

VOLUME II 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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INDEX

INDEX i

TRIAL TRANSCRIPT DATED AUGUST 27-31, 2018 1

INDICTMENTS AND SENTENCING SHEETS 1344

ANDERS BRIEF OF APPELLANT 1359

STATE V. DRAKE EDWARD CAMPBELL, OP. NO 2021-UP-140
(CT. APP. FILED APRIL 28, 2021)..... 1374

APPLICATION FOR POST-CONVICTION RELIEF 1376

RETURN AND PARTIAL MOTION TO DISMISS..... 1383

AMENDED APPLICATION FOR POST-CONVICTION RELIEF 1397

PCR HEARING TRANSCRIPT DATED SEPTEMBER 9, 2024..... 1399

PCR HEARING TRANSCRIPT DATED SEPTEMBER 10, 2024..... 1425

ORDER OF DISMISSAL..... 1449

BRITTANY BORDEAUX - CROSS EXAM BY MR. THROWER

1 Q. Or was with the people that was using
2 your phone?

3 A. Yes, sir.

4 Q. Okay. And did the officer in any way
5 tell you who to pick?

6 A. No, sir.

7 Q. In any way suggest that you should pick
8 Number 2?

9 A. No, sir, not at all.

10 MR. ALFARO: Thank you. Please answer
11 any questions defense may have.

12 THE COURT: Mr. Thrower?

13 MR. THROWER: Thank you, Your Honor.

14 THE COURT: You're welcome.

15 CROSS-EXAMINATION

16 BY MR. THROWER:

17 Q. I tell you with these different roads
18 up there -- where did you encounter these guys?

19 A. Eccles Church Road.

20 Q. Eccles Church?

21 A. Yes, sir.

22 Q. And it was in broad daylight --

23 A. Yes, sir. It was that morning.

24 Q. Okay.

25 A. It was clearly daylight.

BRITTANY BORDEAUX - CROSS EXAM BY MR. ARCHER

1 Q. Do you know where Martha Lane is?

2 A. I know the general area.

3 Q. How far would you say this was from
4 Martha Lane?

5 A. I'm not very good with distances, but
6 maybe ten miles.

7 MR. THROWER: Ten miles. Thank you
8 very much.

9 THE COURT: Mr. Archer?

10 CROSS-EXAMINATION

11 BY MR. ARCHER:

12 Q. What time of day did the officer come
13 by and you show the photo lineup?

14 A. It was late that evening, probably,
15 say, between four and six; five sounds like an
16 accurate time.

17 Q. Okay. Sometime between four --

18 A. And --

19 Q. -- in the afternoon and six in the
20 evening?

21 A. Yes, sir.

22 Q. And at what time had you met these guys
23 on the road and they used the phone?

24 A. That morning between 8:00 and 8:30.

25 Q. Okay. Now -- 8:00 and 8:30. And

1 that's in the morning, a.m.?

2 A. Yes, sir.

3 Q. Did they show you just one photo
4 lineup, or did they show you three photo lineups?

5 A. They showed me three.

6 Q. They showed you three?

7 A. Uh-huh.

8 Q. Okay. And out of the three, you were
9 only able to pick somebody out of this one?

10 A. Well, I identified someone out of all
11 three of them but --

12 Q. Excuse me?

13 A. I identified someone out of all three
14 of them --

15 Q. You did?

16 A. Yes, because it was three different
17 papers.

18 Q. Okay. Do you know what officer came to
19 see you?

20 A. It's been so long, I can't remember his
21 name.

22 Q. You can't remember his name?

23 A. No, sir.

24 Q. Did he ask you to be able to take your
25 phone with him or --

BRITTANY BORDEAUX - CROSS EXAM BY MR. ARCHER

1 A. No, he just asked to look through my
2 phone; I gave him my phone.

3 Q. Okay. Did he take down any phone
4 numbers from your phone?

5 A. Yes, sir.

6 Q. He did?

7 A. Yes, sir.

8 Q. And do you know whether they were the
9 phone numbers of the people who called you that
10 morning?

11 A. Yes, sir. And as I was trying to leave
12 the officer, those same numbers were calling again,
13 and I actually gave him the phone and he answered
14 one of them.

15 Q. Okay. But he got the numbers of the
16 people that these fellows had called?

17 A. Yes, sir.

18 MR. ARCHER: Okay. Thank you.

19 THE COURT: Mr. Smaldone?

20 MR. SMALDONE: No questions.

21 THE COURT: Mr. Smiley?

22 CROSS-EXAMINATION

23 BY MR. SMILEY:

24 Q. You saw three people on the road?

25 A. Yes, sir.

BRITTANY BORDEAUX - CROSS EXAM BY MR. SMILEY

1 COURT REPORTER: I can't hear you over
2 there.

3 THE COURT: She can't hear you over
4 there.

5 MR. SMILEY: Oh, I'm sorry. I was just
6 going to ask quickly. I've never had a witness I
7 didn't ask a question.

8 BY MR. SMILEY:

9 Q. Three guys on the road, 8:30 in the
10 morning --

11 A. Yes, sir.

12 Q. -- right? You believe you were shown
13 three lineups or four lineups -- three --

14 A. Three, at least three.

15 Q. Okay. And --

16 A. Because I was able to identify three
17 people.

18 Q. You did. You circled three people?

19 A. Yes, sir.

20 Q. And put your initials by them?

21 A. Yes, sir.

22 Q. All right.

23 MR. SMILEY: Beg the Court's
24 indulgence.

25 THE COURT: Yes, sir.

BRITTANY BORDEAUX - CROSS EXAM BY MR. SMILEY

1 MR. SMILEY: Your Honor, we have a
2 matter of law --

3 THE COURT: Approach.

4 (Bench conference; no reporter.)

5 THE COURT: Mr. Foreman, ladies and
6 gentlemen, I have a brief matter of law to take up
7 with the counsel. During the break, please do not
8 discuss the case and please leave your notepads in
9 your seats. I appreciate your patience.

10 (Jury out, 4:59 p.m.)

11 THE COURT: Be seated. Now, as I
12 understand it, she was shown two lineups and
13 identified one person; is that accurate?

14 MR. ALFARO: That's the information we
15 have, Your Honor.

16 MR. SMILEY: And that was the
17 information I was relying upon, Your Honor.

18 THE COURT: Yes. But you can impeach
19 her without making reference to what was in those
20 lineups; because if you don't, you're going to
21 implicate this gentleman. Because while she may
22 have identified Kenneth Campbell, Senior, I don't
23 know how closely they look alike.

24 MR. SMILEY: She did not identify him.

25 THE COURT: Okay. So what you-all told

1 me at the bench was inaccurate?

2 MR. SMILEY: No, we told you what was
3 accurate. She identified Jacob Mouzon.

4 THE COURT: I got that part.

5 MR. SMILEY: She was shown a second
6 lineup that had Kenneth Campbell, Senior in it.
7 She did not pick out anyone. She was shown no
8 other lineups.

9 THE COURT: Okay.

10 MR. SMILEY: So --

11 THE COURT: You can ask her that
12 question and impeach her without making reference
13 to who was in it.

14 MR. SMILEY: I'm just being careful. I
15 just -- if it was just my client on trial, I
16 think I --

17 THE COURT: I don't think it matters
18 who asks the question, as long as you don't make
19 reference to who was in the lineup because that's
20 not what's germane.

21 What is germane is the thoroughness of
22 her identification and her recollection, and you
23 can question that without making reference to who
24 she identified.

25 MR. SMILEY: Okay.

BRITTANY BORDEAUX - CROSS EXAM BY MR. SMILEY

1 MR. ARCHER: Well, I thought I heard
2 that she identified three people.

3 THE COURT: That's what she said, but
4 he can impeach her without making reference to
5 her --

6 MR. ARCHER: Yeah. Well, I wanted to
7 make sure I knew and I can find that out.

8 THE COURT: You-all may want to look
9 and talk to the officer who showed her these IDs
10 and make sure she didn't see three. Because that
11 is possible, and it is also possible they didn't
12 give it to you.

13 MR. SMILEY: And that's --

14 THE COURT: Which is exculpatory. Why
15 don't we take a break and why don't you-all ask the
16 people, and we'll resume in a few minutes.

17 (A recess transpired.)

18 THE COURT: Do you need to go to the
19 restroom?

20 THE WITNESS: Yes.

21 THE COURT: Go right ahead. Just don't
22 discuss your testimony with them. Thank you.

23 MR. ALFARO: May I approach, Your
24 Honor? We've marked the only other lineup that
25 we're aware of as we did not put that on the

1 record.

2 THE COURT: Okay. Did you show it to
3 them?

4 MR. ALFARO: Yeah. They all had it in
5 discovery.

6 THE COURT: That's the only other one?

7 MR. ALFARO: That's the only other
8 lineup that we have that we provided. And
9 Detective Elrod -- or Detective Phillips who we
10 spoke with who conducted the lineup procedures,
11 said that those are the only two lineup that were
12 presented to Ms. Bordeaux.

13 THE COURT: Okay. Do you-all have a
14 copy of that?

15 MR. SMILEY: Yes, but the --

16 THE COURT: Okay. So now tell me what
17 the issue is.

18 MR. SMILEY: She is -- I'm going to
19 very carefully impeach without --

20 THE COURT: I think you can impeach her
21 without making reference to what was in it and who
22 she identified or otherwise. The issue is whether
23 she misidentified -- whether she -- the scope of
24 the thoroughness and the certainty of her ID.

25 MR. SMILEY: With the jury out right

BRITTANY BORDEAUX - CROSS EXAM BY MR. SMILEY

1 now, may I refresh her memory with the photo
2 lineups that I believe were presented to her before
3 I ask the question so I don't have to get into who
4 was in that other photo? She was shown more than
5 one photo lineup.

6 THE COURT: Yeah. And I guess the
7 question for me becomes, so why is that germane to
8 your client who she didn't identify?

9 MR. SMILEY: Because she said she
10 identified three people. And if she identified
11 three people I'm going to have my client stand up
12 and say, but you didn't identify him, did you?

13 THE COURT: That's kind of risky.

14 MR. SMILEY: Not for my client. There
15 was no allegation --

16 THE COURT: And there's nothing that
17 precludes her from identifying him now.

18 MR. SMILEY: Well, she would be dead
19 wrong.

20 THE COURT: Well, that's your
21 perspective. She might not think that.

22 MR. SMILEY: Well --

23 THE COURT: I don't care who --

24 MR. SMILEY: (Inaudible)

25 THE COURT: Here's the bottom line.

1 It's your client, you ask him whatever you want to,
2 but don't expect me to try to --

3 MR. SMILEY: I'm not worried about
4 that. I'm worried about affecting the rights of
5 others that are in the courtroom.

6 THE COURT: I don't understand what you
7 mean.

8 MR. SMILEY: There is a photo lineup
9 that she did not make an identification from that
10 has Mr. Kenneth Campbell, Junior, Mr. Drake
11 Campbell's father in it.

12 THE COURT: Okay.

13 MR. SMILEY: And I would like to -- if
14 I did not have --

15 COURT REPORTER: I can't hear.

16 THE COURT: Yeah. There's too much
17 ambient noise.

18 MR. SMILEY: I'll come up. I'm sorry.

19 THE COURT: No, it's not your fault
20 she's unable to hear you. There's too much ambient
21 noise.

22 MR. SMILEY: Because she was only shown
23 two lineups. That's what the discovery and the
24 evidence supports. She makes an identification of
25 one. She's shown a second one that contains the

BRITTANY BORDEAUX - CROSS EXAM BY MR. SMILEY

1 father of these two clients.

2 And I just didn't want to open a door
3 because she did not identify anybody in that, and I
4 want to show her the two lineups that she looked at
5 to -- not so much impeach --

6 THE COURT: You can let her use it to
7 refresh her memory, but that's not germane to the
8 jury. What's germane to the jury is that she
9 didn't identify your client and she had another
10 lineup and didn't identify anybody else.

11 What's in the lineup is not germane or
12 relevant to your client.

13 MR. SMILEY: But I've got to show it to
14 her.

15 THE COURT: You can show it to her to
16 refresh her memory --

17 MR. SMILEY: That's what I was asking
18 before they came in, can I show --

19 THE COURT: And I said you could do
20 that.

21 MR. SMILEY: Okay.

22 THE COURT: Correct.

23 MR. SMILEY: And so I'm going to do
24 that now. And I'm not really impeaching; I'm
25 rehabilitating to a certain degree.

1 THE COURT: No, you're not
2 rehabilitating. You're impeaching her because you
3 want the jury to doubt the veracity of her
4 identification based on lack of memory or being mis
5 -- or being -- having misapprehended what she
6 looked at.

7 So you're not really rehabilitating
8 her.

9 MR. SMILEY: Well, truly I want it to
10 be that she identified all three, but it's just not
11 the truth because it wouldn't be --

12 THE WITNESS: Your Honor, can I clarify
13 something?

14 THE COURT: Sure.

15 THE WITNESS: There is more lineup -- I
16 was shown originally more lineups than what is
17 being shown to me now.

18 MR. SMILEY: And that's the problem.

19 THE COURT: And that's why I said, ask
20 the officer.

21 MR. ALFARO: And we did, Your Honor.

22 THE COURT: Is there another officer
23 that was involved? That's always possible, too.

24 Are there supplemental reports that
25 made reference to it?

BRITTANY BORDEAUX - CROSS EXAM BY MR. SMILEY

1 MR. ALFARO: No, Your Honor. We have
2 another officer that was there. We can get him --
3 he's not local, but we can get him in tomorrow.

4 THE COURT: I think what we might need
5 to do is break for the day and you-all need to get
6 some more information and find out exactly what's
7 what, so we can have certainty before this witness
8 is questioned any further.

9 MR. ALFARO: Yes, ma'am.

10 THE COURT: Because my perception is
11 that she is credible, and if she believes she saw
12 three, I have no reason to doubt --

13 MR. SMILEY: Or more than three.

14 THE COURT: I don't know. So I think
15 we need to look a little deeper and find out
16 exactly what happened.

17 MR. SMILEY: The State would like --

18 THE COURT: And I don't doubt if the
19 officers say -- there may be a very innocent
20 explanation.

21 MR. SMILEY: Yes, ma'am.

22 THE COURT: I mean, she may have looked
23 at the same one twice and not realized it. I don't
24 know. I don't want to speculate.

25 Is there any exception to us breaking

1 for the evening so you-all can make inquiry of the
2 other officer and find out what may or may not have
3 happened so we can have clarity?

4 MR. ALFARO: None from the State.

5 THE COURT: I assume there is no
6 exception from my peanut gallery?

7 MR. THROWER: None.

8 THE COURT: All right. Bring in the
9 jury for me.

10 MR. SMILEY: Your Honor, just the
11 reminder that she can't discuss --

12 THE COURT: I'm going to take care of
13 it. I know how to handle it.

14 (Jury in, 4:59 p.m.)

15 THE COURT: You may be seated. Ladies
16 and gentlemen, we're going to break for the
17 evening. I have some more -- I have to deal with
18 -- continue to deal with a matter of law with
19 counsel which will take us well beyond 5:00, and
20 it's 4:59 now. And I don't want to hold you all,
21 recognizing you have other responsibilities that
22 you need to attend to.

23 We'll resume in the morning at 9:15.
24 During this break, please do not discuss the case
25 among yourselves or with anyone else. Please do

1 not watch, read, or listen to any media accounts.

2 Please don't post on any social networking sites.

3 Your parking will be the same as we've
4 arranged. So there should be deputies and bailiffs
5 down there to meet you in the morning to bring you
6 into the courthouse unfettered. And I may order
7 lunch tomorrow. I haven't made that decision, but
8 it's probably likely.

9 So when you come in if Mr. Marvin has
10 menus for you, we'll probably order in advance and
11 then I'll sort of decide when we'll take -- when
12 we'll have our lunch recess.

13 If you would leave your notepads in
14 your seats, we'll secure them during the break. I
15 hope you-all have a great evening. I'll see you in
16 the morning at 9:15.

17 (Jury out 5:11 p.m.)

18 THE COURT: You may be seated. Ma'am,
19 you're excused until tomorrow at 9:15. During the
20 break, please do not discuss the case with anyone,
21 and when you come back to the courthouse it's
22 probably best that you avoid any conversations with
23 anybody. I wouldn't want an innocent conversation
24 to be misinterpreted.

25 THE WITNESS: Yes, ma'am.

1 THE COURT: Thank you for your
2 patience. We appreciate it. And the deputies
3 probably need to escort her to her car to make sure
4 she doesn't incidentally have any contact with any
5 of the jurors. Thank you. All right.

6 Anything before we break for the
7 evening? From the State?

8 MR. ALFARO: No, Your Honor.

9 THE COURT: From the defense?

10 MR. THROWER: No, Your Honor.

11 THE COURT: Mr. Smiley.

12 MR. SMILEY: No, Your Honor.

13 THE COURT: Mr. Smaldone.

14 MR. SMALDONE: No, Your Honor.

15 THE COURT: Mr. Archer?

16 MR. ARCHER: No, Your Honor.

17 THE COURT: All right, guys. See
18 you-all at 9:15.

19 (COURT'S EXH. 3, Photo lineup, was
20 marked for identification.)

21 (These proceedings were recessed at
22 5:12 p.m., to be continued 5/29/18 at 9:15 a.m.)

23

24

25

1 (The following proceedings were had
2 8/29/2018, 9:54 a.m., in re State v Mouzon,
3 Campbell, Campbell and Palmer.)

4 MR. ALFARO: Your Honor, we have spoken
5 with the two officers that were present during the
6 lineup presentations to Ms. Bordeaux. They have
7 confirmed that, in fact, she was only presented
8 with two lineups. The lineup that she testified to
9 on direct and cross, which contained Defendant
10 Jacob Mouzon.

11 She was also presented with a lineup
12 that was pulled for Kenneth Campbell, Senior as
13 opposed to Junior. That ID has been -- that lineup
14 has been made a Court's Exhibit. And she was
15 presented that and, in fact, did not make any ID on
16 that.

17 THE COURT: Okay. I'm confused. What
18 was made a Court's Exhibit and how was it made a
19 Court's Exhibit?

20 The only Court's Exhibit that I'm aware
21 of right now was the color picture of the deceased.

22 Was there any other Court's Exhibits,
23 Denise?

24 THE COURT REPORTER: Yes, Judge.

25 This was Number 1, Judge.

1 THE COURT: Oh, from the in camera
2 hearing?

3 MR. ALFARO: She was presented -- just
4 for the record, she was presented and testified to
5 State's Exhibit 135, which was admitted into
6 evidence, containing Defendant Jacob Mouzon. The
7 officers also confirmed that she was presented with
8 a photo lineup that contained Kenneth Campbell,
9 Senior on that same date and time and location.

10 Her -- in that lineup procedure, she
11 noted no ID was made and signed that lineup. That
12 is what we would be offering as Court's Exhibit 3.

13 THE COURT: I think I already made that
14 an exhibit yesterday. Are you talking about the ID
15 where there wasn't an identification?

16 MR. ALFARO: Yes.

17 THE COURT: I made that an exhibit
18 yesterday.

19 MR. ALFARO: We confirmed with Officers
20 Phillips and Elrod that those were the only lineups
21 presented to her. I have spoken with Lieutenant
22 Dan Wilson, the supervisor with the sheriff's
23 office, as well as Case Agent Teela Antwine; no
24 other photo lineups were presented to Ms. Bordeaux,
25 which is obviously in conflict with her testimony,

1 but the State's position is that she is mistaken on
2 that based off of our conversations with law
3 enforcement.

4 And, also, for the record, those items
5 -- both of those exhibits, both of those lineups
6 have been provided to all of the attorneys prior to
7 the trial.

8 THE COURT: Okay. All right.

9 The State has done what I asked. I
10 have no reason to believe that Mr. Alfaro was
11 misleading the Court, and we will proceed with the
12 cross-examination of the witness.

13 Anything from the defense, Mr. Thrower?

14 MR. THROWER: No, ma'am.

15 THE COURT: Mr. Archer, I'm going in
16 order; I will get to you.

17 MR. SMILEY: No, ma'am.

18 MR. SMALDONE: No, Your Honor.

19 THE COURT: Yes, sir, Mr. Archer.

20 MR. ARCHER: Your Honor, I have two
21 things that related to the 911 call made by the
22 female victim. One is that my recollection of what
23 was said on that varied from some of the other
24 co-counsel, and I'm going to argue that --

25 THE COURT: Did you not get a copy of

1 the 911 tape?

2 MR. ARCHER: I don't have a copy of it.

3 THE COURT: Did you not get one in
4 discovery?

5 MR. ARCHER: I got a bunch of 911
6 calls. I have looked for it; I can't find it.

7 THE COURT: Did you ask the State for a
8 duplicate?

9 MR. ARCHER: Ma'am.

10 THE COURT: Did you ask the State for
11 another copy?

12 MR. ARCHER: Well, I can ask them for
13 one or I can just listen to it during the break.

14 THE COURT: Well, it's an exhibit. Why
15 don't you just -- I think it's more prudent that
16 you just ask them for another copy of what was
17 admitted into the record. Wouldn't you want to
18 have one?

19 MR. ARCHER: Yeah, I would like to have
20 one.

21 THE COURT: Do you have a copy you can
22 provide him?

23 MR. MCNEELY: I don't know if we
24 currently have an additional copy beyond State's
25 133, which has been admitted.

1 MR. ALFARO: We can find a copy. I
2 think we have the original.

3 THE COURT: Can you burn another one, a
4 duplicate?

5 MR. ALFARO: We'll provide one.

6 MR. ARCHER: The other matter was that
7 I believe that disk has a lot of information of
8 testimonial nature, which would be important to the
9 case. I asked the Court Reporter yesterday if she
10 could transcribe it, and she said no, but I think
11 it ought to be transcribed to make it part of the
12 record.

13 THE COURT: It is already part of the
14 record; it's been played and made an exhibit. If
15 you need a transcript, you will have to employ
16 somebody to do that.

17 All right. Is there anything else we
18 need to deal with before we resume testimony from
19 the State?

20 MR. ALFARO: Your Honor, I'm just
21 trying to find one thing real quick related to what
22 Mr. Archer has brought up for the record.

23 THE COURT: I assume that what was
24 admitted into the record, the only thing on that
25 disk is the 911 call, correct?

1 MR. ALFARO: It is, Your Honor. I was
2 trying to look through our list and give a
3 Bates-stamped number of when it was provided, but
4 it was previously provided to Mr. Archer.

5 THE COURT: During a break, why don't
6 you find out what the Bates stamp is and give it to
7 him and then maybe he can locate it, instead of you
8 having to duplicate it and save some time.

9 MR. ALFARO: One other related matter,
10 at the beginning of the trial I neglected to
11 indicate that the defense attorneys have agreed to
12 stipulate to the chain of custody in this case.

13 THE COURT: The chain on which things?

14 MR. ALFARO: On any of the physical
15 evidence that's going to be presented. We have
16 been -- or we will be producing the witnesses that
17 collected and/or secured the items as well as the
18 analyst that ultimately tested it, but the chain
19 within that has been stipulated to.

20 THE COURT: Is that correct,
21 Mr. Thrower?

22 MR. THROWER: That's correct, Your
23 Honor.

24 THE COURT: Mr. Smiley?

25 MR. SMILEY: I agree that any chain --

1 purely chain witnesses have been stipulated to.

2 MR. SMALDONE: That's what I agreed to
3 as well, Your Honor.

4 THE COURT: And, Mr. Archer.

5 MR. ARCHER: I agree to that.

6 THE COURT: Tell me which items those
7 are so we can all be on the same page. Because I
8 don't want you to be caught by -- if we're not all
9 on the same page and you haven't asked somebody to
10 be here.

11 MR. ALFARO: What will be marked as --
12 or is marked as State's 142 that hasn't been
13 admitted yet, it is the bandana that was located on
14 Highway 402; black sweatshirt which is State's 143,
15 which is in evidence; the 7.62 SK rifle found on
16 Yellow Jacket Road, 144; State's 145, the magazine
17 and bullets removed from that rifle; State's 146,
18 personal contents from the yard of Martha Lane --

19 THE COURT: I'm sorry, repeat that.

20 MR. ALFARO: State's 146, which is the
21 purse from 135 Martha Lane; State's 147, which is
22 in evidence, projectile casings from 135 Martha
23 Lane, as well as the unfired bullet; State's 148,
24 clear tape from the porch of 135 Martha Lane which
25 is in evidence; State's 149, latent fingerprint

1 list from the white Crown Victoria; State's 150,
2 roll of clear tape from the passenger seat of the
3 gray Crown Vic; State's 151, glove from the door of
4 the gray Crown Victoria; State's 152, black glove
5 from Darius Hamilton's truck --

6 THE COURT: You said a white glove.

7 MR. ALFARO: 151 is a white glove; 152
8 is a black glove.

9 THE COURT: Sorry, I misunderstood you.

10 MR. ALFARO: State's 153, glove, white
11 pair from red Crown Vic; State's 154, clear tape
12 removed from Kadeem Johnson during autopsy; State's
13 155, projectile removed from Kadeem Johnson during
14 autopsy; and State's 156, blood spot card from
15 Kadeem Johnson taken during autopsy; State's 157
16 admitted, Hello Kitty bag from Eccles Church;
17 State's 158, projectile removed from Krystal Snipe;
18 State's 159, 7.62 bullet unspent in Darius
19 Hamilton's truck; State's 160, buccal swab from
20 Darius Hamilton; State's 161, buccal swab from
21 Sherrod Palmer; State's 162, buccal swab from
22 Kenneth Campbell; State's 163, buccal swab from
23 Jacob Mouzon; State's 164, buccal swab from Drake
24 Campbell; State's 165, buccal swab from Krystal
25 Snipe; State's 166, SLED fingerprint card standards

1 for defendant; State's 167, swab from clear tape,
2 135 Martha Lane; State's 168, swabs and cuttings
3 taken by SLED serology; State's 169, which is
4 admitted DNA swabs from 135 Martha Lane porch and
5 bedroom; State's 170, DNA swabs from gray Crown
6 Victoria; State's 171, DNA from white Crown
7 Victoria; State's 172, DNA from three cell phones.

8 THE COURT: Is that correct,
9 Mr. Thrower?

10 MR. THROWER: Sounds correct.

11 MR. SMILEY: Correct.

12 MR. SMALDONE: Correct.

13 THE COURT: And, Mr. Archer.

14 MR. ARCHER: Yes.

15 THE COURT: Now, also, just as a
16 housekeeping matter, I've ordered lunch for the
17 jury. It will arrive at 12:30. Once they have
18 eaten and gotten some air, we will resume
19 testimony. I would suggest that you-all make
20 arrangements along those lines because this will be
21 an abbreviated lunch hour.

22 Anything before we proceed?

23 MR. ALFARO: No, Your Honor.

24 THE COURT: From the defense?

25 MR. THROWER: No, Your Honor.

BRITTANY BORDEAUX - CONT. CROSS EXAM BY MR. SMILEY

1 MR. SMILEY: No, ma'am.

2 MR. SMALDONE: No, ma'am.

3 MR. ARCHER: No, ma'am.

4 THE COURT: Please bring in the jury.

5 And, ma'am -- where is the witness? We
6 need Ms. Bordeaux.

7 Ms. Bordeaux, if you would retake the
8 stand. I remind you that you were still under
9 oath.

10 Once she retakes the stand, bring the
11 jury in.

12 (Jury in, 9:57 a.m.)

13 THE COURT: You may be seated.

14 Good morning, ladies and gentlemen. I
15 hope that you had a pleasant evening. We
16 appreciate your patience. We had some matters of
17 law to conclude this morning before we proceeded or
18 resumed testimony.

19 Mr. Smiley, you may proceed when you're
20 ready.

21 CONTINUING CROSS-EXAMINATION

22 BY MR. SMILEY:

23 Q. Morning, Brittany.

24 A. Morning.

25 Q. All right. Where we left off

1 yesterday, if I can try to pick it up, is your
2 testimony is that -- we have one photo lineup
3 that's in evidence that you saw yesterday where you
4 had circled it, right?

5 A. Yes, sir.

6 Q. And I believe it's your recollection
7 that you circled other pictures on other lineups?

8 A. Yes, sir.

9 Q. I think two other ones?

10 A. Yes, sir.

11 Q. So your testimony is that you were
12 shown multiple lineups?

13 A. Yes, sir.

14 Q. And that of those multiple lineups, you
15 circled three individuals in separate lineups?

16 A. Yes, sir.

17 Q. And those people that you circled would
18 have been the individuals that you met up with on
19 the road out there?

20 A. Yes, sir.

21 MR. SMILEY: That's all I have.

22 THE WITNESS: Okay.

23 THE COURT: Any redirect?

24 MR. ALFARO: No, Your Honor.

25 THE COURT: Any objection to the

JARED PHILLIPS - DIRECT EXAM BY MR. MCNEELY

1 witness being excused? From the State?

2 MR. ALFARO: No, Your Honor.

3 THE COURT: From the defense?

4 MR. THROWER: No, Your Honor.

5 MR. SMILEY: No, Your Honor.

6 MR. SMALDONE: No, Your Honor.

7 MR. ARCHER: No.

8 THE COURT: Ma'am, you're excused.

9 State may call their next witness.

10 MR. MCNEELY: State calls Jared
11 Phillips.

12 JARED PHILLIPS,

13 being first duly sworn, testified as follows:

14 THE CLERK: Please be seated. State
15 your full name for the record and spell your last
16 name.

17 THE WITNESS: Jared Austin Phillips,
18 P-H-I-L-L-I-P-S.

19 THE COURT: You may proceed.

20 MR. MCNEELY: Thank you.

21 DIRECT EXAMINATION

22 BY MR. MCNEELY:

23 Q. Morning, Deputy. Where are you
24 currently employed?

25 A. Jasper County Sheriff's Office.

JARED PHILLIPS - DIRECT EXAM BY MR. MCNEELY

1 Q. What is your position there and how
2 long have you been there?

3 A. CID since 2017.

4 Q. In Jasper County?

5 A. Yes.

6 Q. Describe a little bit about your
7 education and training.

8 A. I'm a graduate of the University of
9 South Carolina with a Bachelor's of Science Degree
10 in Criminal Justice; I'm also a graduate of the
11 South Carolina Criminal Justice Academy; and every
12 year we have to do continuous training to keep our
13 certification.

14 Q. Prior to joining the Jasper County
15 Sheriff's Office in 2017, were you employed with
16 the Berkeley County Sheriff's Office?

17 A. Yes.

18 Q. When did you start with Berkeley County
19 Sheriff's Office?

20 A. October 2015.

21 Q. And what was your position with the
22 Berkeley County Sheriff's Office during July 2016?

23 A. Corporal in investigations.

24 Q. When did you start in investigations?

25 A. In October 2015.

JARED PHILLIPS - DIRECT EXAM BY MR. MCNEELY

1 Q. You were in CID the entire time?

2 A. Yes, sir.

3 Q. What were the duties of your position
4 in investigations?

5 A. I was in the property crimes unit. We
6 conducted follow-up with burglaries, larcenies,
7 financial frauds. Also, I was with the arson unit
8 as well; we conducted interviews with victims,
9 witnesses, suspects, persons of interest.

10 We also obtained search warrant
11 throughout the investigation, conducted photo
12 lineups.

13 Q. During July of 2016, on the morning of
14 Thursday, July 21st, were you working?

15 A. No, I wasn't.

16 Q. During that time, were you called on
17 duty to assist with the investigation of a homicide
18 at 135 Martha Lane in Huger?

19 A. I was.

20 Q. And, approximately, what time did you
21 get the call?

22 A. About 4:30 a.m.

23 Q. At some point -- did you respond to
24 that point?

25 A. Yes, I did.

JARED PHILLIPS - DIRECT EXAM BY MR. MCNEELY

1 Q. At some point while you came on duty,
2 were you directed to the Huger recreation area?

3 A. I was.

4 Q. Why were you directed to that location?

5 A. I was advised Charleston County
6 Sheriff's Office was out assisting with patrol and
7 attempting to locate the perpetrators. They came
8 to the Huger Recreation Center off of Henrynellie
9 Lane and observed a green-colored Crown Victoria
10 parked awkwardly in the middle of the Recreation
11 Center. And they were holding scene until
12 forensics could arrive.

13 Q. Did you arrive at that location?

14 A. Yes, I did.

15 Q. Did you observe the vehicle?

16 A. I did.

17 Q. Do you ascertain who the registered
18 owner of that vehicle was?

19 A. We ran the information through our
20 dispatch and it returned to the victims in this
21 case.

22 Q. Did you attempt to locate any
23 additional evidence at that location?

24 A. I did. I conducted a secondary search
25 around the vehicle and into the wood lines. I did

1 not locate anything. I also made contact with a
2 residence right beside the recreation center on
3 Cainhoy.

4 I made contact with Henrenda Carson. I
5 spoke to her a little while in reference to hearing
6 gunshots, but she didn't see anything during the
7 early morning hours.

8 I made contact with a Melvin Fowler off
9 of Henrynellie Lane. He advised he did not see
10 anything that morning.

11 Q. After addressing the gray Crown
12 Victoria, did your investigation lead you to Eccles
13 Church?

14 A. It did.

15 Q. Where is Eccles Church?

16 A. 1696 Eccles Church Road.

17 Q. Is that in the Huger area of Berkeley
18 County?

19 A. Yes.

20 Q. And what did you do at that location?

21 A. We were advised that witnesses observed
22 subjects running behind the church. We responded.
23 Prior to my arrival, deputies notified us in
24 reference to locating a red Hello Kitty bag that
25 was possibly dropped when they were running through

JARED PHILLIPS - DIRECT EXAM BY MR. MCNEELY

1 the woods.

2 Upon my arrival, I made contact with
3 Supervisor Dan Wilson. He handed me the camera,
4 and I continued taking photographs around Eccles
5 Church.

6 Q. When you got that information regarding
7 the Hello Kitty bag, did it have any relevance to
8 the investigation at that point?

9 A. Not at that point.

10 Q. Did it later?

11 A. It did.

12 Q. What was that relevance?

13 A. We were advised that the victim had
14 notified that her red Hello Kitty bag was stolen
15 during the home invasion at the crime scene.

16 Q. And you stated you took photos?

17 A. I did.

18 Q. And I want to show you what's been
19 marked as State's Exhibits 112 through 113. If you
20 could look at those photos.

21 Are those the photos you took at Eccles
22 Church that day?

23 A. Yes, sir, they are.

24 Q. State's Exhibit 112. Deputy Phillips,
25 I will hand you a laser pointer. Turn around the

1 other direction.

2 A. Okay.

3 Q. What's in that photograph?

4 A. It is Eccles Church, basically a far
5 view of the church itself and the property
6 surrounding it.

7 Q. State's 113. Is that the same thing,
8 different angle?

9 A. Yes, sir.

10 Q. State's 114?

11 A. That's a close-up of the church.

12 Q. 115, please?

13 A. That's the driveway leading back to the
14 cemetery.

15 Q. 116, please?

16 A. That is if you are facing the church,
17 the left side of the property.

18 Q. 117, please?

19 A. That's a closer view of the left side
20 of the church at the wood line.

21 Q. 118, please?

22 A. That is a far shot to the red Hello
23 Kitty bag.

24 Q. 119, please?

25 A. That's a close-up of where the red

JARED PHILLIPS - DIRECT EXAM BY MR. MCNEELY

1 Hello Kitty bag was located.

2 Q. 120, please?

3 A. That's another close-up of the red

4 Hello Kitty bag.

5 Q. 121, please? Same thing, closer?

6 A. Yep. Yes, sir.

7 Q. Did Detective Wilson and yourself

8 collect that bag at that time?

9 A. Detective Wilson collected that bag.

10 Q. Did you photograph the collection?

11 A. Yes, sir.

12 Q. 122, please? Is that Detective Wilson

13 holding the bag?

14 A. It is.

15 Q. Did you-all open the bag?

16 A. Detective Wilson unzipped the bag to

17 show the contents within.

18 Q. 123, is that the contents as you found

19 it that day?

20 A. Yes, sir.

21 Q. You can turn back around. Thank you.

22 Following taking those photographs --

23 and I want to ask you this: I show you what was

24 marked as 157 and admitted into evidence. Do you

25 recognize that item?

1 A. Yes.

2 Q. What is that?

3 A. That's the red Hello Kitty bag.

4 Q. That you collected at Eccles Church on
5 July 21st, 2016?

6 A. That's the one I photographed and Dan
7 Wilson collected.

8 Q. Following your activity that day at
9 Eccles Church, did you have an opportunity to make
10 contact with an identified witness named Brittany
11 Bordeaux?

12 A. I did.

13 Q. Where did you meet with her?

14 A. At her residence.

15 Q. What was the purposes of your initial
16 meeting with Ms. Bordeaux?

17 A. She called in and made reference to
18 observing three black males walking in the area of
19 Eccles Church. She advised that two were
20 dark-skinned and one was light-skinned.

21 At that time, she spoke with the three
22 subjects. One asked to use her cell phone.

23 Q. Did she relay to you that they used
24 that cell phone?

25 A. She did. She allowed them to use the

JARED PHILLIPS - DIRECT EXAM BY MR. MCNEELY

1 cell phone; they made two separate calls.

2 Q. While meeting with her, did you have
3 the opportunity to review the cell phone?

4 A. I did.

5 Q. Did you identify the calls made at that
6 time in the morning?

7 A. She identified the phone numbers from
8 her cell phone from where the two phone calls were
9 made and they were notated.

10 Q. Did you take down those phone numbers?

11 A. I did.

12 Q. Can you recall those phone numbers?

13 A. I cannot recall.

14 Q. If you saw your report, would it
15 refresh your recollection?

16 A. Yes, sir, it would.

17 MR. MCNEELY: Permission to approach?

18 THE COURT: You may.

19 BY MR. MCNEELY:

20 Q. Okay. Do you recall those phone
21 numbers?

22 A. I do.

23 Q. What are those phone numbers?

24 A. The first phone call was 843/826-3797,
25 and the second one was 843/567-3028.

JARED PHILLIPS - CROSS EXAM BY MR. ARCHER

1 Q. Thank you, Deputy. Did you return back
2 to the command post after making contact with
3 Ms. Bordeaux?

4 A. I did.

5 MR. MCNEELY: I have no further
6 questions for this witness at this time.

7 THE COURT: Mr. Thrower.

8 MR. THROWER: No questions, Your Honor.

9 THE COURT: Mr. Archer.

10 CROSS-EXAMINATION

11 BY MR. ARCHER:

12 Q. Officer, do you know if any attempt was
13 made to find out who the phone calls were to?

14 A. I was not part of that process.

15 MR. ARCHER: Okay. Thank you.

16 THE COURT: Mr. Smaldone.

17 MR. SMALDONE: Nothing from this
18 witness.

19 THE COURT: Mr. Smiley.

20 CROSS-EXAMINATION

21 BY MR. SMILEY:

22 Q. Detective Phillips, Jim Smiley. I
23 represent Sherrod Palmer.

24 You were first called out to the Huger
25 recreation area?

JARED PHILLIPS - CROSS EXAM BY MR. SMILEY

1 A. Yes.

2 Q. You're familiar with that area of
3 Huger?

4 A. Yes, sir.

5 Q. Okay. And you know where the incident
6 at Martha Lane was --

7 A. Yes.

8 Q. -- 135? So you know where that is?

9 A. Yes, sir.

10 Q. And the Henrynellie Drive that goes
11 into --

12 A. It runs besides the recreation center.

13 Q. They are in close proximity to one
14 another?

15 A. Yes, sir.

16 Q. And I'm not going to put a hard
17 distance on it, but it's only a minute or so down
18 the road, right?

19 A. Approximately.

20 Q. Okay. If you turn right on Cainhoy
21 Road off of Charity Church it's the second right?

22 A. Yes.

23 Q. Okay. On Nellie -- Henrynellie Drive,
24 it goes through the recreation area and bends off
25 back --

JARED PHILLIPS - CROSS EXAM BY MR. SMILEY

1 A. Yes, sir, it goes back into the woods.

2 Q. Back into the woods. Back towards

3 Charity Church, correct?

4 A. The driveway goes beside the recreation
5 center into the back to a residence, and then it is
6 woods lined around it, yes.

7 Q. Okay. Now, when you went out to Eccles
8 Creek --

9 A. Eccles Church.

10 Q. Excuse me, it's early in the morning.

11 Okay. Eccles Church, and you were the photographer
12 of the bag?

13 A. I was.

14 Q. And you got to look into the contents?

15 A. I was.

16 Q. But Detective Wilson is the one that
17 took an inventory and control of the drugs, the
18 cocaine, the crack cocaine that was found inside?

19 A. Yes, sir.

20 Q. And with Ms. Bordeaux, you were
21 involved in her lineups, right?

22 A. Yes, sir, I was.

23 Q. Okay. And she made -- let's do it this
24 way. She -- she testified that she saw multiple
25 lineups, and your recollection is she was shown

JARED PHILLIPS - CROSS EXAM BY MR. SMILEY

1 more than one lineup?

2 A. She was shown two completely separate
3 lineups.

4 Q. And she made an identification?

5 A. On one.

6 MR. SMILEY: Okay. That's all I have.

7 THE COURT: Any redirect?

8 MR. MCNEELY: No, Your Honor.

9 THE COURT: Any objection to the
10 witness being excused? From the State?

11 MR. MCNEELY: No, Your Honor.

12 MR. THROWER: No, Your Honor.

13 MR. ARCHER: No, Your Honor.

14 MR. SMILEY: No, Your Honor.

15 MR. SMALDONE: No, Your Honor.

16 THE COURT: Sir, you're excused.

17 THE WITNESS: Thank you, Your Honor.

18 THE COURT: You're welcome.

19 Call your next witness.

20 MR. MCNEELY: The State calls James
21 Elrod.

22 JAMES ELROD,

23 being first duly sworn, testified as follows:

24 THE CLERK: Please be seated. State
25 your full name for the record and spell your last

JAMES ELROD - DIRECT EXAM BY MR. MCNEELY

1 name.

2 THE WITNESS: My name is James Elrod.
3 My last name is spelled E-L-R-O-D.

4 THE COURT: You may proceed.

5 MR. MCNEELY: Thank you.

6 DIRECT EXAMINATION

7 BY MR. MCNEELY:

8 Q. Good morning Deputy Elrod. Where -- or
9 I should say Special Agent Elrod -- where are you
10 currently employed?

11 A. Right now I'm a special agent with the
12 South Carolina Law Enforcement Division.

13 Q. What is your capacity with the South
14 Carolina Law Enforcement Division?

15 A. I'm an agent in the arson investigation
16 unit.

17 Q. How long have you been with SLED?

18 A. I've been there since January of this
19 year.

20 Q. Where were you before -- or where were
21 you working before you started with SLED in January
22 of this year?

23 A. I was a detective at Berkeley County
24 Sheriff's Office.

25 Q. How long were you with the Berkeley

JAMES ELROD - DIRECT EXAM BY MR. MCNEELY

1 County Sheriff's Office?

2 A. I was with them for two years.

3 Q. Tell us about your education and
4 training.

5 A. I'm a certified class one law
6 enforcement officer of South Carolina; I'm a South
7 Carolina law enforcement instructor. My formal
8 education, I have a bachelor's degree from The
9 Citadel and a master's from Charleston Southern
10 University.

11 Q. Were you employed with Berkeley County
12 Sheriff's Office in July 2016?

13 A. I was.

14 Q. In what capacity were you employed with
15 the sheriff's office at that time?

16 A. I was working as a property crimes
17 detective in the criminal investigation division.

18 Q. Okay. On July 21, 2016, were you
19 called in to assist with the investigation of a
20 homicide incident at 135 Martha Lane in Huger,
21 Berkeley County?

22 A. I was.

23 Q. You stated earlier that you were
24 primarily a property crimes detective?

25 A. Yes, sir.

JAMES ELROD - DIRECT EXAM BY MR. MCNEELY

1 Q. But you were called in to assist with
2 this homicide investigation?

3 A. Yes, sir, I was.

4 Q. Would it be fair to say that this
5 investigation was all hands on deck?

6 A. Yes, sir. That's usually how it goes
7 with these types of incidents.

8 Q. During your assistance with the
9 investigation in the afternoon of July 21, 2016,
10 were you at the command post at Eccles Church?

11 A. I was.

12 Q. And during that time, were you placed
13 on perimeter to assist in searching for suspects in
14 the woods?

15 A. I was.

16 Q. During that time in the evening,
17 approximately 5:30, was one of the subjects
18 apprehended?

19 A. He was.

20 Q. What was his name?

21 A. That would be Kenneth Campbell, Junior.

22 Q. And after his apprehension, what did
23 you do?

24 A. I was instructed by the lieutenant from
25 the criminal investigations unit to accompany

JAMES ELROD - DIRECT EXAM BY MR. MCNEELY

1 Mr. Campbell up to the sheriff's office to attempt
2 to conduct an interview.

3 Q. Okay. During that time, did you make
4 contact with Mr. Campbell?

5 A. I did.

6 Q. Did you observe him?

7 A. I did.

8 Q. I will show you what's been marked and
9 admitted as State's 125 through 127.

10 Do you recognize those photos?

11 A. Yes.

12 Q. What are those photos?

13 A. Kenneth Campbell, Junior.

14 Q. Is that as he appeared after his
15 apprehension on July 21, 2016?

16 A. Yes, it is.

17 MR. MCNEELY: Dee, at this time, would
18 you publish 125 for the jury?

19 BY MR. MCNEELY

20 Q. That's the upper half of his body?

21 A. Yes, sir, it is.

22 Q. Were his clothes changed, to your
23 knowledge, prior to taking the photos?

24 A. They were not.

25 Q. Okay. 126, please. Is that the lower

1 half of Mr. Campbell?

2 A. Yes, sir, it was.

3 Q. And 127, please? And that would be his
4 side and torso?

5 A. Yes, sir, it was.

6 MR. MCNEELY: Thank you, Detective
7 Elrod. Please answer any questions from the
8 defense.

9 THE COURT: Mr. Thrower?

10 MR. THROWER: No questions.

11 THE COURT: Mr. Archer?

12 MR. ARCHER: I have some questions.

13 THE COURT: You may proceed.

14 CROSS-EXAMINATION

15 BY MR. ARCHER:

16 Q. Now, Mr. Campbell was arrested alone,
17 right?

18 A. Yes, sir.

19 Q. There wasn't any other defendants
20 arrested with him?

21 A. No, sir.

22 Q. Where was he at the time you arrested
23 him?

24 A. I don't know the exact location of
25 where he was. He was down the road from the

JAMES ELROD - CROSS EXAM BY MR. ARCHER

1 command post. He was in a wood line.

2 Q. And down the road from Eccles Church?

3 A. Yes, sir.

4 Q. Okay. But no other defendants were
5 arrested with him?

6 A. No, sir, they weren't.

7 Q. Okay. Now in the photographs -- what
8 time was this? Do you remember, approximately?

9 A. It was in the evening, sir. I don't
10 know exactly what time.

11 Q. Late afternoon or evening?

12 A. Late afternoon. I mean, it was still
13 daylight.

14 Q. Still daylight?

15 A. Yes, sir.

16 Q. On the 21st?

17 A. Yes, sir.

18 Q. Did you question him any?

19 A. I did not ask him any questions, no,
20 sir.

21 Q. But now when you arrested him he had on
22 a pair of sort of bright blue pants, right?

23 A. Yes, sir.

24 Q. And an orange or red shirt?

25 A. Yes, sir.

JAMES ELROD - CROSS EXAM BY MR. SMALDONE

1 Q. Did you find at the time of the arrest
2 any black clothing that was associated with him?

3 A. I don't recall anything like that, sir.
4 I was -- there was some uniformed deputies that
5 took him into custody where he was arrested in the
6 wood line. I was simply out there. I did not ride
7 with him in the vehicle up to the sheriff's office.
8 I was not there to interview him.

9 Q. But there's no indication to say that
10 he changed clothes after being arrested, was there?

11 A. Not to my knowledge.

12 Q. Okay. And as I said, when he was
13 arrested he had on bright blue pants and an
14 orange-red shirt, right?

15 A. Yes, sir, just like in the picture.

16 MR. ARCHER: I have no other questions.

17 THE COURT: Mr. Smaldone.

18 CROSS-EXAMINATION

19 BY MR. SMALDONE:

20 Q. Good morning.

21 A. Good morning.

22 Q. My name is Grant Smaldone, and I
23 represent Drake Campbell. I have a couple quick
24 questions for you.

25 Got a chance to meet with a witness

JAMES ELROD - CROSS EXAM BY MR. SMALDONE

1 named Brittany Bordeaux?

2 A. Yes, sir.

3 Q. And you offered her a lineup, correct?

4 A. I was with Detective Phillips and we
5 were together going to meet up with her. Detective
6 Phillips did present her with a lineup.

7 Q. And you were present for that, correct?

8 A. Yes, sir.

9 Q. And you signed off on the bottom of the
10 lineup, correct?

11 A. I was a witness on it. I did not
12 present the lineups.

13 Q. To your knowledge, she was presented
14 with several lineups?

15 A. She was presented with two.

16 Q. Two lineups?

17 A. Yes, sir.

18 Q. And she identified one person?

19 A. Yes, sir.

20 Q. And she did not identify Drake Campbell
21 in your presence?

22 A. No, sir.

23 MR. SMALDONE: All right. No further
24 questions.

25 THE COURT: Mr. Smiley.

KENNY HOFFA - DIRECT EXAM BY MR. ALFARO

1 MR. SMILEY: Nothing, Your Honor.

2 THE COURT: Any redirect?

3 MR. MCNEELY: No, Your Honor.

4 THE COURT: Any objection to the
5 witness being excused? From the State?

6 MR. MCNEELY: No.

7 THE COURT: From the defense?

8 MR. THROWER: No, Your Honor.

9 MR. SMILEY: No, Your Honor.

10 MR. SMALDONE: No, Your Honor.

11 MR. ARCHER: No, Your Honor.

12 THE COURT: Sir, you're excused.

13 Call your next witness.

14 MR. ALFARO: Kenny Hoffa.

15 KENNY HOFFA,

16 being first duly sworn, testified as follows:

17 THE CLERK: Please be seated. State
18 your full name for the record and spell your last
19 name.

20 THE WITNESS: Kenny Hoffa, H-O-F-F-A.

21 THE COURT: You may proceed.

22 DIRECT EXAMINATION

23 BY MR. ALFARO:

24 Q. Morning, sir.

25 A. Morning.

KENNY HOFFA - DIRECT EXAM BY MR. ALFARO

1 Q. Could you tell the jury what part of
2 Berkeley County you live in?

3 A. Francis Marion National Forest.

4 Q. And where is that in relation -- is
5 that the same thing as Huger?

6 A. It is where Conifer and Farewell Corner
7 meet, about two miles up from Eccles Church.

8 Q. And what do you do for a living?

9 A. I'm an occupational safety and health
10 professional. I'm the senior regional safety
11 manager for Thompson Construction Group.

12 Q. How long have you been doing that?

13 A. About 20 years.

14 Q. And how long have you lived in that
15 area you just described near Eccles?

16 A. For the last five years.

17 Q. And in those five years, would you say
18 it's people that don't live in that area kind of
19 stand out?

20 A. Yes, sir.

21 Q. And were you in that area on the
22 morning of July 21, 2016?

23 A. Yes.

24 Q. And early that morning, were you
25 driving in the area of Conifer and Farewell Corner?

KENNY HOFFA - DIRECT EXAM BY MR. ALFARO

1 A. Yes.

2 Q. And where were you going?

3 A. I was taking my son to work.

4 Q. And what part of -- what area does he
5 work in?

6 A. He was off of Clements Ferry Road
7 building the high school.

8 Q. And when you were in the process of
9 doing that, did you see anyone or anything unusual?

10 A. Yes, sir.

11 Q. And can you tell the jury what you saw?

12 A. It was on the dirt road close to where
13 Conifer and Farewell Corner meet. There were three
14 young men walking down the street.

15 Q. Okay. Were they -- when you say,
16 walking down the street, were they walking in the
17 road, side of the road?

18 A. Side of the road.

19 Q. Are there woods near the side?

20 A. Yes. Everything is completely wooded
21 on either side of the road.

22 Q. Did you stop or just keep driving?

23 A. We slowed down and they kind of, you
24 know, looked like what are you slowing down for, so
25 we just moved on.

KENNY HOFFA - DIRECT EXAM BY MR. ALFARO

1 Q. And where is that in relation to Eccles
2 Church?

3 A. The church itself?

4 Q. Yes, sir.

5 A. Probably about two miles.

6 Q. And so you kept on going. Did you make
7 it all the way to Clements Ferry?

8 A. Made it to Clements Ferry, dropped my
9 son off. He actually was ill at the time and -- or
10 it may have rained out, but he needed to come back
11 home, so we turned around and came back home.

12 Q. And did you come into contact with the
13 same individuals again?

14 A. Yes, sir.

15 Q. And where did you see them that time?

16 A. As we were coming up Eccles Church
17 Road, to the left around the bend, we saw the three
18 of them come off the road. They were going through
19 the front yard of the church, and they took off
20 running into the woods behind the church.

21 Q. And so when you saw them, they were on
22 the property of the church?

23 A. Yes, sir.

24 Q. And were they running before they saw
25 you or did they run after you got close to them?

KENNY HOFFA - DIRECT EXAM BY MR. ALFARO

1 A. After we got close to them.

2 Q. And which area of the church did they
3 run to?

4 A. If you were facing the church, it would
5 be the left-hand corner and then in back.

6 Q. I'm showing you State's Exhibits 113
7 and 114. If you would take a look at those and
8 then I'll ask you a couple of questions.

9 Do you recognize what's in the picture?

10 A. Yes, sir.

11 Q. Starting with -- on the screen behind
12 you, we're going to put up State's 113. Using
13 this -- turn this way -- that red button. Can you
14 kind of point if it's in that picture the general
15 area you saw them before they ran?

16 A. Right in here. (Indicating)

17 Q. And which direction did they run to
18 after you got near them?

19 A. This corner back here. (Indicating)

20 Q. And on State's 114, can you show us on
21 that what area they ran behind?

22 A. That direction. (Indicating)

23 Q. And thank you.

24 Safe to presume that you didn't follow
25 after them?

KENNY HOFFA - DIRECT EXAM BY MR. ALFARO

1 A. No, sir. At that point I called the
2 police.

3 Q. About what time of morning was that
4 interaction with them?

5 A. It would have to be closer to 7-ish.

6 Q. So did you go home to call the police
7 or did you call them from the cell phone?

8 A. From the cell phone and then proceeded
9 on to my house.

10 Q. And at some point, did you speak with
11 the police officer?

12 A. Yes, sir. I dropped my son off, went
13 on to work, and then I believe a police officer
14 came to our house. My wife called me, and I talked
15 to the police officer on her cell phone.

16 Q. And was that later on that day?

17 A. Yes, sir.

18 Q. Okay. And I'm going to show you
19 State's 136.

20 THE COURT: Any exception from the
21 defense?

22 MR. THROWER: No, ma'am.

23 MR. SMILEY: No, ma'am.

24 MR. SMALDONE: No, Your Honor.

25 MR. ARCHER: No.

KENNY HOFFA - DIRECT EXAM BY MR. ALFARO

1 THE COURT: Marked and admitted without
2 objection.

3 (STATE EXH. 136 in evidence.)

4 BY MR. ALFARO:

5 Q. I will show you what was marked and
6 admitted as State's 136. Familiarize yourself with
7 that, and I will ask you some questions about it.

8 On that form it shows a date of
9 July 21, 2016, at approximately 5:00 p.m. Is that
10 your recollection of when you met with the officer?

11 A. Yes, sir, that was after I got home.

12 Q. And so this lineup was done at your
13 house?

14 A. Yes, sir.

15 Q. So based off the times that you
16 testified to earlier, it's a few hours after that,
17 probably roughly eight or nine hours?

18 A. Yes, sir. I finished work and come
19 home.

20 Q. And on that form there are six lines
21 that tell -- that have some initials by it. If you
22 could, are those your initials next to each of
23 those?

24 A. Yes, sir.

25 Q. And did the officer go over each of

KENNY HOFFA - DIRECT EXAM BY MR. ALFARO

1 those things -- each of those six things with you
2 before you initialed it?

3 A. Yes, sir.

4 Q. And did he -- did you understand those
5 instructions as he gave them to you before you
6 initialed?

7 A. I did.

8 Q. And is your signature on that?

9 A. Yes, sir, it is.

10 Q. And you were shown this lineup, and
11 were you able to pick someone out of it?

12 A. Yes, sir.

13 Q. And was that person that you picked out
14 of it one of the three people that you saw near
15 Eccles Church that day?

16 A. Yes, sir.

17 Q. And do you see that person in the
18 courtroom today?

19 A. Yes, sir.

20 Q. And can you point to that person?

21 A. (Pointing) That gentleman sitting
22 right there.

23 Q. Can you describe his clothing, please?

24 A. He has a checkered shirt on, button up,
25 white, off beige.

1 MR. ALFARO: Let the record reflect
2 that he pointed to the defendant Jacob Mouzon.

3 THE COURT: You may proceed.

4 BY MR. ALFARO:

5 Q. Now, at the bottom of that form it
6 indicates where -- how you recognized that
7 defendant. Can you tell us what you placed on that
8 form?

9 A. What I wrote?

10 Q. Yes, sir.

11 A. Says, this is the person I believe I
12 saw on Conifer Road this morning while going to
13 work with two other young black men, and I saw them
14 run from the bridge behind the church.

15 Q. And when you say, bridge, that's what
16 you looked at in the photos a little while ago?

17 A. There is a small bridge that's in the
18 foreground of the church. As we approached we seen
19 them run across.

20 MR. ALFARO: Please answer any
21 questions that the defense may have for you.

22 THE COURT: Mr. Thrower.

23 MR. THROWER: Thank you, Your Honor.

24 THE COURT: You're welcome.

25 CROSS-EXAMINATION

KENNY HOFFA - CROSS EXAM BY MR. THROWER

1 BY MR. THROWER:

2 Q. Morning, Mr. Hoffa.

3 A. Morning.

4 Q. I'm Bill Thrower and I represent
5 Mr. Mouzon, who you pointed to just a few moments
6 ago.

7 You got a pretty good look at them when
8 you drove by them?

9 A. Yes, sir.

10 Q. And from your testimony and reading of
11 your entry there at the bottom, I saw him on
12 Conifer Road this morning while going to work with
13 two other young black men, and I saw them run from
14 behind the church.

15 So your identification was based on
16 that first meeting with them; would you say so?

17 A. Yes, sir.

18 Q. And so you passed them in your vehicle.
19 I know those little roads back there are not very
20 wide. Were they within -- could they have touched
21 your vehicle when you passed them if they reached
22 out?

23 A. Yes, sir.

24 Q. Okay. And how fast were you going?

25 A. We had to come to a complete stop.

KENNY HOFFA - CROSS EXAM BY MR. ARCHER

1 It's a four way stop there and then we made the
2 right-hand turn.

3 Q. So you were stopped and they were
4 standing right there?

5 A. Yes, sir.

6 Q. What did they have in their hands? Was
7 anybody carrying anything?

8 A. I didn't see anything in their hands.

9 Q. Was anybody carrying clothing?

10 A. I didn't see anyone carrying clothing.

11 MR. THROWER: Okay. Thank you very
12 much.

13 THE COURT: Mr. Archer.

14 CROSS-EXAMINATION

15 BY MR. ARCHER:

16 Q. Mr. Hoffa, there were three guys,
17 right?

18 A. Yes, sir.

19 Q. Do you recall what they were wearing
20 that day?

21 A. I remember one, I believe he had red
22 pants, white T-shirt. It just stood out because it
23 seemed odd. The rest of them had jeans, I believe,
24 maybe.

25 Q. Do you actually recall at this time

KENNY HOFFA - CROSS EXAM BY MR. SMILEY

1 what they were wearing?

2 A. Only the red pants.

3 MR. ARCHER: Okay. No other questions.

4 THE COURT: Mr. Smaldone.

5 MR. SMALDONE: No questions for this
6 witness, Your Honor.

7 THE COURT: Mr. Smiley.

8 CROSS-EXAMINATION

9 BY MR. SMILEY:

10 Q. Were you shown more than one lineup?

11 A. Excuse me?

12 Q. You were shown more than one lineup?

13 A. Yes, sir, two pages.

14 Q. Okay. And you were able to pick out
15 one gentleman?

16 A. Yes, sir.

17 MR. SMILEY: That's all I have.

18 THE COURT: Any redirect?

19 MR. ALFARO: No, Your Honor.

20 THE COURT: Any objection to the
21 witness being excused? From the State?

22 MR. ALFARO: No, Your Honor.

23 THE COURT: From the defense?

24 MR. THROWER: No, ma'am.

25 MR. SMILEY: No, Your Honor.

CHRYSTAL SPENCE - DIRECT EXAM BY MR. ALFARO

1 MR. SMALDONE: No, Your Honor.

2 MR. ARCHER: No, ma'am.

3 THE COURT: Sir, you're excused.

4 Call your next witness.

5 MR. ALFARO: State calls Chrystal

6 Spence.

7 CHRYSTAL SPENCE,

8 being first duly sworn, testified as follows:

9 THE CLERK: Please be seated. State
10 your full name for the record and spell your last
11 name.

12 THE WITNESS: Chrystal Spence,
13 S-P-E-N-C-E.

14 THE COURT: Please spell your first
15 name.

16 THE WITNESS: C-H-R-Y-S-T-A-L.

17 THE COURT: Thank you. You may
18 proceed.

19 MR. ALFARO: Thank you.

20 THE COURT: You're welcome.

21 DIRECT EXAMINATION

22 BY MR. ALFARO:

23 Q. Deputy Spence, tell the jury where you
24 work.

25 A. Berkeley County Sheriff's Office.

CHRYSTAL SPENCE - DIRECT EXAM BY MR. ALFARO

1 Q. How long have you been with the
2 sheriff's office?

3 A. September 2000.

4 Q. And what is your current position,
5 rank, and duty assignment?

6 A. Sergeant over the forensic services
7 unit.

8 Q. And were you working in that capacity
9 on -- in July of 2016?

10 A. Yes, I was.

11 Q. And did you have the opportunity to
12 assist in an investigation of a murder at 135
13 Martha Lane?

14 A. Yes, I did.

15 Q. And at that time was Kirsten Chesnutt
16 working with you?

17 A. Yes, she was.

18 Q. Was she in training with you at that
19 time?

20 A. Yes, she was.

21 Q. And did you both have the opportunity
22 to respond to the Huger area in relation to that
23 investigation?

24 A. Yes, we did.

25 Q. And during the times that you were at

CRYSTAL SPENCE - DIRECT EXAM BY MR. ALFARO

1 various locations with her, were you -- was she in
2 your presence basically the entire time?

3 A. Yes, sir, she was.

4 Q. And you initially responded to a white
5 Crown Victoria, the victims' white Crown Victoria
6 that was found in the roadway on Highway 402,
7 correct?

8 A. We arrived at Martha Lane and they
9 averted us to 402.

10 Q. Okay. So you go to Martha Lane first
11 and you didn't do anything there initially?

12 A. Correct.

13 Q. The first place you actually did
14 something was at the white Crown Victoria?

15 A. Yes.

16 Q. What did you do at that location?

17 A. I photographed the area and the Crown
18 Vic.

19 Q. And did you collect any evidence at
20 that location?

21 A. One bandana that had money printed on
22 the bandana.

23 Q. I show you what are in evidence as
24 State's Exhibits 78, 79, 81, and 83. Take a look
25 at those and I will ask you some follow-up

CHRYSTAL SPENCE - DIRECT EXAM BY MR. ALFARO

1 questions.

2 Do you recognize what's depicted in
3 those photographs?

4 A. Yes, I do.

5 Q. And starting with State's Exhibit 78 on
6 the screen behind you -- you may want to turn the
7 other way. Turn it the other way. And use that
8 red button.

9 Could you point out the Crown Vic that
10 you were responding to?

11 A. (Indicating)

12 Q. Is that the position of it when you
13 arrived?

14 A. Yes, sir, it is.

15 Q. And State's Exhibit 81, same Crown Vic?

16 A. Yes, it is, passenger side.

17 Q. And you indicated that you collected a
18 bandana. Can you point that out to us on that
19 picture?

20 A. (Indicating)

21 Q. And is that the location that you first
22 came into contact with it?

23 A. Yes, it is.

24 Q. And did you move it in any way before
25 photographing it?

CHRYSTAL SPENCE - DIRECT EXAM BY MR. ALFARO

1 A. No, I did not.

2 Q. And State's Exhibit 83. Same bandana?

3 A. Yes, it is. Just a close-up picture.

4 THE COURT: What number is that?

5 MR. ALFARO: It is State's Exhibit 142.

6 THE COURT: Any exception, Mr. Thrower?

7 MR. THROWER: No.

8 MR. SMILEY: No.

9 MR. SMALDONE: No.

10 MR. ARCHER: No.

11 THE COURT: Marked and admitted without
12 objection.

13 (STATE EXH. 142 in evidence.)

14 BY MR. ALFARO:

15 Q. If you wouldn't mind taking that out of
16 the wrapping that it's in. Hold it up a little bit
17 for the jury to see.

18 A. (Indicating)

19 Q. And is that the item that you -- that
20 was depicted in the picture that you collected?

21 A. Yes.

22 Q. And can you tell us a little bit
23 briefly on when you collect it how it's packaged,
24 and what is done with it after it's collected?

25 A. It's packaged in an envelope and put

CHRYSTAL SPENCE - DIRECT EXAM BY MR. ALFARO

1 into the bag. And we write on the bag where we got
2 it so we know later when we're filling out chain of
3 custody where we got it.

4 And the chain of custody is filled out
5 and it's sealed and logged into evidence and kept
6 in the evidence room until it's transported to
7 another agency for testing.

8 Q. Was it, indeed, transported to another
9 agency for testing?

10 A. Yes, it was. It was transported to
11 SLED.

12 Q. Okay. And so after you collected it,
13 put it in an envelope, put it in a bag, did you
14 tamper with it or alter it in any way before you
15 put it into evidence?

16 A. No, sir.

17 Q. You can try to wrap it back up and put
18 it back into the bag.

19 And one more question related to the
20 collection and securing of it. Is it fair to say
21 one of the purposes of placing it in an envelope
22 and then placing it in a separate bag is to keep it
23 separate from other evidence?

24 A. Yes, sir.

25 Q. And that is to prevent cross

CHRYSTAL SPENCE - DIRECT EXAM BY MR. ALFARO

1 contamination?

2 A. Sorry?

3 Q. Is that to prevent cross contamination
4 or mixing of evidence?

5 A. Yes.

6 Q. So in this case it was packaged and
7 sealed --

8 A. Packaged and sealed separately.

9 Q. And did you do any other processing of
10 that white Crown Victoria?

11 A. No, sir.

12 Q. And I believe you also went to Martha
13 Lane with Deputy Chesnutt?

14 A. Correct.

15 Q. And assisted her in the processing --

16 A. Correct.

17 Q. At the scene, would you say that the
18 deputy -- well, did you collect any -- personally
19 collect any evidence at the scene?

20 A. No, I did.

21 Q. That was done by whom?

22 A. Deputy Chesnutt.

23 Q. And was Deputy Swinton there as well?

24 A. Yes, she was.

25 Q. And after you left Martha Lane, at some

CHRYSTAL SPENCE - DIRECT EXAM BY MR. ALFARO

1 point did you have the opportunity to collect any
2 other evidence related to this case or potentially
3 related to the case?

4 A. Yes, sir. I processed three cell
5 phones that were turned in to evidence for
6 processing.

7 Q. Okay. And are you aware from where
8 those three cell phones were recovered?

9 A. Two of the cell phones came from the
10 white Crown Victoria and one from the gray Crown
11 Victoria.

12 Q. Both of those being the victims' white
13 and gray Crown Victoria?

14 A. Yes, sir.

15 Q. And I will show you State's Exhibit
16 172.

17 THE COURT: Any exception to 172?

18 MR. THROWER: No, ma'am.

19 MR. SMILEY: No, ma'am.

20 MR. SMALDONE: No.

21 MR. ARCHER: No, ma'am.

22 THE COURT: Marked and admitted without
23 objection 172.

24 (STATE EXH. 172 in evidence.)

25 BY MR. ALFARO:

CHRYSTAL SPENCE - DIRECT EXAM BY MR. ALFARO

1 Q. And I show you that exhibit. Those are
2 the swabs that you collected?

3 A. May I open it?

4 Q. Yes.

5 A. Yes, they are.

6 Q. So you have three boxes there, three
7 separate swabs?

8 A. Yes. It was one from each cell phone.

9 Q. Can you tell us how that process is --
10 how you collect that?

11 A. How I process --

12 Q. How you collected the swabs and secured
13 them?

14 A. Two Q-tips are used per item so SLED
15 has enough evidence to test in case they mess
16 something up. And you use distilled water on the
17 end of the Q-tips. Swab what area you want
18 swabbed, and then the two Q-tips and only two
19 Q-tips go in each box. You never put more than one
20 swabbing in a box.

21 Q. So other than collecting and securing
22 the bandana that you testified to, State's 142, and
23 the swabs, State's 172, that you just testified to,
24 did you collect any other evidence in this case?

25 A. No, I did not.

CHRYSTAL SPENCE - CROSS EXAM BY MR. ARCHER

1 MR. ALFARO: Thank you. Answer any
2 questions that the defense may have.

3 THE COURT: Mr. Thrower?

4 MR. THROWER: No questions, Your Honor.

5 THE COURT: Mr. Archer.

6 CROSS-EXAMINATION

7 BY MR. ARCHER:

8 Q. You're basically the supervisor of the
9 forensics division?

10 A. I'm the sergeant. We have a lieutenant
11 who is the main person that's the supervisor.

12 Q. Okay. On this occasion, you were
13 supervising the other agent who was --

14 A. Lieutenant Alteri was also out there.

15 Q. Okay. Now, there was a gun that was
16 found?

17 A. Correct.

18 Q. Was that submitted to SLED for any
19 analysis?

20 A. I would have to look at the chain of
21 custody to tell you that.

22 Q. Okay. Is that -- is it there with the
23 gun?

24 A. Assuming so, yes, sir.

25 Q. Okay.

CHRYSTAL SPENCE - CROSS EXAM BY MR. ARCHER

1 A. No, sir.

2 Q. It was not. Any idea why it wouldn't
3 have been submitted?

4 A. It's not up to me to make that
5 decision.

6 Q. Okay. A sweatshirt was found, right?

7 A. Correct.

8 Q. Do you know whether that was submitted
9 to SLED?

10 A. Without looking at the chain of
11 custody, no, sir, I can't tell you that.

12 Q. I have what I believe is 143, which I
13 believe is the sweatshirt.

14 A. Yes, sir, it did go to SLED.

15 Q. That was sent to SLED. Okay.

16 A. December 9, 2016.

17 Q. Okay. The bandana, do you know if that
18 was submitted to SLED?

19 A. Yes, it was.

20 Q. That was. Okay. How about shell
21 casings found at the scene of the crime?

22 I don't know which one they are here,
23 but -- do you remember about a tape that was found
24 at the scene of the crime?

25 A. Same answer. Looking at the chain of

CHRYSTAL SPENCE - CROSS EXAM BY MR. ARCHER

1 custody is the only way -- we have 30,000 pieces of
2 evidence. I can't keep track of everything that
3 goes to SLED.

4 Q. Three cell phones were found at the
5 scene, correct?

6 A. Three cell phones -- there was more
7 than three. I processed three.

8 Q. You processed three cell phones, but
9 there were more cell phones found?

10 A. Yes.

11 Q. And booked into evidence?

12 A. Yes.

13 Q. Why wouldn't all of them have been
14 processed?

15 A. I was asked to process those three.

16 Q. What would happen to the others?

17 A. I have no idea, sir. You would have
18 pull the chain of custody and that tells you what
19 happened to them.

20 Q. Well, I haven't seen any cell phones
21 admitted into evidence, so I was just wondering.
22 But you said three were put into evidence?

23 A. Three from the vehicles, yes, sir.

24 Q. Put into evidence, but there were other
25 cell phones taken?

CHRYSTAL SPENCE - CROSS EXAM BY MR. ARCHER

1 A. Correct.

2 Q. And you don't know what happened to
3 those?

4 A. No, sir, I do not.

5 Q. Now, the three that were found in the
6 vehicles, you took buccal swabs of those, correct?

7 A. Yes.

8 Q. Did you make any effort to determine
9 who the phones were registered to?

10 A. No, sir, that's not my job.

11 Q. Whose job is that?

12 A. The detectives.

13 Q. The detectives?

14 A. The detectives.

15 Q. Okay. And do you remember any drops of
16 blood being put into evidence?

17 A. I believe there was some from the
18 residence that Swinton took swabs of.

19 Q. And you don't know whether that was
20 sent to SLED?

21 A. No, sir.

22 Q. Did you collect any fingerprints from
23 either the white Crown Victoria or the gray Crown
24 Vic?

25 A. I didn't process either vehicle.

CHRYSTAL SPENCE - CROSS EXAM BY MR. SMALDONE

1 Q. Who did that?

2 A. That would be either Deputy Chesnutt
3 and Deputy Swinton.

4 Q. Deputy Chesnutt and Swinton.

5 So you don't know whether there were
6 any fingerprints --

7 A. I did not process them, no.

8 MR. ARCHER: Okay. I have no other
9 questions, Your Honor.

10 THE COURT: Mr. Smaldone.

11 CROSS-EXAMINATION

12 BY MR. SMALDONE:

13 Q. Grant Smaldone. Morning.

14 A. Morning.

15 Q. Fair to say you were with Deputy
16 Chesnutt for most of the time that you were working
17 that day?

18 A. Yes.

19 Q. Just to be clear, your job is normally
20 what most of Deputy Chesnutt did, right?

21 A. Correct.

22 Q. But you had her do it because she was
23 new and in training?

24 A. Correct.

25 Q. Your job is to test things at SLED,

1 right?

2 A. To test things?

3 Q. You don't work at SLED, do you?

4 A. No, I do not.

5 Q. You're not in a lab somewhere doing DNA
6 tests?

7 A. Correct.

8 Q. You mostly photograph the evidence in
9 this case?

10 A. Yes.

11 Q. And now you didn't arrive on scene to
12 the white Crown Victoria -- you didn't see people
13 leaving the white Crown Victoria, right?

14 A. People as in who?

15 Q. You didn't see any suspects or anyone
16 other than law enforcement around the white Crown
17 Victoria?

18 A. Just law enforcement.

19 Q. You got there and law enforcement was
20 there?

21 A. Correct.

22 Q. So when you saw any evidence around the
23 white Crown Vic, it had already been there,
24 correct?

25 A. Yes.

CHRYSTAL SPENCE - CROSS EXAM BY MR. SMILEY

1 Q. You didn't see anything get dropped
2 there?

3 A. Correct.

4 Q. And the same goes for all the other
5 alleged crime scenes, right?

6 A. Correct.

7 Q. You got there kind of after everybody
8 else, right?

9 A. Yes.

10 Q. Because you're not a first responder,
11 right?

12 A. Yes.

13 MR. SMALDONE: Okay. That's all.
14 Thank you.

15 THE COURT: Mr. Smiley.

16 CROSS-EXAMINATION

17 BY MR. SMILEY:

18 Q. Can you tell me about the dogs at 135
19 Martha Lane?

20 A. Can I tell you about the dogs?

21 Q. Yes. Let's start with this, where were
22 they located?

23 A. In the residence in a bedroom.

24 Q. What kind of dogs were they?

25 A. I didn't ever see them.

CHRYSTAL SPENCE - CROSS EXAM BY MR. SMILEY

1 Q. Did you hear them?

2 A. I heard them bark, yes.

3 Q. So they were in a room that was closed?

4 A. It was -- the door handle was secured.

5 Q. And you heard them and smelled them?

6 A. Correct.

7 Q. And animal services came and got them?

8 A. I believe so.

9 MR. SMILEY: Okay. That's all I have.

10 Thank you.

11 THE WITNESS: Thank you.

12 THE COURT: Any redirect?

13 MR. ALFARO: No, Your Honor.

14 THE COURT: Any objection to the
15 witness being excused? From the State?

16 MR. ALFARO: No, Your Honor.

17 THE COURT: From the defense?

18 MR. THROWER: No, Your Honor.

19 MR. SMILEY: No, Your Honor.

20 MR. SMALDONE: No, Your Honor.

21 MR. ARCHER: No, Your Honor.

22 THE COURT: Ma'am, you are excused.

23 THE WITNESS: Thank you.

24 THE COURT: Does anyone need a break?

25 Mr. Foreman, ladies and gentlemen,

1 we're going to take advantage of this break in
2 testimony to take a comfort break. During the
3 break, do not discuss the case, and please leave
4 your notepads in your seats. We'll be out about
5 ten minutes.

6 (Jury out, 10:57 a.m.)

7 THE COURT: You may be seated.

8 (A recess transpired.)

9 THE COURT: Who is the State's next
10 witness?

11 MR. MCNEELY: Shawn Nimons.

12 (Jury in, 11:11 a.m.)

13 THE COURT: You may be seated.

14 Call your next witness.

15 MR. MCNEELY: The State calls Shawn
16 Nimons.

17 SHAWN NIMONS, R.N.,

18 being first duly sworn, testified as follows:

19 THE CLERK: Please be seated. State
20 your full name for the record and spell your last.

21 THE WITNESS: Shawn Yvette Nimons,
22 N-I-M-O-N-S.

23 THE COURT: You may proceed.

24 MR. MCNEELY: Thank you, Your Honor.

25 DIRECT EXAMINATION

SHAWN NIMONS - DIRECT EXAM BY MR. MCNEELY

1 BY MR. MCNEELY:

2 Q. Morning, Ms. Nimons. Where are you
3 currently employed?

4 A. MUSC.

5 Q. And in what capacity do you work with
6 MUSC?

7 A. I'm an OR nurse at Rutledge Tower.

8 Q. And how long have you been working as
9 an RN nurse at MUSC?

10 A. Nine years.

11 Q. Please describe a little bit about your
12 education and training.

13 A. I went to Trident Tech for
14 approximately two years, and I received my ADN and
15 passed that, which makes me a legal registered
16 nurse. And then I went to -- I worked at East
17 Cooper for a little while and then moved on to
18 MUSC.

19 Q. Do you hold any licenses or
20 certifications?

21 A. License -- registered nurse license.

22 Q. Here in the state of South Carolina?

23 A. Yes.

24 Q. Were you employed with and working as
25 an OR nurse at MUSC during July of 2016?

SHAWN NIMONS - DIRECT EXAM BY MR. MCNEELY

1 A. Yes.

2 Q. Were you working during the early
3 morning hours of Friday, July 22nd, 2016?

4 A. Yes.

5 Q. During that time, did you have the
6 opportunity to assist in the treatment of a victim
7 Krystal Snipe?

8 A. Yes.

9 Q. Please briefly describe your
10 participation in Ms. Snipe's treatment.

11 A. She came into the OR and we -- what we
12 needed to do was retrieve a foreign body out of her
13 hand. And we prepped her, and the doctor -- the
14 surgeon, he then removed the foreign body out of
15 her, and we took the specimen and then gave it to
16 the officer.

17 Q. Okay. When you say foreign body, do
18 you have any understanding of what the foreign body
19 may be?

20 A. Yes.

21 Q. What was that?

22 A. It was a bullet.

23 Q. And were you physically present in the
24 operating room during her surgery?

25 A. Yes.

SHAWN NIMONS - DIRECT EXAM BY MR. MCNEELY

1 Q. Did you observe the bullet or foreign
2 body being removed from her?

3 A. Yes.

4 Q. From what part of her body was the
5 projectile removed?

6 A. Her hand.

7 Q. Did you have the opportunity to take
8 possession of that projectile immediately upon its
9 removal from Mrs. Snipe?

10 A. Yes.

11 Q. What did you do with the projectile at
12 that time?

13 A. It was placed in a cup, a sterile cup,
14 and labeled, and then taken out -- directly taken
15 out of the room.

16 Q. What did you do when you took it out of
17 the room?

18 A. Gave it to the security officer.

19 Q. Okay. I'm going to show you what's
20 been marked as State's Exhibit 158.

21 MR. MCNEELY: Permission to approach,
22 Your Honor?

23 THE COURT: Uh-huh.

24 BY MR. MCNEELY:

25 Q. Please look at what is contained in

SHAWN NIMONS - DIRECT EXAM BY MR. MCNEELY

1 State's 158. There is another bag within that
2 exterior bag.

3 THE COURT: Tell me the number again.

4 MR. MCNEELY: 158.

5 THE COURT: Any objection to 158 from
6 the defense?

7 MR. THROWER: No.

8 MR. SMILEY: No, Your Honor.

9 MR. SMALDONE: No, Your Honor.

10 MR. ARCHER: No objection.

11 THE COURT: Marked and admitted without
12 objection.

13 (STATE EXH. 158 in evidence.)

14 BY MR. MCNEELY:

15 Q. Ms. Nimons, do you recognize that item?

16 A. Yes.

17 Q. What is that item?

18 A. This is the cup that I placed the
19 bullet in.

20 Q. Okay. Do you also see the projectile
21 in that package?

22 A. I do.

23 Q. And how do you know it's the bullet --
24 or, excuse me, the projectile and cup for
25 Ms. Snipe?

SHAWN NIMONS - CROSS EXAM BY MR. THROWER

1 A. I placed her name on it and this is my
2 handwriting and her label.

3 Q. And was that projectile in your custody
4 and control from the time it was removed from
5 Ms. Snipe during surgery until you turned it over
6 to law enforcement?

7 A. Yes.

8 MR. MCNEELY: No further questions for
9 this witness.

10 THE COURT: Any questions, Mr. Thrower?

11 MR. THROWER: Briefly, Your Honor.

12 THE COURT: You may proceed.

13 CROSS-EXAMINATION

14 BY MR. THROWER:

15 Q. Morning. How are you?

16 A. Good.

17 Q. You indicated that you were there while
18 they prepped Krystal Snipe?

19 A. Yes.

20 Q. For surgery, I assume?

21 A. Yes.

22 Q. What does that involve?

23 A. Just putting the antibacterial solution
24 on her.

25 Q. Was she under general anesthesia or was

SHAWN NIMONS - CROSS EXAM BY MR. THROWER

1 she given any anesthesia?

2 A. She was -- she had what we call a Max
3 where it's just a sedation, a heavy sedation.

4 Q. That was as soon as she got to MUSC,
5 she was sedated and then the procedure was done?

6 A. When she came to the OR, she was
7 sedated and the procedure was performed.

8 Q. What time was that; do you remember?

9 A. I know it was morning time. Not
10 exactly sure as to the exact time.

11 Q. Okay. What drugs was she given to
12 sedate her?

13 A. That's not within my scope of
14 knowledge.

15 Q. Okay.

16 A. Anesthesia does that.

17 Q. Okay. Well, you were in there. Do you
18 remember if -- did she have a mask on or was she
19 given an IV?

20 A. I don't know. I don't remember.
21 There's a sheet, drape that goes up. And what
22 anesthesia does, it happens beyond that drape.

23 Q. Okay. How long was she under the
24 sedation?

25 A. I believe the procedure lasted about no

SHAWN NIMONS - CROSS EXAM BY MR. ARCHER

1 more than two hours.

2 Q. Two hours?

3 A. No more than.

4 MR. THROWER: Thank you very much.

5 THE COURT: Mr. Archer.

6 CROSS-EXAMINATION

7 BY MR. ARCHER:

8 Q. Do you have the bullet up there with
9 you?

10 A. I do.

11 Q. Could you just give me the exhibit
12 number?

13 THE COURT: It's 158.

14 MR. ARCHER: 158. Thank you.

15 I have no other questions.

16 THE COURT: Mr. Smaldone?

17 MR. SMALDONE: No questions.

18 THE COURT: Mr. Smiley.

19 MR. SMILEY: Yes, ma'am.

20 THE COURT: You may proceed.

21 CROSS-EXAMINATION

22 BY MR. SMILEY:

23 Q. She was in surgery to have a projectile
24 or foreign body removed from her hand area?

25 A. Yes.

SHAWN NIMONS - REDIRECT EXAM BY MR. MCNEELY

1 Q. Did she have chest surgery at all?

2 A. No.

3 Q. Okay. Was there any attempt to --
4 while you were there to retrieve any projectiles
5 from her body cavity?

6 A. No.

7 MR. SMILEY: That's all I've got.

8 THE COURT: Any redirect?

9 REDIRECT EXAMINATION

10 BY MR. MCNEELY:

11 Q. Just to clarify the previous testimony.
12 The surgery you participated in with Ms. Snipe for
13 removal of this projectile, that was on Friday,
14 July 22, 2016?

15 A. Correct.

16 Q. Not Thursday, July 21, 2016?

17 A. No, it was not.

18 Q. Were you involved in her treatment when
19 she was initially brought to the hospital on
20 Thursday, July 21, 2016?

21 A. No.

22 Q. Your first interaction with her was
23 this surgery on Friday, July 22?

24 A. Yes.

25 MR. MCNEELY: Nothing further, Your

1 Honor.

2 THE COURT: Any objection to the
3 witness being excused? From the State?

4 MR. MCNEELY: None from the State.

5 THE COURT: From the defense?

6 MR. THROWER: No, Your Honor.

7 MR. SMILEY: None, Your Honor.

8 MR. SMALDONE: None, Your Honor.

9 MR. ARCHER: None, Your Honor.

10 THE COURT: Ma'am, you're excused.

11 THE WITNESS: Thank you.

12 THE COURT: You're welcome.

13 Call your next witness.

14 MR. MCNEELY: The State calls Tiffany
15 Swinton, Your Honor.

16 TIFFANY SWINTON,

17 being first duly sworn, testified as follows:

18 THE CLERK: Please be seated. State
19 your full name for the record and spell your last
20 name.

21 THE WITNESS: Tiffany Swinton,
22 S-W-I-N-T-O-N.

23 THE COURT: You may proceed.

24 MR. MCNEELY: Thank you, Your Honor.

25 THE COURT: You're welcome.

TIFFANY SWINTON - DIRECT EXAM BY MR. MCNEELY

1 DIRECT EXAMINATION

2 BY MR. MCNEELY:

3 Q. Ms. Swinton, where are you currently
4 employed?

5 A. Currently Hill-Finklea Detention
6 Center.

7 Q. How long have you worked at the
8 Hill-Finklea Detention Center?

9 A. Going on two years.

10 Q. When did you start there, if you
11 recall?

12 A. August of 2016, I believe.

13 Q. Okay. Where were you working prior to
14 that?

15 A. Berkeley County Sheriff's Office.

16 Q. And in what capacity were you working
17 with the sheriff's office at that time?

18 A. Forensics.

19 Q. What was your position in forensic?

20 A. Forensic technician.

21 Q. Okay. And that was during July of
22 2016?

23 A. Yes.

24 Q. Okay. Would it be fair to say that you
25 were still training under the guidance of

TIFFANY SWINTON - DIRECT EXAM BY MR. MCNEELY

1 Lieutenant Alteri and Sergeant Spence at that time?

2 A. Yes, I was.

3 Q. Okay. During that time, did you have
4 the opportunity to become involved in a homicide
5 investigation that occurred at 135 Martha Lane in
6 the Huger area of Berkeley County?

7 A. Yes, sir.

8 THE COURT: I need you to speak
9 directly into the microphone.

10 THE WITNESS: Yes, sir, I was.

11 BY MR. MCNEELY:

12 Q. Did you respond to that location on the
13 morning of July 21, 2016?

14 A. Yes, I did.

15 Q. And did you go to Martha Lane first or
16 did you go somewhere else?

17 A. We went to the corner of 402, I
18 believe, first.

19 Q. While at the corner of 402, did you
20 collect any evidence?

21 A. No, sir, I did not.

22 Q. And at some point, did you go to 135
23 Martha Lane?

24 A. Yes, sir, I did.

25 Q. What did you do at 135 Martha Lane that

TIFFANY SWINTON - DIRECT EXAM BY MR. MCNEELY

1 morning?

2 A. First, we cast a tire impression behind
3 the house. And after that, we did DNA swab on the
4 front porch and on the door frame leading into the
5 bedroom.

6 Q. Is that the bedroom where the victim
7 was located?

8 A. Yes, sir.

9 Q. Did you yourself collect some of the
10 swabs?

11 A. Yes, sir, I did.

12 Q. I'm going to show you what's been
13 marked as State's 169.

14 MR. MCNEELY: Permission to approach
15 the witness?

16 THE COURT: You may.

17 BY MR. MCNEELY:

18 Q. I will ask you to look at these items
19 and tell me if you recognize them, and if needed,
20 Madame Clerk has scissors if you need them.

21 THE COURT: Any exception to 169?

22 MR. THROWER: No, ma'am.

23 MR. SMILEY: No.

24 MR. SMALDONE: No, Your Honor.

25 MR. ARCHER: No.

1 THE COURT: Marked and admitted without
2 objection.

3 (STATE EXH. 169 in evidence.)

4 THE COURT: Do you need scissors?

5 THE WITNESS: Yes, ma'am.

6 Yes, sir, I do recognize the items.

7 BY MR. MCNEELY:

8 Q. What are those items?

9 A. DNA swabs taken from the front porch
10 steps and the doorway.

11 Q. Okay. And you yourself collected
12 those?

13 A. Yes.

14 Q. Please describe for the jury the
15 process you follow to collect DNA swabs from a
16 location.

17 A. The DNA swabs are in a sealed packet.
18 You open the packet; of course you use gloves.
19 Once you take the swabs out, there is a solution
20 that you put on the swabs so that the swab is
21 moist, and you swab the area that you want to get
22 DNA samples from.

23 Q. What do you do after collecting the
24 swab?

25 A. You label it, put it inside the box,

TIFFANY SWINTON - DIRECT EXAM BY MR. MCNEELY

1 and turn it into evidence.

2 Q. Is that package sealed?

3 A. Yes, sir.

4 Q. Is the purpose of sealing to avoid
5 cross-contamination with other swabs or other
6 evidence?

7 A. Yes, sir, it is.

8 Q. And each individual swab taken from an
9 area sealed separately?

10 A. Yes, sir.

11 Q. Are those the swabs that you collected
12 at 135 Martha Lane on that date?

13 A. Yes, sir.

14 Q. Did you yourself log them into
15 evidence?

16 A. No, sir.

17 Q. Okay. What did you do after you
18 collected them?

19 A. Turned it over to Kirsten Chesnutt.

20 Q. And she logged them into evidence?

21 A. Yes, sir.

22 Q. Were they sealed when you turned them
23 over to Deputy Chesnutt?

24 A. Yes, sir.

25 Q. And were they in your continuous

TIFFANY SWINTON - DIRECT EXAM BY MR. MCNEELY

1 custody and control from the time you collected
2 them until you turned them over to Chesnutt?

3 A. Yes, sir, they were.

4 Q. Do you recall collecting any other
5 evidence at 135 Martha Lane that morning?

6 A. Beside the tire impression and DNA
7 swabs, no, sir.

8 Q. And following your involvement at 135
9 Martha Lane, did you go to a separate location at
10 the Huger Recreation Center?

11 A. Yes, sir.

12 Q. Approximately, how far is the Huger
13 Recreation Center from Martha Lane? I'm not asking
14 you an exact distance. Less than a mile?

15 A. I'm not sure.

16 Q. Okay. What did you observe at the
17 Huger Recreation Center?

18 A. An abandoned Crown Vic.

19 Q. Did you photograph the vehicle?

20 A. No.

21 Q. Were photographs taken?

22 A. Yes, sir.

23 Q. And you yourself were there observing
24 it?

25 A. Yes, sir.

TIFFANY SWINTON - DIRECT EXAM BY MR. MCNEELY

1 Q. Please look at State's Exhibit 108
2 through 111. Scratch that; Exhibits 103 through
3 106.

4 Do you recognize those photos?

5 A. Yes.

6 Q. What are they?

7 A. Photographs of the car taken at the
8 recreational center.

9 MR. MCNEELY: Dee, if you could please
10 publish 103.

11 BY MR. MCNEELY:

12 Q. I will ask you to turn around and look
13 at the screen. There is a laser pointer right
14 here. What are we looking at in 103 here?

15 A. 103 you're looking at where the car was
16 found.

17 Q. Okay. And the next photo 104. Is the
18 car you indicated that was found at that location
19 in that photo?

20 A. Yes, sir.

21 Q. Would you please point it out with the
22 laser pointer?

23 A. (Complies)

24 Q. Is that how you observed it at the
25 Huger Recreation Center on July 21st?

TIFFANY SWINTON - DIRECT EXAM BY MR. MCNEELY

1 A. Yes, sir, I did.

2 Q. Exhibit 105. Same car?

3 A. Yes, sir, it is.

4 Q. Same location?

5 A. Yes, sir, it is.

6 Q. And 106? Same car?

7 A. Yes, sir, it is.

8 Q. Same location?

9 A. Yes, sir, it is.

10 Q. You can turn back around. Did you
11 yourself do any processing of the vehicle at that
12 time?

13 A. No, sir.

14 Q. What was done with the vehicle after it
15 was located at the Huger Recreation Center?

16 A. After the photographs were taken, the
17 car was taken to the impound lot at the sheriff's
18 office.

19 Q. Did you yourself make contact with the
20 vehicle at the impound lot?

21 A. Yes, sir, I did.

22 Q. And at that time did you photograph the
23 vehicle?

24 A. Yes, sir, I did.

25 Q. I want to show you what was marked and

TIFFANY SWINTON - DIRECT EXAM BY MR. MCNEELY

1 admitted as State's 108 through 111. Look at those
2 photos.

3 Do you recognize those photos?

4 A. Yes, sir, I do.

5 MR. MCNEELY: Okay. Dee, if you could
6 please publish 108?

7 BY MR. MCNEELY:

8 Q. What is depicted in the photo?

9 A. The car at the impound lot.

10 Q. 109, what is depicted in that photo?

11 A. The driver doorway.

12 Q. Do you see what appears to be a white
13 latex glove in the driver's side door pocket?

14 A. Yes, sir, I do.

15 Q. Was that in the location when you
16 opened the door?

17 A. Yes, sir, it was.

18 Q. 110, please. Is that just a closer up
19 photo of that item.

20 A. Yes, sir.

21 Q. 111, please. What are we looking at
22 here?

23 A. Inside of the front of the car.

24 Q. Okay. And is that the inside still as
25 it was found at Huger Recreation Center?

TIFFANY SWINTON - DIRECT EXAM BY MR. MCNEELY

1 A. Yes, sir, it is.

2 Q. Okay. Deputy Swinton, turn back
3 around.

4 Did you do any processing on the gray
5 Crown Victoria at that time?

6 A. Yes, sir, I did.

7 Q. What processing did you do?

8 A. Four DNA swabs of each doorway and
9 steering wheel.

10 Q. Okay. So a total of five?

11 A. Yes, sir.

12 Q. Okay. And I believe we discussed the
13 process. Did you follow the same process for
14 collecting those swabs as you did the swabs at
15 Martha Lane?

16 A. Yes, sir, I did.

17 Q. In other words, opened the sealed swab,
18 wet it, swabbed the area. And what area
19 specifically on the gray Crown Victoria?

20 A. The doorway, inside doorway, and the
21 steering wheel.

22 Q. What is the purpose of those specific
23 locations?

24 A. For fingerprints and any type of DNA.

25 Q. You were looking for locations that are

TIFFANY SWINTON - DIRECT EXAM BY MR. MCNEELY

1 commonly touched by people?

2 A. Yes, sir.

3 Q. Okay. And did you seal the swabs
4 individually after collecting them?

5 A. Yes, sir, I did.

6 Q. I want to show you what was marked as
7 State's 170.

8 MR. MCNEELY: Permission to approach?

9 THE COURT: You may.

10 Any exception to 170?

11 MR. THROWER: No, ma'am.

12 MR. SMILEY: No, ma'am.

13 MR. SMALDONE: No, Your Honor.

14 MR. ARCHER: No, Your Honor.

15 THE COURT: Marked and admitted without
16 objection.

17 (STATE EXH. 170 in evidence.)

18 BY MR. MCNEELY:

19 Q. Please look and tell me if you
20 recognize it. And, again, feel free to open it if
21 you need to.

22 A. I do recognize the items.

23 Q. What are those items?

24 A. These are DNA swabs of the driver's
25 front door, passenger rear, steering wheel, driver

1 rear, passenger and passenger front door.

2 Q. Are those the swabs you collected from
3 the gray Crown Victoria on July 21, 2016?

4 A. Yes, sir, these are.

5 Q. And were they each done individually by
6 procedure using a sealed kit, collecting a swab and
7 putting it back into a seal before collecting
8 another one?

9 A. Yes, sir.

10 Q. So when packaged together they were
11 individually sealed to avoid cross contamination?

12 A. Yes, sir.

13 Q. And what did you do with those swabs
14 after collecting them that day?

15 A. Turned them into evidence.

16 Q. Did you yourself log them into
17 evidence?

18 A. Yes, sir, I did.

19 Q. Following the collection of those
20 swabs, did you collect any additional items from
21 the gray Crown Victoria that day?

22 A. No, sir, I didn't.

23 MR. MCNEELY: No further questions from
24 the State at this time, Your Honor.

25 THE COURT: Any questions?

TIFFANY SWINTON - CROSS EXAM BY MR. ARCHER

1 MR. THROWER: No, ma'am.

2 THE COURT: Any questions, Mr. Smiley?

3 MR. SMILEY: No, ma'am.

4 THE COURT: Mr. Archer?

5 MR. ARCHER: Yes.

6 THE COURT: You may proceed.

7 CROSS-EXAMINATION

8 BY MR. ARCHER:

9 Q. You took two swabs from the scene of
10 the shooting, right?

11 A. Yes, sir, I did.

12 Q. And those were taken from where?

13 A. The front doorway and the room where
14 the deceased lay.

15 Q. What in the -- where in the front
16 doorway did you take the swabs?

17 A. The steps and the door frame.

18 Q. The door frame?

19 A. Yes, sir.

20 Q. Not the door handle?

21 A. I believe I did that, too.

22 Q. Okay. What was the purpose of taking
23 swabs from the steps?

24 A. For DNA.

25 Q. And same thing with the door handle?

TIFFANY SWINTON - CROSS EXAM BY MR. ARCHER

1 A. Yes.

2 Q. And where on the inside did you take
3 the swabs?

4 A. On the door frame.

5 Q. Door frame of the bedroom?

6 A. Yes, sir, bedroom.

7 Q. Door handle or door -- door frame?

8 A. Yes, sir.

9 Q. Which one?

10 A. The door frame.

11 Q. Door frame. That isn't necessarily the
12 door handle?

13 A. No, sir.

14 Q. If you were going to find where
15 somebody touched something, wouldn't it usually be
16 on the door handle?

17 A. Yes, sir.

18 Q. Okay. But you didn't take a swab
19 there?

20 A. I believe I did. I'm not sure.

21 MR. ARCHER: Okay. No other questions.

22 THE COURT: Mr. Smaldone?

23 MR. SMALDONE: No questions, Your
24 Honor.

25 THE COURT: Any objection to the

TIFFANY SWINTON - CROSS EXAM BY MR. ARCHER

1 witness being excused? Oh, I'm sorry, any
2 redirect?

3 MR. MCNEELY: No, Your Honor.

4 THE COURT: Any exception to the
5 witness being excused? From the State?

6 MR. MCNEELY: No, Your Honor.

7 THE COURT: From the defense?

8 MR. THROWER: No, ma'am.

9 MR. SMILEY: No, ma'am.

10 MR. SMALDONE: No, ma'am.

11 MR. ARCHER: No, ma'am.

12 THE COURT: Ma'am, you're excused.

13 Call your next witness.

14 MR. ALFARO: The State calls Jamar
15 Bennett.

16 JAMAR BENNETT,

17 being first duly sworn, testified as follows:

18 THE CLERK: Please be seated. State
19 your full name for the record and spell your last
20 name.

21 THE WITNESS: Jamar Bennett,
22 B-E-N-N-E-T-T.

23 THE COURT: You may proceed.

24 DIRECT EXAMINATION

25 BY MR. ALFARO:

JAMAR BENNETT - DIRECT EXAM BY MR. ALFARO

1 Q. Could you tell the jury where you work?

2 A. SLED.

3 Q. And how long have you been with SLED?

4 A. A little bit over four years.

5 Q. And prior to joining on with SLED, did
6 you have any prior law enforcement experience?

7 A. No, sir.

8 Q. Were you working anywhere before that
9 or straight from college?

10 A. Straight from college.

11 Q. Where did you go to college?

12 A. South Carolina State.

13 Q. And what is your current duty
14 assignment with SLED?

15 A. I work in the investigations, now
16 narcotics investigation. I'm a transfer from
17 tracking team a little bit over two months ago.

18 Q. And when you say tracking team you used
19 to work for, what is that?

20 A. It's pretty much as a man -- we use
21 bloodhounds for man-tracking purposes.

22 Q. And how long were you assigned to the
23 bloodhound tracking team?

24 A. Right about four years.

25 Q. And can you tell the jury a little bit

JAMAR BENNETT - DIRECT EXAM BY MR. ALFARO

1 about what that entails?

2 A. Well, the tracking team we pretty much
3 use a bloodhound. We use them for man-tracking
4 purposes, anywhere from like a missing person to a
5 violent fugitive. The bloodhounds pretty much, I
6 guess you'd say, use their nose to track people
7 pretty much.

8 Q. What types of training and
9 certifications had you received as a member of that
10 team?

11 A. I have a certification from Aiken
12 County Tracking School and also York County
13 Tracking and also Ohio Technical Officers
14 Association of Tracking certificate.

15 Q. And are there any additional
16 certifications that are issued through the Criminal
17 Justice Academy?

18 A. No, sir. Just the ones that are in
19 South Carolina.

20 Q. And during your time on the bloodhound
21 tracking team, how many calls would you say you
22 responded to in that capacity?

23 A. Probably right around 200 or maybe
24 over.

25 Q. And just so I'm clear, on the 200 calls

1 that you've gone to, that is either, as you said,
2 looking for someone that -- a fugitive, I think you
3 said, or a missing person?

4 A. Yes, sir.

5 Q. And can you tell us a little bit about
6 what type of training the bloodhounds themselves
7 would go through for this?

8 A. Usually train pretty much five days a
9 week. We would get there early in the mornings,
10 probably about 8 or 8:30, something like that, and
11 we'd lay a trail. We would lay trails anywhere
12 from 30 minutes to a couple hours.

13 Sometimes we'd come back after lunch
14 and run trails. And, also, we have laid trails
15 that have -- they have been over 24 hours.

16 Q. And have you been qualified as an
17 expert in the field of bloodhound tracking and
18 handling?

19 A. No, sir.

20 Q. Have you testified in court regarding
21 that?

22 A. No, sir.

23 Q. When you are using a bloodhound to
24 track, do you know what -- how they are going about
25 doing that?

JAMAR BENNETT - DIRECT EXAM BY MR. ALFARO

1 A. Yes, sir. The bloodhounds pretty much
2 smell raft, which is what we call dead skin cells.
3 I'm sitting right here now and I'm dropping skin
4 cells and everybody else is dropping them as well.

5 And they also track off...

6 THE COURT REPORTER: Say again, track
7 off of what?

8 THE WITNESS: Track off of ground
9 disturbance. Anything from like crushed vegetation
10 or anything like that, from stepping on the grass
11 or stepping on twigs or logs, stepping on leaves,
12 anything like that.

13 MR. ARCHER: Your Honor, I don't
14 believe he's qualified --

15 THE COURT: He hasn't moved to admit
16 him as an expert.

17 MR. ARCHER: Okay.

18 THE COURT: You may proceed.

19 BY MR. ALFARO:

20 Q. And would it be fair to say that when
21 you're utilizing a bloodhound that you are -- that
22 they are essentially doing the work?

23 A. I would say the majority of it, yes,
24 sir, and also the trackers as well. Usually --
25 usually, you have a handler and you have a tracker.

JAMAR BENNETT - DIRECT EXAM BY MR. ALFARO

1 And pretty much the handler pretty much watches for
2 behavior and the signs of the dog, and the tracker
3 is also looking at it from the scientific
4 perspective.

5 Q. And is that bloodhound tracking unit --
6 where are you stationed?

7 A. Columbia.

8 Q. Okay. Is that the only bloodhound
9 unit?

10 A. Yes, sir.

11 Q. And for those that may not know, SLED
12 stands for South Carolina Law Enforcement Division?

13 A. Yes.

14 Q. So that one unit covers the whole
15 state?

16 A. Yes, sir.

17 Q. And in that capacity as a bloodhound
18 tracker, did you have the opportunity to assist the
19 Berkeley County Sheriff's Office in an attempt to
20 go locate suspects on July 21, 2016?

21 A. Yes, sir.

22 Q. And can you tell us a little bit about
23 how that callout came to be and what you did in
24 that case?

25 A. I believe we got called at like 10:13

JAMAR BENNETT - DIRECT EXAM BY MR. ALFARO

1 in the morning, and it took us a little while to
2 get down there. As soon as we arrived, we do like
3 we always do; we meet up with the locals and they
4 brief us on what happened.

5 After that, they kind of let us know
6 exactly what they had, or, you know, the last track
7 or anything going in a certain direction.

8 But we also -- we also cut the dogs
9 pretty much in, I guess you would say, in somewhat
10 of a box around that location. Pretty much the
11 locals just tell us that -- that they went in, you
12 know, they went in a certain direction. We would
13 still -- still cut, we make sure that we watch the
14 dog, especially in that area, just for behaviors.

15 Q. And I'm going to ask you to slow down a
16 little bit. The court reporter is trying to take
17 down everything that you're saying.

18 A. Okay.

19 Q. And the jury is trying to get it all
20 in.

21 A. Okay.

22 Q. So if I'm clear, when you get to an
23 area, you're told where they want you -- where they
24 want you to start the track?

25 A. Yes, sir.

JAMAR BENNETT - DIRECT EXAM BY MR. ALFARO

1 Q. Okay. And is that usually based off of
2 a sighting, or how does that usually come to pass
3 in your experience?

4 A. The majority of it is based off of a
5 sighting.

6 Q. And so the agency in charge of the
7 investigation that you are assisting with would
8 tell you where the best place to start is?

9 A. Yes, sir.

10 Q. And you said you responded on the 21st
11 of July?

12 A. Yes, sir.

13 Q. Do you recall when you left Columbia to
14 come down here?

15 A. 10:13.

16 Q. Is that in the morning?

17 A. In the morning.

18 Q. 10:13 in the morning?

19 A. Yes, sir.

20 Q. And do you recall what area of Berkeley
21 County you were asked to begin your track in?

22 A. I believe it was Huger, the national
23 forest.

24 Q. And when you -- when your team
25 responded to Huger, how many people were with you?

JAMAR BENNETT - DIRECT EXAM BY MR. ALFARO

1 A. It was three of us.

2 Q. And how many dogs?

3 A. We usually carry two.

4 Q. Okay. And you said something a little
5 bit earlier about starting a track and cutting a
6 dog inside a box?

7 A. Yes, sir.

8 Q. Can you explain what those terms mean
9 to those of us who don't know what that means?

10 A. Okay. When you -- when we get to a --
11 get to a scene, like I say, the last location, we
12 cut the dog in a box. We kind of box in that last
13 location.

14 And if we don't get anything, if the
15 dog doesn't alert, we expand the box. And we'd
16 keep on expanding, expanding until I guess a mile
17 -- a mile out. And, hopefully, by then the dog
18 would have picked up on the track, and the majority
19 of the time they do.

20 Q. So you were told where to start, you
21 start kind of just an area around that starting
22 point?

23 A. Yes, sir.

24 Q. And then you just kind of move the dog
25 through that little area?

JAMAR BENNETT - DIRECT EXAM BY MR. ALFARO

1 A. No, sir. We would pretty much do like
2 the outline of a box, of a square. And we'd just
3 keep going on around and keep going around, and
4 expand it further and further if the dog doesn't
5 alert.

6 Q. Is that the technique that you used in
7 this case?

8 A. Yes, sir.

9 Q. How would you describe the area you
10 were searching?

11 A. It was woods, wooded area. You had
12 some dirt roads, some gravel roads, and some open
13 areas as well.

14 Q. And so are you running the dog through
15 the woods as well as the dirt roads?

16 A. Yes, sir.

17 Q. And did you have any luck in locating
18 any individuals during that track?

19 A. Yes, sir.

20 Q. And do you recall which individual you
21 were able to locate and take into custody?

22 A. Kenneth Campbell, Junior.

23 Q. And do you recall exactly where you
24 took him into custody?

25 A. He was off of a dirt road. I think he

JAMAR BENNETT - DIRECT EXAM BY MR. ALFARO

1 was laying under some brush.

2 Q. Laying under some brush?

3 A. Yes, sir.

4 Q. So when the -- when you find him, he's
5 not running; he's laying under some brush?

6 A. Yes, sir.

7 Q. And do you recall, approximately, what
8 time that was?

9 A. No, sir, I do not.

10 Q. Was it --

11 A. Go ahead.

12 Q. Sorry?

13 A. No, sir, I don't.

14 Q. So you left Columbia about 10:13 in the
15 morning?

16 A. Yes, sir.

17 Q. And how long would you say you were
18 tracking for him before you found him?

19 A. Pretty much tracked all night. We
20 cut -- we tracked the dogs and we also cut the dirt
21 road and checked abandoned property. The sheriff
22 requested that we stay overnight and that's what we
23 did.

24 We found him the next -- I believe the
25 next morning that same day.

JAMAR BENNETT - DIRECT EXAM BY MR. ALFARO

1 Q. Did you prepare a report in this case?

2 A. Yes, sir.

3 Q. Okay.

4 THE COURT: What number?

5 MR. ALFARO: I'm just going to use it
6 to refresh his recollection.

7 THE COURT: Yeah, but what number is
8 it?

9 MR. ALFARO: It hasn't been marked.

10 THE COURT: It would need to be marked
11 for identification.

12 (STATE EXH. 173, Report, was marked for
13 identification.)

14 THE COURT: 173 marked for ID only.

15 BY MR. ALFARO:

16 Q. I show you what's been marked for ID
17 only. Is that the report that was prepared
18 detailing your involvement in the tracking and
19 apprehension of Kenneth Campbell, Junior?

20 A. Yes, sir.

21 Q. If you can take a look at that and then
22 I will ask you some questions to see if it
23 refreshes your recollection.

24 After having reviewed your report, you
25 arrived on July 21st; is that correct?

JAMAR BENNETT - DIRECT EXAM BY MR. ALFARO

1 A. Yes, sir.

2 Q. And was Mr. Campbell caught that same
3 day?

4 A. Yes, sir.

5 Q. And was he the only individual that you
6 located that day?

7 A. Yes, sir.

8 Q. And do you recall if that was in the
9 afternoon or evening?

10 A. That was in the afternoon.

11 Q. Okay. And so after locating Kenneth
12 Campbell, Junior, did you continue to try to look
13 for any other individuals?

14 A. Yes, sir.

15 Q. And were you personally able to locate
16 any?

17 A. No, sir.

18 Q. And you were considered team one of the
19 team that responded?

20 A. Yes, sir.

21 Q. And that's, I believe you said, three
22 people and two dogs?

23 A. Yes, sir.

24 Q. And were you at some point relieved by
25 another bloodhound tracking team?

JAMAR BENNETT - CROSS EXAM BY MR. THROWER

1 A. Yes, sir.

2 Q. And was that the next day?

3 A. Yes, sir.

4 Q. So that would be the 22nd?

5 A. Yes, sir.

6 MR. ALFARO: Thank you. Answer any
7 questions that the defense may have for you.

8 THE COURT: Mr. Thrower.

9 MR. THROWER: Thank you, Your Honor.

10 THE COURT: You're welcome.

11 CROSS-EXAMINATION

12 BY MR. THROWER:

13 Q. Morning, Agent Bennett.

14 A. Morning.

15 Q. Now, you testified that you got the
16 call to come down here and you brought your team
17 down and met with the locals, I believe you said?

18 A. Yes, sir.

19 Q. And that's who briefed you on the
20 situation and what was going on?

21 A. Yes, sir.

22 Q. What were you told as far as what had
23 happened?

24 A. They pretty much told us they had three
25 suspects in the woods and that pretty much was it.

JAMAR BENNETT - CROSS EXAM BY MR. THROWER

1 Q. Did you know that there were two other
2 suspects or that you were only looking for three?

3 A. Looking for three.

4 Q. Okay. Was any other team sent to the
5 gray Crown Vic area over there by the crime scene
6 to look for any suspects?

7 A. Not that I recall, no, sir.

8 Q. Was there any other tracker teams sent
9 besides yours?

10 A. Yes. There was two teams the next day.

11 Q. They were all in the same area --

12 A. All three in the same area.

13 Q. By the Francis Marion Forest?

14 A. Yes, sir.

15 Q. Nobody down by Charity Church Road

16 or --

17 A. No.

18 MR. THROWER: Okay. Thank you.

19 THE COURT: Mr. Archer.

20 CROSS-EXAMINATION

21 BY MR ARCHER:

22 Q. What day was it that you found
23 Mr. Campbell?

24 A. 21st.

25 Q. The 21st?

JAMAR BENNETT - CROSS EXAM BY MR. ARCHER

1 A. Of July.

2 Q. At the time you found him, how long had
3 you been tracking him?

4 A. A couple hours.

5 Q. Huh?

6 A. It was a couple hours.

7 Q. Couple hours?

8 A. Yes, sir.

9 Q. Two hours? Four hours? Five hours?

10 A. A little bit five hours.

11 Q. And in the five hours -- as I
12 understand it, you start off in a central location
13 and keep working outward?

14 A. Uh-huh.

15 Q. How far out -- where did you start?
16 What was the location you started from?

17 A. I don't recall the location. It was
18 not too far -- I don't know the roads, but it was
19 not too far where we met some of the local
20 officers.

21 Q. So you're not sure where you started
22 from?

23 A. I don't remember the actual location.
24 I mean, we was inside the forest.

25 Q. Was what?

JAMAR BENNETT - CROSS EXAM BY MR. ARCHER

1 A. Inside the forest.

2 Q. Inside the forest?

3 A. Yes, sir.

4 Q. Okay. And do you remember anything
5 that was near?

6 A. Some woods.

7 Q. Some woods? So you started your search
8 in the woods?

9 A. Yeah.

10 Q. You don't know what it was close to,
11 landmarks or anything like that?

12 A. I'm not familiar with that area.

13 Q. Okay. And you were tracking out for
14 about four or five hours. How far out from where
15 you started would you have gotten when you found
16 Mr. Campbell?

17 A. Maybe a couple of miles.

18 Q. Couple of miles?

19 A. Yes, sir.

20 Q. Was anybody with you when you were
21 tracking?

22 A. Yes, sir.

23 Q. Who was that?

24 A. Agent Prison and Agent Wheeler.

25 Q. Was there a US Marshal with you?

JAMAR BENNETT - CROSS EXAM BY MR. ARCHER

1 A. No, sir. I can't remember all that.

2 Q. You don't remember that, but agent who
3 and who?

4 A. Agent Prison and Wheeler, SLED tracking
5 team.

6 Q. Both SLED agents?

7 A. Yes, sir.

8 Q. And did you -- you found Mr. Campbell.
9 What was he -- what were you near? Any particular
10 landmark?

11 A. No. He was -- we was off a dirt road.

12 Q. Off a dirt road. How far off the dirt
13 road?

14 A. Maybe less than ten yards.

15 Q. Okay. So you were at least a mile from
16 where you started?

17 A. Yes.

18 Q. And you found him about ten yards off
19 of a dirt road?

20 A. Uh-huh.

21 Q. And where -- did you say he was lying
22 somewhere?

23 A. Yes, sir. He was laying under brush.

24 Q. Laying on brush?

25 A. Laying under brush.

JAMAR BENNETT - CROSS EXAM BY MR. SMALDONE

1 Q. Laying under brush. Was he asleep?

2 A. I'm sure he probably wasn't.

3 Q. Sure he probably wasn't?

4 A. Yeah.

5 Q. How can you be sure?

6 A. I'm not sure. I mean, when we gave him
7 a command, he looked at us.

8 Q. When you came up, you called out to
9 him?

10 A. Yes, sir.

11 Q. And then in response to you calling
12 out, he responded?

13 A. Yeah.

14 Q. Okay. Did he try to run?

15 A. No.

16 Q. Okay. What did he have on?

17 A. I can't remember exactly what he had
18 on.

19 MR. ARCHER: No other questions, Your
20 Honor.

21 THE COURT: Mr. Smaldone.

22 CROSS-EXAMINATION

23 BY MR. SMALDONE:

24 Q. Morning.

25 A. Morning.

JAMAR BENNETT - CROSS EXAM BY MR. SMALDONE

1 Q. My name is Grant Smaldone, and I
2 represent Drake Campbell.

3 I just want to make sure we're on the
4 same page. You work for SLED, correct?

5 A. Yes.

6 Q. And you're in the bloodhound tracking
7 division?

8 A. Well, I'm not now.

9 Q. You're not now, I'm sorry. You're in
10 narcotics?

11 A. Yes.

12 Q. 2016, bloodhound tracking, correct?

13 A. This year. I transferred probably two
14 months ago.

15 Q. Okay. So you still have some knowledge
16 about how that works?

17 A. Yeah, absolutely.

18 Q. Because it's your old job?

19 A. Yeah.

20 Q. I want to make sure that we understand.
21 You arrived to the wooded area first?

22 A. Yes.

23 Q. And you met with the locals?

24 A. Uh-huh.

25 Q. Does that mean local law enforcement?

JAMAR BENNETT - CROSS EXAM BY MR. SMILEY

1 A. Local law enforcement.

2 Q. All right. All right. And you never
3 went to the scene?

4 A. No.

5 Q. You never went to the crime scene?

6 A. No.

7 Q. So it's not like you got a swab of
8 something at Martha Lane and said, here, go find
9 this?

10 A. No.

11 Q. Your job was to track someone in the
12 woods?

13 A. Yes.

14 Q. So nothing to do with the original --
15 there's nothing tying in your job for your purpose,
16 nothing tying the scene to what you found later,
17 right?

18 A. Nope.

19 MR. SMALDONE: Okay. That's all I
20 wanted to know. Thank you.

21 THE COURT: Mr. Smiley.

22 CROSS-EXAMINATION

23 BY MR. SMILEY:

24 Q. You-all aren't assigned a particular
25 dog?

JAMAR BENNETT - CROSS EXAM BY MR. SMILEY

1 A. No, sir.

2 Q. Because I know in drug enforcement dogs
3 are usually assigned to a particular officer?

4 A. Yeah.

5 Q. But yours, the three of you work with
6 both dogs?

7 A. It's a team of six or seven of us
8 actually. We kind of intermix with the dogs.
9 That's what it's pretty much based on.

10 Q. I got you. What were the names of the
11 dogs?

12 A. All of them?

13 Q. The two that you brought down.

14 A. Cooper and Sally.

15 Q. All right. And when you got there and
16 you talked to the locals, you weren't given a piece
17 of any item and said, here, this is the smell we
18 want you --

19 A. No, we don't track like that. We don't
20 need that.

21 Q. I got you. They point to an area and
22 they start from there?

23 A. Yes.

24 Q. How do they distinguish which person to
25 track and which person not to track?

JAMAR BENNETT - CROSS EXAM BY MR. SMILEY

1 A. Well, they're trained off of human
2 scent. That's how they're trained.

3 Q. So if -- whether there was one person
4 or ten persons in that area, it's going to track
5 all of those scents?

6 A. They'll still track them.

7 Q. So if multiple individuals are in one
8 spot and then went in separate directions, those --
9 your bloodhounds would have tracks going in a whole
10 bunch of different directions?

11 A. Yes.

12 Q. All right. So it doesn't tell -- and I
13 know the answer, but I'm still going to ask it.
14 The bloodhound has no way to tell you how many
15 different tracks it's following?

16 A. No, sir.

17 Q. You were told before you started that
18 you were looking for three people?

19 A. Yes, sir.

20 Q. And you were with one of the dogs. And
21 this is bloodhounds, right.

22 A. Yes, sir.

23 Q. Big sloppy dogs, I love them. Right.

24 A. Yes, sir.

25 Q. Got a good nose, of course?

1 A. Uh-huh.

2 Q. And they go by scent and -- this is
3 another question. They make that bay when they get
4 on the track?

5 A. Yes.

6 Q. They start baying and barking -- I call
7 it baying; it doesn't sound like a bark -- when
8 they're on active scent?

9 A. Yes, sir.

10 Q. And your dog actually did that?

11 A. Yes, sir.

12 Q. And led you to this individual that was
13 in the woods?

14 A. Yes.

15 Q. And you can't tell me how many people
16 were in that particular part of the woods, just
17 that you found one?

18 A. Well, the locals heard some people --
19 something running off and --

20 Q. I understand.

21 A. Yeah, we found one.

22 MR. SMILEY: All right. That's all I
23 have.

24 THE COURT: Any redirect?

25 MR. ALFARO: No, Your Honor.

RICHARD HUNTON - DIRECT EXAM BY MR. ALFARO

1 THE COURT: Any objection to the
2 witness being excused? From the State?

3 MR. ALFARO: No.

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 MR. ARCHER: No, Your Honor.

9 THE COURT: Sir, you're excused.
10 Call your next witness.

11 MR. ALFARO: Richard Hunton.

12 RICHARD HUNTON,

13 being first duly sworn, testified as follows:

14 THE CLERK: Please be seated. State
15 your full name for the record and spell your last
16 name.

17 THE WITNESS: My name is Richard Edwin
18 Hunton, III, H-U-N-T-O-N.

19 THE COURT: You may proceed.

20 DIRECT EXAMINATION

21 BY MR. ALFARO:

22 Q. Can you tell the jury where you work?

23 A. I work at the South Carolina Law
24 Enforcement Division.

25 Q. How long have you been with SLED?

1 A. Two and a half years.

2 Q. And what is your current duty at this
3 time?

4 A. I work on the bloodhound tracking team
5 or the K9 unit of SLED.

6 THE COURT: Sir, I need you to speak
7 directly into the microphone.

8 BY MR. ALFARO:

9 Q. So what is your current duty?

10 A. I work on the bloodhound tracking team
11 at SLED.

12 Q. And have you been with them for the
13 entirety of your time with SLED?

14 A. Yes, sir.

15 Q. And we just had one of your co-workers
16 testify, so I won't go too deep into the details of
17 the job, but are you stationed out of Columbia as
18 well?

19 A. Yes, sir.

20 Q. And what type of training and
21 certification have you specifically had in -- as a
22 member of that team?

23 A. I've been through three week-long
24 schools. One was put on by the York County
25 Sheriff's Department, a bloodhound seminar; the

RICHARD HUNTON - DIRECT EXAM BY MR. ALFARO

1 second was Aiken Bloodhound Tracking School,
2 another week-long school; and then I've been
3 through the Federal Law Enforcement Training
4 Center's Back Country Tactics and Tracking Program.

5 Q. And were you asked as a member of the
6 bloodhound tracking team to assist the Berkeley
7 County Sheriff's Office with an investigation on
8 July 22, 2016?

9 A. Yes.

10 Q. And who did you come down here with?

11 A. Captain Steve Sly, who was a special
12 agent on the tracking team at the time. He's now a
13 captain.

14 Q. And how many people -- how many dogs
15 did you bring down with you?

16 A. We brought two down.

17 Q. And were you relieving another team?

18 A. Yes, sir. We relieved the team that
19 had been down there the first day, Thursday.

20 Q. And was Agent Bennett on that team?

21 A. Yes, sir.

22 Q. And what time did you arrive in
23 Berkeley County?

24 A. I believe we had to be there about
25 eight in the morning, about 8:00 a.m.

RICHARD HUNTON - DIRECT EXAM BY MR. ALFARO

1 Q. And do you recall what area of Berkeley
2 County you responded to?

3 A. I believe Eccles Church Road possibly
4 was close to where we were.

5 Q. And is that in Huger?

6 A. Yes, sir.

7 Q. And when you arrived, were you briefed
8 as to what they were asking you to help with?

9 A. Yes, sir. So the team that had been
10 down there previous gave us an overview of what
11 happened the day before and where they had been and
12 what the perimeter was. Gives the team that hasn't
13 been in the area of the state a better overview of
14 what needs to happen next.

15 Q. And as a result of that briefing, were
16 you able to determine where to begin your search?

17 A. No, sir, not at first. We had just --
18 just finished with the briefing, we had checked
19 with the perimeter that was set up from the night
20 before, and then we got some more information about
21 where to go next.

22 Q. And that information helps you
23 determine where to take the dogs and begin the
24 search?

25 A. Yes, sir.

RICHARD HUNTON - DIRECT EXAM BY MR. ALFARO

1 Q. And what was that information?

2 A. Information was from a citizen; he was
3 driving down the road, saw two subjects walking
4 down the road. As his car came past, they jumped
5 into the woods which caused him to call law
6 enforcement.

7 Q. And based upon that new information,
8 were you asked to or directed by the sheriff's
9 office to respond to that area?

10 A. Yes, sir.

11 Q. And when you got to that area, can you
12 tell us what you did and what happened?

13 A. Yes, sir. So we took -- arrived at the
14 area. The citizen couldn't tell us exactly where
15 on the road the two subjects had jumped into the
16 woods, but with our dogs we can take and cut them
17 down the side of a road on a wood line.

18 Our dogs are trained to be last scent
19 dogs, so they're going to track the last human
20 scent that had gone through that area. We took
21 Jessie out; she's one of our bloodhounds.

22 She -- cut her down the wood line that
23 I described earlier, and then she turned her head
24 into an area that was all almost over my head grass
25 that had been pushed away which, to me, indicates

1 something had gone through there.

2 I wouldn't go so far to say a human had
3 gone through there, but something had gone through
4 there recently and Jessie turned her head and
5 started pulling into the woods.

6 Q. And so you're searching -- the area
7 that you're searching, would you describe that as
8 wooded area?

9 A. Yes, sir.

10 Q. And how long was that behavior, the
11 pulling and tracking, how long did that go on?

12 A. So she -- when we cut her down the side
13 of the road, she didn't pull in anywhere else
14 besides that one area where the grass had been
15 pushed away.

16 She pulled in there and immediately
17 pulled very strongly in there and barked several
18 times, and I held her back as she continued to
19 exhibit those behaviors throughout the track.

20 Q. While you were doing that with Jessie,
21 were there any sheriff's office deputies with you?

22 A. Yes, sir.

23 Q. And what's their purpose in this?

24 A. So our purpose as a tracking team is to
25 track and try to find the individuals we're looking

RICHARD HUNTON - DIRECT EXAM BY MR. ALFARO

1 for. We also bring sometimes local officers with
2 us to kind of watch the sides of us where we're
3 more focused on the dog and finding a sign for that
4 human may have gone through a certain area.

5 If we bring extra officers with us,
6 they're going to be watching out to the sides and
7 further out in front of us for any possible threats
8 or dangers that might be coming up.

9 Q. And so as a result of your dog going
10 back into the woods at that location, did you
11 eventually come into contact with the two -- or two
12 individuals?

13 A. Yes, sir.

14 Q. And can you describe for us what
15 happened then?

16 A. Talking about the entirety of the track
17 or just --

18 Q. How long did you track?

19 A. I would say about two and a half to
20 three miles.

21 Q. And were you able to eventually locate
22 people?

23 A. Yes, sir.

24 Q. And can you describe for us how and
25 where they were located?

RICHARD HUNTON - DIRECT EXAM BY MR. ALFARO

1 A. Yes, sir. It was in the woods off of
2 that original location. We tracked down towards
3 the creek, up the creek. We had footprints, looked
4 like either bare feet, or sometimes people wear
5 socks and they look like bare foot tracks out in
6 the mud.

7 She continued tracking through the
8 swampy area out into a more wooded area. We
9 started making big loops out towards the road. We
10 could hear a road off to our right, but we couldn't
11 ever see it really, but we'd make a loop out toward
12 the road and come back in away from the road.

13 And on one of these loops as we were
14 coming back away from the road, I was tracking in
15 away from the road and one of the deputies and the
16 other agent, I believe, saw the two subjects
17 running away from us coming back to our right, back
18 to continuing that loop.

19 And they verbally challenged them. I
20 was turning around trying to see who they were
21 yelling at, and they kept running for a short
22 distance, but then they laid down and surrendered.

23 Q. So you went approximately two and a
24 half miles from that original location where the
25 citizen had called and said they saw two people

RICHARD HUNTON - CROSS EXAM BY MR. ARCHER

1 jump into the woods?

2 A. Yes, sir, and -- yes, sir.

3 Q. Timewise, how long would you say you
4 were out there tracking?

5 A. Half, hour and a half.

6 Q. And do you know the identity of the two
7 people that you were able to track that were taken
8 into custody by the sheriff's office?

9 A. Yes, sir.

10 Q. And who are they?

11 A. Drake Campbell and Jacob Mouzon.

12 Q. And do you recall, approximately, what
13 time they were taken into custody?

14 A. Around 10:00 a.m. Sometime around
15 there, mid morning.

16 Q. Mid morning?

17 A. Yes, sir.

18 MR. ALFARO: Thank you. Please answer
19 any questions that the defense has.

20 THE COURT: Mr. Thrower.

21 MR. THROWER: No questions.

22 THE COURT: Mr. Archer.

23 CROSS-EXAMINATION

24 BY MR. ARCHER:

25 Q. Where were you tracking in relation to

1 where Mr. Bennett was tracking?

2 A. I'm not 100 percent sure. We had just
3 finished working the outside of the perimeter. We
4 were completely new to the area; I'd never been to
5 Huger before.

6 We got the report from local -- local
7 authorities on where exactly the two subjects
8 jumped into the woods and followed a local unit
9 there. So I'm not 100 percent familiar.

10 We go all over the state to areas I've
11 never been before in my life. And we followed
12 local units to a specific area where they had the
13 sight.

14 Q. Okay. So you don't know what
15 particular location you started your search in?

16 A. No, sir.

17 Q. Okay. And you don't know whether that
18 was the location that Mr. Bennett had searched the
19 day before?

20 A. No, sir. It was a completely different
21 area than where he described to me.

22 Q. Completely different area?

23 A. Yes, sir.

24 Q. Okay. The people you came across, what
25 were they wearing?

RICHARD HUNTON - CROSS EXAM BY MR. SMILEY

1 A. One was shirtless and had on shorts and
2 socks, the other one, I believe, had either no
3 shirt or -- and shorts.

4 Q. Okay.

5 A. Or gym shorts.

6 Q. Do you remember the colors of the
7 shorts?

8 A. I believe Mr. Campbell was wearing
9 black shorts and black calf-length socks, but I
10 can't remember the other.

11 Q. You can't remember what the other was,
12 but Mr. Campbell was wearing black?

13 A. Yes, sir.

14 MR. ARCHER: Okay. No further
15 questions.

16 THE COURT: Mr. Smaldone.

17 MR. SMALDONE: No questions for this
18 witness.

19 THE COURT: Mr. Smiley.

20 CROSS-EXAMINATION

21 BY MR. SMILEY:

22 Q. When you first started that -- that
23 day, the first thing you did was go around the
24 perimeter that had been set up?

25 A. Yes, sir.

RICHARD HUNTON - CROSS EXAM BY MR. SMILEY

1 Q. And that would be the perimeter that
2 law enforcement had set up to contain the
3 individuals?

4 A. Yes, sir, from the night before.

5 Q. And when you did that, the dog would
6 basically alert if somebody had crossed out of that
7 area? Is that what you're looking for?

8 A. No, sir. We drove around to try to
9 familiarize ourselves with the area.

10 Q. So the dogs weren't out --

11 A. No, sir.

12 MR. SMILEY: I don't have anything
13 further. Thank you.

14 THE COURT: Any redirect?

15 MR. ALFARO: No, Your Honor.

16 THE COURT: Any objection to the
17 witness being excused?

18 MR. ALFARO: No, Your Honor.

19 THE COURT: From the defense?

20 MR. THROWER: No, Your Honor.

21 MR. SMILEY: No, Your Honor.

22 MR. SMALDONE: No, Your Honor.

23 MR. ARCHER: No, Your Honor.

24 THE COURT: Sir, you're excused.

25 THE WITNESS: Thank you.

SCOTT BELL - DIRECT EXAM BY MR. MCNEELY

1 THE COURT: You're welcome.

2 Call your next witness.

3 MR. MCNEELY: The State calls Scott
4 Bell.

5 SCOTT BELL,

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.

10 THE WITNESS: Scott Bell, B-E-L-L.

11 THE COURT: You may proceed.

12 MR. MCNEELY: Thank you, Your Honor.

13 THE COURT: You're welcome.

14 DIRECT EXAMINATION

15 BY MR. MCNEELY:

16 Q. Good afternoon, Deputy Bell. Where are
17 you currently employed?

18 A. With the Berkeley County Sheriff's
19 Office.

20 Q. What is your position there, and how
21 long have you been employed there?

22 A. My position there is a detective with
23 CID, and I've been there for two years.

24 Q. Did you attend the South Carolina Law
25 Enforcement Academy?

SCOTT BELL - DIRECT EXAM BY MR. MCNEELY

1 A. Yes, sir.

2 Q. When did you graduate from there?

3 A. It was August 2013.

4 Q. And you've been with the sheriff's
5 office since that time?

6 A. Yes, I have.

7 Q. And were you in the criminal
8 investigations division during July 2016?

9 A. At the end of July 2016, yes, sir.

10 Q. Okay. During that time, did you become
11 aware of an investigation into a homicide at 135
12 Martha Lane, Huger, Berkeley County, on July 21,
13 2016?

14 A. Yes, sir.

15 Q. Were you in CID at that time?

16 A. I believe that's when I was
17 transitioning from the road to CID, but, yes, sir.

18 Q. At some point did you assist in that
19 investigation?

20 A. Yes, sir, I did.

21 Q. How did you assist in that
22 investigation?

23 A. On August 3rd, 2016, Sergeant Antwine
24 with CID came to me. She had a search warrant for
25 DNA for a subject that was under arrest, Darius

SCOTT BELL - DIRECT EXAM BY MR. MCNEELY

1 Hamilton, and she requested that I assist her with
2 the execution of that search warrant.

3 Q. Did you do so?

4 A. Yes, sir.

5 Q. And please explain to the jury how you
6 execute a DNA search warrant?

7 A. Yes, sir. The first thing you do is
8 present the search warrant to the suspect and read
9 it to them, and explain to them why you're there
10 and what you're actually for.

11 And in this case it was for a sample of
12 DNA. After explaining that, there's a -- it's a
13 sealed kit. It's a buccal swab collection kit, and
14 that's how we normally collect DNA.

15 After it was explained to the subject,
16 the seal is opened, the contents are taken out.
17 There is an instruction sheet inside for the
18 procedure and you follow that procedure.

19 There is also two, I would call them,
20 elongated Q-tips with cotton on the end. There is
21 a pair of gloves inside to prevent cross
22 contamination. There is a card inside to put
23 information on, and there is a seal for the kits.

24 Q. This kit that you describe, is that a
25 sheriff's office kit or who -- who manufactures or

1 creates the kit?

2 A. I'm not sure who manufactures it, but
3 the sheriff's office -- we get them from the
4 sheriff's office. They're all the same.

5 Q. Who provides them to the sheriff's
6 office?

7 A. I can't answer that.

8 Q. Is it a SLED-authorized kit?

9 A. Yes, sir. I apologize.

10 Q. What day did you go and meet with
11 Darius Hamilton for the purpose of executing the
12 search warrant?

13 A. August 3, 2016.

14 Q. Where did you meet with him?

15 A. At the Hill-Finklea Detention Center.

16 Q. Next door?

17 A. Yes, sir.

18 Q. Was anyone else with you at that time?

19 A. Sergeant Antwine.

20 Q. Did you make contact with Darius
21 Hamilton at that time?

22 A. Yes, sir, I did.

23 Q. What did you do when you made contact
24 with him that day?

25 A. First thing I did was verify that he

SCOTT BELL - DIRECT EXAM BY MR. MCNEELY

1 was the Darius Hamilton listed on the search
2 warrant. I did this by asking him his name and
3 date of birth. I also verified he had a wrist band
4 on that the detainees at the Hill-Finklea Detention
5 Center wear.

6 Q. Did you read the search warrant aloud
7 to them?

8 A. It was read to him, yes, sir.

9 Q. And after doing so, did you utilize the
10 SLED-authorized buccal swab collection kit to
11 obtain a biological sample from Darius Hamilton?

12 A. Yes, sir, I did.

13 Q. Please describe for the jury that
14 process.

15 A. The process is that once you've opened
16 -- opened the kit -- the sealed kit in front of the
17 person, there is a card. You fill out the
18 information on the card.

19 There's a -- the swabs are inside a
20 sealed, like, envelope. You open that and you take
21 those out. You take one of the swabs, you go have
22 the subject open the mouth, and you go inside the
23 mouth on the right cheek, inside the right cheek,
24 and you swab that. And then you take the other one
25 and you swab inside the left cheek.

SCOTT BELL - DIRECT EXAM BY MR. MCNEELY

1 The swabs are then placed inside an
2 envelope. There is a tamper seal that you put on
3 that envelope and then you -- that gets sealed
4 inside another envelope and that has a tamper seal
5 on that as well.

6 Q. So upon completion of collecting the
7 swabs, you sealed them individually?

8 A. Both swabs go inside of the same
9 envelope. They're just on separate cheeks.

10 Q. Okay. But they are sealed
11 individually?

12 A. Yes, sir. Yes, sir.

13 Q. And do you wear gloves before opening
14 the swab seals?

15 A. Yes, sir. Prior to opening the
16 envelope with the swabs in it, the gloves are put
17 on.

18 Q. And you completed this process for
19 Darius Hamilton on August 3rd?

20 A. Yes, sir.

21 Q. I show you what was marked as State's
22 Exhibit 160.

23 THE COURT: Any exception to 160?

24 MR. THROWER: No, Your Honor.

25 MR. SMILEY: No, Your Honor.

SCOTT BELL - DIRECT EXAM BY MR. MCNEELY

1 MR. SMALDONE: No, Your Honor.

2 MR. ARCHER: No, Your Honor.

3 THE COURT: Marked and admitted without
4 objection, 160.

5 (STATE EXH. 160 in evidence.)

6 MR. MCNEELY: Permission to approach?

7 THE COURT: Yes, sir.

8 BY MR. MCNEELY:

9 Q. Please look at State's Exhibit 160 and
10 tell me if you recognize that. And the clerk has
11 scissors if you need them.

12 THE WITNESS: Your Honor, I've opened a
13 wound on my hand.

14 THE COURT: Oh, goodness.

15 THE WITNESS: I don't want to --

16 THE COURT: Let's get you something.

17 MR. MCNEELY: We have some plastic
18 gloves.

19 THE WITNESS: I will put those on, I
20 just needed to put something on it.

21 THE COURT: Do we have some wipes? See
22 if we have some sterile wipes.

23 THE WITNESS: I apologize.

24 THE COURT: That's okay. You don't
25 need to apologize.

SCOTT BELL - DIRECT EXAM BY MR. MCNEELY

1 Here are the scissors. Let her do that
2 so you don't have to navigate all that.

3 BY MR. MCNEELY:

4 Q. Do you recognize that item?

5 A. Yes, sir.

6 Q. What is that item?

7 A. This is the buccal swab collection
8 kit --

9 Q. Is that the kit --

10 A. -- for Darius Hamilton.

11 Q. -- that you collected from Darius
12 Hamilton on August 3, 2016?

13 A. Yes, sir.

14 Q. And was it sealed upon its collection
15 at Hill-Finklea Detention Center in front of
16 Mr. Hamilton?

17 A. Yes, sir.

18 Q. What did you do after you collected and
19 sealed that kit?

20 A. After I collected and sealed the kit, I
21 took the kit back to the sheriff's office, and then
22 along with a signed chain of custody form, which is
23 here, I placed it into the evidence locker.

24 Q. Okay. Was that sealed buccal swab kit
25 in your continuous custody and control from the

SCOTT BELL - CROSS EXAM BY MR. ARCHER

1 time you collected it from Mr. Hamilton until you
2 logged it into Berkeley County evidence?

3 A. Yes, sir.

4 Q. After submitting that buccal swab kit
5 into evidence, did you do anything else in
6 furtherance of this investigation?

7 A. Yes, sir. I took the search warrant,
8 along with the search warrant return, which was
9 filled out to the Magistrate Judge Baggett for
10 signature, and -- that the search warrant was
11 executed and a copy of that was placed in the
12 records.

13 Q. Okay. And did that complete your
14 involvement in this case?

15 A. Yes, sir.

16 MR. MCNEELY: Okay. No further
17 questions from the State at this time.

18 THE COURT: Any questions, Mr. Thrower?

19 MR. THROWER: No, Your Honor.

20 THE COURT: Mr. Archer.

21 CROSS-EXAMINATION

22 BY MR. ARCHER:

23 Q. Officer, was it Teela Antwine that
24 asked you to accompany her?

25 A. Sergeant Antwine, yes, sir.

SCOTT BELL - CROSS EXAM BY MR. ARCHER

1 Q. Let me ask you this: When you have an
2 investigation with a lot of different officers
3 involved, don't you usually have a lead officer
4 that sort of coordinates the investigation?

5 A. Yes, sir, there is normally a lead
6 investigator.

7 Q. Okay. Was Antwine the lead
8 investigator?

9 A. I do not know whether she was the lead
10 investigator at the time.

11 Q. Do you know who is the lead
12 investigator in this case?

13 A. I do now. I did not at the time.

14 Q. Who was the lead investigator?

15 A. No, I believe the lead investigator now
16 is Sergeant Antwine.

17 Q. Sergeant who?

18 A. Antwine.

19 Q. Teela Antwine?

20 A. Yes, sir.

21 Q. You know now she was the lead
22 investigator?

23 A. I believe. I'm not going to say
24 100 percent.

25 MR. ARCHER: Okay. That's all.

SCOTT BELL - CROSS EXAM BY MR. SMILEY

1 THE COURT: Any questions,
2 Mr. Smaldone?

3 MR. SMALDONE: No, Your Honor.

4 THE COURT: Any questions, Mr. Smiley?

5 CROSS-EXAMINATION

6 BY MR. SMILEY:

7 Q. I'm a little confused. You said
8 Sergeant Antwine is the lead investigator now. Was
9 there a different lead investigator back two years
10 ago?

11 A. At the time when I was involved in the
12 case, I did not know who the lead investigator was.

13 Q. Okay. I just didn't know if it had
14 changed or something.

15 A. No, no, sir.

16 MR. SMILEY: I don't have any
17 questions.

18 THE COURT: Any redirect?

19 MR. MCNEELY: No, Your Honor.

20 THE COURT: Any objection to the
21 witness being excused? From the State?

22 MR. MCNEELY: No, Your Honor.

23 THE COURT: From the defense?

24 MR. THROWER: No, Your Honor.

25 MR. SMILEY: No, Your Honor.

1 MR. SMALDONE: No, Your Honor.

2 MR. ARCHER: No, Your Honor.

3 THE COURT: Sir, we gave you some
4 wipes.

5 THE WITNESS: Perfect.

6 THE COURT: All right. You're excused.
7 Have a good day.

8 THE WITNESS: Thank you, ma'am.

9 THE COURT: You're welcome.

10 Mr. Foreman, ladies and gentlemen, we
11 are going to take advantage of this break for you
12 to have your lunch. It's in the jury room.

13 It's 12:27. I anticipate that what we
14 will do, once you have eaten, let the bailiffs know
15 if you want to go outside and get some air. Once
16 you have completed that process, we're going to
17 resume testimony. I anticipate that will probably
18 take about 30 minutes.

19 During the break, do not discuss the
20 case in any manner whatsoever. If you are in or
21 about the courthouse, please do not have any
22 contact with anyone.

23 Have a good lunch and we will see you
24 about 1:00. Leave your notepads in your seats.

25 (Jury out, 12:38 p.m.)

1 THE COURT: Anything we need to deal
2 with before lunch?

3 MR. ALFARO: Nothing from the State.

4 THE COURT: Anything from the defense?

5 MR. THROWER: No, Your Honor.

6 MR. SMILEY: No, Your Honor.

7 MR. SMALDONE: No, Your Honor.

8 MR. ARCHER: No, Your Honor.

9 (A luncheon recess transpired.)

10 THE COURT: State ready to proceed?

11 MR. ALFARO: Yes, Your Honor.

12 THE COURT: Defense ready to proceed?

13 MR. THROWER: Yes, ma'am.

14 MR. SMILEY: Yes, ma'am.

15 MR. SMALDONE: Yes, ma'am.

16 MR. ARCHER: Yes, Your Honor.

17 THE COURT: Who is the State's next
18 witness?

19 MR. ALFARO: Augustus Mac Flood.

20 THE COURT: I don't think everybody was
21 in here when I came in earlier, but we were delayed
22 in resuming because the defendants had not yet
23 received their lunch, and I needed to give them
24 adequate time to eat before we resumed testimony.

25 Get the jury for me, please.

MAC FLOOD - DIRECT EXAM BY MR. MCNEELY

1 (Jury in, 1:22 p.m.)

2 THE COURT: Ladies and gentlemen, I
3 hope you enjoyed your lunch. We will now resume
4 testimony.

5 State may proceed.

6 MR. MCNEELY: Thank you, Your Honor.

7 The State calls Mac Flood.

8 AUGUSTUS MACDONALD FLOOD,

9 being first duly sworn, testified as follows:

10 THE CLERK: Please be seated. State
11 your full name for the record and spell your last
12 name.

13 THE WITNESS: Augustus McDonald Flood,
14 III, F-L-O-O-D.

15 THE COURT: You may proceed.

16 MR. MCNEELY: Thank you, Your Honor.

17 THE COURT: You're welcome.

18 DIRECT EXAMINATION

19 BY MR. MCNEELY:

20 Q. Mr. Flood, where are you currently
21 employed?

22 A. I'm retired.

23 Q. Congratulations.

24 A. Thank you.

25 Q. Where were you employed before you

MAC FLOOD - DIRECT EXAM BY MR. MCNEELY

1 retired?

2 A. I was in the forensic unit at Berkeley
3 County Sheriff's Office.

4 Q. How long were you employed with the
5 Berkeley County Sheriff's Office forensic team?

6 A. Seven years.

7 Q. When did you retire?

8 A. June 15th of this year.

9 Q. Okay. So you were with the Berkeley
10 County forensic unit during July 2016?

11 A. Yes, I was.

12 Q. Describe a little about your education
13 and training.

14 A. I have a Bachelor's of Science in
15 Biology; I completed the South Carolina Criminal
16 Justice Academy; I've had extensive training and
17 certifications through SLED; I've had
18 certifications in crime scene investigation through
19 the University of West Virginia; I've had ongoing
20 training with Berkeley County Sheriff's Office
21 training units.

22 Q. What were the duties of your position
23 in July of 2016?

24 A. I processed crime scenes; I acted as
25 evidence custodian. I did a lot of processing of

1 items that may come in for DNA, for fingerprinting;
2 and I also tested all of our green plant materials
3 that came in to determine if it was marijuana; and
4 I also did the majority of our runs to SLED, taking
5 evidence back and forth to SLED.

6 Q. When you talk about processing evidence
7 for DNA, do you mean actually doing DNA analysis or
8 is it more limited than that?

9 A. It is more limited than that.

10 Q. What do you do to process something for
11 DNA?

12 A. We just lift a spot that we want to get
13 a sample from and then that's -- of course, it's
14 forwarded to SLED for the analysis.

15 Q. So you're talking about collecting a
16 swab?

17 A. That's correct.

18 Q. Okay. Were you working in that
19 capacity on July 21, 2016?

20 A. Yes, I was.

21 Q. During that time, did you participate
22 in the investigation of a homicide at 135 Martha
23 Lane in Huger, South Carolina?

24 A. Yes, I did.

25 Q. Did you ever go in your official

MAC FLOOD - DIRECT EXAM BY MR. MCNEELY

1 capacity to the actual crime scene at 135 Martha
2 Lane?

3 A. No, I did not. We had other people
4 that went.

5 Q. Where did you initially respond?

6 A. I was informed to meet a deputy with a
7 tow truck at our Berkeley County Sheriff's Office
8 impound lot to process a recovered stolen vehicle.

9 Q. Okay. Approximately, what time was
10 that?

11 A. It was sometime earlier that morning.

12 Q. Did you respond to the impound lot?

13 A. Yes, I did.

14 Q. And what did you observe when you
15 arrived at the impound lot?

16 A. When I got there, I met Deputy Wilkes
17 and the tow truck driver. They had in their
18 possession a white Crown Victoria that they wanted
19 me to process.

20 Q. What did you do at that time?

21 A. We put the car in the impound lot and
22 chain of custody was turned over to me, and then I
23 started processing the vehicle.

24 Q. Okay. Did your initial processing of
25 the vehicle include taking photos?

MAC FLOOD - DIRECT EXAM BY MR. MCNEELY

1 A. That's correct.

2 Q. I want you to look at what's been
3 admitted as State's 93 through 101.

4 Permission to approach, Your Honor?

5 THE COURT: You may.

6 BY MR. MCNEELY:

7 Q. Please look through those photos.

8 What is depicted in those photos?

9 A. It's the photos of the Crown Vic that I
10 had taken.

11 Q. Did you take them July 21, 2016?

12 A. Yes, I did.

13 Q. Are they a fair and accurate
14 representation of the white Crown Vic as you
15 encountered it in the impound lot?

16 A. Yes, they are.

17 MR. MCNEELY: At this time, Dee, would
18 you please publish State's 93?

19 BY MR. MCNEELY:

20 Q. Mr. Flood, I ask you to turn around to
21 your left, and this button with the red is a laser
22 pointer.

23 What are we looking at here in State's
24 93?

25 A. It's just the front section of the

MAC FLOOD - DIRECT EXAM BY MR. MCNEELY

1 Crown Vic.

2 Q. And 94?

3 A. Rear section of the license plate.

4 Q. Okay. 95; what's that showing?

5 A. That's the serial number -- VIN number
6 for the vehicle rather.

7 Q. Where is that sticker located?

8 A. I think that was on the door.

9 Q. Okay. Is that a standard spot for VIN
10 number stickers?

11 A. That's correct.

12 Q. 96, please? What are we looking at
13 here?

14 A. That's a television set that I
15 photographed. I think it was in the rear seat.

16 Q. Was that inside the vehicle when you
17 encountered it in the impound lot?

18 A. Yes, it was.

19 Q. 97; what are we looking at here?

20 A. That's the TV set and maybe some shoes
21 there.

22 Q. And 98?

23 A. That's a bag that was in there.

24 Q. Okay. And that was in there when you
25 encountered the vehicle?

MAC FLOOD - DIRECT EXAM BY MR. MCNEELY

1 A. Yes, it was.

2 Q. 99, please?

3 A. That's the shoes that was there.

4 Q. 100; what is that?

5 A. That's the title. It was in the
6 vehicle.

7 Q. That's the title to the vehicle?

8 A. Yes.

9 Q. Can you read up on the screen or do you
10 need to look at the hard copy in front of you to be
11 able to read it?

12 A. I can read it.

13 Q. Who is the registered owner of that
14 vehicle?

15 A. Kadeem Johnson.

16 Q. What's the address on that
17 registration?

18 A. 4220 Highway 41, Huger.

19 Q. And 101; what is that?

20 A. That's the registration.

21 Q. Okay. Does it list a registered owner?

22 A. Yes, sir; the same person.

23 Q. Same address?

24 A. That's correct.

25 Q. And both of those documents were inside

MAC FLOOD - DIRECT EXAM BY MR. MCNEELY

1 the vehicle as you encountered it?

2 A. Yes, they were.

3 Q. Okay. After completing the taking of
4 those photos, what did you do next in processing
5 the vehicle?

6 A. I started to lift fingerprints off of
7 it -- DNA swabs.

8 Q. Please explain the process you use to
9 lift a -- take a DNA swab from a surface.

10 A. There are two, what people would be
11 familiar with, Q-tips, and I have some distilled
12 water. You barely dampen the swabs with the
13 distilled water and you swab the spot that you want
14 to try to lift DNA from.

15 Q. Okay. And I believe -- how many did
16 you take from the white Crown Victoria that day?

17 A. I got five from this vehicle.

18 Q. Okay. What locations; do you recall?

19 A. Yes, sir. I got two from the front
20 inside passenger and inside driver's side door
21 handle, and I got one from each handle. Same thing
22 I did in the rear --

23 Q. Okay.

24 A. -- in the passenger side and the
25 driver's, inside door handle. Plus I got one off

MAC FLOOD - DIRECT EXAM BY MR. MCNEELY

1 the steering wheel slash gearshift.

2 Q. Why did you swab those five specific
3 surfaces?

4 A. Well, that's just the known area that
5 people would touch.

6 Q. Okay. So you're looking for somewhere
7 where somebody had touched to possibly collect DNA?

8 A. That's correct.

9 Q. As far as swab kits go, are they sealed
10 before you open them to take the swab?

11 A. Yes, sir.

12 Q. Okay. And when you finished collecting
13 each swab, do you seal that swab?

14 A. That's correct.

15 Q. Okay. And is that seal completed
16 before opening and collecting additional swabs?

17 A. Yes.

18 Q. And is the purpose of that to keep the
19 swabs from cross contaminating?

20 A. Exactly, correct.

21 Q. I believe you said you collected five
22 from the vehicle that day in total?

23 A. Yes, sir.

24 Q. I want to show you what was marked as
25 State's Exhibit 171.

MAC FLOOD - DIRECT EXAM BY MR. MCNEELY

1 THE COURT: Any exception to State's
2 171?

3 MR. THROWER: No, Your Honor.

4 MR. SMILEY: No, Your Honor.

5 MR. SMALDONE: No, Your Honor.

6 MR. ARCHER: No, Your Honor.

7 THE COURT: Okay. Marked and admitted
8 without objection.

9 (STATE EXH. 171 in evidence.)

10 MR. MCNEELY: Permission to approach
11 the witness?

12 THE COURT: Yes, sir.

13 BY MR. MCNEELY:

14 Q. Mr. Flood, if you would look at package
15 171 which is in that SLED bag. If you need to open
16 it, Madame Clerk has scissors.

17 Tell me if you recognize that item.

18 A. Yes, sir, I do.

19 Q. Do you care to open it with the
20 scissors?

21 A. I can tell you because I'm on the chain
22 of custody of collecting those items. If you want
23 me to, I'll be glad to.

24 Q. Let's do it just to be sure.

25 A. Okay. Yes, sir; these are all mine.

MAC FLOOD - DIRECT EXAM BY MR. MCNEELY

1 Q. Those are the five swabs you collected
2 from the white Crown Vic?

3 A. I signed my name on them.

4 Q. And those were collected July 21, 2016?

5 A. Yes, sir.

6 Q. Were they sealed individually and
7 packaged after you completed taking the swabs?

8 A. Yes.

9 Q. What did you do after you completed
10 collecting the swabs?

11 A. I put them in my county vehicle and
12 secured them so I could finish processing the
13 vehicle and take them over to the office and log
14 them into evidence.

15 Q. Okay. What else did you do in
16 processing the vehicle that day, if anything?

17 A. I made an attempt to try to lift
18 fingerprints. And what had happened, it started
19 raining. I determined because of the rain I would
20 not be able to lift the prints, so I determined we
21 would do that at a later date.

22 Q. In your experience as a forensic tech,
23 is it possible to lift fingerprints after rain has
24 dampened the surface?

25 A. Yes, you can.

MAC FLOOD - DIRECT EXAM BY MR. MCNEELY

1 Q. Rain does not automatically mean any
2 prints are washed off?

3 A. No, sir. I would be glad to explain
4 that.

5 Q. Feel free.

6 A. The pores in your ridge detail have
7 amino acids. It's kind of an oil base. And when
8 it touches the surface, that oil is on the surface.
9 Once it rains, it doesn't usually wash it away that
10 quickly.

11 So once it dries, we can usually go
12 back, use the dust to be able to lift the print.

13 Q. So you have to let the surface dry, but
14 just because it got wet doesn't mean that you can't
15 lift them?

16 A. That's correct.

17 Q. And did you go back and lift prints
18 from the white Crown Vic, or did someone else do
19 it?

20 A. Someone else did it.

21 Q. Okay. Did that complete what we've
22 discussed your processing of the white Crown
23 Victoria in this case?

24 A. Yes, sir.

25 Q. In addition to processing crime scenes,

MAC FLOOD - DIRECT EXAM BY MR. MCNEELY

1 you stated that you have acted as an evidence
2 custodian for Berkeley County?

3 A. Yes.

4 Q. We have received what's been marked and
5 admitted as State's 158, which is a projectile that
6 was recovered from victim Krystal Snipe during
7 surgery at MUSC. I will approach and ask you to
8 look at that item.

9 Do you recognize that, Mr. Flood?

10 A. Yes, sir.

11 Q. Did you log that into Berkeley County
12 evidence as part of your duty with the Berkeley
13 County Sheriff's Office?

14 A. Yes, sir, it was logged in.

15 Q. And what was done with it after you
16 logged it into evidence?

17 A. It was logged in, it was determined
18 where it would be located in the evidence room.
19 And, of course, it was placed in a safe and secure
20 location.

21 Q. Okay. Was it at some point
22 subsequently transferred to SLED for forensic
23 analysis?

24 A. That's correct.

25 MR. MCNEELY: Okay. Thank you,

MAC FLOOD - CROSS EXAM BY MR. SMILEY

1 Mr. Flood. I don't have any further questions for
2 you at this time.

3 THE WITNESS: Okay.

4 MR. THROWER: No questions, Your Honor.

5 MR. ARCHER: No questions.

6 MR. SMALDONE: Nothing from this
7 witness.

8 CROSS-EXAMINATION

9 BY MR. SMILEY:

10 Q. Investigator Flood, you testified about
11 getting -- processing the white Crown Victoria.
12 And what else did you go collect evidence for in
13 this case? Nowhere else? You weren't called out
14 to Highway 41?

15 A. No, sir.

16 MR. SMILEY: Okay. Just one second,
17 Your Honor.

18 THE COURT: Uh-huh.

19 MR. SMILEY: I don't have anything,
20 Your Honor.

21 THE COURT: Any redirect?

22 MR. MCNEELY: No, Your Honor.

23 THE COURT: Any objection to the
24 witness being excused? From the State?

25 MR. MCNEELY: No, Your Honor.

ASHLEY BETTS - DIRECT EXAM BY MR. ALFARO

1 THE COURT: From the defense?

2 MR. THROWER: No, Your Honor.

3 MR. SMILEY: No, Your Honor.

4 MR. SMALDONE: No, Your Honor.

5 MR. ARCHER: No, Your Honor.

6 THE COURT: Sir, you're excused.

7 You may call your next witness.

8 MR. ALFARO: Ashley Betts.

9 ASHLEY BETTS,

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.

14 THE WITNESS: Ashley Betts, B-E-T-T-S.

15 THE COURT: You may proceed.

16 DIRECT EXAMINATION

17 BY MR. ALFARO:

18 Q. Would you tell the jury where you work?

19 A. Berkeley County Sheriff's Office.

20 Q. And how long have you been with the
21 sheriff's office?

22 A. About five and a half years.

23 Q. And what is your current rank and duty
24 assignment?

25 A. Sergeant on patrol division.

ASHLEY BETTS - DIRECT EXAM BY MR. ALFARO

1 Q. And prior to coming to work with the
2 sheriff's office, did you work any other law
3 enforcement agency?

4 A. I was a telecommunicator for Berkeley
5 County.

6 THE COURT: I'm sorry, can you repeat
7 that?

8 THE WITNESS: A telecommunicator.

9 THE COURT: Thank you. Please
10 continue.

11 BY MR. ALFARO:

12 Q. And were you working as a sheriff's
13 office deputy in July and August of 2016?

14 A. Yes, sir.

15 Q. And what division were you assigned to
16 then?

17 A. Criminal investigations.

18 Q. And did you have the opportunity to
19 assist in an investigation of a home invasion
20 shooting at 135 Martha Lane?

21 A. Yes, sir.

22 Q. And on August 5, 2016, did you have
23 occasion to come into contact with Sherrod Palmer?

24 A. Yes, sir.

25 Q. And was the purpose of your meeting

1 with him to obtain a DNA buccal swab?

2 A. Yes, sir.

3 THE COURT: What number is that?

4 MR. ALFARO: Exhibit 161.

5 THE COURT: Any objection to State's
6 161?

7 MR. THROWER: No objection.

8 MR. SMILEY: No, Your Honor.

9 MR. SMALDONE: No objection.

10 THE COURT: Do you need to continue
11 speaking with him? Are you ready to tell me?

12 Do you have any exception to 161?

13 MR. ARCHER: No.

14 THE COURT: Marked and admitted without
15 objection.

16 (STATE EXH. 161 in evidence.)

17 BY MR. ALFARO:

18 Q. Can you take a look at that exhibit and
19 I will ask you some questions about it.

20 Do you recognize that exhibit?

21 A. Yes, sir.

22 Q. And can you tell the jury if that is
23 the DNA buccal that you obtained from Sherrod
24 Palmer?

25 A. Yes, sir.

ASHLEY BETTS - DIRECT EXAM BY MR. ALFARO

1 Q. And that was obtained on August 5,
2 2016?

3 A. Yes, sir.

4 Q. Can you tell the jury briefly as to
5 what process you went through in collecting that
6 swab? Or those swabs.

7 A. Yes, sir. I met with him at the
8 detention center.

9 MR. SMILEY: Objection, Your Honor.

10 THE COURT: Basis.

11 MR. SMILEY: May we approach?

12 THE COURT: Sure.

13 (Bench conference)

14 THE COURT: What's the objection?

15 MR. SMILEY: I just didn't think they
16 should talk about him being in jail.

17 THE COURT: Yeah. That's --

18 MR. SMILEY: That's why I jumped up so
19 quick.

20 MR. ALFARO: Yeah.

21 MR. SMILEY: Okay. So just ask around
22 it and move on.

23 MR. ALFARO: Yeah.

24 THE COURT: All right.

25 (End of bench conference.)

ASHLEY BETTS - DIRECT EXAM BY MR. ALFARO

1 THE COURT: You may proceed,
2 Mr. Alfaro.

3 MR. ALFARO: Thank you.

4 THE COURT: You're welcome.

5 BY MR. ALFARO:

6 Q. I just want to get from you the
7 specifics on how you did it. The location is not
8 necessary.

9 A. Okay.

10 Q. Can you go through the process on how
11 you obtained that buccal swab from Mr. Palmer?

12 A. Sure. I presented him with this
13 envelope, which was sealed, showed him that it was
14 sealed, then opened it, took out the instruction
15 sheet and gloves that are inside of it.

16 Filled out the information on the card
17 or the envelope that's inside, took the swabs out
18 of the sealed paper, I guess you can call it that,
19 they're inside, and then use the swabs to swab the
20 inside of each side of his cheeks, put those swabs
21 back in the envelope with the information on it,
22 used the seal to seal that, place that back inside
23 here, and use the other seal to seal this.

24 Q. So the kit that you used is issued by
25 the sheriff's office?

ASHLEY BETTS - DIRECT EXAM BY MR. ALFARO

1 A. Yes, sir.

2 Q. And that kit includes instructions?

3 A. Yes, sir.

4 Q. And did you comply with those
5 instructions?

6 A. Yes.

7 Q. And after collecting those samples,
8 were they packaged in a way to avoid contamination
9 with other objects?

10 A. Yes, sir.

11 Q. And after securing those swabs, did you
12 alter or tamper with them in any way?

13 A. No, sir.

14 Q. After you secured them, were they
15 turned into evidence?

16 A. Yes, sir.

17 Q. In addition to what you just testified
18 to, did you also have the opportunity to assist in
19 serving and executing a search warrant on Darius
20 Hamilton's residence and vehicle at 3314 North
21 Highway 52 in St. Stephen?

22 A. Yes, sir.

23 Q. And was that done on August 11, 2016?

24 A. Yes.

25 Q. And as part of that search, was his

1 vehicle searched as well?

2 A. Yes, sir.

3 Q. Do you recall what type of vehicle it
4 was?

5 A. It's a truck, and it's either a
6 Chevrolet or GMC older -- older model.

7 Q. And in the course of serving that
8 search warrant on that pickup truck, did you obtain
9 any evidence?

10 A. Yes, sir.

11 MR. ALFARO: Okay. Showing defense
12 counsel 152 for ID and 159.

13 THE COURT: Mr. Thrower, any objection?

14 MR. THROWER: No objection.

15 MR. SMILEY: No objection.

16 MR. SMALDONE: No objection.

17 THE COURT: Did you object to --

18 MR. ARCHER: No.

19 THE COURT: Both will be marked and
20 admitted without objection, 152 and 159.

21 (STATE EXH. 152 in evidence.)

22 (STATE EXH. 159 in evidence.)

23 BY MR. ALFARO:

24 Q. Let's start with 152. Take a look at
25 that, and I will ask you some questions.

ASHLEY BETTS - DIRECT EXAM BY MR. ALFARO

1 Do you recognize that exhibit?

2 A. Yes.

3 Q. And can you tell the jury what that is?

4 A. It's a black latex glove that was found
5 in the bed of Mr. Hamilton's truck.

6 Q. And was that item secured into evidence
7 by you?

8 A. Yes, sir.

9 Q. Was it tampered with in any way after
10 being secured?

11 A. No, sir.

12 Q. And that was on August 11th?

13 A. Yes, sir.

14 Q. I'm going to show you State's 159. And
15 can you tell the jury what that item is?

16 A. Yes, sir. It's an unspent 7.62
17 cartridge casing that was -- that was found in the
18 toolbox in Mr. Hamilton's truck.

19 Q. Okay. Is that toolbox located in the
20 bed of the truck as well?

21 A. Yes, sir.

22 Q. Was that bullet located in the same
23 place as the glove or was the glove in the bed?

24 A. The glove was in the bed and the round
25 was in the toolbox.

ASHLEY BETTS - DIRECT EXAM BY MR. ALFARO

1 Q. Did you take a look at the bullet?

2 A. Just remove it?

3 Q. Yes. Can you describe the condition of
4 that?

5 A. Weathered.

6 Q. But it's an unfired bullet?

7 A. Correct.

8 Q. Put it back in there.

9 Other than the items of evidence which
10 you have testified to, did you participate in the
11 collection of any other evidence?

12 A. No, sir.

13 Q. Let me ask you this: Were there any
14 shotgun shells or any other ammunition obtained
15 during the search warrant?

16 A. Yes, sir, I do believe a shotgun shell
17 was in the house.

18 Q. Okay. Do you recall if there was a
19 shotgun shell found in the toolbox of the truck as
20 well?

21 A. I don't recall.

22 Q. I'm going to -- did you -- you executed
23 -- this was done during the execution of the search
24 warrant; is that correct?

25 A. Yes, sir.

ASHLEY BETTS - DIRECT EXAM BY MR. ALFARO

1 (STATE EXH. 174, Search warrant, was
2 marked for identification.)

3 THE COURT: Any objection to 174?

4 MR. THROWER: No objection.

5 MR. SMILEY: No, Your Honor.

6 MR. SMALDONE: Your Honor, only for
7 reported recollection purposes. Not to be admitted
8 as evidence.

9 THE COURT: Is there an objection?

10 MR. SMALDONE: I just want to make sure
11 that --

12 THE COURT: I just need a yes or no.

13 MR. SMALDONE: Then, yes, if it's
14 offered for evidence.

15 THE COURT: Do you plan to offer it now
16 or later?

17 MR. ALFARO: I'm only offering it to
18 refresh her recollection.

19 THE COURT: So it's for ID only.

20 MR. ALFARO: Yes, Your Honor.

21 THE COURT: I'm sorry, I misunderstood.
22 ID only.

23 BY MR. ALFARO:

24 Q. Okay. I'll show you what's been marked
25 as State's 174 for ID only. If you can take a look

1 at that and then I will ask you a couple of
2 follow-up questions.

3 A. Okay.

4 Q. And do you recognize that exhibit?

5 A. Yes, sir.

6 Q. And that's the search warrant that was
7 utilized to -- before searching the residence and
8 the vehicle?

9 A. Yes.

10 Q. And after reviewing that -- is part of
11 that search warrant what's called a return?

12 A. Yes, sir.

13 Q. And what does the search warrant return
14 do?

15 A. The return lists the -- gives a list of
16 evidence that was -- or items taken during the
17 search warrant.

18 Q. After reviewing that search warrant
19 return, does it refresh your recollection as to any
20 other additional items that were removed from the
21 bed of Darius Hamilton's vehicle?

22 A. Yes, sir.

23 Q. And can you tell the jury what other
24 items were removed other than the black glove that
25 you testified to and the 7.62 bullets you testified

ASHLEY BETTS - CROSS EXAM BY MR. ARCHER

1 to?

2 A. Yes, sir. Green in color Remington 12
3 gauge unspent shotgun shell found in a book bag in
4 the toolbox of Hamilton's truck, and also a burnt
5 cigar with a plastic tip that was also found in the
6 toolbox of the truck.

7 MR. ALFARO: Thank you. Please answer
8 any questions that the defense has for you.

9 THE COURT: Mr. Thrower?

10 MR. THROWER: No questions, Your Honor.

11 THE COURT: Mr. Archer?

12 CROSS-EXAMINATION

13 BY MR. ARCHER:

14 Q. Do you have the 7.62 bullet up there or
15 is it down here?

16 A. It's down there.

17 THE COURT: I believe that's 159,
18 Mr. Archer.

19 MR. ARCHER: 159.

20 THE COURT: I think it's 159.

21 MR. ARCHER: Yes, that's it.

22 BY MR. ARCHER:

23 Q. Is this a cartridge that would go into
24 a rifle?

25 A. Yes, sir.

ASHLEY BETTS - CROSS EXAM BY MR. ARCHER

1 Q. Does the rifle that was -- did you ever
2 try to match it up to the rifle?

3 A. I don't have any knowledge of that,
4 sir.

5 MR. ARCHER: Okay. No other questions,
6 Your Honor?

7 THE COURT: Mr. Smaldone?

8 MR. SMALDONE: No questions for this
9 witness.

10 THE COURT: Mr. Smiley?

11 CROSS-EXAMINATION

12 BY MR. SMILEY:

13 Q. I have a couple of questions.

14 A. Yes, sir.

15 Q. When you went to do the search warrant
16 on Mr. Hamilton's truck, did you go to the truck or
17 bring the truck to you?

18 A. It was at his house.

19 Q. So you went to his house?

20 A. Yes.

21 Q. And I believe Mr. Alfaro had gone
22 through the return, but there was one thing in
23 particular I wanted to ask you about. Did you find
24 a green bag anywhere in the truck? Cloth bag?
25 Backpack? Any kind of green bag?

ASHLEY BETTS - CROSS EXAM BY MR. SMILEY

1 A. There was a bookbag found, but I don't
2 recall what color it was.

3 Q. Okay. Were you involved in any of the
4 other forensic services like collecting
5 fingerprints or anything like that off the truck?

6 A. No, sir.

7 Q. All right. Anything about collecting
8 any touch DNA from that truck?

9 A. No, sir.

10 Q. Okay. In regards to that 7.62, you
11 can't say how long it had been in the truck, could
12 you?

13 A. No, sir.

14 Q. I believe you described it as a
15 weathered cartridge?

16 A. Yes, sir.

17 Q. It wasn't shiny and new like it just
18 walked out of the box?

19 A. No.

20 Q. And I say cartridge. I guess I should
21 make sure I identify it correctly. Bullet, it was
22 a cartridge, projectile and not been spent yet,
23 correct?

24 A. Correct, unspent.

25 MR. SMILEY: Very good. That's all I

1 have.

2 THE COURT: Any redirect?

3 MR. ALFARO: No, Your Honor.

4 THE COURT: Any objection to the
5 witness being excused? From the State?

6 MR. ALFARO: No, Your Honor.

7 THE COURT: From the defense?

8 MR. THROWER: No, ma'am.

9 MR. SMILEY: No, ma'am.

10 MR. SMALDONE: No, Your Honor.

11 MR. ARCHER: No, ma'am.

12 THE COURT: Ma'am, you're excused.

13 THE WITNESS: Thank you.

14 THE COURT: You're welcome.

15 You may call your next witness.

16 Why don't you-all stand up for me.

17 After lunch, I get sleepy.

18 (Jury standing)

19 MICHELLE WARD,

20 being first duly sworn, testified as follows:

21 THE CLERK: Please be seated. State
22 your full name for the record and spell your last
23 name.

24 THE WITNESS: Michelle Ward, W-A-R-D.

25 THE COURT: You may proceed.

MICHELLE WARD - DIRECT EXAM BY MR. MCNEELY

1 MR. MCNEELY: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MR. MCNEELY:

4 Q. Afternoon, Deputy Ward. Where are you
5 currently employed?

6 A. Berkeley County Sheriff's Office.

7 Q. And how long have you been employed
8 there and in what capacity do you work?

9 A. Been there about five years, and I
10 currently work in the CID unit.

11 Q. How long have you been in CID?

12 A. For about three years.

13 Q. Okay. And just so the jury is clear,
14 that stands for criminal investigations division?

15 A. Yes, sir, sorry.

16 Q. And prior to working with criminal
17 investigations, were you a road deputy?

18 A. Yes.

19 Q. During July 2016, were you working in
20 the criminal investigations division of the
21 sheriff's office?

22 A. I was.

23 Q. And during that time on July 21, 2016,
24 were you called onto duty to assist in the
25 investigation of a homicide incident at 135 Martha

1 Lane in Huger, South Carolina?

2 A. I was.

3 Q. As part of your assistance with the
4 investigation, did you attend an autopsy of Kadeem
5 Johnson, the victim in this case, at MUSC on
6 July 22, 2016?

7 A. I did.

8 Q. Is it standard for the sheriff's office
9 investigating a homicide to have a deputy attend
10 the autopsy of the victim?

11 A. It is.

12 Q. And where did that take place?

13 A. At MUSC downtown.

14 Q. Downtown Charleston?

15 A. Yes, sir.

16 Q. What time was the autopsy on July 22nd?

17 A. About 9:00 a.m.

18 Q. Did you remain present during the
19 entirety of the autopsy?

20 A. I did.

21 Q. During the autopsy, were various items
22 collected from his person by the pathologist?

23 A. Yes.

24 Q. And at the conclusion of the autopsy,
25 were those items turned over to you as evidence?

MICHELLE WARD - DIRECT EXAM BY MR. MCNEELY

1 A. They were.

2 Q. Okay. And just to be clear, did you
3 receive them from the pathologist, Dr. Reimer?

4 A. Yes, I did.

5 Q. I want to ask you about several items
6 that have been marked as State's 154, 155, and 156.

7 THE COURT: Any objection?

8 MR. THROWER: No objection.

9 MR. SMILEY: No objection.

10 MR. SMALDONE: No objection.

11 MR. ARCHER: No objection.

12 THE COURT: 154, 155, and 156 admitted
13 without objection.

14 (STATE EXH. 154 in evidence.)

15 (STATE EXH. 155 in evidence.)

16 (STATE EXH. 156 in evidence.)

17 MR. MCNEELY: Permission to approach
18 the witness?

19 THE COURT: Yes, sir.

20 BY MR. MCNEELY:

21 Q. Please take a look at State's 154,
22 Ms. Ward. There are gloves if you need them; I
23 noticed a biohazard sticker on the outside. Madam
24 Clerk has scissors if you need them to open the
25 package.

MICHELLE WARD - DIRECT EXAM BY MR. MCNEELY

1 Tell me if you recognize that item.

2 A. Yes.

3 Q. Okay. What is that item?

4 A. It's the tape that was removed from
5 Kadeem Johnson's hand.

6 Q. Removed during autopsy?

7 A. Yes, sir.

8 Q. And after you took custody of it at
9 MUSC, did you maintain continuous custody and
10 control of it until it was logged into evidence at
11 Berkeley County Sheriff's Office?

12 A. Yes, I did.

13 Q. And did you do it that same day?

14 A. I did.

15 Q. You can repackage that if you don't
16 mind.

17 This is State's 155. You may not have
18 to open that one.

19 Can you tell the jury if you recognize
20 that item?

21 A. I do.

22 Q. What is that item?

23 A. This is the projectile that was removed
24 from Kadeem Johnson at autopsy.

25 Q. When you say projectile, what do you

MICHELLE WARD - DIRECT EXAM BY MR. MCNEELY

1 mean?

2 A. Bullet.

3 Q. Did you take custody of that at MUSC on
4 July 22, 2016, following his autopsy?

5 A. I did.

6 Q. And did you log it into evidence at
7 Berkeley County that same day?

8 A. Yes, I did.

9 Q. Did you have continuous custody and
10 control of that item until you logged it into
11 evidence?

12 A. Yes, I did.

13 Q. And as to State's 156. You may have to
14 open that one.

15 Do you recognize that item?

16 A. Yes.

17 Q. What is that item?

18 A. It's a blood spot card for Kadeem
19 Johnson.

20 Q. Okay. Did you collect that from
21 Dr. Reimer at MUSC on July 22, 2016, during his
22 autopsy?

23 A. Yes, I did.

24 Q. Was that in your continuous custody and
25 control until you logged it into evidence at

MICHELLE WARD - DIRECT EXAM BY MR. MCNEELY

1 Berkeley County that same day?

2 A. Yes, it was.

3 Q. Okay.

4 THE COURT: Could you-all put the
5 pieces you cut off back into the envelope, please?

6 THE WITNESS: Yes, ma'am.

7 THE COURT: Thank you.

8 MR. MCNEELY: Thank you, Your Honor.

9 THE COURT: You're welcome.

10 BY MR. MCNEELY:

11 Q. Following your taking the items back
12 from autopsy in this case, did you have an
13 opportunity to further assist in the investigation
14 by collecting buccal swab DNA samples from several
15 of these defendants?

16 A. Yes, I did.

17 Q. And did that occur on July 25, 2016?

18 A. Yes.

19 Q. I show you first what was marked as
20 State's Exhibit 162.

21 THE COURT: Any objection?

22 MR. THROWER: No objection.

23 MR. SMILEY: No, Your Honor.

24 MR. SMALDONE: No objection.

25 MR. ARCHER: I'm not sure it's

1 relevant --

2 THE COURT: Yes or no?

3 MR. ARCHER: Yes.

4 THE COURT: Are you just doing this for
5 chain, or are you seeking to admit it through this
6 witness?

7 MR. MCNEELY: I'm seeking to admit it
8 as she collected the buccal swab.

9 THE COURT: Mr. Foreman, ladies and
10 gentlemen, I have a brief matter of law to take up.
11 During the break, please do not discuss the case
12 and please leave your notepads in your seats. This
13 should be fairly brief.

14 (Jury out, 2:08 p.m.)

15 THE COURT: You may be seated.

16 Tell me exactly what it is.

17 MR. MCNEELY: It is the buccal swab
18 collected from Defendant Kenneth Campbell on
19 July 25, 2016, by Ms. Ward, which was subsequently
20 logged into evidence and submitted to SLED for
21 comparison analysis in this case.

22 THE COURT: What's the basis of the
23 objection, Mr. Archer?

24 MR. ARCHER: Well, Your Honor, I'm not
25 sure it's relevant, unless they have some DNA to

1 match it to.

2 THE COURT: I don't know whether they
3 do or not, but they have to do it in stages and so
4 my ruling can't be contingent on whether or not it
5 was analyzed. The basis would be whether there is
6 some lack of foundation in the chain or it's been
7 hypothecated in some way.

8 I would assume if the State is seeking
9 to introduce it, they plan to connect the dots,
10 correct?

11 MR. MCNEELY: That's correct, Your
12 Honor. It was analyzed.

13 THE COURT: And I would assume you got
14 the results of that analysis.

15 MR. ARCHER: Well, I'm not aware of
16 anything that matched it.

17 THE COURT: And I assume the State is
18 going to do that in their case in chief because
19 they don't want you to do it.

20 MR. ARCHER: Okay.

21 THE COURT: Okay. So do you have an
22 objection?

23 MR. ARCHER: I've stated my objection.
24 I think you ruled based on that.

25 THE COURT: No, you haven't told me the

1 basis of your objection.

2 MR. ARCHER: I have no other basis.

3 THE COURT: No, I need to know the
4 basis of the objection.

5 MR. ARCHER: Well, it's that it has to
6 have some relevance. There is no relevance unless
7 there is some DNA of my client that was found among
8 the evidence.

9 THE COURT: Let me ask this
10 hypothetical. The State collected your client's
11 DNA. I would assume they ran the buccal swabs
12 against the known samples at the crime scene.

13 MR. ARCHER: Yes.

14 THE COURT: I have no idea whether
15 anything matched because I haven't heard that
16 testimony yet.

17 Did anything match, other than the
18 victim?

19 MR. MCNEELY: To several of the
20 defendants.

21 THE COURT: Okay. But it didn't match
22 Mr. Campbell?

23 MR. MCNEELY: He was not excluded.

24 THE COURT: He was not excluded. I
25 would have to assume that if the State did not

1 introduce that evidence, then you would seek to
2 introduce it to indicate that there is some hole in
3 their case, for lack of a better word, deficiency
4 in proof.

5 MR. ARCHER: Yes, Your Honor.

6 THE COURT: So then what would preclude
7 them from doing it first?

8 MR. ARCHER: I guess nothing. We have
9 a rifle that hasn't been connected to anything in
10 this case.

11 THE COURT: Well, they're going to have
12 the firearms tech expert come testify. He's on the
13 list, but we're not at that stage yet. I have to
14 deal with what I'm dealing with right now, which is
15 whether you have an objection to --

16 MR. ARCHER: I apologize. I may have
17 put the cart before the horse, Judge.

18 THE COURT: Do you have an objection to
19 the buccal swab?

20 MR. ARCHER: I have no other objection
21 other than what I stated before.

22 THE COURT: You still didn't answer my
23 question. I need to know if you have an objection
24 to State's Exhibit 162, the buccal swab taken from
25 your client?

MICHELLE WARD - CONTINUING DIRECT BY MR. MCNEELY

1 MR. ARCHER: No.

2 THE COURT: The objection is withdrawn.
3 Please bring in the jury.

4 162 will be marked and admitted without
5 objection.

6 (STATE EXH. 162 in evidence.)

7 (Jury in, 2:28 p.m.)

8 THE COURT: You may be seated.
9 You may proceed.

10 MR. MCNEELY: Thank you.

11 THE COURT: You're welcome.

12 BY MR. MCNEELY:

13 Q. Deputy Ward, when we left off I was
14 about to show you now marked and admitted as
15 State's 162.

16 Permission to approach, Your Honor?

17 THE COURT: You may.

18 BY MR. MCNEELY:

19 Q. Please look at that item and tell me if
20 you recognize that item. And you may cut it open
21 if necessary.

22 A. Yes.

23 Q. What is that item?

24 A. This is the buccal swab kit for Kenneth
25 Campbell.

MICHELLE WARD - CONTINUING DIRECT BY MR. MCNEELY

1 Q. And you collected that on July 25,
2 2016, from Defendant Kenneth Campbell?

3 A. Yes.

4 Q. Please explain for the jury the process
5 you used for collecting a buccal swab kit from an
6 individual.

7 A. So whenever we collect a buccal swab
8 kit, typically, it's with a search warrant. And
9 whenever we make contact with the individual that
10 we are serving the search warrant on and getting
11 the buccal swab, it comes in a package like this
12 with this envelope inside of it. This is the
13 shipping package.

14 On the front, we fill out the
15 information indicating who it is that is performing
16 and collecting the kit, who the kit is coming from,
17 and when we're doing it. On the inside of the
18 package, there's also an envelope that comes with
19 it.

20 On the envelope, we fill out the
21 individual's name we are collecting the buccal swab
22 from, as well as the person who is collecting the
23 sample again. The person's name and Social
24 Security number goes on the inside, and we sign the
25 back as well.

MICHELLE WARD - CONTINUING DIRECT BY MR. MCNEELY

1 There is an envelope within this little
2 folder here. That is where the Q-tips go. Inside
3 the package when you initially open it up, it's
4 sealed with a tamper proof seal. When we open it
5 up, we open it in front of the individual, and we
6 explain to them what we're going to do.

7 We let them look at everything, and
8 they see everything as we are doing it to know that
9 we are not going to tamper with it at all.

10 Part of this package comes with gloves,
11 instruction sheets, and a package with two sterile
12 Q-tips. The Q-tips are pretty long; they're not
13 your standard-sized Q-tips. Typically, whenever I
14 fill this out and I'm ready to get the Q-tip, I let
15 them know this is what it is, this is how I'm going
16 to do it.

17 I let them know -- see the Q-tip and
18 tell them, whenever I'm ready, I will tell you to
19 take a big swallow, open your mouth, and I'm going
20 to take the Q-tip on either side of your cheeks,
21 and I'll swipe about ten times on either side.

22 Whenever we're ready, I tell them to go
23 ahead. And once they open up their mouth, I do ten
24 swipes on either side of the cheeks, and then those
25 Q-tips go into this little envelope.

MICHELLE WARD - CONTINUING DIRECT BY MR. MCNEELY

1 We put a tamper proof tape over the top
2 of it, it goes into a Zip-lock bag with a moisture
3 packet to protect the items, and then it goes into
4 this package with another tamper proof seal on it.

5 I have them initial the tamper proof
6 seal to show that they watched me and they were
7 there for the entire process. And they also sign
8 this tamper proof seal as well.

9 I put my initials on it showing that
10 both parties were present and both parties
11 acknowledge that everything is being done properly
12 and I'm not tampering with anything. I do wear
13 gloves during the entire process until it goes into
14 this package. Before it goes into this one, I take
15 off my gloves.

16 Q. Did you follow that procedure that you
17 just described in the collection of the buccal swab
18 from Defendant Kenneth Campbell?

19 A. Yes, I did.

20 Q. Did you seal the envelope containing
21 the swabs from him before removing your gloves?

22 A. Yes.

23 Q. And did you follow the procedure as
24 dictated by SLED?

25 A. Yes.

MICHELLE WARD - CONTINUING DIRECT BY MR. MCNEELY

1 Q. And upon sealing the swab kit and
2 placing it in the envelope, did you keep it in your
3 continuous custody and control until you logged it
4 into Berkeley County evidence?

5 A. Yes, I did.

6 Q. If you could put that one back
7 together, I will now show you what's been marked as
8 State's Exhibit 163.

9 THE COURT: Any objection?

10 MR. THROWER: No objection.

11 MR. SMILEY: No objection.

12 MR. SMALDONE: No objection.

13 MR. ARCHER: No objection.

14 THE COURT: 163 is marked and admitted
15 without objection.

16 (STATE EXH. 163 in evidence.)

17 MR. MCNEELY: May I approach?

18 THE COURT: You may.

19 BY MR. MCNEELY:

20 Q. Please look at this and tell me if you
21 recognize that item.

22 A. Yes, I do. This is the buccal swab
23 collection kit for Jacob Mouzon.

24 Q. Did you collect that from Mr. Mouzon on
25 July 25th, 2016?

1 A. Yes, I did.

2 Q. And I won't make you go through it
3 again, but did you follow the SLED directed
4 protocol for collecting that kit?

5 A. Yes, I did.

6 Q. Did you wear gloves during the entirety
7 of the process?

8 A. Yes, I did.

9 Q. Was it sealed immediately upon its
10 collection from Mr. Mouzon to avoid contamination?

11 A. Yes, it was.

12 Q. Okay. And after sealing, did you
13 remove your gloves?

14 A. Yes.

15 Q. Okay. And was the kit you collected
16 from Mr. Mouzon on July 25, 2016, in your
17 continuous custody and control until you logged it
18 into Berkeley County evidence that same day?

19 A. Yes, it was.

20 Q. Do you have any reason to believe that
21 it was tampered with prior to you logging it into
22 evidence?

23 A. No.

24 Q. And now, again, for State's 164?

25 THE COURT: Any objection?

MICHELLE WARD - CONTINUING DIRECT BY MR. MCNEELY

1 MR. THROWER: No objection.

2 MR. SMILEY: No objection.

3 MR. SMALDONE: No objection.

4 MR. ARCHER: No objection.

5 THE COURT: Without objection, Number
6 164.

7 (STATE EXH. 164 in evidence.)

8 MR. MCNEELY: Thank you, Your Honor.
9 Permission to approach?

10 THE COURT: Yes, sir.

11 BY MR. MCNEELY:

12 Q. Ms. Ward, please look at State's 164
13 and tell me if you recognize that item.

14 A. Yes, I do.

15 Q. What is that item?

16 A. This is the buccal swab collection kit
17 for Drake Campbell.

18 Q. Did you collect it from Drake Campbell
19 on July 25, 2016?

20 A. Yes, I did.

21 Q. Again, did you follow SLED protocol for
22 collecting that sample in its entirety?

23 A. Yes, I did.

24 Q. Did you wear gloves?

25 A. Yes.

MICHELLE WARD - CONTINUING DIRECT BY MR. MCNEELY

1 Q. Were the swabs sealed when you pulled
2 them from the envelope?

3 A. Yes.

4 Q. Were they sealed upon you collecting
5 the swab from Drake Campbell's cheeks?

6 A. Yes.

7 Q. And were they sealed prior to you
8 removing your gloves to avoid contamination?

9 A. Yes, sir.

10 Q. Upon sealing them, did you place them
11 in the sealed outer packaging?

12 A. Yes, sir.

13 Q. And was it in your continuous custody
14 and control until you logged it into Berkeley
15 County evidence that day?

16 A. Yes, it was.

17 Q. Did you have any reason to believe that
18 that was tampered with prior to logging it into
19 evidence?

20 A. No.

21 Q. And the same thing on State's Exhibit
22 162, the buccal swab kit of Kenneth Campbell; any
23 reason to believe that that was tampered with prior
24 to you logging it into evidence?

25 A. No, sir.

MICHELLE WARD - CONTINUING DIRECT BY MR. MCNEELY

1 Q. Following the collection of the kits
2 from the three defendants we just discussed, did
3 you do anything further in the investigation of
4 this case?

5 A. No.

6 MR. MCNEELY: No further questions from
7 Ms. Ward at this time.

8 THE COURT: Mr. Thrower, any questions?

9 MR. THROWER: No questions.

10 THE COURT: Mr. Archer?

11 MR. ARCHER: No questions.

12 THE COURT: Mr. Smaldone?

13 MR. SMALDONE: No questions.

14 THE COURT: Mr. Smiley?

15 MR. SMILEY: No questions.

16 THE COURT: Any exception to the
17 witness being excused? From the State?

18 MR. MCNEELY: None, Your Honor.

19 THE COURT: From the defense?

20 MR. THROWER: No, Your Honor.

21 MR. SMILEY: No, Your Honor.

22 MR. SMALDONE: No, Your Honor.

23 MR. ARCHER: No, Your Honor.

24 THE COURT: Ma'am, you're excused.

25 Call your next witness.

BERNARD WILLIAMS - DIRECT EXAM BY MR. ALFARO

1 MR. ALFARO: Bernard Williams.

2 BERNARD WILLIAMS,

3 being first duly sworn, testified as follows:

4 THE CLERK: Please be seated. State
5 your full name for the record and spell your last
6 name.

7 THE WITNESS: Bernard Fitzgerald
8 Williams, W-I-L-L-I-A-M-S.

9 THE COURT: If you could speak directly
10 into the mic for me.

11 THE WITNESS: Bernard Fitzgerald
12 Williams.

13 THE COURT: Thank you, sir.
14 You may proceed.

15 MR. ALFARO: Thank you, Your Honor.

16 THE COURT: You're welcome.

17 DIRECT EXAMINATION

18 BY MR. ALFARO:

19 Q. Mr. Williams, could you tell the jury
20 what area of Berkeley County you live in.

21 A. (Inaudible)

22 THE COURT REPORTER: Say again.

23 THE WITNESS: United Drive.

24 BY MR. ALFARO:

25 Q. And is that located in Huger?

BERNARD WILLIAMS - DIRECT EXAM BY MR. ALFARO

1 A. Yes, sir.

2 Q. How long have you lived in Huger?

3 A. All my life.

4 Q. And what type of work do you do?

5 A. I do drywall, drywall construction.

6 Q. And did you know Kadeem Johnson?

7 A. Yeah. He was my best friend and
8 cousin.

9 Q. And how long -- obviously, he was your
10 cousin. Had you been around him his whole life?

11 A. Yes, until I went to Georgia for a
12 couple of years.

13 Q. But you knew him before that and since
14 that?

15 A. Yes, sir.

16 Q. Was it normal for you to hang around in
17 the same circles?

18 A. Yes, sir, all the time.

19 Q. And do you know Kenneth Campbell?

20 A. No, sir.

21 Q. Do you know Drake Campbell?

22 A. No, sir.

23 Q. Do you know Jacob Mouzon?

24 A. I don't know them, but I saw them for
25 the first time that Wednesday night.

BERNARD WILLIAMS - DIRECT EXAM BY MR. ALFARO

1 Q. And do you know Sherrod Palmer?

2 A. Who?

3 Q. Sherrod Palmer?

4 A. I don't know him by that name.

5 Q. Do you know him by another name?

6 A. Sherrod Palmer. I know Sav. That's
7 all I know him by.

8 Q. You know him by Sav?

9 A. Yes, sir.

10 THE COURT: Could you spell that for
11 the court reporter?

12 MR. ALFARO: S-A-V as in Victor.

13 THE COURT: Thank you. You may
14 continue.

15 BY MR. ALFARO:

16 Q. And for Mr. Palmer, we're going to call
17 him Palmer, do you know where he or where his
18 girlfriend lives or who his girlfriend is?

19 A. Yes, sir.

20 Q. Who is his girlfriend?

21 A. Jaunwanna Johnson.

22 Q. Okay. And she is somehow related to
23 Kadeem?

24 A. Aunt.

25 Q. Okay. And do you know where she lives,

BERNARD WILLIAMS - DIRECT EXAM BY MR. ALFARO

1 roughly?

2 A. Yeah. She lives on Highway 41.

3 Q. And you were saying that you had seen
4 Mr. Palmer and some of the others on that
5 Wednesday. Are you referring to the Wednesday,
6 July 20th --

7 A. Yes, sir.

8 Q. -- 2016?

9 MR. SMILEY: Object to leading, Your
10 Honor.

11 THE COURT: Sustained; leading.
12 Rephrase.

13 BY MR. ALFARO:

14 Q. When was the last time that you saw
15 Kadeem?

16 A. I saw him Wednesday, that night, and I
17 hauled him to my place for about an hour and a half
18 before he left.

19 Q. For the Wednesday you're talking about,
20 which Wednesday is that?

21 A. That was the third or the fourth
22 Wednesday because we have Round Robin. Round
23 Robin, that means the place -- you go from one club
24 to the next club.

25 Q. And when is that Wednesday in relation

1 to when he was killed?

2 A. It was -- I think it was the third
3 Wednesday.

4 Q. Was it the same day that Kadeem was
5 killed?

6 A. It was the same -- that night.

7 Q. Okay.

8 A. Late that night, because that was -- he
9 was in my place 11:30 that night.

10 Q. Which place is that you're referring
11 to?

12 A. United Drive. On United Drive before
13 he dropped me off.

14 Q. Okay. And in that area off of 41, are
15 you familiar with a place called Richie's or
16 Richard's Place?

17 A. That's where we hang out, sir.

18 Q. Okay. And is that -- where is that?
19 Is that directly on Highway 41?

20 A. On Highway 41.

21 Q. Is that also in the Huger part of 41?

22 A. Yes, sir, Huger 41.

23 Q. And that night you're talking about,
24 you said you saw Sherrod Palmer? Sav?

25 A. I saw Sav and the guy with the cute

BERNARD WILLIAMS - DIRECT EXAM BY MR. ALFARO

1 haircut. The guy with the cute haircut, that's him
2 right there. And his -- it was another guy who
3 come up out of the truck, burgundy SUV, or
4 something, and he ran across the street.

5 And I stopped him right there and I
6 asked him, you ain't from around here? That's what
7 I told him; he was not from around here.

8 Q. So about what time was this?

9 A. That was about 10:00, 10:30 when the
10 truck pulled up behind me and Kadeem.

11 Q. And so Kadeem was there as well?

12 A. Yes, sir.

13 Q. And you said when you -- did you say
14 you left there with Kadeem?

15 A. Yes, sir.

16 Q. Where did you-all go?

17 A. To my place.

18 Q. So were you driving or he was driving?

19 A. He was driving. I don't have no
20 license.

21 Q. Okay. Was he taking you home?

22 A. Yes, sir.

23 Q. And after he dropped you off, did you
24 see him again after that?

25 A. When he dropped me off, I tell him to

BERNARD WILLIAMS - CROSS EXAM BY MR. THROWER

1 be safe on the highway. That's what I told him.

2 Q. Did you see him again?

3 A. No, sir.

4 MR. ALFARO: Thank you. Please answer
5 any questions that the defense has.

6 THE COURT: Mr. Thrower.

7 CROSS-EXAMINATION

8 BY MR. THROWER:

9 Q. Afternoon, Mr. Williams.

10 A. Afternoon.

11 Q. I missed something in there; I just
12 want to clear it up. You stopped a guy at 10 or
13 10:30 and said you're --

14 A. I stopped him from running across the
15 light. I had been around the yard, the club yard.
16 He had me around in the club yard, the owner of the
17 club.

18 Q. Okay. Do you know who that guy was?

19 A. The owner of the club?

20 Q. The one you stopped.

21 A. No. This is the first time I ever saw
22 him before Wednesday night. That Wednesday night
23 was the first time I ever saw him.

24 Q. Can you describe him?

25 A. He was a red fellow, had dreads pony up

BERNARD WILLIAMS - CROSS EXAM BY MR. THROWER

1 like this right here when I first time saw him.

2 Q. Did you say a red fellow?

3 A. Yeah, a light-skinned guy.

4 Q. Okay. Is that like red bone?

5 A. I can't remember that far back. I told
6 you he was a red fellow and had dreads --

7 Q. Dreads, I'm sorry? Is that what you
8 said?

9 A. He had dreads up in here like this
10 right here and he had something around his head
11 like this (indicating) when I saw him.

12 Q. So he had dreads, but he had like a --

13 A. Like up in here like this right here.
14 (Indicating)

15 Q. I got you. How old was he?

16 A. Huh?

17 Q. How old do you think he was?

18 A. About 17, 18. No more than that
19 because I knew he was too young to come into the
20 club.

21 Q. And you had never seen him before?

22 A. The first time I ever saw him.

23 Q. And you ran him out of the club?

24 A. No, I did not. I tell him he's
25 welcome. I know he was too young to come to the

1 club, but we welcome people when they come to our
2 club. We don't have no enemies.

3 Q. You knew he was too young?

4 A. Yes, sir.

5 Q. You didn't bother to check his ID --

6 A. I'm not the owner, sir.

7 Q. Okay. All right. Was there anybody
8 else out there that night that was the first time
9 that you saw them?

10 A. The first time I saw him.

11 Q. And that's the young guy?

12 A. And he was 17 or 18 at the time.

13 That's all I can tell you.

14 MR. THROWER: Okay. I don't think I
15 have any further questions. It's not any more
16 clear, but -- thank you.

17 THE COURT: Mr. Archer?

18 MR. ARCHER: No questions.

19 THE COURT: Mr. Smaldone?

20 MR. SMALDONE: Nothing for
21 this witness.

22 THE COURT: Mr. Smiley.

23 CROSS-EXAMINATION

24 BY MR. SMILEY:

25 Q. So you were at the club to start with

BERNARD WILLIAMS - CROSS EXAM BY MR. SMILEY

1 that night?

2 A. I be at the club every day.

3 Q. Yes, sir, but I'm not asking about
4 every day. I'm asking about that Wednesday night.

5 A. Yes, sir, I be at the club.

6 Q. And you were working the yard?

7 A. I do the yard right now. When I go
8 home, I will be in the yard.

9 Q. Yes, sir. I'm talking about that
10 Wednesday night.

11 A. Yes, sir.

12 Q. So you get paid to watch the yard?

13 A. No, sir.

14 Q. So you can leave when you want?

15 A. Yes.

16 Q. And you left that night?

17 A. No, sir. They left before we left,
18 sir.

19 Q. Okay. Great. That wasn't my question.
20 I'm not trying to argue with you.

21 A. You're saying that I left before them.

22 Q. All right. I'm going to ask my
23 question. Listen to the question real carefully.
24 You left that night with Kadeem?

25 A. Yes, sir.

BERNARD WILLIAMS - CROSS EXAM BY MR. SMILEY

1 Q. You left at about what time, 10:30?

2 A. No. We left -- yeah, 10:30. Maybe

3 10:30.

4 Q. Okay. And you went to your house?

5 A. Yes, sir.

6 Q. And you stayed at your house for about

7 an hour?

8 A. Yes, sir.

9 Q. Okay. When you were at Richie's back

10 at the club, right?

11 A. Yes, sir, we was.

12 Q. Yes, sir. You saw Mr. Palmer, correct?

13 A. Palmer? I don't know him by that name

14 like I tell you. I know him by the nickname, his

15 nickname only.

16 Q. Okay. I believe you called him Sav?

17 A. Yes, sir.

18 Q. You saw Sav that night?

19 A. Sav, and the cute haircut --

20 Q. Listen to my question --

21 A. Okay.

22 Q. I asked you, did you see Sav?

23 A. Yes, sir.

24 Q. That evening?

25 A. Yes, sir.

BERNARD WILLIAMS - CROSS EXAM BY MR. SMILEY

1 Q. At about what time did you see Sav that
2 evening?

3 A. We see Sav -- Sav was hanging with us,
4 hanging with me and Kadeem at the time.

5 Q. Okay. About what time?

6 A. About 7:30 until about 10, until they
7 left.

8 Q. Okay. 7:30 until about 10?

9 A. Until they left. We left after them.

10 Q. I know. I'm trying to ask a question
11 and I need an answer to it. Okay. So Mr. Palmer
12 was at the club between 7:30 and 10 and he was
13 around you and Kadeem?

14 A. Yes, and the cute hair fellow. I've
15 got to say that because they was there.

16 Q. That's great. There were probably a
17 lot a people there that night, but I'm asking you
18 about Mr. Palmer. Okay. So Mr. Palmer was there
19 between 7:30 and 10, right?

20 A. Yes.

21 Q. All right. When you and Kadeem left,
22 Mr. Palmer was at the club?

23 A. No.

24 Q. He had already left?

25 A. Yes.

BERNARD WILLIAMS - CROSS EXAM BY MR. SMILEY

1 Q. So he left before you did?

2 A. Yes.

3 MR. SMILEY: Very good. Thank you,
4 Mr. Williams.

5 THE COURT: Any redirect?

6 MR. ALFARO: No, Your Honor.

7 THE COURT: Any objection to the
8 witness being excused? From the State?

9 MR. ALFARO: No, Your Honor.

10 THE COURT: From the defense?

11 MR. THROWER: No, Your Honor.

12 MR. SMILEY: No, Your Honor.

13 MR. SMALDONE: No, Your Honor.

14 MR. ARCHER: No, Your Honor.

15 THE COURT: Call your next witness.

16 MR. ALFARO: Can we approach, Your
17 Honor?

18 THE COURT: Sure.

19 (Bench conference.)

20 MR. ALFARO: Our next witness is Darius
21 Hamilton. I didn't know if you wanted to advise
22 him before he testifies since he has pending
23 charges.

24 THE COURT: Does he have a lawyer?

25 MR. ALFARO: He does.

1 THE COURT: Is his lawyer here?

2 MR. ALFARO: He's supposed to be.

3 THE COURT: Who is his lawyer?

4 MR. SMILEY: Steve Davis.

5 THE COURT: Do you see Steve Davis?

6 MR. SMILEY: He was here earlier.

7 MR. ALFARO: We're checking on him now.

8 THE COURT: See if he's here, but I
9 only advise people when they don't have a lawyer.

10 MR. ALFARO: Just checking.

11 THE COURT: But I will give Mr. Davis
12 the opportunity to sit behind him.

13 (End of bench conference.)

14 THE COURT: Ladies and gentlemen, why
15 don't you stand up while we're trying to work out
16 our scheduling quandary.

17 MR. ALFARO: May I approach?

18 THE COURT: Yes.

19 (Bench conference.)

20 MR. ALFARO: The client is here. Steve
21 is leaving -- he left his office --

22 THE COURT: He's right down the street.
23 Shouldn't take him but five minutes -- well, less
24 than that probably, but he has to find a parking
25 space.

1 Do you have any other witnesses that
2 are quick while we're waiting?

3 MR. ALFARO: No, Your Honor. We have
4 him and then the case agent. Those are our only
5 two.

6 THE COURT: And then you have your SLED
7 folks that I assume --

8 MR. ALFARO: Tomorrow morning.

9 THE COURT: Okay.

10 (End of bench conference.)

11 THE COURT: Ladies and gentlemen, we
12 are waiting for the arrival of a witness. If you
13 all could bear with us, I'm going to let you go to
14 your jury room and stretch your legs, get something
15 to drink.

16 During the break, please do not discuss
17 the case and leave your notepads in your seats. We
18 appreciate your patience.

19 (Jury out, 2:55 p.m.)

20 THE COURT: While we're waiting, does
21 the State have any record they would be seeking to
22 impeach any of these individuals?

23 MR. ALFARO: I'm sorry?

24 THE COURT: Does the State have any
25 record it would be seeking to use to impeach any of

1 these individuals if they were to testify, starting
2 with Mr. Mouzon?

3 MR. ALFARO: Nothing for Mr. Mouzon.

4 THE COURT: I can't hear you.

5 MR. ALFARO: One second, Your Honor.
6 Nothing for Mr. Mouzon.

7 THE COURT: And for Mr. Kenneth
8 Campbell, Junior?

9 MR. ALFARO: Kenneth Campbell has a
10 conviction for voluntary manslaughter. We
11 obviously would not be trying to say what it is,
12 but we think we can impeach him with a conviction
13 of a felony or some other language suitable.

14 THE COURT: That's his only record.

15 MR. ALFARO: He has two forgeries in
16 2016 and an unlawful carrying of a weapon 2012.

17 THE COURT: The forgeries, did they
18 involve a theft or a forged instrument of some
19 type?

20 MR. ALFARO: All it says is forgery, no
21 dollar amount. We wouldn't be seeking to use
22 that --

23 THE COURT: Why? That's more viable
24 than voluntary manslaughter. That involves some
25 level of dishonesty which deals with veracity.

1 Manslaughter is questionable.

2 And Mr. Drake Campbell?

3 MR. ALFARO: Nothing, Your Honor.

4 THE COURT: And Mr. Palmer.

5 MR. ALFARO: The only eligible
6 conviction would be a burglary, third degree.

7 THE COURT: Did it involve a theft?

8 MR. ALFARO: I don't know, Your Honor.

9 We would not be intending to use that
10 to impeach.

11 THE COURT: So you have no record that
12 you would be seeking to impeach him?

13 MR. ALFARO: That's correct.

14 MR. ARCHER: Your Honor, I was a little
15 unclear as to what you did in respect --

16 THE COURT: I haven't made a decision.
17 I asked him to tell me what they wanted to use to
18 start thinking about it. I was trying to make some
19 use of dead time.

20 MR. ARCHER: Okay.

21 THE COURT: And what I told him,
22 because the forgeries were more viable in terms of
23 dishonesty --

24 MR. ARCHER: Right.

25 THE COURT: -- than simply mentioning a

1 felony that's up to five years.

2 MR. ARCHER: Right.

3 THE COURT: That means a voluntary
4 manslaughter because it would not come in because
5 it would be too close in similarity as to what he's
6 charged with.

7 I'm not sure if I'm going to admit the
8 forgeries or not.

9 MR. ARCHER: I got you.

10 THE COURT: But I wanted them to tell
11 me his answer, so you can start having meaningful
12 conversation with your clients about that.

13 All right. Unless the State is seeking
14 to use the forgeries. If you're not seeking to use
15 the forgeries, then I don't need to think about it.

16 MR. ALFARO: I don't believe we would,
17 Your Honor.

18 THE COURT: Okay. So they're not
19 seeking to use the forgeries. They would want to
20 use the voluntary manslaughter, and I haven't made
21 a decision about that yet. Since the clarification
22 on it. I'll have to think about that a little bit.

23 State ready?

24 MR. ALFARO: Yes.

25 THE COURT: Defense ready?

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 MR. THROWER: Yes.
2 MR. SMILEY: Yes.
3 MR. SMALDONE: Yes.
4 MR. ARCHER: Yes.
5 THE COURT: Please bring in the jury.
6 (Jury in, 2:56 p.m.)
7 THE COURT: Call your next witness.
8 MR. ALFARO: That State calls Darius
9 Hamilton.

10 DARIUS HAMILTON,

11 being first duly sworn, testified as follows:

12 THE CLERK: Please be seated. State
13 your full name for the record and spell your last
14 name.

15 THE WITNESS: Darius Hamilton,
16 H-A-M-I-L-T-O-N.

17 THE COURT: You may proceed.

18 DIRECT EXAMINATION

19 BY MR. ALFARO:

20 Q. How old are you, Mr. Hamilton?

21 A. Twenty.

22 Q. And where are you from?

23 A. St. Stephen.

24 Q. And how long have you lived in
25 St. Stephen?

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 A. All my life.

2 Q. And do you know Defendant Jacob Mouzon?

3 A. Yes, sir.

4 Q. How do you know Jacob Mouzon?

5 A. Through school.

6 THE COURT: Sir, I need you to speak --

7 THE WITNESS: Through school.

8 BY MR. ALFARO:

9 Q. How long were you -- were you in school
10 together?

11 A. Yes.

12 Q. How long were you in school?

13 A. Since elementary.

14 Q. And how far did you go in school?

15 A. I graduated high school.

16 Q. Which high school?

17 A. Timberland High.

18 Q. Did he go to the same school?

19 A. Yes, sir.

20 Q. And did you-all play any sports
21 together?

22 A. No.

23 Q. Did you play any sports?

24 A. Football.

25 Q. And would you say that you and Jacob

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 Mouzon were or are friends?

2 A. Yes, sir.

3 Q. And did he live -- you said you went to
4 school. So did he live in the same area as you?

5 A. Yes, sir.

6 Q. And that's St. Stephen?

7 A. Yes, sir.

8 Q. Do you know the Defendant Sherrod
9 Palmer?

10 A. Yes.

11 Q. How do you know Sherrod Palmer?

12 A. Through mutual friends.

13 Q. How long have you known him?

14 A. About two months.

15 Q. Is that two months from today or from
16 July 21, 2016?

17 A. That day.

18 Q. Do you know where he lives or lived?

19 A. Not really.

20 Q. Do you know the Defendant Drake
21 Campbell?

22 A. Yes, sir.

23 Q. How long have you known Drake Campbell?

24 A. Since elementary.

25 Q. Did he attend the same schools as you?

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 A. Yes.

2 Q. Is he from St. Stephen?

3 A. Yes, sir.

4 Q. And would you say that you and Drake
5 Campbell either are or were friends?

6 A. Yes, sir.

7 Q. And do you know the Defendant Kenneth
8 Campbell, Junior?

9 A. Yes, sir.

10 Q. Is he related to Drake?

11 A. Yes, sir.

12 Q. Is that how you know him?

13 A. Yes, sir.

14 Q. Would you classify yourself as a friend
15 or prior friend of his?

16 A. Yes, sir.

17 Q. And going back to July 2016, leading
18 into July 21, 2016, which if any of these
19 defendants were you with that day?

20 A. Drake.

21 Q. Which one?

22 A. Drake.

23 Q. You were with Drake that day?

24 A. Yes, sir.

25 Q. What time did you and Drake get

1 together?

2 A. Early that morning.

3 Q. And where were you-all at?

4 A. My house.

5 Q. And about what time would you say that

6 Drake came to your house?

7 A. About 12 or 1.

8 Q. And how long did you stay there?

9 A. Most of the day.

10 Q. At some point, did you and Drake leave
11 your house?

12 A. Yes, sir.

13 Q. And where did you go and Drake go?

14 A. To meet some friends.

15 Q. And who did you meet and where did you
16 meet them?

17 A. We went to Russellville to meet a
18 couple of guys.

19 Q. And how long were you in Russellville?

20 A. An hour or two.

21 Q. And when you left Russellville, were
22 you-all riding together?

23 A. Yes, sir.

24 Q. And in whose car?

25 A. Mine.

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 Q. And what kind of car was it?

2 A. '86 pickup.

3 THE COURT: I'm sorry, repeat that.

4 THE WITNESS: '86 pickup.

5 BY MR. ALFARO:

6 Q. What kind of pickup?

7 A. GMC.

8 Q. Is that a full size, mid size?

9 A. Stand cab.

10 Q. Standard single cab?

11 A. Yes, sir, bench seat.

12 Q. Bench seat?

13 A. Yes, sir.

14 Q. When you left Russellville, where did
15 you go?

16 A. Back to my house.

17 Q. And on that date were you still living
18 in St. Stephen?

19 A. Yes, sir.

20 Q. And when you went back to your house,
21 was anybody there with you and Drake?

22 A. My parents.

23 Q. And at some point did you and Drake
24 leave your house again?

25 A. Yes, sir.

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 Q. About what time?

2 A. About nine.

3 Q. And where did you go?

4 A. Huger.

5 MR. THROWER: Your Honor, I'm having a
6 lot of trouble understanding.

7 THE COURT: Sir, if you could just
8 speak up a little bit more.

9 BY MR. ALFARO:

10 Q. So you and Drake left to go to Huger?

11 A. Yes, sir.

12 Q. And where were you going in Huger?

13 A. I'm not really sure.

14 Q. Where did you go in Huger?

15 A. To -- to meet Kenny and Sherrod.

16 Q. And did you leave in your truck?

17 A. Yes, sir.

18 Q. Was it just you and Drake, or was
19 anybody else with you?

20 A. Jacob.

21 Q. Okay. When did Jacob get with you?

22 A. Right after we left to go pick him up
23 and he wasn't there.

24 Q. So you leave your house in St. Stephen
25 to go where to get Jacob?

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 A. Bonneau.

2 Q. Is that where he was living?

3 A. Yes.

4 Q. And so when you go there to get him,
5 are you in your truck?

6 A. Yes, sir.

7 Q. And Drake rode with you?

8 A. Yes, sir.

9 Q. Who is driving?

10 A. Drake.

11 Q. Was Drake driving when you went to go
12 pick up Jacob?

13 A. Yes, sir.

14 MR. SMILEY: Your Honor, I'm going to
15 object to the leading.

16 THE COURT: Sustained; leading.

17 Rephrase.

18 BY MR. ALFARO:

19 Q. Who was driving when you went to pick
20 up Jacob?

21 A. Drake.

22 Q. And where did you pick him up from?

23 A. Bonneau Beach.

24 Q. And where did you go from there?

25 A. To Huger.

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 Q. So who was in -- again, did you leave
2 in your truck?

3 A. Yes.

4 Q. Who was driving at that point?

5 A. Drake.

6 Q. And where are you?

7 A. In the passenger seat.

8 Q. And where is Jacob?

9 A. In the middle.

10 Q. Anybody else in the car at that point?

11 A. No, sir.

12 Q. And so you go to Huger. Which way did
13 you go to get to Huger?

14 A. Cordsville.

15 Q. Do you know what road that is?

16 A. No, sir.

17 Q. And do you recall where you went to in
18 Huger?

19 A. Like a little club or something.

20 Q. Was it on the main road or off the
21 road, or describe the area where this club is?

22 A. It's off the main road.

23 Q. And did you stay there?

24 A. No, sir.

25 Q. What did you do?

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

- 1 A. Went to go meet Kenny and Sherrod.
- 2 Q. Tell us where you met them.
- 3 A. A quarter mile down the road.
- 4 Q. From this club?
- 5 A. Yes, sir.
- 6 Q. About what time of night is this?
- 7 A. Ten.
- 8 Q. When you met them, where did you meet
- 9 them?
- 10 A. Side of the road.
- 11 Q. Sorry?
- 12 A. On the side of the road.
- 13 Q. They were just standing on the road?
- 14 A. Yes, sir.
- 15 Q. And what happened then?
- 16 A. They got in the back of the truck.
- 17 Q. Both of them?
- 18 A. Yes, sir.
- 19 Q. When Kenneth Campbell, Junior got in
- 20 the back of the truck, did he have anything in his
- 21 hand?
- 22 A. I didn't see it at the time.
- 23 Q. When Sherrod Palmer got in your truck
- 24 -- the back of your truck, did you see anything in
- 25 his hands?

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 A. No, sir.

2 Q. And they're in the back of the truck.

3 Are you, Drake and Jacob in the same seating
4 arrangement that you described earlier?

5 A. Yes, sir.

6 Q. And where did you go from there?

7 A. To a little barber shop thing.

8 Q. What area is the barber shop in?

9 A. Still in Huger.

10 THE COURT: Please repeat your answer.

11 THE WITNESS: It's still in Huger.

12 BY MR. ALFARO:

13 Q. Just to kind of orient the jury, is
14 that towards the Cordsville end of Huger or the
15 Mount Pleasant end of Huger?

16 A. Cordsville.

17 Q. And so you get to this barber shop.
18 You said you drove to the barber shop?

19 A. Yes, sir.

20 Q. What happened at the barber shop?

21 A. That's when we all got out.

22 Q. And where were you going?

23 A. We was actually supposed to go get some
24 weed.

25 MR. THROWER: I didn't hear any of

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 that.

2 THE COURT: Sir, can you repeat your
3 answer?

4 THE WITNESS: We was supposed to go get
5 some weed.

6 BY MR. ALFARO:

7 Q. And so all of you got out of the truck?

8 A. Actually, we dropped three of them off,
9 and me and Drake were about to go park.

10 Q. All right. Let me back up a little
11 bit. After you picked them up, where do you go?

12 A. All right. Well, I picked him up and
13 we drove down the road and we dropped them off and
14 me and Drake went back to go park my truck.

15 MR. SMILEY: Your Honor, I'm sorry, but
16 I just cannot understand him.

17 THE COURT: Sir, I need you to speak a
18 little more clearly for me and speak directly into
19 the microphone. You're coming across as muffled
20 and we can't hear what you're saying.

21 Can you repeat your answer, please?

22 THE WITNESS: After we picked him up,
23 we drove to the road and dropped three of them off,
24 and me and Drake went back to go park my truck.

25 BY MR. ALFARO:

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 Q. Was there any conversation at the time
2 you dropped them off?

3 A. No, sir.

4 Q. And you said you dropped them off on a
5 road?

6 A. Yes, sir.

7 Q. Describe that road.

8 A. A rock road.

9 Q. Do you know the name of it?

10 A. No, sir.

11 Q. And how far from where you dropped them
12 off did you and Drake park your truck?

13 A. About an eighth of a mile.

14 Q. And is it -- can you describe the area
15 for me?

16 A. It was like a bunch of woods and...

17 THE COURT REPORTER: Say the last part
18 again.

19 THE WITNESS: -- at a two-story
20 building.

21 BY MR. ALFARO:

22 Q. And where did you go then?

23 A. To go meet them.

24 Q. And so it's an eighth of a mile, you
25 walk back and met them in the same place you

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 dropped them off?

2 A. Yes, sir.

3 Q. And at this point, does anyone have any
4 guns or --

5 MR. SMILEY: Objection, Your Honor.

6 THE COURT: Basis?

7 MR. SMILEY: Leading.

8 THE COURT: Sustained; leading.

9 BY MR. ALFARO:

10 Q. At the time you walked back and meet
11 them, what happens?

12 A. He was passing out guns.

13 Q. Who was doing that?

14 A. Kenny.

15 Q. Is that Kenneth Campbell?

16 A. Yes, sir.

17 Q. What kind of guns was he handing out?

18 A. Pistols.

19 MR. THROWER: What?

20 THE COURT: Sir, please repeat your
21 answer.

22 THE WITNESS: Pistols.

23 MR. THROWER: I still don't get it.

24 THE WITNESS: Pistols.

25 BY MR. ALFARO:

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 Q. At this point, how many of you are
2 there?

3 A. Five.

4 Q. And name those five people that are
5 there at that point when the guns are handed out.

6 A. Myself, Jacob, Sherrod, Drake and
7 Kenny.

8 Q. And did all five of you -- how many of
9 you had guns?

10 A. All.

11 Q. Were they all pistols?

12 A. No.

13 Q. What other type of gun was out there?

14 A. A rifle.

15 Q. Can you describe the rifle?

16 A. Long and had a long clip on it.

17 Q. And who had that?

18 A. Kenny.

19 Q. And what -- who -- did he keep that at
20 the time you were with him or did that get handed
21 out as well?

22 MR. SMILEY: Objection, Your Honor.

23 THE COURT: Basis?

24 MR. SMILEY: Leading.

25 THE COURT: Leading; rephrase.

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 BY MR. ALFARO:

2 Q. What kind of gun did you have?

3 A. A pistol.

4 Q. A what kind of gun did Jacob have?

5 A. A pistol.

6 Q. What kind of gun did Drake have?

7 A. A pistol.

8 Q. And what kind of gun did Sherrod Palmer
9 have?

10 A. Pistol.

11 Q. What kind of gun did Kenneth Campbell
12 have?

13 A. A long rifle.

14 Q. And were those handed out -- tell me
15 again where those things got handed out to you.

16 A. The road.

17 Q. And after those are handed out, what
18 happened then?

19 A. After, we approached the house.

20 Q. Can you describe the house?

21 A. Like a trailer.

22 Q. How would you describe the area around
23 the house or the trailer?

24 A. Wooded area.

25 Q. So what did you do then?

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 A. That's when we went through this little
2 power line cut.

3 Q. I'm sorry, what was that?

4 A. Went through this like little power
5 line cut and we just sat there.

6 Q. Is that near the trailer you described?

7 A. Yes, sir.

8 Q. How were you arranged out there?

9 A. We was in a group.

10 Q. All five of you or --

11 A. Yes, sir, all five of us.

12 Q. So all five of you are out there. What
13 happens then?

14 A. That's when we were sitting there
15 waiting.

16 Q. How long were you waiting?

17 A. About two, three hours.

18 Q. And what were you waiting on?

19 A. This dude to come back.

20 Q. And so you're out there in the woods
21 for how long? Two hours?

22 A. Yes, sir.

23 Q. During that time that you're waiting,
24 did anybody leave?

25 A. No, sir.

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 Q. Did anybody else come join you?

2 A. No, sir.

3 Q. So after two hours of whatever, what
4 happens then?

5 A. That's when somebody called Sherrod and
6 said he was on the way.

7 MR. SMILEY: Objection.

8 THE COURT: Basis?

9 MR. SMILEY: Hearsay.

10 THE COURT: Approach.

11 (Bench conference)

12 THE COURT: Are you offering that
13 statement for its truth?

14 MR. ALFARO: Just that somebody called
15 him. I'm not asking him for the statement.

16 THE COURT: Then I'll strike that
17 because you just asked him what he did as a result
18 of the conversation.

19 MR. ALFARO: Okay.

20 (End of bench conference)

21 THE COURT: You are to disregard the
22 last portion of the answer making reference to a
23 phone call. You are to give it absolutely no
24 consideration in your deliberations.

25 You may rephrase the question.

1 BY MR. ALFARO:

2 Q. After that happened, did you stay where
3 you were or leave? Did you do anything different?

4 A. Well, we stayed there.

5 Q. What happens after that?

6 A. That's when he came home and just
7 knocked on the door.

8 Q. When who came home?

9 A. The guy that was deceased.

10 Q. He wasn't deceased when he came and
11 knocked on the door, was he?

12 A. No.

13 Q. So who came and knocked on the door?

14 A. The guy.

15 Q. Is that the -- which guy is that? Is
16 it one of you five?

17 A. No.

18 Q. Who was it?

19 A. The person who lived there.

20 Q. Okay. What kind of car was the person
21 that lived there driving when he came back?

22 A. A Crown Vic.

23 Q. Was anyone else with him?

24 A. No, sir.

25 Q. What happened then?

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 A. He knocked on the door, and he got back
2 in his car and left.

3 Q. Did anyone move out of the woods when
4 he came out?

5 A. No, sir.

6 Q. So he comes and knocks and leaves?

7 A. Yes, sir.

8 Q. Did he leave in the same car or a
9 different car?

10 A. Same car.

11 Q. How long was he at the house before he
12 left?

13 A. About a minute.

14 Q. And after he leaves, what happened
15 then?

16 A. That's when we split up.

17 Q. You said you split up?

18 A. Yes, sir.

19 Q. How did you split up?

20 A. Two went around the other side, and the
21 rest of us stayed on the other side.

22 Q. Do you remember what -- did you go to
23 the -- you said two on one side and three on the
24 other, is that what you said?

25 A. Yes, sir.

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 Q. Everyone still -- or does anyone not
2 have a gun anymore?

3 A. Everyone still does.

4 Q. You still had yours?

5 A. Yes, sir.

6 Q. Which group were you in? Were you with
7 the two or the three?

8 A. Three.

9 Q. Who were you with?

10 A. Me, Drake, and Sherrod.

11 Q. You, Drake, and Sherrod are on one
12 side?

13 A. Yes, sir.

14 Q. And who is the other side?

15 A. Kenny and Jacob.

16 Q. And what happened then?

17 A. That's when he came back home.

18 Q. Same guy?

19 A. Yes, sir.

20 Q. Was he driving the same car?

21 A. Yes.

22 Q. How much time had passed between the
23 time he came, knocked, and left and the time he
24 came back the second time?

25 A. About 20 minutes.

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 Q. When he came back this time, was he
2 still alone?

3 MR. SMILEY: Objection, Your Honor.

4 THE COURT: Basis?

5 MR. SMILEY: Leading.

6 THE COURT: Sustained; leading.

7 Rephrase.

8 BY MR. ALFARO:

9 Q. When the car pulled back up, how many
10 people get out?

11 A. Two.

12 Q. Can you describe those people?

13 A. One male and one female.

14 Q. And when they got out, what happened
15 then?

16 A. That's when Kenny and Jacob ran to
17 them.

18 Q. So when Kenny and Jacob run to them,
19 what did the other three of you do?

20 A. Walk up.

21 Q. What happened then?

22 A. That's when they was on their knees and
23 asking them for weed and money.

24 THE COURT: Please repeat your answer.

25 THE WITNESS: That's when they was on

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 their knees, and he was asking for weed and money.

2 BY MR. ALFARO:

3 Q. And at this point, did you -- did
4 either of those two people have guns?

5 A. No, sir.

6 Q. Did either of those two people do
7 anything to fight?

8 A. No, sir.

9 Q. Do you recall if any of those -- if
10 either of those two people have anything in their
11 possession?

12 A. A little pouch.

13 THE COURT REPORTER: Say again.

14 THE WITNESS: A little pouch.

15 BY MR. ALFARO:

16 Q. What kind of little pouch?

17 A. I just know it was red.

18 Q. What happened to that little red pouch?

19 A. I'm not sure.

20 Q. Did you take it?

21 A. No, sir.

22 Q. Did you see if any of the other four of
23 you-all took it?

24 A. I'm not sure who took it.

25 Q. So what happens after that?

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 A. That's when they were taken in the
2 house.

3 THE COURT: Please repeat your answer.

4 THE WITNESS: They were taken in the
5 house.

6 BY MR. ALFARO:

7 Q. Who took them into the house?

8 A. Kenny and Jacob.

9 Q. Did they go in with them?

10 A. Yes, sir.

11 Q. And did you go in with them?

12 A. Yes, sir.

13 Q. What about Drake and Sherrod, did they
14 go in with them?

15 A. As far as I know, Drake was outside and
16 Sherrod was standing in the doorway.

17 Q. So as far as you know, it was three of
18 you-all that went in with these two people?

19 A. Yes, sir.

20 Q. How did you-all get into the house?

21 A. The female opened the door.

22 Q. Who opened the door?

23 A. The female.

24 Q. What happened when you and Kenny and
25 Jacob go in with them?

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 A. They was took into the bedroom.

2 Q. Were they both taken into the same
3 room?

4 A. Yes, sir.

5 Q. What happened after they are taken into
6 the bedroom?

7 A. I was told to duck tape their hands.

8 Q. Where were they -- or how were they
9 positioned inside the house at the time you taped
10 their hands?

11 A. The dude was on the floor and the
12 female was on the bed.

13 Q. When you say on the floor, describe
14 what that means for us.

15 A. Like on his knees.

16 Q. And you taped their hands?

17 A. Yes, sir.

18 Q. When you were taping their hands, did
19 you take anything from either one of them?

20 A. I took a bracelet off the male.

21 Q. Can you describe that bracelet?

22 A. A gold band bracelet.

23 THE COURT: Repeat that, please.

24 THE WITNESS: A gold band bracelet.

25 BY MR. ALFARO:

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 Q. And can you show the jury using your
2 hands where the male's hands were positioned when
3 you taped them?

4 A. Behind his back. (Indicating)

5 Q. Up or down?

6 A. Down.

7 Q. What about the female?

8 A. She was taped in front.

9 Q. Why was she allowed to sit on the bed
10 and not on the floor with the male?

11 A. I'm not sure.

12 Q. So when you were taping hands, do you
13 still have your gun?

14 A. Yes, sir.

15 Q. What about the other two in the house?

16 A. They still had theirs.

17 Q. Where is Jacob at this point?

18 A. In the doorway to the bedroom.

19 Q. What is he doing at this point?

20 A. Holding them at gunpoint.

21 Q. Where is Kenny at this point?

22 A. In the house.

23 Q. What is Kenny doing?

24 A. Looking for the weed.

25 Q. So after you tape their hands, what do

1 you do?

2 A. Go outside to the porch.

3 Q. What did you go out to the porch for?

4 A. I just went back outside the house.

5 Q. At some point did you come back into
6 the house?

7 A. No, sir.

8 Q. So when you were out on the porch, who
9 was inside the house with the victims?

10 A. Jacob and Kenny.

11 Q. And what is Jacob doing at this point?
12 Can you see inside or not?

13 A. Yes, sir.

14 Q. What is Jacob doing at this point?

15 A. Standing at the doorway to the bedroom.

16 Q. While you were in the house with your
17 friends, was anything taken out of the house?

18 A. Yes, sir.

19 Q. What was taken out of the house?

20 A. A lot of boxes.

21 Q. Do you have any recollection of
22 specific items that may have been taken?

23 A. No, sir.

24 Q. Did you personally carry anything out?

25 A. No, sir, not that I remember.

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 Q. So you're on the porch. Where is
2 Sherrod?

3 A. I can't recall where he was at after I
4 taped their hands.

5 Q. You said after you taped their hands?

6 A. Yes, sir.

7 Q. Did Kenny stay in the house with Jacob
8 the whole time?

9 MR. SMILEY: Objection; leading.

10 THE COURT: Sustained; leading.

11 BY MR. ALFARO:

12 Q. You're on the porch; who is in the
13 house?

14 A. As far as I remember, Kenny and Jacob
15 still.

16 Q. Are the victims still in there?

17 A. Yes, sir.

18 Q. What happened then?

19 A. That's when I was tossed the car keys
20 to both of the vehicles, and I cranked them up.

21 Q. Who tossed you the keys?

22 A. Kenny.

23 Q. Which vehicles were you tossed keys to?

24 A. The two Crown Vics that was at the
25 house.

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 Q. Do you remember what color they were?

2 A. One was white and one was a dark color.

3 Q. Are either one of those the car that
4 the male pulled up in or that they pulled up in?

5 A. Yes, sir.

6 Q. Did you start both of those?

7 A. Yes, sir.

8 Q. So while you were starting their cars,
9 what's happening? What are the other people doing?

10 A. That's when they're bringing stuff out
11 of the house.

12 Q. Who?

13 A. Kenny.

14 Q. What is Drake doing?

15 A. He's still in the house.

16 Q. So at this point, are the same -- you
17 and the other four people still all there?

18 A. Yes, sir.

19 Q. How long were people -- how long did it
20 take for people to carry the stuff out of the house
21 that you took?

22 A. Not long.

23 Q. So what happens then?

24 A. That's when we was standing in the
25 yard.

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 Q. Who is we?

2 A. Everyone except Jacob.

3 Q. Where is Jacob?

4 A. Still in the house.

5 Q. And what is he doing?

6 A. Still had them at gunpoint.

7 THE COURT: Please repeat your answer.

8 THE WITNESS: Still had them at

9 gunpoint.

10 BY MR. ALFARO:

11 Q. What happens then?

12 A. That's when he was like, they seen my

13 face.

14 Q. Who said that?

15 A. Jacob.

16 Q. And then what happened?

17 A. That's when they was shot.

18 Q. Did you see that happen?

19 A. Yes, sir.

20 Q. Did you see who shot them?

21 A. Yes, sir.

22 Q. Who shot them?

23 A. Jacob.

24 Q. Could you see his face when he shot

25 them?

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 A. No, sir.

2 Q. Was anyone else inside the house other
3 than Jacob?

4 A. No, sir.

5 Q. And, obviously, the victim?

6 A. Yes, sir.

7 Q. What happens after Jacob shoots them?

8 A. That's when we got in the cars.

9 Q. Who got in what car? Or what cars?

10 A. Me and Sherrod got in the dark one.

11 THE COURT: Please repeat your answer.

12 THE WITNESS: Me and Sherrod got in the
13 dark Crown Vic and the other three got in the white
14 one.

15 BY MR. ALFARO:

16 Q. Who left first?

17 A. Me and Sherrod.

18 Q. Where did you and Sherrod go?

19 A. To my truck.

20 Q. And where is your truck parked?

21 A. Down the road at the little two-story
22 building.

23 THE COURT REPORTER: At the where?

24 THE WITNESS: The little two-story
25 building.

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 BY MR. ALFARO:

2 Q. Do you know where Jacob, Drake, and
3 Kenny went in the other Crown Vic?

4 A. No, sir.

5 Q. Did anybody follow them or follow you?

6 A. No, sir.

7 Q. What happened then?

8 A. That's when I got dropped off and
9 Sherrod kept going.

10 Q. What had you done with your gun at that
11 point?

12 A. I didn't have it on me at the time.

13 Q. What did you do with it?

14 A. I gave it to Drake.

15 Q. What happened after you're dropped off
16 at your truck?

17 A. I got in my truck and I left. And then
18 as I was turning off the road, like I guess
19 something happened to the car, and --

20 Q. I'm sorry, I couldn't understand that.
21 Could you say it again?

22 A. As I was turning onto the road, I'm
23 guessing something happened to the Crown Vic that I
24 was dropped off in, and Sherrod was standing by the
25 side of the road.

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 Q. Okay. What happened then?

2 A. I picked him up and we came back to
3 St. Stephen.

4 Q. Your testimony is you drove him to
5 St. Stephen?

6 A. Yes, sir.

7 Q. Did you have any conversation with --
8 well, strike that.

9 Do you know what happened to the other
10 three people?

11 A. No, sir.

12 Q. About what time of night or morning did
13 all of this happen?

14 A. Between 1:00 and 3:00.

15 Q. How many gunshots did you hear?

16 A. Four.

17 Q. Can you describe what type of clothing
18 you had on?

19 A. I had on all black shirt, black slacks,
20 and black shoes.

21 Q. What about Jacob?

22 A. He had on a black hoodie.

23 THE COURT: Please repeat your answer.

24 THE WITNESS: He had on a black hoodie.

25 BY MR. ALFARO:

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 Q. What about Kenneth Campbell?

2 A. All black.

3 Q. What about Drake?

4 A. All black.

5 Q. What about Sherrod?

6 A. All black.

7 Q. So you drive Sherrod to St. Stephen?

8 A. Yes, sir.

9 Q. Where did you take him in St. Stephen?

10 A. To the trailer park.

11 Q. Where did you go after you dropped him
12 off?

13 A. Home.

14 Q. And what do you know was taken from the
15 victims and the victims' house during the course of
16 this?

17 A. A bunch of boxes and a pouch.

18 Q. What did you get?

19 A. Nothing.

20 Q. Nothing?

21 A. No, sir.

22 Q. Do you know Sherrod by any other name?

23 A. Sav. Sav.

24 Q. So you described your clothing. Was
25 anyone wearing any mask or covering on their face?

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 A. Yes.

2 Q. Who?

3 A. Everyone except Jacob.

4 Q. So you had a mask on too?

5 A. Yes.

6 Q. You said you started both of the Crown

7 Vics?

8 A. Yes.

9 Q. Were you driving or was Sherrod driving
10 the gray one?

11 A. Sherrod.

12 Q. At any point while you were inside the
13 victims' house, did the male ever try to fight?

14 A. No, sir.

15 Q. Did the female victim --

16 MR. SMILEY: Objection, Your Honor.

17 Leading, again.

18 THE COURT: No commentary.

19 Sustained; leading. Rephrase.

20 BY MR. ALFARO:

21 Q. Inside the house, was there any type of
22 altercation or arguments inside?

23 A. No, sir.

24 Q. Just so we're clear, where were you
25 when Jacob Mouzon shot the victims?

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 A. Outside.

2 Q. Was anyone in the house with him and
3 the victims?

4 A. No, sir.

5 Q. What did he do after he shot them?

6 A. Came out the house.

7 Q. After this happened, did the five of
8 you have any conversation outside, or what happens
9 then?

10 A. They called me the next morning to come
11 and get them.

12 Q. Who called you?

13 A. Drake.

14 Q. What time was that?

15 A. About eight or nine.

16 Q. Eight or nine at night --

17 A. Morning.

18 Q. You say he called you. Is that a phone
19 call or a text?

20 A. Phone call.

21 Q. Did you talk to him?

22 A. Yes, sir.

23 Q. You said yes?

24 A. Yes, sir.

25 Q. Did he ask you to come and get him?

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 A. Yes, sir.

2 Q. Did you?

3 A. No, sir.

4 Q. Why not?

5 A. I just didn't.

6 Q. Did you have any more contact with any
7 of your co-defendants that day?

8 A. Sherrod called me later.

9 Q. Did you see any of your co-defendants
10 that day?

11 A. No, sir.

12 Q. So you were asked to go get Drake?

13 A. Yes, sir.

14 Q. And you said you talked to Sherrod.
15 Did you talk to Kenny or Jacob that day?

16 A. No, sir.

17 Q. And your testimony is you had a gun?

18 A. Yes, sir.

19 Q. And you taped their hand?

20 A. Yes, sir.

21 Q. And you took a bracelet?

22 A. Yes, sir.

23 Q. And you started the cars?

24 A. Yes, sir.

25 Q. Would you classify yourself as an

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 active participant in this robbery, burglary, and
2 shooting?

3 A. Yes, sir.

4 Q. But you didn't get anything out of it?

5 A. No, sir.

6 Q. Were you supposed to get something out
7 of it?

8 A. I wasn't expecting nothing, no, sir.

9 Q. So you just went along for the ride to
10 victimize these two --

11 MR. SMILEY: Objection, Your Honor;
12 leading.

13 THE COURT: Sustained; leading.
14 Rephrase.

15 BY MR. ALFARO:

16 Q. So you weren't getting anything out of
17 it?

18 MR. SMILEY: Objection, Your Honor;
19 leading.

20 THE COURT: I'll give him a little
21 latitude.

22 You may answer the question, sir. Do
23 you need it repeated?

24 THE WITNESS: Yes.

25 THE COURT: Please repeat the question.

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 BY MR. ALFARO:

2 Q. Were you supposed to get something out
3 of this?

4 A. Weed.

5 THE COURT: I'm sorry, repeat your
6 answer.

7 THE WITNESS: Weed.

8 THE COURT: I'm sorry, I didn't
9 understand. I understand now.

10 BY MR. ALFARO:

11 Q. And you testified that you and Drake
12 were friends for a while, right?

13 A. Yes, sir.

14 Q. But you didn't go pick him up the next
15 day?

16 A. No, sir.

17 Q. You don't have a reason for that?

18 A. Everything was already blown out of
19 proportion.

20 Q. Blown out of proportion?

21 A. Yes, sir.

22 Q. When you say, blown out of proportion,
23 which part are you considering blown out of
24 proportion?

25 A. The whole thing, but mostly somebody

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 lost their life.

2 Q. All right. At some point that morning
3 or that day, did you talk to the police?

4 A. Next day.

5 Q. If this happened on July 21, at
6 3:00 a.m. as you said, is it that morning?

7 A. Yes.

8 Q. That you talked to the police?

9 A. Yes, sir.

10 Q. So it's the same day?

11 A. Yes, sir.

12 Q. And when you went to talk to the
13 police, who took you up there?

14 A. My parents.

15 Q. And when you met with the police, did
16 you tell them your story?

17 A. Yes, sir.

18 Q. Did you tell them the same story you
19 told today?

20 A. No, sir.

21 Q. So you went up there because of your
22 parents; is that your testimony?

23 A. No, sir. They didn't force me to go.

24 Q. Why did you go?

25 A. Because with all of this happening,

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 Jacob's parents came out looking for him.

2 THE COURT: Please repeat your answer.

3 THE WITNESS: Jacob's parents came to
4 my house looking for him.

5 BY MR. ALFARO:

6 Q. So that's why you went to talk to the
7 police?

8 A. His mother already kind of knew what
9 happened.

10 Q. So would it be fair to say that you
11 went and talked to the police because you-all had
12 been found out?

13 A. No, sir.

14 Q. What you talked to -- do you remember
15 speaking to a Detective Merrithew and Brabham on
16 July 21, 2016 at Eccles Church?

17 A. Yes, sir.

18 Q. And do you remember telling them on the
19 third page of your statement, I came up here on my
20 own free will to do the right thing to help you
21 guys out?

22 A. Yes, sir.

23 Q. Do you think telling them the full
24 truth that day might have been a little more
25 helpful?

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 A. Yes.

2 Q. Why didn't you do that?

3 A. I was scared.

4 Q. In fact, in that same statement to the
5 police that day, while you admit going to the area,
6 you claimed that you sat inside your car for three
7 hours, didn't you?

8 A. Yes, sir.

9 Q. You told them that you didn't even go
10 to the house where this burglary and robbery and
11 murder happened?

12 A. Yes, sir.

13 Q. So you admit that you weren't telling
14 them the truth that day?

15 A. Yes, sir.

16 Q. Tell us again why you weren't telling
17 them the truth that day.

18 A. I was trying to protect myself because
19 I was scared.

20 Q. And in that same statement we
21 discussed, do you remember or recall that you did
22 not name Sherrod in that?

23 A. Yes, sir.

24 Q. You acknowledged that -- well, let me
25 ask you this: Was Sherrod there or not there?

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 A. At the time?

2 Q. At the time that you committed these
3 crimes, was Sherrod Palmer there or not there?

4 A. Yes, sir.

5 Q. Yes, he was there?

6 A. Yes, he was.

7 Q. So if he's there then you also
8 acknowledge that what you told the police that day
9 in your first written statement wasn't true?

10 A. Yes, sir.

11 Q. Did you keep his name out of it that
12 first time for the same reason that you just
13 said --

14 MR. SMILEY: Objection; leading.

15 THE COURT: I haven't heard the whole
16 question.

17 You may continue.

18 BY MR. ALFARO:

19 Q. Is there a reason why you did not name
20 Sherrod Palmer in that first statement?

21 A. No, sir.

22 Q. Now, that statement happened on
23 July 21, 2016. Do you recall meeting with the
24 police again the next day at the sheriff's office?

25 A. Yes, sir.

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 Q. Was anyone with you when you went to
2 meet with the police?

3 A. No, sir.

4 Q. Do you recall meeting with the same two
5 detectives at about 7:00 on the 22nd?

6 A. Yes, sir.

7 Q. And do you recall what you told the
8 police that day -- that night?

9 A. Yes, sir.

10 Q. And do you recall and acknowledge that,
11 again, much like your first statement, you didn't
12 tell the same full story that you told today?

13 A. Yes, sir.

14 Q. And in that second video -- unlike the
15 first statement, in the second statement that was
16 videotaped --

17 A. Yes, sir.

18 Q. -- wasn't it?

19 A. Yes, sir.

20 Q. And in that second statement on
21 July 22nd, there is a difference between your first
22 statement and that statement regarding Sav, isn't
23 there?

24 A. Yes, sir.

25 Q. And what is that difference?

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 A. I told them it was someone else.

2 Q. In the second statement or the first
3 statement?

4 A. Second.

5 Q. So in the second statement, who do you
6 tell is in the back of the bed of your truck?

7 A. I didn't say no one was in the back. I
8 said it was a different person that met us then.

9 Q. I'm talking about your second
10 statement, the one on the 22nd. Not the first one
11 at the church. The one at the sheriff's office.

12 A. I can't recall.

13 Q. Do you recall in your second statement
14 that you named someone named Mark Turner?

15 A. Yes, sir.

16 Q. And your story that you testified to
17 today, you did not name Mark Turner?

18 A. Yes, sir.

19 Q. What's the reason for that
20 inconsistency?

21 A. I don't have none.

22 Q. Do you know a Mark Turner?

23 A. Yes, sir.

24 Q. How do you know Mark Turner?

25 A. He played basketball a lot with Jacob.

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 Q. Would you call him a friend of yours?

2 A. No, sir.

3 Q. Is that why you threw his name in?

4 A. Yes, sir.

5 Q. So you said your first statement you
6 were minimizing your involvement. Would you say
7 you were doing that in this one as well?

8 A. Yes, sir.

9 Q. In your testimony today you indicated
10 that you were there when this all happened and you
11 were an active participant, correct?

12 A. Yes, sir.

13 Q. Do you acknowledge in that same
14 statement on July 22, 2016, you maintained that
15 same story that you sat in the car for three hours?

16 A. No, sir.

17 Q. And in your second statement, did you
18 not tell the police you sat in the car for three
19 hours with the windows up and the engine off?

20 A. Yes.

21 Q. That's not what you said today?

22 A. Correct.

23 Q. Which one is it? What's true?

24 A. Today.

25 Q. So what's different from today versus

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 July 21, 2016, and July 22nd, 2016?

2 A. What we did was wrong and it should be
3 taken care of.

4 Q. You said in the first statement you
5 went to talk to the police to do the right thing
6 and help them out, correct?

7 A. Yes, sir.

8 Q. Are you telling this jury that's the
9 reason that you are here today?

10 A. Yes, sir.

11 Q. What benefit, if any, are you expecting
12 for your testimony?

13 A. Nothing.

14 Q. Excuse me?

15 A. Nothing.

16 Q. Have you been promised anything?

17 A. No, sir.

18 Q. In the course of -- well, between this
19 incident on July 21, 2016, and today, you've met
20 with prosecutors in preparation for the trial,
21 haven't you?

22 A. Yes, sir.

23 Q. In fact, the first time do you recall
24 meeting with a different prosecutor on November 3rd
25 of 2016?

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 A. Yes.

2 Q. And do you recall the substance of your
3 statement or your conversation with that
4 prosecutor?

5 A. Yes, sir.

6 Q. And there are -- would you acknowledge
7 that there are indeed some details that are in your
8 statement or your testimony today that are not in
9 your statement or your conversation with that
10 prosecutor on November 3, 2016?

11 A. Yes.

12 Q. Do you recall meeting, and when you met
13 with the prosecutor November of 2016, do you recall
14 where you told him you taped the victims' hands?

15 A. Yes.

16 Q. Where did you tell him that you taped
17 their hands?

18 A. Outside.

19 Q. At any point during your meeting with
20 the prosecutor in November of 2016, did you ever
21 acknowledge going into the house and committing the
22 crimes that you testified to today?

23 A. No, sir.

24 Q. Why?

25 A. I don't know.

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 Q. In that meeting in November of 2016,
2 did you name the same people you named today?

3 A. Yes, sir.

4 Q. Did you name Mark Turner in that one?

5 A. No.

6 Q. And your testimony was that Sherrod
7 dropped you off at your truck?

8 A. Yes, sir.

9 Q. And where did you meet with him again?

10 A. Going down the road, I guess. He
11 jumped out the car.

12 Q. Do you recall whether in your statement
13 in November of 2016 with the prosecutor, do you
14 recall whether or not you told them that you left
15 the site of the robbery and the burglary with
16 Sherrod?

17 A. No, sir.

18 Q. How did you tell them that you left in
19 that prior statement?

20 A. I told them I left and I left alone and
21 went straight home.

22 Q. How did you tell them you left?

23 A. I ran to my truck.

24 Q. So in that statement in November of
25 2016, you did not -- would you agree that it's an

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 inconsistency that you did not tell them that you
2 drove Sherrod back to St. Stephen the morning after
3 this happened?

4 A. Yes, sir.

5 Q. Why is that? Why did you say that?

6 A. Say what?

7 Q. Why did you lie?

8 A. I don't know.

9 Q. How old are you?

10 A. Twenty.

11 Q. You don't know why you're lying?

12 MR. SMILEY: Objection, Your Honor.

13 THE COURT: Basis?

14 THE WITNESS: Leading and asked and
15 answered.

16 THE COURT: Overruled.

17 Sir, you may answer the question to the
18 best of your knowledge.

19 THE WITNESS: I still was trying to
20 keep myself out of it.

21 BY MR. ALFARO:

22 Q. In addition to what we've already
23 talked about, you've met with the prosecutor's
24 office this year or recently in addition to the
25 November 2016 statement that we discussed, correct?

DARIUS HAMILTON - DIRECT EXAM BY MR. ALFARO

1 A. Yes, sir.

2 Q. Do you recall in your prior meetings
3 with our office if you had ever told anybody before
4 that you drove Sherrod to St. Stephen after this
5 happened?

6 A. Yes, sir.

7 Q. When did you say that?

8 A. I believe in the second meeting.

9 Q. I'm going to ask you one more time if
10 you have an explanation for this jury why your
11 story has not been consistent from the beginning if
12 you were trying to do the right thing?

13 A. I'm at the point now where what
14 happened was wrong, and if it's wrong you have to
15 face the consequences.

16 Q. Do you not think it was wrong July 21,
17 2016, when you-all killed Kadeem Johnson?

18 A. Yes, sir.

19 Q. So that's not something that you're
20 just coming to the conclusion of?

21 A. The whole thing was just wrong, period.

22 Q. Is that a new fact that you've just
23 come to realize, or did you know that on July 21,
24 2016, when all of these things happened?

25 A. I knew when it happened.

DARIUS HAMILTON - CROSS EXAM BY MR. THROWER

1 MR. ALFARO: Answer any questions that
2 the defense has.

3 THE COURT: Mr. Thrower.

4 CROSS-EXAMINATION

5 BY MR. THROWER:

6 Q. Mr. Hamilton, you said that you are
7 20 years old?

8 A. Yes, sir.

9 Q. And you graduated from high school?

10 A. Yes, sir.

11 Q. Which one?

12 A. Timberland High.

13 Q. Okay. Now Mr. Alfaro pointed out these
14 meetings with the police and prosecutor. And every
15 one of these times you said, I'm telling you the
16 truth, I swear, didn't you?

17 A. Yes, sir.

18 Q. And the first time you were in there
19 swearing you're telling the truth, you're
20 mentioning a guy named Mark Turner and who was it
21 -- you said he's a friend of yours?

22 A. Friend of Jacob.

23 Q. Can you describe him?

24 A. Tall white dude.

25 Q. Tall white dude?

DARIUS HAMILTON - CROSS EXAM BY MR. THROWER

1 A. Yes, sir.

2 Q. Taller than Jacob?

3 A. Yes, sir.

4 Q. Okay. Did you mention David Burnett in
5 that meeting?

6 A. No.

7 Q. Do you know David Burnett?

8 A. No, sir.

9 Q. You mention some guys threatened to
10 kill you if you -- they were going to -- you were
11 going to end up dead. I read it, D-E-D, you were
12 going to end up dead if you told anybody?

13 A. Yes, sir.

14 Q. Who did you imagine was threatening
15 you?

16 A. Did I say it was?

17 Q. Yes.

18 A. Sherrod.

19 Q. Sherrod. But you didn't mention his
20 name. You just said a dude, right?

21 A. Yes, sir.

22 Q. A couple of guys threatened to kill me,
23 and that's why you ran off and -- and never did
24 anything about it. Just took off and waited until
25 the police wanted to talk to you, right?

DARIUS HAMILTON - CROSS EXAM BY MR. THROWER

1 A. Yes, sir.

2 Q. Now, you -- your story just, the one
3 today, it just doesn't make sense. You guys just
4 got together and, like, you're robots, just walking
5 towards the house and you pull off this murder.
6 Did you -- did any of you-all ever plan it?

7 Who was talking about it? It just
8 sounds like you just -- we ended up there with --
9 all of us had guns. I mean, when did you discuss
10 it?

11 A. I never discussed it.

12 Q. You never discussed this?

13 A. No, sir.

14 Q. You just picked up Drake and Jacob and
15 you got guns and went to the house and you didn't
16 discuss it with any of them?

17 A. No, sir.

18 Q. What do you think was going to happen?

19 A. I thought we was going to get some weed
20 from someone.

21 Q. With all five of you carrying guns, you
22 were going to go get weed?

23 A. Well, I knew they was going to rob him,
24 but I didn't know they was going to kill him.

25 Q. How did you know they were going to rob

DARIUS HAMILTON - CROSS EXAM BY MR. THROWER

1 him? You didn't talk about it.

2 A. I mean, five people with guns.

3 Q. Yeah. I mean, you just -- where did
4 the guns come from?

5 A. They was handed out.

6 Q. And you just took one? Oh, okay, we're
7 going to get weed. I imagine we're going to get
8 weed; nobody has said anything. I will take this
9 gun and go get the weed, right? Stay in the woods
10 for three hours. Is that what you want us to
11 believe?

12 A. That's not what I said.

13 Q. Please, tell us what you said.

14 A. All right. You're were with your
15 friends, right? And they're handing you out
16 guns --

17 Q. My friends have never handed me a gun.
18 Okay? So you just tell us what your friends did.

19 A. Okay. We got there and there was guns
20 handed out and someone got robbed, someone died.

21 Q. That's it?

22 A. What else do you want me to say?

23 Q. The truth.

24 A. That's the truth.

25 Q. That's the truth today. Was that the

DARIUS HAMILTON - CROSS EXAM BY MR. THROWER

1 truth back on July 21, 2016?

2 A. I said it was true, but that wasn't the
3 truth.

4 Q. That wasn't the truth?

5 A. No.

6 Q. Today -- is tomorrow's story going to
7 be more truth than today?

8 A. No, sir.

9 Q. Tomorrow are you the shooter?

10 A. No, sir.

11 Q. Tomorrow is Mark Turner the shooter?

12 A. No, sir.

13 Q. You met with the prosecutor and signed
14 that lengthy agreement; do you remember that?

15 A. Yes, sir.

16 Q. That's the time for you to tell the
17 truth. I mean, you were supposed to -- that was
18 it. This is not talking to the policeman and
19 trying to minimize your involvement. This is a
20 lengthy interview with the prosecutor, and you
21 didn't tell the truth, correct?

22 A. I told the truth. I just left some
23 things out.

24 Q. Some things like who planned it. You
25 still haven't told us that one.

DARIUS HAMILTON - CROSS EXAM BY MR. THROWER

1 A. Oh, who planned it?

2 Q. Yes.

3 A. Kenny and Sherrod planned it.

4 Q. Kenny and Sherrod planned it.

5 A. Yes.

6 Q. And they never told you, though. How
7 do you know they planned it? You just went along
8 and they handed you a gun?

9 A. How do I know they planned it?

10 Q. Uh-huh.

11 A. Okay. Well, he was sitting in the
12 woods and kept getting phone calls and saying he
13 was on the way.

14 Q. You didn't mention any of that earlier?

15 A. I did. The man over there said
16 something. And then she was like, don't answer the
17 question, or something like that.

18 Q. Seems like every story you get a little
19 closer to what happened. The first time you were
20 in the car for three hours; and the second time,
21 yeah, I'm kind of on the front porch; and third
22 time, yeah, I'm in the house and now I taped their
23 hands up, right?

24 A. Yes, sir.

25 Q. That's why it seems natural to me the

DARIUS HAMILTON - CROSS EXAM BY MR. THROWER

1 next time you're going to be the shooter. If we
2 come in tomorrow and you testified, would you say,
3 well, yeah, one more time, I'll just let it out
4 that, yeah, I was the shooter?

5 A. No.

6 Q. No. That's right, you just wanted to
7 do the right thing. And the right thing was lying
8 to the police over and over and over, right?

9 A. No, sir.

10 Q. What would you call that? Oh, that's
11 right, making yourself look better.

12 THE COURT: Please ask a question. No
13 editorial comments.

14 BY MR. THROWER:

15 Q. Minimizing your involvement; is that
16 how you described it?

17 A. Yes, sir.

18 Q. Now, you -- today, for the first time
19 we hear that you took the bracelet off of Kadeem?

20 A. Yes, sir.

21 Q. And you handed it to Kenny?

22 A. Yes, sir.

23 Q. Was there a plan about that or are you
24 just handing it up?

25 A. Yes, sir.

DARIUS HAMILTON - CROSS EXAM BY MR. THROWER

1 Q. He didn't say, give me that, or, any
2 jewelry you get I'll take? Was there an agreement
3 that if you took anything of value you would give
4 it to Kenny?

5 A. Just the leader.

6 Q. I'm sorry?

7 A. He was the leader.

8 Q. I didn't --

9 A. He was the leader.

10 Q. He was the leader?

11 A. Yeah.

12 Q. Was he the shooter?

13 A. No, sir.

14 Q. Did he tell Jacob to shoot?

15 A. No, sir.

16 Q. I know you promised to tell the truth
17 and the whole truth and nothing but the truth up
18 here; have you left anything out again?

19 A. No, sir.

20 Q. So this is it?

21 A. This is it.

22 MR. THROWER: No further questions.

23 Well, let me ask -- beg the Court's indulgence.

24 THE COURT: Uh-huh.

25 MR. THROWER: No further questions.

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 THE COURT: Mr. Archer.

2 CROSS-EXAMINATION

3 BY MR. ARCHER:

4 Q. On November 2nd and 3rd of 2016, you
5 signed a proffer agreement; did you not?

6 A. Yes.

7 Q. And that's where you agree to testify,
8 correct?

9 A. Yes, sir.

10 Q. And as part of that proffer agreement
11 it says, does it not, that you agree to be fully
12 truthful and forthright with the Ninth Circuit
13 Solicitor's Office and law enforcement agencies,
14 doesn't it?

15 A. Yes, sir.

16 Q. Okay. And it also says that your
17 failure to be truthful and forthright is cause for
18 the State to get out of this agreement with you,
19 right?

20 A. Yes, sir.

21 Q. Okay. But you weren't fully truthful,
22 were you?

23 A. I was.

24 Q. Huh?

25 A. I was.

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 Q. You was?

2 A. Yes, sir. I did leave out certain
3 parts.

4 Q. You didn't -- excuse me, I'm sorry. I
5 don't mean to interrupt you. Go ahead.

6 A. That was it.

7 Q. Huh?

8 A. That's it.

9 Q. Didn't you tell -- and the person you
10 signed this agreement with was Chip Cannon, the
11 solicitor?

12 A. Yes, sir.

13 Q. Okay. And you told Chip Cannon that
14 you stayed outside and never went inside the house,
15 didn't you?

16 A. Correct.

17 Q. Huh?

18 A. Yes.

19 Q. So you weren't truthful with him. You
20 lied to him, because you did go inside, didn't you?

21 A. Yes, sir.

22 Q. And this agreement says that you can be
23 required to take a polygraph exam if the
24 solicitor's office wants you to, doesn't it?

25 A. Yes.

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 Q. Did they ever ask you to take a
2 polygraph exam?

3 A. Yes.

4 Q. They did?

5 A. Yes.

6 Q. Did you take it?

7 A. Yes, sir.

8 MR. SMILEY: Matter of law, Your Honor.

9 THE COURT: Mr. Foreman, ladies and
10 gentlemen, I have a brief matter of law I need to
11 take up with counsel.

12 During the break, please do not discuss
13 the case and place your notepads in your seats. We
14 appreciate your patience.

15 (Jury out, 4:15 p.m.)

16 THE COURT: You may be seated. Yes,
17 sir.

18 MR. SMILEY: First of all, I received
19 no information in Rule 5 or Brady as to any
20 polygraph examination administered to --

21 THE COURT REPORTER: I can't hear you.

22 THE COURT: Come up here.

23 What duty would they have to turn it
24 over to you?

25 MR. SMILEY: Well, in the past they

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 wouldn't have to give it to me until it came into
2 the courtroom, but if he failed it --

3 THE COURT: Why do they have to give it
4 to you at all? It's not admissible.

5 MR. SMILEY: But it doesn't matter
6 whether it's admissible. It matters whether it's
7 exculpatory or not under the dictates of --

8 THE COURT: You're mixing apples and
9 oranges. There are lots of different burdens,
10 different burdens of proof, and different venues.
11 Whether it's exculpatory is one issue. Whether
12 it's admissible is another issue.

13 If it's exculpatory does not make it
14 admissible.

15 MR. SMILEY: I agree with you --

16 THE COURT: And there are all different
17 layers of it -- don't speak over the Court. There
18 are also different layers of it, and I have to deal
19 with all of it. And it's your burden to prove to
20 me that he didn't give you something that was
21 exculpatory to you.

22 I would imagine -- I don't even really
23 know if a polygraph was taken. I'm a little
24 befuddled as to why Mr. Archer even asked the
25 question. I'm befuddled why the State didn't

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 object when he asked it. But it's not my job.

2 MR. SMILEY: Well, I can't object if --

3 THE COURT: You could have objected if
4 it affected your client's rights; you could have.
5 Yeah.

6 MR. SMILEY: But the bottom line is,
7 Your Honor, until it was testified supposedly under
8 oath from the stand that he had taken a polygraph,
9 I had absolutely no knowledge that there may or may
10 not have been one. I don't believe there was one,
11 but I have to follow forward with that.

12 MR. ALFARO: There hasn't been one.

13 THE COURT: Okay. So it's a nonissue.

14 MR. ALFARO: But the reason -- just for
15 the -- I believe that because he's under a proffer
16 and he's obviously a testifying co-defendant, I
17 think he can be asked under the terms of the
18 agreement that the polygraph was possible, that
19 doesn't make them --

20 THE COURT: I think he can ask if it
21 was -- I don't even know if that's appropriate
22 because then I have to get into a whole other
23 hearing about the reliability of that science, then
24 I have to deal with whether it's relevant; two
25 different prongs, two different standards of proof.

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 And I don't even know who gave the
2 polygraph if one was given; I don't know what their
3 qualifications are; I don't know if you can
4 establish a foundation for its admissibility.

5 You have to get into another whole
6 scientific hearing, but you'd have to bring in an
7 expert -- or they would have to bring me an expert
8 to tell me that the results would even be
9 admissible.

10 So at this point, it's moot whether he
11 passed it or didn't pass it because it's a very
12 subjective test.

13 MR. ALFARO: It's moot because he
14 didn't take one.

15 THE COURT: Exactly. So maybe he's
16 confused or misapprehended exactly what it is he
17 did or did not do, but I think at this point the
18 appropriate thing would be to strike the question
19 and its answer and give a curative instruction, and
20 for you to stay away from it, Mr. Archer.

21 MR. ARCHER: Well, Your Honor -- I'll
22 stay away from it for future, but what I'm asking
23 for is did the prosecution carry --

24 THE COURT: I understand that, but the
25 rule of thumb is you never ask a question you don't

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 know the answer to. So what he said in front of
2 the jury is, yes, I passed it and everything I said
3 is reliable.

4 MR. ARCHER: Well, don't ask a question
5 you don't know the answer to; at the time I knew
6 the answer because nobody told me there had been a
7 polygraph exam.

8 THE COURT: I think the whole line of
9 questioning is off limits. You asked about a
10 polygraph. The next logical question is, what
11 happened when you took it? Did you pass it? All
12 of that -- I can't make a decision about its
13 admissibility without an expert here to talk to me
14 about the reliability of the science.

15 And there are differing opinions as to
16 whether it's reliable or not. Depending on what
17 day it gets argued, depends on the answer you're
18 going to get.

19 MR. ARCHER: I would be arguing out of
20 that was that the prosecution in their agreement
21 specifically says he has a right to ask for a
22 polygraph. And the issue is, did they care enough
23 about whether he was telling the truth or not --

24 THE COURT: It really doesn't. You
25 can't ask him whether he passed it or not.

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 MR. ARCHER: Excuse me?

2 THE COURT: You can't ask him whether
3 he passed it or not.

4 MR. ARCHER: I'm not going to --

5 THE COURT: Then why bring something
6 before the jury that requires specialized knowledge
7 that I can't address, that's not admissible?

8 MR. ARCHER: I didn't plan on asking
9 him whether he passed it or not.

10 THE COURT: You can't just leave it
11 lingering in the air unaddressed. It's a
12 specialized science where people have their own lay
13 person's opinion about what a polygraph is. And
14 then the next question I'm going to get during
15 deliberations is, did he pass the polygraph?

16 All of that is irrelevant at this point
17 unless somebody can meet the burden of proof about
18 its admissibility. There are many other things
19 that you can ask in that proffer agreement that go
20 to his credibility, other than the polygraph.

21 MR. SMILEY: Your Honor, since there's
22 been a statement made to this jury from the witness
23 stand that he took a polygraph, I would ask that
24 that be stricken from the record --

25 THE COURT: I'm going to --

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 MR. SMILEY: -- and a curative
2 instruction --

3 THE COURT: I'm going to do that as
4 well.

5 MR. SMILEY: Thank you.

6 MR. SMALDONE: And, Your Honor, counsel
7 for Drake Campbell joins in the objection and
8 request for a curative instruction.

9 THE COURT: I've already made that
10 decision to strike the entire question and its
11 answer.

12 MR. THROWER: Is the curative
13 instruction going to say he didn't take a
14 polygraph?

15 THE COURT: No. It's going to say
16 you're not to consider the question at all, as if
17 it was never asked.

18 MR. THROWER: The cat is out of the
19 bag.

20 THE COURT: I've talked to many jurors
21 after deliberations; they take their duty very
22 seriously. If you tell them not to discuss
23 something, they don't do it. There's always going
24 to be a tattletale on the jury that's going to come
25 and tell me they talked about it.

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 Somebody during the deliberative
2 process is going to write me a note and say, we're
3 talking about stuff you told us not to talk about.

4 MR. SMILEY: (Inaudible)

5 MR. THROWER: -- that's what I'm
6 saying.

7 THE COURT: I think you're adding
8 something into the mix that's irrelevant.

9 MR. SMILEY: Because the State has the
10 duty to do justice like I told them in opening
11 argument, and they would never put a witness on the
12 stand that alleges he took a polygraph unless he
13 passed it. And there's that --

14 THE COURT: Not if I tell them to
15 disregard the question and answer as if it never
16 took place and they're not to discuss it.

17 MR. SMILEY: Yes, ma'am.

18 THE COURT: They're bound by their duty
19 to follow my instructions.

20 MR. SMILEY: Yes, ma'am.

21 THE COURT: And I think it's prudent to
22 stay away from it unless somebody has a polygraph
23 expert to tell me.

24 MR. SMILEY: No, ma'am, I don't think
25 it is and I don't think it should be let in. I

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 just think it did not happen. He said he took a
2 polygraph. It's assumed that the State would not
3 put a witness on the stand who failed a polygraph.

4 THE COURT: I don't know. I don't make
5 assumptions. I can't make that assumption. I
6 can't base stuff on what did or didn't happen.
7 People put witnesses on the stand all the time and
8 don't know what they're going to say.

9 MR. THROWER: Obviously.

10 THE COURT: Not everybody preps their
11 witnesses. Even when you prep a witness -- it's
12 like when I hear something in camera -- that's why
13 I really don't like hearing things in camera that
14 much before we start a trial, because they say one
15 thing in camera and they get on the stand and say
16 something totally different than what they said in
17 camera.

18 MR. SMILEY: I think I can handle it in
19 cross.

20 THE COURT: All right. We are on the
21 same page, stay away from polygraph? Mr. Archer?
22 No more reference to the polygraph.

23 MR. THROWER: I would still like to --

24 THE COURT: I'm going to give a
25 curative instruction. I'm not going to -- they

1 don't have to stipulate, and I'm not going to make
2 any comment on the facts. I think you then
3 reiterate something that's irrelevant and it makes
4 people think about something they shouldn't be
5 thinking about, because then it adds the imprimatur
6 of credibility that I've mentioned it.

7 They're going to say, well, the judge
8 mentioned it, so it must be something that we need
9 to know about it. When it's not. Then I have to
10 get into a whole discussion about what a polygraph
11 is and why it's unreliable and why if you were a
12 sociopath you could pass one.

13 MR. SMILEY: Can I cross him over the
14 fact that he didn't take one?

15 THE COURT: No. If the question wasn't
16 asked and there is no answer, then there is no
17 issue.

18 MR. THROWER: I think the cat is out of
19 the bag.

20 THE COURT: If that's the case, then
21 curative instructions would never be upheld by the
22 appellate court and there would not be a --

23 MR. THROWER: That's not even a
24 truthful statement.

25 THE COURT: Here's the bottom line.

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 You've either got it one way or not. You're either
2 going to let Pandora's Box out, or you're not. And
3 then you're not going to be able to control --

4 MR. SMILEY: Well, then open up
5 Pandora's Box, because we know he didn't take one
6 and I want to cross him over it.

7 THE COURT: In for a pound, in for a
8 penny.

9 MR. SMILEY: Let's open it up.

10 THE COURT: As the gatekeeper of this
11 court, I have a duty to make sure what is
12 unreliable is not admitted into this record.

13 MR. SMILEY: You also --

14 THE COURT: The question should never
15 have been asked. When you-all heard it come out of
16 Mr. Archer's mouth, somebody should have objected;
17 that's really the bottom line.

18 You can't complain when you're the
19 architect of your own dilemma.

20 MR. SMILEY: Well, I am certainly not
21 the architect of this dilemma, Your Honor, but I
22 just wanted to let you know that we all have a duty
23 in this courtroom to let justice come forth with
24 the truth. And we know that's a lie.

25 So it's just as bad to ignore it and

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 say, we're going to let that lie stand is improper
2 without my ability under the Sixth Amendment to
3 cross-examine him on that statement.

4 He says he took a polygraph. That is
5 false. He was under oath when he made that
6 statement. I should be able to cross-examine him
7 on it and show he's lying again.

8 THE COURT: I'll think about it.

9 I will hear from the State.

10 MR. ALFARO: Your Honor, I think if --
11 if the testimony is stricken and the curative
12 instruction is given, I think that -- I understand
13 the Court's ruling on that. I'm trying to figure
14 out how --

15 THE COURT: Are you amenable to
16 entering into a stipulation that he never took a
17 polygraph?

18 MR. ALFARO: I don't have a problem
19 with the stipulation. I'm trying to decide if
20 there needs to be different language other than
21 polygraph.

22 THE COURT: Why don't you-all work on
23 it and get back to me.

24 MR. SMILEY: If --

25 THE COURT: In the meantime, I'm going

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 to strike the question and the answer and give a
2 curative instruction.

3 MR. SMILEY: Thank you very much.

4 THE COURT: Which is what I intended to
5 do. It's not my job to object. I'm the umpire.

6 MR. SMILEY: I wanted to hear the
7 answer.

8 MR. THROWER: I don't think anybody in
9 the courtroom knew the answer.

10 MR. ALFARO: Do you want us to discuss
11 it now?

12 THE COURT: Go ahead and discuss it
13 now.

14 MR. SMALDONE: While we're discussing
15 that, can the defendants use the restroom?

16 THE COURT: Sure.

17 (A recess transpired.)

18 MR. ALFARO: It says that the parties
19 have stipulated that the witness, Darius Hamilton,
20 was not asked to consent to a polygraph, nor was
21 one administered to him as part of his November 3,
22 2016, proffer agreement with the Ninth Circuit
23 Solicitor's Office.

24 THE COURT: Okay. And then what I
25 would suggest you-all do is, after everybody has

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 cross-examined and after the redirect, that the
2 State publish the stipulation.

3 THE SMILEY: Court would publish it.

4 THE COURT: Generally, I don't publish
5 stipulations.

6 MR. SMILEY: Well, it's not their
7 evidence. It's a stipulation between the parties.

8 THE COURT: I will explain that a
9 stipulation is an agreement and it requires no
10 further proof.

11 Do one of you-all want to read --

12 MR. SMILEY: Can we have it read to
13 them before we do -- at this point before we do --

14 THE COURT: No. Then we would be
15 interrupting Mr. -- well, we could. What do you
16 want to do?

17 MR. SMILEY: I would prefer --

18 THE COURT: Let me take a poll.

19 MR. THROWER: I would say we fix it
20 right now.

21 MR. SMILEY: What I would ask you to do
22 is strike, curative --

23 THE COURT: I've already have made
24 that --

25 MR. SMILEY: -- stipulation. Before we

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 go forward anymore.

2 MR. SMALDONE: I would ask that it be
3 read now.

4 MR. ARCHER: That's fine with me.

5 THE COURT: I assume the State has no
6 exception.

7 MR. ALFARO: No, Your Honor.

8 THE COURT: I will give the curative
9 instruction, you read the stipulation, and I will
10 say a stipulation is an agreement that requires no
11 further proof, and Mr. Archer will finish his cross
12 and then we'll do -- we'll finish going in order.

13 I would like to finish this witness
14 today. We still have many witnesses to go and we
15 have a premium -- time is a premium. So I would
16 like to try finish this witness today.

17 MR. SMILEY: Can we sign that
18 stipulation?

19 MR. ALFARO: I would ask that we sign
20 it and have it marked as a Court's Exhibit for the
21 record.

22 THE COURT: That's fine. I don't have
23 a problem with that.

24 (COURT EXH. 4, Stipulation, was marked
25 for identification.)

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 THE COURT: Mr. Hamilton, are you ready
2 to proceed?

3 THE WITNESS: Yes, ma'am.

4 THE COURT: State ready to proceed?

5 MR. ALFARO: Yes, Your Honor.

6 THE COURT: Mr. Thrower?

7 THE THROWER: Yes, ma'am.

8 MR. SMILEY: Yes, ma'am.

9 MR. SMALDONE: Yes, ma'am.

10 MR. ARCHER: Yes, ma'am.

11 THE COURT: Bring in the jury.

12 (Jury in, 4:54 p.m.)

13 THE COURT: Ladies and gentlemen, you
14 may be seated. We appreciate your patience.

15 Mr. Foreman, ladies and gentlemen, you
16 are to disregard Mr. Archer's last question in its
17 entirety; you are to disregard the witness's
18 response in its entirety. I have stricken the
19 question and answer from the record. You are to
20 give it absolutely no consideration in your
21 deliberations.

22 Mr. Alfaro.

23 MR. ALFARO: Thank you, Your Honor.

24 In light of that, the parties have
25 stipulated or the party -- all parties have

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 stipulated that the witness Darius Hamilton was not
2 asked to consent to a polygraph, nor was one
3 administered to him as part of his November 2016
4 proffer agreement with the Ninth Circuit
5 Solicitor's Office.

6 This is signed by all parties and is
7 Court's Exhibit Number 4.

8 THE COURT: Thank you, sir.

9 Ladies and gentlemen, a stipulation is
10 a legal term that means agreement. The parties
11 have entered into an agreement and that agreement
12 will require no further proof.

13 THE COURT: Mr. Archer, ready to
14 proceed?

15 MR. ARCHER: Yes, ma'am.

16 THE COURT: And, ladies and gentlemen,
17 we may go beyond 5:00. It's 4:46. I would like to
18 complete this witness today. Is that going to
19 cause anybody any anxiety or scheduling issues?

20 I see all heads shaking no. Thank you
21 for accommodating us.

22 BY MR. ARCHER:

23 Q. Now, you admitted when Mr. Alfaro was
24 asking you questions that you did lie several times
25 about whether or not you went into that house,

1 right?

2 A. Yes.

3 Q. Huh?

4 A. Correct.

5 Q. And your agreement says that if you
6 lie, that the agreement can be called off, correct?

7 A. Yes, sir.

8 Q. Did anybody threaten to call off the
9 agreement because you lied?

10 A. No.

11 Q. No. All right. Did it seem -- well,
12 I'll just go on to something else.

13 You made a statement on July 21st of
14 2016, the day -- the morning of the shooting. In
15 that statement one thing you said, and tell me if
16 this isn't true, that around ten you went to meet
17 Jacob and Mark at Sunco at the foot of the bridge?

18 A. Correct.

19 Q. That's true?

20 A. Yes.

21 Q. And Mark is Mark Turner?

22 A. Yes.

23 Q. Okay. All right. And I believe you
24 also said that you went from there to Bonneau to
25 get Jacob?

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 A. Yes.

2 Q. And that means you and Mr. Turner went
3 to get Jacob; is that correct?

4 A. He was in his vehicle, and me and Drake
5 was in my truck.

6 Q. I'm sorry, I --

7 A. Mark was in his car.

8 Q. He was in his car. Mark was in his
9 car?

10 A. Yes.

11 Q. So he followed you there?

12 A. Yes.

13 Q. Okay. Did he -- did he accompany you
14 in this robbery?

15 A. No.

16 Q. Okay. Now, where did the -- in the
17 same statement you were asked, were any of the two
18 guys carrying a gun? And that means the two guys
19 referred to is you said -- you said, who are the
20 two people you met up with that jumped in the back
21 of the truck?

22 And you said, Kenneth Campbell and
23 another man I don't know?

24 A. Uh-huh.

25 Q. Did you ever drop off the other man you

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 don't know?

2 A. No, sir.

3 Q. Huh?

4 A. No, sir.

5 Q. No? So which one of these defendants
6 was the other man you didn't know?

7 A. Sherrod.

8 Q. You didn't know Sherrod before then?

9 A. Yes, sir.

10 Q. Huh?

11 A. I know him before that night.

12 Q. Okay. And you also were asked, were
13 any of the two guys carrying anything? And you
14 said, I didn't see them get on with anything, but
15 one got off with a rifle; is that correct?

16 A. Yes.

17 Q. Did they get -- was the rifle in the
18 back of the truck when they got in?

19 A. My windows in my truck is real dark.

20 Q. Huh?

21 A. My windows in my truck is real dark.

22 Q. I'm sorry, I'm having trouble hearing
23 you.

24 A. The windows on my truck are dark.

25 Q. It was dark?

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 A. Yes.

2 Q. Okay. So one of them may have had a
3 rifle when they got on; is that what you're saying?
4 Or didn't get the rifle until they got on the
5 truck?

6 A. I'm saying when they got back there, I
7 didn't see what they had with them.

8 Q. You didn't see what they had with them.
9 Okay. So you were telling, I think you testified
10 that -- where did you get all these guns from?

11 A. I don't know.

12 Q. You don't know?

13 A. No, sir.

14 Q. So I think you testified at one time
15 that Kenny gave out the guns?

16 A. That's where they came from. Where he
17 got them, I don't know.

18 Q. Huh?

19 A. That's where they came from. Where he
20 got them, I don't know.

21 Q. You don't know where he got them from?

22 A. No, sir.

23 Q. But you didn't see him get on with the
24 guns, did you?

25 A. No.

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 Q. And who would he have given guns to?

2 A. All of us.

3 Q. All of you. So one, two, three, four,
4 five. He would have been carrying five guns?

5 A. Sherrod had his.

6 Q. Sherrod had his. So four guns?

7 A. Yes, sir.

8 Q. And that's a lot of guns to be carrying
9 that you didn't see him get on the truck with,
10 isn't it?

11 You need to answer. You're shaking
12 your head.

13 A. Yes, sir.

14 Q. That's a lot of guns for you to be
15 handing out that you didn't see him get on the
16 truck with, and your answer is yes.

17 A. Once again, it was dark --

18 Q. Huh?

19 A. Once again, it was dark and my back
20 windows are dark.

21 Q. Okay. Now at the time there was a
22 shooting, who was in that house when the actual
23 shooting took place?

24 A. Jacob.

25 Q. Huh?

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 A. Jacob.

2 Q. Jacob. Just Jacob?

3 A. Yes, sir.

4 Q. Okay. Kenneth Campbell -- you're not
5 trying to say that Kenneth Campbell was in the
6 house?

7 A. No.

8 Q. You're not trying to say Drake Campbell
9 was in the house?

10 A. No, sir.

11 Q. Okay. Now, when you met with
12 Mr. Cannon -- Solicitor Cannon, you told him again
13 that you never went inside, right?

14 A. Yes, sir.

15 Q. Okay. Why is it that you kept
16 maintaining that you didn't go inside? Were you
17 scared about what might happen to you?

18 A. Yes, sir.

19 Q. Okay. And you thought if you said you
20 didn't go inside it might be less of a problem for
21 you?

22 A. Not necessarily.

23 Q. You just said it. Okay. Now, you came
24 off of that, but you didn't come off of that until
25 the middle of August of this year, didn't you?

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 A. Yes, sir.

2 Q. And that was when you met with
3 Solicitor Alfaro in the middle of August; and
4 that's when you came off of the fact that you
5 didn't go inside, right?

6 A. Yes, sir.

7 Q. Okay. All right. And who did you go
8 inside with?

9 A. In the house?

10 Q. Yes.

11 A. Jacob and Kenny.

12 Q. Huh?

13 A. Jacob and Kenny.

14 Q. Jacob and --

15 A. Kenny.

16 Q. Okay. Now, are you out on bond?

17 A. Yes, sir.

18 Q. When did you get your bond? Before or
19 after November 3rd when you did your proffer
20 agreement?

21 A. After.

22 Q. After. Was your bond reduced after you
23 did the proffer agreement?

24 A. I never had one.

25 Q. You didn't have one?

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 A. No, sir.

2 Q. But you got a bond after you entered
3 the proffer agreement, correct?

4 A. Yes, sir.

5 Q. And did the solicitor consent to that
6 bond?

7 A. How you mean?

8 Q. Did he agree that you would be getting
9 a bond? Did the prosecutor agree that the Court
10 could give you a bond?

11 A. I'm not sure.

12 Q. You don't know or --

13 A. I'm not sure.

14 Q. You are not sure. Okay. But up until
15 that time you were in jail, right?

16 A. Yes, sir.

17 Q. Okay. But after you entered into your
18 proffer agreement, your agreement to testify, you
19 got a bond, right?

20 A. Yes.

21 Q. Now, I'm going to ask you again --
22 somebody asked you earlier, what is it -- you have
23 agreed -- you agreed to testify for the State.

24 What is it that you think you're going
25 to get out of the agreement?

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 A. I'm not looking for anything.

2 Q. You're not looking for anything?

3 A. No, sir.

4 Q. You're charged with murder. Do you
5 understand that?

6 A. Yes, sir.

7 Q. And you understand that murder carries
8 30 years to life imprisonment?

9 A. Yes, sir.

10 Q. Okay. So you expect to have to do
11 30 years in prison, at least a minimum of 30 years
12 in prison?

13 A. What we did was wrong, so --

14 Q. Huh?

15 A. What we did was wrong, so if that's
16 what it is, then...

17 Q. Okay. But you don't think your
18 agreement that you're going to get something out of
19 -- consideration out of it and not have to do
20 30 years?

21 MR. ALFARO: Objection.

22 THE COURT: Basis?

23 MR. ALFARO: Asked and answered.

24 THE COURT: Sustained; rephrase.

25 BY MR. ARCHER:

DARIUS HAMILTON - CROSS EXAM BY MR. ARCHER

1 Q. Okay. Well, has anybody told you that
2 you -- anybody, whether it's the prosecutor or your
3 attorney, whether it's whoever you met in jail, has
4 anybody told you that you would be treated better
5 if you testified --

6 MR. ALFARO: Objection.

7 THE COURT: Basis?

8 MR. ALFARO: Same; asked and answered.

9 THE COURT: I'll give him a little
10 latitude. Finish the question.

11 BY MR. ARCHER:

12 Q. That you will be treated better if you
13 testified on behalf of the State?

14 A. No, sir.

15 Q. No, sir? Okay. So it's fair to say
16 that you expect to do 30 years to life in jail?

17 A. If that's what you want to say, yes,
18 sir.

19 Q. Huh?

20 A. Yes, sir.

21 Q. And you don't believe that you -- don't
22 believe that you're entitled to or will get any
23 consideration on that as a result of cooperating
24 with the prosecution?

25 A. They didn't promise me anything. They

DARIUS HAMILTON - CROSS EXAM BY MR. SMALDONE

1 just said I would have to testify.

2 MR. ARCHER: All right. I have no
3 other questions.

4 THE COURT: Mr. Smaldone.

5 MR. SMALDONE: Thank you, Your Honor.

6 THE COURT: You're welcome.

7 CROSS-EXAMINATION

8 BY MR. SMALDONE:

9 Q. Mr. Hamilton, how are you this
10 afternoon?

11 A. All right. Yourself?

12 Q. I'm all right. I'm all right. Let's
13 talk about September 21, 2016. Do you remember
14 that day, right?

15 A. September 21st?

16 Q. I'm sorry, July 21st. July 21, 2016;
17 do you remember that date?

18 A. Yes.

19 Q. All right. Late that day you made
20 contact with law enforcement, right?

21 A. The next day?

22 Q. After September -- after July 21, 2016,
23 directly afterwards, you made an initial statement
24 to law enforcement at Eccles Church. Do you
25 remember that?

DARIUS HAMILTON - CROSS EXAM BY MR. SMALDONE

1 A. Correct.

2 Q. And in that statement you said, I want
3 to do the right thing, correct?

4 A. Yes, sir.

5 Q. You said, I want to help you guys out,
6 correct?

7 A. Yes, sir.

8 Q. All right. And you went to them at
9 Eccles Church, right?

10 A. Yes, sir.

11 Q. After this happened, it's your
12 testimony that you were split up, correct?

13 A. Yes.

14 Q. And you had some time to yourself,
15 right?

16 A. It was still the three of us.

17 Q. Three of you?

18 A. After we split up that night?

19 Q. That's your testimony, right, three of
20 you?

21 A. Okay. Explain what you're saying.

22 Q. You had some time to yourself after you
23 did this, didn't you?

24 A. Yes.

25 Q. Okay. During that time to yourself,

1 you called 911?

2 A. No.

3 Q. Okay. You checked on the house and
4 made sure that everyone was okay?

5 A. At the victim's house?

6 Q. Yes.

7 A. No.

8 Q. All right. You called the police and
9 said, I want to report a robbery?

10 A. No.

11 Q. So when you say, help you guys out, who
12 are you helping out?

13 A. Law enforcement.

14 Q. Law enforcement?

15 A. Yes, sir.

16 Q. Helping law enforcement out by saying
17 you were in a truck hanging out, you don't know
18 what happened?

19 A. No, sir.

20 Q. Was that helpful?

21 A. No, sir.

22 Q. All right. Was it helpful to say that,
23 you know, someone came to your window and you were
24 threatened?

25 A. No, sir.

DARIUS HAMILTON - CROSS EXAM BY MR. SMALDONE

1 Q. That wasn't helpful. So you weren't
2 helping law enforcement out, were you?

3 A. No, sir.

4 Q. Were you helping out Mark Turner?

5 A. No, sir.

6 Q. You put him at the scene, didn't you?

7 A. Correct.

8 Q. Was that the second statement or the
9 third?

10 A. Second, I believe.

11 Q. Okay. Did you talk about him in the
12 fourth statement?

13 A. No.

14 Q. Okay. I get confused. I'm sure you
15 understand. Now, fair to say, you didn't help
16 anybody else out, did you?

17 A. No, sir.

18 Q. But you want to help yourself out?

19 A. (No response)

20 Q. Be honest; you want to help yourself
21 out, don't you?

22 A. No, sir.

23 Q. Okay. So are you in prison right now?

24 A. No.

25 Q. Have you pled guilty to these offenses?

DARIUS HAMILTON - CROSS EXAM BY MR. SMALDONE

1 A. No, sir.

2 Q. Have you been sentenced?

3 A. No, sir.

4 Q. You're on bond, aren't you?

5 A. Yes, sir.

6 Q. Okay. So it's been two years, hasn't

7 it?

8 A. Yes.

9 Q. Still haven't pled guilty?

10 A. No.

11 Q. Any strategic reason for that?

12 A. Why would I plead guilty?

13 Q. Good question. I want to talk about
14 how many statements you gave. I have seven; is
15 that right?

16 A. Seven statements I gave?

17 Q. Did you talk to the solicitor or law
18 enforcement about this about seven times?

19 A. No, sir.

20 Q. All right. Did you talk to them
21 July 22nd?

22 A. Yes.

23 Q. All right. You talked to them twice
24 that day?

25 A. On the 22nd, once.

DARIUS HAMILTON - CROSS EXAM BY MR. SMALDONE

1 Q. When was the next time you talked to
2 them?

3 A. About a week later.

4 Q. Okay.

5 THE COURT: I'm sorry, please repeat
6 your answer.

7 THE WITNESS: About a week later.

8 BY MR. SMALDONE:

9 Q. Okay. And was that your written
10 statement or your recorded statement?

11 A. The first one?

12 Q. The second one.

13 A. It was recorded.

14 Q. Okay. So the first time written,
15 second time recorded, and then you talked on
16 November 3, 2016, right?

17 A. Yes.

18 Q. And you were in jail at the time,
19 weren't you?

20 A. Yes, sir.

21 Q. Been in jail for about four months?

22 A. Yes, sir.

23 Q. No bond?

24 A. No.

25 Q. What happened on November 29, 2016?

DARIUS HAMILTON - CROSS EXAM BY MR. SMALDONE

1 A. I got a bond.

2 Q. You got a bond. Okay. Same month as
3 your earlier statement?

4 A. Yes, sir.

5 Q. And fair to say the November statement
6 told a lot more than the other statements, didn't
7 it?

8 A. Yes.

9 Q. You were a little more forthcoming and
10 gave the information they wanted to hear, didn't
11 you?

12 A. Yes, sir.

13 Q. Now, we are here today and you
14 understand this is important, right?

15 A. Yes, sir.

16 Q. And you understand that it's important
17 for the jury to believe you?

18 A. Yes.

19 Q. You understand it's important for the
20 solicitor's office to believe you, right?

21 A. Correct.

22 Q. Okay. And you're an honest guy?

23 A. Yes.

24 Q. You're a truthful guy?

25 A. Yes.

DARIUS HAMILTON - CROSS EXAM BY MR. SMALDONE

1 Q. You know the difference between the
2 truth and a lie, right?

3 A. Yes.

4 Q. And you haven't lied to us today, have
5 you?

6 A. No.

7 Q. And you're not under any pressure to
8 testify today, are you?

9 A. No.

10 Q. Right. Because you're facing life in
11 prison, but you want to be a good guy, right?

12 A. Yes.

13 Q. You want to help us out?

14 A. Yes.

15 Q. Just like you helped out law
16 enforcement by lying to them, right?

17 A. That was wrong.

18 Q. That was wrong. Okay. Now let's talk

19 --

20 MR. SMALDONE: Beg the Court's
21 indulgence.

22 THE COURT: Yes, sir.

23 BY MR. SMALDONE:

24 Q. Now, I haven't introduced myself: I'm
25 Grant Smaldone. I represent Drake Campbell.

1 You're not here to help him out, are you?

2 A. I'm not here to help nobody out. I'm
3 here to tell the truth.

4 Q. Right. In one of your other lies to
5 law enforcement you said Drake went in the house,
6 didn't you?

7 A. Yes.

8 Q. And now it's your testimony today that
9 Drake wasn't in the house, right?

10 A. Correct.

11 Q. Okay. And you've looked over the
12 evidence in this case?

13 A. No.

14 Q. You looked over your file?

15 A. No.

16 Q. You don't have a file?

17 A. My lawyer does.

18 Q. And you have a lawyer?

19 A. Yes.

20 Q. Okay. Now, was your lawyer present at
21 the bond hearing in November?

22 A. Yes.

23 Q. Okay. Was he present at your statement
24 in November right before the bond hearing?

25 A. Yes.

DARIUS HAMILTON - CROSS EXAM BY MR. SMALDONE

1 Q. Okay.

2 MR. SMALDONE: Court's indulgence?

3 THE COURT: Yes, sir.

4 BY MR. SMALDONE:

5 Q. And you would agree there's probably
6 dozens of inconsistencies throughout your other
7 statements, right?

8 A. Yes, sir.

9 Q. You would agree with that?

10 A. Yes.

11 Q. And one -- briefly, I'm just going to
12 pick out one. For example, earlier on you said
13 that Drake drove the truck?

14 A. Yes, sir.

15 Q. And now today you're saying that you
16 drove the truck?

17 A. No, I said he drove the truck.

18 Q. Okay. Said that you drove the truck.

19 Now --

20 A. I said that he drove the truck.

21 Q. Who drove the truck?

22 A. Drake.

23 Q. And earlier you said you had driven the
24 truck?

25 A. I said he drove the truck.

DARIUS HAMILTON - CROSS EXAM BY MR. SMALDONE

1 Q. Okay. Do you remember giving a
2 statement that we talked about in November of 2016?

3 A. Yes.

4 Q. And in that one you said that you drove
5 the truck, didn't you?

6 A. I don't recall saying that I drove the
7 truck.

8 Q. You don't recall. Okay. Do you recall
9 speaking to a guy named Chip Cannon, used to be at
10 the solicitor's office?

11 A. Yes.

12 Q. Do you recall telling him the story?

13 A. Yes.

14 Q. Okay. And did you or did you not say
15 you were the one driving the truck?

16 A. I'm sure he probably wrote it down
17 wrong. I didn't say that.

18 Q. Because why would you ever lie, right?

19 A. I didn't drive that night.

20 Q. So he's the one that wrote it down
21 wrong. That's your testimony?

22 A. Yes, sir.

23 MR. SMALDONE: Okay. Thank you. No
24 further questions.

25 THE COURT: Mr. Smiley.

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 MR. SMILEY: Yes, ma'am.

2 CROSS-EXAMINATION

3 BY MR. SMILEY:

4 Q. Darius, I'm Jim Smiley. I represent
5 Sherrod Palmer. When you came up there to that
6 witness stand today, you said an oath, right?

7 A. Yes, sir.

8 Q. Put your hand on a Bible?

9 A. Yes, sir.

10 Q. You're a God-fearing man, right?

11 A. Yes, sir.

12 Q. That means something to you?

13 A. Yes, sir.

14 Q. Now, on July 21, 2016, that afternoon
15 your parents took you up to Eccles Creek Church,
16 right?

17 A. Yes.

18 Q. Nobody made you go there; you went
19 there, right?

20 A. Yes.

21 Q. Now, when you got there and you told
22 the detectives that you had some information,
23 right?

24 A. Yes, sir.

25 Q. And they said, okay. Great. Let's sit

1 down so I can get a statement, right?

2 A. Yes.

3 Q. And so you went into a church, right?

4 A. Yes.

5 Q. And you gave the statement at Eccles

6 Creek Church, right? A house of God?

7 A. Yes.

8 Q. And you went in and you were sitting, I

9 think, in the Sunday School room, right?

10 A. Yes, sir.

11 Q. And you told them lies, right?

12 A. Correct.

13 Q. Being the good, God-fearing man, it

14 didn't matter that you were in church and you were

15 lying. You were there to help them out, but not

16 too much, right?

17 A. You can always repent.

18 Q. You can always repent?

19 A. Yes, sir.

20 Q. Okay. So if you lied today after

21 putting your hand on the Bible, you can go repent,

22 right?

23 A. I'm not lying.

24 Q. Okay. Because the -- your statement's

25 been picked apart that you gave that day, I'm going

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 to -- it's a short statement. Let's go through it
2 line by line and then you tell me if it's the truth
3 or not the truth. Okay?

4 A. I'm telling you the first two are not
5 true.

6 Q. When you went -- you went to Eccles
7 Church, there were a lot of policemen around,
8 right?

9 A. Yes.

10 Q. And they were looking for people,
11 right?

12 A. Yes, sir.

13 Q. And you went in and sat down and lied
14 to them, right?

15 A. Yes, sir.

16 Q. And you agree this wouldn't have
17 happened if you didn't drive your truck that night,
18 right?

19 A. I just said I didn't drive my truck.

20 Q. Oh, I'm sorry. It says here I picked
21 up Drake around 11 p.m. Oh, that's a lie, right?

22 A. He was already at my house.

23 Q. Okay. So nothing in this statement is
24 true?

25 A. The second one?

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 Q. No, the first one. The one where you
2 were helping out the police.

3 A. I just said that nothing in the first
4 or second statement is true.

5 Q. Okay. So -- all right. So it's just
6 -- just pure lies, right?

7 A. Correct.

8 Q. You had just participated in a murder
9 the night before, right?

10 A. Correct.

11 Q. An armed robbery of two people, right?

12 A. Correct.

13 Q. And you had driven them there, right?

14 A. Incorrect.

15 Q. Okay. Drake -- you have a driver's
16 license, right?

17 A. Yes.

18 Q. Okay. It's your truck?

19 A. Right.

20 Q. But you weren't driving it?

21 A. No.

22 Q. All right. Were you too drunk to
23 drive?

24 A. No, I was sober.

25 Q. All right. You were dead sober, you

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 just didn't drive?

2 A. Yes.

3 Q. Okay. No explanation for that, just
4 Drake wanted to drive your truck?

5 A. Me and him had that type of bond.

6 THE COURT: Please repeat your answer.

7 THE WITNESS: Me and him had that type
8 of bond.

9 BY MR. SMILEY:

10 Q. That it didn't matter who was driving
11 your truck?

12 A. Yes, sir.

13 Q. Okay. Now, in that statement, the one
14 that's pure lies that you gave at the Eccles Creek
15 Church about the afternoon of July 21, 2016, just
16 isn't true?

17 A. If you want to say that.

18 Q. So some of it's true, though, right?

19 A. Very little.

20 Q. Very little. But it's true you woke up
21 that morning and went and got high, right?

22 A. Yes, sir.

23 Q. Okay. You drove back to your house and
24 cut the grass?

25 A. Yes, sir.

1 Q. Wasn't there a green bag involved in
2 this case?

3 A. Yes.

4 Q. Yeah. Jacob had that bag?

5 A. No.

6 Q. No. You don't know where that bag came
7 from? It was in your truck, right?

8 A. It was found in the back of my truck
9 the next morning.

10 Q. You don't know who put that in your
11 truck?

12 A. No, sir.

13 Q. Okay. Was that the truck you saw --
14 the bag that you saw the guns pulled out of?

15 A. Yes.

16 Q. So when you got in your truck that
17 evening, you dressed in all black, right?

18 A. Yes.

19 Q. It was long pants?

20 A. Yes.

21 Q. Okay. Long shirt?

22 A. Short sleeve.

23 Q. Hoodie?

24 A. No.

25 Q. Anything else?

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 A. Mask.

2 Q. You had a mask. When you got in your
3 truck --

4 A. That night? I didn't have a mask on
5 when I got in the truck.

6 Q. Okay. I asked you how you dressed when
7 you left, and you said black pants, black shirt. I
8 asked if you had anything else, and you told me you
9 had a mask.

10 A. Yes, sir; I didn't have it on though.

11 Q. You didn't have it on. When you got in
12 your truck that night and left your house, you had
13 a mask, right?

14 A. Yes.

15 Q. Okay. Now, at that point in time you
16 hadn't discussed with anybody -- you hadn't
17 discussed with anybody going to rob anybody for
18 weed, had you?

19 A. No.

20 Q. But you just took a mask just in case,
21 right? Right?

22 A. No.

23 Q. Now, in the beginning when you told the
24 police your lie, you said that you were with your
25 friend Drake -- and that's the one you grew up

1 with, right?

2 A. Yes.

3 Q. And Jacob, another good friend of
4 yours, right?

5 A. Yes.

6 Q. And your good friend Drake's older
7 brother you picked up along the way?

8 A. Yes.

9 Q. And you told them that -- another man I
10 didn't know, right?

11 A. Yes.

12 Q. Is what you told them? And you told
13 them that you went over and dropped them off,
14 right?

15 A. Yes, sir.

16 Q. And you waited for them to come back,
17 right?

18 A. Yes, sir.

19 Q. And that's when you heard some shots
20 and took off, right?

21 A. Yes, sir.

22 Q. Okay. So in the first -- your first
23 statement you are not even on that dirt road,
24 right?

25 A. Yes.

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 Q. Okay. Now the next day, the police
2 call you to come talk to them again, right?

3 A. Yes, sir.

4 Q. That time it's not you going, yeah, I
5 will be glad to come down and give you some more
6 information. They said, hey, we need talk to you
7 again, right?

8 A. Yes, sir.

9 Q. And that time it wasn't in a church; it
10 was in the police station, right?

11 A. Yes.

12 Q. And you were put in one of the
13 interview booths like you see on TV, right?

14 A. Yes, sir.

15 Q. And they told you they were video
16 recording and audio recording your statement,
17 right?

18 A. Yes, sir.

19 Q. You proceed to tell them a very similar
20 version that you had told the day before, correct?

21 A. Yes.

22 Q. This time as they were plodding along
23 with you, taking you at your word, you told them
24 that you dropped them off on that dirt road and
25 that you sat right out there on the road, right?

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 A. I said I went back to the same place.

2 I said I went back to the same place.

3 Q. Okay. And that you rolled up the
4 windows, turned off the car, turned off the radio,
5 and sat there for three hours. That's what you
6 told them?

7 A. Yes.

8 Q. And it's July; it's hot, right?

9 A. Yes.

10 Q. Okay. And that time you said the same
11 basic story, but they pushed you about the fellow
12 you didn't know, right?

13 A. Yes.

14 Q. And you said it was somebody named Sav?

15 A. Yes.

16 Q. And now they showed you a picture of
17 Sherrod that night, didn't they?

18 A. Yes.

19 Q. And asked you if you knew who he was
20 and you circled his picture, right?

21 A. Yes.

22 Q. And you wrote on the paper, right?

23 A. Yes.

24 Q. And you wrote, I know him, right?

25 A. Yes.

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 Q. You didn't put he's the one that got in
2 the truck and participated in a robbery, did you?

3 A. No.

4 Q. Didn't write that down. Just, I know
5 him, right?

6 A. Yes, sir.

7 Q. Now, Sherrod you had only known for a
8 couple of months, right?

9 A. Yes.

10 Q. You did not have a close relationship?

11 A. No, sir.

12 Q. Let's talk a little bit about a thing
13 called a proffer. All right. Mr. Davis went over
14 what that meant with you, right?

15 A. Yes.

16 Q. And on November 3, 2016, you met -- you
17 and your attorney and the assistant solicitor met
18 at the solicitor's office, right? Or at the jail,
19 right?

20 A. Yes, sir.

21 Q. And at that point, you went over the
22 proffer agreement, right? Do you remember reading
23 it?

24 A. Yes, sir.

25 Q. Okay. Looking at page 2 of it. The

1 second paragraph talks about telling the truth. It
2 says, by -- see if you agree with this -- by
3 signing this proffer agreement, client agrees to be
4 fully truthful and forthright with the Ninth
5 Circuit Solicitor's Office and law enforcement
6 agents in their investigation of unlawful
7 activities, and to submit truthful and complete
8 debriefing with no misstatements or material
9 omissions of fact.

10 Do you remember that?

11 A. Yes, sir.

12 Q. Of the client's knowledge concerning
13 illegal activities. Also client understands the
14 client, that being you, must disclose and fully
15 provide truthful information to the State, right?

16 A. Yes.

17 Q. And then it says, further, the State so
18 elects client's failure to be truthful and
19 forthright at any stage will cause the obligations
20 of the State within this agreement to become null
21 and void.

22 Do you remember that?

23 A. Yes, sir.

24 Q. Now, your agreement was as long as you
25 told them the truth they couldn't use it against

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 you, right?

2 A. Yes.

3 Q. Okay. We'll agree that you signed this
4 before you talked that day, right?

5 A. Yes.

6 Q. And then you lied to them, right?

7 A. Everything else was true.

8 Q. But you lied to them. I'm not
9 qualifying it. You signed an agreement with the
10 prosecutor with your attorney present that you had
11 gone over that said you will tell the -- fully tell
12 the truth, number one, right?

13 A. Yes.

14 Q. And that you will not leave out
15 anything of a material fact, right?

16 A. Yes, sir.

17 Q. And then immediately you lied to them,
18 right? Right?

19 A. Yes, sir.

20 Q. So you violated your agreement on that
21 day technically, right?

22 A. Yes, sir.

23 Q. All right. However, you got something
24 out of it shortly thereafter.

25 MR. SMILEY: Beg the Court's

1 indulgence?

2 THE COURT: Yes, sir.

3 BY MR. SMILEY:

4 Q. Getting back to where we were. After
5 that agreement, you were feeling good because
6 Mr. Davis said, we're going to get you a bond,
7 right? Right?

8 A. No, sir.

9 Q. Well --

10 THE COURT: Be very careful not to get
11 into anything privileged.

12 MR. SMILEY: I won't.

13 BY MR. SMILEY:

14 Q. Shortly thereafter you came in front of
15 a judge after you had started cooperating with the
16 State and received a bond and got out of jail,
17 right?

18 A. Correct.

19 Q. Okay. And then for a good while you
20 didn't have to deal with this, did you?

21 A. Yes, sir.

22 Q. It went on for quite some time and you
23 went about living your life, right?

24 A. Right.

25 Q. And then come July and you have to

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 start meeting with the prosecutor again, right?

2 A. Yes, sir.

3 Q. And so you met with the prosecutor,
4 Mr. Alfaro here, right?

5 A. Yes, sir.

6 Q. And some other people in his office on
7 July 2nd, I think it was the first time, right?
8 First part of July?

9 A. Yes, sir.

10 Q. And at that point Mr. Alfaro went over
11 the notes that Mr. Cannon had taken and talked to
12 you about inconsistencies, right?

13 A. Yes, sir.

14 Q. And that wasn't a terribly long
15 meeting. He just wanted to make sure that
16 Mr. Cannon's notes were accurate, right?

17 A. Yes.

18 Q. And he also went over your proffer
19 again with you, didn't he?

20 A. Yes, sir.

21 Q. Telling you you have to tell the truth,
22 right?

23 A. Yes, sir.

24 Q. You can't leave anything out, right?

25 A. Correct.

1 Q. It's at that point you looked at the
2 notes and said, that's not what I told Mr. Cannon;
3 that's when you admitted that Drake was driving
4 your truck, right?

5 A. I told him that the first time.

6 Q. Oh, okay. I forgot, Mr. Cannon is the
7 one that got it wrong, right?

8 A. Yes.

9 Q. Okay. And that was -- that would be
10 your meeting on July 9th that you told him that,
11 right?

12 A. Sometime in July.

13 Q. You also said that that gun that Kenny
14 had handed to you?

15 A. Uh-huh.

16 Q. That .22?

17 A. Uh-huh.

18 Q. Is that the notes were wrong, that you
19 had given it back to Drake, right?

20 A. Correct.

21 Q. And that wasn't in any of the prior
22 statements, and you're saying, I didn't lie about
23 that, that Mr. Cannon just got it wrong, right?

24 A. That I gave it back to him?

25 Q. Yeah.

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 A. That's not the truth.

2 Q. Okay. Well, in the notes from
3 Mr. Cannon back in November, that's not what he
4 thought, right?

5 A. Yes.

6 Q. I think back then he was under the
7 belief after talking to you that -- that you
8 dropped it, right?

9 A. Yes.

10 Q. Okay. However, by this point in time,
11 you have to sit down and talk with Mr. Alfaro
12 again, right? You have to get into it, talk about
13 all of the details?

14 A. In July?

15 Q. Right.

16 A. Yes.

17 Q. That's when you came up with another
18 version of the story, right?

19 A. It's when I told him I went into the
20 house.

21 Q. Right. And so back in July 21st of
22 2016, we started off that you just dropped some
23 fellows off and you stayed on the road, right?

24 A. Right.

25 Q. And when you met with Mr. Alfaro in

1 July of this year, you told him, no, I had a gun,
2 right?

3 A. Yes.

4 Q. That's the first time you told him you
5 had the gun, right?

6 A. Yes.

7 Q. And that you had a mask, right?

8 A. Yes.

9 Q. And that, oh, by the way, I'm the guy
10 that taped up both the people, right?

11 A. Yes.

12 Q. So you didn't have gloves on, did you?

13 A. No.

14 Q. And so when you touched the tape, later
15 find out that you left your fingerprint on it,
16 right?

17 A. Yes.

18 Q. Now your testimony today is that you
19 did go inside and you did tape them up, but you
20 didn't take anything?

21 A. Yes.

22 Q. Except for the gold chain, but you
23 didn't keep it.

24 A. I didn't have no gold chain.

25 Q. Gold band, excuse me. Before you taped

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 him up, you took the gold band off the drug
2 dealer's arm?

3 A. Right.

4 Q. And you gave it to Kenny?

5 A. Yes.

6 Q. Did you do that in the yard?

7 A. In the house.

8 Q. In the house?

9 A. Yeah.

10 Q. While you were in the house, you said
11 here, right?

12 A. Yes.

13 Q. Okay. Now, you say there were five
14 people there, right?

15 A. Yes.

16 Q. Okay. Three people were actually doing
17 the robbery, right? Three of you went in the
18 house, right?

19 A. Yes.

20 Q. According to your testimony, your good
21 friend Drake stood outside?

22 A. Yes.

23 Q. He didn't do anything, did he?

24 A. Correct.

25 Q. As a matter of fact, according to you,

1 and at this point I think you had identified this
2 other person as Sherrod, said he stayed outside
3 too, right?

4 A. Stood in the doorway.

5 Q. He didn't go inside, right?

6 A. The doorway is part of the house.

7 Q. Okay. You're saying that he went
8 inside too. What did he do inside?

9 A. I'm not saying he went inside. He was
10 at the doorway.

11 Q. You were inside the trailer, right?

12 A. Yes.

13 Q. So you know where things were, right?

14 A. The bedroom.

15 Q. As you walk in that door and right
16 there is where you went inside, right there in that
17 bedroom, right there to the right is where you went
18 inside and taped Mr. Johnson, right?

19 A. Correct.

20 Q. Right there?

21 A. Yes.

22 Q. Okay. And taped Ms. Snipe?

23 A. Right.

24 Q. So you had to go into the bedroom to do
25 that?

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 A. Yes.

2 Q. And there was somebody standing in the
3 doorway, right?

4 A. Yes.

5 Q. Okay. The other doorway ain't too far
6 away, is it?

7 A. I can't remember.

8 Q. Okay. You said earlier that the drug
9 dealer, Mr. Johnson, came home after you had been
10 sitting out there two, two and a half hours, and he
11 knocked on his own door?

12 A. Yes.

13 Q. Okay. Did his dog start barking?

14 A. Yes.

15 Q. Okay. Were you worried about those
16 dogs in the house?

17 A. There was no dog in the house.

18 Q. Where were they?

19 A. Outside.

20 Q. So you were sitting outside with his
21 two pit bulls?

22 A. Yes, sir.

23 Q. Okay. They friendly to you, came up
24 and licked you?

25 A. They were in a cage.

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 Q. Oh, it's a cage. Where is that cage
2 now?

3 A. Outside of the house.

4 Q. On the outside?

5 A. Yes.

6 Q. So you could see the dogs where you
7 were sitting?

8 A. You could hear them.

9 Q. You never saw them?

10 A. No.

11 Q. Okay. So you just assumed they were
12 outside?

13 A. You could hear the dog barking inside
14 and outside.

15 Q. Okay. Your truck, what color is it?

16 A. Black.

17 Q. Dark-colored, tinted windows?

18 A. Yes, sir.

19 Q. Okay. And it's a full-size truck?

20 A. Standard cab.

21 Q. I know. Full bed though?

22 A. Yes.

23 Q. It's not a little pickup truck? It's a
24 real pickup truck, right?

25 A. Yes.

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 Q. No offense to little pickup trucks.
2 You had a full-size pickup truck with a short --
3 with a long bed or a regular -- excuse me, regular
4 bed, but not an extended cab, right?

5 A. Yes.

6 Q. Okay. So you could fit three in the
7 cab, and that's it really?

8 A. Yes.

9 Q. Okay. Now, while, according to your
10 story, the two fellows are standing outside and
11 you're helping with the robbery and Jacob is
12 supposedly standing guard over the prisoners and
13 Kenny is taking stuff out, the other two fellows
14 are standing outside, right?

15 A. Yes.

16 Q. Okay. And Kenny tells you to go start
17 the cars, right?

18 A. Yes.

19 Q. Where did he get the keys?

20 A. I guess from the victims.

21 Q. You didn't see him get the keys?

22 A. No.

23 Q. Did you see him go in the bedroom?

24 A. I was already back outside.

25 Q. Okay. But he gave you the keys you

1 said inside, when you were inside.

2 A. I didn't say that.

3 Q. Oh, you're changing that. So he tossed
4 them to you outside?

5 A. That's what I said.

6 Q. Oh, my mistake. All right. Was it all
7 on one key chain?

8 A. I can't remember.

9 Q. All right. But you taped them up, you
10 got the keys, you go outside while Kenny is loading
11 everything up and start the cars up.

12 A. Yes.

13 Q. It's your testimony you didn't touch
14 anything else inside?

15 A. Not that I remember.

16 Q. You would remember carrying something
17 out, right?

18 A. (Nodding head)

19 Q. And it's your testimony that Jacob
20 never had a mask on?

21 A. Correct.

22 Q. So everybody else, according to you,
23 has got a mask, right?

24 A. Yes.

25 Q. Of some sort. And you came prepared;

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 you had your own, right? Right?

2 A. I actually -- I kind of -- I'm going to
3 concede that they was handed out.

4 Q. Okay. So you're under oath, right?

5 A. Yes.

6 Q. Do you know what perjury is?

7 A. I just said I conceded it.

8 Q. Do you know what perjury is?

9 A. No.

10 Q. Perjury is when you lie under oath,
11 right? Do you understand that?

12 A. Yes.

13 Q. And that's a crime, right?

14 A. Yes.

15 Q. And you can be prosecuted for lying
16 under oath. Do you understand that?

17 A. Yes.

18 Q. But you've confessed to murder, right?

19 A. No.

20 Q. You just said that you were part of a
21 robbery, kidnapping, home invasion in which
22 somebody got killed. So you're a part of it,
23 right?

24 A. I was part of it, yes, sir.

25 Q. So you're guilty of murder and you have

1 confessed to it --

2 A. No.

3 Q. -- right?

4 A. Incorrect.

5 Q. Incorrect. So you're not guilty of
6 murder?

7 A. No.

8 Q. All right. So the only person that was
9 guilty of murder would be the shooter?

10 A. Correct.

11 Q. Okay. Now, you certainly have
12 confessed to kidnapping, right? Right? Yes?

13 A. Incorrect.

14 Q. Oh, you didn't kidnap anybody?

15 A. No.

16 Q. Okay. So taping up and restraining the
17 drug dealer and his girlfriend, that's not
18 kidnapping in your mind?

19 A. It is.

20 Q. Okay. So you have confessed --

21 A. I haven't confessed to it.

22 Q. You just testified. You're under oath.
23 Do you understand that?

24 A. Yes.

25 Q. What you say is getting written down by

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 this young lady right here. Okay. Right. It's a
2 record. You have confessed to kidnapping, correct?

3 A. Yes, sir.

4 Q. And you understand that kidnapping
5 carries up to 30 years in prison, right?

6 A. Yes, sir.

7 Q. And you've confessed to two counts of
8 it, right?

9 A. Yes.

10 Q. And you want to say today that you've
11 confessed to two counts of armed robbery, right?
12 Right?

13 A. Yes, sir.

14 Q. Okay. And that carries 10 to 30 years.
15 You have to go to prison for at least ten years
16 under that, even if we agree with you that you're
17 not guilty of murder. Okay. Do you agree?

18 A. Yes.

19 Q. So perjury, no big deal, right?

20 A. I'm not sure.

21 Q. I got you. All right. Now, you're
22 asking this jury to believe that you're telling the
23 truth today?

24 A. Yes.

25 Q. Even though you're an admitted liar,

1 you want them to believe what you're telling them,
2 right?

3 A. Correct.

4 Q. And that you don't have a deal, right?

5 A. I don't.

6 Q. No deal. So you understand that you
7 have already confessed to the crimes that you're
8 charged with, right?

9 A. I haven't confessed to nothing.

10 Q. All right.

11 A. What I said, I'm not guilty of nothing.

12 Q. You're not guilty of anything, just a
13 bad situation? I mean, if you hadn't driven there
14 that night, nothing would have happened?

15 A. Exactly.

16 Q. Now, let's talk about the leaving. I
17 think your new testimony today is because you
18 haven't told anybody about this before, and correct
19 me if I'm wrong, is that once those cars were
20 started that three of the fellows got in the white
21 Crown Victoria?

22 A. Yes.

23 Q. And that you hopped in the gray Crown
24 Vic with the one you're calling Sherrod?

25 A. Yes, sir.

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 Q. Okay. Fair to say that the white Crown
2 Victoria was pulled behind the gray Crown Vic?

3 A. In the yard?

4 Q. Yes.

5 A. Yeah.

6 Q. Okay. And I believe your testimony on
7 direct was that the gray Crown Vic went out first?

8 A. Yes.

9 Q. Okay. And then the white Crown
10 Victoria, right?

11 A. I don't know where the white Crown
12 Victoria was at.

13 Q. So you're telling me that your
14 testimony earlier you're not sure if it's right or
15 not?

16 A. No. I'm saying we left out, but I
17 don't know where we left.

18 Q. Okay. There's one way in and one way
19 out, right?

20 A. Right.

21 Q. And that would be down that dirt road,
22 right?

23 A. Yes.

24 Q. Okay. So if the Crown Vic went first,
25 you would see red taillights, correct?

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 A. We left out first.

2 Q. You left out first?

3 A. Yes.

4 Q. Okay. When you got out there,
5 according to you, you with Sherrod driving, you
6 took a left, right?

7 A. Yes, sir.

8 Q. And you went down an eighth of a mile,
9 right? About 250 yards?

10 A. Yes.

11 Q. Okay. And pulled up to where you had
12 stashed your truck -- or excuse me, where Drake had
13 stashed your truck, right?

14 A. Yes.

15 Q. At that point you're probably in a
16 hurry, right?

17 A. Yes.

18 Q. So the Crown Vic pulled up, you jumped
19 out?

20 A. Yes.

21 Q. Jumped in your car and got right behind
22 the Crown Vic and took off, right?

23 A. He was already gone.

24 Q. It ain't like you waited around.

25 A. No.

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 Q. Pull up, according to you, you jumped
2 out and jumped into the car and took off?

3 A. Yes.

4 Q. And that by the time, according to you,
5 you had taken a right and gone down Cainhoy Road,
6 that the one that you said Sherrod was standing on
7 the side of the road waving you down, right?

8 A. Yes.

9 Q. Okay. He's right out there on the
10 road, right?

11 A. Yes.

12 Q. Okay. Couldn't have been more than 15,
13 20 seconds ahead of you, could he?

14 A. Yes.

15 Q. And that's it. It's like drop you off,
16 you got in the car, started it up and you started
17 heading right?

18 A. Yes.

19 Q. And so according to you, he's right on
20 the side of the road, you picked him up -- he
21 wasn't at the car, he was on the road, right?

22 A. Yes.

23 Q. Okay. You didn't see the car, did you?

24 A. No.

25 Q. Do you know where the white car was?

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 A. No.

2 Q. When you got in the car -- okay. The
3 -- excuse me. Backing up about three steps. All
4 right. I forgot to ask you this. When you got
5 into the Crown Vic, you got into the front seat?

6 A. Passenger.

7 Q. Passenger front seat?

8 A. Yes.

9 Q. And you're sure of that?

10 A. Yes.

11 MR. SMILEY: Okay. Beg the Court's
12 indulgence?

13 THE COURT: Yes, sir.

14 BY MR. SMILEY:

15 Q. Now, by the first part of August, you
16 knew they had arrested Sherrod, right?

17 A. Yes.

18 Q. Okay. Now, on the stand you said that
19 Sherrod called you the next day?

20 A. Yes.

21 Q. And do you know his phone number?

22 A. No.

23 Q. All right. Are you good enough friends
24 you-all exchanged phone numbers?

25 A. I don't have his phone number.

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 Q. So out of the blue, he calls you up and
2 you-all have a little conversation the next day,
3 right?

4 A. No conversation. He said -- he said
5 what he had to say and hung up.

6 Q. All right. So then when the police
7 took you into custody, they got your phone, right?

8 A. Uh-huh.

9 Q. They did a search warrant on that phone
10 and got the contents, didn't they?

11 A. Yes.

12 Q. Now, when they came back the second
13 time, right? The drug dealer knocked on his own
14 door, nobody answered and he left, he came back.
15 That's when you-all were going to rob them, right?
16 It wasn't the first time. You-all had been waiting
17 two hours, but that wasn't the time, right?

18 A. Yes.

19 Q. You were waiting on the second time,
20 right?

21 A. Yes.

22 Q. And this time there were two people in
23 the car?

24 A. Correct.

25 Q. And Kenny and Jacob, they are the ones

1 that jumped out and pointed the guns at the big
2 guy, Kadeem?

3 A. Yes.

4 Q. And did you see -- you saw what the
5 woman was doing, right?

6 A. How you mean?

7 Q. She had gotten out of the car?

8 A. Yes.

9 Q. And she had walked around towards the
10 door, right?

11 A. Yes.

12 Q. They were standing together when
13 supposedly the fellows approached the front, right?

14 A. Yes.

15 Q. And you-all were in the back?

16 A. Yes.

17 Q. So you saw it -- did you see what she
18 did with the purse?

19 A. No, sir.

20 Q. Did you take the \$3,000 out of it?

21 A. No, sir.

22 Q. Now, Mark Turner, he's white, right?

23 A. Yes.

24 Q. Okay. In your second statement, you
25 said he was with you, right?

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 A. No. I said he was there, but I didn't
2 say he was with us.

3 Q. He was there, but not with you?

4 A. Yes.

5 Q. You and him knew each other through
6 Jacob, right?

7 A. Yes.

8 Q. Okay. But you played ball together,
9 right?

10 A. No.

11 Q. No?

12 A. Him and Jacob did.

13 Q. Him and Jacob played ball, sorry. So
14 you just sort of knew him?

15 A. Yes.

16 Q. How long?

17 A. I mean, we went to the same school. I
18 hadn't really talked to him.

19 Q. So you had known of him a long time?

20 A. Yes.

21 Q. But never real close friends?

22 A. Yes.

23 Q. Because your good friend Jacob was his
24 friend?

25 A. Yes.

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 Q. Okay. And you just made that up,
2 right? Just -- I mean, just flat lied, right?

3 A. Yes.

4 Q. Okay. And let me make sure I get this
5 right. You have admitted you have lied when you
6 first met him, the second time; the third time
7 you're saying that story is almost true, but I did
8 leave out some other things. You continued to lie,
9 right?

10 A. I told the truth the last time.

11 Q. Well, you've lied from the stand today,
12 haven't you?

13 A. No.

14 MR. SMILEY: Beg the Court's
15 indulgence?

16 THE COURT: Uh-huh.

17 MR. SMILEY: May we approach, Your
18 Honor?

19 THE COURT: Sure.

20 (Bench conference)

21 MR. SMILEY: I just want to make sure
22 I'm on firm ground before I ask this question.

23 THE COURT: Nothing about polygraphs.

24 MR. SMILEY: I can't ask him about the
25 stipulation?

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 THE COURT: I have stricken the
2 question and the answer.

3 MR. SMILEY: How do I --

4 THE COURT: If you want to ask him
5 about the stipulation and the -- well, the
6 stipulation resolves it. It allows you to argue it
7 in closing. You really don't have to ask him --

8 MR. SMILEY: Can I ask him if he agrees
9 with it?

10 THE COURT: No, because it doesn't
11 require proof.

12 MR. SMILEY: I'll just argue it later.

13 THE COURT: Better safe than sorry.

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

15 (End of bench conference.)

16 THE COURT: You may proceed.

17 BY MR. SMILEY:

18 Q. All right. I'm going to try to wrap up
19 for you, Darius.

20 Is it fair to say that you are hoping
21 for some help from the prosecution?

22 A. I would like it, but it was still
23 wrong.

24 Q. I mean, let's just get to it. You're
25 up there testifying, and I hear you, you want to do

1 the right thing, but the truth is you're looking
2 for some help, right?

3 A. I'm not testifying. I'm still being
4 tried the same way as them.

5 Q. You think the reason that you aren't in
6 here with them now is just happen chance?

7 A. How do you mean?

8 Q. You just happened to not get called for
9 this trial. You're up here -- you're up there
10 testifying and hoping that you'll get some help,
11 right?

12 A. Help would be nice, but I'm being tried
13 the same way as them. I'm just here to tell what
14 happened.

15 Q. You think you're going to trial?

16 A. I don't know what's going to happen.

17 Q. Let's cut through it. All right. If
18 Kenny was passing out guns, he gave you a gun,
19 right?

20 A. Uh-huh.

21 Q. And you say he gave Drake a gun, right?

22 A. Yes.

23 Q. Okay. And you're saying he gave Jacob
24 a gun?

25 A. Yes.

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 Q. All right. So that's three guns. But
2 he didn't give himself a gun. He might have had
3 one, but you didn't see him, like, this one is
4 mine?

5 A. Yes.

6 Q. Yes, you did, or, no, you did not see
7 him say that?

8 A. I didn't see him say that.

9 Q. And you're saying that Sherrod already
10 had his own gun, right?

11 A. Yes.

12 Q. As a matter of fact, you described that
13 gun, right?

14 A. Which one?

15 Q. The one that you say Sherrod had --

16 A. Oh, yes, sir.

17 Q. -- later on and now that you've going
18 into this detail this Sherrod had a .380 Hi-Point?

19 A. Yes, sir.

20 Q. And that night out there, it was dark,
21 wasn't it?

22 A. Yes.

23 Q. I mean, you-all didn't hand out the
24 guns until you got there, right?

25 A. It was the light there at the road.

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 Q. So you-all handed them out on Charity
2 Church?

3 A. I mean, a Hi-Point is a Hi-Point any
4 way you look at it. You can tell a Hi-Point.

5 Q. Okay. So you know about guns?

6 A. Yes.

7 Q. Okay. You've used guns before?

8 A. I hunt.

9 Q. I mean, you can look at one and say --
10 you hunt with a .380 Hi-Point pistol?

11 A. No, but I know guns.

12 Q. You know pistols, right? 380 Hi-Point,
13 you can look at it and say, that's a .380 Hi-Point,
14 right?

15 A. Correct.

16 Q. And they were handing out the pistols
17 you said in the light out on Charity Church,
18 because there ain't lights on Martha Lane, is
19 there?

20 A. There is a light at the head of the
21 road.

22 Q. Up at Charity Church, right? Where the
23 paved road is, right?

24 A. Correct.

25 Q. Okay. And to get down to that trailer,

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 right?

2 A. Yes.

3 Q. You have to walk down a gravel dirt
4 road, right?

5 A. Yes.

6 Q. And there is a house there on the
7 corner, right? Or a trailer on the corner, right?

8 A. I really don't remember the road.

9 Q. So you -- you said it was lit. You had
10 two hours out there?

11 A. I don't know where the houses are out
12 there.

13 Q. When you were back in that cut out on
14 the edge of the wood line, you saw the trailer next
15 door, right?

16 A. Yes.

17 Q. Okay. But it was dark back there,
18 right? Back at 135 Martha Lane, it's dark, wasn't
19 it?

20 A. There was a light in the yard.

21 Q. It was light?

22 A. Every yard has a light post in the
23 yard.

24 Q. There was lights in the yard you're
25 saying?

DARIUS HAMILTON - CROSS EXAM BY MR. SMILEY

1 A. Every yard has a light post in the
2 yard.

3 Q. Oh, so there was a light post. So it
4 was lit up, is that what you're testifying to?

5 A. There was a light in the yard, yes.

6 Q. Okay. If you went straight home,
7 right? Where did the green bag go?

8 A. I found it in my truck the next day.

9 Q. You found it in the truck the next day?

10 A. Yes.

11 Q. Did you get rid of it?

12 A. I'm not sure what I did with it.

13 Q. Okay. I'll finish up. You agree you
14 lied in that church that day, right?

15 A. Yes.

16 Q. And you agreed you lied in that police
17 station the next day, right?

18 A. Yes.

19 Q. You agree you did not provide all the
20 information once you had an agreement to tell the
21 truth, correct?

22 A. Yes, sir.

23 Q. You agree that you have told untruths
24 from that stand today, correct?

25 A. Incorrect.

1 MR. SMILEY: I don't have anything
2 further.

3 THE COURT: Any redirect?

4 MR. ALFARO: No, Your Honor.

5 THE COURT: Any objection to the
6 witness being excused? From the State?

7 MR. ALFARO: No, Your Honor.

8 THE COURT: From the defense?

9 MR. THROWER: Absolutely not.

10 MR. SMILEY: No.

11 MR. SMALDONE: No.

12 MR. ARCHER: No.

13 THE COURT: Sir, you're excused.

14 Mr. Foreman, ladies and gentlemen, we
15 are going to take advantage of the break in
16 testimony today to take our evening recess. We
17 will resume in the morning at 9:15.

18 During the break, please do not discuss
19 the case amongst yourselves or with anyone else.
20 Please do not have any contact with anyone in or
21 about the courthouse when you return, and please
22 don't do any independent research on the Internet
23 or post to any social networking sites. If you
24 will, please leave your notepads in your seats.

25 We're probably going to follow the same

1 procedure tomorrow. I don't know what we're going
2 to order for lunch, but we are going to order lunch
3 for tomorrow, so you can have that for your
4 planning purposes. And it will probably be around
5 12:30, just like we did on today.

6 You have been very indulgent and
7 patient and it has not gone unnoticed and is
8 appreciated. Have a great evening and we will see
9 you in the morning. Leave your notepads in your
10 seat.

11 (Jury out, 6:06 p.m.)

12 THE COURT: Is there anything before we
13 break for the evening? From the State?

14 MR. ALFARO: No, Your Honor.

15 THE COURT: From the defense?

16 MR. THROWER: No, Your Honor.

17 MR. SMILEY: No, Your Honor.

18 MR. SMALDONE: No, Your Honor.

19 MR. ARCHER: No, Your Honor.

20 THE COURT: Preliminarily, I need to
21 ask, are there going to be any requests for any
22 lesser included offenses?

23 MR. ALFARO: None from the State.

24 MR. THROWER: I don't know how the
25 facts warrant it.

1 THE COURT: I don't either, but I
2 wanted to ask because I'm going to do my jury
3 charge this evening.

4 MR. THROWER: No.

5 MR. SMILEY: I don't want to be bound,
6 but at this point --

7 THE COURT: I'm going to have a charge
8 conference. I always have one, but while I'm
9 working --

10 MR. SMILEY: At this moment, I don't
11 believe it would support a lesser --

12 THE COURT: Based on the facts that I
13 have heard so far -- of course, I don't complete a
14 charge until I've heard all of the evidence, but I
15 don't wait until the last minute to do it. I'm
16 going to do it in advance, but if you had
17 something, while I was working on it, I wanted to
18 have it.

19 MR. SMALDONE: Your Honor, I'm going to
20 ponder it tonight, but like everyone else, I'm not
21 inclined to jump on it right now.

22 MR. ARCHER: I might ask for a charge
23 on mere presence.

24 THE COURT: That's all -- that's
25 standard language included in the hand of one.

1 Okay.

2 Do you all have any request for
3 instructions in writing that you need me to
4 consider?

5 MR. SMILEY: Well, if we aren't
6 finished with the case, there's going to be a part
7 that comes up that might require instruction that I
8 can't tell you until it comes up.

9 THE COURT: Okay. Other than the usual
10 -- I don't want you to do any extra work.

11 MR. SMILEY: This is a little bit
12 different. It's depending on how it comes out, I
13 may have an instruction considering flight if
14 Mr. Alfaro wants an instruction on flight.

15 THE COURT: They can argue flight, but
16 the Court never instructs on flight.

17 MR. SMILEY: If there's not going to be
18 an instruction on flight, I'm good.

19 THE COURT: I don't think -- I think
20 the supreme court said we can't instruct on flight,
21 but they're free to argue flight as consciousness
22 of guilt.

23 MR. SMILEY: Sure.

24 THE COURT: Anything else?

25 See you at 9:15.

1 (These proceedings were recessed at
2 6:10 p.m., to be continued 9:15 a.m., 8/30/2018.)
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1 (The following proceedings were had
2 8/30/2018, 9:40 a.m., in re State v. Mouzon,
3 Campbell, Campbell and Palmer.)

4 THE COURT: It's my understanding that
5 one of the jurors potentially overheard a comment
6 made by counsel in the hallway of the courthouse.
7 I need to voir dire that juror to make sure that
8 they can remain fair and impartial. Any exception
9 from the State?

10 MR. ALFARO: No, Your Honor.

11 THE COURT: From the defense?

12 MR. THROWER: No, Your Honor.

13 MR. SMILEY: No, Your Honor. And I
14 think it might have been me.

15 THE COURT: It was you.

16 MR. SMALDONE: No, Your Honor.

17 MR. ARCHER: No, Your Honor.

18 THE COURT: And I would just caution
19 all counsel involved to be careful of your
20 conversations, small courthouse.

21 MR. SMILEY: Yes, ma'am.

22 THE COURT: The likelihood of people
23 overhearing you is -- well, I don't know that it's
24 any greater than any courthouse -- there's always a
25 hub of activity. I don't think it was deliberate.

1 I think it was inadvertent, but I would just --

2 MR. SMILEY: I had my back turned and I
3 turned around and they just walked by.

4 THE COURT: Yeah. Probably just best
5 to refrain from any conversation about the case in
6 the courthouse other than what you know to be a
7 secure environment.

8 MR. SMILEY: Yes, ma'am.

9 THE COURT: Could you please bring in
10 the foreperson, Number 93.

11 (Juror Number 93, in 9:43 a.m.)

12 THE COURT: Good morning, you brought
13 to the bailiff's attention this morning that you
14 potentially overheard counsel in the case
15 potentially making a comment regarding the case; is
16 that correct?

17 THE WITNESS: Yes, ma'am.

18 THE COURT: As a result of what you
19 heard, have you formed any fixed opinion about this
20 case?

21 THE JUROR: No, ma'am.

22 THE COURT: Do you feel that you can
23 remain fair and impartial?

24 THE JUROR: Yes, ma'am.

25 THE COURT: Do you feel that you can

1 render a fair and impartial decision in this case?

2 THE JUROR: Yes, ma'am.

3 THE COURT: Do you feel you can render
4 that decision based solely on the evidence as it
5 will be presented and on the law as the Court will
6 instruct you?

7 THE JUROR: Yes, ma'am.

8 THE COURT: Sir, if you would stand
9 back in the hall with the bailiff, and please do
10 not discuss what I have discussed with you with
11 your fellow jurors.

12 THE JUROR: Yes, ma'am.

13 (Juror Number 93, out 9:43 a.m.)

14 THE COURT: Okay. The juror has
15 indicated he can remain fair and impartial. Is
16 there any exception to the juror remaining on the
17 panel? From the State?

18 MR. ALFARO: Are we aware of what the
19 comment was that he overheard?

20 MR. SMILEY: I would be glad to tell
21 you.

22 THE COURT: Well, I don't know that
23 what you repeat is what he heard. He may have
24 heard a reference to a white Crown Vic.

25 MR. ALFARO: Okay. We're comfortable

1 with the Court's questioning of the juror as well
2 as his answers and are comfortable with him
3 remaining on the panel.

4 MR. THROWER: I would defer to
5 Mr. Smiley. He knows what he may have heard.

6 THE COURT: I need to know if you have
7 any exception to the juror remaining on the panel.

8 MR. THROWER: No, ma'am.

9 MR. SMILEY: No, ma'am.

10 MR. SMALDONE: No, ma'am.

11 MR. ARCHER: No, ma'am.

12 THE COURT: All right. Is there
13 anything else that we can take up while we're
14 waiting on those jurors? I know that they're on
15 Highway 52. I don't know at what point. And that
16 was about -- that was about 9:25 they were on --
17 they had gotten onto Highway 52. I don't know.
18 Let me ask my bailiff right quick.

19 MR. ALFARO: Your Honor, the juror that
20 you were questioning is standing right there.

21 THE COURT: I need to put him back in
22 the jury room. Could you bring the juror back?

23 (Juror Number 93, in 9:45 a.m.)

24 THE COURT: Sir, I'm sorry, I forgot
25 about you. If you could just return to the jury

1 room. Please do not discuss what you potentially
2 overheard and please don't discuss our colloquy
3 with your fellow jurors.

4 A JUROR: Yes, ma'am.

5 THE COURT: Thank you, sir. We
6 appreciate your candor.

7 (Juror Number 93, out 9:46 a.m.)

8 THE COURT: Is there anything else we
9 need to take up before we resume the trial? From
10 the State?

11 MR. ALFARO: No, Your Honor.

12 MR. THROWER: No, Your Honor.

13 MR. SMILEY: No, Your Honor.

14 MR. SMALDONE: No, Your Honor.

15 MR. ARCHER: Just as a matter of
16 planning purposes, it might be helpful if the
17 Solicitor would let us know how many more witnesses
18 he expects to call.

19 THE COURT: According to my list, you
20 have ten more witnesses.

21 MR. ALFARO: We actually have six. We
22 would only be calling six.

23 THE COURT: Okay. That works. I
24 assume that the SLED witnesses are here this
25 morning.

1 MR. ALFARO: Yes. We have the case
2 agent, the SLED witnesses, as well as the medical
3 examiner.

4 THE COURT: Okay. We'll make good use
5 of this time. Although the State has not yet
6 rested, I'm going to go ahead and advise each
7 defendant of their constitutional rights to
8 testify. So at a break you-all can have a
9 meaningful discussion with them about that.

10 You-all have already been advised as to
11 what potential records they would be seeking to use
12 against them, if any.

13 If all defendants would rise for me,
14 please, and raise your right hands to be sworn.

15 Mr. Mouzon?

16 JACOB MOUZON,
17 being first duly sworn, testified as follows:

18 DEFENDANT MOUZON: Yes, I do.

19 THE COURT: You can put your hand down.

20 Mr. Palmer.

21 SHERROD DEON PALMER,
22 being first duly sworn, testified as follows:

23 DEFENDANT PALMER: Yes, ma'am.

24 THE COURT: You can put your right hand
25 down.

1 Mr. Drake Campbell?

2 DRAKE CAMPBELL,

3 being first duly sworn, testified as follows:

4 DEFENDANT CAMPBELL: Yes, ma'am.

5 THE COURT: Thank you. You can put
6 your right hand down.

7 And, Mr. Kenneth Campbell, Junior?

8 KENNETH CAMPBELL, JUNIOR,

9 being first duly sworn, testified as follows:

10 DEFENDANT CAMPBELL, JUNIOR: Yes,
11 ma'am.

12 EXAMINATION

13 BY THE COURT:

14 Q. THE COURT: You can put your right hand
15 down.

16 You all need to remain standing.

17 Gentlemen, we will soon reach the stage
18 of the trial where you will have the opportunity to
19 present your own defense, and I'm going to explain
20 to you certain of your rights. If you do not
21 understand anything that I say, please let me know.
22 If you need me to repeat anything that I say,
23 please let me know.

24 I would advise you that you have the
25 right to claim the protections given you by the

1 Fifth Amendment of the Constitution of the United
2 States, and that amendment states in part that no
3 person shall be compelled in any criminal case to
4 be a witness against himself.

5 That means, gentlemen, that you cannot
6 be required to testify in this case. You have the
7 right to testify on your own behalf; however, no
8 one can make you testify. This is a personal right
9 and no one can waive that right except you.

10 If you decide to testify, you would be
11 subject to the same rules that govern other
12 witnesses and you may be examined and
13 cross-examined on any relevant issue in this case.

14 In addition, if you have any
15 convictions involving dishonesty or false
16 statements or for crimes punishable by imprisonment
17 for more than one year, and this Court determines
18 that the probative value of admitting this evidence
19 outweighs its prejudicial effect to you, the
20 Solicitor will be able to introduce your record to
21 attack your credibility.

22 If you decide to testify, this decision
23 on your part must be made freely, voluntarily,
24 knowingly and intelligently made with knowledge of
25 the protections given to you by the Fifth Amendment

1 and the consequences of your decision to testify.

2 If you decide not to testify, I will
3 instruct the jury they cannot give the fact that
4 you did not testify any consideration whatsoever,
5 that there is to be no prejudice to you. In fact,
6 I will instruct them that the burden of proof is on
7 the State to prove each and every element of the
8 offenses that you have been charged with, that you
9 have no burden of proof in this case, that you are
10 presumed innocent, and that your silence not be
11 used against you, and the fact that you did not
12 testify cannot be discussed during their
13 deliberation process.

14 It is left entirely up to you if you
15 testify or not. You can speak with your attorney,
16 family members, friends, or anybody else, but the
17 final decision is left up to you.

18 I need you-all to answer these
19 questions that I'm going to ask in the order that
20 you are standing. Do you understand what I have
21 explained to you?

22 DEFENDANT MOUZON: Yes, ma'am.

23 DEFENDANT PALMER: Yes.

24 DEFENDANT CAMPBELL: Yes.

25 DEFENDANT CAMPBELL, JUNIOR: Yes.

1 THE COURT: Do you have any questions
2 about what I've just explained to you?

3 DEFENDANT MOUZON: No, ma'am.

4 DEFENDANT PALMER: No, ma'am.

5 DEFENDANT CAMPBELL: No, ma'am.

6 DEFENDANT CAMPBELL, JUNIOR: No, ma'am.

7 THE COURT: Okay. We will recess this
8 part of the colloquy until the appropriate time.
9 You can take your seats.

10 For planning purposes, I have arranged
11 for the jury's lunch to be here by 12:30. And we
12 will, you know, play it by ear, so to speak, and,
13 hopefully, we'll be able to conveniently for them
14 at that time to have their lunch and resume
15 testimony.

16 Is there anything else we need to take
17 up before I bring in the jury? From the State?

18 MR. ALFARO: No, Your Honor.

19 THE COURT: From the defense.

20 MR. THROWER: No, Your Honor.

21 MR. SMILEY: No, Your Honor.

22 MR. SMALDONE: No, Your Honor.

23 MR. ARCHER: No, Your Honor.

24 THE COURT: Who is the State's first
25 witness?

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 MR. ALFARO: Deputy Antwine, Your
2 Honor. She is seated right here.

3 (Jury in, 9:42 a.m.)

4 THE COURT: You may be seated. Good
5 morning, everybody. I hope you had a pleasant
6 evening. I understand there was a very bad
7 accident on Highway 17 this morning. I'm glad that
8 everyone got here safely.

9 We will resume testimony. You may
10 proceed.

11 MR. MCNEELY: Thank you. The State
12 calls Deputy Teela Antwine.

13 TEELA ANTWINE,
14 being first duly sworn, testified as follows:

15 THE CLERK: Please state your full name
16 and spell your last name, please.

17 THE WITNESS: Teela Marie Antwine,
18 A-N-T-W-I-N-E.

19 THE COURT: You may proceed.

20 MR. MCNEELY: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY MR. MCNEELY:

23 Q. Good morning, Deputy Antwine.

24 A. Good morning.

25 Q. Where are you currently employed?

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 A. Berkeley County Sheriff's Office.

2 Q. What is your position with the
3 sheriff's office and how long have you been
4 employed there?

5 A. I am a sergeant and detective in the
6 investigation division, and I've been employed for
7 nine and a half years.

8 Q. How long have you been in CID during
9 those nine and a half years?

10 A. Approximately, two and a half years.

11 Q. Prior to that, were you a road deputy?

12 A. I was.

13 Q. Did you graduate from the South
14 Carolina Law Enforcement Academy?

15 A. I did.

16 Q. When was that?

17 A. 2009.

18 Q. In July of 2016, were you working in
19 your current position as an investigator with the
20 Berkeley County Sheriff's Office?

21 A. July --

22 Q. 2016?

23 A. Yes.

24 Q. What were the duties of your position
25 at that time?

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 A. I was the supervisor over property
2 crime on the south end of the county.

3 Q. Did you also participate in additional
4 investigation of crimes beyond just property
5 crimes?

6 A. Yes. We don't just do property crime.
7 We investigate any additional assignments,
8 interviews, major crimes to include assist in
9 patrols, homicides, anything of that nature.

10 Q. July 21st, 2016, were you called out to
11 assist in the investigation of a homicide at 135
12 Martha Lane in Huger, Berkeley County?

13 A. I was.

14 Q. Approximately, what time did you
15 receive that call?

16 A. Around 4:00 in the morning.

17 Q. And did you respond to that call?

18 A. I did.

19 Q. How did you respond to that call at
20 that time? And I'm asking for clarification
21 literally how you traveled there.

22 A. At that time, I was living in Moncks
23 Corner. I traveled down 17A going into Moncks
24 Corner. I then came into the town of Moncks Corner
25 going north towards 52. I went over the Tailrace

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 Canal, made a right on Highway 402, traveled down
2 Highway 402 and made a right onto Highway 41, and
3 then traveled Highway 41 and Charity Church Road
4 onto Martha Lane, the incident location.

5 Q. Prior to arriving at the Martha Lane
6 location, where the victim was killed in this
7 incident, did you encounter any other deputies
8 investigating this crime?

9 A. I did.

10 Q. Where was that?

11 A. It was in the area of just past
12 Copperhead Road over 402.

13 Q. Did you make contact with him at that
14 time?

15 A. I did. When I was travelling down 402,
16 I was briefly stopped. And I had seen the white
17 Crown Vic in the roadway.

18 Q. Did you exit your vehicle at that time?

19 A. I did not.

20 Q. What did you do after that?

21 A. I stopped and spoke with the deputies
22 there and advised there was a perimeter set up, and
23 I traveled on to the incident location on Martha
24 Lane.

25 Q. What did you do when you arrived at

1 Martha Lane?

2 A. When I arrived at Martha Lane, I was
3 advised that there was a crime scene already
4 established. There was a taped off crime scene and
5 there was a crime scene log started and there were
6 several deputies and an investigator supervisor on
7 scene at that time.

8 Q. Did you make contact with the
9 investigator supervisor?

10 A. I did.

11 Q. Who was that?

12 A. There was Dan Wilson -- well, he's a
13 lieutenant now. He was a sergeant at the time, and
14 there was also a captain on scene.

15 Q. At that time, were you assigned as the
16 primary investigator on this case?

17 A. I was.

18 Q. Let's talk about the lighting
19 conditions. What were the lighting conditions
20 outside at the time you observed the white Crown
21 Vic on 402 and then as you traveled on to 135
22 Martha Lane that morning?

23 A. It was still 4:00 in the morning so it
24 was very dark.

25 Q. After making contact with Lieutenant

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 Wilson at 135 Martha Lane, what did you do?

2 A. Detective Betts was also working under
3 me and she was on scene. And we began canvassing
4 the area, which means knocking on doors in the area
5 to see if we could make contact with the neighbors
6 if they heard anything that would help us out.

7 Q. During that time, did you go to 129
8 Martha Lane?

9 A. I did.

10 Q. Did you observe the residence?

11 A. I did.

12 Q. Did you observe anything of note on the
13 exterior of the residence?

14 A. Upon approach of the residence, I
15 observed what appeared to be substance on the
16 window and storm door going up the steps of the
17 residence.

18 Q. Approximately, how far from 135 Martha
19 Lane where the victim was killed to 129 Martha Lane
20 is it?

21 A. Approximately, 20, 30 yards.

22 Q. I want to show you what's been marked
23 and admitted as State's 137.

24 MR. MCNEELY: Permission to approach,
25 Your Honor?

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 THE COURT: You may.

2 BY MR. MCNEELY:

3 Q. Do you recognize what is depicted in
4 that photo?

5 A. I do.

6 Q. What is depicted in that photo?

7 A. It is the incident location at 135 and
8 also the residence at 129 Martha Lane.

9 MR. MCNEELY: Dee, could you please
10 publish 137?

11 BY MR. MCNEELY:

12 Q. There is a laser pointer in front of
13 you, Deputy Antwine. If you could turn around and
14 if shown, please indicate where 135 Martha Lane is.

15 A. 135 is right here. (Indicating)

16 Q. And where is 129 Martha Lane?

17 A. Right here. (Indicating)

18 Q. And that home you're pointing at, is
19 that where you observed the blood on the exterior
20 of the residence?

21 A. It is.

22 Q. And if shown, is the driveway visible
23 in that photo?

24 A. It's this. (Indicating)

25 Q. Okay. So if you go off the top of the

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 photo down the driveway, what road do you run into?

2 A. You run into Charity Church Road.

3 Q. Thank you.

4 What did you do after observing the
5 area of 129 Martha Lane?

6 A. After that, we were on scene at the
7 location and we continued to canvass the area. I
8 went down Charity Church Road with Detective Betts
9 in an attempt to try to locate any type of video
10 surveillance or make contact with residents on
11 Charity Church Road to see if they heard anything.

12 Q. Were you able to locate any witnesses
13 or video surveillance pertinent to the case?

14 A. We did locate a residence off of
15 Charity Church Road. I believe it was 1015 Charity
16 Church Road that had video surveillance. We made
17 contact with them and attempted to review their
18 video surveillance. It was not functioning and we
19 were unable to review that.

20 Q. Were there any witnesses of pertinence
21 located?

22 A. No.

23 Q. At that point, did you return to 135
24 Martha Lane?

25 A. I did.

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 Q. What did you do when you returned?

2 A. At that point, I had entered the crime
3 scene with the crime scene tech.

4 Q. What was the purpose of you entering at
5 that time?

6 A. Being the case agent, I wanted to see
7 the crime scene for myself.

8 Q. Did you stay in the residence or did
9 you exit?

10 A. I went in to view it and to view
11 Mr. Johnson, and then I exited the residence.

12 Q. At that point, was the crime scene left
13 at the location to process the scene?

14 A. Yes.

15 Q. What happened after that day?

16 A. While we were there at Martha Lane, we
17 had gotten information in regards to persons being
18 seen suspiciously in the area of Eccles Church
19 Road.

20 Q. Okay. Prior to that, did you receive
21 any word about a gray Crown Vic being located?

22 A. Yes, we did.

23 Q. Okay. And where was that gray Crown
24 Vic located?

25 A. The information provided was in the

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 area of the rec center, Henrynellie Lane.

2 Q. Is that in Huger?

3 A. It is in Huger.

4 Q. About how far from the crime scene is
5 that?

6 A. It's not far. It's probably about a
7 mile, half mile or so.

8 Q. I want to show you what was marked and
9 admitted as State's 138. Do you recognize that
10 photo?

11 A. I do.

12 Q. What does that photo depict?

13 A. It is the photo of 135 Martha Lane onto
14 Charity Church and --

15 THE COURT REPORTER: I'm sorry, what
16 was the last part?

17 THE WITNESS: I'm sorry, it is 135
18 Martha Lane onto Charity Church. It shows the map
19 and then Cainhoy Road.

20 MR. MCNEELY: Dee, please publish 138.

21 BY MR. MCNEELY:

22 Q. Deputy Antwine, is it possible to
23 indicate where the home where Kadeem Johnson was
24 killed is located?

25 A. Right here. (Indicating)

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 Q. And where is Charity Church Road?

2 A. This is Charity Church Road.

3 Q. And what is the road running along the
4 left side of the photo, top to bottom?

5 A. This is Cainhoy Road.

6 Q. And it may or may not be pictured, but
7 where relevant to this is the Huger Recreational
8 Center?

9 A. In this area. (Indicating)

10 Q. Okay. The gray Crown Vic that was
11 located at that location, was it run through NCIC
12 to confirm an owner?

13 A. It was.

14 Q. And who was the owner?

15 A. The victim from 135 Martha Lane.

16 Q. Okay. Did you go to the Huger Rec
17 Center at that time?

18 A. I did not.

19 Q. What happened next in your
20 investigation?

21 A. That's when we got the call from Eccles
22 Church in regards to the suspicious persons seen in
23 that area.

24 Q. What did you do?

25 A. At that time, me and several detectives

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 and officers that were on the perimeter had
2 responded to Eccles Church.

3 Q. Did you go to Eccles Church?

4 A. I did.

5 Q. About how far from 135 Martha Lane is
6 the area of Eccles Church?

7 A. I would say, approximately, ten miles.

8 Q. Did you travel to that location?

9 A. I did.

10 Q. While travelling to that location, were
11 other deputies already on scene at Eccles Church?

12 A. They were.

13 Q. Are you aware if they located anything
14 of note at that time?

15 A. They did.

16 Q. What was that?

17 A. A red Hello Kitty bag.

18 Q. Was that of pertinence to you at that
19 time in the investigation?

20 A. Not at that time.

21 Q. Did it become of pertinence to you?

22 A. It did.

23 Q. How so?

24 A. I was advised by detectives on scene
25 and also through Detective Ward that that red Hello

1 Kitty bag was taken from the event of the incident
2 during the homicide.

3 Q. From the victim's home?

4 A. It was.

5 Q. I want to show you what was marked as
6 State's Exhibit 140 and admitted. Please look at
7 this photo. Do you recognize that area?

8 A. I do.

9 Q. What does that show?

10 A. It's a map that shows Highway 402. It
11 also shows Yellow Jacket Road, Irish Town Road,
12 Highway 41, Conifer Road, and the area of Eccles
13 Church Road.

14 Q. Is the crime scene at 135 Martha Lane
15 visible in this photo?

16 A. It is not.

17 Q. It's some distance away?

18 A. It is.

19 MR. MCNEELY: Dee, if you could please
20 publish 140.

21 BY MR. MCNEELY:

22 Q. If possible, please indicate on the map
23 where the white Crown Vic was located abandoned.

24 A. In this region right here.

25 (Indicating)

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 Q. And where is Eccles Church in relation
2 to that area?

3 A. Eccles Church is going to be right
4 here. (Indicating)

5 Q. Okay. Where is Yellow Jacket Road?

6 A. Right here. (Indicating)

7 Q. Okay. There appears to be a road
8 running lengthwise across most of the photo. What
9 road is that?

10 A. Irishtown Road.

11 Q. If you travel from where the white
12 Crown Vic was abandoned on 402 to Eccles Church via
13 Irish Town Road, approximately, how far is that?

14 A. It's, approximately, three and a half
15 miles, give or take.

16 Q. Pretty much a straight shot?

17 A. It is.

18 Q. You were there after you arrived at
19 Eccles Church?

20 A. I did.

21 Q. What was going on when you arrived?

22 A. Once we arrived at Eccles Church, we
23 had a command post set up. When there's an injury
24 incident involved, we start getting information and
25 intel. We shifted -- their perimeter was set up

1 from the initial site of the Crown Vic.

2 With the connection with the Helly
3 Kitty bag, we set up the perimeter there with the
4 persons being seen in that area. So we had several
5 deputies surrounding that area and we set up the
6 command post there.

7 Q. And the deputies were on the perimeter
8 looking for suspects in the woods?

9 A. Yes.

10 Q. I believe you mentioned, and we heard
11 testimony from other deputies, that witnesses were
12 identified who may have seen the suspects near
13 Eccles Church?

14 A. Yes.

15 Q. Did -- Detective Phillips testified
16 that he went and met with Brittany Bordeaux?

17 A. Yes.

18 Q. During that time he testified that she
19 received -- or that the people had used her phone
20 and he received phone numbers that were called.
21 Did he relay the numbers to you as part of your
22 investigation?

23 A. He did.

24 Q. What happened after that in the
25 investigation?

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 A. From the time that he had the
2 information and being on scene at Eccles Church, we
3 started getting information on the phone numbers
4 that were given.

5 Q. Okay. Were you able to locate Darius
6 Hamilton as a result of that information?

7 A. I did not locate him, but deputies made
8 contact with him, yes.

9 Q. And at that time, did he come to the
10 command post to give a statement?

11 A. He did.

12 Q. And through that and the rest of the
13 investigation, were you able to identify multiple
14 suspects at that time?

15 A. I was.

16 Q. Who were those suspects at that time?

17 A. Jacob Mouzon, Kenneth Campbell and
18 Drake Campbell.

19 Q. And during your investigation, did you
20 come to have an understanding of where those
21 individuals were from in the area?

22 A. The information that we had gathered
23 through intel investigation was that Drake Campbell
24 and Kenneth Campbell, Junior, were from the St.
25 Stephen's area and that Jacob Mouzon was from the

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 Bonneau area.

2 Q. And where was Darius Hamilton from?

3 A. The St. Stephen's area going into --
4 from Bonneau into St. Stephen.

5 Q. At that point, none of your suspects
6 are from Huger?

7 A. Not that we were aware of.

8 Q. Okay. Next in the investigation, is
9 any of the suspects apprehended?

10 A. While we were still on scene, we
11 gathered information from the team from SLED, the
12 K9 tracking team, there was one suspect
13 apprehended.

14 Q. Who was the first suspect?

15 A. Kenneth Campbell, Junior.

16 Q. Approximately, what time of day was
17 that?

18 A. It was July 21, 2016, around 5:30 p.m.
19 that afternoon.

20 Q. So more than 12 hours after the
21 incident at Martha Lane?

22 A. Yes, sir.

23 Q. And about eight hours after the
24 sighting at Eccles Church?

25 A. Yes.

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 Q. What happened after that that day?

2 A. Through the investigation, we continued
3 with our perimeter out on Eccles Church due to the
4 fact that we still had two additional suspects in
5 the woods.

6 Q. Okay. Did it get dark that night?

7 A. It did.

8 Q. Did the perimeter continue through the
9 darkness?

10 A. It did. We continued with the
11 perimeter and continued with deputies on scene.

12 Q. Was anyone located during the night?

13 A. Not during the night, no.

14 Q. What happened the next morning?

15 A. The next morning we were advised, and
16 this was through radio traffic, of information
17 being brought in through callers' sightings of two
18 subjects being seen in the area of Highway 41 going
19 towards Jamestown.

20 Q. At that same time, did Darius Hamilton
21 come back to give a second statement?

22 A. Darius Hamilton, that was on the 22nd,
23 he did. And then he came back and provided a
24 statement to the same two detectives he spoke with
25 initially at Eccles Church.

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 Q. And through that and the rest of your
2 investigation, did you identify a fifth suspect at
3 that time?

4 A. I did.

5 Q. Who was that?

6 A. Sherrod Palmer.

7 Q. During your investigation, did you come
8 to learn of a nickname he went by?

9 A. I did.

10 Q. And what's that?

11 A. Sav.

12 Q. Is that Sav?

13 A. Sav.

14 Q. Where you able through the
15 investigation to determine an area where Mr. Palmer
16 resided?

17 A. I did.

18 Q. Where was that?

19 A. 4224 Highway 41.

20 Q. Whose home is that?

21 A. That is going to be where he resides
22 with the deceased victim's aunt.

23 Q. And what was her name?

24 A. Jaunwanna Singleton.

25 Q. Subsequently, were the two additional

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 suspects in the woods apprehended?

2 A. They were.

3 Q. And, approximately, what time was that?

4 A. That was going to be the next day, so
5 July 22nd around 12:50 p.m.

6 Q. And who were those individuals at the
7 time?

8 A. This was Jacob Mouzon and Drake
9 Campbell.

10 Q. And after identifying Sherrod Palmer as
11 the fifth suspect, were efforts begun to be made to
12 apprehend him?

13 A. Yes, sir.

14 Q. Did anyone go to 4224 Highway 41 at
15 that time?

16 A. Initially, we went to speak with the
17 victim at -- near that residence and got a
18 statement from her.

19 Q. Was Mr. Palmer at 4224 Highway 41 at
20 that time?

21 A. No.

22 Q. Did you look for him anywhere else?

23 A. We did.

24 Q. What was that?

25 A. We went to 117 Ashley Lane, Lot 12, I

1 believe it was.

2 Q. Where is that located?

3 A. That's where his mother resides.

4 Q. And what area of Berkeley County is
5 that in?

6 A. St. Stephen, South Carolina.

7 Q. Can you describe that home?

8 A. It's a trailer and trailer park.

9 Q. Was he located at that location when
10 you went there?

11 A. He was not.

12 Q. To your knowledge, had he been seen at
13 that location?

14 A. Yes.

15 Q. When was that?

16 A. The early morning hours around
17 7:00 a.m. on July 21st.

18 Q. To your knowledge, had he been seen at
19 that location since that time?

20 A. No.

21 Q. I believe you stated at some point you
22 went the following days and made contact with the
23 victim, Krystal Snipe?

24 A. Yes.

25 Q. What was the purpose of that?

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 A. It was a follow-up with her. She got
2 out of the hospital from her injuries from the
3 incident, and I wanted to speak with her being that
4 I wasn't able to speak to her from the original
5 incident.

6 Q. And at that time had you located
7 Defendant Sherrod Palmer?

8 A. I had not.

9 Q. Did you take a statement from Ms. Snipe
10 at that time?

11 A. I did. I was able to get an
12 audio-recorded statement, me and Detective
13 Phillips.

14 Q. What day was that, do you recall?

15 A. July 25th, I believe.

16 Q. Okay. Do you know what day of the week
17 that was?

18 A. The first was -- Thursday -- I think
19 that would have been Monday or Tuesday.

20 Q. Okay. During your interview with
21 Ms. Snipe, were you able to obtain a possible phone
22 number for Sherrod Palmer?

23 A. I was.

24 Q. The number you obtained, had you seen
25 that before in the investigation?

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 A. I did.

2 Q. How so?

3 A. When Detective Phillips had spoke with
4 Ms. Bordeaux on the original sighting of the three
5 subjects out near Eccles Church, they had used her
6 phone. One of the numbers that was called was that
7 number.

8 Q. Okay. What did you do in the
9 investigation after taking the statement from
10 Ms. Snipe that day?

11 A. After taking the statement from her, I
12 went and got warrants.

13 Q. Did you return to 4224 Highway 41 at
14 any point?

15 A. The next day, yes.

16 Q. At that time, did you make contact with
17 Jaunwanna Singleton?

18 A. I did.

19 Q. And had she seen or heard from
20 Mr. Palmer at that time?

21 A. She advised that she had not.

22 Q. Did you take a statement from her?

23 A. I did take a written statement from
24 her.

25 Q. Did you conduct a search warrant at

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 that home?

2 A. We did a search warrant at the house.

3 Q. Anything of note located during that
4 search warrant?

5 A. It was not.

6 Q. Did you later speak with Ms. Singleton
7 again?

8 A. The next day, following day, I did
9 speak with Ms. Singleton by phone.

10 Q. And did you obtain any information?

11 MR. SMILEY: Objection; requires
12 hearsay response.

13 THE COURT: Please approach.

14 (Bench conference.)

15 THE COURT: What are you trying to
16 elicit from the witness?

17 MR. MCNEELY: What she did next in her
18 investigation.

19 THE COURT: She can only repeat what
20 someone told her if its not offered for its truth.

21 MR. MCNEELY: I understand. I'm not
22 asking her to repeat what was told to her.

23 THE COURT: But she is. She's saying
24 -- and you also bolstered the other witness's
25 testimony, but they didn't object. Just be

1 careful.

2 MR. MCNEELY: Okay.

3 (End of bench conference.)

4 THE COURT: Rephrase the question.

5 BY MR. MCNEELY:

6 Q. As a result of making contact with
7 Ms. Singleton that day, what did you do next in
8 your investigation?

9 A. As a result of speaking with her, we
10 contacted the marshall services and forwarded
11 information to them.

12 Q. Okay. What happened next in the
13 investigation?

14 A. I was contacted by Danville, Virginia
15 in regards to Mr. Sherrod Palmer being located in a
16 vehicle there.

17 Q. What kind of vehicle was it?

18 A. It was a maroon -- burgundy,
19 maroon-color Crown Vic.

20 Q. What day was that?

21 A. July 28th.

22 Q. What do you do at that time?

23 A. Immediately, myself and Detective
24 Merrithew traveled to Danville, Virginia.

25 Q. Upon traveling to Danville, Virginia,

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 did you make contact with the Danville Police
2 Department?

3 A. We did.

4 Q. Did they have that vehicle in custody?

5 A. They did.

6 Q. I'm going to show you what's been
7 marked and admitted as State's 124. Were you able
8 to observe the vehicle at that time?

9 A. I did.

10 MR. MCNEELY: Permission to approach,
11 Your Honor?

12 THE COURT: You may.

13 BY MR. MCNEELY:

14 Q. Please look at the photo. Is that the
15 vehicle you came in contact with in Danville,
16 Virginia?

17 A. Yes, it was.

18 Q. Does it have a paper tag on it?

19 A. It does.

20 Q. What does the paper tag say?

21 A. It says St. Stephen Auto Sales.

22 MR. MCNEELY: Dee, would you please
23 publish State's 124?

24 BY MR. MCNEELY:

25 Q. Is that the vehicle you observed?

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 A. It is.

2 Q. Okay. While in Danville, did you make
3 contact with Defendant Sherrod Palmer?

4 A. I did.

5 Q. After making contact with him, what did
6 you do?

7 A. He was transported back to Berkeley
8 County.

9 Q. Following his transport back to
10 Berkeley County, did you close the case by arrest?

11 A. Yes.

12 Q. In other words, was there anyone else
13 arrested in connection with this incident?

14 A. No.

15 Q. What about Darius Hamilton?

16 A. Darius was.

17 Q. Subsequently, did you obtain a buccal
18 swab from the victim Krystal Snipe for this case?

19 A. I did.

20 Q. What day was that?

21 A. July 3rd of this year.

22 Q. Okay. I want to show you what's been
23 marked as State's 165.

24 MR. MCNEELY: Permission to approach?

25 THE COURT: You may.

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 BY MR. MCNEELY:

2 Q. Do you recognize that item?

3 A. I do.

4 Q. You are welcome to open it if
5 necessary. What is that item?

6 A. It's a buccal swab collection kit.

7 Q. Is that the one you collected from Ms.
8 Snipe in this case?

9 A. It is.

10 Q. Please describe the process you used to
11 collect that buccal swab.

12 A. It's a buccal swab kit. Basically,
13 it's going to be a collection of a buccal swab from
14 the inside of the cheeks of either the suspect or
15 victims of the incident that we are investigating.

16 The process is that we have these
17 SLED-approved kits that are provided from the
18 sheriff's office. And when we get these kits, we
19 -- they are sealed with this paper seal, and in
20 front of the person, we open the seal.

21 When we open the seal, the inside
22 contains gloves, instructions, a card that has
23 information that you would put their pertinent
24 information: Date of birth, social, connection
25 with the case, case number, name. Inside of that,

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 there is a separate package that contains two
2 sterile Q-tips. I would say Q-tip, but they are
3 longer than Q-tips; and you would open them up once
4 you put your gloves on.

5 And you have the person open their
6 mouth and you take a swab from each Q-tip on the
7 inside of the left cheek and inside of the right
8 cheek. At that point, you would seal -- would take
9 the swabs and put them inside the package that is
10 separate inside the seal, seal it up, initial, and
11 then you put another seal and seal this package.
12 At that point, it is sent off.

13 Q. Did you follow that procedure in the
14 collection of the buccal swab from Ms. Snipe?

15 A. I did.

16 Q. Were you wearing gloves the entire
17 time?

18 A. I was.

19 Q. Was the swab sealed when you initially
20 opened the package?

21 A. Yes.

22 Q. Were they sealed after you collected
23 the sample from Ms. Snipe?

24 A. They were.

25 Q. Was the entire package sealed before

TEELA ANTWINE - DIRECT EXAM BY MR. MCNEELY

1 you submitted it to Berkeley County evidence?

2 A. Yes.

3 Q. Was it in your continuous custody and
4 control between the time you selected it and the
5 time you submitted it to evidence?

6 A. It was.

7 Q. Did you have any reason to believe it
8 had been tampered with prior to submission of
9 evidence?

10 A. No.

11 MR. MCNEELY: Your Honor, I would move
12 to admit State's 165 at this time.

13 THE COURT: Any exception from the
14 defense?

15 MR. THROWER: No objection, Your Honor.

16 MR. SMILEY: No, Your Honor.

17 MR. SMALDONE: No, Your Honor.

18 MR. ARCHER: No, Your Honor.

19 THE COURT: Exhibit 165 marked and
20 admitted without objection.

21 (STATE EXH. 165 in evidence.)

22 MR. MCNEELY: I have no further
23 questions of this witness at this time.

24 THE COURT: Mr. Thrower?

25 MR. THROWER: No questions.

TEELA ANTWINE - CROSS EXAM BY MR. ARCHER

1 THE COURT: Mr. Archer?

2 MR. ARCHER: Yes, ma'am.

3 THE COURT: You may proceed.

4 CROSS-EXAMINATION

5 BY MR. ARCHER:

6 Q. How do you pronounce your last name?

7 A. Antwine.

8 Q. Antwine. Okay. Now, you were the lead
9 investigator officer, correct?

10 A. Yes, sir.

11 Q. What are -- and you have a lead
12 investigator officer when you've got a bunch of
13 officers working a case, right?

14 A. Yes.

15 Q. What are the duties of a lead
16 investigator officer?

17 A. The lead investigator officer is
18 basically the officer who takes the control of the
19 case as its -- whole as a file. So anything comes
20 through the case would be through the lead
21 investigator officer.

22 So your detectives who assist,
23 especially in this major incident -- there are
24 several parts to this incident. You have the
25 original crime scene; you have perimeter; you have

TEELA ANTWINE - CROSS EXAM BY MR. ARCHER

1 several locations; you have several detectives,
2 officers involved; information being provided.

3 These officers and detectives are
4 tasked. They are tasked -- they do that
5 investigation to whatever they're tasked with. So
6 at that time they were providing information to me,
7 so that would make me the lead investigator
8 officer.

9 Q. Everything goes through the lead
10 investigator officer, right?

11 A. They do their investigation. If it's
12 pertinent to their investigation, they bring it to
13 me, correct.

14 Q. Okay. You're sort of the clearing
15 point for everything?

16 A. Yes.

17 Q. Okay. Now, you say that -- let me ask
18 you this: When was the first time you talked to
19 Ms. Snipe?

20 A. July 25th.

21 Q. July when?

22 A. 25.

23 Q. 25th. So three or four days after the
24 incident?

25 A. Yes.

TEELA ANTWINE - CROSS EXAM BY MR. ARCHER

1 Q. She had -- at the time of the incident,
2 she had described all of the assailants as wearing
3 all black; had she not?

4 A. I'm sorry?

5 Q. She at the time -- the night of the
6 incident, she described all of the assailants as
7 wearing all black; did she not?

8 A. Through Detective Ward.

9 Q. Huh?

10 A. Through Detective Ward. I did not
11 speak to her that night.

12 Q. But you did clear these things. Did
13 she not say they were wearing all black?

14 A. Yes.

15 Q. Okay. Good enough. Now, Mr. Campbell
16 you say was arrested on the 21st at 5:30 p.m.?

17 A. Approximately.

18 Q. So that's about maybe 12 hours after
19 the shooting, right?

20 A. Yes, approximately.

21 Q. Okay. And how far -- where was he when
22 he was arrested?

23 A. In the area of North Hampton, which is
24 a forestry road.

25 Q. How far away from that is 135 Martha

TEELA ANTWINE - CROSS EXAM BY MR. ARCHER

1 Lane?

2 A. Approximately ten miles. It's near
3 Eccles Church.

4 Q. So it's not really close. It's ten
5 miles away?

6 A. It's ten miles, approximately.

7 Q. Okay. And let me ask you: Did you --
8 many did -- you do any searches -- first, let's
9 back up. Did you find out where he lived?

10 A. From the time when?

11 Q. At the time he was arrested, did you
12 find out where he lived?

13 A. The information afterwards and the
14 information we had gathered was that he was from
15 the St. Stephen area.

16 Q. Okay. Did you issue any search
17 warrants of where he was living?

18 A. We did not.

19 Q. You didn't?

20 A. No, sir.

21 Q. Okay. When he was arrested, did you
22 find any guns on him?

23 A. Not on his person.

24 Q. Did you find any nearby where he was
25 arrested?

TEELA ANTWINE - CROSS EXAM BY MR. ARCHER

1 A. I can't testify to the area. I wasn't
2 there when he was arrested.

3 Q. So you're not aware of any guns found
4 on him or near him at the time of his arrest?

5 A. No.

6 Q. Okay. Did you find a bracelet on him?

7 A. I can't testify to anything that was on
8 him, sir. I was not there when he was arrested.

9 Q. But are you aware as the chief
10 investigative officer of any item that was alleged
11 stolen from 135 Martha Lane as being found on him
12 when he was arrested?

13 A. I was not made aware of that.

14 Q. Not aware of anything. Okay. Now, are
15 you aware of -- fingerprints and DNA was taken from
16 135 Martha Lane; was it not?

17 A. I did not do that, but crime scene
18 processed the scene.

19 Q. They did. And were any of those
20 fingerprints or DNA samples, were any of them ever
21 matched up to Mr. Campbell, Mr. Kenneth Campbell, I
22 would say?

23 A. I'm not aware of that.

24 Q. You're not aware of that?

25 A. Yeah, I'm not aware of that.

TEELA ANTWINE - CROSS EXAM BY MR. ARCHER

1 Q. Okay. How about any fingerprints or
2 DNA samples taken from the two Crown Vics? They
3 were processed; were they not?

4 A. The tech did that.

5 Q. Right. The techs did that and they
6 took fingerprints and they took DNA samples from
7 him. Are you aware of any of those fingerprints or
8 DNA samples being matched up to Mr. Kenneth
9 Campbell?

10 A. I don't have that information.

11 Q. You don't know?

12 A. I don't have that information.

13 Q. You don't have that information.

14 Wouldn't that be -- wouldn't that be sort of
15 critical information if fingerprints were found in
16 one of the Crown Vics?

17 A. I don't have it in my file. I don't
18 have that information.

19 Q. Well, isn't it something that you would
20 have wanted to know at the time?

21 A. At the time? If it would have been run
22 through the database, we would have been advised.
23 I was not advised.

24 Q. Okay. So you got no knowledge of
25 whether any fingerprints or DNA of his was found in

TEELA ANTWINE - CROSS EXAM BY MR. ARCHER

1 either of the two Crown Vics?

2 A. Not at this time, no, sir.

3 Q. Okay. Now, did you see him at the time
4 he was arrested?

5 A. Briefly.

6 Q. I'm going to show you what's been
7 marked as Exhibit 125. Can you identify that?

8 A. That was -- I was not at headquarters.

9 Q. You saw him. Is that how he was
10 dressed when he was arrested and you saw him?

11 A. I don't recall at the moment. He was
12 briefly brought to the command post and then
13 transported to headquarters.

14 Q. He was brought by the command post?

15 A. Yes.

16 Q. And you were at the command post?

17 A. I was.

18 Q. But you don't remember what he was
19 dressed in?

20 A. I don't recall. I can't tell you.

21 Q. Okay. Several cell phones were taken
22 in by the forensic people; were they not?

23 A. Recovered from forensics?

24 Q. Yes.

25 A. Yes, sir.

TEELA ANTWINE - CROSS EXAM BY MR. ARCHER

1 Q. At least three cell phones, correct?

2 A. From where they collected, yes, sir.

3 Q. Okay. Did you do anything to find out
4 to whom those cell phones were registered?

5 A. From the scene itself, I want to say
6 they took swabs, but I can't testify to that.

7 Q. They did what now?

8 A. From what the crime scene processed?

9 Q. Yeah. From -- either from the scenes
10 or from the Crown Vics, there were at least three
11 cell phones collected by forensics people, correct?

12 A. From the Crown Vics.

13 Q. Yeah. Okay.

14 A. Yes, sir.

15 Q. All right. Was any attempt made to
16 find out who those cell phones were registered to
17 or who the owners of those cell phones were?

18 A. I'm not aware if it's in the file. It
19 should be through search warrants. I conducted
20 search warrant on cell phones.

21 Q. You did --

22 A. But it wasn't on those, I don't
23 believe.

24 Q. It wasn't on those that were found?

25 A. No, sir.

TEELA ANTWINE - CROSS EXAM BY MR. ARCHER

1 Q. Well, wouldn't it be significant if a
2 cell phone found in the Crown Vic belonged to
3 Kenneth Campbell?

4 A. It all depends. It depends on if we
5 can get into the cell phone. If there's a lock on
6 the cell phone, there's circumstances on that.

7 Q. Don't you-all have ways --

8 A. No, sir; I can't testify to that. I
9 don't go into the cell phones.

10 Q. You don't what?

11 A. There's certain assigned detectives
12 that do that. I can't testify to that.

13 Q. As the chief investigative agent, you
14 could have gone to those detectives and said, hey,
15 find out for me who these cell phones are
16 registered to, couldn't you?

17 A. If they could get into it, they would
18 have advised me, yes, sir.

19 Q. But you didn't ask them to find out who
20 those cell phones were registered to, did you?

21 A. There was no note of that, sir.

22 Q. Huh?

23 A. There was no note of that, sir.

24 Q. No note of that. Okay. But what if
25 one belonged to Kenneth Campbell, one of them

TEELA ANTWINE - CROSS EXAM BY MR. ARCHER

1 belonged to Sherrod Palmer, and one of them
2 belonged to Drake Campbell, and they were all found
3 in the Crown Vics that were taken from the crime
4 scene, wouldn't that be significant evidence?

5 A. They were in the Crown Vic, so they
6 were significant evidence.

7 Q. That would say they were in the Crown
8 Vics that were stolen from the scene of the crime,
9 wouldn't it? That would be good evidence that they
10 --

11 A. They were in the Crown Vics, yes, sir.

12 Q. But you didn't see it important to find
13 out who those cell phones belonged to?

14 A. They were processed.

15 Q. They were processed. When you
16 processed them, what did you do to process them?

17 A. I did not process them. That's part of
18 forensics.

19 Q. Did you say, hey, forensics, when you
20 process these cell phones, what did you find out?
21 Did you ask them that?

22 A. That's what their job is. Their job is
23 to process the cell phones and send the information
24 up to SLED.

25 Q. Okay. So you've got no idea who those

1 three cell phones belong to?

2 A. I don't have that information.

3 Q. Okay. If you found out that
4 information, okay, and the cell phones -- and the
5 cell phones didn't belong to the victim, and they
6 didn't belong to any of these defendants, wouldn't
7 that be an indication that maybe somebody other
8 than these defendants was involved in the crime?

9 A. I can't -- it's a what-if question. I
10 can't answer that.

11 Q. Well, I think it's a pretty common
12 sense question.

13 THE COURT: Sir, if there's a question,
14 please pose it.

15 BY MR. ARCHER:

16 Q. Ostensibly, if the cell phones in those
17 cars do not belong to the victims, then there would
18 be a high probability that --

19 MR. MCNEELY: Objection, Your Honor.

20 THE COURT: Basis?

21 MR. MCNEELY: Speculative.

22 THE WITNESS: Sustained; speculation,
23 lack of foundation.

24 MR. ARCHER: Okeydoke.

25 BY MR. ARCHER:

TEELA ANTWINE - CROSS EXAM BY MR. ARCHER

1 Q. There is something curious here, and
2 I'm hoping that you can give me an explanation of
3 it. I'm going to show you two documents that are
4 called Berkeley County E911 CAD Incident Detail.

5 A. Yes, sir.

6 Q. Let me get them marked for
7 identification here.

8 (DFT. CAMPBELL EXH. 1, CAD report, was
9 marked for identification.)

10 BY MR. ARCHER:

11 Q. Okay. We have two pages marked as
12 Defendant's Exhibit 1.

13 THE COURT: ID only.

14 MR. ARCHER: For ID, yes.

15 BY MR. ARCHER:

16 Q. I show you the first page. What does
17 it say here?

18 A. It says, towed.

19 Q. From?

20 A. Towed from 135 Martha Lane.

21 Q. That's the scene of the crime?

22 A. Correct.

23 Q. And that applies to what type of car?

24 A. Ford Crown Vic, 2004.

25 Q. 2004 Crown Vic. Okay. And I'm showing

TEELA ANTWINE - CROSS EXAM BY MR. ARCHER

1 you the second page. That indicates what?

2 A. Towed from.

3 Q. And from where?

4 A. 135 Martha Lane.

5 Q. Okay. And that applies to what kind of
6 vehicle?

7 A. Ford Crown Vic.

8 Q. What year?

9 A. It is a 2003.

10 Q. 2003. Can you explain why there is a
11 report issued indicating these two vehicles were
12 towed from the crime scene?

13 A. It's not a report issued. That's the
14 dispatch through the CAD system.

15 Q. Okay. Well, do you have any idea why
16 there was some indication in your file that these
17 vehicles were not driven away by defendants, that
18 they were towed away from the scene?

19 A. The CAD report has in the tape where it
20 has the officer stating that he located the gray
21 Crown Vic at the location on Cainhoy Road.

22 Q. Okay.

23 A. They open up the CAD system -- I used
24 to be a dispatcher. When they open up the CAD
25 system and they put in the information, they open

TEELA ANTWINE - CROSS EXAM BY MR. ARCHER

1 it up from the original incident. So the incident
2 would have been 135 Martha Lane.

3 Q. But you've got no -- you've got no idea
4 why it says that both of these vehicles were towed
5 from Martha Lane?

6 A. That's what the input is of the
7 dispatcher, sir. The dispatcher inputted that.

8 Q. And you have no idea why the dispatcher
9 put in that they were towed rather than stolen?

10 A. Because they were towed.

11 Q. They were towed from Martha Lane?

12 A. No. The vehicle is towed. They
13 wouldn't put stolen. It was towed. They towed it
14 for processing. They're not going to put all that
15 in. They are dispatchers.

16 Q. Where was supposedly the 2003 Crown Vic
17 found?

18 A. I can't remember what year. I just
19 remember the color. The white Crown Vic was on
20 402.

21 Q. Okay.

22 A. And the other Crown Vic was on Cainhoy
23 Road.

24 Q. But they weren't -- neither one of them
25 were found at 135 Martha Lane, correct?

TEELA ANTWINE - CROSS EXAM BY MR. ARCHER

1 A. No, sir.

2 Q. All right.

3 MR. ARCHER: Judge, I would offer this
4 into evidence. And I think there's an objection.

5 MR. MCNEELY: Your Honor, the State
6 objects.

7 THE COURT: I will take it under
8 advisement, but I'm inclined to sustain it. It's
9 hearsay. She didn't create the documents; it's
10 lack of foundation.

11 MR. ARCHER: Okay.

12 THE COURT: It will be marked for ID
13 only.

14 MR. ARCHER: All right.

15 BY MR. ARCHER:

16 Q. Did you ever talk to -- did you ever
17 find out where Kenneth Campbell lived at the time
18 this thing took place?

19 A. I wasn't able to get that information.

20 Q. Weren't able to get it?

21 A. No, sir.

22 Q. Did you ask him where he lived?

23 A. When I did speak with him, he invoked
24 his rights.

25 Q. Did you look up any sort of driver's

TEELA ANTWINE - CROSS EXAM BY MR. SMALDONE

1 license?

2 A. His last one I believe said Demetrius
3 Lane in St. Stephen.

4 Q. That's where the driver's license --

5 A. The information, his history, is what
6 we had. I believe it was Demetrius Lane.

7 Q. Did you go there and see if he lived
8 there?

9 A. I did not.

10 Q. You did not. So you didn't try to talk
11 to anybody at Demetrius Lane to find out if he
12 lived there?

13 A. No, sir.

14 Q. You didn't search Demetrius Lane to see
15 if there were any items there that were related to
16 the shooting and robbery, did you?

17 A. No, I did not.

18 MR. ARCHER: No further questions.

19 THE COURT: Mr. Smaldone.

20 CROSS-EXAMINATION

21 BY MR. SMALDONE:

22 Q. Good morning?

23 A. Good morning.

24 Q. I just want to make sure I understand a
25 few things real briefly. So it's -- obviously,

1 you're the main person on this case, right?

2 A. Yes.

3 Q. What's the exact title of that?

4 A. Lead, just lead.

5 Q. Right. And like you said, anything
6 pertinent goes through you?

7 A. Yes.

8 Q. So you would have knowledge of most of
9 the information about this case, correct?

10 A. Correct.

11 Q. Okay. And you testified earlier
12 because you're the case agent on the case, the lead
13 investigator on a case, you knew that because of
14 the -- because of witnesses -- I think it was
15 Brittany Bordeaux and all that, you got some
16 information about Darius Hamilton, correct?

17 A. Not from her, but information.

18 Q. Leads?

19 A. Correct.

20 Q. Things that -- a seed planted with her
21 that grew into Darius Hamilton?

22 A. Correct.

23 Q. Okay. So it's your understanding that
24 law enforcement made contact with him, correct?

25 A. Yes.

TEELA ANTWINE - CROSS EXAM BY MR. SMILEY

1 Q. But he didn't go to law enforcement,
2 right?

3 A. No.

4 Q. Law enforcement contacted him?

5 A. Correct.

6 Q. Just clearing that up.

7 And you testified earlier about lineups
8 and I want to be clear. You've been in court this
9 whole time, correct?

10 A. Yes.

11 Q. Because you're the lead investigator?

12 A. Yes.

13 Q. And those are the same lineups as
14 before?

15 A. Yes.

16 Q. And on those lineups, Drake Campbell
17 was never identified, right?

18 A. No.

19 MR. SMALDONE: And that's all I have.

20 Thank you.

21 THE COURT: Mr. Smiley.

22 CROSS-EXAMINATION

23 BY MR. SMILEY:

24 Q. Good morning.

25 A. Good morning.

TEELA ANTWINE - CROSS EXAM BY MR. SMILEY

1 Q. I guess I don't need to introduce
2 myself, so we'll get down to it. Being the case
3 agent, you have lots of responsibilities, right?

4 A. Yes, sir.

5 Q. And you went to Jaunwanna Singleton's
6 trailer on Highway 41, right?

7 A. Yes, I did.

8 Q. And you went there -- you had a search
9 warrant, right?

10 A. Yes.

11 Q. Okay. And I believe your testimony is
12 that nothing significant was found there, right?

13 A. Yes.

14 Q. Okay. You did collect a couple of
15 things.

16 A. We did.

17 Q. And one of the things is you collected
18 a spot of blood, right?

19 A. I got the search warrant, but I didn't
20 actually execute it.

21 Q. But you also saw what got collected --

22 A. I was there, so there was a return done
23 with the items collected.

24 Q. So you are aware that a spot of blood
25 was located in the threshold of a closet there,

TEELA ANTWINE - CROSS EXAM BY MR. SMILEY

1 right?

2 A. Yes.

3 Q. And that was collected, right?

4 A. Correct.

5 Q. And later you became aware that that
6 blood was Sherrod's, right?

7 A. Yes.

8 Q. Okay. Is that -- I'll come back to
9 that one. Is -- the red Crown Vic, that was in
10 Danville, Virginia?

11 A. Yes, sir.

12 Q. That was registered to Marcus Howard,
13 correct?

14 A. Yes.

15 Q. And Marcus Howard is the brother of
16 Sherrod Palmer?

17 A. Yes.

18 Q. And putting together your case, as I
19 believe it was described, you are sort of the
20 clearinghouse, right?

21 A. Correct.

22 Q. Forensically, were any fingerprints of
23 value found in this case?

24 A. I'm not aware of the fingerprints. I
25 know they processed the two vehicles from the

TEELA ANTWINE - CROSS EXAM BY MR. SMILEY

1 scenes --

2 Q. Right.

3 A. -- taken from the perimeter, and then
4 from Cainhoy. And looking over the information
5 from forensics, I can't tell you if there was data
6 from the collections. I know they were taken.

7 Q. Yeah. You know that there was a
8 thumbprint on the tape, right?

9 A. From the tape?

10 Q. The tape.

11 A. Are you talking about the cars or --

12 Q. I'm talking about in the case.

13 A. -- the vehicle?

14 Q. In the case, any fingerprints of
15 significance found anywhere in this case? One?

16 A. Correct.

17 Q. Okay. And that one was found on the
18 clear roll of tape in the gray Crown Vic?

19 A. Yes.

20 Q. And that fingerprint came off -- when
21 it came off the tape belonged to Darius Hamilton,
22 correct?

23 A. Yes, sir.

24 Q. And that tape was -- appeared to be the
25 same type of tape that taped up Mr. Kadeem Johnson

TEELA ANTWINE - CROSS EXAM BY MR. SMILEY

1 and the tape that was found in the front? It was
2 consistent, correct?

3 A. It was.

4 Q. Now, you keep saying -- and I know you
5 don't mean it this way, but I want to make sure we
6 get clear. The gray car, it was not found on
7 Cainhoy Road, but back on --

8 A. Off of Cainhoy Road.

9 Q. Right. On Nellie Sally Lane?

10 A. Henrynellie Lane.

11 Q. Thank you. Henrynellie, right. That
12 goes back --

13 A. Correct.

14 Q. -- in the recreation department, and
15 there's pictures of it. But the car is not on the
16 road; it's back a ways, right?

17 A. Correct.

18 Q. Okay. And you went to Mr. Palmer's
19 mother's house, his boyhood home up in St. Stephen?

20 A. Yes, sir.

21 Q. And in the course of your investigation
22 you received information that when his mother woke
23 up he was asleep in the living room?

24 A. He was on the floor.

25 Q. Sleeping. Okay. His -- did you become

TEELA ANTWINE - CROSS EXAM BY MR. SMILEY

1 aware that he stays there sometimes?

2 A. I was not aware of that.

3 Q. Okay. You were aware that he grew up
4 in the St. Stephen area?

5 A. Yes.

6 Q. Were you able to establish the length
7 of the relation Mr. Palmer had with Ms. Singleton?

8 A. How long they had been together?

9 Q. Yes.

10 A. I want to say, approximately, four
11 years.

12 Q. Were you able to determine how long
13 Mr. Palmer had been living at the trailer on 41?

14 A. I can't recall that.

15 Q. Okay. Other than the spot of blood
16 found in his trailer, he and Ms. Singleton's
17 trailer on 41, no other DNA evidence was recovered
18 concerning Mr. Palmer, was there?

19 A. Not that I'm aware of.

20 Q. Well, if anybody is going to be aware
21 of it, it would be you I would hope, right?

22 A. Yes.

23 Q. Okay. And I believe you said that
24 Ms. Singleton is Ms. Snipe's aunt, right?

25 A. No. Kadeem Johnson.

TEELA ANTWINE - CROSS EXAM BY MR. SMILEY

1 Q. Okay. You're right. Kadeem Johnson's
2 aunt. And they lived -- well, back up. Is --
3 Mr. Johnson's mother lived in somewhat close
4 proximity to Ms. Singleton?

5 A. Yes.

6 Q. And Mr. Johnson and Ms. Snipe'
7 relationship was extended in length? They had
8 known --

9 A. They had been together.

10 Q. -- for a while?

11 A. Yes.

12 Q. Now, you executed a lot of search
13 warrants in this case, right?

14 A. Yes, sir.

15 Q. A lot of the search warrants were about
16 the contents of cell phones, right?

17 A. There were four cell phones.

18 Q. And any cell phones that were recovered
19 that you believe could be of evidentiary value, you
20 got search warrants and had their contents dumped,
21 right?

22 A. If they were able to be dumped, yes,
23 sir.

24 Q. In this case, they were dumped, right?

25 A. Yes.

TEELA ANTWINE - CROSS EXAM BY MR. SMILEY

1 Q. Okay. And I'm not really tech savvy
2 and I'm not going too far, but on those phones when
3 they're dumped, you can see what phone calls were
4 made and text messages were made and anything that
5 was on the phone still? When you dump it, it means
6 you take the data out; is that fair to say?

7 I'm not trying to be technical.

8 A. Yeah. It's an extraction.

9 Q. Okay. That's a good word. The data is
10 extracted?

11 A. If it's there, yes, sir.

12 Q. Okay. If I understand correctly, you
13 didn't have any direct contact with the gray Crown
14 Vic, right?

15 A. I did not.

16 Q. You were aware though that it was found
17 running?

18 A. I believe I was aware it had the
19 windshield wipers on, headlights on.

20 Q. Okay. You had contact with Darius
21 Hamilton, right?

22 A. I had contact with Darius Hamilton?

23 Q. Yeah.

24 A. Not directly.

25 Q. Let me ask it the other way. You're

TEELA ANTWINE - CROSS EXAM BY MR. SMILEY

1 aware of the information that he provided to the
2 police?

3 A. Yes.

4 Q. Okay. It's -- the first time we ever
5 heard that he took Sherrod to St. Stephen was
6 yesterday in this courtroom, right?

7 A. Yes.

8 Q. Okay. The SKS assault rifle, you were
9 able to look over the evidence in this case in
10 regard to that?

11 A. Yes, sir.

12 Q. Okay. It had a clip, right?

13 A. Yes.

14 Q. It was full of bullets?

15 A. Yes.

16 Q. I believe they found it with one in the
17 chamber?

18 A. Yes.

19 Q. They also recovered a 762 from
20 Mr. Hamilton's truck, right?

21 A. Yes.

22 Q. And that was found in his toolbox,
23 right?

24 A. Correct.

25 Q. Okay. The magazine for the SKS

TEELA ANTWINE - CROSS EXAM BY MR. SMILEY

1 appeared to be full, correct?

2 A. I didn't look at the magazine.

3 Q. The Crown Vic -- the white Crown Vic,
4 through your investigation, were any weapons found
5 in the white Crown Vic?

6 A. Inside the white Crown Vic? Not to my
7 knowledge.

8 Q. And other than the SKS found on the
9 side of the road, were there any pistols or other
10 weapons recovered to this case, to the best of your
11 knowledge, in the woods, off of 402?

12 A. No.

13 Q. Were any weapons recovered from the
14 gray Crown Vic?

15 A. No, sir.

16 Q. Were any clothes that appeared to be
17 black in color found in the white Crown Vic?

18 A. In the white Crown Vic?

19 Q. Right.

20 A. I can't answer that.

21 Q. Did you take any into evidence to see
22 if they might have been used the night before and
23 taken off in the white Crown Vic?

24 A. With the clothes and everything that
25 was already in the vehicles, I can't answer that.

TEELA ANTWINE - CROSS EXAM BY MR. SMILEY

1 Q. You were aware of a black sweatshirt
2 that was found on the side of the road?

3 A. Yes.

4 Q. If they had found any black clothes in
5 the white Crown Vic that would be pertinent in this
6 case, you would know about it?

7 A. Yes, sir.

8 Q. Okay. In the gray Crown Vic, were any
9 clothes of significance found that could have been
10 worn by any of the participants?

11 A. Not that I'm aware of.

12 MR. SMILEY: Beg the Court's
13 indulgence.

14 THE COURT: Yes, sir.

15 BY MR. SMILEY:

16 Q. A couple of more and I'll finish up.
17 When you got on out to 135 Martha
18 Lane --

19 A. Yes, sir.

20 Q. -- it was light by that point in time?

21 A. No.

22 Q. So you got there in the dark?

23 A. Yes, I did.

24 Q. It's a dark road, right?

25 A. Yes.

TEELA ANTWINE - CROSS EXAM BY MR. SMILEY

1 Q. And it's dark back at that trailer,
2 correct?

3 A. Yes.

4 Q. Did you have occasion to encounter the
5 dogs at 135 Martha Lane? Were they still there
6 when you arrived?

7 A. I believe the door was still shut when
8 I got there.

9 Q. So you -- but you were aware there were
10 two pit bulls there, right?

11 A. I don't know what kind of dogs they
12 were.

13 Q. Excuse me, you're right. You're aware
14 that there were more than one dog?

15 A. I was advised Animal Control was
16 called.

17 Q. But you never saw them?

18 A. No.

19 Q. And never went to see where they were
20 located?

21 A. No.

22 Q. Did you find any kennels outside there?
23 Like cages?

24 A. I wasn't looking for kennels. I wasn't
25 looking.

RIEMER, M.D. - DIRECT EXAM BY MR. MCNEELY

1 Q. The photographs that were taken around
2 that trailer though --

3 A. Yes, sir.

4 Q. -- things weren't disturbed before the
5 pictures were taken, were they?

6 A. No, they were not.

7 MR. SMILEY: That's all I have.

8 THE COURT: Any redirect?

9 MR. MCNEELY: No, Your Honor.

10 THE COURT: You may step down.

11 You may call your next witness.

12 MR. MCNEELY: The State calls Dr. Ellen
13 Riemer.

14 THE COURT: You may proceed.

15 ELLEN RIEMER, M.D.,

16 being first duly sworn, testified as follows:

17 THE CLERK: Please state your full name
18 and spell your last.

19 THE WITNESS: My name is Dr. Ellen
20 Riemer, R-I-E-M-E-R.

21 THE COURT: You may proceed.

22 MR. MCNEELY: Thank you.

23 DIRECT EXAMINATION

24 BY MR. MCNEELY:

25 Q. Morning, Dr. Riemer. Where are you

1 currently employed?

2 A. I'm employed at the Medical University
3 of South Carolina where I work as a forensic
4 pathologist.

5 Q. And how long have you been employed in
6 that capacity?

7 A. Well, I've been at MUSC for nine and a
8 half years, and then I've been a forensic
9 pathologist since 2003.

10 Q. Please describe a little bit about your
11 education and training for the jury.

12 A. Okay. So I received my M.D. degree
13 from Saclin School of Medicine, and following my --
14 my receipt of the MD, I did a residency in
15 pathology and general pathology at Columbia
16 Presbyterian Medical Center in the city of New
17 York, and that was for four years.

18 Following that, I did a fellowship in
19 forensic pathology at the office of the Chief
20 Medical Examiner of the State of Maryland; and
21 subsequent to that, I did an additional year of
22 fellowship training in cardiovascular and pulmonary
23 pathology at Johns Hopkins Hospital.

24 Q. And since that time, you've been
25 working with MUSC as a pathologist for nine years?

RIEMER, M.D. - DIRECT EXAM BY MR. MCNEELY

1 A. Well, no. When I completed my training
2 at Johns Hopkins, I took a position at Wake Forest
3 University School of Medicine where I worked for
4 six years as a forensic pathologist, and then I was
5 recruited to MUSC.

6 Q. You specialize your practice
7 exclusively in pathology?

8 A. Yes.

9 Q. So the jury has a clear understanding,
10 what is pathology?

11 A. So pathology is the field of medicine
12 which is concerned with making diagnoses based on
13 evaluation of tissue and blood samples and other
14 fluids, and that's basically a very broad area.

15 And forensic pathology is a
16 subspecialty of pathology which is concerned with
17 evaluation of trauma and traumatic injuries,
18 non-natural conditions of the body; and forensic
19 pathologists are trained to perform autopsies and
20 use the information obtained from the autopsy to
21 determine the cause and manner of death.

22 Q. Are you a member of any professional
23 associations?

24 A. Yes. I'm a member of the American
25 Board of Pathology; I'm board certified in

1 pathology and forensic pathology; and I'm also a
2 member of the American Academy of Forensic Sciences
3 and College of American Pathologists.

4 Q. What are the requirements for
5 certification with the American Board of Pathology?

6 A. So the requirements for certification
7 for any doctor who becomes certified in the field
8 has to receive training, the residency training
9 that meets the standard of -- in this case,
10 American Board of Pathology, the standards are very
11 high.

12 And then even after successfully
13 completing the residency, you have need to take a
14 board-certification examination which is a two-day
15 in length exam and then pass it to become board
16 certified, and so I'm board certified in pathology.

17 And then also after my fellowship in
18 forensic pathology, I became board certified in
19 forensic pathology by the same examination, by
20 passing an examination in forensic pathology.

21 Q. Are these certifications in addition to
22 your license to practice medicine?

23 A. Yes. So you can't become board
24 certified unless you already have a license to
25 practice medicine; that's one of the requirements,

RIEMER, M.D. - DIRECT EXAM BY MR. MCNEELY

1 also to become board certified.

2 I'm also licensed to practice medicine
3 in the state of South Carolina; and when I
4 practiced in North Carolina, I was licensed to
5 practice medicine there; and in New York, I was
6 licensed to practice medicine there as well.

7 Q. Do you participate in continuing
8 education as part of your specialization in
9 forensic pathology?

10 A. Yes.

11 Q. What does that entail?

12 A. So after you become board certified,
13 you're required to basically keep up with all of
14 the current and knowledge in any field. That's
15 just part of being a professional in general.
16 Anybody who is a licensed professional is required
17 to do that.

18 And in addition to doing that to
19 maintain my medical license, I maintain -- I'm
20 always educating myself further in forensic
21 pathology in order to stay as current as possible.

22 Q. During --

23 MR. SMILEY: Your Honor, Mr. Palmer
24 would certainly offer that she is an expert in
25 forensic pathology if that helps. We aren't going

1 to challenge her.

2 MR. MCNEELY: I have a couple of more
3 questions, Your Honor.

4 BY MR. MCNEELY:

5 Q. Approximately, how many autopsies have
6 you performed?

7 A. I haven't kept track, but I'm in the
8 ballpark of 4200.

9 Q. Have you been qualified to testify as
10 an expert in the field of forensic pathology
11 before?

12 A. Yes, on multiple occasions.

13 Q. And have you provided courtroom
14 testimony as an expert on forensic pathology?

15 A. Yes.

16 Q. And how many times?

17 A. Oh, I don't know. Over 100, maybe up
18 to 250.

19 MR. MCNEELY: Your Honor, at this time
20 the State would move under Rule 702 to qualify
21 Dr. Riemer as an expert in the field of forensic
22 pathology.

23 THE COURT: Any questions or
24 objections? Mr. Thrower?

25 MR. THROWER: No questions or

RIEMER, M.D. - DIRECT EXAM BY MR. MCNEELY

1 objection.

2 THE COURT: Mr. Smiley.

3 MR. SMILEY: None, Your Honor.

4 THE COURT: Mr. Smaldone.

5 MR. SMALDONE: None, Your Honor.

6 THE COURT: Mr. Archer.

7 MR. ARCHER: None, Your Honor.

8 THE COURT: Admitted without objection.

9 You may proceed.

10 BY MR. MCNEELY:

11 Q. Dr. Riemer, were you employed with MUSC
12 as a forensic pathologist on July 21, 2016?

13 A. Yes.

14 Q. During that time, did you conduct
15 autopsies as part of your regular duties?

16 A. Yes.

17 Q. Could you say it was your primary duty?

18 A. Yes.

19 Q. When you complete an autopsy for a
20 deceased individual, is part of that process making
21 a finding or forming an opinion as to the cause and
22 manner of death for that individual?

23 A. Yes.

24 Q. Please explain to the jury for medical
25 purposes, what is the difference between cause of

1 death and manner of death?

2 A. Okay. So for manner of death, there's
3 only five possible manners of death, and I'll list
4 them for you. One is natural. So if somebody dies
5 of a heart attack or cancer, that's a natural
6 death. Homicide; that's death at the hands of
7 another individual. Suicide; that's death at your
8 own hands. Accident; so if you're in a car crash
9 or a brick falls off of a building and hits you on
10 the head, or you have a drug overdose, that's
11 accidental. That's also classified as an
12 accidental death.

13 And then the fifth category which is
14 reserved for cases where cause -- a manner of death
15 cannot be determined, we have an undetermined. And
16 that's fortunately very few, but it does happen.
17 So we have four major you know -- homicide, normal,
18 suicide, and accident and then undetermined.

19 Then the cause of death is actually the
20 specific reason why somebody died as opposed to the
21 manner. So it could be any particular thing that
22 caused somebody to die. So it's a more specific
23 cause that's stated.

24 Q. So, for example, could a cause of death
25 be heart attack and manner be natural?

RIEMER, M.D. - DIRECT EXAM BY MR. MCNEELY

1 A. Yes.

2 Q. During autopsies, is it standard
3 procedure if a criminal investigation is related to
4 the autopsy to collect various items from the
5 deceased?

6 A. Yes.

7 Q. And when you collect those items, what
8 do you do with them?

9 A. I seal them in envelopes with the
10 decedent's name. We have a bunch of -- at the
11 beginning of every autopsy we print out a bunch of
12 stickers. So everything that is collected from the
13 individual in terms of -- it goes into an envelope
14 and it's sealed, so we know it's from that person.

15 And then after they're all collected,
16 they are transferred each by a chain of custody to
17 an investigating official.

18 Q. So whatever agent is investigating the
19 case?

20 A. Yes.

21 Q. Around July 21, 2016, were you asked to
22 perform an autopsy on an individual named Kadeem
23 Johnson?

24 A. Yes. I performed an autopsy on
25 Mr. Kadeem Johnson on July 22nd. So I was asked on

RIEMER, M.D. - DIRECT EXAM BY MR. MCNEELY

1 the 21st and, you know, this -- it usually doesn't
2 happen like in five minutes. We were probably full
3 the day before and so the body had to be
4 transported to us, and then I did an autopsy on
5 July 22nd.

6 Q. Did you complete the autopsy on
7 Mr. Johnson on July 22, 2016?

8 A. Yes, sir.

9 Q. How did Mr. Johnson initially present
10 to you during the autopsy?

11 A. You mean how he appeared to me?

12 Q. That's correct.

13 A. Okay. Well, he -- the first thing that
14 was apparent was that he had some clear tape around
15 his wrists that were basically taped together over
16 his head. And he also had an obvious injury to the
17 head which resulted in bleeding from the head.

18 Q. Did you remove the tape from him during
19 the autopsy?

20 A. Yes.

21 Q. Approximately, how long did it take you
22 to complete the autopsy on Mr. Johnson?

23 A. Start to finish, it would have been
24 probably three and a half hours.

25 Q. After completing the autopsy for

RIEMER, M.D. - DIRECT EXAM BY MR. MCNEELY

1 Mr. Johnson, did you make a determination and form
2 an opinion as to the cause of death for
3 Mr. Johnson?

4 A. Yes.

5 Q. And in your expert witness, what was
6 the cause of death for Mr. Johnson?

7 A. Gunshot wound to the head.

8 Q. To a reasonable degree of medical
9 certainty, did you form an opinion as to the manner
10 of Mr. Johnson?

11 A. Yes.

12 Q. What is your opinion as to the manner
13 of death of Mr. Johnson?

14 A. Homicide.

15 Q. And did you prepare a formal report of
16 your findings?

17 A. Yes.

18 Q. I want to talk specifically about the
19 cause of death and injury to him. Describe for the
20 jury the injuries you observed to Mr. Johnson while
21 conducting his autopsy.

22 A. So there was the single gunshot wound
23 to the head, and it was on the left side of the
24 head kind of toward the top of the head at about
25 the level of the left ear. So somewhere about

RIEMER, M.D. - DIRECT EXAM BY MR. MCNEELY

1 here. (Indicating) I'm pointing to the top left
2 side of my head.

3 And that was what was observed, you
4 know, the -- there was a single entrance gunshot
5 wound, and there was not an exit. So as part of
6 the course of all -- any time there is a gunshot
7 wound on an individual, we perform x-rays in order
8 to help us locate where the bullet might have
9 terminated. It helps us, you know, instead of
10 searching everywhere. And it was -- the bullet
11 terminated in the right side of the head just in
12 front of the right ear.

13 So it went from here, the left side of
14 the head, downward, left to right direction, ending
15 right below the skin on the right side of the head.
16 (Indicating)

17 MR. MCNEELY: Permission to approach
18 the witness?

19 THE COURT: You may.

20 BY MR. MCNEELY:

21 Q. I'm showing you what was marked and
22 admitted as State's 131 and 132. Can you look at
23 those photos?

24 A. Yes. So these are the x-rays from the
25 head. We usually take it -- because of the head is

RIEMER, M.D. - DIRECT EXAM BY MR. MCNEELY

1 a three-dimensional object, and an x-ray only
2 projects a two-dimensional object, we usually do
3 x-rays of front to back and then also a side-view.

4 If we just did the front to back, we
5 would see there is a -- there is a bullet on the
6 right side, but it wouldn't tell us how close to
7 the front or back to the head. So we do a lateral
8 and an anterior/posterior.

9 Q. And those are the x-rays of Kadeem
10 Johnson?

11 A. Yes.

12 MR. MCNEELY: Dee, would you please
13 publish State's Exhibit 130?

14 BY MR. MCNEELY:

15 Q. Dr. Riemer, there is a laser pointer
16 right in front of you with the red button. I'm
17 going to ask you to turn around and look at the
18 screen.

19 A. So this is the --

20 Q. Exhibit 131.

21 A. This is the x-ray from -- it's not
22 exactly front to back, but pretty close. And we
23 can see the L here. So that indicates when we --
24 when we have the x-ray taken, we put an L or R on
25 the perspective side to know which side.

1 Otherwise, we would never be able to tell this is
2 the left side of the head and this is the right
3 side of the head and that's the projectile right
4 under the skin.

5 And, actually, if we look carefully, we
6 can see there is a little area of darkening, and
7 that's where the bullet came in. So the bullet had
8 to go through the skull first.

9 Q. If possible, can you trace the
10 trajectory of the wound with the laser pointer?

11 A. Yes. It's going like that. It's going
12 in this direction. (Indicating)

13 Q. It appears -- can you point out the
14 projectile?

15 A. Yes. (Indicating) That's the
16 projectile.

17 Q. It appears that it's completely through
18 the skull. I believe you said it had not yet
19 exited the tissue; is that correct?

20 A. That's correct. It's right immediately
21 under the skin.

22 Q. Okay. And State's 132, what are we
23 looking at here?

24 A. This is the side view of course. So
25 it's an x-ray of the head taken from the side, and

RIEMER, M.D. - DIRECT EXAM BY MR. MCNEELY

1 that's the profile here. And what we can see here
2 is that there is the bullet, right? (Indicating)

3 The projectile is right under the skin
4 and we clearly can see -- you can't tell if it's on
5 the right or left side, but that's what we had the
6 other x-ray for.

7 This is about -- the ear is kind of
8 right here, and there's the bullet. And actually
9 if you -- you can use your eyeballs and see that
10 there is a little hole right there. And that's the
11 level where the entrance wound is on the left side.

12 And so we can't tell it's going from
13 left to right there, but we can tell it's in a
14 downward direction.

15 Q. Thank you.

16 During the autopsy, did you observe any
17 other wounds to Mr. Johnson beyond the gunshot
18 wound?

19 A. No. That was the only wound he had.

20 Q. Did you recover the projectile from
21 Mr. Johnson during the autopsy?

22 A. Yes, I did.

23 Q. I show you what's been marked as
24 State's 128 through 130. Do you recognize those
25 photos?

RIEMER, M.D. - DIRECT EXAM BY MR. MCNEELY

1 A. Yes. So these are the photographs that
2 I took of this particular projectile. And it has
3 the label, which is Kadeem Johnson, Autopsy Number
4 FA-16-512. So I know this was the bullet from this
5 case.

6 MR. MCNEELY: Can you publish State's
7 128?

8 BY MR. MCNEELY:

9 Q. And, again, I will ask you to turn
10 around. What are we looking at in that photograph?

11 A. So sometimes I take one picture, but in
12 this case, I took it from different angles to
13 appreciate the quality of this particular bullet.
14 So this is a top view of the bullet. It looks like
15 it's kind of caved in a little bit at the top.

16 Q. And 129, please?

17 A. This is a side view. And so this was
18 the top of the bullet where we saw it was kind of
19 pushed in, and then this is the bottom. And then
20 we have some rifling marks, and it is a jacketed
21 projectile. So bullets can be jacketed or
22 nonjacketed.

23 And this is a copper kind of jacket
24 that is covering the bullet.

25 Q. And 130?

RIEMER, M.D. - DIRECT EXAM BY MR. MCNEELY

1 A. And this is the base of the bullet.
2 The base which is -- we don't have a jacket in that
3 area, so it's -- the jacket is basically the rest
4 of the bullet. And so I took it from three angles
5 to see it from all angles.

6 Q. Okay. The photos we just looked at,
7 was that the state of the projectile as you removed
8 it from Mr. Johnson's head that day?

9 A. Yes.

10 Q. In discussing the injury to
11 Mr. Johnson, what was the trajectory of the wound?

12 A. Well, the trajectory, meaning the
13 direction, was from left to right and downward.
14 And along the way from where it entered on the left
15 side of the head to where it terminated in the
16 right side of the head, it went through the skull
17 and the brain and then the base of the skull and
18 then terminated anterior of the right ear.

19 Q. Was there any front-to-back deviation
20 in that trajectory as far as you could tell?

21 A. No.

22 Q. It was on a linear plane straight down
23 from left to right?

24 A. That's correct.

25 Q. Was that the only gunshot wound?

RIEMER, M.D. - DIRECT EXAM BY MR. MCNEELY

1 A. Yes. This was the only gunshot wound.

2 Q. We've had testimony in this case that
3 Mr. Johnson was on his knees with his hands bound
4 when the shooter, the Defendant Jacob Mouzon, stood
5 two to three feet away and shot down at him. I
6 know you were not present, but would Mr. Johnson's
7 wound as you evaluated it be consistent with that
8 scenario?

9 A. Yes.

10 Q. I believe you testified that the cause
11 of death to Mr. Johnson was this single gunshot
12 wound to the head?

13 A. Yes.

14 Q. In terms of causing his death, are you
15 able to make a determination as to how long it
16 would have taken him to die as a result of the
17 wound?

18 MR. SMILEY: Objection, Your Honor.

19 THE COURT: Basis?

20 MR. SMILEY: Relevance.

21 THE COURT: Goes to malice; overruled.

22 THE WITNESS: I believe he would have
23 died immediately.

24 BY MR. MCNEELY:

25 Q. In your medical opinion, if he had been

RIEMER, M.D. - DIRECT EXAM BY MR. MCNEELY

1 shot in an emergency room, was there anything that
2 could have been done to save him?

3 A. No.

4 Q. We discussed previously some items that
5 you recovered from Mr. Johnson during the autopsy.
6 I want to show you what's been admitted as State's
7 Exhibits 154, 155, and 156. If you could please
8 look at these items and tell me if you recognize
9 them.

10 There are gloves available if you need
11 them. And feel free to open them.

12 A. Okay. Well, I see this is the
13 projectile that I recovered from Mr. Johnson's head
14 at the autopsy.

15 Q. What number is that?

16 A. 155.

17 Q. Okay.

18 A. I'm just going to open this and make
19 sure. So this is the tape that was tying
20 Mr. Johnson's wrists together; and this is 154.
21 And this is the blood spot card. So every autopsy
22 -- every single person that comes into my autopsy
23 room gets a blood spot card taken.

24 So I take a sample of the person's
25 blood and put it on a card, and that's for any

RIEMER, M.D. - DIRECT EXAM BY MR. MCNEELY

1 possible purposes that may be needed. And that's
2 what this is.

3 Q. And that is --

4 A. And it has my label and my -- it's the
5 blood spot card FA-16-512 Kadeem Johnson.

6 Q. Those are three items that you
7 collected from Kadeem Johnson during the autopsy?

8 A. Yes.

9 Q. Were they in your continuous custody
10 and control from the time you collected them until
11 the time you turned them over to law enforcement?

12 A. Yes.

13 MR. MCNEELY: Madame Court Reporter,
14 are they already admitted?

15 THE COURT REPORTER: They were.

16 THE COURT: Without objection.

17 MR. MCNEELY: Thank you very much, Dr.
18 Riemer. I have no further questions at this time.

19 THE COURT: Mr. Thrower.

20 MR. THROWER: No questions.

21 THE COURT: Mr. Archer?

22 MR. ARCHER: No questions.

23 THE COURT: Mr. Smaldone?

24 MR. SMALDONE: No questions for this
25 witness.

RIEMER, M.D. - 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. Doctor, I'm Jim Smiley. I represent
7 Sherrod Palmer. Just got a few questions.

8 A. Yes.

9 Q. You said that the direction was
10 downward from left to right, correct?

11 A. Correct.

12 Q. All right. You were able to examine
13 where the bullet entered the head and skull?

14 A. Yes.

15 Q. Are you familiar with what soot and
16 stippling means?

17 A. Yes.

18 Q. Would you explain to the jury what soot
19 means?

20 A. Yes.

21 Q. Actually, because they sort of go side
22 by side, if you would explain to the jury what soot
23 and stippling mean.

24 A. Okay. So when a bullet is fired out of
25 a barrel of a gun, there is gunpowder that comes

1 out of the gun along with the bullet. And that
2 gunpowder has the ability to travel a certain
3 distance; not as far as the bullet.

4 So if a gun is fired at close range to
5 an individual, we have the ability at the autopsy
6 to see soot or stippling on the skin around the
7 entrance wounds. In this case, there was no soot
8 or stippling.

9 Q. To put it back in really laymen's
10 terms, it sort of burns the skin?

11 A. Yes. So it's gunpowder, that the soot
12 is actually burning the skin and the stippling is
13 actually abrasions from the gunpowder.

14 Q. And not that you are a forensic expert
15 on guns, but as you see it in autopsies, you can
16 tell roughly some distance, correct?

17 A. Well, if it's at a close range such
18 that soot and stippling, soot or stippling or both
19 is present, I can give an estimation of range, but
20 if there is no soot or stippling present, I can't
21 say the range. So it's an indeterminate range.

22 Q. If the gun was pressed against the
23 skull, you would see a different kind of injury,
24 correct?

25 A. I would have seen an entrance gunshot

RIEMER, M.D. - CROSS EXAM BY MR. SMILEY

1 wound, but there would have been soot on the skin
2 or the skull or somewhere along the wound path, and
3 there is none. So this was not a contact wound.

4 Q. Yes, ma'am. And you can tell that not
5 just because of no soot or stippling, but when
6 there is a contact wound, isn't it true that the
7 wound malforms because of the gas and the pressure
8 that comes out?

9 A. Yes. Well, frequently it has a
10 different appearance. It's not an absolute event.
11 So sometimes contact gunshot wounds of the skull
12 have a stellate appearance, but it doesn't always
13 have to be the case.

14 Q. Absolutely. And I'm not trying to give
15 an expert opinion of that kind of stuff, just
16 distances and what you observed. So you did not
17 see any soot or stippling?

18 A. Yes.

19 Q. We know, though, it's not a contact
20 wound because that -- it's very likely it was not a
21 contact wound because you would expect to see it if
22 there was?

23 A. That's correct.

24 Q. You cannot tell distance, but the
25 further away you get, the less chance of soot and

RIEMER, M.D. - CROSS EXAM BY MR. SMILEY

1 stippling of the wound. Is that fair to say?

2 A. Yes.

3 Q. All right. And you were asked if it
4 was consistent if Mr. Johnson was on his knees that
5 someone shot him directly downward?

6 A. Yes.

7 Q. That person we know -- well, very
8 unlikely that he touched the head with the gun,
9 correct?

10 A. Yes, that's correct.

11 Q. It's not a very artful question.

12 A. I do not believe it was a contact -- it
13 was not a contact wound.

14 Q. Yes, ma'am. And that gun that -- wrong
15 word. It appears that it was fired at a distance
16 that did not allow for soot and stippling to burn
17 the wound?

18 A. Yes.

19 Q. You did collect some other things from
20 Mr. Johnson, right? Not just the three things that
21 you were told about, right?

22 A. Yes.

23 Q. You-all do fingernail clippings, right?

24 A. Yes.

25 Q. And the reason you do that is in case

RIEMER, M.D. - CROSS EXAM BY MR. SMILEY

1 he had contact with anybody for any reason you can
2 analyze what's under the nails for DNA and that
3 kind of stuff?

4 A. Right. Well, it's not just contact,
5 but on some cases where somebody is a victim of a
6 homicide, they might be fighting back and scratch
7 the assailant. And then sometimes the assailant's
8 DNA might get under the person's fingernail.

9 Q. And while you didn't have any
10 indication of that, when you start the autopsy you
11 just take that in case they need it later --

12 A. That's a routine -- a routine -- that's
13 performed routinely on anybody that has any injury.

14 Q. And of course the clothes that he was
15 wearing when he died were collected, correct?

16 A. Yes.

17 Q. And, also, I believe he had an item in
18 his right hand?

19 A. Yes.

20 Q. Between the third and fourth --

21 A. Yes.

22 Q. -- a blunt? A cigarette of some sort?

23 A. Yes. It was a homemade-type, you know,
24 probably marijuana cigarette.

25 Q. Probably. And it wasn't analyzed, so

1 I'm not asking you that. It appeared to be a
2 hand-rolled cigarette containing a material?

3 A. Yes.

4 Q. And that was found in his right hand?

5 A. That's correct.

6 Q. Okay. At the time you did the autopsy,
7 rigor had come and gone?

8 A. I'll have to check.

9 Q. Yes, ma'am, if you didn't mind.

10 A. Well, I said it was minimal rigor or
11 rigor was minimal, so --

12 Q. But before we go further, I guess I
13 would ask you to explain rigor to the jury so we
14 know.

15 A. Yes, I was just about to do that.

16 Q. Okay. I'm sorry.

17 A. So after death, one of the changes that
18 happens to the body is that person develops rigor
19 mortis. Okay. That happens over a period of hours
20 and then it -- there's a time -- and it stays
21 present for a while, and then -- and then it starts
22 to disappear.

23 And rigor mortis is, basically, the
24 muscles become very fixed in place and it's hard to
25 -- like you can't just bend the person's arms or

RIEMER, M.D. - CROSS EXAM BY MR. SMILEY

1 legs. And then after -- because of further
2 breakdown of -- of the body after death, the rigor
3 passes.

4 So those fixed muscles kind of loosen
5 up. And so in this case, I said it was minimal
6 rigor.

7 So it may -- I didn't indicate whether
8 it was fully formed. It may be in the process of
9 being formed or maybe it was already passing.

10 Q. Yes, ma'am. Because if I -- and it's
11 rigor for lack of a better word when the muscles
12 lock, it comes in. And then it --

13 A. It dissipates.

14 Q. It dissipates, but it goes back limp.
15 So the reason I ask you that question is, it's not
16 unusual -- well, that's not the right way to ask
17 it. The rigor could explain why he was still
18 holding something in his hand from death until when
19 you saw it; is that fair to say? And if it isn't,
20 tell me.

21 A. Yeah. It may have explained why, you
22 know, it didn't fall out as he was being
23 transported. At some point the hands are -- it
24 doesn't happen instantly. That maybe -- that might
25 have contributed to it.

RIEMER, M.D. - REDIRECT EXAM BY MR. MCNEELY

1 Q. Yes, ma'am; that's my point.

2 A. Yes.

3 MR. SMILEY: Thank you very much.

4 THE WITNESS: Okay.

5 THE COURT: Any redirect?

6 MR. MCNEELY: Just a couple.

7 THE COURT: You may proceed.

8 REDIRECT EXAMINATION

9 BY MR. MCNEELY:

10 Q. He asked you about contact wounds
11 versus noncontact. And I believe you stated this
12 was not a contact wound.

13 A. It did not have any evidence of being a
14 contact.

15 Q. And that the absence of soot or
16 stippling would indicate that it was not a contact
17 wound; is that correct?

18 A. Yes.

19 Q. And it would indicate that it was, at
20 least, some distance, I believe you said, away from
21 the head? In other words, the gun barrel was not
22 pressed against Kadeem Johnson's head when it was
23 fired?

24 A. That's correct.

25 Q. Okay. Does the absence of the soot and

RIEMER, M.D. - REDIRECT EXAM BY MR. MCNEELY

1 stippling give you any indication of the distance?

2 A. Well, under normal circumstances, it's
3 really indeterminate because it's possible it went
4 through an intermediate object, and it could have
5 been closer than what we would expect.

6 In the absence of an intermediate
7 object, it could have been like two feet away or
8 more. So two feet is, you know -- would be -- I
9 wouldn't expect to see soot or stippling.

10 Q. Okay. So if someone was shot from two
11 feet away, you wouldn't expect to see soot or
12 stippling on their head?

13 A. That's correct.

14 MR. MCNEELY: Nothing further.

15 THE COURT: Any objection to this
16 witness being excused? From the State?

17 MR. MCNEELY: No, Your Honor.

18 MR. THROWER: No, Your Honor.

19 MR. SMILEY: No, ma'am.

20 MR. SMALDONE: No, Your Honor.

21 MR. ARCHER: No, ma'am.

22 THE COURT: Doctor, you are excused.

23 Mr. Foreman, ladies and gentlemen,
24 you-all have been sitting for a moment. I'm going
25 to give you an opportunity to refresh yourselves.

1 During this break, please do not discuss this case
2 and please leave your notepads in your seats.

3 (Jury out, 11:24 a.m.)

4 THE COURT: You may be seated. Is
5 there anything before we take our comfort break?
6 From the State?

7 MR. ALFARO: No, Your Honor.

8 MR. THROWER: No, Your Honor.

9 MR. SMILEY: No, ma'am.

10 MR. SMALDONE: No, Your Honor.

11 MR. ARCHER: No, Your Honor.

12 THE COURT: Just a reminder; when
13 addressing the Court, you should stand.

14 We will be at ease for ten minutes.

15 (A recess transpired.)

16 THE COURT: State have any exception
17 releasing Mr. Cannon from his Subpoena?

18 MR. ALFARO: No, Your Honor.

19 THE COURT: Have a great day.

20 MR. CANNON: Thank you, Your Honor.

21 THE COURT: Anything before we bring in
22 the jury? From the State?

23 MR. ALFARO: No, Your Honor.

24 THE COURT: From the defense?

25 MR. THROWER: No, Your Honor.

THOMAS DARNELL - DIRECT EXAM BY MR. ALFARO

1 MR. SMILEY: No, Your Honor.

2 MR. SMALDONE: No, Your Honor.

3 MR. ARCHER: No, Your Honor.

4 (Jury in, 11:44 a.m.)

5 THE COURT: Ladies and gentlemen, I
6 hope you enjoyed your break. We are now going to
7 resume testimony.

8 Call your next witness.

9 MR. ALFARO: State calls Thomas
10 Darnell.

11 THOMAS DARNELL,

12 being first duly sworn, testified as follows:

13 THE CLERK: Please state your full name
14 and spell your last.

15 THE WITNESS: My name is Thomas Edward
16 Darnell, D-A-R-N-E-L-L.

17 THE COURT: You may proceed.

18 MR. ALFARO: Thank you.

19 DIRECT EXAMINATION

20 BY MR. ALFARO:

21 Q. Mr. Darnell, could you tell the jury
22 where you work?

23 A. I work at the State Law Enforcement
24 Division, commonly known as SLED, in Columbia. I'm
25 in the forensic laboratory.

THOMAS DARNELL - DIRECT EXAM BY MR. ALFARO

1 Q. And what is your job title there?

2 A. I'm actually a forensic scientist
3 within the department.

4 Q. And how long have you been with SLED?

5 A. I started there in 1990. Prior to
6 that, I worked at the Richland County Sheriff's
7 Office for eight years, but I started -- actually
8 started at SLED in 1990.

9 Q. And is there a specific area within the
10 forensic unit at SLED that you work in?

11 A. I am currently in the latent print
12 laboratory where we process physical evidence that
13 is brought in to the laboratory by outside
14 agencies.

15 Q. And a latent print is essentially what
16 is commonly known as a fingerprint?

17 A. Yes, sir. A latent print would be --
18 actually, the word latent means hidden or
19 invisible, but it would be a fingerprint that we
20 might could develop on the surface of an item.

21 Q. Can you tell the jury about your
22 educational background?

23 A. Yes, sir. I graduated from the
24 University of South Carolina in 1982. As I stated,
25 I started at Richland County Sheriff's Office, I

THOMAS DARNELL - DIRECT EXAM BY MR. ALFARO

1 was there about eight years. I started at SLED in
2 1990.

3 I attended -- or, actually, I completed
4 an in-house training program back in the early
5 '90s, lasted about 12 months of some intense
6 training in-house. It included different topics
7 within the fingerprint science, had to work lots of
8 cases under supervised and court-qualified
9 examiners.

10 I attended numerous academies across
11 the state. We have an academy in our state, of
12 course, and I completed several courses there
13 dealing with fingerprints, basic and advanced.
14 I've also attended the FBI Academy in Quantico,
15 Virginia, where I had to complete a very intense
16 course there as well.

17 In addition to all these classes that
18 I've had, at one point in my career I was actually
19 a training officer responsible for training new
20 examiners as they entered the laboratory.

21 Q. And how many cases, if you can, would
22 you estimate that you have worked in your time with
23 SLED since 1990?

24 A. I would have to guess. It would be
25 somewhere in the thousands. I can't give you a

THOMAS DARNELL - DIRECT EXAM BY MR. ALFARO

1 specific number, but it would be quite a few.

2 Q. And have you had the opportunity to
3 testify in state or federal court?

4 A. Yes, sir.

5 Q. In this action?

6 A. I've testified in almost every
7 courthouse in the state over my career, as well as
8 some out-of-state testimony, as well as some
9 federal court cases as well.

10 Q. And in those times, have you been
11 qualified as an expert in the area of fingerprint
12 examination and identification?

13 A. I have.

14 Q. Roughly, how many times have you been
15 qualified as an expert in that field?

16 A. I don't keep an exact count, but my
17 estimate would be about 150 times or so, plus or
18 minus.

19 MR. ALFARO: Your Honor, at this time,
20 the State would ask that Mr. Darnell be admitted as
21 -- qualified as an expert in the area of
22 fingerprint examination and identification.

23 THE COURT: Any objections or
24 questions? Mr. Thrower?

25 MR. THROWER: No, Your Honor.

THOMAS DARNELL - DIRECT EXAM BY MR. ALFARO

1 MR. SMILEY: No, ma'am.

2 MR. SMALDONE: No, Your Honor.

3 MR. ARCHER: No, Your Honor.

4 THE COURT: You will be admitted
5 without objection. You may proceed.

6 BY MR. ALFARO:

7 Q. And can you tell the jury a little bit
8 about what process you go through in identifying
9 and examining fingerprints?

10 A. Well, we -- once we get the evidence
11 in, depending on what it is, we have to make an
12 assessment as to what process I want to use. There
13 are many different techniques I can use to process
14 different types of evidence.

15 And so once I decide which steps to
16 take, and there are multiple steps that I can take,
17 then I proceed in processing. If I am able to
18 develop any prints, depending on what the prints
19 are, I may have to have those photographed to
20 scale, and then I can -- then I will make a
21 comparison to any known individuals that I've been
22 asked to compare to.

23 We have -- we have computers in the
24 laboratory now where we can actually search, you
25 know, latent prints or unknown prints, but even

1 though we have computers, the majority of the --
2 all of the comparisons are actually done by the
3 human eye. We still have to do that with the human
4 eye.

5 We use magnifiers. We use -- we have
6 comparison software that we can now use. Whenever
7 I do a comparison, I'm looking for individual
8 characteristics within each print as it compares to
9 a known standard. And once I determine that I've
10 got a good quality, if I've got good clarity in the
11 latent print, and once I determine that I've got
12 the same points of identification comparing the
13 two, I'm able to make a determination whether or
14 not a particular print was made by a certain person
15 or not.

16 Q. And you had the opportunity to examine
17 evidence that was submitted to SLED under lab
18 number L1616763?

19 A. Yes, sir.

20 Q. And were those items submitted by the
21 Berkeley County Sheriff's Office?

22 A. Yes, sir.

23 Q. I'm going to show you what is marked
24 State's Exhibits 148 and 150, after I show the
25 defendant.

THOMAS DARNELL - DIRECT EXAM BY MR. ALFARO

1 THE COURT: You may proceed. Each
2 exhibit was admitted without objection on
3 August 28th.

4 BY MR. ALFARO:

5 Q. Take a look at -- let's start with 148,
6 State's 148. I guess, let's have you look at 150
7 as well, briefly, regarding State's 148 and 150.
8 When did you come into contact with those items
9 initially?

10 A. I received these items in sealed
11 envelopes on February 20th of 2017.

12 Q. And according to -- does SLED have
13 protocol as to how items are to be packaged upon
14 submission to SLED and then ultimately when they
15 get to you?

16 A. Yes, sir, we do.

17 Q. Can you explain to us a little about
18 that?

19 A. Basically, nothing can come into our
20 laboratory to be accepted if it's not in a sealed
21 condition. It has to be protected from any outside
22 interference; in other words, it has to be in a
23 sealed box or envelope, in this case, and it has to
24 be -- it has to have the sealed tape across it and
25 has to have a date and has to have initials.

THOMAS DARNELL - DIRECT EXAM BY MR. ALFARO

1 If it does not have that, the lab won't
2 even accept it. Very strict policy on how evidence
3 has to come into the laboratory.

4 Q. And were those items, State's 148 and
5 150, when you came into contact with them
6 initially, were they packaged in a way that was
7 compliant with SLED's protocol to allow you to
8 handle them?

9 A. Yes, sir. And, in fact, both of these
10 envelopes came in sealed, and within the sealed
11 envelope was another container, and it was also
12 sealed. So, essentially, it was sealed twice.

13 Q. And did you have the opportunity to
14 perform any type of analysis or comparisons on
15 those two items?

16 A. Yes, sir, I did.

17 Q. And I guess just so we can keep it sort
18 of organized, let's start with 148, which was
19 submitted as clear adhesive tape from the porch of
20 the residence of Martha Lane.

21 A. Yes. State's 148, which is what I have
22 in my report as Item 11 -- that number, by the way,
23 was assigned to the evidence when it comes into the
24 laboratory. So my Item 11, which is State's 148,
25 was some clear adhesive tape. And I was asked to

THOMAS DARNELL - DIRECT EXAM BY MR. ALFARO

1 process that tape for latent prints as well as
2 collect any biological evidence that might be
3 present.

4 As I do with any evidence that I get,
5 the first thing I do is I do a visual look. I have
6 a light with magnification and I do a visual look
7 to see if I see anything that needs to be collected
8 prior to doing any processing.

9 In this case, I did swab some areas of
10 suspected blood from the tape. I collected that
11 and then I proceeded with processing it and used
12 different techniques in an attempt to develop any
13 fingerprint evidence.

14 Q. And you indicated that you did take a
15 swab from that; is that correct?

16 A. Yes, sir.

17 Q. I'm going to show you what has been
18 marked as State's 167.

19 THE COURT: Any exception?

20 MR. THROWER: No, Your Honor.

21 MR. SMILEY: No, Your Honor.

22 MR. SMALDONE: No, Your Honor.

23 MR. ARCHER: No, Your Honor.

24 THE COURT: Marked and admitted without
25 objection, 167.

1 (STATE EXH. 167 in evidence.)

2 BY MR. ALFARO:

3 Q. Do you recognize that item?

4 A. Yes, I do.

5 Q. Can you tell me what that is?

6 A. This is a heat-sealed bag that where I
7 -- it contains a small brown envelope. The
8 envelope has my initials on it and the date that I
9 collected it. This is my Item 11.1, which is
10 State's 167. This is a -- this is a swab that I
11 collected from the tape that appeared to be blood.

12 And once I swab it, I have to allow it
13 to air dry, and then I place it into a sealed
14 envelope and it goes inside of a sealed bag. And I
15 heat-seal it, date and initial it, and then it goes
16 on to the next department, which in this case was
17 the DNA laboratory.

18 Q. Did you personally do any analysis of
19 that swab?

20 A. No, sir.

21 Q. You just sent it on to DNA who does
22 that?

23 A. That's correct.

24 Q. And regarding State's 148, did you have
25 the opportunity to compare any fingerprints that

THOMAS DARNELL - DIRECT EXAM BY MR. ALFARO

1 may or may not have been found on that item to
2 samples of the Defendants Sherrod Palmer, Kenneth
3 Campbell, Jacob Mouzon, Drake Campbell and Darius
4 Hamilton?

5 A. On State's 148, I actually was unable
6 to develop any -- any fingerprint evidence on that
7 item, on the tape.

8 Q. All right. Let's move on to State's
9 150. That's the roll of tape recovered from the
10 gray Crown Vic. Did you perform any examination of
11 that?

12 A. I did.

13 Q. Can you tell us a little bit about what
14 you did with that item?

15 A. The roll of tape is actually from --
16 may I pull it out?

17 Q. Yes.

18 A. It's just a roll of what I would call
19 packing tape, and I processed this chemically.
20 It's got a -- and I had to use a couple different
21 methods to process it because of the different
22 surfaces. One being on the inside of the tape roll
23 was a porous paper, so I used a different technique
24 versus processing the outside of the tape, which is
25 nonporous.

1 So, basically, porous and nonporous
2 determines which process I have to use. So I was
3 able to process the roll of tape using the proper
4 process and -- and I was able to develop a latent
5 print or a fingerprint in this case in this item of
6 evidence.

7 Q. Okay. Were you then able to compare
8 that print that you lifted to samples --
9 fingerprint samples of Defendant Drake Campbell,
10 Defendant Jacob Mouzon, Defendant Kenneth Campbell
11 or Kenneth Campbell, Junior, Defendant Darius
12 Hamilton, and Defendant Sherrod Palmer?

13 A. Yes. I was asked to compare each of
14 those individuals and the print that I developed on
15 the outside that was on the -- on the outside of
16 the roll of tape; the print was identified to
17 Mr. Darius Darnell Hamilton.

18 Q. Were you able to recover any other
19 fingerprints from that item?

20 A. No, sir.

21 Q. I'm going to -- after I show it to
22 defense counsel -- show you State's 149, a series
23 of fingerprints lifted from the white Crown Vic. I
24 show you what has been admitted as State's
25 Exhibit 149. Do you recognize the packaging on

THOMAS DARNELL - DIRECT EXAM BY MR. ALFARO

1 that?

2 A. I do.

3 Q. Can you tell us what you recognize that
4 as?

5 A. This would be the envelope that I
6 received on August 6th of this year. It contained
7 several latent lifts that, based on the
8 description, appears to have come from a vehicle.

9 Q. Now, in this situation are those lifts
10 that you located or are those lifts that were
11 submitted to SLED by law enforcement?

12 A. These would have been lifts that were
13 made by someone I am assuming from the Berkeley
14 County Sheriff's Office and were transported to me
15 in Columbia.

16 Q. And were you asked to make an
17 examination of those print cards as well?

18 A. Yes, I was.

19 Q. And were you asked to upon examining
20 them make comparisons of those latent fingerprint
21 lifts to the defendants that we listed earlier and
22 also the victims in this case, Kadeem Johnson and
23 Krystal Snipe?

24 A. Yes, I was.

25 Q. And if you can, did you prepare a

1 report in this as well?

2 A. I did, yes, sir.

3 Q. Can you describe for the jury what your
4 findings were regarding what is, I believe, SLED
5 Item 53, which is a latent lift from -- marked
6 front hood?

7 A. Yes. My Item 53 actually has two
8 separate fingerprints on the same card. So when I
9 have that, then I make a sub item. So I have 53.1
10 is the latent impression represented on Item 53
11 which was marked as having come from the front
12 hood. And that print was identified to Krystal
13 Snipe.

14 53.2 was a latent fingerprint on the
15 same lift, and it was not identified with the --
16 with several individuals. It's was not identified
17 with Campbell, Mouzon, Campbell, Hamilton, Palmer
18 or Johnson. It was inconclusive with Krystal
19 Snipe.

20 Inconclusive meaning that it could have
21 been her print, but the clarity wasn't there in the
22 standard for me to be able to say it was hers or
23 not.

24 And then that was what I had on Item
25 53.

THOMAS DARNELL - DIRECT EXAM BY MR. ALFARO

1 Q. And you also received SLED Item 54, a
2 latent lift marked as front hood, middle. Were you
3 able to make any findings regarding that?

4 A. I was not. There was areas of
5 fingerprints on that lift, but they were of no
6 value for comparisons, meaning that there was not
7 enough detail for me to be able to identify it to
8 anyone.

9 Q. And regarding SLED Item 55, which is
10 latent lift marked driver's side door, what were
11 your findings regarding that?

12 A. Same as 54; it was no value for
13 comparisons.

14 Q. And SLED Item 56, latent lift also
15 marked driver's side door, any findings regarding
16 that?

17 A. Also, no value for comparisons.

18 Q. Were you asked to do any other
19 fingerprint examination or comparisons related to
20 this case?

21 A. I believe that completed everything
22 that I was asked to do.

23 MR. ALFARO: Thank you. Please answer
24 any questions the defense has.

25 THE COURT: Mr. Thrower.

THOMAS DARNELL - CROSS EXAM BY MR. THROWER

1 MR. THROWER: Thank you.

2 CROSS-EXAMINATION

3 BY MR. THROWER:

4 Q. Agent Darnell, the print you pulled
5 that matched Darius Hamilton with, when did you
6 actually make that -- you said everything was done
7 by the eye. What date was that that you made that
8 connection?

9 A. I started processing on the same day
10 that I received it, which would have been the 20th
11 of February, 2017.

12 Q. 2017?

13 A. Right. And then I had to get the -- of
14 the print that I developed, I had to get it
15 photographed. And so I had to transfer that to our
16 photo studio, and then the photo person had to
17 photograph it and so forth, and it took a few days
18 to get that done. So the actual comparison would
19 have been done seven days later on February 27th of
20 2017.

21 Q. And is that the point that you can
22 write your report and submitted it to the
23 solicitor's office?

24 A. Yes, sir. I actually did a report, I
25 believe it was the next day, the very next day.

THOMAS DARNELL - CROSS EXAM BY MR. THROWER

1 The report is dated February 28, 2017.

2 Q. And how is it reported to the -- you
3 sent it to SLED and they send it to the solicitor's
4 office? How does it get back to Mr. Alfaro?

5 A. The report was addressed to someone
6 with the Berkeley County Sheriff's Office.

7 Q. Okay. Oh, it goes back to the
8 sheriff's office?

9 A. Yes.

10 Q. And what was the date that you
11 transmitted it or sent it back?

12 A. The report was completed on
13 February 28th of 2017, according to the date at the
14 top corner of the report.

15 Q. And everything now is electronic so
16 it's in the system and then it's available to them
17 almost simultaneously?

18 A. Yeah, usually. It's not like the old
19 days where you had to put it in an envelope and put
20 a stamp on it. It's all done electronically and
21 usually within about an hour they have access to
22 the report.

23 Q. So the report that puts Darius Hamilton
24 fingerprints on the tape, was 2/28/2017?

25 A. That was the date of the report. It

1 would have been 2/28/2017.

2 MR. THROWER: Okay. Thank you very
3 much.

4 THE COURT: Mr. Archer.

5 CROSS-EXAMINATION

6 BY MR. ARCHER:

7 Q. Where were Darius Hamilton's prints
8 located?

9 A. They were on the outer portion of the
10 roll of tape.

11 Q. Roll of tape. That would be which one
12 of your --

13 A. On my items, my SLED item; it was 39.

14 Q. Item what?

15 A. Item 39.

16 Q. Okay. I see. You had a swab from the
17 front porch, an apparent ID of Darius Hamilton.

18 A. From the --

19 Q. From some tape.

20 A. You mentioned something about a swab
21 from the front porch. I'm not familiar with that.

22 Q. Well, okay. Maybe I'm wrong.

23 A. I'm not familiar with that.

24 Q. Okay. You found some -- a print of --
25 a fingerprint of Darius's on some tape; is that

THOMAS DARNELL - CROSS EXAM BY MR. ARCHER

1 what you're saying?

2 A. Yes, sir. On the outer -- on the roll
3 of tape on the outside of it.

4 Q. Okay. And the other prints you had
5 53.1, you found that belonged to one of the victims
6 who was Krystal Snipe, correct? That came off the
7 hood of the car?

8 A. Yes, sir.

9 Q. And all of the rest of the prints that
10 came off the car were either inconclusive or of no
11 value for comparison?

12 A. Well, there was the one other print
13 that was inconclusive with Krystal Snipe, and it
14 was not identified with other individuals that I
15 compared it to. And then after that, the rest of
16 those were no value for comparisons.

17 Q. Okay. So one was inconclusive -- one,
18 you were able to identify to Krystal Snipe?

19 A. Correct.

20 Q. There was another that was inconclusive
21 for Krystal Snipe?

22 A. Yes, sir.

23 Q. And the rest are of no value?

24 A. That's correct.

25 Q. Okay. I have no questions -- let me

THOMAS DARNELL - CROSS EXAM BY MR. SMALDONE

1 ask you this. Were you ever sent any other items
2 from this case for fingerprint analysis or -- that
3 you would have forwarded to DNA analysis?

4 A. No, sir, I was not.

5 Q. This is the only items you received?

6 A. This was -- all I got was the tape
7 evidence and then the latent lifts that I received
8 earlier this month.

9 Q. You never got any cell phones to try to
10 find prints on?

11 A. No, sir.

12 Q. You never got a rifle to try to find
13 prints off of?

14 A. No.

15 MR. ARCHER: Okay. I have no other
16 questions.

17 THE COURT: Mr. Smaldone.

18 CROSS-EXAMINATION

19 BY MR. SMALDONE:

20 Q. Afternoon, agent.

21 A. Afternoon.

22 Q. I want to break it down a little bit.
23 Obviously, you weren't on the scene or anything
24 like that?

25 A. No, sir, I was not.

THOMAS DARNELL - CROSS EXAM BY MR. SMALDONE

1 Q. So you are in Columbia, correct?

2 A. Yes, sir.

3 Q. And you're sent values to compare,
4 right?

5 A. Yes, sir.

6 Q. All right. What I mean by that, and
7 you know what it means, but just for the jury, you
8 have something to compare the print against, right?
9 Did that make sense? Maybe it doesn't. So explain
10 what the comparing values means.

11 A. I'm not really sure what you're asking,
12 but I think you're asking, you know, once I
13 determine whether the print is of value or not,
14 then I have to have a standard of a known
15 individual to be able to compare it to.

16 Q. Right. So meaning you can't just look
17 at a fingerprint and be like, oh, that's Elvis
18 Presley's fingerprint. You have to have something
19 to compare it to, right?

20 A. Absolutely.

21 Q. So in this case, you don't know much
22 about the case, what happened, but you had values
23 or comparisons or standards or whatever they're
24 called, you had them from Kenneth Campbell,
25 correct?

1 A. Yes, sir.

2 Q. And you had them from Jacob Mouzon,
3 correct?

4 A. Yes, sir.

5 Q. You had them from Sherrod Palmer,
6 correct?

7 A. Yes, sir.

8 Q. And you had them from Drake Campbell,
9 right?

10 A. I did.

11 Q. And you had one from Darius Hamilton,
12 right?

13 A. Yes, sir.

14 Q. And other than the Krystal Snipe's
15 print, the only print that you found that matched
16 any of those folks was Darius Hamilton, right?

17 A. Yes.

18 Q. And that was found on the tape?

19 A. Yes, sir.

20 Q. Okay. So no other prints from any of
21 these defendants?

22 A. No, sir.

23 MR. SMALDONE: Okay. That's all I
24 have. Thank you.

25 THE COURT: Mr. Smiley.

THOMAS DARNELL - CROSS EXAM BY MR. SMILEY

1 CROSS-EXAMINATION

2 BY MR. SMILEY:

3 Q. Just one question. From Mr. Hamilton's
4 print, could you determine what digit it came from?

5 A. One second. It was his left middle
6 finger.

7 Q. Left middle?

8 A. Yes, sir.

9 Q. Was found on the edge -- on the
10 nonporous surface edge, right?

11 A. Yes.

12 MR. SMILEY: That's my only question,
13 Your Honor.

14 THE COURT: Any redirect?

15 MR. ALFARO: No, Your Honor.

16 THE COURT: Any objection to the
17 witness being excused? From the State?

18 MR. ALFARO: No, Your Honor.

19 THE COURT: From the defense.

20 MR. THROWER: No, Your Honor.

21 MR. SMILEY: No objection.

22 MR. SMALDONE: No, Your Honor.

23 MR. Archer: No objection.

24 THE COURT: Sir, you're excused.

25 THE WITNESS: Thank you.

CHAD SMITH - DIRECT EXAM BY MR. ALFARO

1 THE COURT: You're welcome.

2 Call your next witness.

3 MR. ALFARO: State calls Chad Smith.

4 CHAD SMITH,

5 being first duly sworn, testified as follows:

6 THE CLERK: Please state your full name
7 and spell your last.

8 THE WITNESS: My name is Chad Smith,
9 S-M-I-T-H.

10 THE COURT: You may proceed.

11 MR. ALFARO: Thank you.

12 THE COURT: You're welcome.

13 DIRECT EXAMINATION

14 BY MR. ALFARO:

15 Q. Tell the jury where you work.

16 A. I work at the South Carolina Law
17 Enforcement Division. Specifically, I work in the
18 firearms department at SLED's Forensics Services
19 Laboratory in Columbia.

20 Q. How long have you been with SLED?

21 A. Ten years this November.

22 Q. And, specifically, what do you do
23 there?

24 A. Well, my main responsibilities include
25 the examination of firearms, ammunition, and

CHAD SMITH - DIRECT EXAM BY MR. ALFARO

1 ammunition components, such as cartridge cases and
2 bullets. I also do serial number restorations on
3 firearms that have obliterated serial numbers, and
4 I also do tests to try to determine the distance
5 from the muzzle of a shotgun to the target with
6 shot pellets.

7 Q. And can you tell us about what your
8 educational background is?

9 A. I attended Clemson University where I
10 received a bachelor of science degree in biological
11 sciences. When I came on board with SLED, I
12 entered the training program of the firearms
13 department which is a three- to five-year training
14 program.

15 It is supervised by the court-qualified
16 examiners of the firearms department. It involves
17 extensive reading and studying; there are also
18 examinations and practical tests given during this
19 time. I attended various classes and courses. I
20 also had the opportunity to tour several firearm
21 manufacturing plants.

22 At the end of my training, I received a
23 comprehensive multipart examination which I
24 successfully passed and I began to receive my own
25 casework.

1 Q. And how many cases would you say that
2 you've worked at SLED?

3 A. Probably several hundred at this time.

4 Q. Do you have any teaching
5 responsibilities there?

6 A. From time to time, we are called upon
7 to teach some about what we do to schools or to
8 some classes and things like that. We do provide
9 that.

10 Q. And are you a member of any
11 professional organizations related to firearms
12 identification?

13 A. I am a member of the Association of
14 Firearms and Tool Mark Examiners. This is an
15 international agency with members from all over the
16 world actually that basically is for furthering the
17 science of firearms and tool mark examinations.

18 Q. And have you ever been qualified as an
19 expert in the area of firearms identification?

20 A. I have.

21 Q. And, approximately, how many times?

22 A. Forty-nine times.

23 Q. And has that qualification taken place
24 in state and federal court?

25 A. Just state, general sessions court.

CHAD SMITH - DIRECT EXAM BY MR. ALFARO

1 Q. All in South Carolina?

2 A. Yes, sir.

3 MR. ALFARO: Your Honor, at this time
4 the State would offer Agent Smith as an expert in
5 the field of firearms identification.

6 THE COURT: Any objections or
7 questions?

8 MR. THROWER: No objection, Your Honor.

9 MR. SMILEY: No objection.

10 MR. SMALDONE: No objection.

11 MR. ARCHER: No objection.

12 THE COURT: So admitted without
13 objection. You may proceed.

14 BY MR. ALFARO:

15 Q. Now, in the area of firearms
16 identification, does part of that involve comparing
17 shell casings or fired bullets to each other?

18 A. Yes, it is.

19 Q. Tell us a little bit about how you do
20 that and what you're looking for.

21 A. Well, again, you've got two different
22 main components that we're looking at, the bullet
23 which is the projectile that is fired out of the
24 gun, and the cartridge case, which is the leftover
25 container, is expelled from the firearm, the

1 semiautomatic pistol.

2 So we've got those two components that
3 are left as evidence. And we can compare bullets
4 with each other and we can compare cartridge cases
5 with each other. We can't compare bullets to the
6 cartridge cases, but we can compare the groups
7 together.

8 So we have what is known as a
9 comparison microscope, and it is basically two
10 microscopes connected by an optical bridge system
11 that you can look through and you can compare -- it
12 has two stages. You can compare two samples
13 simultaneously. You're looking for markings
14 created by the firearm as the cartridge is fired.

15 So those markings are imprinted from
16 the firearm to the cartridge case as well as the
17 bullet. We can look at those markings and try to
18 determine if two samples were potentially fired by
19 the same firearm.

20 Q. And did you have opportunity to examine
21 any evidence submitted to you by the Berkeley
22 County Sheriff's Office regarding lab number
23 L1616763?

24 A. Yes.

25 Q. Okay. I'm going to show you some items

CHAD SMITH - DIRECT EXAM BY MR. ALFARO

1 that I believe you came into contact with on
2 January 6, 2017.

3 A. Yes.

4 THE COURT: What numbers are those,
5 Mr. Alfaro?

6 MR. ALFARO: State's 147, 155, and 158.

7 THE COURT: Those have all been marked
8 and admitted.

9 BY MR. ALFARO:

10 Q. Take a look at those, and then I'll ask
11 you some questions about them.

12 A. Yes, sir, these are the items that I
13 received for examination.

14 Q. Now, regarding State's 147, which I
15 believe contains five items that have separate SLED
16 numbers; is that correct?

17 A. Yes, sir, I received this container.
18 There were four fired .380 auto caliber cartridge
19 cases as well as one fired .32 auto unfired
20 cartridge.

21 Q. And what type of examination did you
22 conduct on the fired shell casings?

23 A. Again, what I would do is use that
24 comparison microscope to compare all of the fired
25 cartridge cases together to look for those markings

1 that I feel are individual in nature caused by the
2 firearm during firing.

3 I would look at those markings to try
4 to match the patterns up and determine if they were
5 fired by the same firearm. So with respect to the
6 four fired auto cartridge cases submitted as
7 State's 147, I was able to determine during my
8 analysis that all four of those cartridge cases
9 were fired by the same firearm.

10 Q. And just so we can clarify for the
11 jury, each of those fired shell casings has a
12 separate SLED number; is that correct?

13 A. Yes, sir. They are submitted as
14 different item numbers all in the same container.

15 Q. And did you prepare a report in this
16 case?

17 A. Yes, sir.

18 Q. And if we could, your SLED ID numbers
19 are 33, 34, 35, and 37 for the fired shell casings;
20 is that correct?

21 A. Yes, sir.

22 Q. And could you go through those
23 individually for the jury, please?

24 A. This is Item 33 here. Again, fired
25 .380 auto caliber cartridge case, which was listed

CHAD SMITH - DIRECT EXAM BY MR. ALFARO

1 on the submission paperwork as being by the bedroom
2 door.

3 And 35, which is here, again, a .380
4 auto cartridge case, was listed on the packaging
5 and the submission documents as being by the body
6 in the bedroom. 34, a .380 auto caliber cartridge
7 case, again being listed by the bedroom -- or by
8 the body in the bedroom. Item 37, which is here,
9 again, is another fired .380 auto caliber cartridge
10 case being listed as in the bedroom under the body.

11 Q. So can you tell the jury your findings
12 regarding those four items?

13 A. Upon examination comparing all four of
14 the cartridge cases, I determined they were all
15 fired by the same firearm. And if we had a firearm
16 to compare them to we may be able to match the
17 cartridge cases to that particular firearm.

18 Q. And so since they are all fired by the
19 same weapon, they're all the same caliber, correct?

20 A. That is correct; 380 caliber.

21 Q. And when you say that it may be
22 suitable for identification, you have to have a gun
23 to compare it to, correct?

24 A. Correct.

25 Q. But you can testify that they were

1 fired by the same weapon?

2 A. Yes, sir.

3 Q. Now, I believe you also submitted an
4 unfired .32 caliber cartridge listed as by the
5 refrigerator.

6 A. Yes, sir. That's the SLED Item 36,
7 which is here. It is an unfired .32 auto caliber
8 cartridge. So it's not the same caliber as the
9 other cartridge cases that were submitted.

10 Q. And just sort of in laymen's terms, an
11 unfired .32 auto caliber cartridge is basically a
12 bullet, an unfired bullet?

13 A. Right. You have what is known as
14 cartridge, which is basically an unfired round of
15 ammunition. So that cartridge is made up of
16 various components. You have the projectile which
17 is the bullet. That's the part that travels down
18 the barrel and heads towards the target.

19 The cartridge case is basically the
20 container for all of the other components. It
21 holds the bullets, got the gunpowder inside. At
22 the bottom of the cartridge case is a primer, and
23 that's the part that's struck by the firing pin
24 which causes a little explosion, and that explosion
25 ignites the gunpowder and puts the whole chain in

CHAD SMITH - DIRECT EXAM BY MR. ALFARO

1 motion.

2 Q. Were you able to make any findings or
3 perform any examination on that item?

4 A. I examined it and was basically able to
5 determine it is the correct caliber for use in
6 firearms chamber for that particular caliber, the
7 32 auto caliber.

8 Q. So that's a different caliber than the
9 380 auto you said the casings were fired from.

10 A. Yes, sir.

11 Q. Were you also asked to perform an
12 examination on State's 155 and 158, a fired bullet
13 listed from Kadeem Johnson, which I believe is SLED
14 32, and a fired bullet from Krystal Snipe --
15 recovered bullet from Krystal Snipe, listed as SLED
16 38?

17 A. Yes.

18 Q. And can you tell us what you did to
19 examine the bullet recovered from Kadeem Johnson's
20 autopsy and from Krystal Snipe?

21 A. This is my Item 32, State's
22 Exhibit 155. This is one fired bullet. And then
23 what is State's Exhibit 158, which is my Item 38,
24 is another fired built here. So what I can do with
25 fired bullets is first examine them and try to

CHAD SMITH - DIRECT EXAM BY MR. ALFARO

1 determine what caliber they could be.

2 We do that by various examinations. I
3 can weigh it and I can also get a diameter -- if
4 the bullet is in good enough shape, I can get a
5 diameter by measuring it and then with all the
6 other characteristics can determine a particular
7 caliber.

8 During my examinations, I was able to
9 determine that both of those fired bullets were
10 consistent with being .380 auto caliber.

11 Q. And were you able to make any other
12 findings related to those two items?

13 A. Yes. I compared them using the
14 comparison microscope with each other and looked at
15 the markings and was able to determine that both of
16 those bullets were fired by the same firearm.

17 Q. Any other findings other than that they
18 were fired -- that they were the same .380 caliber
19 and fired by the same firearm?

20 A. In this case when we don't have an
21 actual firearm to compare them to, we generate a
22 list of possible manufacturers that could have
23 fired that firearm. And based on the markings on
24 the bullets themselves, I was able to determine
25 that only had nine lands and grooves with a

CHAD SMITH - DIRECT EXAM BY MR. ALFARO

1 left-hand twist conventional rifling. All that
2 means is basically this is general rifling
3 characteristics of the bullet.

4 When I talk about rifling, that is
5 something that the manufacturers put in the barrel
6 of their firearm to impart a spin on the bullet as
7 it travels down the barrel. So the rifling that is
8 put in there, it's either cut into the barrel or to
9 impress into the barrel.

10 And basically it's a series of helical
11 grooves that are put in there to impart that spin.
12 And all helical means is that it's a twisting
13 pattern. It doesn't come to a point. It just
14 continues the same twisting pattern through the
15 length of the barrel.

16 The rifling engages the bullet as it
17 travels down the barrel and so the engagements,
18 again, are put onto the bullet. So we can count
19 the number of lands and grooves. We can look and
20 see and determine if it's a left-hand twist or a
21 right-hand twist because that can vary.

22 And also we can measure those lands and
23 grooves and put them into a database, and it
24 generates a list of possible manufacturers. And,
25 again, with this particular bullet, there's only

CHAD SMITH - DIRECT EXAM BY MR. ALFARO

1 one known manufacturer with these particular
2 characteristics and that is Hi-Point Firearms.

3 Q. Were you asked to examine any other
4 bullets or projectiles or cartridge casings?

5 A. No.

6 Q. Were you ever submitted any 7.62
7 ammunition?

8 A. No.

9 Q. Are you familiar with what 7.62
10 ammunition is?

11 A. Yes, sir.

12 Q. And can you tell us what the difference
13 is between the 762 bullet and a 380 auto or 32
14 auto?

15 A. Well, if you're referring to
16 specifically a 7.62 by 39 millimeter caliber, which
17 is a popular caliber like in AK-type guns or
18 SKS-type rifles, that bullet has a much smaller
19 diameter than a 380 would have. A 380 measures
20 about 355 thousandths, 355 of an inch; whereas, the
21 7.62 by 39 measures about .3191, .312 thousandths
22 of an inch.

23 So it is a much smaller diameter bullet
24 even though the cartridge itself is much larger --
25 it's a rifle cartridge -- than a 380, which is a

CHAD SMITH - DIRECT EXAM BY MR. THROWER

1 pistol cartridge. So those are two totally
2 different type of cartridges.

3 Q. Kind of a condensed version of that, is
4 it fair to say that one is fired by a rifle and the
5 other is fired by a pistol?

6 A. Well, it has crossovers. Some 762s,
7 they make pistol versions and so forth. These
8 particular bullets, again, were fired by a Hi-Point
9 firearm, which does not make those types of
10 firearm, so it could be excluded.

11 MR. ALFARO: Thank you. Please answer
12 any questions that the defense may have for you.

13 THE WITNESS: Yes, sir.

14 THE COURT: Mr. Thrower.

15 CROSS-EXAMINATION

16 BY MR. THROWER:

17 Q. Afternoon, Mr. Smith.

18 A. Afternoon.

19 Q. You mentioned this Hi-Point pistol as
20 being the only one that has the left helical,
21 left-hand nine-groove barrel; is that correct?

22 A. It also comes in 9 mm Luger caliber as
23 well as 380 auto, but the rifling impressions that
24 are marked on that bullet, again, the only known
25 manufacturer to have the nine land and grooves with