
14 word, he was armed while using a representation of
15 a deadly weapon or any object which a person
16 present during the commission of the robbery
17 reasonably believed to be a deadly weapon, did take
18 and carry away goods and all monies from the person
19 or immediate presence of Kadeem Johnson, with
20 intent to permanently deprive the victim of
21 possession thereof; in violation of 16-11-330(A) of
22 the South Carolina Code of Laws, 1976, as amended.

23 How do you plead?

24 THE DEFENDANT: Not guilty.

25 THE CLERK: 2017-GS-08-00784, State of

1 South Carolina, County of Berkeley County v Drake
2 Edward Campbell, Indictment for burglary, first
3 degree.

4 The Indictment reads: That in Berkley
5 County, South Carolina on or about July 21st, 2016,
6 the Defendant, Drake Edward Campbell, while acting
7 in concert with co-defendants, did enter the
8 dwelling of Kadeem Johnson without consent and with
9 an intent to commit a crime therein, that, in
10 addition, said entry or remaining occurred in the
11 nighttime, and/or the defendant caused physical
12 injury to a person who was not a participant in the
13 crime, and/or the defendant displayed what appeared
14 to be a knife, pistol, revolver, rifle, shotgun,
15 machine gun, or other firearm, and/or defendant was
16 armed with a deadly weapon or explosive; in
17 violation of 16-11-311 of the South Carolina Code
18 of Laws, 1976, as amended.

19 How do you plead?

20 THE DEFENDANT: Not guilty.

21 THE CLERK: Indictment No.

22 2017-GS-08-00785, State of South Carolina, County
23 of Berkeley County v Drake Edward Campbell,
24 Indictment for murder.

25 That, in Berkeley County, South

1 Carolina on or about July 21st, 2016, the
2 Defendant, Drake Edward Campbell, while acting in
3 concert with co-defendants, feloniously, willfully
4 and with malice aforethought did kill and murder
5 Kadeem Johnson by means of gunshot wounds and/or --
6 and Kadeem Johnson did die in Berkeley County as a
7 proximate result -- a proximate result thereof on
8 or about July 21st, 2016; in violation of Section
9 16-3-10 of the South Carolina Code of Laws, 1976,
10 as amended.

11 How do you plead?

12 THE DEFENDANT: Not guilty.

13 THE CLERK: Indictment No.

14 2017-GS-08-00786, State of South Carolina, County
15 of Berkeley County v Drake Edward Campbell,
16 Indictment for armed robbery.

17 The Indictment reads: That on or about
18 June 21st, 2016, in Berkeley County, South Carolina
19 the Defendant, Drake Edward Campbell, while acting
20 in concert with co-defendants, by use of force,
21 threats, or intimidation, and while armed with a
22 deadly weapon, or while alleging either by action
23 or word he was armed while using a representation
24 of a deadly weapon, and/or an object which gives
25 person present during the commission of the robbery

1 reasonably believed to be a deadly weapon, did take
2 and carry away goods and all money from the person
3 or immediate presence of Krystal Snipe, with the
4 intent to immediately (sic) deprive the victim of
5 possession thereof; in violation of Section
6 16-11-338 of the South Carolina Code of Laws, 1976,
7 as amended.

8 How do you plead?

9 THE DEFENDANT: Not guilty.

10 THE CLERK: Indictment No.
11 2017-GS-08-00787, State of South Carolina, County
12 of Berkeley v Drake Edward Campbell, Indictment for
13 attempted murder.

14 The Indictment reads: That in Berkley
15 County, South Carolina on or about July 21st, 2016,
16 the Defendant, Drake Edward Campbell, while acting
17 in concert with co-defendants, did with intent to
18 kill and malice aforethought attempt to kill
19 Krystal Snipe. This is in violation of Section
20 16-3-29 of the South Carolina Code of Laws, 1976,
21 as amended.

22 How do you plead?

23 THE DEFENDANT: Not guilty.

24 THE CLERK: Indictment No.
25 2017-GS-08-00788, State of South Carolina, County

1 of Berkeley v Drake Edward Campbell, Indictment of
2 kidnapping.

3 The Indictment reads: That in Berkeley
4 County, South Carolina on or about July 21st, 2016,
5 the Defendant, Drake Edward Campbell, while acting
6 in concert with co-defendants, unlawfully did
7 seize, confine, inveigle, decoy kidnap, abduct or
8 carry away the victim, Krystal Snipe, without
9 authority of law; all in violation of Section
10 16-3-910 of the South Carolina, Code of Laws, 1976,
11 as amended.

12 How do you plead.

13 THE DEFENDANT: Not guilty.

14 THE CLERK: Indictment
15 2017-GS-08-00789, State of South Carolina, County
16 of Berkley v Drake Edward Campbell, Indictment for
17 kidnapping.

18 The Indictment reads: That in Berkley
19 County, South Carolina on or about July 21st, 2016,
20 the Defendant, Drake Edward Campbell, while acting
21 in concert with co-defendants, unlawfully did
22 seize, confine, inveigle, decoy, kidnap, abduct, or
23 carry away the victim, Kadeem Johnson, without
24 authority of law; all in violation of Section
25 16-3-910 of the South Carolina Code of Laws, 1976,

1 as amended.

2 How do you plead?

3 THE DEFENDANT: Not guilty.

4 THE CLERK: Indictment No.

5 2017-GS-08-00790, State of South Carolina, County
6 of Berkley v Drake Edward Campbell, Indictment for
7 possession of a weapon during the commission of a
8 violent crime.

9 The Indictment reads: That in Berkeley
10 County, South Carolina on or about July 21st, 2016,
11 the Defendant, Drake Edward Campbell, while acting
12 in concert with co-defendants, did possess a
13 firearm, or did visibly display what appeared to be
14 a firearm, or did visibly display a knife during
15 the commission of or attempted commission of a
16 violent crime, to wit: Murder, in violation of
17 Section 16-23-494, Code of Laws, South Carolina,
18 1976, as amended.

19 How do you plead?

20 THE DEFENDANT: Not guilty.

21 THE COURT: And how will you be tried?

22 THE DEFENDANT: By God and my country.

23 THE CLERK: Defendant Kenneth Campbell
24 Junior. Indictment No. 2017-GS-08-00765, State of
25 South Carolina, County of Berkley v Kenneth

1 Campbell, Junior, Indictment for armed robbery.

2 The Indictment reads: That on or about
3 July 21st, 2016, in Berkeley County, the Defendant,
4 Kenneth Campbell Junior, while in concert with
5 co-defendants, by use of force, threats, or
6 intimidation, or while armed with a deadly weapon,
7 or while allegedly either by action or word he was
8 armed while using a representation of a deadly
9 weapon, or an object which a person present during
10 the commission of the robbery reasonably believed
11 to be a deadly weapon did take and carry away goods
12 and all money from the person or immediate presence
13 of the person, Kadeem Johnson, with intent to
14 permanently deprive the victim of possession
15 thereof; in violation of Section 16-11-338 of the
16 South Carolina Code of Laws, 1976, as amended.

17 How do you plead?

18 THE DEFENDANT: Not guilty.

19 THE CLERK: Indictment No.

20 2017-GS-08-0066, State of South Carolina, County of
21 Berkeley v Kenneth Campbell, Junior, Indictment for
22 burglary, first degree.

23 The Indictment reads: That in Berkeley
24 County, South Carolina, on or about July 21st,
25 2016, the Defendant, Kenneth Campbell, Junior,

1 while acting in concert with co-defendants, did
2 enter the dwelling of Kadeem Johnson without
3 consent and with intent to commit the crime
4 therein. That, in addition, said entry or
5 remaining occurred in the nighttime, and/or the
6 defendant caused physical injuries to a person whom
7 was not a participant in the crime, and/or the
8 defendant displayed what was appeared to be a
9 knife, pistol, revolver, rifle, shotgun, machine
10 gun or other firearm, and/or the defendant was
11 armed with a deadly weapon or explosive; in
12 violation of Section 16-11-311 of the South
13 Carolina Code of Laws, 1976, as amended.

14 How do you plead?

15 THE DEFENDANT: Not guilty.

16 THE CLERK: Indictment No.

17 2017-GS-08-00767, the State of South Carolina,
18 County of Berkeley v Kenneth Campbell, Junior,
19 Indictment for murder.

20 The Indictment reads: That in Berkeley
21 County, South Carolina, on or about July 21st,
22 2016, the Defendant, Kenneth Campbell, Junior,
23 feloniously, willfully, and with malice
24 aforethought, did kill and murder Kadeem Johnson by
25 means of gunshot wounds and Kadeem Johnson did die

1 in Berkley County as a proximate result thereof on
2 or about June 21st, 2016; in violation of Section
3 16-3-10 of the South Carolina Code of Laws, 1976,
4 as amended.

5 How do you plead?

6 THE DEFENDANT: Not guilty.

7 THE CLERK: Indictment No.

8 2017-GS-08-00768, State of South Carolina, County
9 of Berkeley v Kenneth Campbell, Junior, Indictment
10 for armed robbery.

11 The Indictment reads: That on or about
12 July 21st, 2016, in Berkley County, South Carolina,
13 the Defendant, Kenneth Campbell, Junior, while
14 acting in concert with co-defendants, by use of
15 force, threats, or intimidation and while armed
16 with a deadly weapon or while allegedly either by
17 action or words he was armed while using a
18 representation of a deadly weapon or explosive
19 which a person present during the commission of the
20 robbery reasonably believed to be a deadly weapon
21 did take and carry away goods and all monies from
22 the person or immediate presence of Krystal Snipe
23 with intent to permanently deprive the victim of
24 possession thereof, in violation of Section
25 16-11-330(A) of the South Carolina Code of Laws,

1 1976, as amended.

2 How do you plead?

3 THE DEFENDANT: Not guilty.

4 THE CLERK: Indictment No.

5 2017-GS-08-00769, State of South Carolina, County
6 of Berkeley v Kenneth Campbell, Junior, Indictment
7 for attempted murder.

8 The Indictment reads: That in Berkeley
9 County, South Carolina on or about July 21st, 2016,
10 the Defendant, Kenneth Campbell, Junior, while
11 acting in concert with the co-defendants, did with
12 the intent to kill and malice aforethought attempt
13 to kill Krystal Snipe. That this is in violation
14 of Section 16-3-29 of the South Carolina Code of
15 Laws, 1976, as amended.

16 How do you plead?

17 THE DEFENDANT: Not guilty.

18 THE CLERK: Indictment No.

19 2017-GS-08-00770, the State of South Carolina,
20 County of Berkeley County v Kenneth Campbell,
21 Junior, Indictment of kidnapping.

22 The Indictment reads: That in Berkeley
23 County, South Carolina on or about July 21st, 2016,
24 the Defendant, Kenneth Campbell, Junior, while
25 acting in concert with co-defendants, unlawfully

1 did seize, confine, decoy inveigle, kidnap, abduct,
2 or carry away the victim, Kadeem Johnson, without
3 authority of law; all in violation of Section
4 16-3-910 of the South Carolina Code of Laws, 1976,
5 as amended.

6 How do you plead?

7 THE DEFENDANT: Not guilty.

8 THE CLERK: Indictment No.

9 2017-GS-08-00771, State of South Carolina, County
10 of Berkeley County v Kenneth Campbell, Junior,
11 Indictment for kidnapping.

12 The Indictment reads: That, in
13 Berkeley County on or about July 21st, 2016, the
14 Defendant, Kenneth Campbell, Junior, while acting
15 in concert with co-defendants, unlawfully did
16 seize, confine, inveigle, decoy, kidnap, abduct, or
17 carry away the victim, Krystal Snipe, without
18 authority of law; all in violation of Section
19 16-3-910 of the South Carolina Code of Laws, 1976,
20 as amended.

21 How do you plead?

22 THE DEFENDANT: Not guilty.

23 THE CLERK: Indictment No.

24 2017-GS-08-00772, State Of South Carolina, County
25 of Berkeley v Kenneth Campbell, Junior, Indictment,

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1 possession of a weapon during the commission of a
2 violent crime.

3 The Indictment reads: That, in
4 Berkeley County, South Carolina on or about July
5 21st, 2016, Kenneth Campbell, Junior, while acting
6 in concert with co-defendants, did possess a
7 firearm, or did visibly display what appeared to be
8 a firearm, or did visibly display a knife during
9 the commission of or attempted commission of a
10 violent crime, to wit: Murder; in violation of
11 Section 16-23-490 Code of Laws, South Carolina,
12 1976, as amended.

13 How do you plead?

14 THE DEFENDANT: Not guilty.

15 THE CLERK: And how do you wish to be
16 tried?

17 THE DEFENDANT: By God and my country.

18 THE COURT: Ladies and gentlemen, we're
19 going to select a jury for the case of the State of
20 South Carolina v Jacob Malachi Mouzon, Sherrod Deon
21 Palmer, Drake Edward Campbell, and Kenneth Campbell
22 Junior.

23 I'm going to go through a series of
24 questions with you. The process that we're about
25 to engage in is called voir dire, which is simply a

VOIR DIRE

1 legal term meaning that I'm going to ask you some
2 questions so that the attorneys can more
3 effectively exercise their peremptory challenges in
4 jury selection.

5 If a question applies to you, please
6 stand, and in a loud and clear voice, tell me your
7 name, your juror number, and answer to the
8 question, if applicable, and remain standing until
9 the Court has completed questioning you.

10 And I apologize for us going into the
11 lunch hour, and we appreciate your indulgence.
12 We've tried to do this as quickly as possible today
13 with as few delays as possible. My only other
14 option would be to send you to lunch and bring you
15 back this afternoon, and I think, if you're like
16 me, you'd prefer to just press through and be done
17 for the day.

18 Again, if a question applies to you,
19 please stand, and in a loud and clear voice, tell
20 me your name, your juror number, and answer to the
21 question, if applicable, and remain standing until
22 I have completed questioning you.

23 Before we begin that process, I'm going
24 to have counsel for the State introduce themselves,
25 tell us any lawyers that will be assisting them in

VOIR DIRE

1 the trial of the case and also tell us the names of
2 the lawyers in his office.

3 And then we will go in order,
4 Mr. Thrower, if you would do the same and have your
5 client stand and face the panel. Mr. Smiley and
6 Ms. Hensley and Mr. Smaldone and Mr. Archer. You
7 may proceed.

8 MR. ALFARO: Thank you, Your Honor.

9 THE COURT: You're welcome.

10 MR. ALFARO: Good afternoon. My name
11 is Bryan Alfaro. I am the Deputy Solicitor for the
12 Berkeley County Solicitor's Office. I work for the
13 elected solicitor for the Ninth Circuit, which
14 covers Berkley and Charleston County, Ms. Scarlet
15 Wilson.

16 Seated with me for this trial is
17 Assistant Solicitor Wilton McNeely, along with
18 Denita Brown, a paralegal in our office.

19 Also employed in the Berkley County
20 Solicitor's Office as Assistant Solicitors are Anne
21 Williams, Benjamin Dennis, Daniel Duquette, Cozette
22 McNeil, Alex Myers, Matthew Sanford, Jordan Smith,
23 Bart Stegall, Kamila Sass, and Kendall Wallace.

24 THE COURT: Mr. Thrower.

25 MR. THROWER: Thank you, Your Honor.

VOIR DIRE

1 THE COURT: You're welcome.

2 MR. THROWER: My name is Bill Thrower.
3 I practice in Charleston and West Ashley, and
4 Charles Town Landing. I represent Mr. Mouzon, and
5 I'll be the only lawyer here. I share an office
6 space with Brian Schwartz. Not many people know
7 him, but he's an attorney in my office.

8 THE COURT: Mr. Smiley.

9 MR. SMILEY: My name is Jim Smiley. My
10 co-counsel is Ms. Marie Hensley, and we have the
11 honor of representing Sherrod Palmer. And I've
12 been in practice for about 25 years; my office is
13 58 Broad Street. And I have practiced exclusively
14 in the area of criminal defense my entire career.

15 Mrs. Hensley has an office on Remount
16 Road. She's also a sole practitioner and always
17 been my co-counsel at any trials I've had during my
18 career at least in the last 15 years. She
19 practices in the area of criminal defense, family
20 law, and civil.

21 THE COURT: Mr. Smaldone.

22 MR. SMALDONE: Good afternoon. My name
23 is Grant Smaldone. I'm an attorney in Charleston;
24 my office is on James Island. I moved there about
25 three months ago from West Ashley. I've been

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1 practicing law for about six years. This here is
2 Drake Campbell, my client.

3 I share office space with Sara Turner.
4 We're both solo attorneys, but we share that same
5 office.

6 THE COURT: Mr. Archer.

7 MR. ARCHER: I am Mark Archer. This is
8 my client Kenneth Campbell. I've been practicing
9 law for 46 years, which I assume makes me the
10 senior fellow in this crowd. And so, anyway -- but
11 I practice by myself.

12 THE COURT: Again, ladies and
13 gentlemen, if a question applies to you, please
14 stand, and in a loud and clear voice, give me your
15 name, your juror number, and answer to the question
16 if applicable, and remain standing until I have
17 completed questioning you.

18 Is there any member of the panel
19 related by blood or marriage to Jacob Mouzon,
20 Sherrod Palmer, Drake Campbell, Kenneth Campbell,
21 Junior, or Kadeem Johnson or anyone related to
22 Kadeem Johnson, or Krystal Snipe? If so, please
23 stand at this time.

24 THE JURY PANEL: (None)

25 THE COURT: Does any member of the

VOIR DIRE

1 panel have a close, personal or social relationship
2 with Jacob Mouzon, Sherrod Palmer, Drake Campbell,
3 Kenneth Campbell, Junior, anyone related to Kadeem
4 Johnson or Krystal Snipe? If so, please stand at
5 this time.

6 THE JURY PANEL: (None)

7 THE COURT: The following are a list of
8 potential witnesses in this case. I would ask that
9 you listen very carefully. Deputy Teela Antwine,
10 Deputy David Kolega or Kolega, K-O-L-E-G-A, Deputy
11 Kyle Bealer, Deputy Daniel Wilson, Deputy
12 Christopher Dirks, Deputy Michelle Ward, Deputy
13 Ashley Betts, Deputy Timothy Ham, Deputy Chrystal
14 Spence, Deputy Kirsten Chesnut, Deputy Jared
15 Phillips, Deputy Scott Bell, Deputy Corinthian
16 Green, Deputy Gideon Wilz, Deputy Michael Cortte,
17 Deputy Kevin McGowan, Tiffany Swinton, Augustus Mac
18 Flood, Gerry Merrithew.

19 All of the Berkeley County Sheriff's
20 Office, with the exception of Augustus Flood and
21 Gerry Merrithew who were formerly of the Berkley
22 County Sheriff's Office.

23 Officer Adam Spears, Officer Joseph
24 Pinckney, both of the Charleston City Police
25 Department. Linda Starland, Stephen Riddle, both

VOIR DIRE

1 of Berkeley County EMS and 911. Special Agent
2 Jamaur Bennett, Special Agent Richard Hunton,
3 Special Agent James Elrod, Courtney Thompson,
4 Thomas Darnell, Chad Smith, Adrienne Hefney, all of
5 the South Carolina Law Enforcement Division.

6 Sergeant David Wagner, MUSC Public
7 Safety, Krystal Snipe, Darius Hamilton, Kenny
8 Hoffa, Brittany Bordeaux, Jaunwanna Singleton,
9 Ronald Anderson, all of Huger, South Carolina.

10 Dr. Ellen Reimer, R-E-I-M-E-R, and
11 Shawn Nimons, R.N., of the Medical University of
12 South Carolina, and Rhame Chip Cannon, of Reese and
13 Durant, LLC.

14 Is there any member of the panel
15 related by blood or marriage to anyone that I have
16 just listed, or does anyone have a close, personal
17 or social relationship with any of these
18 individuals? If so, please stand at this time.

19 Yes, ma'am. Tell me your name and
20 juror number.

21 PROSPECTIVE JUROR: Ericka Lamb, juror
22 number is 100. And I used to attend church with
23 and I'm very close with Gerry Merrithew and his
24 family.

25 THE COURT: How often would you say

VOIR DIRE

1 that you interact with him per month?

2 PROSPECTIVE JUROR: Hmm, well, I
3 haven't seen him in quite awhile, but I used to
4 interact with him. His nephew lives next door to
5 me so --

6 THE COURT: But you haven't -- when you
7 say you haven't seen him in quite a while, tell
8 me --

9 PROSPECTIVE JUROR: I haven't seen him
10 in probably about six or eight months.

11 THE COURT: As a result of this
12 experience, do you feel that you could remain fair
13 and impartial and render a fair and impartial
14 decision in this case, based solely on the evidence
15 as it will be presented and on the law as the Court
16 will instruct?

17 PROSPECTIVE JUROR: Yes, ma'am,
18 absolutely.

19 THE COURT: Thank you, ma'am. You may
20 take your seat.

21 MR. ARCHER: Can we have her number
22 again?

23 THE COURT: 100.

24 MR. ARCHER: 100. Okay.

25 MR. ALFARO: Can we approach, Your

VOIR DIRE

1 Honor?

2 THE COURT: Sure.

3 THE COURT REPORTER: Judge, do you need
4 me?

5 THE COURT: No.

6 (Bench conference.)

7 THE COURT: Additional potential
8 witnesses are as follows: Deputy Joe Segers of the
9 Berkeley County Sheriff's Office, Major David
10 Brabham of the Berkley County Sheriff's Office,
11 Bernard Williams of Huger, South Carolina, and
12 Sheila Palmer.

13 Is there any member of the panel
14 related by blood or marriage to any of the people
15 that I have just listed, or does anyone have a
16 close, personal or social relationship with any of
17 these individuals? If so, please stand at this
18 time.

19 THE JURY PANEL: (None)

20 THE COURT: Has any member of the panel
21 ever been represented by any of the attorneys
22 involved in this case or any of the lawyers with
23 whom they practice? If so, please stand at this
24 time.

25 THE JURY PANEL: (None)

VOIR DIRE

1 THE COURT: Is there any member of the
2 panel related by blood or marriage to, or have a
3 close, personal, social or business relationship
4 with any of the attorneys involved in this case,
5 any of the lawyers with whom they practice, or
6 anyone employed in any capacity in their law firms?
7 If so, please stand at this time -- or in their
8 offices. If so, please stand at this time.

9 Yes, ma'am. Tell me your name and
10 juror number.

11 PROSPECTIVE JUROR: Simone
12 Thornton-Salley, juror number 168.

13 THE COURT: Yes, ma'am.

14 PROSPECTIVE JUROR: And I have a
15 business, I guess, kind of relationship with the
16 Deputy Solicitor Bryan Alfaro.

17 THE COURT: How often would you say you
18 -- well, is your relationship with his office or
19 directly with him?

20 PROSPECTIVE JUROR: Probably more so
21 with the office, I would say.

22 THE COURT: How often would you say you
23 interact with the solicitor's office on a monthly
24 basis?

25 PROSPECTIVE JUROR: Not a lot. I

VOIR DIRE

1 really only interacted with him maybe once out of
2 the year.

3 THE COURT: As a result of this
4 experience, do you feel that you can remain fair
5 and impartial and render a fair and impartial
6 decision in this case, based solely on the evidence
7 as it will be presented and on the law as the Court
8 will instruct?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Thank you, ma'am. You may
11 take your seat.

12 Has any -- yes, ma'am. Tell me your
13 name and juror number.

14 PROSPECTIVE JUROR: Brandy Fitch, 56.

15 THE COURT: Yes, ma'am.

16 PROSPECTIVE JUROR: Ms. Hensley.

17 THE COURT: She's represented you, or
18 you have a social relationship?

19 PROSPECTIVE JUROR: No. She
20 represented my stepdaughter's grandparents, and we
21 were kind of a witness in that case when she took
22 over for -- (inaudible)

23 THE COURT: So you don't have a social
24 relationship with her?

25 PROSPECTIVE JUROR: No, ma'am.

VOIR DIRE

1 THE COURT: As a result of this
2 experience, do you feel that you could remain fair
3 and impartial and render a fair and impartial
4 decision in this case, based solely on the evidence
5 as it will be presented and on the law as the Court
6 will instruct?

7 PROSPECTIVE JUROR: Yes, ma'am.

8 THE COURT: Thank you, ma'am. You may
9 take your seat.

10 Has any member of the panel formed or
11 expressed an opinion about any issue or matter
12 involved in this case? If so, please stand at this
13 time.

14 THE JURY PANEL: (None)

15 THE COURT: Does any member of the
16 panel have any personal knowledge of the alleged
17 facts and circumstances of this case? If so,
18 please stand at this time.

19 Yes, sir. Tell me your name and juror
20 number.

21 PROSPECTIVE JUROR: Juror 60. I'm from
22 Huger and --

23 THE COURT: I need your name, sir.

24 PROSPECTIVE JUROR: George Gaskins.

25 THE COURT: Okay. And I don't want you

VOIR DIRE

1 to tell me too many facts. Are you -- are you
2 telling me that you live in the area and as a
3 result you have some personal knowledge of what's
4 alleged to have happened?

5 PROSPECTIVE JUROR: No. Other than I'm
6 friends with some of the family.

7 THE COURT: Okay. With some of the --
8 which person in the family?

9 PROSPECTIVE JUROR: The Johnson family.

10 THE COURT: How would you characterize
11 that friendship? Are you close, passing, or
12 acquaintances?

13 PROSPECTIVE JUROR: I grew up with the
14 father and uh, uh, uncle. I grew up, worked with
15 them.

16 THE COURT: How often would you say you
17 see them?

18 PROSPECTIVE JUROR: Once a month.

19 THE COURT: Sir, as a result of this
20 experience, do you feel that you could remain fair
21 and impartial?

22 PROSPECTIVE JUROR: Yes, ma'am.

23 THE COURT: Do you feel you can render
24 a fair and impartial decision in this case?

25 PROSPECTIVE JUROR: Yes, ma'am.

VOIR DIRE

1 THE COURT: Do you feel you can render
2 a decision based solely on the evidence, as it will
3 be presented and on the law as the Court will
4 instruct?

5 PROSPECTIVE JUROR: Yes, ma'am.

6 THE COURT: Thank you, sir. You may
7 take your seat.

8 Has any member of the panel read,
9 watched, or listened to any media accounts about
10 this case? That includes anything that could have
11 been in the newspaper, radio, television or
12 Internet. If so, please stand at this time.

13 Is there -- yes, ma'am. Tell me your
14 name and juror number.

15 PROSPECTIVE JUROR: Erica
16 Montgomery-Levy.

17 THE COURT: I need you to speak up for
18 me, please.

19 PROSPECTIVE JUROR: Erica
20 Montgomery-Levy, Juror 121.

21 THE COURT: Yes, ma'am.

22 PROSPECTIVE JUROR: I just remember the
23 case on the news.

24 THE COURT: How long ago was that?

25 PROSPECTIVE JUROR: About two years

VOIR DIRE

1 ago.

2 THE COURT: Have you read anything
3 recently?

4 PROSPECTIVE JUROR: No.

5 THE COURT: Have you formed any fixed
6 opinion as a result of what you've read?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Do you feel you can remain
9 fair and impartial?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Do you feel you can render
12 a fair and impartial decision in this case?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Do you feel that decision
15 will be based solely on the evidence as it will be
16 presented and on the law as the Court will
17 instruct?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Thank you, ma'am. You may
20 take your seat.

21 Is there any member of the panel aware
22 of any bias or prejudice toward even the State or
23 the defense in this case? If so, please stand at
24 this time.

25 THE JURY PANEL: (None)

VOIR DIRE

1 THE COURT: Is there any member of the
2 panel that was a member of the grand jury which
3 issued the indictments in this case? If so, please
4 stand at this time.

5 THE JURY PANEL: (None)

6 THE COURT: Is there any member of the
7 panel who's a member of, or contributor to any
8 group which has as its primary concern the
9 enforcement of law enforcement, the promotion of
10 law enforcement or victims' rights? These groups
11 would include, but are not limited to Mothers
12 Against Drunk Driving, Students Against Drunk
13 Driving, Citizens Against Violent Crime, People
14 Against Rape, Citizens Advocating a Return to
15 Decency and Ethics, Parents Empowered to Save
16 Teens, South Carolina Law Enforcement Officers
17 Association, Partnership For a Drug Free America,
18 Sister Care, or any other type of community watch
19 group, such as the Innocence Project or otherwise?
20 If so, please stand at this time.

21 THE JURY PANEL: (None)

22 THE COURT: Is there any member of the
23 panel who has a moral, philosophical or religious
24 opposition to sitting in judgment of a fellow human
25 being? If so, please stand at this time.

VOIR DIRE

1 Yes, sir. Tell me your name and juror
2 number.

3 PROSPECTIVE JUROR: Fernando Starks,
4 162.

5 THE COURT: And, sir, would you be able
6 to set aside that leaning on your part to follow
7 the law as the Court instructs?

8 PROSPECTIVE JUROR: No, I wouldn't.

9 THE COURT: And tell me your number
10 again, sir.

11 PROSPECTIVE JUROR: 162.

12 THE COURT: Sir, you will be excused
13 from the trial of this case only. You may take
14 your seat.

15 Is there any member of the panel who
16 has a moral, philosophical or religious opposition
17 to the use of a firearm? If so, please stand at
18 this time.

19 THE JURY PANEL: (None)

20 THE COURT: This question involves
21 former employment, not current employment. Is
22 there any member of the panel formerly employed
23 with law enforcement? If so, please stand at this
24 time.

25 Yes, ma'am. Tell me your name and your

VOIR DIRE

1 jury number.

2 PROSPECTIVE JUROR: Betty Crosby, 43.

3 THE COURT: I'm sorry, I can't hear
4 you.

5 PROSPECTIVE JUROR: Betty Crosby,
6 number 43.

7 THE COURT: Okay. And what agency were
8 you employed with formerly?

9 PROSPECTIVE JUROR: The Charleston City
10 Police Department.

11 THE COURT: And in what capacity?

12 PROSPECTIVE JUROR: I was an
13 administrative assistant.

14 THE COURT: And, sir -- you can remain
15 standing for me -- your name and juror number?

16 PROSPECTIVE JUROR: Tony McCullough,
17 number 113.

18 THE COURT: You said 113?

19 PROSPECTIVE JUROR: That's correct.

20 THE COURT: And what agency were you
21 formerly employed with?

22 PROSPECTIVE JUROR: The Charleston
23 County Sheriff's Office.

24 THE COURT: And in what capacity?

25 PROSPECTIVE JUROR: As a detention

VOIR DIRE

1 officer.

2 THE COURT: And, ma'am, tell me your
3 name and juror number.

4 PROSPECTIVE JUROR: Brandy Fitch, 56.

5 THE COURT: And where were you formerly
6 employed?

7 PROSPECTIVE JUROR: Hill-Finklea.

8 THE COURT: And in what capacity?

9 PROSPECTIVE JUROR: I was a corrections
10 officer.

11 THE COURT: As a result of these
12 experiences, do you all feel that you can remain
13 fair and impartial and render a fair and impartial
14 decision in this case, based solely on the evidence
15 as it will be presented and on the law as the Court
16 will instruct? Number 43?

17 PROSPECTIVE JUROR: Yes, ma'am.

18 THE COURT: Number 56?

19 PROSPECTIVE JUROR: Yes, ma'am.

20 THE COURT: Number 113?

21 PROSPECTIVE JUROR: Yes, ma'am.

22 THE COURT: You may take your seats.

23 Is there any member of the family who
24 has an immediate family member employed in law
25 enforcement? If so, please stand at this time.

VOIR DIRE

1 PROSPECTIVE JUROR: I have a
2 father-in-law that's a constable.

3 THE COURT: Okay. Tell me your name
4 and juror number.

5 PROSPECTIVE JUROR: Steven Phillips,
6 134.

7 THE COURT: Okay. And your said your
8 father-in-law is a constable?

9 PROSPECTIVE JUROR: Yes, ma'am.

10 THE COURT: Sir, as a result of this
11 experience, do you feel that you can remain fair
12 and impartial and render a fair and impartial
13 decision in this case, based solely on the evidence
14 as it will be presented and on the law as the Court
15 will instruct?

16 PROSPECTIVE JUROR: Yes, ma'am.

17 THE COURT: Thank you, sir. You may
18 take your seat.

19 Is there any member of the panel who
20 has been the victim of a violent crime? If so,
21 please stand at this time.

22 THE JURY PANEL: (None)

23 THE COURT: Is there any member of the
24 panel who has had a close family member that has
25 been the victim of a violent crime? If so, please

VOIR DIRE

1 stand at this time?

2 Yes, ma'am, tell me your name and juror
3 number.

4 PROSPECTIVE JUROR: Erica Lamb, juror
5 100.

6 THE COURT: Yes, ma'am.

7 PROSPECTIVE JUROR: I was involved --

8 THE COURT: You don't need tell me the
9 details. And was it you or a family member?

10 PROSPECTIVE JUROR: It was me.

11 THE COURT: Okay. And, yes, sir, tell
12 me your name and juror number.

13 PROSPECTIVE JUROR: Louis Brown, I'm
14 22.

15 THE COURT: And was it you or a family
16 member?

17 PROSPECTIVE JUROR: A family member.

18 THE COURT: And, yes, ma'am, tell me
19 your name and juror number.

20 PROSPECTIVE JUROR: Yong Yang, 191.

21 THE COURT: You said 191?

22 PROSPECTIVE JUROR: Yes, ma'am.

23 THE COURT: And was it you or a family
24 member?

25 PROSPECTIVE JUROR: Yes, ma'am.

VOIR DIRE

1 THE COURT: Was it you or a family
2 member?

3 PROSPECTIVE JUROR: Uh --

4 THE COURT: Did you suffer the violent
5 crime, or did a family member suffer --

6 PROSPECTIVE JUROR: My family member.

7 THE COURT: And what member of your
8 family was it?

9 PROSPECTIVE JUROR: My mom.

10 THE COURT: And number 22, what member
11 of your family was it?

12 PROSPECTIVE JUROR: Son.

13 THE COURT: As a result of these
14 experiences, do you all feel that you can remain
15 fair and impartial and render a fair and impartial
16 decision in this case, based solely on the evidence
17 as it will be presented and on the law as the Court
18 will instruct. Number 100?

19 PROSPECTIVE JUROR: Yes, ma'am.

20 THE COURT: Number 22?

21 PROSPECTIVE JUROR: Yes, ma'am.

22 THE COURT: And number 191?

23 PROSPECTIVE JUROR: Yes, ma'am.

24 THE COURT: You'll be excused from the
25 trial of this case only, number 191.

VOIR DIRE

1 You may all take your seats.

2 Is there any member of the panel who
3 has had what they would characterize as an
4 unpleasant episode with law enforcement such that
5 would affect your ability to be fair and impartial?
6 If so, please stand at this time.

7 PROSPECTIVE JUROR: Yes, I have.

8 THE COURT: Okay. Well, sir, I've
9 excused you from the panel, so you may take your
10 seat.

11 For the record, that's number 162.

12 Does any member of the panel know of
13 any reason whatsoever why he or she should not
14 serve as a juror in this case with particular
15 emphasis being placed on your ability to be fair
16 and impartial to both the State and the defense?
17 If so, please stand at this time.

18 THE JURY PANEL: (None)

19 THE COURT: Any additional questions
20 from the State?

21 MR. ALFARO: No, Your Honor.

22 THE COURT: Any additional questions,
23 Mr. Thrower?

24 MR. THROWER: No, Your Honor.

25 THE COURT: Any additional questions,

VOIR DIRE

1 Mr. Smiley?

2 MR. SMILEY? I would just ask you to
3 note my number 11 and number 12 I've asked.

4 THE COURT: Give me one second and see
5 what those are.

6 MR. SMILEY: You've declined in the
7 past, but I still --

8 THE COURT: I think it's cumulative,
9 number 11. I've asked about that and I've gotten
10 no response.

11 MR. SMILEY: Yes ma'am.

12 THE COURT: And the other is not within
13 the ambit of 14-7-1020.

14 MR. SMILEY: Yes, ma'am.

15 THE COURT: Anything further, Mr.
16 Smaldone?

17 MR. SMALDONE: No, Your Honor.

18 THE COURT: Anything further, Mr.
19 Archer?

20 MR. ARCHER: No, Your Honor.

21 THE COURT: Okay. The strikes are as
22 we have discussed. Who's going to demonstrate for
23 me?

24 Ladies and gentlemen, if your name is
25 called, please come forward with all of your

JURY SELECTION

1 belongings and stand where the bailiff is until we
2 either seat or excuse you as a juror.

3 Again, we appreciate your patience.

4 Madam Clerk, you may proceed when
5 you're ready.

6 Give the clerk your attention. Again,
7 we appreciate your patience.

8 THE CLERK: Ladies and gentlemen of the
9 jury, as I call your name, please come forward and
10 bring your personal belongings with you. If I say,
11 seat the jury, please have a seat in the jury box.
12 If I say, excuse the juror, please return to your
13 seat and follow the instruction of the bailiff
14 standing here.

15 Juror 116, Tiffany McGee.

16 THE CLERK: What say the State?

17 MR. ALFARO: Please seat the juror.

18 THE CLERK: What say the Defendant
19 Mouzon?

20 MR. THROWER: Please seat the juror.

21 THE CLERK: What say the Defendant --

22 MR. SMILEY: Palmer.

23 THE CLERK: -- Palmer?

24 MR. SMILEY: Please seat the juror.

25 THE CLERK: What says the Defendant

JURY SELECTION

1 Drake Campbell?

2 MR. SMALDONE: Please seat the juror.

3 THE COURT: What say the Defendant

4 Kenneth Campbell?

5 MR. ARCHER: Please seat Ms. McGee.

6 THE CLERK: Seat the juror.

7 Juror 21, Lamont Brown.

8 What say you for the State?

9 MR. ALFARO: Please excuse the juror.

10 THE CLERK: Excuse the juror.

11 THE COURT: Sir, you're excused. You
12 may take your seat.

13 THE CLERK: Juror 143, Craig Ravenell.

14 What say the State?

15 MR. ALFARO: Please seat the juror.

16 THE CLERK: What say Defendant Mouzon?

17 MR. THROWER: Please seat the juror.

18 THE CLERK: What say Defendant Palmer?

19 MR. SMILEY: Please seat the juror, Mr.
20 Ravenell.

21 THE CLERK: What say Defendant Drake
22 Campbell?

23 MR. SMALDONE: Please seat the juror.

24 THE CLERK: What say Defendant Kenneth
25 Campbell?

JURY SELECTION

1 MR. ARCHER: Please seat the juror.

2 THE COURT: Seat the juror.

3 Juror 89, Jason Ipock.

4 What say the State.

5 MR. ALFARO: Please seat the juror.

6 THE CLERK: What say Defendant Mouzon?

7 MR. THROWER: Please excuse Mr. Ipock.

8 THE CLERK: Excuse the juror.

9 Juror 121, Erica Montgomery-Levy.

10 What say the State?

11 MR. ALFARO: Please seat the juror.

12 THE CLERK: What say Defendant Mouzon?

13 MR. THROWER: Please excuse the juror.

14 THE CLERK: Excuse the juror.

15 Juror number 190, Debra Wyke.

16 What say the State.

17 MR. ALFARO: Please seat the juror.

18 THE CLERK: What say Defendant Mouzon?

19 MR. THROWER: Please seat the juror.

20 THE CLERK: What say Defendant Palmer?

21 MR. SMILEY: Please seat the juror.

22 THE CLERK: What say Defendant Drake

23 Campbell?

24 MR. SMALDONE: Court's indulgence --

25 please seat the juror.

JURY SELECTION

1 THE CLERK: What say Kenneth Campbell?

2 MR. ARCHER: Please excuse the juror.

3 THE CLERK: Excuse the juror.

4 Juror 134, Steven Phillips.

5 What say the State?

6 MR. ALFARO: Please seat the juror.

7 THE CLERK: What say Defendant Mouzon?

8 MR. THROWER: Please excuse the juror.

9 THE CLERK: Excuse the juror.

10 Juror number 44, Noe Cruz.

11 What say the State?

12 MR. ALFARO: Please excuse the juror.

13 THE CLERK: Excuse the juror.

14 Juror 166, Brittaney Sweatman.

15 What say the State?

16 MR. ALFARO: Please seat the juror.

17 THE CLERK: What say Defendant Mouzon?

18 MR. THROWER: Please seat the juror.

19 THE CLERK: What say Defendant Palmer?

20 MR. SMILEY: Please seat the juror.

21 THE CLERK: What say Defendant Drake

22 Campbell.

23 MR. SMALDONE: Please seat the juror.

24 THE COURT: What says Defendant Kenneth

25 Campbell?

JURY SELECTION

1 MR. ARCHER: Please seat the juror.

2 THE CLERK: Seat the juror.

3 Juror 19, Kyle Brooks.

4 What say the State?

5 MR. ALFARO: Please seat the juror.

6 THE CLERK: What says Defendant Mouzon?

7 MR. THROWER: Please seat the juror.

8 THE CLERK: What says Defendant Palmer?

9 MR. SMILEY: Please seat the juror.

10 THE CLERK: What says Defendant Drake

11 Campbell?

12 MR. SMALDONE: Please seat the juror.

13 THE CLERK: What says Defendant Kenneth

14 Campbell?

15 MR. ARCHER: Please seat the juror.

16 THE CLERK: Seat the juror.

17 Juror number 64, Melissa Givens.

18 What says the State?

19 MR. ALFARO: Please seat the juror.

20 THE CLERK: What says Defendant Mouzon?

21 MR. THROWER: Please seat the juror.

22 THE CLERK: What says Defendant Palmer?

23 MR. SMILEY: Please seat the juror.

24 THE CLERK: What says Defendant Drake

25 Campbell?

JURY SELECTION

1 MR. SMALDONE: Please seat the juror.

2 THE CLERK: And what says Defendant

3 Kenneth Campbell?

4 MR. ARCHER: Please seat the juror.

5 THE CLERK: Seat the juror.

6 Juror 178, Pilar Waits.

7 What says the State?

8 MR. ALFARO: Please seat the juror.

9 THE CLERK: What says Defendant Mouzon?

10 MR. THROWER: Please seat the juror.

11 THE CLERK: What says Defendant Palmer?

12 MR. SMILEY: Please seat the juror.

13 THE CLERK: What says Defendant Drake

14 Campbell?

15 MR. SMALDONE: Please seat the juror.

16 THE CLERK: What says Defendant Kenneth

17 Campbell?

18 MR. ARCHER: Please seat the juror.

19 THE CLERK: Seat the juror.

20 Juror number 34, Vincent Coad.

21 What says the State?

22 MR. ALFARO: Please seat the juror.

23 THE CLERK: What says Defendant Mouzon?

24 MR. THROWER: Please seat the juror.

25 THE CLERK: What says Defendant Palmer?

JURY SELECTION

1 MR. SMILEY: Please excuse the juror.

2 THE CLERK: Excuse the juror.

3 Juror number 193, Sheri Zieminick.

4 What says the State?

5 MR. ALFARO: Please seat the juror.

6 THE CLERK: What says Defendant Mouzon?

7 MR. THROWER: Please seat the juror.

8 THE CLERK: What says Defendant Palmer?

9 MR. SMILEY: Please seat the juror.

10 THE CLERK: What says Defendant Drake
11 Campbell?

12 MR. SMALDONE: Please excuse the juror.

13 THE CLERK: Excuse the juror.

14 Juror 181, Adam Weisberger.

15 What says the State.

16 MR. ALFARO: Please seat the juror.

17 THE CLERK: What says Defendant Mouzon?

18 MR. THROWER: Please seat the juror.

19 THE CLERK: What says Defendant Palmer?

20 MR. SMILEY: Please excuse the juror.

21 THE CLERK: Excuse the juror.

22 Juror 128, Charles Parrish.

23 What says the State?

24 MR. ALFARO: Please seat the juror.

25 THE CLERK: What says Defendant Mouzon?

JURY SELECTION

1 MR. THROWER: Please excuse the juror.

2 THE CLERK: Excuse the juror.

3 Juror --

4 THE COURT: Mr. Mouzon has exhausted
5 four strikes.

6 THE CLERK: Juror 26, Derrick Carswell.
7 What says the State?

8 MR. ALFARO: Please seat the juror.

9 THE CLERK: What says the Defendant
10 Mouzon?

11 MR. THROWER: Please seat the juror.

12 THE CLERK: What says Defendant Palmer?

13 MR. SMILEY: Please seat the juror.

14 THE CLERK: What says Defendant Drake
15 Campbell?

16 MR. SMALDONE: Please seat the juror.

17 THE CLERK: What says Defendant Kenneth
18 Campbell?

19 MR. ARCHER: Please excuse the juror.

20 THE CLERK: Excuse the juror.

21 Juror 62, Steven Geary.

22 What say the State?

23 MR. ALFARO: Please seat the juror.

24 THE CLERK: What say Defendant Mouzon?

25 MR. THROWER: Please excuse the juror.

JURY SELECTION

1 THE CLERK: Excuse the juror.

2 THE COURT: You have exhausted your
3 strikes.

4 THE CLERK: Juror 150, Jean Sabater.
5 What say the State?

6 MR. ALFARO: Please seat the juror.

7 THE CLERK: Any challenge for cause for
8 Defendant Mouzon?

9 MR. THROWER: No.

10 THE COURT: What says Defendant Palmer?

11 MR. SMILEY: Please seat the juror.

12 THE CLERK: What say Defendant Drake
13 Campbell?

14 MR. SMALDONE: Please seat the juror.

15 THE CLERK: What say Defendant Kenneth
16 Campbell?

17 MR. ARCHER: Please seat the juror.

18 THE CLERK: Seat the juror.

19 Juror 103, Lawrence Latta.

20 What say the State?

21 MR. ALFARO: Please seat the juror.

22 THE CLERK: Any challenge from Mr.

23 Mouzon?

24 MR. THROWER: No challenge.

25 THE COURT: What say Defendant Palmer?

JURY SELECTION

1 MR. SMILEY: Please seat the juror.

2 THE CLERK: What say Defendant Drake
3 Campbell?

4 MR. SMALDONE: Please seat the juror.

5 THE CLERK: What say Defendant Kenneth
6 Campbell?

7 MR. ARCHER: Please excuse the juror.

8 THE CLERK: Excuse the juror.

9 Juror 70, Blake Gregorich.

10 What say the State?

11 MR. ALFARO: Please seat the juror.

12 THE CLERK: Any challenge for cause
13 from Mr. Mouzon?

14 MR. THROWER: No, ma'am.

15 THE CLERK: What say Defendant Palmer?

16 MR. SMILEY: Please seat the juror.

17 THE CLERK: What says the Defendant
18 Drake Campbell?

19 MR. SMALDONE: Court's indulgence.

20 Please seat the juror.

21 THE CLERK: What say Defendant Kenneth
22 Campbell?

23 MR. ARCHER: Please seat the juror.

24 THE CLERK: Seat the juror.

25 Juror 71, Roseanne Gudzan.

JURY SELECTION

1 What say the State?

2 MR. ALFARO: Please seat the juror.

3 THE CLERK: Any challenge from

4 Defendant Mouzon?

5 MR. THROWER: No, ma'am.

6 THE CLERK: What says the Defendant

7 Palmer?

8 MR. SMILEY: Please excuse the juror.

9 THE CLERK: Excuse the juror.

10 Juror 126, David Orlando.

11 What say the State?

12 MR. ALFARO: Please seat the juror.

13 THE CLERK: Any challenge for cause?

14 MR. THROWER: No, ma'am.

15 THE COURT: What say Defendant Palmer?

16 MR. SMILEY: Please seat the juror.

17 THE CLERK: What say Defendant Drake

18 Campbell.

19 MR. SMALDONE: Please seat the juror.

20 THE CLERK: What say Defendant Kenneth

21 Campbell?

22 MR. ARCHER: Please seat the juror.

23 THE CLERK: Seat the juror.

24 Juror 172, Jessica Tumbleton.

25 What say the State?

JURY SELECTION

1 MR. ALFARO: Please seat the juror.

2 THE CLERK: Any challenge for cause for

3 Mr. Mouzon?

4 MR. THROWER: No, ma'am.

5 THE CLERK: What say Defendant Palmer?

6 MR. SMILEY: Please excuse the juror.

7 THE CLERK: Excuse the juror.

8 THE COURT: You've exhausted four

9 strikes.

10 MR. SMILEY: Yes, ma'am.

11 THE CLERK: Juror 79, Rodolfo Herrera.

12 What say the State?

13 MR. ALFARO: Please excuse the juror.

14 THE CLERK: Excuse the juror.

15 Juror 11, Jacob Bonar.

16 What say the State?

17 MR. ALFARO: Please seat the juror.

18 THE CLERK: What say -- any challenge

19 for cause from Mr. Mouzon?

20 MR. THROWER: No, ma'am.

21 THE COURT: What say Defendant Palmer?

22 MR. SMILEY: Please seat the juror.

23 THE CLERK: What say Defendant Drake

24 Campbell?

25 MR. SMALDONE: Please seat the juror.

JURY SELECTION

1 THE CLERK: What say Defendant Kenneth
2 Campbell?

3 MR. ARCHER: Please excuse the juror.

4 THE CLERK: Excuse the juror.

5 THE COURT: Mr. Campbell has exhausted
6 four strikes.

7 THE CLERK: Juror 23, Eugenia Brugh.
8 What say the State?

9 MR. ALFARO: Please seat the juror.

10 THE CLERK: Any challenge for cause
11 from Mr. Mouzon?

12 MR. THROWER: No, ma'am.

13 THE CLERK: What say Defendant Palmer?

14 MR. SMILEY: Please seat the juror.

15 THE CLERK: What say the Defendant
16 Drake Campbell?

17 MR. SMALDONE: Please excuse the juror.

18 THE CLERK: Excuse the juror.

19 Juror 3, Justin Altum.

20 What say the State?

21 MR. ALFARO: Please seat the juror.

22 THE CLERK: Any challenge from Mr.
23 Mouzon?

24 MR. THROWER: No, ma'am.

25 THE COURT: What say Defendant Palmer?

JURY SELECTION

1 MR. SMILEY: Please excuse the juror.

2 THE CLERK: Excuse the juror.

3 THE COURT: Mr. Palmer has exhausted
4 his strikes. That was number three for --

5 THE CLERK: Yeah, uh-huh.

6 Juror 139, Lisa Prinsen.

7 What say the State?

8 MR. ALFARO: Please seat the juror.

9 THE CLERK: Any challenge for
10 Mr. Mouzon?

11 MR. THROWER: No, ma'am.

12 THE CLERK: Any challenge from
13 Mr. Palmer?

14 MR. SMILEY: No, ma'am.

15 THE CLERK: What say Drake Campbell?

16 MR. SMALDONE: Please seat the juror.

17 THE CLERK: What say Kenneth Campbell?

18 MR. ARCHER: Please seat the juror.

19 THE CLERK: Seat the juror.

20 Juror 176, Jesse Vaugh.

21 What say the State?

22 MR. ALFARO: Please seat the juror.

23 THE CLERK: Any challenge from

24 Mr. Mouzon?

25 MR. THROWER: No, ma'am.

JURY SELECTION

1 THE CLERK: Any challenge from Mr.
2 Palmer?

3 MR. SMILEY: None here.

4 THE CLERK: What says Mr. Drake
5 Campbell?

6 MR. SMALDONE: Please excuse the juror.

7 THE CLERK: Excuse the juror.

8 MR. ARCHER: Excuse me, do I have --
9 Mr. Archer, do I have any more challenges left?

10 THE COURT: Give me one second. 176,
11 Mr. Smaldone. Madam Clerk, is that 176 --

12 THE CLERK: Juror 93, Zack Jones.
13 What says the State?

14 MR. ALFARO: Please seat the juror.

15 THE CLERK: Any challenge for
16 Mr. Mouzon?

17 MR. THROWER: No, ma'am.

18 THE COURT: Any challenge for cause for
19 Mr. Palmer?

20 MR. SMILEY: None.

21 THE COURT: What says Drake Campbell?

22 MR. SMALDONE: Please seat the juror.

23 THE CLERK: What says Kenneth Campbell?

24 MR. ARCHER: Please seat the juror.

25 THE CLERK: Seat the juror.

JURY SELECTION

1 Number 1, Ryan Abdullah.

2 What says the State?

3 MR. ALFARO: Please seat the juror.

4 THE CLERK: Any challenge for cause
5 from Mr. Mouzon?

6 MR. THROWER: No, ma'am.

7 THE CLERK: Any challenge for cause for
8 Mr. Palmer?

9 MR. SMILEY: None.

10 THE CLERK: What says Drake Campbell?

11 MR. SMALDONE: Madam Clerk, may I
12 inquire of the juror number again?

13 THE CLERK: Number 1.

14 MR. SMALDONE: One. Please seat the
15 juror.

16 THE CLERK: What says Kenneth Campbell?

17 MR. ARCHER: Please seat the juror.

18 THE CLERK: Seat the juror.

19 THE COURT: Two alternates sufficient?
20 From the State?

21 MR. ALFARO: Yes, Your Honor.

22 THE COURT: Mr. Thrower?

23 MR. THROWER: That's fine, Your Honor.

24 THE COURT: Mr. Smiley?

25 MR. SMILEY: I'm sorry, I didn't hear

JURY SELECTION

1 you.

2 THE COURT: Two alternates sufficient?

3 MR. SMILEY: Yes, ma'am.

4 THE COURT: Mr. Smaldone?

5 MR. SMALDONE: That's fine, Your Honor.

6 I do have a question.

7 THE COURT: Sure.

8 MR. SMALDONE: How do we split the
9 strikes?

10 THE COURT: That's a good question
11 because the statute is silent on it.

12 MR. SMILEY: Can we have at least one
13 strike?

14 THE COURT: Yes.

15 MR. SMILEY: So 1 and 1, 1, 1, 1?

16 THE COURT: Well, I've got to do it one
17 at a time. Let's just cross that bridge when we
18 get there.

19 MR. SMILEY: Yes, ma'am. Yes, ma'am.

20 THE COURT: I was thinking about it,
21 but I had not come to a conclusion.

22 You may proceed.

23 THE CLERK: Juror 138, Christopher
24 Prestero.

25 What says the State?

JURY SELECTION

1 MR. ALFARO: Please seat the juror.

2 THE CLERK: What say Mr. Mouzon?

3 MR. THROWER: Please seat the juror.

4 THE CLERK: What says Mr. Palmer?

5 MR. SMILEY: Please excuse the juror.

6 THE COURT: Before you proceed, wait
7 one second, please. You may proceed.

8 THE CLERK: Juror 73, Nicholas
9 Halverson.

10 What says the State?

11 MR. ALFARO: Please seat the juror.

12 THE CLERK: What says Mr. Mouzon?

13 MR. THROWER: Please seat the juror.

14 THE CLERK: Any challenge from Mr.
15 Palmer?

16 MR. SMILEY: None.

17 THE CLERK: What says Mr. Drake
18 Campbell?

19 MR. SMALDONE: Please seat the
20 alternate.

21 THE CLERK: What says Kenneth Campbell?

22 MR. ARCHER: Please seat the juror.

23 THE CLERK: Seat the juror.

24 Juror number 15, Taylor Brewington.

25 What say the State?

JURY SELECTION

1 MR. ALFARO: Please seat the juror.

2 THE CLERK: What say you Mr. Mouzon?

3 MR. THROWER: Please excuse the juror.

4 THE CLERK: Excuse the juror.

5 Juror number 104, Juan Levine.

6 What say the State?

7 MR. ALFARO: Please seat the juror.

8 THE CLERK: Any challenge from

9 Mr. Mouzon?

10 MR. THROWER: No, ma'am.

11 THE CLERK: What says Mr. Palmer?

12 MR. SMILEY: Please seat the juror.

13 THE CLERK: What say Drake Campbell?

14 MR. SMALDONE: Please seat the juror.

15 THE CLERK: What say Kenneth Campbell?

16 MR. ARCHER: Please seat the juror.

17 THE CLERK: Seat the juror.

18 THE COURT: Are there any motions

19 regarding the selection of the jury? From the

20 State?

21 MR. ALFARO: No, Your Honor.

22 THE COURT: From the defense Mr.

23 Mouzon?

24 MR. THROWER: Beg your indulgence, Your

25 Honor. No objection.

JURY SWORN

1 THE COURT: Any motions from
2 Mr. Palmer?

3 MR. SMILEY: No, ma'am.

4 THE COURT: Mr. Campbell?

5 MR. SMALDONE: None from Defendant
6 Drake Campbell, Your Honor.

7 THE COURT: And Mr. Archer?

8 MR. ARCHER: None, Your Honor.

9 THE COURT: To the balance of the
10 panel, we thank you for your time and attention.
11 You certainly have gone above and beyond the call
12 of the duty, and we truly appreciate it. You're
13 excused for the remainder of the day.

14 Just please call the jury information
15 line after 6:00 each evening. Have a great
16 afternoon.

17 (Panel Excused, 2:02 p.m.)

18 THE COURT: Ladies and gentlemen, if
19 you would stand to be sworn.

20 Madam Clerk, you may proceed when
21 you're ready.

22 THE JURY,
23 being first duly sworn, testified as follows:

24 THE CLERK: Please be seated.

25 THE COURT: Ladies and gentlemen,

1 you've been selected for the cases of the State v
2 Mouzon, Palmer, and Campbell. We're going -- you
3 all -- you have heard me say to your fellow jurors
4 that you really have gone above and beyond the call
5 of duty, and you must be hungry because I am.

6 We're going to break for lunch for an
7 hour. You can ignore that clock; it's always fast.
8 It's 1:54, and we'll break until 3:00 o'clock. You
9 will -- the bailiff will show you how to come back
10 into the courthouse. They're going to get your
11 cell phone numbers in the event that we need to
12 contact you in the interim as court is proceeding.

13 During this break, please do not
14 discuss this case in any manner whatsoever. Please
15 do not speculate about what you think it may or
16 could be about. Please do not read, watch, or
17 listen to any media accounts if there are any.
18 That includes radio, newspaper, television, or
19 Internet; and you're strictly instructed not to do
20 any independent research of any type on the
21 Internet.

22 Please don't have any contact with
23 anyone as you return to the courthouse. We would
24 not want an innocent conversation observed and
25 misinterpreted.

1 Also, please remain from making any
2 posts regarding your status on any social
3 networking sites. That includes Facebook, Twitter,
4 Snap Chat -- I know I'm leaving out something.
5 There are so many more that I don't know the name
6 of and I have to plead ignorance. But I would
7 appreciate for many purposes, one is, we would not
8 want a comment of yours to be misinterpreted as to
9 making some comment regarding the facts of this
10 case.

11 And I know it might seem implausible,
12 but people call us and tell us what you've posted,
13 those who are not on jury service. Which also begs
14 the question, what are they doing during the course
15 of the day that they have time to do that?

16 But, nonetheless, we have had that
17 experience. So I would ask that you refrain from
18 that.

19 Also, just for security purposes, we
20 would not want you posting and having your location
21 posted on any sites as well.

22 We are planning, and I'm still in the
23 process of doing this, but I anticipate that we
24 will be able to arrange for your parking
25 immediately in front of the courthouse so that you

1 will not have to come from that distance on
2 tomorrow, and you'll be able to park directly in
3 front of the courthouse, come into the courthouse,
4 and for us to bring you upstairs. So we appreciate
5 your indulgence as we make those arrangements.

6 I think they have golf carts to take
7 you to your cars, and if you all will go with the
8 bailiffs, they will show you how to do that. I
9 hope you-all have a great lunch. We'll see you at
10 3:00.

11 (Jury out, 1:56 p.m.)

12 THE COURT: You may take your seats.
13 Please make sure that the door is closed for me.

14 Is there anything we need to take up
15 before we break for lunch? From the State?

16 MR. ALFARO: No, Your Honor.

17 THE COURT: From the defense, Mr.
18 Thrower?

19 MR. THROWER: No, Your Honor.

20 THE COURT: Mr. Smiley?

21 MR. SMILEY: No, Your Honor.

22 THE COURT: Mr. Smaldone?

23 MR. SMALDONE: No, Your Honor.

24 THE COURT: Mr. Archer?

25 MR. ARCHER: No, Your Honor.

1 THE COURT: Have a great lunch. See
2 you at 3:00. You can leave your stuff here.

3 (A luncheon recess transpired.)

4 THE COURT: Is there anything before we
5 proceed? From the State?

6 MR. ALFARO: Your Honor, we have a
7 juror issue that's been brought to our attention,
8 and I believe Mr. Smiley's as well, that juror 143
9 --

10 THE COURT: I'm going to deal with that
11 in a moment.

12 MR. ALFARO: Okay. And then, Defendant
13 Mouzon is requesting a Biggers hearing. There are
14 three lineups that were done when Mr. Mouzon was
15 identified by the witnesses and --

16 THE COURT: We'll take them up in
17 camera as you call the witnesses.

18 MR. ALFARO: Okay.

19 THE COURT: All right. So how many
20 witnesses are there for the Biggers?

21 MR. ALFARO: For the Biggers hearing
22 there would be --

23 THE COURT: That's only for Mr. Mouzon,
24 correct?

25 MR. ALFARO: Yes.

1 THE COURT: Or is there anybody else
2 requesting a Biggers hearing?

3 MR. ALFARO: That's -- the only lineups
4 are for Mr. Mouzon. I don't believe any other
5 defendants are challenging that.

6 THE COURT: And you said three people
7 identified him?

8 MR. ALFARO: There are three witnesses,
9 the victim, Krystal Snipe, Kenny Hoffa, and
10 Brittany Bordeaux; and then there are police
11 officers for each of those, Detective Dan Wilson,
12 Detective Michelle Ward, and Deputy Jared Phillips.

13 THE COURT: Do you plan to call those
14 witness first, or in what order do you plan?

15 MR. ALFARO: The victim would -- I
16 would assume, based off the current time, be the
17 only one that we would get to today.

18 THE COURT: Okay. Yeah. What we'll do
19 is when you get to that portion of the testimony,
20 just advise me you have a matter of law, and we'll
21 take it up in camera.

22 There was another question I was going
23 to ask. Bear with me just one second.

24 Does the State intend to call all of
25 the witnesses you have listed?

1 MR. ALFARO: No, Your Honor.

2 THE COURT: Just give me an estimate of
3 how many you think you're not calling.

4 MR. ALFARO: I believe there are
5 approximately ten that will not be called. There
6 may be some others, if some issues don't arise with
7 testimony.

8 THE COURT: And as I understand it,
9 there are no Jackson versus Denno issues?

10 MR. ALFARO: That's correct.

11 THE COURT: Are there any other
12 pretrial matters from the State?

13 MR. ALFARO: Nothing from the State.

14 THE COURT: Mr. Thrower?

15 MR. THROWER: No, just the Biggers
16 hearing.

17 THE COURT: Mr. Smiley?

18 MR. SMILEY: No, ma'am. There's a
19 couple of matters I wanted to place on the record.

20 THE COURT: Sure. Like what?

21 MR. SMILEY: Well, the one I did
22 earlier about Jackson V Denno since he's not
23 offering my client's statement, we're not going to
24 do one. But also Mr. Alfaro and I spoke before
25 trial, and it's my understanding that he's not

1 intending to offer any 404(b) evidence against
2 Mr. Palmer at this time; and, therefore, I won't be
3 doing a motion in limine to try to keep it out
4 under Lyle.

5 And I just wanted to place on the
6 record, I believe he and I have already tried to
7 deal with that before we got here to streamline the
8 process.

9 THE COURT: Is that correct?

10 MR. ALFARO: That is correct, Your
11 Honor.

12 THE COURT: Okay. Anything, Mr.
13 Smaldone?

14 MR. SMALDONE: Nothing at this time,
15 Your Honor.

16 THE COURT: Mr. Archer?

17 MR. ARCHER: Your Honor, we'd move to
18 sequester the witnesses.

19 THE COURT: I would assume there is no
20 exception to that?

21 MR. ALFARO: No, Your Honor.

22 MR. SMILEY: Then I need to remove a
23 witness because I want her in the courtroom. My
24 client's mother was listed as possibly a witness,
25 but if I had to chose between her possibly being a

1 witness or to watch her son's trial, I'm going to
2 choose for her to watch her son's trial.

3 THE COURT: Okay.

4 MR. SMILEY: All right. So I would ask
5 that she be allowed in, but I will not call her.

6 THE COURT: Yes, she can stay in as
7 long as she's not going to be a witness.

8 MR. SMILEY: I don't intend on calling
9 her.

10 MR. ALFARO: Your Honor, we would just
11 ask for the standard exceptions for the case agent
12 and the victim as well.

13 THE COURT: Yes. I think the statute
14 requires that all victims be present and just as an
15 accommodation the case agent.

16 So I assume there is no exception, Mr.
17 Thrower.

18 MR. THROWER: No, Your Honor.

19 THE COURT: Mr. Smiley?

20 MR. SMILEY: No, ma'am.

21 THE COURT: I'm sorry -- Mr. Smaldone?

22 MR. SMALDONE: No, Your Honor.

23 THE COURT: And Mr. Archer?

24 MR. ARCHER: No, ma'am.

25 THE COURT: Okay. So the witnesses

1 will be sequestered by agreement, with the
2 exception of the victims and the case agent.

3 And I assume there are no Lyle issues
4 with the other defendants either.

5 MR. ALFARO: Not the case in chief, no,
6 Your Honor.

7 THE COURT: All right. Could you
8 please bring out juror 143 for me, please?

9 Do any of the defendants have the
10 nickname King J; King, K-I-N-G, letter J.

11 MR. SMILEY: Not Mr. Palmer, to the
12 best of my knowledge.

13 MR. THROWER: Mr. Mouzon says no.

14 MR. ARCHER: My client, no.

15 THE COURT: I think the witness might
16 be -- he can stay right there.

17 Sir, tell me your name for the record.

18 THE JUROR: Craig Ravenell.

19 THE COURT: And what's your juror
20 number?

21 THE JUROR: 143.

22 THE COURT: And, sir, you indicated to
23 one of the bailiffs that you may have recognized
24 someone?

25 THE JUROR: Yes, ma'am.

1 THE COURT: And who is it that you
2 recognized?

3 THE JUROR: The victim.

4 THE COURT: The victim. And you know
5 him as King J.

6 THE JUROR: Yes, ma'am.

7 THE COURT: And when you say you
8 recognize him, specify for me what that means.

9 THE JUROR: I remembered him.

10 THE COURT: I mean, did you know him?

11 THE JUROR: Not really.

12 THE COURT: Okay. How would you have
13 recognize -- did you-all live in the same
14 neighborhood? Went to the same schools?

15 THE JUROR: I seen him a couple of
16 times.

17 THE COURT: Seen him a couple of times
18 where?

19 THE JUROR: Like out, parties and
20 stuff.

21 THE COURT: You mean like --

22 THE JUROR: Clubs and stuff.

23 THE COURT: -- normal teenage
24 activities?

25 THE JUROR: Yes, ma'am.

1 THE COURT: And how long ago was that?

2 THE JUROR: Probably two or three years
3 ago.

4 THE COURT: Have you had any contact
5 with him since then?

6 THE JUROR: No, ma'am.

7 THE COURT: Okay. As a result of what
8 you just disclosed to the Court, do you feel that
9 you can render a fair and impartial decision in
10 this case?

11 THE JUROR: (Shaking head)

12 THE COURT: Okay. Tell me why you
13 don't think you can be fair and impartial.

14 THE JUROR: Because I know him.

15 THE COURT: Pardon me?

16 THE JUROR: Because I know him.

17 THE COURT: Okay. Then I'm a little
18 confused because you told me you really didn't know
19 him, you saw him in passing. So were you-all
20 friends or acquaintances?

21 THE JUROR: We talked a couple of
22 times.

23 THE COURT: Okay. But you haven't seen
24 him in several years?

25 THE JUROR: No.

1 THE COURT: Okay. But you still feel
2 uncomfortable is what you're telling me?

3 THE JUROR: Yes, ma'am.

4 THE COURT: Okay. All right. If you
5 could stand in the hall with the bailiff for me.
6 Please don't take him into the jury room and please
7 don't discuss what we've discussed.

8 (Juror 143 out, 3:20 p.m.)

9 THE COURT: Please make sure that door
10 is closed. I'll be glad to hear from the State.

11 MR. ALFARO: Your Honor, I don't think
12 I actually heard an answer as to whether he could
13 be fair or not fair.

14 THE COURT: He didn't, but I think
15 based on his body language he's telling me he's
16 afraid. I don't think -- I don't think he really
17 knew the victim in any depth, but I just think he
18 has some hesitance.

19 I don't know whether it's peer
20 pressure. I don't know whether he just doesn't
21 want to be involved. I just noticed his body
22 language told me something his mouth didn't.

23 MR. ALFARO: We have no objection if
24 he's removed from the jury and an alternate slid
25 in.

1 THE COURT: Mr. Thrower.

2 MR. THROWER: I'm kind of with Mr.
3 Alfaro, he wouldn't really say it. I didn't take
4 as much from his body language as you did, but the
5 last -- I think the last question was, are you
6 uncomfortable. And he said, well, yeah.

7 I could see how he got himself into a
8 bit of a jam with it, and I have no objection.

9 MR. SMILEY: I would ask that he be
10 excused from the jury, Your Honor, given his
11 situation. Mr. Kadeem Johnson was killed two years
12 ago from this time, so he couldn't have seen him
13 since then.

14 I've got -- I believe -- I think from
15 what he stated that I'd ask that he be excused.

16 THE COURT: Mr. Smaldone?

17 MR. SMALDONE: Yes, Your Honor, I'll
18 join with co-counsel; I think he should be excused.

19 THE COURT: Mr. Archer?

20 MR. ARCHER: I'm neutral, Your Honor.

21 THE COURT: Okay. Based on what he's
22 presented to the Court, while his mouth did not
23 tell me, he really, for whatever reason, was
24 reticent to disclose what his real issues were, but
25 based on his body language, both my own objective

1 and subjective perceptions, it appears to me that
2 he either has some conflicted feelings about his
3 not wanting to be involved, due to either peer or
4 societal pressure, or either he has some fear of
5 being involved, period.

6 So based on his representations to the
7 Court that he cannot remain fair and impartial, I
8 think it is prudent to excuse him and seat one the
9 alternate -- of the alternates. So if you could
10 bring him back in for me, please.

11 (Juror 143 in, 3:22 p.m.)

12 THE COURT: Sir, based on what you
13 provided -- the information you provided to the
14 Court, we're going to excuse you from the trial of
15 this case. Please do not discuss what we've
16 discussed in any manner whatsoever until you've
17 been excused completely from your jury service. Do
18 you understand?

19 THE JUROR: Yes, ma'am.

20 THE COURT: Have a great day.

21 (Juror out, 3:23 p.m.)

22 We can do this one of two ways. We can
23 seat the first alternate or we can do it by lot as
24 the statute provides. What's the State's
25 preference?

COURT'S OPENING

1 MR. ALFARO: The first alternate is
2 fine, Your Honor.

3 THE COURT: Any exceptions from Mr.
4 Thrower?

5 MR. THROWER: No, ma'am.

6 THE COURT: Mr. Smiley?

7 MR. SMILEY: I would ask that we do it
8 by lot and follow the statute, Your Honor.

9 THE COURT: Mr. Archer?

10 MR. ARCHER: I'd ask for it by lot.

11 THE COURT: Do you have some little
12 tubes or something we can toss it in a hat -- we're
13 going to have to improvise.

14 (Alternate being picked.)

15 THE CLERK: Juror 104, Judge.

16 THE COURT: 104 will be seated. He was
17 selected pursuant to 14-7-1340.

18 Number 93 is the foreperson. Bring the
19 jury out.

20 (Jury in, 3:20 p.m.)

21 THE COURT: You may be seated.

22 Ladies and gentlemen, I hope that you
23 all had a pleasant lunch recess. We appreciate
24 your patience as we had a matter of law we needed
25 to deal with prior to beginning with the Court's

COURT'S OPENING

1 opening instructions, as well as the opening
2 arguments of the parties.

3 I'm going to give you some preliminary
4 instructions so that you will better understand how
5 we are proceeding in the trial of this case. What
6 I am now going to say to you is not intended to
7 serve as a charge on the law.

8 And so that you know, charge is a legal
9 term of art that simply means instructions. So
10 when you hear me say, charge, I'm -- and I use
11 instructions, those two words are interchangeable.

12 What I will now say to you is not
13 intended to serve as a charge on the law. It is
14 merely some preliminary instructions so that you
15 will better understand what is happening. I will
16 charge you on the law applicable to this case
17 before you retire to consider your verdict. This
18 is merely, again, an explanation of the procedure
19 that we will follow.

20 You will be given the opportunity to
21 take notes, and I will give you some instructions
22 regarding note-taking near the end of these
23 preliminary instructions.

24 On the first page of each notebook you
25 should write your juror number so that you will be

COURT'S OPENING

1 able to identify readily which notebook belongs to
2 you.

3 Each of the defendants in this case are
4 charged with several different indictments with
5 various crimes, the elements of which I will
6 explain to you at the conclusion of the case.

7 The indictments, ladies and gentlemen,
8 are simply the charge, or charges, by which the
9 case is brought into court, and they are not in any
10 sense evidence of any of the allegations they may
11 contain.

12 The defendants have pled not guilty to
13 the indictments. The State, therefore, has the
14 burden of proving each of the elements of the
15 indictments beyond a reasonable doubt. And it will
16 be your duty, ladies and gentlemen, to decide
17 whether the State has met that burden or not.

18 Your purpose as jurors is to find and
19 determine the facts. You are the sole judges of
20 the facts. If at any time I make any comment
21 regarding the facts, you must disregard it. You
22 are to determine the facts from the testimony you
23 hear and the other evidence introduced in court.
24 It will then be for you to determine the inferences
25 which you feel may be properly drawn from the

COURT'S OPENING

1 evidence.

2 It is especially important that you
3 perform your duty of determining the facts
4 diligently and conscientiously, because,
5 ordinarily, there is no way to correct an erroneous
6 determination of facts made by a trial jury.

7 On the other hand, and with equal
8 emphasis, the same law that makes you the judges of
9 the facts makes me the judge of the law. The law
10 as given by the Court is the only law you can
11 consider. You must accept and follow it, even
12 though you may disagree with it.

13 The Court cannot tell you what the
14 facts are, and you cannot disagree with the Court
15 about what the law is or what the law should be.

16 Your responsibility, ladies and
17 gentlemen, is to take the law as the Court
18 instructs it and apply it to the facts as you find
19 them from the testimony of the sworn witnesses and
20 the other evidence that will be introduced during
21 the course of the trial.

22 After doing that, you will render your
23 verdict, a true and just verdict under the solemn
24 oath that you have taken as jurors in this case.

25 Until I advise you to begin your

COURT'S OPENING

1 deliberations, you must not discuss this case with
2 anyone. That includes among yourselves, with your
3 family, friends or otherwise, or anyone else that
4 may be involved in this case. After the case is
5 submitted to you, you must discuss it only in the
6 jury room among your fellow jurors.

7 The attorneys and the parties have been
8 advised that they should not speak with you at all,
9 so if you should run into them in the hallway, in
10 the, you know, parking lot, or even at the local
11 Subway during lunch and they don't speak with you,
12 please don't think they're being untoward or rude;
13 they're simply following the Court's instructions.
14 Again, we would not want an innocent conversation
15 to be observed and misinterpreted.

16 During trial you are not to read,
17 listen to, or watch any news reports about this
18 case. That includes anything that may be in the
19 newspaper, on the Internet, radio or television.
20 You must not consider anything that you may have
21 read or heard about this case outside the courtroom
22 whether before or during the trial.

23 It is essential that you maintain an
24 open mind and not decide any issue in this case
25 until all of the evidence has been presented, the

COURT'S OPENING

1 parties have made their closing arguments, and I
2 have instructed you on the law.

3 It is your solemn responsibility to
4 determine whether the State has met their burden of
5 proof or not, and your verdict must be based solely
6 on the evidence as it is presented to you in this
7 trial and on the law as I will instruct you during
8 and at the close of the trial.

9 In just a moment, the Solicitor will
10 make what is called an opening statement in which
11 he will outline to you what he believes the
12 evidence in this case will show. The defendant --
13 the defense attorneys may also make opening
14 statements, although they are not required to do
15 so.

16 Keep in mind, ladies and gentlemen,
17 that what the attorneys say during their opening
18 statements is not evidence. It is only their
19 contention as to what they believe evidence will
20 show in this case.

21 The evidence in this case will be
22 presented by the testimony of sworn witnesses from
23 the witness stand and from other exhibits that may
24 be introduced into evidence. From time to time
25 during the trial, you will hear the attorneys say,

COURT'S OPENING

1 Your Honor, I object.

2 Just as in sports, business, or any
3 other structured activity there are certain rules
4 that we must obey in the presentation of evidence.
5 These rules have a definite purpose. They ensure
6 that you receive the most trustworthy and reliable
7 evidence available.

8 An objection is the procedure that is
9 used to call a possible violation of these rules to
10 my attention as the judge of the court. And for
11 this reason you should never hold an attorney's
12 objection against them, nor should you conclude
13 from the Court overruling or sustaining an
14 objection that I favor one side or the other. In
15 fact, you should expect objections; it is a healthy
16 part of our process.

17 You may also hear the attorneys say,
18 Your Honor, we have a matter of law to discuss, or
19 they may say, may we approach the bench, or I may
20 ask them to approach the bench, or it might even be
21 necessary for us to exclude you from the courtroom
22 for a short while we discuss matters of law.

23 The reason we do this, ladies and
24 gentlemen, is because you are finders of the facts,
25 and sometimes when I'm discussing matters of law

COURT'S OPENING

1 with counsel, it might be necessary for me to make
2 some comment about the facts in connection with the
3 ruling, and for this reason we exclude you from the
4 courtroom so that in no way will you be influenced
5 by anything that the Court may say or do in
6 connection with the facts of this case.

7 In determining the facts in this case,
8 you must decide whether or not testimony of a
9 witness or witnesses is believable. It is my
10 responsibility to rule as a matter of law as to
11 whether certain testimony is admissible at all or
12 not; but once it is admitted, ladies and gentlemen,
13 whether or not you believe it is solely a matter
14 for you to determine.

15 In deciding whether to believe a
16 witness you have the right to consider the interest
17 of any witness, the bias of any witness, the
18 prejudice of any witness, the opportunity for the
19 witness to have seen the matters and things about
20 which the witness may testify, and the way the
21 witness acts on the witness stand, what we commonly
22 refer to as their demeanor.

23 You have the right to consider anything
24 that is in the record that will help you evaluate
25 the testimony of the witnesses. That means, ladies

COURT'S OPENING

1 and gentlemen, that it is your duty to pay close
2 attention to the witnesses, to observe them, to
3 listen to them, and to pay close attention to the
4 attorneys and the Court.

5 Although I know sometimes it can be
6 difficult, please do not allow your thoughts to
7 wander, but give strict attention to the testimony
8 so that at the end of the testimony, after the
9 closing arguments of counsel, and the charge on the
10 law given by the Court you will then be in a
11 position to determine what the facts are and apply
12 the law to those facts and render a true and just
13 verdict in this case.

14 It is your added duty, Mr. Foreman, to
15 write out any questions the jury has during
16 deliberations and fill out the verdict form, but I
17 will give you some further instructions regarding
18 that at the conclusion of the case.

19 Ladies and gentlemen, the foreperson is
20 a purely random choice. I wish we had some
21 scientific formula, but we don't. We just need
22 someone administratively to fill out the verdict
23 form and to write out any questions that you may
24 have.

25 So I re-enforce that that person does

COURT'S OPENING

1 not have any greater vote or voice than any other
2 juror. It is purely an administrative function.

3 During the course of this trial you
4 will be given the opportunity to take notes. Note
5 taking is a privilege that you may choose to
6 exercise or choose not to exercise. Please don't
7 feel you are required to take notes. Not everyone
8 finds note taking helpful to them.

9 If you should decide to take notes,
10 please don't try to record everything that is said.
11 I can assure you from years of note taking, it's
12 physically impossible. The average person speaks
13 at over 200 words a minute and that's a moderate
14 speaker, not a fast in tempo speaker. And so
15 please don't allow yourselves to be distracted by
16 note taking.

17 You may want to keep an outline of the
18 main arguments and points that are being made so
19 that when you retire to deliberate you can allow
20 your notes to refresh your memory.

21 Your notes are not to be shared with
22 anyone else. They are only to be used to refresh
23 your own memory. And I would remind you that your
24 notes should not be considered anymore reliable
25 than another juror's memory. Another juror's

COURT'S OPENING

1 memory should be considered just as reliable as the
2 notes that may have been taken by a follow juror.

3 And, also, during breaks and recesses,
4 your notes will be left in your seats and secured
5 during evening recesses. And we do that so there
6 is no premature desire or temptation to deliberate.

7 In order to preserve everyone's rights,
8 I will give the parties an opportunity to take
9 exception to anything that the Court has said by
10 way of opening instructions.

11 Mr. Alfaro.

12 MR. ALFARO: Nothing from the State,
13 Your Honor.

14 THE COURT: Mr. Thrower?

15 MR. THROWER: No objection.

16 THE COURT: Mr. Smiley?

17 MR. SMILEY: No, Your Honor.

18 THE COURT: Mr. Smaldone?

19 MR. SMALDONE: No objection.

20 THE COURT: Mr. Archer?

21 MR. ARCHER: No objection.

22 THE COURT: Ladies and gentlemen, I
23 would ask that you give counsel your undivided
24 attention. You may proceed.

25 MR. ALFARO: Thank you, Your Honor.

OPENING STATEMENT BY MR. ALFARO

1 THE COURT: You're welcome.

2 MR. ALFARO: On July 21st, 2016, Kadeem
3 Johnson and Krystal Snipe were living at 135 Martha
4 Lane. 135 Martha Lane is in the Huger part of
5 Berkley County toward the Mount Pleasant end of the
6 county, Clements Ferry Road, that part of town.

7 And that night, Kadeem had been at a
8 bar that was on 41 called Richie's. Krystal was
9 hanging out with Kadeem's mom, who also lived down
10 41 near that club. Kadeem was supposed to pick her
11 up and take her back to their home that night at
12 the end of the night.

13 And you're going to hear how initially
14 he forgot she was there, went home and realized she
15 wasn't there, and then went back to pick her up
16 from his mom's house. He picked her up in a white
17 Crown Victoria car and drove them home. This is
18 about two or so in the morning.

19 That should have been the end of their
20 night, but, unfortunately, for them that was going
21 to be the beginning of the end of Kadeem's life and
22 the beginning of a whole new life for Krystal
23 Snipe. And that was because of these four
24 defendants, Jacob Mouzon, Sherrod Palmer, Kenny
25 Campbell, Drake Campbell, and their fifth

OPENING STATEMENT BY MR. ALFARO

1 co-defendant, Darius Hamilton, who will have his
2 day in court later, but is just as guilty as all of
3 them for what happened to Kadeem Johnson that night
4 when he was murdered and to Krystal Snipe when she
5 was shot in the course of them, those five,
6 carrying out their plan to rob, burglarize, and
7 eventually kill Kadeem.

8 Now, the Judge told you at some point
9 that it's not like TV. It's not *Judge Judy*, it's
10 not *Law and Order*. It's not all these -- on TV, a
11 lot of times the people that come into court and
12 testify are just the finest and most upstanding
13 people in the world. One of the people that's
14 going to come testify is that co-defendant that I
15 said is just as culpable and guilty as them, Darius
16 Hamilton.

17 He's going to come on that stand and
18 he's going to tell you, we expect, what their plan
19 was and how they carried out the burglary, the
20 armed robbery, and the murder.

21 Now, like I said, the Judge also
22 mentioned something in the opening and she's going
23 to charge you towards the end of this what
24 credibility is and demeanor and bias, and you're
25 going to hear Darius Hamilton's version of their

OPENING STATEMENT BY MR. ALFARO

1 plan. And you're going to hear that he didn't come
2 right out, because as I said, people sometimes are
3 just trying to help themselves.

4 And it'd be nice if you didn't have to
5 rely on that, but, quite honestly, there are seven
6 people, seven people that know what happened that
7 night. Kadeem Johnson is dead; he can't tell you.
8 Krystal Snipe is going to tell you what she
9 remembers.

10 Darius Hamilton was there and Darius
11 Hamilton, again, is just as culpable and guilty as
12 them, and he's going to tell you what happened that
13 night. And you'll judge for yourself his demeanor
14 and his credibility; is he still just here to help
15 himself because his parents told him to or his
16 lawyer told him to, or is he just trying to help
17 himself? You'll have to decide that as the finders
18 of the facts.

19 Now, also, not only are the people that
20 are coming in to testify not always perfect people.
21 Kadeem Johnson, while by no means did he deserve to
22 have his hands taped, be forced to kneel in front
23 of Krystal while he was executed by these
24 defendants, by no means did he deserve any of that,
25 but you're going to hear during the course of this

OPENING STATEMENT BY MR. ALFARO

1 trial that the reason that Kadeem got picked out,
2 the reason that Krystal and that house got picked
3 out is because Kadeem dealt drugs. And these guys
4 knew that that's an easy target, and that's why
5 they went there.

6 This isn't some random thing. This is
7 a very orchestrated, calculated plan by Sherrod
8 Palmer, Kenneth Campbell, Drake Campbell, Jacob
9 Mouzon and Darius Hamilton. That's what the
10 evidence is going to show you.

11 And, again, things like this are not
12 easy to hear. This trial is going to be very
13 involved, you're going to hear a lot of testimony,
14 some of it very graphic. But at the end of this
15 case, at the end of what you hear from the evidence
16 that is presented to you, you will understand why
17 all five of them, the four that are in the room now
18 and they're going to be in the room this whole
19 week, and the person that comes in and testifies,
20 are all equally responsible for what happened.

21 One of the other things that a -- the
22 Judge is going to tell you at the end of this is
23 something called the hand of one. Kadeem Johnson
24 was shot one time in the back of the head by one of
25 these defendants.

OPENING STATEMENT BY MR. ALFARO

1 Under the hand of one theory because
2 the five of them planned it, because all five knew
3 why they were there, and all five had guns and all
4 five committed the burglary and the robbery, and
5 during the course of that the one guy that actually
6 pulled the trigger, it's as if all five of them did
7 it. Even though there is one shot, all five of
8 them are responsible for what happened to Kadeem
9 Johnson and Krystal Snipe that night.

10 Kadeem was shot once; Krystal was shot
11 once, and she lived. And it doesn't matter which
12 one pulled the trigger, but the testimony you're
13 going to hear is one of them, Mouzon, pulled the
14 trigger, but all five you are going to hear knew
15 that they were there to rob Kadeem and Krystal.

16 They knew that they were there to steal
17 from them while they were all armed with guns, all
18 five. That's what armed robbery is. And as a
19 normal and expected consequence of five guys
20 running out of the woods with guns and pointing
21 them at people, and making them get into a house
22 and get on their knees or sit on a bed and have
23 their hands taped while they were robbing them and
24 stealing from them, a natural consequence of
25 putting a gun in somebody's face while you're

OPENING STATEMENT BY MR. ALFARO

1 standing guard over them is that someone is going
2 to die, or at the very least someone is going to
3 get shot. And both of those things happened in
4 this case.

5 These defendants are directly
6 responsible for the death, the murder of Kadeem
7 Johnson, and they are directly responsible for the
8 attempted murder of Krystal Snipe, as well as
9 underlying offenses that go with it, the armed
10 robbery and burglary and also two counts of
11 kidnapping, because you're going to hear what the
12 definition of kidnapping is.

13 And once again, like TV, kidnapping
14 isn't taking somebody and tying them up,
15 blindfolding them, throwing them in the trunk of
16 the car and driving them across state lines. The
17 minute that you stop someone from doing what they
18 were doing -- in this case, you're going to hear
19 the testimony of how they got out of the car, and
20 as soon as they get out of the car, they're rushed
21 and ambushed at gunpoint.

22 As soon as they're told to get on their
23 knees there, and as soon as they're led into that
24 house at gunpoint, and as soon as Kadeem or while
25 Kadeem is on his knees -- put on his knees, has his

OPENING STATEMENT BY MR. THROWER

1 hands taped, Krystal sat on the bed, has her hands
2 taped, they're not free to leave. At no point from
3 the minute they pulled into that driveway at what
4 should have been the end of their night were they
5 free to go. Because these four and Darius Hamilton
6 controlled what happened to them that night,
7 they're responsible for the kidnapping as well.

8 So at the end of this case you're going
9 to hear testimony and you're going to be firmly
10 convinced that we have met our burden of proving
11 beyond a reasonable doubt that all four of these
12 defendants are guilty of murder, attempted murder,
13 kidnapping Krystal, kidnapping Kadeem, burglary
14 first-degree, and armed robbery.

15 THE COURT: Yes, sir, you may proceed.

16 MR. THROWER: Jacob Mouzon was born
17 right here in this part of Berkley County. And
18 we're talking about this rural area around Cainhoy
19 Road, Bonneau, St. Stephen. And from the time he
20 was just a little kid, it didn't take him long to
21 realize he was different.

22 He looked different from most of the
23 people, he acted different, he was smart, he made
24 good grades, and he graduated from Timberland High
25 School. He got a scholarship to South Carolina

OPENING STATEMENT BY MR. THROWER

1 State. This is the month before all this happened.

2 He had a scholarship, he had enrolled
3 in the Army National Guard, he had drill on
4 July 22nd, the day after this happened. He was
5 supposed to be in Walterboro. His recruiter was
6 going to pick him up and take him to drill.

7 On July 21st, he's kind of doing the
8 kind of things you do before you go in the Army.
9 He was hanging out with his girlfriend. He was
10 with Jade Wigfall. He's at her apartment over by
11 Northwoods Mall. He's hanging there from about
12 6:00 to maybe 10:00 that night.

13 His phone is lit up. Some of the guys
14 that he knew from high school said, come on, let's
15 go have a beer. Let's go do something before you
16 go into the Army. And he finally says, yeah, all
17 right, we'll go do something.

18 So he takes his car and drives it up --
19 back up to Bonneau where his father lives and left
20 it there. Darius Hamilton picks him up, had Drake
21 with him and they drive down 41, and they get to a
22 club. They're all under age, but they're in a
23 parking lot behind the building and they're just
24 drinking beer. Drake and Kenny and Sherrod and
25 Darius, they come and go. He's hanging out, he's

OPENING STATEMENT BY MR. ARCHER

1 flirting with some girls, he's trying to enjoy his
2 last night here before he goes to the Army.

3 About 3:00 in the morning, Darius pulls
4 up in his pickup truck and says, get in. They take
5 off and it goes bad from there. The pickup truck
6 -- he pulls over and says, you guys gotta get out.
7 They hop out. Darius takes off and they're like,
8 what in the hell is going on.

9 So they take off into the woods, and
10 they're arrested the next day. He did not have a
11 ride away from the situation he was in. These
12 other guys were saying, let's get the hell out of
13 here. He doesn't know what's going on.

14 He was set to do something with his
15 life. He wouldn't throw it away. He'll tell you
16 about that.

17 This situation is without question
18 horrible, a horrible situation, but the only thing
19 worse would not be getting the people that are
20 responsible. And that's what I'm asking you to do,
21 pay attention to exactly who's responsible for this
22 and make sure you don't get the wrong guy.

23 MR. ARCHER: Ladies and gentlemen, as
24 the Solicitor, Mr. Alfaro said, there's actually
25 five people involved in this case. You've only got

OPENING STATEMENT BY MR. ARCHER

1 four of them before you today. The fifth one is
2 Darius Hamilton. He's not here. He's not here
3 because he made a deal with the prosecution;
4 basically, a deal to come in and testify. All
5 right.

6 And I think the prosecution would like
7 you to think he ain't going to get nothing from
8 that, but I think when Darius gets up here, he's
9 going to tell you he thinks he's entitled to a lot
10 for coming in and testifying. And I think common
11 sense tells you that he will get treated very much
12 differently than any of these other defendants
13 should you-all find them guilty. Okay.

14 Now, as part of the deal, he signs
15 what's called a proffer agreement. All right. And
16 part of that proffer agreement says he will tell
17 the truth. Okay. In theory, the prosecution isn't
18 dealing for a lie. They're dealing for the truth
19 as well as it should be; however, the evidence will
20 show that, one, the night he was arrested, he lied
21 to the police.

22 Two, November the 3rd when he signed
23 his proffer agreement, he was debriefed and
24 interviewed by a prosecutor other than Mr. Alfaro,
25 a prosecutor who is no longer with the Berkeley

OPENING STATEMENT BY MR. ARCHER

1 County Solicitor's Office. A fellow by the name of
2 Chip Cannon. Okay. And he lied to Mr. Cannon.
3 All right.

4 And all of this is going to be Krystal
5 clear because two weeks ago he gave a statement
6 which absolutely makes it clear he lied to the
7 police when he was arrested, and he lied to
8 Mr. Cannon when he signed his proffer agreement.

9 Now, the proffer agreement says if he
10 lies, the deal is out the window. Okay. And it's
11 going to be clear that he lied. But has the
12 prosecution thrown the deal out the window? No.
13 Why? Because the more that he wants to get -- cut
14 a deal for testifying, they want his testimony no
15 matter what he says, as long as it convicts these
16 four defendants. Okay.

17 But, so you are going to have to accept
18 in order to find any of these fellows guilty -- or
19 I would say probably at least out of four, there's
20 no real evidence against them at all, nothing other
21 than the testimony of Darius Hamilton. There's no
22 ID.

23 None of them are ID'd by anybody who
24 was a victim of this crime. There is no
25 fingerprints. There is no DNA. There's no goods

OPENING STATEMENT BY MR. ARCHER

1 that supposedly were stolen recovered from
2 particularly my client. Okay. And there's no guns
3 recovered. So all it is the bare testimony of one
4 man against my client.

5 And I would submit to you that the
6 absence of real evidence that's not corroborated --
7 it's one thing to have a witness to something, but
8 you need corroboration of what that witness says.
9 And with respect to Mr. Campbell, there's
10 absolutely no corroboration whatsoever.

11 And I believe that the absence of any
12 corroboration will -- is adequate in itself to
13 create a reasonable doubt, particularly when you're
14 going to be dealing with somebody that the evidence
15 is going to tell you lied the day he was arrested
16 and lied when he made his deal with the prosecutor.
17 And we don't know whether he'll be lying here today
18 or tomorrow. All right.

19 So that's our case. That basically
20 it's one man's word that has tremendous
21 consequences for the defendants, and that you
22 should not accept one man's word unless there's
23 other evidence that corroborates it and says it's
24 true. Thank you.

25 THE COURT: Mr. Smaldone, you may

OPENING STATEMENT BY MR. SMALDONE

1 proceed.

2 MR. SMALDONE: Thank you, Your Honor.

3 THE COURT: You're welcome.

4 MR. SMALDONE: May it please the Court.

5 THE COURT: Yes, sir.

6 MR. SMALDONE: Ladies and gentlemen of
7 the jury, good afternoon. You-all have been here
8 awhile. We've chosen you to hear this case. And
9 I'm used to trying cases where I'm the only one at
10 the table, so it's kind of implied what I'm doing
11 and who I represent, but I think it's important
12 that you know who I represent because I don't want
13 -- I don't want anything to get kind of lost in the
14 -- lost in the mix.

15 So I represent Drake Campbell. Drake,
16 you can stand up briefly if you want. You-all met
17 him earlier. That's Drake Campbell, right?

18 DEFENDANT CAMPBELL: (Standing)

19 MR. SMALDONE: Drake Campbell --

20 You can sit down. Thank you, Drake.

21 Drake Campbell made a terrible mistake
22 of being friends with a liar, with a robber, and
23 with an all and all bad person. That friend,
24 supposed friend, is a guy named, you heard about
25 it, Darius Hamilton. He's the only guy that's not

OPENING STATEMENT BY MR. SMALDONE

1 sitting with us today.

2 Darius Hamilton did something really
3 stupid and really bad and -- not just stupid. I
4 guess stupid is trivial, but really horrible.
5 Right. And you've -- I mean, you heard the
6 solicitor's opening statements, and we're not
7 denying that that happened. I'm not denying that
8 this terrible thing occurred because it did.

9 But I'm saying that Drake had nothing
10 to do with it. Darius Hamilton sold him out.
11 Darius Hamilton knew there was some pressure, and
12 rather than give up the real info, he just lies.
13 You've heard it; you'll hear it again. You'll not
14 only hear that he lied, you'll hear the lie because
15 he's probably going to tell another one that I
16 haven't even heard yet.

17 All in all, like I said, what happened
18 that night actually happened. Right. I'm not
19 arguing that. I'm arguing that Drake had nothing
20 to do with it. Because all in all, the only
21 evidence that you'll see that ties Drake to this is
22 a liar, is a sell-out, is a guy who's throwing his
23 former friend under the bus because he made a bad
24 choice. He's not reliable. He's a liar.

25 Drake was not there. You've heard, you

OPENING STATEMENT BY MR. SMALDONE

1 know, Mr. Thrower's opening statement, and I'm not
2 going to regurgitate that again. Basically, Drake
3 -- the evidence will show Drake probably got picked
4 up later on and said, hey, I need to go. Drake
5 freaked out because he heard about what had
6 happened earlier, so he leaves.

7 He wanted things to calm down, like
8 people are starting to say my name in some patterns
9 that I don't like. People are throwing me under
10 the bus, I gotta get out, and that's what he did,
11 and nothing you hear this week will prove any
12 different.

13 In opening statements I tend not to
14 give the canned opening. I tend not to sit up here
15 and just read from a script, blah, blah, blah,
16 reasonable doubt, blah, blah, blah, presumption of
17 innocence, because that's boring. But I think it's
18 important, especially since there's so many facts
19 here, there's so many defendants, that you hear
20 that.

21 So I'm just going to do what I said I
22 don't normally do, and I apologize, but it's
23 important that you know, regurgitate from your
24 civics class, kind of remember what you heard,
25 Drake is an innocent man. No one is arguing that

OPENING STATEMENT BY MR. SMALDONE

1 he isn't yet.

2 The State has the burden to not just
3 convince you, you know, this probably happened or
4 it's more likely than not happened. The State has
5 to convince you beyond a reasonable doubt each and
6 every element of the offense, all the offenses
7 Drake's charged with individually beyond a
8 reasonable doubt as to each. Right.

9 And I normally save that for closing,
10 but I want you to keep that in your mind because I
11 want you to remember what you hear. Not about
12 anybody else. I mean, sure all of them
13 individually, but I want you to hear for
14 Mr. Mouzon, for Mr. Palmer, for both -- for Kenneth
15 Campbell, for Drake Campbell. Pay attention.

16 What do they have on Drake? You won't
17 hear anything, other than the flipper. So that's
18 what this case is about. This case is about a guy
19 who didn't do anything who's getting sold out.

20 It's wrong, but we're going to go
21 through it, and at the end of this, I'm going to
22 ask you to find Drake not guilty, and the only
23 reason I'm going to ask you that is because he's
24 not guilty. He's not guilty. He wasn't there. He
25 didn't do it and nothing will prove that to the

OPENING STATEMENT BY MR. SMILEY

1 contrary.

2 Ladies and gentlemen, again, Drake
3 Campbell is not guilty, not guilty of armed
4 robbery, not guilty of kidnapping, not guilty of
5 burglary, not guilty of attempted murder, and not
6 guilty of murder. Thank you.

7 THE COURT: Mr. Smiley.

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

10 THE COURT: Yes, sir.

11 MR. SMILEY: I introduced myself
12 earlier; my name is Jim Smiley. And Ms. Hensley is
13 going to be helping me in this case. And it's my
14 honor to represent Sherrod Palmer.

15 This case is a little bit different
16 than a lot of cases that we try in that out of this
17 set of facts, the prosecutor has elected to try all
18 four people at one time.

19 The most important thing we start with
20 is there are four separate trials going on. It's
21 not one trial. It's -- Mr. Mouzon is entitled to a
22 separate trial, Mr. Palmer, my client, Mr. Drake
23 Campbell, and Mr. Kenny Campbell. They are each on
24 trial at the same time, but separate. Real
25 important so as not to take the broad brush and

OPENING STATEMENT BY MR. SMILEY

1 just paint it over them.

2 And I really ask you to understand that
3 our defenses may be different because we don't have
4 a joint defense agreement. I haven't actually
5 spoken to a couple of the attorneys about exactly
6 what their defense is. I know what Mr. Palmer's
7 defense is going to be as it gets developed from
8 the stand.

9 What I'm going to ask you in opening to
10 do for me as to all the defendants is start with an
11 open mind. Because I was watching your faces as
12 you might have noticed as the Indictments were
13 being read in the very beginning with formal
14 arraignment. And I saw a couple of our jurors that
15 reacted when they were read, because it sounds
16 horrendous.

17 And it immediately makes you go, oh,
18 my. I need you to keep an open mind to start.
19 Just because they are accused, Mr. Palmer is
20 accused, we don't start with, well, he must be
21 guilty. We start with, he is an innocent man as he
22 sits here in the greatest country there ever was,
23 the best legal system that's ever operated, an
24 innocent man.

25 And he will remain an innocent man

OPENING STATEMENT BY MR. SMILEY

1 until, and if, the State can provide you with
2 evidence beyond a reasonable doubt as to
3 Mr. Palmer. I have no stake in the other three
4 defendants' case. So I will not be making their
5 argument. My only concern is Mr. Palmer.

6 As each witness gets on the stand, I
7 want you to look at their opportunity to view what
8 they viewed, their -- any built-in biases that they
9 might have. What do they actually contribute to
10 the case? Did they lie about something? The way
11 they acted on the stand. Because you-all are the
12 judges of the credibility.

13 You-all get to look at someone and say,
14 I don't believe a word he said, or I believe him.
15 It's up to you-all. If it was up to me, we
16 probably wouldn't be here. I don't get to make
17 that call. You-all do.

18 Because in the jury system everybody
19 has a different job -- and if this seems too
20 elementary, forgive me, I try to do it in every
21 case. Everybody has a different job. You-all are
22 the judges of the facts. That's what you're here
23 for. Whatever you say the facts are at the end,
24 that's what they are.

25 Judge Jefferson, she has a couple of

OPENING STATEMENT BY MR. SMILEY

1 different jobs. She's the judge of the law and her
2 job is to keep us in line too. We'll object and
3 tell her how we think the rules apply, and then
4 she'll tell us whether she agrees with us or not.
5 But my job as the defense attorney is to zealously
6 represent the interests of Mr. Palmer. Okay.

7 It's a different job than Mr. Alfaro.
8 Mr. Alfaro is not the attorney for Ms. Snipe or
9 Mr. Johnson. He's the attorney for the State and
10 his job is to seek justice, whatever that is. That
11 is his job.

12 The policeman that is sitting back
13 here, the detective that is leading this case, her
14 job is to gather evidence and provide it to the
15 prosecutors and make the arrests that she believes
16 are appropriate. That's all her job is. I mean,
17 that's what she does.

18 So everybody in here -- the Court
19 Reporter, she is making sure that every word we say
20 is written down. The clerk of court makes sure all
21 the records get here. The bailiffs make sure that
22 you-all are taken care of. The deputies in the
23 courtroom make sure that we're all safe, and
24 everybody has got a different job. And when you
25 put those competing interests together, it

OPENING STATEMENT BY MR. SMILEY

1 sometimes can feel like chaos.

2 I'm going to ask you to use your common
3 sense, but also as you apply your common sense,
4 understand the standards we're up against. This is
5 not civil court. It's not like, yeah, might be,
6 might not be. Now, it's not 100 percent either.
7 Reasonable doubt isn't beyond all doubt. It's a
8 reasonable one.

9 And Judge Jefferson will tell you what
10 the definition of a reasonable doubt is, that it's
11 one of the hardest terms defined in the art of the
12 law. I will tell you that at the end of this case
13 when you sit down, there might be some suspicions.
14 There might be some of this, um, maybe. But as to
15 Mr. Palmer you're going to look and go, what is the
16 evidence against him? What is the competent
17 evidence against him?

18 The evidence that was provided, did it
19 come from a credible source? Is it enough that I
20 don't hesitate to act to find him guilty beyond a
21 reasonable doubt? And I will assure you that when
22 this case over, there's only going to be the one
23 verdict because he will remain an innocent man.

24 I would ask for your attention. Thank
25 you very much. This is going to be a fairly

JOSEPH PINCKNEY - DIRECT EXAM BY MR. ALFARO

1 involved, long case because when you try four
2 people at once -- you-all probably should get four
3 checks instead of one because you're involved in
4 four cases at one time. But they're separate.

5 It's really important to understand
6 that my defense and Mr. Archer and Mr. Smaldone and
7 Mr. Thrower's may be different, but we're all doing
8 our job. He's going to make sure Mr. -- he
9 zealously represents Mr. Jacob Mouzon to the ends
10 of the earth within the Rules.

11 I'm going to do the same thing for
12 Mr. Palmer, and if they aren't the same thing,
13 we're going to butt heads because our job is not to
14 get along. Our job is to make sure that our
15 clients get a fair trial. And the key to a fair
16 trial is the 13 of you-all.

17 Thank you for your time and patience
18 today. I will try not to try it too much during
19 the week. All right. Thank you.

20 THE COURT: The State may proceed.

21 MR. ALFARO: The State calls Joseph
22 Pinckney.

23 JOSEPH PINCKNEY,

24 being first duly sworn, testified as follows:

25 THE CLERK: Please be seated. State

JOSEPH PINCKNEY - DIRECT EXAM BY MR. ALFARO

1 your full name for the record and spell your last
2 name.

3 THE WITNESS: Joseph Pinckney. P-I --
4 my name is Joseph Pinckney. Last name is
5 P-I-N-C-K-N-E-Y.

6 THE COURT: You may proceed.

7 DIRECT EXAMINATION

8 BY MR. ALFARO:

9 Q. Officer Pinckney, could you tell the
10 jury where you work?

11 A. The Charleston City Police Department.

12 Q. And how long have you worked for the
13 Charleston City Police?

14 A. Twenty-eight years.

15 Q. And what is your current rank as well
16 as your current duty assignment?

17 A. I'm a sergeant. I work the Team 5
18 area, which consists of Daniel Island and Clements
19 Ferry Road, all in Berkeley County.

20 Q. And were you working for Charleston
21 City in that capacity in the morning hours of
22 July 21st, 2016, at approximately 3:35 a.m.?

23 A. Yes, sir.

24 Q. And in that capacity, did you have the
25 opportunity to respond to 135 Martha Lane in Huger?

JOSEPH PINCKNEY - DIRECT EXAM BY MR. ALFARO

1 A. Yes, sir.

2 Q. And that's technically not your
3 jurisdiction, is it?

4 A. Technically, not. We were assisting
5 Berkeley County. They requested us to, and that's
6 why we responded there.

7 Q. And you indicated that that area is
8 actually in Berkeley County, along with the
9 Clements Ferry Road that you normally patrol?

10 A. Yes, sir. That's within close
11 proximity.

12 Q. And you said Berkley County was
13 requesting assistance. What type of call were you
14 dispatched to that evening?

15 A. It was in reference to a shooting that
16 -- that had just occurred.

17 Q. And when that call goes out, do you
18 recall where you were?

19 A. I was on Seven Farms Drive on Daniel
20 Island when the call went out.

21 Q. And did any other Charleston City units
22 respond with you at that time?

23 A. Yes, sir. It was Officer Spears that
24 accompanied me on that call.

25 Q. And were you familiar with the Martha

JOSEPH PINCKNEY - DIRECT EXAM BY MR. ALFARO

1 Lane area?

2 A. Vaguely. Vaguely.

3 Q. All right. Did you have any trouble
4 locating the house?

5 A. When we first got there, it was so dark
6 back there, so -- I was the first car to drive in
7 and I was using the spotlight, and it was a little
8 bit confusing.

9 We were able to locate it at the end of
10 the driveway -- at the end of the road on Martha
11 Lane.

12 Q. And what did you see when you got
13 there?

14 A. When we arrived, there was a young lady
15 sitting on the step crying, and she was bleeding
16 from the arm.

17 Q. And do you recall her name?

18 A. I believe -- Snipe.

19 Q. Okay. You said she was bleeding from
20 the arm. Did she have any type of -- anything,
21 bandage or anything wrapped around it?

22 A. She was sitting on the step and she was
23 bleeding, and she had a towel or a cloth or
24 something wrapped around her arm.

25 Q. And can you describe her demeanor and

1 how she was acting when you got there?

2 A. Yes, sir. She was -- she was in
3 distress. She was crying, and she was highly
4 upset, saying that some -- some -- some guys had
5 just come from the wood line and approached her and
6 her boyfriend and forced them inside at gunpoint,
7 asking something about money.

8 And shortly thereafter that, they were
9 communicating, asking about the money, then it
10 turned to them -- I think they took some items from
11 the house, I don't recall exactly what items, and
12 before they left, they fired shots hitting her in
13 the arm and hand and fired multiple shots hitting
14 her boyfriend.

15 Once we got -- we left her on the step.
16 And as we went up the steps towards the door, I
17 observed her boyfriend lying on the floor just
18 beyond the doorway. There was blood everywhere in
19 that area, just blood everywhere. His eyes were --
20 his eyes were partially open and his mouth was
21 partially opened.

22 I watched him for a few seconds to see
23 if he was still breathing, and he didn't appear to
24 be alive at all. It was a crime scene at that
25 point, and we decided not to go in, not to

JOSEPH PINCKNEY - CROSS EXAM BY MR. THROWER

1 contaminate it.

2 Q. Okay. So to see what you observed, the
3 blood everywhere and the victim not breathing and
4 his eyes open, did you actually have to go inside
5 the house to see that?

6 A. As I penetrated just beyond the
7 doorway, I took maybe two steps in, one or two
8 steps, and as I turned to the right and looked
9 down, that's where I -- where he was lying.

10 Q. Okay. And did you remain on the scene
11 until Berkeley County arrived to take over?

12 A. Yes, sir.

13 Q. And did you -- were you still on the
14 scene when EMS arrived?

15 A. Yes, sir.

16 MR. ALFARO: Thank you. Please answer
17 any questions the defense may have.

18 THE COURT: Mr. Thrower.

19 MR. THROWER: Thank you, Your Honor.

20 THE COURT: You're welcome.

21 CROSS-EXAMINATION

22 BY MR. THROWER:

23 Q. Sergeant Pinckney, you described this
24 area as so dark you couldn't find the house.

25 A. When we arrived it was -- the -- it was

JOSEPH PINCKNEY - CROSS EXAM BY MR. THROWER

1 a dirt road, I believe, and it was very dark and
2 there were no street lights. So I used my
3 spotlight, and we were able to locate the house
4 after driving because the female victim, Ms. Snipe,
5 she was sitting on the step crying and screaming.
6 And that's how we were able to pinpoint it.

7 Q. Now, Martha Lane has a green highway
8 department sign, right?

9 A. I don't recall.

10 Q. You don't recall?

11 A. No, sir.

12 Q. How did you know to turn on that -- I
13 agree it's a little tiny street. How did you know
14 to turn on that?

15 A. Maybe it did have one. I'm just not --
16 I know we were able to locate the house. We had
17 our -- our mobile laptop that we use has GPS
18 capability on it.

19 So once we put it in, it directs us and
20 tells us where to turn and whatnot. I know I
21 utilized that that night.

22 Q. Well, it looks more like a driveway
23 than -- I know it's called Martha Lane, but it
24 really just kind of goes off in an angle like a
25 driveway. Would you -- it's not a very well-lit

JOSEPH PINCKNEY - CROSS EXAM BY MR. THROWER

1 street, Charity Church?

2 A. No, it's not. It's pretty dark back
3 there.

4 Q. And back there, how many homes are back
5 there?

6 A. I don't recall.

7 Q. Are the homes well lit?

8 A. I remember the street being pretty
9 dark. I don't remember if the homes are well lit
10 or not. You know, my -- my -- I was focused on --
11 it was a shooting that just occurred, so I slowed
12 my approach.

13 I was focused on suspects or anything
14 else that I might encounter, so I wasn't paying
15 that much attention to houses or how well they were
16 lit.

17 Q. Now, you said you also responded with
18 Officers Spears. Was he in the car with you, or
19 was he in a --

20 A. He was behind me in his car.

21 Q. He was in a separate car?

22 A. Yes, sir.

23 Q. And how many houses are on that lane?

24 A. I'm not sure.

25 Q. How long would you say Martha Lane is?

JOSEPH PINCKNEY - CROSS EXAM BY MR. ARCHER

1 Is it like --

2 A. Maybe a quarter of a mile, maybe.

3 Q. Okay.

4 A. I was only there -- down there that one
5 time. I wasn't back down there since that night.

6 MR. THROWER: Okay, sir. Thank you
7 very much.

8 THE COURT: Mr. Archer.

9 CROSS-EXAMINATION

10 BY MR. ARCHER:

11 Q. Officer, did you do anything other than
12 go in the house, look around, and walk out?

13 A. We -- we, upon approaching that --
14 after going into the house and realizing what we
15 had, we told Dispatch that it was clear to send EMS
16 up to provide assistance.

17 And -- and at that point, we just
18 waited there until Berkeley County arrived on the
19 scene. And -- and they told us that they had it
20 and they were fine, and then we were released.

21 Q. Okay. Did you ask -- the lady victim
22 was bleeding from the arm, right?

23 A. Yes, sir.

24 Q. Did you ask her any questions about
25 what had happened?

JOSEPH PINCKNEY - CROSS EXAM BY MR. ARCHER

1 A. Yes. So once we got there, basically
2 she started telling us what happened. We didn't
3 really have to ask her anything. She told us that
4 they arrived, and once they arrived, people came --
5 multiple parties came from the wood line from both
6 sides, she said, and approached them with a gun and
7 forced them into the house.

8 And she then said that after they got
9 into the house they mentioned something about
10 money, where is the money. And shortly thereafter,
11 I think they took some items from the house. I
12 don't exactly remember what she said.

13 And she said just before leaving they
14 fired multiple shots at her and her boyfriend, and
15 then they got into their cars and left the area.
16 So she volunteered all of that to us.

17 Q. Did she say how many people came in?

18 A. I remember her saying that there were
19 more than one, that there were several. So I don't
20 -- I don't remember the exact amount for sure.

21 Q. Okay. And did she give any description
22 of the people who came in?

23 A. She said that some of them were black,
24 and there were one or two of them that may have
25 been -- that were white or Hispanic, I think she

JOSEPH PINCKNEY - CROSS EXAM BY MR. SMILEY

1 said.

2 Q. Okay. So some of them were black, and
3 there's one or two that was white or Hispanic?

4 A. I believe that's what she said.

5 Q. Okay. And that's about the sum of what
6 she told you before you left and let Berkley come
7 in?

8 A. Yes, sir.

9 MR. ARCHER: All right. I have no
10 further questions.

11 THE COURT: Mr. Smaldone.

12 MR. SMALDONE: No questions for this
13 witness.

14 THE COURT: Mr. Smiley.

15 CROSS-EXAMINATION

16 BY MR. SMILEY:

17 Q. Sergeant Pinckney, Jim Smiley. How are
18 you?

19 A. I'm doing fine.

20 Q. You were over on Daniel Island when you
21 got the call for assistance, right?

22 A. Yes, sir.

23 Q. So, Seven Farms over to Clements Ferry
24 is just how you got there?

25 A. I took Seven Farms and got onto 526

JOSEPH PINCKNEY - CROSS EXAM BY MR. SMILEY

1 westbound and took the Clements Ferry Road exit.

2 Q. Okay. Then you took Clements Ferry
3 Road, and you were heading -- with your sirens on I
4 would guess, right?

5 A. Yes, sir.

6 Q. So you were booking on down there, and
7 you keep going down Clements Ferry until you get to
8 Cainhoy Road; is that correct?

9 A. That's right.

10 Q. And you took a left on Cainhoy?

11 A. Yes, sir.

12 Q. And you go down Cainhoy a couple of
13 miles and took a right on Charity Church?

14 A. Yes, sir.

15 Q. Okay. And then Martha Lane is off of
16 Charity Church, correct?

17 A. I was using my GPS at that time
18 actually --

19 Q. Yeah. Yeah --

20 A. -- but that sounds accurate.

21 Q. I'm just trying TO -- so the jury can
22 sort of hear how you got there.

23 A. Yes, sir, I was the first to arrive.

24 Q. You were the first one on the scene?

25 A. That's right.

JOSEPH PINCKNEY - CROSS EXAM BY MR. SMILEY

1 Q. You were the first one on the scene?

2 A. Yes, sir.

3 Q. And you knew you were responding to a
4 shooting of some sort that had just taken place,
5 right?

6 A. Yes, sir.

7 Q. And I think you testified earlier that
8 you-all were -- you had your eyes open for suspects
9 or anything unusual, right?

10 A. Correct.

11 Q. During that route that you took, right?

12 A. Yes, sir.

13 Q. Did you have any cars that blew past
14 you in the other direction or any strangers walk on
15 the road or anything that you -- that caught your
16 eye?

17 A. No, sir.

18 Q. I knew the answer to that because you
19 would have stopped them, but I wanted to ask it for
20 the jury. Okay.

21 Now, you got the call at about 3:35,
22 correct?

23 A. Yes, sir.

24 Q. And it took you about five minutes,
25 maybe, to get to that Cainhoy Road area. Do you

JOSEPH PINCKNEY - CROSS EXAM BY MR. SMILEY

1 know what time you arrived?

2 A. I would say -- I would say it took us
3 in the neighborhood of approximately 10 to
4 15 minutes --

5 Q. Yes, sir, I thought that, but I didn't
6 want to stretch it too long. So it took about 10
7 or 15 minutes to get there. So it put you there a
8 little before 4:00?

9 A. Correct.

10 Q. Now, that area, Charity Church, is
11 fairly dark, correct?

12 A. Yes, sir.

13 Q. And between your GPS and your
14 spotlight, you picked out Martha Lane, right?

15 A. Yes, sir.

16 Q. Martha Lane is not a paved road, is it?

17 A. It's not a paved road.

18 Q. It's a gravel kind of looking --

19 A. Kind of gravel type, gravel, dirt
20 mixture.

21 Q. Yeah. And it doesn't really have a
22 whole lot of -- I'm trying to think of the right
23 word -- right-of-way on each side. It's a pretty
24 narrow type road, right?

25 A. Fairly narrow, yes, sir.

JOSEPH PINCKNEY - CROSS EXAM BY MR. SMILEY

1 Q. And as you go down it, it's dark?

2 A. That's correct.

3 Q. And as you were going down it and you
4 keep on going, you came to the house that Ms. Snipe
5 was sitting on the steps of, right?

6 A. Yes, sir.

7 Q. And that was a white trailer, right?

8 A. It was a trailer, yes, sir.

9 Q. And it was sort of at the end of the
10 road?

11 A. The end of the road, that's right.

12 Q. And you used your spotlight to pick
13 everybody -- pick her out sitting there, right?

14 A. That's right, yes, sir.

15 Q. Because there's not any street lamps or
16 any type of overhead lighting that you remember, is
17 there?

18 A. The lighting was pretty bad. I
19 remember I definitely had to use my spotlight.

20 Q. Yes, sir. All right. Now, with --
21 when you arrived, Officer Spears arrived right
22 behind you?

23 A. Right behind me.

24 Q. Okay. Did you-all -- I know you didn't
25 know exactly what you were coming up on, and you

JOSEPH PINCKNEY - CROSS EXAM BY MR. SMILEY

1 see a young lady sitting on the steps bleeding.

2 Did you-all attempt to clear the trailer?

3 A. We -- well, she told us that they left
4 in the car --

5 Q. Okay.

6 A. -- and so -- in the two cars. She said
7 the suspects had left in the two cars. So EMS was
8 standing by, so I knew we had to at least go and do
9 a visual of looking. So when I went through the
10 door and saw what I had, and I was able to see an
11 open area, waited a while, and determined that it
12 was clear enough for them --

13 Q. Yes, sir.

14 A. So we called them in after that.

15 Q. Okay. That's an important piece of
16 information. So you arrived, she's sitting on the
17 steps bleeding?

18 A. That's correct.

19 Q. She told you that the individuals that
20 were involved had left in two cars?

21 A. Correct, yes, sir.

22 Q. Did she describe the cars, or just that
23 there was two cars and they left in them?

24 A. I'm -- she described them because I --
25 we put that -- Spears -- we put that information

1 out to our dispatcher.

2 Q. Yeah. One was a white Crown Vic?

3 A. Yes, sir.

4 Q. And one was a gray Crown Vic?

5 A. Yes, sir.

6 Q. Okay. I believe you testified that she
7 told you that they came from both sides?

8 A. Of the wood line.

9 Q. Yeah. Because I'm trying to help paint
10 this picture for the jury. You and I have been out
11 there. They don't get to go out there. So we've
12 got this blank canvas I'm trying to paint in.

13 A. Okay.

14 Q. As you come back, that trailer is sort
15 of in an open space surrounded by tall weeds and
16 trees, correct?

17 A. Yes, sir.

18 Q. And maybe the area -- and this is
19 rough. Maybe the area that's open is maybe a third
20 of a football field? Maybe a half?

21 A. So as we approached the trailer, it was
22 the one at the very end --

23 Q. Right.

24 A. -- and then on both sides of the
25 trailer there was -- there was a heavy wood line on

JOSEPH PINCKNEY - CROSS EXAM BY MR. SMILEY

1 both sides.

2 Q. Yes, sir.

3 A. And, at first, it was like a little
4 field there and then it goes into trees.

5 Q. Yes, sir.

6 A. And you couldn't -- you couldn't see
7 anything beyond the wood line.

8 Q. Right. And then she told you they came
9 out of that -- those tree lines?

10 A. Yes, sir.

11 Q. And she said there was multiple people,
12 but she didn't tell you how many?

13 A. I don't recall the number. I remember
14 specifically she said there were multiple suspects.

15 Q. Okay. All right. And she also told
16 you that they had fired multiple shots?

17 A. Yes, sir.

18 Q. So once you received the information
19 about a white Crown Vic and a gray Crown Vic, you
20 got on the radio and put that information out to
21 the other officers in the area, whether it be
22 Berkeley County or any -- through dispatch or
23 however it gets there. You were first person to
24 describe the cars that had been taken?

25 A. Yes, sir.

JOSEPH PINCKNEY - CROSS EXAM BY MR. SMILEY

1 Q. Okay.

2 MR. SMILEY: Beg the Court's
3 indulgence?

4 Sergeant Pinckney, thank you. I have
5 nothing further.

6 THE COURT: Any redirect?

7 MR. ALFARO: No, Your Honor.

8 THE COURT: Any objection to the
9 witness being excused? From the State?

10 MR. ALFARO: No, ma'am.

11 THE COURT: From the defense, Mr.
12 Thrower?

13 MR. THROWER: No, ma'am.

14 THE COURT: Mr. Archer? Any exception
15 to the witness being excused?

16 MR. ARCHER: No.

17 THE COURT: Mr. Smaldone?

18 MR. SMALDONE: No, Your Honor.

19 THE COURT: Mr. Smiley?

20 MR. SMILEY: No, Your Honor.

21 THE COURT: Ladies and gentlemen, why
22 don't you-all stand up and stretch your bones a
23 little bit. Does anybody need to go to the
24 restroom?

25 Call the next witness. Does somebody

1 need to -- oh, okay. We'll have a very brief
2 recess. If you would leave your notepads in your
3 seats. Please don't discuss the case.

4 (Jury out, 4:34 p.m.)

5 (A recess transpired.)

6 THE COURT: Is the State ready to
7 proceed? Who is the State's next witness?

8 MR. ALFARO: Steve Riddle, he's an EMS.
9 Just for housekeeping purposes, Your Honor, we
10 expect Mr. Riddle to be a short witness. Our next
11 witness would be the victim, Krystal Snipe.

12 THE COURT: Yeah. I plan to break at
13 5:00.

14 MR. ALFARO: Okay. That's what I was
15 going to ask. Thank you, Judge.

16 THE COURT: You're welcome. State
17 ready to proceed?

18 MR. ALFARO: Yes, Your Honor.

19 THE COURT: Is the defense, Mr.
20 Thrower?

21 MR. THROWER: Yes, Your Honor.

22 MR. ARCHER: Yes, Your Honor.

23 MR. SMALDONE: Yes, Your Honor.

24 MR. SMILEY: Yes, Your Honor.

25 THE COURT: And just for my court

1 reporter's benefit, when I ask you-all questions, I
2 need you to sit in the order that you're standing.
3 When you're questioning them, you can go in the
4 order you want to go in, but for her purposes, it's
5 much easier for her to deal with it.

6 Get the jury for me, please. Is the
7 witness already in the courtroom?

8 MR. ALFARO: He is not, Your Honor.
9 He's in the back.

10 THE COURT: Yeah. Go ahead and get him
11 so we don't have to wait.

12 (Jury in, 4:45 p.m.)

13 THE COURT: You may be seated. The
14 State may call its next witness.

15 MR. MCNEELY: Thank you, Your Honor.
16 The State calls Stephen Riddle.

17 THE COURT: Swear the witness.

18 STEPHEN RIDDLE,
19 being first duly sworn, testified as follows:

20 THE CLERK: Please be seated. State
21 your full name for the record and spell your last
22 name.

23 THE WITNESS: Stephen Riddle, and
24 R-I-D-D-L-E.

25 THE COURT: You may proceed.

STEPHEN RIDDLE - DIRECT EXAM BY MR. MCNEELY

1 MR. MCNEELY: Thank you, Your Honor.

2 THE COURT: You're welcome.

3 DIRECT EXAMINATION

4 BY MR. MCNEELY:

5 Q. Good afternoon, Mr. Riddle. Where are
6 you currently employed?

7 A. Life Guard Ambulance.

8 Q. What is your position there, and how
9 long have you been employed with them?

10 A. I'm a medic. I've been there probably
11 about a month now.

12 Q. All right. Please tell the jury a
13 little bit about your education and training.

14 A. I've been -- I worked for Charleston
15 and Berkeley County, been EM -- or a medic since
16 '98. I was a fireman and a policeman.

17 Q. Do you hold any certifications?

18 A. Yes. I hold State EMT basic
19 certification.

20 Q. Is there a difference between EMT and
21 EMS?

22 A. No, sir.

23 Q. How long have you been working as an
24 EMT?

25 A. Since 1998.

STEPHEN RIDDLE - DIRECT EXAM BY MR. MCNEELY

1 Q. Where were you employed during July of
2 2016?

3 A. Berkeley County Emergency Medical
4 Service.

5 Q. Were you working during the early
6 morning hours of July 21st, 2016?

7 A. Yes, sir.

8 Q. During that time, were you called to
9 respond to an incident at 135 Martha Lane in the
10 Huger area of Berkeley County?

11 A. Yes, sir.

12 Q. Did you respond to that location?

13 A. Yes, sir.

14 Q. Where were you coming from?

15 A. Huger. It's off of -- it's called
16 Berkeley County Medic Seven.

17 Q. So you were already located in the
18 Huger area?

19 A. Yes, sir.

20 Q. Do you recall, approximately, what time
21 you were called?

22 A. It was probably about 3:00 in the
23 morning.

24 Q. About how long did it take you to get
25 there?

STEPHEN RIDDLE - DIRECT EXAM BY MR. MCNEELY

1 A. Less than five minutes.

2 Q. Did you go immediately to the home or
3 did you have to wait?

4 A. No, sir. We had to pull over to the
5 side and wait for the police to get on location and
6 make sure the scene was safe.

7 Q. And what type of call were you
8 responding to?

9 A. I believe it was a home invasion with a
10 GS, or a gunshot wound, two gunshot wounds.

11 Q. Is the call the reason that you had to
12 wait?

13 A. Yes, sir. Because they didn't know if
14 the assailants were still on the scene or -- we
15 just had to make sure the scene was safe before --
16 before we entered for our safety.

17 Q. So the police had to go in before EMS?

18 A. Yes, sir.

19 Q. Can you describe the area of the home
20 on 35 Martha Lane?

21 A. I believe it was down a dark, unpaved
22 road with a trailer in the back. There is a
23 doublewide trailer on the right, and I believe it
24 was a single white trailer to your left. And
25 that's where the address was at the location.

1 Q. Just so I'm clear, you're referencing
2 the single white trailer?

3 A. Yes.

4 Q. What did you see when you first
5 arrived?

6 A. We came up, we parked. I believe there
7 was a lady sitting on her front porch waiting for
8 us to get on the scene. And I walked up and that's
9 all I -- and then I went up the stairs and looked
10 inside.

11 And I believe the bedroom where the
12 subject -- or the patient was was up to your right.

13 Q. Did more than one EMS unit respond?

14 A. Yes. We called for our second unit
15 because we had two victims.

16 Q. A female and a male?

17 A. Yes, sir.

18 Q. Which one were you responding for?

19 A. For the male.

20 Q. Did the other unit treat the female?

21 A. Yes.

22 Q. Did you go into the home?

23 A. I walked probably eight feet inside,
24 and I saw what was going on. And I checked the
25 patient to make sure, see if he was breathing or

STEPHEN RIDDLE - DIRECT EXAM BY MR. MCNEELY

1 anything. And he wasn't, so I backed out.

2 Q. Please, describe what you saw in that
3 area when you first walked into the home.

4 A. Into the -- where we found the victim?

5 Q. Correct.

6 A. He was a heavysset black male, taped, he
7 was taped, his hands were taped in the front, and
8 he was laying on his side with red blood matter
9 coming out of his head. There was a lot of blood.

10 Q. Did you touch the male victim?

11 A. No, because I noticed that it was dark
12 blood and I saw some brain matter.

13 Q. Did you make a determination through
14 your training and experience at that time as to his
15 status?

16 A. Yes. Due to the ETA to get on scene
17 and how long he'd been down and from what I saw, it
18 was -- it was obvious he was deceased.

19 Q. So what did you do at that time?

20 A. I backed out because I noticed it was a
21 crime scene, and I didn't want to tamper with any
22 evidence.

23 Q. What did you do after that?

24 A. I went back to the truck and waited to
25 give report to the coroner and all that. And we

STEPHEN RIDDLE - CROSS EXAM BY MR. ARCHER

1 just hung around the scene so I could get some
2 patient information on our victim.

3 Q. You called the coroner's office?

4 A. Yes; the dispatcher did. We notified
5 that we had a DOA and they notify the coroner.

6 Q. Just to clarify, did you provide any
7 medical measures whatsoever to the male victim?

8 A. No, sir.

9 MR. MCNEELY: No further questions from
10 the State at this time, Your Honor.

11 THE COURT: Mr. Thrower?

12 MR. THROWER: No questions, Your Honor.

13 THE COURT: Mr. Archer?

14 CROSS-EXAMINATION

15 BY MR. ARCHER:

16 Q. Mr. Riddle?

17 A. Yes, sir.

18 Q. Do you know a member of your medical
19 team by the name of Tricia Merrithew?

20 A. Yes, sir.

21 Q. Was she there that night?

22 A. I believe so. I believe she was on the
23 other truck. I'm not sure.

24 Q. Okay. So she wasn't in your truck?

25 A. No, she wasn't with me. No, sir. I

STEPHEN RIDDLE - CROSS EXAM BY MR. ARCHER

1 had another partner.

2 Q. Okay. Where would she work out of?

3 A. Who's that? Tricia?

4 Q. Yeah.

5 A. I have no idea, sir.

6 Q. Okay. Do you know if she is still with
7 the EMS?

8 A. I have no idea.

9 Q. No idea? Were you around when she
10 talked with the lady victim?

11 A. No, sir.

12 Q. You weren't. So you didn't hear any --

13 A. They had her in a separate ambulance.

14 Q. Okay. I thought maybe they questioned
15 her out in front of the building.

16 A. No, sir.

17 Q. Okay. So you can't say anything about
18 the lady victim?

19 A. No, sir.

20 MR. ARCHER: Okeydoke. Thank you very
21 much.

22 THE COURT: Mr. Smaldone?

23 MR. SMALDONE: No questions for this
24 witness.

25 THE COURT: Mr. Smiley?

STEPHEN RIDDLE - CROSS EXAM BY MR. SMILEY

1 MR. SMILEY: Yes, ma'am.

2 THE COURT: You may proceed.

3 CROSS-EXAMINATION

4 BY MR. SMILEY:

5 Q. Mr. Riddle, or EMT Riddle, Jim Smiley.

6 I represent Sherrod Palmer. What time did you
7 arrive?

8 A. I don't have the report right -- I
9 don't remember exactly what time. It took a long
10 time for the sheriff's office to get there.

11 Q. Okay. So when you arrived, Berkeley
12 County had already arrived on the scene?

13 A. I believe City of Charleston was there
14 first.

15 Q. Okay. City of Charleston was there
16 when you arrived?

17 A. Yes. Because they went in first to get
18 the scene safe.

19 Q. They secured the scene, and then they
20 waved you up?

21 A. Yes.

22 Q. And that took a few minutes?

23 A. Yes, sir.

24 Q. Well, it took a little longer than a
25 few minutes?

STEPHEN RIDDLE - CROSS EXAM BY MR. SMILEY

1 A. If you look at the times on the report,
2 they're accurate on the report.

3 Q. Okay.

4 A. I don't remember because --

5 Q. I got you, it's been a couple of years.

6 A. Yeah.

7 Q. I got you. You described that area as
8 being real dark, right?

9 A. Yes, sir.

10 Q. It's sort of back in a little narrow
11 dirt road, right?

12 A. Yes, sir.

13 Q. And other than looking -- that's not
14 the right word. Other than examining -- better
15 word -- examining Mr. Johnson, the deceased, you
16 backed up because there was no treatment to be
17 given to him. And so that was your only
18 responsibility there, right?

19 A. Yes.

20 Q. So you arrived, you waited, it was
21 really dark, you saw the guy was dead, and you were
22 done?

23 A. That's it.

24 MR. SMILEY: That's all I've got.

25 Thanks.

STEPHEN RIDDLE - REDIRECT EXAM BY MR. MCNEELY

1 THE COURT: Any redirect?

2 MR. MCNEELY: Just a couple, Your
3 Honor.

4 THE COURT: You may proceed.

5 REDIRECT EXAMINATION

6 BY MR. MCNEELY:

7 Q. Mr. Riddle, Mr. Smiley asked you about
8 times, and I believe you referenced a report. Was
9 there a report done for your activity in this
10 matter?

11 A. Yes, sir.

12 Q. Would it refresh your memory as to the
13 times if you reviewed that report?

14 A. Yes, sir.

15 Q. Okay.

16 MR. MCNEELY: Permission to approach
17 the witness, Your Honor?

18 THE COURT: You may.

19 BY MR. MCNEELY:

20 Q. Mr. Riddle, please look at that.

21 A. I'm looking at the times.

22 Q. Is that your report for this incident?

23 A. Yes. I'm not the one who wrote this.

24 My partner wrote it, but I signed it. So I did
25 read over it, but, yes.

STEPHEN RIDDLE - REDIRECT EXAM BY MR. MCNEELY

1 Q. Are the times logged in by dispatch or
2 by you?

3 A. By dispatch.

4 Q. Okay. And are there multiple times
5 listed on the report?

6 A. No, sir. Are there times --

7 Q. I guess I'll ask it this way. Are
8 there times for when you received the call, times
9 for when you went there --

10 A. Yes.

11 Q. -- times for when you were at the
12 patient?

13 A. Yes, sir.

14 Q. Okay. What's the first time that you
15 get?

16 A. Call received at 3:10:28.

17 Q. Is that a.m. or p.m.?

18 A. It's a.m.

19 Q. What's the second time you get?

20 A. Dispatch -- we got dispatched 3:13:32.

21 Q. What's the difference between the call
22 time and the dispatch time?

23 A. The call received is when somebody
24 actually called the call in to dispatch, and then
25 the dispatch is when they dispatch us.

1 Q. Okay. What's your next time?

2 A. What time we got in route.

3 Q. And what time was that?

4 A. 3:16:27.

5 Q. Okay. So it took you three or
6 four minutes to leave the station?

7 A. Yes.

8 Q. And what's the next time?

9 A. On scene.

10 Q. What's that?

11 A. 3:44:24.

12 Q. Well, you testified in original direct
13 examination that it only took you about five
14 minutes to get there; is that correct?

15 A. Yes.

16 Q. So what were you doing for that
17 additional 25 or 30 minutes?

18 A. We were pulled on the side of the road
19 waiting for -- waiting for the police to get on
20 scene.

21 Q. You were standing by?

22 A. Standing by, yes, sir.

23 Q. And then is there a final time?

24 A. We reached the patient at 3:45:24, and
25 then we departed at 4:08:08.

STEPHEN RIDDLE - REDIRECT EXAM BY MR. MCNEELY

1 MR. MCNEELY: No further questions,
2 Your Honor.

3 THE COURT: Do you want that marked for
4 ID or do you not --

5 MR. MCNEELY: I -- I don't. Permission
6 to approach?

7 THE COURT: Yes, sir.

8 Any objection to the witness being
9 excused? From the State?

10 MR. MCNEELY: No, Your Honor.

11 THE COURT: From the defense, Mr.
12 Thrower?

13 MR. THROWER: No, Your Honor.

14 THE COURT: Mr. Archer?

15 MR. ARCHER: No.

16 THE COURT: Mr. Smaldone?

17 MR. SMALDONE: No, Your Honor.

18 THE COURT: Mr. Smiley?

19 MR. SMILEY: Your Honor, can I ask for
20 recross based on the new information?

21 THE COURT: Well, it's really -- I'm
22 going to give you some latitude for one time.

23 MR. SMILEY: I'm going to be very
24 brief. I understand how you usually operate -- -

25 THE COURT: Well, the Rules operate,

STEPHEN RIDDLE - RECROSS EXAM BY MR. SMILEY

1 not the way I --

2 MR. SMILEY: I understand, Your Honor.

3 I'm not taking issue with you, Your Honor.

4 THE COURT: Uh-huh.

5 RECROSS-EXAMINATION

6 BY MR. SMILEY:

7 Q. Did you actually arrive before the
8 police?

9 A. No, sir.

10 Q. Okay. So the city police was there and
11 you-all waited on --

12 A. On the side of the road, on --

13 Q. Charity Church, out on the paved road?

14 A. Yes.

15 Q. And that would have been Charity
16 Church, but --

17 A. I believe so.

18 Q. Okay. And you came from Huger, right?

19 A. Yes. Our station was less than a half
20 a mile down the road.

21 Q. Right. And I took that -- I understand
22 that. I just want to make sure. So it's a half
23 mile down the road, you leave at 3:16, you're in
24 route. It's not very far, so you got there
25 quickly. And then you sat for about 20 minutes

STEPHEN RIDDLE - RECROSS EXAM BY MR. SMILEY

1 until you were waved in?

2 A. Yes. For about -- well, a little bit
3 longer than that I believe it was.

4 Q. 3:20 -- if it was -- you went in route
5 at 3:16, right?

6 A. Yes.

7 Q. And it says that you were led into the
8 scene at 3:44 and made contact with the patient at
9 3:45.

10 A. Yes.

11 Q. The majority of that time you were
12 sitting, waiting?

13 A. Yes.

14 MR. SMILEY: That's all I've got.
15 Thank you very much.

16 THE COURT: You're welcome. Any
17 redirect from the State? Brief redirect?

18 MR. MCNEELY: No, Your Honor.

19 THE COURT: Any objection to the
20 witness being excused? From the State?

21 MR. MCNEELY: None, Your Honor.

22 THE COURT: From the defense, Mr.
23 Thrower?

24 MR. THROWER: No objection.

25 THE COURT: Mr. Archer?

1 MR. ARCHER: No objection.

2 THE COURT: Mr. Smaldone?

3 MR. SMALDONE: No objection.

4 THE COURT: Mr. Smiley?

5 MR. SMILEY: No, ma'am.

6 THE COURT: Sir, you're excused.

7 THE WITNESS: Thank you.

8 THE COURT: You're welcome.

9 Mr. Foreman, ladies and gentlemen,
10 we're going to take advantage of this break in
11 testimony to take our evening recess as we
12 anticipate the next witness is fairly lengthy, and
13 you all have had a particularly long day.

14 We're used to this routine, we do it
15 every Monday, but I would imagine it's very taxing
16 on you all. So we're going to break, and we're
17 going to resume in the morning at 9:00.

18 Please return directly to your jury
19 room -- well, actually, follow the bailiff's
20 instruction. Ignore what I said. Because I assume
21 they have everything set up where you-all are going
22 to park and how that's going to work in the
23 morning, and they'll give you some instructions.

24 During this break, please do not have
25 any discussion among yourselves or with anyone else

1 regarding the case. Please do not read, watch, or
2 listen to any media accounts about this case, if
3 there are any, and don't do any independent
4 research on the Internet or make any postings
5 regarding your status on any social networking
6 sites.

7 If you would leave -- do you want them
8 to stack them up or leave them in their seats?

9 BAILIFF: Leave them on their seats.

10 THE COURT: If you would leave the
11 notepads in your seats, we will secure them during
12 the evening break. Have a good night. We'll see
13 you in the morning at nine.

14 (Jury out, 5:00 p.m.)

15 THE COURT: Anything we need to take up
16 before we break for the evening? From the State?

17 MR. ALFARO: No, Your Honor.

18 THE COURT: Oh, you-all can take your
19 seats, I'm sorry. I apologize.

20 Anything further, Mr. Thrower?

21 MR. THROWER: Nothing from me, Your
22 Honor.

23 THE COURT: Anything, Mr. Smiley?

24 MR. SMILEY: No, ma'am.

25 THE COURT: Mr. Smaldone?

1 MR. SMALDONE: No, Your Honor.

2 THE COURT: And, Mr. Archer?

3 MR. ARCHER: No, Your Honor.

4 THE COURT: All right. Have a good
5 evening. See you at 9:00. If you have anything
6 you want to leave in the courtroom, you can do
7 that. It's locked when we leave.

8 And make sure that any clothes are
9 brought in sufficient time for your clients to be
10 dressed out.

11 What offers were extended -- well, let
12 me ask the question in a different way. Were there
13 any offers extended to Mr. Mouzon?

14 MR. ALFARO: Yes, Your Honor.

15 THE COURT: And what offer was extended
16 to him?

17 MR. ALFARO: Plead to the murder for
18 30-year minimum, concurrent sentences on the armed
19 robbery and the burglary. Oh, I'm sorry, the
20 attempted murder and the armed robbery.

21 THE COURT: And then you were going to
22 nolle pros everything else?

23 MR. ALFARO: Yes, Your Honor.

24 THE COURT: Did you convey that offer
25 to your client, Mr. Thrower?

JACOB MOUZON EXAM BY THE COURT

1 MR. THROWER: Yes, ma'am, several
2 times.

3 THE COURT: Okay. And do you believe
4 he understood your conversations?

5 MR. THROWER: Yes, I do.

6 THE COURT: Sir, stand for me please
7 and raise your right hand to be sworn.

8 JACOB MALACHI MOUZON,
9 being first duly sworn, testified as follows:

10 THE DEFENDANT: Yes.

11 THE COURT: You can put your right hand
12 down. Tell me your name for the record.

13 THE DEFENDANT: Jacob Malachi Mouzon.

14 EXAMINATION

15 BY THE COURT:

16 Q. And, Mr. Mouzon, did Mr. Thrower
17 explain to you the State's offer?

18 A. Yes, ma'am.

19 Q. Did you understand your discussions?

20 A. Yes, ma'am.

21 Q. Did you wish to accept or reject the
22 offer?

23 A. I don't want -- I reject it.

24 Q. Did you do that freely and voluntarily
25 and of your own will?

JACOB MOUZON EXAM BY THE COURT

1 A. I did it by myself.

2 Q. Were you suffering from any mental
3 disabilities or under the influence of any drugs or
4 alcohol?

5 A. No, ma'am.

6 Q. Did anybody force you?

7 A. No, ma'am.

8 THE COURT: Okay. Thank you. You can
9 take your seat.

10 Were there any offers extended to
11 Mr. Palmer?

12 MR. ALFARO: The same offer, Your
13 Honor.

14 THE COURT: Mr. Thrower, I need you to
15 ask one additional -- answer one additional
16 question. Is that rejection with or against your
17 advice or no advice?

18 MR. THROWER: It was against my advice.

19 THE COURT: Thank you, sir.

20 Mr. Smiley, did you explain the offer
21 that was extended to your client, Mr. Palmer?

22 MR. SMILEY: Not in great detail. I
23 told him that an offer had been extended for him to
24 plead to murder for the 30 years. I didn't go into
25 it any further because he immediately told me that

SHERROD PALMER EXAM BY THE COURT

1 he wasn't going to plead to murder.

2 THE COURT: Okay.

3 MR. SMILEY: And he did that with my --
4 rejected it with my advice.

5 SHERROD DEON PALMER,
6 being first duly sworn, testified as follows:

7 THE DEFENDANT: Yes, I do.

8 EXAMINATION

9 BY THE COURT:

10 Q. You can put your hand down.

11 State your full name for the record.

12 A. Sherrod Deon Palmer.

13 Q. Mr. Palmer, has your lawyer fully
14 explained to you the nature of the State's offer?

15 A. Yes.

16 Q. Did you understand the discussion?

17 A. Yes.

18 Q. Do you wish to accept or reject the
19 offer?

20 A. Reject it.

21 Q. Are you doing it freely and voluntarily
22 of your own will?

23 A. Yes.

24 Q. Are you suffering from any mental
25 disabilities or under the influence of any drugs or

SHERROD PALMER EXAM BY THE COURT

1 alcohol?

2 A. No.

3 Q. Has anybody forced you to do that?

4 A. No.

5 THE COURT: You can take your seat.

6 Any offer extended to Mr. Campbell?

7 Same offer?

8 MR. ALFARO: Drake Campbell, Your

9 Honor.

10 THE COURT: Drake Edward, I'm sorry.

11 MR. ALFARO: Same offer.

12 THE COURT: Mr. Smaldone, did you fully

13 explain the offer to your client?

14 MR. SMALDONE: I did, Your Honor.

15 THE COURT: Do you believe he

16 understood your conversations?

17 MR. SMALDONE: He did.

18 THE COURT: Did he wish to accept or

19 reject the offer?

20 MR. SMALDONE: He's indicated to me

21 that he wishes to reject the offer.

22 THE COURT: And is that with or against

23 your advice?

24 MR. SMALDONE: Your Honor, he was

25 pretty quick to reject it, and so I counseled him

DRAKE CAMPBELL EXAM BY THE COURT

1 on the pros and cons of each.

2 THE COURT: I had to ask because I just
3 did a term of CPR where everybody told me their
4 lawyer never explained the offer to them. That's
5 why I'm asking this question, because there's
6 nothing like a contemporaneous record to clarify
7 everything.

8 It doesn't matter to me whether he told
9 you to do it or not do it, I just need a
10 contemporaneous record.

11 Sir, raise your right hand to be sworn.

12 DRAKE EDWARD CAMPBELL,
13 being first duly sworn, testified as follows:

14 THE DEFENDANT: Yes, ma'am.

15 EXAMINATION

16 BY THE COURT:

17 Q. You can put your right hand down.

18 Tell me your name for the record.

19 A. Drake Edward Campbell.

20 Q. Mr. Campbell, has your lawyer fully
21 explained to you the nature of the State's offer?

22 A. Yes, ma'am.

23 Q. Did you understand your talks with him?

24 A. Yes, ma'am.

25 Q. Do you wish to accept or reject the

DRAKE CAMPBELL EXAM BY THE COURT

1 offer?

2 A. Reject.

3 Q. And are you doing that freely and
4 voluntarily and of your own will.

5 A. Of my free will.

6 Q. Are you suffering from any mental
7 disabilities or under the influence of any drugs or
8 alcohol?

9 A. No, ma'am.

10 Q. Has anybody forced you to reject the
11 offer?

12 A. No, ma'am.

13 THE COURT: You can take your seat.

14 And the same offer for Mr. Kenneth
15 Campbell, Junior?

16 MR. ALFARO: It was the same offer,
17 Your Honor. Kenneth Campbell is -- actually, was
18 eligible for and has been served with life without
19 parole notice. Prior to the service of that, the
20 offer of 30 was offered as well.

21 THE COURT: And not to seek life
22 without parole.

23 MR. ALFARO: That's correct.

24 THE COURT: Okay. It was murder or
25 attempted armed -- no, it was murder -- 30 years on

KENNETH CAMPBELL, JR. EXAM BY THE COURT

1 the murder -- tell me again.

2 MR. ALFARO: Thirty on the murder with
3 concurrent sentences for the attempted murder --

4 THE COURT: And the armed robbery?

5 MR. ALFARO: Yes, ma'am.

6 THE COURT: Mr. Archer, have you fully
7 explained the nature of the offer to your client?

8 MR. ARCHER: Yes, I have, Your Honor.

9 THE COURT: Do you believe he
10 understood your talks?

11 MR. ARCHER: I think he did.

12 THE COURT: Does he wish to accept or
13 reject the offer?

14 MR. ARCHER: He wishes to reject the
15 offer.

16 THE COURT: And is that with or against
17 your advice?

18 MR. ARCHER: I simply explained the
19 alternatives to him, and he opted -- he said --
20 just said, no, he wasn't interested.

21 THE COURT: Okay. Sir, raise your
22 right hand to be sworn.

23 KENNETH CAMPBELL, JUNIOR,
24 being first duly sworn, testified as follows:

25 THE DEFENDANT: Yes, ma'am, I do.

KENNETH CAMPBELL, JR. EXAM BY THE COURT

1 EXAMINATION

2 BY THE COURT:

3 Q. You can put your right hand down.

4 State your full name for the record.

5 A. Kenneth Campbell, Junior.

6 Q. And, Mr. Campbell, has your lawyer

7 fully explained to you the State's offer?

8 A. Yes, ma'am.

9 Q. Have you understood your talks with
10 him?

11 A. Yes, ma'am.

12 Q. Do you wish to accept or reject the
13 offer?

14 A. Reject.

15 Q. Are you doing that freely and
16 voluntarily and of your own will?

17 A. Of my own will.

18 Q. Have you -- are you suffering from any
19 mental disabilities or under the influence of any
20 drugs or alcohol?

21 A. No.

22 Q. And has anyone forced you?

23 A. No, ma'am.

24 THE COURT: Thank you very much.

25 You-all have a good evening. See you

KENNETH CAMPBELL, JR. EXAM BY THE COURT

1 at 9:15.

2 (These proceedings were recessed at
3 5:12 p.m., to be continued 8/28/2018 @ 9:15 a.m.)

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1 (The following proceedings were had
2 8/28/18, 9:38 a.m., in re State v. Mouzon,
3 Campbell, Campbell and Palmer.)

4 THE COURT: We had a tardy juror who
5 has now arrived. State ready to proceed?

6 MR. ALFARO: Yes, Your Honor.

7 THE COURT: Defense read to proceed?

8 MR. THROWER: Yes, ma'am.

9 MR. SMILEY: Counsel for Palmer is
10 ready to go.

11 MR. SMALDONE: Counsel for Drake
12 Campbell is ready to proceed.

13 MR. ARCHER: Ready to proceed, Your
14 Honor.

15 THE COURT: Who is the State's next
16 witness?

17 MR. ALFARO: Krystal Snipe.

18 THE COURT: Is she present?

19 MR. ALFARO: She is.

20 THE COURT: Go ahead and bring the jury
21 for me, please.

22 (Jury in, 9:39 a.m.)

23 THE COURT: You may be seated.

24 Good morning. I hope everybody had a
25 restful evening. We will double check and make

KRYSTAL SNIPE - DIRECT EXAM BY MR. ALFARO

1 sure that everybody has the right notepad. All
2 right.

3 You may proceed, Mr. Alfaro.

4 MR. ALFARO: The State calls Krystal
5 Snipe.

6 THE COURT: If the witness will come
7 forward to be sworn.

8 KRYSTAL SNIPE,

9 being first duly sworn, testified as follows:

10 THE CLERK: Please have a seat. State
11 your full name for the record and spell your last
12 name.

13 THE WITNESS: Krystal Snipe, S-N-I-P-E.

14 THE COURT: And, ma'am, can you also
15 spell your first name for court reporter?

16 THE WITNESS: K-R-Y-S-T-A-L.

17 THE COURT: Thank you.

18 DIRECT EXAMINATION

19 BY MR. ALFARO:

20 Q. Ms. Snipe, could you please tell the
21 jury where you currently live, just the general
22 area?

23 A. Now?

24 Q. Yes, ma'am.

25 A. West Ashley.

KRYSTAL SNIPE - DIRECT EXAM BY MR. ALFARO

1 Q. And were you living in West Ashley in
2 July of 2016?

3 A. No.

4 Q. Where were you living in July of 2016?

5 A. 135 Martha Lane.

6 Q. And what city and county is that
7 located in?

8 A. Huger, South Carolina.

9 Q. And do you know what county?

10 A. Berkeley County.

11 Q. And who were you living with at the
12 time?

13 A. Kadeem.

14 Q. And can you tell the jury --

15 THE COURT: I hate to interrupt you,
16 can you pull the microphone a little -- yeah. And
17 I need you to speak up a little more loudly for our
18 Court Reporter.

19 BY MR. ALFARO:

20 Q. All right. Can you tell jury a little
21 bit about your relationship with Kadeem, who he was
22 and how long you were living together?

23 A. We'd been together six years. He was a
24 good man, like we had fun. He's a great father
25 great uncle, great brother, great son.

KRYSTAL SNIPE - DIRECT EXAM BY MR. ALFARO

1 Q. And so for those six years, were you
2 living together that whole time?

3 A. Yeah. We had been living together that
4 whole time.

5 Q. And how long were you living at the 135
6 --

7 A. A year and a half.

8 Q. Just before we go any further into it,
9 when I ask you questions, the court reporter is
10 typing what I say. And she has to type what you
11 say, so you have to wait until I finish answering
12 -- asking the question and I have to wait for you
13 to finish answering. Okay?

14 A. Okay.

15 Q. All right. So tell me again how long
16 you were living at Martha Lane, 135, with Kadeem.

17 A. A year and a half.

18 Q. Okay. And I want to take you back to
19 July 20th, Wednesday, July 20th, leading into the
20 early morning hours of Thursday, July 21st, 2016.
21 Do you recall what you had done that day?

22 A. I had been at his mom's house -- so we
23 had gone to praise band practice, and from there I
24 went to his mother's house. And I stayed there
25 until he picked me up.

KRYSTAL SNIPE - DIRECT EXAM BY MR. ALFARO

1 Q. And where did his mother live?

2 A. Off of 41.

3 Q. And do you know what -- remember what
4 time you got to his mom's house?

5 A. No.

6 Q. Was it that morning? That evening?

7 A. That afternoon.

8 Q. And you stayed there until he picked
9 you up, you said?

10 A. Yes.

11 Q. And was there a preset time for him to
12 come pick you up?

13 A. No.

14 Q. Where did he go?

15 A. He goes -- he went across the street
16 the last time I saw him.

17 Q. Across the street from where?

18 A. His mom's house.

19 Q. Okay. And what's across the street?

20 A. It's like a little -- a little club or
21 something they hang out at.

22 Q. Okay. And did Kadeem drop you off at
23 his mom's or did somebody else take you there?

24 A. His aunt.

25 Q. And you were to -- and -- but he was

KRYSTAL SNIPE - DIRECT EXAM BY MR. ALFARO

1 supposed to be the one to come pick you up?

2 A. Uh-huh.

3 Q. And you said Kadeem's mom lives off of
4 41. Do you know any of the people that live around
5 her?

6 A. Yes.

7 Q. And do you know any of their names?

8 A. Yes.

9 Q. Is Jaunwanna Singleton one of them?

10 A. Yes.

11 Q. And what relationship is Ms. Singleton
12 to Kadeem and his mother?

13 A. That's his mother's baby sister and
14 that's Kadeem's aunt.

15 Q. Okay. All right. So you're dropped
16 off at your -- or at Kadeem's mom's house. What
17 were you-all doing at the house?

18 A. Nothing. I was laying on the chair
19 playing with the kids.

20 Q. And did you talk to or text with Kadeem
21 that night?

22 A. Yes.

23 Q. And did he tell you when he was coming
24 to get you?

25 A. No.

KRYSTAL SNIPE - DIRECT EXAM BY MR. ALFARO

1 Q. At some point -- but he knew he was
2 supposed to come get you?

3 A. Yes.

4 Q. And at some point did he come pick you
5 up from his mother's house?

6 A. Yes.

7 Q. And do you know if he went to your
8 house before he came to pick you up or not?

9 A. Yes. He told me he went home first and
10 realized that I wasn't there and he was supposed to
11 pick me up.

12 Q. And then he comes back?

13 A. And he came back and got me.

14 Q. Okay. And when he picks you up from
15 his mom's house, what car was he driving?

16 A. The white Ford Crown Vic.

17 Q. And how many cars did you-all own at
18 that time?

19 A. Two.

20 Q. And other than the white Crown Vic,
21 what other kind of car did you have?

22 A. A gray Crown Vic.

23 Q. A gray one?

24 A. Uh-huh.

25 Q. And when he picks you up, did you-all

KRYSTAL SNIPE - DIRECT EXAM BY MR. ALFARO

1 go straight home?

2 A. Yes.

3 Q. And which way did you go home?

4 A. We took 41 on CC road.

5 Q. What's CC road?

6 A. Charity Church.

7 Q. Okay. And do you recall roughly what
8 time that was when you-all got home?

9 A. About two something in the morning.

10 Q. Okay. And when you pull up, Kadeem's
11 driving, correct?

12 A. Yes.

13 Q. And I'm assuming, were you -- I
14 shouldn't say that. Were you working or were you
15 riding in the front seat?

16 A. Yes.

17 Q. And anybody else in the car with you?

18 A. No.

19 Q. And when you pulled into -- or Kadeem
20 pulled into the driveway, was the gray Crown Vic
21 there?

22 A. Yes.

23 Q. And where was it parked in relation to
24 the house?

25 A. It was right -- our house is here

KRYSTAL SNIPE - DIRECT EXAM BY MR. ALFARO

1 (indicating) and the Crown Vic is like at the end
2 of it. So he would have pulled up in front of it.

3 Q. Do you-all have like a little driveway
4 or anything?

5 A. Yes.

6 Q. And which one of you normally drove the
7 gray Crown Vic?

8 A. Me.

9 Q. And when you pull up into the house --
10 or pull up to the house, other than the gray Crown
11 Vic, did you see any other cars?

12 A. No.

13 Q. And could you tell the jury a little
14 bit about what it looked like out there, as far as
15 were there street lights or front porch lights or
16 anything like that?

17 A. My porch light is on, but as far as the
18 rest of the wood area, there is no lighting over
19 there.

20 Q. And I'll show you some pictures in a
21 little while, but is the house itself -- are there
22 woods on all sides?

23 A. Uh-huh.

24 Q. And when you pull up in front of your
25 house, do you both get out of the car at the same

KRYSTAL SNIPE - DIRECT EXAM BY MR. ALFARO

1 time?

2 A. Yes.

3 Q. And can you tell the jury what happened
4 at that point when the two of you get out of the
5 white Crown Vic?

6 A. We got out of the car, I came around to
7 him. By the time I get -- by the time I got in the
8 front, two guys came from this side and three came
9 from that side. (Indicating)

10 They held a gun in Kadeem's back and
11 they ordered us to come up on the porch. They then
12 took the keys, but in order for us to get into the
13 house they would have to give the key back.

14 So they gave me the key back to open
15 the door and they ordered us into the house.

16 Q. Okay. So let's talk about that for a
17 little bit. You said two came from one side and
18 three came from the other?

19 A. Yes.

20 Q. And you said you saw -- did they all
21 have guns; do you remember?

22 A. Yes; all five of them had guns.

23 Q. So do you remember -- do you know a lot
24 about guns or anything about guns?

25 A. No.

KRYSTAL SNIPE - DIRECT EXAM BY MR. ALFARO

1 Q. Do you know what a pistol is versus a
2 long gun?

3 A. I know what a long gun is versus a
4 little gun, yes.

5 Q. Okay. Did -- what type of guns did
6 they have? Not make and model, but pistols --

7 A. Well, the gun that they held in
8 Kadeem's back was a long brown gun.

9 Q. A long brown gun?

10 A. Uh-huh.

11 Q. And did any of the others have long
12 guns?

13 A. They had little guns, little small
14 ones.

15 Q. Okay. Little handguns, pistols like you
16 described?

17 A. Yes.

18 Q. And at that point were you able to --
19 were their faces covered in any way?

20 A. Yes.

21 Q. All five?

22 A. Yes.

23 Q. And when they were covered, were they
24 wearing masks or did they just have something over
25 their face? How did --

KRYSTAL SNIPE - DIRECT EXAM BY MR. ALFARO

1 A. Something wrapped over their face with
2 a hoodie on it.

3 Q. Okay. So not like a Halloween mask,
4 but just something tied around?

5 A. Yes.

6 Q. And do you remember anything
7 distinctive, or do you remember what the masks
8 looked like?

9 A. (Shaking head)

10 Q. Now, you said they came up to you and
11 pointed the gun at Kadeem's back. Did they point a
12 gun at you?

13 A. Not at that point in time.

14 Q. When they came out of the woods -- you
15 said they came out of the wood line to the sides of
16 the house?

17 A. Uh-huh.

18 THE COURT: If you could say yes or no
19 for me.

20 THE WITNESS: Yes.

21 BY MR. ALFARO:

22 Q. When they came from the side of the
23 house, had you-all made it to where the gray car
24 was parked or --

25 A. Yes.

KRYSTAL SNIPE - DIRECT EXAM BY MR. ALFARO

1 Q. And did you have anything in your hand
2 at that time?

3 A. Yes.

4 Q. And what did you have?

5 A. My purse.

6 Q. And what did you do or what happened
7 with that purse?

8 A. I put it under the gray car.

9 Q. And did Kadeem have anything in his
10 hand?

11 A. Yes.

12 Q. What did he have?

13 A. A red Hello Kitty bag.

14 Q. And I guess the obvious question is,
15 why was he carrying a red Hello Kitty bag?

16 A. He carried his drugs in it.

17 Q. And where did he get that bag?

18 A. From me.

19 Q. And he always -- is that what you
20 always knew him to carry in that bag?

21 A. Yes.

22 Q. Did they take that bag from him?

23 A. Yes.

24 Q. And did they do that outside?

25 A. Yes.

KRYSTAL SNIPE - DIRECT EXAM BY MR. ALFARO

1 Q. And at this point, they'd taken --
2 you've thrown your purse under the car you said.
3 Did they take anything from you?

4 A. They took -- I didn't have anything but
5 the key.

6 Q. Did they take the key from you?

7 A. Yes.

8 Q. And other than the Hello Kitty bag that
9 they took from Kadeem, did they take anything else
10 from him outside?

11 A. No.

12 Q. And when they approached you-all
13 outside with the guns, did they try to restrain you
14 or tie you up or anything at that point?

15 A. No.

16 Q. Were you ever ordered down onto the
17 ground?

18 A. When we got in the house.

19 Q. And so they walked you -- at that
20 point, you said you got up -- they walked up to the
21 porch with you; is that correct?

22 A. Uh-huh. Yes.

23 Q. All five? Do you remember?

24 A. Two of them went up and, like, at the
25 bottom of the step was the other three. Like,

KRYSTAL SNIPE - DIRECT EXAM BY MR. ALFARO

1 everybody be on one step.

2 Q. And at that point, are you-all then
3 ordered into the house?

4 A. Yes.

5 Q. And when you were going into the house,
6 were the guns still pointed at you-all?

7 A. Yes.

8 Q. Is the long gun still pointed at you?

9 A. The long gun he had on me, because he
10 had the little guns pointed at that time.
11 Everybody would have to be up on the porch.

12 Q. And did you open the door, or did one
13 of them open the door?

14 A. They gave the key to me to open the
15 door.

16 Q. And you had said earlier that your
17 porch light was on. Were there any other lights on
18 inside the house?

19 A. Yes.

20 Q. Which lights were --

21 A. The kitchen light was on.

22 Q. And at this point, are their faces all
23 still covered?

24 A. Yes.

25 Q. And when they walk you or follow you

KRYSTAL SNIPE - DIRECT EXAM BY MR. ALFARO

1 into the house, how many of them come into the
2 house behind you?

3 A. Three of them came in and two stayed on
4 the porch.

5 Q. Of the three that came into the house,
6 were they all still armed?

7 A. Yes.

8 Q. And where did they take you or tell you
9 where to go?

10 A. We went into the room.

11 Q. Which room?

12 A. Our bedroom.

13 Q. Your bedroom. And when you get into
14 the bedroom, what happened then?

15 A. They told us to kneel on the floor.
16 And I told them that I was pregnant, so I needed to
17 sit on the bed. And Kadeem kneeled by the closet,
18 and I sat on the bed.

19 Q. And at this point -- and does Kadeem
20 comply and kneel?

21 A. Yes.

22 Q. And you sat on the bed?

23 A. Yes.

24 Q. Up until this point, had either of
25 you-all tried to fight these guys?

KRYSTAL SNIPE - DIRECT EXAM BY MR. ALFARO

1 A. No.

2 Q. Had either of you tried to take the
3 guns away?

4 A. No.

5 Q. At this point, were you just complying
6 with what --

7 A. Yes.

8 Q. And was Kadeem doing the same thing?

9 A. Yes.

10 Q. At any point up until this point did
11 you see Kadeem try to get a gun?

12 A. No.

13 Q. So they -- when they ordered Kadeem to
14 kneel and you onto the bed, what happened then?

15 A. They started taking stuff out of the
16 house. One of the guys that took the stuff gave
17 the other guy the gun. So at this point he has two
18 guns, one pointed at me and one pointed at Kadeem.

19 Q. So at this point, while Kadeem is
20 kneeling and you were sitting on the bed there is
21 one guy pointing two guns at you?

22 A. Yes.

23 Q. And at some point during this, are your
24 and Kadeem's hands restrained?

25 A. Not at that point.

KRYSTAL SNIPE - DIRECT EXAM BY MR. ALFARO

1 Q. At some point during this, did that
2 happen?

3 A. Yes.

4 Q. And how did that happen?

5 A. After they took the TV and stuff, he
6 came -- the other guy came in and Kadeem hands was
7 up, and he taped his hands. And then he put mine
8 and he taped them up.

9 Q. So Kadeem's hands got taped first?

10 A. Yes.

11 Q. And you said his hands were up?

12 A. Yes.

13 Q. Is it -- can you show us?

14 A. They taped it because he was like this,
15 and he put them in the front of him. (Indicating)

16 Q. So at that point of taping, his hands
17 were up like that?

18 A. Yes.

19 Q. And your hands, were your hands taped
20 the same way?

21 A. Yes. Mine was taped in the front.

22 Q. They didn't make you -- did they ever
23 make you do that?

24 A. No.

25 Q. And prior to having your wrists taped,

KRYSTAL SNIPE - DIRECT EXAM BY MR. ALFARO

1 both of you, were either of you wearing any jewelry
2 or bracelets or watches or anything?

3 A. Kadeem was.

4 Q. And what was he wearing?

5 A. He was wearing a gold bracelet.

6 Q. And what happened to that?

7 A. The guy took it off and put it in his
8 pocket.

9 Q. Is it a -- you said there was one guy
10 that was pointing guns at you?

11 A. Yes.

12 Q. Was it a different person who was
13 taping your hands?

14 A. Yes.

15 Q. And while your hands were being taped,
16 was the guy still pointing the gun at you?

17 A. Yes.

18 Q. And at Kadeem?

19 A. Yes.

20 Q. And you said they were taking a TV?

21 A. Yes. Took our TV, you know, boxes that
22 we had packed because we were moving.

23 Q. Do you recall anything specifically,
24 what type of boxes or containers or anything?

25 A. In the boxes was the shoes, and in one

1 of the containers was our dirty clothes.

2 Q. So there was one person pointing a gun
3 at you?

4 A. Yes.

5 Q. And Kadeem?

6 A. Yes.

7 Q. There's another person that had taped
8 your hands?

9 A. Uh-huh. Yes.

10 Q. Is the person that taped your hands the
11 one that was taking the TV and the shoes and all
12 that?

13 A. Yes.

14 Q. Was there anyone else, other than those
15 two inside the house, taking property?

16 A. Another guy, but he was in the kitchen
17 taking a box.

18 Q. So at this point, there are still, as
19 you described initially, three people inside and
20 two up on the porch?

21 A. Yes.

22 Q. And from where you were seated, you're
23 able to -- again, the person pointing the gun at
24 you, did they ever switch people guarding you, or
25 was it the same person the whole time?

2 MR. ALFARO: Your Honor, I believe at
3 this point we have a matter of law we need to take
4 up.

11 (Jury out, 10:10 a.m.)

14 MR. ALFARO: Your Honor --

17 MR. ALFARO: It is. I was just going
18 to put on the record what we were --

20 BIGGERS HEARING

21 DIRECT EXAMINATION

22 BY MR. ALFARO:

23 Q. Ms. Snipe, at some point when the
24 person --

25 THE COURT: Wait one second for me. I

1 need that door closed. You may continue.

2 BY MR. ALFARO:

3 Q. At some point did the person that was
4 pointing the gun at you take his mask off?

5 A. Yes.

6 Q. And at that time were you able to see
7 his face?

8 A. Yes.

9 Q. And, approximately, how close were you
10 to him at that point?

11 A. Right here. (Indicating)

12 Q. Well, so the court reporter -- this
13 close? (Indicating)

14 A. Yes.

15 Q. Now, would you say that's about two to
16 three feet?

17 A. Yes.

18 Q. And is there -- are there lights on
19 inside the house?

20 A. Yes.

21 Q. And at that point, he's pointing the
22 gun at Kadeem and at you?

23 A. Yes.

24 Q. Is he pointing one gun or two guns at
25 that time?

1 A. Two guns.

2 Q. So each of you have a gun pointed at
3 you?

4 A. Yes.

5 Q. And were you able to get a clear look
6 at his face?

7 A. Yes.

8 Q. And from two or three feet away, how
9 long did you look at his face?

10 A. I see in his face.

11 Q. Time wise, minutes, seconds?

12 A. Minutes.

13 THE COURT: I'm sorry --

14 THE WITNESS: Minutes.

15 BY MR. ALFARO:

16 Q. And do you see that person in the
17 courtroom today?

18 A. Yes.

19 Q. Can you point to that person, if you
20 see him?

21 A. (Pointing)

22 Q. Can you describe what he's wearing?

23 A. He has on a white shirt.

24 Q. There's a few white shirts here. Is it
25 this defendant? (Indicating)

1 A. Yes.

2 MR. ALFARO: Let the record show that
3 she acknowledged Defendant Jacob Mouzon.

4 BY MR. ALFARO:

5 Q. At some point after this incident
6 during the course of the investigation, were you
7 shown a photo lineup?

8 A. Yes.

9 Q. And I will show you what has been
10 premarked for ID for the case in chief as 134,
11 State's Exhibit 134 for ID.

12 Shall we mark it as a Court's Exhibits
13 for this --

14 THE COURT: Well, you're going to need
15 separate ones because you can't have the one that's
16 marked for in camera go to the jury if it's
17 admitted. So you're going to need -- if you want
18 to make a copy for the Court's Exhibit, or if you
19 have another -- if you want to make a color copy --

20 MR. ALFARO: We may not admit the
21 lineup.

22 THE COURT: -- substitute one for the
23 Court. If you want to use that one --

24 MR. ALFARO: We'll use this as the
25 Court's --

1 MR. MCNEELY: We have a color copy
2 right here if you want to mark it as a Court's
3 Exhibit.

4 THE COURT: Yeah, why don't we mark
5 that one.

6 (COURT EXH. 1, Photo lineup, was marked
7 for identification.)

8 BY MR. ALFARO:

9 Q. I'm going to show you what's marked as
10 Court's 1; it's two pages. Can you take a look at
11 that real quick and then I'll ask you some
12 questions in followup.

13 On Court's Exhibit 1, do you recognize
14 your signature on that?

15 A. Yes.

16 Q. And do also you recognize your initials
17 on that?

18 A. Yes.

19 Q. Did you place your initials at those
20 locations on that form?

21 A. Yes.

22 Q. And did you place your signature on
23 that form?

24 A. Yes.

25 Q. And you were shown -- were you shown

1 this photo lineup?

2 A. Yes.

3 Q. And were you able to identify the
4 person who shot you and Kadeem in that lineup?

5 A. Yes.

6 Q. And could you tell us which one you
7 circled?

8 A. Number two.

9 Q. And are those -- are your initials next
10 to number two, Jacob Mouzon?

11 A. Yes.

12 Q. According to this form that you've
13 acknowledged, Court's 1, this was done on the same
14 day of the incident at, approximately, 6:44 p.m.;
15 is that correct?

16 A. Yes.

17 Q. And that was done at the Medical
18 University of South Carolina?

19 A. Yes.

20 THE COURT: What was that time again?

21 MR. ALFARO: 6:44 p.m.

22 THE COURT: And that was on the 21st?

23 MR. ALFARO: Yes, ma'am.

24 BY MR. ALFARO:

25 Q. And when were you were shown this

1 lineup, did you have any hesitancy as to who you
2 were picking?

3 A. No.

4 Q. Were you sure of your identification at
5 the time?

6 A. Yes.

7 Q. On the form itself, is this your
8 handwriting?

9 A. No.

10 Q. And if you didn't write that, who wrote
11 that for you? Was it the officer?

12 A. Yes.

13 THE COURT: I'm sorry could you repeat
14 the answer?

15 THE WITNESS: Yes.

16 THE COURT: Thank you.

17 BY MR. ALFARO:

18 Q. And can you read for the Court what
19 that says?

20 A. 50 percent identified. I recognize
21 number two by his eyes when I looked at him in my
22 bedroom prior to him shooting me.

23 Q. Now, that 50 percent that you just
24 read, is that how sure you were that it was him, or
25 does that mean something else to you?

1 A. That means something else to me.

2 Q. What does it mean to you?

3 A. It just -- it was the number I gave.

4 Q. Okay. And, again, the person that you
5 picked in the lineup is the one that you had seen
6 in your bedroom, as you said in that form?

7 A. Yes.

8 Q. And did you hesitate or go back and
9 forth before picking number two on that?

10 A. No.

11 Q. So the person that you identified on
12 that lineup was Jacob -- or was the person that
13 shot you?

14 A. And Kadeem.

15 Q. And Kadeem.

16 MR. ALFARO: Thank you. Please answer
17 any questions Mr. Thrower has.

18 THE COURT: Well, they have the burden
19 of proof, but I really need to hear argument as to
20 whether you have any exceptions to the testimony.
21 I don't need to have cross-examination if I
22 conclude it was proper.

23 But the deficit I have is I don't know
24 how this lineup was created, so I can't make any
25 determination about suggestibility. I don't really

1 have a problem with her in-court identification. I
2 don't think that's subject to a Biggers.

3 But the lineup, I don't -- I think you
4 can ask her the groundwork questions about that,
5 but I don't know that it becomes admissible until I
6 know how it was created and who created it and how
7 it was created and how they came to create it.

8 MR. ALFARO: I understand. We have the
9 -- I didn't know if you wanted to do cross before
10 we called another witness.

11 For the State's purposes, our primary
12 purpose of this is so -- because she was shown a
13 photo lineup, we believe that we have to establish
14 that it was not suggestive and it was reliable
15 before she makes an in-court ID, whether we intend
16 to admit the lineup itself or not, which we
17 actually do not intend to.

18 THE COURT: Yeah. Unless you can
19 establish she knew him in the past, then the first
20 part of her testimony would be admissible
21 regardless of the lineup, but what is problematic
22 is, I can't determine from the totality of the
23 circumstances whether it was -- well, the first
24 hurdle is, was it suggestible?

25 If it wasn't suggestible, I don't even

1 have to look at the rest of the analysis which is
2 totality of the circumstances, but I don't know how
3 it was created to determine if it was suggestible
4 or not.

5 One part of that prong is whether the
6 police suggested to her who it might be and,
7 clearly, that's not -- and I don't need to have
8 cross-examination to make that determination
9 because it was your burden in the light most
10 favorable to you, which is by a preponderance of
11 the evidence.

12 So I don't know that I -- that anything
13 they would ask through cross-examination unless it
14 goes to what the officer may have said to her or
15 anything like that, whether she knew him in the
16 past, those other factors, but I need to know how
17 it was created.

18 So I don't know if you want to recess
19 part of her testimony and call the officer or how
20 you -- you know, of course, I can't tell you what
21 order to call your witnesses, but I don't know how
22 it was created.

23 MR. ALFARO: We can call the officer
24 now.

25 MR. THROWER: Your Honor, my argument

1 would be that the in-court identification is
2 tainted unless you find that the lineup is not
3 suggestive.

4 THE COURT: Yeah. And I don't know how
5 -- yeah. And so there is a part of that equation
6 that's missing for me. So I don't know how it was
7 created, I don't know how they came to identify him
8 as a suspect --

9 MR. ALFARO: Okay.

10 THE COURT: You know, all those factors
11 I've got to look at. So if you-all want to have
12 her step down and recess her testimony, so I can
13 hear from the person who created it and who gave it
14 to her. I think that's the first part I have to
15 look at.

16 MR. ALFARO: We have the officer here.

17 THE COURT: Any exception from the
18 defense --

19 MR. THROWER: That's what I would
20 suggest.

21 THE COURT: Okay. Ma'am, if you would
22 just step down for us for a moment. Please don't
23 discuss your testimony with anyone.

24 MR. MCNEELY: We call Michelle Ward.

25 MICHELLE WARD,

1 being first duly sworn, testified as follows:

2 THE CLERK: Please be seated. State
3 your full name for the record and spell your last
4 name, please.

5 THE WITNESS: Michelle Ward. W-A-R-D.

6 THE COURT: You may proceed.

7 MR. MCNEELY: Thank you, Your Honor.

8 THE COURT: You're welcome.

9 DIRECT EXAMINATION

10 BY MR. MCNEELY:

11 Q. Where are you currently employed?

12 A. Berkeley County Sheriff's Office.

13 Q. And what is your position there, and
14 how long have you been employed there?

15 A. I'm a detective. I have been employed
16 there for about five years.

17 Q. During July of 2016, were you working
18 as a detective at the Berkeley County Sheriff's
19 Office?

20 A. Yes.

21 Q. How long had you been working in that
22 capacity?

23 A. For about a year.

24 Q. And was part of the duties of your job
25 investigating major crimes with the detective unit?

1 A. Yes.

2 Q. During that time, did you become
3 involved in the investigation of a homicide at 135
4 Martha Lane that occurred during the early morning
5 hours of July 21st, 2016?

6 A. Yes.

7 Q. At some point during that
8 investigation, was the defendant, Jacob Mouzon,
9 identified as a suspect?

10 A. He was.

11 Q. Was a lineup generated containing his
12 photo?

13 A. Yes.

14 Q. What day were you provided that lineup?

15 A. On July 21st.

16 Q. Do you know how that lineup was
17 generated?

18 A. I do not know. I was not the one who
19 generated the photo lineup.

20 Q. Was it generated by SLED, or was it
21 generated by the sheriff's office?

22 A. It would have been generated by SLED.

23 Q. Does the sheriff's office ever generate
24 its own lineup or does SLED do them all?

25 A. At that point in time, SLED was doing

1 them all.

2 Q. How many photos were displayed in the
3 lineup?

4 A. Six.

5 Q. How were they presented on the sheet,
6 together or separately?

7 A. They were presented on the sheet
8 together, six individual pictures.

9 Q. Is that what's referred to as a
10 six-pack?

11 A. Yes.

12 Q. Were the photos color or black and
13 white?

14 A. They were in color.

15 Q. And were they head shots or full body
16 shots?

17 A. Head shots.

18 Q. Were they all of similar size?

19 A. Yes.

20 Q. Did you review the lineup?

21 A. I did.

22 Q. Prior to showing it to Ms. Snipe?

23 A. Yes.

24 Q. When did you meet with Ms. Snipe to
25 present the photo lineup?

1 A. It was the evening of the 21st.

2 Q. Where did you meet with her?

3 A. MUSC.

4 Q. What was her demeanor at the time you
5 met with her at MUSC?

6 A. She was calm.

7 Q. Did she seem alert and oriented to her
8 time, place, and surroundings?

9 A. Yes.

10 Q. Was anyone else present when you met
11 with her?

12 A. No.

13 Q. Did you or anyone else show Ms. Snipe
14 any photos of possible suspects prior to presenting
15 the lineup to her?

16 A. No.

17 Q. What, if anything, did you tell Ms.
18 Snipe prior to presenting the photo lineup?

19 A. I'm sorry?

20 Q. What, if anything, did you tell Ms.
21 Snipe prior to presenting the photo lineup?

22 A. Whenever I met with her to show the
23 photo lineup, there's a form that we -- as far as
24 Berkeley County goes, that we fill out prior to
25 showing the actual lineup.

1 Q. Is the form that you're referencing
2 sort of a cover sheet or an instruction sheet?

3 A. Yes.

4 Q. Did you go over that procedure sheet
5 with Ms. Snipe before presenting the lineup to her?

6 A. I did.

7 Q. Was she shown any photos of any
8 possible suspects whatsoever prior to you going
9 over the instruction sheet with her?

10 A. No.

11 Q. I want to show you --

12 MR. MCNEELY: Permission to approach,
13 Your Honor?

14 THE COURT: Yes, you may.

15 BY MR. MCNEELY:

16 Q. -- what's been marked as Court's 1.
17 Can you please look at that document? Do you
18 recognize that document?

19 A. I do.

20 Q. What is the first page of that
21 document?

22 A. This is going to be the photographic
23 lineup cover sheet that you mentioned.

24 Q. Did you review all of the information
25 on that document with Ms. Snipe prior to presenting

1 her a lineup?

2 A. I did.

3 Q. What does it say just in general terms?

4 A. In general, at the top of it, it's got
5 the case number, the location of where it was done,
6 the person who was taking care of the photo lineup,
7 the witness's name and date of birth. And then it
8 goes into seven statements that we go over with the
9 witness.

10 Q. And what is the gist of those
11 statements?

12 A. The gist of those statements, it talks
13 about that we notify them about the photos, how
14 they're aligned on the page and how it's going to
15 be presented to them. We go over -- making sure
16 that they take their time to look over all the
17 photographs, not to be too quick about it.

18 We advise them to let us know once they
19 just pick a photo out of there, to let us know
20 which one that they're picking. We tell them -- we
21 go over closing their eyes, picture taking
22 themselves back to the location, the smells,
23 colors, the lighting, to try and help them remember
24 the incident that happened and remember the person
25 that they're looking for.

1 We tell them not to look too closely at
2 their clothing they may be wearing or the hairstyle
3 because those are things that can change. We go
4 over -- it says down here on number seven to let us
5 know if they recognize the person and then to tell
6 us how they recognize the person.

7 Q. Do you tell them that the person
8 involved in the incident may or may not be included
9 in the lineup?

10 A. Yes.

11 Q. Does it make clear to them that they
12 don't have to pick anyone?

13 A. Yes.

14 Q. Did you go over that instruction sheet
15 with Ms. Snipe prior to presenting her the lineup?

16 A. Yes, I did.

17 Q. After that, did you present the lineup
18 to Ms. Snipe?

19 A. Yes.

20 Q. Did you or anyone else suggest to Ms.
21 Snipe a photo to select or not select?

22 A. No.

23 Q. Did Ms. Snipe select a photo out of
24 that lineup?

25 A. She did.

1 Q. How long did it take Ms. Snipe to
2 select a photo out of the lineup?

3 A. Less than a minute.

4 Q. Was there any hesitation in her
5 selection?

6 A. No.

7 Q. Did she indicate which photo she
8 selected?

9 A. Yes.

10 Q. How did she do so?

11 A. She pointed to the picture.

12 Q. What happened after she pointed to the
13 picture?

14 A. She told me that that was the person
15 that shot her.

16 Q. And which person did she select?

17 A. Number two.

18 Q. And who was number two?

19 A. At the time I did not know what his
20 name was, but now, after the investigation
21 proceeded, Jacob Mouzon.

22 Q. So when you presented the lineup to Ms.
23 Snipe, you didn't know which one was the suspect in
24 the lineup?

25 A. No, I did not.

1 Q. Did she indicate a reason to you for
2 the person being selected?

3 A. I'm sorry?

4 Q. Why did she indicate that she was
5 selecting number two, Jacob Mouzon?

6 A. She told me that was the person who
7 shot her.

8 Q. What was her reaction or demeanor when
9 selecting the photo?

10 A. She was confident.

11 Q. Did she hesitate at all in selecting
12 number two, Jacob Mouzon, out of the lineup?

13 A. No.

14 Q. Did she ever select anyone else out of
15 the first lineup -- or out of that lineup presented
16 to her other than Jacob Mouzon?

17 A. No.

18 Q. Okay. Was she able to write on the
19 form?

20 A. Yes.

21 Q. What did she write on the form?

22 A. On the photograph part, or on the --

23 Q. First, on the photograph.

24 A. On the photograph part, she circled the
25 picture and the number two and then initialed.

1 Q. On the cover sheet, was she able to
2 write out anything?

3 A. She was, but not able to write due to
4 the injuries on her hands. She had a hard time
5 just putting her initials.

6 Q. So the sentence that's written at the
7 bottom for identification purposes, is that her
8 handwriting or is that your handwriting?

9 A. That's my handwriting.

10 Q. And when she selected photo two, what
11 was the first thing that she said to you?

12 A. She told me that that was the person
13 that shot her.

14 Q. And after she selected photo number
15 two, what did you do?

16 A. I asked her how she knew that person.
17 And she told me that person because of the look of
18 his eyes, that she had looked at him just prior to
19 shooting her, and it was his eyes that pretty much
20 gave it away.

21 Q. And what did you do after that?

22 A. After that I had her circle and initial
23 the picture, the number, and then we flipped it
24 over and there's her signature, my signature on the
25 back, as well as the number that she selected.

1 Q. Did you ask her any additional
2 questions after that?

3 A. No.

4 Q. At some point, did you ask her about a
5 -- to give you a percentage?

6 A. Yes.

7 Q. How did you ask that?

8 A. Whenever I do these, after they pick
9 out, I'll ask them how sure are you of -- that this
10 is the person because I want to make sure that they
11 make the right selection. And she just told me
12 50 percent.

13 Q. So you asked her that after she had
14 already made the selection --

15 A. Yes.

16 Q. -- and told you he was the person who
17 shot her?

18 A. Yes.

19 Q. Did that complete the lineup procedure
20 with Ms. Snipe at that time for Jacob Mouzon's
21 lineup?

22 A. Yes.

23 Q. Going back, just a quick question to
24 SLED-generated lineups.

25 A. Uh-huh.

1 Q. When SLED generates a lineup for
2 Berkeley County, do you-all give them a name to
3 include?

4 A. Yes.

5 Q. Do you-all give them any other
6 information as far as what pictures to include and
7 what not to include?

8 A. Usually it's done, either DMV
9 photographs, sometimes it's the jail photograph,
10 depending on if they have a South Carolina DD.

11 Q. But in general terms, you give them the
12 name of your suspect and say, generate a lineup,
13 and they generate a lineup?

14 A. Yes.

15 Q. You don't tell them what other five
16 photos to put in?

17 A. No.

18 MR. MCNEELY: One moment, Your Honor.

19 THE COURT: Uh-huh.

20 BY MR. MCNEELY:

21 Q. You stated Ms. Snipe had trouble
22 writing so you wrote out the sentence for her?

23 A. Yes.

24 Q. Okay. But she was -- was she able to
25 sign her name?

1 A. She was. She had a difficult time
2 doing that. That's why it looks kind of rough.

3 Q. Okay. On Court's 1, there are also
4 multiple sets of initials by each instruction that
5 you gave her for -- I presume, for the lineup and
6 also by the photo she selected?

7 A. Yes.

8 Q. Are those her handwriting herself?

9 A. Yes.

10 Q. So you did not initial for her?

11 A. No, I did not.

12 MR. MCNEELY: No further questions at
13 this time.

14 THE COURT: You may proceed.

15 CROSS-EXAMINATION

16 BY MR. THROWER:

17 Q. Detective Ward, did you -- were you the
18 one that relayed the information about a
19 light-skinned male or a Hispanic male to SLED for
20 the lineup?

21 A. No.

22 Q. Do you know who did that?

23 A. I do not.

24 Q. So when was the first time that you got
25 the lineup? Were you already at the hospital

1 interviewing her or --

2 A. I went to the hospital that morning to
3 interview her. I went back to the command post
4 after interviewing her, and that's when I received
5 the photo lineup.

6 Q. And it's the colored photo lineup that
7 you showed her?

8 A. Yes.

9 Q. Now, chronologically, it seems like the
10 -- everything was done, and then at the end she
11 wrote 50 percent identification?

12 A. Yes. The writing at the very bottom,
13 that's pretty much at the conclusion of the photo
14 lineup.

15 Q. Everything else up to that point it
16 seems like she was right on. She said, yeah,
17 that's him, circled and then -- and then hedges at
18 the end and says 50 percent identification?

19 A. Yes. Whenever I asked her if she could
20 put a number on it, that's when she gave me
21 50 percent. Up until that point, she was very
22 confident.

23 MR. THROWER: Okay. Thank you very
24 much.

25 THE WITNESS: Yes, sir.

1 THE COURT: Any redirect?

2 MR. MCNEELY: No, Your Honor.

3 THE COURT: Okay. Is there any
4 argument regarding the admissibility of the lineup?

5 MR. THROWER: Yes, ma'am. I would --
6 well, let me -- if I could, let me speak to my
7 client just a moment.

8 THE COURT: Sure.

9 MR. SMILEY: And, Your Honor, before
10 you bring the jury back in, my client and myself
11 need to use the restroom so you know.

12 MR. THROWER: No objection.

13 THE COURT: The objection is withdrawn?

14 MR. THROWER: Yes.

15 THE COURT: You-all go to the restroom.

16 MR. MCNEELY: Your Honor, may Ms. Ward
17 step down?

18 THE COURT: Yes, I'm sorry.

19 I apologize.

20 (A recess transpired.)

21 THE COURT: Is the State ready?

22 MR. ALFARO: Yes, Your Honor.

23 THE COURT: Is the defense ready?

24 MR. THROWER: Yes, Your Honor.

25 MR. SMILEY: Yes, Your Honor.

KRYSTAL SNIPE - CONTINUING DIRECT EXAM BY MR. ALFARO

1 THE COURT: Please bring in the jury.

2 You all may take your seats.

3 Ma'am, why don't you go ahead and
4 retake the stand for me, please.

5 (Jury in, 10:36 p.m.)

6 THE COURT: You may be seated.

7 Ladies and gentlemen, we appreciate
8 your patience. We'll now resume the witness's
9 testimony. You may proceed.

10 CONTINUING DIRECT EXAMINATION

11 BY MR. ALFARO:

12 Q. Krystal, when we took our break, I kind
13 of lost my spot so I want to back up just to the
14 part where you were inside the house, Kadeem is
15 kneeling on the ground, and you're sitting on the
16 bed, and your hands are taped.

17 Is -- and you said that the person that
18 had been watching you the whole time had two guns
19 pointed at you at this point?

20 A. Yes.

21 Q. And up until this point when your hands
22 are taped, had his face still been covered?

23 A. Up until this point. He took the mask
24 off....

25 THE COURT: Ma'am, I need you to speak

KRYSTAL SNIPE - CONTINUING DIRECT EXAM BY MR. ALFARO

1 up for me and speak directly into the microphone.

2 THE WITNESS: Up until this point, yes.

3 He took the mask off after awhile.

4 BY MR. ALFARO:

5 Q. So at some point while he is standing

6 over Kadeem and over you he takes his mask off?

7 A. Yes.

8 Q. And were you able to see his face?

9 A. Yes.

10 Q. And you were able to see his face while
11 he was pointing the gun at Kadeem?

12 A. Yes.

13 Q. And while he was pointing the gun at
14 you?

15 A. Yes.

16 Q. And you said earlier that the lights --
17 there were lights on inside the house?

18 A. Yes.

19 Q. So after he takes his mask off, what
20 happens next?

21 A. Him and the other guy, they was arguing
22 about they saw our faces, they saw our face. And
23 at that point, he shot Kadeem and he fell in front
24 of me. And then he shot me, and he ran out the
25 door.

1 Q. Okay. So at that point, the person who
2 did not have the mask is the one that shoot Kadeem?

3 A. Yes.

4 Q. And shot you?

5 A. Yes.

6 Q. And at that point had you seen anyone
7 else's face?

8 A. No.

9 Q. And can you tell the jury if you see in
10 the courtroom the person that shot Kadeem?

11 A. Yes.

12 Q. Can you point him out for the jury,
13 please?

14 A. (Indicating)

15 Q. Can you describe what he's wearing?

16 A. He has on a white button-up shirt with
17 no tie.

18 Q. Does he have a jacket or no jacket?

19 A. No jacket.

20 Q. Is this the person you're pointing to?
21 (Indicating)

22 A. Yes.

23 Q. Had you met him before that night?

24 A. No.

25 Q. So you recognize him from being the

KRYSTAL SNIPE - CONTINUING DIRECT EXAM BY MR. ALFARO

1 person that shot you and Kadeem?

2 A. Yes.

3 MR. ALFARO: Your Honor, if the record
4 could reflect that Ms. Snipe identified the
5 Defendant Jacob Mouzon.

6 THE COURT: You may proceed.

7 BY MR. ALFARO:

8 Q. And so we're clear, so the jury is
9 clear, is Mr. Mouzon the person that was standing
10 over you and Kadeem with the gun the entire time?

11 A. Yes.

12 Q. And is he the one that at some point
13 had two guns pointed at you?

14 A. Yes.

15 Q. One at you and one at Kadeem?

16 A. Yes.

17 Q. And is there any question that he's the
18 one that shot Kadeem?

19 A. No.

20 Q. Is there any question he's the person
21 that shot you?

22 A. No.

23 Q. When he shot you both, where was -- was
24 Kadeem still kneeling?

25 A. He was still kneeling.

KRYSTAL SNIPE - CONTINUING DIRECT EXAM BY MR. ALFARO

1 Q. And were his hands still taped?

2 A. Yes.

3 Q. And prior to being shot, did Kadeem in
4 any way try to attack him or fight back?

5 A. No.

6 Q. Did Kadeem say anything to him, Jacob
7 Mouzon, before he shot him?

8 A. No.

9 Q. Did you at any point with the guns
10 pointed at you by Mouzon try to fight back?

11 A. No.

12 Q. Did you ever try to charge at him or
13 anything?

14 A. No.

15 Q. Did you ever say anything to him before
16 he shot you?

17 A. No.

18 Q. So if Kadeem is kneeling with his hands
19 taped, at this point are they still over his head
20 or are they down in front?

21 A. Down in front.

22 Q. Did Jacob Mouzon stand in front of him
23 or behind him when he shot him?

24 A. In front.

25 Q. And did he shoot down at him?

KRYSTAL SNIPE - CONTINUING DIRECT EXAM BY MR. ALFARO

1 A. He shoot directly at him.

2 Q. And after he shot Kadeem, did he then

3 -- what did he do next?

4 A. Shoot me.

5 Q. And when he shot you, did you try to

6 duck or move?

7 A. No.

8 Q. Did you try to cover up or do anything?

9 A. The second time when he shot me.

10 Q. And when he shot at you, were you hit?

11 A. Yes.

12 Q. After you were shot by Jacob Mouzon,

13 what happened then?

14 A. He ran out the door.

15 Q. And at the time that he shot you, was

16 he the only defendant in the house?

17 A. Yes.

18 Q. Were the -- had the other four already

19 gone outside?

20 A. Yes.

21 Q. After he left your house, did he walk

22 out, run out?

23 A. He ran out.

24 Q. And did he run out of your -- which

25 door did he run out of?

1 A. The back door, the door that we came
2 in.

3 Q. So he ran out the same door that
4 you-all came in?

5 A. Yes.

6 Q. What did you do?

7 A. I got up after he ran and ran to the
8 neighbor's house and knocked on the window.

9 Q. And so you waited until he left to try
10 to get up?

11 A. Yes.

12 Q. And how far is it to your neighbor's
13 house that you were trying to go get help?

14 A. To the back of the courtroom I would
15 say.

16 Q. And what did you do when you got there?

17 A. I bammed on his window and his doors.

18 Q. And did anyone come out?

19 A. No.

20 Q. What did you do at that point?

21 A. I ran back into the house and called
22 911.

23 Q. And can you tell the jury -- was it a
24 house phone that you used or some other type of
25 phone?

KRYSTAL SNIPE - CONTINUING DIRECT EXAM BY MR. ALFARO

1 A. It was a cell phone that I kept in the
2 house prior to us having our other phone.

3 Q. And was that phone functional and
4 charged already?

5 A. No. I had to find the charger for it.

6 Q. And were you able to find one?

7 A. Yes.

8 Q. And did you plug it in to call 911?

9 A. Yes.

10 Q. And at this point when you came back
11 into the house after going to your neighbor's, was
12 Kadeem alive or dead?

13 A. He was dead.

14 Q. And you were able to call 911?

15 A. Yes.

16 Q. I'm going to show you what has been
17 marked for identification as State's Exhibit 133.

18 THE COURT: Any exception, Mr. Thrower?

19 MR. THROWER: No, ma'am.

20 THE COURT: Mr. Archer?

21 MR. ARCHER: No, ma'am.

22 THE COURT: Mr. Smaldone?

23 MR. SMALDONE: No, Your Honor.

24 THE COURT: Mr. Smiley?

25 MR. SMILEY: No objection, Your Honor.

KRYSTAL SNIPE - CONTINUING DIRECT EXAM BY MR. ALFARO

1 THE COURT: Marked and admitted without
2 objection.

3 (STATE EXH. 133 in evidence.)

4 MR. ALFARO: Thank you, Your Honor.

5 THE COURT: You're welcome.

6 MR. ALFARO: Your Honor, at this time
7 the State would like to publish State's Exhibit
8 133.

9 THE COURT: You may proceed.

10 BY MR. ALFARO:

11 Q. And while they're cuing that up, have
12 you had an opportunity to listen to that tape since
13 this incident?

14 A. Yes.

15 (State's Exhibit 133 played in open
16 court.)

17 MR. SMILEY: Can we break?

18 THE COURT: Mr. Foreman, ladies and
19 gentlemen, we're going to take a brief recess.

20 During the break, please do not discuss
21 the case and please leave your notepads in your
22 seats. We appreciate your patience.

23 (Jury out, 10:52 a.m.)

24 THE COURT: Ma'am, are you going to be
25 able to get through this or do you need a break?

KRYSTAL SNIPE - CONTINUING DIRECT EXAM BY MR. ALFARO

1 THE WITNESS: Need a break.

2 THE COURT: Why don't you step down,
3 don't discuss your testimony with anyone, and let
4 me know when you're ready to proceed. We'll be at
5 ease for a few moments.

6 (A recess transpired.)

7 THE COURT: Ma'am, do you feel you can
8 go forward now?

9 THE WITNESS: Yes, ma'am.

10 THE COURT: Are you sure?

11 THE WITNESS: (Nodding)

12 THE COURT: Okay. Do you need some
13 water?

14 THE WITNESS: No, ma'am.

15 THE COURT: Okay. Please bring in the
16 jury.

17 (Jury in, 10:59 a.m.)

18 THE COURT: You may be seated. Ladies
19 and gentlemen, we appreciate your patience. We'll
20 now resume the witness's testimony.

21 You may proceed, Mr. Alfaro.

22 MR. ALFARO: Thank you, Your Honor.

23 THE COURT: You're welcome.

24 BY MR. ALFARO:

25 Q. Krystal, from the 911 tape it sounded

1 like it took awhile for the ambulance and the
2 police to get to you?

3 A. Yes.

4 Q. Were you able to do something to try to
5 control your bleeding?

6 A. Yes.

7 Q. And what did you do?

8 A. I wrapped a towel around my hand.

9 Q. And were you -- did you stay there
10 until the police and ambulance showed up?

11 A. Yes.

12 Q. And how many times were you actually
13 shot by Jacob Mouzon?

14 A. Nine, counting all total; two shots,
15 but nine hits.

16 Q. Is that nine wounds or how were your
17 hands when you got shot?

18 A. I was taped up.

19 Q. So the bullet goes through your hands?

20 A. It went in my finger, right here, on --
21 right here, right here, and one is right by my
22 heart.

23 Q. So they fired two shots at you?

24 A. Yes.

25 Q. And did the injury that you were

KRYSTAL SNIPE - CONTINUING DIRECT EXAM BY MR. ALFARO

1 discussing?

2 A. Yes.

3 Q. So it's not nine separate wounds, it's
4 just -- well, not nine gunshots. It was two shots
5 and then those?

6 A. Yes.

7 Q. Were -- did any of the bullets remain
8 in you?

9 A. The one by my heart.

10 Q. That one is still there?

11 A. Yes.

12 Q. What about -- were there any other --
13 did the bullet stay lodged in your hand?

14 A. No. I think they removed some
15 fragments out of my hand right here.

16 Q. But something was taken out of your
17 hand after the shooting?

18 A. Yes.

19 Q. And you -- on the 911 tape you
20 indicated that when you went outside that the cars
21 were both gone?

22 A. Yes.

23 Q. And you were able to give them a
24 description of the white Crown Vic and the gray
25 Crown Vic; is that correct?

1 A. Yes.

2 Q. And did you see those cars leaving?

3 A. The last one, when I got to the
4 next-door neighbor's house that one had already
5 been down the road.

6 Q. Could you tell whether that was the
7 white one or the gray one?

8 A. That was the gray one.

9 Q. And is that how they were parked in
10 your driveway when you pulled up, with the white
11 one in front of the gray one?

12 A. Yes.

13 MR. SMILEY: Your Honor, we were all
14 able to look at the exhibits beforehand, and Mr.
15 Palmer will have no objections to the exhibits that
16 are out there.

17 THE COURT: What number is that?

18 MR. ALFARO: This is State's Exhibit
19 146.

20 THE COURT: Any objection to 146,
21 Mr. Thrower?

22 MR. THROWER: No, Your Honor.

23 THE COURT: Mr. Smiley?

24 MR. SMILEY: I'm not going to have any
25 objections to any of them.

KRYSTAL SNIPE - CONTINUING DIRECT EXAM BY MR. ALFARO

1 THE COURT: Yeah. I'm going to take
2 each one at a time.

3 MR. SMILEY: Okay.

4 THE COURT: Mr. Smaldone?

5 MR. SMALDONE: No, Your Honor.

6 THE COURT: Marked and admitted without
7 objection. You may proceed.

8 (STATE EXH. 146 in evidence.)

9 MR. ALFARO: Thank you.

10 THE COURT: You're welcome.

11 BY MR. ALFARO:

12 Q. I'm going to show you what has been
13 marked as State's Exhibit -- marked and admitted as
14 State's Exhibit 146. Do you recognize that?

15 A. Yes.

16 Q. And what do you recognize that as?

17 A. My bag.

18 Q. Is this the bag that you had when you
19 came home that night?

20 A. Yes.

21 Q. And is that the one that you threw
22 under the car --

23 A. Yes.

24 Q. -- after you were attacked?

25 A. Yes.

KRYSTAL SNIPE - CONTINUING DIRECT EXAM BY MR. ALFARO

1 Q. I'm going to show you what has been
2 marked for identification as State's Exhibit 157.

3 THE COURT: You said 157?

4 MR. ALFARO: Yes, Your Honor.

5 THE COURT: Any exception, Mr. Thrower?

6 MR. THROWER: No, ma'am.

7 THE COURT: Mr. Smiley?

8 MR. SMILEY: No, ma'am.

9 THE COURT: Mr. Smaldone?

10 MR. SMALDONE: No, Your Honor.

11 THE COURT: Mr. Archer?

12 MR. ARCHER: No, ma'am.

13 THE COURT: Marked and admitted without
14 objection. You may proceed.

15 (STATE EXH. 157 in evidence.)

16 BY MR. ALFARO:

17 Q. Now, showing you State's Exhibit 157.
18 Do you recognize that?

19 A. Yes.

20 Q. And what do you recognize that as?

21 A. The Hello Kitty bag.

22 Q. Is that the bag that you referenced
23 earlier that was taken from Kadeem by the
24 defendants?

25 A. Yes.

KRYSTAL SNIPE - CONTINUING DIRECT EXAM BY MR. ALFARO

1 Q. And --

2 MR. SMILEY: And, Your Honor, I would
3 object to the word defendant just as --

4 THE COURT: No speaking objections.

5 MR. SMILEY: Yes, ma'am. Objection;
6 move to strike.

7 THE COURT: Approach.

8 (Bench conference)

9 THE COURT: Basis of the objection?

10 MR. SMILEY: They haven't identified
11 the defendants as being present. And Mr. Alfaro
12 asked her is this what the defendants took.

13 THE COURT: It is characterization;
14 sustained.

15 MR. SMILEY: Thank you.

16 (End of bench conference)

17 THE COURT: Rephrase. The same,
18 characterization. Proceed.

19 BY MR. ALFARO:

20 Q. Now, Ms. Snipe, regarding the State's
21 Exhibit 157, is that the bag that was taken from
22 you that night of the incident?

23 A. Yes.

24 Q. By the people that were with Jacob
25 Mouzon?

KRYSTAL SNIPE - CONTINUING DIRECT EXAM BY MR. ALFARO

1 A. Yes.

2 Q. Now, you said that you ran next door to
3 Mr. Anderson's house?

4 A. Yes.

5 Q. Do you know the address at his house?

6 A. No.

7 Q. I'm going to show you what has been
8 marked for identification as State's Exhibit 74.

9 THE COURT: Any exception, Mr. Thrower?

10 MR. THROWER: No, ma'am.

11 THE COURT: Mr. Smiley?

12 MR. SMILEY: No, ma'am.

13 THE COURT: Mr. Smaldone?

14 MR. SMALDONE: No, Your Honor.

15 THE COURT: Mr. Archer?

16 MR. ARCHER: No, ma'am.

17 THE COURT: Marked and admitted without
18 objection you may proceed.

19 (STATE EXH. 74 in evidence.)

20 BY MR. ALFARO:

21 Q. Showing you State's Exhibit 74. Do you
22 recognize that residence?

23 A. Yes.

24 Q. Is that Mr. Anderson's house?

25 A. Yes.

KRYSTAL SNIPE - CONTINUING DIRECT EXAM BY MR. ALFARO

1 Q. If you can look behind you, I'm
2 publishing State's Exhibit 74. Is that the house
3 that you just identified as Mr. Anderson's?

4 A. Yes.

5 Q. At any point after Kadeem was shot and
6 killed, did you move his body in any way?

7 A. No.

8 Q. Now, you have identified Jacob Mouzon
9 as the one that shot you. Had you ever met him
10 before this?

11 A. No.

12 Q. Had you ever met Defendant Kenny
13 Campbell, the defendant?

14 A. No.

15 Q. Had you ever met Defendant Drake
16 Campbell?

17 A. No.

18 Q. Had you ever met Defendant Sherrod
19 Palmer?

20 A. Yes.

21 Q. How did you know Sherrod Palmer?

22 A. Sherrod Palmer is Jaunwanna's
23 boyfriend.

24 Q. And tell the jury again who Jaunwanna
25 is.

1 A. Kadeem's aunt.

2 Q. And where does she live in relation to
3 Kadeem's mom?

4 A. She lives right behind her, alongside
5 of her.

6 Q. And how long had you known Sherrod?

7 A. Probably about over -- I think about
8 four years I want to say.

9 Q. Did you say four?

10 A. Yeah.

11 THE COURT: What numbers are those?

12 MR. ALFARO: They are State's Exhibits
13 96, 97 and 98.

14 THE COURT: Any objections, Mr.
15 Thrower?

16 MR. THROWER: No objection.

17 THE COURT: Mr. Archer?

18 MR. ARCHER: No.

19 THE COURT: Mr. Smaldone?

20 MR. SMALDONE: No, Your Honor.

21 THE COURT: Mr. Smiley?

22 MR. SMILEY: No, ma'am.

23 THE COURT: Marked and admitted without
24 objection. You may proceed.

25 (STATE EXH. 96 in evidence.)

KRYSTAL SNIPE - CONTINUING DIRECT EXAM BY MR. ALFARO

1 (STATE EXH. 97 in evidence.)

2 (STATE EXH. 98 in evidence.)

3 BY MR. ALFARO:

4 Q. I'm going to show you State's Exhibits
5 96, 97, and 98. Can you take look at those
6 briefly, and then I'll will ask you some questions
7 about them. Do you recognize those items?

8 A. Yes.

9 Q. And do you recognize those as the items
10 that you testified were stolen from your house that
11 night?

12 A. Yes.

13 Q. I'm going to publish State's 96 first.
14 And on that screen behind you, State's 96, which
15 item is that that was taken from your house?

16 A. That's the TV, that's the shoes and my
17 bag.

18 Q. And publish State's 98. And if you can
19 turn back and describe what is in that picture.

20 A. That's my pink bag and his shoes.

21 Q. And both of those -- or all of those
22 items were taken from your home that night?

23 A. Yes, and that TV.

24 MR. ALFARO: Thank you. Please answer
25 any questions that the defense may have for you.

KRYSTAL SNIPE - CROSS EXAM BY MR. THROWER

1 THE COURT: Mr. Thrower?

2 MR. THROWER: Thank you, Your Honor.

3 THE COURT: You're welcome.

4 CROSS-EXAMINATION

5 BY MR. THROWER:

6 Q. Ms. Snipe, I don't think we have met
7 before. My name is Bill Thrower and I'm
8 representing Mr. Mouzon. And I've seen you at bond
9 hearings in court, and I knew that you were -- this
10 was a bad time for you. It's been two years now,
11 and you have made an in-court identification of Mr.
12 Mouzon just a few minutes ago. Is that correct?

13 A. Excuse me?

14 Q. Are you sure that the person that shot
15 you is Mr. Mouzon?

16 A. Correct.

17 Q. Okay. Now it's been two years, and the
18 day after the shooting -- or just a couple hours
19 after the shooting, you were interviewed by
20 Detective Ward. Do you remember that?

21 A. Yes.

22 Q. She showed you a photographic
23 identification lineup of six suspects?

24 A. Yes.

25 Q. And did you pick out a suspect when

KRYSTAL SNIPE - CROSS EXAM BY MR. THROWER

1 that was done?

2 A. Yes.

3 Q. Okay. I'm going to show you what's
4 marked as Defendant's Exhibit 1. It was prior --
5 it was marked as --

6 THE COURT: Is there any exception, Mr.
7 Alfaro?

8 MR. ALFARO: No, Your Honor.

9 THE COURT: Marked and admitted,
10 Defendant Mouzon 1 without objection.

11 (DFT. MOUZON EXH. 1, Lineup in
12 evidence.)

13 BY MR. THROWER:

14 Q. I'm going to show you what's been
15 marked as Defendant's Exhibit 1. Is that the
16 photographic lineup that you looked at just a few
17 hours after the shooting?

18 A. Yes.

19 Q. Now, on that second page you actually
20 circled Mr. Mouzon's photograph, correct?

21 A. Yes.

22 Q. Now, on that page is also some writing
23 at the bottom. Now, I know you were injured and
24 you couldn't write so you had Detective Ward write
25 this for you?

KRYSTAL SNIPE - CROSS EXAM BY MR. THROWER

1 A. Yes.

2 Q. And she wrote: 50 percent
3 identification. I recognize number two by his eyes
4 when I looked at him in my bedroom prior to him
5 shooting me.

6 Is that your signature there?

7 A. Yes, it is.

8 Q. Okay. Can you explain to us what you
9 meant by 50 percent identification?

10 A. It was just a random number that I
11 threw out.

12 Q. Why did you throw out 50?

13 A. It was just a number.

14 Q. Okay. Does that mean that there is one
15 other guy in here that could be the other 50?

16 A. No. No.

17 Q. Or is there another -- if there were
18 another six people, would there be a guy in that
19 one that you --

20 A. No, it's number two.

21 Q. Number two. But you're only -- but you
22 were 50 percent sure back a couple of hours --

23 A. 50 percent is the number that I threw
24 out.

25 Q. It's just the number that you threw

KRYSTAL SNIPE - CROSS EXAM BY MR. ARCHER

1 out?

2 A. Just a number.

3 MR. THROWER: Okay. I don't -- this is
4 in evidence, I believe, so I don't have any other
5 questions for you. Thank you.

6 THE COURT: Mr. Archer, any questions
7 for the witness?

8 MR. ARCHER: Yes, ma'am.

9 CROSS-EXAMINATION

10 BY MR. ARCHER:

11 Q. I'm Mark Archer, and I represent
12 Kenneth Campbell. Let me ask you, Ms. Snipe. You
13 said that three fellows came into the house and two
14 stayed outside; is that correct?

15 A. Correct.

16 Q. Huh?

17 A. Correct.

18 Q. Okay. Now, the two that stayed
19 outside, what did they do in this matter? What's
20 your --

21 A. I couldn't see outside.

22 Q. Huh?

23 A. I couldn't see outside. I was sitting
24 on the bed.

25 Q. You couldn't see outside. So you can't

KRYSTAL SNIPE - CROSS EXAM BY MR. ARCHER

1 say -- did you ever see them take any goods out of
2 the house?

3 A. Couldn't see that.

4 Q. Huh?

5 A. Couldn't see that.

6 Q. Couldn't see that. Okay. And,
7 obviously, they didn't shoot Kadeem because you've
8 identified Mr. Mouzon as being the person who shot
9 Kadeem --

10 A. Correct.

11 Q. -- correct? So are you able to say
12 anything other than the two people who stayed
13 outside were present?

14 A. Other than five of them came up and
15 there were five guns.

16 Q. Five people came up the road?

17 A. Yes.

18 Q. Okay. And --

19 A. Came out of the woods.

20 Q. Out of the woods.

21 A. And all five of them had guns.

22 Q. Three came in the house and were doing
23 a bunch of stuff, right?

24 A. Yes.

25 Q. They were tying your hands together?

KRYSTAL SNIPE - CROSS EXAM BY MR. ARCHER

1 A. Correct.

2 Q. And they did that inside, right?

3 A. Uh-huh.

4 Q. And they were stealing -- they were
5 taking stuff out, right?

6 A. Yes.

7 Q. Okay. But the fellows outside, you
8 can't say they did anything other than the fact
9 that they were present that night, right?

10 A. Yes.

11 Q. That's correct?

12 A. Correct.

13 Q. Okay. Now, on the 911 tape, okay, you
14 told the lady that you thought that three of the
15 individuals were --

16 A. Were black.

17 Q. Huh? Were white -- and two were black?

18 A. No.

19 Q. No?

20 A. I said, three may have been black and
21 two may have been Hispanic.

22 Q. Well, that isn't -- I'm sorry, I didn't
23 hear it that way. All right. Do you remember
24 talking to a lady with EMS?

25 A. No.

KRYSTAL SNIPE - CROSS EXAM BY MR. ARCHER

1 Q. You don't?

2 A. No.

3 Q. You don't remember that while you were
4 waiting to be taken off there was an EMS lady there
5 talking to you?

6 A. Yes. She was asking me --

7 Q. Huh?

8 A. She was asking me how I was feeling and
9 things like that.

10 Q. Yeah. Do you remember telling her that
11 you could not -- she said that -- said that one of
12 them was white and one was black and she couldn't
13 identify the race and gender of the other three to
14 me.

15 A. I wouldn't remember telling her that.

16 Q. You don't remember telling her that?

17 A. Nope.

18 Q. Okay. All right. But you do remember
19 telling EMS that you thought two were black and
20 three were white?

21 A. No.

22 Q. You don't remember that either?

23 A. Because I didn't say that. I said
24 three was black and two was Hispanic.

25 Q. Now, what was that? Two were Hispanic?

KRYSTAL SNIPE - CROSS EXAM BY MR. ARCHER

1 A. Three was black and two was Hispanic.

2 Q. Three were black?

3 A. Yes.

4 Q. Okay. All right.

5 Now, these people -- the people that
6 came in, they had bandanas across their face; did
7 they not?

8 A. Yes. They had things that covered up
9 their faces.

10 Q. And by that, I mean a piece of cloth
11 like a big handkerchief or whatever that would come
12 across your face like this? (Indicating)

13 A. Correct.

14 Q. Okay. And so it would cover the bottom
15 part of the face, right?

16 A. Right.

17 Q. It would leave the top part open to be
18 seen?

19 A. Right. It would leave the eyes, but
20 they had on hoodies.

21 Q. They had on hats?

22 A. Hoodies.

23 Q. Hoodies?

24 A. Yeah.

25 Q. In July they had hoodies on?

KRYSTAL SNIPE - CROSS EXAM BY MR. ARCHER

1 A. Yeah.

2 Q. Okay. But you could see their eyes?

3 A. Correct.

4 Q. Okay. And you could see part of their
5 nose?

6 A. Well, the way that you described it, if
7 the bandana covered their nose I wouldn't be able
8 to see.

9 Q. Okay. Now, tell me again at this point
10 in time, your recollection is how many black
11 people, how many white people, and how many
12 Hispanic?

13 MR. ALFARO: Objection.

14 THE COURT: Basis?

15 MR. ALFARO: Asked and answered.

16 THE COURT: I'm going to give you a
17 little latitude, but it is asked and answered. You
18 may proceed.

19 MR. ARCHER: Do not ask it?

20 THE COURT: I'm giving you some
21 latitude on this, that's fine.

22 MR. ARCHER: I want to get this --

23 BY MR. ARCHER:

24 Q. How many of them were white, how many
25 of them were black, and how many of them were

KRYSTAL SNIPE - CROSS EXAM BY MR. ARCHER

1 Hispanic at this point in time?

2 A. At this point?

3 Q. Yes.

4 A. Today or back then in July 21st?

5 Q. Today, that you remember today.

6 A. Well, I mean, my story is never going
7 to change, that I saw three of them was black and
8 two was Hispanic.

9 Q. Three were black and two were Hispanic?

10 A. Correct.

11 Q. Okay. And of the -- how many of the
12 people -- the three that came in, what racial
13 makeup were they?

14 A. Well, one would be Hispanic or whatever
15 color. I can't tell you.

16 Q. One was Hispanic?

17 A. Yes.

18 Q. And the other two were white?

19 A. Black.

20 Q. Black. Okay. So two black and one
21 Hispanic that came into the house?

22 A. Uh-huh.

23 Q. Okay. Did you see the ones outside
24 whether they had guns on them or anything?

25 A. I saw them when they first came in,

1 they had a gun.

2 Q. One had a gun?

3 A. No, all three of them -- all five of
4 them had guns.

5 MR. ARCHER: Okay. All right. I have
6 no other questions, Your Honor.

7 THE COURT: Mr. Smaldone.

8 MR. SMALDONE: Thank you.

9 THE COURT: You're welcome.

10 CROSS-EXAMINATION

11 BY MR. SMALDONE:

12 Q. Good morning. My name is Grant
13 Smaldone, and I represent Mr. Campbell. I just
14 want to talk about a few things that night. I'm
15 not going to ask the same questions over and over,
16 you've been here long enough.

17 So just briefly, you'd agree that
18 Martha Lane is a pretty dark road?

19 A. Yeah.

20 Q. And you would agree that you have to be
21 -- it's not a road with a lot of thoroughfare,
22 right?

23 A. Correct.

24 Q. You have to be intent to go somewhere
25 to go down that road, right?

KRYSTAL SNIPE - CROSS EXAM BY MR. SMALDONE

1 A. Yes.

2 Q. And there's about, what? Three or four
3 houses on that road?

4 A. On Martha Lane?

5 Q. Yes.

6 A. No. There's a trailer there and my
7 trailer and the rest is woods.

8 Q. Okay. So there's two houses.

9 A. Yeah.

10 Q. All right. And there is only one way
11 to get there?

12 A. No, there's actually two.

13 Q. Okay. And there's the main road,
14 right?

15 A. Uh-huh. Yes.

16 Q. I'm sorry. And you went down that main
17 road that evening?

18 A. Yes.

19 Q. And that's how you got back home?

20 A. Uh-huh.

21 Q. And you'd agree that when you went down
22 that road you didn't see any cars parked?

23 A. No.

24 Q. All right. You didn't see a truck
25 parked?

KRYSTAL SNIPE - CROSS EXAM BY MR. SMALDONE

1 A. No.

2 Q. Right? You didn't see an SUV parked,
3 right?

4 A. No.

5 Q. Okay. And you'd agree there was really
6 no lighting other than one florescent bulb?

7 A. I would say you could see my porch
8 light actually. It's pretty bright.

9 Q. Right. And that's one bulb?

10 A. Yes.

11 Q. And in that bright porch light you saw
12 two coming from one side, right?

13 A. Yes.

14 Q. And three coming from the other?

15 A. Yes.

16 Q. And you'd agree that on the 911 tape
17 you said either four or five had guns?

18 A. Uh-huh.

19 Q. And your testimony today is that you
20 know all had guns?

21 A. Yes.

22 Q. But you know that night you said either
23 four or five, right?

24 A. Yeah. I know that night I said either
25 four or five, but I know the five is still in

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 there.

2 Q. Okay. I understand. I just want to
3 make sure we're all clear.

4 And you'd agree that you could only
5 identify one of the defendants; is that right?

6 A. I can identify the shooter, correct.

7 Q. Right. And you didn't see any of the
8 other faces?

9 A. No.

10 Q. Because they were wearing bandanas?

11 A. Correct.

12 Q. And they were black bandanas?

13 A. I can't remember the colors.

14 Q. All right. Were they all wearing the
15 same bandanas?

16 A. I don't remember.

17 Q. All right.

18 MR. SMALDONE: The Court's indulgence?

19 THE COURT: Yes, sir.

20 MR. SMALDONE: I told you I'd be brief,
21 so I have no more questions for you. Thank you.

22 THE COURT: Mr. Smiley.

23 CROSS-EXAMINATION

24 BY MR. SMILEY:

25 Q. Ms. Snipe, Jim Smiley. I represent

1 Sherrod Palmer. How tall are you?

2 A. Now?

3 Q. Well, I assume -- you're 30 years old,
4 right?

5 A. I'm 32.

6 Q. Thirty-way now; 30 at the time of the
7 incident. In the last two years, have you grown
8 taller?

9 A. I wouldn't say.

10 Q. Okay.

11 A. I would say I'm about 5, 6.

12 Q. 5, 6. When you pulled in -- you were a
13 passenger, right --

14 A. Correct.

15 Q. -- in the white car? So when you
16 pulled in to your -- end of the road to your
17 driveway there was a gray -- the gray Crown Vic was
18 there, right?

19 A. Yes.

20 Q. And it was parked up next to your
21 trailer?

22 A. Yes.

23 Q. Okay. And your trailer is white,
24 right?

25 A. Yes.

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 Q. And on the side facing Charity Church
2 Road there's two entries, right?

3 A. There's two entries.

4 Q. On that side.

5 A. You come in through one road.

6 Q. I understand. Bad question. Let me
7 ask a better question. I'm talking about the
8 trailer. All right. The trailer sits on the lot
9 parallel with Charity Church if you're all the way
10 out there, in the same orientation, right?

11 A. Uh-huh.

12 Q. Correct?

13 A. Correct.

14 Q. Okay. On the side of the trailer that
15 would be closest to Charity Church Road, okay,
16 there's entrances on that side, correct?

17 THE COURT: Ma'am, if you could say yes
18 or no.

19 THE WITNESS: Yes.

20 BY MR. SMILEY:

21 Q. There's one with a set of stairs going
22 up on the right-hand side, correct?

23 A. Yes.

24 Q. And it had a light bulb there, right?

25 A. Yes.

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 Q. And it was one of those regular light
2 bulbs, right?

3 A. Yes.

4 Q. Okay. And then on the other end
5 there's a sliding glass door kind of entry?

6 A. Yes.

7 Q. And then on the other side of your
8 trailer there is another entry, correct?

9 A. Yes.

10 Q. Okay. The night that this happened,
11 the activity took place at the door facing Charity
12 Church on the right-hand side of the --

13 A. Yes.

14 Q. Okay. Just make sure we got that
15 clear. All right.

16 So when you got out of the car, all
17 right, and Kadeem got out of the car, you walked
18 around to him, correct?

19 A. Yes.

20 Q. All right. And you-all would have been
21 standing 15, 20 feet from your steps going up?

22 A. Yes.

23 Q. That's fair to say, right?

24 A. Yes.

25 Q. Okay. The car was off at that point in

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 time?

2 A. Yes.

3 Q. Kadeem had the keys, right?

4 A. Yes.

5 Q. All right. And it's at that point in
6 time that these fellows came out of the woods -- or
7 these people, correct?

8 A. Yes.

9 Q. All right. Did they -- when you come
10 in your driveway, the woods to the right, they're
11 somewhat close; is that fair to say?

12 A. Yes.

13 Q. Between the gray car and the wood lines
14 maybe 20 feet?

15 A. (Shaking head)

16 Q. A little further than that?

17 A. The gray car and the woods are -- this
18 is the gray car and this is literally the woods.
19 (Indicating) They are not that far apart.

20 Q. All right. I got from the State some
21 pictures that were taken and I'm going to ask you
22 some questions from that. Okay?

23 A. Yes.

24 Q. I'm going to show you what has been
25 marked State's Exhibit 5. Does this show your

1 trailer?

2 A. Yes.

3 Q. Okay. And this would be the side
4 that's facing Charity Church Road?

5 A. Yes.

6 Q. And that's a fair and accurate
7 representation of where the woods on the right-hand
8 side are?

9 A. Yes.

10 MR. SMILEY: I guess I can make it a
11 defense exhibit, but we've agreed they were going
12 to go in, either way. It's either State's Number
13 5, or Defendant's Number 2. Number 1?

14 THE COURT: I'm going to discuss that
15 outside of the jury's presence.

16 MR. SMILEY: I beg the Court's
17 indulgence, we might be able to do it very quickly.

18 THE COURT: Uh-huh.

19 MR. SMILEY: At this time, Your Honor,
20 I would offer what has been marked as State's
21 Exhibit Number 5 as --

22 THE COURT: It would have to be
23 remarked as Defendant's Number 1.

24 MR. SMILEY: As Defendant Palmer's
25 Number 1.

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 THE COURT: Any objections, Mr. Alfaro?

2 MR. ALFARO: No, Your Honor.

3 THE COURT: Marked and admitted without
4 objection.

5 (DFT PALMER EXH. 1, Photograph, was
6 marked for identification.)

7 (DFT PALMER EXH. 1, in evidence.)

8 MR. SMILEY: Your Honor, may I publish?

9 THE COURT: You may proceed.

10 BY MR. SMILEY:

11 Q. Again, this is the picture I showed
12 you. It shows the trailer, the side that was
13 facing Charity Church Road and the woods on the
14 right-hand side, correct?

15 THE COURT: Ma'am, do you understand
16 the question?

17 THE WITNESS: Yes.

18 BY MR. SMILEY:

19 Q. I'm going to ask if you recognize this
20 picture.

21 A. Yes.

22 Q. Is that a picture of the right-hand
23 side where the gray Crown Vic would have been
24 parked?

25 A. Yes.

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 Q. And it would have been parked all the
2 way up parallel to the side of your trailer?

3 A. Yes.

4 MR. SMILEY: I ask this be marked as
5 Defendant Palmer's Exhibit Number 2.

6 THE COURT: Any objection?

7 MR. ALFARO: No, Your Honor.

8 THE COURT: Marked and admitted without
9 objection, Number 2. You may proceed.

10 (DFT. PALMER EXH. 2, Photograph, was
11 marked for identification.)

12 (DFT. PALMER EXH. 2, in evidence.)

13 BY MR. SMILEY:

14 Q. Now, you-all had a street light back
15 there, right?

16 A. Yes.

17 Q. But it wasn't working, was it?

18 A. No.

19 Q. Okay. And that would have been to the
20 left side of your -- if you're looking at your
21 trailer, over to the left side, that street light
22 that doesn't work?

23 A. Yes.

24 Q. Okay. Would this picture show that?

25 A. Yes.

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 Q. Okay.

2 MR. SMILEY: I would ask that this be
3 marked and entered as Defendant Palmer's Number 3.

4 THE COURT: Any objection?

5 MR. ALFARO: No, Your Honor.

6 THE COURT: Marked and admitted without
7 objection.

8 (DFT. PALMER EXH. 3, Photograph, was
9 marked for identification.)

10 (DFT. PALMER EXH. 3, in evidence.)

11 BY MR. SMILEY:

12 Q. Now, again, this is a picture looking,
13 if you're facing your trailer off to the left,
14 right?

15 A. Yes.

16 Q. Okay. And is it fair to say that
17 Martha Lane goes down and then it opens up around
18 you-all?

19 A. Yes.

20 Q. Okay. And, again, that street light
21 doesn't work, does it?

22 A. No.

23 Q. Now, on the back side of your trailer,
24 the trailer that's away from Charity Church,
25 furthest away, is that like a field that goes back

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 into the woods? Is that --

2 A. No. That's a road.

3 Q. Okay. I'm going to show you this
4 picture. Do you recognize this as the area behind
5 your trailer?

6 A. Yes.

7 MR. SMILEY: If I could enter this as
8 Palmer's Exhibit, Defendant Palmer's Exhibit Number
9 4.

10 THE COURT: Any objection?

11 MR. ALFARO: No, Your Honor.

12 THE COURT: Marked and admitted without
13 objection.

14 (DFT. PALMER EXH. 4, Photograph, was
15 marked for identification.)

16 (DFT. PALMER EXH. 4, in evidence.)

17 BY MR. SMILEY:

18 Q. All right. And you said there's a
19 road. It looks like there's a car in that picture.
20 Is that where the road sort of goes back behind
21 your trailer?

22 A. That's not a car.

23 Q. But whatever that -- whatever that is.

24 A. Yes.

25 Q. That's where the road is --

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 A. Yes.

2 Q. -- next to it?

3 A. Yes.

4 Q. And that leads back to the woods?

5 A. That leads to another road.

6 Q. Okay. So this is a picture of behind
7 the trailer furthest away from Charity Church Road,
8 correct?

9 A. Yes.

10 Q. And you're the last trailer on that
11 part of Martha Lane, right?

12 A. Yes.

13 Q. I'm going to show you this picture and
14 see if you recognize it.

15 A. Yes.

16 Q. Would it be fair to say that this
17 picture is a picture looking to the right of your
18 trailer, correct?

19 A. Yes.

20 Q. And you can see Mr. Anderson's trailer?

21 A. Yes.

22 Q. And is that a fair depiction of how far
23 away it is from your opening there?

24 A. Yes.

25 Q. And those are the woods that are on the

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 right-hand side?

2 A. Yes.

3 MR. SMILEY: Defendant Palmer's Number
4 5.

5 THE COURT: Any objection?

6 MR. ALFARO: No, Your Honor.

7 THE COURT: Marked and admitted without
8 objection.

9 (DFT. PALMER EXH. 5, Photograph, was
10 marked for identification.)

11 (DFT. PALMER EXH. 5 in evidence.)

12 BY MR. SMILEY:

13 Q. All right. So those pictures sort of
14 establish your trailer and what's around it, right?

15 A. Yes.

16 Q. What time did Kareem drop you off at
17 his mom's house?

18 A. Kadeem didn't drop me off.

19 Q. Oh, that's right; your aunt took you.
20 I'm sorry. Your aunt dropped you off about what
21 time?

22 A. She didn't drop me off at my house
23 because I went to his mother's house.

24 Q. Well, I apologize. I'm asking bad
25 questions. Let me back up.

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 A. That's okay.

2 Q. At what time did your aunt drop you off
3 at Kadeem's mother's house?

4 A. It was in the afternoon. I couldn't
5 give you a specific time.

6 Q. Okay. It was after lunch sometime?

7 A. Yes.

8 Q. And it was before it got dark?

9 A. Yes.

10 Q. And Kadeem, did you know where he was
11 during that time?

12 A. He was across the street the last time
13 I saw him.

14 Q. Okay. And across the street from --

15 A. His mother's house.

16 Q. From your mother's house there's a club
17 over there?

18 A. Yes.

19 Q. Okay. And you believed he was there,
20 correct?

21 A. Yes.

22 Q. Okay. Now, you-all were moving out of
23 this trailer?

24 A. Yes.

25 Q. And this happened the morning of the

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 21st?

2 A. Correct.

3 Q. Okay. And you-all had planned to be
4 out by the end of the month?

5 A. Yes.

6 Q. So you had about another 9 or 10 days,
7 but you-all had been picking up to move, correct?

8 A. Yes.

9 Q. All right. Did any of the fellows that
10 -- or people that you saw that evening, did any of
11 them have any color bandana on that was lighter in
12 color?

13 A. I don't remember.

14 Q. Okay. It didn't stand out to you?

15 A. I don't remember.

16 Q. Okay. All right. I believe your
17 testimony on direct is that Kadeem, when he left
18 wherever he was or at the club, he went home first,
19 right?

20 A. Yes.

21 Q. And he was in the white Crown Vic?

22 A. Yes.

23 Q. Okay. So he went back to Martha Lane
24 and then called you or texted you?

25 A. He realized I wasn't there and --

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 Q. Okay. So he got to the house there and
2 found -- realized you weren't there, so he turned
3 around and basically went back to where he started,
4 close to it, to his mother's house to pick you up?

5 A. Yes.

6 Q. Okay. And I believe you testified
7 that's about 2, 2:30 in the morning, or something
8 like that?

9 A. I didn't give a specific time. I said
10 after two.

11 Q. Okay. Well -- I'm not trying to trick
12 you.

13 A. You're fine.

14 Q. I'm just trying to establish it. All
15 right. So when he came back to get you, it was
16 just a pickup, it wasn't like he came and stayed.
17 He just came and got you, right?

18 A. He just came and got me.

19 Q. All right. So you hopped in the car
20 and you go back down. And you get to your house
21 and get out, and these guys came out of the woods.
22 And you said they all had guns, right?

23 A. Correct.

24 Q. And one of them put a gun on Kadeem.
25 When did they take the money you had? In the yard

1 or inside?

2 A. I can't give you a specific time
3 because I didn't see that.

4 Q. Where was the money?

5 A. It was under the car in the bag that he
6 just showed you.

7 Q. Okay. So the bag, your purse, right?

8 A. Correct.

9 Q. When they came at you, you took the
10 purse and tossed it under the gray car?

11 A. Correct.

12 Q. All right. And you never saw anybody
13 take the money out?

14 A. No.

15 Q. Okay. Now, were you taped in the yard
16 or in the house?

17 A. In the house.

18 Q. Okay. When you got these people around
19 you, were all of them talking or just one of them
20 directing? Do you remember?

21 A. No.

22 Q. Okay. But someone directed you to go
23 open the door, correct?

24 A. Correct.

25 Q. All right. So you led the way up the

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 steps, right?

2 A. Yes.

3 Q. Okay. When were you handed the keys?

4 A. They took the key when they approached
5 us the first time by the car.

6 Q. I understand that.

7 A. And they gave us the key back once we
8 got on the porch to open the door.

9 Q. Okay. So one of the fellows, or
10 people, handed you the keys back and told you to
11 open the door?

12 A. Correct.

13 Q. All right. Which you did, right?

14 A. Yes.

15 Q. And that's that right-hand way up --
16 steps up into the house that you went in, right?

17 A. Yes.

18 Q. All right. You went in the house. And
19 right to the right is the bedroom, right?

20 A. Yes.

21 Q. And immediately you and Kadeem were
22 hustled into that, right?

23 A. Yes.

24 Q. And that's when one fellow stood at the
25 door guarding you, for lack of a better word,

1 right?

2 A. Yes.

3 Q. So while that door was closed, you were
4 in the bedroom off to the left?

5 A. What door was closed?

6 Q. Well, I didn't say -- a bad question.
7 Looking into your -- that bedroom to the right?

8 A. Yes.

9 Q. Inside that room, you were to the left
10 sitting on the couch, correct?

11 A. No. I was sitting on the bed.

12 Q. Bed. Okay. There was activity going
13 in the house?

14 A. Yes.

15 Q. And at some point somebody came to tape
16 you, right?

17 A. Yes.

18 Q. And they came in, taped Kadeem first,
19 right?

20 A. Correct.

21 Q. Then taped you, right?

22 A. Yes.

23 Q. Okay. And you testified that that
24 person carried out a TV, right?

25 A. Yes.

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 Q. Once you opened the door, you still had
2 the key, correct?

3 A. No, he took it back.

4 Q. They took it back?

5 A. Yes.

6 Q. All right. Do you remember giving an
7 audio statement to detectives later that day?

8 A. What detective?

9 Q. It says -- I'm flipping on the back.
10 Merrithew, was he there too?

11 A. Who?

12 Q. Lieutenant Merrithew, was he there too?

13 A. Who?

14 Q. No? Okay.

15 A. No.

16 Q. Well, it was just an audio tape. And
17 they audio-taped your statement, right?

18 A. Correct.

19 Q. And you gave that statement in close
20 proximity to this incident, right?

21 A. Yes.

22 Q. So we've got the fellow that's at the
23 door guarding you. We've got the taper that took
24 the TV, right?

25 A. Yes.

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 Q. And is there -- and you said there was
2 another person in the house?

3 A. Yes.

4 Q. Okay. And a third person that was in
5 the house. Did that person have a pistol or a long
6 gun that was in the house?

7 A. I don't remember.

8 Q. You had a hard time seeing too because
9 you were in that bedroom off to the side a little
10 bit, right?

11 A. Well, I think I would see when they
12 walked out the door because the bedroom is right
13 here.

14 Q. Okay. So you were able to see that
15 three people came in your house and two did not,
16 right?

17 A. Correct.

18 Q. Okay. And I believe in your audio
19 statement to the detective you said that the two
20 fellows that were outside were shorter than you,
21 correct?

22 A. I don't remember.

23 Q. If I replayed that audio statement
24 would it refresh your memory?

25 A. Probably wouldn't, but --

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 Q. You wouldn't remember if you listened
2 to the statement that you made?

3 A. I really don't want to hear the
4 statement actually, but, yeah.

5 Q. Well, I'm afraid we might have to
6 listen to it. I know this is difficult, but the
7 jury wasn't there and we've got to give them the
8 information. So I'd ask at this time --

9 THE COURT: Approach.

10 (Bench conference.)

11 THE COURT: You take exception to it?

12 MR. ALFARO: I think it's hearsay.

13 THE COURT: It is hearsay unless it
14 comes within the rules. You have to ask --

15 MR. SMILEY: It's her statement.

16 THE COURT: You have to ask her a
17 direct question, give her the opportunity to admit
18 or refute it, then you can use it to impeach her.
19 That's the only way you get to use her statement.
20 It's a prior inconsistent statement. You don't get
21 to play it just because she testified.

22 MR. SMILEY: Well, she said she doesn't
23 remember it.

24 THE COURT: Then you can play it to
25 refresh her memory, but outside the jury's

1 presence.

2 MR. SMILEY: Then I would ask --

3 THE COURT: And I would ask that all
4 the dialogue --

5 MR. SMILEY: Yes, ma'am, I will do my
6 best.

7 THE COURT: Thank you.

8 MR. SMILEY: I would ask that she be
9 allowed to refresh her memory.

10 THE COURT: That's fine.

11 (End of bench conference)

12 THE COURT: Mr. Foreman, ladies and
13 gentlemen, I have a brief matter of law to take up
14 with counsel. During the break, please do not
15 discuss the case and please leave your notepads in
16 your seats. We appreciate your patience.

17 (Jury out, 12:02 p.m.)

18 THE COURT: You may be seated. How
19 long is her statement?

20 MR. SMILEY: It's 20 minutes, but the
21 part I want --

22 THE COURT: Has it been reduced to
23 writing?

24 MR. SMILEY: No, ma'am, it was only an
25 audio statement. It's about 20 minutes. The part

1 that I need her to hear is within the first 10 or
2 15 --

3 THE COURT: Have you pinpointed where
4 that's at?

5 MR. SMILEY: No, ma'am.

6 THE COURT: Do you need time to do
7 that?

8 MR. SMILEY: Yes, ma'am.

9 THE COURT: If you could do that, that
10 would be helpful.

11 MR. SMILEY: Okay. Thank you.

12 THE COURT: You're welcome.

13 MR. SMILEY: If I could take a moment
14 to get my computer.

15 THE COURT: Not a worry. But the
16 question is, have you asked her a direct question
17 to see if she could answer it consistently and then
18 --

19 MR. SMILEY: Yes, ma'am. I asked her,
20 did she remember that in her statement -- audio
21 statement that she said that the two gentlemen that
22 stayed outside were shorter than her.

23 She said she didn't remember. I asked
24 her if it would refresh her recollection if she
25 heard her audio statement. And she first said no,

1 and then she said she didn't want to hear it, but
2 it obviously would refresh her memory --

3 THE COURT: Yeah, but in the future
4 though you should not make any reference to any
5 extrinsic statements without giving the witness the
6 opportunity to admit or refute.

7 MR. SMILEY: I apologize, Your Honor.

8 THE COURT: Yeah, because now you've
9 introduced to the jury that something exists that
10 they may not be able to hear or see.

11 MR. SMILEY: My apologizes.

12 THE COURT: Okay. See if you can
13 pinpoint where it's at.

14 MR. MCNEELY: Your Honor, while Mr.
15 Smiley is doing that, he has no problem with any of
16 the photos. I've premarked -- I've spent hours
17 pre-marking.

18 THE COURT: Tell me what numbers,
19 please.

20 MR. MCNEELY: I'm going to get with all
21 of them and make sure they --

22 THE COURT: Yeah. Why don't you do
23 that and then you-all can give me a list of numbers
24 and that'll make it easier for the court reporter
25 because then she can reconcile that.

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 (Brief pause)

2 (Defendant Mouzon left the courtroom.)

3 MR. SMILEY: Your Honor, I found the
4 small clip, and I'm going to play it for her to
5 refresh her memory.

6 THE COURT: That's fine.

7 MR. SMILEY: Ms. Snipe, I'm going to
8 play --

9 Court's permission to approach?

10 THE COURT: Yes, go ahead.

11 MR. SMILEY: Okay.

12 I'm going to play a small piece of your
13 audio tape in relation to the person that I -- the
14 question that I asked you about their height and
15 see if it refreshes your memory. Okay?

16 THE COURT: The record needs to reflect
17 that there are people absent from the courtroom --

18 MR. SMILEY: I'm sorry, I'm --

19 THE COURT: -- and you're going forward
20 in their absence. I don't know that it's required
21 that they be here for her to listen to it, but I
22 just need the record to be clear. You may
23 continue.

24 MR. SMILEY: For the record, I'm
25 refreshing her memory based off her audio

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 statement.

2 THE COURT: I just don't want a PCR
3 later for them to say they weren't here. So that's
4 the only reason I said that.

5 MR. SMILEY: Yes, ma'am.

6 THE COURT: You can proceed.

7 MR. SMILEY: Yes, ma'am.

8 (Audio played)

9 (Defendant Mouzon back in the
10 courtroom.)

11 BY MR. SMILEY:

12 Q. Does that refresh your memory?

13 A. Yes.

14 MR. SMILEY: Okay. Your Honor, I have
15 now refreshed her memory.

16 THE COURT: Thank you.

17 MR. SMILEY: I'm going to -- if you
18 will allow me, I'm going to rush to the restroom
19 myself.

20 THE COURT: Go right ahead.

21 MR. ALFARO: And just for
22 clarification, you have no objection.

23 MR. SMILEY: No objection.

24 MR. MCNEELY: Would Your Honor like to
25 address the photos now or --

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 THE COURT: I've got to wait until
2 everybody gets back. Is everybody here? Is that
3 everybody? All right. What are the numbers?

4 MR. MCNEELY: All right. We are
5 admitting by agreement State's 1 through 4, 5 and 6
6 were taken out because they were admitted by Mr.
7 Smiley; State's 7, 8, 9 and 10 were taken out
8 because they were admitted by Mr. Smiley.

9 THE COURT: Yeah. I just need to know
10 the numbers you're agreeing with.

11 MR. MCNEELY: State's 11 through 34; 35
12 was objected to, so we'll have to address it; 36
13 through 53, 56, 59, 61, 63, and 65 through 72.

14 THE COURT: That's all of them?

15 MR. MCNEELY: Do what?

16 THE COURT: That's all the photos
17 you've agreed on, or are there more?

18 MR. MCNEELY: That's one section.

19 THE COURT: Keep along.

20 MR. MCNEELY: 73, 74 is already in, 75
21 and 76, 77 through 84, 85 through 91, 92 through
22 101, and 96, 97 and 98 were previously admitted,
23 102 through 106, 107 to 111, 112 to 123, 125 to
24 127, 128 to 132, and 137 through 141 are all photos
25 that have been reviewed by defense counsel and are

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 agreed to. 35 would be the only exception.

2 THE COURT: Those are all the exhibit
3 numbers, correct?

4 MR. ALFARO: No, that's the photos.

5 THE COURT: No -- we're saying the same
6 thing.

7 MR. MCNEELY: Yes, those are all those
8 exhibits.

9 THE COURT: So as I understand it,
10 State's 1 through 4, 7, 11 through 34, 36 through
11 53, 56, 59, 61, 63, 65 through 72, 73, 75 through
12 76, 77 through 84, 85 through 91, 92 through 101,
13 102 through 106, 107 through 111, 112 through 123,
14 125 through 127, 128 through 132, and 137 through
15 141 have marked and admitted without objection.

16 MR. MCNEELY: Also 124.

17 THE COURT: And 124. Is that correct,
18 Mr. Thrower?

19 MR. THROWER: That's fine with me, Your
20 Honor.

21 THE COURT: Is that correct, Mr.
22 Smiley?

23 MR. SMILEY: Correct, Your Honor.

24 THE COURT: Mr. Smaldone?

25 MR. SMALDONE: That's correct.

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 THE COURT: Mr. Archer?

2 MR. ARCHER: Yes, Your Honor.

3 THE COURT: They will all be marked and
4 admitted without objection.

5 Do you need to see them, Denise or --

6 THE COURT REPORTER: I'm good, Judge.

7 Thank you.

8 (STATE EXH. 1-4, 7, 11-34, 36-53, 56,
9 59, 61, 63, 65-73, 75-132, 137-141 92-101, in
10 evidence.)

11 THE COURT: Okay. Can we resume the
12 witness's testimony?

13 MR. SMILEY: The defense is ready, Your
14 Honor.

15 THE COURT: Is the State ready?

16 MR. MCNEELY: We're ready, Your Honor.

17 THE COURT: Please bring in the jury.

18 (Jury in, 12:17 p.m.)

19 THE COURT: You may be seated. You may
20 proceed.

21 BY MR. SMILEY:

22 Q. Ms. Snipe, during that break we were
23 able to refresh your memory of your audio
24 statement?

25 A. Yes.

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 Q. Okay. And so I'm asking you the
2 question again. In your audio statement that you
3 gave the same day or the next day, close in time to
4 the detective, I asked you the question, did you
5 tell them that two of the fellows that stayed
6 outside were shorter than you?

7 A. Yes.

8 Q. Okay. And I believe you testified and
9 on that tape you said that two were standoffish and
10 never came inside, right?

11 A. Yes.

12 Q. Okay. So we've got one fellow that's
13 standing -- guarding you. We've got the one fellow
14 that came in and did the taping, right?

15 A. Yes.

16 Q. And took the TV, right?

17 A. Yes.

18 Q. And so -- and you believe there was a
19 third person that was also taking stuff out of your
20 house?

21 A. No; I know there was a third person.

22 Q. Okay. So a third person was taking
23 stuff out of your house. What did he -- did you
24 see him take?

25 A. He was in the kitchen and in the den,

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 so he was going through the boxes.

2 Q. Okay. So he took the boxes out?

3 A. That's -- the picture that you saw was
4 the shoes.

5 Q. Right. So he took out the boxes of
6 shoes?

7 A. Yes.

8 Q. Okay. I believe you testified that
9 they took your dirty laundry?

10 A. Correct.

11 Q. All right. So your home was somewhat
12 broken down because you were moving, right?

13 A. Yes.

14 Q. And they went in and were looking --
15 were they saying -- were they asking any questions?

16 A. No.

17 Q. Okay. So they didn't ask you where the
18 drugs were?

19 A. No.

20 Q. Okay. Did they ask you where the cash
21 was?

22 A. No.

23 Q. Okay. That Hello Kitty bag that you
24 gave to Kadeem, was this what he kept his drugs in?

25 A. Correct.

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 Q. And he had that in his hand that night
2 when you were walking into the house?

3 A. Yes.

4 Q. How many cell phones do you have?

5 A. Currently, or at that time?

6 Q. I don't care today. I'm talking about
7 when this incident happened two years ago.

8 A. The one that was working and one was in
9 the house --

10 Q. Okay. So you had the one -- the one
11 phone that you were using?

12 A. Correct.

13 Q. And then the flip phone in the house.
14 That's all the phones you had?

15 A. Correct.

16 Q. And how many phones did Kadeem have?

17 A. One.

18 Q. Just one. All right. Could you
19 describe it?

20 A. It was black.

21 Q. What kind of phone?

22 A. It was a Galaxy four.

23 Q. A Galaxy four. Okay. Now, the keys to
24 your car -- cars were on one key chain?

25 A. No, because they wouldn't be able to

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 drive apart. They were on separate key chains.

2 Q. So --

3 A. I had one set and Kadeem had one set;
4 the set that they took from me and the set that
5 they took from him.

6 Q. Okay. So the set that was used to get
7 into the house --

8 A. Was my set.

9 Q. Was your set.

10 A. Yes.

11 Q. Where was Kadeem's set?

12 A. They took his keys too.

13 Q. When?

14 A. When we pulled up the first time. I
15 made the statement that they took the keys.

16 Q. Did you hear both cars start up?

17 A. Correct.

18 Q. How long were you in the bedroom before
19 you were shot?

20 A. I can't give you no estimated time. I
21 want to say more than 30 minutes.

22 Q. Okay. More than 30 minutes. So this
23 -- this alleged robbery took a little bit?

24 A. Yeah.

25 Q. All right. How many shots?

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 A. Two. I mean, are you asking me a
2 question? I don't know who you're talking about.
3 Are you talking about all together or shots with me
4 or Kadeem?

5 Q. Okay. How many shots were fired that
6 night?

7 A. Three.

8 Q. Did they all come from the same gun?

9 A. No.

10 Q. More than one gun was fired at you?

11 A. There were two guns. One gun shot once
12 and the other gun shot twice.

13 Q. Okay. So the same person fired the two
14 guns?

15 A. Correct.

16 Q. And that would have been the person
17 that was standing at the door of the bedroom?

18 A. Correct.

19 Q. I'm sorry that this is difficult.

20 MR. SMILEY: I apologize, Your Honor.
21 I'll turn it down. I'm just trying to get some
22 information.

23 BY MR. SMILEY:

24 Q. Let's see, when -- I believe you
25 testified that you saw the gray car as it was

KRYSTAL SNIPE - CROSS EXAM BY MR. SMILEY

1 leaving?

2 A. Correct.

3 Q. And it took a right or a left?

4 A. There is no right or left; it's a
5 straight drive.

6 Q. Okay. So you saw it going down Martha
7 Lane. You didn't see it when it got out to
8 Charity?

9 A. Correct.

10 Q. The tape that was on your wrists, were
11 you able to get that off before you went to
12 Mr. Anderson's house or after?

13 A. Before.

14 Q. So you went over to the trailer of
15 Mr. Anderson. Were you knocking on the front door
16 first, or did you go to the window first?

17 A. I went to the window.

18 Q. Okay. And beat on it and nobody came?

19 A. Yes.

20 Q. Correct?

21 A. Correct.

22 Q. And then you went to the front door?

23 A. Yes.

24 Q. And nobody came to the front door?

25 A. No.

KRYSTAL SNIPE - REDIRECT EXAM BY MR. ALFARO

1 Q. And that's when you backtracked to your
2 house to get the other phone?

3 A. Yes.

4 MR. SMILEY: Beg the Court's
5 indulgence.

6 MR. ARCHER: I have no questions --

7 THE COURT: He's not done.

8 MR. SMILEY: I'm not done yet.

9 That's all I have.

10 THE COURT: Any redirect of the
11 witness?

12 MR. ALFARO: Yes, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. ALFARO:

15 Q. Krystal, I'm going to show you what was
16 admitted as Palmer's -- Defendant Palmer's Number
17 1.

18 THE COURT: I need her to turn the
19 other way. If you can, ma'am, turn your chair
20 around the way so the court reporter can hear you.
21 Thank you.

22 BY MR. ALFARO:

23 Q. On Palmer's Defendant Exhibit 1, Mr.
24 Smiley was asking you about what part of the
25 trailer this is?

KRYSTAL SNIPE - REDIRECT EXAM BY MR. ALFARO

1 A. Yes.

2 Q. And which door did they lead you in and
3 -- well, which door did they lead you in?

4 THE COURT REPORTER: I can't hear her,
5 Judge.

6 THE COURT: Yes. We can barely hear.

7 THE WITNESS: The one that's open.

8 BY MR. ALFARO:

9 Q. Can you point -- using that red button,
10 if you can point to that.

11 A. (Indicating)

12 Q. And what's that other door?

13 A. That's the sliding door.

14 Q. And you -- were you referring to that
15 as the front of the house that you came in?

16 A. Yes.

17 Q. And on that picture, can you point to
18 where the gray Crown Vic would have been parked?

19 A. Right here. (Indicating)

20 Q. And on that photograph, can you point
21 for the jury where the porch light is that you
22 testified about?

23 A. Right here. (Indicating)

24 Q. And was that light working that night?

25 A. Yes.

KRYSTAL SNIPE - REDIRECT EXAM BY MR. ALFARO

1 Q. I have one more picture. On State --
2 or Palmer's Defendant 2, which is -- if I can have
3 that pointer back. Is this -- do you recognize
4 what that is?

5 A. That's my bag.

6 Q. And where in relation to that purse was
7 the Crown Vic parked if you -- or the gray Crown
8 Vic parked?

9 A. It was right there. (Indicating)

10 Q. And the white one -- Kadeem pulled the
11 white one in behind that?

12 A. Yes.

13 Q. And can you point to where that would
14 have been, approximately?

15 A. Right here. (Indicating)

16 Q. Okay. You can turn back around.

17 On what's been admitted as State's 29
18 -- Mr. Smiley asked you on cross about whether you
19 were able to get the tape off of your wrists. Do
20 you recognize where this part of your house is on
21 the picture? You can look at that picture.

22 A. It's the front door that we went in.

23 Q. Is that the open door that you just
24 looked at in the last exhibit?

25 A. Yes.

KRYSTAL SNIPE - CROSS EXAM BY MR. ARCHER

1 THE COURT: What's that number?

2 MR. ALFARO: This one is State's 29.

3 Thank you. No further questions.

4 THE COURT: Ma'am, you may step down.

5 Who's the State's next witness?

6 MR. MCNEELY: Corinthian Green, Your

7 Honor.

8 THE COURT: Call the witness.

9 MR. ARCHER: Your Honor, I had cross
10 based on --

11 THE COURT: Ma'am, if you can retake
12 the stand. I'm going to give limited latitude;
13 it's direct, cross, redirect. Otherwise, it's
14 endless.

15 MR. ARCHER: Well, just two or three
16 questions.

17 THE COURT: I'm going to give you
18 latitude this time.

19 MR. ARCHER: Yes. Thank you, Judge.

20 THE COURT: You may proceed.

21 CROSS-EXAMINATION

22 BY MR. ARCHER:

23 Q. Mr. Smaldone, the fellow with the beard
24 over there, asked you about whether they were all
25 wearing black bandanas. And I think you said you

KRYSTAL SNIPE - CROSS EXAM BY MR. ARCHER

1 couldn't remember; is that right?

2 A. Correct.

3 Q. Huh?

4 A. Yes.

5 Q. Do you recall telling -- on the night
6 of the incident telling the police or EMS that all
7 five assailants were dressed in all black?

8 A. Yes.

9 Q. Okay. So you don't remember whether
10 the bandanas were all black, but the clothing of
11 the assailants, all of them were wearing black?

12 A. Correct.

13 Q. Huh?

14 A. Correct.

15 Q. Correct? Okay.

16 MR. ARCHER: Thank you. That's all I
17 needed.

18 THE COURT: Any redirect from the
19 State?

20 MR. ALFARO: No, Your Honor.

21 THE COURT: Ma'am, you may step down.
22 Call your next witness.

23 MR. MCNEELY: Your Honor, the State
24 calls Corinthian Green.

25 CORINTHIAN GREEN,

CORINTHIAN GREEN - DIRECT EXAM BY MCNEELY

1 being first duly sworn, testified as follows:

2 THE CLERK: Please be seated. State
3 your full name for the record and spell your last
4 name.

5 THE WITNESS: Corinthian Green. Last
6 name is G-R-E-E-N.

7 THE COURT: Could you spell your first
8 name as well, please?

9 THE WITNESS: Corinthian,
10 C-O-R-I-N-T-H-I-A-N.

11 THE COURT: Thank you. You may
12 proceed.

13 MR. MCNEELY: Thank you Your Honor.

14 DIRECT EXAMINATION

15 BY MR. MCNEELY:

16 Q. Deputy Green, where are you currently
17 employed?

18 A. Berkeley County Sheriff's Office.

19 Q. What is your position there and how
20 long have you been employed there?

21 A. My position there, I'm currently on the
22 community action team. I've been there since 2014,
23 at the Berkeley County Sheriff's Office.

24 Q. Please tell the jury a little bit about
25 your education and training.

CORINTHIAN GREEN - DIRECT EXAM BY MCNEELY

1 A. Prior to that I was in the United
2 States Marine Corps where I served ten years,
3 working on finishing up my bachelor's in criminal
4 justice as we speak.

5 Q. When you finished your bachelor's, did
6 you attend the South Carolina Law Enforcement
7 Academy?

8 A. Yes, sir, I did.

9 Q. And after graduating from the academy,
10 did you work with any other agencies other than the
11 Berkeley County Sheriff's Office?

12 A. Yes. Prior to that, I worked for the
13 South Carolina Department of Corrections.

14 Q. And then I believe you said you went to
15 the sheriff's office in 2014?

16 A. Yes, sir.

17 Q. Were you employed with the Berkeley
18 County Sheriff's Office during July of 2016?

19 A. Yes, sir, I was.

20 Q. What was your position with the
21 sheriff's office at that time?

22 A. Patrol deputy --

23 Q. What --

24 A. -- working on the north end of the
25 county.

CORINTHIAN GREEN - DIRECT EXAM BY MCNEELY

1 Q. When you say the north end of the
2 county, please explain what that means.

3 A. Berkeley County is divided into two
4 parts, you have the southern and the northern end.
5 The northern end starts at Oakley Road, Cross,
6 Huger, Jamestown, Bonneau, all the way up to the
7 Williamsburg County line.

8 Q. Is it fair to say that the north is
9 basically Moncks Corner towards Williamsburg
10 County?

11 A. Correct.

12 Q. And the south end is Goose Creek and
13 Hanahan, for lack of a better way to say it?

14 A. Yes, sir.

15 Q. Summerville, Sangaree?

16 A. Yes, sir.

17 Q. Okay. And you were assigned Oakley
18 Road and up, so the Moncks Corner, St. Stephen,
19 Huger area?

20 A. Correct.

21 Q. What were the duties of your position
22 at that time as a patrol deputy?

23 A. As a patrol deputy, it's a 12-hour
24 shift, answering calls, assisting motorists on the
25 side of the road, anything that we came in contact

CORINTHIAN GREEN - DIRECT EXAM BY MCNEELY

1 with, extra patrol of the community.

2 Q. Did you respond to emergency calls as
3 part of that duty?

4 A. Yes, sir, I did.

5 Q. Were you on duty and working as a
6 patrol deputy during the early morning hours of
7 Thursday, July 21st, 2016?

8 A. Yes, sir, I was.

9 Q. During that time were you dispatched to
10 a shooting incident at 135 Martha Lane in Huger?

11 A. Yes, sir, I was.

12 Q. Is that location in Berkeley County?

13 A. Yes, sir.

14 Q. Approximately, what time did you
15 receive the dispatch for that call to service?

16 A. That call was about, approximately,
17 3:15.

18 Q. Why were you dispatched to that
19 location?

20 A. I was dispatched for the shooting. I
21 was one of the closer units in Moncks Corner going
22 into the sheriff's office.

23 Q. Where were you when you received the
24 call?

25 A. Right on -- I turned right off of North

CORINTHIAN GREEN - DIRECT EXAM BY MCNEELY

1 Live Oak into the sheriff's office.

2 Q. So you were in town here?

3 A. Yes, sir, I was.

4 Q. Did you respond to the call at that
5 time?

6 A. Yes, sir, I did.

7 Q. About how far is that location, 135
8 Martha Lane, from the sheriff's office in Moncks
9 Corner?

10 A. About a 30-minute drive; regular speed,
11 30 minutes drive. If it's an emergency and
12 depending on the type of call, it could be anywhere
13 faster because of lights and sirens.

14 Q. Was this an emergency call that would
15 make it faster?

16 A. Yes, sir, it was.

17 Q. Please explain to the jury how you
18 started responding to that call in Huger.

19 A. I did a U-turn in the driveway. From
20 there, I made a left onto North Live Oak Drive,
21 went over the overpass where the old Uniroyal Belts
22 Tire was. From there, I proceeded north between 17
23 and 52 right at the Walgreen's.

24 From there, I came north over the Tail
25 Race Bridge, made a right onto 402. Once I made

CORINTHIAN GREEN - DIRECT EXAM BY MCNEELY

1 the right on 402, I proceeded right onto 402 and
2 continued down 402.

3 Q. Okay. During that time when you came
4 through town and made a right on 402, did you
5 receive any additional information about the
6 incident from dispatch?

7 A. Yes, sir, I did.

8 Q. What was that information?

9 A. They gave a vehicle description to be
10 on the look out for.

11 Q. And what was that description?

12 A. It was for a white Crown Victoria.

13 Q. Okay. So you received that information
14 while you're on 402; is that correct?

15 A. Yes, sir, I did.

16 Q. What happened after that?

17 A. While driving down 402, coming through
18 the intersection right at Copperhead, the Huger
19 State Park area, I saw vehicle lights in the
20 distance. During that time, I saw a pickup truck
21 and another vehicle closely following it.

22 And at that time when I saw it, it
23 appeared to be a light-colored vehicle. I asked
24 dispatch for the information back again.

25 Q. Okay. And when you asked dispatch for

CORINTHIAN GREEN - DIRECT EXAM BY MCNEELY

1 the information back again, have you passed the car
2 or is it still coming towards you?

3 A. When I -- it was coming towards me and
4 by the time she finished the information, it
5 already had passed me.

6 Q. Okay. Did you observe the vehicle when
7 it passed you?

8 A. Yes, sir, I did.

9 Q. What did you observe about the vehicle.

10 A. It was a white Crown Victoria, older
11 model; it was occupied. I could see the occupants,
12 at least about two occupants in the vehicle at the
13 time.

14 Q. Did you get a clear look at the
15 occupants?

16 A. I just knew that it was two people in
17 the vehicle, in the front seat, whenever I went
18 past. I couldn't make out anything else. I slowed
19 down whenever I got to that -- that's a deep
20 curve -- from running the lights and sirens.

21 So I had to slow down just to be able
22 to observe it. So going around that curve probably
23 about 80 miles per hour at that time.

24 Q. Were you able to observe the race when
25 you passed the vehicle?

CORINTHIAN GREEN - DIRECT EXAM BY MCNEELY

1 A. No, sir.

2 Q. What did you do when you saw that
3 vehicle?

4 A. I slammed on brakes and did a U-turn in
5 the middle of the highway.

6 Q. And where are you at this point?

7 A. Past Huger State Park, over the bridge,
8 right before Irishtown, at that time. Then I
9 proceed back towards the vehicle.

10 Q. I believe you mentioned you saw a
11 pickup truck?

12 A. Correct.

13 Q. How far apart when you first saw the
14 vehicles were the pickup truck and the white Crown
15 Vic?

16 A. They were about a car length or a half
17 car length. Usually -- so when I saw it, it's -- I
18 saw the two vehicles and then -- they were closely
19 following at 3:00 in the morning. When you see
20 vehicles, they're usually spaced out, especially on
21 a country road, but at that particular time they
22 were close.

23 Q. Did that seem suspicious to you?

24 A. Yes, sir.

25 Q. And then thereafter is when you passed

CORINTHIAN GREEN - DIRECT EXAM BY MCNEELY

1 and observed one to be a white Crown Victoria?

2 A. Correct.

3 Q. And after passing you pulled a U-turn;
4 is that correct?

5 A. Correct.

6 Q. What happened after you pulled a
7 U-turn?

8 A. Once I pulled the U-turn and came back
9 towards the vehicle, the white Crown Vic appeared
10 to be coming to a stop at the time in the middle of
11 the roadway. The vehicle that was in front of it I
12 didn't see at that time.

13 Q. So it was gone as far as you could
14 tell?

15 A. Yes, sir.

16 Q. What happened after that?

17 A. Once I got a close enough distance, I
18 saw a black male in the middle of the highway.

19 Q. Where was he in proximity to that white
20 Crown Victoria?

21 A. About six feet away from the vehicle.

22 Q. Did he appear to have come from the
23 white Crown Vic?

24 A. Yes, sir.

25 Q. What part of the Crown Vic did he

CORINTHIAN GREEN - DIRECT EXAM BY MCNEELY

1 appear to have come from?

2 A. I'm not sure what part. The back --
3 the back driver's side door was open. He was --
4 six -- six feet away from it in the middle of the
5 highway. When I saw him, it appeared that he
6 wanted to go to my left side of the highway.

7 And then, at that time, once I got
8 closer, he ran towards behind the back of the
9 vehicle into the wood line.

10 Q. Okay. And what side of the road was
11 that on?

12 A. That would be on my right-hand side.

13 Q. And at this point you're positioned
14 right behind the white Crown Victoria?

15 A. Correct.

16 Q. What did you do after you observed the
17 person run from the highway?

18 A. At that time I grabbed my patrol
19 weapon, I got out of my vehicle and started giving
20 commands to stop. From there, I made it to the
21 Crown Victoria to insure there was no one else in
22 the vehicle.

23 I took a small chase towards the
24 embankment, and then I paused from that moment in
25 time when I heard the footsteps running through the

CORINTHIAN GREEN - DIRECT EXAM BY MCNEELY

1 woods.

2 Q. Why did you pause at that moment in
3 time?

4 A. Because I was the only one on the scene
5 and it was dark in that tree line. That's the
6 Francis Marion Forest.

7 Q. So you were by yourself?

8 A. Correct.

9 Q. Was it your understanding that the
10 persons that may have been in that Crown Vic could
11 have been armed?

12 A. Yes, sir.

13 Q. What happened after that?

14 A. From that time, I took cover back
15 behind my vehicle until other units were -- arrived
16 on the scene.

17 Q. Did anyone come out of the woods at
18 that time?

19 A. No, sir.

20 Q. What happened next?

21 A. From there, once the other units
22 arrived, we all gathered at a certain point, then
23 K-9 was dispatched, and then all units started
24 cordoning off the area.

25 Q. Did you ever leave the roadway on 402

CORINTHIAN GREEN - DIRECT EXAM BY MCNEELY

1 and search into the woods or down any side roads at
2 that time?

3 A. No, sir.

4 Q. I want to show you what's been marked
5 and admitted as State's 139. Do you recognize that
6 area?

7 A. Yes, sir, I do.

8 Q. What area is that?

9 A. That's the Copperhead State Park area.

10 Q. Is that the area where we've been
11 discussing?

12 A. Yes, sir, it is.

13 Q. Please put State's Exhibit 139 up on
14 the screen. Deputy Green, there's a small
15 remote -- a small remote with a red button. That
16 red button is a laser pointer. I'm going to ask
17 you to use it.

18 A. Okay.

19 Q. Please look at the screen behind you,
20 Deputy Green. You have to turn the chair to your
21 left. If you could please with the laser pointer,
22 please indicate what direction initially you were
23 responding from.

24 A. When I was responding, I was responding
25 from this side of 402. (Indicating)

CORINTHIAN GREEN - DIRECT EXAM BY MCNEELY

1 Q. Okay. And that road that appears to go
2 from left to right and then take a turn towards the
3 bottom of the screen, what road is that?

4 A. This is highway 402.

5 Q. Okay. Where were you when you first
6 observed the pickup truck and white Crown Victoria
7 in close proximity?

8 A. Where was I?

9 Q. Where --

10 A. I had slowed down here. This is the
11 Huger State Park area. I was right about here
12 whenever I saw the vehicles. Right here is the
13 bridge. So right here is where there's an incline
14 coming into here.

15 As soon as I got to the bridge is where
16 I saw the headlights coming from vehicles from
17 there. (Indicating)

18 Q. Okay. Where did you pass them,
19 approximately?

20 A. Approximately, where I passed them is
21 right around this area right here. I'm slowing
22 down right around this area to do a U-turn.
23 (Indicating)

24 Q. Where did the white Crown Victoria stop
25 on 402?

CORINTHIAN GREEN - DIRECT EXAM BY MCNEELY

1 A. Approximately, right in this area here.

2 (Indicating)

3 Q. Okay. So on the bottom side of that
4 little waterway?

5 A. Correct.

6 Q. And where -- if possible, can you
7 indicate where the occupants or occupant that you
8 saw exiting the vehicle run into the woods?

9 A. On this side. (Indicating)

10 Q. And I believe you testified you never
11 went into the woods at that time?

12 A. No, sir.

13 Q. After other deputies arrived on the
14 scene, what did you do?

15 A. Whenever other deputies got on scene, I
16 stayed on 402. The K-9 officers did a track at
17 that time. I was still on the highway at that time
18 giving directions to where they were from the
19 roadway whenever they did their track, but I was
20 still on 402.

21 Q. What did you do after that?

22 A. After I did a track, I was sent back to
23 start on my report.

24 Q. Did you have any involvement further in
25 this matter after that point?

CORINTHIAN GREEN - DIRECT EXAM BY MCNEELY

1 A. Perimeter on the scenes later on that
2 following shift.

3 Q. When you say perimeter, what do you
4 mean?

5 A. So we were all sent back to the area.
6 Everybody had a different section of the highway to
7 patrol at that time. So we were still working
8 shifts and everybody had different areas to patrol
9 to be on the look out for the suspects at that
10 time.

11 Q. So you were looking for the suspects?

12 A. Correct.

13 Q. Where were you looking for them?

14 A. We were on roadways. I think when I
15 came back out, I was on -- the next day I was the
16 41 side of the roadway.

17 Q. Were you looking in the woods?

18 A. No, I didn't look in the woods. I was
19 set up at a break-down of two different roads.

20 Q. So you were patrolling the roads?

21 A. Correct.

22 Q. Were you looking for the people that
23 left the white Crown Victoria?

24 A. Correct.

25 Q. Look back up at State's 139. There are

CORINTHIAN GREEN - DIRECT EXAM BY MCNEELY

1 several other roads on there. Do you recognize
2 either of those roads running off of 402?

3 A. Yes, sir.

4 Q. What are those roads?

5 A. The Copperhead, Irishtown Road, and
6 Yellow Jacket.

7 Q. Can you use the laser pointer to
8 indicate where Irishtown Road is? Run it along, if
9 possible.

10 A. Okay. Here. And Irishtown Road cuts
11 back over to 41. (Indicating)

12 Q. And what road is Yellow Jacket?

13 A. Yellow Jacket is another road that runs
14 off of Irishtown Road.

15 Q. Can you describe those roads? And what
16 I mean by that, are they paved roads like 402 or
17 are they different?

18 A. They are different. They're more of a
19 forestry road. The Irishtown Road has a small
20 bridge with big potholes in it. It's just a
21 forestry road. Sometimes have to use a four-wheel
22 drive. If it's raining, you might not be able to
23 get through those in a two-wheel drive vehicle.

24 Q. Okay. So they're not highly traveled
25 highways?

CORINTHIAN GREEN - DIRECT EXAM BY MCNEELY

1 A. Correct.

2 Q. I want to show you what's been marked
3 and admitted as State's 78 through 84.

4 MR. MCNEELY: Permission to approach,
5 Your Honor?

6 THE COURT: Yes, sir.

7 BY MR. MCNEELY:

8 Q. Please look through those photos. Do
9 you recognize those, Deputy Green?

10 A. Yes, sir, I do.

11 Q. Okay. What are those photos of?

12 A. Those are pictures of where I stopped
13 the vehicle at early in the morning when the light
14 came up.

15 Q. Can you put up State's Exhibit 78?
16 Deputy Green, if you'll turn around and look at the
17 screen. Is your vehicle pictured here?

18 A. Yes, sir.

19 Q. Which is your vehicle?

20 A. The Chevy Tahoe right here, sir.

21 (Indicating)

22 Q. And what's the vehicle immediately in
23 front of you?

24 A. The Crown Victoria.

25 Q. It looks like in the photo that the

1 taillights are on; is that accurate?

2 A. Yes, sir.

3 Q. So when the people fled from the
4 vehicle, did they leave it running?

5 A. Yes, sir, they did.

6 Q. Where is Copperhead Road in relation to
7 that photo?

8 A. Copperhead Road is right past the
9 bridge, right where the yellow sign is, off to the
10 right-hand side. (Indicating)

11 Q. So originally you were travelling in
12 the direction of the vehicle we can see coming
13 towards us?

14 A. Correct. I was coming in this
15 direction right where this Tahoe is.

16 Q. Is the white Crown Victoria stopped in
17 the direction it was originally travelling when you
18 saw it?

19 A. Yes, sir, it is.

20 Q. State's 79, please. Is that just a
21 closer up photo?

22 A. Yes, sir, it is.

23 Q. 80, please. Is that the front of the
24 Crown Victoria?

25 A. Yes, sir, it is.

CORINTHIAN GREEN - DIRECT EXAM BY MCNEELY

1 Q. 81, please. Is that the side of it?

2 A. Yes, sir.

3 Q. Do you know what that is on the ground
4 beside it?

5 A. Yes, sir.

6 Q. What is that on the ground?

7 A. A bandana.

8 Q. Did you collect that?

9 A. No, sir, I didn't.

10 Q. 82, please. What is that?

11 A. It's the same bandana.

12 Q. Did you observe that on the roadway
13 after the vehicle stopped?

14 A. Not as soon as the vehicle stopped, but
15 whenever I ran to the side and was walking back,
16 shining around, I noticed it on the side of the
17 vehicle.

18 Q. You didn't place it there?

19 A. No, sir.

20 Q. 83, please. What is that?

21 A. The same thing, closer -- closer up.

22 Q. Can you put 78 back up, please?

23 Looking at this photo, please describe, if shown,
24 where the area you saw the occupant of the vehicle
25 coming from when --

CORINTHIAN GREEN - CROSS EXAM BY THROWER

1 A. When I pulled up, he was in this area,
2 about six, seven, and then he came here, and then
3 came around the back of the vehicle into the wood
4 line. When I got out of my vehicle, I checked on
5 this side of the vehicle and then ran around to
6 about right here.

7 And then I heard the footsteps going
8 off into the distance, and that's when I got cover
9 back to this way behind my vehicle.

10 Q. Were all the doors shut when you got
11 out from the vehicle?

12 A. No, sir. This back passenger door was
13 wide open.

14 Q. Did you shut it?

15 A. No, sir.

16 Q. Somebody did though?

17 A. Yes, sir.

18 MR. MCNEELY: Nothing further at this
19 time.

20 THE COURT: Mr. Thrower?

21 MR. THROWER: Thank you, Your Honor.

22 THE COURT: You're welcome.

23 CROSS-EXAMINATION

24 BY MR. THROWER:

25 Q. Deputy Green, do you remember much

CORINTHIAN GREEN - CROSS EXAM BY THROWER

1 about the pickup truck that was ahead of the Crown
2 Vic?

3 A. All I can remember, it was a darker
4 pickup truck.

5 Q. Was it a full size, mid size?

6 A. About a -- what would be -- what would
7 you consider a full size.

8 Q. Like an F-150?

9 A. Yes, sir.

10 Q. Okay. So it was a full-size pickup
11 truck. Could you see how many occupants were in
12 that vehicle?

13 A. No, sir.

14 Q. Okay. And you think there were two in
15 the Crown Vic?

16 A. Yes, sir.

17 Q. And that Crown Vic looks like one of
18 those resold police cars?

19 A. Yes, sir. On the F-150, whenever it
20 passed by, it was darker tint to whatever reason.
21 On the Crown Vic, it was a little lighter.

22 Q. Oh, so you got some back lighting on
23 the Crown Vic and you could see how many occupants
24 were in there?

25 A. Whenever -- so the distance between

CORINTHIAN GREEN - CROSS EXAM BY MR. SMALDONE

1 them -- whenever the Crown Vic came up and my
2 headlights shined on them, I had my bright lights
3 on it at the moment in time just to make sure I
4 didn't pass the vehicle, and --

5 Q. Oh, I see. Okay. Got you?

6 A. Yes, sir.

7 MR. THROWER: Okay. Thank you very
8 much.

9 MR. ARCHER: I have no questions, Your
10 Honor.

11 THE COURT: Mr. Smaldone?

12 CROSS-EXAMINATION

13 BY MR. SMALDONE:

14 Q. I just want to clarify a few things
15 very briefly because I'm hungry. So you think
16 there were two occupants in the white Crown Vic?

17 A. Yes, sir.

18 Q. All right. Did you see what the -- I'm
19 a little confused. So you passed the Crown Vic,
20 right?

21 A. Correct.

22 Q. You're going one way, the Crown Vic is
23 going the other?

24 A. Yes.

25 Q. Then you looped around so that you were

CORINTHIAN GREEN - CROSS EXAM BY MR. SMALDONE

1 behind the Crown Vic?

2 A. Correct.

3 Q. Once you were behind it, was it already
4 stopped?

5 A. Yes, sir.

6 Q. All right. And that's when you only
7 saw one person?

8 A. Correct.

9 Q. All right. And the one person you saw
10 was a black male?

11 A. Correct.

12 Q. And you're not sure that -- before you
13 saw that, you're not sure that there were two in
14 there; you think there were at least two, right?

15 A. Yeah. When I looked at it, I had the
16 silhouette. Whenever I -- I saw two -- two bodies
17 inside the vehicle.

18 Q. Okay.

19 A. So I didn't know what description it
20 was until I saw that one individual in the street.

21 Q. Right. And that individual in the
22 street you didn't see him with the bandana, did
23 you?

24 A. No, sir, I didn't.

25 Q. And you didn't see him drop the bandana

1 or anything?

2 A. No, sir, I didn't.

3 Q. You just know that it was found later
4 on, right?

5 A. Yes, sir.

6 Q. All right.

7 A. No. It was found whenever I took chase
8 and I walked back with my flashlight, when I had my
9 flashlight in hand, I saw it there by the vehicle
10 when I was walking back.

11 Q. Right. Right.

12 A. Yes, sir.

13 Q. And that's kind of what I meant, you
14 just --

15 A. Yes, sir.

16 Q. Okay. We're on the same page.

17 MR. SMALDONE: I don't have any further
18 questions for you. Thank you.

19 THE COURT: Mr. Smiley?

20 CROSS-EXAMINATION

21 BY MR. SMILEY:

22 Q. Lights and sirens on?

23 A. Yes, sir.

24 Q. Were they on the entire time you were
25 on 402?

CORINTHIAN GREEN - CROSS EXAM BY MR. SMILEY

1 A. Yes, sir.

2 Q. Did you have a video camera in your
3 car?

4 A. No, sir, not at that time I didn't.

5 Q. You didn't -- now you do, but you
6 didn't two years ago?

7 A. Yes, sir.

8 Q. Okay. The pickup truck --

9 A. Yes, sir.

10 Q. -- you said it appeared it had tinted
11 windows?

12 A. Yes, sir.

13 Q. Okay. You weren't able to establish
14 its color?

15 A. All I know it was a dark vehicle.

16 Q. Yeah. You were looking for a white
17 Crown Vic, right? And you noticed it was close to
18 a pickup truck, and you're guessing they were
19 together, you don't know for a fact; is that fair
20 to say?

21 A. Yes, sir.

22 Q. Okay. When you spun around --

23 A. Correct.

24 Q. -- in your rearview, could you still
25 see the white Crown Vic, or had it gone around the

1 corner?

2 A. No, I saw it the whole -- whenever I
3 spun around, I looked through this mirror, and from
4 that time when I made my left-hand turn, I was
5 still in view of it the --

6 Q. Okay. That's what I'm -- I didn't know
7 whether you lost sight for a minute or not.

8 A. Yes, sir.

9 Q. So you saw it put on brakes?

10 A. Yes, sir.

11 Q. Was it abrupt or slow or --

12 A. No, sir. When I turned it around, I
13 saw the lights on it, so I had that light.

14 Whenever I made the turn and I got back up to it,
15 and then I realized that it slowed down and it was
16 stopped in the middle of the road with the lights.

17 So I saw the bright flicker when I did
18 make the turn for the brief turn when I did it, and
19 then I slung it in reverse, and I saw it off in the
20 distance. I still saw -- I still saw it.

21 On a Crown Victoria sometimes, you get
22 the -- the lights go brighter, and you might not be
23 able to tell exactly if it's stopping or slowing
24 down at that moment in time.

25 Q. Okay. I think what I got out of that

CORINTHIAN GREEN - CROSS EXAM BY MR. SMILEY

1 is the Crown Vic hadn't stopped when you turned
2 around?

3 A. Correct.

4 Q. And that it stopped once you were
5 heading back towards it?

6 A. Correct.

7 Q. Okay. And you saw one person?

8 A. Yes, sir.

9 Q. And I believe your description is that
10 he had black pants and a white T-shirt?

11 A. Yes, sir.

12 Q. And he was about 5, 7?

13 A. Yes, sir.

14 Q. And that's -- was a pretty quick look,
15 right?

16 A. Yes, sir.

17 Q. You didn't see anybody else?

18 A. Correct.

19 Q. You said that the person darted left,
20 went into the woods right?

21 A. Yes, sir.

22 Q. And you heard them, right?

23 A. Yes, sir.

24 Q. You didn't see them, but you heard
25 them, right?

CORINTHIAN GREEN - REDIRECT EXAM BY MR. MCNEELY

1 A. Yes, sir.

2 Q. You heard one person?

3 A. Yes, sir.

4 Q. And I know you were a Marine, but
5 that's a swampy place, isn't it?

6 A. It is.

7 Q. With the BOLO of armed and dangerous,
8 it was in your best interest to just secure the
9 scene at that point?

10 A. Yes, sir.

11 MR. SMILEY: That's all I've got.

12 THE COURT: Any redirect?

13 MR. MCNEELY: Just briefly, Judge.

14 THE COURT: You may proceed.

15 REDIRECT EXAMINATION

16 BY MR. MCNEELY:

17 Q. I believe you testified that you saw
18 two occupants in the white Crown Vic?

19 A. Yes, sir.

20 Q. Where were those occupants?

21 A. In the front two seats.

22 Q. Could you see in the back seat?

23 A. No, sir.

24 Q. Can you say one way or the other
25 whether there were occupants in the back seat at

1 that time?

2 A. No, sir.

3 Q. So there could have been?

4 A. Yes, sir.

5 Q. Was the -- was it -- one of the doors

6 was open when the vehicle stopped?

7 A. Yes, sir, it was.

8 Q. Was it the front door or the back door?

9 A. The back door.

10 Q. So you saw two people in the front of
11 the vehicle?

12 A. Yes, sir.

13 Q. And then the back door was open?

14 A. Yes, sir.

15 Q. Did you assume somebody exited the back
16 door?

17 A. Yes, sir.

18 Q. So that would be more than two,
19 correct?

20 A. Yes, sir.

21 MR. MCNEELY: Okay. No further
22 questions.

23 THE COURT: Any exception to the
24 witness being excused? From the State?

25 MR. MCNEELY: No, Your Honor.

1 THE COURT: Mr. Thrower?

2 MR. THROWER: No, ma'am.

3 THE COURT: Mr. Smiley?

4 MR. SMILEY: No, ma'am.

5 THE COURT: Mr. Smaldone?

6 MR. SMALDONE: No, Your Honor.

7 THE COURT: Mr. Archer?

8 MR. ARCHER: No.

9 THE COURT: Sir, you're excused.

10 Mr. Foreman, ladies and gentlemen,
11 we're going to take advantage of this break in
12 testimony to take our lunch recess. It's 12:52; so
13 you'll have about an hour and eight minutes for
14 lunch. We'll resuming at 2:00 o'clock.

15 During the break, please do not discuss
16 the case among yourselves or with anyone else.
17 Please don't have any contact with anyone in or
18 about the courthouse as you return. Do not watch,
19 read, or listen to any media accounts if there are
20 any, and don't do any independent research on the
21 internet.

22 If you will leave your notepads in your
23 seat, we'll see you at 2:00. Have a good lunch.

24 (Jury out, 12:53 p.m.)

25 THE COURT: You may be seated.

1 Anything from the State before we break for lunch?

2 MR. ALFARO: No, Your Honor.

3 THE COURT: Anything from the defense,
4 Mr. Thrower?

5 MR. THROWER: No, ma'am.

6 THE COURT: Anything from the defense,
7 Mr. Smiley?

8 MR. SMILEY: No, ma'am.

9 THE COURT: Anything from Mr. Smaldone?

10 MR. SMALDONE: No, Your Honor.

11 THE COURT: Mr. Archer?

12 MR. ARCHER: No, ma'am.

13 THE COURT: Have a good lunch. See you
14 at 2:00. You can leave your stuff where it's at.

15 (A luncheon recess transpired.)

16 THE COURT: You may be seated. Is the
17 State ready to proceed?

18 MR. ALFARO: Yes, Your Honor.

19 THE COURT: Is the defendant ready to
20 proceed?

21 MR. THROWER: Yes, Your Honor.

22 MR. SMILEY: For Mr. Palmer, yes,
23 ma'am.

24 MR. SMALDONE: Grant Smaldone is ready
25 to proceed.

1 MR. ARCHER: Yes, ma'am.

2 THE COURT: Who is the State's next
3 witness?

4 MR. ALFARO: Timothy Ham.

5 THE COURT: Is he in the courtroom
6 already?

7 MR. MCNEELY: He's out back, Your
8 Honor.

9 THE COURT: You need to go ahead and
10 get him.

11 (Brief pause)

12 THE COURT: Please be seated. Call the
13 jury.

14 (Jury in, 2:05 p.m.)

15 THE COURT: Please be seated.
16 Call your next witness.

17 MR. ALFARO: Tim Ham.

18 TIMOTHY HAM,

19 being first duly sworn, testified as follows:

20 THE CLERK: Please be seated. State
21 your full name for the record and spell your last
22 name.

23 THE WITNESS: Timothy Ham, H-A-M.

24 THE COURT: You may proceed.

25 MR. MCNEELY: Thank you, Your Honor.

TIMOTHY HAM - DIRECT EXAM BY MR. MCNEELY

1 THE COURT: You're welcome.

2 DIRECT EXAMINATION

3 BY MR. MCNEELY:

4 Q. Where are you currently employed,
5 Deputy Ham?

6 A. Berkeley County Sheriff's Office.

7 Q. What is your position there, and how
8 long have you been employed there?

9 A. I've been here for five years. I'm a
10 CAT team manager, Community Action Team.

11 Q. Please, describe your education and
12 training.

13 A. I was in the military and some college
14 and high school.

15 Q. Did you attend the South Carolina Law
16 Enforcement Academy?

17 A. Yes, sir, I did.

18 Q. When did you graduate from there?

19 A. 2013.

20 Q. Did you get a job after that in law
21 enforcement?

22 A. Yes, sir. Yes, sir, here at the
23 Berkeley County Sheriff's Office.

24 Q. And have you been with them since that
25 time?

TIMOTHY HAM - DIRECT EXAM BY MR. MCNEELY

1 A. I have, yes, sir.

2 Q. Okay. And so you were employed with
3 Berkeley County Sheriff's Office during July of
4 2016?

5 A. Yes, sir, I was.

6 Q. What was your position at that time?

7 A. I was still on the CAT team.

8 Q. What is the CAT team? Explain that a
9 little bit.

10 A. It's Community Action Team. We do --
11 we basically handle problems at a neighborhood
12 basis rather than the whole county basis.

13 Q. Okay. Were you on duty and working
14 during the early morning hours of Thursday,
15 July 21st, 2016?

16 A. No, sir, I wasn't.

17 Q. During that time were you called on
18 duty and dispatched to assist with a shooting
19 incident that occurred at 135 Martha Lane in Huger?

20 A. Yes, sir, I was.

21 Q. How were you called in on duty?

22 A. I believe Sergeant Pittsburger called
23 me and said come -- they needed help with the
24 perimeter.

25 Q. Approximately, what time did you

TIMOTHY HAM - DIRECT EXAM BY MR. MCNEELY

1 receive that call?

2 A. I believe it was like three to four in
3 the morning.

4 Q. What did you do after that?

5 A. I responded to 402 where the vehicle
6 was stopped.

7 Q. So when you responded, you knew that
8 they had a vehicle on 402?

9 A. Yes, sir.

10 Q. And you went to that location?

11 A. Yes, sir, I did.

12 Q. What did you observe when you arrived?

13 A. There was multiple deputies on the
14 scene, and I pulled in, and they had us -- they had
15 us go on perimeter.

16 Q. I want to show you what's been marked
17 as State's 78 through 80 that have been admitted.

18 State's Exhibit 78, do you recognize
19 that photo?

20 A. Yes, sir.

21 Q. What is in that photo?

22 A. A white Crown Vic.

23 Q. Is that the area that you responded to
24 on 402 on the morning of July 31st, 2016?

25 A. Yes, sir.

TIMOTHY HAM - DIRECT EXAM BY MR. MCNEELY

1 Q. Okay. What did you do after getting to
2 the location? You can come back around, Deputy.

3 A. All right, sir. They had us go on
4 perimeter and check for evidence and see if we
5 could see anybody.

6 Q. Okay. Please put up State's 139.

7 Deputy Ham, if you could look at what's
8 been admitted as State's 139. Do you recognize
9 what's depicted in that?

10 A. Yes, sir.

11 Q. Okay. What is that area?

12 A. That's the area where the vehicle was
13 stopped.

14 MR. MCNEELY: Okay. Permission to
15 approach, Your Honor.

16 THE COURT: You may.

17 BY MR. MCNEELY:

18 Q. Deputy Ham, this is a laser pointer; if
19 you'll just hit the red button.

20 If shown on the photo, can you indicate
21 the general area where the white Crown Victoria was
22 located on 402?

23 A. I believe it was like right around
24 here.

25 Q. And after observing that vehicle, what

TIMOTHY HAM - DIRECT EXAM BY MR. MCNEELY

1 did you do?

2 A. We set up perimeter, and I went down
3 Irishtown and went down to Yellow Jacket.

4 Q. Okay. You mentioned Irishtown and
5 Yellow Jacket. If shown on the map, can you
6 indicate where Irishtown is?

7 A. (Complies)

8 Q. And where is Yellow Jacket?

9 A. (Indicating)

10 Q. Okay. So after being on 402 you went
11 down, I believe you said Irishtown, and then took a
12 left there on Yellow Jacket?

13 A. Yes, sir, that's correct.

14 Q. What was the purpose of you doing that?

15 A. To try to set up perimeter and get
16 around -- if we could find -- basically, just
17 trying to get around and surround the -- anybody
18 who was in the woods or the wooded area.

19 Q. Irishtown and Yellow Jacket, can you
20 describe those roadways for the jury, please? Are
21 they like 402 or are they different?

22 A. No, they're different. They're -- it's
23 a forestry road, a lot of them. Some of them have
24 rock on them and some of them is just -- just dirt.

25 Q. Okay. Did you walk down Irishtown and

TIMOTHY HAM - DIRECT EXAM BY MR. MCNEELY

1 Yellow Jacket or were you in your patrol vehicle?

2 A. I was in my patrol car.

3 Q. Can you describe the lighting at the
4 time you were on those roads?

5 A. Yes, sir. It was dark.

6 Q. Okay. Still early in the morning?

7 A. Yes, sir, really early in the morning.

8 Q. So what were you doing when you drove
9 down Irishtown and Yellow Jacket?

10 A. Just seeing if anything moved. I was
11 driving up and down with my spotlight on trying to
12 illuminate the wooded area.

13 Q. Did you see anything of note with your
14 spotlight while you were driving on Irishtown or
15 Yellow Jacket?

16 A. On Yellow Jacket I did, sir.

17 Q. Okay. Can you indicate, if shown, the
18 area that you're referencing?

19 A. It was right around this area, sir.
20 (Indicating)

21 Q. Okay. Is that sort of parallel to the
22 area of 402 where the white Crown Vic was
23 abandoned?

24 A. Yes, sir.

25 Q. So directly through the woods?

TIMOTHY HAM - DIRECT EXAM BY MR. MCNEELY

1 A. Yes, sir.

2 Q. What did you observe of note on Yellow
3 Jacket in that area?

4 A. I found a black hoodie.

5 Q. Where was it?

6 A. It was hanging in the trees just down
7 -- down the -- like off the road.

8 Q. And that was on Irishtown or Yellow
9 Jacket?

10 A. Yellow Jacket, sir.

11 Q. Did you observe anything else at that
12 time?

13 A. I did not at that time.

14 Q. Okay. What did you do when you
15 observed the black hoodie sweatshirt?

16 A. I called for a sergeant and forensics.

17 Q. Did you get out of your vehicle at that
18 time?

19 A. No, sir. I just sat there and waited
20 for them to get there.

21 Q. Okay. What did you do after they
22 arrived on the scene?

23 A. I pointed out that I found a black
24 hoodie and they -- forensics came and collected it.

25 Q. Okay. What did you do while they were

1 collecting the hooded sweatshirt?

2 A. Was continuing to still look around,
3 and I found a rifle.

4 Q. Okay. What kind of rifle?

5 A. AK-47.

6 Q. How far away from the location of the
7 hooded sweatshirt did you find the rifle?

8 A. It was just off the road. It wasn't
9 that far away from it.

10 Q. Can you describe that distance in
11 yards, generally?

12 A. It wasn't that far. It was probably
13 four or five yards.

14 Q. Okay. So less than 20 feet?

15 A. Yes, sir, absolutely.

16 Q. And where on the map, can you indicate
17 where those items were located?

18 A. Right around this area. (Indicating)

19 Q. On which side of Yellow Jacket, the
20 left or right, as we look at the screen?

21 A. On the right side, sir.

22 Q. Okay. Thank you. So if you ran
23 through the woods from 402 to Yellow Jacket, you
24 would have to cross Yellow Jacket to get to the
25 location where the items were found?

TIMOTHY HAM - DIRECT EXAM BY MR. MCNEELY

1 A. That's correct.

2 Q. You can turn around, Deputy Ham.

3 I want to show you what's been admitted
4 as State's 86, 87, 88 and 90.

5 MR. MCNEELY: Permission to approach,
6 Your Honor?

7 THE COURT: You may.

8 BY MR. MCNEELY:

9 Q. Take look at those photos.

10 A. Yes, sir.

11 Q. Do you recognize what's depicted in
12 those?

13 A. Yes, sir.

14 Q. What is depicted in those photos?

15 A. The gun and the hoodie and my vehicle.

16 Q. Okay. The items you located on Yellow
17 Jacket?

18 A. Yes, sir, that's correct.

19 Q. State's Exhibit 86. I'll ask you to
20 look with the laser pointer again.

21 A. Yes, sir.

22 Q. What is depicted in this photo for the
23 jury?

24 A. The side of the road over at Yellow
25 Jacket.

TIMOTHY HAM - DIRECT EXAM BY MR. MCNEELY

1 Q. And as we look at this photo, where is
2 Highway 402?

3 A. It's going to be -- as I stopped my
4 car, it's going to be directly behind me -- well,
5 actually looking at it from my car it'd be to the
6 right.

7 Q. Okay. So you came down Irishtown and
8 up Yellow Jacket, and we're looking back at your
9 car down Yellow Jacket?

10 A. Yes, sir, that's correct. And
11 Irishtown would be behind me.

12 Q. Okay. And that's your car in the front
13 there?

14 A. Yes, sir.

15 Q. Where, if shown in this photo, is the
16 sweatshirt that you saw?

17 A. Down this way. (Indicating)

18 Q. Okay. Our next photo I believe is 87.
19 What are we looking at here?

20 A. The wooded area and the sweatshirt.

21 Q. 88, please. What is that?

22 A. That's the sweatshirt hanging from the
23 tree, sir.

24 Q. And I believe you said you didn't
25 collect that sweatshirt, you called --

TIMOTHY HAM - DIRECT EXAM BY MR. MCNEELY

1 A. No, sir, I did not. I didn't touch it,
2 sir.

3 Q. Okay. So after you called forensics to
4 come collect the sweatshirt, what did you do?

5 A. I continued looking around and that's
6 when I located the rifle.

7 Q. Okay. The next photo, please. I
8 believe it's 89. What is that a photo of?

9 A. That's the rifle, sir.

10 Q. Okay. And 90, please. And that -- is
11 that photograph as you found it on the ground?

12 A. Yes, sir, we didn't touch it. I didn't
13 touch. I was letting -- forensics was there so
14 they collected it.

15 Q. And you stated it was about five yards
16 down the -- actually, go back to 86.

17 I believe you indicated that the
18 sweatshirt was generally off to the side of your
19 vehicle?

20 A. Yes, sir.

21 Q. Where would have the rifle been located
22 relative --

23 A. It would have been back here some.
24 (Indicating)

25 Q. So just down a little ways?

TIMOTHY HAM - DIRECT EXAM BY MR. MCNEELY

1 A. Yes, sir, just down a little ways.

2 Q. Okay. Thank you. All right, Deputy
3 Ham you can turn back around.

4 And I believe you may have touched on
5 this, but you didn't collect either of those items?

6 A. No, sir.

7 Q. You let forensics do that?

8 A. Yes, sir.

9 Q. What did you do after you had located
10 all the items and called forensics to collect them
11 on Yellow Jacket?

12 A. After -- we were still on perimeter,
13 but we kept getting calls about, they had sightings
14 like over at Eccles Church.

15 Q. Where is Eccles Church -- and I'm
16 asking generally, I'm not asking you a direct
17 coordinate in -- relative to that area?

18 A. It's -- I'm not exactly sure how many
19 miles, but it's a little hike.

20 Q. Okay. Did you go over to the area of
21 Eccles Church at that time?

22 A. I did, yes, sir. Yes, sir.

23 Q. What did you do when you arrived at
24 Eccles Church?

25 A. When I first arrived, we -- there's an

TIMOTHY HAM - DIRECT EXAM BY MR. MCNEELY

1 old church out front. We cleared it to make sure
2 nobody was in it or under it, and then we cleared
3 the other church. And then we started looking for
4 evidence that somebody was there.

5 Q. Roughly speaking, how many hours had
6 passed by this time from when you got the call?

7 A. From when we got the call to when we
8 were there?

9 Q. At Eccles Church.

10 A. It was maybe 30 minutes, an hour. It
11 wasn't long.

12 Q. Are you positive about that, or do you
13 recall?

14 A. Well, when we got -- when we got the
15 call, we were on Yellow Jacket, and we went
16 straight there.

17 Q. Oh, okay. So it was 30 minutes after
18 you left Yellow Jacket to when you went to Eccles
19 Church?

20 A. Yes, sir, that's correct.

21 Q. Okay.

22 A. If that. We were -- we were rolling to
23 get there.

24 Q. How long was it after you got the call
25 at your house until when you arrived at Eccles

1 Church?

2 A. Oh, goodness.

3 Q. Would it be fair to say it was several
4 hours?

5 A. Yes, sir. Yes, sir, a couple of hours.
6 Yes, sir.

7 Q. Okay. So after arriving at the church
8 I believe you mentioned you cleared the building?

9 A. Yes, sir. We cleared the building and
10 then we started working our way back, myself and
11 Sergeant Pittsinger. And we cleared the church
12 that's there and checked the -- there's a cemetery
13 right behind it; we checked that also.

14 Q. And what is the reason you responded to
15 that location?

16 A. They spotted the individuals we were
17 looking for.

18 Q. Okay. And so you had reason to believe
19 they were in that area?

20 A. Yes, sir, we did.

21 Q. Did you search the wooded area behind
22 the church at that time?

23 A. Yes, sir.

24 Q. Okay. Did you locate anything of note
25 at that time?

TIMOTHY HAM - DIRECT EXAM BY MR. MCNEELY

1 A. I did. I was searching around --
2 around the outside of the building and the wooded
3 area to the left of the building, and I located a
4 bag.

5 Q. Okay. What kind of bag?

6 A. It's a little Hello Kitty bag, a red
7 Hello Kitty bag.

8 Q. Did it stick out to you for any reason
9 at that time?

10 A. Yes.

11 Q. Why?

12 A. It was just bright and it seemed out of
13 place.

14 Q. Okay. I'll show you what's been
15 admitted as State's Exhibit 157. Does this look
16 like that bag?

17 A. Yes, sir, it does.

18 Q. Where did you locate this?

19 A. If you're at the -- not the original
20 church, but the church behind it, to the left of
21 the church.

22 Q. Okay. I'm going to show you some
23 photos that have been admitted as State's
24 Exhibits 112 through 121. If you could please put
25 112 up. And you can turn around with the laser

1 pointer.

2 Do you recognize what's depicted there?

3 A. Yes, sir.

4 Q. Please describe it for the jury.

5 A. This is Eccles Church. This is the old
6 church that's out front, and then there's the newer
7 of the two, and then the cemetery is behind it.

8 Q. Okay. The next photo will be State's
9 113. Is that just a different angle of the same
10 thing?

11 A. Yes, sir, that's correct.

12 Q. And next photo, please, will be State's
13 114. What is that?

14 A. That's the newer church and there's the
15 cemetery in the back.

16 Q. Okay. State's 115. Closer up to the
17 cemetery?

18 A. Yes, sir.

19 Q. State's 116, please. What is this
20 area?

21 A. This is the front left-hand side of the
22 church.

23 Q. Okay. State's 117, please. What is
24 this?

25 A. This is close to the area I found the

TIMOTHY HAM - DIRECT EXAM BY MR. MCNEELY

1 bag.

2 Q. Is that area shown?

3 A. Yes, sir.

4 Q. Okay. Can you please indicate it for
5 me?

6 A. (Indicating)

7 Q. State's 118. Closer up?

8 A. Yes, sir.

9 Q. State's 119.

10 A. (Indicating) Right there.

11 Q. What you've indicated with the laser
12 pointer, is that the Hello Kitty bag?

13 A. Yes, sir.

14 Q. State's 120. Same photo?

15 A. Yes, sir.

16 Q. And State's 121. Is that the Hello
17 Kitty bag?

18 A. Yes, sir, it is.

19 Q. Was that how you found it that day?

20 A. That's correct.

21 Q. Turn back around. Did you collect the
22 bag at that time?

23 A. I did not.

24 Q. What did you do?

25 A. I called and they sent the detectives

TIMOTHY HAM - DIRECT EXAM BY MR. MCNEELY

1 out and they -- I believe they collected the bag.

2 Q. Okay. So just to clarify, you didn't
3 collect any evidence in this case?

4 A. No, sir, I did not.

5 Q. You let the detectives unit or
6 forensics unit do it?

7 A. Yes, sir.

8 Q. What did you do after locating the bag
9 at Eccles Church?

10 A. After that, they advised us to go on
11 perimeter. And -- because our perimeter had
12 changed from one location to the next.

13 Q. When you located the Hello Kitty bag at
14 Eccles Church, other than looking out of place
15 where it was located, did you have any
16 understanding of any relevance it may have to the
17 case at that time?

18 A. I didn't, but we got word that the --

19 MR. SMILEY: Objection, Your Honor.

20 THE COURT: Basis?

21 MR. SMILEY: Hearsay.

22 THE COURT: Do you want to rephrase?

23 MR. MCNEELY: I will.

24 BY MR. MCNEELY:

25 Q. At the time you located it, did it mean

TIMOTHY HAM - DIRECT EXAM BY MR. MCNEELY

1 anything to you relevant to the case?

2 A. When I first located it, no, sir.

3 Q. What did you do after locating the bag
4 at the church and calling forensics to come and
5 collect it?

6 A. I waited until the detectives got
7 there, and they took control of the scene.

8 Q. Okay. Where did you go from there?

9 A. I went on perimeter to one of the other
10 forestry roads.

11 Q. And what is the purpose of the
12 perimeter?

13 A. To try to get around and encircle the
14 -- the suspects so we can take and try to get an
15 area of where they're located.

16 Q. Try to get them out of the woods?

17 A. Absolutely.

18 Q. So you were on -- how long were you on
19 perimeter the rest of the day?

20 A. It was a good bit. It was probably
21 another ten hours, 12 hours.

22 Q. During that time, was anyone
23 apprehended?

24 A. There was. There was one individual
25 apprehended.

TIMOTHY HAM - DIRECT EXAM BY MR. MCNEELY

1 Q. Were you present when that happened?

2 A. No, sir, I wasn't. I heard it on the
3 radio, but I wasn't there.

4 Q. What did you do after that?

5 A. I -- after that, I was still on
6 perimeter until I was relieved.

7 Q. When you were relieved, did you go
8 home?

9 A. Yes, sir, I did.

10 Q. Did you come back on duty the next day?

11 A. Yes, sir, I did.

12 Q. What happened when you came back on
13 duty the next day?

14 A. I came back on duty and the perimeter
15 had shifted again, and they put me in another area.

16 Q. Where was that area?

17 A. I can't remember the exact location.

18 Q. What happened after you were placed
19 back on perimeter?

20 A. They -- we had -- they had the
21 bloodhounds out, and I could hear the dogs coming
22 towards me. And the suspects were apprehended
23 shortly thereafter.

24 Q. Did you see that occur?

25 A. I did not. I could hear it through the

TIMOTHY HAM - DIRECT EXAM BY MR. MCNEELY

1 woods, but I couldn't see them.

2 Q. When you say they had the bloodhounds
3 out, who do you mean?

4 A. SLED and our K-9.

5 Q. Okay. What -- so you were not present
6 -- just to clarify. You were not present when the
7 second set of suspects were apprehended?

8 A. No, sir, I was not.

9 Q. Was it more than one at that time?

10 A. Yes, sir.

11 Q. Do you recall how many?

12 A. Two.

13 Q. Do you know their names?

14 A. I do not.

15 Q. What did you do after they were
16 apprehended?

17 A. After they were apprehended, I -- they
18 -- I drove around to where they were bringing them
19 out of the woods at, and I took custody of one of
20 the individuals and brought him to EMS to get
21 checked out.

22 Q. Which individual did you take care --
23 custody of?

24 A. Mr. Mouzon.

25 Q. Do you see him in the courtroom today?

TIMOTHY HAM - DIRECT EXAM BY MR. MCNEELY

1 A. Yes, sir.

2 Q. Can you please indicate where he is for
3 the jury?

4 A. Right there, sir. (Indicating)

5 Q. Describe his clothing?

6 A. A white button-up shirt, long sleeves.

7 Q. Seated second at the table?

8 A. Yes, sir.

9 Q. And he was apprehended coming out of
10 the woods on July 22nd, 2016?

11 A. I believe so, yes, sir.

12 Q. After that, did you have any further
13 involvement in this case?

14 A. I -- after he was checked out by EMS, I
15 put him in my car and drove him up to our
16 headquarters so he could talk with the detectives.

17 Q. Did you do anything else at that time?

18 A. One of the -- I went and picked his
19 lunch up and brought it to him.

20 Q. Okay. Did you do anything in
21 furtherance of the investigation after that?

22 A. No, sir. After that, he was released
23 to CID's custody and I was done.

24 MR. MCNEELY: One moment, Your Honor.

25 Nothing further from the State at this

TIMOTHY HAM - CROSS EXAM BY MR. SMILEY

1 time, Your Honor.

2 THE COURT: Mr. Thrower?

3 MR. THROWER: No questions, Your Honor.

4 THE COURT: Mr. Archer?

5 MR. ARCHER: I have no questions.

6 THE COURT: Mr. Smaldone?

7 MR. SMALDONE: Nothing for this
8 witness, Your Honor.

9 THE COURT: Mr. Smiley?

10 MR. SMILEY: I've got to ask a couple
11 of questions.

12 THE COURT: Go right ahead. You may
13 proceed.

14 MR. SMILEY: Thank you.

15 THE COURT: You're welcome.

16 CROSS-EXAMINATION

17 BY MR. SMILEY:

18 Q. So you got a call between three and
19 four in the morning, right?

20 A. Yes, sir.

21 Q. And when you got out there it was still
22 dark?

23 A. That's correct.

24 Q. And your first assignment was basically
25 going down Yellow Jacket?

TIMOTHY HAM - CROSS EXAM BY MR. SMILEY

1 A. Yes, sir, that's correct.

2 Q. And it was still so dark you were
3 having to use your --

4 A. Use my spotlight, yes, sir.

5 Q. Use your spotlight. When you got
6 called to -- when it shifted to Eccles Church, it
7 was daylight; is that fair to say?

8 A. That is correct.

9 Q. So you had been out on Yellow Jacket
10 for some time before you moved to Eccles Church?

11 A. I was out on Yellow Jacket for a couple
12 of hours, yes, sir.

13 Q. Okay. You located those items when it
14 was still dark or it had gotten light?

15 A. Which items, sir?

16 Q. We'll start with -- I'm bad about that.
17 We'll start with the black hoodie; was it dark?

18 A. It was dark.

19 Q. So you saw it with the spotlight?

20 A. I saw it with my spotlight, sir.

21 Q. Okay. Is -- oh, I meant to ask you.
22 Did they tell you how many peoples they were
23 looking for?

24 A. They -- I believe they said it was
25 three people that ran through the woods.

TIMOTHY HAM - CROSS EXAM BY MR. SMILEY

1 Q. Okay. So there was people you were
2 looking for?

3 A. Yes, sir.

4 Q. Okay. Was it -- and it was still dark
5 when you found the rifle, or had it gotten light by
6 that point?

7 A. No. It -- well, it was still dark, but
8 it was getting light, yes, sir.

9 Q. And you weren't using your spotlight as
10 much at that point?

11 A. No, sir.

12 Q. Okay. You could see with your eyes?

13 A. Yes, sir.

14 Q. All right. And the Hello Kitty bag
15 that you -- you found three pieces of what they
16 believed is evidence, correct?

17 A. Yes, sir.

18 Q. You didn't find anything that turned
19 out -- that wasn't collected, did you? I mean, do
20 you understand my question? I guess you found
21 three things that they believed to be relevant to
22 the case. There wasn't a fourth thing or a fifth
23 thing --

24 A. No, sir.

25 Q. -- or -- just those three things?

TIMOTHY HAM - CROSS EXAM BY MR. SMILEY

1 A. Yes, sir.

2 Q. Okay. The Hello Kitty bag, did you
3 touch it in any way?

4 A. I did.

5 Q. You looked inside?

6 A. I just --

7 Q. And you saw the cocaine inside?

8 MR. MCNEELY: Objection, Your Honor.

9 THE COURT: Basis.

10 MR. MCNEELY: I'll withdraw it, Your
11 Honor.

12 THE COURT: Objection withdrawn. You
13 may continue.

14 BY MR. SMILEY:

15 Q. You saw the cocaine inside?

16 A. Not until the detectives opened it up.

17 Q. Okay. So when you opened it up just to
18 see if it was germane to the case --

19 A. I just put my hand down through the --

20 Q. -- saw there was something inside. And
21 then later when the detectives got there, you
22 realized there was cocaine inside, correct?

23 A. Yes, sir.

24 Q. Okay. When you were working the Yellow
25 Jacket perimeter --

TIMOTHY HAM - CROSS EXAM BY MR. SMILEY

1 A. Yes, sir.

2 Q. -- you weren't the only officer on
3 Yellow Jacket, were you?

4 A. I was out there, I believe Sergeant
5 Pittsinger was there right behind me.

6 Q. Because Yellow Jacket is --

7 A. It is pretty long.

8 Q. It's pretty long. And you-all are
9 trying to hem everybody in, right?

10 A. Yes, sir.

11 Q. Okay. So I guess what I'm asking, you
12 got out there while it was still dark. By the time
13 it got light, there was a lot of people out there,
14 right?

15 A. Yes, sir.

16 MR. SMILEY: That's all I have.
17 Thanks.

18 THE COURT: Any redirect.

19 MR. MCNEELY: No, Your Honor.

20 THE COURT: Any objection to this
21 witness being excused? From the state?

22 MR. MCNEELY: No, Your Honor.

23 THE COURT: Mr. Thrower?

24 MR. THROWER: No objection.

25 THE COURT: Mr. Smiley?

JAMES COMFORT - DIRECT EXAM BY MR. ALFARO

1 MR. SMILEY: No, objection, Judge.

2 THE COURT: Mr. Smaldone?

3 MR. SMALDONE: No objection.

4 THE COURT: And, Mr. Archer?

5 MR. ARCHER: No objection.

6 THE COURT: Sir, you're excused. Call
7 your next witness.

8 MR. ALFARO: Deputy Comfort.

9 JAMES COMFORT

10 being first duly sworn, testified as follows:

11 THE CLERK: Please be seated. State
12 your full name for the record and spell your last
13 name, please.

14 THE WITNESS: James Comfort,
15 C-O-M-F-O-R-T.

16 THE COURT: You may proceed.

17 DIRECT EXAMINATION

18 BY MR. ALFARO:

19 Q. Deputy Comfort, could you tell the jury
20 where you work? Where do you work?

21 A. Charleston County Sheriff's Office.

22 Q. And how long have you been with the
23 Charleston County Sheriff's Office?

24 A. Six years.

25 Q. And could you tell them what your

JAMES COMFORT - DIRECT EXAM BY MR. ALFARO

1 current rank and duty assignment is?

2 A. Deputy first class, patrol.

3 Q. And were you working for Charleston
4 County Sheriff's Office in that capacity on
5 July 21st, 2016?

6 A. I was.

7 Q. And in your capacity with Charleston
8 County, did you have the opportunity to assist
9 Berkeley County with a shooting investigation?

10 A. Yes.

11 Q. And what part of Charleston County were
12 you working that day?

13 A. The area east of the Cooper River,
14 which is Mount Pleasant, Awandaw, McClellanville
15 ...

16 COURT REPORTER: Say again the last
17 part.

18 THE WITNESS: Awandaw, Mount Pleasant,
19 Santee, and Germantown.

20 Q. And were you asked to assist Berkeley
21 County that day?

22 A. Yes.

23 Q. And were you dispatched to a specific
24 area, or were you just patrolling the Huger area of
25 Berkeley County to assist?

1 A. We were patrolling the area of Huger to
2 assist looking for suspects that were involved in a
3 homicide.

4 Q. And at that point in time, did you have
5 any information as to the victim's vehicles that
6 were being sought or looked for?

7 A. No, we didn't have any vehicle
8 information.

9 Q. Okay. And at, approximately, 6:26 that
10 morning, did you come into contact with a vehicle
11 near the Huger Recreation Center?

12 A. Yes.

13 Q. And do you recall what kind of vehicle
14 that was?

15 A. It was a gray Crown Victoria.

16 Q. Can you describe for us what the
17 condition of the vehicle was when you found it?

18 A. The lights were on, the windshield
19 wipers were running, it was just sitting off the
20 side of the road, and my partner and I went over
21 and looked into it.

22 Q. And after the locating the vehicle, did
23 you approach it?

24 A. Yes.

25 Q. And did you run the license plate?

JAMES COMFORT - DIRECT EXAM BY MR. ALFARO

1 A. Yes.

2 Q. Do you recall if it came back to the
3 victim's address in this case?

4 A. It did.

5 Q. And at that time you located the
6 vehicle at approximately 6:26, did you observe
7 anyone in or near the car?

8 A. No.

9 Q. Did you check around the vehicle?

10 A. Yes.

11 Q. And did you go inside the vehicle?

12 A. No.

13 Q. Did you look inside to make sure that
14 nobody was in it?

15 A. Yes.

16 Q. I'm going to show you what has been
17 admitted into evidence as State's Exhibits 3, 104,
18 105 and 106. You can take a look at those, I'll
19 ask you some questions after you've had a chance to
20 look at them.

21 A. Okay.

22 Q. Do you recognize what's in those
23 photos?

24 A. Yes.

25 Q. What do you recognize in those

1 photographs?

2 A. That gray Crown Victoria, the area
3 where it was sitting.

4 THE COURT: What was the number again?

5 MR. ALFARO: It was 103 through 106.

6 THE COURT: Thank you.

7 MR. ALFARO: Can you publish 104,
8 State's 104?

9 BY MR. ALFARO:

10 Q. And if you turn that way -- I'd ask you
11 to look that way. Using the red button on there,
12 if you could point to the gray Crown Victoria
13 location?

14 A. (Complies)

15 Q. And is that where you located it?

16 A. Yes.

17 Q. And State's 105. Same vehicle?

18 A. Yes.

19 Q. You can turn back around. So after
20 locating the vehicle and making sure no one was
21 inside, did you take anything out of the vehicle?

22 A. No.

23 Q. And did you remain with it until
24 Berkeley County arrived to take custody?

25 A. Yes.

JAMES COMFORT - CROSS EXAM BY MR. SMILEY

1 MR. ALFARO: Please answer any
2 questions they may have.

3 THE COURT: Mr. Thrower?

4 MR. THROWER: No questions.

5 THE COURT: Mr. Smiley -- oh, I'm
6 sorry, I went in the wrong order. Mr. Archer?

7 MR. ARCHER: No questions.

8 THE COURT: Mr. Smaldone?

9 MR. SMALDONE: No questions, Your
10 Honor.

11 THE COURT: Mr. Smiley?

12 MR. SMILEY: Thank you.

13 CROSS-EXAMINATION

14 BY MR. SMILEY:

15 Q. Jim Smiley; I represent Sherrod Palmer.
16 Just a few questions. You're familiar with the
17 Huger area?

18 A. Not entirely, just the part that abuts
19 Charleston County.

20 Q. Are you familiar with Cainhoy Road?

21 A. Yes.

22 Q. Charity Church?

23 A. Yes.

24 Q. Okay. The -- so the jury will
25 understand this, the Huger recreation area is --

JAMES COMFORT - CROSS EXAM BY MR. SMILEY

1 would it -- I'm not good with directions. I'll do
2 my best. From Clements Ferry, you would take a
3 left onto Cainhoy, would that be --

4 A. I don't know the answer.

5 Q. I'm trying to get to it without going
6 through too many -- when you're going up Cainhoy
7 Road heading -- I guess, that's north, right?
8 Charity Church Road comes up on your right?

9 A. I don't -- I don't know.

10 Q. Okay. So you don't know the -- well,
11 the Huger recreation area, on your right-hand side
12 going up north on Cainhoy Road?

13 A. It was on the left, when my partner and
14 I were coming back towards Charleston County.

15 Q. Okay. Thank you. Now -- I should have
16 asked it that way to start with. So you were
17 travelling south on Cainhoy Road, Huger recreation
18 area was on your left?

19 A. Yes.

20 Q. It was 6:30 in the morning. So just --
21 the sun had just gotten up?

22 A. Yes.

23 Q. And you-all were assisting Berkeley
24 County in looking for anything that was out of the
25 ordinary or suspect or anything like that, right?

JAMES COMFORT - CROSS EXAM BY MR. SMILEY

1 A. Yes.

2 Q. Okay. And this gray Crown Vic was just
3 sitting by itself?

4 A. Yes.

5 Q. Okay. Was there anything else unusual
6 about it?

7 A. Just the fact that its lights were on
8 and it was -- the way it was sitting on the side of
9 the road is what drew our attention to it.

10 Q. Well, it really wasn't on -- in the
11 road. It was back in the recreation area, right?

12 A. Yes.

13 Q. Okay. And it appeared to be parked and
14 the parking lights were on?

15 A. The headlights and taillights were on.

16 Q. The headlights were on. Okay. And
17 that's what brought you there?

18 A. Yes.

19 Q. Okay. But you aren't going to be able
20 to answer me about distances because that's not
21 your area, and so --

22 A. Correct.

23 Q. Okay. You found the gray Crown Vic,
24 called it in, and realized it was pertinent to this
25 case, stayed with it and that's all you did?

JAMES COMFORT - CROSS EXAM BY MR. SMILEY

1 A. Yes, sir.

2 MR. SMILEY: That's all I got. Thank
3 you.

4 THE COURT: Any redirect?

5 MR. ALFARO: No, Your Honor.

6 THE COURT: Any objection to the
7 witness being excused? From the State?

8 MR. ALFARO: No, Your Honor.

9 THE COURT: From the defense, Mr.
10 Thrower?

11 MR. THROWER: No objection.

12 THE COURT: Mr. Smiley?

13 MR. SMILEY: No, ma'am.

14 THE COURT: Mr. Smaldone?

15 MR. SMALDONE: No, Your Honor.

16 THE COURT: Mr. Archer.

17 MR. ARCHER: No, ma'am.

18 THE COURT: Sir, you're excused.

19 Call your next witness.

20 MR. ALFARO: The State calls Kirsten
21 Chesnutt.

22 THE COURT: Kirsten Chesnutt.

23 KIRSTEN CHESNUTT,

24 being first duly sworn, testified as follows:

25 THE CLERK: Please be seated. State

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 your full name for the record and spell your last
2 name, please.

3 THE WITNESS: Kirsten Chesnutt,
4 C-H-E-S-N-U-T-T.

5 THE COURT: You may proceed.

6 DIRECT EXAMINATION

7 BY MR. ALFARO:

8 Q. Could you tell the jury where you work?

9 A. Berkeley County Sheriff's Office.

10 Q. And how long have you been with them?

11 A. Just shy of three years.

12 Q. And what's your current duty
13 assignment?

14 A. Forensic technician.

15 Q. Are you a sworn officer?

16 A. Yes.

17 Q. And so you'd be a deputy?

18 A. Yes.

19 Q. And were you working in that capacity
20 in forensics in July of 2016?

21 A. Yes.

22 Q. And in that capacity, did you have the
23 opportunity to assist in the investigation of a
24 shooting at 135 Martha Lane in Huger?

25 A. Yes.

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 Q. And were you initially directed to
2 respond to that address?

3 A. Yes.

4 Q. And were you on duty when that call
5 came out after 3:00 in the morning?

6 A. No, sir.

7 Q. Where were you? Were you home?

8 A. I was at my residence.

9 Q. So where were you -- what area of --
10 what area were you responding from?

11 A. Goose Creek.

12 Q. And did you -- at that point were you
13 training in forensic?

14 A. Yes.

15 Q. And who were you training under?

16 A. Sergeant Spence.

17 Q. And did you respond -- was she also
18 notified to respond?

19 A. Yes.

20 Q. And did you-all ride there together?

21 A. We did.

22 Q. And where did you meet up?

23 A. We met at the CVS in Summerville.

24 Q. So you drive from Goose Creek to
25 Summerville, and then who drives from Summerville

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 to this area?

2 A. Sergeant Spence.

3 Q. At that point while you were in
4 training, did you have a vehicle of your own, a
5 cruiser of your own?

6 A. I did, but it was not marked or didn't
7 have lights or sirens.

8 Q. And so who drove, you or Spence?

9 A. To where?

10 Q. To -- when you left Summerville, who
11 was driving?

12 A. Sergeant Spence.

13 Q. And did you go straight to Martha Lane?

14 A. Yes, we did; however, we were advised
15 when we got there to not -- to go to another
16 location.

17 Q. And what location were you sent to when
18 you were on the way to Martha?

19 A. Highway 402, down Copperhead Road.

20 Q. So when you were in the area of 402 and
21 Copperhead, why did you go to that location?

22 A. We were advised that deputies -- a
23 deputy had located a white Crown Victoria.

24 Q. And was that Deputy Green?

25 A. Yes. Yes.

1 Q. And when you responded, was the vehicle
2 parked in the road on 402?

3 A. Yes.

4 Q. And was that vehicle processed at that
5 location?

6 A. No, it was not.

7 Q. What, if anything, did you do at that
8 scene involving the white Crown Victoria?

9 A. At the scene I got evidence from
10 Sergeant Spence, and I secured it into the police
11 vehicle.

12 Q. Okay. Do you recall what that evidence
13 was?

14 A. It was a money bandana.

15 Q. I'm going to show you what has been
16 entered into evidence as State's Exhibit 81 and 82.
17 If you can take a look at those briefly?

18 A. Okay.

19 Q. Do you recognize those pictures?

20 A. Yes.

21 Q. What's in those pictures?

22 A. Yes.

23 Q. And on State's 81 -- if you turn
24 around, go the other way, the chair spins better
25 the other way.

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 A. Oh.

2 Q. If you can look up there and tell us,
3 is that the vehicle that you responded to on 402,
4 near Copperhead?

5 A. Yes.

6 Q. Okay. And using this laser pointer,
7 the red button, can you tell us what that item is?

8 A. That is the money bandana.

9 Q. And State's 82? Is that the bandana
10 you were referencing?

11 A. Yes.

12 Q. Okay. Now, did you collect that or did
13 Deputy Spence?

14 A. Sergeant Spence did.

15 Q. Sergeant Spence, I'm sorry.

16 A. Yes.

17 Q. So when you say you got it from her,
18 she collected it and gave it to you?

19 A. She collected it, put it into a sealed
20 envelope and then turned it over to me.

21 Q. And what did you do with that envelope?

22 A. I secured it -- I took it from her and
23 then I secured it into the police vehicle.

24 Q. And so no other processing of the
25 vehicle was done at that scene?

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 A. No.

2 Q. What was done with that car?

3 A. It was towed to our impound yard.

4 Q. Was the purpose of towing it to the
5 impound yard to process it later?

6 A. Correct, pending a search warrant.

7 Q. So after the car is photographed and
8 the bandana is collected and the car is towed,
9 where do you go from there?

10 A. After we left 402?

11 Q. Yes.

12 A. To Yellow Jacket.

13 Q. Do you recall what you were responding
14 to on Yellow Jacket?

15 A. We were advised while we were out at
16 402 that deputies had found a gray Crown Vic
17 belonging to the victim -- I'm sorry. I'm sorry, I
18 misspoke. We were advised the deputy found a
19 sweatshirt.

20 Q. So you leave the white Crown Vic?

21 A. It was towed to the impound yard.

22 Q. And you respond to the area of Yellow
23 Jacket Road, correct?

24 A. Yes.

25 Q. And when you respond to Yellow Jacket

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 Road, you said you were responding because a deputy
2 had found a sweatshirt?

3 A. Yes.

4 Q. And when you got to the area, what did
5 you do?

6 A. I took over all photographs of the area
7 and the sweatshirt, and then I collected the
8 sweatshirt into a brown paper bag and I secured it
9 into the police vehicle.

10 Q. I'm going to show State's Exhibits 86
11 and 88.

12 THE COURT: You said 86 and 88?

13 MR. ALFARO: Yes, Your Honor, 86 and
14 88.

15 BY MR. ALFARO:

16 Q. Take a look at those, and I'll ask you
17 some questions once you've had a chance to look at
18 them.

19 A. Okay.

20 Q. Do you recognize that as the area where
21 the sweatshirt was found?

22 A. Yes.

23 Q. I'm going to show you again on the
24 screen behind you State's 86. And is that the area
25 that the sweatshirt was found?

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1 A. Yes, sir.

2 Q. Okay. And State's 88. Is that the
3 sweatshirt that you collected?

4 A. Yes, sir.

5 Q. I'm going to show you what's been
6 marked for identification as State's Exhibit 43.
7 I'm going to ask you to open it and then I'll show
8 it to defense counsel. If you can cut the tape on
9 that for us.

10 THE COURT: Is there any exception to
11 43, Mr. Thrower?

12 MR. THROWER: No, ma'am.

13 MR. SMILEY: No, Your Honor.

14 THE COURT: Mr. Archer, any exception
15 to 43?

16 MR. ARCHER: I don't know what it is.

17 THE COURT: I would assume it's -- I
18 assume this is the sweatshirt, correct?

19 MR. ALFARO: Yes, Your Honor.

20 We're seeking to admit it, Your Honor,
21 State's 143.

22 THE COURT: As I understand from
23 counsel, there's no exception, correct?

24 MR. SMILEY: None, Your Honor.

25 MR. THROWER: Correct.

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1 MR. SMALDONE: Correct.

2 THE COURT: Mr. Archer? You have no
3 objection?

4 MR. ARCHER: Objection to what?

5 THE COURT: To the sweatshirt?

6 MR. ARCHER: No.

7 THE COURT: Marked and admitted without
8 objection, Number 43.

9 MR. ALFARO: It's 143, Your Honor.

10 THE COURT: 143, I'm
11 sorry.

12 (STATE EXH. 143 in evidence.)

13 BY MR. ALFARO:

14 Q. If you could pull that out of the
15 paper. And is that the -- if you can hold it up
16 for the jury. Is that the sweatshirt that you
17 collected in that area of Yellow Jacket.

18 A. Yes.

19 Q. Okay. And in addition to collecting
20 that sweatshirt, did you locate any -- was any
21 other evidence located at that scene by another
22 deputy?

23 A. Yes.

24 Q. And do you recall who that deputy was?

25 A. Deputy Ham.

1 Q. And was he the same person that found
2 the sweatshirt?

3 A. Yes.

4 Q. And other than the sweatshirt, did he
5 find -- what other item of evidence do you recall
6 being told that he had located there?

7 A. There was a 7.62 rifle in the wood
8 line.

9 Q. Okay. I want to show you State's 89,
10 90, and 91. Do you recognize those?

11 A. Yes.

12 Q. And they're on the screen behind you,
13 again. Is that the area where the 762 rifle, as
14 you called it, was located?

15 A. Yes.

16 Q. And State's 90.

17 A. Yes.

18 Q. Same weapon?

19 A. Yes.

20 Q. And State's 91?

21 A. Yes.

22 Q. Same weapon?

23 A. Yes.

24 Q. And that's the weapon you -- or that's
25 a photograph of the area where it was collected

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 from that day?

2 A. Yes, sir.

3 Q. And prior to collecting -- or after
4 collecting it, was it -- was it empty? Were the
5 bullets taken out of it for safety?

6 A. It was loaded, yes, and it was made
7 safe.

8 Q. Okay.

9 MR. ALFARO: Your Honor, this is
10 State's Exhibit 144. For the record it is
11 locked -- cleared and locked.

12 THE COURT: Any exceptions to State's
13 144??

14 MR. THROWER: No objection.

15 MR. SMILEY: No, Your Honor.

16 MR. SMALDONE: No, Your Honor.

17 THE COURT: Mr. Archer?

18 MR. ARCHER: No objection.

19 THE COURT: Marked and admitted without
20 objection. You may proceed.

21 (STATE EXH. 144 in evidence.)

22 MR. ALFARO: Thank you, Your Honor.

23 THE COURT: You're welcome.

24 BY MR. ALFARO:

25 Q. I'm taking care not to point this at

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1 anyone, it is clear and unloaded, but is this the
2 rifle that was recovered by you at that location?

3 A. Yes.

4 Q. If we could put State's Exhibit 91 back
5 on the screen. And you said the weapon was emptied
6 and cleared before it was taken into evidence?

7 A. Yes.

8 Q. Are you familiar with what part of the
9 weapon that is?

10 A. Yes.

11 Q. And what is that?

12 A. The magazine.

13 Q. Okay. And for those that may not know
14 what a magazine is, what does -- what part of the
15 gun is that?

16 A. It holds the ammo.

17 MR. ALFARO: Going to -- and, Your
18 Honor, at this time the State would seek to admit
19 State's Exhibit 145.

20 THE COURT: Any exceptions, Mr.
21 Thrower?

22 MR. THROWER: No, ma'am.

23 THE COURT: Mr. Smiley?

24 MR. SMILEY: No, ma'am.

25 THE COURT: Mr. Smaldone?

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1 MR. SMALDONE: No, ma'am.

2 THE COURT: Mr. Archer?

3 MR. ARCHER: No, ma'am.

4 THE COURT: Marked and admitted without
5 objection, 145.

6 (STATE EXH. 145 in evidence.)

7 BY MR. ALFARO:

8 Q. And if you could just kind of
9 explain -- some may know, some may not -- are these
10 the bullets that were covered from the magazine?

11 A. Yes.

12 Q. And bullets go into the magazine and
13 then the magazine is in the part of the gun that we
14 showed in the picture up there?

15 A. Yes.

16 Q. And all these bullets that are bagged
17 were inside the magazine?

18 A. Yes.

19 Q. Inside the gun?

20 A. Yes.

21 Q. So it was loaded when it was recovered?

22 A. Yes.

23 Q. After securing the sweatshirt and rifle
24 that we just showed the jury, where did you go
25 after that?

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1 A. After that, we were advised that a
2 deputy had located a gray Crown Vic off of Cainhoy
3 Road, the Huger Recreational Center.

4 Q. And was information provided that that
5 was the victim's Crown Victoria?

6 A. It was.

7 Q. And you responded to that location?

8 A. Yes.

9 Q. And when you got to that location, did
10 you -- what did you find at the scene?

11 A. I took overall photographs of the
12 vehicle and its surrounding area, and the vehicle
13 was towed into our impound yard.

14 Q. And similar to the white Crown Vic, it
15 was towed to impound to be processed rather than
16 being processed at the scene?

17 A. Yes.

18 Q. And I'll show you State's Exhibits 103,
19 104, 105, and 106. And are those pictures fair and
20 accurate representations of the Crown Victoria as
21 you found it that day?

22 A. Yes.

23 Q. And these are photographed there, but
24 not processed?

25 A. Yes.

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1 Q. And just to publish State's 104 -- just
2 behind you -- that's the area where the car was
3 located?

4 A. Yes.

5 Q. So were any items removed from the
6 vehicle at that location?

7 A. No.

8 Q. After leaving the location of the
9 victim's gray Crown Vic, did you then respond to
10 the victim's residence at 135 Martha Lane?

11 A. Yes.

12 Q. And when you arrived at the residence,
13 was the victim, the murder victim, Kadeem Johnson,
14 still inside the residence?

15 A. Yes.

16 Q. And can you tell us what you did at
17 that scene?

18 A. I began by taking overall photographs
19 of the exterior of the residence, along with the
20 surrounding areas. After taking exterior
21 photographs, I made entry into the home where I
22 took internal photographs.

23 After all the photographs were done,
24 all the evidence that I observed while taking
25 photographs was marked with a number marker. After

1 marking with the number marker, we photographed --
2 I photographed them again with the number marker in
3 the photos.

4 Q. And was Sergeant Spence still with you
5 at this time?

6 A. Yes.

7 THE COURT: Counsel approach for me.
8 (SIDEBAR)

9 THE COURT: Mr. Foreman and ladies and
10 gentlemen, I have a brief matter of law to take up
11 with counsel. During this break please do not
12 discuss the case.

13 Please let the bailiffs know if you
14 need anything and leave your notepads in your
15 seats. Thank you in advance.

16 (Jury out, 3:14 p.m.)

17 THE COURT: You may be seated. For the
18 benefit of the gallery, if any of the pictures are
19 going to be disconcerting, I would strongly
20 encourage you to absent yourself at this time
21 during testimony.

22 I cannot entertain disruption in the
23 gallery. So if anything is going to upset you, I
24 would suggest you take leave at this time. Now,
25 what photo do you all not agree on.

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 MR. ALFARO: It is premarked for
2 identification. It's State's Exhibit 35.

3 THE COURT: Can I see it? Is the photo
4 available in black and white?

5 MR. ALFARO: Yes, it is, Your Honor.

6 THE COURT: All right. What's the
7 exception to the photo? I guess a better question
8 is, who has an exception to the photos?

9 MR. SMALDONE: Grant Smaldone for
10 Defendant Drake Campbell. My exception to the
11 photo is that it's more prejudicial than probative.
12 There's already been testimony as to basically what
13 is in the photo, the location of Mr. Johnson and
14 the condition of him.

15 I believe it's just -- just being used
16 to inflame the passions of the jury and the
17 emotions of the jury.

18 THE COURT: Anybody else have an
19 exception?

20 MR. THROWER: I would join that, and
21 say, I'd stipulate to the manner of death, I don't
22 think it's necessary.

23 MR. ARCHER: I would simply join in the
24 objections.

25 THE COURT: Okay. Tell me for what

1 purpose it's being offered, Mr. Alfaro.

2 MR. ALFARO: Your Honor, it's not to
3 inflame the jury. It's to show the positioning of
4 the body after he was shot. And while it is --
5 there is blood in the picture, that's the scene as
6 it happened.

7 He was shot in the head and that's
8 where his body landed, and we don't think it's
9 unduly graphic. There is blood in it, but, you
10 know, there are -- that's what happens when
11 somebody gets shot in the head, and the State has
12 the right -- or is required to prove malice as one
13 of the elements of two of the charges.

14 And the fact that someone would be shot
15 in the head and left lying in a pool of their own
16 blood, we think goes directly to that element of
17 those, the murder and attempted murder.

18 THE COURT: Okay. Anything further,
19 Mr. Smaldone?

20 MR. SMALDONE: I just restate my
21 earlier position. I have nothing to add.

22 THE COURT: Anything further,
23 Mr. Thrower?

24 MR. THROWER: No, ma'am.

25 THE COURT: Anything further,

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1 Mr. Archer?

2 MR. ARCHER: No, but I join their
3 objections.

4 THE COURT: The objection is overruled,
5 and on a scale one to ten, these are about a two.
6 I've seen far more worse and far more graphic. The
7 State is entitled to prove beyond a reasonable
8 doubt every element of the offenses that they have
9 charged, and malice is one of those elements.

10 Clearly the photos do -- it shows --
11 the photo, and I'm referring to State's 35, does
12 show that. They are not unduly graphic. I find
13 that they are probative and their probative value
14 outweighs any potential for prejudice.

15 While the defense has indicated they
16 will stipulate to the mode and manner of the death
17 of the victim, the State is not bound by that.
18 They still have to prove their case beyond a
19 reasonable doubt, and they should be entitled to do
20 that.

21 Where photos are unduly graphic and
22 they tend to lend to the prejudices or biases or
23 emotions of a jury, they should be excluded, but
24 clearly these photos don't do that. If I were to
25 -- the way it's been argued, if I were to find that

1 argument had merit, I would exclude every photo,
2 and under these circumstance that would not be
3 warranted.

4 In addition to that, the State is
5 entitled to show where the decedent was found as
6 part of the res gestae of the event. They are
7 entitled to give the jury, let them see exactly.
8 They've shown them outside of the -- of this
9 residence and they are entitled to, pursuant to
10 case law, show the crime scene as it existed, how
11 the defendant was found.

12 The mode and manner of his death is
13 obvious based on the previous testimony, that being
14 the testimony of Ms. Snipe that he was shot, but
15 the medical examiner will go more completely into
16 the mode and manner of death. But where he was
17 found and the element of malice certainly are
18 corroborated by this photo; however, I would prefer
19 the black and white.

20 Color is a little -- it's not necessary
21 for the purpose of which the State has indicated
22 that they would seek to introduce the photo.

23 Does anybody need to go to the
24 restroom? Why don't you-all take advantage of that
25 while the jury is in there.

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1 (A recess transpired.)

2 THE COURT: All right, is the State
3 ready?

4 MR. ALFARO: Yes, Your Honor.

5 THE COURT: Is the defense ready?

6 MR. THROWER: Yes, Your Honor.

7 MR. ARCHER: Yes.

8 MR. SMALDONE: Yes.

9 MR. SMILEY: Yes.

10 THE COURT: All right, bring in the
11 jury, please.

12 (Jury in, 3:18 p.m.)

13 THE COURT: You may be seated. You may
14 proceed.

15 MR. ALFARO: Thank you, Your Honor.

16 THE COURT: You're welcome.

17 BY MR. ALFARO:

18 Q. Deputy Chesnutt, when you -- you said
19 when you got to 135 Martha Lane you took
20 photographs as part of your initial walkthrough?

21 A. Yes.

22 Q. I'm going to show you State's Exhibits
23 2, 3, 4, 7, 11, 12 and 13, as well as Defendant
24 Palmer's Exhibits 1, 2, 3, 4 and 5. And do each of
25 the pictures reflect the residence at 135 Martha

1 Lane that you responded to on July 21st, 2016?

2 A. Yes.

3 Q. And on State's 4, is that the -- is
4 that 135 Martha Lane?

5 A. Yes.

6 Q. I'm going to have you go ahead and turn
7 around and give you this pointer in case I have to
8 ask you some questions. Now -- so in that picture,
9 can you point to, there's a -- appears to be two
10 doors to the front of that trailer, can you point
11 to which one you-all were going in and out?

12 A. That one. (Indicating)

13 Q. And did you examine -- fully examine
14 the outside area of the trailer before going in?

15 A. Yes.

16 Q. And do you recall if you observed
17 and/or collected any evidence from outside of that
18 residence?

19 A. Yes.

20 Q. It may be easier if you just kind of
21 walk us through what you did when you were
22 processing that scene.

23 A. Outside or --

24 Q. Just whatever steps you did; if you did
25 outside first, talk about that and --

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 A. So first, we started by taking overall
2 photographs of the outside of the residence and
3 then the area surrounding the outside, the woods,
4 the back, the front. Next I made entry into the
5 residence, and then I photographed the inside of
6 the residence.

7 After photographing the interior, I --
8 anything that I -- was evidence, I put a number
9 marker down. Once the number markers were down, I
10 then photographed the inside of the residence once
11 more with the number markers. After that, Sergeant
12 Spence came in.

13 Well, she came in to assist me with
14 searching the room for more evidence. After more
15 evidence was found, number markers were put down
16 and added. Once those were added, they were
17 photographed once more. After that, Lieutenant
18 Alteri was outside of the residence with Deputy
19 Swinton putting number markers down for some
20 evidence that was located on the ground.

21 Once those number markers were put
22 down, I photographed that area with the number
23 markers.

24 Q. I'm going to -- again, if you turn
25 around, behind you we'll be publishing State's

1 Exhibit 24. Do you recognize that area?

2 A. Yes.

3 Q. And do you recognize the item in that
4 picture?

5 A. Yes.

6 Q. And what is that?

7 A. It is a purse with contents.

8 Q. Okay. And I'm going to show you what's
9 been entered into evidence as State's Exhibit 146.
10 If you want to put gloves on --

11 A. Yes.

12 THE COURT: What's that number again?

13 MR. ALFARO: 146.

14 BY MR. ALFARO:

15 Q. Is that -- State's Exhibit 146, is that
16 the item in the picture?

17 A. Yes.

18 Q. And that was collected from the scene
19 that day by you?

20 A. Yes.

21 Q. And State's Exhibit 26. And can you
22 tell the jury what is depicted in that photograph,
23 State's 26?

24 A. This is the stairwell that we were
25 going in and out of of the residence. Here, we

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 were going in and out of this doorway, and we have
2 some evidence here, and then some blood droplets.

3 Q. And State's 27, is that just a closer
4 picture of what we just looked at?

5 A. Yes. It's just a close-up photo of the
6 footprints and the blood droplets.

7 Q. And State's 29, what's depicted in that
8 photograph?

9 A. Here we have what appears to be a
10 footprint, and then here we have tape with what
11 appears to be blood on it.

12 Q. And was that tape collected by you at
13 the scene?

14 A. Yes.

15 Q. I'm going to --

16 THE COURT: What number is that?

17 MR. ALFARO: It's State's Exhibit 148.

18 THE COURT: Any exception to 148?

19 MR. THROWER: No objection.

20 MR. SMALDONE: No, Your Honor.

21 MR. SMILEY: No, Your Honor.

22 THE COURT: Mr. Archer?

23 MR. ARCHER: No, Your Honor.

24 THE COURT: Marked and admitted without
25 objection.

1 (STATE EXH. 148 in evidence.)

2 BY MR. ALFARO:

3 Q. And if you can pull that out and
4 confirm that that is, in fact, the tape that you
5 collected that day.

6 A. Yes.

7 Q. And State's -- what's been admitted as
8 State's 30, 31, 32 and 33, take a look at those and
9 then I'll put them on the screen behind you. And
10 you recognize the area depicted in those
11 photographs?

12 A. Yes.

13 Q. And starting with State's Exhibit 30,
14 could you tell the jury what area of the residence
15 that is?

16 A. This is at the top of the stairs in the
17 doorway that we made entry in, the left side of the
18 door frame.

19 Q. And is that the item that you just
20 described, the tape that was collected?

21 A. Yes.

22 Q. And what did that appear to be to you
23 in your processing of the scene?

24 A. Blood.

25 Q. And State's Exhibit 32. And what area

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 of the residence is that?

2 A. It's as soon as you walk in, to the
3 right is what would have been a laundry area, and
4 then straight ahead was a bathroom. So it's the
5 area as soon as you walk into the residence, just
6 before the bedroom.

7 Q. And can you point on there to where the
8 bedroom is?

9 A. The bedroom is located right here to
10 the right.

11 Q. Where that PS4 box is?

12 A. Yes.

13 Q. And is that where the victim was
14 located, Kadeem Johnson?

15 A. Yes.

16 Q. And just describe for the jury what's
17 contained on the floor, and why you photographed
18 that area.

19 A. In this area it appears to be what is
20 blood, and then there was some -- what appears to
21 be footprints.

22 Q. And this is the -- State's Exhibit 35
23 that we just discussed.

24 MR. ALFARO: Do we need to renew
25 anything before --

1 THE COURT: It has been marked and
2 admitted subject to the objection.

3 BY MR. ALFARO:

4 Q. State's Exhibit -- I'm going to show
5 you a photo, State's Exhibit 35. Can you tell us
6 what -- who and what is depicted in that picture.

7 A. We have the victim here, Kadeem
8 Johnson. This is the doorway leading into the
9 bedroom. Here what we have appears to be a pool of
10 blood and his body lying this way, into the
11 doorway.

12 Q. And the positioning in the photograph,
13 is that how he was located when you entered the
14 residence?

15 A. Yes.

16 Q. Was he moved by you or Sergeant Spence
17 in any way before photographing?

18 A. No.

19 Q. And that white box to the -- there, is
20 that the PS4 box that we just saw from the front
21 view?

22 A. Yes.

23 Q. And in the course of your
24 investigation, did you locate any shell casings?

25 A. Yes.

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 Q. And on State's Exhibit 36, is that --
2 can you -- is that one of the shell casings that
3 you located?

4 A. Yes.

5 Q. Looking at that picture, are you able
6 to determine where that was located?

7 A. Yes.

8 Q. And where is that?

9 A. This is located to the right of the
10 door frame where the victim was laying.

11 Q. So if he was in that picture, he would
12 be --

13 A. He would be over here. (Indicating)

14 Q. Okay. And that item was collected?

15 A. Yes.

16 Q. And State's Exhibit 61. Is that the
17 same casing?

18 A. Yes.

19 Q. And that placard with the 1, is that
20 something you-all put down?

21 A. Yes.

22 THE COURT: What number was that?

23 MR. ALFARO: That is State's 61, Your
24 Honor.

25 THE COURT: State's 61. Thank you.

1 BY MR. ALFARO:

2 Q. And State's 66, do you see in that
3 picture that same placard and shell casing that we
4 just pointed out for the jury?

5 A. Yes.

6 Q. In State's 66?

7 A. Yes.

8 Q. And, again, just kind of orient them
9 where the front door is in that picture.

10 A. In this photo, the front door is here,
11 again, where we made entry. Here is the first
12 casing and here's the door frame.

13 Q. And Item 5 in that picture is the tape;
14 is that correct?

15 A. Yes.

16 Q. I'm going to show you what is marked as
17 State's 63. Do you recognize what's depicted in
18 those photographs?

19 A. Yes.

20 Q. And what is depicted in those
21 photographs?

22 A. Two more casings.

23 Q. And that first casing in placard 1, is
24 that considered to be the laundry room area?

25 A. Yes.

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 Q. And shell casings that are denoted by
2 placards 2 and 3, are those -- what part of the
3 residence are those in?

4 A. These are located inside of the bedroom
5 where the victim was located.

6 Q. And were those items, Number 2 and 3,
7 collected as well?

8 A. Yes.

9 Q. And in addition to those two shell
10 casings from the bedroom, was there an additional
11 shell casing recovered in the bedroom?

12 A. Yes.

13 Q. And I'm going to show -- we'll go back
14 to the casings in a second. I'm going to show you
15 State's Exhibit 56. Can you describe for the jury
16 what is depicted in that photograph?

17 A. In this photograph we have the victim
18 here. This is tape wrapped around his hands.

19 Q. And is that the condition that his
20 hands were when you discovered it?

21 A. Yes.

22 Q. And I'm going to show State's
23 Exhibit 59. And is that one of the casings that
24 was recovered?

25 A. Yes.

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 Q. And that's in the room where the body
2 was?

3 A. Yes.

4 Q. And in addition to the casings that
5 were recovered, did you recover any unfired
6 bullets?

7 A. Yes.

8 Q. And do you recall where those were,
9 where that was located?

10 A. I recovered one unfired .32 caliber by
11 the refrigerator.

12 Q. And State's Exhibit 39. Is that the
13 bullet that you were just referencing?

14 A. Yes.

15 Q. And State's Exhibit 41. Can you
16 describe what part of the residence that is?

17 A. This is the left side of the residence;
18 as you entered through the front door, this is the
19 kitchen area and what we called the living room
20 area.

21 Q. And I take you back to State's Exhibit
22 65, that's placard 4, is that the unfired bullet
23 that you just testified by -- that was down the
24 refrigerator?

25 A. Yes.

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 Q. And State's Exhibit 72. Can you tell
2 us what's in that picture?

3 A. In this photo we have another casing.

4 Q. And State's Exhibit 71, that's the same
5 placard that denotes the shell casing we just saw,
6 correct?

7 A. Yes.

8 Q. And can you describe for the jury what
9 -- where that bullet was located?

10 A. This bullet was located after the
11 coroner's office removed the body from the scene.
12 It was located up underneath where the victim's
13 head was, here. (Indicating)

14 Q. And that was collected as well?

15 A. Yes.

16 Q. And, again, that's the same PS4 box
17 that kind of orients the front of the room?

18 A. Yes.

19 Q. And did you also photograph the room
20 itself after the victim was removed? The bedroom
21 itself?

22 A. Yes.

23 Q. Okay. And State's Exhibit 45. Is that
24 the bedroom?

25 A. Yes.

1 Q. State's 47. Do you recognize what is
2 depicted in that photograph?

3 A. Yes.

4 Q. And if I can borrow your pointer, can
5 you tell the jury what that item is?

6 A. That is a flip cell phone.

7 Q. And is that the charger cord plugged
8 into it?

9 A. Yes.

10 Q. And can you describe the condition of
11 the phone and the area around it?

12 A. The condition of the phone, it was
13 covered in a red substance appearing to be blood,
14 located on the top of that blue tote there at the
15 foot of the bed.

16 Q. And what about on that area as well?

17 A. In that area it was also covered in a
18 red substance appearing to be blood.

19 Q. And State's 50. Same bedroom?

20 A. Yes.

21 Q. And more blood?

22 A. Yes.

23 Q. And State's Exhibit 51, can you tell
24 the jury what area that is?

25 A. This is the ceiling area of the bedroom

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 where the victim was located, with red substance
2 appearing to be blood.

3 THE COURT: What number is that again?

4 MR. ALFARO: State's Exhibit 147.

5 THE COURT: Any objection?

6 MR. THROWER: No, objection.

7 MR. SMILEY: No, Your Honor.

8 MR. SMALDONE: No, Your Honor.

9 MR. ARCHER: No, Your Honor.

10 THE COURT: Marked and admitted 147
11 without objection.

12 (STATE EXH. 147 in evidence.)

13 BY MR. ALFARO:

14 Q. I show you State's Exhibit 147. Do you
15 recognize that exhibit?

16 A. Yes.

17 Q. And are those the three shell casings
18 -- or the three shell casings in the bedroom that
19 you recovered?

20 A. Yes.

21 Q. As well as the shell casing from the
22 laundry room?

23 A. Yes.

24 Q. And as well as the unfired bullet from
25 the refrigerator -- near the refrigerator?

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 A. Yes.

2 Q. And all of those were collected by you
3 that day?

4 A. Yes.

5 Q. And secured into evidence?

6 A. Yes.

7 Q. State's Exhibit 48 is just -- it'll be
8 on the screen behind you. Is that just a closer
9 picture of the flip phone?

10 A. Yes.

11 Q. And State's Exhibit 68, that placard
12 down at the bottom of the screen, can you read that
13 number?

14 A. Six.

15 Q. And that's -- above that is the placard
16 7 denoting the purse, correct?

17 A. Correct.

18 Q. And State's Exhibit 6 -- or, I'm sorry,
19 State's Exhibit 69, that's -- what is that item?

20 A. That is a cell phone.

21 Q. Recovered at the scene?

22 A. Yes.

23 Q. And in addition to you and Sergeant
24 Spence, were there any other crime scene
25 technicians assisting you with the processing of

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 that residence?

2 A. The residence?

3 Q. Martha Lane.

4 A. Yes.

5 Q. Okay. Was Deputy Swinton one of them?

6 A. Yes.

7 Q. And I'm going to show State's Exhibits
8 14, 15, 16, 17, 18, 19 , 20, and 21. I'll ask you
9 to take a look at those and I'll ask you some
10 questions. And do you recognize what's depicted in
11 those pictures?

12 A. Yes.

13 Q. And can you tell us what's in those
14 pictures?

15 A. It is a red substance appearing to be
16 blood.

17 Q. Okay. And where is it located at the
18 scene?

19 A. It's located in the -- the yard in the
20 rocky gravel area.

21 Q. In the front of the residence?

22 A. In -- yes, what we were calling the
23 front of the residence.

24 Q. And starting with State's 20, that
25 white thing in the middle, what is that?

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 A. That is a measuring scale.

2 Q. And that's essentially just to show you
3 the size of the drop?

4 A. Yes.

5 Q. And State's 15, and that's the -- can
6 you point out what's being measured by that?

7 A. This droplet right here.

8 Q. And did one of the other deputies swab
9 those drops of blood?

10 A. Yes.

11 Q. And which deputy was that?

12 A. Swinton.

13 Q. Are you aware if she also swabbed blood
14 from the -- what you were calling the front porch
15 area of the residence?

16 A. Yes.

17 Q. And did she turn those in to you as
18 well?

19 A. They were turned over to me, yes.

20 Q. I show you, I believe it's State's
21 Exhibit 169 --

22 THE COURT: Any exceptions?

23 MR. THROWER: No, Your Honor.

24 MR. SMILEY: No, Your Honor.

25 MR. SMALDONE: No, Your Honor.

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 THE COURT: Any exception to 169?

2 MR. ARCHER: No, Your Honor.

3 THE COURT: Marked and admitted without
4 exception.

5 (STATE EXH. 169 in evidence.)

6 BY MR. ALFARO:

7 Q. I'm going to show you State's Exhibit
8 169; on the back there's a description. Would you
9 tell the jury what that is?

10 A. It is two DNA swabs. One is from the
11 doorway slash floor, and one from the front porch
12 steps of the residence.

13 Q. And those were turned in to you by
14 Deputy Swinton?

15 A. Yes.

16 Q. And secured by you into evidence?

17 A. Yes.

18 Q. So after you had -- is that all the
19 evidence you collected from the scene that day,
20 relevant evidence?

21 A. From 135?

22 Q. Yes.

23 A. Yes.

24 Q. And after processing that scene at 135
25 Martha Lane, did you then have the opportunity to

1 go to the impound lot to process the white -- the
2 victim's white Crown Victoria and the victim's gray
3 Crown Victoria later that day?

4 A. Yes.

5 Q. And let's start with the white Crown
6 Victoria. Did you process -- what kind of crime
7 scene processing did you do of that vehicle?

8 A. On the white Crown Victoria, I just
9 processed it for fingerprints.

10 Q. And were you able to locate and lift
11 any fingerprints from the white Crown Victoria?

12 A. Yes.

13 Q. Do you recall what parts of the vehicle
14 you were able to obtain fingerprints from?

15 A. I took a print from the middle in the
16 front of the hood and the driver's side door.

17 THE COURT: What's that number again?

18 MR. ALFARO: That is State's Exhibit
19 149.

20 THE COURT: Are there any exceptions?

21 MR. THROWER: No, Your Honor.

22 MR. SMILEY: No, Your Honor.

23 MR. SMALDONE: No, Your Honor.

24 MR. ARCHER: No, Your Honor.

25 THE COURT: Marked and admitted without

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 objection, 149.

2 (STATE EXH. 149 in evidence.)

3 BY MR. ALFARO:

4 Q. Are those the fingerprints -- latent
5 fingerprint lifts that you recovered from the white
6 Crown Victoria?

7 A. Yes.

8 Q. And did you after taking those lifts
9 secure those into evidence?

10 A. Yes.

11 Q. And did you also have the opportunity
12 to participate in the processing of the victim's
13 gray Crown Victoria at the impound lot?

14 A. Yes.

15 Q. And I'm going to show State's Exhibit
16 108, 109, 110, and 111.

17 THE COURT: I think those have been
18 admitted.

19 MR. ALFARO: They are, Your Honor.

20 BY MR. ALFARO:

21 Q. Start with State's Exhibit 108. Is
22 that the gray -- the victim's gray Crown Victoria
23 that you processed?

24 A. Yes.

25 Q. And photographed?

1 A. I did not photograph it.

2 Q. And when you processed or assisted in
3 processing this vehicle -- I'm going to show
4 State's 109. And can you sort of describe what's
5 in that picture?

6 A. In this photo, this is the driver's
7 side of the vehicle. We have a white glove over
8 here, down here we have some tape. (Indicating)

9 Q. And was the white glove collected?

10 A. Yes.

11 Q. And State's 110. Is that a closer
12 picture of the glove?

13 A. Yes.

14 Q. And State's 111. That laundry basket
15 of clothes that looks to be leaning on the
16 passenger side, is that how you found it when you
17 went to process it?

18 A. Yes.

19 Q. And --

20 THE COURT: What number is that?

21 MR. ALFARO: State's Exhibit 150.

22 THE COURT: Any exceptions?

23 MR. THROWER: No, Your Honor.

24 THE COURT: Is that already been
25 admitted?

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 MR. SMILEY: No, Your Honor.

2 MR. SMALDONE: No, Your Honor.

3 THE COURT: Mr. Archer?

4 MR. ARCHER: No, I have no objection.

5 THE COURT: Marked and admitted without
6 objection.

7 (STATE EXH. 150 in evidence.)

8 BY MR. ALFARO:

9 Q. And if you can, describe for the jury
10 what that item is.

11 A. This is the roll of tape.

12 Q. And that was secured from the gray
13 Crown Victoria?

14 A. Yes.

15 Q. And was that secured into evidence for
16 further processing?

17 A. I do not recall.

18 THE COURT: What number is that?

19 MR. ALFARO: This is State's 151.

20 THE COURT: Any exception?

21 MR. THROWER: No, Your Honor.

22 MR. SMILEY: No, Your Honor.

23 MR. SMALDONE: No, Your Honor.

24 MR. ARCHER: No, Your Honor.

25 THE COURT: Marked and admitted, 151,

1 without objection.

2 (STATE EXH. 151 in evidence.)

3 BY MR. ALFARO:

4 Q. And State's 151, can you tell jury what
5 that is?

6 A. That is the white glove from the door
7 of the vehicle.

8 Q. And that was in the picture that we saw
9 a little while ago?

10 A. Yes.

11 Q. If I could take you back a little bit,
12 back to the Martha Lane area. Did you have
13 opportunity to also go to 129 Martha Lane next
14 door?

15 A. Yes.

16 Q. And I show State's Exhibits 74, 75 and
17 76. Behind you on the screen is State's Exhibit
18 74. Do you recognize that as 129 Martha Lane?

19 A. Yes.

20 Q. And were you advised prior to
21 processing that or going to that location of the
22 significance of that address?

23 A. Yes.

24 Q. And had you been -- what had you been
25 advised regarding the evidentiary significance of

KIRSTEN CHESNUTT - DIRECT EXAM BY MR. ALFARO

1 that?

2 A. I was told that the second victim went
3 next door and banged on the window and the door.

4 Q. Okay. And as a result of that
5 information, did you actually photograph and view
6 the front door?

7 A. I don't recall.

8 Q. I show you State's 75.

9 A. Yes.

10 Q. Is that the front door to the
11 residence?

12 A. Yes.

13 Q. And would you -- do you still have the
14 pointer? Can you show the jury what the -- what's
15 on the -- that door frame?

16 A. Here we have a red substance appearing
17 to be blood.

18 Q. And it's not real clear on the screen
19 but -- there, can you, using your pointer, kind of
20 circle the whole area -- or point to where there's
21 blood and blood drippings?

22 A. We have blood here, here, and here.
23 (Indicating)

24 Q. And State's Exhibit 76. And again, can
25 you point out for the jury on the screen where the

KIRSTEN CHESNUTT - CROSS EXAM BY MR. THROWER

1 blood appears to be?

2 A. We have blood here, here, and here as
3 well. (Indicating)

4 Q. From the window and the side of the
5 house onto the plant?

6 A. Yes.

7 MR. ALFARO: Thank you. Answer any
8 questions that defense may have for you.

9 THE COURT: Ladies and gentlemen, why
10 don't you-all stand up as we make this transition
11 into cross-examination and stretch a little bit.
12 Recirculated air and florescent lights can make you
13 sleepy.

14 (Brief pause)

15 THE COURT: Mr. Thrower, do you have --

16 MR. THROWER: Yes, ma'am, briefly.

17 CROSS-EXAMINATION

18 BY MR. THROWER:

19 Q. Ms. Chesnutt, Bill Thrower. How are
20 you today?

21 A. I'm good. How are you?

22 Q. Doing good. The spent cartridges that
23 you found at the scene were all of the same
24 caliber?

25 A. Yes.

KIRSTEN CHESNUTT - CROSS EXAM BY MR. THROWER

1 Q. And the only one that didn't match was
2 an unfired --

3 A. Yes.

4 Q. -- cartridge. Okay. Did you find any
5 other size? That was a .32, and you found mostly
6 .380 that had been spent, right?

7 A. Yes.

8 Q. Were there any 7.62-millimeter
9 cartridges found anywhere?

10 A. At the residence?

11 Q. At the residence.

12 A. No, not that I recall.

13 Q. Were there any unfired 7.62 cartridges?

14 A. I don't recall.

15 Q. So -- and were there any found outside
16 -- you said you don't --

17 A. No.

18 Q. Was there any cartridges at all found
19 outside of this trailer?

20 A. No.

21 Q. So we just had some .380s -- spent
22 .380s and one .32 that wasn't fired?

23 A. Yes.

24 MR. THROWER: Okay. Thank you very
25 much.

KIRSTEN CHESNUTT - CROSS EXAM BY MR. ARCHER

1 THE COURT: Mr. Archer?

2 CROSS-EXAMINATION

3 BY MR. ARCHER:

4 Q. All right. Ma'am, the white Vic was
5 found on Highway 407; is that right?

6 A. 402.

7 Q. 402. 402 and what other road?

8 A. Copperhead Road.

9 Q. Copperhead Road?

10 A. Yes, sir.

11 Q. Okay. All right. And that's the white
12 Crown Vic?

13 A. Yes, sir.

14 Q. Okay. And what items did you collect
15 from that scene?

16 A. Sergeant Spence collected the money
17 bandana from that scene and turned it over to me.

18 Q. And that's all?

19 A. Yes.

20 Q. Okay. The gray Crown Vic -- and that
21 107 and Copperhead -- 40, what was it, 401 --

22 A. 402.

23 Q. 402 and Copperhead. That's in Berkeley
24 County?

25 A. Yes, sir.

KIRSTEN CHESNUTT - CROSS EXAM BY MR. ARCHER

1 Q. Okay. The gray Crown Vic, that's found
2 where?

3 A. The gray Crown Vic was found off Cane
4 Way Road at Huger Recreational Center.

5 Q. Okay. Cane Way Road and Huger
6 Recreational Center?

7 A. Yes.

8 Q. Now, is that in Charleston County or
9 Berkeley County?

10 A. Berkeley County.

11 Q. Berkeley. Okay. And what items were
12 recovered there?

13 A. Just photographs were taken.

14 Q. Okay.

15 A. And the vehicle was towed to our
16 impound yard.

17 Q. Okay. Now, did you -- this rifle here,
18 where did that come from; do you know?

19 A. That came from Yellow Jacket Road.

20 Q. Yellow Jacket, which is near what?

21 A. Yellow Jacket was near 402 and
22 Copperhead where we were previously.

23 Q. Okay. So it's near -- that's found
24 near where the white Crown Vic was?

25 A. What's that? The rifle?

KIRSTEN CHESNUTT - CROSS EXAM BY MR. ARCHER

1 Q. Yeah.

2 A. The rifle was found on Yellow Jacket.

3 Q. But that's near -- that's near 402,
4 isn't it?

5 A. Yes, sir. That's what I said, 402 and
6 Copperhead.

7 Q. Okay. And Copperhead. So it's found
8 near where the white Crown Vic was found?

9 A. Yes, sir, on Yellow Jacket Road.

10 Q. Okay. Did you check -- did you have
11 anything to do with that rifle?

12 A. I collected it.

13 Q. You collected it?

14 A. And I photographed it.

15 Q. You photographed it. Was it submitted
16 to any sort of forensic testing?

17 A. I do not recall. I don't know.

18 Q. Would somebody at your office do
19 forensic testing on --

20 A. We would not know. It would be sent to
21 SLED to be tested.

22 Q. And do you know whether it was sent to
23 SLED?

24 A. I do not.

25 Q. Okay. The shell casings that you

1 recovered, they don't go with that rifle?

2 A. The casings from 135?

3 Q. Yes.

4 A. No.

5 Q. No. So really there's nothing that
6 you're aware of forensically to connect that rifle
7 with this killing?

8 A. No.

9 Q. No, there's not?

10 A. Nothing, other than it was found near
11 where the sweatshirt was.

12 Q. Okay. So we just have a rifle. We
13 don't know whether it's related to this case or
14 not, right? You can't say that it's related to
15 this case?

16 A. Correct.

17 Q. Okay. Where was the -- it was a
18 sweatshirt found?

19 A. Yes.

20 Q. And that was where?

21 A. Yellow Jacket.

22 Q. Yellow Jacket. And that again is over
23 near 402?

24 A. 402, yes, sir.

25 Q. Okay. Now, this is June. And that's

1 -- I mean, July. Excuse me. July, towards the end
2 of July. It's hot, and that -- that's a fleece
3 sweatshirt, isn't it?

4 A. Uh-huh.

5 Q. It would be not unusual for somebody
6 wearing a fleece sweatshirt in July to sweat in it,
7 would it?

8 A. I supposed not.

9 Q. Did you-all have it tested for DNA?

10 A. Yes, I believe so.

11 Q. You believe so. You don't know so?

12 A. Do you have the paperwork? I can tell
13 you.

14 Q. I don't have it here. I'm -- you're
15 the forensic person they put up, and that's why I'm
16 asking you the question.

17 A. If I could look at the chain of
18 custody, I could say yes or no.

19 Q. Okay. Well, the chain of custody is
20 not with the sweatshirt, is it?

21 A. There's a copy, yes.

22 Q. I mean, in this bag, there's a copy?

23 A. It's on the outside, sir.

24 Q. Oh, okay.

25 A. Yes, sir, it did go to SLED.

KIRSTEN CHESNUTT - CROSS EXAM BY MR. ARCHER

1 Q. Huh?

2 A. It did go to SLED, yes, sir, for
3 further testing.

4 Q. Okay. So I assume we'll hear from SLED
5 as to what they found.

6 A. Sorry?

7 Q. Yeah. Okay. The -- did you recover
8 from the crime scene any -- not shell casings, but
9 bullets, the things on the end of the shell
10 casings?

11 A. I -- yes, one.

12 Q. One? Wasn't there an indication of
13 more than one shot being fired?

14 A. There was four casings and one bullet
15 unfired.

16 Q. Okay. But the case -- okay. Four
17 casings in the residence?

18 A. Yes.

19 Q. Okay. Three casings and one unfired
20 bullet; is that right?

21 A. No. There are four .380 casings in the
22 residence and 32-caliber bullet in the residence.

23 Q. Oh, okay. Well -- and you only found
24 one bullet to go with those four casings?

25 A. Yes.

1 Q. Where was that found?

2 A. The bullet was found by the
3 refrigerator.

4 Q. By the what?

5 A. The refrigerator. The refrigerator.
6 The bullets?

7 Q. By the refrigerator?

8 A. Yes.

9 Q. Okay. How about at the autopsy, was
10 any bullet head found?

11 A. I wasn't at the autopsy.

12 Q. Okay. So you don't know whether
13 there's other --

14 A. No, sir.

15 Q. Okay. Did you-all run tests -- oh,
16 well, gee, I guess you got that rifle there, but
17 that rifle doesn't fit that ammunition, right?

18 A. Right.

19 Q. So you couldn't -- you couldn't try to
20 match that ammunition with that rifle because that
21 rifle would use different ammunition, correct?

22 A. I'm not an ammo expert.

23 Q. Okay. The tape that you found at the
24 house, was that checked for fingerprints?

25 A. Yes. I -- the tape at the residence?

KIRSTEN CHESNUTT - CROSS EXAM BY MR. ARCHER

1 Q. Yeah. The one --

2 A. 135?

3 Q. The one that had bound up the hands of
4 the victim.

5 A. Of Kadeem Johnson?

6 Q. Yes.

7 A. I don't know.

8 Q. You don't know? Okay. Would somebody
9 in your office know whether that tape was --
10 whether that tape was ever examined -- was ever
11 examined for either fingerprints or DNA?

12 A. Yes.

13 Q. Who would know that?

14 A. The supervisor.

15 Q. The supervisor. But you don't know?

16 A. No, I don't know.

17 Q. Okay. But you -- fingerprints are
18 something that can often be left on tape, correct?

19 A. Yes.

20 Q. And DNA also?

21 A. Yes.

22 Q. Okay. But you got no idea whether that
23 was ever sent off for testing or anybody in the lab
24 looked at it?

25 A. If I looked at the chain of custody, I

1 could tell you if it was sent for testing or not.

2 Q. Okay. Well, I don't know which one --
3 the number is on that. But offhand you can't say
4 whether it was ever tested or inspected?

5 A. No.

6 Q. Okay. The cell phone that was found at
7 the scene --

8 A. Which one?

9 Q. Well, there was one found on the
10 ground, right?

11 A. Yes, sir.

12 Q. Okay. Was that ever examined for
13 fingerprints or DNA?

14 A. I don't know.

15 Q. You don't know. What would -- who in
16 your office would know?

17 A. I just collect the evidence, so --

18 Q. You don't do any of the testing or
19 submit it for testing or whatever?

20 A. I don't make the decisions on what gets
21 submitted for testing, no.

22 Q. Okay. So we don't know whether it was
23 submitted for testing or not submitted for testing?

24 A. For the cell phone?

25 Q. Yeah.

KIRSTEN CHESNUTT - CROSS EXAM BY MR. ARCHER

1 A. You could look at the chain of custody
2 and see if it was submitted for --

3 Q. I don't even know if we've got the cell
4 phone into evidence. But wouldn't it be important
5 to know who the cell phone belonged to?

6 A. Yes.

7 Q. Okay. But as a matter of course,
8 you-all wouldn't run testing on it to try to
9 determine whether it belonged to one of these
10 fellows or belonged to the victim or --

11 A. I don't know what you mean when you say
12 run testing.

13 Q. Well, I mean, look -- one, look for
14 fingerprints; two, look for DNA and try to match it
15 with either the victims or these defendants --

16 A. Okay.

17 Q. -- to know whether it's a cell phone
18 that was dropped by a defendant or a cell phone
19 dropped by a victim.

20 A. Yeah, I don't know.

21 Q. You don't know?

22 A. I don't know.

23 Q. Well, wouldn't that be good practice?

24 A. I don't make those decisions.

25 Q. Okay. Now, you showed some drops of

1 blood, I believe, at the house next door?

2 A. Yes. At 129.

3 Q. Did you check those to see whose blood
4 that was?

5 A. I photographed.

6 Q. You photographed?

7 A. Right. I don't recall if there were --
8 I don't recall if there were swabs taken.

9 Q. Swabs taken?

10 A. Swabs of blood taken to --

11 Q. Without swabs of blood taken, how can
12 you tell it's blood? It's red, right?

13 A. I tested a red substance appearing to
14 be blood; I don't know.

15 Q. A red substance.

16 A. Yes, sir.

17 Q. So you don't know whether it was blood
18 or not, you just know it was a red substance?

19 A. Yes, sir.

20 Q. Okay. Your shell casings, do you know
21 whether they were ever looked at to see if there
22 were any fingerprints on them or DNA on them?

23 A. I don't.

24 Q. You don't know. Okay. And the
25 32-caliber unfired bullet, you don't know that

KIRSTEN CHESNUTT - CROSS EXAM BY MR. ARCHER

1 either, whether there was fingerprints or DNA found
2 on it?

3 A. No. I don't know.

4 Q. So all you did was went around and
5 picked up stuff, right?

6 A. I processed the scene and collected
7 evidence, yes.

8 Q. You picked it up and put it in a bag
9 and turned it over to somebody else?

10 A. I put it into evidence.

11 Q. Put it into evidence. And what tests
12 may or may not have been run from that point on,
13 you don't have an idea?

14 A. No, sir, no.

15 Q. Okay. If we wanted to get somebody in
16 here that did have an idea what sort of tests were
17 run, who over at your office would we want to
18 subpoena or talk to?

19 A. You could talk to the supervisors or
20 the detectives who worked the case. They make
21 those decisions.

22 Q. In this case, give me some names.

23 A. Sergeant Spence.

24 Q. Sergeant?

25 A. Spence.

KIRSTEN CHESNUTT - CROSS EXAM BY MR. ARCHER

1 Q. And what's his position there? Is he a
2 detective?

3 A. She's my supervisor in forensics.

4 Q. In forensics?

5 A. Yes.

6 Q. Okay. Okay. And that's the only --
7 that's the only person that you know that would
8 know what happened to these things once they came
9 in?

10 A. Yes.

11 Q. Okay. Well, I guess it's not much
12 point in me asking you more questions about it
13 because basically you know that -- what you know is
14 this was picked up at this spot, and this was
15 picked up at this spot, and this was picked up at a
16 different spot, but you don't know what was ever
17 done as far as testing to determine the
18 relationship of those items to this case?

19 A. Correct. I just collected it.

20 MR. ARCHER: Okay. I have no other
21 questions.

22 THE COURT: Any redirect? Well I
23 skipped somebody. Mr. Smaldone?

24 MR. SMALDONE: I think it's all been
25 asked, Your Honor. No questions for this witness.

KIRSTEN CHESNUTT - CROSS EXAM BY MR. SMILEY

1 THE COURT: Mr. Smiley.

2 MR. SMILEY: Yes, ma'am.

3 THE COURT: You may proceed.

4 CROSS-EXAMINATION

5 BY MR. SMILEY:

6 Q. Deputy Swinton, I'm Jim Smiley, and I
7 represent Sherrod Palmer. Okay.

8 A. I'm Chesnutt.

9 Q. Excuse me?

10 A. You said -- I'm Chesnutt.

11 Q. Oh, Chesnutt. I knew that. I just
12 looked it up to make sure I had it right. Okay.

13 You're the collector, correct?

14 A. Yes; I process and collect.

15 Q. And process and collect means you see a
16 piece of evidence, or you're directed to a piece of
17 evidence, or you're directed to a piece of evidence
18 that you think may have some value, correct?

19 A. Yes.

20 Q. Or you're told it may have some value?

21 A. Yes.

22 Q. Is -- once you find that piece of
23 evidence is -- you don't disturb it; you photograph
24 it, and then you collect it, correct?

25 A. Yes.

KIRSTEN CHESNUTT - CROSS EXAM BY MR. SMILEY

1 Q. All right. And in this case -- and
2 that's your job is to memorialize it with a
3 photograph --

4 A. Uh-huh.

5 Q. -- to collect it without contamination,
6 and then to start the chain to put it into
7 evidence?

8 A. Yes.

9 Q. That's your job?

10 A. Yes.

11 Q. By definition that's what you do?

12 A. Yes.

13 Q. Okay. And at the time you had a little
14 bit under a year's experience and you had
15 Sergeant --

16 A. Spence.

17 Q. -- Spence. Thank you.

18 A. Yes.

19 Q. -- that was -- not, I wouldn't say
20 helping, but directing and you were doing your
21 thing --

22 A. Yes.

23 Q. -- in concert, right?

24 A. She was overseeing, yes.

25 Q. Right. And in this case it was a

KIRSTEN CHESNUTT - CROSS EXAM BY MR. SMILEY

1 little bit like a scavenger hunt, wasn't it; I
2 mean, you didn't just go to one place?

3 A. Oh, yes.

4 Q. Because you started off towards Martha
5 Lane and got directed to 402, to Yellow Jacket, and
6 then you went to Huger Recreational Center, and
7 then you went to Martha Lane?

8 A. Yes.

9 Q. You were -- were other people -- let me
10 make sure I ask the question correctly. You
11 weren't the only evidence collector in this case?

12 A. No.

13 Q. You did not go to the Eccles Church?

14 A. No.

15 Q. If there was any evidence collected at
16 Eccles Church, someone else collected it, correct?

17 A. Yes.

18 Q. All right. You're familiar with the
19 Huger recreation area and 135 Martha Lane?

20 A. Yes.

21 Q. All right. They're in close proximity
22 to one another, fair to say?

23 A. Yes.

24 Q. I was trying to do this with the
25 Charleston County deputy and realized that he

1 didn't know that area very well. Martha Lane is
2 off of Charity Church Road, correct?

3 A. Yes.

4 Q. And it's close to the end of Charity
5 Church where it meets Cainhoy?

6 A. Yes.

7 Q. Okay. At the corner of Charity Church
8 and Cainhoy, where -- at that stop sign -- if you
9 were on Charity Church at the end and Cainhoy is in
10 front of you and you take a right --

11 A. Uh-huh.

12 Q. -- onto Cainhoy Road, the Huger
13 recreation area is very quickly on your right. I
14 won't put --

15 A. Yes.

16 Q. -- a distance on it.

17 A. Yes.

18 Q. But it's not, by any stretch of the
19 imagination, too far away?

20 A. No.

21 Q. Fair to say it's about a one-minute
22 drive, two minutes top? Like I said, I'm not going
23 to ask you how far --

24 A. Yes.

25 Q. But -- all right. So collect the

KIRSTEN CHESNUTT - REDIRECT EXAM BY MR. ALFARO

1 evidence, put it into evidence, and you're done
2 besides coming here today, correct? Well, unless
3 you're directed to take it somewhere?

4 A. Yes.

5 Q. Okay. So, just to make sure we're
6 clear, you are the photographer, the professional
7 collector, the one, on most of this case, started
8 the chain --

9 A. Yes.

10 Q. -- and in some cases you transport the
11 evidence from your evidence locker to another
12 location?

13 A. Yes.

14 Q. And that is your involvement in this
15 case?

16 A. Yes.

17 MR. SMILEY: That's all I have.

18 THE COURT: Any redirect?

19 MR. ALFARO: Briefly, Your Honor.

20 THE COURT: You may proceed.

21 REDIRECT EXAMINATION

22 BY MR. ALFARO:

23 Q. Just to address what Mr. Archer was
24 asking you. You were asked about shell casings
25 that were recovered from 135 Martha Lane. Do you

1 recall that?

2 A. Yes.

3 Q. And your testimony on direct was that
4 there were three .380 casings, shell casings
5 recovered from the bedroom, correct?

6 A. Yes.

7 Q. And one .380 shell casing from the
8 laundry room?

9 A. Yes.

10 Q. And one unfired 32-caliber bullet from
11 the kitchen next to the refrigerator?

12 A. Yes.

13 Q. And those are all contained in State's
14 147; is that correct?

15 A. Yes.

16 MR. ALFARO: Thank you. No further
17 questions.

18 THE COURT: Any objection to the
19 witness being excused? From the State?

20 MR. ALFARO: No, Your Honor.

21 THE COURT: From the defense?

22 MR. THROWER: No objection.

23 MR. SMILEY: No objection.

24 MR. SMALDONE: No objection.

25 THE COURT: Do you have any objection

1 to the witness being excused?

2 MR. ARCHER: Well, I'm thinking, Your
3 Honor. I don't know if they're going to call the
4 person who --

5 THE COURT: I would assume they are,
6 and I don't take speaking objection in the presence
7 of the jury.

8 MR. ARCHER: Yes, ma'am.

9 THE COURT: Are there any objections to
10 her being excused?

11 MR. ARCHER: She can be excused.

12 THE COURT: Ma'am, you're excused.

13 Have a good day.

14 Call your next witness.

15 MR. ALFARO: The State calls Brittany
16 Bordeaux.

17 MR. SMILEY: Say again.

18 MR. ALFARO: Bordeaux.

19 MR. SMILEY: Can we approach, Your
20 Honor?

21 THE COURT: Sure.

22 THE COURT REPORTER: Judge, do you need
23 me?

24 THE COURT: I'll let you know.

25 THE COURT REPORTER: Thank you, Judge.

BRITTANY BORDEAUX - DIRECT EXAM BY MR. ALFARO

1 (Bench conference. No court reporter.)

2 THE COURT: Call your next witness.

3 MR. ALFARO: Brittany Bordeaux.

4 THE CLERK: She's up there.

5 BRITTANY BORDEAUX,

6 being first duly sworn, testified as follows:

7 THE CLERK: Please be seated. State
8 your full name for the record and spell your last
9 name, please.

10 THE WITNESS: Brittany Bordeaux,
11 B-O-R-D-E-A-U-X.

12 THE COURT: Say that one more time,
13 ma'am. I'm sorry. I was a little slow just now.

14 THE WITNESS: Brittany Bordeaux,
15 B-O-R-D-E-A-U-X.

16 THE COURT: Thank you, ma'am.
17 You may proceed.

18 DIRECT EXAMINATION

19 BY MR. ALFARO:

20 Q. Good afternoon.

21 A. Good afternoon.

22 Q. Can you tell the jury what part of
23 Berkeley County you're from, just general area?

24 A. Huger.

25 Q. And how long have you been living in or

1 around Huger?

2 A. Twenty-seven years.

3 Q. Twenty-seven years. And I want to take
4 you back to July 21st, 2016. Were you living in
5 the Huger area back then?

6 A. Yes, sir.

7 Q. Same place you live now or different?

8 A. Same place.

9 Q. Okay. And that morning around 8:30,
10 were you driving in the area of -- in Huger in the
11 area of Eccles Church or Farewell Corner?

12 A. Yes, sir.

13 Q. And could you tell us where you were
14 headed?

15 A. To drop my cousin off at her employer's
16 house.

17 Q. And how old was your cousin?

18 A. At the time she was 17.

19 Q. And was she the only one with you in
20 the car?

21 A. Yes, other than my daughter.

22 Q. Okay. How old was your daughter?

23 A. Five, or six, at the time.

24 Q. I understand. And you said you were
25 driving your cousin to her employer?

1 A. Yes, over on United Drive.

2 Q. And for those that aren't familiar with
3 Huger, is United Drive also in Huger?

4 A. Yes.

5 Q. And did you see anything or anyone
6 unusual that morning when you were driving?

7 A. Yes.

8 Q. What did you see?

9 A. I came in contact with three males
10 walking down the road.

11 Q. And do you recall what these males
12 looked like?

13 A. Not a description off the top of my
14 head. I mean, I could point them out, but other
15 than that, I can't give you an actual description.

16 Q. As far as anything about their clothing
17 stand out to you?

18 A. One of them was wearing inside out
19 pants and one of them had green socks on.

20 THE COURT: I'm sorry, please repeat
21 that.

22 THE WITNESS: One of them had their
23 pants inside out and one of them had a pair of
24 green socks on.

25 BY MR. ALFARO:

BRITTANY BORDEAUX - DIRECT EXAM BY MR. ALFARO

1 Q. And were you able to see the skin color
2 of any of the three men?

3 A. Yes. Two of them were dark-skinned
4 males and one of them was a light-skin male.

5 Q. Okay. And when you say light skin, how
6 light are we talking?

7 A. Extremely light.

8 Q. Okay. And when you came upon these
9 three individuals, did they run?

10 A. No.

11 Q. And where were you at when you saw
12 them?

13 A. There's a church on Eccles Church Road,
14 and we were just past the church.

15 Q. And when you see them, do you -- did
16 they try to stop you or flag you down?

17 A. I stopped them because they were in an
18 unusual area for that time of morning.

19 Q. And would it be fair to say that that's
20 kind of a, sort of a small town vibe that everybody
21 around that area knows everybody?

22 A. Yes, sir.

23 Q. And if you're not from there, you kind
24 of stand out?

25 A. Yes.

1 Q. And what happened after you stopped?

2 A. They just asked to use my telephone.

3 Q. Okay. And did you let them?

4 A. Yes, sir.

5 Q. And did they -- did you stay in the car
6 while they did that?

7 A. Yes, sir.

8 Q. And they're outside of your car?

9 A. Yes, sir.

10 Q. Did they make the calls right near the
11 window?

12 A. Yes, sir.

13 Q. And are you aware that if -- the first
14 person that used your phone, did they get ahold of
15 anybody or talk to anybody?

16 A. Not my recollection, no.

17 Q. How many phone calls do you recall
18 being made?

19 A. One gentleman made maybe two or three
20 calls, the other gentleman maybe two or three
21 calls.

22 Q. And did any of those individuals get
23 ahold of anyone?

24 A. The second gentleman did.

25 Q. And did you overhear any of that

1 conversation?

2 A. He was just asking for a ride.

3 Q. And anything else?

4 A. They asked me where they were located,
5 and I gave them a description of where they were
6 and how to get back to the nearest highway.

7 Q. And what highway did you give them
8 directions to try to get to?

9 A. Highway 41.

10 Q. And how far were you from Highway 41 at
11 that point?

12 A. Maybe three miles.

13 Q. Okay. And you described one of them as
14 extremely light-skinned. Did he use your phone?

15 A. I don't believe so, no.

16 Q. Was he standing in the same area as the
17 other two or --

18 A. One of them was kind of off just a
19 couple steps from the other two.

20 Q. Was that the light-skinned guy or --

21 A. I think so, yes, sir.

22 Q. Okay. And while you're talking to them
23 and they're using your phone and getting
24 directions, did you receive any other phone calls?

25 A. No, sir -- other -- well, yeah, my

1 cousin's employer called to see where she was
2 because she was running late.

3 Q. Okay. Did you talk to her?

4 A. Yes, I did.

5 Q. And as a result of talking to her, what
6 happened then?

7 A. She explained to me that there was a
8 shooting the night before and that I needed to get
9 to her house so that she could notify the police
10 because she believed that those gentlemen were
11 involved.

12 Q. And after getting that phone call, did
13 you leave?

14 A. Yes, sir. I asked for my phone back; I
15 told them I had to get my cousin to the employer.

16 Q. And did they give you your phone back?

17 A. Yes, sir, with no problem.

18 Q. No problem? And how long would you say
19 you were out there with them and having that
20 conversation and them using the phone?

21 A. Maybe five, six minutes.

22 Q. And after the phone calls were made
23 from your phone, did you get any phone calls from
24 numbers you didn't know?

25 A. Yes, sir.

BRITTANY BORDEAUX - DIRECT EXAM BY MR. ALFARO

1 Q. Did you answer any of those phone
2 calls?

3 A. I answered two of them and realized
4 that they were calling back for the boys; told them
5 that I hadn't seen them since I left them walking;
6 and after those two calls, I started getting
7 obscene calls, which was, I guess, the person
8 thought that I wasn't giving them the right
9 information.

10 Q. Okay. And you said that your cousin's
11 employer wanted you to come there so she could call
12 the police?

13 A. Yes, sir.

14 Q. Were you aware if the police were
15 called?

16 A. Yes, sir.

17 Q. And at some point did you meet with the
18 police?

19 A. Yes, sir.

20 Q. And during the course of meeting with
21 the police, did they provide you with a photo
22 lineup?

23 A. Yes, sir.

24 Q. And I'm going to show you State's
25 Exhibit 135 for identification at this point, and

BRITTANY BORDEAUX - DIRECT EXAM BY MR. ALFARO

1 then after you've looked at it I'll have it
2 admitted. Do you recognize that?

3 A. Yes, sir.

4 MR. ALFARO: Your Honor, at this time
5 we would ask that State's Exhibit 135 be admitted
6 in evidence.

7 THE COURT: Any exceptions?

8 MR. THROWER: No objection, Your Honor.

9 THE COURT: Marked and admitted without
10 objection.

11 (STATE EXH. 135 in evidence.)

12 BY MR. ALFARO:

13 Q. Okay. And according to -- this is --
14 did the officer that you met with go over this
15 cover sheet with you?

16 A. Yes, sir; very thoroughly.

17 Q. And on this cover sheet there, it has
18 your name, correct?

19 A. Yes, sir.

20 Q. And there are six numbered lines that
21 have your initials next to them?

22 A. Yes, sir.

23 Q. And could you read for the jury what
24 those six things say?

25 A. Yes, sir. Number one is I'm going to

BRITTANY BORDEAUX - DIRECT EXAM BY MR. ALFARO

1 show a person who may or may not have committed the
2 crime. It is just as important to clear innocent
3 people as it is to identify possible suspects.
4 Whether or not you identify someone, the police
5 will continue to investigate.

6 Number two, after you are done, I will
7 not be able to provide you with any feedback or
8 comment on the results of the process.

9 Number three, do not discuss this
10 identification procedure or the results with other
11 witnesses in this case. Focus on the event, the
12 place, view, lighting, or your frame of mind, et
13 cetera. Take as much time as you need.

14 People may not appear exactly as they
15 did at the time of the event because items of
16 clothing may be changed, added or discarded in a
17 short period of time. As you look at the person,
18 tell me if you recognize him or her.

19 If you do, please tell me how you know
20 the person and, in your own words, how sure you are
21 of the identification.

22 Q. And I'm not sure if I asked you this
23 initially. Your contact with these subjects was
24 around 8:30 in the morning, or 8:00 in the morning?

25 A. Somewhere in there, yes. She was

1 supposed to have been there by 7:45.

2 Q. Okay. All right. And each of those
3 things that you read off to the jury just now, 1
4 through 6, did you -- are those your initials next
5 to those?

6 A. Yes, sir.

7 Q. And does that indicate that you
8 understood those admonitions?

9 A. Yes, sir.

10 Q. And this lineup procedure took place at
11 approximately 5:00 on July 21st; is that correct?

12 A. Yes, sir. It was late that evening.

13 Q. And were you able to pick someone out
14 of the lineup?

15 A. Yes, sir.

16 Q. Okay. And which one of those
17 individuals did you pick?

18 A. Number 2.

19 Q. Okay. And is that the light-skinned
20 guy you were talking about earlier?

21 A. Yes, sir.

22 Q. And Number 2 has a circle around it; is
23 that from you?

24 A. Yes, sir.

25 Q. And it has initials next to it; is that

1 from you?

2 A. Yes, sir.

3 Q. And does that indicate that that's the
4 person you picked out of the lineup?

5 A. Yes.

6 Q. And can you read for the jury what you
7 told the police you recognize that person as?

8 A. I chose this person because of his hair
9 type and color and facial features.

10 Q. And do you see that person today?

11 A. Yes, sir.

12 Q. And where is he?

13 A. Right there. (Indicating)

14 Q. What's he wearing?

15 A. A white shirt.

16 Q. Holding a cup in his hand?

17 A. Yes, sir.

18 Q. Is that the person you picked out of
19 the lineup and saw that day when they were using
20 your phone?

21 A. I'm sorry?

22 Q. That's the person, the light-skinned
23 person that you're describing that was using your
24 phone?

25 A. Yes, sir.